

DEPARTMENT OF LEGAL AFFAIRS

**VICTIM SERVICES, LEGAL SERVICES RATES, AND
FOLLOW-UP ON PRIOR AUDIT FINDINGS**

Operational Audit



ATTORNEY GENERAL

Section 20.11, Florida Statutes, created the Department of Legal Affairs and established the Attorney General as head of the Department. Article IV, Section 4, of the Florida Constitution provides for an Attorney General as part of the Cabinet, who shall be the State's chief legal officer. The following individuals served as Attorney General during the period of our audit:

Honorable Pam Bondi	From January 2011
Honorable Bill McCollum	From January 2007 to January 2011

The audit team leader was Clint C. Boutwell, CPA. Please address inquiries regarding this report to Jane Flowers, CPA, Audit Manager, by e-mail at janeflowers@aud.state.fl.us or by telephone at (850) 487-9136.

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DEPARTMENT OF LEGAL AFFAIRS

Victim Services, Legal Services Rates, and Follow-Up on Prior Audit Findings

SUMMARY

This operational audit of the Department of Legal Affairs (Department) focused on operations related to the Crime Victims Compensation and Crime Victims Advocacy programs and the adequacy of the Department’s legal services rates. Additionally, this audit included a follow-up on prior audit findings. Our audit disclosed the following:

Victim Services

VICTIM COMPENSATION

Finding No. 1: Department procedures did not ensure the retention of data supporting the victim compensation program annual performance report.

Finding No. 2: Department procedures did not always ensure appropriate data or documentation was obtained to support victim compensation eligibility determinations. Additionally, the Department’s quarterly quality assurance reviews were not always completed timely and corrective actions to address the deficiencies detected by the reviews were not addressed.

VICTIM ADVOCACY

Finding No. 3: The Department did not have policies or procedures detailing the methodology to be used in allocating the State’s annual VOCA victim advocacy grant.

Finding No. 4: The Department did not document the basis for its determination that a monitoring contract was a subgrant, rather than a vendor contract subject to competitive award. Additionally, the Department did not require program specific reports from the monitor or implement procedures to ensure that contract payments did not duplicate funding received by the contractor from other State agencies.

Finding No. 5: Department procedures did not always ensure on-site monitoring reports were timely completed and reviewed, and corrective actions were appropriate.

Legal Services Rates

Finding No. 6: The Department did not annually recalculate and evaluate the legal services rates charged to State agencies.

Additional Matters

Finding No. 7: Department information system user access and authentication controls could be improved.

Finding No. 8: Department procedures did not always ensure that those who were required to provide their social security number to the Department were provided written notification as to the purpose for collecting the number.

Follow-up on Prior Audit Findings

ACCOUNTS RECEIVABLE

Finding No. 9: Department procedures did not always ensure the reconciliation of internal program unit accounts receivable records to the Department’s general ledger accounting records.

Finding No. 10: The Department did not always ensure that in assigning duties relating to cash receipts and accounts receivable, an appropriate separation of duties was maintained.

Finding No. 11: The Department did not timely refer for collection all delinquent accounts receivable, or alternatively seek exemptions to or modifications of the transfer requirements.

LEGAL AFFAIRS REVOLVING TRUST FUND

Finding No. 12: The Department’s methodology for determining whether excess moneys were available for transfer from the Legal Affairs Revolving Trust Fund to the State’s General Revenue Fund did not meet the requirements of law.

BACKGROUND

The Department is responsible for providing the legal services required by State agencies, unless otherwise provided by law.¹ The Departments’ various other statutory responsibilities include, but are not limited to, the administration of programs to assist victims of crime, enforcement of State consumer protection and antitrust laws, prosecution of criminal racketeering, and the operation of the State’s Medicaid Fraud Control Unit.

Organizationally, the Department operated through various units (program units), including but not limited to Victim Services, Civil Enforcement, Criminal and Civil Litigation Defense, Executive Direction and Support Services, and Statewide Prosecution. Table 1 summarizes for the 2011-12 State fiscal year the appropriations and approved positions for these program units.

**Table 1
Selected Program Units Appropriations and Approved Positions for the 2011-12 State Fiscal Year**

Program Units	Positions	Appropriations
Victim Services	99	\$ 81,077,604
Civil Enforcement	564	54,971,582
Criminal and Civil Litigation Defense	401.5	30,716,670
Executive Direction and Support Services	133	12,053,797
Statewide Prosecution	63.5	6,273,536
Totals	1,261	\$185,093,189

Source: Chapter 2011-069, Laws of Florida, General Appropriations Act.

FINDINGS AND RECOMMENDATIONS

Victim Services

The Federal Victims of Crime Act (VOCA) was implemented in 1984 by the United States Department of Justice, Office of Victims of Crime, and serves as the primary source of Federal financial support for both victim compensation and direct services to victims of crime.² The Department, through the Division of Victim Services (Division), functioned as the State’s designated agency for administering VOCA victim compensation and advocacy grants and provided compensation payments to eligible victims of crime and subgrants for advocacy services to public or nonprofit organizations throughout the State’s twenty judicial circuits.³ The Division is organized into three Bureaus: Victim Compensation, Advocacy and Grants, and Criminal Justice Programs. Our audit focused on selected

¹ Section 16.015, Florida Statutes.

² Title 42, Sections 10602 and 10603, United States Code.

³ Section 26.01, Florida Statutes.

programs administered by the Bureau of Victim Compensation and the Bureau of Advocacy and Grants. State and Federally funded victim compensation and advocacy expenditures for the 2010-11 and 2011-12 State fiscal years are shown in Table 2.

**Table 2
Victim Compensation and Advocacy Expenditures
2010-11 and 2011-12 State Fiscal Years**

	2010-11	2011-12
<i>Victim Compensation</i>		
Federal	\$13,683,902	\$11,119,963
State	17,615,426	15,531,577
<i>Victim Advocacy</i>		
Federal	23,226,663	25,603,239
State	1,837,316	3,051,976
Total Expenditures	<u>\$56,363,307</u>	<u>\$55,306,755</u>

Source: Florida Accounting Information Resource Subsystem (FLAIR).

VICTIM COMPENSATION

The Bureau of Victim Compensation (BVC) administered the State’s victim compensation services, including the processing of claims for costs associated with victim medical expenses, lost wages, funeral expenses, property loss, domestic violence relocation assistance, and sexual assault forensic physical examinations. The Bureau was also responsible for eligibility determinations for claims related to the State Institutions Claims Program⁴ and administration of a toll-free information and referral service for victims. State revenues to assist in the funding of victim compensation services were provided primarily through court-ordered assessments paid by offenders, including a mandatory court cost, a surcharge on fines, restitution, and subrogation when appropriate. The amounts paid by offenders were to be deposited into the Department’s Crimes Compensation Trust Fund. The Department was also reimbursed by VOCA compensation grants for 60 percent of the State dollars expended on eligible payments for victim compensation in the Federal fiscal year 2 years prior to the year of the application for reimbursement.

