

COMMONWEALTH OF PENNSYLVANIA



BUREAU OF AUDITS

REPORT ON

TML INFORMATION SERVICES, INC.

COMPLIANCE WITH AGREEMENT NO. 7303257

**For the Period
May 1, 2016 through April 30, 2017**

TML Information Services, Inc.
Wholesale Data Provider
Program Agreement No. 7303257
For the Period May 1, 2016 through April 30, 2017

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For the Period May 1, 2016 through April 30, 2017

BACKGROUND

TML Information Systems, Inc. (TML) executed a five-year agreement with the Commonwealth of Pennsylvania Department of Transportation (PennDOT), Agreement No. 7303257, on February 25, 2016, which allowed TML to receive and distribute Pennsylvania driver record information to employers, insurance companies, and vehicle leasing companies.

Through Pennsylvania Interactive (PAI), PennDOT's Designated Connection Provider, TML accesses the PennDOT Real-time Driver Records (RDR) system to request driver records for its customers using the subaccount number provided to each PennDOT approved customer. PennDOT provides TML with the following categories of driver information: underwriting and issuing motor vehicle insurance, vehicle leasing, and employment of non-commercial and commercial drivers. A three-year record is provided for underwriting, issuing motor vehicle insurance, and vehicle leasing purposes, while a three or ten-year record is provided for non-commercial employment purposes. For employment of commercial drivers and non-commercial drivers with commercial learner permits, PennDOT provides a full driver record history.

TML provides motor vehicle records and driver records to insurance companies, car rental companies, and employers. Beginning in 1985, TML was the first company to develop an online ordering system for motor vehicle records. The speed at which TML can provide records allows for quick, accurate decisions for employers needing a driver's history prior to hiring a candidate, car rental companies prior to renting a vehicle to a motorist, or insurers underwriting a car insurance policy. TML obtains driver records from all fifty (50) states for its customers.

Mr. Edward Darmody
General Manager
TML Information Services, Inc.
1600 Stewart Avenue #609
Westbury, NY 11590

We have conducted a performance audit to determine if TML Information Services, Inc. (TML) complied with the terms of Agreement No. 7303257 with the Commonwealth of Pennsylvania Department of Transportation (PennDOT). The scope of our audit was for the period May 1, 2016, through April 30, 2017. 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.

The audit objectives, along with the scope, methodology and conclusions for each audit objective, are as follows:

Audit Objective No. 1 Determine if TML maintained a record of each end user that requested PennDOT driver information from May 1, 2016, through April 30, 2017.

Methodology/Scope We requested from TML a list of end user record requests for PennDOT driver information from May 1, 2016, through April 30, 2017. To determine completeness, we also requested a list of TML end user record requests for the same period from PennDOT. We compared the TML record request list to the PennDOT record request list to verify that TML had kept record of each end user that requested PennDOT driver information. The initial record request list provided by TML did not include all the end users which were included on the PennDOT list, and we notified TML of the deficiencies. TML provided a second list of end user record requests and additional testing was conducted. Further testing revealed that a large number of record requests for one customer was not included on either list provided by TML. Additional testing was performed to analyze the additional record requests provided by TML for this one customer. Furthermore, we examined TML's driver record request list to determine if TML kept record of the name, address, and telephone number of each end user. Then we asked TML to explain the internal controls

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Audit Objective No. 1
(Continued)

Methodology/Scope
(Continued)

that are in place to ensure that a complete record of end users of PennDOT information is maintained.

Conclusion

TML did maintain a record of each end user that requested PennDOT driver information from May 1, 2016, through April 30, 2017. [REDACTED]

Related Findings and
Recommendations

See Finding No. 1

Audit Objective No. 2

Determine if TML obtained PennDOT approval of customers prior to providing customers with information and obtained PennDOT approval of subcontractors.

