LEGISLATIVE
AUDIT
COMMISSION

Review of
Department of Financial and Professional Regulation
Two Years Ended June 30, 2020

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REVIEW: 4512
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
TWO YEARS ENDED JUNE 30, 2020

FINDINGS/RECOMMENDATIONS – 14
IMPLEMENTED – 4
ACCEPTED AND PARTIALLY IMPLEMENTED – 10

REPEATED RECOMMENDATIONS – 6

PRIOR AUDIT FINDINGS/RECOMMENDATIONS – 14

This review summarizes the auditors' report on DFPR for the two years ended June 30, 2020, filed with the Legislative Audit Commission on May 11, 2021. The auditors conducted a compliance examination in accordance with state law and Government Auditing Standards.

DFPR was modernized on July 1, 2004 as a result of the consolidation of the Departments of Financial Institutions, Professional Regulation and the Office of Banks and Real Estate.

DFPR oversees the regulation and licensure of banks and financial institutions, real estate businesses and professionals, and various licensed professions, enforces standards of professional practice and protects the rights of Illinois residents in their transactions with regulated industries. DFPR has four operating components:

- The Division of Banking;
- Division of Financial Institutions;
- Division of Professional Regulation; and
- Division of Real Estate.

DFPR maintains the following Department Programs:

- Evaluation and Licensing;
- Investigation and Enforcement;
- Regulation and Supervision; and
- Consumer Awareness and Education.

DFPR's mission is to protect the residents of Illinois, ensure the safety and soundness of financial institutions, ensure that competent professionals are licensed to provide services to the public and to enhance commerce in the state for the benefit of all its residents.

DFPR Offices are located at the following :

- Bicentennial Building - 320 West Washington -3rd Floor – Springfield;

- 9511 Harrison St – Suite LL50 – Des Plaines; and
- Thompson Center – 9th Floor – Chicago.

Mr. Bryan Schneider was Secretary of DFPR from February 9, 2015 to January 14, 2019. Following the departure of Mr. Schneider, Ms. Jessica Baer served as Acting Secretary from January 15, 2019 to February 25, 2019. Ms. Deborah Hagan was appointed as Secretary and served from February 26, 2019 to March 31, 2021. Secretary Mario Treto Jr. took over the role in an acting capacity on April 1, 2021. Previously, Mr. Treto Jr. served as Director of the Division of Real Estate for DFPR and also as the Deputy City Attorney for the City of Evanston.

According to the GOMB Performance Measures Detail, new program-based measures for FY20 include the number of non-depository financial institutions examined, the number of state-chartered credit unions examined, the number of adult-use cannabis dispensaries, the number of licensed professionals (excluding medical cannabis and adult-use cannabis) and the number of medical cannabis dispensaries.

(Source: https://www2.illinois.gov/sites/budget/Pages/default.aspx)

The following table shows the average number of full-time employees.

Division	FY18	FY19	FY20
Division of Professional Regulation	134	130	147
Division of Banking	95	95	94
Division of Financial Institutions	57	51	49
Division of Real Estate	33	35	35
Secretary's Staff	10	6	8
Fiscal Operations	12	12	15
Information Technology Unit	9	-	-
Office of Legal Affairs	30	30	31
Legislative Affairs Unit	3	3	4
Administrative Services Unit	17	18	16
TOTAL Full-Time Equivalent Employees	**400**	**380**	**399**

(Source: Page 91 of the audit report)

Appropriations and Expenditures

The General Assembly appropriated a total of approximately $109.9 million to DFPR from 28 different funds for FY20. The Department was appropriated approximately $102.7 million in FY19. Notably, costs associated with some of the professions regulated by the Department are paid from those respective professions' individual funds. Schedule 1 and

2 in the audit report summarize these appropriations, expenditures and lapsed balances by fund for FY19 and FY20.

(Source: Schedule 1 and 2 of the Compliance Examination on pages 41 and 42 of the audit report)

Total expenditures from appropriated funds were approximately $76.3 million in FY20 compared to $76 million in FY19, an increase of 0.4%. Lapse period spending in FY20 was $10.1 million, or 13.2% of the total expenditures, an increase of $7.9 million, or 10.4%, from FY19. Schedule 4 indicates net expenditures by major activity for the period under review.

(Schedule 4 of the C/E on page 55 of the audit report)

Significant variations as described in the audit report are as follows:

The significant increases in expenditures for the Compassionate Use of Medical Cannabis Fund (0075) and the Registered Certified Public Accountants' Administration and Disciplinary Fund (0151) were due to an increase in the retirement percentage from 51.6% to 54.3%.

The 44.3% decrease in the expenditures from the Savings Regulatory Fund (0579) was the result of not moving the Division of Banking staff onto the fund payroll.

The 43.4% decrease in the expenditures from the Cemetery Oversight Licensing and Disciplinary Fund (0792) was due to staff departures resulting in lower payroll costs.

(Significant variations in expenditures are on pages 76-81 of the C/E of the audit report)

Cash Receipts

DFPR collects fees and taxes in connection with the licensing of various professions, occupations and activities. Cash receipts totaled $121.7 million in FY20 and $78.8 million in FY19, an increase of $42.8 million, or 54.3%. The last two pages of Schedule 5 summarize the revenues recorded in the various funds.