Finding No. 1: Victim Compensation Performance Report

States receiving VOCA victim compensation grant funds are required to submit by December 30 a standard Annual Performance Report to the Federal Office of Victims of Crime covering the Federal fiscal year ending September 30. The annual performance report is to provide specific claims information, such as types of crimes for which victims were compensated, disposition of claims, payments made for compensable expenses, and as applicable, information concerning the use of administrative and training funds.⁵ The Annual Performance Report is compiled via query at September 30 of the Victims Assistance Network (VAN) system by Department information technology (IT) staff. All data related to victim compensation applications and awards is to be recorded in the VAN information system, and supporting documentation is to be scanned by the BVC into the Department’s electronic document management system.

⁴ Section 402.181, Florida Statutes.

⁵ VOCA *Final Program Guidelines*.

Our audit disclosed the Department did not have procedures to ensure retention of the underlying data for amounts included in the Victim Compensation annual performance report. As a result, the Department could not, subsequent to the date of the report, demonstrate the accuracy and completeness of the report. Department management stated they were working with Department IT staff to retain the underlying data for the amounts included in future reports.

Recommendation: The Department should retain underlying data for amounts included in the Annual Performance Report sufficient to allow a demonstration of the report's accuracy and completeness.

Finding No. 2: Victim Compensation Eligibility Determinations and Quality Assurance Reviews

Florida law authorizes the State to provide aid and support to innocent persons who suffer personal harm or financial hardship as a result of criminal acts.⁶ To ensure that awards are provided only to eligible crime victims, the State has enacted various laws and rules specifying documentation and requirements for determination of each applicant's eligibility.⁷ As the appointed agent for administering the State's crime victim compensation program, the BVC had established procedures to document each crime victim's application, eligibility determination, and award. Each eligibility determination and the corresponding documentation was to be retained and tracked by the BVC in internal information and imaging systems. Also, to ensure compliance with governing laws and procedures, the BVC was to conduct quarterly quality assurance reviews of its claim files.

As part of our audit, we reviewed the claim eligibility determinations for 62 of the 36,888 approved claims paid during the period July 2010 through February 2012. The amounts paid pursuant to the 62 claims selected for review totaled \$82,189. Additionally, we reviewed the six quarterly victim compensation quality assurance claims reviews completed during the same period by the BVC. Our audit disclosed some areas for improvement as noted below.

- To be eligible for domestic violence relocation assistance, crime victims were required to submit an application through a State of Florida domestic violence center certified by the Department of Children and Families (DCF). The center was to then certify the application.⁸ The application certification was to include the name, mail and email addresses, telephone and fax numbers, and the DCF contract number of the certified domestic violence center.⁹ Contrary to law, for 6 of 13 domestic violence claims tested with claim payments totaling \$7,500, no contract number assigned by the DCF was included on the certification.¹⁰ Additionally, contrary to the BVC operating procedures, the claim file did not document efforts to obtain the missing documentation. The absence of a contract number may indicate the center lacked the DCF certification. Absent appropriate certification, a domestic violence center was not authorized to receive moneys on behalf of crime victims.
- For 5 of 62 claims tested, with claim payments totaling \$2,000, the BVC information system entries were incorrect. The information shown for five claims contained erroneous dates for either the date of the crime or the date reported. Information recorded in the BVC information system is used in determining eligibility of claims and generating required reports, including the victim compensation annual performance report. Thus, inaccuracies in system data may affect eligibility determinations and awards, and be reflected in required reports.
- Pursuant to law,¹¹ recipients of domestic violence relocation assistance must submit receipts to the Department within 45 days of receiving such assistance. For 10 of 12 claims payments totaling \$15,000 the

⁶ Section 960.02, Florida Statutes.

⁷ Sections 960.01 through 960.28, Florida Statutes; Department Rules, Chapter 2A-2, and 2A-3, Florida Administrative Code.

⁸ Department Rule 2A-2.014(1), (9), and (10), Florida Administrative Code.

⁹ Department Rule 2A-2.014(12), Florida Administrative Code.

¹⁰ Department Rule 2A-2.014(1), (2), (9), (10), and (12), Florida Administrative Code.

¹¹ Department Rule 2A-2.014(8)(f), Florida Administrative Code.

required receipts were not submitted, while receipts for the remaining two claims were submitted after the 45-day requirement. Receipts are required to ensure the moneys are used only for reimbursable expenses related to helping victims of domestic violence in their transition. Department management stated they had no authority or resources for tracking applicants after they receive assistance, and expressed concerns that these moneys may not always be used as intended. To mitigate these concerns, the BVC management have considered releasing moneys incrementally upon receiving receipts for use of prior payments.

- To ensure the legitimacy of claims for the costs of sexual battery examinations, State law¹² requires that each application be signed and dated by an employee of the facility where the examination was performed. For 13 of 14 claims for sexual battery examinations with claim payments totaling \$6,194, the required signature was not available. Department management stated they had revised the application form, which formerly did not have a line for a witness signature, provided the new form to providers, and advised staff to ensure providers utilize the new form for sexual battery claims.
- Timely, comprehensive quality assurance reviews provide management valuable information related to the accuracy and efficiency of its processes, and identify problem areas requiring corrective actions. We reviewed six quarterly victim compensation claims quality assurance reviews and noted that the reviews were not completed in a timely manner. As shown by Table 3, the reviews were not completed until 165 to 309 days after the end of the applicable quarter. Our review of the BVC procedures revealed that no maximum timeframe had been established for completion of the quarterly victim compensation quality assurance reviews. Reviews that are not completed timely may allow problems to persist by delaying evaluation and correction by management. Additionally, we noted that more than half of the claims reviewed contained at least one error, and the BVC had not identified corrective actions for reducing the number of errors. Department management indicated that several of the types of errors identified by the BVC reviews were related to data entry errors that had no impact on claims eligibility determinations and that they were considering a more accurate error definition to provide improved feedback. An error definition that better facilitates the identification of errors affecting eligibility determinations, and the adoption of corrective action plans that prioritize the reduction of those errors, would enhance the usefulness of the BVC reviews.

Table 3
Bureau of Victim Compensation
Quarterly Quality Assurance Monitoring Reviews
Summary of Results

Year	Monitoring Period	Date Review Completed	Total Days to Complete Review	Number of Claims Reviewed	Number of Claims With Errors
2010	3 rd Quarter Ended 9/30/2010	3/14/2011	165	70	43
	4 th Quarter Ended 12/31/2010	8/16/2011	228	66	30
2011	1 st Quarter Ended 3/31/2011	2/3/2012	309	73	46
	2 nd Quarter Ended 6/30/2011	4/29/2012	304	67	35
	3 rd Quarter Ended 9/30/2011	6/14/2012	258	70	54
	4 th Quarter Ended 12/31/2011	6/21/2012	173	60	40
Averages			240	68	41

Source: BVC Quarterly Monitoring Reports.

¹² Department Rule 2A-3.002(3), Florida Administrative Code.