Methodology/Scope

We obtained from TML a list of record requests which TML sent to PennDOT from May 1, 2016, through April 30, 2017. This list included the end user name and the date for each request. From this request list, a customer list was derived and a sample of ten (10) customers was selected. We requested from PennDOT the written documentation of the approvals for the customers in our sample. To determine if the approval date preceded the date of information being released to the customer, we compared the approval date to the date information was released. We also requested that TML provide a list of subcontractors with access to PennDOT records from May 1, 2016, through April 30, 2017. Since TML stated there were no subcontractors, no further testing was performed. We asked TML to explain the internal controls in place to ensure that TML obtained PennDOT written approval of customers prior to providing them PennDOT information. In addition, we asked TML to describe the internal controls in place to ensure PennDOT approval is received prior to allowing a subcontractor to assist in the performance of Agreement No. 7303257.

Conclusion

TML obtained PennDOT approval of the ten (10) customers tested prior to providing those customers with PennDOT information. TML did not have any subcontractors and therefore did not need to seek PennDOT approval according to

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Audit Objective No. 2
(Continued)

<i>Conclusion</i> <i>(Continued)</i>	Section 25 of Agreement No. 7303257.
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<i>Related Findings and</i> <i>Recommendations</i>	None.
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Audit Objective No. 3

Determine if TML, its customers, and its subcontractors completed and filed Affidavits of Intended Use and TML provided PennDOT with a list of customers and subcontractors with affidavits on file.

Methodology/Scope

From PennDOT, we requested a copy of the annual Affidavit of Intended Use filed by TML, due by January 31, 2017, and the date PennDOT received the affidavit. From TML, we requested end user Affidavits of Intended Use which were in effect from May 1, 2016, through April 30, 2017, for the ten (10) customers in our sample. We reviewed the TML affidavit and the customer affidavits for completeness.

Since TML stated it did not have any subcontractors, testing on subcontractor affidavits was not necessary.

Also, from PennDOT, we requested the annual list filed by TML which included customers and subcontractors with an Affidavit of Intended Use on file from May 1, 2016, through April 30, 2017, and the date TML provided the list to PennDOT.

In addition, we inquired of TML if there were internal controls over the completion and filing of its own Affidavit of Intended Use, the Affidavits of Intended Use of its end users and subcontractors, and the filing with PennDOT of the annual list of customers and subcontractors with affidavits on file.

Conclusion

TML completed its annual Affidavit of Intended Use. The affidavit, due January 31, 2017, was not filed with PennDOT until June 12, 2017. The ten (10) TML customers included in our sample testing did complete and file Affidavits of Intended Use prior to receiving PennDOT driver records. Three (3) affidavits provided for two (2) customers included a customer name which differed from the customer name in TML's system.

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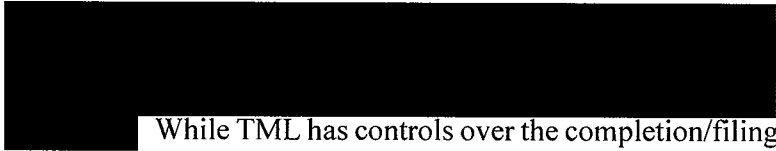
Audit Objective No. 3
(Continued)

Conclusion
(Continued)

One of the affidavits did not include a specific purpose for obtaining the driver records.

TML did not have subcontractors complete or file Affidavits of Intended Use because TML claimed to use no subcontractors in the performance of Agreement No. 7303257.

TML did provide PennDOT with the annual list of customers with affidavits on file from May 1, 2016, through April 30, 2017. TML also provided copies of the Affidavits of Intended Use to PennDOT by January 31, 2017.

 While TML has controls over the completion/filing of Affidavits of Intended Use by its customers, additional controls are needed to ensure that the affidavits include a specific purpose and the customer name on the affidavit matches the name in TML's system.

Related Findings and
Recommendations

See Finding No. 2 and Finding No. 3

Audit Objective No. 4

Determine if TML entered into written agreements with its customers and subcontractors.

Methodology/Scope

We asked TML to explain the internal controls it has in place to ensure that TML executes written agreements with its customers and subcontractors. We then documented the controls and determined whether they were adequate. We requested written agreements from TML for a sample of ten (10) customers to test for the existence and completeness of written agreements. After discovering the written agreements provided were executed at various times during the audit period, we also requested and tested the written agreements which were in effect during the initial portion of the audit period. The written agreements executed during the audit period included addenda. No procedures were performed for subcontractor agreements.