(Source: Schedule 5 of the C/E on pages 64 and 65 of the audit report)

Many of the significant increases in the receipts from FY19 to FY20 can be explained by license renewals and fees being on a two or three year renewal schedule, which fell away in FY20. Many of the significant decreases in the receipts from FY19 to FY20 can be explained by license renewals and fees being on a two or three year renewal schedule and that schedule **<u>not</u>** falling away in FY20.

The Professions Indirect Cost Fund (0218) had prior year refunds that decreased from FY19 to FY20 due to the change in the retirement contribution rate. State Retirement

Systems issued a refund in FY18 that was received in FY19. This refund was not present in FY20.

(Source: Significant variations in receipts are summarized on pages 82-89 of the C/E of the audit report.)

Locally Held Funds

DFPR has four locally held funds as follows: the Title Insurance Securities Depository Fund, the Currency Exchange Liquidation Fund, the Official Advance Fund and the IL Bank Examiners' Education Fund. The Depository Fund (1132) is a non-appropriated, locally held agency fund. The Currency Exchange Liquidations Fund (1133) is held at MB Financial, 1st Illinois Bank, Byline Bank, Republic Bank and FNB; the Official Advance Fund (1249) is held at Chase Bank and the IL Bank Examiners Education Fund (1296) is held at Marine Bank. The Title Insurance Securities Fund holds the largest balance of all four funds at $23.3 million as of June 30, 2020 and $22.7 million as of June 30, 2019.

In addition to its account at Marine Bank, the Bank Examiners' Education Fund (1296) had certificates of deposit, totaling $3,075,000 at June 30, 2019 and June 30, 2020 on deposit with various banks throughout Illinois varying from 12 to 36 months.

Schedule 6 in the audit report summarizes the locally held funds of the DFPR for the years under review. DFPR also maintains other locally held funds (non-appropriated) such as The Depository Fund (1132).

(Source: Schedule 6 of the C/E on page 66 of the audit report)

Changes in Property

Schedule 7 provides a summary of changes in property and capital leases equipment for FY19 and FY20. Property equipment decreased from $1,980,000 as of July 1, 2018 to $1,178,000 at June 30, 2020, a decrease of $802,000, or 40.5%. Capital leases equipment increased from $100,000 as of July 1, 2018 to $292,000 at June 30, 2020.

(Source: Schedule 7 of the C/E on pages 67 and 68 of the audit report)

Status of Previous Audits

Program Audit of the Department's Disciplining of Physicians (August 2006)

The program audit contained 24 recommendations and the Department made progress in implementing findings, 1-6, 8-18, and 20-24 during follow-ups in previous compliance examinations. The following is the status of the remaining recommendations:

7. The Department should take steps necessary to assist the Medical Coordinators with backlogs and improve case timeliness.

Fully Implemented as of June 30, 2020. The number of outstanding cases increased from 1,144 as of June 30, 2018 to 1,500 as of June 30, 2020, which was due to the significant increase of complaints received in the fiscal year. The Department closed 614 of the 1,144 outstanding 2018 complaints. The Department stated that they had expanded the hours of the Medical Coordinators and established a strategic hiring plan to increase their availability to review cases. Many personnel transactions were executed to effectively impact the enforcement operations of Medical professionals and provide more comprehensive information to the Department Coordinators for their reviews. Based on these actions, auditors determined the Department had taken steps necessary to assist the Medical Coordinators with backlogs and improve case timeliness.

19. During the examination period, the Department appointed all members, including public members, to the Medical Disciplinary Board as required by the Medical Practice Act.

Fully Implemented as of June 30, 2020. During the examination period, the Department appointed all members, including public members, to the Medical Disciplinary Board as required by the Medical Practice Act.

Accountants' Findings and Recommendations

Condensed below are the 14 findings and recommendations included in the audit report. Of these, 6 are repeated from the previous audit. The following recommendations are classified on the basis of information provided by the Department of Financial and Professional Regulation, via electronic mail received June 4, 2021.

Recommendations

1. The auditors recommend:

- **The DFPR Secretary appoint a chief internal auditor and ensure a full-time program of internal auditing is in place and functioning at DFPR.**
- **If another agency is to be relied upon to supplement internal audit functions at DFPR, then DFPR should obtain written approval of the Governor for these services and ensure such services are provided in accordance with the Act's requirements.**

- **DFPR implement policies and procedures to track internal audit costs, maintain documentation which adequately documents the costs of the internal audit function, and ensure other agencies providing services to DFPR are only reimbursed for allowable costs.**
- **Finally, DFPR should not grant another agency the authority to process payroll against the Department's appropriations unnecessarily or without implementing and documenting proper controls. (Repeated since 2018)**

FINDING: *(Inadequate Internal Audit Function)*

DFPR failed to adhere to provisions of the Fiscal Control and Internal Auditing Act (Act).

The Act requires each designated State agency to maintain a full-time program of internal auditing (30 ILCS 10/2001(a)). DFPR, as a Department of State government created in the Civil Administrative Code (Code) (20 ILCS 5/5-15), is a designated State agency required to maintain a full-time program of internal auditing (30 ILCS 10/1003 (a)). The Act also states "agencies which do not have full-time internal audit programs may have internal audits performed by the CMS" (30 ILCS 10/2001 (b)).

