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Department of Law and Public Safety
New Jersey Racing Commission
Selected Programs

July 1, 2016 to March 31, 2020



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The Honorable Craig J. Coughlin
Speaker of the General Assembly

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Enclosed is our report on the audit of the Department of Law and Public Safety, New Jersey Racing Commission; Selected Programs for the period of July 1, 2016 to March 31, 2020. If you would like a personal briefing, please call (609) 847-3470.

Handwritten signature of David J. Kaschak in cursive.

David J. Kaschak
Assistant State Auditor
February 3, 2021

Handwritten signature of Thomas Troutman in cursive.

Thomas Troutman
Assistant State Auditor
February 3, 2021

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Scope

We have completed an audit of the Department of Law and Public Safety, New Jersey Racing Commission (commission or NJRC), Selected Programs for the period July 1, 2016 to March 31, 2020. Our audit included selected transactions accounted for in the state's General Fund and the New Jersey Racing Industry Special Fund.

The prime responsibility of the commission is to regulate the safety and integrity of the horse racing industry through investigation, prosecution and regular monitoring. Annual revenues averaged \$31 million during our audit period. Our tests of revenues included racing licensing fees, fingerprinting fees, and fines. We did not test any expenditure transactions.

Objectives

The objectives of our audit were to determine whether selected transactions were related to the agency's programs, and properly processed and recorded in the accounting systems. Additional objectives were to determine whether the commission properly monitored the federal fingerprinting requirements, the equine fatality reports, and the logical access controls of the New Jersey Racing Commission Licensing, Mutuels, and Bleeders System (NJRC system).

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In preparation for our testing, we studied legislation, the administrative code, circulars promulgated by the Department of the Treasury, and policies of the commission. Provisions we considered significant were documented and compliance with those requirements was verified by interview, observation, and testing of financial transactions. We also read the budget messages, reviewed financial trends, and interviewed the commission's personnel to obtain an understanding of the programs and the internal controls regarding the revenue process and logical access controls of the NJRC system.

A nonstatistical sampling approach was used. Our samples of selected revenue transactions were designed to provide conclusions on our audit objectives as well as internal controls and compliance. Sample populations were sorted and transactions were judgmentally and randomly selected for testing.

Conclusions

We found the selected transactions included in our testing were related to the commission's programs, were properly processed, and were generally recorded properly in the accounting systems. In making these determinations we identified missing cash receipts as well as other areas where improvements can be made to the handling of cash receipts, accounting for the treatment of transfers between general and special revenue funds, outstanding fines and license suspensions, monitoring of the federal fingerprinting requirements, equine fatality reporting, and logical access controls of the NJRC system.

Revenues

The commission is not in compliance with its monitoring procedures to ensure all revenues collected are deposited timely, properly recorded in the state accounting system, and accounted for in the NJRC system.

Our review of revenue included racing licensing fees, fingerprinting fees, and fines assessed for violation of racing rules and regulations. Every individual involved in thoroughbred or standardbred racing in New Jersey must be licensed. This primarily includes farms, stables, owners, trainers, jockeys, and ticket sales employees. Fees vary depending upon the license obtained. Most licenses are renewed on an annual basis. When submitting an application for a license, each applicant is required to submit a payment in the form of cash, check, or money order. The NJRC system is used for recording all monies received. Most fees and fines are collected by the licensing units at each respective racetrack: Monmouth Park, Freehold Raceway, and the Meadowlands. Fees and fines are also collected at the central office in Trenton.

Controls Over Cash Receipts

Department of the Treasury Circular No. 12-02-OMB requires all state funds to be deposited on the same day as received, and all deposits are required to be recorded in the state's accounting system with dates that are consistent with the actual credit date to the state bank account. Additionally, the commission's licensing procedures manual requires the licensing inspector to reconcile the daily collection report, generated from the NJRC system, to account for all funds received for that day. The licensing inspector is responsible to initial each daily collection report. The licensing supervisor should review and initial each licensing inspector's daily collection report upon verification that all funds are accounted for.

