

# LEGISLATIVE AUDIT COMMISSION



Review of  
Illinois Gaming Board  
Year Ended June 30, 2010

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**REVIEW: 4364  
ILLINOIS GAMING BOARD  
YEAR ENDED JUNE 30, 2010**

**FINDINGS/RECOMMENDATIONS - 8**

**IMPLEMENTED - 2**

**ACCEPTED - 6**

**REPEATED RECOMMENDATIONS - NA**

**PRIOR AUDIT FINDINGS/RECOMMENDATIONS - NA**

This review summarizes the auditors' reports on the Illinois Gaming Board for the year ended June 30, 2010, filed with the Legislative Audit Commission on June 28, 2011. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and State statute. The auditors also conducted a financial audit of the State Gaming Fund and stated the financial statements of the Gaming Fund were fairly stated. The Gaming Board was established on July 1, 2009 pursuant to Executive Order 09-5, and pursuant to this Order all associated powers, duties, rights and responsibility of the Illinois Gaming Board that were provided by the Department of Revenue were transferred to the Gaming Board as a separate agency.

The mission of the Gaming Board is to administer and regulate riverboat casino gambling and video gaming in Illinois through strict regulatory oversight as mandated by statute and applicable administrative rules. The Gaming Board consists of five members appointed by the Governor and confirmed by the Senate. The Board administers a regulatory and tax collection system for casino gambling and also has comprehensive law enforcement responsibilities.

Mr. Mark Ostrowski is the Board Administrator, serving in that position since November 2005. Previously he served the Gaming Board as general counsel from November 2001 until November 2005. The average number of Board employees by division at June 30, 2010 was as follows:

<b>Division</b>	<b>FY10</b>
Officials/Managers	28
Professionals	47
Para-Professionals	6
Office/Clerical	2
<b>TOTAL</b>	<b>83</b>

The Board also pays the related salaries and expenses for approximately 74 Illinois State Police through an interagency agreement.

### **Expenditures From Appropriations**

The General Assembly appropriated \$128,085,000, all from the State Gaming Fund, to the Board in FY10. Appendix A summarizes these appropriations and expenditures by object for the period under review. Total expenditures for the Board were \$107,866,857 in FY10. Since the Illinois Gaming Board was established as a separate agency effective July 1, 2009, there is no comparative data for previous fiscal years.

### **Cash Receipts**

Appendix B summarizes the cash receipts of the Board for FY10. Total cash receipts were \$533,055,307 in FY10. Comparative data for fiscal years prior to July 1, 2009 is unavailable.

### **Property and Equipment**

According to the Agency Report of State Property submitted to the Office of the State Comptroller, the Gaming Board has about \$1.4 million in equipment. However, the schedule could not be reconciled to Board records, as reported in Finding No. 5.

### **Service Efforts and Accomplishments**

In FY10, the number of operating riverboats in Illinois was nine. Total 12-month attendance at riverboat casinos was about 14.35 million in FY10 compared to 14.26 million in FY09 and 15.97 million in FY08. There were 6,514 active occupational licenses; 5,489 incident reports filed; and 13 level one occupational investigations.

### **Accountants' Findings and Recommendations**

Condensed below are the eight findings and recommendations included in the audit report. The following recommendations are classified on the basis of updated information provided by Mark Ostrowski, Board Administrator, and Mark Lewis, Chief Fiscal Officer, in a memo dated November 14, 2011.

#### **Accepted or Implemented**

- 1. Implement formal documented procedures regarding the calculation of the transfer. Further, designate an individual to review the transfer documentation who is independent of the transfer calculation and transfer initiation documents.**

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**Finding:** The Illinois Gaming Board (Board) did not have formal written procedures and supporting documentation detailing the calculation for the transfers made to the Education Assistance Fund (EAF). In addition, the Board did not have adequate segregation of duties to approve the final amount transferred to the Education Assistance Fund. The Board was unable to support the amounts transferred by a management employee that went on leave of absence.

The auditors noted that while the Board did use the required formula to prepare its Fund Balance Report (Report), which is used to determine the amount that is to be transferred to the EAF, none of the actual transfers made during FY10 reconciled to the Reports prepared by Board personnel.

