Auditor of State
Betty Montgomery

OHIO STATE RACING COMMISSION PERFORMANCE AUDIT

MAY 26, 2005

Auditor of State
Betty Montgomery

To the Members of the Ohio State Racing Commission and the Citizens of Ohio:

In June of 2004, members of the Ohio State Racing Commission (OSRC) requested that the Auditor of State conduct a performance audit of selected areas of agency operations. Pursuant to discussions with Commission members and staff the following areas were selected for assessment: OSRC's strategic planning process and management reporting structure, policies and procedures, internal controls, and selected technological, statutory, and administrative issues facing the Racing Commission.

The performance audit contains recommendations which, if implemented, could provide both operational and business practice improvements to assist OSRC in strengthening its internal controls, increasing accountability, and improving its communication with horse racing industry representatives. However, OSRC is also encouraged to independently assess its overall operations for the purpose of identifying additional areas for improvement.

An executive summary has been prepared which includes the project history; an overview of OSRC operations; the scope, objectives, and methodology of the performance audit; and a summary of noteworthy accomplishments, key recommendations, and financial implications. Statistical information is also included in the executive summary which compares OSRC to peer racing commissions in other states. This report has been provided to OSRC and its contents discussed with appropriate agency officials and management. Commission members and staff are encouraged to use these recommendations as a means of assessing overall operations and developing other alternatives independent of the performance audit.

Additional copies of this report can be requested by calling the Clerk of the Bureau's office at (614) 466-2310 or toll free at (800) 282-0370. In addition, this performance audit can be accessed online through the Auditor of State of Ohio website at http://www.auditor.state.oh.us by choosing the "On-Line Audit Search" option.

Sincerely,

Betty Montgomery

BETTY MONTGOMERY
Auditor of State

May 26, 2005

88 E. Broad St. / P.O. Box 1140 / Columbus, OH 43216-1140
Telephone: (614) 466-4514 (800) 282-0370 Fax: (614) 466-4490
www.auditor.state.oh.us

Executive Summary

Project History

The Ohio State Racing Commission (OSRC or the Agency) engaged the Auditor of State's Office (AOS) in June 2004 to conduct a performance audit of its operations, including a review of Commission governance, the strategic planning process, policies and procedures, internal controls, as well as a review of statutory issues facing the horse racing industry. Specifically, OSRC requested that AOS review the laws and administrative rules concerning the collection of unclaimed winning tickets and the regulation of out-of-state Internet account wagering platforms (i.e., companies) that conduct business in Ohio. A recently released report from the Ohio Inspector General's (OIG) office raised questions of possible ethics violations and prompted the resignation of OSRC's executive director. This report became the focal point for improvement efforts within the agency and prompted the request for the performance audit.

In response to the report by OIG, the Commission has taken several actions to improve its practices and minimize expenditures. In addition to hiring a new executive director, OSRC has developed a new policy and procedures manual for employees which includes elements recommended by the OIG and the Ohio Ethics Commission (OEC). Specifically, OSRC's revised policy formally prohibits wagering by Commission members (on Ohio races) and employees (on any commercial horse race) and accepting or providing gifts/gratuities (e.g., meals and guest passes). Furthermore, OSRC has implemented policies and procedures for documenting work hours and minimizing travel reimbursement expenditures. For example, employees must now complete time sheets for management review and headquarters have been reassigned to coincide with an employee's county of residence (see the **Policies and Procedures/Internal Controls** section for more information). Also, in accordance with OIG recommendations, OSRC has implemented a process for soliciting competitive bids and issuing requests for proposals (RFPs) for the provision of toxicology testing of horse and human samples, which has resulted in cost savings of approximately $200,000. Finally, OSRC has requested this performance audit in a continuing effort to increase accountability and to strengthen its internal controls.

Overview of OSRC

OSRC's operating expenses, which totaled $4.4 million in 2003, are dedicated to the regulation and promotion of the horse racing industry, with the licensing program being the largest part of this responsibility. Currently, there are 56 categories of regular (annual) licensees and 8 categories of restricted licensees. The program requires potential licensees (e.g., race track employees) to submit to fingerprinting sanctioned by the Ohio Attorney General's Bureau of Criminal Identification and Investigation (BCI) and the Federal Bureau of Investigation (FBI). In 2003, OSRC issued nearly 16,600 licenses, collecting approximately $616,700 in related fees.

OSRC also hires investigators and inspectors to police commercial race tracks. Working closely with judges and stewards, investigators are responsible for examining computer printouts that detail betting patterns, investigating public complaints related to the outcomes of races, and searching stables. OSRC's stewards and presiding judges act essentially as "referees" for thoroughbred and standardbred races, respectively. Pursuant to Ohio Revised Code (ORC) § 3769.091, stewards and judges may suspend licenses for up to one year and impose fines not to exceed $1,000 for any violation of the rules or orders of the Commission.

Contracted veterinarians are responsible for the drug testing process. Following each pari-mutuel race, veterinarians collect blood and urine samples from horses and humans. These samples are then sent to the Ohio State University's (OSU) Analytical Toxicology Laboratory, which has been OSRC's primary provider of drug testing services since 1964. In accordance with OIG recommendations to minimize expenditures in this area, however, OSRC recently enacted a competitive bidding process for drug testing.

In addition to its regulatory duties, OSRC is also responsible, in part, for promoting Ohio's horse racing industry. Three development funds – overseen by the Commission – are designed to supplement race purses and create incentives for Ohio's thoroughbred (ORC § 3769.083), standardbred (ORC § 3769.085), and quarter horse (ORC § 3769.086) breeders through increases in broodmare and stallion awards. These funds also support equine research conducted at OSU's Analytical Toxicology Laboratory, as well as two OSRC employees - the *thoroughbred fund manager* and the *standardbred management analyst supervisor*.

OSRC also oversees the Simulcast Horse Racing Purse Fund (ORC § 3769.089). Through simulcasting, a race track can present both interstate and intrastate races for bettors to wager on, thereby increasing pooled wagers (i.e., handle), purse disbursements, and tax collections. Created by the General Assembly in 1996, the Simulcast Horse Racing Purse Fund receives revenues from a portion of the wagers placed at two satellite, or off-track, wagering facilities (Cedar Downs and Mifflin Meadows) and also from commercial race tracks where no live are races scheduled. OSRC collects these revenues and then redistributes them to permit holders (i.e., race tracks) to be used as subsidies for purse accounts. Thus, this Fund acts as a pass through account. OSRC uses the interest earned from the Simulcast Horse Racing Purse Fund to employ the *director of pari-mutuels* position.

OSRC is concerned with the performance of these funds, however, which have experienced decreases in available tax collections over the past three years. According to the Ohio Office of Budget and Management (OBM), these decreases can be attributed to a relatively high number of live racing days, as well as interstate competition in the gambling industry (e.g., video lottery terminals and Internet account wagering). OSRC further asserts that such competition draws bettors away from Ohio's commercial race tracks and creates financial incentives for horse breeders to leave the State (see the **Operational and Statutory Issues** section for additional information).

Since its inception in 1933 and throughout its history, OSRC has divided its responsibilities between the regulation and promotion of the horse racing industry. Recommendations have been made to modify laws and to strengthen the Commission's regulatory powers in an effort to ensure the integrity of gambling while meeting the needs of the economy. The introduction of simulcasting in 1996 is the most recent example of OSRC's role in meeting the changing technological needs of the industry. Recent expansion of gambling competition in neighboring states and the proliferation of Internet wagering, however, directly impact Ohio's horse racing industry. While the Commission desires to remain competitive, in order to best promote horse breeding and development, it must first ensure the integrity of the pari-mutuel wagering industry via sufficient and adequate internal controls.

Objectives, Scope, and Methodology

A performance audit is defined as a systematic and objective assessment of the performance of an organization, program, function, or activity to develop findings, conclusions, and recommendations. Performance audits are usually classified as either economy and efficiency audits or program audits. While economy and efficiency audits consider whether an entity is using its resources effectively; program audits are designed to determine if the entity's activities or programs are effective, if entity goals are proper, suitable, or relevant, and if goals are being achieved. This audit contains elements of both an efficiency and effectiveness audit, as well as a program audit.

This performance audit was conducted in accordance with Generally Accepted Government Auditing Standards. Audit work was conducted between June and October, 2004. To complete this report, auditors gathered and assessed data from various areas, conducted interviews with Commission members and staff, and compared requested information with racing commissions in other states, such as Illinois, Michigan, New York, and Texas. Best practice information from the Association of Racing Commissioners International (ARCI) and the Society for Human Resource Management (SHRM) was used for additional comparisons.

Recommendations contained within this report not only address aspects of the OIG report intended to improve the integrity of the agency's operations, but also include analyses and recommendations for streamlined operations and heightened statutory. Specifically, these recommendations seek to assist OSRC in its mission to ensure the integrity of pari-mutuel gambling while meeting the changing needs of the horse racing industry. Based on a discussion with OSRC and the results of the OIG report, the following objectives were used in this performance audit:

- Does the Commission have an effective and efficient management reporting relationship with agency personnel?
- Does the Commission efficiently and effectively communicate its mission, goals, and objectives to internal and external stakeholders?
- Do current statutes and administrative rules prohibit the implementation of Commission initiatives, goals, and objectives?
- What technological factors currently impact agency operations and how do these factors affect the implementation of Commission goals and objectives?
- Has the agency developed a formal, comprehensive employee policy and procedures manual that complies with best practices and addresses issues contained in the OIG report?
- Has the Commission established effective internal controls to ensure the effectiveness and efficiency of agency operations, promote reliability of financial reporting, and ensure compliance with applicable laws and regulations?

The performance audit process involved significant information sharing with Commission members and staff, including preliminary drafts of findings and recommendations as they were developed. Furthermore, periodic status meetings were held throughout the engagement to inform OSRC of key issues impacting selected areas, and to share proposed recommendations to improve or enhance operations. Finally, OSRC provided written comments in response to various recommendations which were taken into consideration in the reporting process.

The Auditor of State and staff express appreciation to OSRC for its cooperation and assistance throughout this audit.

Comparative Statistics

In order to gain a general understanding of OSRC's performance in relation to other states' racing commissions, information has been gathered for comparison in a variety of areas. Although OSRC operates on the State fiscal year (FY), statistical data contained within annual reports is reported on a calendar year basis. The following table benchmarks the performance of OSRC against the operations of other Midwest agencies in 2003.

OSRC and Peer Racing Commission Statistics 2003

	Ohio	Illinois	Indiana	Kentucky	Michigan	Peer Average
Operating Expenditures	$4.4	$6.8	$1.9	N/R	$3.6	$4.1 [2]
Commercial Race Tracks [1]	7.0	5.0	2.0	8.0	7.0	5.5
Live Racing Days	**985**	**695**	**250**	**345**	**559**	**462**
Per Race Track	*140.7*	*139.0*	*125.0*	*43.1*	*79.9*	*84.0*
Live Handle [1]	**$511.4**	**$515.0**	**$155.1**	**$546.3**	**$346.6**	**$390.8**
Per Live Racing Day	*$0.52*	*$0.74*	*$0.62*	*$1.58*	*$0.62*	*$0.85*
Purse Disbursement [1]	**$50.0**	**$93.1**	**$21.2** [3]	**$88.8**	**$22.1**	**$56.3**
Percent of Handle	*9.8%*	*18.1%*	*13.7%*	*16.3%*	*6.4%*	*14.4%*
Per Live Racing Day	*$0.05*	*$0.13*	*$0.08*	*$0.26*	*$0.04*	*$0.12*
Breeding Development [1]	**$5.3**	**$28.7**	**$6.8**	**$8.6**	**$3.9**	**$12.0**
Percent of Purses Disbursed	*10.6%*	*30.8%*	*32.1%*	*9.7%*	*17.6%*	*21.3%*
Per Live Racing Day	*<$0.01*	*$0.04*	*$0.03*	*$0.03*	*<$0.01*	*$0.03*
Licenses Issued	**16,587**	**10,719**	**9,037**	**19,709**	**7,532**	**11,749**
Per Race Track	*2,370*	*2,144*	*4,519*	*2,465*	*1,076*	*2,136*
Drug Tests Performed [4]	**29,126**	**17,536** [5]	**8,312**	**N/R**	**19,911**	**15,253** [2]
Per Race Track	*4,161*	*3,507*	*4,156*	--	*2,844*	*3,245* [6]
Percent Positive Findings	*1.0%*	*1.1%*	*0.5%*	--	*0.2%*	*0.6%* [2]

Source: OSRC and peer annual reports for 2003
Note: Dollar figures are in millions.
N/R: Information not reported by agency.
[1] Includes live and simulcast races on commercial tracks only.
[2] Calculation excludes Kentucky.
[3] Riverboat casinos contribute approximately $11.6 million (55 percent) to purse disbursements.
[4] Includes both horse and human samples, unless otherwise noted.
[5] Only horse samples reported.
[6] Excluding Kentucky, the peer average number of commercial race tracks is 4.7.

