

TEXAS LOTTERY COMMISSION INTERNAL AUDIT DIVISION



An Internal Audit of RETAILER LICENSING

IA #11-012
August 2011

Mary Ann Williamson
Chairman

J. Winston Krause
Commissioner



TEXAS LOTTERY COMMISSION

Gary Grief, Executive Director

Philip D. Sanderson, Charitable Bingo Operations Director

August 31, 2011

Ms. Mary Ann Williamson
Texas Lottery Commission
P.O. Box 16630
Austin, TX 78761-6630

Dear Chair Williamson:

The accompanying report details Internal Audit's completed review of Retailer Licensing. The purpose of the audit was to evaluate the adequacy and effectiveness of the system of internal control and the quality of performance in carrying out assigned responsibilities related to retailer licensing. Accordingly, our audit focused on applications for new licenses. Regarding each of the stated audit objectives, Internal Audit's conclusions are as follows:

1. To determine if the licensing process ensures only eligible applicants are granted a new license and the process affords fairness and consistency to all applicants.

Overall, we found the current system of internal control over retailer licensing requires improvements to better ensure only eligible applicants are granted a new license and the process affords fairness and consistency to all applicants.

2. To determine if the licensing process is streamlined for both the applicant and the agency.

Overall, we found the licensing process is streamlined for the applicant. However, we identified opportunities to improve agency licensing processes.

3. To evaluate the controls over the receipt and recording of application fees.

Overall, we found adequate and effective controls over the receipt and recording of application fees. However, additional analysis is needed to ensure application fees cover the processing costs incurred as required by the State Lottery Act. In addition, the agency is not refunding the bond fee for all denied applicants in accordance with the State Lottery Act.

Our report makes recommendations to assist the agency in strengthening its overall processes and controls related to the licensing of retailers to become lottery sales agents. Responsible management has expressed agreement with Internal Audit's conclusions and recommendations detailed in the report and have included corrective actions in its responses. If you desire further information concerning this review, please do not hesitate to contact me at 512/344-5488.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Catherine A. Melvin".

Catherine A. Melvin, CIA, CPA
Director, Internal Audit Division

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
DETAILED REVIEW RESULTS.....	2
1. Eligibility Determination.....	2
a) <i>Controls over Eligibility Determination and License Issuance</i>	2
b) <i>Required Considerations</i>	3
2. Licensing Process.....	4
a) <i>System to Monitor and Track Applications</i>	5
b) <i>Cancelled – Missing Information</i>	5
3. License Fees	6
a) <i>Analysis of Costs Incurred by Agency</i>	7
b) <i>Refund of Bond Fee</i>	7
4. Management Commendation	8
ADDITIONAL ITEMS	11
<i>Renewals</i>	<i>11</i>
<i>Additional Verifications</i>	<i>11</i>
AUDIT PURPOSE, SCOPE AND METHODOLOGY	13

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EXECUTIVE SUMMARY

For the fourth quarter of fiscal year 2010, the agency reported 16,758 retailer business locations were licensed and 2,253 new licenses were issued to individual retailers. The Retailer Services Department is responsible for processing new retailer license applications and license renewal applications¹.

The purpose of the audit was to evaluate the adequacy and effectiveness of the system of internal control and the quality of performance in carrying out assigned responsibilities related to retailer licensing. Due to the nature of the improvements identified in the processing of applications for initial licenses, this audit did not include a review of applications for a renewal license. We encourage management to apply the recommendations related to the system of internal controls in this report to the processes associated with renewal licenses. Regarding each of the stated audit objectives, Internal Audit's conclusions are as follows:

1. To determine if the licensing process ensures only eligible applicants are granted a new license and the process affords fairness and consistency to all applicants.

Overall, we found the current system of internal control over retailer licensing requires improvements to better ensure only eligible applicants are granted a new license and the process affords fairness and consistency to all applicants.

2. To determine if the licensing process is streamlined for both the applicant and the agency.

Overall, we found the licensing process is streamlined for the applicant. However, we identified opportunities to improve agency licensing processes.

3. To evaluate the controls over the receipt and recording of application fees.

Overall, we found adequate and effective controls over the receipt and recording of application fees. However, additional analysis is needed to ensure application fees cover the processing costs incurred as required by the State Lottery Act. In addition, the agency is not refunding the bond fee for all denied applicants in accordance with the State Lottery Act.

