



AUDITOR GENERAL

WILLIAM O. MONROE, CPA



DEPARTMENT OF LEGAL AFFAIRS

ADMINISTRATIVE ACTIVITIES

Operational Audit

SUMMARY

The Department of Legal Affairs is responsible for the enforcement of State consumer protection and antitrust laws, as well as civil prosecution of criminal racketeering. Our audit focused on the Department’s administrative activities, including cash receipts, accounts receivable, records management, budget management, and cost allocation. During the 2003-04 fiscal year, Department revenues totaled \$167 million and expenditures totaled \$171 million. Our audit covered the period February 2004 through January 2005 and disclosed the following:

Finding No. 1: The Department’s procedures to secure and process cash receipts were in need of improvement.

Finding No. 2: The Department did not always properly record accounts receivable. Additionally, the Department’s procedures were not adequate to properly establish the allowance for uncollectible accounts or to determine when uncollectible accounts should be written off.

Finding No. 3: The Department needs to improve its procedures and documentation of the review of cellular telephone bills and the periodic review of billing options.

Finding No. 4: The Department did not have policies and procedures regarding the appropriate usage of the Department’s instant messaging system.

Finding No. 5: The Department had not implemented effective processes to ensure that the fund balance of the Legal Affairs Revolving Trust Fund does not exceed statutory maximums. Additionally, the Department did not perform periodic reviews of its other trust funds’ balances.

Finding No. 6: The Department transferred \$3.4 million between funds and budget entities without appropriate authorization.

Finding No. 7: The Department did not properly allocate administrative costs, thereby precluding accurate and complete determination of the total costs of various organizational units and program activities within the Department.

BACKGROUND

The Department of Legal Affairs is responsible for the enforcement of State consumer protection and antitrust laws, as well as civil prosecution of criminal racketeering. The Department has established the Division of Administrative Services to support the Department’s activities. This Division is responsible for the Department’s accounting, personnel, budget, information technology, and support services.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Cash Receipts

The majority of cash receipts that are received and processed by the Department’s program offices represent fines and restitution. The program offices are responsible for submitting these receipts to Finance and Accounting (F&A) for subsequent deposit. Our review of the Department’s cash receipt procedures within six program offices and F&A disclosed:

- All six program offices have an inadequate segregation of duties over the custody and recordkeeping of cash receipts and five have

an inadequate segregation for the subsequent recordkeeping and authorization of accounts receivable. The failure to segregate authorization, custody of assets, and recordkeeping lessens assurance that errors or fraud would be timely detected.

- In five program offices and the Department’s mailroom, checks were not restrictively endorsed immediately upon receipt. The immediate restrictive endorsement of checks helps to deter theft.
- The Department’s mailroom did not maintain documentation to support the transfer of custody of checks between the mailroom and F&A. Additionally, F&A did not maintain documentation to support transfers of custody that occur within F&A. The use of documentation to support transfers of custody would help the Department fix responsibility should problems arise.
- The Department did not maintain a listing of the persons responsible for cash collections. A listing of cash collection locations and persons responsible would enhance the Department’s control over cash receipts.

Subsequent to our audit inquiry, the Department implemented procedures within the mailroom to ensure that checks are logged and restrictively endorsed upon receipt. Additionally, the transfer of custody between the mailroom and program or F&A staff is now documented appropriately.

Recommendation: We recommend the Department ensure that an appropriate segregation of duties is maintained within the cash receipts function and that checks are restrictively endorsed upon receipt. Additionally, the Department should maintain a listing of persons responsible for cash collections. Alternatively, the Department may consider the feasibility of centralizing the cash receipts process.

