

Executive Office of the Governor



Office of The Chief Inspector General



Ninth Annual Report To the Governor

Fiscal Year 2002-2003



September 30, 2003

Honorable Jeb Bush
Governor of Florida
The Capitol
Tallahassee, FL 32399-0001

Dear Governor Bush:

I am pleased to submit to you the Chief Inspector General's Ninth Annual Report as required by the Inspector General Act of 1994, Section 20.055(7), Florida Statutes.

During this period, the Office of the Chief Inspector General has responded to issues raised by you and concerned citizens throughout the state regarding the effective and efficient operation of government programs.

Our efforts have identified important areas for improvement, and have recommended or suggested corrective action to address them. During the year ended June 30, 2003, we issued one audit report, six investigative reports and provided extensive advice and assistance to distressed local government entities facing financial emergencies.

We appreciate the support you, the Lt. Governor and your senior staff have provided to us in fulfilling our mission to promote government integrity.

Sincerely,

Derry Harper
Chief Inspector General



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EXECUTIVE SUMMARY

The Office of the Chief Inspector General (Office) is responsible for promoting accountability, integrity, and efficiency in the agencies under the jurisdiction of the Governor. In furtherance of these directives, our Office has worked to carry out the following initiatives during the 2002-2003 fiscal year:



- Maintained a vital leadership role in the Inspector General community by being significantly involved in the Association of Inspectors General both at the state and national level. Our Office sponsored a National Association of Inspectors General conference in Orlando in October 2002 with former Lt. Governor Frank Brogan as the guest speaker.
- Assumed an increased role in assisting local governments who were in a state of financial emergency. Our Office worked closely with the City of Opa-locka and the City of Webster over the past year, as well as various other local governments in an effort to aid them in overcoming their financial difficulties.
- Played an expanded role in assuring consistency in the application of the provisions of the Whistle-blower's Act. We implemented a protocol directing agency Inspectors General to submit all requests received for Whistle-blower protection to our Office for final determination. This enabled us to ensure each request was analyzed for compliance with statutory requirements. Agencies not directly under the Executive Office of the Governor cooperated as well. In addition to reviewing complaints and determining Whistle-blower designations based on statutory thresholds, our Office managed, reviewed, and in several instances, supervised Whistle-blower investigations conducted by agencies during the fiscal year. We worked closely with investigative units assigned Whistle-blower investigations and tracked the investigative progress of every case through release of final reports.

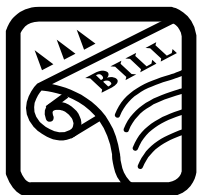


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- Worked closely with Florida Commission on Human Relations (FCHR) directors in an effort to enhance cooperation and communication between Offices of Inspector General and FCHR staff in understanding the separate, yet vital roles of each in conducting Whistle-blower investigations. A series of meetings between our Office and FCHR have resulted in enhanced written and verbal communications on parallel cases. Additionally, the improved coordination between FCHR and our Office allowed for improved efficiency in responding to individuals who requested Whistle-blower protection from alleged retaliatory acts by management.



- Was instrumental in bringing forth legislative initiatives identifying necessary changes in statutory language which would allow Inspectors General staff to operate more efficiently and effectively. Such initiatives focused on expanding the capabilities of obtaining records and testimony through administrative subpoena authority; clarifying certain portions of the Whistle-blower's Act to allow for more consistency in its application on a statewide basis; and adding requirements to the Inspector General Act which would redirect resources for optimal use in the community. This legislation did not pass, however, this effort will continue.



- Adopted the Principals and Standards for Offices of Inspector General compiled by the Association of Inspectors General, with concurrence from a majority of agency Inspectors General, as the accepted practices and guidelines for use by the Inspector General community. These standards focus on quality, professionalism, and best practices for use by investigators and auditors alike.
- Involved in the formation of the Computer Security Incident Response Team (CSIRT). The CSIRT is a team of individuals which exists within an agency in order to identify, detect, handle, and resolve computer security incidents. The core members of the team are the Inspector General, the Information Security Officer, and the Chief Information Officer. Our Office played an



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important role in defining how the Inspectors General participate in the CSIRT function. We acted as the Inspector General liaison to the State Technology Office and were responsible for coordinating a team of Inspectors General who wrote and edited the investigations section of the CSIRT Guidelines document, as well as other sections of the document relating to the Inspectors General.

INTRODUCTION

The Office of the Chief Inspector General is required by statute to prepare an annual report. This is the ninth annual report since the Inspector General Act was enacted in 1994 and the fifth of the Bush administration.

Five years ago, we adopted a three-word mission statement —“promote government integrity.” Over the past year we worked diligently to carry out our mission. We are pleased to report over the last twelve months our Office has fulfilled its mission.

Audit Initiatives

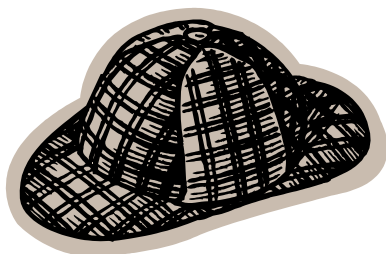
Our Office in conjunction with six other agencies under the jurisdiction of the Governor formed an interagency team to audit the contracting process. The audit “Roadmap to Excellence in Contracting” was completed and a report was issued in June 2003. We believe this methodology will serve the state well in the future. It allows us to look at the way systems are implemented on a statewide basis instead of how they work in a particular agency. Utilizing this system, recommendations can then be made which will benefit the entire state system not just the individual agencies reviewed.





