

LEGISLATIVE AUDIT COMMISSION



Review of
Office of the State Fire Marshal
Two Years Ended June 30, 2010

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OFFICE OF THE STATE FIRE MARSHAL
TWO YEARS ENDED JUNE 30, 2010

FINDINGS/RECOMMENDATIONS - 22
ACCEPTED - 11
IMPLEMENTED - 11

REPEATED RECOMMENDATIONS - 15

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 29

This review summarizes the auditors' report of the Office of the State Fire Marshal for the two years ended June 30, 2010 filed with the Legislative Audit Commission on July 21, 2011. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and State law.

The Office of the State Fire Marshal was created by the State Fire Marshal Act effective July 21, 1977. The primary function of the Office is public safety. The Office's mission is to reduce death, injury, and property loss of Illinois citizens from fires, explosions, and other hazards. The Office provides its services through the following operating divisions: Arson Investigation, Fire Prevention, Boiler and Pressure Vessel Safety, Petroleum and Chemical Safety, Personnel Standards & Education, Elevator Safety, and Management Services. The Office is located in Springfield, with additional offices in Chicago and Marion, Illinois.

During the first two months of the examination period, Mr. David Foreman was State Fire Marshal, serving in that position since 2006. When Mr. Foreman resigned, Mr. Dave DeFraties served as Acting State Fire Marshal from September 1, 2009 until Mr. Larry Matkaitis was appointed State Fire Marshal on January 2, 2010. Mr. Matkaitis continues in the position. Previously, he had served the Office as the northern regional coordinator since 2005.

Appendix A summarizes certain activities of the Office of the State Fire Marshal. According to the audit report, during FY10 the Office performed 31,827 fire prevention inspections on buildings, and a total of 45,540 State and insurance boiler and pressure vessel safety inspections. The Office conducted 1,260 arson investigations and inspected 5,949 underground storage tanks in FY10. Inspection of each tank and associated piping is required upon installation or removal. The Office also reimbursed the Chicago Fire Department \$475,000 for part of their training costs.

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The average number of full-time equivalent employees at June 30:

<i>Division</i>	<i>FY10</i>	<i>FY09</i>	<i>FY08</i>
Administration	23	27	25
Arson Investigation	20	21	24
Boiler & Pressure Vessel Safety	20	22	24
Elevator Safety	5	6	4
Fire Marshal (Comptroller payroll)	1	1	1
Fire Prevention	22	23	27
Petroleum & Chemical Safety	19	19	27
Personnel Standards & Education	10	10	10
Public Education	5	5	6
Technical Services	4	4	6
Homeland Security	1	1	1
TOTAL	130	139	155

Expenditures From Appropriations

Appendix B presents a summary of appropriations and expenditures for the two-year period under review. The General Assembly appropriated a total of \$30,693,300 to the Office of the State Fire Marshal in FY10: approximately \$22.6 million from the Fire Prevention Fund; almost \$4.1 million from the Underground Storage Tank Fund; and almost \$4 million from other funds. Total expenditures from all funds were \$22,830,600 in FY09 compared to \$23,123,257 in FY10, an increase of \$292,657 or 1.3%. Some of the changes in expenditures or expenditure categories include:

- A new line item, Small Equipment Grants, expended almost \$2 million in FY10 and now includes grants for local government fire prevention.
- Expenditures for several training programs under the Fire Prevention Fund decreased in FY10 due to agency self-imposed cost controls as a result of a \$10.4 million fund transfer from the Fire Prevention Fund to GRF, as well as the agency's management plan.
- Salaries and expenses for hearing officers were moved to the personal services lines.

Lapse period expenditures were about \$4.3 million or 18.7% in FY10 because invoices for mobile printers for the Arson Division, travel expenses for a June conference, CFD training program, Chicago Underground Storage Tank Program, Firefighter's Memorial, and small equipment grants were not received until the lapse period.

Cash Receipts

The table appearing in Appendix C summarizes a comparative summary of cash receipts for the Office of the State Fire Marshal. Total cash receipts were \$6,805,752 in FY10 compared to \$6,526,243 in FY09. Changes are due primarily to the biennial cycle of renewal fees and an additional grant from the US Environmental Protection Agency.

Accounts Receivable

Appearing in Appendix D is the aging of accounts receivable by fund. Recommendation No. 10 in the audit report relates to inadequate collection and reporting of receivables. This finding has appeared since 1990.

Property and Equipment

Appendix E is a summary of property and equipment changes at the Office of the State Fire Marshal during the period under review. The balance decreased from \$6,345,476 as of July 1, 2008 to \$6,078,195 at June 30, 2010.

Accountants Findings and Recommendations

Condensed below are the 22 findings and recommendations, 15 repeated, included in the audit report. The following recommendations are classified on the basis of information provided by Jeff Anderson, Chief Internal Auditor, Office of the State Fire Marshal, via email received January 18, 2012.