Finding No. 2: Accounts Receivable

A significant portion of the Department’s accounts receivable are comprised of judgments and settlements in which restitution is awarded to the Department. The cases resulting in the judgments and settlements are handled by the program offices. Department

procedures required that the program offices provide F&A receivable documentation that includes the dates on which payments are due. Generally, documentation provided by the program offices did not include the required information regarding payment dates, resulting in the following:

- The Department classified all accounts receivable resulting from judgments and settlements as current receivables (i.e., payable within one year). Due to the nature of the Department’s accounts receivable, a significant amount of accounts receivable are unlikely to be collected within the first year. For example, in some cases, restitution is ordered at the same time a defendant is incarcerated. In many instances where a defendant is incarcerated, payments do not start until after the defendant’s incarceration has ended. This makes it unlikely that payments on the defendant’s account will be made within one year.
- F&A transferred all accounts receivable to the allowance for uncollectible accounts after one State fiscal year of inactivity. The Department does not have established criteria for determining when accounts receivable should be written off as uncollectible.
- Our review of 17 cases where receivables should have been established disclosed that the program offices did not provide F&A with documentation to establish receivables in the accounting records for 5 cases totaling \$60,928.

Recommendation: The Department should ensure that the program offices provide F&A with required information to properly record accounts receivable, recognize the timeliness of collections, and identify uncollectible accounts. Additionally, the Department should establish criteria to evaluate when receivables should be written off as uncollectible.

Finding No. 3: Cellular Telephones

During the period February 2004 through January 2005, cellular telephone expenditures totaled \$88,556. As of January 2005, the Department owned 216 cellular telephones, of which 214 phones were assigned to four shared minute plans. Our

examination of Department procedures and records relating to cellular telephone usage disclosed:

- The Department did not have adequate procedures to document the review of cellular telephone billings to preclude payment of personal cellular telephone calls. The procedures in place during our audit period did not require the cellular telephone user to represent that all billed calls were for official State business, unless identified by the user as a personal call subject to reimbursement, nor did they require the review to occur within a specified time period. Our examination of 40 cellular telephone bills disclosed:
 - 17 of the 40 bills had no documentation of a review by the user.
 - 20 of the 23 users that reviewed his or her cellular telephone bills either did not certify that all calls were for business purposes, date their review, or timely complete the certification.
- The *Reference Guide for State Expenditures* established by the Department of Financial Services provides that billing options should be reviewed to determine that the most economical option is selected considering the specific usage requirements of the cellular telephone user. The Department’s current procedures, in providing that the review of billing options be performed by the cellular telephone carriers, may not result in the selection of the most economical option. In addition, since the initial analysis of the Department’s cellular phone usage performed by one of its carriers in May 2004, the billing options have not been reviewed by either the carriers or the Department. Our review of usage for one of the four shared minute plans disclosed that, during the period November 2004 through January 2005, 41.5 percent of minutes (15,569 of 37,500) available were unused.
- Our review of cellular telephone assignment and usage disclosed that there were a significant number of telephones that were not assigned to employees or were underutilized. Our analysis of cellular telephone usage over a three-month billing period disclosed:

	November	December	January
Total Number of Phones Reviewed	217	215	214
Number of Phones Not Assigned ⁽¹⁾	38	36	38
Number of Phones with No Usage ⁽²⁾	47	45	40
Number of Phones With Less Than 25 Minutes Used	22	20	18
⁽¹⁾ 23 of the phones were unassigned during the entire three month period.			
⁽²⁾ 33 of the phones had no usage during the entire three month period.			

In response to our inquiries, Department personnel indicated that they were in the process of developing detailed procedures for certifying and segregating State and personal calls. Additionally, Department personnel indicated that staff made numerous attempts through e-mails and phone calls to obtain a usage analysis from the cellular carrier. Documentation provided indicated that the most recent attempt to obtain such an analysis was November 2004.

Recommendation: We recommend the Department continue its efforts to establish written policies and procedures that provide documentation of an adequate review of cellular telephone billings to preclude payment of personal cellular telephone calls.

We also recommend that, rather than relying on its cellular carriers, the Department perform its own periodic evaluation of cellular telephone usage and assignment to determine that the most economical option is selected considering the specific usage requirements of the cellular telephone users.

