

California State Auditor

B U R E A U O F S T A T E A U D I T S

Department of Industrial Relations:

*Its Process for Verifying the Status of
Licenses Issued to Farm Labor Contractors Is
Operational but Needs Some Improvement*



September 2002
2001-017

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CALIFORNIA STATE AUDITOR

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September 10, 2002

2001-017

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As required by Chapter 157, Statutes of 2001, the Bureau of State Audits presents its audit report concerning whether the labor commissioner in the Department of Industrial Relations (department) has an operational process for verifying whether farm labor contractors have current licenses.

This report concludes that the department's process for verifying the status of licenses issued to farm labor contractors is operational but needs some improvement.

Respectfully submitted,

ELAINE M. HOWLE
State Auditor

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SUMMARY

Audit Highlights . . .

Our review of whether the Department of Industrial Relations (department) has established a process for verifying the status of state licenses issued to farm labor contractors reveals that:

- The department's process for verifying the status of farm labor contractors' licenses has been operational since July 1, 2002.*
 - Agricultural growers, farm labor contractors, and others can request license verifications through the department's Web site or by electronic mail, telephone, or facsimile.*
 - More oversight is needed of the department's license verification process, especially in these early stages of implementation.*
-

As required by Section 1695.7(e) of the Labor Code, the Department of Industrial Relations (department) has established a process to verify the status of state licenses issued to farm labor contractors. Specifically, the department created a Web site that agricultural growers, farm labor contractors, and others can use to make online requests for verification of the status of a farm labor contractor's license. The department's Licensing and Registration unit (unit), with offices in Fresno and San Francisco, also accepts requests for verification via electronic mail (e-mail), telephone, and facsimile (fax), and responds to requests by accessing a database to determine whether the farm labor contractor's license is valid and current. The unit must assign a unique number to each license verification and send the result to the requestor within one business day by mail, fax, or e-mail. The confirmation, including the verification number, provides conclusive evidence that the requestor verified the license.

The unit had only been processing requests for verification of farm labor contractors' licenses for three weeks at the time we began our review. Although the department's license verification process is operational, we found that some improvements are needed. To test the verification process, we submitted 25 requests for license verification. The unit did not respond to one of our e-mail requests until we made a follow-up call two days later. In another instance, a unit employee verified the status of a farm labor contractor's license over the telephone but did not ask for the information needed to send the required written verification. During our visit to the unit's San Francisco office, we also observed a unit employee failing to request this information from another caller.

Although the problems we observed were relatively minor, we believe the unit's manager should exercise more oversight, especially in the early stages of process implementation. For example, the unit manager, who oversees the verification function, does not review all requests for verification to determine if employees are responding correctly within one business day. Nor does the unit manager compare the number of requests received to the number of unique verification numbers issued to ensure that each request receives a response.

Additionally, we found that the unit's office in Fresno does not accept incoming telephone requests on Thursdays, and the office in San Francisco does not accept telephone requests on Tuesdays and Thursdays. Further, the unit does not have a dedicated telephone line or fax machine to receive verification requests, thus increasing the likelihood that telephone calls requesting license verification will not be handled properly and faxed requests will get lost.

RECOMMENDATIONS

To ensure that the department is complying with the requirement that it respond to requests for verification of farm labor contractors' licenses within one business day, the unit manager should exercise more oversight. For example, the unit manager could develop a log for employees to record the date, time, and medium (online, fax, e-mail, or telephone) by which a request is received; the date and time that the employee transmits the verification; and the method by which he or she transmitted the verification (e-mail, fax, or mail). The unit manager could also compare the number of requests received to the number of unique verification numbers issued.

To reduce the possibility that a request for verification is lost or incorrectly handled, the department should consider obtaining dedicated telephone and fax lines and a fax machine for this function. Finally, to be more responsive to its customers, the department should consider taking telephone requests for verification on all state business days.

AGENCY COMMENTS

Although the department's response did not specifically address the findings contained in our report, it did generally address the recommendations. For example, the department considered our recommendation to obtain a dedicated fax machine for receiving verification requests, but determined that this is currently unnecessary because few requests are submitted using this method and the probability of misdirecting a request is minimal. The department also stated that it has implemented our recommendation that it accept telephone requests for license verifications on all state business days. ■

INTRODUCTION

BACKGROUND

Chapter 157, Statutes of 2001, amended Section 1695.7(e) of the Labor Code, and required the labor commissioner in the Department of Industrial Relations (department) to establish a unit for verifying the status of farm labor contractors' licenses by July 1, 2002. According to the amended code, agricultural growers and farm labor contractors that subcontract work must verify that a farm labor contractor is properly licensed. Before this amendment, farm labor contractors were required to present current state licenses to agricultural growers before entering agreements to supply labor or services. The corresponding duty of growers was to make reasonable inquiries to ensure that licenses provided were valid before entering agreements.