Accepted or Implemented

- 1. Limit expenditures from appropriated line items to the purpose for which they are appropriated. In addition, utilize the appropriation transfer process or request supplemental appropriations when appropriations are insufficient to cover expenses incurred during the fiscal year. (Repeated-2008)**

Finding: The Office of the State Fire Marshal (Office) improperly used funds appropriated by the General Assembly.

During Fiscal Year 2009, the Office received a lump sum appropriation from the Fire Prevention Fund of \$450,000 for administrative expenses of the Elevator and Safety Regulation Act. However, the Office processed six vouchers, totaling \$858, during FY09 from this appropriation for refunds of overpayments received by the Office. In addition, the Office processed one voucher, totaling \$203, for expenses related to the Office's new fire chief training program from this appropriation. The Office has appropriation line items

Accepted or Implemented – continued

specifically for refunds in both the Fund 047 and the Underground Storage Tank Fund as well as an appropriation specifically for expenses related to the training of new fire chiefs.

Office personnel stated they used the Elevator Safety and Regulation Act appropriation because the proper appropriations for these expenditures had been largely depleted.

Updated Response: Accepted and Implemented. During the course of the audit, the auditors identified 7 vouchers totaling \$1,061 paid out of the wrong appropriations. The expenditures should have been paid from the correct appropriation and we will either utilize the appropriation transfer process or request supplemental appropriations in the future.

2. Evaluate all proposed expenditures and repair projects for the Museum before they are initiated to ensure the statutorily imposed cap is not exceeded, or seek legislative remedy to the statutorily imposed cap.

Finding: The Office received a lump sum appropriation from the Illinois Firefighters Memorial Fund totaling \$185,000 for FY09. The Code stipulates that no more than 10% of the annual proceeds received in Fund 510 shall be used for expenses associated with the Museum.

The Office charged expenditures totaling \$184,526 against its appropriation from Fund 510 during FY09, including expenditures totaling \$56,290 for the Museum. The Office should have limited their expenditures from this appropriation for the upkeep of the Museum during FY09 to \$41,835.

Office personnel stated \$50,000 of the expenditures from Fund 510 during FY09 were for necessary repairs to the roof of the Museum to prevent further damage to the contents of the museum. Office personnel also stated they included \$105,505 received into the Fund during FY09 in their computation of the statutorily imposed cap. The \$105,505 in additional money received into Fund 510 during FY08 consisted of unused monies returned by the Illinois Firefighters Memorial Foundation pursuant to a previous audit finding. However, the auditors concluded this money does not constitute proceeds received into Fund 510, as it is money that belonged in Fund 510 from preceding fiscal years.

Updated Response: Accepted. The Office agrees that the statutory cap for expenditures on the Museum was exceeded, but the Office was put in a difficult position in Fiscal Year 2009 when the roof at the Illinois State Fire Museum needed replaced on an emergency basis. There were few options available to pay for this needed repair. It should be noted that the expenditure of funds for the roof is within the intent of the law. No funds were misspent. Secondly, the Office would like to note that it has used little of the allowable amount available to be spent on the museum in recent history. In Fiscal Year 2008 the Office only spent 31% of the allowable amount and in Fiscal Year 2010 only

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spent 23% of the allowable amount. If a similar situation arises in the future, the Office will seek other solutions that will enable it to remain within the 10% cap on Museum expenditures. The OSFM is looking at a statutory change to allow expenditures above the 10% level in emergency situations.

3. Prepare and file the required TA-2 reports according to statute. (Repeated-2006)

Finding: The Office did not file Travel Headquarters Reports (Form TA-2) as required by the State Finance Act. During testing, auditors noted the Office did not file three of four TA-2 reports required to be filed with the Legislative Audit Commission.

Office personnel stated the TA-2 reports were not filed due to a misunderstanding between the Office and the Public Safety Shared Services Center as to who would prepare and file the TA-2 reports.

Updated Response: Implemented. The Chief Fiscal Officer now files the required TA-2 report timely. Reports will continue to be filed per the State Finance Act and will be the responsibility of the agency Chief Fiscal Officer.

4. Comply with the requirements of the Fiscal Control and Internal Auditing Act by documenting the review of internal controls and filing the required reports in a timely manner.

Finding: The Office did not file its Fiscal Control and Internal Auditing Act certification in a timely manner, nor did it maintain documentation to support its evaluation of internal controls.

The report was due on May 1, 2010 and was filed on July 28, 2010, which is 77 days late. In addition, the Office filed its Fiscal Year 2009 certification in a timely manner; however, the Office was unable to provide the auditors with documented evidence of their evaluation of internal controls.

Office personnel stated the supporting documentation for the Fiscal Year 2009 certification was prepared but lost due to turnover within the Office. Office personnel also stated the Fiscal Year 2010 certification was prepared late due to oversight.

