



State of Rhode Island and Providence Plantations
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November 15, 2019

Mr. Scott Jensen
Director
DLT
1511 Pontiac Avenue
Cranston, RI 02920

Dear Director Jensen:

The Office of Internal Audit has completed its audit of the Workforce Regulation and Safety (WRS) division within the Department of Labor and Training (DLT). The audit was conducted in conformance with the Institute of Internal Auditors (IIA) International Standards for the Professional Practice of Internal Auditing and by the authority given to the unit as stated in accordance with Rhode Island General Laws (RIGL) § 35-7.1-2(a) – Establishment of office of internal audit. The recommendations included herein have been discussed with members of management, and we considered their comments in the preparation of this report.

RIGL § 35-7.1-10(d), entitled Annual and interim reports, states that, “Within twenty (20) calendar days following the date of the issuance of the management-response copy of the draft audit report, the head of the department, agency, public body, or private entity audited shall respond, in writing, to each recommendation made in the audit report.” Accordingly, management submitted its response to the audit findings and recommendations on November 15, 2019, and such response is included in this report. Pursuant to this statute, the OIA may follow up regarding recommendations included in this report within one year following the date of issuance.

We would like to express our sincere appreciation to the WRS staff for the cooperation and courtesy extended to the members of our team during this audit.

Respectfully yours,

Dorothy Z. Pascale, CPA
Chief

c—

Honorable William J. Conley Jr., Chairperson, Senate Committee on Finance
Honorable Marvin Abney, Chairperson, House Finance Committee
Internal Audit Advisory Group
Steven Whitney, Senate Fiscal Office
David Trembly, Senate Fiscal Office

Audit Executive Summary

Why the Office of Internal Audit Did This Review

The Office of Internal Audit conducted an audit of the Workforce Regulation and Safety Division within the Department of Labor and Training for the period of July 2018 through June 2019 based upon its risk assessment of the entity. The purpose of this audit was to determine if the operations of the WRS are being administered efficiently and effectively in accordance with applicable laws, rules, and regulations and if adequate controls are in place to ensure safeguarding of assets and accurate reporting.

Background Information

The Workforce Regulation and Safety Division enforces the safety laws that protect Rhode Island's workforce, including: fair collection of wages, child labor laws, safety in public buildings, trade licensing, hazardous substance exposure, prevailing wage laws, apprenticeship training, and weights and measures. The division accomplishes these efforts through licensing, inspection programs, educational programs and labor law enforcement.

To Strengthen Controls, the Department of Labor and Training should:

- Determine estimated cost and feasibility of a new system.
- Improve process and accountability to assess or waive administrative fee or penalty.
- Assign, investigate, and track labor cases to improve due process.
- Improve quality assurance over complaint folders.
- Remit settlement checks timely.
- Update and improve written policies and standard operating procedures for the Labor Standards Unit.
- Perform required elevator and boiler inspections timely.
- Ensure boiler and pressure vessel inspectors are certified.
- Address elevator code deficiencies timely.
- Ensure Right to Know unit completes required number of unannounced annual inspections.

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Introduction

The Department of Labor and Training's Workforce Regulation and Safety Division (WRS) is responsible for enforcing laws pertaining to professional regulation¹, labor standards, and occupational health and safety. Its mission is to impartially administer the labor laws designed to protect consumers, employees, and employers and to ensure the Rhode Island workplace is a safe, competitive, fair environment to work or conduct business.

The WRS enforces the safety laws that protect Rhode Island's workforce, including: fair collection of wages, child labor laws, safety in public buildings, trade licensing, hazardous substance exposure, prevailing wage laws, apprenticeship training, and weights and measures. WRS accomplishes these efforts through licensing, inspection programs, educational programs and labor law enforcement.

Improve Controls to Strengthen Operations

The control environment of an entity sets the tone of the organization and influences the effectiveness of internal controls within the agency. It affects many process activities, and if effective, should help provide assurance controls are in place covering areas such as program administration, fiscal management and operations, training programs, clear lines of responsibility and authority, hiring practices, and code of ethics.

Management philosophy and operating style includes attitudes and actions towards adhering to laws, rules, and regulations. During the course of the audit, we observed inadequate control over the enforcement of administrative assessment fees required by law and the waiver of penalties. Further, we identified inefficiencies in processes effecting program administration. Insufficient control activities and antiquated technology contributed to the identified issues and recommendations discussed below.