We randomly selected a sample of 50 transactions totaling \$437,261 from revenues collected for fingerprinting fees, licensing fees, and fines during fiscal years 2018 and 2019. We tested to determine if the commission had adequate controls in place over: collecting payments for fees and fines, recording their receipt in the NJRC system, depositing receipts in the bank timely, and recording in the state's accounting system. However, not all attributes tested applied to all 50 sample items. We examined all documentation relating to the deposits including the daily collection reports generated from the NJRC system and noted the following:

- 27 of 46 sample items (59 percent) were not deposited timely, ranging from 3 to 31 days late.
- 43 of 46 sample items (93 percent) were not recorded in the state's accounting system timely, ranging from 3 to 120 days late.
- 44 of 45 sample items (98 percent) included on the daily collection reports were not initialed by both the licensing inspector and supervisor.

- 35 of 45 sample items (78 percent) appeared on reports where the date of collection of the receipt did not agree with the date when the daily collection report was generated by the inspector. When these dates are in disagreement, it implies that receipts were not accounted for on the date of the actual collection.

Missing Receipts

During our review of the available documentation for revenue testing we noted a condition that indicated a high risk in the handling of cash receipts. Therefore, we performed additional testing which included all revenues collected for licensing fees, fingerprinting fees, and assessed fines for the period January 1, 2017 through October 31, 2018 at all four NJRC locations. At each of the locations, we found instances where receipts were collected; however, there was no documentation that the receipts were deposited because the bank deposit slips were missing, and the transactions were never recorded in the state's accounting system as noted below:

- At Freehold Raceway, five cash receipts totaling \$565.75 were not supported by deposit slips and were not recorded in the state's accounting system.
- At the central office in Trenton, two cash receipts totaling \$150.00 were not supported by deposit slips and were not recorded in the state's accounting system.
- At the Meadowlands, one cash receipt in the amount of \$50.00 was not supported by a deposit slip and was not recorded in the state's accounting system.
- At Monmouth Park, two cash receipts totaling \$333.50 were not supported by deposit slips and were not recorded in the state's accounting system.

The commission could not provide an explanation for the missing deposit slips nor could they explain why the receipts were not recorded in the state's accounting system. These and certain other matters were referred to the Division of Criminal Justice.

Interfund Transfers

As noted in our prior report, we found the commission continues to improperly process transactions in the state's accounting system. For fiscal years 2017 through 2019 transactions totaling \$7.5 million were improperly processed. In order to transfer funds from the New Jersey Racing Industry Special Fund (special revenue fund) to the General Fund, the commission generated a check from the special revenue fund and deposited it into the general fund as revenue to reimburse the racing costs. By processing transactions in this manner, and not as a reimbursement, the revenues and expenditures in the General Fund are overstated. The commission should utilize an interfund transfer to properly process these transactions.

Based on our testing of revenue receipts collected, we conclude the commission does not properly adhere to its internal control procedures over the daily collection and reconciliation processes,

nor does it comply with Treasury Circular No. 12-02-OMB. This has led to an increased risk of errors in the licensing unit and missing receipts. In addition, the improper processing of interfund transactions results in an overstatement of revenues and expenditures in the General Fund.

Recommendation

We recommend the commission reinforce existing procedures to ensure that all revenues are deposited timely in compliance with the Treasury Circular No. 12-02-OMB. In addition, the commission should comply with its own policies to ensure all revenues collected are properly accounted for on the date they are received. Furthermore, the commission should process interfund transactions between the New Jersey Racing Industry Special Fund and the General Fund properly with the assistance of the Department of Treasury.



Suspensions and Unpaid Fines

Improvements are needed in the commission's enforcement of controls regarding suspensions and uncollected debt.

New Jersey Administrative Code 13:71-1.20 requires all fines imposed by the commission to be paid within 48 hours after imposition. In addition, the commission's internal procedure requires that if the licensee does not pay the imposed fine, they would be suspended, placed on the security guide (temporarily flagged in the NJRC system), and not allowed to participate or be re-licensed until the fine is collected by the commission.

