

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

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DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery,
and Consumer Services
and Prior Audit Follow-Up



Sherrill F. Norman, CPA
Auditor General

Chief Financial Officer

Pursuant to Article IV, Sections 4(c) and 5(a) of the State Constitution, the Chief Financial Officer is an elected member of the Cabinet and serves as the chief fiscal officer of the State. Pursuant to Section 20.121(1), Florida Statutes, the Chief Financial Officer is the head of the Department of Financial Services. The Honorable Jimmy Patronis served as the Chief Financial Officer during the period of our audit.

The team leader was Aaron Franz, CPA, and the audit was supervised by Allen Weiner, CPA.

Please address inquiries regarding this report to Karen Van Amburg, CPA, Audit Manager, by e-mail at karevanamburg@aud.state.fl.us or by telephone at (850) 412-2276.

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DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services and Prior Audit Follow-Up

SUMMARY

This operational audit of the Department of Financial Services (Department) focused on the Division of Funeral, Cemetery, and Consumer Services. The audit also included a follow-up on applicable findings noted in our report Nos. 2018-211 and 2016-069. Our audit disclosed the following:

Division of Funeral, Cemetery, and Consumer Services

Finding 1: The Division had not established policies and procedures for preneed and cemetery licensee examinations. Additionally, Division records did not always evidence the specific procedures performed or all necessary information to support examination results, and the Division did not utilize a documented risk-based approach to select licensees for examination.

Finding 2: Division records did not always evidence that differences in the reported number of preneed sales contracts were appropriately investigated and resolved.

Finding 3: Certain security controls related to user authentication for the Automated Licensing Information System (ALIS), the Electronic Appointment System (eAppoint), and the Funeral and Cemetery Services Department of Insurance Continuing Education system need improvement to ensure the confidentiality, integrity, and availability of Department data and related information technology resources.

Finding 4: Certain administrative access privileges to ALIS were inappropriate and the Division had not established policies and procedures for controlling access to ALIS or periodically reviewed the appropriateness of ALIS administrative access privileges.

Finding 5: Division controls for timely removing ALIS and eAppoint access privileges need improvement.

Selected Information Technology Controls

Finding 6: Contrary to State law, the Department's Information Security Manager did not report directly to the Chief Financial Officer. A similar finding was noted in our report No. 2018-211.

Finding 7: As similarly noted in our report No. 2016-069, Augmented Criminal Investigative Support System data processing controls need improvement to provide for the proper accounting for referrals and investigative cases.

BACKGROUND

The Department of Financial Services (Department) is responsible for a broad range of financial, regulatory, and consumer protection activities. To carry out these activities, the Department is organized into one office and 13 divisions, including the Division of Funeral, Cemetery, and Consumer Services

(Division).¹ For the 2018-19 fiscal year, the Legislature appropriated \$321.9 million to the Department and authorized 1,948.50 positions, including 25 positions assigned to the Division.²

FINDINGS AND RECOMMENDATIONS

DIVISION OF FUNERAL, CEMETERY, AND CONSUMER SERVICES

As authorized by State law,³ the Division, along with the Board of Funeral, Cemetery, and Consumer Services (Board), is charged with regulating the State's death care industry including:

- Establishing minimum qualifications for entities selling preneed contracts.
- Inspecting cemetery grounds to ensure they are properly maintained.
- Establishing minimum qualifications for the professions and occupations of embalming, funeral directing, cremation, direct disposition, and preneed sales.
- Ensuring that the minimum qualifications for the professions and occupations of embalming, funeral directing, cremation, direct disposition, and preneed sales are maintained through continuing education courses.
- Disciplining practitioners who violate State law or Department rules.

To carry out its responsibilities, the Division utilizes a number of systems and databases including:

- The Automated Licensing Information System (ALIS) that serves as the Division's main repository for license and licensee data.
- The Electronic Appointment System (eAppoint) which tracks preneed sales agents who sell preneed contracts.
- The Funeral and Cemetery Services Department of Insurance Continuing Education (FACS-DICE) system which interacts with other Division systems and provides a portal for licensees to renew licenses and view continuing education course information, and for continuing education providers to update their profile and continuing education course information.
- The Exam Scheduling System (ES1) that is used to schedule licensee examinations and inspections.
- The Preneed Funeral Contract Consumer Protection Trust Fund (CPTF) database which functions as a repository for all data associated with claims against former licensees that have ceased operations.
- The Preneed Remittance System database that is utilized by Division staff to log, reconcile, and report remittances made by preneed licensees.
- The Assignment Tracking System database that is utilized to track Division field staff assignments, including inspections, investigations, and examinations.

¹ Section 20.21, Florida Statutes.

² Chapter 2018-9, Laws of Florida.

³ Chapter 497, Florida Statutes.

Finding 1: Preneed and Cemetery Licensee Examinations

State law⁴ authorizes the Division to examine the facilities, records, operations, trust accounts, and financial affairs of funeral and cemetery licensees. Division examination processes included sampling contracts sold by preneed⁵ and cemetery licensees, obtaining completed pre-examination questionnaires from licensees, and reconciling trust account balances to underlying trust account bank statements. The Division documented examination activities using the pre-examination questionnaires affirming the accuracy of the information provided, exam checklists, contract lists highlighting the contracts reviewed, contract sample selection listings of the suggested number of and specific contracts to be reviewed, and other documents. The Division included examination results in a report provided to the licensee for comment and the examination report was to serve as the basis for any administrative actions or proceedings brought by the Division against a licensee.

