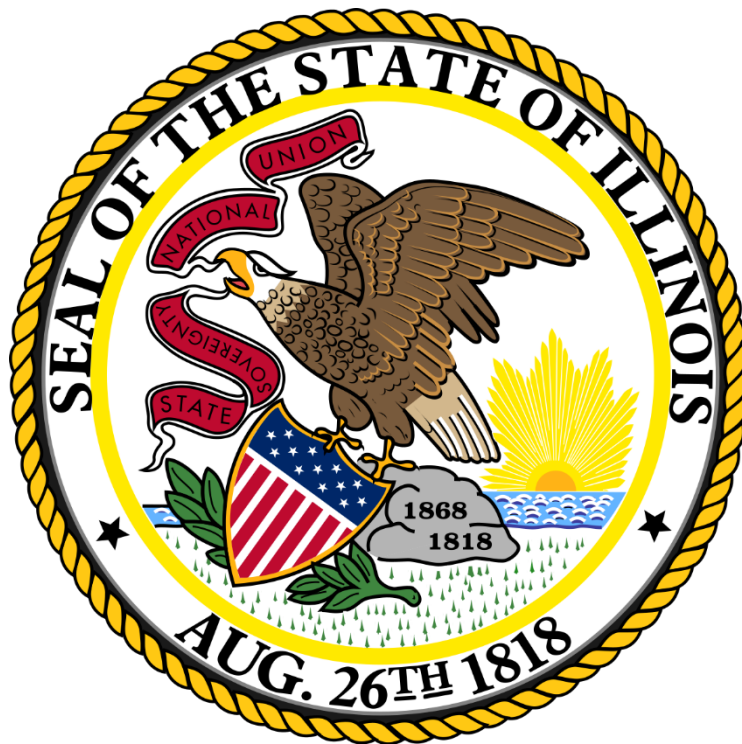


# LEGISLATIVE AUDIT COMMISSION



Review of  
Department of Labor  
622 Stratton Office Building  
Springfield, Illinois 62706  
217/782-7097

**REVIEW: 4548  
DEPARTMENT OF LABOR  
TWO YEARS ENDED JUNE 30, 2021**

**RECOMMENDATIONS – 12  
ACCEPTED AND PARTIALLY IMPLEMENTED - 7  
IMPLEMENTED – 2  
UNDER STUDY - 3  
REPEATED RECOMMENDATIONS – 8  
  
PRIOR AUDIT FINDINGS/RECOMMENDATIONS – 14**

This review summarizes the report on the Illinois Department of Labor for the two years ended June 30, 2021, filed with the Legislative Audit Commission May 18, 2022. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and state law.

### **Agency Narrative**

The mission of the Illinois Department of Labor (IDOL) is to promote and protect the rights, wages, welfare, working conditions, safety and health of Illinois workers, regardless of race, religion, ethnicity, color or sexual orientation. This is done through enforcement of state labor laws to safeguard the public. In addition, the department regulates amusement rides and ensures compliance with all other labor standards.

IDOL is responsible for the administration and enforcement of 25 labor and safety laws. It is organized into six major areas:

- Administration,
- Fair Labor Standards,
- Conciliation and Mediation,
- Illinois OSHA (Occupational Safety and Health Admin),
- Amusement Ride and
- Attraction Safety and Legal.

Michael D Klenik was DOL Director from 7/1/19-1/31/22. Then Dana O’Leary was director for two months in 2/22 and 3/22. Jane Flanagan has been director since March 2022. Director Flanagan is a workplace rights attorney that has been in various positions in the Illinois Attorney General’s office and the Illinois Office of the Governor.

### **Divisions**

The Fair Labor Standards (FLS) division administers and enforces eight state labor laws, including the Minimum Wage/Overtime Law, Wage Payment and Collection Act, Child

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Labor Law, and the Day and Temporary Labor Services Act. The focus of the division is to ensure that workers are paid at the appropriate rate and in a timely manner, to assist workers in the collection of unpaid or underpaid wages, and to protect minors and day laborers from harmful or abusive working conditions.

The Conciliation and Mediation Division (Con/Med) administers and enforces fifteen state labor laws, including the Prevailing Wage Act, the Employee Classification Act, the Victims' Economic Security and Safety Act, the Employee Sick Leave Act, and the Worker Adjustment and Retraining Notification (WARN) Act. The focus of the division is to ensure that workers are paid the appropriate prevailing wage rate on publicly-funded construction projects, to ensure that construction workers are not misclassified as independent contractors, and to ensure workers are given 60-days' notice of plant closings or mass layoffs.

The Illinois OSHA Division protects the health and safety of public employees through the inspection, investigation and evaluation of public facilities and working conditions to ensure compliance with occupational safety and health standards and conducts educational and advisory activities to assure safe and healthy working conditions. The Illinois On-Site Safety and Health Consultation Program helps Illinois businesses meet the Federal OSHA health and safety regulations. The free consultation process is completely voluntary and primarily targeted for small to medium-sized businesses.