Response: Implemented. The Office of the State Fire Marshal's Internal Audit staff is now responsible for assuring the OSFM complies with the Fiscal Control and Internal Auditing Act.

Accepted or Implemented – continued

- 5. Periodically review job duties and personnel transactions to ensure all personnel in qualifying positions are reported to the Secretary of State and subsequently file statements of economic interests.**

Finding: The Office did not notify the Secretary of State of all employees whose positions required them to file an economic interest statement. Two employees, the Chief Fiscal Officer and one Public Service Administrator who oversees contracts for the agency, were omitted from the list of employees required to file statements of economic interest. As a result, these employees did not file the economic interest statements due May 1, 2009 and May 1, 2010.

Office personnel stated these persons were omitted from the list of persons required to file due to turnover in the position responsible for maintaining the list.

Response: Implemented. The Office has reviewed and notified the Secretary of State of all employees whose position requires them to file an economic interest statement.

- 6. Take appropriate measures to ensure annual performance evaluations are conducted timely and documented for all employees as required. (Repeated-2006)**

Finding: The Office did not conduct employee performance evaluations timely. Auditors tested 25 employees and noted six evaluations for four different employees were conducted 39 to 308 days late. In addition, one annual performance evaluation was not completed at all.

Office personnel stated the evaluations were performed late or not performed at all due to oversight and competing priorities for the responsible managers.

Response: Accepted. Shared Services now notifies managers of upcoming evaluation due dates so evaluations are completed in a timely manner. Managers continue to be reminded of the importance of completing evaluations in a timely manner. The Office works with the Public Safety Shared Services Center on this process. Reminder emails are sent to managers 90 days before evaluations are due.

- 7. Remind employees of equivalent earned time (EET) and compensatory time accrual and usage policies to ensure employees are accurately recording their accrual and usage of overtime. In addition, remind all supervisors of the importance and necessity of reviewing and approving time sheets to ensure all transactions are recorded properly in CTAS. Further, establish effective controls over the creation, maintenance, and use of attendance and leave time records in the conduct of current business. (Repeated-2006)**

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Finding: The Office did not exercise adequate control over employees' accrual and use of employee leave time.

- Four of six employees tested did not obtain and document advance approval to work additional hours and accrue EET. Auditors noted 40 instances, totaling over 144 hours, where these employees did not obtain and document advance approval received from their supervisor before working additional hours and accruing EET that was posted to CTAS. Auditors also noted 31 instances, totaling over 33 hours, where these employees recorded additional time worked on their time sheet, yet no EET was posted to CTAS in these instances. Office personnel stated the instances where no EET was posted to CTAS were instances where the employees worked the additional hours with no expectation of earning EET, and that time reported in those cases served to inform their supervisors of their additional efforts.
- One of six employees tested did not take a lunch break. In each of the eight instances noted for this employee, the employee used the lunch period to shorten their work day. The Manual states that the lunch period shall not be used to adjust starting or quitting times.
- One of six employees tested works a flexible schedule which allows him to work 7.5 hours each day. Auditors noted 24 instances where the employee worked less than the required 7.5 hours. However, this employee did work or use benefit time to fulfill the 37.5 hour work week commitment in each of the weeks tested in our sample.
- The Office could not locate one monthly time sheet for one of its employees and one weekly timesheet for one of its employees.

Auditors also tested compensatory time records for 20 of 80 employees allowed compensatory time and noted the following:

- Five of 20 employees tested accrued four hours in compensatory time in CTAS for time which was not worked by the employees.
- Fourteen of 20 employees tested did not obtain and document advance approval to work additional hours and accrue compensatory time totaling 210 instances for over 571 hours. Auditors noted 68 instances, totaling over 180 hours, where these employees recorded additional time worked on their time sheet, yet no compensatory time was posted to CTAS in these instances. Office personnel stated the instances where no compensatory time was posted to CTAS were instances where the employees worked the additional hours with no expectation of earning compensatory time, and that time reported in those cases served to inform their supervisors of their additional efforts.

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Accepted or Implemented – continued

- Compensatory time earned for five of 20 employees tested was not recorded properly in the CTAS for 34 instances. In these instances, compensatory time earned was posted to the employees' respective time sheets by the employees, but CTAS records indicated different amounts of compensatory time earned. As a result, CTAS differed from employee time sheets by over 135 hours.
- The Office could not locate one weekly timesheet for one of its employees.

Additionally, auditors tested 25 Office employees' timesheets and accrual and usage of leave time for 4 months. We noted the following:

- Eighteen of 25 employees tested submitted a combined total of 61 timesheets which were not signed by the employee or their supervisor.
- Four of 25 employees tested did not take a lunch break. In each of the 7 instances noted, employees used the lunch period to shorten their work day.

The majority of the exceptions noted in this finding pertain to timesheets and time transactions which occurred during FY09.