Recommendations and Management's Responses

Workforce Regulation and Safety Unit

Determine Estimated Cost and Feasibility of New System

During FY 2019, the Division of Information Technology performed an assessment of technology needs and requirements for this unit. This assessment would implement solutions to improve the control environment and decrease the reliance on paper files. An adequate tracking system can help reduce risk and aide in meeting required deadlines. The Workforce Regulation and Safety Division utilizes an

¹ The purpose of the Professional Regulation unit is to examine and license all applicants for licenses with the Board of Examiners of Electricians, Board of Hoisting Engineers, Mechanical Board, Board of Examiners of Plumbers, and Board of Examination and Licensing of Telecommunication System Contractors and Technicians and Burglar Alarm Business and Agents.

antiquated database for tracking complaints and required inspections across its units- Labor Standards Unit, Occupational Safety, and Professional Regulation. As a result of the database limitations, all complaint case files for Labor Standards and Professional Regulation, as well as inspection reports and related documentation for Occupational Safety are retained in paper form and stored on site. The WRS maintains paper copies of all records on site going back at least 7 years, as required by the Department of Labor and Training – OSHA Records Retention Schedule DLT1.2.1. All records older than 7 years are stored, at a cost, offsite and moved on an annual basis.

During the audit, the Office of Internal Audit (OIA) noted inefficiencies driven by this antiquated system. Limitations include:

- No input controls
- Inability to upload documents to case file
- Lack of sufficient status tracking

The Division database software dates back to 1980 technology. Management represented that due to budgetary restrictions the division has been unable to update the software. However, the Division has not considered leveraging existing case management software deployed in other state agencies or determined the cost to implement a new software.

Recommendations:

1. Evaluate feasibility of obtaining and implementing new software and present this to the DOIT Project Review Committee.
2. Consider reducing the amount of paper documents and paper files by scanning and storing information electronically.

Management's Response:

The Division is working with DoIT to prepare a proposal to purchase and implement new software and will present it to DoIT Project Review Committee.

DoIT has already scheduled the Division to be the next group added to the Department's scanning tool.

Responsible Party: Assistant Director Joseph R. Degnan & Administrator David M. Rodrigues

Anticipated Completion Date: February 15, 2020

Improve the Process and Accountability to Assess or Waive Administrative Fee or Penalty
The WRS units are inconsistently assessing penalties and administrative fees which results in noncompliance with the following laws and regulations.

Rhode Island General Laws (RIGL) applicable to the Administrative Fee stipulates in pertinent part:

RIGL §23-33-12(a)(1) Inspection – Reinspection – Examination and License fee – Renewal states in pertinent part:

*For every original inspection made by the inspectors under the provisions of this chapter, the owner **shall pay** [emphasis added] to the division the required fee which shall include the cost of the certificate.*

RIGL §23-33-12(2)(c) Inspection – Reinspection – Examination and License fee – Renewal states in part:

*A delinquent payment fee **shall be** [emphasis added] due and payable on all invoices received more than thirty (30) days past the billing date.*

Further, Regulation 260-RICR-30-15-8 section 8.6 states in pertinent part:

Licenses shall show the date of issuance and shall expire on the licensee’s birthday every two (2) years. Licenses may be renewed on or after that date, within a two (2) year period, upon payment of the appropriate renewal fees, plus a twelve-dollar (\$12.00) per month administrative assessment fee for the delinquency period.

Rhode Island General Laws (RIGL) applicable to the Penalty stipulates in pertinent part:

RIGL §37-13-13(e) – Furnishing payroll records to the awarding authority states in pertinent part:

The department may also impose a penalty of up to five hundred dollars (\$500) for each calendar day of noncompliance with this section, as determined by the director of labor and training.

The WRS has an informal authorization and approval process to allow for a waiver of administrative fees or penalties. However, the above cited law does not allow for a waiver of an administrative fee. The informal, undocumented procedure requires verbal approval from management to waive a penalty or administrative fee. The unit does not require or retain supporting documentation to substantiate a waived administrative fee or penalty. Evidence should be maintained to document independent approvals or waivers or penalties. Waiver of administrative fees should not occur.

Management has not established standard operating procedures (SOPs) surrounding this subject matter. Refer to Appendix A for detail about identified exceptions pertinent to the failure of collecting administrative fees and penalties.

The unassessed revenue identified was immaterial to the overall revenue of the unit occurring during the scope of this audit. However, the undocumented processes and authorizations has resulted in noncompliance or inconsistent application of respective laws and regulations. Additionally, there is an increased fraud risk associated with waivers of penalties or fees due to the lack of documentation or evidence of approval for such action.