The Amusement Ride and Attraction Safety division annually inspects amusement rides and attractions open to the public to ensure they meet safety standards, including criminal history records checks and sex offender registry checks on carnival workers employed in Illinois.

The Legal Division provides legal advice to the Director and each division, oversees all legal functions of IDOL and conducts informal investigative hearings, as well as formal administrative hearings on the statutes enforced by the Department. The division also enforces the Right to Privacy in the Workplace Act, Job Opportunities for Qualified Applicants Act, and the Personnel Records Review Act.

The Administration Division provides support services and overall administrative resources to each of the program divisions. These support services include Fiscal, Information Technology, Legislative Liaison, Public Information Officer, and Human Resources.

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**Expenditures from Appropriations (Public Accountability Report)**

<b>Programs</b>	<b>FY20 Expenditures (headcount)</b>	<b>FY21 Expenditures (headcount)</b>
Illinois OSHA	-\$3,355,900 (25)	-\$3,886,100 (27)
General Admin.	-\$1,829,000 (16)	-\$2,508,200 (21)
Fair Labor Standards	-\$1,811,900 (24)	-\$1,663,100 (18)
Conciliation/Medication	-\$1,256,400 (14.5)	-\$1,246,500 (12.5)
Amusement Ride/Attraction Safety	-\$ 775,000 (6.5)	-\$ 760,500 (6.5)
<b>Totals:</b>	<b>\$9,028,200 (86)</b>	<b>\$10,063,900 (91)</b>

**Property and Equipment**

The balance of state property at the end of FY21 was \$700,000. (p 59 Compliance)

**Key Performance Indicators (Public Accountability Report)**

**Mission Statements and Program Goals/Objectives**

2021 Illinois OSHA: To provide workplace safety and health protections for public employees in Illinois.

1. Promoting and protecting working conditions and the safety and health of Illinois workers
  - a. Conducts investigations of public workplaces
  - b. Collects penalties for violations
  - c. Ensures remediation of hazardous conditions
  - d. Conducts inspections of public workplace fatalities
  - e. Consults small to medium sized businesses on issues of occupational safety and health

2021 Fair Labor Standards: To promote and protect the rights, wages, welfare, safety and health of Illinois workers through enforcement of state labor laws and timely resolution of labor disputes.

1. Protect the rights and welfare of workers through various labor laws
  - a. Conducts fact-based investigations in response to complaints
  - b. Negotiates settlements in back wage cases
  - c. Collects penalties for labor law violations
  - d. Refers cases to hearing under an Administrative Law Judge
2. Promote high standards among Private Employment and Day Labor Agencies
  - a. Licenses private employment, day labor, and nurse agencies
3. Protect children through enforcement of Child Labor Law
  - a. Conducts fact-based investigations in response to complaints

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- b. Collects penalties for labor law violations
- 4. To ensure that all Illinois citizens are paid appropriately and in full for hours worked
  - a. Conducts fact-based investigations into wage claims
  - b. Secures settlements between employers and employees
  - c. Refers cases to hearings under Administrative Law Judges

2021 Conciliation and Mediation: To promote and protect the rights, wages, welfare, safety and health of Illinois workers through enforcement of state labor laws and timely resolution of labor disputes.

- 1. Ensure proper classification of employees in the construction industry
- 2. Promote equal access to the workplace
- 3. Ensure payment of prevailing wage on public works projects

2021 Amusement Ride and Attraction Safety: To safeguard the public through regulation of amusement rides.

- 1. Ensure safety standards are met for all public amusement rides and amusement attractions operation in Illinois
  - a. Performs annual inspections of all public amusement rides and attractions
  - b. Ends operation of unsafe rides and attractions
  - c. Investigates injuries and fatalities on amusement rides and attractions and categorizes incidents as "mechanical", "non-mechanical", or "undetermined"
- 2. Enforce restrictions on employment as amusement ride operators of sex offenders and certain persons with a criminal history
  - a. Enforces compliance with criminal history and sex offender registry checks on carnival workers

<b>Input/Output</b>	<b>FY19 Actual</b>	<b>FY20 Actual</b>	<b>FY21 Actual</b>	<b>FY22 Target</b>
<b>IL OSHA</b>				
Work fatalities	6	4	6	5
Consult requests	247	209	263	350
Safety incidents reported	202	151	208	200
SHARP award	39	38	35	37
Workers impact by remediation hazard conditions	25,000	21,700	10,600	25,000
Inspections performed	214	235	427	350
Inspection per person	48	30	35	40
Consults per person	65	31	29	35
<b>Fair Labor Standards</b>				