Office personnel stated that in many of the instances cited, employees had received verbal approval from their supervisors before working overtime. Office personnel also stated employees were permitted to work through their lunch hour at times when work loads demanded the additional effort. Office personnel indicated timesheets were not signed by employees in all instances because employees occasionally emailed their timesheets to their supervisors for approval.

Updated Response: Accepted and Implemented. The office utilizes a new timekeeping system which should solve a majority of the timekeeping issues. In addition, the Office now requires employees to sign off on their CTAS balances quarterly attesting to their accuracy.

8. Periodically review and update the Policy and Procedure Manual to reflect current operations.

Finding: The Office had not properly updated its Policy and Procedure Manual to reflect current operations and practices. The most recent version of the Manual is dated February 1994, and some minor updates to the manual had been documented in memorandum format in 2005. However, auditors noted the following discrepancies between the Manual and current practices:

- The Office's Manual stated employees must use vacation time in full-day or half-day increments. However, during our sample testing, employees were permitted to use vacation time in half-hour increments.

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- The Office's Manual stated travel vouchers must be submitted by the 15th of the month following the month of travel. However, during sample testing, Office personnel did not enforce this requirement.

Office personnel stated management staff have been handling higher priority projects and have not had adequate time to devote to a proper update of the Manual until recently. Office personnel also stated a vacancy in their upper management staff delayed the preparation of an updated Manual. Lastly, Office personnel stated an update is currently being prepared and reviewed before being released to employees.

Updated Response: Accepted and Implemented. The Office completed the new Policy and Procedure manual and distributed it to employees with an effective date of 7/1/2011.

9. Implement and maintain controls to ensure vouchers are signed off by receiving officers, timely approved by appropriate personnel, and contain accurate information and proper supporting documentation. (Repeated-2008)

Finding: The Office did not exercise adequate controls over voucher processing.

- Seventy-one of 347 vouchers tested, totaling \$118,299, were not signed by the receiving officer.
- Nine of 347 vouchers tested, totaling \$6,168, did not contain the proper approvals on the order documents.
- Three of 347 vouchers tested, totaling \$51,301, were approved for payment from six to 71 days late. In addition, 13 of 347 vouchers tested, totaling \$20,493, did not include the date the invoice was received; therefore, auditors were unable to determine if the vouchers were approved within 30 days of the receipt of the invoice. One additional voucher, totaling \$35,800, did not include the date the invoice was approved; therefore, auditors were unable to determine if the voucher was approved within 30 days of the receipt of the invoice.
- One voucher tested, totaling \$3,282, was not coded with the proper SAMS detail object code.
- One voucher tested, totaling \$122, did not include a purchase requisition.

Office personnel stated they felt their process of obtaining an "approval to pay" signature on each voucher fulfilled the requirement for a receiving officer's signature and date. Office personnel stated order documents were missing approval signatures, a purchase requisition was missing, and the wrong detail object code was used due to oversight. Office personnel also stated vouchers were approved late due to oversight. Lastly, Office personnel stated an approval date was missing due to oversight, and date received stamps were overlooked as the Office worked to refine its voucher processing procedures.

Accepted or Implemented – continued

Updated Response: Accepted and Implemented. The Fiscal Division stamps a received date on all invoices received (or the receiving division may do so if received directly in their divisions). Two signatures are now affixed to all invoices, including that of the manager of the division receiving the goods or services or that of the individual designated to sign for the receipt of goods or services. The second signature is that of the CFO indicating final approval to pay an invoice.

10. Allocate necessary resources to properly report and fully pursue collections on delinquent accounts receivable. Refer eligible delinquent accounts be referred to the Comptroller’s Offset System. Lastly, carefully prepare and review accounts receivable reports to ensure accounts receivable are reported in accordance with SAMS procedures. (Repeated-1990)

Finding: The Office did not properly refer delinquent accounts receivable to the Comptroller’s Offset System, nor did it accurately report accounts receivable information to the Office of the Comptroller via its Quarterly Summary of Accounts Receivable (C-97 and C-98 Reports). During testing, auditors noted the following deficiencies:

- The Office did not refer debts over \$1,000 and more than 90 days past due to the Comptroller’s Offset System. Testing of 50 accounts receivable indicated six accounts totaling \$12,210 were more than 90 days past due as of June 30, 2010, yet had not been referred to the Comptroller’s Offset System.
- Two of eight C-97 and C-98 Reports filed with the Office of the Comptroller during FY09 and FY10 contained errors when compared to underlying Office records. In addition, a computation error was noted within agency records for one of the quarters noted below.

Fiscal Year Affected	Quarter Affected	Effect on C-97 and C-98 Reports
2009	1 st Quarter	Overstated by \$6,750
2010	4 th Quarter	Understated by \$2,000

- One of eight C-97 Reports filed contained significant adjustments without adequate explanation. The Office reported a \$13,000 decreasing adjustment in its C-97 Report for UST activity for the quarter ended June 30, 2009 but failed to include a proper explanation for the adjustment as required. This adjustment represents 45% of the net receivable balance as of June 30, 2009.