Recommendations:

3. Ensure fees are collected in accordance with all respective laws and regulations.

4. Establish and enforce a policy and standard operating procedure regarding the assessment of penalties.

Management's Response:

In regard to the Elevator Inspection Section (R.I.G.L. 23-33), they do collect the certificate fee as required by law. Currently, the section does not assess the twenty-four dollars (\$24.00) delinquent payment fee. As part of the new work process, the \$24.00 fee will be collected.

The Trade Licensing Section enforces the twelve dollars (\$12.00) per month late fee. The Division proposes that the fee be strictly enforced and only be waived with extenuating circumstances as determined by the Assistant Director and the Administrator. The extenuating circumstances will be defined as, when the license holder sent the fee before the expiration date, and the Division received it after the date.

In regard to the fee described in R.I.G.L. 37-13-13(e), the Prevailing Wage Section has a written process where they issue a template violation with a one hundred dollars (\$100.00) per day penalty. If the violator wishes to contest the violation, the violation may be appealed pursuant to the Administrative Procedures Act.

In summary, the Division will develop a written process as described above regarding the late fee in Trade Licensing. The Division will ensure that the Prevailing Wage Section enforces its written process as described above.

Responsible Party: Assistant Director Joseph R. Degnan & Administrator David M. Rodrigues

Anticipated Completion Date: January 15, 2020

Labor Standards Unit

The WRS Labor Standards unit enforces labor laws. It provides worker protection in the areas of wages or hours, including but not limited to: payment and collection of wages, minimum wages, and overtime provisions. The unit also enforces laws regarding work permits for:

- Sundays and holidays
- Child labor
- Parental and family leave
- Industrial at home work

The Labor Standards Unit is comprised of a Chief, four Labor Standards Examiners, and an Administrative Officer that are responsible for performing all investigative duties for the unit.

Refer below for recommendations to improve the operations of the Labor Standards Unit.

Assign, Investigate, and Track Labor Cases to Improve Due Process

The Labor Standards Unit has informal policies and SOPs for the assignment and investigation of labor complaints. Based on discussions with management, the process to vet and investigate a complaint is discussed below with the associated audit findings and recommendations for improvement.

Child Labor:

- Child labor complaints process to investigate is as follows upon receipt of the complaint:
 - Enter and categorize in the database.
 - Assign and investigate immediately.

During the audit, it was noted that the child labor complaint records stored in the database was incomplete and inconsistently entered. Ten child labor complaints were received during fiscal year 2019, and five were not entered into the database. The following exceptions were noted from our sample:

- One was improperly categorized as a wage complaint rather than a child labor complaint; but the complaint followed the process for a child labor complaint.
- One complaint was received on February 11, 2019 and as of the date of audit fieldwork, five months later, the complaint remained uninvestigated.

Wage Labor:

- Wage complaint process to investigate:
 - Assign to an investigator within seven days
 - Contact the employer via letter and follow up within 10 business days
 - Issue a subpoena within 21 days if employer does not respond or does not send in the necessary documentation.
 - No timeframe stipulated as to when an investigation must begin.

In a sample of 60 labor complaints, the following exceptions were noted pertinent to these cases:

- 17 of 60 complaints were assigned in excess of the required seven days; one of which was 211 days past due.
- One complaint was not investigated timely. The complaint was received on March 5, 2019. As of the date of fieldwork, three months later, the surprise visit had not occurred, and the case remains open.
- Three complaints did not have activity since 2018; subpoenas were issued, but not enforced.
- One complaint had the subpoena filed approximately 140 days after the notification letter was sent to the employer. The subpoena was filed approximately 130 days late.

To understand if this issue was pervasive in nature, the entire population of 476 during the audit period was reviewed to determine the total number of wage complaints that were not assigned timely.

The results of the total population testing identified the following:

- 171 out of 476 complaints, approximately 36%, were assigned in excess of seven days
- On average each case is assigned within 16 days after the complaint is filed; nine days later than stipulated
- 17 of 476 complaints were entered with incorrect information such as incorrect year, date received, or no case assigned date

Management has not consistently adhered to a process for complaint recording, assignment, and tracking. There are no SOPs which detail the requisite process. Further, the unit is not complying with its own informal policies and procedures.

Untimely assignment and investigation of complaints impedes due process. Additionally, there is an increased risk that labor complaints may be overlooked, and as a result, may cause monetary loss to the complainant.

