Update on the Preliminary Evaluation of the Licensing and Regulation of Security Systems Agencies and Technicians

Recommendations:  

Waive from Full Evaluation  
Extend Termination Date by Five Years to July 1, 2021  
Increase Licensing and Registration Fees

During the 2013 interim, the Department of Legislative Services (DLS) conducted a preliminary evaluation of the licensing and regulation of security systems agencies and technicians as required by the Maryland Program Evaluation Act (§ 8-401 et seq. of the State Government Article). DLS deferred making a recommendation on whether to waive or require a full evaluation, pending receipt of a follow-up report from the Maryland State Police (MSP), which maintains the program. Specifically, MSP’s follow-up report was to encompass the following issues, which could not be assessed during the evaluation:

• steps being taken to update and automate the database of licensed and registered security systems agencies and technicians;
• additional information on how complaints are being processed, the actual number of complaints received in 2013 and 2014, and the disposition of those complaints;
• the number and reasons for denial of licenses as well as registrations for the past five years, including any hearings and the outcomes; and
• establishment and implementation of a time code for employees working on security systems licensing and registration in order for expenditures to be tracked.

MSP completed and submitted the follow-up report in September 2014, and DLS has determined that the report fully addressed these issues. Unless reauthorized during the 2016 legislative session, the licensing and regulation of security systems agencies and technicians will terminate on July 1, 2016.

Summary of the 2013 Preliminary Evaluation of the Licensing and Regulation of Security Systems Agencies and Technicians

The General Assembly started to regulate security systems services in the mid-1990s in response to the case of the so-called “crossbow rapist” in the Washington Metropolitan area, who posed as a security systems consultant to gain information about and access to his victims. Chapter 362 of 1994 established licensing of security systems agencies, and Chapter 520 of 1997 established registration of technicians. In order to perform security systems services, an individual
registered as a security systems technician must work for a licensed security systems agency. Each applicant for a license or a registration must undergo a criminal history records check, be age 18 or older, and be of good moral character. An applicant for an agency license must also carry a fidelity bond or maintain general liability insurance for at least $50,000. The Secretary of State Police has the ability to deny, suspend, or revoke a license or registration or reprimand or fine a licensee or registrant if an individual fraudulently obtains or uses a license; pleads guilty or is convicted of a felony; or engages in or advertises as providing security systems services while not licensed. Statute establishes an agency initial licensing fee of $150; that amount specifically includes the cost of the Maryland and national criminal history records check and fingerprinting. The renewal fee for an agency is also established in statute at $100, plus criminal history records fees (and any applicable late fees). Registrants pay an application fee that is the higher of $15 or an amount set by the Secretary of State Police based on actual processing costs, plus the cost of any criminal history records checks. The fee structure is the same for initial and renewal registrations. Licenses and registrations are valid for three years; over the three-year licensing/registration cycle that ended in fiscal 2013, the average annual fee revenue, which accrues to the general fund, was approximately $67,200.

As of June 30, 2013, MSP advised that there were 741 security systems agencies licensed in Maryland and 6,924 security systems technicians registered. It also reported that it had no records of any complaints filed against security systems technicians or agencies in the prior five years. However, MSP reported disapproving between 81 and 184 applications for licenses and/or registrations annually.

The regulation of security systems agencies and technicians is budgeted with general funds within the Licensing Division of MSP. However, MSP advised that it did not track the expenditures related to this regulatory activity since the Licensing Division is also responsible for licensing other groups, including handgun owners and private investigators. Given the part-time staffing dedicated to regulation of security systems agencies and technicians, DLS indicated that it was likely that revenues attributed to this regulatory activity are sufficient to cover the related costs but could not definitively establish that they do so.

The process of compiling data for the preliminary evaluation report drew attention to an often overlooked section within the Licensing Division of MSP. Based on the responses provided by division staff, DLS determined that the division had not been maintaining reliable automated records with respect to (1) initial licenses and registrations issued versus those renewed; (2) complaints received; or (3) expenditures. Many data requests made by DLS were not answered or yielded partial or unreliable data. For example, when DLS requested the number of licenses and registrations issued, three sets of data were provided, and the numbers did not reconcile.

Summary of MSP’s Follow-up Report

MSP’s follow-up report addressed each of the four areas delineated in the preliminary evaluation report.
Data Availability

Beginning in 1999, MSP began maintaining licensing and registration information on security systems agencies and technicians in its Application Tracking System, which is configured using Lotus Notes. The data requested by DLS for the preliminary evaluation was available from the tracking system at the time of the evaluation, but MSP advises that the employee assigned to retrieve the data was not proficient in the use of the database, resulting in incomplete or confusing data being provided to DLS. Following the preliminary evaluation, MSP determined that, while the existing system is capable of supporting the licensing and regulatory program, some enhancements and added functionality will greatly improve MSP’s ability to administer the program effectively. The system upgrade has been managed by a certified project manager, with completion in early 2015.