We judgmentally selected 100 of 138 licensed individuals with outstanding fines over 90 days from the NJRC List of Fines Not Collected report for the period March 13, 2000 through August 30, 2019. We selected 65 licensed individuals from March 2000 to August 2010, and the remaining 35 were from July 2016 to May 2019. The individuals listed in the report did not pay their fines within the required 48 hours. We reviewed the NJRC system to verify if these individuals were suspended and placed on the security guide and noted the commission did not suspend the licenses of 18 individuals.

In addition, for the same sample of 100 individuals, we noted 91 rulings with fines totaling \$272,000 are still outstanding of which 69 rulings totaling \$215,725 (76 percent) range from 10 to 19 years old. If an agency is unable to collect debt within 90 days, the account should be transferred to the Department of Treasury, Division of Revenue and Enterprise Services (DORES) for further collection efforts, as stated in the Treasury Circular No. 13-11-OMB. The commission has not referred any unpaid fines to DORES.

The commission is responsible for adequately managing the collection of unpaid and overdue fines. The lack of the commission's enforcement of controls with regards to suspensions, increases the risk that suspended individuals could participate in horse racing activities.

Recommendation

The commission should suspend the racing licenses of individuals who do not pay their fines in compliance with the New Jersey Administrative Code and the commission's internal procedure. If the commission is unable to collect a debt within 90 days, the account should be transferred to DORES.



Federal Fingerprinting

Licensees of the commission were not always fingerprinted in a timely manner.

Per the commission's internal policy, all licensed individuals who are involved with the horses are to be fingerprinted on both the state and federal levels which includes a criminal background check. The state policy requires fingerprinting to be completed only one time, while federal rules require fingerprinting every five years.

Using the NJRC system, we tested to determine whether applicants licensed during January 2019 had been federally fingerprinted as required. From the 1,520 licenses issued for the month of January, we selected only those categories that would require federal fingerprints and determined that 894 licenses for 771 individuals required federal fingerprints. We randomly selected 89 of the 894 licenses and tested to determine if the 82 individuals possessing those licenses were in compliance with the federal fingerprinting requirements. We noted the following exceptions with 32 of the 82 (39 percent) licensed applicants:

- Seven had no record of meeting the federal fingerprint requirement on file and have held licenses, ranging from 1 to 28 years.
- Six were overdue for their fingerprint renewal, ranging from 9 months to 19 years overdue.
- Nineteen had records of current federal fingerprints on file; however, the current fingerprints were renewed beyond the five-year period, ranging from 1 to 26 years overdue.

The commission is to notify the licensees when their federal fingerprints are due for renewal when they file an application to renew their license for that calendar year. If the license is renewed in person, the notification is verbal, whereas if the license renewal is done via mail the notification is sent in writing.

The commission did not properly monitor the fingerprinting process of licensees for initial fingerprints as well as renewals. In order to maintain the integrity of the New Jersey horse racing industry, the commission needs to ensure fingerprints are updated so that criminal background checks are completed timely.

Recommendation

We recommend the commission properly monitor to ensure licensees' fingerprints are updated and are notified of renewals timely.



Equine Fatality Reporting

Equine Fatality Reports (report) are not always complete and the timeliness of the submission of reports cannot be determined.

N.J.A.C. 13:70-14.16 states that all equine fatality reports regarding any equine death occurring on the grounds of any licensed racetrack or approved off-track stabling facility must be submitted to the commission. These reports must include the following information: name and tattoo number of deceased equine, trainer of record, owner of record and particulars regarding purchase of equine, particulars as to time, date and place of death, disclosure of any post-mortem examination, attending veterinarian, cause of death, particulars as to the removal of carcass, and pertinent information regarding existing insurance coverage. It is the responsibility of the trainer, custodian, or veterinarian of the deceased animal to submit this report within ten days to the commission, as stated in the report. Failure to file the report in a timely manner, or filing in an incomplete manner, may subject a trainer, custodian, or veterinarian to disciplinary action.