Recommendations:

5. Formalize, document, communicate, and enforce SOPs which adhere to a time frame for complaints to be assigned, investigated, and administered.
6. Implement status tracking with a notification feature to ensure complaints are being assigned, investigated, and administered within the time frame provided.
7. Establish and adhere to a detailed policy for entering all child labor complaints into database upon receipt.
8. Develop and enforce performance metrics associated with the oversight of complaints.

Management's Response:

The Labor Standards Unit is comprised of four Labor Standards Examiners that are responsible for performing all investigative duties for the Unit. This Unit performs an extensive amount of work. In FY2019, the Unit completed 531 wage investigations, 29 misclassification investigations and the review of 5,711 child labor work permits.

The Division will develop and implement a coordinated written work process for the investigation of wage complaints, misclassification investigations and the review of child labor work permits. These work processes will require specific tasks to be performed in a specific order. These tasks will be based on performance metrics. Due to the workload in the Unit, the new process will mandate that wage complaints be assigned to an Examiner within ten (10) days of receipt by the Division.

The Division will also develop a specific work process for the Chief Labor Standards Examiner for the review of all matters within the Unit.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues & Chief Labor Standards Examiner Wendy Antonelli

Anticipated Completion Date: February 15, 2020

Improve Quality Assurance Over Complaint Folders

Examiner Reports

The Labor Standard Unit documentation policy does not specifically state what information is required to be obtained or retained in a case file.² Discussion with the management of the Labor Standard Unit revealed an informal policy in which Examiner Reports are to be prepared and filed for all complaints. This report summarizes the complaint as well as tracks the status and the outcome.

In a sample of 60 cases, two (3%) did not include the Examiner Reports in the case file. Although this error rate is low, the due process risk is high due to the manual paper process to document the case. There is no quality review process to ensure all supporting documentation forms are on file. As a result, another employee, in the absence of the assigned investigator, will be unable to determine the status and/or outcome of the complaint.

Decision/Dismissal Forms

Regulation 260-RICR-10-00-5 states the complainant is entitled to appeal a decision within 30 days. The informal procedure of the Labor Standard Unit regarding child labor and wage complaints is for a decision dismissal form to be prepared by an examiner and approved by the Assistant Director of WRS and DLT Legal Unit prior to a case being dismissed.³

We tested to determine adherence to this regulation and informal procedure. The following exceptions were noted.

Child Labor:

- Two of three dismissed child labor complaints did not have the required Decision/Dismissal Form.

Wage Labor:

- Four of 17 cases were dismissed and did not have a Decision/Dismissal Form.
 - Two of the four cases were withdrawn by the complainant after DLT started the investigation and were not charged the administration fee.⁴

Due to the inconsistent file content, ensuring a complainant received the Decision/Dismissal Form or the complainants' acceptance of a dismissal is haphazard. Without consistently ensuring a Decision/Dismissal

² Refer to the *Update and Improve Policies and Procedures* section of this report for further information.

³ The unit does not require a form to be completed if a complainant withdraws his/her complaint.

⁴ Refer to report finding *Update and Improve Written Policies and Standard Operating Procedures*.

Form is distributed, the agency is not complying with due process afforded to the employer or complainant.

Recommendations:

9. Ensure appropriate management review and sign off of case files prior to closing a complaint.
10. Prepare and send a Decision/Dismissal letter for all complaints, whether withdrawn by complainant or internally dismissed by department.
11. Establish standard operating procedures to detail required forms and approvals.

Management's Response:

The new work processes for the Unit will involve the Chief Labor Standards Examiner to review and sign off on investigations before they are closed. The process will include dismissal letters for withdrawn complaints.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues & Chief Labor Standards Examiner Wendy Antonelli

Anticipated Completion Date: January 15, 2020

Remit Settlement Checks Timely

The Labor Standards Unit investigates wage labor complaints. If the result of an investigation is in favor of the complainant, the division informs the employer of the amount due to the complainant and the employer remits a settlement check to DLT payable to the complainant. The informal policy upon receiving settlement checks was to contact the complainant and request he/she pick up the check at the DLT Cranston facility and sign a form to acknowledge receipt of the check.

During the audit, it was noted that there were settlement checks written out to, but not yet picked up by, complainants that were either stale dated⁵ or still live and waiting to be picked up. When the check is stale dated, the unit will request the employer to reissue the check, and at times, the employer may be out of business by the time of the request. As a result, the complainant will not receive the money owed.