At June 30, 2010, boiler and pressure vessel safety (BPV) and elevator inspection (inspection) receivables consisted of 3,088 accounts totaling \$693,000. At June 30, 2010, underground storage tank (UST) receivables consisted of 11 accounts totaling \$34,000.

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Office personnel stated the errors described above were due to oversight during the report preparation process. Office personnel also stated they have been aggressively pursuing collection on all outstanding accounts receivable, utilizing both their own staff as well as a private collection agency to maximize collections. The instances noted during testing, however, were not referred to the Comptroller's Offset System due to oversight.

Updated Response: Accepted. The Office is in the process of revising the system to send some Underground Storage Tank (UST) accounts over to the Comptroller for the offset program. Additionally, the Agency is evaluating other division's accounts receivable for possible referral. The Public Safety Shared Services Center prepares the accounts receivable reports. We will work with them to assure the reports are correct.

11. Strengthen internal controls over the recording and reporting of State property by reviewing inventory and recordkeeping practices to ensure compliance with statutory and regulatory requirements. Also, ensure all equipment is accurately and timely recorded on property records and are properly valued. In addition, thoroughly review all reports prepared from internal records for accuracy before submission to the Office of the Comptroller and the Department of Central Management Services. (Repeated-2004)

Finding: The Office did not exercise adequate control over the purchase, recording and reporting of State property. During a review of the Office's Quarterly Report of State Property (C-15 reports), five of eight reports were noted as containing the following errors:

- Two items were added to the Office's equipment records multiple times, resulting in equipment overstatements totaling \$885. As a result, 2 of 8 reports did not accurately reflect Office equipment transactions.
- Four of eight C-15 reports prepared by the Office and submitted to the Comptroller did not accurately reflect Office equipment transactions. Auditors noted differences between the addition, deletion, and ending balance amounts reported on the C-15 reports and the Office's quarterly transaction spreadsheets as follows:

<u>Quarter</u>	<u>Asset Class</u>	<u>Amount Reported to Comptroller</u>	<u>Amount per Quarterly Transaction Spreadsheet</u>	<u>Difference</u>
9/30/2008	Additions	\$453,443	\$463,264	(\$9,821)
9/30/2008	Deletions	\$0	\$197,880	(\$197,880)
9/30/2008	Net Transfers	\$226,707	\$28,827	\$197,880
12/31/2008	Additions	\$50,391	\$55,765	(\$5,374)

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6/30/2009	Additions	\$74,300	\$75,792	(\$1,492)
6/30/2009	Deletions	(\$93,706)	(\$81,879)	(\$11,827)
12/31/2009	Additions	\$10,207	\$11,497	(\$1,290)

Total net difference – C-15s to Office records (\$29,804)

Auditors also noted the following during a review of the Office’s equipment records:

- The Office did not timely record 195 equipment additions, totaling \$203,302, on its inventory listing. Of these instances, 190 items were added to the Office’s inventory listing six to 2,661 days late. Four items were added to the Office’s inventory listing 5,529 days late. Lastly, no acquisition date could be determined for one item.
- For six of 25 vouchers tested, the Office did not retain the new furniture affidavits filed with the Department of Central Management Services (DCMS) to support new purchases of equipment items over \$500. These vouchers contained purchases of new equipment totaling \$12,662.
- For 11 of 25 vouchers tested, the equipment items totaling \$500 or more could not be located on the Office’s annual certifications of inventory filed with DCMS during Fiscal Years 2009 and 2010.
- For two of 25 equipment additions tested, increasing inventory adjustments were not computed correctly, resulting in equipment overstatements totaling \$5,521.
- For two of 25 equipment deletions tested, the deletion request forms did not include the amounts of the items to be deleted from inventory.
- In addition, for one of 25 equipment deletions tested, totaling \$150, the deletion request form was not completed properly. Office personnel indicated on the form that the item to be deleted was lost; however, the item was actually intentionally destroyed by Office personnel as part of a training exercise, which requires additional information to be disclosed on the form.

Auditors also noted the following problems with item location information maintained by the Office:

- One of 25 items tested, totaling \$2,968, appeared on the Office’s records but could not be found at the designated location within the Office.

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- One of 25 items tested, totaling \$1,108, was found within the Office's Chicago location; however, Office property records indicated the item was located at the Office's Springfield location.
- For three of 25 items tested, totaling \$1,083, the Office's corresponding locations listed on the property records did not match the location where the items were observed within the Office.

