



STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

September 29, 2023

Robert J. Rodriguez  
Secretary of State  
Department of State  
99 Washington Avenue  
Albany, NY 12231

Re: Implementation of the Security  
Guard Act  
Report 2023-F-20

Dear Secretary Rodriguez,

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Department of State to implement the recommendations contained in our audit report *Implementation of the Security Guard Act* (Report [2019-S-42](#)).

**Background, Scope, and Objective**

The Department of State (Department), through its Division of Licensing Services (Division), oversees the licensure, registration, and regulation of 36 occupations throughout New York State. The Division licenses more than 800,000 individuals and businesses and uses its licensing and business filing capacities to promote business growth while protecting the health, safety, and welfare of all New Yorkers.

Article 7-A of the General Business Law, also known as the Security Guard Act (Act), requires that individuals working as security guards have a valid registration card, and entrusts the Department with issuing registration cards for all security guard applicants who meet the requirements and are able to perform security guard functions. The Act also requires the Department to collect information and maintain a computerized registry of all security guards and registration card applicants in the State.

The Act defines a security guard as a person, other than a police officer, employed by a security guard company to principally perform one or more of the following functions within the State:

- Protection of individuals and/or property from harm, theft, or other unlawful activity
- Deterrence, observation, detection, and/or reporting of incidents in order to prevent any unlawful or unauthorized activity
- Street patrol service
- Response to a security system installed and/or used to prevent unauthorized intrusion and/or to maintain security of a protected premise

Among the Act's requirements, prospective security guards must complete and file an application for licensure, complete pre-assignment and annual training, be of good moral character, and be mentally and physically able to perform security guard services. Additionally, applicants must undergo criminal history background checks through the Division of Criminal Justice Services (DCJS) and must not have been convicted of a serious offense or misdemeanor that, in the discretion of the Department, bears such a relationship to the performance of the duties of a security guard as to constitute a bar to employment.

Security guards must renew their registration every 2 years. The Department outsources the processing of renewal forms to a third-party vendor; however, the vendor is unable to process handwritten forms, forms with incomplete payment information, or forms without applicant signatures. Because the vendor cannot reject applications, they forward these forms to the Division for processing. Additionally, the Division instructs the vendor to return renewal forms to the Division if more than 6 months has elapsed between the registration card expiration date and the date the form was received. Division staff then review and make determinations on these renewal applications.

Between January 1, 2021 and December 31, 2022, the Division received a total of 189,978 security guard applications. The Division approved 87% of all applications (165,910), including 67,308 original applications and 98,602 renewal applications. According to the Division, there were a total of 172,831 registered security guards as of December 31, 2022.

Our initial audit report, issued on July 6, 2021, sought to determine whether the Department of State was adequately monitoring and enforcing the requirements for security guards under the Security Guard Act. The audit covered the period from April 1, 2016 to November 23, 2020. The initial audit identified the following areas for improvement:

- **Training of Registered Security Guards:** We reviewed a sample of 105 security guards classified as police/peace officers, and identified 26 guards who did not fulfill their training requirements, including 20 armed guards who did not complete the required firearms training. Additionally, two of the 20 armed guards who did not complete annual firearms training, plus six additional security guards who had been retired police/peace officers for more than 10 years, did not complete the annual in-service training.
- **Review of Arrest Notifications:** We found the Department lacked specific written procedures, which led to inconsistent review and processing of arrest notifications. We identified 14 arrest notifications where the security guards were no longer active guards and four where the Division did not follow its policies and procedures.
- **Notifications of Inactive Security Guards:** The Department lacked policies and procedures to notify DCJS of inactive security guards every 6 months as required by the agreement between the two agencies. Previously, the Department used a system run by the Office of Information Technology Services (ITS); however, it is no longer being utilized. Of the 50 arrest notifications sampled, 14 either were inactive (13 guards) or had their application denied (one guard).
- **Processing of Renewal Applications:** The initial audit found that 24 of 46 renewal applications tested had not been received within the defined timeline (6 months from date of expiration) and were inappropriately approved.

The objective of our follow-up was to assess the extent of implementation, as of September 19, 2023, of the four recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

The Department made significant progress in addressing the problems we identified in the initial audit report. Of the initial report's four audit recommendations, we found three were fully implemented and one was partially implemented. The Department continues to work to fully implement the unfulfilled recommendation.