The Division completed 100 examinations of the 508 preneed and cemetery licensees during the period July 2017 through January 2019. As part of our audit, we evaluated Division policies and procedures and examined Division records for 15 completed examinations to determine whether the examinations were performed in accordance with Division examination processes and whether Division records adequately supported the results of the examinations. Our audit procedures found that Division examination policies and procedures were in draft form and had not been disseminated to examiners, which contributed to the issues noted on audit. Specifically:

- Division records for 7 examinations did not include a contract sample selection listing evidencing the number of and specific contracts to be reviewed during the examination.
- For 5 of the 8 examinations where contract sample selection listings were available, Division records indicated that the examiners reviewed between 1 and 57 fewer contracts than the number of contracts indicated on the listings to be reviewed.
- Division records for 1 examination did not evidence the contracts reviewed.
- Division records for 1 examination did not include the trust account bank statements supporting the trust account reconciliation.
- For 7 examinations, the Division did not ensure that the licensees completed all questions in the pre-examination questionnaires. Additionally, for 2 of the 7 examinations, the pre-examination questionnaires were not signed by the licensees affirming the accuracy of the information provided.

Also, we inquired of Division management and analyzed Division licensing, complaint, and examination data for the period July 2017 through January 2019 to assess the adequacy of Division procedures for conducting examinations, including whether the Division utilized a risk-based approach to select licensees for examination. Our audit procedures disclosed that:

- While the ES1 documented the most-recent examination conducted for each licensee, the ES1 did not maintain all previous examination dates and did not have the ability to generate reports evidencing the frequency of licensee examinations. According to Division management, the ES1 is obsolete and no longer has Department information technology support.

⁴ Section 497.150(a1), Florida Statutes.

⁵ Preneed licensees sell funeral or burial services and merchandise in advance of need.

- The Division did not develop annual plans prioritizing and detailing the licensees to be examined and the reasons for selection. Instead, the Division assigned examinations based on examiner workloads.
- The Division did not utilize a documented, risk-based approach to select licensees for examination or specify the frequency of examinations. In response to our audit inquiry, Division management indicated that the length of time since a licensee's last examination was the primary criterion for selection, although other factors such as the size and complexity of a licensee's business, complaints received, issues noted during an inspection of a licensee's premises or a complaint investigation, and media coverage were considered. Notwithstanding this response, Division records did not evidence the consideration of these factors nor did Division procedures require such documentation be maintained.
- Although Division management indicated that complaints received against a licensee were considered when selecting licensees for examination, only 4 of the 116 examinations⁶ occurred following a complaint against a licensee, 1 of which was a complaint that appeared indicative of unfair sales practices or merchandise issues, such as merchandise not being delivered or installed. During the period July 2017 through January 2019, the Division received 115 complaints related to 80 licensees.

According to Division management, the Division had not finalized the draft examination policies and procedures nor developed a risk-based approach for selecting licensees for examination because of staffing shortages and turnover. The establishment and dissemination of policies and procedures for the preneed and cemetery licensee examination process, enhancement of controls to ensure that Division records evidence the specific procedures performed and all necessary information to support examination results, and the utilization of a documented risk-based approach to select licensees for examination would better promote the effective regulation of the State's death care industry.

Recommendation: We recommend that Division management establish policies and procedures for the preneed and cemetery examination process and enhance controls to ensure that Division records evidence the specific procedures performed and all necessary information to support examination results. We also recommend that Division management develop and document a risk-based approach for selecting licensees for examination.

Finding 2: Preneed Licensee Fees

To protect consumers who purchase preneed funeral or burial services and merchandise and to defray the cost of Department licensure activities, State law⁷ and Department rules⁸ require preneed licensees to demonstrate sufficient solvency with regard to the value of contracts sold and also pay quarterly fees⁹ and annual licensure renewal fees¹⁰ based on the number of contracts sold during the applicable quarter or calendar year. To demonstrate that preneed licensees have remitted the correct amount of quarterly and annual renewal licensure fees, Department rules require each preneed licensee to report the number

⁶ A total of 116 examinations were conducted during the period July 2017 through January 2019, 100 of which were closed during that period.

⁷ Sections 497.002(1); 497.453(2), (5), and (6); and 497.456(2), Florida Statutes.

⁸ Department Rules 69K-5.0016, 69K-5.0024, and 69K-10.001, Florida Administrative Code.

⁹ Pursuant to Section 497.456(2), Florida Statutes, quarterly fees range from \$2.50 to \$10.00 per contract, depending on the purchase price of the contract.

¹⁰ Section 497.453(5)(c), Florida Statutes, requires nonmonument preneed licensees to pay annual renewal fees, based on contract sales, ranging from \$300 to \$18,500, and monument preneed licensees to pay from \$1,000 to \$2,500, based on contract sales.

of contracts on quarterly reports and annual renewal applications. As the quarterly reports and the annual renewal application are each based on the calendar year, the number of contracts reported on each annual renewal application should equal the cumulative number of contracts reported on the quarterly reports.