Internal Audit would like to express our appreciation to the Lottery Operations Division staff for their cooperation and assistance during this engagement. Their courtesy and responsiveness extended to Internal Audit allowed us to complete our work effectively and efficiently.

¹ Texas Lottery Commission Strategic Plan for Fiscal Years 2011-2015

DETAILED REVIEW RESULTS

The following review results and recommendations represent opportunities for the Lottery Operations Division to strengthen its overall processes and controls related to the processing of applications for a Texas Lottery ticket sales license. Items noted during our audit that were of lesser significance and risk were verbally discussed with management.

1 Eligibility Determination

Our first stated objective of this review was to determine if the licensing process ensures only eligible applicants are granted a new license and the process affords fairness and consistency to all applicants.

Overall, we found the current system of internal control over retailer licensing requires improvements to better ensure only eligible applicants are granted a new license and the process affords fairness and consistency to all applicants.

a) Controls over Eligibility Determination and License Issuance

The verification of eligibility requirements is a critical step in the licensing process to ensure only eligible applicants are issued a license. The current Application Pre-Edit and Processing procedure requires verification of some of the eligibility requirements prescribed by the State Lottery Act. This verification is performed by Retailer Services Specialists who are responsible for processing the applications. The Retailer Services Specialists use a checklist to help ensure eligibility criteria required to be reviewed has been verified.

Internal Audit sought to determine the accuracy and reliability of controls over eligibility determination. Other than weaknesses in the control environment as described below, there were not other factors that came to our attention that any ineligible applicants had been licensed. However, it should be noted that due to limitations beyond the scope of the agency's control, eligibility criteria from the time of licensure could not be tested. Thus, Internal Audit was unable to verify the eligibility of licensees at the time of review for licensure.

In examining the control environment, we found there were not adequate controls built in the process to ensure the Specialist performed the eligibility checks as required and that the applicant in fact met all requirements at the time of license issuance. We did not find adequate controls in place to alert management if an application is processed outside of management's defined process. Because the Specialist is the sole person that processes the application, communicates directly with the applicant and can ultimately impact whether the applicant is issued or denied a license, the entire licensing process can be executed by a single person. The lack of a secondary review could lead to licenses issued to ineligible

applicants. A secondary review of the results of the verification of eligibility helps ensure that eligibility criteria was in fact met and applied consistently to all applicants.

b) Required Considerations

In addition to other eligibility requirements a potential licensee must meet, Section 466.154 of the State Lottery Act states the Commission shall adopt rules in which it will consider certain items prior to issuing a license to an applicant. In response to this requirement, Texas Administrative Code §401.153(a) was adopted by the Commission in which it states, “Before issuing a license to any person under this subchapter, the director shall consider:...” and lists the considerations required by the State Lottery Act.

During our review, we noted that two of the five required items, while not considered during the licensing process of an individual license, are, as asserted by agency management, considered at a statewide level. Based on Internal Audit’s discussions with management, Internal Audit agrees that evaluating the remaining two considerations at the level of each individual application would not be practical nor effective at this time. However, documentation of such consideration at a statewide level is unavailable and it is unclear whether the adopted rule allows for such discretion. We recommend management confer with Legal Services to consider the need to revise the rule to better reflect current practices, clarifying that these items will remain considered at a statewide level until such time as market and/or other conditions may require.

Required Considerations ² :	Considered During the Licensing Process?
<i>the financial responsibility and security of the applicant and the business or activity in which the applicant is engaged</i>	Yes
<i>the public accessibility of the applicant's place of business or activity</i>	Yes
<i>the sufficiency of existing sales agents to serve the public convenience</i>	Statewide Level
<i>whether individuals under 18 years of age constitute a majority of the applicant's customers or as customers provide a majority of the applicant's sales volume</i>	Yes
<i>the volume of expected lottery sales at the applicant's place of business or activity</i>	Statewide Level

² Government Code §466.154

Recommendations:

We recommend management perform the following:

1. Implement a review of applications processed to ensure eligibility requirements noted on the checklist have been accurately verified and consistently applied to ensure all licensing requirements have been met. This review can be performed on a periodic sample basis, and should also include the development of exception reports where applicable to alert of any applications that are processed outside the prescribed policies and procedures. We further recommend management pursue opportunities to develop automated controls in the licensing system to ensure adequate segregation of responsibilities, proper and limited access, and independent reviews as appropriate.
2. Consider the need to ensure agency administrative rules better reflect the agency's implementation of Section 466.154 of the State Lottery Act. Specifically, review the appropriateness of amending TAC §401.153(a) to reflect how the agency considers "*the sufficiency of existing sales agents to serve the public convenience,*" and "*the volume of expected lottery sales at the applicant's place of business or activity.*"

Management Response:

1. *Management concurs with the recommendation. To ensure eligibility requirements have been accurately verified the Retailer Services Department has implemented a periodic random sample review process to be performed monthly by the Coordinator or other management team members. Procedures are currently being revised and updated to reflect these changes.*

Management has implemented aging reports to monitor progress associated with license processing. Additionally, with the implementation of a new license processing system in September, management is automating the license processing checklist and will continue to explore additional opportunities in the new system via reporting, user access controls and other programming features to enhance the licensing process.

2. *Management concurs with the recommendation and will work with the Legal Services Division to determine the need for amendments to TAC §401.153.*

2 Licensing Process

Our second stated objective of this review was to determine if the licensing process is streamlined for both the applicant and the agency.

The agency's mission is to generate revenue for the state of Texas. A stated goal for the agency in the 2008-2011 Comprehensive Business Plan is to increase the number of locations and variety of trade styles where Texas Lottery products are sold thus increasing sales opportunities. Because of this mission and goal, the agency is focused on streamlining the licensing process to ensure that all eligible applicants are licensed and able to sell Texas Lottery products as quickly

as possible. During our review, we evaluated the application form and tools provided to assist applicants in the licensing process. We found the application clearly stated the eligibility requirements for obtaining a license and required necessary information from the applicant to process the application. Our review and direct observations noted that the Retailer Services Specialists provide customer service directly to the applicant via phone conversations and through mail correspondence to continually help the applicant through the licensing process.

***Overall, we found the licensing process is streamlined for the applicant.
However, we identified opportunities to improve agency licensing processes.***

a) System to Monitor and Track Applications

When new applications are received by the agency, they are assigned a retailer number via an excel spreadsheet and then assigned to a Retailer Services Specialist for processing. The Retailer Services Specialist enters applicant information into the Lottery Gaming System, Prosys, which in turn is overnight batched into the Retailer Management System. As stated earlier in this report, the Retailer Services Specialist is responsible for processing the application. During our review, we noted that each Specialist has an established method they use to track and monitor the applications for which they are responsible; however, we did not see evidence of a formalized system to track and monitor applications at an aggregate level by management throughout the process. Depending on the results of the eligibility checks, the applications can take differing paths with the physical delivery of application folders from one workstation to another. Without a means for tracking the applications through the entire process, there is a risk that critical steps may be missed or additional processing time added because of an application being misplaced or overlooked.

Further, those applications that are ultimately denied for failure to post a CD are not tracked to ensure they are forwarded for refund processing. Internal Audit tested a statistical sample of denials for the period FY2009 through FY2010. Our sample size was 34. All denials tested due to failure to post a CD were refunded half the license fee paid and all of the bond fee paid. However, two (2) of the refunds were processed during our testing, over two (2) years after the denial letter was sent to the applicant.

b) Cancelled – Missing Information

The current process for processing applications places any application that could not be completed due to missing information from the applicant or certain eligibility requirements not being met (such as tax liabilities or prohibited TABC permits) into the status of Cancelled – Missing Information. The application is left in this status indefinitely or until the applicant provides the needed information. As of March 2011, there were 1,236 applications in the Cancelled – Missing Information status with dates the applications were placed into this status ranging from April 1999 to March 2011. Additionally, there is no formal process for bringing the applicant back into the process if the required information is provided. Several determinations need to be made. For example, is the information provided on the application still current, would the applicant need to submit a new application, and would this require an additional application fee. Because there is no formal process established, these answers are left to the discretion of the Retailer Services Coordinator. Such discretion and

absence of formalized policies and procedures could result in the inconsistent treatment of applicants. Furthermore, this status creates additional concerns discussed later in this report.

