

DEPARTMENT OF LAW ENFORCEMENT

ADMINISTRATIVE ISSUES

Operational Audit



EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LAW ENFORCEMENT

Pursuant to Section 20.201(1), Florida Statutes, the Executive Director of the Department of Law Enforcement is appointed by the Governor with the approval of three members of the Cabinet and is subject to confirmation by the Senate. Gerald M. Bailey served as the Executive Director during the period of audit.

The audit team leaders were Ryan Nolan, CPA, and Jacqueline Joyner, CPA, and the audit was supervised by Ben H. Cox, CPA. Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail at davidvick@aud.state.fl.us or by telephone at (850) 487-4494.

This report and other reports prepared by the Auditor General can be obtained on our Web site at www.myflorida.com/audgen; by telephone at (850) 487-9175; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

DEPARTMENT OF LAW ENFORCEMENT

Administrative Issues

SUMMARY

This operational audit of the Department of Law Enforcement (Department) focused on administrative issues primarily related to criminal justice grants management and procurement and expenditures. Our audit also included a follow-up on the findings included in audit report No. 2009-038. Our audit disclosed the following:

CRIMINAL JUSTICE GRANTS MANAGEMENT

Finding No. 1: The Department needs to enhance subgrant closeout procedures to promote adequate documentation of subgrantee contacts, and proper accounting for funds prior to the subgrant closeout date.

PRIOR AUDIT FOLLOW-UP

Finding No. 2: The Department had not developed a methodology for identifying and summarizing all the Department’s direct and indirect costs related to the performance of criminal history checks.

Finding No. 3: The Department had not implemented a cost allocation plan for identifying and summarizing all Criminal Justice Professionalism Program direct and indirect costs.

BACKGROUND

The Department’s mission, pursuant to Chapter 943, Florida Statutes, is to promote public safety and strengthen domestic security by providing services in partnership with local, State, and Federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida’s citizens and visitors. In carrying out this mission, the Department is charged with administering many different grant programs that provide resources to Florida’s local governments and other State agencies for projects relating to criminal investigations and forensic services, criminal justice information services, and criminal justice professionalism. The Office of Criminal Justice Grants, within the Business Support Program, coordinates Federal and State grants. Our audit of criminal justice grants management included both Federal and State financial assistance programs.¹ The Department administers subgrants through the Subgrant Information Management Online system (SIMON).

FINDINGS AND RECOMMENDATIONS

Criminal Justice Grants Management

Finding No. 1: Test of Subgrant Closeouts

The United States Department of Justice, *Office of Justice Programs’ Financial Guide* provides that the closeout of a subgrant award must occur within 90 days from the award end date or any approved extension thereof. To comply with the Federal 90-day subgrant award closeout time frame, the Department must timely receive and review the subgrantee’s financial documentation for correctness and sufficiency and complete the closeout process. Accordingly, the Department’s subgrant award agreement requires, under the standard conditions, that the subgrantee submit

¹ The Edward Byrne Memorial Justice Assistance Grant Program (CFDA 16.803), State Domestic Preparedness Equipment Support Program (CFDA 97.004), and the Homeland Security Grant Program (CFDA 97.067) will be audited as a part of the 2009-10 Fiscal Year State of Florida Federal Awards audit.

financial closeout documentation to the Department within 45 days of the award end date. The financial documents required at closeout include a Status of Funds form and a Summary of Expenditures form. Prior to subgrant closeout, the Office should have completed all the applicable financial and program compliance reviews.

Based on Office of Criminal Justice Grants (Office) subgrants data provided by the Department, there were 920 subgrants totaling \$84 million that had an award end date during the period July 1, 2008, through February 28, 2010. According to the Office's grant management system, as of October 29, 2010, 910 of the 920 subgrants had been closed out, with the remaining 10 having been rescinded, extended, or transferred to other agencies. However, 223 subgrants totaling \$11,415,977 had not been closed out timely. These grants were closed on dates ranging from 91 to 405 days after the subgrants' end date.