The Act was originally a Legislative Audit Commission initiative designed to address deficiencies noted in a May 1988 management audit of Illinois' State Programs of Internal Auditing. The audit report's conclusions and recommendations and the legislation that became the Act (House Bill 2031 of the 86th General Assembly which was signed into law as P.A. 86-936) demonstrated an understanding that agencies which are not required to have their own full-time program of internal auditing could obtain internal auditing assistance from an agency such as the CMS. In other words, each designated state agency must have a full-time program of internal auditing and each state agency that is not so designated is not required to have a full-time program of internal auditing but may receive internal audit services from CMS.

On April 1, 2018 the Department and CMS entered into an intergovernmental agreement for CMS to provide all internal audit functions for the Department.

On August 9, 2019, the Attorney General issued an opinion stating multiple State agencies may not appoint the same individual as their chief internal auditor through an intergovernmental agreement. Should designated State agencies desire to consolidate or combine their internal audit functions, they must either seek authorizing legislation from the General Assembly or follow the process for reassigning functions among or reorganizing executive agencies which are directly responsible to the Governor as established by article V, section 11, of the Illinois Constitution of 1970, and the Executive Reorganization Implementation Act.

During testing, we noted the following:

- The Department's Secretary has not appointed an individual to fill the Department's chief internal auditor position. This position was vacated on July 1, 2016, 1,460 days prior to the end of the examination period on June 30, 2020.

  The Act (30 ILCS 10/2002(a)) requires the Director to appoint a chief internal auditor.

- The Department and CMS did not obtain the Governor's approval for CMS to provide professional internal auditing services to the Department.

  Department, a designated State agency under the Act, was obtained from the Governor.

- DFPR was unable to provide the documentation requested. Specifically, we noted the following:

  - In response to our requests, DFPR management indicated CMS does not bill DFPR for its internal audit services and related assistance. DFPR's specific costs for its professional internal audit services are not being tracked. As a result, we were unable to audit the cost of the DFPR's internal audit function to ensure DFPR is accurately reimbursing CMS payroll costs as stipulated by the intergovernmental agreement.

  - Also, DFPR granted CMS authorization through its intergovernmental agreement to charge the Department's appropriations for payroll costs associated with CMS' rendering of professional internal audit services to DFPR; however, as indicated by DFPR in its response to our requests, it is not DFPR's nor CMS' intent to process any vouchers against the Department's appropriations. As a result, we believe there is a significant internal control risk with potentially delegating a State's appropriation authority unnecessarily. Although this did not occur during the examination period, there is still a potential risk that exists due to the intergovernmental agreement not being modified.

  DFPR management indicated they could not find a qualified candidate to replace CMS providing internal audit services.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR intends to continue its search for a Chief Internal Auditor. During the audit period, DFPR attempted to hire a Chief Internal Auditor and could not find an appropriate individual for this position. Since working with the CMS, DFPR has conducted annual agency-wide risk assessments, approved annual audit plans, received

annual reports detailing the performance by the internal audit team, and conducted/filed internal control checklists timely. In addition, there have been 15 internal audits finalized, with four in progress and two more scheduled to begin by July 1, 2020.

2. The auditors recommend DFPR continuously appoint qualified members to these boards and committees as required by the acts cited. We also recommend DFPR continue to work with the Governor's Office to ensure the board and committee vacancies are filled in a timely manner for those cases where the Governor's Office is required to appoint board and committee members. (Repeated since 2018/First Reported 2004)

FINDING: *(Department Board and Committees not Fully Staffed)*

DFPR did not ensure the appointment of the required number of members to various boards and committees to fill vacancies.

- DFPR was not in compliance with the provisions of the Real Estate License Act of 2000 regarding appointment of members to the Real Estate Administration and Disciplinary Board (Board). We noted one of 12 (8%) members was not actively engaged as a managing broker or broker for at least the ten years prior to the appointment.

  DFPR was first cited for this noncompliance in the compliance examination for the two years ended June 30, 2007. In the years since the finding was first noted, the Department has not been successful in correcting this finding.

  The Real Estate License Act of 2000 (225 ILCS 454/25-10) requires the Governor to appoint fifteen members to the Board. The Board shall consist of twelve members who have been actively engaged as managing brokers or brokers or both for at least the 10 years prior to the appointment and three public members who represent consumer interests.

  Department management indicated noncompliance was due to the resignation of a Board member during their Board term.

- DFPR was not in compliance with the provisions of the Occupational Therapy Practice Act regarding the appointment of members to the Illinois Occupational Therapy Licensure Board (Board). We noted one of seven (14%) positions (public member) has been vacant since January 2020. Therefore, the Board did not have four members who are licensed occupational therapists and actively engaged in the practice of occupational therapy in Illinois, as required by the Occupational Therapy Practice Act. Additionally, one of seven (14%) members was not a public member.

DFPR was first cited for this noncompliance in the compliance examination for the two years ended June 30, 2010. In the years since the finding was first noted, the Department has not been successful in correcting this finding.

The Illinois Occupational Therapy Practice Act (225 ILCS 75/5) requires DFPR to appoint the Board consisting of seven members who shall serve in an advisory capacity to the Secretary. The Board shall be composed of four licensed occupational therapists in good standing and actively engaged in the practice of occupational therapy in the state, two licensed occupational therapy assistants in good standing and actively engaged in the practice of occupational therapy in the state, and one public member who is not licensed under the Occupational Therapy Practice Act or a similar act of another jurisdiction and is not a provider of healthcare service.

DFPR management indicated it had continued challenges in recruiting volunteers willing to donate time to serve on the Board.