We reviewed the equine fatality reports from calendar year 2014 through calendar year 2018 to determine if the reports were complete. According to the administrative code, reports are not required to be submitted for ponies. There were a total of 119 reports submitted during this time; however, eight reports were submitted for ponies. Therefore, we tested 111 of the 119 reports and noted 50 (45 percent) of the required reports were missing information, thus making them incomplete. We noted the following:

- Eighteen of the 111 reports (16 percent) reviewed were submitted without the tattoo number.
- Thirty-four of the 111 reports (31 percent) were submitted with inadequate information regarding the carcass removal.
- Six of the 111 reports (5 percent) were missing the necessary signature of either the trainer, custodian, or veterinarian.
- Eight of the 111 reports (7 percent) were submitted without the owner or trainer's name being listed.

In addition, we could not determine the timeliness of the submission of any of the reports to the commission because the reports were not date-stamped when received.

Lack of complete information on the equine fatality reports, such as missing tattoo numbers, makes it difficult for the commission to properly identify racehorses that are deceased. Timely submission and completed reports assist the commission in maintaining proper oversight of the general health of the racehorses under its jurisdiction, as well as observing any trends in racing-related fatalities of racehorses in New Jersey.

Recommendation

We recommend the commission implement procedures to ensure the Equine Fatality Reports are reviewed for completeness and are submitted in a timely manner in order to maintain proper oversight of the racehorses' general health, as well as to observe any trends in racing-related fatalities of racehorses.



IT System Controls

Controls over user access privileges and adding and removing users from the system need to be improved.

The commission uses an internal computer system called Licensing, Mutuels, and Bleeders System (NJRC system) on a daily basis to record revenues billed and collected, rulings and fines issued, and any related horse data. According to the Statewide Information Security Manual (SISM) "agencies should review access privileges granted to users every six months to determine if access rights are commensurate with the user's job duties." We reviewed to determine if user access delete privileges in the NJRC system were in accordance with their job duties. We reviewed all 19 users and found six have the ability to delete a license transaction within the system. Delete privilege allows users to delete not only their own activity but others' as well. In addition, neither the commission and/nor the Law and Public Safety Information Technology Unit (LPS IT) monitor users' delete activity. LPS IT could not provide delete activity within the NJRC system upon our request. However, LPS IT was able to create a spreadsheet at a later date that documented delete activity, but we could not determine the completeness of that report. With multiple users having delete capability and a lack of consistency over who has this privilege, the commission is reducing the integrity of the data for use in the commission's own operations.

The commission has no formal written policy for granting and removing system user access. SISM recommends agencies establish and document formal account creation and registration processes including a written or electronic request from an appropriate authorized manager. LPS IT could not provide us any documentation to determine when users were actually removed from the system. They stated that the access privileges are reviewed every pay period by cross-checking commission users with payroll data, and if a user does not appear on the payroll data, their account is disabled. LPS IT staff could not provide us any documentation to support this process. However, we tested to determine if separated employees had their access removed and noted no exceptions.

Recommendation

We recommend LPS IT and the commission monitor all users and their access privileges to ensure the access is commensurate with the users' job duties. In addition, a written formal policy regarding granting and removing users to the system should be developed and implemented and documentation should be maintained.





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December 21, 2020

David J. Kaschak
Assistant State Auditor
Office of Legislative Services
Office of the State Auditor
125 South Warren Street
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Dear Mr. Kaschak,

On behalf of the Office of the Attorney General, I would like to thank you for the opportunity to provide comments to the draft audit report regarding the Department of Law and Public Safety, New Jersey Racing Commission. Our response is attached to this letter.

I would also like to thank the auditors for professionalism and dedication throughout this audit. We look forward to maintaining a proactive relationship going forward, as we work to improve the Department of Law and Public Safety.

If you have any questions or need any additional information, please feel free to reach out to me.

Sincerely,

William H. Cranford

William H. Cranford, Chief Administrative Officer
Office of the Attorney General
Division of Administration
Department of Law and Public Safety

WHC/dm
Attachments



Cc: Judith A. Nason
Executive Director
New Jersey Racing Commission

John Tomasello
Assistant Director
New Jersey Racing Commission

Jonathan Garelick
Chief of Staff
Department of Law & Public Safety
Office of the Attorney General

Melissa E. Liebermann,
Acting Chief Ethics & Compliance Officer
Department of Law & Public Safety
Office of the Attorney General

Finding

Revenues

The commission is not in compliance with its monitoring procedures to ensure all revenues collected are deposited timely, properly recorded in the state accounting system, and accounted for in the NJRC system.