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Audit Objective No. 4
(Continued)

Conclusion TML entered into written agreements with the sample of ten (10) customers selected for testing. There were discrepancies between the customer name listed in TML's reporting system and the customer name included in the written agreement. Additional internal controls are needed to ensure the name on the agreement matches the name in TML's reporting system. No subcontractor agreements were tested because TML did not use subcontractors in the performance of the agreement. Our audit procedures did not detect the existence of any subcontractors.

Related Findings and Recommendations See Finding No. 3

Audit Objective No. 5 Determine if TML's Customer Agreements expressly incorporate the terms and conditions of Agreement No. 7303257.

Methodology/Scope We reviewed the customer agreements and Affidavits of Intended Use for a sample of ten (10) TML customers. The written agreements are required to include the following language provisions: limiting the sale or transfer of PennDOT information to a third party; limiting the use of any driver record to authorized purposes; prohibiting advertising and direct mailings; prohibiting customers from creating or updating files to develop their own source of driver record information; prohibiting customers from retaining, storing, combining, and/or linking in PennDOT information with any other data on any database; prohibiting customers from publishing PennDOT personal information on the Internet; maintaining safeguards and procedures to ensure the security and protection of PennDOT information; and restricting record retention based on purpose. Because TML executed new agreements with its customers during the audit period, we tested each of the customer agreements in effect during the audit period.

Conclusion One (1) of TML's older written agreements tested for the sample of ten (10) customers failed to expressly incorporate the terms and conditions of Agreement No. 7303257 related to the following: using PennDOT information for direct mail advertising or any other types of mailings; retaining, storing,

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Audit Objective No. 5
(Continued)

Conclusion
(Continued)

combining, and/or linking PennDOT information with any other data on a database; and maintaining safeguards and procedures to ensure the protection of PennDOT information. Eight (8) of the older written agreements did not contain required language related to using PennDOT information to develop their own source of driver record information. None of the older written agreements tested contained language limiting the retention of records.

TML's written agreements, executed during the audit period for the sample of ten (10) customers, expressly incorporated the terms and conditions of the Agreement except for language limiting the retention of records. [REDACTED]

Related Findings and
Recommendations

See Finding No. 4

Audit Objective No. 6

Determine if TML's Subcontractor Agreements expressly incorporate the terms and conditions of Agreement No. 7303257.

Methodology/Scope

No procedures were performed.

Conclusion

TML did not use subcontractors in the performance of its agreement with PennDOT, therefore TML did not have any subcontractor agreements that incorporate the terms and conditions of Agreement No. 7303257.

Related Findings and
Recommendations

None.

Audit Objective No. 7

Determine if from May 1, 2016, through April 30, 2017, TML maintained in full force and effect a bond or escrow account according to the provisions of Section 17 of Agreement No. 7303257.

Methodology/Scope

From PennDOT, we requested a copy of the original bond and the bond renewal that occurred during the audit period from May 1, 2016, through April 30, 2017. In addition, we requested

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Audit Objective No. 7
(Continued)

Methodology/Scope
(Continued)

the date the renewal was received. Because signatures by TML were missing from the PennDOT provided documents, we also requested the signed documents from TML. We also asked PennDOT for a copy of the annual revenue review which covered May 1, 2016, through April 30, 2017, documentation related to PennDOT's approval of the annual revenue review, and any adjustment request, if applicable, with the date received. We compared the dates of the bond renewal and the revenue review to determine if they were received in the time frame allowed in the Agreement. In addition, we asked TML about the internal controls that were in place over the bond computation, renewal and reporting process.

Conclusion

TML maintained in full force and effect a bond or escrow account during the period from May 1, 2016, through April 30, 2017. TML did not comply with all the provisions of Section 17 of Agreement No. 7303257. The bond continuation certificate and the revenue review were not sent timely to PennDOT. Additionally, the two continuation certificates that cover this period were not signed by TML and the original bond certificate lacks a notarized signature from TML. TML's internal controls are not adequate to ensure timely, complete filings of its bond reporting documents.

Related Findings and
Recommendations

See Finding No. 5

Audit Objective No. 8

Determine if TML maintained safeguards and procedures to ensure security and protection of PennDOT information from May 1, 2016, through April 30, 2017.