In addition to our overall analysis of close-out timeliness, our audit also included tests of the Department's closeout processes. Our test of 60 subgrant closeouts disclosed payment errors and that, while Office grant managers generally reminded subgrantees to submit their closeout information within 45 days after the subgrant end date, subgrantee contacts were not consistently documented. Specifically:

- For one \$10,777 subgrant (2008-JAGC-HIGH-2-Q9-207) made to a city police department for patrol car rifles and patrol car printers, the Office made a duplicate payment in the amount of \$1,286. The duplicate payment resulted from the city making a second request for payment that was undetected by the Office both at the time of the duplicate payment and later during the subgrant closeout process. Although the Office had a procedure to review each reimbursement request for proper support and reasonableness, the Office did not compare requests to ensure that reimbursement for the same items had not been requested more than once. Subsequent to our audit inquiry, the overpayment was reimbursed to the Office.
- For one \$2,409 subgrant (2008-JAGC-DADE-20-Q9-046) made to a city police department for mobile device software, a single payment was made on May 26, 2009, 146 days after the subgrant's end date of December 31, 2008. Per the subgrant agreement, payments were to be made either during the subgrant period or within 45 days of the subgrant's end date.
- Four subgrants were closed out more than 90 days after the subgrants' end dates. In these instances, there was no documentation evidencing that an Office grant manager had timely contacted the subgrantee to request the closeout information. Details are as follows:
 - Subgrant (2008-JAGD-STATE-5-P4-188) in the amount of \$77,495 and with an end date of September 30, 2008, was made to the Department's Information Resource Management Program (IRM) for improvement of Florida's central registry for Sex Offenders and Predators. The subgrant was not closed until April 14, 2009, 196 days after the subgrant's end date. IRM did not submit the required financial closeout documentation until April 9, 2009.
 - Subgrant (2008-JAGC-HARD-1-Q9-224) in the amount of \$67,722 and with an end date of September 30, 2008, was made to a city police department for funding a drug task force. The subgrant was not closed out until April 9, 2009, 191 days after the subgrant's end date. The subgrantee submitted financial closeout documentation on January 13, 2009, 60 days late. The Office was unable to provide an explanation for the 86-day delay from the date the financial closeout documentation was received to the date the subgrant was closed out.
 - Subgrant (2009-JAGD-PINE-4-T8-220) in the amount of \$2,885 and with an end date of July 31, 2009, was made to a Florida city for the purchase of police trail bicycles. The subgrant was not closed out until February 5, 2010, 189 days after the subgrant's end date. The subgrantee submitted financial closeout documentation on November 9, 2009, 56 days late, and, in response to our audit inquiry, the Office was unable to provide an explanation for the 88-day delay from the date that the financial closeout documentation was received to the date the subgrant was closed out.
 - Subgrant (2008-PMGV-STATE-1-R8-003) in the amount of \$100,000 and with an end date of September 30, 2009, was made to a State Attorney's office for salary and benefits related to the prosecution of felony

cases. The subgrant was not closed out until August 6, 2010, 310 days after the subgrant’s end date. The subgrantee submitted financial close-out documentation on August 4, 2010, 263 days late. Although Office records document a lapse of 351 days in communication between the Office and the subgrantee, the records do not explain why the delay in close out occurred.

Absent grant management procedures designed and implemented to ensure that duplicate reimbursement requests are detected, verify that costs submitted by subgrantees for reimbursement were actually incurred within the subgrant period, and encourage subgrantee compliance with subgrant award agreement close out requirements, the Office’s ability to demonstrate effective and timely administration of Federal and State grants is diminished.

Recommendation: We recommend that the Office enhance procedures to ensure that, before subgrants are closed out, a proper accounting for all funds expended and a determination that the grant objectives have been accomplished are made. These procedures should also provide a consistent and trackable method for documenting contacts with subgrantees and ensure the timely close-out of subgrants.

Prior Audit Follow-up

Finding No. 2: Costs of Criminal History Checks

In report No. 2009-038, we noted that the Department had not developed and implemented a methodology to identify and summarize all the Department’s direct and indirect costs related to the performance of criminal history checks. In response to this audit finding, the Executive Director disagreed with our recommendation, indicating, in part, that the current budget situation would make implementation of such a methodology neither necessary nor prudent.

Follow-up procedures conducted in accordance with our current audit disclosed that the costs incurred by the Department in the performance of criminal history record checks had not been determined and a methodology for identifying and analyzing these costs had not been developed. We noted that revenues derived from the performance of criminal history record checks totaled approximately \$108 million during the 20-month period ending February 2010. Absent a methodology to identify and summarize all associated costs, the Department could not readily demonstrate the extent to which these fees were consistent with the Department’s costs. We did note that expenditures of the Criminal Justice Information Program, during the same period, totaled approximately \$98 million. However, the \$98 million in expenditures includes amounts unrelated to the performance of criminal history record checks and does not include other costs, for example, indirect costs that are associated with or allocable to the function.