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Complaints min. wage and overtime	756	567	451	600
Complaint child labor	14	7	4	11
Complaints' wage pay/collection	3,770	3,800	2,700	3,450
Child labor employment certifications	21,050	13,175	14,900	17,700
Collections in min wage and overtime law	\$571,500	\$524,300	\$361,900	\$602,300
Child labor violation abated	14	28	2	18
Cases complete wage payment and collections	3,750	3,500	2,900	3,600
Nurse agency licenses	250	290	300	250
Child protected from illegal labor	14	16	2	10
Back wage collected	\$3.3 million	\$3.9 million	\$3 million	\$3.1 million
<b>Conciliation and Mediation</b>				
Inquiries	462	726	423	725
Complaints Open	314	711	723	870
Collections' behalf of workers	\$157,100	\$464,000	\$355,500	\$450,000
Cases complete	58	270	550	660
Violations issued	16	66	33	60
Cases to Att. Gen	24	5	27	25
Cases per worker	31	61	72	86
Avg completion per case	1,000 days	980 days	300 days	250 days
<b>Amusement Ride Attraction Safety</b>				
Fees Collected	\$290,600	\$180,600	\$113,600	\$250,000
Ride Inspected	4,100	750	1,350	2,750
Ride Accidents	12	6	6	14
Mechanical Safety Incidents	0	0	1	0

### **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 five 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 a statement with the Procurement Policy Board and the Auditor General 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.

DOL made the following emergency purchases:

- 0 in FY19 and FY21;
- 1 in FY20 for \$440,000 to provide statewide message for business to promote safe practices; and
- 1 in FY22 for \$121,400 for services related to workforce health and well-being.

### **Accountants’ Findings and Recommendations**

Condensed below are the 12 findings and recommendations presented in the compliance report. There were 8 repeated recommendations. The following recommendations are classified on the basis of updated information provided by DOL in a memo received via electronic mail on May 18, 2022.

- 1. The auditors recommend DOL take action to ensure its accounts receivable are properly recorded, collection efforts are made, and accounts receivable**

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**reports are properly prepared in accordance with all applicable laws, rules, and regulations.**

**FINDING:** (Inadequate Controls Over Accounts Receivable) – First reported 2005, last reported 2019

DOL did not exercise adequate control over its accounts receivable and related reporting.

During testing, auditors noted the following:

- DOL was unable to provide detailed individual accounts receivable records for the General Revenue Fund (Fund 001), Child Labor and Day and Temporary Labor Services Enforcement Fund (Fund 357), Employee Classification Fund (Fund 446), and Wage Theft Enforcement Fund (Fund 885).
- DOL's *Accounts Receivable Activity* (Form C-97) did not report any amounts considered to be uncollectible and did not report any write-offs during Fiscal Year 2020 and Fiscal Year 2021.
- DOL was unable to provide an aging schedule to support its *Aging of Total Gross Receivables* (Form C-98).
- DOL was unable to provide current policies or procedures for handling and reporting its accounts receivable, tracking and monitoring complaints received, posting delinquent accounts receivable into the Comptroller's Illinois Debt Recovery Offset Portal system or pursuing other debt collection procedures, and writing off uncollectible receivables. In discussing this matter with Department officials, they indicated some divisions have adopted their own collection procedures that have not been formally approved by the Department.

Due to these conditions, auditors were unable to conclude whether DOL's population records were sufficiently precise and detailed under the Attestation Standards promulgated by the American Institute of Certified Public Accountants (AT-C § 205.35) to test the Department's accounts receivable.

***Even given the population limitations noted above which hindered the ability of the accountants to conclude whether selected samples were representative of the population as a whole,*** auditors performed the following tests:

- DOL was unable to provide supporting documentation for additions or collections reported on Form C-97 reports during FYs20 and 21.
- 1 of 32 (3%) Form C-98 reports tested was not mathematically accurate, with a misstatement of \$30,000.
- 1 of 8 (13%) Form C-97 reports was filed six days late.

This finding has been reported since 2005 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

DOL management stated inadequate historical recordkeeping, unfamiliarity with statutory requirements, and turnover have hindered DOL's ability to comply with applicable State laws, rules, and regulations.



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Failure to exercise adequate controls over accounts receivable led to reporting errors, reducing the reliability of statewide financial information, and could result in delays in collecting cash from outstanding accounts receivable. In addition, failure to establish and maintain internal controls over accounts receivable increases the risk that errors or irregularities could occur and not be found in the normal course of operations and represents noncompliance with State laws, rules, and regulations.

### **RESPONSE:**

DOL accepts the recommendation. DOL is currently reviewing the balances and funds which have reportable accounts receivables.

### **UPDATED RESPONSE:**

Under Study. No Change. DOL has reached out to the Illinois Comptroller to have discussions on how to better track and report accounts receivable. DOL is currently working on establishing policies and procedures.