Methodology/Scope

We conducted an interview with TML staff and provided them with questionnaires to gain an understanding of how TML uses and safeguards PennDOT personal information. Specifically, we asked how TML complies with the following provisions of the Agreement: restrictions on disclosure of PennDOT driver record information; restrictions on advertising; prohibition on development of own source of driver record information, prohibition on combining with a database; prohibition against publication of driver record information on the Internet; data security requirements; and record retention requirements. In addition, we reviewed reports issued for two (2) other states in

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Audit Objective No. 8
(Continued)

Methodology/Scope
(Continued)

2016 and 2017 related to TML's data security measures. We then evaluated TML's responses to the questionnaires in combination with the issued reports to determine if TML complied with the language in its Agreement with PennDOT. Also, we asked if TML was aware of any instances where there was a violation of Paragraphs 6 through 13 of Agreement No. 7303257.

Conclusion

While TML did maintain many safeguards and procedures to ensure security and protection of PennDOT information, from May 1, 2016, through April 30, 2017, TML failed to expressly incorporate all the terms and conditions of Agreement No. 7303257 in its written agreements with its customers as one of its safeguards, indicating an internal control weakness.

Related Findings and
Recommendations

See Finding No. 4

Audit Objective No. 9

Determine if TML Customers maintained safeguards and procedures to ensure the security and protection of PennDOT information from May 1, 2016, through April 30, 2017.

Methodology/Scope

We sent letters to a sample of ten (10) TML customers to inquire as to how they safeguarded PennDOT driver record information received through TML. Each response was reviewed, and follow-up questions were sent if clarification was needed. One of the inquiries related to how the customer used the PennDOT driver record information. The responses were compared to the customers' permitted uses in Agreement No. 7303257 to test for compliance. We requested that TML send a definition of each code in TML's transaction report, used to indicate the purpose of the record request, such as employment, verification, or insurance. Then we examined the purpose codes listed for the record requests for each of the customers in our sample. We compared each customer's response as to how they used PennDOT driver records to the purpose codes indicated in the customer's record requests to evaluate whether the customers used the records for the stated purpose.

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Audit Objective No. 9
(Continued)

<i>Conclusion</i>	The TML customers tested maintained safeguards and procedures to ensure the security and protection of PennDOT information from May 1, 2016, through April 30, 2017.
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<i>Related Findings and Recommendations</i>	None.
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<i>Audit Objective No. 10</i>	Determine if TML subcontractors maintained safeguards and procedures to ensure the security and protection of PennDOT information from May 1, 2016, through April 30, 2017.
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<i>Methodology/Scope</i>	No procedures were performed.
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<i>Conclusion</i>	No testing procedures were performed because TML stated that it does not use subcontractors in the performance of Agreement No. 7303257. Our audit procedures did not detect the existence of any subcontractors.
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<i>Related Findings and Recommendations</i>	None.
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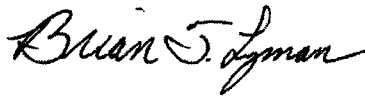
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Internal Controls

In planning and performing our audit, we considered internal controls that are significant within the context of our audit objectives and assessed whether such controls had been properly designed and implemented. Based on our assessment of the internal controls, we determined audit procedures for the purpose of reporting on our audit objectives, but not to provide assurance on TML's internal controls. Any significant control deficiencies that came to our attention during the audit are included in the findings section of this report.

TML's response to our findings is described in the findings and recommendations section of this report. We did not audit their response.

This report is intended solely for the information and use of TML, the Commonwealth of Pennsylvania Department of Transportation and Office of the Budget management and is not intended to be and should not be used by anyone other than these specified parties.



Brian T. Lyman, CPA
Director, Bureau of Audits

December 5, 2017

TML Information Services, Inc.
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FINDINGS AND RECOMMENDATIONS

Finding No. 1 - Internal Control Weakness over End User Records

We compared the list of record requests by end user provided by TML to a PennDOT compiled list of TML record requests. TML's initial list was incomplete, missing four (4) end users and their associated transactions. [REDACTED]

Agreement No. 7303257 - Section 13 End User Requestor Information: "The Contractor is required to maintain a record of the end user for each request for driver information submitted to the Department. Upon the request of the Department, the Contractor will provide the name, address and telephone number of the end user."