During the period July 2017 through January 2019, the Division approved 324 renewal applications for preneed licenses. For 10 of the license renewal applications, we compared the total number of reported contracts sold to the total number of contracts reported sold by the licensee in the prior year quarterly reports. For 3 of the 6 renewal applications where the preneed licensee reported selling contracts during the 2017 calendar year, the total number of contracts reported sold by the licensees on the applications did not agree with the total number of contracts reported sold on the quarterly reports. Specifically:

- One licensee reported in the renewal application that 2 contracts had been sold but did not report selling any preneed contracts in the quarterly reports.
- Another licensee reported in the renewal application that 75 contracts had been sold but reported selling 74 contracts in the quarterly reports.
- A third licensee reported in the renewal application that 102 contracts had been sold but reported selling 86 contracts in the quarterly reports. The licensee's service provider¹¹ indicated that, while the quarterly reporting and fees were correct, the renewal application erroneously included 15 at-need contracts and one voided preneed contract.

Although the number of contracts reported sold by the 3 licensees were not consistent in the quarterly reports and the annual renewal applications, Division records did not evidence that Division staff had compared the reports or inquired of the licensees regarding the differences. According to Division management, reconciliations ceased when the employee responsible for performing the reconciliations separated from Division employment in February 2018, and that the process was not continued due to staff shortages and turnover. Absent appropriate reconciliation of the total number of contracts reported sold by preneed licensees on annual renewal applications to the total number of contracts reported sold on quarterly reports, the Department has less assurance regarding the accuracy of the information required by State law and used as the basis to correctly remit fees to the State.

Recommendation: We recommend that Division management establish procedures to reconcile the annual reported number of preneed contracts sold by licensees to the number of preneed contracts reported sold in licensee quarterly reports.

Finding 3: Security Controls - ALIS, eAppoint, and FACS-DICE System User Authentication

Security controls are intended to protect the confidentiality, integrity, and availability of data and information technology (IT) resources. Our audit procedures disclosed that certain security controls related to user authentication for ALIS, eAppoint, and the FACS-DICE system need improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising Department data and related IT resources. However, we have notified appropriate Department management of the specific issues.

¹¹ Licensee service providers are companies that specialize in the administration and recordkeeping of funeral and cemetery trusts and preneed programs.

Without adequate security controls related to ALIS, eAppoint, and FACS-DICE system user authentication, the risk is increased that the confidentiality, integrity, and availability of Department data and related IT resources may be compromised.

Recommendation: We recommend that Department management enhance certain security controls related to ALIS, eAppoint, and FACS-DICE system user authentication to ensure the confidentiality, integrity, and availability of Department data and related IT resources.

Finding 4: ALIS Administrative Access Privileges

Agency for State Technology (AST) rules¹² required State agencies to periodically review user access privileges for appropriateness and ensure that IT access privileges were removed when access to an IT resource was no longer required. Effective access controls restrict user access privileges to data, IT resources, and functions necessary for the user's assigned job duties and include IDs and passwords unique to the individual account user. Appropriately restricted access privileges help protect data and IT resources from unauthorized modification, loss, or disclosure. Additionally, Department policies and procedures¹³ required access control administrators to develop written procedures for controlling access to their secure applications and to evaluate the results of quarterly access privilege reviews conducted by supervisors to ensure that user access privileges remained consistent with user's assigned duties and access privileges of separated employees were removed.

As part of our audit, we evaluated Division ALIS user access privilege controls and examined Division records related to the 16 ALIS users with administrative access privileges as of January 31, 2019. We found that access control administrators had not established policies and procedures for controlling access to ALIS or for the periodic review of ALIS user access privileges and supervisors did not perform periodic reviews of ALIS user access privileges during the period July 2017 through June 2019. The absence of such reviews contributed to the issues noted on audit. Specifically:

- Six user accounts were assigned to individuals unknown to Division management.
- One user account with a generic user ID was used by Division IT staff for support.
- One user who had privileges to add or change license information was assigned two active accounts. According to Division management, one of the accounts was deactivated in June 2019, subsequent to our inquiry.

Effective access controls that provide for the periodic review of ALIS user access privileges and that limit ALIS administrative user access privileges to only employees consistent with their job duties and with unique user IDs would promote the protection of ALIS data and IT resources from unauthorized modification, loss, or disclosure.

¹² AST Rule 74-2.003(1)(a)8., Florida Administrative Code. Effective July 1, 2019, Chapter 2019-118, Laws of Florida, created the Division of State Technology (DST) within the Department of Management Services (DMS) and transferred the existing powers, duties, functions, personnel, records, property, and funds of the AST to the Division of State Technology. As of July 1, 2019, AST Rules Chapter 74-2, Florida Administrative Code, were transferred to DMS Rules, Chapter 60GG-2, Florida Administrative Code. AST Rules, Chapter 74-2, Florida Administrative Code, were in effect during our audit period (July 2017 through January 2019). Effective July 1, 2020, the DST was abolished, and the Florida Digital Service was established in its place.

¹³ Department, Division of Information Systems, Administrative Policies and Procedures No. 4-05, *Application Access Control Policy*.

Recommendation: We recommend that Division management establish policies and procedures for controlling access to ALIS, including the periodic review of user access privileges, and ensure that Division records evidence the conduct of such reviews and the necessity for and appropriateness of all assigned user access privileges.

Finding 5: ALIS and eAppoint Access Controls

AST rules¹⁴ required State agencies to ensure that IT access privileges were removed when access to an IT resource was no longer required. Prompt action to remove access privileges is necessary to help prevent misuse of the access privileges.