Finding No. 4: Records Management

The Department has utilized an instant messaging system for various intra-department communications since September 1999. Instant messaging continues to be an emerging technology that provides users the ability to have real-time online communications. Neither the Florida Statutes, relevant court decisions,

nor any other relevant authoritative literature provides guidance regarding the use of instant messaging systems by governmental entities, as it relates to the definition of a public record and the associated need for appropriate retention of communications determined to be public records. Absent appropriate guidance over the use of instant messaging systems, the Department has the responsibility for establishing definitive policies and procedures designed to ensure that the use of instant messaging by its employees is consistent with the State’s public records laws. In the event that the content of instant messages is identified as public records, policies should be established that identify how such messages should be retained and archived. However, the Department has not established such policies and procedures.

Recommendation: The Legislature should consider clarifying existing public record laws to provide guidance over the use of instant messaging systems by State agencies.

Until statutory guidance becomes available, the Department should establish policies and procedures requiring the instant messaging system to be used for communications that do not fall under the State’s current public records laws or, alternatively, that communications determined to be public records are appropriately retained.

Finding No. 5: Trust Fund Balances

Florida law has established the Legal Affairs Revolving Trust Fund to account for the revenues and expenditures associated with the investigation, prosecution, and enforcement by the Attorney General of the provisions of the Racketeer Influenced and Corrupt Organization (RICO) Act, the Florida Deceptive and Unfair Trade Practices Act, the Florida False Claims Act, and State or Federal antitrust laws.¹ Furthermore, Florida law requires, at the end of the fiscal year, a transfer to the General Revenue Fund unallocated of any moneys remaining in the Legal Affairs Revolving Trust Fund in excess of three times the amount of the forthcoming year’s combined

budgets for the antitrust and racketeering sections of the Department.²

Department procedures for analyzing the Legal Affairs Revolving Trust Fund equity balance at the end of each fiscal year were inadequate to ensure compliance with the Fund’s statutorily established maximum. The Department used the forthcoming year’s combined budget for the Antitrust and Economic Crimes units in its calculations to determine whether the Fund’s equity balance exceeds its statutory maximum. However, in addition to conducting racketeering-related activities, the Economic Crimes unit encompasses various other activities and programs of the Department. Consequently, the methodology employed by the Department results in an overstatement of the statutory maximum, which could inappropriately prevent the required transfer of excess moneys to the General Revenue Fund. In response to our inquiries, Department personnel indicated that the current organizational and budgeting structure of the Department has rendered impossible the clear examination of the combined budgets for the antitrust and racketeering sections. Additionally, the Department believes that the Legislature intended for the Department to include all activity and program budgets of the Economic Crimes unit in the annual threshold calculation. Accordingly, Department personnel indicated that they will seek clarification of this point during the 2006 legislative session.

The Department has eight additional trust funds that are not subject to any fund equity balance maximum mandated by law. However, the Department had not established policies or procedures requiring a periodic fund equity analysis for each of these trust funds in order to determine the reasonableness of each fund’s equity balance in relation to the fund’s annual expenditures and estimated revenues. In addition to the consideration of legal, economic, and budgetary constraints, the determination of reasonableness should be primarily based on the specific purpose of the individual fund. Our analysis of the Department’s trust fund equity balances during the fiscal years

¹ Section 16.53(1), Florida Statutes

² Section 16.53(7), Florida Statutes

ending 2001 through 2004 revealed significant variations in the percentage relationship between fund equity and the expenditures and revenues from year to year.

Recommendation: We recommend that the Department pursue Legislative clarification regarding the statutory maximum fund balance allowable in the Legal Affairs Revolving Trust Fund. Until the Department receives Legislative clarification, the Department should ensure that the Legal Affairs Revolving Trust Fund’s balance does not exceed the statutory maximum. Additionally, the Department should routinely evaluate, as a potential indication of financial condition, the reasonableness of each trust fund’s equity balance.

Finding No. 6: Interfund Transfers

Although previously noted in audit report No. 2004-016, and despite the Department’s six-month self-reported status in January 2004 stating that the finding would be corrected by July 1, 2004, the Department continued to provide emergency cash for funds which experienced cash shortages during the period February 2004 through January 2005, by making 23 transfers totaling \$3.6 million between funds. For the 8 transfers tested, totaling \$3.4 million, we noted that the Department again failed to obtain the required approvals from the Executive Office of the Governor.³ Department personnel indicated that the transfers were necessary due to a significant reduction in one of the Department’s legal services contracts. As a result, the Department has placed increased pressure on legal staff to bill State agencies in a timely manner and on F&A to collect accounts receivable in a timely fashion.