- DFPR was not in compliance with the provisions of the Perfusionist Practice Act regarding the appointment of members to the Board of Licensing for Perfusionists (Board). We noted one of five (20%) positions had been vacant since November 2002 (public member). In addition, the Board is not active and did not elect a vice-chairperson in either fiscal year 2019 or 2020.

  DFPR was first cited for this noncompliance in the compliance examination for the two years ended June 30, 2014. In the years since the finding was first noted, the Department has not been successful in correcting this finding.

  The Perfusionist Practice Act (225 ILCS 125/25) requires the Department to appoint members to the Board of Licensing for Perfusionists which shall serve in an advisory capacity to the Department. The Board shall be comprised of five persons appointed by the Department, of which two members must hold an active license to engage in the practice of perfusion in the State, one member must be a physician licensed under the Medical Practice Act of 1987 who is board certified in and actively engaged in the practice of cardiothoracic surgery, one member must be a licensed registered professional nurse certified by the Association of Perioperative Nurses, and one public member who is not licensed under this Act or a similar act of another jurisdiction and who has no connection with the profession. Additionally, the Act (225 ILCS 125/26) requires the Board to annually elect a chairperson and a vice-chairperson both of which are to be Illinois licensed perfusionists.

  DFPR management indicated it has challenges inherent to recruiting volunteers willing to donate time to serve on various boards and committees.

- DFPR was not in compliance with the provisions of the Speech-Language Pathology and Audiology Practice Act regarding appointment of members to the Speech-Language Pathology and Audiology Board (Board). We noted one of five (20%) positions was vacant (public member) during the examination period.

The Illinois Speech-Language Pathology and Audiology Practice Act (225 ILCS 110/5) requires DFPR to appoint members to the Board of Speech-Language Pathology and Audiology. The Board shall be comprised of five persons appointed by DFPR, of which two members must have been licensed speech-language pathologists for a period of five years or more, two members must have been licensed audiologists for a period or five or more years and one public member.

DFPR management indicated they had challenges inherent to recruiting volunteers willing to donate time to serve on various boards and committees.

- DFPR was not in compliance with the provisions of the Veterinary Medicine and Surgery Practice Act of 2004 regarding appointment of members to the Veterinarian Licensing and Disciplinary Board (Board). We noted one of seven (14%) positions was vacant (veterinarian) during the examination period.

  The Veterinary Medicine and Surgery Practice Act of 2004 (225 ILCS 115/7) requires DFPR to appoint members to the Veterinarian Licensing and Disciplinary Board. The Board shall be comprised of seven persons appointed by DFPR, of which six members must be licensed veterinarians, in good standing, and are actively engaged in the practice of veterinary medicine and surgery in the state, and one public member.

  DFPR management indicated they had challenges inherent to recruiting volunteers willing to donate time to serve on various boards and committees.

Failure to appoint board and committee members may prevent the boards and committees from carrying out their mandated duties of regulating these professions in accordance with the acts cited. Members should be appointed in a timely manner to properly perform the function of the boards and committees as intended. Full boards and committees are necessary to properly conduct meetings and operate effectively and efficiently.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR is still collaborating with the Governor’s Office and professional industry group to recruit, vet, and appoint or reappoint volunteers to serve on our various non-paid boards and committees.

3. The auditors recommend DFPR adopt rules by the Savings Bank Act and the Illinois Banking Act, as required, or continue to seek a legislative remedy if the Department determines rules are not needed. (Repeated since – 2016)

<u>FINDING</u>: *(Noncompliance with Savings Bank Act and Illinois Banking Act)*

DFPR did not ensure compliance with the Savings Bank Act and the Illinois Banking Act.

DFPR did not promulgate rules as required by the Savings Bank Act and the Illinois Banking Act to ensure consistency and due process of savings and state banks operating under these Acts.

DFPR was first cited for noncompliance in the compliance examination for the two years ended June 30, 2016. In the years since the finding was first noted, DFPR has not initiated corrective action to rectify this finding.

The Savings Bank Act (205 ILCS 205/9004(f)) and the Illinois Banking Act (205 ILCS 5/48(2.1)) require the Secretary to adopt rules that ensure consistency and due process in the examination process.

DFPR management indicated they are pursuing legislative change to remove or modify this requirement but have been unsuccessful in this effort.

Failure to adopt rules may result in inconsistent implementation of the Savings Bank Act and the Illinois Banking Act.

<u>DEPARTMENT RESPONSE:</u>
Accepted.

<u>UPDATED RESPONSE:</u>
Implemented. The Department submitted rules in compliance with the Savings Bank Act and Illinois Banking Act with the Joint Commission on Administrative Rules on December 16, 2020.

4. The auditors recommend DFPR complete internal reviews to ensure accurate Agency Workforce Reports are prepared and adequate documentation is maintained for submitting the reports to all required parties. We also recommend DFPR file the amended reports with the Office of the Secretary of State and the Office of the Governor within 30 days of the release of the report as required by the Illinois State Auditing Act (30 ILCs 5/3-2.2). (New)

<u>FINDING:</u> *(Inadequate Controls over Preparing and Submitting Agency Workforce Reports)*

During testing of the Agency Workforce Report, we noted the following:

- DFPR did not provide supporting documentation for amounts reported for FY18;

- During our detail testing of the FY19 Agency Workforce Report, we noted the following:

  - The total number of Professional female employees was reported as 112; per supporting documentation the amount should have been 113.

