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We have completed an audit of the Office of Secretary of State. This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Office of Secretary of State's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Office of Secretary of State for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

November 17, 2010
Carson City, Nevada

STATE OF NEVADA
OFFICE OF SECRETARY OF STATE

AUDIT REPORT

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EXECUTIVE SUMMARY

OFFICE OF SECRETARY OF STATE

Background

With the advent of statehood in 1864, the Nevada Office of Secretary of State (Office) was established. The Secretary of State is a constitutional officer elected to a 4-year term. The agency's main office is in Carson City. The agency also maintains a Las Vegas office.

The mission of the Office of Secretary of State is to effectively and efficiently serve the public by performing its statutory duties to ensure the integrity of elections, facilitate business filings, protect consumers against securities fraud, preserve public records, and to promote public awareness and education in these and related areas. To help accomplish its mission the Office is organized into five divisions: Commercial Recordings, Securities, Elections, Notary, and Operations.

In fiscal year 2010, the Office had 131 positions with total revenues of about \$132.7 million and expenditures of \$15.4 million. Most revenues are deposited directly to the general fund. For example, in fiscal year 2010 the Office deposited over \$128.5 million into the general fund. The Office generates revenue through fees including various corporate and business filings and licenses. The Office also issues fines for violations of securities and notary laws and regulations.

Purpose

The purpose of this audit was to (1) determine if cash handling practices result in timely deposits, adequately safeguard revenues, and protect customer information, (2) evaluate performance measures including the reliability of reported results, and (3) determine if policies, procedures, and computer access controls are adequate. Our audit focused on practices and controls for handling incoming revenues and securing customer information, policies and

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procedures, and computer access for fiscal year 2010. The audit also focused on performance measures and reported results for fiscal years 2007 – 2010.

Results in Brief

Improvements are needed to reduce delays in depositing checks and ensure adequate safeguarding of checks and customer information. For example, we examined 120 deposits made during fiscal years 2009 and 2010 and found all 120 were not deposited timely as required by state law. On average, the 120 deposits were made 6 working days late. Additionally, checks were not restrictively endorsed when received as a safeguard against misuse. Furthermore, paper copies of customer information including credit card and bank account numbers were stored for up to two years, increasing the opportunity for loss or misuse. During our audit the Office addressed these issues. Deposits are now made more timely, and some customer information was shredded and remaining records are better secured.

The Office can take steps to improve the reliability and effectiveness of its performance measures. Most Office goals lack corresponding performance measures to help determine progress towards achieving goals or address all key programs. Additionally, reported results were not always reliable, accurate, or adequately documented. Finally, revising some measures to address the outcome or the impact on customers and citizens would provide more meaningful information to evaluate program effectiveness.

Policies and procedures can be strengthened by ensuring procedures are in place for all functions, that they are up-to-date, and clearly identify staff responsibilities. In addition, two key Office information systems lack adequate password controls.

Principal Findings

- The Office did not deposit cash and checks timely. We reviewed 120 bank deposits from July 2008 to June 2010 and found all 120 deposits were not made timely. On average, bank deposits were made from 2 to 15 working days late. NRS 353.250 requires if on any day the money accumulated for deposit is \$10,000 or more, the deposit must be made the next working day. The Office receives about \$100,000 in cash and checks daily. In September 2010, the Office reported bank deposit timeliness had improved to 1 – 5 working days late. (page 9)
- The Office’s process for handling and receipting checks does not ensure checks are endorsed timely. State policy requires agencies endorse checks as soon as possible, but no later than at the end of the working day. These checks were at greater risk of misuse. (page 11)
- The Office stores records including customer credit card and bank account numbers for up to two years. In addition, these records were not adequately secured. During our audit some records were shredded and a locked door is now in place to better secure these documents. However, policies and procedures have not been established addressing the storage and retention of customer information. (page 12)
- Most Office performance measures are not aligned with agency goals. Performance measures provide a method to measure whether an agency is reaching its goals. We found three of four Office goals did not have corresponding performance measures. For example, one goal without a measure is: *Encourage the development and diversification of the state’s business community by providing innovative, expeditious, and cost-effective services.* Without

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corresponding performance measures the Office cannot effectively measure progress toward achieving its goals. (page 14)

- The Office's reported results for five of its six performance measures were not always reliable. Results were not reliable because inconsistent information was reported from one year to the next, inaccurate information was reported, and math errors were made. Additionally, supporting documentation was not always retained to verify the reliability of reported results. As a result, decisions affecting Office programs could be made based on incorrect information. (page 15)
- The Office can take steps to improve its performance measures. These include focusing on outcome based measures and maintaining supporting documentation. Outcome measures focus on how well work is done or the impact on customers and citizens. Additionally, written policies and procedures for developing, tracking, computing, and reporting measures are needed. (page 18)
- The Office can take steps to strengthen policies and procedures. We found the Office needs to develop additional policies and procedures in some areas, update existing procedures, and ensure procedures are made available to all staff. In addition, policies and procedures should include effective dates and clearly identify which staff positions are responsible for performing specific functions. (page 20)
- Two key information systems maintained by the Office lack adequate password controls. These include the Commercial Recordings and accounting systems. The Commercial Recording system does not require a password. In addition, the accounting system does not require users to periodically change their passwords, passwords are not required to be complex, and passwords are seven characters instead of the state standard of eight. These

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weaknesses put the information contained in the systems at risk from hackers outside the organization. In addition, with weak password controls, there is a greater risk that employees can access the information under another employee's account. However, employees are required to log into the network before accessing these systems. Although this provides some control over employee access, additional controls are needed. (page 23)

Recommendations

This report contains 12 recommendations to improve controls for handling incoming revenues and securing customer information, performance measures, policies and procedures, and computer passwords. Three recommendations address ensuring deposits are timely and customer information is adequately safeguarded. Four recommendations address improving the reliability and effectiveness of performance measures. In addition, three recommendations address strengthening policies and procedures, and two address computer password controls. (page 30)

Agency Response

The Office, in response to the audit report, accepted the 12 recommendations. (page 27)

Introduction

Background

With the advent of statehood in 1864, the Nevada Office of Secretary of State (Office) was established. The Secretary of State is a constitutional officer elected to a 4-year term. The Agency's main office is in Carson City. The Agency also maintains a Las Vegas office for the Securities Division, Domestic Partnership program, and for handling business licenses and expedited corporation/business filings. The Securities Division also has an office in Reno.