Additionally, although the Department maintained that its policy of treating the transfers as loans that would be subsequently repaid (transferred back) when cash became available remains unchanged, we again noted that the Department did not properly record the

³ Pursuant to Section 215.18, Florida Statutes, the Governor may order a temporary transfer of moneys from one fund to another in order to meet temporary deficiencies in a particular fund.

transactions in FLAIR so that interfund receivables and payables were appropriately established when the transfers were initiated. Rather, the Department only recorded the interfund receivables and payables for transfers that remained outstanding at year-end.

Recommendation: We recommend that the Department continue its efforts to timely bill and collect amounts due from State agencies.

Additionally, the Department should promptly take the necessary actions to ensure that in instances in which transfers are necessary to meet operating requirements, the Department obtains appropriate approval from the Executive Office of the Governor and properly records all interfund loans in the accounting records when initiated.

Finding No. 7: Cost Allocation Methodology

The Department has administrative responsibility for an array of organizational units and programs, the operations of which are recorded within a variety of statutorily authorized trust funds. In order to account for the portions of its administrative costs, such as certain salaries, rent, telephone service, supplies, utilities, etc., which are not readily identifiable to or directly associated with a specific organizational unit or program activity, the Department utilized an Administrative Trust Fund. For the period July 2003 through January 2005, revenues and expenditures of the Administrative Trust Fund totaled \$4.3 million and \$3.9 million, respectively.

Properly designed and executed cost allocation methodologies are essential to ensure Department management and the Legislature have adequate, accurate information related to the costs of the various organizational units and programs. Such methodologies should provide for proper identification of costs to be allocated and the use of allocation bases that reasonably associate costs with the organizational units and program activities that receive the benefits from which the costs are derived.

Audit report No. 2004-016, issued in July 2003, included a finding related to the design deficiencies in the Department’s methodology for allocating administrative costs to its other trust funds.

Consistent with our previous findings, we noted that revenues for the Administrative Trust Fund continue to be generated by a monthly assessment, to certain other Department trust funds, of charges unrelated to actual administrative expenditures. Specifically, we found that significant deficiencies remain in the Department methodology for funding administrative costs. Over the long term, these deficiencies could result in the inappropriate transfer of resources designated by law for specific purposes in order to support expenditures made in other trust funds for other purposes, and could have a negative impact on trust fund balances. Exhibit 1 illustrates the differences that result when comparing the Department's administrative cost methodology to an alternate cost allocation methodology that utilizes salaries and benefits as the allocation base.

Allocation Methodology

To provide operating cash for the Administrative Trust Fund, the Department transfers moneys from certain trust funds to the Administrative Trust Fund. The amounts transferred related to the Medicaid Fraud Control Unit (MFCU) are determined based on the rate calculated in the Federally-approved indirect cost plan. The amounts transferred for other organizational units and program activities are determined by the application of a certain percentage rate to the related trust funds' expenditures for salaries and benefits.

However, despite the Department's decision to derive the majority of these percentages from the current annual MFCU Federally-negotiated indirect cost plan, the percentages used by the Department do not result in a methodology that properly calculates allocation percentages using reasonable allocation bases such as salaries and benefits, number of employees, square footage, dedicated services, etc., and then applies the computed percentages to the actual expenditures of the Administrative Trust Fund.

Additionally, the Department continues to inappropriately exclude several of its operating units

(e.g., Statewide Prosecutor, Constitutional Legal Services, etc.) from the allocation process.