At the onset of the audit, the division recognized inefficiencies and risks with this process and implemented several changes. The division began to require settlement checks be written out to the complainant and the DLT. The new process still includes having live checks held at the division. However, prior to the stale date they deposit the check into an escrow account. If a complainant does not appear at DLT to retrieve the money within a year, it is submitted to unclaimed property. Although this is an improvement over the previous operations, this new process has internal control weaknesses. The new

⁵ The OIA did not perform a count of the number of stale checks, but noted it was a significant amount. The OIA did review the controls around the safeguarding of checks and did not note any reportable deficiencies.

policy has not been documented and live checks are still maintained for long periods of time. The risk that the complainant will not receive the money owed to him/her remains.

Best practices for ensuring the complainant receives the money owed are:

- Send the check through certified mail with return receipt and tracking.⁶
- When filing the complaint, the complainant agrees to allow the unit to endorse the check for them and hold the check in an escrow account and payment is subsequently made to the complainant by DLT.

Recommendations:

12. Remit settlement checks timely.
13. Document and enforce a policy based on best practices to ensure complainants receive settlement wage checks timely.

Management's Response:

The Division advises employers to make settlement checks payable to the "individual or DLT." If DLT can not locate the individual, DLT deposits the funds into an escrow account for the individual and holds the funds for a year. If, after a year, the individual has not been located, these funds are sent to the R.I. General Treasurer in the individual's name for its unclaimed property account. This was established to extend the amount of time an individual has to claim their funds. This process will be included in the written procedures regarding the duties of the Chief labor Standards Examiner.

Responsible Party: Assistant Director Joseph R. Degnan & Administrator David M. Rodrigues

Anticipated Completion Date: February 15, 2020

Update and Improve Written Policies and Standard Operating Procedures

Policies and procedures provide a roadmap for day-to-day operations. They ensure compliance with laws and regulations, provide decision-making guidance, and streamline internal processes. Documenting, reviewing, and maintaining updated policies and procedures is especially important to ensure processes and responsibilities are continuously known and succession plans are in place. Succession planning is at the core of talent management and is needed to increase the availability of experienced and capable employees that are prepared to assume roles as they become available. Best practices for establishing policies and procedures are:

- Document all significant business practices, processes, and policies.
- Make the policies and procedures available to all personnel
- Ensure they are accurate, complete, and current.

⁶ If DLT were to adhere to this best practice, the check would need to be written out solely to the complainant.

- Review and revise policies and procedures on a regularly schedule basis to account for changes in business processes and policies. This is particularly important when new systems are developed and implemented, or other organizational changes occur.
- Communicate significant changes to all affected personnel immediately to ensure they are aware of any revisions to their daily duties and responsibilities.

The Labor Standards Unit policies and procedures are insufficiently documented which has contributed to the deficiencies detailed in the above sections of this report. Shortfalls in the existing policies and procedures has contributed to non-compliance with regulations, untimely case investigations, and inconsistent complaint recording and documentation.

Specifically, the following SOPs were undocumented:

- Timeframe for case assignment and investigation
- Responsibility, detail, and timeliness for complaint recording and tracking in system
- Required case file documentation
- Required approvals for decision/dismissal form
- Management of wage payments resulting from complaint investigation
- Waiving of administrative fees or penalties
- Assessment of administrative fees upon complainant withdrawal of wage complaint after investigation is initiated

Without formally documented and updated SOPs, employees do not have sufficient guidance or direction to perform their required job functions leading to inconsistencies and inefficiencies throughout processes as well as inhibiting succession planning.

Recommendations:

14. Update policies and procedures and ensure adequate instructions are incorporated to guide consistent decision making.
15. Distribute, inform, and train staff about updated policies and standard operating procedures.

Management's Response:

Staff will be trained once the new work processes have been established.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues

Anticipated Completion Date: Immediately after work processes are completed.

Occupational Safety Unit Background

The Workforce Regulation and Safety Occupational Safety Unit is charged with protecting the public and private sector by:

- Enforcing health and safety standards for state agencies, public buildings, and city and town educational facilities
- Educating the public regarding the standards

The unit is comprised of separate areas of expertise including: boilers, elevators, right to know⁷, and weights and measures.

Perform Required Inspections Timely

Boiler Inspections:

Boiler inspections are performed by either the state or an insurance inspector on a time basis stipulated by regulation. Regulation 260-RICR-30-10-2 section 2.5.2 states:

Power boilers and high-pressure, high temperature water boilers shall receive an inspection annually. Low pressure boilers, hot water heaters, and hot water storage tanks shall receive an inspection biennially. Unfired pressure vessels shall receive an inspection triennially.