Recommendation:

We recommend the commission reinforce existing procedures to ensure that all revenues are deposited timely in compliance with the Treasury Circular No. 12-02-OMB. In addition, the commission should comply with its own policies to ensure all revenues collected are properly accounted for on the date they are received. Furthermore, the commission should process interfund transactions between the New Jersey Racing Industry Special Fund and the General Fund properly with the assistance of the Department of Treasury.

Division Response:

In October 2018, The New Jersey Racing Commission (NJRC) determined that the acceptance of cash payments for fees and fines presented an unacceptable risk of loss. To phase out the acceptance of cash at its licensing offices, the NJRC worked with DLPS IT to obtain technology which would allow for the acceptance of credit card payments. NJRC also worked with Monmouth Park racetrack to ensure that a vendor at the racetrack sold money orders for licensees who required them.

In May 2019, the NJRC stopped accepting cash payments for licenses. Additionally, we are investigating the possibility of allowing NJRC Licensing Inspectors to make electronic deposits in compliance with Treasury Circular No. 12-02-OMB, as well as offer training to Licensing Inspectors to ensure that collected revenue is deposited timely, properly recorded in the state accounting system, and accounted for in the NJRC system.

The NJRC is working with Department of Law and Public Safety (DLPS) Fiscal to review and, if possible, streamline the interfund transfer process. The NJRC will continue to develop procedures that ensure proper accounting of revenue.

Finding

Suspensions and Unpaid Fines

Improvements are needed in the commission's enforcement of controls regarding suspensions and uncollected debt.

Recommendation:

The commission should suspend the racing licenses of individuals who do not pay their fines in compliance with the New Jersey Administrative Code and the commission's internal procedure. If the commission is unable to collect a debt within 90 days, the account should be transferred to DORES.

Division Response:

We have reviewed the 18 licensees in question and found that only one licensee received a license to race in New Jersey after failing to pay a fine. That license was issued in 2009, and has not been renewed since then. All of the licensees who are neither deceased nor out of business, have been placed on the NJRC Security Guide. Individuals placed on the Security Guide do not obtain licensure for as long as their fines remain unpaid.

It is important to note that the NJRC has a backup procedure in place intended to ensure that persons who do not pay fines do not race. When an individual with an outstanding fine comes in to be licensed, even if they are not on the Security Guide, the billing screen will show the outstanding, unpaid balance in red. The NJRC licensing inspectors are trained to refuse to issue a license until the fine is paid.

The Department has reviewed the applicability of Circular No. 13-11-OMB to the NJRC's unpaid fines and has concluded that, as a state agency, the Racing Commission can transfer to DORES any debt that it has been unable to collect for 90 days. NJRC will draft a procedure to transfer such fines to DORES. Pursuant to Circular No. 13-11-OMB, any debt collected by DORES on behalf of a state agency shall be credited to the appropriate account of the Executive Branch Department that transferred the debt. As such, any such monies collected by DORES shall be transferred into the Backstretch Fund in accordance with N.J.S.A. 5:5-44.8.

Finding

Federal Fingerprinting

Licensees of the commission were not always fingerprinted in a timely manner.

Recommendation:

We recommend the commission properly monitor to ensure licensees' fingerprints are updated and are notified of renewals timely.

Division Response:

In 2019, the NJRC instituted the Fingerprint Initiative to ensure that all licensees have current fingerprints on file and are in compliance with the NJRC's fingerprinting requirements. NJRC staff conducted a detailed search of the licensing database and determined that 911 licensees needed to submit new or renewed fingerprints. From September through October 2019, the NJRC sent letters to all 911 licensees to inform them of their lack of compliance with the NJRC's fingerprinting requirements and to provide instructions on how to meet the compliance requirements within 20 days of the date of the letter. By October 29, 2019, 334 licensees submitted the necessary fingerprints to the NJRC. The NJRC placed the 547 licensees who failed to comply on the NJRC's Security Guide in order to prevent them from renewing their NJRC license.