OSRC's operating expenditures are slightly higher than the peer average which can be attributed to overseeing more commercial race tracks with a greater number (53.1 percent) of live racing days. OSRC also exceeds the peer average in licenses issued (9.9 percent) and drug tests performed (22 percent) per race track. This is an indication that although OSRC performs its regulatory duties for a greater range of clients, it does so more efficiently, which is in line with OBM findings (see the **Operational and Statutory Issues** section). By contrast, OSRC falls below peer averages for live handle collected and purses disbursed per live racing day. The Commission attributes its performance in this area, in part, to the sheer number of live racing days in Ohio, as well as to competition from other states. Indiana, for example, earmarks a percentage of its riverboat-casino admission fees to the pari-mutuel horse racing industry, resulting in a higher percentage of purse disbursement and a higher amount for breeding development awards. According to OBM, the Commission can increase overall purse disbursements, as well as breeding development fund subsidies, by negotiating with race track owners and horsemen's associations to reduce the number of live racing days.

Noteworthy Accomplishments

This section of the executive summary highlights specific OSRC accomplishments identified throughout the course of the audit.

Operational and Statutory Issues

- OSRC was prompt and diligent in resolving the issues identified in the Ohio Inspector General's report.
- OSRC has taken proactive steps to reduce operating expenditures. This can be attributed to staffing reductions, as well as significant line-item decreases in legal services, office supplies, fingerprinting, motor vehicles, travel, and printing services.
- OSRC has taken steps to reduce the number of live racing days, as recommended by OBM, via face-to-face negotiations with race track owners and horsemen's associations.

Policies and Procedures/Internal Controls

- OSRC implemented a policies and procedures manual to address the issues indeitifed in the Ohio Inspector General's report.
- OSRC has increased efficiency and accuracy with regard to reporting through the enhancement of computer hardware and software programs and improved interface capabilities between the race tracks and the Commission's main office.
- OSRC has increased public accessibility to its monthly meetings by holding at least one meeting per year at each of the seven race tracks located throughout the State of Ohio.

Conclusions and Key Recommendations

OSRC has been successful in remedying the ethics-related problems cited in the OIG report. For example, the Commission has approved formal policies related to accepting gratuities, issuing RFPs, and documenting work hours. In addition, the Commission has taken proactive steps to minimize operating expenditures via staffing level reductions and to increase efficiency by upgrading its licensing system. Other areas of concern have not been addressed, however, in regards to OSRC's ability to effectively regulate and fulfill its mission in a pari-mutuel wagering industry that is in transition. Technology innovations, such as video lottery terminals (VLTs) and Internet account wagering, are responsible for increased competition from nearby states. Such competition creates disincentives for Ohio horse breeders to race in-State, thereby decreasing handle and available purse awards, which in turn, results in smaller breeding development awards. Although OSRC and industry stakeholders are acutely aware of these issues, the Commission has not implemented a mechanism for addressing them. This can be attributed to the fact that OSRC does not effectively disseminate its mission and vision, nor does it have an effective and inclusive strategic planning process. Moreover, as evidenced by the OIG report and the findings contained in this audit, OSRC has not yet established sufficient and adequate internal controls over its regulatory and fiduciary responsibilities which impact its credibility and, as a result, make it difficult for the agency to garner support for any expansion of its responsibilities. Lastly, OSRC may not have the human capital in place to effectively address these issues.

Although the Commission has worked to reduce the number of live racing days, as recommended by OBM, it currently lacks the ability to gather support for the enhancement of its responsibilities and regulatory powers. These initiatives, which would require significant modifications to statutory and administrative language, include collecting unclaimed winnings, regulating out-of-state wagering companies, or other gaming activities at race tracks. The absence of an effective internal control environment, combined with a perceived lack of communication among industry stakeholders, exacerbates the public stigma associated with horse racing and gambling, in general. Until these issues have been addressed in a formal and inclusive manner, OSRC cannot effectively achieve its mission of regulating pari-mutuel wagering for the protection the betting public and promoting horse racing and breeding in Ohio. OSRC faces a difficult challenge in rectifying its poor position within the industry. Unless its statutory and financial position changes, its ability to regulate is compromised. If OSRC is unable to effectively regulate all areas statutorily designated to it, the State may need to consider deregulating components of the industry and permitting OSRC to focus on critical aspects such as maintaining a fair wagering environment, conducting investigations and overseeing drug testing.

The following are the key recommendations of the performance audit:

Operational and Statutory Issues

- In order to improve communication with stakeholders, OSRC should publish its mission, vision, and value statements in annual reports, employee manuals, agency-wide plans, and on its website. Additionally, The Commission should establish a formal, three to five-year strategic plan. The plan should be developed in accordance with established mission, vision, and value statements with input from a representative group of internal and external stakeholders.

- Commission members should work jointly with the executive director to develop a formal orientation program for new Commission members. This orientation program should include a tour of OSRC offices and race tracks, a meeting with OSRC staff, race track owners, and horsemen, as well as a review of Commission bylaws and policies and procedures. Furthermore, OSRC should adopt a formal set of bylaws, or Commission rules. These bylaws should include specific rules for conducting meetings and adopting agency-wide plans, as well as cross-references to appropriate statutory and administrative requirements.

- OSRC should update its FY 2006-07 IT plan to include strategic initiatives pertaining to electronic fingerprinting of licensees. This should be done in conjunction with recommendations to improve stakeholder communication by soliciting feedback and establishing a formal, three to five-year strategic plan as well as enhancing the agency's internal control environment.

- The Commission should work with internal and external stakeholders to implement recommendations contained within this report and seek legislative support for statutory changes it deems necessary to effectively carry out OSRC's mission. The Commission should seek to establish stronger communication with the General Assembly to ensure that OSRC-related statutes are reviewed for modernization, as needed to meet current and future challenges to the horse racing industry.

- The Commission should work with race track owners and the Ohio Department of Administrative Services (ODAS) to assess the merits and costs of implementing upgrades to the pari-mutuel wagering system (Autotote). OSRC should first seek to improve centralization of pari-mutuel wagering system functions and improved connectivity between the tracks and its hub. Once accomplished, it should rely upon qualified IT professionals in the ODAS Office of Information Technology to assist in identifying appropriate system enhancements.

Policies and Procedures/Internal Controls

- The OSRC chairman, members and executive director should take steps to understand and accept five core responsibilities (vision, development, communication/education, planning, implementation/monitoring) to help achieve and sustain performance improvement over time.

- The Agency should review its policies and procedures outlined in the employee manual and include specific guidelines by which management decisions should be made. In addition, the OSRC should compare guidelines within the collective bargaining agreement to its employee manual to ensure the highest measure of consistency between bargaining and non-bargaining unit employees.

- OSRC should appoint an industry liaison to assume a key role in implementing the strategic change plan. The liaison would serve as a change agent in conjunction with the executive director in moving the organization and the industry from its current position to the desired future strategic orientation.

- The Commission should formalize a process to ensure that unrestrictive competitive bidding procedures are followed in accordance with OAC 3769-12-33, especially for laboratory testing services and other frequent expenses.

- OSRC should establish a policy that provides an avenue for employees to report internal wrongdoing anonymously and in accordance with ORC § 4113.52, Ohio's "whistleblower" protection law.

- OSRC should formalize standard operating procedures for all operations, particularly its fiscal operations. In addition, the Commission and executive director should review the monthly financial statements and should include the fiscal officer in monthly Commission meetings in order to remain apprised of the fiscal condition of the organization.

- The Commission should structure enhanced internal controls over the revenue and expenditure processes to provide for adequate segregation of job duties and promote the reliability of data through the transaction process.

- The Agency should consider implementing the use of electronic fund transfers (EFTs) to process receipts and disbursements. In particular, with regard to the combined simulcast purse program, use of EFT processing would eliminate the current system in which one OSRC staff member receives checks from the tracks via U.S. mail, enters the amounts in CAS, and deposits funds into the appropriate Commission account at the Treasurer of State's Office.

- OSRC should increase internal controls over its timekeeping and attendance reporting procedures. In addition, the executive director should formally approve all overtime and compensatory time payment requests (particularly those made by management staff).

- OSRC should reassess the need for retaining its current fleet of state-owned and leased vehicles based on needs and reduce the fleet by at least one vehicle if possible. Annual cost savings equate to approximately $9,115 in lease payments, fuel, and maintenance expense.

- The Agency should develop specific procedures for responding to inbound callers. The OSRC fields a number of inbound calls each day from interested parties. The position of receptionist is vacant and is not expected to be filled.

- OSRC should strive to maintain a professional office environment that is void of conduct and/or language that is considered inappropriate for the workplace.

- OSRC should seek assistance from ODAS to update its job descriptions. Job descriptions should be updated to reflect changes in duties and should reflect relevant knowledge, skills, and abilities required to perform the job functions. Accurate and current job descriptions should then serve as criteria for evaluating employee performance.

- The Agency should perform a gap analysis to determine and plan for future staffing needs. A "gap" type of needs analysis, typically done as part of workforce planning, helps administrators decide what steps are needed to address workforce shortages or areas of excess capacity.

- OSRC should revise its organizational structure and reporting relationships based on the strategic plan. A revised organizational structure built around strategic goals will best ensure meeting the overall mission and goals of the organization.

- Following reengineering of the organizational structure, and determining the subsequent impact on current work flow processes, OSRC should reassess the job requirements of each internal position through a formal job analysis. Annual savings to the agency equate to approximately $600,000

- OSRC should ensure that all personnel not specifically employed at one of the race tracks report to the main office according to an established work schedule. In the absence of a formal telecommuting policy, OSRC should provide workspace for employees to perform required duties.

Summary of Financial Implications

The following table summarizes the performance audit recommendations that contain financial implications. These recommendations provide a series of ideas or suggestions that OSRC should consider. Detailed information concerning the financial implications, including assumptions, is contained within the individual sections of the performance audit.

Summary of Financial Implications

Recommendations from Sections	Estimated Annual Cost Savings
Policy and Procedures/Internal Controls	
R3.10 Reduce expenditures for the lease of one State vehicle	$9,115
R3.16 Reducing staffing through reengineering job tasks and workflow	$600,000
Total	**$609,115**

Note: Figures are representative of amounts that would be realized in FY 2004-05.

The financial implications summarized above are presented on an individual basis for each recommendation. The magnitude of cost savings associated with some recommendations could be affected or offset by the implementation of other interrelated recommendations. Therefore, the actual cost savings, when compared to estimated cost savings, could vary depending on the implementation of the various recommendations.

This page intentionally left blank.

Operational and Statutory Issues

Background

According to a 1999 report issued to Congress by the National Gambling Impact Study Commission (NGISC), the United States has been transformed into a nation in which legalized gambling is a growing industry. The gambling industry is comprised of several relatively discrete segments, including casinos (commercial and tribal), state-run lotteries, pari-mutuel wagering (e.g., horse racing), sports betting, charitable gambling (e.g., church bingo), Internet gambling, and electronic gaming. While the exact form varies, all states with legalized pari-mutuel operations regulate the activity through a racing commission, like Ohio, or another state gambling regulatory body, such as Nevada's Gaming Control Board.

The Ohio Horse Racing Act (the Act), embodied in Amended Substitute Senate Bill 103 (Emmons Bill), was implemented in 1933 and now comprises Chapter 3769 of the Ohio Revised Code (ORC). The Act required parties holding horse races within the State to apply for and be granted permits which were to be managed and enforced by the Ohio State Racing Commission (OSRC or the Agency). The Commission, by extension, was established to provide administrative functions and to regulate horse racing in Ohio in the areas of distributing and enforcing racing permits, depositing associated filing fees, and developing and enforcing restrictions on the permits. The Act also developed a system for using a percentage of pooled wagers (or *pari-mutuel handle*) to fund the OSRC. Pari-mutuel wagering is so-called as it combines the wagers of all bettors into one common pool and provides for winnings to be paid according to odds, which are established by the combined amount wagered on each contestant within an event, or race.