Allocable Costs

The Department expended from the Administrative Trust Fund \$2.52 million and \$1.42 million during the 2003-04 fiscal year and the period July 2004 to January 2005, respectively. However, despite assurances to the contrary given in the Department's January 2004 six-month status response, we again noted that the Department's administrative cost methodology did not have procedures to allocate other administrative related costs expended from the General Revenue Fund and other Department trust funds. For example, during the 2003-04 fiscal year, the Department expended \$5.15 million in General Revenue Fund moneys related to functions that appear to be administrative in nature (e.g., executive staff, public affairs, library services, information technology, etc.), yet Department policy still did not provide for the subsequent allocation of any of those costs to the various organizational units and program activities. While these expenditures were budgeted for funding with General Revenue, the failure to properly allocate such costs to the organizational units and programs receiving the benefits prevents accurate determination of the cost of operations for use in Legislative and Department management decision making.

Cost Centers

To ensure that costs are allocated to an appropriate level for decision making, it is important to identify all organizational units and program activities as cost centers from which costs will be allocated and, conversely, those cost centers that will receive allocated costs. Although many trust funds were initially established to primarily account for the operations of specific organizational units or program activities (e.g., Crime Stoppers Trust Fund), the Department uses some trust funds to account for the operations of more than one organizational unit or program activity (e.g., Legal Services Trust Fund). As a result, the Department's continuing practice of assessing only certain organizational units within such

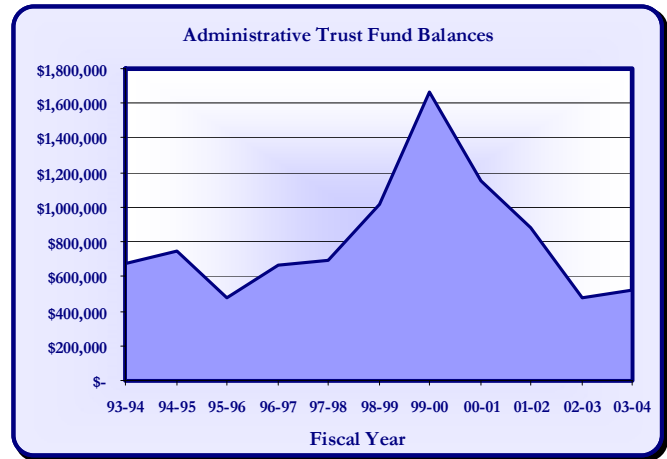
trust funds for administrative costs does not provide sufficient allocation of costs to all organizational units or program activities of the Department.

Allocation Bases

As discussed above, the Department’s methodology continues to inaccurately allocate administrative costs to its trust funds due to the methodology not being predicated on the use of an allocation base(s) and remaining unrelated to actual administrative expenditures. As reflected in Exhibit 1, the use of an allocation base(s) can substantially affect the amount of costs allocated to various cost centers. Therefore, identifying and using appropriate bases, such as salaries and benefits, number of employees, square footage, dedicated services, etc., is important in ensuring that costs are appropriately associated with the organizational units and program activities that receive the benefits from which the costs are derived.

As a result of not correcting the above deficiencies, the Department remains unable to reasonably determine the costs associated with each of its organizational units or program activities. Furthermore, since transfers to the Administrative Trust Fund are determined based on percentages derived without regard to actual administrative expenses incurred, the fund balance of the

Administrative Trust Fund continues to fluctuate significantly from year to year. As depicted in the chart below, the ending fund balance increased from \$679,000 at June 30, 1994, to a high of \$1.7 million at June 30, 2000, but has since declined more than \$1 million between June 2000 and June 2004.



Reconciliations

Department personnel input FLAIR data related to salaries and benefits expenditures of certain trust funds into subsidiary worksheets used in the administrative cost allocation. Accordingly, to ensure the appropriate and equitable allocation of administrative costs, the expenditure totals recorded on these subsidiary worksheets should be the final expenditure totals recorded in FLAIR. However, our review of the Department’s allocation process disclosed that final FLAIR data was not used in calculating the allocations, nor was a reconciliation of the data used in the allocations to final FLAIR data performed.

Recommendation: We again recommend the Department take the actions necessary to establish a rational cost allocation methodology that includes the identification of all allocable costs and cost centers that should provide and receive allocated costs.

Additionally, we continue to recommend that the allocation methodology selected be concise, straightforward, and include allocation bases that are readily verifiable to Department records.