Regulation 260-RICR-30-10-2 section 2.5.3. states:

Certificate inspection shall be carried out prior to the expiration date of the certificate.

Insurance company representatives perform inspections on objects which they insure. It is the Occupational Safety Unit's responsibility to ensure inspections performed by insurance companies are performed timely and conducted in accordance with the Rules and Regulations of The State of Rhode Island Boiler Laws. The state inspects all other boilers not inspected by the insurance companies. The State inspects approximately 15% (2,388) of all nonexempt⁸ boilers and the owner through their insurance carriers are responsible for inspecting 85% (12,896) boilers. The above referenced regulation obligates the agency to inspect boiler units timely.

In a sample of 40 boilers, two were inspected after the Certificate of Boiler Inspection expired. The DLT Occupational Safety Unit was responsible for inspecting one of the boilers, which was over eight months

⁷ Educates and trains employers and employees where hazardous substances being used, stored or transported.

⁸ Refer to Regulation 260-RICR-30-10-2 section 2.5.1 for a detailed description of non-exempt boilers.

past due, and an insurance carrier was responsible for inspecting the other identified boiler, which was 2.5 months past due.

The system utilized by Occupational Safety to track inspections is not capable of querying a listing of all the individual boiler units past due. However, the OIA received a listing of all locations with past due boiler inspections generated from an online building enforcement code portal and determined the total percent of boiler locations past due for the audit period was 13.4%. Given the safety concerns associated with boiler hazards, management must ensure adequate oversight of the tracking for expiring boiler inspections and prioritize the work to ensure adherence to the regulation noted above. Failure to ensure timely inspections results in an increase to the health and safety risk.

Elevator Inspections - In service:

The Occupational Safety unit also provides safeguards to the public and private sector workplace environment by enforcing laws related to elevators. RIGL §23-33-11 *Periodic Inspections- Right of access- Consultation with person in charge* states in part:

The chief, or any compliance inspector, or any authorized inspector shall make the required inspection of each elevator or other device subject to the provisions of this chapter at least once a year, except that each elevator or other device subject to a full maintenance contract with a qualified service company shall be inspected at least once every two (2) years, and more often if the chief or inspector shall deem it necessary.

All initial elevator inspections are performed by DLT. Reinspections are performed annually⁹ by authorized inspectors employed by elevator companies; as the Chief of the Elevator Unit has deemed it necessary to inspect all elevators annually. In addition to requiring annual inspections, the WRS developed a checklist to be used for these inspections. The authorized inspector submits the inspection checklist to the DLT upon completion of the inspection.

In a sample of 60 units, 17 (28%) were not inspected within the required time period. Of these 17 units, 12 units had unmet inspection requirements that were more than 50 days overdue. One of the 12 units was 442 days late, while four units were more than 100 days late.

The OIA extended its review to the complete population and determined that as of June 30, 2019, 9% of elevators were past due for inspection.

Elevator Inspections - Out of service:

Untimely elevator inspections have led to noncompliance with additional laws including RIGL §23-33-30 *Elevators placed out of service* which states in part:

All elevators and other devices subject to provisions of §§ 23-33-1 to 23-33-29, inclusive, having been out of service for a period exceeding one year, or said devices to be placed

⁹ Although inspections are only required every two years for companies with maintenance contracts, the Occupational Safety Unit does not track this criteria and defaults to an annual inspection.

out of service for a period exceeding six (6) months, after July 1, 1997, shall comply with the following: (A)(1)...The owner or agent for the owner shall notify the chief inspector in writing, giving the date when the elevator or other device will be placed out of service...Any device required to be decommissioned shall have this procedure completed by a licensed company as specified in § 23-33-2. The said company shall notify the chief inspector when any device is decommissioned...

In a sample of 60 units, three elevators were placed out of service and one elevator was decommissioned. The owner or agent for the owner did not notify the DLT, therefore the owner was not complying with the law. Management was unaware of these elevators placed out of service or decommissioned until management responded to an audit query regarding the sample.

Management has not ensured that all inspections occurred timely. Elevators being out of compliance with inspection laws elevates public safety risk. Without ensuring all inspections are performed timely, there is an increased risk of noncompliance with RIGL.

Recommendations:

16. Timely perform and monitor all required elevator and boiler inspections.
17. Adhere to policy and procedure to monitor overdue boiler inspections in accordance with RIGL.
18. Establish and implement a policy and procedure to monitor overdue elevator inspections in accordance with RIGL.