Recommendations:

1. We recommend management establish a formalized tracking system to monitor the flow of applications at an aggregate level through the entire licensing process. This system should alert management of any applications that have become stagnant in the process for further research and action.
2. We recommend management revise the current licensing process to ensure all applications received timely result in some type of final disposition or determination. Applications processed should either result in an issued license or a denial letter with applicable refunds after a reasonable time period has passed without receipt of the required information from the applicant. In addition, management should make a final determination on applications that are currently in the Cancelled – Missing Information status. If applications are denied, an analysis should be performed to ensure applicants are provided proper notification as prescribed by agency rules and procedures. If the Cancelled – Missing Information status is still utilized, we recommend management develop a procedure that formalizes the process to bring these applicants back into the licensing process and establishes time limits in which the applicant will be denied and therefore must enter the process as a new applicant.

Management Response:

1. *Management concurs with the recommendation. Management currently uses a series of individual reports that assist in monitoring the progress of retailer licensing applications. However, there are inherent challenges in tracking the progress of all license applications due to the complexity of the application process. Following implementation of the new licensing system in September, management will explore additional opportunities to implement system enhancements that will improve management's ability to monitor the flow of applications and identify applications that require specific attention.*
2. *Management concurs with the recommendation and will work with the Legal Services Division to ensure processes implemented, including notices, are consistent with agency rules and procedures.*

3 License Fees

Our last stated objective of this review was to evaluate the controls over the receipt and recording of application fees.

Overall, we found adequate and effective controls over the receipt and recording of application fees. However, additional analysis is needed to ensure application fees cover the processing costs incurred in accordance with the

State Lottery Act. In addition, the agency is not refunding the bond fee for all denied applicants also required by the State Lottery Act.

a) Analysis of Costs Incurred by Agency

Section 466.152(b) of the State Lottery Act requires the agency set the application fee in an amount that is at least sufficient to cover the costs incurred by the division and the Department of Public Safety to process the application. The current application fee is \$125 for the first location and \$50 for each additional location. \$25 of this fee is collected for the bond fee authorized by §466.156; therefore, \$100 and \$25 respectively are the amounts that the agency collects to cover the costs incurred for processing the application. While the agency does have a performance measure that reports the average cost per retailer location license issued, this performance measure cannot solely be used to determine whether the application fee covers the costs incurred. The performance measure calculation is based on the total licenses “issued” and thus, does not take into account all applications processed, including the licenses denied or applications placed into “Cancelled – Missing Information” status. Therefore, a new analysis of the application fee should be performed to ensure the fee covers the agency’s costs as required.

b) Refund of Bond Fee

Section 466.156(a) of the State Lottery Act states that “Each sales agent shall post a cash bond...” the act defines a sales agent as “a person licensed under this chapter to sell tickets.” As stated above, the agency collects \$25 from each application fee for the bond fund. Submitted applications can result in the denial of a license, the issuance of a license, or as stated earlier in the report, placed into the “Cancelled – Missing Information” status indefinitely; therefore, all applications received do not result in the issuance of a license. Currently, the agency is only refunding the bond fee for those applicants who upon denial of a license would also be eligible for a refund of half of their application fee as authorized by §466.152(b). The agency is not refunding the bond fee for all other applications denied nor is the agency refunding the bond fee of applicants who have been placed in the “Cancelled – Missing Information” status.

Recommendations:

1. We recommend management add a process for periodic review of the cost of processing license applications to ensure the application fee is an amount that is at least enough to cover the costs incurred. In determining the costs incurred, management should ensure the analysis includes all applications processed not just those that result in an issued license.
2. We recommend management change the current procedure to refund the \$25 bond fee that is submitted as part of the application fee in all instances where the application did not result in the issuance of a license or revise the process to collect the \$25 bond fee upon the approval of a license. Management should consider the ability to accomplish this through a one-time fee charge added to the first sweep of the retailer’s account, which would avoid the need to refund. In addition, we recommend management perform a look-back analysis to identify applicants who were denied a license but were not refunded the bond fee as required.