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Investigative Initiatives



Our Office focused internally on enhancing data collection and tracking responses to citizens' complaints. Working closely with Information Systems staff, our Office assisted in the design of a data system for production of management data reports. This system will be completed by the end of October 2003. Additionally, our Office focused on closely tracking external referrals to agency Inspectors General for appropriate and timely responses. We continued to receive investigative support from other state agencies, which allowed the investigative staff to address a number of issues on a timely basis. Assistance during the fiscal year was provided by Inspectors General staff from the Departments of Children and Families, Corrections, Transportation, State, Citrus, Florida Lottery, Education, Environmental Protection, and the former Departments of Insurance, and Banking and Finance. Staff with Florida State University and Florida Fish and Wildlife Conservation Commission also assisted us during the fiscal year.

Chief Inspector General Responsibilities



The Inspector General Act has a broad range of responsibilities for the Chief Inspector General. In addition to being the Inspector General for the Executive Office of the Governor, we also have additional responsibilities relating to the agencies which are under the direct supervision of the Governor. These responsibilities include: providing leadership on preventing and detecting fraud and abuse; investigating and auditing; coordinating Whistle-blower's hotline activities; monitoring Inspectors General activities; and conducting special investigations and management reviews at the request of the Governor. In addition we participate fully in the selection process for agency Inspectors General.



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The Association of Inspectors General, which our Office helped create, has developed standards for the different activities of an Office of Inspector General. As we implement these standards throughout Offices of Inspector General, we will have a better basis for assuring the quality of work and for measuring that quality.

INVESTIGATIVE ACTIVITY

Many of our investigations begin with allegations which are received by letter, fax, e-mail or calls to our Whistle-blower's hotline. Our Office receives a number of written complaints, as well as several phone calls to the hotline each day. All allegations are evaluated, and a determination is made to refer the matter to another agency's Office of Inspector General, an outside entity, or to initiate an investigation by our Office. Allegations are entered into a computer tracking system. Many of the complaints referred to outside agencies are tracked for follow-up responses. We also receive many allegations dealing with matters such as private companies, federal agencies, or other issues outside the jurisdiction of our Office. In this situation, an attempt is made to provide information to the complainant on the best source to address their concerns. A summary of our investigative activities for the year follows.



Summary of Investigative Activity

In accordance with Section 112.3189(2), Florida Statutes, Whistle-blower's Act, our Office maintains a Whistle-blower hotline in which callers may report allegations of misconduct or other activities prohibited by the Act. Over 620 hotline calls were received during the fiscal year.¹ The majority of callers presented issues which were not within the jurisdiction of state government. In these instances, callers were provided with immediate feedback to resolve their questions or concerns. Over 150 of these callers presented

¹ It is estimated an equal number of calls were received during the fiscal year which were either wrong numbers or misdirected calls. These resulted in no formal action by our Office.



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information or concerns which appeared to be within the jurisdiction of the state and this data was entered into our Office's case management tracking system for further review and disposition by investigative staff.



In addition, we received 532 written complaints via letter or our website. These were also entered into the case tracking system for a grand total of 689 complaints. Of those, 455 complaints or 66% were referred to agency Inspectors General for response and/or handling. Complaints requiring responses are tracked and reviewed for investigative sufficiency by our Office before closure. If our Office determines additional investigative activity is warranted or questions remain unanswered, complaints are referred back to the investigating agency for follow-up. The remaining 234 complaints were resolved by our Office or referred to other outside entities for action deemed appropriate.

A total of 720 complaints were also closed on the tracking system during the fiscal year. Some of these complaints were received during the previous fiscal year.

**Summary of Investigative Activity
FY 2002-2003**

	Q1	Q2	Q3	Q4	TOTAL
Number of Complaints Opened	213	182	142	152	689
Number of Complaints Closed	142	180	191	207	720
Number of Whistle-blower Hotline Calls Received	0*	207	187	233	627
Number of Complaints Referred for Handling/Response	155	129	84	87	455
Number of Investigations Completed	2	2	0	2	6

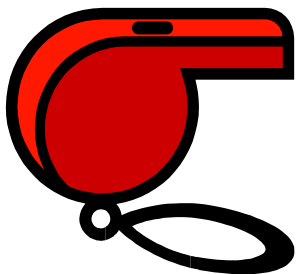
* A formal tracking system for hotline calls received was not implemented until Q2.



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Summary of Whistle-blower Activity

During this fiscal year, our Office played an expanded role in processing requests for Whistle-blower protection in accordance with Sections 112.3187-112.31895, Florida Statutes (the Whistle-blower's Act). At our direction, and in cooperation with agency Inspectors General, a protocol was implemented to establish a more accurate recording of Whistle-blower cases; ensure a consistent application of statutory requirements by all Offices of Inspector General; and provide management and oversight of investigative activities involving the most egregious and serious allegations of gross mismanagement and public safety violations.



As outlined in the Whistle-blower's Act, information of a specific nature must be reported by certain individuals to one of several entities including the Chief Inspector General, an agency Inspector General, the Florida Commission on Human Relations, and the Whistle-blower's hotline. In an effort to ensure compliance with the Act, our Office conducts a preliminary assessment of all complaints received to determine if there is sufficient information for Whistle-blower designation and investigation.

When information as described was identified by our Office, or when specific requests for Whistle-blower protection were received by our Office, the complaint was then referred to the respective agency Inspector General. Each request was then reviewed for specific statutory compliance by that office. Upon completion of the review, the agency Inspector General submitted his/her recommendation back to our Office specifying whether the complaint met the requirements for Whistle-blower designation and investigation. Our Office also conducted a similar, but independent, analysis of the same information and made the final determination of whether the complaint merited Whistle-blower designation. Cooperation in this manner was also received by several agencies not directly under the

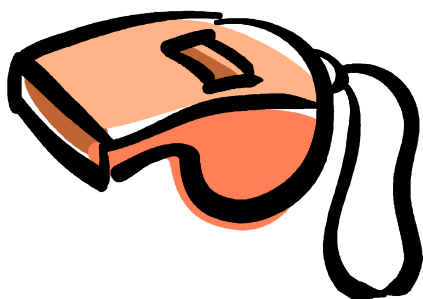


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Executive Office of the Governor, including the Department of Financial Services and the Department of Revenue.