As noted in Finding 4, Department policies and procedures required the ALIS and eAppoint access control administrators to evaluate the results of quarterly access privilege reviews conducted by supervisors to ensure that user access privileges were consistent with user's assigned duties and access privileges of separated employees were removed. As part of our audit, we examined Division and People First¹⁵ records to determine whether ALIS and eAppoint user and administrative access privileges were timely removed upon an employee's separation from Department employment. Our examination disclosed that:

- The ALIS user access privileges for the four employees who separated from Department employment during the period July 2017 through January 2019 were not timely removed upon the employees' separation from Department employment. Specifically, as of June 7, 2019, ALIS user access privileges for one Division employee remained active, although 322 business days had elapsed since the employee's separation date. Additionally, ALIS user access privileges for the other three employees were not removed until 40, 55, and 356 business days after the employees' separation dates.
- The ALIS administrative access privileges for the four employees who separated from Department employment prior to July 2017 were not timely removed upon the employees' separation from Department employment. Specifically, as of June 21, 2019, ALIS administrative access privileges for one employee remained active, although almost 5 years had elapsed since the employee's separation date. Also, ALIS administrative access privileges for the other three employees were not removed until approximately 2, 6, and 9 years after the employees' separation dates.
- The eAppoint administrative access privileges for two employees were not timely removed after the access privileges were no longer required. Specifically, as of June 21, 2019, one employee's account was still active, 151 business days after the employee transferred to another position within the Department that did not require the access privileges and the other employee's account was still active 331 business days after the employee separated from Department employment.

As noted in Finding 4, the Division had not established policies and procedures for controlling access to ALIS or for the periodic review of user access privileges. We similarly noted the absence of such policies and procedures for eAppoint and that Division management had not performed periodic reviews of either system's user access privileges. The absence of these controls, as well as the inability for Division users to deactivate eAppoint accounts, contributed to the issues noted on audit.

¹⁴ AST Rule 74-2.003(1)(a)8., Florida Administrative Code.

¹⁵ People First is the State's Web-based human resource information system.

As unauthorized access can occur at any time, timely removal of ALIS and eAppoint access privileges when the access privileges are no longer required reduces the risk that the access privileges may be misused.

Recommendation: We recommend that Division management promptly remove access privileges to ALIS and eAppoint upon an employee's separation from Department employment or when the access privileges are no longer required. Additionally, we recommend that Division management establish policies and procedures for controlling access to eAppoint and ensure that Division records evidence the conduct of periodic reviews of access privileges to ALIS and eAppoint.

SELECTED INFORMATION TECHNOLOGY CONTROLS

State law¹⁶ requires State agencies to establish information security controls to ensure the security of agency data, information, and IT resources. Additionally, AST rules¹⁷ established minimum security standards for ensuring the confidentiality, integrity, and availability of State agency data, information, and IT resources. As part of our audit, we evaluated Department actions to correct findings noted in our report Nos. 2018-211 (Finding 11) and 2016-069 (Findings 4 and 5) related to selected Augmented Criminal Investigative Support System (ACISS) and other Department IT controls.

Finding 6: Information Security Manager

State law¹⁸ requires each State agency head to designate an information security manager (ISM) to administer the agency's IT security program. State law specifies that, for information security duty purposes, the ISM is to report directly to the agency head. Organizational placement of the ISM outside the line of authority of those responsible for the Department's daily IT operations is essential to ensuring appropriate separation of duties between daily IT operations and the assessment and oversight of IT system security controls.

In our report No. 2018-211 (Finding 11), we noted that the Chief Financial Officer delegated the authority to administer the Department's IT security program to the Director of the Office of Information Technology. Additionally, the Department's ISM was organizationally located within the Office of Information Technology and reported to the Director of the Office of Information Technology, rather than directly to the Chief Financial Officer as the agency head. As part of our follow-up audit procedures, we inquired of Department management regarding the organizational placement of the ISM. Department management indicated that, while the organizational placement of the ISM remained unchanged, the ISM was to present monthly reports to the CFO regarding security metrics and any important security topics or matters that the CFO should be made aware.

Notwithstanding these informational reporting provisions, organizational placement of the ISM within the line of authority of the Director of the Office of Information Technology reduces Department

¹⁶ Section 282.318(4), Florida Statutes.

¹⁷ AST Rules, Chapter 74-2, Florida Administrative Code.

¹⁸ Section 282.318(4)(a), Florida Statutes.

management's assurances related to the objectivity and independence of the ISM function and does not comply with State law.

Recommendation: We again recommend that Department management take steps to ensure that the Department ISM reports directly to the Chief Financial Officer in accordance with State law.

Finding 7: ACISS Data Processing Controls

Effective data processing controls are necessary to provide reasonable assurance that all transactions that occur are input into the system, accepted for processing, processed once and only once by the system, and properly included in system output. Such controls should include tools and procedures to identify, report, and correct any errors that occur during the data entry process. For example, established controls should include: 1) user error logs to provide timely follow-up and correction of unresolved data errors and irregularities, 2) an established monitoring process to assure the effectiveness of error-handling procedures, and 3) procedures to periodically review user error logs to determine the significance and nature of the data errors as well as the status of any uncorrected data errors.

The Department, Division of Investigative and Forensic Services (DIFS), utilized ACISS to receive, track, and review referrals; store investigative case background information; and assign and document investigations. Referral information was electronically uploaded into ACISS through an online referral gateway or manually input into ACISS by DIFS staff. ACISS automatically assigned a unique sequential number to each referral electronically received or manually input, and each case established.