We also recommend the Department establish procedures to ensure the timely reconciliation of initial fiscal year expenditure totals utilized in the cost allocation calculations with the final expenditure totals recorded in FLAIR, as appropriate.

OBJECTIVES, SCOPE, AND METHODOLOGY

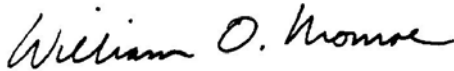
The scope of this audit focused on the Department of Legal Affairs' procedures for its administrative activities. Our objectives were:

- To determine whether the Department's budget and accounting records are accurate and complete and accounts are managed in compliance with governing laws, accounting rules, and other guidelines.
- To follow-up on findings noted in audit report Nos. 2004-016 and 2004-033.
- To determine whether selected management controls promoted and encouraged the achievement of management's objectives of compliance with controlling laws, administrative rules, and other guidelines; the economic and efficient operation of the Department; the reliability of records and reports; and the safeguarding of assets.

In conducting our audit, we interviewed auditee personnel, observed processes and procedures, and completed various analyses and other procedures as determined necessary. Our audit included examinations of various transactions (as well as events and conditions) occurring during the period February 2004 through January 2005.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



William O. Monroe, CPA
Auditor General

AUDITEE RESPONSE

In a response letter dated September 8, 2005, the Department described corrective actions already taken or being planned to address the findings and recommendations. The letter is included in its entirety at the end of this report as Exhibit 2.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable **Government Auditing Standards** issued by the Comptroller General of the United States. This audit was conducted by Richard Moreira and supervised by Lisa Norman, CPA. Please address inquiries regarding this report to Jane Flowers, CPA, Audit Manager, via E-mail at janeflowers@aud.state.fl.us or by telephone at **(850) 487-9136**.

This report and other audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone (850 487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

EXHIBIT 1

Total 2003-2004 Fiscal Year Administrative Trust Fund Expenditures Available for Allocation: \$ 2,517,430

Trust Fund/Activity	Department Methodology			Example: Allocation Based on Salaries and Benefits			
	Salaries and Benefits	Percent Applied	Amount Transferred	Percentage of Salaries and Benefits to Total (2)	Allocated Cost	Difference to Department Methodology	Percentage Difference to Department
Crimes Compensation Trust Fund	\$ 4,204,856	11.12%	\$ 467,580	11.57%	\$ 291,173	\$ (176,407)	(38%)
Crime Prevention Training Institute Trust Fund	168,210	11.12%	18,705	0.46%	11,648	(7,057)	(38%)
Crime Stoppers Trust Fund	43,462	11.12%	4,833	0.12%	3,010	(1,823)	(38%)
Grants and Donations Trust Fund	5,882,688	12.65% ⁽¹⁾	744,160	12.65% ⁽¹⁾	318,455	(425,705)	(57%)
Legal Affairs Revolving Trust Fund	4,363,561	11.12%	485,228	12.00%	302,163	(183,065)	(38%)
Motor Vehicle Warranty Trust Fund	1,022,617	11.12%	113,715	2.81%	70,813	(42,902)	(38%)
Legal Services Trust Fund	14,338,440	5.00%	716,922	39.44%	992,892	275,970	38%
Florida Elections Commission Trust Fund	767,065	0%	-	2.11%	53,117	53,117	100%
Crime Stoppers Trust Fund - Criminal/Civil Litigation Defense	1,383,489	0%	-	3.81%	95,802	95,802	100%
Grants and Donations Trust Fund - Constitutional Legal Services and Statewide Prosecution	242,663	0%	-	0.67%	16,804	16,804	100%
Legal Services Trust Fund - Criminal/Civil Litigation Defense; General Civil Litigation; Eminent Domain Administration	5,221,211	0%	-	14.36%	361,553	361,553	100%
Total	\$ 37,638,262		\$ 2,551,143	100.00%	\$ 2,517,430	\$ (33,713)	

(1) Percent is based on a Federally approved cost allocation plan.

(2) Percentage is adjusted to account for the fixed percentage used for the Grants and Donations Trust Fund.