The mission of the Office of Secretary of State is to effectively and efficiently serve the public by performing its statutory duties to ensure the integrity of elections, facilitate business filings, protect consumers against securities fraud, preserve public records, and to promote public awareness and education in these and related areas. To help accomplish its mission the Office is organized into five divisions and several programs.

- **Commercial Recordings Division** – is responsible for accepting, filing, and maintaining the organizational and amendatory documents of business entities organized under the laws of Nevada. These include documents related to corporations, limited liability companies, limited partnerships, trademarks, and liens against personal property pursuant to the Uniform Commercial Code (UCC). Additionally on October 1, 2009, the Secretary of State assumed responsibility for issuing state business licenses.
- **Securities Division** – regulates the state's securities industry by licensing individuals who sell securities, registering securities offered for sale, and enforcing the civil and criminal provisions of state and federal securities law; and licenses and regulates athletes' agents. The Division also offers the public investor education programs.
- **Elections Division** – certifies candidates, registers and files Candidate Contribution and Expenditure Reports, certifies ballot questions, supervises elections, and reports and certifies the results of state primary and general elections.
- **Notary Division** – is responsible for appointing, training, and when necessary, disciplining notaries public currently serving the residents of Nevada. The Division also provides authentication of notary signatures, known as apostilles or certifications, typically used to authenticate documents to be presented in foreign countries.

- **Operations Division** – is responsible for accounting, budgeting, agency personnel functions, information technology, purchasing, agency contracts, and various special projects.

The Office also oversees the state’s Domestic Partnership program and the Living Will Lockbox program which provides a registry for directives for healthcare, living wills, and powers of attorney.

In fiscal year 2010, the Office had 131 positions with total revenues of about \$132.7 million and expenditures of \$15.4 million. Most revenues are deposited directly to the general fund. For example, in fiscal year 2010 the Office deposited \$128,548,494 into the general fund. The Office generates revenue through fees including various corporate and business filings, licenses, and the UCC. The Office issues fines for violations of securities and notary laws and regulations. Exhibit 1 shows revenues collected by Division or Program for fiscal years 2007 through 2010.

Exhibit 1

**Revenue by Division/Program
Fiscal Years 2007 – 2010**

Division/Program	2007	2008	2009	2010
Commercial Recordings	\$ 83,304,000	\$ 82,824,000	\$75,195,000	\$107,562,000*
Notary	686,000	819,000	882,000	761,000
Securities	20,304,000	21,491,000	22,176,000	24,152,000
Elections	444,000	410,000	152,000	117,000
Domestic Partnerships**	0	0	0	116,000
Total	\$104,738,000	\$105,544,000	\$98,405,000	\$132,708,000

Source: Office financial records.

Note: Numbers are rounded to nearest thousand.

* Includes \$37.5 million in business license fees.

** New program for fiscal year 2010.

Business Portal

The 2009 Legislature approved Assembly Bill 146 that provided for a Nevada Business Portal. When fully implemented, the Portal is intended to be a one-stop shop where businesses can complete and pay for a number of transactions, such as sales and use tax permits, annual state business license, file articles of incorporation, file annual lists of officers, and conduct other business.

On October 1, 2009, the first phase of the project was completed when responsibility for issuing state business licenses transferred from the Department of Taxation to the Secretary of State. The second phase includes developing the technology to integrate the business services of the Secretary of State and the Department of Taxation. The second phase is scheduled for completion in February 2011. In subsequent phases, the Portal may allow businesses to conduct transactions with other state, county, and city agencies.

Scope and Objectives

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218G.010 to 218G.350. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility of public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

Our audit focused on the Office of Secretary of State's practices and controls for handling incoming revenues and securing customer information, policies and procedures, and computer access for fiscal year 2010. It also included a review of performance measures and reported results for fiscal years 2007 – 2010. Our audit objectives were to:

- Determine if cash handling practices result in timely deposits, adequately safeguard revenues, and protect customer information.
- Evaluate performance measures including the reliability of reported results.
- Determine if policies, procedures, and computer access controls are adequate.

Findings and Recommendations

Improvements Are Needed to Reduce Delays in Depositing Checks and Ensure Customer Information is Safeguarded