Management's Response:

The Division is going to establish written work processes for the Elevator Inspection Section, the Boiler and Pressure Vessel Inspection Section and the Right to Know Section. These processes will include monitoring overdue Boiler and Elevator inspections in accordance with the respective Rhode Island General Laws. These processes will also ensure that all authorized inspectors have current certifications.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues

Anticipated Completion Date: February 15, 2020

Ensure Inspectors are Certified

Boiler and pressure vessel inspectors are required to be certified through the National Board of Boiler and Pressure Vessel Inspectors annually. RIGL §28-25-4 states in pertinent part:

...the division of occupational safety may issue a commission to act as an authorized inspector to any person employed by the division of occupational safety or by an insurance company authorized to insure boilers against explosion in this state who holds a certificate of competency having passed a written examination approved by the administrator, or in lieu of the examination who holds a certificate of competency as an inspector of boilers from a state that has a standard of examination equal to that of this state, or who holds a certificate issued by the National Board of Boiler and Pressure Vessel Inspectors, to the effect that the holder thereof is authorized by it to inspect steam boilers in this state.

The Occupational Safety Unit ensures inspectors are certified by obtaining a copy of the inspector's National Board ID Card annually, every March, and maintaining a current copy on file. The Insurance Carriers also submit a copy of their inspectors' National Board Card to the Chief Boiler Inspector annually.

In a sample of 40 inspectors, two inspectors (5%) did not have proper documentation in the files, therefore, the OIA was unable to verify if the inspectors were certified at the date of inspection. Without obtaining proof of an inspector's certification, management is not ensuring inspectors have the requisite credentials. There is an increased risk that boiler inspections could be performed by an inspector who does not meet the qualifications, which increases risk to the public.

Recommendation:

19. Ensure boiler and pressure vessel inspectors are certified.

Management's Response:

The Division is going to establish written work processes for the Elevator Inspection Section, the Boiler and Pressure Vessel Inspection Section and the Right to Know Section. These processes will include monitoring overdue Boiler and Elevator inspections in accordance with the respective Rhode Island General Laws. These processes will also ensure that all authorized inspectors have current certifications.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues

Anticipated Completion Date: February 15, 2020

Ensure Elevator Code Deficiencies are Addressed Timely

The requirements for addressing elevator code deficiencies are detailed in the RIGL Chapter 23. RIGL §23-33-15 *Order to Cease Operation or make Repairs* states:

Where there is no immediate danger, the chief or compliance inspector shall notify the owner or the owner agent to remedy the defect or defects within such reasonable time as he or she may prescribe, and if the defect or defects are not remedied within the prescribed time, the use of the elevator or device shall be discontinued at the expiration thereof, and the certificate revoked until the elevator or device is put in a safe condition and a new certificate is issued by the chief or compliance inspector.

Further, RIGL §23-33-24 *Inspections – Notice of Violations* states:

It shall be the duty of the compliance inspectors appointed or empowered by law to inspect all elevators and other devices subject to the provisions of this chapter in every building within their jurisdiction in any city or town, and it shall be the duty of the compliance inspectors to notify the lessee and owner, or some one of the owners, of every building in which an elevator or other device shall be used or operated contrary to the provisions of this chapter, of the violation and require the lessee or owner or some one of the owners

of the building, within thirty (30) days after the receipt of the notice, to comply with the provisions of those sections...

In a sample of 60 elevators registered with the State, nine elevators did not pass inspection. Two of the nine had violations that had not been corrected in the timeframe stipulated in RIGL or allowed by DLT.¹⁰

At the time of the audit, the 45-day grace period to take corrective action had lapsed and there was no documentation provided to support whether the violations had been remedied. According to management, the unit does not have the ability to record or track code deficiencies in its software. Since no report can be generated that shows what code deficiencies are becoming due, it hinders the unit from effectively following up on code deficiencies once time has lapsed.¹¹

Elevators being out of compliance with code deficiency laws elevates public safety risk. Without ensuring all code deficiencies are resolved in a timely fashion in compliance with RIGL, there is an increased risk that unsafe elevators are in operation.

Recommendations:

20. Ensure elevator code deficiencies are addressed timely.
21. Develop and implement a process to manage code deficiencies and track corrective action.