This example is for illustrative purposes only.
An appropriate methodology would require comprehensive identification of all costs to be allocated, the cost centers to which the costs should be allocated, the nature of the administrative services provided to those cost centers, and the appropriate base(s) upon which allocation percentages should be determined.



**CHARLIE CRIST
ATTORNEY GENERAL
STATE OF FLORIDA**

**EXHIBIT 2
AUDITEE RESPONSE**

**OFFICE OF THE ATTORNEY GENERAL
Deputy Attorney General**

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September 8, 2005

Mr. William O. Monroe
Auditor General
111 West Madison Street
Tallahassee, Florida 32399-1415

Dear Mr. Monroe:

The following is in response to your preliminary and tentative audit findings and recommendations of August 5, 2005. The information contained herein was provided to me by Jerry McDaniel, Director of Administration and Information Technology.

Preliminary and Tentative Audit Finding No. 1: The Department's procedures to secure and process cash receipts were in need of improvement.

Recommendation: We recommend the Department ensure that an appropriate segregation of duties is maintained within the cash receipts function and that checks are restrictively endorsed upon receipt. Additionally, the Department should maintain a listing of persons responsible for cash collections. Alternatively, the Department may consider the feasibility of centralizing the cash receipts process.

Response: The Department concurs with the findings. As noted in the audit report, on April 19, 2005, the Department implemented new procedures to ensure that all checks are properly logged and endorsed at time of receipt at the various program offices as well as the Department's central mailroom in Tallahassee. A policy was also implemented to document transfer of custody between the Tallahassee mailroom and the Finance and Accounting section. The Department will analyze the feasibility of proper segregation of duties within each remote program office, given staffing availability and other considerations. The Finance and Accounting bureau currently does maintain a listing of persons throughout the agency that are responsible for

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cash collections and will work to insure that it is kept current. Centralizing the cash receipts process has been considered and does not appear viable at this time.

Preliminary and Tentative Audit Finding No. 2: The Department did not always properly record accounts receivable. Additionally, the Department's procedures were not adequate to properly establish the allowance for uncollectible accounts or to determine when uncollectible accounts should be written off.

Recommendation: The Department should ensure that the program offices provide F&A with required information to properly record accounts receivable, recognize the timeliness of collections, and identify uncollectible accounts. Additionally, the Department should establish criteria to evaluate when receivables should be written off as uncollectible.

Response: The Department concurs and will create policies and procedures that fully address all aspects of accounts receivable recording, tracking, and write off.

Preliminary and Tentative Audit Finding No. 3: The Department needs to improve its procedures and documentation of the review of cellular telephone bills and the periodic review of billing options.

Recommendation: We recommend the Department continue its efforts to establish written policies and procedures that provide documentation of an adequate review of cellular telephone billings to preclude payment of personal cellular telephone calls.

We also recommend that, rather than relying on its cellular carriers, the Department performs its own periodic evaluation of cellular telephone usage and assignment to determine that the most economical option is selected considering the specific usage requirements of the cellular telephone users.

Response: The Department concurs with these findings. In May 2005, the Finance and Accounting section established new policies and procedures for the review and reimbursement of all personal cellular telephone calls. These procedures are being reduced to writing at this time.

The Department will also conduct periodic reviews of cellular phone usage to verify need and perform an annual rate comparison/analysis of other providers to insure that the Department is receiving the best price and service for our particular needs.

Preliminary and Tentative Audit Finding No. 4: The Department did not have policies and procedures regarding the appropriate usage of the Department's instant messaging system.

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Recommendation: The Legislature should consider clarifying existing public record laws to provide guidance over the use of instant messaging systems by State agencies.

Until statutory guidance becomes available, the Department should establish policies and procedures requiring the instant messaging system to be used for communications that do not fall under the State's current public records laws or, alternatively, that communications determined to be public records are appropriately retained.

Response: Current department policy focuses on ensuring a response to public records requests that fall within the scope of Chapter 119, *Florida Statutes*, and does not focus on other forms of communication such as telephone calls, instant messages and the like. However, the Department will consider the Auditor's recommendation and make a determination as to whether the adoption of additional policies and procedures would be appropriate.