Month	Amount Per Code	Actual Transfers Made	Unexplained Difference
July	\$32,000,000	\$35,000,000	\$3,000,000
August	\$40,200,000	\$40,000,000	(\$200,000)
September	\$49,600,000	\$45,000,000	(\$4,600,000)
October	\$39,300,000	\$40,000,000	\$700,000
November	\$40,200,000	\$40,000,000	(\$200,000)
December	\$43,300,000	\$42,000,000	(\$1,300,000)
January	\$21,400,000	\$21,000,000	(\$400,000)
February	\$12,200,000	\$15,000,000	\$2,800,000
March	\$21,400,000	\$20,000,000	(\$1,400,000)
April	\$30,600,000	\$25,000,000	(\$5,600,000)
May	\$26,200,000	\$25,000,000	(\$1,200,000)
June	<u>\$35,900,000</u>	<u>\$35,000,000</u>	<u>(\$900,000)</u>
<b>Total</b>	<u>\$392,300,000</u>	<u>\$383,000,000</u>	<u>(\$9,300,000)</u>

The Board stated that Board personnel would prepare the Report for submission to a management employee. The Report would include the fund balance as of a certain date and back out the Board's obligations to locals, operational expenses, and previous EAF transfers that were still in process. This would give the management employee an "Available Funds" balance for transfer to the EAF. However, the Board is unable to explain why the management employee deviated from the Report that was provided to them when making the transfer.

**Updated Response:** Implemented. The Board has already formalized procedures regarding the calculation of the transfer. In addition, another management employee now reviews, approves and authorizes the transfer documentation who is independent of the calculation of the transfer initiation documents.

**Accepted or Implemented – continued**

- 2. Direct staff that review procurement opportunities to date the evaluations to increase transparency in the process. Additionally, revise evaluation forms to include a section for reviewers to certify the ratings with their signatures.**

**Finding:** Gaming Board employees who evaluated the proposals for the Central Communications System (CCS) failed to provide evidence of the date evaluations were conducted.

During a review of the procurement processes utilized by the Board in selecting a vendor to provide a CCS, auditors examined the procurement files maintained by the Board and found:

- **Administrative Review:** The Board's Administrative Review Form provides sections for the reviewer to sign and date the review. While the reviewer did sign the Form, none of the five reviews indicated the date that the reviewer performed the review.
- **Mandatory System Requirements Review:** The Board's *Mandatory System Requirements Form* provides sections for the reviewer to determine whether requirements were met or not, comment on the ratings, and to date when the evaluation was conducted. There were six reviewers and five proposals, 20 of 30 reviews were not dated. Additionally, for one proposal (New Way Gaming) four of six reviewers did not complete the evaluation and one of those forms did not even identify who the reviewer was. None of the Forms have a section where the reviewer can certify the ratings via reviewer signature.
- **Technical Evaluation Review:** The Board's Technical Review Form provides sections for the reviewer to assign a point value to specific criteria and provide comments for those ratings. The Form does not provide a section for the reviewer to identify when the review was completed. None of the 24 evaluations conducted by the evaluation team indicated when the review took place. None of the Forms have a section where the reviewer can certify the ratings via reviewer signature.

The Board reported that the Administrative Reviews were conducted on the same day as opening of the vendor proposals, a date which is typed on the Forms. Absent a signed date, auditors would be unable to determine if the Board statement was accurate. Additionally, the Board indicated that it does not have a policy for dating evaluation documentation.

**Response:** Accepted. In future procurements, the Gaming Board will direct staff that review procurements to date their evaluations. The Gaming Board will further revise its evaluation forms for future procurements to include a section for the reviewer to certify the ratings with their signature.

The Gaming Board further responds that, with respect to the evaluation of the proposal submitted by New Way Gaming, although 4 of the 6 reviewers did not complete the evaluation forms, the Evaluation Team documented its difficulty reviewing New Way Gaming's proposal in a memorandum that was in the procurement file. Specifically, the

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memorandum noted that “the Team could not ascertain whether New Way Gaming met most of [the mandatory] requirements.” The memorandum further noted that “the only mandatory requirement that the Team is certain that New Way Gaming met was MI – the primary central communication system will be located at an approved location in Illinois.” The Evaluation Team determined since New Way Gaming did not meet the mandatory requirements, no further evaluation was necessary.