Complaint Processing and Disposition

Chapter 57 of 2014 requires the Secretary of State Police to conduct an investigation that relates to any complaint alleging that an unauthorized person has provided security systems services. A complaint must (1) be in writing and under oath; (2) state specifically the facts on which the complaint is based; and (3) be filed with the Secretary. In response, MSP has instituted new procedures and developed new forms to carry out the complaint processing requirements in Chapter 57. After investigating a complaint, an investigator will determine, based on the preponderance of the evidence, whether to sustain or not sustain the complaint. The investigator’s determination is subject to review by the division commander, who determines disciplinary action. Determinations and disciplinary actions are subject to appeal, with formal appeals handled by MSP’s Administrative Hearing Office.

MSP reports receiving a total of three complaints related to security systems technicians and agencies during the period covered by the DLS evaluation. In 2013, MSP reports receiving one complaint against an agency and one complaint against a technician. The agency complaint resulted in a cease and desist order, and the technician complaint resulted in suspension of the registration. Neither order was appealed. In 2014, MSP reports receiving one complaint against a technician, which resulted in a warning letter.

Denial of Licenses and Registrations

From January 2009 through August 2014, MSP reports denying three agency licenses and 300 technician registrations. For agency licenses, one denial was based on criminal history and two were denied for failing to pay taxes. All but one of the technician registrations were denied for criminal history, and one was denied for mental health/substance abuse. Seven of the denials were appealed, and five were upheld. Disposition of the remaining two appeals is not known because records were destroyed in accordance with the unit’s three-year record retention policy.
Expenditures

MSP advises that one full-time trooper first class, a half-time corporal, and a full-time secretary are assigned to the licensing and registration of security systems agencies and technicians. Compensation for these three individuals is estimated to total $270,491, including fringe benefits and health insurance. MSP further notes that the two full-time positions spend approximately 80% of their time on the licensing and regulation of security systems agencies and technicians, with the remaining 20% of their time spent on other duties within the Licensing Division. Therefore, the total initial cost for staffing this function is approximately $216,400, not including nonpersonnel operating costs. In addition, MSP advises that, over a two-year period, these individuals accrued an annual average of more than 2,400 overtime hours, for an additional average annual cost of $116,500; most of that time is likely devoted to other licensing activities, most notably the licensing of handgun owners. Assuming only a small percentage of the overtime expenses is related to the licensing and registration of security systems agencies and technicians, the total cost of that endeavor is likely less than $250,000 annually. Even so, this total substantially exceeds the annual fee income of approximately $67,200 generated by the program.

Policy Conclusions and Recommendations

MSP appears to be carrying out its statutorily required purpose of ensuring the integrity of security systems agencies and technicians. Over a five-year period, it prevented 300 individuals with criminal backgrounds from becoming technicians. It is also implementing a new complaint adjudication process as required by statute, and it is upgrading its data management system to provide adequate data for accountability and management purposes. Therefore, DLS recommends that the licensing and registration of security systems agencies and technicians be maintained.

However, one issue raises concerns regarding the sustainability of the program: the program appears to cost far more to administer than it is generating in revenue. Given the amount of overtime accrued by current staff, reducing staff does not appear to be a suitable option; rather, additional staff may be warranted. Therefore, a fee increase may be warranted. The current fee of $150 for a three-year agency license amounts to $50 per year, and the renewal fee of $100 equals $33 per year. Both of these annual amounts are relatively modest in terms of State licensing fees. The $15 registration fee is also extremely low in terms of State licensing fees.

In addition, MSP is currently upgrading its data management system. Given the issues encountered with obtaining data for the preliminary evaluation, DLS believes it is prudent to revisit the program after it has completed another three-year licensing/registration cycle to determine:

- if the upgraded data management system is operating efficiently and is capable of providing the data necessary to assess the program’s efficacy; and
- whether costs are better aligned with fee revenue.
Therefore, the Department of Legislative Services recommends that the Legislative Policy Committee waive the licensing and registration of security systems agencies and technicians from full evaluation and that legislation be enacted to extend the termination date by five years to July 1, 2021. DLS further recommends that the reauthorizing legislation include:

- a fee increase to $250 for an initial agency license, that does not include the cost of the Maryland and national criminal records check, and $175 for a renewal agency license; and
- an increase in the minimum registration fee for technicians to $25, along with a further recommendation that the Secretary of State Police consider exercising his discretion to establish a higher fee to fully recoup costs associated with processing those registration applications.

DLS projects that these changes to the fee structure could increase general fund revenues by between $40,000 and $60,000 annually, depending on the volume of new and renewal licenses and registrations issued; revenues would increase by greater amounts if the Secretary of State Police raises the registration fee beyond the $25 minimum recommended by DLS. At this time, DLS does not recommend reducing the term of licenses and registrations from three to two years because of the increased workload this would generate for MSP, which is already devoting substantial overtime to all of its licensing functions. Moreover, such a change could undermine administrative efficiencies anticipated by Chapter 424 of 2015, which increased the term of a private detective agency license from two to three years. DLS will revisit this issue in the next evaluation, based in part on whether the funding gap has been addressed by the recommended increase in fees.