Recommendation: The Department should establish a reasonable timeframe for completing the quarterly quality assurance reviews and implement corrective actions to improve the accuracy and completeness of claim documentation.

VICTIM ADVOCACY

The Bureau of Advocacy and Grants Management (BAGM) is charged with providing regional victim advocacy and appellate notification to victims of crime, crisis response training and coordination, and administering the address confidentiality program and the VOCA annual victim assistance grant program. The VOCA annual victim assistance grant program offers funding to local community providers for use in responding to the needs of crime victims. Each state’s victim assistance grant allocation is based on its population in proportion to all other states and applicable territories. The BAGM awards subgrants on both a Statewide and judicial circuit basis to eligible applicants, including county government entities, nonprofit organizations, or the BAGM in some cases. Those applicants awarded subgrants are to be subject to Department monitoring of performance.

Finding No. 3: VOCA Assistance Grant Allocation Methodology

As the administrator of the State’s victim advocacy grant, the BAGM is allowed sole discretion in awarding subgrants to subrecipients, which then provide services to crime victims. However, VOCA does require state grantees to allocate certain percentages of total annual grant moneys to specific services and victims, including 10 percent of each such grant for crime victims who were previously underserved, or justify that the services provided for those crime victims are adequate and crime rates¹³ for previously underserved victims have diminished. Additionally, State grantees are encouraged to identify through crime victim demographics gaps in available services and develop a program funding strategy that addresses the gaps and considers: the range of victim services throughout the State and within communities; the unmet needs of crime victims; the demographic profile of crime victims; the degree of coordinated, cooperative response of community organizations in organizing services for crime victims; the availability of services to crime victims throughout the criminal justice process; and the extent to which other sources of funding are available for services.¹⁴

Our audit disclosed the BAGM did not have policies or procedures detailing the methodology to be used in allocating the State’s annual VOCA victim advocacy grant moneys. Instead, in making the allocations, the BAGM management indicated they relied upon the experience of staff and input from victim services providers. We were advised that primary considerations were staff familiarity with the applicant, the assessed need for proposed services offered by the applicant, the availability of needed services from other sources, and the need to provide continuity in the funding of providers. While these considerations are allowable, the BAGM’s process did not document how, in the allocation of VOCA victim advocacy moneys, the identification of

**Table 4
2010-11 State Fiscal Year VOCA
Victim Advocacy Funding
By Judicial Circuit**

Judicial Circuit	Victim Advocacy Award
1	\$ 1,222,664
2	1,145,254
3	772,422
4	1,938,719
5	1,523,316
6	1,407,566
7	1,975,005
8	1,217,618
9	1,496,398
10	653,319
11	1,165,750
12	1,117,907
13	824,699
14	719,998
15	1,244,677
16	1,004,819
17	607,934
18	1,451,899
19	979,347
20	1,838,073
Total	\$ 24,307,384

Source: Department Bureau of Advocacy and Grants.

¹³ Crimes reported per 100,000 residents.

¹⁴ VOCA, *Final Program Guidelines*.

underserved crime victims had been considered. Table 4 details the victim advocacy grant allocations for each judicial circuit for the 2010-11 State fiscal year.

Absent documentation showing how its funding strategy guidelines had been applied in the allocation of grant moneys, the Department cannot clearly demonstrate that the allocations were made in a manner consistent with VOCA requirements. In response to our audit inquiries the BAGM management stated that a formula based strategy would not result in the most effective or efficient use of available VOCA advocacy grant moneys due to each judicial circuit's unique needs, but the BAGM would consider documenting its funding strategy guidelines.

Recommendation: We recommend the Department establish a standard funding allocation methodology for awarding crime victim advocacy subgrants that includes documenting the rationale used for the allocation, including the consideration given to previously underserved victims.

Finding No. 4: Victim Advocacy Domestic Violence Center Monitoring Subgrant

To ensure compliance with VOCA monitoring requirements, the BAGM awarded a contract in the form of a subgrant to a firm (contractor) engaged to monitor the 42 certified domestic violence centers and 12 legal aid offices receiving victim advocacy funding for the 2010-11 and 2011-12 State fiscal years. These monitoring activities were to consist of onsite or desk reviews and the provision of corresponding monitoring reports addressing compliance with VOCA guidelines by each domestic violence shelter and legal aid office. The contractor was to be compensated \$1,005 for each monitoring review, and the same amount for each corresponding monitoring report, with total billings for the monitoring contract not to exceed \$108,556 per fiscal year. Our review of the monitoring contract, and associated monitoring reports provided during the period July 2010 through February 2012, disclosed:

- State agencies are required to complete the Florida Single Audit Act checklist for Non-State Organizations – Recipient/Subrecipient vs. Vendor Determination (DFS-A2-NS), and retain it in their records when awarding subgrants to non-State organizations.¹⁵ Our audit disclosed the BAGM did not complete the checklist. The completion of the checklist would have allowed the Department to document the rationale for treating this contract as a subgrant, rather than as a purchase of services contract. Had this contract been treated as a purchase of services contract, the application of competitive procurement requirements of Section 287.057, Florida Statutes, would have been required.
- A total of \$100,525, was paid to the contractor for monitoring domestic violence center compliance with the VOCA subgrants. However, the monitoring reports provided to the BAGM did not address VOCA-specific monitoring criteria included on the BAGM monitoring checklist, and no copies of completed VOCA inspection checklists or other documentation were provided with the monitoring reports. Instead, the reports addressed the results of the contractor's monitoring of the domestic violence centers' compliance with the terms of a DCF contract. Absent the contractor's provision of VOCA-specific monitoring reports, it was not clear that the Department had received the services required by the contract.
- The contract included a provision that prohibited duplicate funding for any position, service, or deliverable funded by the Department. We found that the Department had not implemented procedures to verify contractor compliance with this requirement and could not demonstrate that the amounts paid did not duplicate funding provided under a DCF contract with the contractor. As indicated above, in satisfaction of the deliverable requirement of the Department's VOCA monitoring contract, the contractor submitted monitoring reports prepared in connection with the contractor's contract with the DCF.

In response to our inquiries, Department management stated they considered the contractor the most qualified and economical provider of the required monitoring services available, and would complete the required forms, or seek

¹⁵ Department of Financial Services Rule 69I -5.006, Florida Administrative Code.

exemption or sole source status for the contractor. Additionally, Department management stated the contractor's activities under the subgrant were related to VOCA guidelines, and although they had not previously considered requesting VOCA specific monitoring reports, they would do so going forward.

Recommendation: We recommend that the Department document its determination of the contract as either a subgrant or vendor contract. Should the contract be a vendor contract, the contract should be awarded in accordance with the competitive procurement provisions of Section 287.057, Florida Statutes. Further, the Department should require VOCA-specific monitoring and related reports and implement procedures to detect duplicate funding.