A total of 85 complaints and/or requests for Whistle-blower designation and protection were identified by our Office as warranting an in-depth review for statutory compliance. Of the 85 complaints, 24 complainants were officially designated as Whistle-blowers by our Office. Allegations made by these complainants included serious law violations or gross mismanagement of agency resources or funds.

During the fiscal year, 21 Whistle-blower investigations were completed by Offices of Inspector General. Each case was closely monitored for timely completion, and extensions to statutory timeframes were granted by our Office only when circumstances warranted. Upon submission of each investigative report to our Office, the report was independently reviewed for investigative sufficiency and sound recommendations to management prior to its final release by our Office.



These 21 cases involved 30 complainants designated by our Office as Whistle-blowers and resulted in the investigation of approximately 107 separate allegations. Allegations included mishandling of child abuse investigations, misusing state funds, failing to provide needed services to clients, falsifying official records and violating ethics policies. The majority were not supported by the facts. When appropriate, Whistle-blower cases which produced evidence of criminal violations were referred to the Florida Department of Law Enforcement.

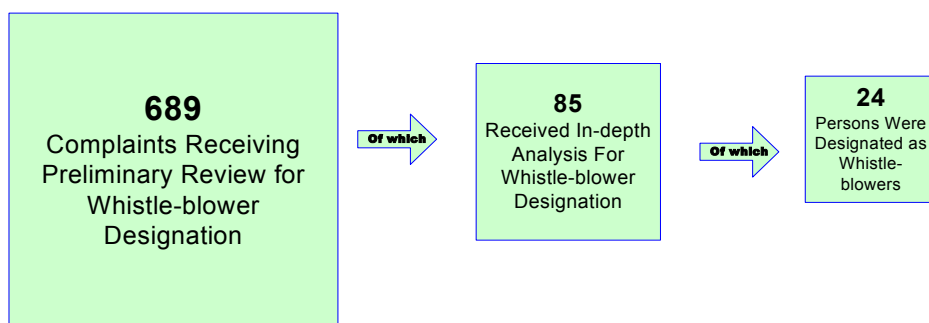


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Whistle-blower Case Highlights

Summary of Whistle-blower Designations

FY 2002-2003



The following two case summaries represent examples of the types of investigations conducted pursuant to the Chief Inspector General protocol and in accordance with the Whistle-blower's Act.

Whistle-blower Case Summary One:

On March 20, 2003, an investigation was initiated by the Office of Inspector General for the Florida Lottery in response to allegations of violations of Florida statutes, ethics policies, and administrative rules by senior management employees. The investigation confirmed that during a specified period of time, several senior management staff, including the former Lottery Secretary, the Assistant Secretary for Marketing, the Assistant Secretary for Finance and Administration, and the Advertising Coordinator violated ethics policies and rules by accepting gifts in the form of meals and food items from vendors doing business with the Lottery. The investigation also confirmed one senior level manager attempted to obstruct the investigation; one individual was found conducting non-official business during state time; and some employees were untruthful during sworn testimony. Several non-senior level employees were also found to be in violation of ethics policies. The final report, released by our Office in June 2003, was referred to the Florida Department of Law Enforcement to review possible violations of criminal statutes. FDLE subsequently reported





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that further investigative activity was not warranted. The newly appointed Secretary for the Florida Lottery took immediate administrative and corrective actions based on the findings of the report.



Whistle-blower Case Summary Two:

On June 24, 2002, an investigation was initiated by the Office of Inspector General for the Department of Education (DOE) in response to allegations of possible misuse or misappropriation of student scholarship funds and assets at Florida Agricultural & Mechanical University (FAMU) and/or the FAMU Foundation. Specifically, DOE investigators, with assistance provided throughout the investigation by an Audit Administrator from our Office, focused on three specific allegations presented by the Whistle-blower. The investigation did not support the allegations and a final report was issued by our Office in December 2002.

Investigations

Our Office completed six investigations during the year. The following chart summarizes the allegations and investigative findings.

CASE NUMBER	ALLEGATIONS	FINDINGS
200203060002	Abuse of Position	Unsubstantiated
200204220001 Whistle-blower Case	Mismanagement	Unsubstantiated/ Inconclusive
200207080003	Misconduct	Unsubstantiated
200207110002	Falsification of Records	Substantiated
200210070003	Falsification of Records	Unsubstantiated
200301020001 Whistle-blower Case	Abuse of Position	Unsubstantiated

Investigation Summaries

The following case summaries provide an overview of the investigations conducted by our Office. They also show the findings, program recommendations, and follow-up made as a result of our investigations, if applicable.



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DEPARTMENT OF EDUCATION-ABUSE OF POSITION
Case Number 200203060002

Allegations:

On March 2, 2002, our Office received an anonymous complaint alleging that the Department of Education's (DOE) Inspector General shared confidential information, and lacked objectivity due to her supervision of audits of DOE project contracts which were the result of an investigation her office conducted. It was further alleged a DOE Bureau Chief lacked the proper qualifications and was therefore violating audit standards and the code of ethics; she was improperly forwarding her reports to the Inspector General instead of her supervisor; both she and the Inspector General were developing a tool to conduct annual risk assessments in order to deceive the federal government; and, the Inspector General, Bureau Chief, and an Operations and Management Consultant II tried to pressure two employees to allege a former employee made unwanted advances and they were having an affair with him.

