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Office of the Governor

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MAR 14 2006

**Governor's Office
Chief Inspector General**

March 14, 2006

Ms. Kim Mills
Director of Auditing
Office of the Chief Inspector General
Suite 2103, The Capitol
Tallahassee, Florida 32399

Re: Preliminary and tentative audit findings and recommendations which may be included in a report to be prepared on the audit of the contract between the Office of Tourism, Trade and Economic Development and Enterprise Florida, Inc. (EFI)

Dear Ms. Mills:

Thank you for the opportunity to review and comment on the preliminary audit findings and recommendations included in the above referenced report. In general, we found the report to present a fair evaluation of our contract monitoring over Enterprise Florida, Inc; however, we would like to clarify our position on the issues brought forward. Please find the enclosed response, which provides our comments in detail.

On a personal note, I commend your staff for the professional manner in which they conducted this review. If you have any questions about our comments, or would like to discuss any aspect further, please do not hesitate to contact me at (850) 487-2568.

Sincerely,

Pamella J. Dana, Director
Office of Tourism, Trade and Economic Development

cc: Mark Kaplan
Scott Fennell

Enclosure



Governor's Mentoring Initiative

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**AUDIT OF THE CONTRACT BETWEEN THE OFFICE OF TOURISM, TRADE, AND ECONOMIC
DEVELOPMENT AND ENTERPRISE FLORIDA, INC.**

EXECUTIVE SUMMARY

The Office of the Chief Inspector General performed an audit of the contract between the Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida, Inc. (EFI) for the period July 1, 2004, through June 30, 2005. The objective of this audit was to evaluate the effectiveness of OTTED's contract monitoring procedures to ensure contract provisions, deliverables, time deadlines, and other requirements were performed and delivered pursuant to the terms of the 2004-2005 contract.

SYNOPSIS OF EVALUATION OF SELECTED ACTIVITIES

- We determined that the contract document generally included the statutory requirements of Chapters 288, 220, and Section 14.2015, Florida Statutes (F.S.), and we confirmed that all deliverables selected for our review were provided to OTTED and accepted as satisfactory.
- We reviewed bank statements for deposits made into the grant program money market account. We confirmed this is an interest bearing account used only for grant program money and all interest earned from this account was remitted quarterly to the State and was properly deposited.
- Except as noted in Finding One (1) of this report, EFI appears to have met the dollar threshold for obtaining private-sector funds as required by Section 288.90151(4)(b), F.S. Our review indicated that all private-sector cash contributions were appropriately classified, deposited, and accounted for.

- The contract monitoring process was generally effective except as noted in the findings of this report.

SYNOPSIS OF FINDINGS

- There are significant deficiencies in the underlying data and the methodology used by EFI when reporting the in-kind private-sector support received through the Quick Response Training (QRT) Program as required by Section 288.90151(5)(d), F.S. The appropriateness of using QRT Program expenditures as in-kind contributions for EFI should be reconsidered or, EFI, in consultation with Workforce Florida, Inc., (the current QRT Program administrator) and OTTED should develop a methodology to properly account for QRT Program in-kind contributions.
- EFI administered the Technology Research Investment Fund program, known as TIF, which was created in Section 288.9515, F.S. (1994), and later repealed July 1, 2004. EFI transferred funds totaling \$244,160.59 to the State Board of Administration (SBA) on May 12, 2005, in accordance with the liquidation procedures described in Section 288.9515(4)(d), F.S. According to SBA, it is their intent to return the money to EFI, in order to continue the TIF Program. OTTED was unaware that the SBA was planning to return the funds to EFI. *(In their attached response, SBA indicated the transfer of funds back to EFI, including interest earned, was completed on February 13, 2006).* A clear determination as to the appropriate disposition of these funds should be made.
- In 1992, EFI and the Florida Seaport Transportation and Economic

Development Council (FSTEDC) were required by Section 288.8155, F.S., (1992), to establish a comprehensive trade data resource and research center to be known as the "International Trade Data Resource and Research Center" (Center). The Center eventually became inactive on October 4, 2002, and although this requirement to maintain the Center was removed from the 2005 Florida Statutes, the Center's business checking account with a balance of \$12,759.04 still remains open and unresolved as to the appropriate disposition of the account. OTTED should take appropriate action to officially close the checking account.