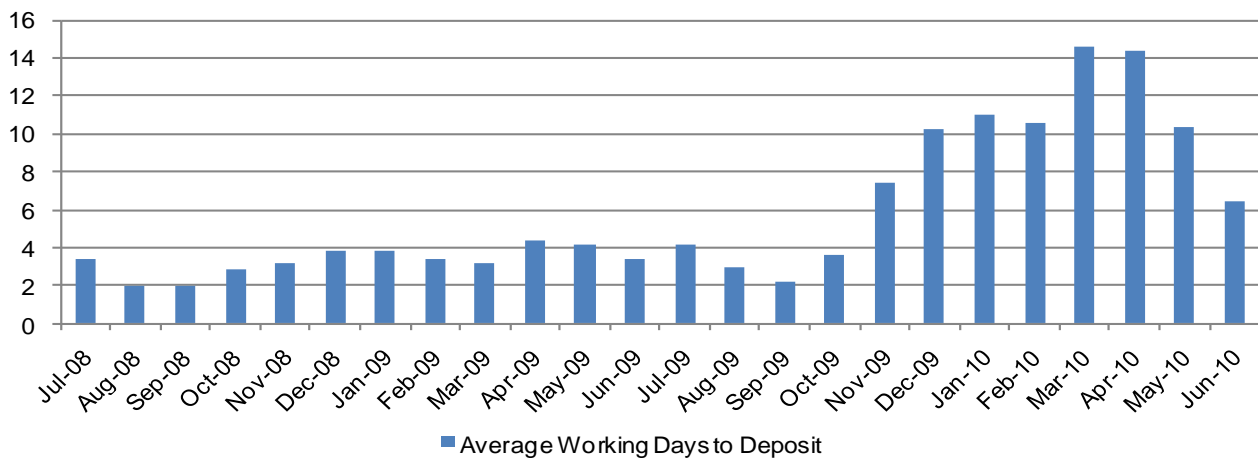
Improvements are needed to reduce delays in depositing checks and ensure adequate safeguarding of checks and customer information. For example, we examined 120 deposits made during fiscal years 2009 and 2010 and found all 120 were not deposited timely as required by state law. On average, the 120 deposits were made 6 working days late. Additionally, checks were not restrictively endorsed when received as a safeguard against misuse. Furthermore, paper copies of customer information including credit card and bank account numbers were stored for up to two years, increasing the opportunity for loss or misuse.

Bank Deposits Not Timely

The Office of Secretary of State (Office) did not deposit cash and checks timely. We reviewed 120 bank deposits made (five each month) from July 2008 through June 2010 by the Commercial Recordings Division's Carson City office. We found all 120 deposits were not made timely. Exhibit 2 shows the average number of working days deposits were not made timely by month during fiscal years 2009 and 2010.

Exhibit 2

**Average Working Days to Deposit
Fiscal Years 2009 and 2010**



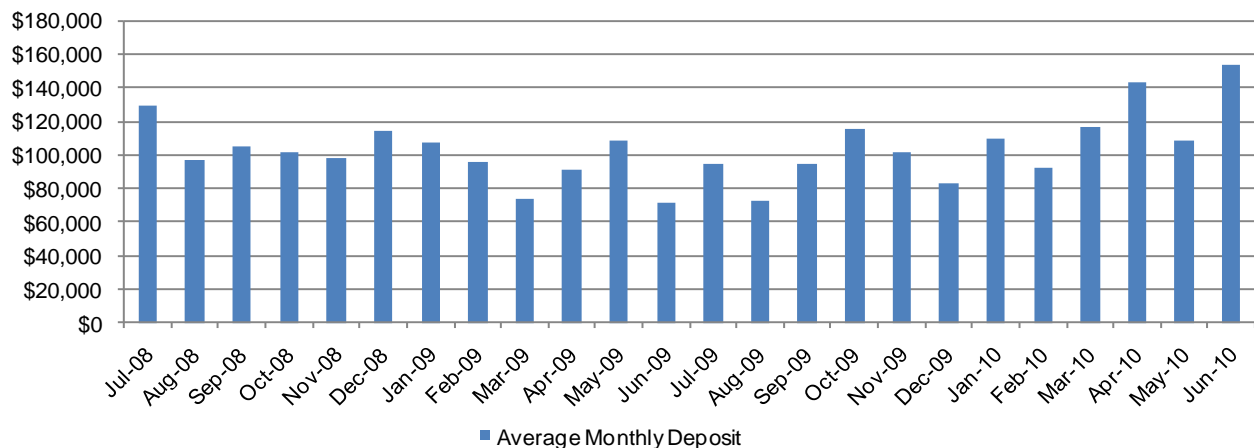
Source: Office financial records.

Exhibit 2 shows bank deposits were made on average from 2 to 15 working days late. Office management represented that delays in processing checks and bank deposits resulted from reductions in staffing and assuming additional responsibilities. In September 2010, the Office reported bank deposit timeliness had improved. Staff represented deposits ranged from 1 to 5 working days late.

NRS 353.250 requires that if on any day the money accumulated for deposit is \$10,000 or more, the deposit must be made on the next working day. The Carson City office receives on average about \$100,000 daily in cash and checks. Therefore, cash and checks received on a given day should be deposited the following day. Exhibit 3 shows the average dollar amount deposited monthly for the 120 bank deposits reviewed.

Exhibit 3

**Average Monthly Deposit
Fiscal Years 2009 and 2010**



Source: Office financial records.

Exhibit 3 shows bank deposits ranged between \$71,000 and \$154,000. The average deposit over the two year period totaled about \$103,000.

We estimated the State lost about \$3,400 in interest income on about \$12.4 million in deposits we reviewed. Although the amount of interest income lost in our sample is not significant, during fiscal years 2009 and 2010 the Carson City office deposited about \$50 million in cash and checks. Furthermore, the State currently earns less than 1% in interest income. In the future as interest rates and deposits by the

Carson City office increase, losses in interest income from not depositing timely could be more significant.

Checks Not Endorsed Timely

The Office does not restrictively endorse checks timely. We examined 120 checks received between July 1, 2008, and June 30, 2010, and found checks were restrictively endorsed on average 6 calendar days after receipt. State policy requires agencies endorse checks as soon as possible, but no later than at the end of the working day.

Between July 2008, and June 2010, the Office received on average about \$100,000 daily in checks at the Carson City office. This resulted in many unendorsed checks maintained daily in the Carson City mailroom. These checks were at greater risk of misuse. Unendorsed checks are easier to alter for fraudulent use and a variety of individuals have access to checks. Additionally, a record of the check and filing documentation submitted by customers is not recorded until receipted into the Commercial Recordings computer system, e-SOS.