Investigative Findings:

Our Office, in conjunction with the Department of Children and Families, Office of Inspector General, conducted an investigation to determine whether the allegations were credible. Interviews were conducted of several members of the DOE Office of Inspector General, as well as the Vocational and Rehabilitation Services Director within the DOE. The allegations were not substantiated.

Program Recommendation:

During the investigation, no attempt was made to determine whether the former employee in fact committed any acts of sexual harassment, as he was no longer employed by DOE. Therefore, further investigation of his alleged previous actions was not warranted. However, it was recommended DOE offer and require all employees attend a sexual harassment course which includes definitions and reporting requirements.

Follow-up Activity:

DOE Inspector General staff confirmed the recommendation presented in the report of investigation was implemented by DOE.



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STATE BOARD OF ADMINISTRATION-MISMANAGEMENT
Case Number 200204220001-Whistle-blower

Allegations:

On May 6, 2002 our Office initiated an investigation of allegations of mismanagement within the Florida State Board of Administration (FSBA). It was alleged senior management failed to properly investigate allegations of sexual harassment and employee misconduct. It was further alleged FSBA senior managers removed documents from a public record, and one senior FSBA manager verbally abused and caused a perceived physical threat to an employee.

Investigative Findings:

Our Office, with investigative assistance from the Offices of the Inspector General for the Departments of Transportation, Insurance, and Banking and Finance, conducted an investigation of these allegations. Several FSBA employees were interviewed, and a review was conducted of relevant supporting documentation regarding the handling of prior allegations involving sexual harassment and employee misconduct. This investigation did not substantiate the complainant's allegation of gross mismanagement. Due to irreconcilable conflicts in the statements of the individuals involved, the allegation a senior FSBA manager verbally abused and caused a perceived physical threat to an employee was inconclusive.

Program Recommendations:

As a result of the investigation, our Office made the following recommendations:

Management should immediately have a "climate assessment" conducted by an outside consultant;

The Board of Trustees for FSBA should consider creating an Office of Inspector General;

Orientation and periodic sexual harassment training should be conducted;

Clear policies should be adopted prohibiting employees



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from using FSBA resources; and,

Department of Management Services employee conduct standards should be reviewed and adopted as standards for FSBA employees.

Follow-up Activity:

Based on information provided to our Office by FSBA, the recommendations were accepted by management. A status report submitted by FSBA to our Office stated all recommendations were either implemented or in the process of implementation. The only exception, recommendation number one, was being considered as part of a broader organizational change and was not implemented at the time of the FSBA's final status report to our Office.

***DEPARTMENT OF CHILDREN AND FAMILIES-MISCONDUCT
Case Number 200207080003***

Allegations:

In July and August 2002, our Office received a series of anonymous complaints alleging numerous improprieties within the Office of the Inspector General, Department of Children and Families (DCF). It was alleged employees were retaliated against, the DCF Inspector General's Office breached confidentiality, and an employee of our Office, who is a former DCF employee, mishandled a complaint. Our Office requested a review of the allegations by the Florida Department of Law Enforcement (FDLE). At our request, the Department of Corrections (DOC) Inspector General's Office conducted an investigation of the allegations.

Investigative Findings:

FDLE advised our Office there was no identified criminal predicate warranting further FDLE investigation. In the absence of vital investigative leads, the investigation conducted by our Office relied primarily on an analysis of identified documentation, including the findings of DCF investigations, internal audits, and referrals. The voluminous documentation indicated adverse personnel action by DCF against alleged victims was based upon legitimate, non-discriminatory reasoning. It also indicated



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allegations presented to the DCF Inspector General were adequately addressed, especially considering their vague nature. Additionally, there was no identified evidence to support the allegation of a breach of confidentiality or the mishandling of complaints.

Program Recommendations: No recommendations were warranted.

***DEPARTMENT OF EDUCATION-FALSIFICATION OF RECORDS
Case Number 200207110002***

Allegations: On June 28, 2002 our Office received a complaint from the Office of Inspector General, Department of Education (DOE), alleging a DOE employee falsified his State of Florida application on three separate occasions by reporting he had received a Bachelor of Arts (B.A.) degree from Florida Agricultural and Mechanical University (FAMU).

Investigative Findings: A review was conducted of the employee's personnel file, the hiring packet for his current position, as well as his college transcripts. The investigation substantiated the employee submitted three separate State of Florida applications which reported he had earned a B.A. degree, however, according to the FAMU registrar, there was no degree on file for the employee.

Program Recommendation: As a result of the investigation, our Office recommended that management review the documentation regarding the employee's State of Florida application and take appropriate action.

Follow-up Activity: As a follow-up, the Department of Education's Office of Inspector General advised the employee was dismissed from his position.



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DEPARTMENT OF EDUCATION-FALSIFICATION OF RECORDS
Case Number 200210070003

Allegations:

On October 7, 2002 our Office received an anonymous complaint alleging an employee of the Vocational and Rehabilitation Services Division, Department of Education (DOE), falsified her references, length of employment, and time as a manager on her State of Florida application for both an Operations and Management Consultant (OMC) II position, and an OMC Manager position. It was further alleged a Division Bureau Chief knew of the falsifications when she hired this employee.

Investigative Findings:

This investigation did not reveal any indication the employee falsified her State of Florida employment application. A review of the documentation included in the employee's personnel file as well as the hiring package revealed a thorough review and verification process. Personnel officers from the agencies listed on the employee's application verified dates of employment and these dates were further verified in the State of Florida Cooperative Personnel Employment Subsystem (COPES) system.