[REDACTED]

[REDACTED]

Recommendation

We recommend that TML updates its reporting system so that all transaction information is stored in one database, which would eliminate the need for a merge that could result in unmatched records. Alternatively, TML could improve its current reporting system by requiring that a subaccount number is associated with each customer entered in the system. Either of these measures will help ensure that TML is able to provide a list of transactions by end user upon request.

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FINDINGS AND RECOMMENDATIONS

Finding No. 1 - Internal Control Weakness over End User Records (Continued)

Audited Entity Response

We appreciate your suggestion to update our reporting system, but believe updates are not necessary. The particular account you referenced is [REDACTED] has only one subaccount number to ensure the company can only obtain PA driver records for rental car purposes.

TML's MVR system design and databases are based on a "least privilege" principle, that purposely separates people, functions, and programs for access and authorization to promote security, using industry "Best Practices". Separating and distributing these functions amongst the various programs and stakeholders, while systematically more complicated, minimizes risk of a potential data breach by an employee or hacker and its consequences. On the "least privilege" principle, a person or program is provided as little information as necessary to enable them, or it, to perform a task.

Consequently, in responding to the Bureau's request for a list of end user record requests for the audit period, the request was handled by individuals responsible for specific tasks and programs which required multiple efforts to complete the list. The inability to produce a complete list on the first attempt was much less a weakness of internal controls than a consequence of the system's security. This was a learning experience and TML is now prepared to comply with this type of request without having to alter databases or the system design. Should there be any data breach, TML is adequately prepared to provide PennDOT with accurate information on the end user and will be more careful on examining the request and executing queries in the future.

Auditor Conclusion

We commend TML's immediate efforts to address the issue cited in this finding.

Our finding and recommendation remain as stated above.

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FINDINGS AND RECOMMENDATIONS

Finding No. 2 - Contractor Affidavit of Intended Use Not Filed Timely

TML did not file an updated Affidavit of Intended Use with PennDOT by January 31, 2017, as required. PennDOT did not receive the affidavit from TML until June 12, 2017.

Agreement No. 7303257 – Section 8(a) Affidavits of Intended Use: “The Contractor agrees to file annually with the Department an “Affidavit of Intended Use” on the form prescribed by the Department, to be kept on file by the Department. The Contractor agrees that it will file an updated “Affidavit of Intended Use” by January 31st of each Calendar year.”

TML provided no explanation for the late filing.



Recommendation

We recommend that TML institute controls and procedures to ensure the timely completion and filing of its Affidavit of Intended Use with PennDOT.

Audited Entity Response

Not Filing the Affidavit of Intended Use with PennDOT on January 31, 2017 was an oversight on our part. TML would not have viewed this oversight as an avenue to use driver records in an unauthorized manner by matter of intent and fact. TML and the use of PennDOT records continued to be governed by the PennDOT contract, individual affidavits for all users and state and federal law. TML has etched this compliance date into our oversight systems and has assigned the General Manager along with a second TML management employee with ensuring our PennDOT affidavit is filed by the due date. A tickle flag will be generated in early January to ensure that TML meets this compliance expectation.

Auditor Conclusion

We commend TML’s efforts to address the issue cited in this finding.

Our finding and recommendation remain as stated above.

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FINDINGS AND RECOMMENDATIONS

Finding No. 3 - Inadequate Controls over Affidavits and Agreements

We noted the following discrepancies related to TML's controls over its Affidavits and Agreements:

- The customer name did not match between the Affidavit of Intended Use, the Customer Subscription Agreements, and TML's reporting system for two (2) of the ten (10) sampled customers (Customer #1 and Customer #2 in the chart below).
- The customer name did not match between the Customer Subscription Agreements and TML's reporting system for one (1) of the ten (10) sampled customers (Customer #3 in the chart below).
- The customer name did not match between TML's reporting system and the Customer Subscription Agreement covering the beginning portion of the audit period for two (2) of the ten (10) sampled customers (Customer #4 and Customer #5 in the chart below).