Finding No. 5: Victim Advocacy Monitoring Reports

To ensure compliance with VOCA guidelines and internal procedures, the BAGM requires regular monitoring of all subrecipients. Monitoring activities were conducted by the BAGM staff, regional victim advocates,¹⁶ or the contracted monitor. Grant managers were responsible for reviewing monitoring reports, communicating deficiencies noted in monitoring reports to subgrantees, ensuring appropriate corrective action(s) were taken, and documenting monitoring activities in the applicable VOCA subgrant file. All monitoring activities were subject to the BAGM program administrator's review and approval. Our audit disclosed certain areas for improvement, as noted below:

- Regional victim advocates were required by BAGM internal procedures to submit on-site monitoring reports to the program office within two weeks (14 days) of the on-site visit to ensure timely review and approval by grant managers and correction of noted deficiencies. For 8 of 38 applicable monitoring reports tested, the monitoring reports and required support were not timely submitted, ranging from 23 to 44 days past the 2-week threshold. Delaying submission, review, and approval of monitoring reports reduces the effectiveness of the BAGM's monitoring activities.
- Grant managers serve as the Department's agent to ensure grants are administered in accordance with laws, rules, and guidelines. Documentation of the applicable grant manager's review and approval was not available for 5 of 53 applicable monitoring reports tested. Absent documentation of review and approval by the applicable grant managers, the BAGM has reduced assurance that the monitoring procedures were properly performed and deficiencies were corrected.
- For 15 of 39 applicable monitoring reports tested, deficiencies were noted and related corrective action(s) were proposed by the subrecipient and noted in BAGM records, but no follow-up efforts or conclusions as to the effectiveness of corrective actions were recorded by the BAGM in the applicable VOCA subgrant file. In response to our audit inquiries, the BAGM management stated that although there was no standard procedure for recording conclusions regarding proposed corrective actions, the program administrator would not have approved a subrecipient's monitoring report until the corrective action(s) had been implemented. However, absent recording a conclusion on the acceptability of the corrective actions and the basis for the program administrator's conclusions, the Department's records do not allow a demonstration of the appropriateness of the program administrator's decision to close monitoring findings.

Recommendation: The Department should enhance procedures to ensure timely submission, review, and approval of program monitoring reports. Additionally, procedure enhancements should ensure that evaluations of corrective actions are appropriately documented.

¹⁶ Victim advocate positions were funded primarily through VOCA subgrants and required match by the Department or subrecipient. Some victim advocate positions were located in regional offices.

Legal Services Rates

Finding No. 6: Legal Services Billing Rates

State agencies requiring legal services must first attempt to obtain them from the Department, which was staffed to provide a range of legal services including issues related to children, personnel, and general civil litigation. The Department had developed two types of contracts with State agencies to fund these legal services, and the types of contracts were referred to as “funded” contracts, which required an agency to pay for specific positions, and “retainer” contracts, which required the agency to pay an hourly rate for the services provided. In retainer contracts, hourly rates were assigned for each position classification (e.g. Senior Assistant Attorney General, Assistant Attorney General, Attorney, Paralegal, and other Legal Assistants) that may be assigned to work under a Department contract. Revenues and expenses related to providing legal services to State agencies were recorded in the Department’s Legal Services Trust Fund (Fund).¹⁷ Table 5 shows the revenues and expenses recorded in the Fund for the 2009-10, 2010-11 and 2011-12 State fiscal years.

**Table 5
Revenues and Expenses Recorded to Legal Services Trust Fund
for the 2009-10 through 2011-12 State Fiscal Years**

Revenues/Expenses	2009-10	2010-11	2011-12
Revenues	\$ 27,916,306	\$ 28,587,709	\$ 27,265,750
Expenses	<u>(28,532,354)</u>	<u>(28,512,176)</u>	<u>(26,925,233)</u>
Excess/(Deficiency)	<u>\$ (616,048)</u>	<u>\$ 75,533</u>	<u>\$ 340,517</u>

Source: FLAIR.

In our report No. 2008-021, we recommended that the Department annually recalculate and evaluate the rates and retain the analyses to provide assurance the rates were adequate to recover the costs of providing legal services. Subsequent to our audit, the Department in 2008 analyzed the revenues and expenses related to providing legal services to State agencies and increased the average billing rate by 20 percent. Our review of the rates utilized during the 2009-10, 2010-11, and 2011-12 State fiscal years disclosed the following:

- The Department continued to use the 2008 rates during the 2009-10, 2010-11, and 2011-12 State fiscal years, and the use of the 2008 rates recovered approximately the operating expenses related to providing legal services to State agencies during those fiscal years. However, the Department did not annually recalculate and evaluate its legal services rates, but instead, to consider the appropriateness of the rates, reviewed the fiscal year ending balance of the Fund and considered any known budgetary revisions that may affect the future costs of providing legal services. While consideration of the fiscal year-end balance in the Fund may allow an evaluation of whether total Fund revenues are appropriate, such procedures will not allow analyses of the per hour costs of the services provided by each position classification and an evaluation of the sufficiency of billing rates in relation to these costs. Such analyses would allow the Department to better demonstrate that the amounts charged to each State agency client approximated the costs of providing the invoiced services.
- The rates did not include provision for the liquidation of the long-term liabilities associated with compensated absences and other post-employment benefits (OPEB). The decision to not include the long-term portion of those liabilities was consistent with the State’s funding policy with regard to the liquidation of

¹⁷ The Fund is accounted for and reported as a proprietary fund pursuant to *GASB Statement No. 20*. Such funds are to utilize the economic resources measurement focus and the accrual basis of accounting.

those long-term liabilities. For purposes of disclosure, we have included Table 6, which shows the Fund's cumulative long-term liabilities for compensated absences and OPEB.

Table 6
Legal Services Trust Fund Cumulative Long-Term Liabilities for
Compensated Absences and Other Post-Employment Benefits
for the State Fiscal Years Ended June 30, 2007, through June 30, 2012

	2011-12	2010-11	2009-10	2008-09	2007-08	2006-07
Compensated Absences – Long Term	\$2,154,756	\$2,681,507	\$2,888,722	\$ 2,907,375	\$ 2,804,026	\$ 2,241,562
OPEB Liabilities	\$1,941,593	\$1,289,531	\$ 874,811	\$ -	\$ -	\$ -

Source: FLAIR and Florida *Comprehensive Annual Financial Reports*.

Recommendation: The Department should annually recalculate and evaluate the legal services rates charged to State agencies to ensure the amounts charged to State agency clients are consistent with the costs of the services rendered.

ADDITIONAL MATTERS

Finding No. 7: Department Information Systems Security Controls

The Department used Lotus Notes software to develop, maintain, and operate over 300 custom applications to perform day-to-day functions. The custom applications include functionality to support legal case management, victims' claims processing, complaint and correspondence tracking, administrative and financial systems, workflow and collaboration, Web content management, and Web-based consumer services. Additionally, the Department records financial information into the State's general ledger system (FLAIR) as required by law.¹⁸ Our audit focused on evaluating the Department's data security and data integrity controls over the custom Lotus Notes applications utilized in operations subject to our testing, specifically, the Victim Assistance Network (VAN), Victim of Crime Act (VOCA) Grant Tracking Database, and FLAIR during the period July 2010 through February 2012.