#### **2. The auditors recommend DOL take action to ensure:**

- **claimant payments are promptly processed and paid, along with the posting of proper accounting entries, when distributed from Fund 251;**
- **reconciliations of the total amount due to claimants at the end of each month to the SB05 report are performed and any unreconciled discrepancies are investigated and properly resolved;**
- **amounts due to claimants older than one year under the MWL are promptly transferred to GRF, with the timely posting of proper accounting entries; and,**
- **amounts due to claimants under the WPCA are properly handled under the relevant provisions of the RUUPA, with the timely posting of proper accounting entries.**

**FINDING:** *(Failure to Establish and Maintain Adequate Internal Control Over the Special State Trust Fund) – First reported 2007, last reported 2019*

DOL failed to establish and maintain adequate control over its Special State Trust Fund (Fund 251), which holds unpaid wages due to employees. As of June 30, 2021, Fund 251 had \$1,897,262 in cash.

During testing, auditors noted the following:

- 2 of 60 (3%) claimant payments tested, totaling \$5,144, were approved for payment between 14 to 16 days after DOL determined the monies were owed to the claimant.
- Auditors were unable to reconcile DOL's ledger of claimants to Fund 251's cash balance from the *Monthly Cash Report* (SB05) prepared by the Comptroller. The auditors noted unreconciled differences of \$1,451,268 and \$1,386,031 at June 30, 2020, and June 30, 2021, respectively.

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Further, since this is a purely custodial fund, assets must equal liabilities; therefore, the available cash within Fund 251 should reconcile to DOL's listing of amounts collected on behalf of, and now due to, claimants.

- At June 30, 2021, DOL was holding claimant balances related to activity in previous Fiscal Years. Each of these balances required a proper disposition by the Department.

This finding has been reported since 2007 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

DOL management indicated fiscal staff turnover and inadequate record-keeping systems have limited the Department's ability to comply with applicable State laws, rules, and regulations. In addition, the administration wants to ensure due diligence is taken in finding claimants their money and this process is time consuming.

Failure to establish and maintain adequate control over Fund 251 resulted in delays in paying collected back wages due to claimants, hinders the reliability of Statewide financial reporting, delays the payment of obligations from GRF, delays claimants from identifying unclaimed property through the State Treasurer's unclaimed property program and/or other states' unclaimed property programs, and represents noncompliance with state laws, rules, and regulations.

### **RESPONSE:**

DOL accepts the recommendation. DOL is working to identify all unpaid claimants. DOL has made transfers during FY22 in accordance with WPCA and MWL and will continue to make a good faith effort in locating claimants prior to transferring funds.

### **UPDATED RESPONSE:**

Under Study. No Change. Fiscal staff started a tracking sheet in FY20. Fiscal will continue to send funds to GRF or unclaimed property once a good faith effort has been made to locate the claimant. IDOL has submitted rules to JCAR for consideration to amend the Wage Payment & Collections Act.

- 3. The auditors recommend DOL strengthen its controls over the recording and reporting of state property by reviewing its inventory and recordkeeping practices to ensure compliance with state law. In addition, auditors recommend DOL maintain documentation of all equipment additions, deletions, and transfers and thoroughly review all reports prepared from its records for accuracy and completeness prior to submitting the reports to external parties.**

**FINDING:** *(State Property Control Weaknesses) – First reported 2003, last reported 2019*

DOL did not exercise adequate control over the accuracy and completeness of its state

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property records and related reporting.

During testing, auditors noted DOL did not maintain detailed documentation of the FY20 and FY21 records of additions, deletions, and transfers. As a result, auditors were unable to determine the population of additions, deletions, and transfers; as well as the completeness and accuracy of DOL's property records.

Due to these conditions, auditors were unable to conclude whether DOL's population records were sufficiently precise and detailed under the Attestation Standards promulgated by the American institute of Certified Public Accountants (AT-C § 205.35) to test DOL's controls over state property and equipment.

***Even given the population limitations noted above which hindered the ability of the accountants to conclude whether selected samples were representative of the population as a whole, auditors performed the following tests:***

- The auditors reviewed DOL's property listing, and noted a voucher number was not reported for 25 of 118 (21%) items listed.
- DOL did not keep accurate records of deletions and transfer-outs. During the testing of deletions, auditors noted the following:
  - 3 of 4 (75%) deletions had an incorrect acquisition date reported in the CMS Surplus Property Delivery Form.
  - 2 of 4 (50%) deletions had an incorrect cost reported in the CMS Surplus Property Delivery Form.
- DOL does not have a policy clearly delineating the categories of equipment considered subject to theft.
- DOL did not ensure physical locations of property and equipment were accurate based on its property listing. During the physical inspection of property items, auditors noted the following:
  - 5 of 30 (17%) equipment items located within DOL were not tagged. Of the five, two equipment items were tagged as being under \$1,000, but had a value greater than \$1,000.
  - 3 of 30 (10%) equipment items located within DOL were incorrectly described on the property records. All three equipment items were described as a 'kit of 5', but it was only one piece of equipment.
  - 1 of 30 (3%) equipment located within DOL had a tag number which did not trace to the inventory listing. The item was a vehicle valued at \$17,700.
  - 1 of 30 (3%) tagged equipment items found was not listed on the property records. The item was an air velocity meter valued at \$445.

This finding has been reported since 2003 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

DOL management indicated the cause to be clerical error, oversight, and the lack of procedures in place to maintain records.