Although we acknowledge the Department’s budgetary concerns, as expressed in response to our prior audit finding, the identification of the direct and indirect elements of costs associated with the Department’s provision of criminal history checks would better facilitate informed decisions concerning both operational and budgetary matters and would serve to better inform the Legislature as to the appropriateness of the statutory fee amounts.

Recommendation: We again recommend that the Department develop and implement a methodology for identifying and analyzing all direct and indirect costs related to the performance of criminal history checks.

In response to this audit finding, the Department indicated that the implementation of our recommendation would not be prudent and would be counterintuitive during the current budget crisis. Again, we acknowledge the Department's budgetary concerns. However, during times of fiscal challenge, it is no less important to identify Department costs associated with the provision of criminal history record checks. Absent that information, it is not possible for the Department to demonstrate the extent to which the fees assessed are commensurate with the costs.

Finding No. 3: Criminal Justice Professionalism Program Costs

In report No. 2009-038, we noted that the Department had not implemented a cost allocation plan to identify and summarize all direct and indirect costs associated with the Criminal Justice Professionalism Program (CJPP). The Executive Director explained in his October 24, 2008, response that “The Legislative Budget Request for 2009-10 includes potential budget cuts for the Criminal Justice Professionalism Program. If the cuts are made, this would impact any cost allocation methodology. Following the known impact of the current budget situation, FDLE will be in a better posture to reevaluate the issue.” Likewise, in the Department Inspector General’s May 11, 2009, written response on the status of corrective actions taken related to report No. 2009-038,² the Inspector General stated that “FDLE continues to deal with the difficulties of this economic period. Again, FDLE will be in a better position to evaluate the issue after the funding decisions are made by the Legislature for the next fiscal year.”

In response to our April 30, 2010, audit inquiry regarding the current status of this finding, Department management responded that they do not agree that a cost allocation plan for CJPP would be prudent as it would be obsolete as soon as any further budget cuts are taken. Additionally, Department management indicated that, given staff reductions, the Department does not have the resources to develop a plan and it would be inappropriate to ask the Legislature for funding to develop such a plan.

Our purpose in reporting this finding has been to encourage the Department to develop a means whereby it could readily identify, summarize, and report all of the costs associated with the CJPP. Such a methodology might include, for example, program level account coding and indirect cost allocation plans.

Currently, the Department’s accounting codes have been established to classify and summarize costs in a number of ways, including, for example, by fund, organizational unit, appropriation category, and object. However, a program account code has not been established and, as a result, to the extent that a particular program’s costs are incurred outside the organizational unit (for example, the incurrence of legal costs by the General Counsel organizational unit for the benefit of the CJPP), the Department is currently unable to efficiently summarize and report all program and key activity costs.

Recommendation: We recommend that the Department continue to consider the establishment of an appropriate methodology to identify and summarize all direct and indirect costs associated with the CJPP.

PRIOR AUDIT FOLLOW-UP

Except as discussed in finding Nos. 2 and 3, the Department had taken corrective actions for the findings included in audit report No. 2009-038.

² Section 20.055(5)(h), Florida Statutes, requires agency inspectors general to monitor the implementation of the State agency’s response to any report on the State agency issued by the Auditor General. No later than 6 months after the Auditor General publishes a report on the State agency, the inspector general shall provide a written response to the agency head on the status of corrective actions taken. The inspector general shall file a copy of such response with the Legislative Auditing Committee.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March 2010 to October 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit focused on administrative issues primarily related to criminal justice grant management, procurement, expenditures, and follow-up on audit findings in audit report No. 2009-038. The overall objectives of our audit were:

- To evaluate the effectiveness of established internal controls in achieving management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.
- To evaluate management's performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies disclosed in audit report No. 2009-038.