Program Recommendations:

No recommendations were warranted.



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**DEPARTMENT OF ENVIRONMENTAL PROTECTION-ABUSE OF
POSITION-Case Number 200301020001-Whistle-blower**

Allegations:

On December 30, 2002 our Office received a complaint alleging an employee of the Department of Environmental Protection (DEP) violated Section 215.32, Florida Statutes, by diverting money from a settlement agreement to the Dade County Crime Task Force instead of to the state's general revenue fund. It was further alleged as a result of this violation, state purchasing rules were being violated, and there was no control or oversight of how this money was spent.

**Investigative
Findings:**

A review was conducted of all relevant documentation regarding the settlement agreement and the resulting allocation of funds to the Dade County Crime Task Force. Our investigation determined there was no evidence to indicate a violation of Section 215.32, Florida Statutes, or any subsequent violation of state purchasing rules occurred. It was determined money in the Dade County Crime Task Force is not state money, accordingly, state purchasing rules are not applicable to purchases made from this account. The account is under the care and control of the Miami Dade Police Department, which provides oversight to the administration of this fund, as well as a review for adherence to (Dade) county purchasing rules.

**Program
Recommendation:**

As a result of this investigation, our Office recommended DEP management review and evaluate the findings of this investigation to determine if additional action is required.

Follow-up Activity:

As a follow-up, the Department of Environmental Protection's Office of Inspector General advised no corrective action was needed.



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AUDIT ACTIVITY

Reports Completed

During fiscal year 2002-2003, we completed one audit report. We also worked with local governmental entities which were in a state of financial emergency.

Road Map to Excellence in Contracting Report Number 2003-03, Issued June 2003

Summary:

Under coordination of our Office, seven executive agencies performed an audit of the state's contracting process. The seven agencies were Corrections, Children & Families, Transportation, Management Services, Juvenile Justice, Education and the Executive Office of the Governor. Auditors from the Department of Children and Families assisted in managing this project.

The report examines the effectiveness of existing controls over contracting as measured by approximately 100 audits at seven Governor's agencies, identifies the risks inherent to those controls, and offers recommendations for improving accountability and better protecting the state's interest.

The Secretary of the Department of Management Services (DMS) generally agreed with our findings.

Finding:

Piecemeal statutes and rules. Current statutes and rules were developed piecemeal over time to address specific abuses and concerns rather than to establish a comprehensive and cohesive statewide procurement/contracting system. Consequently, poor contracting practices have resulted from fragmented implementation and inadequate procedures over mechanisms such as state term contracts and invitations to negotiate.

Recommendation:

We recommend an initiative, led by DMS and a core group of procurement staff, to monitor outsourcing practices for inadequacies and inconsistencies, and propose improved



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legislative and regulatory changes. This process, over time, could replace the myriad of overlapping and conflicting statutes and guidelines with one unified, effective system of controls.

Finding:

Lack of statewide guidance. The lack of centralized statewide direction in the procurement area has led to inconsistent and deficient contracting practices both among and within agencies. DMS is statutorily responsible for providing uniform contractual service procurement policies, rules and procedures. However, most agency managers interviewed felt that DMS essentially had abdicated that responsibility. Agencies could not obtain accurate guidance or approval for procurement actions in a timely manner. A contributing factor is that DMS has had four different directors or acting directors in charge of State Purchasing during the last 16 months.

Recommendation:

We recommend that DMS accept the mantle of leadership bestowed by Florida Statute. Section 287.032, F.S., states that the purpose of DMS is: "...to promote efficiency, economy; to effect coordination in the purchase of commodities and contractual services for the state; and, to provide uniform commodity and contractual service procurement policies, rules, procedures, and forms for use by agencies and eligible users...." Most deficiencies could be readily addressed and resolved by requiring that DMS embrace its statutory mandate.

Finding:

There is no statewide system to train or certify agency contracting personnel, nor are there incentives to encourage professional development. Some state agencies have implemented internal training programs for contract managers and contract monitors, but such implementations are sporadic. They range from an occasional class to a series of creditable classes where certification might be issued. Several national organizations and states promote the procurement profession and sponsor certification programs. The National Institute of Governmental Purchasing, Inc. offers several certification programs for procurement professionals (Certified Public Procurement Buyer and Certified Public Procurement



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Officer). The State of Massachusetts offers a curriculum leading to the Massachusetts Certified Public Purchasing Official designation. We believe Florida has failed to maximize the skills and abilities of procurement staff by not offering incentives or encouragement for professional development.

Finding:

The state's corporate culture does not foster the sharing of best contracting practices among agencies. In our conversations with the agency managers, we found varying degrees of sophistication in the manner in which tasks were performed. Some systems developed by agencies appear to be outstanding and could benefit all. For example:

The Department of Transportation developed and uses a web-based invoicing system to pay vendors. Transportation staff advised this has greatly reduced routine errors and processing time, and is a benefit to both vendors and the Department.

Likewise, the Department of Children and Families has developed a comprehensive on-line information system to aid in the initial contract writing process, and the monitoring, oversight and tracking of contractor performance. Sections include specific guidance on contract writing, managing, and monitoring as well as professional development.

Without a clearinghouse to share innovative ideas, and absent collaborative methodology when initially designing systems, the benefits are minimal to the enterprise.

Recommendation:

We recommend that DMS create and foster user groups of professional procurement staff that meet on a regular basis to share best practices and common problems. Output from this group could be used to spearhead changes in legislation and policy direction.