In December 2019, the NJRC then prepared and mailed follow-up letters to the 547 licensees that still had not submitted the required fingerprints. The letter informed the licensees that the NJRC would not renew their licenses for 2020 until the licensees submitted their fingerprints and paid the required fee.

To date, of the 911 licensees that were out of compliance in 2019, 623 persons provided the necessary fingerprints to the NJRC and renewed their licenses for 2020. Two persons received a medical exemption and the remaining 286 persons did not renew their NJRC licenses for 2020. These persons remain on the NJRC's Security Guide and will not be able to obtain a NJRC license until they submit their fingerprints to the NJRC.

In 2019, the NJRC started the process to purchase Livescan fingerprint machines for each NJRC licensing office at each racetrack. Although delayed by the COVID-19 public health emergency, Livescan fingerprint machines were installed within each NJRC licensing office in September 2020. The NJRC licensing Inspectors have been trained to use the Livescan machines, which are now operable and allow each applicant due for fingerprints to submit their fingerprints electronically at the NJRC's licensing office for processing. As a result, the Livescan fingerprint machines will facilitate the timely collection of necessary fingerprints.

Finding

Equine Fatality Reporting

Equine Fatality Reports (report) are not always complete and the timeliness of the submission of reports cannot be determined.

Recommendation:

We recommend the commission implement procedures to ensure the Equine Fatality Reports are reviewed for completeness and are submitted in a timely manner in order to maintain proper oversight of the racehorses' general health, as well as to observe any trends in racing-related fatalities of racehorses.

Division Response:

The NJRC has proposed extensive revisions to the rules requiring the filing of equine fatality reports. On December 2, 2019, the NJRC proposed amendments to the N.J.A.C. 13:70-14.16 and N.J.A.C. 13:71-20.24. See 51 N.J.R 1751 and 51 N.J.R. 1753. The NJRC expects the adoption of the proposed amendments, which will implement positive changes in overseeing racehorses' general health and will provide for the observation of trends in racing-related fatalities beyond those set forth in the recommendation.

The proposed amendments would expand the report requirement of providing the tattoo number of the deceased horse to require the tattoo number "or other registration identification" of the deceased equine, in order to reflect that the registration and identification of race horses is no longer accomplished solely through the use of tattoos. The registration and identification of race horses now also includes the use of freeze brands and microchips.

Other amendments the NJRC proposed for the equine fatality report rules would require that an appropriate post-mortem necropsy be conducted by a qualified veterinarian on the remains of any race horse that died on the racetrack during racing or training, or which died within one hour after racing or training on a racetrack, to determine the cause of death. Verbal notification of the death of the horse shall be given to the State Steward or a NJRC veterinarian within one hour of the horse's death and would prohibit the removal of the horse's carcass from the racetrack without the authorization of the State Steward or Chief State Veterinarian, or their designee. The carcass of a horse that died on the racetrack under these circumstances shall be transported to a facility identified by the NJRC as qualified to conduct the post-mortem necropsy, thereby prohibiting the unauthorized removal of the remains of a deceased horse from the racetrack, and ensuring that the NJRC has complete and adequate information regarding carcass removal.

Finally, the proposed amendments, if adopted as intended, will also require that equine fatality reports shall be submitted in a timely manner. Pursuant to the proposed rule amendments, the report must be filed within 48 hours of the death of the horse and require that the report shall be filed with the NJRC's State Steward or Chief State Veterinarian. The NJRC plans to implement training procedures for the State Steward and Chief State Veterinarian to ensure their review of the filed reports for completeness and timeliness.

Finding

IT System Controls

Controls over user access privileges and adding and removing users from the system need to be improved.

Recommendation:

We recommend LPS IT and the commission monitor all users and their access privileges to ensure the access is commensurate with the users' job duties. In addition, a written formal policy regarding granting and removing users to the system should be developed and implemented and documentation should be maintained.

Division Response:

The NJRC intends to develop a formal policy, in conjunction with DLPS IT, to regularly monitor the users and their access privileges to ensure that access is commensurate with the users' job duties.