  - The total number of female new hires was reported as 9; per supporting documentation the amount should have been 39.

  - The total number of minority new hires was reported as 24; per supporting documentation the amount should have been 26.

- DFPR was unable to provide an explanation for significant fluctuations noted between FY18 and FY19 Agency Workforce Reports.

- For the reports filed for FY18-19, DFPR was not able to demonstrate when it submitted the reports to the Secretary of State. DFPR also was unable to demonstrate when it submitted the original FY19 report to the Governor.

- DFPR did not file corrected Agency Workforce Reports for FY16-17 with the Secretary of State and Office of the Governor within 30 days of release of the prior compliance report.

The State Employment Records Act (Act) (5 ILCS 410/20) requires each state agency to collect, classify, maintain, and report accurate data regarding the number of state employees, as required by the Act, on a fiscal year basis. Each agency is also required to file a copy of all reports with the Office of the Secretary of State and submit a copy to the Governor by January 1 each year. Good internal controls require the reports to be filed with correct information.

Further, the State Records Act (5 ILCS 160/8) requires the Secretary to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the DFPR designed to furnish information to protect the legal and financial rights of the state and of persons directly affected by DFPR's activities.

Finally, the Illinois State Auditing Act (30 ILCS 5/3-2.2) requires state agencies to prepare and file corrected workforce reports with the Secretary of State and the Office of the Governor within 30 days of the release of the report.

DFPR management indicated the exceptions occurred due to human error.

Failure to provide complete and accurate reports prevents fulfillment of the purpose of the State Employees Records Act, which is to provide information to help guide efforts to achieve a more diversified State work force. Failure to retain records supporting the DFPR's submission of the reports to the Secretary of State and Governor's office represents noncompliance with the State Records Act.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR recently started the process of evaluating the responsibilities and job descriptions for the employee charged with preparing and submitting these reports along with compiling all reporting obligations of DFPR as a whole.

5. **The auditors recommend DFPR evaluate its procedures for monitoring performance evaluations to ensure completion on a timely basis. (Repeated since 2018/First Reported 1993)**

FINDING: *(Employee Performance Evaluations not Timely Completed)*

DFPR did not timely complete employee performance evaluations.

During testing of 40 employee personnel files, we noted evaluations were not performed on a timely basis for 32 of 40 (80%) employees tested. The evaluations were performed from one to 404 days late.

DFPR was first cited for this noncompliance in the compliance examination for the two years ended June 30, 1993. In the years since the finding was first noted, DFPR has not been successful in implementing corrective action to rectify this finding.

The Illinois Administrative Code (80 Ill. Adm. Code 302.270(d)) requires performance evaluations to be completed not less often than annually.

DFPR management indicated competing priorities have hindered its success in ensuring performance evaluations are performed timely.

Performance evaluations are a necessary and beneficial process used for the development of employees and communication of performance expectations to employees. Failure to complete performance evaluations timely inhibits DFPR in providing timely feedback on employees' performance and areas for improvements. Further, performance evaluations provide systematic judgment to support salary increases, promotions, transfers, demotions, and terminations.

DEPARTMENT RESPONSE:

Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR has recently created a system by which to more thoroughly track and coordinate submission of evaluations. DFPR intends to utilize the new statewide hiring, transactions and evaluations software known as Success Factors being developed by CMS.

6. **The auditors recommend DFPR adopt adequate controls to review calculations of lump sum payments for terminated employees and maintain proper documentation. (New)**

FINDING: *(Terminated Employee Lump Sum Payment Incorrectly Computed)*

DFPR did not review calculations of lump sum payments for terminated employees.

During testing of 15 employees that separated from DFPR during the examination period, we noted the following exceptions:

- One (7%) employee received an incorrect lump sum payment due to a DFPR clerical error, resulting in an overpayment totaling $851. DFPR sought reimbursement for the error when we brought the error to its attention.

- DFPR could not support $1,667 of the total $2,758 lump sum payment to one (7%) employee.

The State Finance Act (30 ILCS 105/14a) requires the payment of unused vacation time to an employee upon separation. The final lump sum payment to employees should include the unused vacation time.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires all state agencies to establish and maintain a system, or systems, of internal fiscal controls to provide assurance expenditures applicable to operations are properly recorded and accounted for to maintain accountability over the state's resources. Should an overpayment occur, the Comptroller's Statewide Accounting Management System (SAMS) procedure 23.20.65 states the salary refund forms…should be processed within 60 days of the issue date on the erroneous salary warrant.

The State Records Act (5 ILCS 160/8) requires DFPR's Secretary make and preserve records containing adequate and proper documentation of the functions, decisions, and essential transactions of DFPR to protect the legal and financial rights of the state and of persons directly affected by DFPR's activities.

DFPR management indicated the incorrect payment and failure to support the total payment to separated employees was attributed to employee oversight.

Failure to review lump sum payments resulted in an overpayment to a terminated employee. The lack of adequate documentation to support the amounts paid prevents the computations from being reviewed and a determination of whether the amounts paid were proper.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Fully Implemented. DFPR has implemented a policy to not perform lump sum calculations until the employee has concluded the last day. Then both E-Time and Central Payroll (CTAS) systems will be reviewed to ensure that time balances are up to date and finalized.