- 3. Document evaluation committee meetings including dates, who attended, and what was discussed. Additionally, follow CMS Guidelines and ensure that major differences in scores are discussed to determine if an error was made or an evaluator missed or misinterpreted a vendor’s proposal; and rating points are supported with thorough and appropriate comments.**

**Finding:** The Gaming Board’s procurement files did not contain adequate records to evidence that the Evaluation Committee for the Central Communications System (CCS) procurement met. Additionally, there was no documentation to show that significant scoring differences were discussed by committee members.

During the review of the procurement processes utilized by the Board in selecting a vendor to provide a CCS, auditors examined the procurement files maintained by the Board, and the file did contain a summary memo dated April 29, 2010, stating, “*The committee met on multiple occasions.*” However, there was no documentation in the file to support those meetings, either who attended or what topics were discussed.

The Board reported that although the procurement files maintained by the Board with respect to the FY10 CCS RFP do not adequately document the dates the Evaluation Team met, who was present and what was discussed, the Evaluation Team did meet on multiple occasions and discussed all aspects of the proposals, including scoring and differences in scoring. The Evaluation Team’s evaluation sheets reflect those discussions.

**Response:** Accepted. The Gaming Board will direct the Evaluation Team to document its meetings including dates, who attended and what was discussed. The Gaming Board will also direct any future Evaluation Teams to support their points through more thorough comments.

The Board further responds that all members of the Evaluation Team were given the opportunity to express their opinions regarding specific issues and specific scores. Each Evaluation Team member’s scores reflect that team member’s individual opinion. The

### **Accepted or Implemented – continued**

evaluation sheets reflect the open and unbiased opinion of each Evaluation Team member. The Evaluation Team had 6 members and the scores were averaged. The Gaming Board

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does not believe that any Evaluation Team member's individual scores reflect any errors or misunderstanding. Differences were discussed – trying to influence another Team member to change their score could be construed as steering a decision.

**Updated Response:** Implemented. In future procurements, the Gaming Board will direct the Evaluation Committee to document its meetings including dates, who attended and what was discussed. The Gaming Board will also direct any future Evaluation Committees to support their points through more thorough comments.

#### **4. Develop procedures for oversight review of scoring evaluations for procurement activity completed by the Board.**

**Finding:** Lack of review for the scoring of pricing in the evaluation process of the Central Communications System (CCS) procurement resulted in the award to a vendor that was not the highest ranked.

During a review of the procurement processes utilized by the Board in selecting a vendor to provide a CCS, auditors examined the procurement files maintained by the Board, including the technical and pricing evaluation scoring of the proposals and found:

- A Board staff member, who was not part of the team that scored the technical aspect of the procurement, was responsible for opening the pricing component of the proposals and completing a scoring matrix with the assignment of points.
- No one from the Board reviewed the ratings assigned to the pricing component, resulting in only one set of eyes reviewing and interpreting the pricing information.
- A calculation error resulted in Intralot's 2<sup>nd</sup> scenario proposal to be overstated by \$11 million.
- The Board incorrectly added in subcontractor payments on the Intralot pricing proposals resulting in an overstated total contract price.
- The Board allowed one vendor (Scientific Games) to submit pricing based on 12,500 site locations while the other two vendors priced 10,000 site locations – the Board did not clarify the different figure with Scientific Games.
- Other areas existed in pricing where assumptions had to be made by the Board employee (i.e., calculating Scientific Games price over 66 months as opposed to 72 months for the other vendors), which he did not clarify with the vendor prior to completing the assignment of pricing points.
- The Board was not aware of the price scoring problems until Intralot submitted its 5<sup>th</sup> protest of the award on September 3, 2010. The Board forwarded the information to officials at CMS for them to review. A CMS official responded to this inquiry on September 9, 2010.

A Board employee, who performed the pricing calculations for the procurement, indicated that the Board was under pressure to move forward with the contract and that any steps backward would have been “frowned upon.”

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According to a Board employee and a CMS analysis of the scoring, a different vendor would have been the winner if the mistakes and miscalculations were corrected. Even though the Board re-bid the procurement, it may have created a delay in implementing the Video Gaming Act that results in delays in the State receiving funds from video gaming. The legislation authorizing the Board to seek a central communications system is currently under review by the Illinois Supreme Court.