In the chart, a 'YES' indicates that the customer name on the affidavit or agreement matches the customer name listed in TML's reporting system. A 'NO' indicates the customer name does not match the customer name listed in TML's reporting system.

	Affidavit of Intended Use	Agreement Signed Prior to the Audit Period	Agreement Signed During the Audit Period
Customer #1	NO	NO	NO
Customer #2	NO	NO	NO
Customer #3	YES	NO	NO
Customer #4	YES	NO	YES
Customer #5	YES	NO	YES
Customer #6	YES	YES	YES
Customer #7	YES	YES	YES
Customer #8	YES	YES	YES
Customer #9	YES	YES	YES
Customer #10	YES	YES	YES

Additionally, one customer did not have a purpose for requesting the PA driver records on its Affidavit of Intended Use, stating only that the company wanted to obtain the records.

Agreement No. 7303257 – Section 7 Use of Information: "The Contractor agrees that it shall enter into written agreements with any and all customers...."

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FINDINGS AND RECOMMENDATIONS

Finding No. 3 - Inadequate Controls over Affidavits and Agreements (Continued)

Agreement No. 7303257 – Section 12 Required Security: “This security shall include written agreements between Contractor and its customers ... and end users expressly incorporating the terms and conditions of this Agreement...

Agreement No. 7303257 - Section 13 End User Requestor Information: “The Contractor is required to maintain a record of the end user for each request for driver information submitted to the Department. Upon the request of the Department, the Contractor will provide the name, address and telephone number of the end user.”

Agreement No. 7303257 - Section 8(b) Affidavits of Intended Use: “The Contractor agrees to have each of its customers and subcontractors complete an “Affidavit of Intended Use” on a form prescribed by the Department.”

DL-01AFF (10-16) Instructions for Completing the Affidavit of Intended Use - No.4: “You are required to complete, notarize and file a **new** Affidavit of Intended Use whenever information about your company changes (name, address, ownership, telephone, website, etc.).

TML representatives indicated that customers write the company name on the Affidavit of Intended Use and the Customer Subscription Agreement, which sometimes results in the customer-entered name being entered incorrectly. We are unable to determine why TML’s reporting system does not include an accurate listing of customer names; nevertheless, TML representatives did state that they would continue to improve their processes to ensure consistent naming conventions and use trailing documents to support name changes. TML forwarded one (1) customer affidavit for PennDOT approval without ensuring that a specific purpose was noted on the affidavit. TML indicated that the customer name makes it clear that the company will use the driver records for only one purpose, and TML believed that its record ordering system would restrict the customer’s record requests for only particular purposes.



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FINDINGS AND RECOMMENDATIONS

Finding No. 3 - Inadequate Controls over Affidavits and Agreements (Continued)

Recommendation

We recommend that TML implement controls to ensure that the correct information is reported on customer Affidavits of Intended Use, subscription agreements, and TML's reporting system. These controls should include verification of company name on the Affidavit of Intended Use, preprinting the customer name on the subscription agreement prior to the customer signing the agreement, and confirmation of the customer's name in TML's reporting system each time TML is notified of a customer name change or a customer signs a new Affidavit of Intended Use or subscription agreement.

Audited Entity Response

TML appreciates the thorough review of these records and recognizes the granular need for consistent naming conventions on the Subscription Agreement and the Affidavit of Intended Use. While your audit is accurate, and the names of some of the entities may not be consistent, subaccount numbers link the user to the record obtained and the affidavits. Should there be any data breach, the differing naming conventions would not impact TML's ability to provide PennDOT with exactly what approved company obtained the information and for what reason.

While this is primarily an administrative finding, we recognize the importance that this audit has placed on consistent naming conventions. TML will follow your recommendation to correct our existing agreements. This will be accomplished over the next six to nine months. As well, all future new accounts will be reviewed to ensure consistent names on the documents. We will also advise our customers over the next six to nine months that as a condition of their Subscription Agreement, they must advise TML of any official name change that occurs and provide us with verification of that name change in a form and manner appropriate.

TML's General Manager will oversee this improvement along with administrative staff.