In our report No. 2016-069 (Finding 4), we noted that ACISS data processing controls needed improvement to provide for the proper accounting for and processing of referrals and investigative cases. Subsequent to our audit, the DIFS established ACISS access control procedures that specified record deletions were to be manually documented in a log by the user who deleted the record. The documented information was to include certain identifying information about the deleted record, the reason for deleting the record, the date the record was deleted, and the authority for deleting the record. According to the procedures, only two specified system administrators were permitted to delete records from ACISS and, according to DIFS management, one of the system administrators was also responsible for reviewing the deletions log.

During the period July 2017 through January 2019, the DIFS received 25,384 referrals regarding suspected insurance fraud and initiated 3,034 investigative cases. Our analysis of the referral data identified 169 gaps in the sequence of record numbers, including 63 gaps that were not identified in the DIFS deletions log. Additionally, our analysis of the investigative case data identified 45 gaps in the sequence of record numbers, none of which were identified in the DIFS deletions log. We also noted that 31 of the referral and 8 of the investigative case gaps not identified by the DIFS were associated with entries by the two system administrators.

According to DIFS management, the gaps could have been due to an ACISS user entering the referral or case into ACISS but not saving the record prior to closing ACISS, resulting in ACISS skipping the record number of that unsaved entry. DIFS management also noted that, with respect to the unidentified gaps, they were unable to differentiate between a record number that was created by a user with system

administration access privileges and then skipped due to the record not being saved in ACISS, and a saved record that was deleted but left off of the DIFS deletions log. Our review of DIFS procedures found that the procedures did not provide guidance for documenting referral or investigative case data gaps, nor promote the appropriate separation of the staff authorized to delete records and the staff responsible for reviewing the deletions log.

Without a complete record of all referrals and investigative cases deleted from ACISS and an independent review of the deletions log, errors that may occur during the submission process may not be appropriately identified and documented and deletions may not be appropriately monitored. As a result, there is an increased risk that referrals and investigative cases may not be properly handled and that documentation of DIFS actions related to referrals and investigative cases may not be appropriately maintained.

Recommendation: We recommend that DIFS management strengthen controls to ensure that all data gaps in ACISS are identified and appropriately documented and the deletions log is periodically reviewed by personnel independent of the referral and investigative case deletion process.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective actions for the applicable findings included in our report Nos. 2018-211 and 2016-069.

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 2019 through September 2019 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 of the Department of Financial Services (Department) focused on the Division of Funeral, Cemetery, and Consumer Services (Division). The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- 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, applicable deficiencies noted in our report Nos. 2018-211 (Finding 11) and 2016-069 (Findings 1 through 5).

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 the 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:

- Reviewed applicable laws, rules, Division policies and procedures, and other guidelines, and interviewed Division personnel to obtain an understanding of the Division's regulation of the death care industry.
- Performed inquiries of Division personnel and examined Division records to determine whether Division management had adequately designed and implemented controls, including policies and procedures, for the regulation of the death care industry.
- Obtained an understanding of selected Division information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general and application IT controls for the Automated Licensing Information System (ALIS), Electronic Appointment System (eAppoint), and the Funeral and Cemetery Services Department of Insurance Continuing Education (FACS-DICE) system were in place, and tested the effectiveness of selected controls.
- From the population of 227 Preneed Funeral Contract Consumer Protection Trust Fund (CPTF) claim payments, totaling \$339,353, made during the period July 2017 through January 2019, examined Division records for 20 selected payments, totaling \$114,440, to determine whether the CPTF claims were properly recorded in the Florida Accounting Information Resource Subsystem

(FLAIR) and were made in accordance with applicable laws, rules, Division policies and procedures, and other guidelines.

- To determine whether the Division established controls to approve or deny licenses and appropriately collect related licensing fees in accordance with applicable State laws and Department rules, we examined:
 - Division records for 14 selected applications for new funeral director and embalmer licenses and 13 selected applications for new preneed sales agent licenses, from the population of 127 funeral director and embalmer and 769 preneed sales agent new license applications submitted to the Division during the period July 2017 through January 2019.
 - Division records for 20 selected applications for new death care establishment and facility licenses,¹⁹ from the population of 145 applications submitted to the Division during the period July 2017 through January 2019.
 - Division records for three selected applications for new cemetery licenses, from the population of six applications submitted to the Division during the period July 2017 through January 2019.
 - Division records for 10 selected applications for new preneed provider licenses, from the population of 15 applications submitted to the Division during the period July 2017 through January 2019.
 - Division records for 25 selected renewal applications for funeral director and embalmer licenses, from the population of 1,894 renewal applications submitted to the Division during the period July 2017 through January 2019.
 - Division records for 25 selected renewal applications for death care establishment and facility licenses, from the population of 1,308 renewal applications submitted to the Division during the period July 2017 through January 2019.
 - Division records for 10 selected renewal applications for preneed licenses, from the population of 324 renewal applications submitted to the Division during the period July 2017 through January 2019.
- Reviewed Division, Department of State, Florida Senate, and other records to determine whether the Board of Funeral, Cemetery, and Consumer Services was constituted in accordance with the requirements of Chapter 497, Florida Statutes.
- From the population of 2,781 death care licensee inspections conducted by the Division during the period July 2017 through January 2019, examined Division records for 25 selected inspections to determine whether the Division appropriately conducted and documented inspections of death care licensees and appropriately and timely followed up on findings noted during the inspections.
- From the population of 100 examinations of death care licensees closed by the Division during the period July 2017 through January 2019, examined Division records for 15 selected examinations to determine whether the Division appropriately conducted and documented examinations of death care licensees, appropriately and timely followed up findings noted during the examinations, and appropriately collected and deposited associated fines and costs associated with the examinations.
- From the population of 443 investigations completed by the Division in response to complaints received against death care industry licensees during the period July 2017 through January 2019, examined Division records for 25 selected investigations to determine whether the Division appropriately investigated, resolved, and documented complaint investigation activities.