Excluding minor amendments, the Act was not significantly altered until 1953, when the General Assembly reduced taxes on the collected handle (ORC § 3769.08). This came as a response to the rapid expansion of the horse racing industry in Ohio and the markedly increased revenues generated by the industry. The Act was amended again in 1957 to allow for the creation of the Ohio Fairs Tax Fund, designed to subsidize horse racing at State and county fairs (ORC § 3769.082). A half-percent tax was applied (on top of existing taxes) for the creation of this Fund which generated about $900,000 in 1958. This tax was strongly opposed by permit holders and resulted in a suit filed against the State of Ohio [2-1]. The plaintiff (a race track owner) argued for repeal of the tax on the grounds that it did not contribute to the purposes expressed in the statute - public health, morals, safety, or necessity. The Court found in favor of the State, ruling that the

[2-1] Cleveland Raceways, Inc v. Bowers, Common Pleas Court, Franklin County, October 30, 1958.

plaintiff had no contract or property rights at stake and therefore, no legal standing to challenge the Act.
Subsequent amendments have been made to the Act throughout the preceding 50 years to clarify and expand the role of OSRC. These include a formula for determining the number of live racing days (ORC § 3769.07) to be annually allotted to race tracks (1991), as well as a system for simulcasting (ORC § 3769.089) interstate and intrastate horse races (1996), in accordance with the federal Interstate Horse Racing Act [2-2]. In 1978, the U.S. Congress passed the Interstate Horse Racing Act, which extended the authority of states and the pari-mutuel industry to provide regulated wagering on simulcasted races. Simulcasting provides for larger betting pools and purses by increasing patron access to numerous race tracks. According to OSRC's 2003 annual report, simulcast wagering accounts for approximately $402 million in handle, or nearly 80 percent of all bets placed on pari-mutuel races.

The overall objective of this report, which is divided into two sections, is to assess those operational and statutory issues that impact OSRC initiatives. Some of these issues include the Agency's ability to communicate its mission, vision, and values and incorporate such statements into its strategic planning process. Another issue involves the Agency's use of technology to minimize legal liability and improve internal controls. Finally, this report identifies practices in other states that OSRC should consider when seeking support for its responsibilities, and updates to enabling statutes and administrative regulations to meet challenges to the horse racing industry. Agency operations are evaluated against best practices and operational standards from the Society for Human Resource Development (SHRM), the American Public Works Association (APWA), as well as the California Horse Racing Board, the Kentucky Horse Racing Authority, the New York State Racing and Wagering Board, and the Texas Racing Commission.

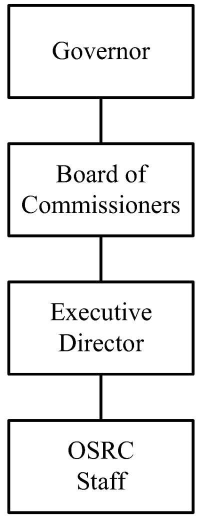
Organizational Structure and Function

As stipulated in ORC § 3769.02, OSRC's Board of Commissioners consists of five members – not more than three of whom can be from the same political party – who are each appointed to four-year terms by the governor, with the advice and consent of the State Senate. The Commission chairperson is also named by the governor at the time of making the appointment of any member for a full term. Commission members are generally from the horse racing industry, but cannot be associated with or have a legal or beneficial interest in pari-mutuel races. Members of the Commission meet each month to conduct business, approve racing dates, decide matters of racing importance, and mete out penalties to licensees found in violation of racing rules and laws.

Chart 2-1 is a high-level illustration of OSRC's organizational reporting structure:

[2-2] 15 USC §§ 3001-3007

Chart 2-1: OSRC Reporting Structure



Source: Ohio State Racing Commission

The Commission is responsible for regulating Ohio's 7 commercial race tracks, 2 off-track satellite wagering facilities, and races sanctioned at 67 county fairs. Among the commercial race tracks are three thoroughbred tracks (Beulah Park, River Downs, and Thistledown[2-3]), and four standardbred, or harness tracks (Lebanon, Northfield Park, Scioto Downs, and Raceway Park[2-4]).

OSRC's regulatory powers, as granted under ORC § 3769.03 include the following:

- Prescribing the rules and conditions under which horse racing may be conducted;
- Issuing, denying, suspending, diminishing, or revoking permits to conduct horse racing;
- Imposing fines (not to exceed $10,000) or other penalties [as defined in Ohio Administrative Code (OAC) 3769-3-99] on any permit holder or any other person who violates the rules or orders of the Commission; and
- Prescribing the forms of wagering that are permissible, the number of races, the procedures on wagering, and the wagering information to be provided to the public.

OSRC is also responsible for tracking the flow of dollars wagered (the *handle*) to ensure that race tracks comply with wagering laws. This is accomplished via annual audits of bank account records and receipts, which help to determine if a race track is collecting and disbursing moneys appropriately (see the **Policies and Procedures/Internal Controls** section for more information).

[2-3] Located in Grove City, Cincinnati, and Cleveland respectively.
[2-4] Located in Lebanon, Northfield, Columbus, and Toledo respectively.

The Agency receives no funding from the Ohio General Revenue Fund (GRF), but is funded through permit and licensing fees, and a share of horse racing wager taxes. These resources are dedicated to the regulation and promotion of the horse racing industry through such funds as Ohio Fairs, Agricultural Society, and breeding development funds. A portion of OSRC receipts is also dedicated to the Ohio Passport Fund, a program that provides in-home alternatives to nursing care for low income seniors.

Tables 2-1 and **2-2** summarize OSRC operating revenues and expenditures from 2001 through 2003.

Table 2-1: OSRC Operating Revenues 2001 through 2003

	2001	2002	Annual Change	2003	Annual Change
Pari-mutuel Handle [1]	**$618,924,175**	**$571,311,919**	**(7.7%)**	**$530,473,878**	**(7.1%)**
Operating Fund	**$1,152,481**	**$941,762**	**(18.3%)**	**$937,516**	**(0.5%)**
Fingerprint Fees	133,515	119,691	(10.4)	126,190	5.4
License Fees	648,935	642,110	(1.1)	614,170	(4.4)
Permit Fees	161,300	30,710	(81.0)	28,950	(5.7)
Thoroughbred Registration Fees	61,500	59,150	(3.8)	50,775	(14.2)
Standardbred Registration Fees	7,775	6,950	(10.6)	6,175	(11.2)
Appeal Bonds and Fines	48,728	79,179	62.5	105,200	32.9
Miscellaneous/Recovery	90,728	3,972	(95.6)	6,056	52.5
Fund Receipts	**$17,455,673**	**$17,166,447**	**(1.7%)**	**$15,655,527**	**(8.8%)**
Operating	2,815,858	3,238,448	15.0	3,409,475	5.3
Passport	5,339,073	5,215,908	(2.3)	4,215,054	(19.2)
Ohio Fairs	2,865,646	2,610,707	(8.9)	2,366,016	(9.4)
Standardbred Development	2,042,885	2,165,458	6.0	2,136,597	(1.3)
Thoroughbred Development	4,048,106	3,607,025	(10.9)	3,207,740	(11.1)
Thoroughbred Nominating Fees	222,206	213,186	(4.1)	200,522	(5.9)
Quarter Horse Development	657	696	5.9	1,235	77.4
Agricultural Society	121,242	115,019	(5.1)	118,888	3.4
Bond Reimbursements	**$200,200**	**$167,600**	**(16.3%)**	**$168,600**	**0.6%**
Track	181,100	149,500	(17.4)	151,000	1.0
Fair	17,100	18,100	5.8	17,600	(2.8)
Appeal	2,000	--	(100.0)	--	0.0
Total	**$18,808,354**	**$18,275,809**	**(2.8%)**	**$16,761,643**	**(8.3%)**

Source: OSRC annual reports
Note: Dollar figures rounded to the nearest $1.
[1] Includes all live and simulcast wagers collected on commercial race tracks and via satellite wagering facilities.

In Ohio, the pari-mutuel handle has decreased approximately $88.5 million (14 percent) since 2001, contributing to significant decreases in OSRC operating revenues (11 percent) during the same time period. According to a 2004 report issued by the Ohio Office of Budget and Management (OBM), these decreases are in line with a national trend of declining attendance and wagering at commercial race tracks.

Table 2-2: OSRC Operating Expenditures 2001 through 2003

	2001	2002	Annual Change	2003	Annual Change
Payroll & Personal Services	**$3,332,641**	**$3,775,624**	**13.3%**	**$4,112,560**	**8.9%**
Payroll	1,629,621	1,746,673	7.2	1,820,496	4.2
The Ohio State University	973,659	1,288,756	32.4	1,607,500	24.7
State Veterinarians	268,330	263,844	(1.7)	255,825	(3.0)
Legal Services	57,326	72,091	25.8	32,629	(54.7)
Miscellaneous Personal Services	29,545	32,610	10.4	33,225	1.9
State Stewards & Judges	374,160	371,650	(0.7)	362,885	(2.4)
Maintenance	**$390,156**	**$466,592**	**19.6%**	**$328,694**	**(29.6%)**
Office Supplies	27,045	6,257	(76.9)	5,379	(14.0)
Fingerprinting	130,680	135,497	3.7	108,850	(19.7)
Motor Vehicle Expense	17,749	22,784	28.4	17,672	(22.4)
Travel	85,954	93,675	9.0	73,965	(21.0)
Communications	16,721	27,546	64.7	25,611	(7.0)
Office Equipment Repair/Rental	20,955	19,747	(5.8)	34,776	76.1
Printing	14,053	13,571	(3.4)	6,930	(48.9)
General	76,999	147,515	91.6	55,511	(62.4)
Equipment	**$0**	**$7,330**	**100.0%**	**$0**	**(100.0%)**
Refunds (License & Registration Fees)	**$175**	**$0**	**(100.0%)**	**$1,975**	**100.0%**
Total	**$3,722,972**	**$4,249,546**	**14.1%**	**$4,443,229**	**4.6%**

Source: OSRC annual reports
Note: Dollar figures rounded to the nearest $1.

OBM indicates that OSRC appears relatively efficient, despite the drop-off in revenues. Pursuant to recommendations issued by the Ohio Inspector General (OIG), OSRC has implemented a request for proposal (RFP) process to seek out competitive bids for the provision of drug testing services, thereby reducing costs approximately $200,000 in 2004. OSRC has also reduced staffing levels, which according to OBM, were already below those of nearby states (e.g., Illinois, Kentucky, and Michigan). See the **Policies and Procedures/Internal Controls** section for additional information on Agency staffing.

OBM recommended that changes to the State's racing *structure* may be necessary to increase revenues, minimize expenditures, and allow the agency to accomplish its primary mission of regulating and promoting the horse racing industry (see **R2.1**). Specifically, OBM recommended a reduction in the number of live racing days as a means of minimizing operating costs while proportionally increasing the amount of handle collected and purses distributed per race day. OSRC has recently taken steps to reduce live racing days through negotiations with race track owners and horsemen's associations.

Noteworthy Accomplishments

This section of highlights specific OSRC accomplishments identified throughout the course of the audit.

- OSRC has taken proactive steps to reduce operating expenditures. Although total operating expenditures have increased since 2001, OSRC has slowed the annual rate of increase by nearly 10 percent. This can be attributed to significant line-item decreases in legal services, office supplies, fingerprinting, motor vehicles, travel, and printing services. At the time of this performance audit, 2004 annual report data was not available.

- OSRC has taken steps to reduce the number of live racing days via face-to-face negotiations with race track owners and horsemen's associations. OSRC can further improve its relationship with internal and external stakeholders, however, by more effectively disseminating its mission, vision, and value statements (see **R2.1**) and implementing an inclusive strategic planning process (see **R2.4**).