Office personnel stated many errors noted occurred due to transition problems that occurred when the recordkeeping and reporting functions were moved from the Office to the Public Safety Shared Services Center (PSSSC). Office personnel also noted many of the discrepancies noted during testing between the C-15 reports and the Office's quarterly transaction spreadsheets were attributable to manual adjustments computed by PSSSC personnel. However, this manual adjustment was not presented to the auditors until after the exceptions were noted and presented to Office personnel. This manual adjustment information differs greatly from the information presented to the auditors initially as the supporting documentation for the C-15 reports.

Response: Accepted. The inventory function was transitioned over to the Public Safety Shared Services Center. Some of the exceptions were caused during the transitional period. Additionally, Shared Services uses an old access database for inventory controls. We will evaluate the possibility of purchasing an updated inventory control system including bar code technology.

12. Adopt rules outlining the minimum amount of training required by statute, or seek legislative remedy to the statutory requirement. Also, comply with the law's requirement to log all complaints concerning violations regarding licensee or unlicensed activity. Lastly, comply with the law's prohibition of refunds, or seek legislative remedy to the statutory requirement. (Repeated-2006)

Finding: The Office did not comply with the Petroleum Equipment Contractors Licensing Act. Auditors noted the following weaknesses:

- The Office did not adopt any rules specifying the minimum amount of training required for the personnel engaged in Underground Storage Tank activities regulated under the Act.
- The Act requires the Office to maintain a log of all complaints received concerning violations regarding parties licensed under the Act or unlicensed activity. However, the Office did not maintain a log of complaints received as required. As a result, auditors could not determine if the Office took appropriate action to investigate or follow up on complaints received.

Accepted or Implemented – continued

- The Office issued 11 refunds, totaling \$9,300, to parties who were either licensed under the Act or who had applied for licensure. In 10 of these instances, the Office approached the party and offered refunds, either due to overpayment or timing of license expirations. In the other instance, the contractor approached the Office and requested a refund because it did not wish to submit all of the outstanding items necessary to process its renewal application. However, the Act states that all fees paid pursuant to the Act are nonrefundable.

Office personnel stated they do not believe they received any complaints during the examination period that should have been logged. Office personnel also stated they continued to process refunds where they considered them necessary because they did not want to create an undue financial burden on contractors. Lastly, Office personnel stated they were aware of the requirement to adopt rules to specify minimum training amounts for personnel engaged in UST activities but has not had adequate staffing and resources available to prepare rules for this program.

Updated Response: Accepted. Public Act 97-0428 became effective August 16, 2011. The act took out the requirement to adopt rules outlining the minimum amount of training required for personnel engaged in UST activity and allows the OSFM to issue refunds for accidental overpayments of fees. Additionally, the Office established a log we will fill out if we receive a citizen complaint against a contractor. The Office is also proposing a legislative change specifying the log is for citizen complaints. We have proposed on our Regulatory Agenda Administrative Rule changes to address the accidental overpayments and to remove the training requirements.

13. Thoroughly review all applications to ensure the applicants meet all of the required criteria before licensure is granted. Adopt rules governing the review of out-of-state applicants for licensure as required by the Boiler and Pressure Vessel Repairer Regulation Act. (Repeated-2008)

Finding: The Office did not exercise adequate control over its processing of applications for boiler and pressure vessel repair licensure and did not establish rules for out-of-state applicants as required by Boiler and Pressure Vessel Repairer Regulation Act.

Auditors tested 22 new applications for boiler and pressure vessel repair licensure, and noted licenses were issued to all 22 applicants, despite the following deficiencies noted during our testing of the application files:

- Seven of 22 application files did not include the addresses of all general partners, general managers, officers, or limited partners;
- Four of 22 application files did not include evidence of an affidavit stating the partnership had been legally formed;

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- Three of 22 application files did not include evidence of the name and registered address for the corporation and the name of the registered agents for the corporation;
- Two of 22 application files did not include evidence of a letter of authority from the Illinois Secretary of State's Limited Partnership Office; and
- One of 22 application files did not include evidence of a valid Certificate of Authorization to use the "R" Repair Symbol Stamp.

In addition, the Act requires the Board of Boiler and Pressure Vessel Rules to promulgate rules for licensure for applicants who are registered under the laws of another state. The Act states applicants may be licensed under the Act without examination, upon payment of the required fee, if the requirements for registration are substantially equal to the requirements in force in Illinois and that the state, territory, or country has similar rules for licensure.

Updated Response: Accepted and Implemented. The Office now requires applicants to submit all required documents prior to obtaining a license. The Office has established rules for out-of-state applicants in administrative rules.

14. Implement necessary controls to identify and perform inspections in a timely manner. (Repeated-2002)

Finding: The Office did not conduct inspections of boilers and pressure vessels in a timely manner. Twenty-three of 50 boiler and pressure vessel inspections tested were not performed in a timely manner. These inspections were performed from one to 55 days late.

Office personnel cited various reasons for late inspections, including difficulty in gaining access to some locations that are largely unmanned (such as car washes) and locations that must cease operations altogether to permit a proper inspection. In addition, Office management stated location owners generally resist inspections prior to their certificate expiration dates because it reduces the amount of time between billings.

