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March 11, 2022

Members of the Audit Subcommittee
of the Legislative Commission
Legislative Building
Carson City, Nevada 89701-4747

In September 2020, we issued an audit report on the Real Estate Division (Division) of the Department of Business and Industry. The Division filed its plan for corrective action in December 2020. Nevada Revised Statutes 218G.270 requires the Office of Finance, Office of the Governor, to issue a report within 6 months after the plan for corrective action is due, outlining the implementation status of the audit recommendations.

Enclosed is the 6-month report prepared by the Office of Finance on the status of the 14 recommendations contained in the audit report. As of June 3, 2021, the Office of Finance indicated 4 recommendations were fully implemented, 7 recommendations were partially implemented, and 3 recommendations had no action taken. The recommendations that were partially implemented or had no action taken are shown below.

	Recommendation	Status
Recommendation No. 1	Evaluate all user roles in the database to ensure staff access is appropriate for their duties and responsibilities, in addition to ensuring proper segregation of duties.	Partially Implemented
Recommendation No. 2	Establish monitoring controls to ensure supervisors and staff are following the Division's internal control procedures for documenting and approving voids.	Partially Implemented
Recommendation No. 3	Develop procedures for documenting transferred payments between accounts and credit adjustments.	No Action
Recommendation No. 4	Update internal control policies and procedures to include an independent verification that a refund issued by the State Controller was accurately posted in the database and perform a monthly reconciliation, agreeing all refunded amounts to the state accounting system.	Partially Implemented
Recommendation No. 5	Post refunds timely in the database once a check has been issued by the State Controller.	Partially Implemented
Recommendation No. 6	Perform a revenue reconciliation between the database and the state accounting system routinely, addressing any differences timely.	Partially Implemented

Recommendation No. 8	Develop policies and procedures for waiving sanctions, including sufficient documentation of reasoning for waiver.	Partially Implemented
Recommendation No. 9	Utilize the database to track trust account reconciliation submittal for all licensed real estate brokers.	Partially Implemented
Recommendation No. 10	Implement a monitoring process to include comparing bank account information submitted on the annual trust account reconciliations to what was submitted by each broker in their prior year filings, following up on any discrepancies.	No Action
Recommendation No. 12	Develop a risk-based approach for monitoring and initiating inspections of broker trust accounts.	No Action

For the partially implemented recommendations, the Office of Finance indicated action was taken by the Division, but sufficient documentation was not available to confirm their full implementation. We contacted the Division in February 2022 and requested additional information regarding the status of all 10 remaining recommendations. After reviewing additional information and documentation provided by the Division, we have determined 6 of 10 have now been fully implemented.

For Recommendation No. 1, the Division indicated it evaluated user roles and performed updates to its database that would allow it to segregate staff duties through defined levels of access for user roles. However, staff turnover in the Division's IT section has prevented it from implementing levels of access. The Division intends to implement levels of access once it obtains the appropriate IT staff.

For Recommendation No. 9, the Division indicated new software would be needed to implement the recommendation. The Division is currently in the process of purchasing a new system and plans to integrate the tracking and reconciliation process into the new system.

Questions

1. When does the Division anticipate proper segregation of duties will be achieved for users of its database?
2. When does the Division anticipate its new software system will be functional?

For Recommendation Nos. 10 and 12, the Division indicated it accepted and fully understands the basis for the recommendations, but reported it has significant constraints in fiscal staff and technology resources to fully implement these recommendations. The Division mentioned one administrative position was dedicated to trust account and administrative duties, with trust account responsibilities taking approximately 10 working days each month. Furthermore, the Division indicated it would require an auditor or similar position along with some technology enhancements to implement the recommendations.

During our audit, we did not use special technology to evaluate broker trust account information. Our testing included the use of the Division's desk review guidelines to examine and identify any errors on trust account reconciliation information already submitted to the Division. In addition, the audit recommendations do not call for a review of all broker trust account information, instead we recommended a risk-based approach. This builds upon the process the Division should be following based on its desk review guidelines.

Question

3. Does the Division intend to take any action to implement these recommendations, and when does it intend to take this action?