7. The auditors recommend DFPR implement internal controls to ensure all reconciliations are timely performed. (New)

FINDING: *(Failure to Prepare Contract Reconciliations Timely)*

DFPR failed to perform a reconciliation of its records to those of the Illinois Office of the Comptroller as required by the Statewide Accounting Management System (SAMS).

In FY19, DFPR did not perform reconciliations of the Agency Contract Reports (SC14) for any month. In FY20, two of two (100%) of the Agency Contract Reports (SC14) and four of four (100%) Obligation Activity Reports (SC15) tested were not reconciled within 60 days of month end.

SAMS (Procedure 15.30.30) required the reconciliation of the Agency Contract Report and Obligation Activity Report within 60 days of month end. Effective July 1, 2020, SAMS (Procedure 15.30.20) requires the reconciliation of the Agency Contract Report or the Obligation Activity Report within 60 days of month end.

DFPR management indicated the noncompliance was due to staff turnover.

Failure to perform reconciliations is noncompliance with SAMS and increases the risk differences will go undetected and corrected.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Fully Implemented. DFPR implemented a policy that contract reconciliations SC14 & SC15 will be completed monthly and reviewed by supervisory staff within the time frame. Reconciliations reports for FY21 are in full compliance.

8. The auditors recommend DFPR establish effective controls over travel including the enforcement of applicable rules and regulations related to timely submission of the TA-2 Report, proper travel voucher completion, proper licensure and insurance of employees using privately owned vehicles for State business and timely travel voucher approval. (Repeat – 2018)

FINDING: *(Weaknesses in Internal Control over Travel)*

DFPR did not maintain adequate controls over compliance with travel rules and regulations.

During testing, we noted the following:

- DFPR did not file the Travel Headquarters Report (TA-2 Report) due July 15, 2019 until June 12, 2020, 327 days late. The TA-2 Report due January 15, 2020 was filed January 30, 2020, 15 days late.

  The State Finance Act (Act) (30 ILCS 105/12-3) requires state agencies to file Travel Headquarters Reports with the Legislative Audit Commission for all individuals where official headquarters are located other than where their official duties require them to spend the largest part of their working time. The reports shall be filed with LAC no later than each July 15 for the period from January 1 through June 30 of that year and no later than each January 15 for the period from July 1 through December 31 of the preceding year.

  DFPR management attributed the late filing to employee turnover.

- Three of 40 (8%) travel vouchers tested, totaling $1,868, included headquarters for reimbursed travelers which differed from the headquarters listed on the applicable TA-2 Reports. As a result, we could not confirm the three employees did not receive reimbursement for mileage between residence and headquarters. In addition, three of 40 (8%) travel vouchers tested, totaling $1,311, included headquarters for reimbursed travelers who were not included on the applicable TA-2 Reports.

  DFPR management indicated the exceptions were due to employee turnover and human error.

- One of 40 (3%) travel vouchers tested, totaling $49, did not have supporting documentation of employee's proof of licensure and insurance. DFPR did not ensure the driver was properly licensed and insured during the time of travel.

  The Illinois Vehicle Code (625 ILCS 5/10-101(b)) states every employee of the state, who operates for purposes of state business a vehicle not owned, leased or controlled by the state, shall procure insurance in the limit of the amounts of liability not less than the amounts required in Section 7-203 of the Illinois Vehicle Code.

DFPR management indicated the exception was due to oversight.

- One of 40 (3%) travel vouchers tested, totaling $54, was approved 29 days late by DFPR.

  The Illinois Administrative Code (74 Ill. Adm. Code 900.70) states an agency shall approve Proper Bills or deny bills defects, in whole or in part, within 30 days after receipt.

DFPR management attributed the exception to oversight.

Failure to ensure compliance with applicable rules and regulations could result in a loss of control over travel expenditures and improper state payments. Failure to ensure employees driving their personal vehicles for state business are properly licensed and insured represents noncompliance with the Illinois Vehicle Code and could expose the state to unnecessary liability.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR has increased staffing levels within its Division of Fiscal Operations with temporary and full-time resources. While still not at the ideal headcount, this Division is now more stable and capable in handling the reporting and voucher completion responsibilities. They're also collaborating with other agency Divisions, such as Human Resources and Administrative Services, to ensure proper licensing and insurance of employees using privately owned vehicles for state business.

9. The auditors recommend DFPR establish effective internal controls in its management of returned checks to ensure compliance with all applicable statutes. (Repeat – 2018)

FINDING: *(Deficiencies Identified in its Management of Returned Checks)*

DFPR had deficiencies in its management of returned checks.

During testing of 40 returned checks, totaling $10,340, received by DFPR, we noted the following:

- Eight (20%) returned checks tested, totaling $6,635, where the repayment exceeded 30 days and the registrants did not have their licenses revoked. The Medical Practice Act of 1987 (225 ILCS 60/21(f)), Illinois Roofing Industry

Licensing Act (225 ILCS 335/9.10), Real Estate License Act of 2000 (225 ILCS 454/20-25), Massage Licensing Act (225 ILCS 57/160), Pharmacy Practice Act (225 ILCS 85/28), Illinois Optometric Practice Act of 1987 (225 ILCS 80/25), and Illinois Dental Practice Act (225 ILCS 25/22) state DFPR shall notify the person that payment of fees and fines shall be paid to DFPR by check or money order within 30 calendar days from the date of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, DFPR shall automatically terminate the license or deny the application, without hearing.