Management Response:

- 1. Management concurs with the recommendation. The Licensing Section within the Retailer Services Department will review application processing costs on a quarterly basis. The information gathered during this review will be used to determine any proposed modifications to cost targets for the Average Cost of Retailer Location License Issued performance measure. Additionally, this information will be used to propose adjustments in the license application fee, as appropriate.*
- 2. Management concurs with the recommendation and will take action to modify the current procedure related to the refunding of bond fees associated with licensee applications that do not result in an issued license. Management will also evaluate the benefits and issues associated with Internal Audit's recommendation related to the utilization of a retailer's first sweep for collection of the bond fee.*

4 Management Commendation

Internal Audit would like to make special note of the collaborative and proactive efforts accomplished by Lottery Operations management during the course of our audit. Several items brought to the attention of management during the audit were addressed directly. These include the following:

- State Lottery Act §466.157 required the adoption of agency rule. At the time of our review, no rule had been adopted as required. At the March 31, 2011 Texas Lottery Commission meeting, 16 TAC 401.372 was adopted.
- At the time of our audit, we noted no administrative rules in place related to the requirement of an application fee with an initial application. The rules regarding renewal applications prescribe that an application fee must accompany the application; however, the rules for a new license did not. A revised rule was proposed at the June 13, 2011, Texas Lottery Commission Meeting.
- During our testing, we found Prosys User Groups without a business need have access to update the Owner's Eligibility tab in Prosys. This means, for example, a Specialist can enter an owner's information into the system, record that the agency received the fingerprint cards and then approve the eligibility of the owner.

During the course of the audit, the Lottery Operations Director requested update access be limited to Enforcement only. In addition, management asserts the process has been changed to allow only Enforcement staff to change the status in the Owner Eligibility status tab. Retailer Services will no longer have the business need to have access to this screen.

- We noted incorrect references to non-existent statutes in the agency's administrative rules. Revised rules to correct these references were proposed at the June 13, 2011, Texas Lottery Commission Meeting.

- While not documented in procedure, Retailer Services staff and management have asserted that consideration is given to “whether individuals under 18 years of age constitute a majority of the applicant's customers or as customers provide a majority of the applicant's sales volume,”³ through an evaluation of business type. After Internal Audit raised concerns as to how this consideration is formalized, Lottery Operations management sought counsel from the Legal Services Division and is revising the current Application for Texas Lottery Ticket Sales License to include this consideration as a self-certification by the applicant.

³ Government Code §466.154 (4)

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ADDITIONAL ITEMS

In conducting our review, additional items came to our attention that we believe warrant management's attention. However, due to the scope of our audit, we performed limited audit work and analysis of these items. Accordingly, we do not present these items as audit findings. We present these items for management's consideration.

Renewals

1. Section 466.158(b) of the State Lottery Act states, "The director shall set the fee for a renewal of a license in an amount at least sufficient to cover the cost of processing the renewal." Currently, as with new licenses, an analysis has not been performed to ensure the renewal fee is at least sufficient to cover the cost. The current renewal fee is \$15 and according to agency staff, this has been the renewal fee since the inception of the Lottery. We recommend management perform an analysis to determine the costs of processing a renewal and set the fee accordingly.
2. The current process for ensuring applicants meet the eligibility requirement set forth in §466.155(a)(1)(A) of the State Lottery Act regarding criminal history consist of obtaining and forwarding fingerprint cards to the Department of Public Safety (DPS) for processing. The DPS forwards criminal history information to the agency for further review in order to make a determination regarding eligibility. The current process includes the DPS flagging the cards received by the Texas Lottery Commission in their system to ensure that the agency is alerted to any potentially disqualifying events that may arise. Because of this flag placed on the applicant's record, the agency only requires the applicant submit fingerprint cards once and records the outcome of the criminal history in the Lottery Gaming System. If an applicant is approved based on a review of the information provided by the DPS, the agency does not re-submit information to DPS each time the individual is named on subsequent applications but rather, relies upon the DPS to alert the agency of any potentially disqualifying events that may show up at a later date.

As reported in Internal Audit's review of Background Investigations dated December 2008, there were instances in which the DPS did not flag records submitted for ongoing monitoring. Given this information, the agency now obtains a listing of all records the DPS has flagged for continuous monitoring. We recommend management consider including a periodic cross-reference of individuals who are "approved" in the Lottery Gaming System to the list of DPS flagged individuals received by Enforcement to ensure DPS appropriately flagged the record for ongoing monitoring. This verification could be added to the renewal process.