In conducting our audit we:

- Obtained an understanding of selected relevant information technology (IT) controls, assessed the risks of those controls, evaluated whether selected general and application IT controls were in place, and tested the effectiveness of SIMON controls and those controls related to the IT resources utilized in Department procurement processes such as MyFloridaMarketPlace and for transaction processing such as the Florida Accounting Information Resource Subsystem (FLAIR).
- Obtained an understanding of other relevant internal controls and tested key processes and procedures.
- Tested 200 expenditure transactions (75 general and administrative, 40 contractual services, 41 supplies and commodities, 32 travel, 9 tangible personal property, and 3 fixed capital outlay expenditures) totaling \$5.5 million and 100 procurement transactions (30 related to general and administrative, 30 related to contractual services, 18 related to supplies and commodities, 17 related to tangible personal property items, and 5 related to travel) totaling \$5.4 million paid during the period July 2008 through February 2010 to determine whether the Department:
 - Properly established and ensured the implementation of internal controls over the procurement and expenditure processes.
 - Procured and paid for goods and services in accordance with governing laws, rules, and Department policy.
 - Ensured that transactions for goods and services served an authorized purpose of the State and were procured at a reasonable and necessary cost.

- Ensured that expenditure transactions were authorized, timely recorded, correctly coded (i.e., appropriate funding source, fiscal period, object code, etc.), appropriate in amount, and supported by adequate documentation.
- Tested 30 Criminal Justice Standards and Training Trust Fund expenditure transactions totaling \$9,315 occurring during the period July 2008 through February 2010 to determine the extent of compliance with Section 943.25(3), Florida Statutes.
- Tested 40 grant expenditure transactions totaling \$704,212 and paid during the period July 2008 through February 2010 and selected on a judgmental basis from FLAIR to determine whether:
 - Transactions were properly recorded as Federal financial assistance in FLAIR (i.e., appropriately recorded as advances or reimbursements, sufficiently supported, and reviewed).
 - Transactions complied with applicable State and Federal laws, rules, and other grantor requirements.
 - Transactions for Federal financial assistance were made in a timely manner based on applicable laws, rules, and regulations.
- For 60 grants totaling \$4.8 million, tested closeouts occurring during the period July 2008 through February 2010 to determine whether the grants had been timely and properly closed out in accordance with applicable laws, rules, and regulations.
- Tested 40 grants totaling \$2.9 million, selected on a judgmental basis from the Department's database of all open and active grants, to determine whether the subgrantees had been subjected to monitoring in accordance with applicable laws, rules, and regulations during the period July 2008 through February 2010.
- Examined documents related to grants management staff training and reviewed attendance records for training that took place during the period July 2008 through February 2010 to determine whether Department personnel responsible for the management of grants received training relating to pre- and post-award grant administration, accounting, and budgeting.
- Performed analytical procedures and reconciliations to determine whether the amounts recorded in Department FLAIR accounting records were in material agreement with the amounts recorded in SIMON.
- Evaluated Department actions taken to correct the findings included in audit report No. 2009-038. Specifically, we reviewed:
 - Department actions regarding the development of a methodology that identifies and summarizes all direct and indirect costs related to the performance of criminal history checks.
 - Records and revised procedures associated with listing collections upon receipt in the Department mail room and restrictively endorsing checks.
 - The revision of systems and processes that generate invoices for firearm dealer invoices.
 - Department FACTS system security controls and procedures.
 - Department actions regarding the development of cost allocation methods that identify and summarize all Criminal Justice Information Program direct and indirect costs.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe those matters requiring corrective actions.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a biennial basis. 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.



David W. Martin, CPA
Auditor General

MANAGEMENT'S RESPONSE

In a response letter dated January 31, 2011, the Commissioner of the Department provided a response to our audit findings and recommendations. The Commissioner's response is included as EXHIBIT A.

EXHIBIT A
MANAGEMENT'S RESPONSE



Florida Department of
Law Enforcement

Gerald M. Bailey
Commissioner

Office of Executive Director
Post Office Box 1489
Tallahassee, Florida 32302-1489
(850) 410-7001
www.fdle.state.fl.us

Rick Scott, *Governor*
Pam Bondi, *Attorney General*
Jeff Atwater, *Chief Financial Officer*
Adam Putnam, *Commissioner of Agriculture*

January 31, 2011

Mr. David Martin, CPA
Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Reference is made to the preliminary findings and recommendations from:

Operational Audit of the Florida Department of Law Enforcement,
Administrative Issues related to Criminal Justice Grants Management, Procurement and
Expenditures, including a follow-up on prior audit findings (No. 2009-038)
for the period July 1, 2008 through February 28, 2010

Finding No. 1: The Department needs to enhance subgrant closeout procedures to promote adequate documentation of subgrantee contacts, timely conduct of onsite monitoring, and proper accounting for funds prior to the subgrant closeout date.