Preliminary and Tentative Audit Finding No. 5: The Department had not implemented effective processes to ensure that the fund balance of the Legal Affairs Revolving Trust Fund does not exceed statutory maximums. Additionally, the Department did not perform periodic reviews of its other trust funds' balances.

Recommendation: We recommend that the Department pursue Legislative clarification regarding the statutory maximum fund balance allowable in the Legal Affairs Revolving Trust Fund. Until the Department receives legislative clarification, the Department should ensure that the Legal Affairs Revolving Trust Fund's balance does not exceed the statutory maximum. Additionally, the Department should routinely evaluate, as a potential indication of financial condition, the reasonableness of each trust fund's equity balance.

Response: In the 2006 Legislative session, the Department will seek clarification to the statutory maximum fund balance allowable in the Legal Affairs Revolving Trust Fund.

Currently, an analysis is done each fiscal year at the close of the financial statement process of the Legal Affairs Revolving Trust Fund balance to ensure that the balance does not exceed the statutory maximum. However, until we receive Legislative clarification, we will ensure that when including all activity and program budgets of the Antitrust and Economic Crimes units in the calculation, the trust fund balance does not exceed the maximum.

The Department will continue to evaluate each trust fund balance during the fiscal year financial statement process, during the Schedule I Legislative Budget Request process, and periodically during the year as financial forecasts are initiated to ensure the reasonableness of each trust fund's equity balance as an indicator of financial condition. The Department will

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take steps to include analysis of the funds over several time periods and will enhance the recording of the evaluation and analysis of these balances.

Preliminary and Tentative Audit Finding No. 6: The Department transferred \$3.4 million between funds and budget entities without appropriate authorization.

Recommendation: We recommend that the Department continue its efforts to timely bill and collect amounts due from State agencies.

Additionally, the Department should promptly take the necessary actions to ensure that in instances in which transfers are necessary to meet operating requirements, the Department obtains appropriate approval from the Executive Office of the Governor and properly records all interfund loans in the accounting records when initiated.

Response: The Department will continue to make every effort to timely invoice and collect amounts due from state agencies. We are currently in the process of adopting enhancements that should correct any fund balance shortages during the year and negate the need for interfund loans. However, should circumstances require, the Department will seek appropriate approval from the Executive Office of the Governor if interfund loans are initiated.

Preliminary and Tentative Audit Finding No. 7: The Department did not properly allocate administrative costs, thereby precluding accurate and complete determination of the total costs of various organizational units and program activities within the Department.

Recommendation: We again recommend the Department take the actions necessary to establish a rational cost allocation methodology that includes the identification of all allocable cost and cost centers that should provide and receive allocated costs.

Additionally, we continue to recommend that the allocation methodology selected be concise, straightforward, and include allocation bases that are readily verifiable to Department records.

We also recommend the Department establish procedures to ensure the timely reconciliation of initial fiscal year expenditure totals utilized in the cost allocation calculations with the final expenditures totals recorded in FLAIR, as appropriate.

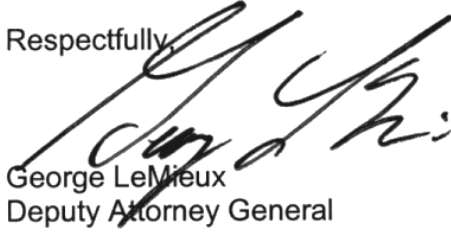
Response: The Department will continue to look at refinements to its Indirect Cost methodology with a goal of uniform application to all units where practicable, financial stability of the fund, and allocation and recoupment of the Administrative Trust Fund appropriation. Additionally, we will ensure procedures are recorded that address the timely

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reconciliation of initial fiscal year expenditure totals used in the cost allocation calculations with the final expenditure totals recorded in FLAIR, as appropriate.

If you have any questions or need further information, please do not hesitate to contact me at 850/245-0184.

Respectfully,



George LeMieux
Deputy Attorney General

GL/jm

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