- Five (13%) of the returned checks tested, totaling $500, where there was no repayment and the registrant did not have their license revoked. The Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 (225 ILCS 447/40-30), Nurse Practice Act (225 ILCS 65/70-25), Medical Practice Act of 1987 (225 ILCS 60/21(F)), and Real Estate License Act (225 ILCS 454/20-25) states DFPR shall notify the person that payment of fees and fines shall be paid to DFPR by check or money order within 30 calendar days from the date of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, DFPR shall automatically terminate the license or deny the application, without hearing.

DFPR management indicated these were oversights caused by turnover in staff and reduced work schedules due to the COVID-19 pandemic.

Failure to properly manage returned checks could lead to inaccurate financial reporting and represents noncompliance with state law.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR has increased staffing levels within its Division of Fiscal Operations with temporary and full-time resources. While still not at the ideal headcount, this Division is now more stable and capable in handling of returned checks management. This Division is also utilizing more in-office work and remote work capabilities while maintaining appropriate COVID-mitigation measures.

10. The auditors recommend DFPR conduct reviews of user access to its applications and data at least annually. (New)

FINDING: *(Failure to Perform Reviews of User Access)*

DFPR failed to review user access rights to its applications.

REVIEW: 4512- DFPR

DFPR utilizes various applications, such as Central Time and Attendance System (CTAS) and eTime, to maintain their financial and personal information.

DFPR could not demonstrate to the auditors a user access review had been performed by DFPR.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires all state agencies to establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance that revenues, expenditures, and transfers of assets, resources, or funds applicable to operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the state's resources. Generally accepted information technology guidance endorses the development of well-designed and well-managed controls to protect computer systems and data, including regular reviews of user access rights.

DFPR management indicated noncompliance was due to lack of staff availability and capability.

Without the implementation of adequate controls and procedures, there is an increased risk unauthorized individuals may gain access to information system resources. These deficiencies increase the risk the confidentiality, integrity, and availability of data will be compromised.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR executed an Information Technology Resource Pool (ITRP) Invitation For Bid (IFB) May 2021 to contract third-party resources in assisting the DFPR and DoIT staff in implementing these review policies and procedures. DFPR was unsuccessful in procuring qualified resources through the ITRP IFB and is pursuing other resource options. The ETA to onboard these resources is early to mid-FY22.

11. The auditors recommend the Department:

- **Obtain SOC reports or perform independent reviews of internal controls associated with outsourced systems at least annually.**
- **Monitor and document the operation of the Complementary User Entity Controls relevant to the DFPR's operations.**
- **Either obtain and review SOC reports for subservice organizations or perform alternative procedures to satisfy itself that the existence of the subservice organization would not impact its internal control environment.**

- **Document its review of the SOC reports and review all significant issues with subservice organizations to ascertain if a corrective action plan exists and when it will be implemented, any impacts to DFPR, and any compensating controls.**
- **Ensure the roles and responsibilities of both parties are outlined in its contracts with service providers. (New)**

FINDING: *(Lack of Adequate Controls Over the Review of Internal Controls Over Service Providers)*

DFPR did not obtain or conduct timely independent internal control reviews over its service providers.

DFPR utilizes four service providers for technology services and database management. During testing, we noted DFPR did not obtain System and Organization Control (SOC) examination reports from its service providers, nor did DFPR complete internal reviews of the SOC reports. In addition, roles and responsibilities of DFPR and service providers were not adequately outlined in the agreements.

DFPR is responsible for the design, implementation, and maintenance of internal controls related to information systems and operations to ensure resources and data are adequately protected from unauthorized or accidental disclosure, modifications, or destruction. This responsibility is not limited due to the process being outsourced.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires all state agencies to establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance that revenues, expenditures, and transfers of assets, resources, or funds applicable to operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the state's resources. In addition, generally accepted information technology guidance endorses the review and assessment of internal controls related to information systems and operations to assure the accurate processing and security of information.

DFPR management indicated the weaknesses were caused by a significant reduction in the Department's IT workforce over the past few years.

Without having obtained and reviewed a SOC report or another form of independent internal controls review, DFPR does not have assurance the service providers' internal controls are adequate to ensure technology services and database administration are adequate.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:

Partially Implemented. DFPR executed an Information Technology Resource Pool (ITRP) Invitation For Bid (IFB) May 2021 to contract third-party resources in assisting the Department and DoIT staff in implementing these review policies and procedures. DFPR was unsuccessful in procuring qualified resources through the ITRP IFB and is pursuing other resource options. The ETA to onboard these resources is early to mid-FY22.

12. The auditors recommend DFPR develop and implement formal change management policies and procedures. In addition, we recommend DFPR identify the personnel permitted to access and change the production environment, ensuring proper segregation of duties exists. (New)

FINDING: *(Weaknesses in Change Management of Computer Systems)*

DFPR did not have formal change management policies and procedures.

DFPR had established several computer systems maintaining critical, confidential and sensitive information in order to meet its mission and mandate. However, during the examination period, DFPR did not have documented policies and procedures to control changes to its application. As such, we were unable to determine if the changes were properly controlled.

In addition, DFPR could not provide a listing of those with access to the production environment and the ability to implement changes thereto.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires all state agencies to establish and maintain a system, or systems, of internal fiscal and administrative controls. In addition, generally accepted information technology guidance endorses the development and implementation of suitable change management procedures to control changes to computer systems.