### **Follow-Up Observations**

#### **Recommendation 1**

*Develop processes to effectively monitor and review training records, especially for armed security guards classified as peace/police officers, to ensure these guards are in compliance with the Act.*

Status – Implemented

Agency Action – The Department implemented a new procedure to monitor and review training records of security guard license renewal applicants. The procedure calls for a sample of guards' training records to be audited monthly. The guards selected are sent a letter requesting their training records, and if satisfactory documentation is submitted, they are notified that they have complied. If they have not complied, the Division sends an "Options for Compliance" letter that outlines the three options the guard has to maintain compliance with the training requirements of the Security Guard Act.

To determine the effectiveness of the new training audit procedure, we selected a sample of five guards who were previously audited and determined that the Division follows its written procedures for auditing training records. We found two of the five security guards were not compliant with their training requirements, two were exempt due to their status as a retired police/peace officer, and one satisfied the requirements. Based on the documentation provided, we determined that the guards who were not compliant were sent the "Options for Compliance" letter and an administrative hold was placed on their account as outlined in the new procedure.

#### **Recommendation 2**

*Enhance current procedures for reviewing arrest notifications of registered security guards, including a clearly defined process for following criminal cases and taking action against security guards charged with serious offenses.*

Status – Implemented

Agency Action – The Department has enhanced its Application Audit Procedures, which now include more detailed instructions for accessing, reviewing, and making judgments regarding a security guard's criminal record. The procedure outlines when "arrest letters" should be sent and how to follow up on open arrests. The arrest letter requests that any documentation the security guard has pertaining to the arrest and any court proceedings be sent to the Division.

The updated procedure contains more detail on how to handle different scenarios that

may arise depending on the security guard's status (active or inactive) and the severity of the offense. The procedure has outlined the process for referring security guards who are not in compliance to the Discipline Unit for further review and possible revocation/suspension of license pending an administrative hearing. The updated procedure requires that any guard who has a current license and is convicted of a serious offense be sent a revoke letter and contains guidance on when and how administrative hold files should be discarded.

To determine the effectiveness of the updated procedure, we selected a sample of five security guards who were sent arrest letters and found the Division had followed the first part of its written procedures. However, since the cases were ongoing, we could not test whether staff reviewed these cases after their scheduled court dates. We attempted to test an additional five guards, but these cases were closed, and all related documentation was purged, as required by the updated procedure. Nevertheless, based on the revisions to the policy and our testing results, we assess the recommendation as implemented.

### **Recommendation 3**

*Implement a process to notify DCJS of inactive security guards and applicants denied security guard registrations pursuant to the agreement between the Department and DCJS.*

Status – Partially Implemented

Agency Action – The Department has worked with ITS to develop a system that will notify DCJS of inactive or denied security guard applicants. While there is no set completion date, ITS has worked with the Department and DCJS to request data, discuss system requirements, and, more recently, test the system. We were provided email correspondence between Department officials and ITS detailing the ongoing development of the system. There have been delays in development due to unforeseen projects and other interruptions at ITS and DCJS; however, the program entered the testing phase in April 2023. Most recently, ITS informed the Division that the program developed was not compatible with the full data set provided by DCJS. ITS and DCJS are currently working on a solution to create a compatible data set. Despite the delay, the Department is working toward implementing the recommended system. Currently, the Department is using the same process utilized during the original audit to notify DCJS of inactive and denied security guard applicants.

### **Recommendation 4**

*Enhance current renewal application policies and procedures to ensure consistency in processing security guard renewal applications.*

Status – Implemented

Agency Action – The Department has updated its internal policy for processing security guard license renewal applications. The updated policy contains a more detailed overview of the procedures that should be followed when renewing a security guard's license. The new policy requires Division staff to stamp-date applications when they are received to ensure consistent processing by the Department. Using this date helps ensure renewal applications are only processed if they are received within the 6-month grace period. The policy was updated in May 2020 and subsequently revised in September 2022.

To determine the effectiveness of the updated renewal policy, we selected a sample of five renewal applications and found that all five were processed by the Department's third-party vendor appropriately.

Major contributors to this report were Rick Podagrosi, Nolan Lewis, and Jack Bestler.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issue discussed in this report. We thank the management and staff of the Department of State for the courtesies and cooperation extended to our auditors during this follow-up.

Very truly yours,

Bob Mainello, CPA  
Audit Manager

cc: Linda Herald, Internal Audit