To help safeguard checks and other documents, the Office has an electronic key card system. To access the non-public areas within the offices, including the mailroom, requires an electronic key card. However, in addition to employees, cards are issued to the building landlord, janitors, consultants, and others.

Several Factors Contribute to Untimely Deposits

We identified several factors that contributed to bank deposits not made timely. First, the large number of checks received and the Office's receipting process caused delays. The following process describes the timeliest scenario for receipting and depositing. On day 1, mail is received, opened, and sorted by transaction type (e.g., business filing, license). On day 2, checks and business filing and licensing information are scanned into e-SOS. When scanned, e-SOS provides a restrictive endorsement and job number on back of the check. On day 3, staff reconcile checks to e-SOS, prepare the bank deposit, and deliver the deposit to the Office of the State Treasurer. The above process results in checks deposited at least one day late from the standard established in state law. Larger volumes of mail and checks can cause further delays in receipting and depositing.

A second reason contributing to delays in depositing was state budget cuts including staff layoffs. In September 2008, budget cuts resulted in the Office eliminating positions at the Carson City office, including two assigned to mail and receipting functions.

Third, responsibility for issuing state business licenses was transferred from the Department of Taxation to the Office effective October 1, 2009. The Office took over responsibility for issuing business licenses and collecting the fee without additional staff. The Office reported processing about 184,000 business licenses from October 2009 to June 2010.

Action Taken to Reduce Depositing Delays

The Office took steps to reduce delays in receipting and depositing. First, Office personnel indicated several staff were temporarily reassigned from other duties to mail and receipting. Second, the Office requested and the Legislature appropriated six additional staff positions during the 26th Special Session (February 2010). Two positions were assigned to the mail and receipting process. These steps helped the Office reduce delays in depositing from 15 days to 1 – 5 days.

Additional Steps Could Further Reduce Depositing Delays

The Office could take additional steps to further reduce depositing delays. First, according to Commercial Recordings personnel, the Division has 10 staff cross-trained to process business filings, licenses, and receipting. The Office could develop a written plan to reassign these staff to receipting when delays occur. Second, the Office of the State Treasurer working with Bank of America has developed a remote deposit program. Remote deposit technology allows agencies to deposit checks when received by scanning the check directly into the bank's system. Remote depositing could provide several advantages including increased security for checks and more timely deposits. Several state agencies are currently using the technology. The Office should evaluate the feasibility of using remote deposit technology.

Customer Information Not Always Secured

The Office stores records, including customer credit card and bank account numbers, in the basement of the Commercial Recordings Division's Carson City office. We found these records were maintained for up to two years and not adequately

secured. However, the Office has not established policies and procedures addressing the storage and retention of customer information.

Customers wishing to pay by credit card or e-check submit an e-payment form with their business filing or license application through the mail. The payment form includes customer information with either the customer's credit card number or bank account number. The payment information is scanned into e-SOS during the receipting process. After the transaction is receipted and processed the e-payment form and accompanying documents are stored in the basement.

In June 2010, we observed paper e-payment forms and other documents with processed dates ranging from May 2008 to May 2010 stored in the basement. The average number of days these payment forms were stored in the basement was 366 days, and some forms had been stored up to 705 days. The basement is accessible to individuals with an electronic key card.

On June 29, 2010, records processed from May 2008 to January 2010 were shredded. In September 2010 we observed records processed from February 2010 to September 2010 were stored in the basement. Additionally, in September we observed staff had secured the door to the area where records are stored with a lock.

Commercial Recordings staff represented payment forms are stored because a paper copy is needed if customers dispute charges. However, Office accounting staff indicated they rely on the scanned electronic e-payment copy in e-SOS when customers dispute charges. Therefore, the Office could destroy e-payment forms after the transaction is processed. The Office should establish policies and procedures addressing the storage, retention, and timely shredding of credit card numbers, bank account numbers, and other sensitive information.

Recommendations

1. Work with the Office of the State Treasurer and evaluate the feasibility of implementing remote deposit technology.
2. Develop a written procedure to reduce delays in deposits and endorsing checks.

3. Develop policies and procedures requiring shredding the e-payment forms and other customer sensitive information in a timely manner.

Performance Measures Need Improvement

The Office can take steps to improve the reliability and effectiveness of its performance measures. Most Office goals lack corresponding performance measures to help determine progress towards achieving goals or address all key programs. Additionally, reported results were not always reliable, accurate, or adequately documented. Finally, revising some measures to address the outcome or the impact on customers and citizens would provide more meaningful information to evaluate program effectiveness.

Performance Measures Do Not Address All Key Activities

Performance measures do not always address all key activities. Most Office goals lack corresponding measures to help assess progress towards achieving goals. In addition, measures have not been developed for some key functions such as the Elections Division, Domestic Partnership program, and Information Technology to assess performance.

Measures Are Not Aligned With Agency Goals

Most Office performance measures are not aligned with agency goals. Performance measures provide a method to measure whether an agency is reaching its goals. However, when goals lack corresponding measures to assess progress towards achieving goals, the value of these goals becomes questionable. We found three of four Office goals did not have corresponding performance measures. The four goals and matching performance measure, where applicable, are shown in Exhibit 4.

**Office Goals and
Corresponding Performance Measures**

Goals	Corresponding Measures
1. Ensure the integrity of elections and proper disclosure by candidates and election officials through the effective administration of the state’s election laws and to advocate for change when needed.	
2. Encourage the development and diversification of the state’s business community by providing innovative, expeditious, and cost-effective services.	
3. Protect consumers from investment fraud through effective regulation of the securities industry, enforcement of the securities laws, and education of the public.	Securities enforcement cases
4. Maintain records and information filed with the office and to make that information more accessible and available at a reasonable cost.	