Failure to exercise adequate control over property and to maintain accurate and complete property records increases the potential for fraud and loss of property by theft or

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misplacement. In addition, inaccurate reporting hinders the accuracy of, and delays preparation of, statewide financial information and may result in unnecessary equipment expenditures by the state. Further, the absence of complete and accurate property records results in incorrect accounting records, inaccurate financial reporting, and noncompliance with State laws.

### **RESPONSE:**

DOL accepts the recommendation. DOL has developed policies and procedures to ensure steps are documented for tracking inventory. DOL has created a tracking sheet which includes all additions, deletions, and transfers and will ensure forms sent to CMS have the correct information.

### **UPDATED RESPONSE:**

Implemented. A policies and procedures document has been created to address the appropriate steps necessary for tracking all inventory items belonging to IDOL.

- 4. The auditors recommend DOL establish and maintain fiscal and administrative internal controls over its personal services functions, including:**
- **timely performing performance evaluations in accordance with the Manual and the Code;**
  - **maintaining complete and accurate personnel files, including completed Form I-9, hiring agreements, correct Form C-25s, and authorizations for payroll deductions;**
  - **ensuring employees submit leave documentation in a timely manner;**
  - **ensuring employees obtain approval prior to working overtime;**
  - **ensuring all employees timely complete ethics training and complete the associated attendance verification for retention by DOL; and,**
  - **timely certify to the Secretary of State the names and mailing addresses of persons required to file statements of economic interest before February 1<sup>st</sup> annually.**

**FINDING:** (Inadequate Control Over Personal Services) – First reported 2013, last reported 2019

DOL failed to maintain proper controls over its personal services functions.

During testing, auditors noted the following:

- Auditors tested performance evaluations for 23 employees in FYs20 and 21 and noted:
  - Performance evaluations were not performed timely and/or were not located for 4 (17%) employees tested. More specifically, evaluations could not be located for one employee, and evaluations were performed late for three employees. Late evaluations ranged from 28 to 138 days late.
  - Annual performance evaluations were not properly signed by 2 (9%) employees tested during FY20.

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- Probationary evaluations were not located for 1 of 9 (11%) employees hired during the examination period.
- The auditors tested employee personnel files for Employment Eligibility Verification (Form I-9) forms for 23 employees and noted:
  - I-9 forms could not be located for 12 (52%) employees.
  - Incomplete I-9 forms were on file for 4 (17%) employees. In each instance, Section 2 of the I-9 form was not completed by the employer.
  - One (4%) employee completed and dated Section I of Form I-9 three days after commencing employment.
- Auditors tested attendance records for 23 employees and noted:
  - 5 (22%) employees failed to submit leave requests for approval in advance of time off taken. Auditors noted 6 instances (26%) when leave time was requested and approved between 2 and 20 days after the leave had occurred. Leaves included vacation and personal time.
  - 8 (35%) employees failed to timely submit weekly timesheets in e-Time. Auditors noted 11 instances (48%) where timesheets were submitted from 3 to 19 days late.
  - 2 (9%) employees tested worked overtime which was not approved prior to being worked. Auditors noted 3 instances (13%) when overtime was approved from 7 to 11 days after being worked.
- Personnel and payroll files for 7 of 23 (30%) employees were missing signed deduction authorizations, including:
  - state group insurance withholding authorizations;
  - union dues withholding authorizations; and,
  - other miscellaneous deduction authorizations.
- Auditors tested training records for 23 employees and noted:
  - 6 of 9 (67%) employees hired during the examination period failed to complete the initial ethics training within 30 days of commencing employment. Four trainings were not completed and two were completed late, ranging from 93 to 103 days late.
  - 2 (9%) employees noted having access to Social Security numbers had not completed training to protect the confidentiality of social security numbers during FYs20 and 21. Furthermore, DOL was unable to determine all employees with access to Social Security numbers in the course of performing their duties.
- Auditors reviewed statements of economic interest for seven employees who were required to file during the examination period and noted 5 (71%) employees' names and mailing addresses were not certified by the chief administrative officer by February 1<sup>st</sup> of FY21. The names and addresses were certified 2 days late.

This finding has been reported since 2013 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

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DOL management stated the deficiencies noted were due to competing priorities and staff oversight.

Failure to establish and maintain adequate fiscal and administrative controls over personal services represents noncompliance with laws, rules, and regulations, and could:

- undermine the ability of management to monitor employee development and communicate performance expectations;
- result in errors or other irregularities going undetected in employee benefit time allowances, potentially impacting the accuracy of financial reporting and potentially resulting in employees using benefit time they had not earned;
- result in excessive overtime costs;
- employees not being properly trained;
- result in unnecessary legal risks due to inaccurate or incomplete withholding from an employee's pay; and, result in employees not being fully aware of their ethical obligations under the law.

**RESPONSE:**

DOL accepts the recommendation. Training will be developed for individuals who have access to Social Security numbers and ethics training will be part of the onboarding process.