SCOPE AND OBJECTIVE

In accordance with the requirements of Section 14.2015(3)(e), Florida Statutes (F.S.), we have conducted this audit of the contract between the Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida, Inc (EFI). OTTED is an organizational unit within the Executive Office of the Governor (EOG). This audit covered selected provisions contained within the contract between OTTED and EFI in effect during the 2004-2005 fiscal year. The audit period was July 1, 2004, through June 30, 2005.

The objective of this audit was to evaluate the effectiveness of OTTED's contract monitoring procedures to ensure contract provisions, deliverables, time deadlines, and other requirements were performed and delivered pursuant to the terms of the 2004-2005 contract.

METHODOLOGY

Our audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing

published by the Institute of Internal Auditors. We performed analytical procedures and made evaluations of the process for the development and execution of the contract document and the process used for monitoring contract activities. We reviewed applicable statutes and legislative appropriations, the contract document, quarterly reports submitted by EFI to obtain the quarterly draw from OTTED, and other contract deliverables submitted by EFI to OTTED. We interviewed relevant staff from EOG, OTTED, EFI, Workforce Florida, Inc. (WFI), and the State Board of Administration (SBA).

INTERNAL CONTROL

Management is responsible for establishing and maintaining an adequate system of internal controls. Internal controls are necessary to provide reasonable assurance that program goals and objectives are met; program resources are used consistent with the agreement; program resources are safeguarded against waste, loss, misuse, and theft; and reliable data is maintained and fairly presented in reports. Because of inherent limitations in any internal control system, errors and irregularities may nevertheless occur.

As part of our audit, we evaluated the internal controls over the contract development and execution process and the contract monitoring process. The results of our evaluation of selected activities are as follows:

- We determined that the contract document generally included the statutory requirements of Chapters 288, 220, and Section 14.2015, F.S., and we confirmed that all deliverables selected for our review were provided to OTTED and accepted as satisfactory.
- We reviewed bank statements for deposits made into the grant program

money market account. We confirmed this is an interest bearing account used only for grant program money and all interest earned from this account was remitted quarterly to the State and was properly deposited.

- Except as noted in Finding One (1) of this report, EFI appears to have met the dollar threshold for obtaining private-sector funds as required by Section 288.90151(4)(b), F.S. Our review indicated that all private-sector cash contributions were appropriately classified, deposited, and accounted for.

Our findings and recommendations for improving internal controls over the contract monitoring process are presented in the Findings and Recommendations section of this report.

BACKGROUND

Section 14.2015, F.S., establishes the contract relationship between OTTED and EFI. EFI is a public-private partnership created by the Legislature to serve as the State’s principal economic development organization. The partnership provides a means by which the private-sector and government assume joint responsibility for the design and delivery of public programs and services. As a public-private partnership, the Legislature has established expectations for EFI to obtain private-sector support to help pay for its costs of operations. In addition, Section 288.90151, F.S., requires the EOG to place in reserve a specified percentage of general revenue funds appropriated to the OTTED for the purpose of annually contracting with EFI. The funds placed in reserve may only be released if EFI provides OTTED with sufficient documentation to substantiate that the contract deliverables have been provided. The amount for the 2004-2005 fiscal year contract was \$12,029,231 (with

\$10,700,000 to be paid to EFI and \$1,329,231 to be paid to subcontractors as directed by the Legislature).

FINDINGS AND RECOMMENDATIONS

FINDING 1 – Quick Response Training (QRT) In-kind Private-Sector Support

Section 288.90151(3), F.S., indicates that it is the intent of the Legislature to maximize private-sector support in operating EFI as an endorsement of its value and as an enhancement of its efforts. To achieve that goal, Section 288.90151(4)(b), F.S., requires that each fiscal year private-sector support to EFI shall equal no less than 100 percent of the State’s operating investment including at least \$1 million in cash as defined in paragraph (5)(a), and an additional \$400,000 in cash as defined in paragraphs (5)(a), (b), and (c). Paragraph 5 states private-sector support includes:

- (a) Cash given directly to EFI for its operating budget;
- (b) Cash jointly raised by EFI and a local economic development organization, a group of such organizations, or a statewide business organization that supports collaborative projects;
- (c) Cash generated by products or services of EFI; and
- (d) *In-kind contributions directly to EFI, including: business expenditures; business services provided; business support; or other business contributions that augment the operations, program, activities, or assets of EFI including . . . private-sector staff services; payment for advertising placements; mission or program sponsorship . . . (emphasis added)*

The State's operating investment, as defined in Section 288.90151(4)(a), F.S, was \$10,700,000 for fiscal year 2004-2005.