Sources: Office of Secretary of State Biennial Report to the Governor, and Office records.

State strategic planning materials indicate performance measures provide a method to systematically and objectively measure and track an agency’s progress towards achieving its goals. Without corresponding performance measures the Office cannot effectively measure progress toward achieving its goals. Developing measures for each goal would provide the Office with an effective means of evaluating goals.

Key Agency Functions Do Not Have Performance Measures

Several key Office programs and functions lack performance measures including the Elections Division, Domestic Partnership program, and Information Technology. For example, the Office has a goal to improve Nevada’s election process shown above in Exhibit 4, goal #1. Developing measures would help management assess the progress the Office has made toward achieving goals. Developing measures for other programs and functions would further assist management with assessing performance in these areas.

Reported Results Not Always Reliable

The Office’s reported results for five of its six performance measures were not always reliable. Results were not reliable because inconsistent information was reported from one year to the next, inaccurate information was reported, and math

errors were made. Additionally, supporting documentation was not always retained to verify the reliability of reported results. As a result, decisions affecting Office programs could be made based on incorrect information.

Results Not Consistently Reported

Consistent information was not used when calculating the results for performance measures addressing *Active Business Entities Renewing Their Filings* and *Securities Enforcement Cases*. As a result, correct information was not always reported.

The Commercial Recordings Division did not use consistent information from year-to-year when reporting results for the number of *Active Business Entities Renewing Their Filings*. We found for fiscal years 2007 and 2009 the Division reported the number of annual filings (businesses renewing filings) for the measure. For fiscal years 2008 and 2010 the Division combined the number of annual filings, along with the initial list of officers and amended filings. As a result, the reported results for fiscal years 2007 and 2009 were not consistent with the information reported for 2008 and 2010. Exhibit 5 below shows the difference between reported results for the measure and the number of annual filings each year.

Exhibit 5

**Comparison of Reported to Actual
Business Entities Renewing Their Filings
Fiscal Years 2007 – 2010**

	FY 2007	FY 2008	FY 2009	FY 2010
Results Reported	265,281	322,356	275,997	284,558
Actual Number of Annual Filings	265,281	289,540	275,997	252,373
Difference	0	32,816	0	32,185

Source: Office records and auditor calculations.

Exhibit 5 shows the Office overstated the number of businesses renewing their filings by 32,816 in fiscal year 2008 and by 32,185 in 2010. These incorrect numbers were included in the Office’s budget request.

The initial filing of officers should be submitted after a new business submits its initial filing. Initial list filings are most closely related to new business start ups. According to staff, amendments are required when a business makes certain changes

in operations, such as changes in officers, address, or authorized stock shares. A business could go several years without filing an amendment or file several amendments during the year. As a result of the methodology used, some businesses could be counted twice in the numbers reported in fiscal years 2008 and 2010, overstating the number of existing businesses.

The Office also used inconsistent information when reporting the number of *Securities Enforcement Cases*. When identifying the fiscal year 2010 results for this measure the Securities Division used the following calculations shown in Exhibit 6.

Exhibit 6

**Enforcement Cases
Fiscal Year 2010**

Number of Cases Open at the Beginning of the Fiscal Year	162
Number of Cases Opened During the Fiscal Year	+ 424
Total Cases Open During the Fiscal Year	586
Number of Cases Closed During the Fiscal Year	- 335
Total Cases Open at the End of the Fiscal Year	251

Source: Securities Division staff and Office records.

Securities staff reported 251 Securities Enforcement Cases for fiscal year 2010. However, the Office reported in its budget request 586 Securities Enforcement Cases for fiscal year 2010. The discrepancy results from whether to include 335 closed cases in the final reported number. The Office’s definition for the measure indicates it includes both active cases and cases closed during the year. Therefore, reporting the higher number 586 is correct. However, we found results were inconsistently reported from one year to the next. In fiscal years 2007 and 2009 the Office excluded closed cases from the reported results. For fiscal years 2008 and 2010 closed cases were included in the reported results.

Number of Phone Calls Answered Inaccurate

The Office’s reported counts for telephone calls answered is not accurate for two reasons. First, the Office’s definition for the measure indicates it includes completed calls, faxes, and e-mails. However, reported results do not include faxes and e-mails. Second, reported numbers included both completed calls and calls dropped or

abandoned by the customer. Therefore, reported results do not accurately identify the number of calls answered. Exhibit 7 shows the number of calls completed, dropped, and percentage of calls dropped for fiscal years 2007 – 2010.

Exhibit 7

**Number of Phone Calls Answered, Dropped, and Percentage Dropped
Fiscal Years 2007 – 2010**

	Phone Calls Answered	Phone Calls Dropped	Total Reported Calls	Percentage of Calls Dropped
FY 2007	178,174	26,174	204,348	13%
FY 2008	175,027	25,442	200,469	13%
FY 2009	160,257	37,595	197,852	19%
FY 2010	130,925	134,139	265,064	51%

Source: Office records.

Exhibit 7 shows reported numbers overstated the actual number of customer calls by 13% to 51%. Specifically, in fiscal year 2010 the reported number of phone calls answered was more than twice the actual number of calls answered.

Notary Information Not Always Accurate

Reported results for both notary performance measures were not always accurate due to math errors and reporting partial year information. For fiscal years 2009 and 2010 the Office over reported the number of individuals completing Notary training because math errors were made when computing results. For example, the Office reported 3,652 individuals completed Notary training in fiscal year 2010. We reviewed training class rosters and found 3,442 individuals had completed training. Additionally, the Office reported 30,302 registered notaries as of June 30, 2010. However, division records we reviewed indicated 30,651 notaries. The discrepancy occurred because partial year numbers were reported in the Office’s budget request.