**UPDATED RESPONSE:**

Partially Implemented. DOL continues to remind supervisors of the importance of timely performance evaluations. DOL will continue to remind employees about submitting documentation timely. DOL updated all information for the employees noted and will ensure in the future information is correct.

**5. The auditors recommend DOL comply with the requirements of the Act by submitting its annual report to the General Assembly and Governor.**

**FINDING:** *(Noncompliance with the Project Labor Agreements Act) - New*

DOL did not comply with the Project Labor Agreements Act.

During testing, auditors noted DOL did not submit to the General Assembly and the Governor an annual report as required by the Project Labor Agreements Act (Act).

DOL management stated the inadequacy noted above was due to oversight and the lack of resources.

Failure to perform mandated responsibilities represents noncompliance with the Illinois Compiled Statutes.

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### **RESPONSE:**

DOL accepts the recommendation. DOL has created a template form for agencies to use for reporting their Project Labor Agreements. A report will be produced in July 2022 and submitted to the Governor and General Assembly.

### **UPDATED RESPONSE:**

Partially Implemented. DOL created a template form for Agencies to use for reporting as well a general email inbox to send their reports to IDOL. In July 2022 IDOL will produce a report.

#### **6. The auditors recommend DOL:**

- **ensure its internal processes and procedures are designed to carry out the duties and responsibilities assigned to DOL under the Act, including ensuring reports are processed in accordance with the Act's provisions and affected employers receive a written notice of complaints filed; and,**
- **train all DOL officials and employees involved in any element of carrying out the duties and responsibilities under the Act on how to perform their specific function.**

**FINDING:** *(Noncompliance with Employee Classification Act) – First reported 2015, last reported 19*

DOL did not ensure it fully enforced applicable provisions of the Employee Classification Act (Act).

#### **Reporting Requirements**

Auditors selected 40 contractor reports for testing and noted the following:

- 7 (18%) reports did not include the contractor's business identification number.

DOL management stated the issue was due to staff shortages.

#### **Notification of Complaints**

DOL did not exercise adequate control over its handling of complaints filed by interested parties. During testing of 18 complaints, auditors noted the following:

- 2 (11%) complaints did not include documentation of when the complaint was received to determine if timely processing by the Department occurred.
- 5 (28%) complaints did not have documentation of the date the employer was notified in writing by the Department to determine if the Department timely notified the employer.
- 2 (11%) complaints lacked timely written notice of the complaint to the employer by the Department. The letters were sent 27 to 58 days late.

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This finding has been reported since 2015 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

DOL management indicated due to competing priorities, the complaints are logged into their system with the date assigned rather than when received. DOL personnel also indicated these problems were due to oversight and error by responsible staff.

Failure to enforce the Act's reporting requirements and penalty assessments could hinder the achievement of the Act's legislative intent to address the practice of misclassifying employees as independent contractors, affects the collection of penalties due to affected employees, and represents noncompliance with State law. Further, failure to provide notice to affected employers of a complaint does not allow for the due process afforded those entities as intended by the General Assembly and represents noncompliance with State law.

### **RESPONSE:**

DOL accepts the recommendation. DOL will review and ensure reports include the contractor's business identification number. Policies and letters have been created to ensure employers are notified of complaints.

### **UPDATED RESPONSE:**

Partially Implemented. DOL is working on the survey form which would require the contractor to provide a business identification number. A letter is sent out to the contractor/employer notifying them a complaint was received and assigned.

## **7. The auditors recommend DOL to comply with the Act and continue to ensure a formal program of internal auditing is maintained as required.**

**FINDING:** (Noncompliance with the Fiscal Control and Internal Auditing Act) – First reported 2015, last reported 2019

DOL failed to adhere to the provisions in the Fiscal Control and Internal Auditing Act (Act).

During testing, auditors noted from July 2019 through October 2020, DOL had not:

- Appointed a chief internal auditor.
- Obtained the Governor's approval for CMS to provide professional internal auditing services to the Department.

The Act (30 ILCS 10/3001) requires DOL to establish and maintain a system, or systems, of internal fiscal and administrative controls, to provide assurance that:

- (1) resources are utilized efficiently, effectively, and in compliance with applicable law;
- (2) obligations and costs are in compliance with applicable law; and (3) funds, property, and other assets and resources are safeguarded against waste, loss, unauthorized use, and misappropriation.



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This finding has been reported since 2015 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

DOL management indicated they continued to utilize CMS for internal auditing services until they were able to hire a Chief Internal Auditor.