Security controls are intended to protect the confidentiality, integrity, and availability of data, IT resources, and sensitive information. Our audit disclosed that certain Department security controls related to user access and authentication needed improvement. We have not disclosed specific details of these issues in this report to avoid the possibility of compromising Department data and information resources. However, we have notified appropriate Department management of the specific issues. Without adequate security controls related to user access and authentication, the risk is increased that the confidentiality, integrity, and availability of data and IT resources may be compromised.

Recommendation: The Department should continue efforts to improve information systems and data security controls related to user access and authentication.

¹⁸ Section 216.102(2), Florida Statutes.

Finding No. 8: Collection of Social Security Numbers

As indicated in State law,¹⁹ the Legislature recognizes that a person’s social security number (SSN) was originally intended to be used solely for the administration of the Federal Social Security System and not for ancillary business purposes, but over time the SSN has been used extensively for identity verification and other legitimate purposes. Recognizing an individual’s SSN may be used to obtain sensitive data and perpetrate fraud, and to maintain a balanced public policy, the Legislature enacted laws²⁰ whereby State agencies may not collect an individual’s SSN unless the agency is authorized by law to do so and has stated in writing the purpose for collecting the number. Additionally, agencies are required to provide written notification to the individual(s) whose SSN is collected regarding the purpose for such collection. The SSNs collected by an agency may not be used by that agency for any purpose other than the purpose provided in the written notification. The law further provides that SSNs held by an agency are confidential and exempt from public inspection and requires that each agency review its SSN collection activities and ensure the agency’s compliance with the law and the immediate discontinuance of SSN collection upon discovery of noncompliance.²¹

We noted that the Department had not adopted written policy and procedures relating to the collection and review of SSN collection activities. As part of our audit, we identified seven programs, activities, or functions in which the Department obtained SSNs from persons other than employees and inquired whether Division-level procedures for ensuring compliance with requirements of law²² had been established. Responses received from the management of four of the seven programs, activities, or functions we reviewed, disclosed they did not provide written notification for the collection of SSNs and were not aware of applicable statutory requirements.

Recommendation: To ensure compliance with law, the Department should develop written procedures for safeguarding access to SSNs including, as applicable, provisions for providing written notifications to providers of SSNs.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the following paragraphs, the Department had taken corrective actions for the applicable findings included in report No. 2010-200.

Accounts Receivable

The Department’s crime enforcement activities frequently result in judgments or agreements requiring offenders to remit to the Department payment for restitution, penalties, and costs of prosecution, sometimes via another entity such as the Department of Corrections (DOC). These claims, which represent the majority of the Department’s receivables, may not be immediately collectible because the offender may be incarcerated for an extended period, or the claim may be subject to appeals. Program units were responsible for establishing and tracking the status of their respective accounts receivable and maintaining subsidiary records for this purpose. The Bureau of Finance and Accounting (BFA) was responsible for recording and updating the accounts receivables in the official accounting records after receiving required documentation from the program units. To ensure accuracy of official accounting

¹⁹Section 119.071(5)(a)1.a, Florida Statutes.

²⁰ Section 119.071(5), Florida Statutes.

²¹ Section 119.071(5)(a)4, Florida Statutes.

²² Section 119.071(5), Florida Statutes.

records, the BFA provided monthly balances of accounts receivables to applicable program units for reconciliation to the unit's internal records.

Checks for payments were initially received in the Department mail room where check information was recorded on a two-part mail room check-log register with the exception of items that appeared to be court-ordered payments remitted by the DOC, which were forwarded unopened and unrecorded to the applicable program unit. When picking up the mail, program unit staff were to sign the two-part mail room check-log register acknowledging receipt of the opened and listed checks and receive one part of the mail room check-log register. The unopened, unlisted checks from the DOC were also picked up at this time, but with no recording of initial receipt or transfer. Once received by the program units, all checks were to be restrictively endorsed and recorded on cash receipt listing forms. The check listings identified the specific account(s) receivable to which the individual checks should be applied. The checks and related listings were to be then provided to the BFA as the basis for updating the accounts receivable accounts in the Department's official accounting records. In our report Nos. 2008-021 and 2010-200, we recommended the Department improve controls over accounts receivables to ensure appropriate separation of incompatible duties, the timely reconciliation of official accounts receivables records to internal accounts receivable records, and appropriate approvals for receivable write-offs. Our follow-up testing of the Department's accounts receivables processes disclosed some remaining opportunities for improvement as described in succeeding paragraphs.

Finding No. 9: Accounts Receivable Accounting and Reconciliations

As similarly reported in report No. 2010-200, finding No. 1, the Office of Statewide Prosecution (OSP) did not perform reconciliations of internal accounts receivable records to the monthly reports provided by the BFA, and the BFA did not follow up with applicable program units when receiving no response from the OSP regarding the findings of the reconciliations. The BFA relied upon the program units to research and assign payments to the applicable account(s) receivable, and administer collection and write-offs of their respective accounts receivables. Absent timely, accurate reconciliations of official accounts receivables records to program units accounts receivables records, the Department cannot ensure the accuracy of official records, thus increasing the risk of unauthorized transactions, posting errors, and delays in referrals for collection. In response to our inquiries, Department management stated that a scarcity of resources contributed to the lack of reconciliations, but the OSP would work with the BFA to ensure internal accounts receivables records are reconciled to official accounts receivables records.

Recommendation: The Department should enhance its procedures to ensure official accounts receivable records are periodically reconciled to internal accounts receivable records.

Finding No. 10: Separation of Incompatible Duties

In report No. 2010-200, finding No. 2, we noted that incompatible duties had been assigned to some staff. Our current audit also disclosed some incompatible assignments. Specifically, the OSP had assigned the duties of accounts receivable establishment and write-off to the Operations and Management Consultant (OMC) Manager and the duties of asset custody and maintenance of OSP's internal accounts receivable records to a Criminal Financial Specialist. Additionally, the Criminal Financial Specialist was designated to perform the reconciliation of the internal accounts receivable records to the official accounting records. The assignment to one individual duties relating to the custody of assets, which included the DOC checks which were not included on check log registers or restrictively endorsed, recording, and receivable reconciliations creates conditions under which errors or fraud may occur and escape timely

detection. In response to our inquiries, Department management stated that a lack of resources prevented further separation of duties but they would review their processes and consider further options.

Recommendation: The Department should continue its efforts to ensure appropriate separation of incompatible duties and specifically separate the duties of asset custody, recording, and reconciliation of accounts receivable records. Additionally, the Department should consider immediate opening of all mail, the restrictive endorsement of all checks, and the recording of all check information before providing collections to program units.

Finding No. 11: Accounts Receivable Collections and Write-Offs

In report No. 2010-200, finding No. 3, we reported the Department had not established guidelines addressing the submission of accounts receivables information to the Department of Financial Services for collection assistance or write-off approval; Victim Services did not perform collection activities for delinquent accounts receivable; and, procedures did not provide for program unit Director approval of accounts receivable write-off requests. In response to our recommendations, the Department revised procedures to incorporate statutory changes effective July 1, 2010, regarding collection referrals, provide for program unit Director approval of accounts receivable write-offs, and assigned additional Victim Services staff to research delinquent accounts receivable.