To verify the validity of a license, a grower or farm labor contractor is required to request verification from the department's new license verification unit by the close of the third business day following the day on which the farm labor contractor is engaged. On receiving a request, the unit must certify the status of the state license, assign a unique verification number to the request, and send confirmation within 24 hours (one business day) by mail, facsimile (fax), or electronic mail (e-mail). The confirmation, including the verification number, serves as conclusive evidence of the grower's or farm labor contractor's compliance with the new verification requirements.

Rather than creating a separate license verification unit, the department delegated responsibility for this function to its Licensing and Registration unit (unit) within its Division of Labor Standards Enforcement. In addition to licensing farm labor contractors, the unit licenses talent agencies and employers that hire individuals to manufacture certain items in the employers' homes for resale. The unit also registers garment manufacturers and individuals and entities that use minors in door-to-door sales, and it certifies teachers who provide education to minors employed at motion picture studios. Five unit employees were designated to perform verifications of farm labor contractors, each responsible for a different day of the workweek. The unit manager oversees

the license verification function that went into effect July 1, 2002. During its first month of operation, the unit received approximately 525 verification requests.

SCOPE AND METHODOLOGY

Chapter 157, Statutes of 2001, requires the Bureau of State Audits to certify that the department's unit responsible for verification of farm labor contractor licenses is operational. The department's license verification process had only been operational for three weeks at the time we began our review.

To gain an understanding of the department's mandate to establish a license verification unit, we reviewed Section 1695.7(e) of the Labor Code as amended by Chapter 157, Statutes of 2001.

To gain a detailed understanding of the department's process for verifying farm labor contractors' licenses, we reviewed the department's new license verification Web site, interviewed the manager and staff designated to perform this function, and observed them processing verification requests at the unit office in San Francisco.

We also interviewed the unit manager to determine the extent of oversight given the verification process and to ascertain the number of employees designated to perform license verifications and the degree of their training.

To determine how the database used by employees to verify the status of licenses was created and is maintained and backed up, we interviewed a senior programmer analyst within the department. We found that the department has an adequate system for updating its farm labor contractor database and for backing it up to ensure that it can be restored quickly if necessary. However, we did not verify the accuracy or completeness of the database.

Finally, to determine whether the department's verification process is sufficient to certify the status of a farm labor contractor's license within one business day of receiving a request, we submitted 25 requests for license verification. Our 25 requests included 10 for valid licenses; 5 for expired licenses; 5 for denied, revoked, or suspended licenses; and 5 for fictitious licenses. We submitted our requests over a two-week period and used all available submission methods: online through the department's Web site and by e-mail, fax, and telephone. We

also asked for responses via the available options: e-mail, fax, and mail. We veiled our identity by using fictitious e-mail names and outside fax machines and addresses. ■

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AUDIT RESULTS

THE DEPARTMENT OF INDUSTRIAL RELATIONS' PROCESS FOR VERIFYING THE LICENSES OF FARM LABOR CONTRACTORS IS OPERATIONAL

The process established by the Department of Industrial Relations (department) for verifying the status of licenses issued to farm labor contractors has been operational since July 1, 2002. On that date, the department activated a Web site explaining that growers, farm labor contractors, and others can submit a request for verification of a farm labor contractor's license in one of the following ways:

- **Online:** The requestor can access the department's Web site, <http://www.dir.ca.gov/>, to submit an online request for license verification.
- **Telephone:** Requestors can call either the Fresno or San Francisco office of the department's Licensing and Registration unit (unit).
- **Facsimile (fax):** Requestors can fax requests to the Fresno or San Francisco offices.
- **Electronic mail (e-mail):** Requestors can submit e-mail requests directly to FLCLicensingVerification@dir.ca.gov, bypassing the license verification Web site.

Most verification requests are sent by e-mail or online.

On receiving a request, the unit employee designated to handle verifications for the day accesses a database to determine the status of the license. The employee can query the system using the farm labor contractor's name or license number. The database contains current information on every licensed farm labor contractor, such as name, address, and license number and expiration date. By accessing the database, the unit employee is able to verify that a farm labor contractor is currently licensed. The system automatically assigns each request a unique verification number.

The database also has a comments field that alerts the unit employee to any pending issues. The nature of these comments could cause the employee to review the licensee's physical file to further investigate any issues potentially affecting the license. For example, if the department were notified that a licensee's workers' compensation insurance was about to expire, potentially causing the license to be revoked, the database would disclose that in the comments field. In addition to verifying the status of the license at the time of the request, the department can communicate to the requestor any pending issues that might ultimately affect the status of a license; however, the department is not required to make such communications.