Failure to establish a full-time internal audit program in accordance with the requirements of the Act – where the chief internal auditor develops a deep understanding of the DOL’s functions and processes, oversees, and performs audits of the Department’s major systems of internal accounting and administrative controls on a periodic basis, and oversees and reviews major new and modifications to information systems prior to implementation – weakens DOL’s ability to assess its overall internal control environment and represents noncompliance with state law. Further, the establishment of the DOL’s internal audit function by interagency agreement hinders the operational autonomy intended by the General Assembly for internal auditors. DOL management cannot terminate appointed chief internal auditor prior to the conclusion of their term without cause and a hearing before the Executive Ethics Commission, but management can terminate the interagency agreement with CMS at any time for any reason. Failure to obtain the approval of the Governor for expanding the professional services provided to DOL by CMS limits governmental oversight and represents noncompliance with the Code. Failure to adequately track internal audit costs and be able to provide the auditors with adequate cost support related to DOL’s internal audit function results in the auditors being unable to determine DOL’s compliance with the Act.

### **RESPONSE:**

DOL partially accepts the recommendation. DOL did take the necessary action and hired a Chief Internal Auditor on November 1, 2020 who is maintaining an internal audit program.

### **UPDATED RESPONSE:**

Implemented. A Chief Internal Auditor was hired 11/1/20.

- 8. The auditors recommend DOL work with DoIT to define roles and responsibilities related to cybersecurity control. In addition, auditors recommend DOL:**
  - Develop a formal, comprehensive, adequate and communicated security program (including policies, procedures, and processes as well as clearly defined responsibilities over the security of computer programs and data) to manage and monitor the regulatory, legal, environmental and operation requirements.**
  - Establish a risk management methodology and perform a comprehensive risk assessment to identify and ensure adequate protection of confidential or personal information.**
  - Classify its data to establish the types of information most susceptible to attack to ensure adequate protection.**

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- Evaluate and implement appropriate controls to reduce the risk of attack.
- Develop policies and procedures to ensure all media is sanitized in accordance with the Data Security on State Computers Act (20 ILCS 450/20).
- Ensure Security Awareness training is completed by employees annually.

**FINDING:** *(Weakness in Cybersecurity Programs and Practices) – First reported 2019, last reported 2019*

DOL had not implemented adequate internal controls related to cybersecurity programs, practices and control of confidential information.

As a result of DOL's responsibility for the administration and enforcement of labor and safety laws, DOL maintains computer systems containing large volumes of confidential and personal information such as names, addresses, and Social Security numbers.

During the examination of DOL's cybersecurity program, practices, and control of confidential information, auditors noted DOL had not:

- Developed a formal, comprehensive, adequate and communicated security program (including policies, procedures, and processes as well as clearly defined responsibilities over the security of computer programs and data) to manage and monitor the regulatory, legal, environmental and operation requirements.
- Established a risk management methodology or 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 implemented appropriate controls to reduce the risk of attack.
- Implemented a formal policy to ensure all State-owned storage media was erased, wiped, sanitized or destroyed in accordance with the Data Security on State Computers Act.
- Ensured annual security awareness training was completed for 3 of 175 (2%) employees.

DOL management indicated the weaknesses were the result of DOL's belief the responsibilities belonged to DoIT and oversight.

The lack of adequate cybersecurity programs and practices could result in unidentified risk and vulnerabilities and ultimately lead to the Department's volumes of confidential and personal information being susceptible to cyber-attacks and unauthorized disclosure.

**RESPONSE:**

DOL accepts the recommendation. Employees will be reminded of their training obligations and tracking tools will be used to identify which employees still need to complete training.

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**UPDATED RESPONSE:**

Partially Implemented. DOL plans to schedule an appropriate risk assessment with DoIT to ensure potential risks are identified. Initial plans and procedures have been initiated to document and classify data across divisions, so DOL will continue working towards that recommendation. While performing the assessment and classification of data DOL will be revising our drafted policies and procedures to adhere to stronger protection over PII and confidential data.

- 9. The auditors recommend DOL ensure contingency plans are developed for all critical systems, contain sufficient detail to recover the systems, and the plans are tested at least annually.**

**FINDING:** *(Lack of Disaster Contingency Planning or Testing to Ensure the Recovery of Computer Systems) – First reported 2015, last reported 2019*

DOL had not a developed comprehensive disaster recovery plans or performed comprehensive disaster recovery testing during the examination period.

DOL carries out its mission through the use of information technology. Computer systems that support the Department's mission include the Carnival System, the Check Receipts System, the Day and Temporary Labor License System, the Nurse Agency Licensing Program, the Private Employment Agency Licensing, Wage Claims and Adobe Forms (data in-take forms).

DOL had not developed an Information Systems Contingency Plan for four of ten (40%) critical applications. The six plans that had been developed did not include sufficient information necessary to restore the applications. Additionally, DOL could not provide documentation demonstrating disaster recovery testing had been completed during the examination period.

This finding has been reported since 2015 and DOL has failed to take sufficient, substantive corrective actions to resolve the cause of this finding.

DOL management indicated the weaknesses were the result of DOL's belief the responsibilities belonged to DoIT, competing priorities and lack of resources.

Without adequately documented and tested contingency plans, DOL cannot ensure its critical systems can be recovered within an acceptable period to minimize the impact associated with a disaster.

**RESPONSE:**

DOL accepts the recommendation.