**Response:** Accepted. The Gaming Board agrees that it should develop procedures for oversight review of scoring evaluations for procurement activity completed by the Board.

The Gaming Board further responds that, with respect to the conclusion that “[l]ack of review for the scoring of pricing in the evaluation process of the Central Communications System Procurement resulted in the award to a vendor that was not the highest ranked,” the Gaming Board cannot document whether the wrong vendor was awarded the contract.

Although a Board employee indicated that the Board was under “pressure” to move forward with the contract and that any steps backward would have been “frowned upon,” the Gaming Board does not agree that “pressure” was an underlying cause for either the lack of review, the miscalculations or any assumptions that were made. Preserving the integrity of gaming in Illinois is the Gaming Board’s primary regulatory responsibility. That responsibility includes not only the regulation of gaming, but ensuring the integrity of the regulatory process, including any procurement, is maintained. When the Gaming Board determined that assumptions had been made by both the Gaming Board and respondents to the FY10 CCS RFP which resulted in miscalculations in the evaluation of the price portion of the proposals, the Gaming Board decided it was its responsibility, and in the best interest of the State of Illinois, to vacate the award, terminate the contract and rebid the solicitation.

With respect to the conclusion that re-bidding the procurement may have created a delay in the implementation of video gaming, the Gaming Board notes that the CCS is only one component of video gaming in Illinois. There are numerous other factors that will have an impact on when video gaming “goes live” in Illinois. Those factors include but are not limited to:

- releasing all applications for licensure and related forms
- the number of applications for licensure the Gaming Board receives
- the Gaming Board’s ability to hire personnel
  - the number of investigators the Gaming Board has to investigate the suitability of applicants for licensure
  - the ability to hire financial analysts to complete financial background investigations
- the complexity of the investigations into applicants for licensure

**Accepted or Implemented – continued**

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- whether any municipality (e.g. Chicago) that has an ordinance prohibiting gambling repeals that ordinance (thereby increasing the number of locations that will apply for licensure)
- creating the infrastructure within the Gaming Board for revenue/tax collection
- testing and certification of the CCS by GLI
- testing of the VGTs in certain licensed locations prior to “going live”
- pending and threatened litigation

**Updated Response:** Accepted. The Gaming Board will develop procedures for oversight review of scoring evaluations for procurement activity completed by the Board.

**5. Establish controls over property reporting and implement procedures to ensure:**

- **Equipment is entered timely and accurately on the property listing;**
- **Equipment additions are reconciled to purchases made by the Board;**
- **Quarterly reports are reconciled to property listings, reviewed for accuracy and adequate documentation is maintained;**
- **Property listings include all the required information in accordance with the Administrative Code; and**
- **Work with the Office of the State Comptroller to correct or properly adjust the discrepancies noted in quarterly and annual reporting to the IOC.**

**Finding:** The Gaming Board did not maintain sufficient controls over the accuracy and reporting of its property. Auditors noted the following:

- The Board did not adequately reconcile its property control records to the Agency Report of State Property (C-15) filed with the Comptroller. The FY10 amounts reported on the C-15 did not agree to Department property records as of June 30, 2010 by more than \$198,000.
- The auditor was unable to determine reconciling differences between the Board prepared C-15s and Property Listing. The Board could not provide support for numbers presented on the C-15.
- The Board’s property listing contained inadequate and inaccurate information.
- The Board did not properly record pieces of equipment on its property listing.
- The Board did not timely record equipment on its property listing.

Board personnel stated that unfamiliarity with the Property Control Act, Administrative Code, and SAMS reporting requirements, combined with improper administrative controls and a lack of oversight and review, allowed inaccurate property control reporting.

**Updated Response:** Accepted and Partially Implemented. The Board has addressed the discrepancies the auditor noted and corrected the discrepancies in our

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Quarterly and Annual reports to the IOC. The Board will draft formal policies and procedures to ensure compliance with the Property Control Act, respective Administrative Codes and SAMS requirements.

- 6. Establish and implement formal policies and procedures to ensure accounts receivable are reported in accordance with SAMS procedures. Further, keep detailed records of all billings and the corresponding collections to facilitate proper reporting of accounts receivable activity.**

**Finding:** The Gaming Board did not exercise adequate controls over accounts receivable reporting when preparing its FY10 Quarterly Accounts Receivable Reports for the Illinois Comptroller.