The department is required to send the requestor confirmation of the status of a license within one business day by mail, fax, or e-mail. The requestor specifies the delivery method in the original request, and the database has been programmed to accommodate all three options. For example, if the requestor asks for a response via e-mail, the unit employee can prompt the system to generate an electronic confirmation that is automatically forwarded to the unit employee's e-mail account. The employee can then easily forward the electronic confirmation to the requestor. If the requestor specifies mail or fax delivery, the unit employee can direct the system to create and print a hard-copy confirmation, which the employee then manually mails or faxes to the requestor. To expedite the faxing of responses and to minimize the risk that a response could be misplaced before being faxed, the unit manager is looking into the feasibility of programming the system so that responses can be electronically sent directly to the requestor's fax machine. Regardless of the method of delivery, each confirmation includes a unique verification number and serves as the requestor's evidence of compliance with Section 1695.7(e) of the amended Labor Code.

ALTHOUGH THE LICENSE VERIFICATION PROCESS IS ADEQUATE, THE DEPARTMENT COULD MAKE IMPROVEMENTS

Based on our testing, it appears that the department's new verification process is sufficient to certify the status of a farm labor contractor's license within one business day of receiving a request, provided employees follow established procedures. The unit sent responses to 23 of our 25 requests, or 92 percent,

The unit appropriately responded to 23 of our 25 requests for verification within one business day as required.

within one business day as required. In fact, the unit responded to most of these requests within two hours. Furthermore, the unit accurately reported the contents of its database concerning whether contractors had current licenses or not.

The unit did not respond to one of our online requests until we made a follow-up call two days later. According to the unit manager, the unit received our request for license verification, but for some reason nobody responded. The unit manager attributed this breakdown in the process to human error. In another instance, a unit employee who answered one of our telephone requests told us that the license was valid. However, the employee did not attempt to obtain any information from us about where to send the required confirmation document. While at the unit's San Francisco office, we also observed a unit employee failing to obtain this kind of information from another caller. Considering that the license verification function had only been operational for a few weeks at the time of our testing, we do not think these errors are significant or indicative of a systematic problem.

Although the unit manager has significant review capability over license verification requests received and responded to electronically, the manager is less able to monitor requests received over the telephone or fax, or responses sent by fax or mail.

The unit manager oversees the verification process and has significant review capability over requests received and responded to electronically—the most common submission and delivery method. For example, the unit manager can monitor incoming electronic requests and outgoing electronic responses, as well as electronic delivery confirmations. However, the unit manager is less able to monitor requests received over the telephone or fax, or responses sent by fax or mail. The five unit employees assigned to the verification function are required to maintain folders containing documentation of fax and telephone requests and evidence of the corresponding responses. Although these employees are required to maintain this documentation, the unit manager had not had a chance to review these files at the time of our testing. Consequently, the unit manager has less assurance that telephone and fax requests are processed appropriately. As discussed previously, the unit employee who answered one of our telephone requests told us that the license in question was valid. However, the employee did not attempt to obtain our address or fax number to send us the required confirmation document. Also, the employee did not document our telephone call. If the unit employee had documented the telephone call and if the unit manager had reviewed the file, the manager might have realized that documentation of the confirmation was never sent out.

We also found that the unit does not accurately compile statistics concerning the number and types of verification requests received. The unit manager obtains information from daily verification numbers submitted by the five unit employees responsible for their respective workdays. However, we noted that employees failed to tally some of the requests we made as part of our review. The unit needs to have accurate information concerning its workload so it can assign an appropriate amount of resources to this function.

Additionally, although the license verification Web site indicates that requests can be submitted by calling the Fresno or San Francisco office, we found that neither office accepts telephone requests on Thursdays, and the San Francisco office does not accept telephone requests on Tuesdays as well. According to the unit manager, the offices do not accept telephone requests on these days so employees can focus on processing license applications.

We also found that the department has not established a dedicated telephone line for license verification requests. Consequently, unit employees who are not trained to perform verifications of farm labor contractors' licenses occasionally answer incoming telephone calls and attempt to gather relevant information from the requestor. This practice increases the chance of miscommunication between the requestor and the unit employee working on the verification. Similarly, the department does not have a fax machine dedicated to license verification requests. Rather, faxed requests are received in a general work area by a fax machine used by the entire unit. The lack of a dedicated fax machine increases the risk of misplacing a faxed license verification request.

Finally, the unit manager provided one-on-one training to each of the five employees assigned to the license verification function. The training consisted of hands-on demonstrations and verbal instructions. However, the employees did not receive any reference materials, such as a checklist that documents the verification procedures. Lacking such reference materials, employees are more likely to make mistakes, such as those we observed during our review, especially during the early stages of a new process. After we began our review, the manager prepared and distributed written instructions for the employees.