Under these provisions of law, EFI was required to obtain private-sector support in fiscal year 2004-2005 as follows:

Overview of Private-Sector Support

Table 1

Authority	Source of private-sector support	Required level of private-sector support	Amount EFI reported as private-sector support received
§ 288.90151 (5)(a), F.S.	Company donations to obtain at-large EFI Board seat	(Cash) \$1,000,000	\$1,808,333
§ 288.90151 (5)(b) & (c), F.S.	Sponsorships, Trade Event Fees, Advertising, and EFI Administrative Services	(Cash) \$400,000	\$1,750,959
§ 288.90151 (5)(d), F.S.	In-Kind Advertising and Quick Response Training	(In-Kind) \$9,300,000	\$16,414,319 ¹
Total		<u>\$ 10,700,000</u>	<u>\$19,983,611</u>

¹ \$16,400,924 of the total in-kind contribution was received through the Quick Response Training program while \$13,395 was received through in-kind advertising. These combined make up the total in-kind contribution.

We obtained a listing from EFI of the private-sector support received for each category specified in Section 288.90151(5), F.S., and we performed tests to determine whether the support in each category met the statutory requirements and was accounted for properly. EFI appears to have met the dollar threshold for obtaining private-sector funds pursuant to Sections 288.90151(5)(a), (b), and (c), F.S., and the collections reported in these categories were appropriate, deposited correctly, and accounted for properly. However, our review disclosed significant deficiencies in the underlying data and the methodology used by EFI for reporting the private-sector support required by Section 288.90151(5) (d), F.S., *Return on investment from activities of Enterprise Florida, Inc.*

Section 288.047(9), F.S., provides that in-kind contributions made through the Quick-Response Training (QRT) Program may be counted toward the private-sector support required in Section 288.90151(5)(d), F.S. The QRT Program was formerly a part of EFI but is now administered by Workforce Florida, Inc (WFI). The QRT Program provides funding to businesses that are locating or expanding in Florida and have a need for customized training for its employees. Eligible businesses apply to WFI for QRT grant money by completing an application in which they give their best projection of what they think the total cost of employee training will be for a 24-month period. Once WFI approves the business's application, the business enters into a 24-month contract with WFI to proceed with the grant. Each month the business files a reimbursement report for dollars spent. WFI reviews the report for reasonableness and reimburses the grant recipient for the amount reported up to the total grant amount.

WFI provides to EFI a quarterly listing of newly-entered contracts showing the 24-month training expense projections. EFI submits quarterly reports to OTTED to substantiate that the deliverables of the

OTTED/EFI contract have been met, to provide evidence of matching funds received, and to report in-kind contributions. EFI reports the 24-month cost projections to OTTED as the private-sector in-kind support received in that quarter.

The OTTED Contract Manager did not require submission of supporting documentation as a means of verifying the reported amounts. Nevertheless, based on the information in the quarterly reports and the receipt of other deliverables, OTTED paid EFI a total of \$10,700,000 in fiscal year 2004-2005. Exhibit A depicts this process in flowchart form.

Our review of this process raised several serious questions. First, it is unclear why expenditures of a program administered by another agency and not under the control of EFI would be considered as in-kind contributions by EFI. OTTED staff recognized this inconsistency and in the 2005 Legislative Session they proposed elimination of the provisions of Section 288.047(9), F.S. However, their efforts were not successful and the provisions are still in effect.

Second, EFI's methodology for reporting in-kind contributions is flawed because the contributions are reported before the services are provided and the reported contribution is not revised by EFI in the event the employer spends more or less during that 24-month period. Further, there is no reconciliation of the businesses original projected costs to the actual training costs reimbursed by WFI. In fact, if the employer goes out of business or otherwise does not meet the requirements of the contract, this reduction in projected training cost is not reported by WFI to EFI and OTTED.