During accounts receivable testing, auditors noted the following:

- The Reports tested for the State Gaming Fund did not accurately reflect the Board's accounts receivable transactions during FY10. The Reports showed no receivables due to the Board for Admission Taxes and Wagering Taxes. These taxes earned on the last three game days of each of the quarters and not yet received were not recorded on the Reports.
- All four the Reports did not contain the correct agency number.
- The Board reported its receivable amounts in whole dollars on all four FY10 Reports. The SAMS Manual states that the Reports are to be submitted to the Comptroller with all dollar amounts rounded to the nearest thousand.
- The Board did not label an aged \$100,000 receivable correctly on the 1<sup>st</sup> and 2<sup>nd</sup> Quarter Education Assistance Fund Report. The same receivable was also labeled incorrectly on the 2<sup>nd</sup> Quarter Report as a receivable earned during the 2<sup>nd</sup> Quarter instead of as a Gross Receivable at the beginning of the 2<sup>nd</sup> Quarter.
- The Board made a \$10,000 adjustment on the 3rd Quarter Report for the State Gaming Fund that was determined to be invalid after auditor inquiry.
- The Board reported an invalid \$5,000 accounts receivable in the 3rd Quarter for the State Gaming Fund. The payment was received in the 2<sup>nd</sup> Quarter but was not processed until a month later.

Board personnel stated that unfamiliarity with SAMS procedures, combined with improper administrative controls and a lack of oversight and review, allowed inaccurate Accounts Receivable Reports to be submitted.

**Updated Response:** Accepted and Partially Implemented. Proper controls have been put in place to address these issues. FY11 A/R Reports were revised. Formal policies and procedures have been drafted.

**Accepted or Implemented – concluded**

7. **Take appropriate measures to ensure performance evaluations are conducted annually and on time as required by policy; ensure all personnel files are kept up-to-date; require all employees to maintain time sheets in compliance with the State Officials and Employees Ethics Act; maintain accurate accumulated leave records for all employees; and ensure that new employees are receiving sexual harassment training as described by law.**

**Finding:** The Gaming Board did not have adequate controls over personal services. During testing, auditors noted the following:

- Two of 23 annual performance evaluations for employees tested were not completed timely by the Board, ranging from eight to 92 days late. In addition, one of 23 employees in the sample did not receive a probationary evaluation during the examination period.
- Two of 23 employees tested did not have accurate State and federal withholding support in employee deduction file.
- One of 23 employees tested did not have complete support for time spent on “official State business.”
- Seven of 23 employees tested had employee absences that did not trace to supporting leave request documentation and leave requests were not properly approved.
- Two of 2 employees tested in the sample did not receive new employee training on sexual harassment. They both signed a new employee enrollment checklist to note that they received the Sexual Harassment Prevention packet, but no training was provided.

**Response:** Accepted. The Board, and the Administrative & Regulatory Shared Services Center (who performs Human Resource functions for the Board), will collaboratively take appropriate measures to address the conditions found, as well as address the Auditor’s Recommendation.

8. **Ensure all contractual agreements are approved prior to the start of the contract period, and ensure that contractual agreements are filed with the Comptroller within 15 days of execution of the contract.**

**Finding:** The Gaming Board did not have adequate controls over contractual agreements and interagency agreements. During testing, auditors noted the following:

- One of 8 contractual agreements tested was not signed and approved prior to the start date of services.
- One of 3 interagency agreements tested was not signed and approved prior to the start date of services per the agreement and the Contract Obligation Document (COD), nor was the agreement properly filed with the Office of the Comptroller within fifteen days of the execution of the agreement. The agreement was signed by

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the last authorizing party 50 days after the reported start date of services and was filed with the Comptroller 11 days after the required filing date.

Board personnel stated the contractual agreements and interagency agreements were not fully executed prior to the start date of services due to oversight.

**Updated Response:** Implemented. The Board will work to ensure all contractual agreements are approved prior to the start date of the contract period and that they are filed timely with the IOC.

### **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 FY10, the Illinois Gaming Board filed no 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

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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 Board filed the required report in July of 2010 and indicated that six employees were assigned to a location other than official headquarters.