A. Operational Issues

This section focuses on OSRC's ability to effectively communicate its mission, vision, and values to internal and external stakeholders. One objective is to analyze the Commission's role in overseeing agency operations and develop recommendations which would increase the level of formality and consistency between the Commission and agency personnel. Another objective is to assess OSRC's strategic planning process to determine if the agency is effectively and efficiently communicating its goals and objectives to internal and external stakeholders.

Recommendations

R2.1 In order to improve communication with stakeholders, OSRC should publish its mission, vision, and value statements in annual reports, employee manuals, agency-wide plans, and on its website. During the course of the performance audit, OSRC adopted mission and vision statements for publication in the agency's FY 2006-07 Information Technology (IT) plan (R2.5). The Commission should link these statements to its strategic planning process (see R2.4) and other agency publications.

As stipulated in its FY 2006-07 IT plan, OSRC's primary mission is to regulate pari-mutuel wagering for the protection of the betting public and to promote the industry of horse breeding and racing. However, OSRC has not published its mission, vision, and value statements on the agency website nor disseminated them in other publications, such as annual reports. As a result, OSRC does not effectively communicate its mission and vision to internal (staff and management) and external (race track owners, horsemen, the Ohio General Assembly, and the public) stakeholders.

The Society for Human Resource Management (SHRM) recommends that mission, vision, and value statements reflect the purpose, intent, and core principles of an organization. According to the American Public Works Association (APWA), a mission statement is a concise description of the fundamental purpose for which the agency exists. This statement answers the questions of why the agency exists and who it serves. SHRM further suggests that mission, vision, and value statements be stated at the beginning of the employee manual to help guide behavior and facilitate strategic planning by providing organizational direction internally and externally.

The Kentucky Horse Racing Authority publishes the following mission statement on its website:

> "To promote, foster, and encourage the horse breeding industry and to improve the breeds of horses, through the business of legitimate horse racing with pari-mutuel wagering, conducted on the highest plane."

Similarly, the California Horse Racing Board makes the following mission statement readily available to the public by publishing it on its website:

> "The purpose of the California Horse Racing Board is to regulate pari-mutuel wagering for the protection of the betting public, to promote horse racing and breeding industries, and to maximize State of California tax revenues."

According to the APWA, a vision statement is meant to communicate the vision of an organization's leadership. The role of the leader – or in this case, the Board – is to set direction. This statement answers the questions of what the leadership of an agency wants to create and where it wants the agency to go.

The New York State Racing and Wagering Board published the following mission, vision, and value statements in its 2003 annual report:

> "Our Purpose is to ensure that New York State's legalized casinos, pari-mutuel, and charitable gambling activities operate with integrity and are in full compliance with New York State statutes and rules. We safeguard the interest of the public, including the taxpayers and patrons by ensuring that the regulated entities and their employees participating in, or benefiting from legalized gambling operate with probity. We will expeditiously respond to all public concerns.
>
> Executive Management espouses that personal integrity is paramount for all Board employees who must ensure honest and proper conduct of legalized gambling and other regulated activities. To properly serve the public, all employees must perform their duties in an ethical manner that is above reproach. To meet this goal we advocate teamwork, intra-agency communication, mutual respect, training, and advancement to reach each employee's potential.
>
> Only through vigilance, competence and dedication can the Board and its employees be successful in performing its statutory responsibilities."

According to the APWA, an agency's value statement establishes the core values which assist in fulfilling the mission of the organization. This statement answers the questions of what culture the leadership of the agency wants to create and how all employees are supposed to act. By developing formal mission, vision, and value statements OSRC can more effectively clarify and formalize its overall role in the horse racing industry. This will also help to facilitate strategic planning (see **R2.4**) through increased communication of goals, objectives, and Commission expectations.

R2.2 Commission members should work jointly with the executive director to develop a formal orientation program for new Commission members. This orientation program should include a tour of OSRC offices and race tracks, a meeting with OSRC staff, race track owners, and horsemen, as well as a review of Commission bylaws (see R2.3) and policies and procedures. Moreover, pertinent documentation (e.g., agency history, statutory/administrative requirements, bylaws and procedural rules, contact information, and committee assignments) should be consolidated within one manual and distributed to new members.

OSRC does not have a formal orientation program for new Board members. Rather, this process consists of informal meetings with the Board chairperson and the executive director who describe the Commission's role in regulating and promoting the horse racing industry. Without a formal orientation program that includes meetings with all relevant stakeholders, new Board members may have difficulty fully understanding their roles and responsibilities pertaining to OSRC oversight.

According to BoardSource (formerly known as the National Center for Nonprofit Boards, a governing board best practice organization), it is important that new members of a governing body receive formal orientation. Specifically, a formal orientation program can help familiarize new Board members with the organization's legal duties as well as their individual roles and responsibilities. In addition, BoardSource recommends that governing boards have a thorough, easy-to-use orientation handbook to which members may refer throughout their terms. An effective orientation program can help acclimate new Board members to OSRC's history and role in regulating and promoting Ohio's horse racing industry.

R2.3 OSRC should adopt a formal set of bylaws, or Board rules. These bylaws should include specific rules for conducting meetings and adopting agency-wide plans, as well as cross-references to appropriate statutory and administrative requirements. The implementation of formal bylaws will assist in the development of an orientation program for new Board members (see R2.2) who may have no previous experience with parliamentary procedures.

OSRC has not established a set of bylaws, or other formal procedural Board rules to help define its role and provide guidance in overseeing OSRC. Moreover, there appears to be some confusion among stakeholders, as to the Commission's role in the horse racing industry. For example, some feel that the Commission's role is strictly regulatory, while others indicate that promotion is also a primary responsibility. Stakeholder confusion can be attributed, in part, to the absence of formal mission, vision, and value statements (see **R2.1**), the lack of a strategic plan (see **R2.4**), as well as outdated statutory requirements and administrative rules.

OSRC indicates that Board meetings are conducted in accordance with OAC rules and ORC requirements, and that Robert's Rules of Order are used to determine parliamentary procedures. While this is common practice among Ohio boards and commissions, the Board should formally stipulate its rules and procedures within an orientation manual (see **R2.2**), as recommended by BoardSource, and include the following:

- A detailed description of Board composition, including terms of office, compensation, travel reimbursement, appointing authority, committee assignments, and procedures for filling vacancies;
- A formal and detailed description of Board and executive management duties and reporting requirements, with cross-references to pertinent OAC and ORC sections;
- Procedures for conducting meetings, including the establishment of a quorum, setting agendas, disseminating minutes, and voting; and
- Major Board-approved policy statements, such as committee recommendations, strategic planning goals and objectives, budgeting practices, purchasing requirements, and staffing needs.

By establishing bylaws that foster an increased level of oversight, the Board will be better able to set the direction of OSRC. These bylaws will also help to provide continuity and stability and ensure that the Board operates in a consistent and fair fashion. Additionally, bylaws will help to provide internal and external stakeholders with clear expectations as to the role and mission of OSRC.

R2.4 The Commission should establish a formal, three to five-year strategic plan. The plan should be developed in accordance with established mission, vision, and value statements (see R2.1), with input from a representative group of internal and external stakeholders, and include aspects of its FY 2006-07 IT plan (see R2.5). In addition, the plan should contain concise and measurable objectives, strategies, action plans, responsible parties, timelines, costs and financing sources, and a process for implementing, monitoring and updating the plan. The Commission should also consider implementing recommendations presented by the NGISC, as well as the Texas Racing Commission.

OSRC has not prepared a formal strategic plan to serve as a guide for the long-term development and enhancement of Commission functions. Although the Commission has identified a number of short and long-term goals and objectives, Board members indicate that it lacks the appropriate voice, or mechanism, to effectively communicate these to stakeholders. OSRC has stated that its goals include the following, as they relate to the regulation and promotion of the horse racing industry:

- Recoup a portion of the value of unclaimed winning tickets (see **R2.6**) to offset the cost of drug testing and employing regulatory agents (e.g., judges, stewards, and veterinarians).

- Increase accountability and strengthen internal controls by implementing an electronic fingerprinting system for licensees, as well as the California Horse Racing Information Management System (CHRIMS). See **R2.5** and **R2.7** for additional information.

- Subsidize Ohio's purse accounts and breeding awards through reductions in the number of live racing days, as well as through increased tax collections via regulation of out-of-state account wagering platforms (see **R2.6**).

Although several of these strategic initiatives require significant modifications to existing technology, OSRC has not included the necessary upgrades to its FY 2006-07 IT plan (see **R2.5**). OSRC also suggests that a significant amount of conflict exists between the Commission and its external stakeholders – the race tracks and horsemen's associations – which impedes goal achievement. Although OSRC's goals have been discussed informally, they can be more effectively used for the purposes of planning, budgeting, and monitoring outcomes if they are formally communicated to all stakeholders. When developing its strategic plan, specific OSRC employees should be identified in the document as being accountable for each goal, thereby authorizing them to implement procedures or action plans, create reporting mechanisms through the organizational hierarchy, and if possible, permit them to make decisions within a predetermined budget. Employees responsible for implementing the strategic plan should also have the authority to explain non-performance and identify actions needed to meet outstanding goals.

According to the National Gambling Impact Study Commission (NGISC), government decisions regarding the introduction and regulation of legalized gambling are best made according to a well-defined public policy, one formulated with specific goals and limits in mind. While governments have established a variety of regulatory structures, it is not clear that these have been guided by a coherent gambling policy or even that those making the decisions have had a clear idea of the larger public purpose they wish to promote. Generally, what is missing in the area of gambling regulation is a well thought-out strategic plan for how gambling can best be implemented to advance the larger public purpose and a corresponding role for regulation. Instead, much of what exists is far more the product of incremental and disconnected decisions, often taken in reaction to pressing issues of the day, rather than long-term needs, goals, and risks.

NGISC recommends that governments consider the following elements regarding the regulation of legalized gambling:

- **Policy Review**: Given the rapid accumulation of decisions regarding gambling, most governments would be well-served by a thorough review of their public policy toward gambling. This review should focus on determining the specific public purpose regarding gambling and an assessment of the existing regulatory structure in its entirety: laws, rules, agencies, etc. The objective of this review is to identify what changes, if any, are needed with the goal of maximizing benefits and minimizing costs/risks.

- **Campaign Restrictions**: There are sound ethical reasons to recommend that governments adopt tight restrictions on contributions to State and local political campaigns by entities – corporate, private, or tribal – that have applied for or have been granted permission to operate gambling facilities.

- **Subsidizing Pari-Mutuel Facilities**: Governments should refuse to allow the introduction of casino-style gambling into pari-mutuel race tracks for the *primary* purpose of subsidizing an economically non-viable facility which would create competition with more viable forms of gambling (e.g., lotteries and charitable events).

- **Economic Impact Studies**: Governments should develop economic impact studies to help determine the affect gambling may have on the community. These studies should include a comparison of job quality, income, and benefits with other jobs (including union jobs) available in the labor market.

- **Addiction Programs**: Governments seeking to expand gambling should authorize and fund programs to assist pathological gamblers.

- **Stakeholder Cooperation**: As a condition of the granting of a license to operate a gambling facility, or to sell goods and services in a gambling facility, regulatory agencies should require full cooperation in any research undertaken by the government.

- **Research**: Governments seeking to expand gambling should consider authorizing research to collect and analyze data that would assess the following gambling-related effects on customers and their families within respective jurisdictions: personal bankruptcy, suicides, divorce, homelessness, domestic violence, child abuse, and the overall crime rate.

The Texas Racing Commission has developed a formal, five-year strategic plan which it updates every two years. According to the commission, this plan serves as an operational document to implement the state's performance-based budgeting system. Available on its website, the Texas Racing Commission's strategic plan identifies the agency's mission and philosophy and establishes various goals, objectives, and performance measures to evaluate the efficacy of its programs. For example, the commission establishes targets and monitors actual progress on such outcomes as the number of race tracks inspected, licenses issued and suspended, money disbursed to breeding funds, and drug tests performed. In addition, agency management provides a quarterly report to the legislature to keep members apprised of commission performance.

OSRC's strategic planning process should include feedback from Commission members, management and staff, as well as input from race track owners and horsemen's associations to ensure that Commission goals are in line with the needs of the horse racing industry. OSRC should review this plan regularly to identify any changes in priority, and similar to the Texas Racing Commission, OSRC should provide regular progress reports to the General Assembly. By implementing a strategic plan, OSRC will be in a better position to formally communicate key initiatives to Commission members and employees, race track owners, horsemen's associations, elected officials, and the public.