Updated Response: Accepted. Based on the current rules, the inspections were late because there is no latitude built into the process. At the same time, since the companies have to pay for the inspections, they are reluctant to have inspections early since that will start the clock over for the next inspection. The original intent of the previous rule changes were to provide for some latitude in completing inspections. Wording has been changed and approved by the Boiler Board. Administrative rules changes are on the Regulatory Agenda. This rule change will give the OSFM up to 90 days after the expiration of the inspection to conduct its inspection. Additionally, the OSFM will initiate a statutory change.

15. Ensure all future reimbursements made under the Act are issued timely. (Repeated-2008)

Accepted or Implemented – continued

Finding: The Office did not timely issue reimbursements for firefighter training as required by the Illinois Fire Protection Training Act.

None of the 13 local governmental agencies and individuals tested who incurred eligible training costs during calendar year 2008 were reimbursed timely during FY09. The reimbursements for calendar year 2008 training costs incurred by the tested local governmental agencies and individuals, totaling \$461,405, were issued six to 25 days late.

Office personnel stated the payments were delayed due to an interpretation issue on the matter of probationary fire fighters. Office personnel stated they opted to delay the release of the payments until the matter was fully resolved, instead of issuing potentially incorrect or inaccurate payments.

Response: Accepted. The reimbursements were late for FY09 due to a legal interpretation which resulted in some updates to the PSE System. It was the Legal Counsel's decision that the checks be mailed late rather than the alternative of the amounts being sent to the local governments being incorrect. The legal interpretation was in regards to the probationary period. All of the payments listed on the schedule were six days late with the exception of one that was 25 days late.

16. Timely appoint appropriate persons to fill the current and any future vacancies on the Board. (Repeated-2008)

Finding: The Fire Equipment Distributor and Employee Advisory Board did not consist of nine members as required by the Fire Equipment Distributor and Employee Regulation Act of 2000. The Board had one vacancy since May 2007 for a public member. The person who previously held this position on the Board resigned during FY07, and the State Fire Marshal did not appoint anyone to fill the resulting vacancy.

Office personnel stated that they have made several attempts to fill the position. However, since it is not a compensated position, Office personnel stated it has been difficult to locate a person who is willing to donate his or her time.

Updated Response: Implemented. The Board now consists of 9 members as required by the Fire Equipment Distributor and Employee Regulation Act. The "Public Member" was seated on July 29, 2011.

17. Designate members of an administrative panel to comply with the Hazardous Material Emergency Response Reimbursement Act or seek a legislative remedy to the statutory requirement. (Repeated-2008)

Finding: The Office did not maintain a 7-member administrative panel as required by the Hazardous Material Emergency Response Reimbursement Act.

REVIEW: 4368

The administrative panel was statutorily required to be formed to review claims made against the Hazardous Material Emergency Reimbursement Fund and to determine reasonable and necessary expenses to be reimbursed to an emergency response agency.

Office personnel stated there have been no claims filed during the last several years; therefore, the panel has not needed to meet.

Updated Response: Accepted. The OSFM will initiate a statutory remedy.

18. Establish and impose a reinstatement fee as required by the Pyrotechnic Distributor and Operator Licensing Act.

Finding: The Office did not establish a reinstatement fee for licenses which were allowed to lapse as required by the Pyrotechnic Distributor and Operator Licensing Act. As a result, licensees were not charged a reinstatement fee.

Auditors noted three of 25 licensees tested allowed their licenses to lapse 18 to 43 days after the 60-day grace period and were not required to pay a reinstatement fee before being issued a new license.

Office personnel stated the Office neglected to include a reinstatement fee when writing the Administrative Rules due to oversight.

Updated Response: Implemented. The agency initiated changes to administrative rules to accommodate the reinstatement fee (Title 41 Section 230.150). Rules were effective 9/1/11.

19. Establish rules and regulations to administer grants as required by the Fire Protection District Act.

Finding: The Office did not establish rules and regulations for the administration of grants as required by the Fire Protection District Act.

Office personnel stated rules had not been developed due to competing priorities for Office management. Office personnel also cited a low public interest in this program and a traditionally low number of transactions in this program as reasons why rules had not yet been adopted for this program.

Updated Response: Implemented. The rules were adopted October 2010 (Title 41 Section 295.10).

20. Keep abreast of nationally recognized safety code updates and timely adopt all applicable standards as required by the Act. (Repeated-2008)

REVIEW: 4368

Accepted or Implemented – concluded

Finding: The Elevator Safety Review Board within the Office of the State Fire Marshal failed to adopt new standards timely as required by the Elevator Safety and Regulation Act (Act). During a review, auditors noted the Board had not adopted several nationally recognized standards.