Third, OTTED's payment process is also flawed. Because compliance with Section 288.90151(5)(d), F.S., is one of the criteria used as a basis for determining the amount to be paid to EFI, OTTED should have

procedures in place to ensure that the amount claimed as in-kind contributions is correct. Such procedures have not been developed.

Finally, to determine if there were any issues relating to the reliability of the QRT Program data, we reviewed the independent audit report of the WFI Board of Directors for the period ending June 30, 2005 and released October 11, 2005. The report indicated WFI did not require businesses applying for grant assistance to demonstrate their financial viability. Further, WFI performs site visits on only 10 percent of the grant recipients. In their response to a finding pertaining to internal control over financial reporting, WFI management stated, "QRT does not require invoices for training by outside subrecipients... QRT requires that the instructional wage report be completed with the name of the class, instructor name, number of hours of instruction and the list of students attending the class. From this information, program staff confirms the class has been approved in the award, the hourly rate of pay for instruction, and that the requested amount is correct. Payment is then processed." No class rosters are maintained, student contact information is not obtained, and tests are not given to students to determine the effectiveness of the program. These findings indicate that even if OTTED were to require the methodology be changed to report actual in-kind expenditures, EFI would not be able to obtain sufficient documentation from WFI to substantiate the training expenditures that are reported.

RECOMMENDATION

To address the deficiencies noted regarding compliance with Section 288.90151(4)(b), F.S., we recommend the following:

- The appropriateness of Section 288.047 (9), F.S., should be addressed in light of the change in administration from EFI to WFI. Elimination of this statute should be considered. If it is deleted, another

source of in-kind contributions should be designated and/or the level of private-sector support required by Section 288.90151(4)(b) should be adjusted.

- If the previous recommendation is not implemented, EFI, in consultation with OTTED and WFI, should develop a methodology to determine actual expenditures incurred in the QRT Program and a procedure for reporting adjusted amounts to OTTED. The reported amounts should be verifiable and have adequate supporting documentation.
- OTTED's Contract Manager should periodically review a sample of the documentation supporting in-kind contributions reported by EFI to detect and deter errors. OTTED should also develop procedures to properly account for all private-sector contributions.

FINDING 2 - Technology Research Investment Trust Fund

EFI administered the Technology Research Investment Fund Program, known as TIF, which was created in Section 288.9515, F.S. (1994), and later repealed July 1, 2004. The intent of the TIF Program was to foster increased technology development in this State by investing in technology development projects that had the potential to generate investment-grade technologies of importance to the State's economy. In this program, EFI's investment of moneys contained in the TIF was limited to investments in qualified securities in which a private enterprise in this State co-invested at least 40 percent of the total project costs. In return, the businesses participating in the project agreed to repay the investment amount plus make royalty payments of twice that amount to EFI to self-perpetuate the program. The law provided that not more than \$175,000 or 5 percent of the revenues generated by investment of

moneys contained in the TIF, whichever is greater, could be used to pay EFI's operating expenses associated with the operation of this fund. Moneys received were deposited in the grant program bank account or the operating bank account, as appropriate.

In the event of liquidation or dissolution of the TIF, any rights or interests to the fund was to vest in the State, under the control of the SBA after payment of all debts and obligations upon liquidation or dissolution of the fund.

Our review of bank statements disclosed that EFI transferred funds of \$220,744.05 from the grant program account and \$43,416.54 from the operating account to the SBA on May 12, 2005, in accordance with the liquidation procedures described in Section 288.9515(4)(d), F.S. According to the State Board of Administration (SBA), upon transfer of the TIF money, they entered into a short-term trust agreement with EFI to manage these funds for a period ending December 31, 2005, at which time SBA would return the money to EFI in order to continue the intent of the TIF Program. *(In their attached response, SBA indicated the transfer of funds back to EFI, including interest earned, was completed on February 13, 2006).* It is also our understanding that EFI has continued to receive an undisclosed amount of investment revenues from participating businesses. Those funds are being held in a separate operating account.