R2.5 OSRC should update its FY 2006-07 IT plan to include strategic initiatives pertaining to electronic fingerprinting of licensees. This should be done in conjunction with recommendations to improve stakeholder communication by soliciting feedback and establishing a formal, three to five-year strategic plan (see R2.4), as well as enhancing the agency's internal control environment. With express feedback from industry representatives and improved internal controls, OSRC will be in a better position to implement all of its strategic initiatives.

Prior to the commencement of the performance audit, OSRC and other representatives of the horse racing industry requested that the Auditor of State (AOS) examine the feasibility and utility of implementing an electronic fingerprinting system for licencees (race track employees). According to industry representatives, an electronic fingerprinting system is designed to minimize the risk of legal liability by increasing the speed at which race track employee background checks are conducted.

According to the Ohio Department of Administrative Services (ODAS) Office of Information Technology, several technology-related initiatives have prompted the Commission to establish an IT plan for FY 2006-07. For instance, OSRC has taken steps to replace on-track computers to allow for State-wide digital licensing of industry employees. The IT plan, however, was not developed in conjunction with a formal, three to five-year strategic plan and therefore, does not include all of OSRC's technology-related initiatives. Specifically, the IT plan does not include provisions for financing and implementing an electronic fingerprinting system for licensees.

OSRC demonstrates a need to make internal control improvements (see the **Policies and Procedures/Internal Controls** section). This is based on a review of technology surrounding the current internal control environment, including existing methods for gathering and reporting financial data from race tracks and obtaining employee fingerprints. For example, employee background checks are currently completed in 4-6 weeks because OSRC manually rolls the prints then mails them to State and federal authorities. According to the Ohio Attorney General's Bureau of Criminal Identification and Investigation (BCI), manual rolling of fingerprints results in a high error-rate, thereby increasing lag-time for background checks and exposing race tracks to the risk of hiring individuals with criminal histories.

One option, identified by OSRC, was to purchase electronic fingerprinting systems for each of Ohio's seven race tracks. The required "ten-print" systems are expensive ($4,000 per race tack), however, and recent declines in racing revenue (see **Table 2-1**) make this option less attractive. A second option, identified by BCI, is to outsource the fingerprinting process to the respective County Sheriff's Office or another local police department that uses an electronic system. This option would enhance the internal control environment by significantly decreasing lag-time and discouraging candidates with criminal backgrounds from applying. Furthermore, by using an established RFP process, as discussed in the **Policies and Procedures/Internal Controls** section, OSRC could minimize the cost of this service.

In the future, the Commission should work with industry stakeholders to identify those technology-related initiatives that best accomplish the agency's mission. Once all options have been assessed and funding strategies identified and agreed-upon, OSRC should include them in its agency-wide strategic and IT plans. Moreover, the Commission should include procedures for the formal approval of these plans in its bylaws, or Board rules (see **R2.3**). This will help to ensure clear communication and consistent application of Commission expectations.

B. Statutory Issues

This section evaluates how statutory laws and administrative regulations impact the implementation of OSRC initiatives, goals, and objectives. The purpose of regulation at the State-level is to maintain the integrity of gambling through licensing, and to ensure the appropriate receipt and disbursement of tax revenue. Proponents of legalized gambling stress economic benefits such as job creation, investment, tax revenue, and economic development, whereas opponents underline social costs, including pathological gambling, divorce, homelessness, and crime. Pari-mutuel wagering is the most widespread form of legalized gambling with over 40 states regulating race tracks for horses or greyhounds.

Horse racing is the largest sector within pari-mutuel wagering activities in the U.S. Many economic and traditional aspects of the horse racing industry stem from the agriculture sector. This agro-industrial base is responsible for the diversity of racing's economic impact. Beyond directly related occupations such as race track owners, horsemen (trainers/breeders), and jockeys/drivers, other occupations include veterinarians, government regulators, law enforcement officials, and stable owners. According to NGISC, employment in this industry is estimated at nearly 120,000 nationwide.

While the base of horse racing has grown in the twentieth century, technology has radically changed the manner in which people view and wager on horse races. Federal authorization of interstate simulcasts expanded the range of races accessible to bettors. Similarly, electronic gambling has opened new aspects of the industry unanticipated only a few years ago. As technology has changed the industry, states have struggled to keep abreast of regulatory challenges. Many have updated, as needed, the laws and regulations that govern the industry to reflect the changing values of society and to match those values with the needs of the economy, as well as address regulatory issues as they arise.

Recommendations

R2.6 The Commission should work with internal and external stakeholders to implement recommendations contained within this report and, as deemed necessary, gather support for statutory changes to effectively carry out OSRC's mission. Specifically, the Commission should adopt a formal planning process (see R2.4 and R2.5) that is linked to explicit mission, vision, and value statements (see R2.1). In addition, OSRC should commit to improving its internal control environment, as discussed in the Policies and Procedures/Internal Controls section. This will better enable the Agency to request modifications to statutory and administrative language it deems necessary to collect unclaimed winnings [2-5] and regulate out-of-state account wagering platforms; issues identified as critical to OSRC's long-term ability to regulate and promote horse breeding and racing in Ohio. Lastly, the Commission should seek to establish stronger communication with the General Assembly to ensure that OSRC-related statutes are reviewed for modernization, as needed to meet current and future challenges to the horse racing industry, including the tools to effectively regulate the industry.

OSRC has identified several strategic initiatives to generate additional operating revenues. Specifically, the Agency would like to recoup a portion of the value of unclaimed winning tickets to offset costs associated with performing laboratory drug tests and employing regulatory agents (e.g., judges, stewards, and veterinarians). Furthermore, OSRC has indicated its desire to regulate out-of-state Internet account wagering platforms (i.e., companies) that profit from Ohio bettors. According to OSRC's Committee on Internet Wagering Platforms, increased regulatory authority in these areas would help to buoy Ohio's purse accounts and breeding development funds while ensuring integrity and regulation of this form of wagering.

According to NGISC, the primary issues facing the pari-mutuel wagering industry include the regulation of Internet gambling and the proliferation of video lottery terminals as a means of supplementing tax revenue. OSRC indicates that these competing forms of gambling, available in neighboring states, make it increasingly difficult to maintain wagering pools large enough to pay for the cost of operating horse races and providing sufficient breeding awards to horse owners. A review of OSRC's breeding development funds between 2001 and 2003 demonstrates that Ohio-foaled and accredited thoroughbreds in 2003 decreased nearly 14 percent from 2001 levels, which corresponds with a $97,300 (13 percent) decrease in broodmare/stallion breeding awards. In addition,

[2-5] Changing the manner in which unclaimed winnings are apportioned between the State and the tracks will have a negative financial impact on the racetracks and should be closely examined before implementation.

registration and renewal of Ohio standardbred horses decreased over 17 percent during the same period.

Some states (California and Virginia) have responded by authorizing the regulation of out-of-state Internet account wagering platforms or legalizing the use of VLTs (Pennsylvania and West Virginia). On two occasions, Ohio has placed additional gambling referenda on the ballot, with voters rejecting them both times. Moreover, Ohio law does not permit OSRC to collect a portion of unclaimed winnings nor regulate out-of-state Internet account wagering platforms that conduct business with in-State bettors.

According to the U.S. General Accounting Office (GAO), the Interstate Horse Racing Act appears to explicitly extend states' regulatory authority to the Internet medium. Specifically, the Interstate Horse Racing Act expands the definition of "interstate off-track wager" to include "…pari-mutuel wagers, where lawful in each state involved, placed or transmitted by an individual in one state via telephone or *other electronic media* and accepted by an off-track betting system in the same or another state, as well as the combination of any pari-mutuel wagering pools." However, the OSRC should consult with its legal counsel on such matters, for any change pertaining to OSRC's authority to collect unclaimed winnings or regulate out-of-state Internet account wagering platforms would require significant modifications to statutory and administrative language.

Moreover, the Agency exhibits a lack of sufficient and adequate internal controls over regulatory and fiduciary responsibilities (see the **Policies and Procedures/Internal Controls** section for additional information). OSRC has not effectively demonstrated its capability to track unclaimed winnings and oversee out-of-state Internet account wagering platforms while operating in its current internal control environment. Whether the structure of racing is altered through popular referendum or by the General Assembly, NGISC suggests that the government must play a strong role. By first adopting a formal and inclusive planning process (**R2.4** and **R2.5**) and improving its internal controls and ensuring the integrity of the industry, OSRC will be in a better position to implement and monitor its strategic initiatives.

R2.7 Once recommendations contained within this audit have been addressed, the Commission should work with race track owners and the Ohio Department of Administrative Services (ODAS) to assess the merits and costs of implementing upgrades to the pari-mutuel wagering system (Totalizer). In accordance with National Thoroughbred Racing Association (NTRA) recommendations, OSRC should first seek to improve centralization of pari-mutuel wagering system functions and improved connectivity between the tracks and its hub. Once accomplished, it should rely upon qualified IT professionals in the ODAS Office of Information Technology to assist in identifying appropriate system enhancements.

While an upgrade is in line with recommendations from best practice organizations, such as the Association of Racing Commissioners International (ARCI), OSRC must improve its fundamental internal control environment first and more effectively communicate its goals with internal and external stakeholders who are responsible for sharing the cost. In any case, OSRC should work with the Office of Information Technology to incorporate these initiatives into its IT plan and use formal RFPs to ensure it selects options that complement the agency's mission and meet its financial constraints.

Several years ago, the OSRC required Totalizer to place its hub that serves Ohio and surrounding sates in Ohio so that is could be more closely monitored by OSRC. However, prior to the commencement of the performance audit, OSRC and other representatives of the horse racing industry requested that AOS examine the feasibility and utility of also implementing CHRIMS. This system is designed to supplement the existing Autotote system to more effectively account for moneys collected and paid out at race tracks, and thereby reduce fraud. However, the cost to implement CHRIMS is prohibitive – an estimated $300,000 – and the Commission indicates that some conflict exists between OSRC and race track owners as to sharing the burden of that cost. The emphasis on transparency and reporting is an effect of the Breeder's Cup Scandal. In the wake of wager tampering in the Autotote system, several industry leaders have commissioned studies to identify potential solutions to security and reporting concerns.

Several alternatives to CHRIMS exist, including a system designed by Scientific Games Corporation, the parent company of Autotote, in collaboration with the Jockey Club. Other similar systems have been designed by Chimera Technology Corporation – a Nevada-based gaming services company – as well as Jupiter International, Ltd. The necessity for improved pari-mutuel reporting technology has been spearheaded by ARCI and NTRA. For example, NTRA's Wagering Technology Workgroup released several recommendations in an interim report concerning wagering security and related measures in 2003. The report includes updates on software installation to improve security processes, such as progressive scanning and time stamping. Additionally, Ernst & Young conducted a security review of totalisator companies and found that communications technology between race tracks and Autotote hubs was antiquated and susceptible to corruption. Such problems are exacerbated by the presence of Internet account wagering platforms and overseas companies that, although unregulated in jurisdictions like Ohio, still conduct business over the network.

Although OSRC has filed an FY 2006-07 IT plan with ODAS (see **R2.5**), the plan does not include the agency's intentions for procuring additional technology to supplement the Autotote system or upgrade its network. Furthermore, because this is the first IT plan submitted to ODAS in several years, the Commission has not sufficiently relied upon the expertise of the Office of Information Technology in evaluating pari-mutuel system updates. Combined with the absence of stakeholder support and an adequate internal control environment, OSRC cannot currently justify the cost of updating Autotote with a system such as CHRIMS.

However, once audit recommendations have been addressed to improve stakeholder communication and enhance its fundamental internal controls, the Commission should work with the Office of Information Technology, as well as race track owners, to evaluate the merits and costs of updating Autotote. By working with stakeholders and relying upon the expertise of qualified and impartial IT professionals, as well as using formal RFPs (see the **Policies and Procedures/Internal Controls** section), OSRC can better ensure that it obtains technology appropriate to its mission while minimizing expenses. Over the long-term, this will help to dispel concerns about the industry's integrity, thereby improving OSRC's ability to seek statutory and administrative changes to its regulatory powers.

This page intentionally left blank.