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### **UPDATED RESPONSE:**

Partially Implemented. DOL developed the missing plans in September 2021 and included all information within the plans. DOL plans to establish a schedule with the Department of Innovation and Technology to facilitate a full-scale disaster recovery test.

10. The auditors recommend DOL strengthen its controls to ensure controls adequately provide for changes to be initiated, planned, developed, tested, and implemented in a controlled environment. Specifically, auditors recommend DOL enhance its procedures and requirements for:
- Testing and approval;
  - Requesting and receiving approval to migrate changes into production; and,
  - Segregating duties between individuals requesting changes, programming changes, testing changes and moving changes to production. If DOL determines that programmer access to the production environment is necessary in some situations, it should establish and enforce compensating controls to ensure appropriate management oversight and approval of changes.

### **FINDING:** *(Weakness in Change Management of Computer Systems) - New*

DOL change management policies and procedures did not ensure all changes were initiated, planned, developed, tested, and implemented in a controlled environment.

DOL had established computer systems in order to meet its mission and mandates. The Department processed and maintained critical, confidential and sensitive information on its computer systems.

During the examination, auditors reviewed a sample of five changes, noting:

- All five changes (100%) lacked documentation testing was performed and associated approvals were obtained.
- All five changes (100%) lacked documentation indicating changes were approved before being moved to production.
- Two (40%) changes were moved into the production environment by the developer. In addition, the other three (60%) changes lacked supporting documentation to determine if duties were properly segregated.

DOL management indicated deficiencies noted were due to a lack of supporting documentation maintained by IT staff and lack of resources.

Without adequate change management procedures, there is a greater risk of unauthorized, improper, or erroneous changes to computer systems. The lack of separation of duties in the environment increases the risk the confidentiality, integrity, and availability of data will be compromised.

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**RESPONSE:**

DOL accepts the recommendation. DOL has implemented change management tools and is working on additional steps to help better understand the documentation and approval process.

**UPDATED RESPONSE:**

Partially Implemented. DOL is currently updating policies and procedures to better assist in showing testing, documentation and deployment of code to various environments.

**11. The auditors recommend DOL strengthen its controls in identifying and documenting all service providers utilized. Further, auditors recommend DOL obtain SOC reports or conduct independent internal control reviews at least annually. In addition, auditors recommend DOL:**

- **Monitor and document the operation of the Complementary User Entity Controls (CUECs) related to DOL'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 impact to DOL, and any compensating controls.**

**FINDING:** *(Lack of Adequate Controls over the Review of Internal Controls for Service Providers) – New*

DOL had not implemented adequate internal controls over its service providers.

In order to carry out its mission, DOL utilized service providers for hosting services and software as a service. The auditors requested DOL to provide the population of services providers utilized to determine if they had reviewed the internal controls over their service providers. However, DOL did not provide a listing of service providers utilized, agreements with service providers, or the System and Organization Control (SOC) reports or independent internal control reviews over the service providers.

DOL stated the weakness was due to oversight.

Without having obtained and reviewed a SOC report or another form of independent internal controls review, DOL does not have assurance the service providers' internal controls are adequate.

**RESPONSE:**

DOL accepts the recommendation. DOL will identify the service providers used and then

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conduct annual reviews of the SOC reports. The Department will ensure the process is documented and includes all individuals responsible for the systems.

**UPDATED RESPONSE:**

Under Study. DOL has a clearer understanding of the roles and responsibilities of the information technology division. Annual reviews of SOC reports (August 2022) and procedures are under way and will continue to evolve as DOL maintain stronger controls over our service providers.

**12. The auditors recommend DOL ensure application user access is timely deactivated for separated employees and perform and document annual reviews of user access rights to ensure individual levels of access are appropriate.**

**FINDING:** *(Information Technology Access Weakness) - New*

DOL) had not implemented adequate internal controls related to application access and control.

To carry out its mission, DOL utilizes several IT applications. During testing of DOL's controls over system access, auditors noted:

- One terminated employee did not have their access timely revoked to one application.
- DOL did not conduct annual reviews of access rights to Central Payroll System (CPS) and eTime during the examination period. As a result, auditors noted two former employees still had access to eTime and one former employee still had access to CPS.

DOL stated the weakness was due to oversight.

The lack of adequate controls over access could result in unauthorized access and disclosure of confidential information.

**RESPONSE:**

DOL accepts the recommendation.

**UPDATED RESPONSE:**

Partially Implemented. DOL has created off boarding tickets to ensure employees access is timely revoked. Managers in charge of systems will conduct and document semi-annual reviews to ensure employees who are no longer employed are no longer on the system access report. Fiscal started the process in FY22 and Human Resource will be completing shortly.

### **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 2022, the Department had 9 employees assigned to locations others than official headquarters.

DOL had primary administrative offices located at the following:

- 524 S. Second St, Suite 400, Springfield;
- Bilandic Building, 13<sup>th</sup> Floor, Chicago; and
- Regional office Building, 2309 W. main St, Marion.