Providing Subscription Agreements to customers with preprinted names is not prudent and we believe will not address this concern. TML wants the customer to attest to the legal company name they put on the Subscription Agreement. We will be more diligent in this area.

Auditor Conclusion

We commend TML's efforts to address the issues cited in this finding.

Our finding and recommendation remain as stated above.

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FINDINGS AND RECOMMENDATIONS

Finding No. 4 - Lack of Required Language Provisions

We reviewed the written agreements for ten (10) TML customers who received PennDOT personal information to determine if the written agreements included the language provisions required by Agreement No. 7303257 between PennDOT and TML. For our testing purposes, written agreements included the Customer Subscription Agreement that TML executed with each customer and the Pennsylvania Affidavit of Intended Use which each customer filed with TML. Because TML required its customers to sign new subscription agreements during the audit period, we tested the language requirements for both the old and new agreements.

Neither the Customer Subscription Agreement nor the Affidavit of Intended Use contained language prohibiting the customer from creating or updating a file to develop its own source of driver record information, for eight (8) of the ten (10) customers tested under the older agreements that were in effect at the beginning of the audit period. Language prohibiting direct mail advertising, database restrictions, and language regarding security and protection of data was absent on both the initial Customer Subscription Agreement and the Affidavit of Intended Use for one (1) customer. Neither the Customer Subscription Agreement nor the Affidavit of Intended Use for the ten (10) customers tested contained language limiting record retention for the entire audit period. Following are the pertinent contractual provisions PennDOT requires for customer agreements:

Written Agreements to Incorporate Terms and Conditions

Agreement No. 7303257 - Section 12 Required Security: "This security shall include written agreements between Contractor and its customers ... and end users expressly incorporating the terms and conditions of this Agreement..."

Advertising Prohibition

Agreement No. 7303257 - Section 9(a) Restriction Against Publication: "Except as provided for in Paragraph 7, under no circumstances shall the Contractor use or permit others to use any information provided by the Department for direct mail advertising or any other type or types of mail or mailings."

Development Prohibition

Agreement No. 7303257 - Section 10 Contractor Databases: "Driver record information supplied by the Department shall not be used to create or update a file to be used by the Contractor, its customers, or subcontractors to develop their own source of driver record information."

Database Prohibition

Agreement No. 7303257 - Section 10 Contractor Databases: "Driver record information shall not be retained, stored, combined, and/or linked in with any other data on any database by the Contractor, its customers, or subcontractors for any reason."

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FINDINGS AND RECOMMENDATIONS

Finding No. 4 - Lack of Required Language Provisions (Continued)

Record Retention

Agreement No. 7303257 - Section 10 Contractor Databases: "The Contractor and its customers that obtain driver information for insurance or vehicle leasing purposes are permitted to retain driver record information only for as long as is necessary to conduct insurance or vehicle leasing business or as may be required by law. Employers may retain the information only in the employee's employment history file."

Data Security

Agreement No. 7303257 - Section 12 Required Security: "The Contractor, its customers ... shall at all times maintain safeguards and procedures to ensure the security and protection of information furnished by the Department and shall take all necessary steps to prevent the divulgence or use of such information in any form or manner not expressly permitted by this Agreement."

TML was aware its older customer agreements were deficient in language requirements contained in Agreement No. 7303257. When TML executed new customer agreements to incorporate the missing language, TML staff used a PennDOT-provided checklist as a guide. TML believed that record retention was not specifically identified on PennDOT's checklist as a required language provision for its customer agreements, even though record retention language was included on the checklist.



Recommendation

Since the current customer agreements include each of the language provisions, except for the record retention limitations, we recommend that TML executes an addendum to the customer agreements related to the record retention provision. Alternatively, TML could execute new agreements with its customers that incorporate all required language provisions. Either of these measures will help ensure that customers agree to comply with all the restrictions contained in Agreement No. 7303257.

Audited Entity Response

All current and future agreements will include this provision and all the required PennDOT provisions they currently include. TML is in the process of updating its Subscription Agreement for all of our customers and expects to have new Agreements in place over the next six to nine months. TML's General Manager, will oversee this activity and operations staff will also be assigned from an administrative perspective.