Respectfully Submitted,



Daniel L. Crossman, CPA
Legislative Auditor

DLC:smy

cc: Yvanna Cancela, Chief of Staff, Office of the Governor
Susan Brown, Director, Office of Finance, Office of the Governor
Warren Lowman, Administrator, Division of Internal Audits, Office of the Governor
Terry Reynolds, Director, Department of Business and Industry (B&I)
Marcel F. Shaerer, Deputy Director, Southern Nevada, B&I
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Sharath Chandra, Administrator, Real Estate Division, B&I

SIX-MONTH REPORT



**STATE OF NEVADA
GOVERNOR'S FINANCE OFFICE**

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MEMORANDUM

To: Daniel L. Crossman, CPA, Legislative Auditor
Legislative Counsel Bureau

From: Susan Brown, Director
Governor's Finance Office

Date: June 3, 2021

Subject: Legislative Audit of the Department of Business and Industry, Real Estate Division

On September 3, 2020, your office released an audit report (LA 20-17) on the Department of Business and Industry, Real Estate Division (division). The division subsequently filed a corrective action plan on December 3, 2020. NRS 218G.270 requires the Director of the Governor's Finance Office to report to the Legislative Auditor on measures taken by the division to comply with audit findings.

There were 14 recommendations contained in the report. The extent of the division's compliance with the audit recommendations is as follows:

Recommendation 1

Evaluate all user roles in the database to ensure staff access is appropriate for their duties and responsibilities, in addition to ensuring proper segregation of duties.

Status – Partially Implemented

Agency Actions – The division identified all users with access to the database and the associated user roles. Additionally, the division is upgrading the database to ensure assigning and managing staff access is appropriate for duties and responsibilities, in addition to ensuring proper segregation of duties. The division reports it will modify user access roles once the database has been upgraded and user migration is complete. Full implementation is expected June 30, 2021.

Recommendation 2

Establish monitoring controls to ensure supervisors and staff are following the Division's internal control procedures for documenting and approving voids.

Status – Partially Implemented

Agency Comments – The division established monitoring controls in the Revenue Policy and Procedure for documenting and approving voids. The controls established were distributed to fiscal staff on July 6, 2020.

Auditor Comment – DIA tested 16 void transactions in fiscal year 2021 and noted 15 transactions did not follow the division's updated internal control procedures for documenting and approving voids. Full implementation is dependent upon the division's compliance with established controls for documenting and approving voids.

Recommendation 3

Develop procedures for documenting transferred payments between accounts and credit adjustments.

Status – No Action

Agency Comments – The division reports the procedures for documenting transferred payments between accounts and credit adjustments have been developed.

Auditor Comment – The Revenue Policy and Procedure was revised April 13, 2021, but the procedure for documenting transferred payments between accounts and credit adjustments was not updated.

Recommendation 4

Update internal control policies and procedures to include an independent verification that a refund issued by the State Controller was accurately posted in the database and perform a monthly reconciliation, agreeing all refunded amounts to the state accounting system.

Status – Partially Implemented

Agency Comments – The division updated the internal control policies and procedures to include an independent verification that a refund issued by the State Controller was accurately posted in the database.

Auditor Comment – The division did not provide documentation to confirm the refunded amounts reconcile with the state accounting system.

Recommendation 5

Post refunds timely in the database once a check has been issued by the State Controller.

Status – Partially Implemented

Agency Comments – The division updated refund policies and procedures to require refunds to be posted timely in the database. Additionally, the division maintains a listing of refunds issued by the State Controller with a reconciliation date and staff initials.

Auditor Comment – The division did not provide documentation to support the timeliness of refunds issued. Full implementation is dependent upon the division posting refunds timely in the database and maintaining backup documentation to support the timeliness of refunds issued.

Recommendation 6

Perform a revenue reconciliation between the database and the state accounting system routinely, addressing any differences timely.

Status – Partially Implemented

Agency Actions – The division reports it is working with the Department of Business and Industry's fiscal staff to develop a process to perform a revenue reconciliation between the database and the state accounting system regularly. Additionally, the division is procuring software licenses that will enable fiscal staff to review database reports in order to perform reconciliations routinely.

Auditor Comment – The division did not provide sufficient documentation evidencing revenue reconciliation. Full implementation is dependent upon the division routinely reconciling revenue in the database to the state accounting system and maintaining backup documentation to support the accuracy and timeliness of reconciliations.

Recommendation 7

Require all brokers to file trust account forms annually and assess administrative sanctions for noncompliance.

Status – Fully Implemented

Agency Actions – The division requires all brokers to file trust account forms annually and developed a report to identify noncompliant brokers and assess administrative sanctions. DIA reviewed the broker trust account forms and monthly broker report that showed noncompliant brokers; two violation letters were sent to noncompliant brokers. DIA verified these brokers were warned of the potential administrative sanctions that would be imposed for continued noncompliance.

Recommendation 8

Develop policies and procedures for waiving sanctions, including sufficient documentation of reasoning for waiver.

Status – Partially Implemented

Agency Actions – The division developed policies and procedures for waiving sanctions, including sufficient documentation of reasoning for waiver. The policies and procedures delineate when administrative sanctions may be waived and how sanctions will be documented and approved. No administrative sanctions have been waived since development of the policies and procedures in April 2021. Full implementation is dependent upon verifying the division is following the new policies and procedures for waiving sanctions.