Finding:

Agencies' use of different processes and procedures in awarding and managing contracts causes the contract documents to vary considerably in format and content. This lack of consistency makes information exchange, document reviews and information comprehension



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extremely difficult. A first step in facilitating the exchange of information could be to develop a uniform contract format. By providing consistency in the layout and location of key provisions, this would:

- Simplify reading and interpretation of contracts for private industry, contract managers and contract reviewers;
- Shorten cycle times associated with preparation, review, and approval of contract documents. Contract managers would know precisely where to locate clauses and provisions, reviewers would know where to find information, and vendors could better understand contracts drafted by any agency;
- Enable implementation of common core training, leveraging economies of scale; and,
- Facilitate the movement of personnel among agencies within the contracting career field, thus expanding their career ladder and providing a more stable professional workforce.

Recommendation:

We recommend DMS, with the assistance of other agencies, develop standard contract formats for use by all state agencies. The standard contract should encompass the above referenced information.

Finding:

Inadequate systems exist for monitoring and rating vendor performance. Systems for properly monitoring and rating vendor performance are inadequate or non-existent. Presently, there is no uniform requirement in Florida law for an agency to monitor the performance of its contractual service providers or prepare a closeout document to rate vendors' performance. There is sporadic guidance in federal regulation and selected statutes. Also, there is no requirement for prospective procurers to consider other agencies' prior experience with a vendor. Consequently, vendors with inadequate performance may receive additional contracts because there is no system to capture performance results and incorporate these results into the



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selection process. Under the existing system, only in the event of default may a contractor's performance be considered in future bids. In effect, a contractor may be suspended from doing business with the state only after the contractor has failed to perform. However, a system of rating contractors on previous contract performance would ensure that the contractor's performance history is known and is considered during the bid evaluation process.

Recommendation:

We recommend a uniform vendor monitoring and rating system be created which incorporates links to contract monitoring reports, vendor websites, closeout evaluations, and a method for other agencies to access performance evaluations. Where possible the monitoring should be performed by employees who are independent of the earlier actions taken to award or manage the contract.

Finding:

A formal procedure for agencies to perform and document needs assessments has not been developed by DMS. Section 287.042(3)(d), F.S., requires DMS to develop procedures for agencies to use when making initial contracting decisions. These procedures should include identifying and assessing, in writing, project needs and requirements, availability of agency staff, budgetary constraints, facility and equipment availability, current and projected agency workload capabilities and the ability of other state agencies to perform the services. These requirements relate to the performance of a needs assessment prior to contracting with a vendor. This lack of formal guidance has resulted in additional project costs and purchases of unnecessary or incompatible goods or services.

Recommendation:

We recommend DMS fulfill the statutory mandate to develop formal procedures for agencies to perform and document needs assessment.

Finding:

Lack of expertise in negotiating contracts. The state uses a process of contract negotiation similar to the federal government. There are numerous safeguards in the federal model that are not included in the state model. The federal Truth in Negotiations Act (TINA) requires a bidder to show



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the cost, overhead, and profit associated with the contract. The federal government went through many years of debate prior to passing the Truth in Negotiations Act. This places both parties to the contract on an equal footing. In most cases, the state has no such requirement. State contract negotiators generally do not have this information and rely on the contractor's representations to determine contract pricing. In addition, the state seldom performs cost analyses prior to entering negotiations. Cost estimates would assist negotiators in determining whether contractor proposals are reasonable. In general, managers with limited knowledge or experience in procurement are negotiating with contractors' veteran negotiation teams, particularly for service contracts.

Recommendation: We recommend that legislation be proposed similar to the Truth in Negotiations Act to assist contract negotiators in determining whether the contractor's proposal is reasonable.

Coordination with Outside Organizations

During the 2002-2003 fiscal year, the Auditor General (AG) issued no reports and the Office of Policy Analysis and Government Accountability (OPPAGA) issued four reports, which included activities under the jurisdiction of the Executive Office of the Governor. These reports are:

OPPAGA: Report No. 02-59, dated November 2002 – Special Review: Statutes Authorizing Technology Commercialization and Development Initiatives Should Be Re-Enacted.

Report No. 02-60, dated November 2002 – Progress Report: Space Financing Corporation Has Addressed OPPAGA Recommendations.

Report No. 03-07, dated January 2003 – Program Review: VISIT FLORIDA Performs Well and Its Funding Should Be Continued; Outcome Measures Should Be Improved.

Report No. 03-20, dated March 2003 – Progress Report: OPPAGA Recommendation Adopted; Economic Development Toolkit Was Implemented.



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Local Government Financial Emergencies

When an Emergency Exists:

A local governmental entity is in a state of financial emergency when any of the following conditions set forth in Section 218.503(1), F.S., is met:

- (a) *Failure within the same fiscal year in which due to pay short-term loans from banks or failure to make bond debt service payments when due.*
- (b) *Failure to transfer at the appropriate time, due to lack of funds:*
 - 1. *Taxes withheld on the income of employees; or*
 - 2. *Employer and employee contributions for:*
 - a. *Federal social security; or*
 - b. *Any pension, retirement, or benefit plan of an employee.*
- (c) *Failure for one pay period to pay, due to lack of funds:*
 - 1. *Wages and salaries owed to employees; or*
 - 2. *Retirement benefits owed to former employees.*
- (d) *An unreserved or total fund balance or retained earnings deficit for which sufficient resources of the local governmental entity are not available to cover the deficit for 2 successive years.*
- (e) *Noncompliance of the local government retirement system with actuarial conditions provided by law.*

Governor's Authority:

The statute calls for the Governor to be notified when one or more of the above conditions exist and gives the Governor authority to implement such measures as:

- (a) *Requiring approval of the local governmental entity's budget by the Governor.*
- (b) *Authorizing a state loan to the local governmental entity and providing for repayment of same.*



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- (c) Prohibiting a local governmental entity from issuing bonds, notes, certificates of indebtedness or any other form of debt until such time as it is no longer subject to this section.*
- (d) Making such inspections and reviews of records, information, reports, and assets of the local governmental entity, in which inspections and reviews the appropriate local officials shall cooperate.*
- (e) Consulting with the officials of the local governmental entity and the appropriate state agency regarding any steps necessary to bring the books of account, accounting systems, financial procedures, and reports into compliance with state requirements.*
- (f) Providing technical assistance to the local governmental entity.*
- (g) Establishing a financial emergencies board to oversee the activities of the local governmental entity.*
- (h) Requiring and approving a plan, to be prepared by the appropriate state agency in conjunction with the local governmental entity, prescribing actions that will cause the local governmental entity to no longer be subject to this section.*

IG Involvement:

Section 218.39(5), F.S., requires “The Auditor shall notify each member of the governing body of a local governmental entity or district school board for which deteriorating financial conditions exist that may cause a condition described in Section 218.503(1), F.S., to occur if actions are not taken to address such conditions.” This requirement will put governing bodies on notice that if something is not done they could be entering a state of financial emergency.

Our Office works closely on these issues with the Staff Director, Joint Legislative Auditing Committee, and the Auditor General’s Office. We obtain audit reports and other financial information and provide advice and assistance to local governmental entities to help overcome their financial



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problems. We have formed a financial emergency task force to develop a Rapid Response Team to be ready to assist an entity entering into financial emergency.

**Governor's
Executive Order
02-125:**

On February 28, 2002, the City of Opa-locka, Florida, declared it was in a state of financial emergency under applicable state law and requested technical assistance and support from the Governor. On April 26, 2002, the Governor issued Executive Order Number 02-125 mandating that the City enter into an agreement with the state providing oversight of the City's financial operations until the financial emergency is resolved. The Executive Order designates our Office as the lead agency in carrying out the provisions of the Executive Order.

**State and Local
Agreement of
Cooperation:**

In addition, on May 21, 2002, the state and the City executed the State and Local Agreement of Cooperation (the Agreement). The agreement set forth the following general guidelines:

- The City will develop and maintain a Five-Year Recovery Plan (FRP).
- The City will submit the annual budget to the Executive Office of the Governor for review and approval.
- The City will develop procedures for reviewing monthly expenditures and submission of its annual budget for review and final approval.

**Oversight
Committee:**

Our Office established a Financial Oversight Committee consisting of representatives from several state agencies, including Environmental Protection, Community Affairs, Revenue and Banking and Finance. Representatives from the Joint Legislative Auditing Committee and the Auditor General are advisors to the Committee. In addition, executive office staff members from OPB, OTTED, Front Porch and our Office also serve on the Committee.



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**Financial Recovery
Plan:**

On July 1, 2002, the City submitted its first proposed FRP. On July 26, 2002, the Oversight Committee met and reviewed the FRP. While the Committee did not give final approval to the FRP, it determined there was enough valid information contained in the document to justify consideration of the City's budget for the fiscal year beginning October 1, 2002. Various technical issues, however, delayed final approval of the FRP as submitted on July 1, 2002.

During the time period of July 26, 2002 through June 30, 2003, the City submitted several revisions of the FRP to our Office for approval. Each one of these submissions contained material deficiencies and, as a result, were denied and sent back to the City for further revision.

After June 30, 2003, the City began to demonstrate an improved commitment to finalize and implement the FRP. We received two submissions of the FRP within the month of September 2003 alone. The City staff was much more proactive with our staff, and as a result, on September 8, 2003, the Oversight Committee approved the September 5, 2003 submission of the FRP, contingent on a few minor changes.

**Budget Review and
Approval:**

The City of Opa-locka's fiscal year 2003-2004 budget is pending approval.

**Contract and
Financial Review:**

Our Office and the Financial Oversight Committee also spent considerable time and resources reviewing and approving various contracts and other items which require specific approval from our Office. The FRP currently budgets for the establishment of reserves to be used to lift the City out of financial emergency. If the City has an emergency and is required to spend funds out of these reserves or any other contingency fund, the City is required to obtain prior approval from our Office for these expenditures.



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In addition to reviewing contracts, we also spent considerable time reviewing monthly financial statements, providing feedback to the City regarding these statements, coordinating activities of several supporting organizations, and providing significant technical assistance throughout the process.

Progress:

We are pleased to report the City of Opa-locka, through the technical assistance provided by our Office, has made significant strides toward eliminating the conditions which caused them to be in a state of financial emergency. We will continue to provide technical assistance, financial review, contract review, and other assistance as we continue to monitor their financial situation.

**Inspector General
Involvement:**

During this period, in addition to our efforts with Opa-locka, we participated in a number of meetings and phone contacts with representatives of other local governmental entities who were in a state of financial emergency. As of June 30, 2003, there were 49 local governmental entities (25 municipalities and 24 special districts) being monitored under the requirements of Section 218.503 (1), F.S., out of the approximately 1000 local governmental entities in Florida. (See chart on next page)





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**Local Government Financial Emergencies
Being Monitored as of June 30, 2003**