¹⁹ Death care establishment and facility licenses included: Cinerator Facility, Direct Disposal Establishment, Funeral Establishment, Cemetery, Centralized Embalming Facility, Cinerator Facility, Direct Disposal Establishment, Refrigeration Facility, and Removal Facility license types.

- Analyzed Assignment Tracking System database records for the period July 2017 through January 2019 to determine whether there were any unexplained gaps in the sequential numbering of inspection, investigation, and examination cases and whether the number of inspections conducted during the 2017-18 fiscal year correlated with the number of active licenses.
- Analyzed Exam Scheduling System database records for the period July 2017 through January 2019 and inquired of Division management to determine whether the Division utilized a risk-based approach to select licensees for examination.
- Analyzed Division trust fund balances for the period July 2013 through December 2018 to determine whether revenues collected pursuant to Chapter 497, Florida Statutes, were sufficient to pay all expenses with respect to the administration of Chapter 497, Florida Statutes, for the Preneed Funeral Contract Consumer Protection Trust Fund and the Regulatory Trust Fund.
- Evaluated Department actions to correct the applicable findings noted in our report Nos. 2018-211 and 2016-069. Specifically, we:
 - Examined Division of Investigative and Forensic (DIFS) records for 25 of the 12,570 referrals closed during the period July 2017 through January 2019 with a designated reason of *Insufficient Evidence*, *Below Minimum Investigative Threshold*, or *No Action*, to determine whether sufficient information was included in the Augmented Criminal Investigative Support System (ACISS) to support the decision to close the referrals without investigation.
 - Compared ACISS records for the referrals reported by the Division as received from the Office of Financial Regulation (OFR) during the period July 2017 through January 2019, to an OFR-provided listing of referrals, OFR referral memoranda, or ACISS case notes, to determine whether the referrals appropriately referenced the OFR as the referral source.
 - For the 18 referrals received from the OFR during the period July 2017 through January 2019, reviewed documentation related to DIFS correspondence to the OFR to determine whether referral statuses and dispositions were timely communicated to the OFR in accordance with the Department-OFR memorandum of understanding.
 - Examined Division records for 25 of the 1,149 investigations closed during the period July 2017 through January 2019 with a designated reason of *Insufficient Evidence*, *Below Threshold*, or *Allegation Unfounded*, to determine whether the Division appropriately documented in ACISS the reason for closing the investigations.
 - Analyzed ACISS records for the 3,164 investigations closed during the period July 2017 through January 2019 to determine whether the Department utilized *Closed-Due to Resource Limitations* as the designated reason for closing the investigations.
 - Inquired of Division management and examined Division records to evaluate the sufficiency of Division management's actions to assess whether investigations closed prior to July 2017 using the *Closed-Due to Resource Limitations* reason code should be reopened.
 - Obtained an understanding of selected ACISS data processing controls, evaluated whether the selected controls were in place, and tested the effectiveness of the controls.
 - For the 39 Division ACISS users who, during the period July 2017 through January 2019, separated from Department employment, compared the dates of employment separation from People First records to ACISS records to determine whether the users' ACISS access privileges were timely removed.
 - Analyzed the access privileges for the 192 ACISS user accounts active as of April 1, 2019, to determine whether the access privileges were commensurate with the users' job responsibilities.

- Reviewed the Department's organization chart and other documents to determine whether the Information Security Manager reported directly to the Chief Financial Officer, in accordance with Section 282.318, Florida Statutes.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
 - Cash and revenue management, managing FLAIR access privileges, settlement agreements, fixed capital outlay, and financial reconciliations.
 - The administration of Department contracts. As of February 13, 2019, the Department was responsible for 248 active contracts totaling \$435 million.
 - The administration of purchasing cards in accordance with applicable guidelines.
 - The administration of Department travel in accordance with State law and other applicable guidelines. During the period July 2017 through December 2018, Department travel expenditures totaled approximately \$1.8 million.
 - The administration of hurricane-related contracting and purchasing activities. During the period July 2017 through December 2018, the Department expended approximately \$3.7 million related to hurricane activity impacting the Department for two Governor-declared emergencies.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- 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 the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

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.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

October 23, 2020

Sherrill F. Norman
Auditor General
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Pursuant to Section 11.45(4)(d), Florida Statutes, the enclosed response is provided for the preliminary and tentative audit findings included in the Auditor General's operational audit of the *Department of Financial Services, Division of Funeral, Cemetery, and Consumer Services and Prior Audit Follow-Up*.

If you have any questions concerning this response, please contact David Harper, Inspector General, at (850) 413-3112.

Sincerely,

A handwritten signature in black ink that reads "Jimmy Patronis".

Jimmy Patronis
Chief Financial Officer

JP/DC
Enclosure

DEPARTMENT OF FINANCIAL SERVICES
THE CAPITOL, TALLAHASSEE, FLORIDA 32399-0301 • (850) 413-2850 FAX (850) 413-2950

**Division of Funeral, Cemetery, and Consumer Services
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**DEPARTMENT OF FINANCIAL SERVICES
RESPONSE TO PRELIMINARY AND TENTATIVE AUDIT FINDINGS**

Finding No. 1: Preneed and Cemetery Licensee Examinations

The Division had not established policies and procedures for preneed and cemetery licensee examinations. Additionally, Division records did not always evidence the specific procedures performed or all necessary information to support examination results, and the Division did not utilize a documented risk-based approach to select licensees for examination.