Additional Verifications

3. We recommend management consider using the Prohibited Claimants database in the licensing process to independently verify eligibility requirements related to section

§466.155 (a)(1)(D) and (E) of the State Lottery Act. These are eligibility requirement that are currently self-certified by the applicant.

4. We recommend management consider using the current file obtained from the Texas Comptroller of Public Accounts listing debts owed to the state to automate the eligibility verification regarding tax liability and education loans.

AUDIT PURPOSE, SCOPE AND METHODOLOGY

Purpose:

Internal Audit completed a review of retailer licensing, as specified in the approved Fiscal Year 2011 Internal Audit Activity Plan. The purpose of the audit was to evaluate the adequacy and effectiveness of the system of internal control and the quality of performance in carrying out assigned responsibilities related to retailer licensing. Specifically, we examined processes and controls (1) to determine if the licensing process ensures only eligible applicants are granted a license and the process affords fairness and consistency to all applicants, (2) to determine if the licensing process is streamlined for both the applicant and the agency, and (3) to evaluate the controls over the receipt and recording of application fees.

Scope:

Internal Audit's review focused on initial applications processed during the time period of September 1, 2008 through August 31, 2010. Due to the nature of the improvements identified in the processing of applications for initial licenses, this audit did not include a review of applications for a renewal license. We encourage management to apply the recommendations related to the system of internal controls in this report to the processes associated with renewal licenses. The scope of our audit included examining the system of internal control designed to ensure process objectives. Internal Audit's review did not include verifying the reliability and integrity of data from ProSys and RMS.

Methodology:

In accomplishing our objective, Internal Audit reviewed the State Lottery Act⁴ and applicable administrative rules. Internal Audit also reviewed the procedures and observed the licensing process from receipt of an application to the determination of issuing or denying a license. Internal Audit selected a statistical sample of applications that resulted in a denied license during the audit period and applications that resulted in a license issued. Internal Audit performed testing to determine if there was evidence of payment of the required license fee for issued licenses and to determine if the notice of denial letter was sent and a refund given, if applicable, for applications that resulted in a denial of a license. Due to issues noted in this report, Internal Audit was unable to test the eligibility of existing licensees at the time of license issuance.

Internal Audit interviewed responsible management and staff, examined and reviewed supporting documentation and electronic files, and performed selected test work as deemed necessary. We relied upon other independent audit work as relevant and appropriate.

⁴ Texas Government Code, Chapter 466

Auditor's Consideration of Fraud:

In accordance with our professional standards, Internal Audit considered risks due to fraud that could significantly affect our audit objectives and the results of our audit. Accordingly, we designed our procedures to provide reasonable assurance of detecting fraud significant to the audit objectives. During the course of the audit, we were also alert to situations or transactions that could be indicative of fraud. We conducted our audit to provide reasonable assurance of detecting illegal acts or fraud that could significantly affect the audit results; however, it does not guarantee the discovery of illegal acts or fraud.

Professional Standards:

Internal Audit conducted this performance audit in accordance with the International Standards for the Professional Practice of Internal Auditing as promulgated by the Institute of Internal Auditors (IIA) in conjunction with generally accepted government auditing standards (GAGAS) as promulgated by the U.S. Government Accountability Office (GAO). 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.

Audit Team

The following members of the Internal Audit Division performed this audit:

- Susan Oballe, CIA, CGAP, CICA
- Nancy Walden, CIA, CGAP, CICA

STATE OF TEXAS
TEXAS LOTTERY COMMISSION

INTERNAL AUDIT DIVISION

An Internal Audit of
RETAILER LICENSING

IA #11-012

August 2011

This report has been provided to the following:

Ms. Mary Ann Williamson, Chair
Mr. J. Winston Krause, Commissioner

Mr. Gary Grief, Executive Director
Mr. Philip D. Sanderson, Charitable Bingo Operations Director

This report is also provided to the following for appropriate distribution in accordance with
Government Code §2102.009:

Ms. Brandy Marty, Director, Governor's Office of Budget, Planning and Policy
Mr. John O'Brien, Director, Legislative Budget Board
Mr. Ken Levine, Director, Sunset Advisory Commission
Mr. John Keel, CPA, State Auditor