The use of shared telephone and fax lines increases the risk that the unit may not respond to requests appropriately.

RECOMMENDATIONS

To ensure that all license verification requests are processed properly and within one business day, the unit manager should consider reconciling verification requests to responses sent. One approach is to develop a log in which unit employees could record requests received by type of transmission (telephone, online, e-mail, or fax), including the date and time received, and the method of transmitting the response (e-mail, fax, or mail), including the date and time sent. The unit manager could then review the logs to ensure that a response was recorded for every request. The unit manager could also compare the number of daily verification requests with the number of unique verification numbers issued each day. The logs would also provide statistical information on the unit's workload. Finally, the unit manager could verify the accuracy of employee logs by tracing information back to supporting documentation contained in individual employee's folders or electronic files. This would also assure the unit manager that employees are maintaining adequate supporting documentation. The unit manager should perform these procedures until employees are proficient at the verification process. Once assured of employee proficiency, the manager could begin to perform them on a random rather than daily basis.

The department should consider obtaining a dedicated fax machine and line for receiving verification requests to minimize the risk of losing faxed requests. The unit manager should also continue to pursue the feasibility of programming the system so that responses can be electronically sent directly to the requestor's fax machine. The department should also consider getting a dedicated telephone line for receiving license verification requests.

Finally, the department should consider accepting telephone requests for license verifications on all state business days. However, if the department has determined that telephone requests cannot be taken every business day because of workload issues, it should at least add an outgoing message to the voice mail system notifying requestors that they can still submit requests online or by fax or e-mail. This information should also be included on the department's license verification Web site.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE
State Auditor

Date: September 10, 2002

Staff: Ann K. Campbell, CFE, Audit Principal
Michael Tilden, CPA
Benjamin M. Belnap

Agency's comments provided as text only.

Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94142

August 30, 2002

Michael S. Tilden*
California State Auditor
Bureau of State Audits
555 Capitol Mall, Suite 300
Sacramento, CA 95814

Dear Mr. Tilden:

Acting Secretary Stephen J. Smith asked me to respond to your recent audit results. I have reviewed the draft audit results and recommendations made by the California State Auditor. The following is in response to the draft report.

A recommendation was made that the unit manager increase oversight of the verification process. Since the unit went into effect on July 1, 2002, the unit manager has been providing the staff with on-going training. The unit manager has also been monitoring the process and randomly checking verifications made throughout the day. The unit manager has created a telephone verification request form along with detailed instructions for the staff on how verification requests must be handled. The unit manager has also created a monthly statistical report, which includes a daily, weekly and monthly statistics, as well as, by what method the requests were received.

The Division will continue working with our Information Systems staff to pursue the capability of electronically sending fax responses directly from our computer system. The Licensing and Registration Unit has its own dedicated fax machine. All the staff in the Unit has been trained to immediately bring any inquiry requesting verification of a farm labor contractor's license to the unit manager for assignment. The probability of misdirecting a request is very minimal. At this time, we do not believe it is necessary to have another fax machine dedicated solely to this program since there a few requests being submitted using this method. It does not appear to be a good use of our limited resources. If, however, the number of requests increase dramatically, the Division will consider establishing a separate fax line for this program.

The draft audit report also indicates that the unit should consider accepting telephone calls on all business days in order to accommodate telephone requests. On July 25, 2002 the

* California State Auditor's comments appear on page 15.

Letter to Michael S. Tilden
August 30, 2002
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Licensing and Registration staff assigned to the farm labor contractor licensing program were instructed to answer telephones Monday through Friday due to the new verification unit.

If you should have any questions, please contact me.

Sincerely,

(Signed by: Arthur S. Lujan)

Arthur S. Lujan
State Labor Commissioner

COMMENTS

California State Auditor's Comments on the Response From the Department of Industrial Relations

To provide clarity and perspective, we are commenting on the Department of Industrial Relations' (department) response to our audit report. The numbers below correspond to the numbers we placed in the margins of the department's response.

- The department's Licensing and Registration unit (unit) manager has significant review capability over requests received and responded to electronically. However, as we state on page 9, the unit manager is less able to monitor requests received over the telephone or fax, or responses sent by fax or mail. Although employees are required to maintain folders containing documentation of fax and telephone requests and evidence of the corresponding responses, the unit manager had not had a chance to review these files at the time of our testing. Consequently, the unit manager has less assurance that telephone and fax requests are processed appropriately.
- We found that the unit does not accurately compile statistics concerning the number and types of verification requests received. As we state on page 10, the unit manager obtains information from daily verification numbers submitted by the five unit employees responsible for their respective workdays. However, we noted that employees failed to tally some of the requests we made as part of our review.

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