Recommendation 9

Utilize the database to track trust account reconciliation submittal for all licensed real estate brokers.

Status – Partially Implemented

Agency Actions – The division reports the current database software is incapable of tracking trust account reconciliation submittal. The division is upgrading database software to a newer version and reports it will begin using the database to track trust account reconciliation submittal for all licensed real estate brokers. DIA reviewed correspondence with the division's database software vendor evidencing the division has taken action to upgrade the database. The division did not provide an anticipated implementation date for the recommendation.

Recommendation 10

Implement a monitoring process to include comparing bank account information submitted on the annual trust account reconciliations to what was submitted by each broker in their prior year filings, following up on any discrepancies.

Status – No Action

Agency Comments – The division did not implement a monitoring process to include comparing bank account information submitted on the annual trust account reconciliations to what was submitted by each broker in their prior year filings, and therefore did not follow-up on discrepancies noted during reconciliation. The division reports it has one administrative position that combines trust account reviewer duties and administrative duties. The division asserts that comparing bank account information submitted on the annual trust account reconciliations to what was submitted by each broker in their prior year filings and following up on any discrepancies is not appropriate for this classification

of employee and therefore can not be performed without additional staff approved by the Legislature.

Auditor Comment – The division reports that comparing bank account information submitted on the annual trust account reconciliations to what was submitted by each broker will take one full-time equivalent position approximately ten working days per month to complete. The division stated an auditor or similar position and technology enhancements are required to implement the recommendation; however, the division reports it lacks the resources to fund this position. The division did not offer evidence of action taken to implement this recommendation and an anticipated implementation date was not provided.

Recommendation 11

Develop and implement controls to monitor outstanding trust account reconciliation items.

Status – Fully Implemented

Agency Actions – The division developed and implemented the Trust Account Reconciliation Review controls to monitor outstanding trust account reconciliation items. The procedure implemented will ensure brokers report information for trust accounts and that division staff monitor trust account reconciliation items.

Recommendation 12

Develop a risk-based approach for monitoring and initiating inspections of broker trust accounts.

Status – No Action

Agency Comments – The division asserts that an auditor or similar position and technology enhancements are required to implement the recommendation.

Auditor Comment – The division did not provide documentation supporting the implementation status of the recommendation. The division did not provide an anticipated implementation date for the recommendation.

Recommendation 13

Work with the Department of Business and Industry to develop clear policies and procedures for the debt collection process, documenting the Division's and the Department's respective duties.

Status – Fully Implemented

Agency Actions – The division worked with the Department of Business and Industry (department) to develop clear policies and procedures for the debt collection process, documenting the division's and the department's respective duties. The new debt collection procedures address monitoring and submitting debt timely to the State Controller for collection, establish a monthly reconciliation of the division's debt records to the state's accounting records, and outline the new debt write-off process. DIA reviewed the new policies, examined the division's internal reconciliation spreadsheet, and verified the procedures developed for debt collection adequately address both the division's and department's duties for the debt collection process.

Recommendation 14

Enhance existing internal control policies and procedures to ensure amounts entered in the commission fines shared tracking spreadsheets are accurate, verifying that amounts posted in the database and reported to the State Controller for collection are correct as well.

Status – Fully Implemented

Agency Actions – The division enhanced existing internal control policies and procedures to ensure amounts entered in the commission fines shared tracking spreadsheets are accurate, verifying that amounts posted in the database and reported to the State Controller for collection are correct as well.

DIA reviewed the enhanced procedures, examined the tracking spreadsheet, and verified the reconciliation was completed and independently reviewed for the second quarter of fiscal year 2021. DIA could not verify compliance for the most recent period because the division did not provide the reconciliation documents for the third quarter of fiscal year 2021.

The degree of ongoing compliance with these recommendations is the responsibility of the division.



Susan Brown, Director
Governor's Finance Office

cc: Michelle White, Chief of Staff to Governor Sisolak
Terry Reynolds, Director, Department of Business and Industry
Sharath Chandra, Administrator, Real Estate Division
Warren Lowman, Administrator, Division of Internal Audits

AUDIT HIGHLIGHTS

Audit Highlights



Highlights of performance audit report on the Real Estate Division issued on September 3, 2020.

Legislative Auditor report # LA20-17.

Background

The mission of the Real Estate Division (Division) is to protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education, and enforcement. The Division shares authority with three Governor-appointed commissions. These commissions conduct disciplinary hearings, assess fines, adopt regulation changes, approve education courses, as well as hold other authorities to regulate the real estate marketplace.