Effective July 1, 2010, State law provides that each State agency is responsible for exercising due diligence in securing full payment of all accounts receivable and the claims due the state and requires State agencies, following the exhaustion of other lawful measures available, to either report accounts receivable or other claims 120 days past due to a collection agent designated by the Chief Financial Officer (CFO), or obtain from the CFO a written exemption or different transfer period.²³ As allowed by the law, the BFA requested exemptions for some receivables, obtained an extension from 120 to 240 days past due for accounts receivables related to the Division of Economic Crimes, and selected two collection agencies from among those designated by the CFO. The first collection agency was to collect accounts receivable past due for periods 120 days to 24 months, while the second was to collect accounts receivable past due for periods greater than 24 months.

Our audit disclosed the Department had submitted 181 accounts receivable to the designated collection agents in response to the new law. However, an additional 3,148 accounts receivable that were either more than 240 or 120 days past due, as applicable, as of February 29, 2012, had not been reported. Table 7, and Charts 1 and 2 summarize the accounts receivable, with a recorded value of \$50,036,479, that were past due either 240 days or more for the Division of Economic Crimes accounts, or 120 days or more for all other program units, as of February 29, 2012.

²³ Section 17.20, Florida Statutes.

Table 7
Department Accounts Receivable
Past Due 120 Days or More and Not Reported to Collection Agent
As of February 29, 2012

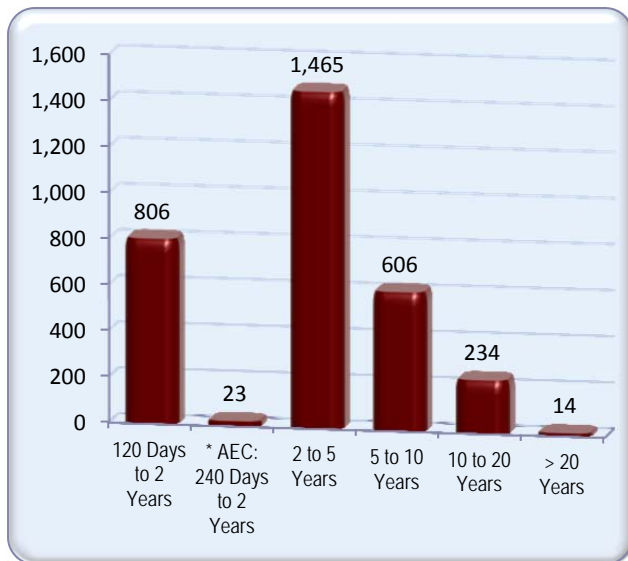
Program Unit	Current Balance	Number of Receivable Accounts
Victim Services	\$7,638,283	934
Statewide Prosecution	7,132,976	1,828
Antitrust Enforcement	3,309,206	14
Medicaid Fraud	3,502,679	256
Others	415,751	64
Economic Crimes (AEC) ^a	<u>28,037,584</u>	<u>52</u>
Grand Total	<u>\$50,036,479</u>	<u>3,148</u>

^a The Department has acquired an extension from the CFO of the collection referral period from 120 days to 240 days past-due.

Source: FLAIR.

Chart 1

Department Accounts Receivable Aged by Number of Accounts Past Due 120 Days or More and Not Reported to Collection Agent as of February 29, 2012

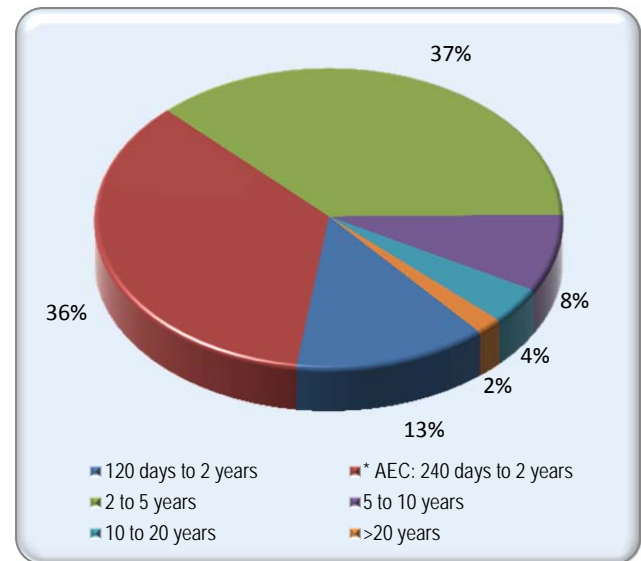


* Department has acquired an extension from the CFO of the collection referral period from 120 days to 240 days past-due.

Source: FLAIR.

Chart 2

Department Accounts Receivable Aged by Percentage of Dollars Past Due 120 Days or More and Not Reported to Collection Agent as of February 29, 2012



* Department has acquired an extension from the CFO of the collection referral period from 120 days to 240 days past-due.

Source: FLAIR.

In response to our audit inquiries, Department management stated that although Department accounts receivable have an assigned book value, they are significantly different than the typical accounts receivable of most other State agencies in that most are due from individuals incarcerated for extended periods with little ability or inclination to satisfy the claim. Department management stated these circumstances have hindered the ability to satisfy the due diligence standards required by law. While we are cognizant of the challenges facing the Department related to collecting these accounts receivables, the aforementioned revision of the claims collection law mandates the timely referral of claims for collection absent appropriate exemption or modified transfer period.

Recommendation: We recommend the Department ensure that lawful measures available to the Department be timely employed in the collection of amounts due the State. In those instances in which the collection of amounts due will be unavoidably delayed, the Department should request from the CFO a written exemption or different transfer period.

LEGAL AFFAIRS REVOLVING TRUST FUND

Finding No. 12: Calculation of Excess Moneys in Trust Fund

State law requires moneys remaining in the Legal Affairs Revolving Trust Fund at fiscal year-end that are in excess of three times the combined budgets for the Department's Antitrust and Racketeering sections for the forthcoming fiscal year, be transferred to the State's General Revenue Fund.²⁴ Our audit disclosed that while budget information was available for the Department's Antitrust program, the Department had not identified the budget for the Racketeering section. Instead, the Department had used the combined budgets of the Antitrust and Economic Crimes programs. Because the budget for the Economic Crimes program unit includes amounts for areas of operation in addition to the Racketeering section, the methodology employed by the Department may result in the overstatement of the statutory maximum that may be retained and inappropriately reduce the required transfers of excess moneys. A similar finding was included in report No. 2008-021, and report No. 2010-200.

Department management stated the budget information for the Racketeering section is not readily available since the same attorneys assigned to the Economic Crimes program unit perform additional legal services in addition to the work related to racketeering, but will consider a suitable methodology for separating the time charged to the Racketeering section to calculate the potential excess moneys correctly.