Effective July 23, 2009, the Act (225 ILCS 312/35) required the Board to adopt the latest editions of certain professional standards within twelve months after the effective date of those standards.

Response: Accepted. The standards referred to have been adopted by the Board. However, new Elevator Safety rules have been in process since early 2009. We submitted the rules to JCAR in a timely fashion. They have just recently been reviewed by JCAR (4/12/11) with recommendations to the Board. The Board accepted one of the recommendations and rejected the other. We are currently working with JCAR to resolve the situation.

Updated Response: Accepted. The rules are presently working their way through the JCAR process. (41 Ill. Adm. Code 1000)

21. Establish a fee schedule for inspections performed or seek a legislative remedy to the statutory requirement. Convene Safety Review Board meetings once per quarter as required by law.

Finding: The Elevator Safety Review Board within the Office of the State Fire Marshal did not comply with the Elevator Safety and Regulation Act. The Elevator Safety Division was created in January 2003 to oversee the enforcement of elevator safety standards. Auditors noted the following during our testing:

- The Board did not adopt a fee schedule for elevator inspections.
- The Board did not meet during the first quarter of FY10.

Office personnel stated they do not currently perform any elevator inspections, so they did not determine it was necessary to adopt a fee schedule for inspections. Office personnel also stated a meeting was scheduled for the first quarter of Fiscal Year 2010, but the meeting was cancelled due to a lack of quorum.

Updated Response: Accepted. The Elevator Board had been meeting quarterly as required. The Office of the State Fire Marshal does not do elevator inspections therefore we would not set a fee for elevator inspections. Individuals contract with elevator inspection companies to do the actual inspection work and those companies set their own fees. We license the elevator inspection companies. We will look at statutory changes to get this situation resolved.

- 22. Continue to work with circuit clerks remitting fines and other State and local government entities to obtain the information necessary to identify the fire units entitled to outstanding arson fines stemming from convictions and sentencing carried out prior to August 13, 2009, or develop an alternative plan for the distribution of monies collected and seek legislative approval for such disposition. Also, seek the authority to promulgate administrative rules to govern the distribution of fines collected and deposited into the Fire Service and Small Equipment Fund. (Repeated-2006)**

Finding: The Office did not timely distribute arson fines received to the required fire departments and fire prevention districts for the purchase of fire suppression or fire investigation equipment.

During the current examination, the Office could not determine the amount of money held in the Fire Prevention Fund awaiting distribution to fire departments and fire prevention districts as required. Prior to August 13, 2009, the Unified Code of Corrections (Code) stated “moneys in the Fire Prevention Fund collected as additional fines under this Section shall be distributed by the Office of the State Fire Marshal to the fire department or fire protection district that suppressed or investigated the fire”. As of August 12, 2009, circuit courts in Illinois had levied fines against offenders in 44 arson cases, totaling \$16,506, dating as far back as 2003. Office personnel also cited inadequate information received from circuit courts as well as fire departments and fire prevention districts as barriers to distributing the fines collected.

Effective August 13, 2009, the Code was modified by P.A. 96-0400 to state “moneys in the Fire Service and Small Equipment Fund collected as additional fines under this Section shall be distributed by the Office of the State Fire Marshal as appropriated and according to the rules set forth and adopted under the Emergency Services Response Reimbursement for Criminal Convictions Act”. Office personnel stated no monies collected pursuant to the Code have been distributed since August 13, 2009. In addition, office personnel stated the Act did not grant the Office authority to promulgate rules regarding the distribution of arson fines deposited into the Fire Service and Small Equipment Fund, and as a result, no rules or procedures have been developed.

The Office has not made any further attempts to distribute monies collected from convictions and sentencing carried out prior to August 13, 2009. Office personnel stated they lack the resources to devote to the research and work necessary to track down all of the information necessary to be able to distribute the arson fines collected. Office personnel also stated they felt they could not make further attempts to distribute these monies because they no longer had the statutory authority to make such distributions.

Response: Accepted. The Office will be seeking legislative changes to address the disposition of the old fines residing in the Fire Prevention fund and to delete references to the Emergency Services Response Reimbursement for Criminal Convictions Act in 730 ILCS 5/5-9-1.12(c).

Emergency Purchases

The Illinois Procurement Code (30 ILCS 500/) states, "It is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts...." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State Property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however that the term of the emergency purchase shall not exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and duration are limited to the emergency. Prior to the execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

Notice of all emergency procurement shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 3 business days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 days before the public hearing.

A chief procurement officer making such emergency purchases is required to file an affidavit with the Procurement Policy Board and the Auditor General. The affidavit is to set forth the circumstance requiring the emergency purchase. The Legislative Audit Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

During both FY09 and FY10 the Office of the State Fire Marshal did not file any affidavits for emergency purchases.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Office of the State Fire Marshal indicated in August 2010 that 77 employees were assigned to locations other than official headquarters.