Performance Measures Can Be Improved

The Office can take several steps to improve its performance measures. These include focusing on outcome based measures and maintaining supporting documentation. Additionally, written policies and procedures for developing, tracking, computing, and reporting measures are needed.

Measures Focus on Output Rather Than Outcome

All six current performance measures focus on measuring output (how much work is done) rather than outcome (how well work is done or impact on customers and citizens). The Office would benefit by developing some outcome based measures.

The Commercial Recordings Division currently measures the number of new filings (new businesses), active businesses renewing their filings, and business licenses. Performance measures do not address how well the Commercial Recordings Division performs its functions and responds to customers.

The Securities Division should also adopt outcome based measures. Securities' current performance measure addresses the number of enforcement cases handled each year. Securities should consider measuring the results from enforcement cases such as the number of licenses suspended or revoked, the number of fines levied and amounts collected, convictions, or other actions taken. The Division also processes license applications and registers securities, and could measure how timely applications and registrations are processed.

The Notary Division should adopt outcome based measures such as how timely notary and apostilles are processed, and the percent processed without errors. The Division also addresses complaints and may take action against notaries when violations occur. The Division could measure the results from complaints such as the number of notary appointments revoked, suspended, or amounts collected in fines.

Supporting Documentation Not Retained

We could not verify the reliability of reported results for some measures because supporting documentation was not retained. For example, management indicated the Securities Division did not keep supporting documentation for its performance measure. Therefore, we could not verify the reliability of reported results for fiscal years 2007 – 2010. The Notary Division did not retain supporting documentation for the number of notaries trained in fiscal years 2007 and 2008.

Policies and Procedures Are Needed

The Office has not developed written policies and procedures governing its performance measures. Therefore, staff do not receive adequate guidance to ensure performance measure results are consistent, accurate, error free, and include

supporting documentation. Problems we found with performance measure results may have been avoided if policies and procedures were in place to guide staff.

State Administrative Manual Section 2512 and state internal control procedures require state agencies develop written procedures addressing how performance measures are computed. Procedures should include formulas and calculations used to compute results, and the source(s) of information used to determine results. Additionally, both fiscal and program staff should review results for accuracy and consistency. Finally, records used to support performance measure results should be retained for 3 fiscal years.

Recommendations

4. Develop performance measures for each goal.
5. Develop measures for key programs such as the Elections Division, Domestic Partnerships program, and Information Technology.
6. Revise measures to address outcome factors such as timeliness and accuracy of work performed.
7. Develop written policies and procedures for performance measures that address developing and implementing measures, collecting information, reporting results, and retaining supporting documentation.

Policies and Procedures Can Be Improved

The Office can take steps to strengthen policies and procedures. We found the Office needs to develop additional policies and procedures in some areas, update existing procedures, and ensure procedures are made available to all staff. In addition, policies and procedures should include effective dates and clearly identify which staff positions are responsible for performing specific functions.

Policies and Procedures Are Needed in Several Areas

Complete policies and procedures have not been prepared for all functions. For example, the Securities Division should develop procedures for its criminal investigators addressing conducting background investigations, and gathering and documenting

evidence. Procedures are needed to help ensure complete and accurate information is collected and adequately documented. Staff indicated they intend to develop procedures for these areas.

The Notary Division lacks complete procedures for processing notary applications. Staff indicated recent changes in operations including a new database have made prior procedures outdated. Other priorities have prevented the Division from developing procedures; however, staff plan to develop new procedures.

The Las Vegas office reported they do not have procedures for processing cash and checks, and preparing deposits. These include Commercial Recordings staff performing customer service functions such as processing business licenses and expedited filings for customers at the Las Vegas office, and accounting staff who prepare deposits. However, staff in the Carson City office have procedures. The Office should ensure all staff have policies and procedures related to their job duties.

Some Procedures Were Outdated

Procedures for handling revenues in some divisions were out-of-date. The Elections Division procedures need to be updated to help ensure deposits are timely and adequately define responsibilities. During our audit we reviewed six checks received by Elections to determine if deposits were timely. We found that four of the six were not deposited timely. These four checks were deposited from 8 to 62 days late. Policies and procedures for handling cash, checks, and deposits are outdated and incomplete. Written procedures do not cover the same steps staff explained to us. For example, procedures do not identify staff responsible for opening the mail, recording checks, entering revenues into the accounting system, and preparing the deposit.

The Securities Division's procedures are several years old, do not accurately reflect current practices, and need to be updated. We found procedures do not address handling and recording checks received through the mail or restrictively endorsing checks. Additionally, procedures do not clearly identify responsibilities by staff position. Finally, written procedures should be updated to reflect current practices for handling and depositing checks.

Additional Changes Are Needed

The Office can take several additional steps to improve policies and procedures. These include ensuring that all procedures have effective dates, clearly identifying responsibilities for specific tasks, and formalizing procedures.

We found procedures for handling cash and checks in the Elections and Securities Divisions lacked effective dates. Effective dates are needed to help ensure staff receive recent changes, responsibilities are consistently handled, and management's wishes are carried out.

Some policies and procedures do not clearly identify which staff positions are responsible for specific functions. For example, Elections' and Securities' procedures do not address which individuals by position perform each specific step in the receipting and depositing processes.

We also found the Securities Division policies and procedures manual contained a variety of e-mails indicating changes in procedures. These e-mails were several months to more than one year old. In some cases it may be necessary to immediately make changes in operations and processes before formal written procedures can be revised. However, changes made through e-mails should be formalized in written procedures.

Recent Changes in Policies and Procedures

The Office recently took steps to update some policies and procedures. The Securities Division developed policies and procedures for its criminal investigators addressing transporting prisoners and the use of weapons. The Notary Division revised procedures for processing apostilles and notary training.