Recommendation: We again recommend that the Department modify its process for the evaluation of the Legal Affairs Revolving Trust Fund balance to more closely follow the requirements of law.

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 January 2012 to August 2012 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.

²⁴ Section 16.53(7), Florida Statutes.

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 the internal controls the Department had established over the crime victims compensation and advocacy programs and the adequacy of the Department's legal services rates charged to State agencies, and included a follow-up on prior audit findings. The overall objectives of the 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 relevance 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 relevance and reliability of records and reports; and the safeguarding of assets.
- To determine whether management had corrected, or was in the process of correcting, all applicable deficiencies disclosed in report No. 2010-200.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Interviewed applicable Department personnel, conducted observations of selected processes, and reviewed documentation including other audit reports, policies, procedures, and applicable records to gain an understanding of processes and associated internal controls related to victim services, calculation of legal services rates, and accounts receivables.

- Obtained an understanding of IT controls related to the administration of the victims compensation and advocacy programs, and recording of financial information, assessed the risks of those controls, evaluated whether selected general and application IT controls were in place, and tested the effectiveness of the controls.
- Determined whether expenditures related to victim compensation and advocacy programs for the period July 2010 through February 2012 were in correct amounts and adequately documented; made in accordance with applicable laws, rules, and applicable contract terms; and properly authorized and approved. We tested:
 - Documentation relating to 60 victim advocacy administrative cost transactions totaling \$77,914.
 - Documentation relating to 60 victim compensation awards totaling \$82,189.
 - Documentation relating to 40 victim advocacy subgrants totaling \$4,256,151.
- Obtained an understanding of victim compensation administrative costs for the period October 2010 through September 2011.
- Reviewed the Department's 2010-11 fiscal year certification form for Federal victim compensation reimbursement and recalculated amounts included in the certification to determine whether submitted forms were accurate, supported, and submitted timely.
- Performed an analysis matching victim compensation payment recipients' information for the period July 2010 through February 2012 to same information for Department employees to determine whether any unreported related party transactions had occurred.
- Examined six quarterly victim compensation monitoring reports for the period July 2010 through February 2012 and supporting records to determine whether they were completed timely, adequately supported, and corrective actions were timely addressed.
- Examined 60 annual victims advocacy subrecipient on-site monitoring reports for the period July 2010 through February 2012 and supporting records to determine whether they were completed timely, adequately supported, and corrective actions timely addressed.
- Examined the annual crime victim's compensation and advocacy State Performance Reports based on the 2010-11 Federal fiscal year and supporting records to determine whether the report was completed timely, adequately supported, and reported amounts were properly calculated.
- Examined eight quarterly Federal financial (269A) reports for the victim compensation and advocacy programs for the period July 2010 through February 2012 to determine whether they were completed timely, accurately, and adequately supported.
- Analyzed services provided under the victim's compensation and advocacy programs and researched other State agencies laws, rules, and Web sites, to evaluate whether any potential duplicative services were being offered.
- Conducted inquiries of Department personnel to determine allocation methodology for the 2011-12 State fiscal year victim advocacy grant.
- Recalculated the Department's actual legal services rates, and calculated pro-forma legal services rates, including provisions for the liquidation of long-term liabilities, and compared to the Department's current rates.
- Tested the time charges for 25 employees for the period July 2010 through February 2012, whose time is used to calculate the Department's legal services rates to determine whether all such employees' hours were charged to the appropriate services and the hours charged per employee were comparable to those used in the derivation of the rates.
- Performed analyses researching and calculating average legal services rates paid to private law firms for the period July 2010 through February 2012 in Tallahassee, Orlando, Tampa, and Miami to those charged by the Department to ensure rates charged to State agencies were not excessive compared to those available in the private sector.

- Performed analyses aging, and classifying by program unit, the Department’s accounts receivables as of February 2012 that had not been reported to collection agencies.
- Tested 160 court-ordered payments from the Department of Corrections for the period July 2010 through February 2012 to ensure these payments were timely deposited and recorded in the Department of Legal Affairs’ accounting records.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Communicated on an interim basis with applicable Department officials to ensure the timely resolution of issues involving controls and noncompliance.
- 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 periodic 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 February 28, 2013, the Department provided responses to our audit findings and recommendations. The response is included as **EXHIBIT A**.

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EXHIBIT A
MANAGEMENT'S RESPONSE



PAM BONDI
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STATE OF FLORIDA

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Inspector General

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February 28, 2013

David W. Martin
Auditor General
G74 Claude Pepper Building
111 West Madison St.
Tallahassee, FL 32399-1450

Dear Mr. Martin,

Attached is the statement of explanation and proposed corrective actions concerning the findings and recommendations addressed in your Department of Legal Affairs – Victim Services, Legal Services Rates, and Follow-Up on Prior Audit Findings Operational Audit Report.

Recommendation No. 1: The Department should retain underlying data for amounts included in the Annual Performance Report sufficient to allow a demonstration of the report's accuracy and completeness.

Audit Response: The Department agrees with the recommendation as indicated in this audit finding. The data that is used to compose the annual performance reports will be retained for a period of three years.

Recommendation No 2: The Department should establish a reasonable timeframe for completing the quarterly quality assurance reviews and implement corrective actions to improve the accuracy and completeness of claim documentation.

Audit Response:

- *The Department agrees with this audit finding. A revised domestic violence relocation certification form which removes the non-existing DCF contract number criteria has been developed and will be implemented.*
- *The department agrees that there were five data entry errors as indicated in this audit finding. Each of those data entry errors has been corrected.*

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

- *The Department agrees with this audit finding, however, without modifications to Florida Statutes, the Department has limited ability to manage or recover the funds after the victim acquires the assistance.*
- *The Department agrees with this audit finding. Staff has been instructed to adhere to State Statutes which require the witness verification criteria be completed.*
- *The Department agrees with the audit finding that quality assurance reviews were not processed in a timely manner. Policy has been established which schedules the completion of each review to not exceed 90 days.*

Recommendation No. 3: We recommend the Department establish a standard funding allocation methodology for awarding crime victim advocacy subgrants that includes documenting the rationale used for the allocation, including the consideration given to previously underserved victims.

Audit Response: According to the Final Program Guidelines Victims of Crime Act FFY 1997 Victim Assistance Program, II. Allocation of VOCA Victim Assistance Funds, D, Allocation of Funds within the States, "The Governor of each state designates the state agency that will administer the VOCA victim assistance grant program. The designated agency establishes policies and procedures, which must meet the minimum requirements of VOCA and the Program Guidelines. VOCA funds granted to the states are to be used by eligible public and private nonprofit organizations to provide direct services to crime victims. States have sole discretion for determining which organizations will receive funds, and in what amounts, as long as the recipients meet the requirements of VOCA and the Program Guidelines."

Recommendation No. 4: We recommend that the Department document its determination of the contract as either a subgrant or vendor contract. Should the contract be a vendor contract, the contract should be awarded in accordance with the competitive procurement provisions of Section 287.057, Florida Statutes. Further, the Department should require VOCA-specific monitoring and related reports and implement procedures to detect duplicate funding.