Management's Response:

The Division is going to establish written work processes for the Elevator Inspection Section, the Boiler and Pressure Vessel Inspection Section and the Right to Know Section. These processes will include monitoring overdue Boiler and Elevator inspections in accordance with the respective Rhode Island General Laws. These processes will also ensure that all authorized inspectors have current certifications. The new processes will also include tracking code deficiencies, and if they are not corrected within the statutory time period, then the Division will take corrective action as identified in Rhode Island General Law.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues

Anticipated Completion Date: February 15, 2020

Perform Required Number of Unannounced Annual Inspections

The Right-to-know unit educates and trains employers and employees where hazardous substances are being used, stored or transported. The unit is required to perform at least 200 unannounced inspections a year. RIGL §28-21-13 states:

¹⁰ The Chief of the unit allows a 45-day grace period to correct deficiencies.

¹¹ Refer to report finding *Determine Estimated Cost and Feasibility of New System* for additional information.

The department shall have all rights of entry and inspection as set out in § 28-20-12, and shall annually conduct and without notice to the employer, at least two hundred (200) inspections of employing units covered by this chapter to determine compliance.

According to the internal tracking system, the unit is not performing the required number of unannounced inspections per year. The unit performed a total of 119 inspections during Fiscal Year 2019. The internal system tracks the record number, company name and information, inspection date, finding type, date violation notice sent, any reinspection dates and a remark field. The OIA could not verify during the audit whether the visits were unannounced or announced.

There is a lack of management oversight to ensure the required number of inspections are performed annually. Performance of inspections helps ensure employers are complying with requirements on informing its employees of potentially hazardous substance exposure as well as precautions in the handling of such substances. Further, the enforcement of the act helps ensure employees are aware of their rights under the Right to Know laws and the proper handling of hazardous substances.

Recommendation:

22. Perform and track the required number of unannounced annual inspections.

Management's Response:

The Division is going to establish written work processes for the Elevator Inspection Section, the Boiler and Pressure Vessel Inspection Section, and the Right to Know Section. These processes will include monitoring overdue Boiler and Elevator inspections in accordance with the respective Rhode Island General Laws. These processes will also ensure that all authorized inspectors have current certifications. The new processes for the Right To Know Section will also include tracking the number of unaccounted annual inspections.

Responsible Party: Assistant Director Joseph R. Degnan, Administrator David M. Rodrigues

Anticipated Completion Date: February 15, 2020

Objective and Scope

The Office of Internal Audit (OIA) conducted a limited scope audit of the Workforce Regulation and Safety division of the Department of Labor and Training for the period of July 2018 through June 2019. The purpose of the engagement was to determine if operations are being administered efficiently and effectively in accordance with applicable laws, rules, and regulations and if adequate controls are in place to ensure safeguarding of assets and accurate reporting.

Methodology

As part of our limited scope audit work, we gained an understanding of the operations of WRS functions and associated operational risks. To address our audit objective, we performed the following:

- Interviewed personnel, including management and staff
- Reviewed established policies and procedures
- Researched Rhode Island General Laws applicable to the organization's operations
- Reviewed Rhode Island Regulations applicable to the organization's operations
- Developed flowcharts of processes in place at time of audit
- Tested a sample of child labor and wage complaints
- Tested the total population of wage complaints received during audit period for timely case assignment
- Tested a sample of boilers inspected by the state and insurance carriers during our audit period
- Tested the total population of boiler locations known during the audit period for past due boiler inspections
- Tested a sample of elevator units known during the audit period, including authorized inspectors and elevator company licenses
- Tested the total population of known elevator units for past due elevator inspections
- Drafted a memo comparing the process and procedure of the Right to Know Unit against Rhode Island General Laws
- Tested the total population of Right to Know Inspections to obtain total inspections performed annually
- Tested a sample of trade complaints and trade licenses received by the agency during our audit period
- Tested a sample of Prevailing Wage compliance violations received by the agency during our audit period

Appendix A

RIGL or Regulation Reference	# of Cases Tested	# of Exceptions Noted	Exception %	Lost Revenue	Notes
RIGL 23-33-12(a)(1)	6	2	33%	\$48.00	Delinquent payment fee for elevator inspector license renewal
RIGL 23-33-12(a)(1)	1	1	100%	\$24.00	Delinquent payment fee for Authorized Inspector Companies License renewal
RIGL 23-33-12(2)(c)	6	5	83%	\$120.00	Delinquent payment fee for elevator owners' payments 30 days past invoice dates
260-RICR-30-15-8.6	4	2	50%	\$24.00	Delinquent hoisting license renewal fee
RIGL 37-13-13(e)	4	1	25%	N/A	Prevailing Wage- record requests not received timely; may impose penalty up to \$500/calendar day of noncompliance. In one of the four cases, the penalty fee per calendar day was not assessed.
		Exception Rate	52%		
		Average Exception %	58%		