Recommendations

8. Continue revising and updating policies and procedures.
9. Ensure that policies and procedures include effective dates and identify responsibilities by position.
10. Ensure all staff have access to policies and procedures related to their job duties.

Password Controls Are Weak

Two key information systems maintained by the Office lack adequate password controls. These include e-SOS and the Office's accounting system, Great Plains. Neither system's password controls adhere to state standards. These standards require users have passwords and those passwords be changed every 90 days. In addition, passwords must be complex and include uppercase and lowercase letters, special characters, and numbers. Finally, passwords must be a minimum of eight characters.

The e-SOS system does not require a password. In addition, the Great Plains system does not require users to periodically change their passwords, passwords are not required to be complex, and passwords are seven characters instead of the state standard of eight. These weaknesses put the information contained in the systems at risk from hackers outside the organization. In addition, with weak password controls, there is a greater risk that employees can access the information under another employee's account. However, employees are required to log into the network before accessing these systems. Although this provides some control over employee access, additional controls are needed.

These systems were developed by outside vendors. Therefore, the Office cannot modify the password settings easily. However, steps could be taken to strengthen controls. The Office can conduct periodic security awareness training to remind employees to change their passwords, and reinforce the requirement for longer and complex passwords. For the e-SOS system, Office management has indicated they are in discussions with the system vendor to allow employees to enter passwords.

Recommendations

11. Require all employees to have a password for the e-SOS system.
12. Through periodic training, encourage the use of strong passwords and periodic changing of passwords.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Office of Secretary of State, we interviewed management and staff, and reviewed statutes, regulations, policies, and procedures significant to the Office's operations. We also reviewed financial information, prior audit reports, budgets, legislative committee minutes, and other information describing the activities of the Office. Furthermore, we documented and assessed the Office's policies and controls related to receipt and deposit procedures, and securing customer information. Finally, we reviewed and documented performance measures and policies and procedures.

To determine if the Office deposited checks timely, we judgmentally selected five monthly Commercial Recordings transactions that were processed through the Division's Carson City office and were paid by check from July 2008 through June 2010 (120 total transactions). For each check, we identified the received date, the date the check was required to be deposited, the actual date deposited, and the total deposit amount. From the information gathered, we determined the number of days checks were deposited late by calculating the number of days from the required deposit date to the actual deposit date.

To determine if the Office had endorsed checks timely, we used our sampled 120 checks and identified for each check the required endorsement date and actual endorsement date. From this information, we determined the number of days the checks were not endorsed timely by calculating the number of days from the required endorsement date to the actual endorsement date.

To determine the potential loss in earned interest due to untimely deposits, we obtained from the Office of the State Treasurer the average quarterly interest rate the State received from July 2008 through June 2010. Using the interest rate and amount deposited for each of the 120 transactions reviewed, we calculated interest income lost based on the number of days each deposit was late.

To determine if customer credit card or bank account information was adequately protected we judgmentally selected two monthly Commercial Recordings transactions that were processed through the Carson City office and were paid by credit card or e-check from July 2008 to June 2010 (48 total transactions). For each transaction, we identified the date the Office received the information, the date received, and the date the Office destroyed the paper copies of the credit information. We determined the number of days the information was not adequately protected by calculating the number of days from when the Office scanned the information into e-SOS to the date the Office destroyed the paper copies.

To evaluate performance measures we obtained copies of results and supporting documentation for fiscal years 2007 – 2010 and Office goals. We compared current goals with measures and identified those goals without a corresponding performance measure. We also reviewed key Office programs and functions and identified programs and functions without current performance measures. We verified the reliability of performance measures by comparing reported results with supporting documentation. We recalculated results to verify that reported results were accurate. We then analyzed measures and compared them with state requirements. We also discussed performance measures, methodologies, results, and discrepancies with Office staff.

To evaluate policies and procedures we reviewed and identified programs and functions without complete policies and procedures. We reviewed policies and procedures to ensure they were up-to-date, included effective dates, and identified which staff positions were responsible for specific functions. We analyzed policies and procedures and compared them with internal control standards. We also discussed policies and procedures, planned changes, and weaknesses with Office staff.

To determine if computer password controls were adequate, we reviewed password settings and access controls to critical applications. We compared controls with state requirements and discussed control weaknesses with Office staff.

Our audit work was conducted from March to October 2010. We conducted this performance audit in accordance with generally accepted government auditing

standards. 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 accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Secretary of State. On November 9, 2010, we met with agency officials to discuss the results of the audit and requested a written response to the preliminary report. That response is contained in Appendix B which begins on page 27.

Contributors to this report included:

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Appendix B
Response From the Office of Secretary of State



OFFICE OF THE SECRETARY OF STATE

ROSS MILLER
Secretary of State

November 16, 2010

Paul V. Townsend, CPA
Legislative Auditor
State of Nevada
Legislative Counsel Bureau
401 S. Carson Street
Carson City, NV 89701-4747

RE: Office of the Secretary of State Response to LCB Preliminary Audit Report


Dear Mr. Townsend:

Per your request dated November 3, 2010, please find this response regarding the eight (8) principal findings made by the Legislative Audit Committee in the *Preliminary Audit Report of the Secretary of State*.

Principal Finding bullet point #1 – Timeliness of cash and check deposits. While we recognize that improvements are needed to reduce delays in depositing checks that are received by the office, there may not be an immediately feasible solution. The business process design coupled with the volume of payments (namely checks sent via mail) received by the mailroom, particularly at month end and the number of staff available to receipt these checks into the Electronic Secretary of State (eSoS) commercial recordings processing system, do not allow for same or next day deposit. However, once receipted into the eSoS system the daily deposit is always conducted according to NRS 353.250. Factors contributing to the delay in deposits are correctly identified as staff eliminations/layoffs/furloughs and increased office responsibilities (transfer of issuance of State Business License from Department of Taxation).