In our review of the statutes and discussion with OTTED, EFI, and SBA staff, we were unable to obtain a clear answer as to whether the funds related to the TIF should remain with the SBA for State investment purposes or whether they should be sent to EFI for their use. Also, we found no evidence of monitoring of this account and the receipt of future funds by the OTTED Contract Manager.

RECOMMENDATION

To address the disposition of the TIF Program fund, we recommend the following:

- OTTED staff should work in conjunction with EFI, the EOG General Counsel's Office, and the SBA Board to determine the appropriate disposition of TIF moneys currently on hand and moneys remitted in the future by participating businesses.
- The OTTED Contract Manager should review records related to money received after dissolution of the TIF to ensure that all funds have been accounted for properly.
- The Contract Manager should develop a procedure for tracking, monitoring, and verifying the disposition of moneys for programs and accounts subject to his review that become defunct.

FINDING 3 - International Trade Data Resource and Research Center

In 1992, EFI and the Florida Seaport Transportation and Economic Development Council (FSTEDC) were required by Section 288.8155, F.S., (1992), to establish a comprehensive trade data resource and research center to be known as the "International Trade Data Resource and Research Center" (Center). The Center was to be incorporated as a private nonprofit corporation and was to operate in compliance with Chapter 617, F.S. The Center was not to be a unit or entity of state government; instead, it was to be governed by a board of directors with one representative appointed by EFI, one representative appointed by the FSTEDC, and one representative appointed by the OTTED.

The purpose of the Center was to develop a statewide and international trade

information system that would track imports and exports, measure cargo flow by transportation mode, identify commodity trends, and perform research to identify trade opportunities. This information was to be marketed and sold to external businesses but was to be available to the FSTEDC, EFI, OTTED, and other state agencies. As a business, the Center was authorized to make and enter into contracts and other instruments with public and private-sector entities.

During our audit we compared the requirements of the OTTED/EFI contract document to selected statutory requirements of EFI. The statutory requirement related to the Center was not included in the contract agreement. Our inquiry into this omission disclosed that the Center had been registered with the Department of State, Division of Corporations, on March 11, 1993, but it became inactive on October 4, 2002, when papers were filed on its behalf for administrative dissolution. Although OTTED and EFI were successful in having the requirements of Section 288.8155, F.S. removed from the 2005 F.S., we noted that the Center still had an open business checking account with a balance of \$12,759.04 as of October 31, 2005. Staff persons from EFI and OTTED are signers on the account.

The OTTED Contract Manager indicated that steps had been taken to close the account but the task had not yet been completed. Until the account is closed the funds are not available for use by the State.

RECOMMENDATION

To address the disposition of the Center's bank account and deficiencies noted regarding handling of defunct programs, we recommend the following:

- OTTED should take appropriate action to officially close the checking account.

- OTTED should work with the staff from EFI and the Department of Financial Services to determine the proper disposition of funds received from the closed bank account.
- The Contract Manager should develop a procedure for tracking, monitoring, and verifying the disposition of moneys for programs and accounts subject to his review that become defunct.

FINAL COMMENTS

The Office of the Chief Inspector General would like to extend our appreciation to the management and staff of OTTED, EFI, SBA, and WFI for their assistance and cooperation extended to us during our audit.

Audit performed by:

Laure N. Boyd, CIA, CGAP
Audit Administrator

Audit Reviewed by:

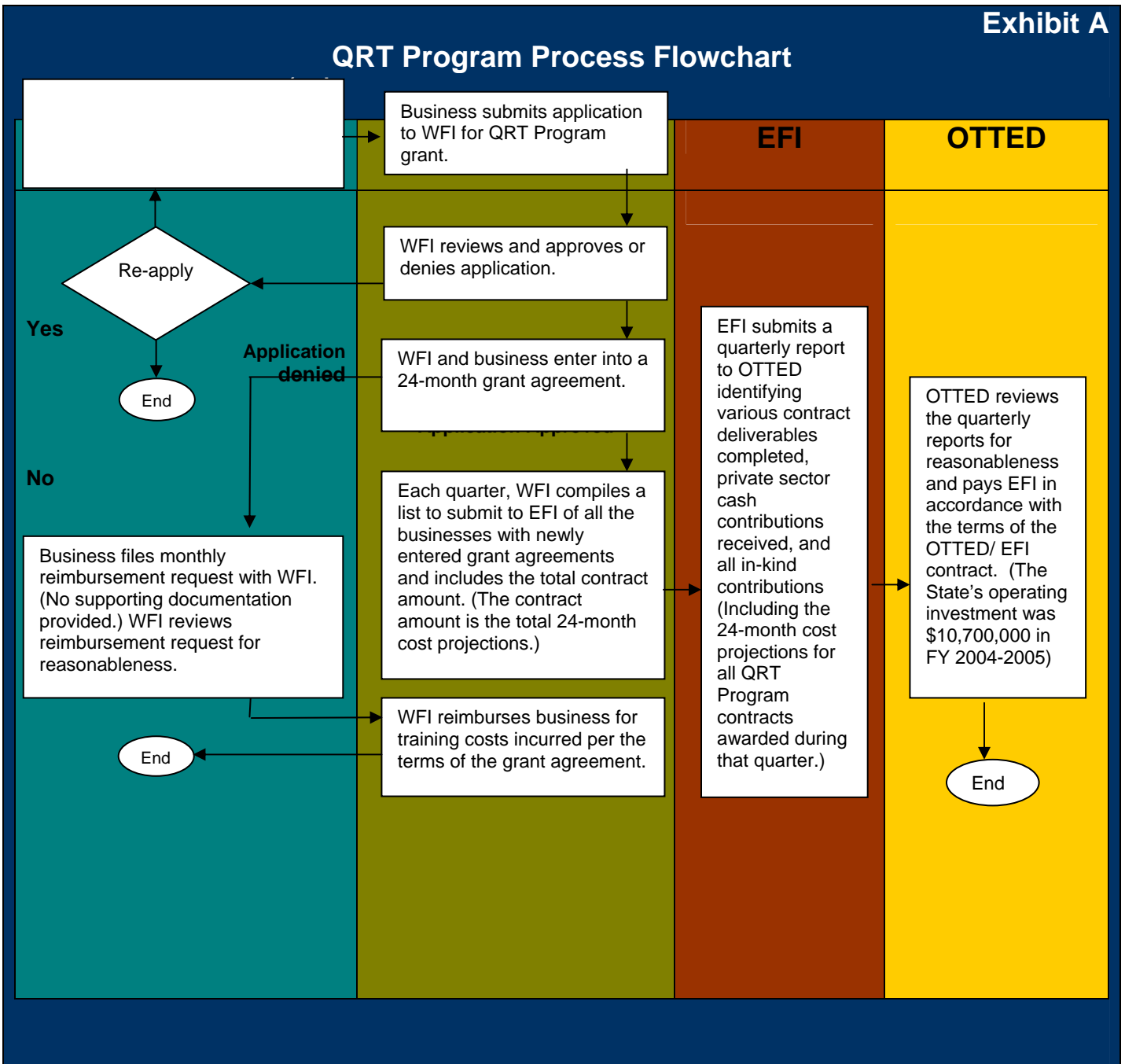
Kim B. Mills, CPA, CGFM, CIG
Director of Auditing

Audit Approved by:

Derry Harper, CIG
Chief Inspector General

Exhibit A

QRT Program Process Flowchart



Ms. Kim B. Mills
March 3, 2006

SBA Response:

In accordance with the Trust Agreement signed by Enterprise Florida Inc. (EFI) and the SBA that ended on December 30, 2005, the fund entrusted to the SBA, including the interest earned net of SBA management fee of \$500, was returned to EFI on the following dates:

July 15, 2005 ¹	\$ 50,000.00
January 3, 2006	218,035.82
February 13, 2006	<u>845.66</u>
Total	\$268,881.48

The SBA will support the initiatives of OTTED within the Office of the Governor to be able to implement the recommendation mentioned in the previous page of this letter.

Thank you for the opportunity to respond to the recommendation that affect the SBA. If you have any questions, please feel free to contact either Ms. Rivera-Alsing at (850) 413-1259 or me at (850) 413-1250.

Sincerely,



Coleman Stipanovich
Executive Director

cc: Florida Rivera-Alsing, Chief of Internal Audit

¹ Withdrawal initiated by Enterprise Florida, Inc.