Policies and Procedures/Internal Controls

Overview

Internal control is broadly defined as a process, affected by an agency's governing board, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting; and
- Compliance with applicable laws and regulations.

Internal controls are tools that help agencies ensure efficiency and effectiveness while avoiding serious problems such as overspending, operational failures, and violations of law. Internal controls are the structure, policies, and procedures put in place to provide reasonable assurance that management meets its objectives and fulfills its responsibilities. Internal controls also facilitate the achievement of management objectives by providing checks and balances against undesirable actions.

The internal control process has five components: control environment, risk assessment, control activities, information and communication, and monitoring. Major internal control areas include budget management, payroll administration, procurement and disbursement, property management and personnel (e.g. conflicts of interest, acceptance of gifts, and employment of relatives). Most internal controls are classified as either preventive or detective. Preventive controls are designed to discourage errors or irregularities, while detective controls are designed to identify an error or irregularity after it has occurred. OSRC is responsible for establishing and maintaining internal controls to protect against the loss, theft or misuse of its assets, as well as to reduce errors. The established internal controls are largely procedural and have not been formalized in written form (policies and procedures).

A well-designed internal control structure reduces the potential for improper activity. Designing and implementing internal controls is a continuous process. As conditions change, control procedures may become outdated and inadequate. Management must anticipate that certain procedures will become obsolete and modify internal control systems in response to these changes. Like many government entities, OSRC could strengthen its internal control processes by compiling and/or revising written policies and procedures for all functional areas.

A report issued in February 2004 by the Ohio Inspector General (OIG) revealed numerous instances of mismanagement, including gambling by the former executive director, commission staff and commission members; mishandling of the Internet gambling issue by the former executive director; failure to implement clear policies on wagering by commission staff and members; the absence of a system to account for the use of state time, and permitting employees to accept gifts and gratuities. Furthermore, the OIG report revealed the OSRC improperly reimbursed inspectors for commuting mileage and per diem rates, failed to appropriately account for use of free admission passes, and failed to enforce a rule requiring commercial racetracks to post uniformed police officers.

Following the retirement of the former executive director, effective January 31, 2004, an interim executive director was appointed and later permanently assigned (April 2004) to guide the agency in correcting the deficiencies noted in the OIG's report.

Pursuant to the OIG recommendations, the OSRC implemented the following measures:

- Developed a policy prohibiting Commissioners and staff from wagering on any Ohio live race at any location at any time and from wagering on any race while on State time;
- Eliminated mileage reimbursement for commuting employees and reassigned employees' designated headquarters to coincide with the county in which the employee works;
- Met with employees to ensure awareness of the requirement to properly document work hours through the use of timekeeping forms;
- Advised employees of Ohio Ethics Commission laws prohibiting the acceptance of gifts in violation of laws of the State of Ohio and implemented the required acknowledgement of receipt of a copy of the Ohio Ethics policy;
- Advised employees against the acceptance of meals of any value from any entity regulated by the Ohio State Racing Commission;
- Initiated a process for amending existing administrative rules with regard to the posting of uniformed police officers and modified the proposed rule to be in compliance with the model rules adopted by the Association of Racing Commissioners International.
- Negotiated a new contract with The Ohio State University for toxicology testing which will result in a cost savings to the Commission of $200,000 for FY 2004-05. The Commission intends to competitively bid future contracts.

In its effort to operate in an efficient, ethical, and appropriate manner, the OSRC recently developed an employee policies and procedures manual outlining general work guidelines for OSRC employees. Two internal employees and fourteen external employees are governed under a collective bargaining agreement.

Assessments in this section include comparisons of OSRC practices to best practice standards obtained from state and/or federal agencies, and expert business and legal sources. These are used to provide comparative illustrations throughout this section of the report.

Noteworthy Accomplishments

The following noteworthy accomplishments by the OSRC were recognized as a result of the AOS performance audit review:

- The OSRC has taken proactive steps to reduce staffing levels in order to help achieve fiscal stability;

- The OSRC has increased efficiency and accuracy with regard to reporting through the enhancement of computer hardware and software programs and improved interface capabilities between the racetracks and the main office.

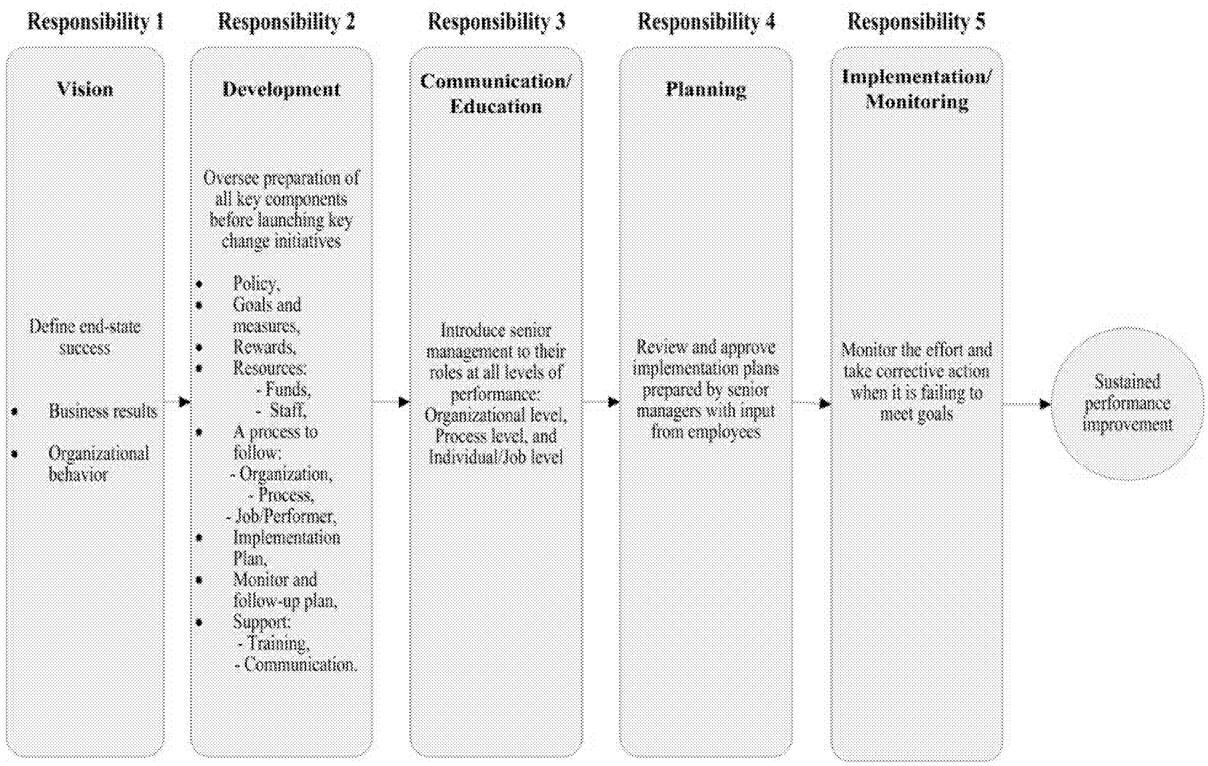
Recommendations

Policies and Procedures

R3.1 The OSRC chairman, members and executive director should take steps to understand and accept five core responsibilities to help achieve and sustain performance improvement over time. These responsibilities are in the areas of vision, development, communication and training, planning, and implementation and monitoring.

The OSRC has not established an overall mission and vision that can be used to drive development of long-term strategic plans and goals. Strategic plans and goals are important in that they drive structures of operational and functional processes. Through the development of a quality strategy which supports the goals for growing the racing industry in Ohio, and the establishment of cross-functional work flows which support internal controls and produce outputs for internal and external customers, leaders of the OSRC can increase the potential for realizing sustained performance improvement. Creating an environment which supports employees in their efforts to produce quality work also figures largely in quality improvement. **Figure 3-1** illustrates the role of executive leaders in this effort:

Figure 3-1: Top Management's Role in a Performance Improvement Effort



According to the authors of *Performance Improvement* (Rummler & Brache, 1995), any performance improvement effort should address issues at three levels in order to be successful: the organizational level, process level and individual job level. This involves setting goals, designing or structuring functions, and managing resources at each of the aforementioned levels. Successful performance improvement efforts meet four criteria:

- They establish an infrastructure, which enables them to be sustained without "special program" mechanisms;
- They are goal driven – they begin with a set of goals and include a mechanism for reestablishing or reevaluating goals over time;
- They involve substantive actions at the organization, process, and individual task levels; and
- They are driven by the active involvement of the top management in the organization.

By understanding their role in facilitating ongoing performance improvement as shown in **Figure 3-1**, the OSRC can generate substantive actions that will lead to measurable improvements at each level within the organization. Each of the recommendations found in this section of the report directly targets improvements at one of the three levels. For more information on the development of strategic goals, see the section entitled ***Operational and Statutory Issues***

R3.2 The Agency should review its policies and procedures outlined in the employee manual and include specific guidelines by which management decisions should be made. For example, the Agency's travel policy does not provide sufficient detail and does not include sufficient specificity. In addition, the OSRC should compare guidelines within the collective bargaining agreement to its employee manual to ensure the highest measure of consistency between bargaining and non-bargaining unit employees.

The OSRC developed an employee policies and procedures manual which went into effect in March 2004. However, the employee manual does not include specific details and guidelines with regard to employee work rules. Policies that are insufficiently specific potentially leave too much room for interpretation and discretion on the part of management and staff.

While the adoption of the manual represents a noteworthy accomplishment by the administration, the current manual lacks specific information to govern employee behavior and guide management decision-making practices. Vaguely written policies and procedures do not appropriately serve the purpose of eliminating the overuse of employee discretion and other potential abuses. For example, the travel policy states in part:

> *"If an employee will be staying overnight due to work requirements, he or she must receive authorization from the* ***Executive Director*** *prior to incurring the expense. An employee traveling for Commission business should stay overnight if traveling 80 miles or more from his or her headquarters if he or she had additional business in the area the next day. Work should be organized in a way to make the most of an overnight trip to efficiently conduct Commission business."* (pg. 24)

This policy leaves too much discretion to the Executive Director and does not include enough detail to guide employee behavior. According to the OSRC Fiscal Officer, the OSRC follows the travel policy for the Office of Budget and Management (OBM) which allows full reimbursement for out-of-state lodging expenses and $40 per day for meals. The employee manual should outline these guidelines in detail and should include a requirement to submit receipts for reimbursement. If necessary, the OSRC should seek assistance from the Department of Administrative Services (DAS) or OBM in the development of an appropriate and comprehensive policies and procedures manual.

While occasional matters or circumstances require the discretion of management, the updated policies and procedures manual should be consistently used to govern non-bargaining unit employees. The employee handbook should incorporate OSRC's mission, vision and value statements. Finally, OSRC should continue to require personnel to sign and acknowledge having received, read and understood the handbook's contents.

R3.3 OSRC should appoint an industry liaison to assume a key role in implementing the strategic change plan (see *Operational and Statutory Issues*). The liaison would serve as a change agent in conjunction with the executive director in moving the organization and the industry from its current position to the desired future strategic orientation. The liaison would need to draw heavily on knowledge of the racing industry, group dynamics, and change processes.

The OSRC currently does not have a sufficient voice that can effectively communicate for change among the legislative authority, track owners, and other interested parties. As a result, the OSRC has not been successful in bringing about changes in laws and regulations seeking to improve the industry statewide.

For example, a 1956 report by the Ohio Legislative Service Commission recommended changes in Ohio laws and regulations that would enable the State to collect the value of unclaimed pari-mutuel tickets to be paid to the State after a reasonable time. Changes to the State law still have not occurred with regard to this matter. If collected, winnings from unclaimed tickets could be used to offset certain operational expenditures such as the California Horse Racing Information Management System (CHRIMS) that electronically performs daily tracking. This or other similar technology would provide a much needed enhancement to pari-mutuel data processing applications. In addition enhanced technology would provide a reliable reporting system through a web interface to manage simulcast wagering information and verify that proper distributions of wagering proceeds are being made. According to the Internet Racing Commissioners Association (IRCA), these revenues could range from approximately $250,000 upwards to more than $2 million dollars (see ***Operational and Statutory Issues***.)