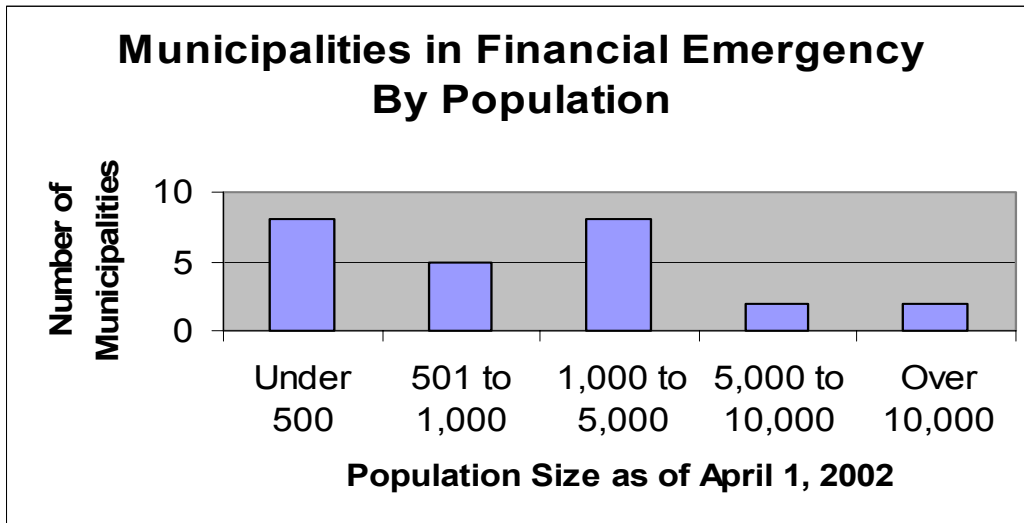
<i>LOCAL GOVERNMENTAL ENTITIES</i>
1. Area Housing Commission of Clewiston, LaBelle, and Hendry County
2. Bowling Green, City of
3. Capron Tail Community Development District
4. Caryville, Town of
5. Crestview, City of
6. Crossings at Fleming Island Community Development District
7. Cypress Cove Community Development District
8. Deer Island Community Development District
9. Dunes Community Development District
10. Eastpoint Water and Sewer District
11. Eatonville, Town of
12. Fallschase Community Development District
13. Gateway Services District
14. Greenville, Town of
15. Gretna, City of
16. Hampton, City of
17. Harmony Community Development District
18. Hawthorne, City of
19. Hendry County Hospital Authority
20. Heritage Harbor Community Development District
21. Heritage Isles Community Development District
22. Horseshoe Beach, Town of
23. Indian Creek Village
24. Jennings, Town of
25. Lanark Village Water and Sewer District
26. Leon County Educational Facilities Authority
27. Midway, City of
28. Minneola, City of
29. Mulberry, City of
30. Noma, Town of
31. Ocean Highway and Port Authority
32. Opa-locka, City of
33. Pahokee, City of
34. Paxton, City of
35. Performing Arts Center Authority, Broward
36. Ponce de Leon, Town of
37. Port of the Islands Community Development District
38. Reserve Community Development District
39. Sneads, Town of
40. South Bay, City of



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41. St. Lucie County Expressway Authority
42. St. Lucie West Services District
43. Stoneybrook Community Development District
44. Suwannee Water and Sewer District
45. Viera East Community Development District
46. Wausau, Town of
47. Webster, City of
48. Welaka, Town of
49. Westville, Town of
NOTE: Audited financial statements indicate some of these entities are in a technical financial emergency although no financial crisis exists.





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Risk Assessment/ Audit Plan Fiscal Years 2003-2005



A periodic risk assessment is required by Section 20.055(5)(h), F.S., and based upon the assessment, long term and annual audit plans are prepared. The risk assessment is to identify and catalog all auditable activities, to apply certain risk factors, and to assign priorities for audit based upon relative risk identified. For fiscal year 2003-2004 we updated our earlier risk assessment covering 70 auditable areas or activities and prepared our audit plan for fiscal years 2003–2005.

Risk Assessment Resources

Resources Available

Total Direct & Indirect Hours Available per Auditor (52 weeks x 5 days x 8 hours per day)	2,080
Less Indirect Time	
Holidays	80
Vacations	120
Sick Leave	80
Training	40
Administrative	400
Total Indirect Time	720
Total Direct Hours Available (per Auditor)	1,360
x Number of Auditors	2
Total Direct Hours Available for Audit	2,720



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Audit Plan—Fiscal Year 2003-2005

Audit Area	Audit Year FY 2003-2004	Estimated Hours	Audit Year FY 2004-2005
BBIB/Selected BBICs – Special Request – Carry Forward	1 audit	300	
Florida Space Research Institute – Special Request	1 audit	300	
Follow-Up – OTTED Contract Monitoring, Issued 9/21/98	1 audit	400	
EFI – Selected Areas	1 audit	320	
Financial Emergencies	-	700	
Special Projects/Advisory	2	400	
Assistance on Investigations	2	300	
Front Porch Florida/Office of Urban Opportunity			1 audit
Economic Development Transportation Fund/Road Fund			1 audit
Information Services (Selected Areas)			1 audit
EFI – Selected Areas			1 audit
Financial Emergencies			-
Special Projects/Advisory			2
Assistance on Investigations			2



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**STATISTICAL SUMMARY
FISCAL YEAR 2001-2003 ACTIVITIES**

	FY 2002-2003	FY 2001- 2002
Whistle-blower Hotline Calls	627	50
Reviewed and Processed Auditor General, OPPAGA, and Inspectors General Internal Audit Reports	321	343
Written Complaints Handled	532	485
Active Investigations Tracked	455*	304
Public Records Requests	6	3
Local Governments in a Financial Emergency Being Tracked at the End of the Year	49	49
Coordination with Auditor General's Office on Reports Covering Executive Office of the Governor Activities	0	3
Investigations Completed	6	3
Audits Completed	1	4

* - This number includes complaints which were referred to agency Inspectors General for response and/or handling as deemed appropriate.