Recommendation: We recommend that Division management establish policies and procedures for the preneed and cemetery examination process and enhance controls to ensure that Division records evidence the specific procedures performed and all necessary information to support examination results. We also recommend that Division management develop and document a risk-based approach for selecting licensees for examination.

Response: The audit correctly points out the staffing shortages, database inefficiencies, and other issues experienced by the Division in recent years. The Division is comprised of 25 FTE and 2 OPS positions. From February 2017 to the end of the audit period in January 2019, approximately 11 of these positions became vacant through normal attrition or internal promotions, requiring the hiring and training of new employees in those positions. The staffing shortage particularly impacted the Division's Examination Team, which experienced vacancies in three of the four positions on the team and the unfortunate death of one of the former employees, thus significantly reducing the Division's ability to fully respond to some of the auditor's concerns regarding records or other issues on examinations previously performed by that individual. Fully staffed since December 2018, the four-member Examination Team also includes a supervisory position.

From FY18-19 through FY19-20, the Division's Examination Team completed 162 trust account compliance examinations, as required by statute, for preneed and cemetery licensees, including the complex examination of a single, large corporate licensee with multiple locations. Based upon experiences gained during these examinations and the prior experience and knowledge gained in these matters by long-term employees, Division staff combined, revised, and significantly updated numerous older versions of Division policies and procedures relating to examinations. Since the period of the audit, the Division implemented a single comprehensive examination policy. Additionally, Division staff are in the final stages of implementing a separate, modernized desk procedure for examinations.

The approved pdf version of the policy is currently posted in the Division's shared drive. Upon its completion, the examination desk procedures will also be posted in that location. All Division field staff have been made aware of these documents and members of the Division's Examination Team specifically trained in the policy and procedures for the examinations.

The majority of the Division's utilized information systems, including the ES1 system used for scheduling examinations, are Microsoft Access databases which are significantly outdated and no longer supported by the Department's Office of Information Technology other than for limited services necessary to maintain the systems. While the Division agrees that a more risk-based approach to selecting licensees for examination would add to the overall efficiencies of the

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examination process, it is not feasible to modify the ES1 system to add the fields necessary to implement such an approach. It is similarly not feasible to modify the Division's other systems at this time to incorporate a scheduling module/process. The Division currently does not have available funds to replace these outdated systems and it is unknown when such funds might become available. However, as funds become available and the Division is able to contemplate the replacement of these systems, the Division will consider adding to its requirements for any new system the fields/information necessary to implement a risk-based approach to selecting licensees for examination.

Expected Completion Date for Corrective Action: The Division's examination policy was previously implemented prior to obtaining the audit results. The Division anticipates that the updated examination desk procedures will be fully implemented, including relevant staff training, by November 30, 2020. At this time, it is not feasible to implement the suggested risk-based approach to selecting licensees for examination and it is unknown when these suggestions could be added to the Divisions examination procedures.

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Finding No. 2: Preneed Licensee Fees

Division records did not always evidence that differences in the reported number of preneed sales contracts were appropriately investigated and resolved.

Recommendation: We recommend that Division management establish procedures to reconcile the annual reported number of preneed contracts sold by licensees to the number of preneed contracts reported sold in licensee quarterly reports.

Response: The Division's staffing shortage referenced in the response to Finding No. 1 also impacted the Division's Licensing Team during the audit review period, significantly affecting four of the team's six positions and necessitating training in the newly assigned responsibilities, including those involving the reconciliation of reported preneed contracts. While the staffing changes certainly contributed to the delay in the annual reconciliation between the quarterly and annual reports filed by preneed licensees, however, the primary reason for any delay involves the automation of the processes.

In 2017, the Division and the Department's Office of Information Technology began work on an internally developed replacement for the prior Microsoft Access database system and manual procedures which were used to report information obtained from the quarterly reports which were mailed to the Division by preneed licensees to report the preneed contracts they sold. The purpose of the newly automated system was to eliminate potential errors caused by multiple data entry points and provide licensees with the ability to both report and pay applicable fees online for the preneed contracts they sold.

The new Preneed Remittance System ("PNRS") went into effect in late July 2018. PNRS is an online web application that allows both the licensee and the Division to report and monitor the quarterly preneed contacts that are sold by each preneed licensee. PNRS sends out a notice to the licensees each quarter reminding them that they need to report their quarterly contract sales. The system also allows the preneed licensees a way to report and pay their Preneed Quarterly contracts sales fees through the online web application. Based on the number of contracts reported as sold, the system automatically calculates the fee amount that is due. The system further allows the preneed licensees the ability to make adjustments to any count that has been reported for any prior quarter. Finally, PNRS provides Division staff with ways to see what has been reported by the licensees, including the ability to generate reports that were not previously available.