Furthermore, the inability to effectively promote and attract horsemen and breeders to the State has placed the Commission at risk for dissolving part or all of its programs. Through the effective use of an industry liaison, strategic plans and goals for the future of the industry in Ohio can be communicated and disseminated to all interested parties in a manner which shows how all can benefit, thereby effecting buy-in and acceptance of various stakeholders. The industry liaison should work alongside the executive director and be accountable to the Commissioners.

R3.4 The Commission should formalize a process to ensure that unrestrictive competitive bidding procedures are followed in accordance with OAC 3769-12-33, especially for laboratory testing services and other frequent expenses. Formalization of written procedures for securing drug-testing services that are linked to the bylaws would clearly support the Commission's effort and commitment to increasing internal controls standards.

OSRC uses informal methods to obtain multiple quotes for services. It uses the methods outlined by the Ohio Department of Budget and Management and the Department of Administrative Services. However, it has not formally adopted these processes or formalized them in agency policy.

The effectiveness of unrestrictive competitive bidding practices involves obtaining formal bids from at least three vendors prior to securing service contracts, according to OAC 3769-12-33. Based on figures published in the OSRC annual report for 2003, the vendor cost for drug testing of employees and horses exceeded the total spending by the peers. According to the Executive Director, the OSRC plans to accept competitive bids for drug-testing upon expiration of the current contract with the Ohio State University. Frequent solicitation of competitive bids can help ensure that the OSRC is procuring its services at the best possible price and that vendor selection is made objectively.

R3.5 OSRC should establish a policy that provides an avenue for employees to report internal wrongdoing anonymously and in accordance with ORC §4113.52, Ohio "whistleblower" protection law.

OSRC did not include information on the "whistleblower" protection law in its policies and procedures manual. According to ORC §4113.52, employees shall have the right to report violations of law by an employer or fellow employee without fear of retaliation or disciplinary action. However, an employee must make a reasonable effort to determine the accuracy of any information reported. Failure to make such a good-faith effort subjects the employee to disciplinary action by the employer, including suspension or removal for reporting information without a reasonable basis to do so (ORC §4113.52 (C)). The OSRC should formalize a written policy within its employee manual which fully outlines the statute to not only ensure protection of employee rights but also protection of the employer from unfounded accusations by misinformed or disgruntled employees. OSRC should ensure that the policy manual is clear on the right and responsibilities of employees, as well as the accountability aspects of the statute.

R3.6 OSRC should formalize standard operating procedures for all operations, particularly its fiscal operations. In addition, the Commission and Executive Director should review the monthly financial statements and should include the Fiscal Officer in monthly Commission meetings in order to remain apprised of the fiscal condition of the organization.

During the course of the audit, the executive director began providing Commission members with financial statements and reports at each monthly meeting.

The Fiscal Officer does not have formalized procedures for conducting financial operations for the OSRC. Although the Fiscal Officer maintains monthly financial statements and meets on a daily basis with the executive director to discuss financial matters, formal financial reports are not provided to the Commission or the Executive Director. Furthermore, the Fiscal Officer is not required to give monthly Commission meeting briefings. According to the Fiscal Officer, neither the Executive Director, nor the Commission members have requested, received or reviewed OSRC financial statements.

While formalization of procedures should focus on fiscal operations first and foremost, the OSRC should formalize the standard operating procedures for all functional areas and should include following details:

- **Personnel Information** including skill requirements, competencies, lines of authority and responsibilities;
- **Authorization Procedures** including a review of supporting information to confirm the validity of transactions;
- **Segregation of Duties** because an individual should not have responsibility for more than one of the three transaction components (authorization, custody and recordkeeping) to reduce the likelihood or errors and irregularities;
- **Physical Restrictions** which are the first line of protective measures and include safe combinations, critical forms and documents, and alarm systems;
- **Documentation and Record Retention** which is used to provide reasonable assurance that assets are controlled and transactions are correctly recorded, and
- **Monitoring of Operations** which is essential to verify that controls are operating properly.

The OSRC should formalize its standard operating procedures to ensure uniform decision-making and routinize daily operations so that staff members (including back-up staff) have a reference tool for performing job tasks. Furthermore, access to written operating procedures helps ensure continuity and consistent application of all laws and regulations.

Internal Controls

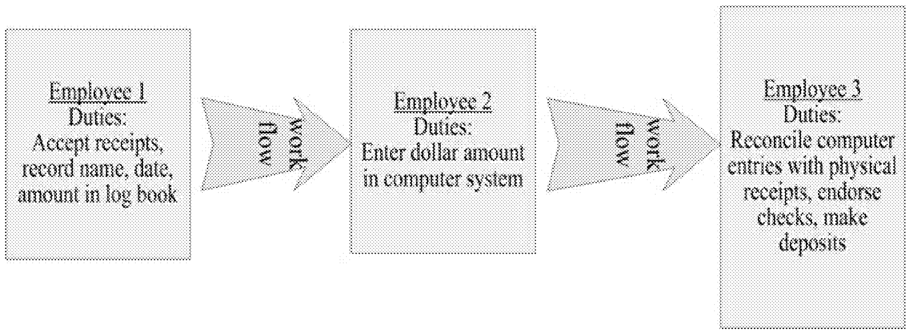
R3.7 The Commission should structure enhanced internal controls over the revenue and expenditure processes to provide for adequate segregation of job duties and promote the reliability of data through the transaction process. The OSRC has not restructured or reassigned duties to ensure adequate segregation of duties to improve internal controls. Therefore, this is a reiteration of the recommendation made in the AOS Management Letter for the years ended June 30, 2001-2002.

Internal controls have not been enhanced through adequate segregation of job duties as recommended in previous AOS Management Letters. For example, receipts for the combined simulcast purse program, data entry into the state Central Accounting System (CAS), preparation of checks for deposit, and making deposits at the State Treasurer's Office are all functions of the Administrative Secretary. The Commission should oversee the implementation of enhanced internal controls by segregating duties in a manner outlined in the AOS Management Letter of August 7, 2002. The letter notes the establishment of effective internal controls may include, but is not limited to the following:

- Increase internal controls over the revenue process through the segregation of duties between those employees recording receipts, authorizing deposits, and accessing checks;
- Increase internal controls over the expenditure process to provide for adequate segregation of duties between preparation and calculation of vouchers and receipt of checks from Central Accounting, and
- In lieu of segregating the aforementioned duties, an independent staff person could record all checks received by the Commission before distributing them to the individual responsible for processing those receipts, and then reconcile their records to the amounts deposited in CAS.

Implementation of enhanced internal controls will help facilitate the achievement of management objectives by providing a better system of checks and balances to help prevent the appearance of impropriety and the potential for undesirable actions. **Figure 3-2** illustrates an example of segregated duties to support appropriate internal control standards for processing revenue receipts:

Figure 3-2: Example Segregation of Duties for Revenue Process



As seen in **Figure 3-2**, dividing duties in this manner provides checks and balances and decreases the potential for impropriety to go undetected, and thus, decreases the overall risk of fraud or abuse.

R3.8 The Agency should consider implementing the use of electronic fund transfers (EFTs) to process receipts and disbursements. In particular, with regard to the combined simulcast purse program, use of EFT processing would eliminate the current system in which one OSRC staff member receives checks from the tracks via U.S. mail, enters the amounts in CAS, and deposits funds into the appropriate Commission account at the Treasurer of State's Office. This could help resolve segregation of duty and internal control issues with regard to revenue and expenditure processes noted in previous AOS Management Letters.

By using EFTs, the Administrative Secretary could avoid handling actual checks received by mail from the tracks for the combined simulcast purse pool. EFT would allow the Administrative Secretary to simply reconcile reports of funds transferred against the handle amounts reported to the Data Systems Coordinator as a mechanism for ensuring reporting accuracy and accountability. Implementation of EFT would involve contracting with a banking institution to process incoming and outgoing checks from the OSRC fund accounts with the Treasurer of State. According to a Treasurer of State representative, the cost to the OSRC would correlate with the total number of transactions processed.

R3.9 OSRC should increase internal controls over its timekeeping and attendance reporting procedures. In addition, the Executive Director should formally approve all overtime and compensatory time payment requests (particularly those made by management staff). Furthermore the Executive Director should ensure that no member of management is permitted to add compensatory time or overtime pay to his own time sheets without authorization.

During the course of the audit, the agency took steps to implement greater controls over timekeeping and attendance as outlined in this recommendation.

During the performance audit, AOS found examples of inadequate reporting of employee time and attendance. Some time and attendance reports lacked proper supervisor approval and/or attestation by the employee for the hours worked. For example, a separate compensatory time request form submitted by the Office Manager showed no evidence of actual review and approval by the Executive Director. The compensatory time request form has a rubber stamped signature of the Executive Director but is not dated. While in some cases high level managers may be permitted to signoff on their own time and attendance reports, this practice may not be in the best interest of the OSRC in light of the recent review by the OIG for matters relating to improper time and attendance reporting by Commission employees.

In response to a recommendation in the OIG report, the OSRC implemented use of a sign-in sheet for internal employee time and attendance reporting. External employees turn in individual time reporting forms to the Investigation Supervisor/Office Manager at the end of each payroll period. A review of payroll records revealed inconsistencies in time and attendance records such as missing employee signatures on report sheets. In addition, AOS noted payment of compensatory time to management staff that was not formally approved by the executive director. If payroll processing includes the use of a rubber stamp signature of the executive director, the authorized user should initial and date the forms. In addition, the executive director should oversee payroll processing and conduct regular spot checks of time and attendance records to ensure accuracy and completeness, and should exclusively approve all management compensatory time requests via signature.

According to national best practice standards, employee time and attendance records should be adequately documented (electronically if possible) and approved by a supervisor. Failure to adequately report employee time and attendance and the lack of proper authorization of compensatory time or expense reimbursements increases the potential for fraud and the appearance of impropriety. The OSRC should assess the ability to conduct timekeeping within the capabilities of the new computer system. The OSRC may be able to ensure more accurate time and attendance reporting through the use of computer login/logout tracking reports. The benefits over the current manual time and attendance recordkeeping system would include the following:

- Reduction of paperwork and timekeeping errors;
- Provision of a means for reconciliation between the timekeeping and payroll systems;
- Enhancement of overall internal controls; and
- Enhancement of supervisory oversight.

The OSRC should review the current technical support agreement with its computer vendor to determine whether the Agency could implement this type of reporting without incurring additional costs for programming, reporting, and training as needed.

R3.10 OSRC should reassess the need for retaining its current fleet of state-owned and leased vehicles based on needs and reduce the fleet by at least one vehicle if possible. In addition, the OSRC should verify that vehicle expense records have been reconciled each month by including the reconciler's signature in the space provided on the monthly vehicle logs.

During the course of the audit, OSRC reduced an additional two vehicles from its fleet.

The OSRC has four State vehicles; three are owned by the Agency and one is being leased from DAS. One vehicle is being used by the Investigation Supervisor/Office Manager who reports to the Commission office for work most days and occasionally makes visits to tracks he is responsible for overseeing in Lebanon, Grove City and south Columbus. The other two owned vehicles are used by the farm inspector and racing inspectors. The leased vehicle is currently used by the Investigation Supervisor that covers the racetracks in northern Ohio. However, according to the executive director, a decrease in the overall number of breeders in the State and an overall decline in the industry has reduced the number of farm visits required as well as the travel demands on inspectors.

The Commission should conduct a needs analysis to determine if the benefits outweigh costs associated with keeping and/or leasing the vehicles. According to Resource Management Systems, Inc., a credible cost-benefit analysis should assist decision makers by answering the following four questions:

- What is the change objective? (Lease vs. own; reduce overall fleet size)
- What are the viable options or solutions?
- What are the pros (benefits) and cons (costs) of each option?
- Which option is most advantageous and why?

The analysis should include every cost associated with owning and operating the vehicles to be compared against the lease rate. By reducing the number of fleet vehicles, the OSRC could reduce overall expenditures.

Financial Implication: At minimum, by terminating the lease agreement with DAS for one vehicle, and paying employee mileage reimbursement of $0.31 per mile, the OSRC could realize an annual cost savings of approximately $9,115 in lease payments, fuel, and maintenance expense.

R3.11 The Agency should develop specific procedures for responding to inbound callers. The OSRC fields a number of inbound calls each day from interested parties. The position of receptionist is vacant and is not expected to be filled.