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FINDINGS AND RECOMMENDATIONS

Finding No. 4 - Lack of Required Language Provisions (Continued)

Auditor Conclusion

We commend TML's immediate efforts to address the issue cited in this finding.

Our finding and recommendation remain as stated above.

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FINDINGS AND RECOMMENDATIONS

Finding No. 5 - Noncompliance with Bond Provisions

TML maintained inadequate controls over its bond reporting process resulting in noncompliance with provisions of Section 17 of Agreement No. 7303257. Following are additional details:

- The bond renewal was not filed with PennDOT within five (5) business days of issuance, as required. The 2017 bond continuation certificate was issued March 13, 2017, but not provided to PennDOT until June 7, 2017.
- Bond documentation was not signed by TML. TML could not produce bond continuation certificates that were signed by TML, or the original bond with a TML notarized signature.
- The results of TML's review of annual revenue for the prior year was not forwarded by TML to PennDOT at least fifteen (15) days prior to the renewal of the bond as required. The bond was renewed on March 13, 2017, but PennDOT did not receive the results of the review from TML until June 7, 2017.

Agreement No. 7303257 Section -17 Performance Bond/Escrow Account: "At its sole cost, and for the entire term of this Agreement, the Contractor agrees to obtain and maintain in full force and effect a bond or an escrow account for the benefit of the Department in the amount of ten percent (10%) of the annual payments due the Department from the Contractor under this Agreement or \$300,000], whichever is greater. On an annual basis, the Contractor shall review the annual revenue for the prior year and forward the total as calculated to the Department for its approval. The results of the review must be forwarded to the Department at least 15 days prior to renewal of the bond. If an adjustment is required based on the formula expressed in the previous sentence, the Contractor shall adjust its bond coverage or escrow amount. Any basis for change in the bond or escrow amounts must be approved in writing by the Department. A copy of the bond and each bond renewal or amendment shall be provided to the Department within five business days of issuance."

TML provided no explanation for late filing of the bond continuation and the annual review of revenue. TML staff stated that the instances of bond documentation not being signed or notarized by an officer of TML were the result of oversights, and TML's staff has since worked to correct the conditions that resulted in noncompliance.

Since the bond continuation certificates were not provided to PennDOT within five (5) business days of issuance, PennDOT did not know if the bond remained in effect. In addition, PennDOT was not provided the opportunity to review the revenue calculation for the prior year and determine whether the bond amount needed an adjustment prior to TML renewing the bond. [REDACTED]

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FINDINGS AND RECOMMENDATIONS

Finding No. 5 - Noncompliance with Bond Provisions (Continued)

Recommendation

We recommend that TML establish controls and procedures to ensure it files completed bond continuation certificates and the annual review of revenue with PennDOT in the time frame specified in Section 17 of Agreement No. 7303257.

Audited Entity Response

TML recognizes that this is an oversight that should not have occurred. TML will pay closer administrative attention to its bond issuance, its signature processes, the required calculation for PennDOT and the timeframes associated with Section 17 of our PennDOT Agreement. As our bond renewals are typically completed in March of each year, TML will undertake the following schedule to ensure compliance with this provision:

1. In January of each year, TML will review the annual revenue for the prior year and forward the total as calculated to PennDOT for its approval. This will be accomplished by the end of January. This gives ample time prior to the bond renewal date.
2. TML will advise its bonding company of the PennDOT approved bond amount or, after review, request any change in the bond amount from PennDOT.
3. TML will provide PennDOT a copy of its bond yearly within five business days of issuance.
4. Administrative controls will be put in place to meet these dates including calendar tickle dates. The General Manager will have ultimate responsibility for these actions being completed along with administrative support.
5. TML conferred with its agent for the [REDACTED] in light of the concerns noted in this finding regarding the Surety Bond. The agent assured us that there has never been a lapse in our bond for PennDOT even though it may not have been submitted to PennDOT on a timely basis, as required under the Agreement. It was renewed on an annual and timely basis for over twenty years and PennDOT has always been protected should an event occur invoking the bond.

Auditor Conclusion

We commend TML's efforts to address the issue cited in this finding.

Our finding and recommendation remain as stated above.