DFPR management indicated the weaknesses were caused by a significant reduction in the DFPR IT workforce over the past few years.

Without adequate change management procedures, there is a greater risk of unauthorized, improper, or erroneous changes to computer systems.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR executed an Information Technology Resource Pool (ITRP) Invitation For Bid (IFB) May 2021 to contract third-party resources in assisting DFPR and DoIT staff in implementing these review policies and procedures. DFPR was unsuccessful in procuring qualified resources through the ITRP IFB and is pursuing other resource options. The ETA to onboard these resources is early to mid-FY22.

13. DFPR has the responsibility to ensure confidential and personal information is adequately protected. Specifically, we recommend the Department:

- **Establish and communicate DFPR's security program (formal and comprehensive policies, procedures, and processes) to manage and monitor the regulatory, legal, environmental, and operational requirements;**
- **Develop a formal, documented project management framework to ensure new applications are implemented to meet management's intentions;**
- **Classify its data to identify and ensure adequate protection of information;**
- **Evaluate and implemented appropriate controls to reduce the risk of attack;**
- **Ensure cybersecurity roles and responsibilities are clearly defined; and,**
- **Perform a comprehensive risk assessment to identify and ensure adequate protection of information, including confidential and personal information, most susceptible to attack. (New)**

<u>FINDING:</u> *(Weaknesses in Cybersecurity Programs and Practices)*

DFPR did not maintain adequate internal controls related to its cybersecurity programs and practices.

As a result of DFPR's mission to administer the licensing of various professionals within the state, DFPR maintains computer systems containing large volumes of confidential and personal information such as names, addresses, and Social Security numbers of those professions.

The Illinois State Auditing Act (30 ILCS 5/3-2.4) requires the Auditor General to review the cybersecurity programs and practices. During our examination of DFPR's cybersecurity programs and practices, we noted DFPR had not:

- Ensured cybersecurity roles and responsibilities were documented.
- Developed a formal, documented project management framework to ensure new applications are implemented to meet management's intentions.
- Performed a comprehensive risk assessment to identify and ensure adequate protection of information (i.e. confidential or personal information) most susceptible to attack.
- Classified its data to identify and ensure adequate protection of information.
- Evaluated and implement appropriate controls to reduce the risk of attack.
- Developed a formal, comprehensive, adequate, and communicated security program (policies, procedures, and processes) to manage and monitor the regulatory, legal, environmental and operational requirements.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires DFPR to establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance funds, property, and other assets and resources are safeguarded against waste, loss, unauthorized use and misappropriation and to maintain accountability over the State's resources. Furthermore, generally accepted information technology guidance, including the National Institute of Standards and Technology, endorses the development of well-designed and well-managed controls to protect computer systems and data.

DFPR management indicated the weaknesses were due to the COVID-19 pandemic and budget cuts.

Weaknesses in cybersecurity programs and practices could result in unidentified risk and vulnerabilities and ultimately lead to the accidental or unauthorized disclosure of confidential or personal information.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Partially Implemented. DFPR executed an Information Technology Resource Pool (ITRP) Invitation For Bid (IFB) May 2021 to contract third-party resources in assisting the DFPR and DoIT staff in implementing these review policies and procedures. DFPR was unsuccessful in procuring qualified resources through the ITRP IFB and is pursuing other resource options. The ETA to onboard these resources is early to mid-FY22.

14. The auditors recommend DFPR establish internal controls over reconciliation and conversion of data converted during system development projects, such as the ERP. (New)

FINDING: *(Weaknesses Over ERP Implementation)*

DFPR did not demonstrate strong internal controls over its ERP implementation.

In July 2018, DFPR implemented the State's ERP as its business process management system for the tracking of assets, contracts, obligations, and vouchers.

During our testing of DFPR's implementation of ERP, we noted the following:

- DFPR failed to conduct a reconciliation between their legacy system and the ERP for equipment inventory prior to the implementation of ERP.

- DFPR did not retain documentation of the independent review of the design of the ERP nor of their analysis of the review.

DFPR management indicated documentation was not retained of planning and reviews due to lack of resources.

Not ensuring a formal reconciliation between DFPR's legacy system and ERP was done increases the risk data was not transferred correctly and errors in the transfer of data were not caught, potentially giving the Department inaccurate beginning balances.

DEPARTMENT RESPONSE:
Accepted.

UPDATED RESPONSE:
Implemented. DFPR is working on several strategic projects and is appropriately documenting the projects, progress, leads, and subject matter experts involved in these projects. When DFPR implements a new ERP system in the future, we will ensure a reconciliation and an independent analysis will be completed following the new ERP system implementation.

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 affidavits or statements with the Procurement Policy Board and the Auditor General setting forth the amount expended (or an estimate of the total cost), the name of the contractor involved, and the conditions and circumstances requiring the emergency purchase. The Code also allows for quick purchases. 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.

The Department did not have any emergency procurements in FY19.

During FY20 the Department filed one emergency purchase statement for an emergency purchase totaling $34,219 to ensure continued court reporting services to fulfill statutory requirements and to secure accurate records of various complex proceedings, meetings or conferences.

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 its officers and employees for whom official headquarters have been designated at any location other than that at which official duties require them to spend the largest part of their working time.

As of July 15, 2020, the DFPR had 98 employees assigned to locations other than official headquarters.