The Division's main office is located in Las Vegas, with a secondary office located in Carson City. The Division administers five budget accounts, funded primarily through fees and a General Fund appropriation. In fiscal year 2019, the Division recorded over \$14 million in revenues, and expenditures totaled over \$7 million.

As of June 30, 2019, the Division had 51 filled positions.

Purpose of Audit

The purpose of this audit was to determine if controls over the collection of certain cash receipts and accounts receivable were adequate, and if the Division has adequate processes to ensure licensees comply with laws related to reporting requirements for broker trust accounts. This audit included a review of financial and administrative activities during fiscal year 2019, and accounts receivable information from prior years.

Audit Recommendations

This audit report contains six recommendations to improve oversight and controls over cash receipts, six recommendations to strengthen the Division's regulation of broker trust accounts, and two recommendations to improve collections of accounts receivable.

The Division accepted the 14 recommendations.

Recommendation Status

The Division's 60-day plan for corrective action is due on December 3, 2020. In addition, the 6-month report on the status of audit recommendations is due on June 3, 2021.

Real Estate Division

Department of Business and Industry

Summary

The Division's financial and administrative controls over revenues are inadequate. Specifically, there are limited system controls in the Division's database to prevent users from making changes to licensees' accounts to misappropriate cash, or to detect fraud once it has occurred. Furthermore, internal control procedures designed to compensate for the lack of system controls are not being adhered to by supervisors and staff. Additionally, the Division's procedures for processing refunds and reconciling revenues received and posted to real estate licensees' accounts and the state accounting system are inadequate. In fiscal year 2019, the Division collected over \$8 million in licenses and fees, with 6% being cash collections. A lack of controls over revenues leaves the Division vulnerable to fraud and errors.

The Division has not provided effective oversight of broker trust fund accounts. Specifically, the Division only tracks submissions and assesses fines to a subset of the broker population, when all brokers are required to submit annual forms regarding their trust accounts or attest to the lack thereof. In addition, for the brokers who do submit trust account reconciliations, the Division's review of the documentation is inadequate and inconsistent. Inadequate records or failure to maintain control of trust funds can result in theft, commingling, or misuse of trust account funds.

The Division does not actively pursue collections of past due accounts and continues to have difficulty monitoring and submitting debt timely to the State Controller. Similar problems with collections were reported in our prior two audits in 2000 and 2009. Additionally, the Division's internal tracking spreadsheets are inaccurate, affecting collections on accounts and reporting of accounts receivable by the State Controller. In fiscal year 2019, the Division's three commissions levied nearly \$3 million in fines, but only collected \$130,000 of that amount (a 5% collection rate). If the Division does not actively pursue past due amounts early, the likelihood of collecting debt decreases with time.

Key Findings

Controls over voiding cash receipts and for making other adjustments to real estate licensees' accounts within the Division's database are inadequate. Specifically, there is no segregation of duties within the database; thereby, allowing employees to add or delete revenues from an account without any record of the edits to the account. In fiscal year 2019, 7% of all transactions processed in the Division's database were voided. (page 6)

The Division lacks controls to ensure refunds are posted timely to its database, and that only valid refunds are posted and issued. In fiscal year 2019, the average number of days between a refund check being issued from the state accounting system and the refund being entered into the Division's database was 140 days. The longest refund examined took 2,661 days to post in the Division's database, or nearly 7 years after the check was already issued. Without adequate controls over refunds, there is a higher risk of refunds being duplicated, or that credits in the system could be used to conceal theft. (page 9)

The Division's current practice only holds brokers that manage properties accountable for submitting trust account information annually. However, regulation requires all brokers to report trust account information, or attest that they do not manage trust accounts. Brokers that are property managers are less than half of the population within the State, but are the only ones held accountable for reporting by the Division. Brokers that are property managers and do not comply with reporting requirements may be fined thousands of dollars, while brokers that are not property managers are not fined nor requested to report. (page 11)

The Division's procedures for monitoring trust accounts are inadequate and ineffective. For 13 of 19 (68%) broker trust account reconciliations tested, we observed the information reported to the Division was incomplete or contained unallowed accounting entries. In addition, the Division does not have an effective process to track and verify all trust accounts are reported, and to help ensure brokers do not hide fraudulent activities. Without proper monitoring of trust accounts, individuals may be at risk from broker misconduct. (page 13)

Over the last 5 fiscal years (2015–2019), the Division submitted debt for collections with the State Controller, on average, 1.9 years after the debt became 60 days past due, with the longest in our testing taking 6.7 years. In addition, the Division has not maintained accurate accounts receivable information for reporting outstanding amounts to the State Controller. (page 18)