The final phase of the PNRS implementation involves the reconciliation of the quarterly reports filed online via PNRS with the annual reports which are still submitted via mail by the preneed licensees. Currently, these annual reports are part of the annual licensing processes for preneed licensees, with the information from the reports manually uploaded into a separate Microsoft Access database, the Preneed Licensing ("PNL") system. Ultimately, the goal will be to develop a new automated PNL system which will be fully integrated with the current PNRS online web application. In the meantime, the Division and Office of Information Technology have developed a method by which the reconciliation of the quarterly and annual reports is automated in PNRS. The Division recently completed the final testing phase of this newly automated process. It is anticipated the new automated reconciliation processes will be deployed by the end of October and that all annual reconciliations will be brought up to date by the end of December 2020.

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Since the audit review period, the Division implemented a policy regarding Preneed Quarterly Reporting and Remittances. This policy and any applicable procedures will be updated as necessary as the automated reconciliation processes of PNRS are deployed and the annual reconciliations are brought up to date.

Expected Completion Date for Corrective Action: The Division previously implemented a policy regarding Preneed Quarterly Reporting and Remittances. It is anticipated that the new automated reconciliation processes of PNRS will be deployed and the annual reconciliations brought up to date by the end of December 2020. The Division's policies and procedures regarding preneed reporting and reconciliation processes will be updated as necessary as the automated processes are deployed and the annual reconciliations brought up to date.

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Finding No. 3: Security Controls - ALIS, eAppoint, and FACS-DICE System User Authentication

Certain security controls related to user authentication for the Automated Licensing Information System (ALIS), the Electronic Appointment System (eAppoint), and the Funeral and Cemetery Services Department of Insurance Continuing Education system need improvement to ensure the confidentiality, integrity, and availability of Department data and related information technology resources.

Recommendation: We recommend that Department management enhance certain security controls related to ALIS, eAppoint, and FACS-DICE system user authentication to ensure the confidentiality, integrity, and availability of Department data and related IT resources.

Response: The Office of Information Technology (OIT) will take the recommendation under consideration and will evaluate the cost-benefit of meeting the minimum requirements of the security controls under industry standards and requirements per NIST SP 800-53 and Rule Chapter 60GG-2, F.A.C.

Expected Completion Date for Corrective Action: July 30, 2021

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Finding 4: ALIS Administrative Access Privileges

Certain administrative access privileges to ALIS were inappropriate and the Division had not established policies and procedures for controlling access to ALIS or periodically reviewed the appropriateness of ALIS administrative access privileges.

Recommendation: We recommend that Division management establish policies and procedures for controlling access to ALIS, including the periodic review of user access privileges, and ensure that Division records evidence the conduct of such reviews and the necessity for and appropriateness of all assigned user access privileges.

Response: The Division concurs with the audit finding and will work with the Department's Office of Information Technology to ensure the period review framework is in-place. The Division will develop policies and procedures to control access to ALIS, including the periodic review of user access privileges, and to ensure that Division records evidence the conduct of such reviews and the necessity for and appropriateness of all assigned user access privileges.

OIT concurs. Our primary goal is researching two options for the best method of remediation. We are researching tracking and monitoring for the specified account, as well as, specific user accounts for developers with defined and controlled privileges.

Expected Completion Date for Corrective Action: The Division anticipates that it will be able to implement the suggested policies and procedures no later than the end of December 2020.

OIT: May 28, 2021

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Finding 5: ALIS and eAppoint Access Controls

Division controls for timely removing ALIS and eAppoint access privileges need improvement.

Recommendation: We recommend that Division management promptly remove access privileges to ALIS and eAppoint upon an employee's separation from Department employment or when the access privileges are no longer required. Additionally, we recommend that Division management establish policies and procedures for controlling access to eAppoint and ensure that Division records evidence the conduct of periodic reviews of access privileges to ALIS and eAppoint.

Response: The Division agrees with the audit finding and will work with the Department's Office of Information Technology to ensure the access control framework is in-place. The Division will develop policies and procedures to promptly remove access privileges to ALIS and eAppoint upon an employee's separation from Department employment or when the access privileges are no longer required. Additionally, the developed policies and procedures will address controlling access to eAppoint and ensure that the Division's records evidence the conduct of periodic reviews of access privileges to ALIS and eAppoint.

Expected Completion Date for Corrective Action: The Division anticipates that it will be able to implement the suggested policies and procedures no later than the end of December 2020.

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Finding 6: Information Security Manager

Contrary to State law, the Department's Information Security Manager did not report directly to the Chief Financial Officer. A similar finding was noted in our report No. 2018-211.

Recommendation: We again recommend that Department management take steps to ensure that the Department ISM reports directly to the Chief Financial Officer in accordance with State law.

Response: OIT is continuing with the current process of having the ISM organizationally report to the CIO. The ISM provides monthly reports to both the CFO and the COS. Additional notifications are provided as needed related to security concerns and trends. Further discussions will take place with the new OIT management and the CFO's Office regarding this recommendation.

Expected Completion Date for Corrective Action: May 31, 2021

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Finding 7: ACISS Data Processing Controls

As similarly noted in our report No. 2016-069, Augmented Criminal Investigative Support System data processing controls need improvement to provide for the proper accounting for referrals and investigative cases.

Recommendation: We recommend that DIFS management strengthen controls to ensure that all data gaps in ACISS are identified and appropriately documented and the deletions log is periodically reviewed by personnel independent of the referral and investigative case deletion process.

Response: In addition to the changes already made, the division has implemented a process designating an independent third party appointed by the Director to review and audit on a quarterly bases the deletion log and data gaps in ACISS [Section IV (D) of ACISS Access Control Procedures]. Report and review findings will be submitted to the Assistant Director and Director for additional review.

Expected Completion Date for Corrective Action: October 20, 2020