Audit Response: The Bureau of Advocacy and Grants Management will have a resolution to the determination of the contract as either a subgrant or vendor contract prior to issuing another monitoring contract for these services. VOCA specific monitoring and related reports are provided by the Florida Coalition Against Domestic Violence for the contracted monitoring. This was implemented in July 2012.

Recommendation No. 5: The Department should enhance procedures to ensure timely submission, review, and approval of program monitoring reports. Additionally, procedure enhancements should ensure that evaluations of corrective actions are appropriately documented.

Audit Response: The Bureau of Advocacy and Grants Management has instructed staff to adhere to Bureau policy which requires documentation be submitted by the established deadlines.

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

Procedure enhancements, to ensure that evaluation of corrective actions are appropriately documented, were implemented October 1, 2012.

Recommendation No. 6: The Department should annually recalculate and evaluate the legal services rates charged to State agencies to ensure the amounts charged to State agency clients are consistent with the costs of the services rendered.

Audit Response: As recommended in the No. 2008-021 audit report, the Department of Legal Affairs evaluates sufficiency of the billings for the Legal Services Trust fund yearly. The evaluation is made by comparing the revenues and expenditures and calculating the percentage difference between the two. In addition, like all budget determinations, the Department reviews legislative actions such as across the board salary increases or increases in benefit costs required by the legislature. The Department has found that, after the adjustment in rates made in 2008, the rates adequately cover the costs of providing services and there has been no indication that the rates needed additional adjustment. The Department will continue to monitor the rates and any legislative or economic changes that would require an adjustment. The Department will also maintain the documentation of the comparison.

As mentioned in the report, the calculations made by the Department do not include all the Cumulative Long Term Liabilities for Compensated Absences or Other Post-Employment Benefits. The costs associated with yearly annual leave payouts are included in the calculation as they are included in the Expenditures each year. There is no other post employment payment that is paid by the Legal Services Trust Fund.

Recommendation No. 7: The Department should continue efforts to improve information systems and data security controls related to user access and authentication.

Audit Response: The Department agrees with the recommendations. A project to implement appropriate changes has begun.

Recommendation No. 8: To ensure compliance with law, the Department should develop written procedures for safeguarding access to SSNs including, as applicable, provisions for providing written notifications to providers of SSNs.

Audit Response: OAG policy regarding distribution of consumer restitution, Chapter 8-9, was revised in February 2013 to remove the reference to collecting SSN's. Written division specific procedures have been revised to indicate that SSN's will not be collected unless the Department has a legal right, and will not do so without providing a written statement of the purpose.

Recommendation 9: The Department should enhance its procedures to ensure official accounts receivable records are periodically reconciled to internal accounts receivable records.

Audit Response: Finance and Accounting will remind the divisions of their responsibility to periodically reconcile their internal records for accounts receivable (A/R's) to the FLAIR balances. Finance and Accounting will also to provide an Excel version of monthly FLAIR

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

reports of outstanding A/R's. This should provide a tool to facilitate reconciliation as well as communicating any issues back to Finance and Accounting. OSP has submitted spreadsheets of recorded accounts receivable with discrepancies to OFA. Some of these accounts were submitted to DFS for collection and some to be written off.

Recommendation No. 10: The Department should continue its efforts to ensure appropriate separation of incompatible duties and specifically separate the duties of asset custody, recording, and reconciliation of accounts receivable records. Additionally, the Department should consider immediate opening of all mail, the restrictive endorsement of all checks, and the recording of all check information before providing collections to program units.

Audit Response: The process for check handling in the OSP is being changed to try and address separation of incompatible receivable duties. This is somewhat hindered by the limited OSP staff (in Tallahassee) but we are hopeful other areas such as the mail room and OFA might offer assistance in the process of ensuring that all receipts are accounted for.

The Department will modify policy to provide that all mail, including all checks, will be opened immediately in the mail room. All checks made payable to the Department will be restrictively endorsed. If the payee identified first is an individual, the check will not be restrictively endorsed in the mail room. These checks will be delivered to the individual for endorsement. All checks will be included on check log registers in the mail room as the checks are opened and prior to providing the checks to the appropriate program areas. Each program area will be notified that checks are available for pick-up or delivery once checks have been received, opened and logged in the mail room. Staff from the program area and the mail room will be required to sign a form identifying each check received and acknowledging the check(s) transfer from the mail room to the program area. OFA is in the process of developing a process to reconcile the mail log receipts to actual deposits.

Recommendation No. 11: We recommend the Department ensure that lawful measures available to the Department be timely employed in the collection of amounts due the State. In those instances in which the collection of amounts due will be unavoidably delayed, the Department should request from the CFO a written exemption or different transfer period.

Audit Response: The Department has reviewed the nature of the outstanding A/R's to determine its legal right to collect. The determination has been made that in the case of items that do not make direct payment to the Department of Legal Affairs; the agency does not have a legal right to collect. Included in this classification are court-ordered payments to be directed to the Clerk of Court, or payments made through the Department of Corrections. If payment is made directly to the department, an A/R will be established. The Department revised its policy to include this as part of the definition, Chapter 8-1. Existing accounts with no activity are currently being reviewed to determine if they meet the new definition. If they do not name the Department as the point of collection, a write off request will be submitted to DFS. This was communicated to DFS via e-mail 09/27/2012.

EXHIBIT A
MANAGEMENT'S RESPONSE (CONTINUED)

The Department currently has the following exemptions for submitting items for collection: Economic Crimes assurance of voluntary compliance (AVC) to extend the timeframe from 120 days to 240 days.

Accounts where the debtor is incarcerated; the 120 days timeframe for referral would be activated upon release.

Recommendation No. 12: We again recommend that the Department modify its process for the evaluation of the Legal Affairs Revolving Trust Fund balance to more closely follow the requirements of law.

Audit Response: In 2003 in Chapter 2003-179, the Department of Legal Affairs' Consumer Fraud Trust Fund was abolished and the receipts previously directed into that fund, as well as the budget authority appropriated to provide for consumer fraud, were directed to the Legal Affairs Revolving Trust fund. In the ensuing years, the legislature fund shifted the General Revenue provided for consumer protection into the Legal Affairs Revolving Trust fund. While the statutes directing receipts from consumer protection activities were modified to direct those funds into the Legal Affairs Revolving Trust Fund, Section 16.53, Florida Statutes, was not modified to reflect the expanded use of the fund to include consumer fraud.

The Department has drafted changes to Section 16.53, to reflect the expanded use of the trust fund and correct the calculation clarifying that the consumer fraud activities as well as the antitrust activities should be used in the determination of the amount required to be transferred to the General Revenue Fund. The Department is in the process of obtaining a sponsor and hopes to have the bill passed during the FY 2013 Session.

We appreciate the professionalism shown by your auditors during this audit. We will follow up on the status of implementation of recommendations within six months. If you need any further assistance, please give us a call.

Sincerely,



Steve Rumph
Inspector General