The audit report findings estimate that “the State lost about \$3,400 in interest income on about \$12.4 million in deposits we reviewed”. The cost of adding approximately 3-4 additional staff people far outweighs the lost interest income mentioned even with increased revenues and interest rates. We will take steps to allocate available staff (floaters) as per the recommendation as well as explore further the State Treasurer’s program for remote deposits.

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Paul V. Townsend
November 16, 2010
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Principal Finding bullet point #2 - Timeliness of endorsement of checks. Because checks are restrictively endorsed at the time they are scanned into the eSoS system, the same challenges that the agency faces with the timeliness of the deposit are also present here. We will explore restrictively endorsing checks in the mailroom at the time they are received. In the meantime, all checks received in the mailroom will be placed in a locking cabinet and secured prior to scanning so there will be no access to these documents.


Principal Finding bullet point #3 - Storage and destructions of records. Since the commencement of the audit, significant progress has been made towards timely destruction and securing of sensitive records, namely e-payment forms. Historically, these documents were kept in paper form was to serve as backup should the scanned image not be adequate. Staff training and review of the sensitive documents after scanning into the system should allow for immediate destruction (shredding) of these documents as there is no statutory requirement to keep these documents once scanned. Further, a written procedure will be developed outlining how these documents are to be handled once received by the office.

Principal Finding bullet point #4 - Performance measures pertaining to office goals. Findings indicate that most office goals lack corresponding performance measures to help determine progress towards achieving goals. Additionally, it is stated that performance measures do not always address all key activities. Performance measures do provide a method to measure whether goals are being met therefore the three (3) office goals without corresponding performance measures will be evaluated and appropriate measures developed. The office will review its goals and develop corresponding performance measures. The three identified in the report should more accurately be described as objectives rather than goals. The office will look develop corresponding goals and performance measures to achieve its objectives.

Principal Finding bullet point #5 – Reliability of performance measure results. Inconsistent information and differences in staff members reporting the information from year to year has resulted in the miscalculation of results for performance measures addressing active business entities renewing their filings, addressing securities enforcement cases, number of customer service calls received and number of notaries trained and registered.

We are reviewing performance measures to focus on outcome based measures with comprehensive supporting documentation. By developing written procedures on how

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performance measures are tracked, computed and reported, the information used as a basis for performance measures will be consistent.

Principal Finding bullet point #6 - Improvement of performance measures. As previously mentioned we will develop performance measures for office activities and applicable key programs that directly correspond to overall goals.

Principal Finding bullet point #7 - Improvement of policies and procedures. Based on the recommendations in the preliminary audit report, we will continue to revise and update office policies and procedures including effective dates and responsibilities by person. All staff will have access to policies and procedures related to their job duties. Further, we plan to establish a scheduled review of policies and procedures to ensure that they are current to existing business practices.

Policies and procedures related to an employee's job duties can also be found in the positions essential functions and well as the employee's work performance standards. The office also has a personnel policy manual which details general and specific state and office policies and procedures. It is available on the office's intranet and is updated as needed but also reviewed annually. All employees are notified of changes and are occasionally required to sign an acknowledgment that they have received revised policies and procedures. Additionally, the office has divisional policies and procedures related to the specific business functions of the divisions. Some processes are well document and updated while others need to be brought current. The office will be addressing this need in the coming year.

Principal Finding bullet point #8 - Adequacy of passwords for two key information systems. The office acknowledges that security improvements for the eSoS system are necessary, however, it has been determined that it is too costly to modify the current system. The office's personal computers are automatically set to lock after 15 minutes of inactivity which is a temporary solution to maintaining the security of and access to the office's systems. The existing eSoS system is aging and the office has initiated a business process evaluation in order to develop the business requirements for a system rewrite. Complex password requirements which meet the State's standard for password security will be a mandatory requirement of the new system.


Further, the office requires that all employees biannually complete the State's security training. In 2009, the office had a 100% participation rate.

Respectfully,



ROSS MILLER
Secretary of State

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**Office of Secretary of State
Response to Audit Recommendations**

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Work with the Office of the State Treasurer and evaluate the feasibility of implementing remote deposit technology.	<u> X </u>	<u> </u>
2	Develop a written procedure to reduce delays in deposits and endorsing checks.....	<u> X </u>	<u> </u>
3	Develop policies and procedures requiring shredding the e-payment forms and other customer sensitive information in a timely manner	<u> X </u>	<u> </u>
4	Develop performance measures for each goal.....	<u> X </u>	<u> </u>
5	Develop measures for key programs such as the Elections Division, Domestic Partnerships program, and Information Technology.....	<u> X </u>	<u> </u>
6	Revise measures to address outcome factors such as timeliness and accuracy of work performed.....	<u> X </u>	<u> </u>
7	Develop written policies and procedures for performance measures that address developing and implementing measures, collecting information, reporting results, and retaining supporting documentation.....	<u> X </u>	<u> </u>
8	Continue revising and updating policies and procedures	<u> X </u>	<u> </u>
9	Ensure that policies and procedures include effective dates and identify responsibilities by position	<u> X </u>	<u> </u>
10	Ensure all staff have access to policies and procedures related to their job duties.....	<u> X </u>	<u> </u>
11	Require all employees to have a password for the e-SOS system.....	<u> X </u>	<u> </u>
12	Through periodic training, encourage the use of strong passwords and periodic changing of passwords.....	<u> X </u>	<u> </u>
	TOTALS	<u> 12 </u>	<u> 0 </u>