The Investigation Supervisor/Office Manager has not reassigned the receptionist's job duties to other staff or developed procedures for handling inbound calls. Therefore, callers are greeted by various available staff and some calls may go unanswered. In order to increase office efficiency and portray an image of professionalism, the OSRC should implement systematic monitoring of key performance measures of its customer service quality. Key performance measures should assess customer service in terms of accuracy, timeliness, professionalism and helpfulness of the assistance provided. This should enable the OSRC to identify service issues and help staff improve the ability to provide effective service. For example, the OSRC could begin benchmarking the following internal performance data to use in setting future customer service performance goals:

- Tracking the number of inbound calls;
- Documenting the nature of the call;
- Tracking the timeliness in answering each call; and
- Rating employee performance when interacting with customers on the phone.

These duties could be reassigned to clerical support staff. The procedures for responding to inbound calls should be formalized and included in the Commission's standard office procedures. If needed, the OSRC should offer professional development opportunities, including training for employees to maintain or increase skill levels, job satisfaction, and proficiency. Appropriate training may be available through DAS or another State agency at little or no cost to the OSRC.

R3.12 OSRC should strive to maintain a professional office environment that is void of conduct and/or language that is considered inappropriate for the workplace.

During the course of the audit, the executive director took steps to remedy unprofessional employee behavior within the agency.

Based on auditor observation and testimonial evidence from employees, the OSRC has not successfully created an environment that supports consistent respect for others and an image of high quality standards to the public. Examples of ineffective office communication may include the use of profane language or the lack of information sharing that would otherwise assist in building relationships to support productivity in the workplace. When the quality of the work environment declines, productivity, teamwork and creativity also suffer.

According to Workforce.com, a research center for workforce management, behavior which clearly crosses the boundaries of civility and business prudence can cause an organization to come under greater scrutiny. Furthermore, improper conduct is often habitual. The proper way to overcome this risk-management issue is through credible organizational structures, effective communication, and a commitment to take action against offenders at any level. By clearly communicating that improper behavior will not be tolerated, organizational leaders can improve the overall image of professionalism while avoiding undue risks that could jeopardize the organization and its employees.

R3.13 OSRC should seek assistance from the Ohio Department of Administrative Services (ODAS) to update its job descriptions. Many of the job descriptions have not been updated since the 1980's. Some employees reported not ever seeing a written description of their jobs. However, most employees have generated their own job description updates based on self-reported tasks and responsibilities. Job descriptions should be updated to reflect changes in the duties and should reflect relevant knowledge, skills, and abilities required to perform the job functions. Accurate and current job descriptions should then serve as criteria for evaluating employee performance.

According to Business and Legal Reports, Inc., organizations should have a formal schedule for reviewing all job descriptions, preferably at least once a year. Maintaining up-to-date job descriptions is important because they facilitate effective human resources management in the following ways:

- Clarify duties and define relationships between individuals and departments.
- Help the jobholder understand relative importance of tasks and level of accountability.
- Provide information about the knowledge, training, education, and skills needed for a job.
- Help minimize conflicts and improve communications by telling employees what they need to know about the job.
- Help management analyze and improve the organizational structure and resource allocation.
- Provide all this information in a completely objective and impersonal way.

Accurate job descriptions also provide a basis for job evaluation, wage and salary surveys, and an equitable wage and salary structure. The content of the written job descriptions should include the following:

- List of tasks;
- List of decisions made;
- Amount of supervision received;
- Supervision exercised;
- Interactions with other staff;
- Physical conditions;
- Physical requirements; and
- Software or other equipment used.

The OSRC should use the criteria listed above to revise and update all Agency job descriptions. The job descriptions should be reviewed annually. New job descriptions should be maintained in an electronic format so that they can be updated easily. This recommendation can be implemented at no additional cost to the Commission.

R3.14 The Agency should perform a gap analysis to determine and plan for future staffing needs. A "gap" type of needs analysis, typically done as part of workforce planning, helps administrators decide what steps are needed to address workforce shortages or areas of excess capacity.

Within the past six months, the OSRC has reduced staffing levels significantly. Reductions include 1.0 FTE legal counsel and 1.0 FTE receptionist. In addition, the OSRC has planned reductions of 9.0 FTE racing inspector positions to occur in FY 2005. Due to changes in the racing industry in Ohio over the past decade and their impact on the duties and responsibilities of OSRC employees, the activities currently performed within these positions do not appear to align with the job description and may not warrant full-time equivalent status. Completion of the staffing needs analysis will help the OSRC identify areas in which staffing additions or reductions are necessary.

The OSRC should establish a future starting date for the gap analysis then determine the gap, or difference, between the workforce expected to be employed at that time and the workforce needed as of that date, based on assumptions about the future. Assumptions may include the following:

- Expected turnover rates;
- Expected changes in workload including significant increases or decreases in a given area, and the anticipated corresponding percentage change in staffing needs;
- Expected pool of employees ready to assume leadership roles as employees leave through retirement/attrition.

The quality of these assumptions is key in creating a useful gap analysis. Depending on what the analysis shows, the OSRC should take action to address the areas of employee shortages or excesses and identify ways to absorb or redeploy excess staff through attrition, retraining, or outplacement.

The typical gap analysis incorporates the following key information:

- **Target date:** The future date established for the forecast period. If conducting a staffing analysis each fiscal year, the Agency might compare head counts from day one of this year to day one of next year. This year's numbers are "actual" and based on records from historical sources; next year's numbers are projected and based on trends and "best guess" estimates using assumptions about the future.
- **Current employees:** Current full-time equivalent employee head count on the starting date of the gap analysis.
- **Expected transfers and promotions:** The number of employees expected to be promoted or transferred out of their current positions by the target date.
- **Expected retirements:** The number of employees expected to retire by the target date.
- **Other turnover:** The number of employees expected to leave their current positions for reasons other than transfer, promotion or retirement. This could include voluntary turnover, dismissals and the like.
- **Employees as of target date:** The number of employees expected to remain in positions as of the target date (or the number of employees remaining after accounting for transfers, promotions, expected retirements and other turnover).
- **Number of employees required as of target date:** The number of employees believed needed to do the work of the agency.

- **Gap:** The number of employees required, minus the number of employees expected to be on staff at the target date. The resulting number reveals how many employees you will need to recruit externally or how many existing workers to redeploy.

Conducting this type of analysis would enhance the OSRC's decision-making capabilities and would provide quantitative and qualitative support for staffing level changes. For additional information and an example of a gap analysis for determining staffing needs, see **Appendix A**.

R3.15 OSRC should revise its organizational structure and reporting relationships based on the strategic plan. The organizational chart submitted for review during the performance audit does not match the reporting relationships stated in employee interviews. A revised organizational structure built around strategic goals will best ensure meeting the overall mission and goals of the organization.

The OSRC's organizational structure has undergone recent changes through reclassification of personnel and reductions in force. The Agency has not adequately updated its organizational chart and some reporting relationships do not accurately reflect those occurring during day-to-day operations.

Managing a Non-profit Organization in the 21st Century (Wolf, 1999) stresses the importance of an accurate organization chart with appropriate spans of control since direct supervision of each and every employee (particularly external employees reporting to various off-site locations) is impossible. An organizational chart that accurately depicts reporting relationships and levels of responsibility communicates who within the organization carries certain levels of responsibility and who to approach if operations go awry. Reporting and authority lines must be set up carefully to ensure that they are respected and followed. Employees should not be required to report to two supervisors and supervisory personnel should be competent and capable, inspiring confidence in their employees. By adhering to this type of structure, leadership skills of management can be developed and conflicts that could arise out of poorly defined lines of authority can be avoided.

R3.16 Following re-engineering of the organizational structure, and determining the subsequent impact on current work flow processes, the OSRC should reassess the job requirements of each internal position through a formal job analysis. This should occur in conjunction with the update of job descriptions.

During the course of the audit, the Registrar/Records Keeper (class title of Researcher 2) and Bookkeeper (class title of Administrative Assistant 3) retired

from the agency, reducing its administrative workforce. An additional 12 positions were eliminated. These reductions comprise savings of about $600,000.

Based on AOS observations and staff interviews throughout the performance audit, some current positions within the OSRC do not appear to require full-time equivalent staff to complete. Reengineering typically impacts all areas within an organization and may change some functional areas to a greater degree than others. Therefore, following changes to the work flow and reporting relationships, partial or full reduction of the following positions should be considered:

- Publicity Director (class title of Public Information Officer 2)
- Administrative Secretary (class title of Executive Secretary 1)

Through changes to the work design, employees performing current jobs may be placed in other functional areas of fit based on individual knowledge, skills and abilities. In addition, the OSRC should identify high-performing personnel and take steps to motivate increased responsibility and leadership in these individuals through appropriate reward systems including promotion, salary increases and training opportunities. By matching the appropriate knowledge, skill and ability of employees in areas of "best fit," the OSRC will increase its ability to retain skilled and knowledgeable employees and ensure the most efficient use of human capital. Based on this objective, the OSRC should review and assess whether human resources are being used in the most efficient capacity and make line and administrative staff changes accordingly.

Financial Implication: According to the OSRC executive director, reengineering efforts combined with staffing changes through attrition will result in annual savings to the Agency of approximately $600,000[3-1].

R3.17 OSRC should ensure that all personnel not specifically employed at one of the racetracks report to the main office according to an established work schedule. In the absence of a formal telecommuting policy, the OSRC should provide workspace for employees to perform required duties. Should the OSRC determine to allow employees to telecommute, it should formalize a written policy outlining the terms and conditions of the telecommuting agreement including work hours and contact information. Any participants should sign the telecommuting work agreement which will be retained in the employee personnel file.

The OSRC does not have a formal approved telecommuting work policy. However, at least one current payroll employee performs job duties remotely. This arrangement is

[3-1] Recent retirements within the agency are included in this figure. Savings from the recommended reductions would comprise a portion of these savings. Likewise, during the course of the audit, the agency reduced 14 positions. These reductions (including the retirements) equal about $600,000.

problematic for a number of reasons, including increased potential for lack of accountability, inability to provide adequate support and direction, and the appearance of inequitable work rules among employees. OSRC should ensure that the employee work manual addresses the issue of required work locations. For example, the Government Accounting Office (GAO) outlines policy guidelines for alternative work arrangements such as telecommuting that includes the following:

- Work location;
- Work hours and how the employee can be contacted;
- Written terms of the work arrangement including length of the agreement;
- Signed acknowledgement of understanding retained on file; and
- Signed approval of the immediate supervisor.

By clearly communicating employee expectations, the OSRC will eliminate confusion and perceptions of unfairness that may arise from less than clearly defined rules that apply to employee groups. Frequent monitoring of alternative work arrangements gives management the ability to take corrective action if policies do not adequately support agency goals.

Financial Implications Summary

The following financial implications summary table outlines the estimated annual cost savings resulting from implementation of the recommendations in this section of the report.

Summary of Financial Implications

Recommendations	Estimated Annual Cost Savings
R3.10 Reduce expenditures for the lease of one State vehicle.	$9,115
R3.16 Reducing staffing through reengineering	$600,000
Total	**$609,115**

Appendix A: Gap Analysis Example

Gap Analysis Example	Job A	Job B
A. Current Position FTE	12	3
B. Expected Transfers or Promotions Out of the Position	2	1
C. Expected Retirements	4	0
D. Other Turnover (dismissals, voluntary departures)	2	0
E. Net FTE as of Projected Date (E=A -B -C -D)	4	2
F. Estimated FTE Required as of Projected Date	14	1
Gap = (F –E) (+) Gap is the number of FTE to be recruited externally (-) Gap is the excess number of FTE to be absorbed or eliminated	+10	-1

Source: Patsy Svare, managing director, The Chatfield Group, Glenview, Illinois, August 25, 2004.

Ohio State Racing Commission

BOB TAFT
GOVERNOR

February 2, 2005

Auditors Office

Dear Auditor

The Ohio State Racing Commission is satisfied with the Performance Audit Report, therefore we do not wish to submit any additional comments since the Post Audit Meeting.

Sincerely,

Sam Zonak

Sam Zonak
Executive Director
Ohio State Racing Commission

77 S. HIGH STREET, 18TH FLOOR, COLUMBUS, OHIO 43215-6108 (614) 466-2757 FAX: (614) 466-1900