Recommendation No. 1: We recommend that the Office enhance procedures to ensure that, before subgrants are closed out, a proper accounting for all funds expended and a determination that the grant objectives have been accomplished are made. These procedures should also provide a consistent and trackable method for documenting contacts with subgrantees and ensure the timely close-out of subgrants.

FDLE Response: Agree. To enhance subgrant closeout procedures, the Office of Criminal Justice Grants (OCJG) will review the status of upcoming closeouts of subgrants during its' monthly staff meeting. Further, members are directed to contact subgrantees regarding the closeout via e-mail and place a copy of such in the subgrant file, and to properly document the subgrant comment log of any telephone conversations held with the subgrantee. The OCJG written procedures have been modified to reflect the above-mentioned enhancements.

Currently, OCJG members are directed to review and compare all items submitted on expenditure reports to ensure costs were not previously claimed. Also, when processing a grant adjustment to revise the current budget, the budget and all approved expenditure reports are reviewed to ensure items previously paid are not removed. At the time of closeout, members are directed to review the budget and expenditure reports to ensure costs incurred were allowable and that there we no duplicate payments. Members will be retrained and reminded of these procedures. All written procedures have been reviewed and modified, if required, to reflect these instructions.

PRIOR AUDIT FOLLOW-UP

Finding No. 2: The Department had not developed a methodology for identifying and summarizing all the Department's direct and indirect costs related to the performance of criminal history checks.

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**EXHIBIT A
MANAGEMENT’S RESPONSE (CONTINUED)**

Mr. David Martin, CPA
January 31, 2011
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Recommendation No. 2: We again recommend that the Department develop and implement a methodology for identifying and analyzing all direct and indirect costs related to the performance of criminal history checks.

FDLE Response: As noted in the previous audit response dated May 11, 2009, the Legislature has utilized revenue from the criminal history checks to shift substantial Operating Trust Fund dollars to fund other functions within the Department. The most recent fund shift occurred this fiscal year. Further, the state is expecting a budget shortfall of more than \$4 billion for FY 11-12. To that end, FDLE anticipates further budget reductions and possibly more fund shifts. Without knowing what expenditures will be reduced or added to offset the criminal history checks revenue, any data used to produce a methodology report would be obsolete.

While FDLE does not assert that a plan based on stabilized data would be without value, it would not be prudent to obtain at this time in anticipation of further budget reductions. Additionally, with less staffing, FDLE does not have the resources to develop such a plan. It is the opinion of FDLE leadership that submitting a Legislative Budget Request for funding to develop a plan would be counterintuitive during the current budget crisis and not in the best interest of Florida taxpayers.

PRIOR AUDIT FOLLOW-UP

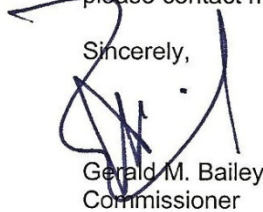
Finding No. 3: The Department had not implemented a cost allocation plan for identifying and summarizing all Criminal Justice Professionalism Program direct and indirect costs.

Recommendation No. 3: We recommend that the Department continue to consider the establishment of an appropriate methodology to identify and summarize all direct and indirect costs associated with the CJPP.

FDLE Response: Again as noted in the prior audit response dated, May 11, 2009, there is potential for further budget reductions in the Criminal Justice Professionalism Program (CJPP). If reductions occur, this would impact any cost allocation methodology. While FDLE does not assert that a plan based on stabilized data would be without value, it would not be prudent to obtain at this time in anticipation of further budget reductions. Additionally, with less staffing, FDLE does not have the resources to develop such a plan. It is the opinion of FDLE leadership that submitting a Legislative Budget Request for funding to develop a plan would be counterintuitive during the current budget crisis and not in the best interest of Florida taxpayers. Notwithstanding the cost allocation methodology issue, a review will be conducted to determine if any positions in other programs are performing CJPP-related work. If any are identified, an accounting code will be established to identify the direct program costs for the CJPP.

The recommendations in your audit report are appreciated. If you require further information, please contact me or Inspector General Al Dennis at (850) 410-7000.

Sincerely,



Gerald M. Bailey
Commissioner

GMB/ALD/dkk