

DEPARTMENT OF LEGAL AFFAIRS

Data Security Breach Investigations,
Selected Administrative Activities,
and Prior Audit Follow-Up



Sherrill F. Norman, CPA
Auditor General

Attorney General

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

The audit was supervised by Karen Van Amburg, 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) 412-2766.

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SUMMARY

This operational audit of the Department of Legal Affairs (Department) focused on data security breach investigations and selected administrative activities. The audit also included a follow-up on the findings noted in our report No. 2019-097. Our audit disclosed the following:

Finding 1: Department controls over the administration of Florida Single Audit Act requirements need improvement.

BACKGROUND

State law¹ specifies that the Department of Legal Affairs (Department) is responsible for providing all legal services required by State agencies, unless otherwise provided by law. The Department's other statutory responsibilities include enforcing State consumer protection, antitrust, and civil rights laws, prosecuting criminal racketeering, operating the State's Medicaid Fraud Control Unit, and administering programs to assist victims of crime.

To carry out its responsibilities, the Department operates through various program units, including Criminal and Civil Litigation, Victim Services, Executive Direction and Support Services, and the Office of Statewide Prosecution. For the 2023-24 fiscal year, the Legislature appropriated approximately \$390.7 million to the Department and authorized 1,496.50 positions.²

FINDING AND RECOMMENDATION

Finding 1: Florida Single Audit Act

State Financial Assistance (SFA) is financial assistance provided from State resources to non-State entities to carry out a State project and is to be administered in accordance with the requirements of the Florida Single Audit Act (FSAA),³ Department of Financial Services (DFS) rules,⁴ and Rules of the Auditor General.⁵ The purpose of the FSAA, among other things, is to establish uniform State audit requirements for non-State entities receiving SFA, promote sound management of SFA, and ensure that State entities monitor, use, and follow-up on audits of SFA.

The FSAA requires each non-State entity that expends \$750,000 or more of SFA in any fiscal year to obtain a State single audit or a project specific audit conducted by an independent auditor. Upon completion of the audit, an SFA recipient is to provide the State awarding agency and the Auditor General

¹ Section 16.015, Florida Statutes.

² Chapter 2023-239, Laws of Florida.

³ Section 215.97, Florida Statutes.

⁴ DFS Rules, Chapter 69I-5, Florida Administrative Code.

⁵ Chapters 10.550 and 10.650, Rules of the Auditor General.

a copy of the entity's Financial Reporting Package (FRP)⁶ within 45 days after delivery of the FRP to the recipient, but no later than 9 months after the end of the recipient's fiscal year. Among other things, the FRP is to address the recipient's compliance with State project requirements, any deficiencies in internal controls, and the amount of SFA expended by the recipient in conducting the State project. In addition, the FSAA specifies that State awarding agencies are to review each recipient's FRP to determine whether timely and appropriate corrective action had been taken with respect to any audit findings and recommendations.

According to Department records, the Department provided SFA totaling \$41,310,056 during the period July 2018 through June 2020 to 44 non-State recipients. To determine whether Department controls promoted the appropriate administration of the requirements of the FSAA, we reviewed Department FSAA policies and procedures and examined Department records related to 8 recipients that received SFA totaling \$28,089,433 during the period July 2018 through June 2020. Of the 8 recipients, Division of Victim Services' (Division) personnel were responsible for the receipt and review of the 6 applicable FRPs for 4 recipients and Bureau of General Services' (Bureau) personnel were responsible for the receipt and review of the 8 applicable FRPs for the other 4 recipients. Our audit procedures found that, although the Department had established or adopted policies and procedures for the administration of the requirements of the FSAA, Division and Bureau personnel did not consistently adhere to applicable requirements, which may have contributed to the issues noted on audit. Specifically, we found that:

- Neither the Division nor the Bureau maintained a log or otherwise tracked FRP due dates to ensure that FRPs were timely requested and received from recipients. In response to our audit inquiry, Division management indicated that they were unaware of the need to track FRPs.
- Division records did not evidence that the Division had received or reviewed 1 of the 6 FRPs, for 4 other FRPs indicated that the FRPs were reviewed 4 to 21 months after receipt, and did not evidence the date of review of the sixth FRP. In response to our audit inquiry, Division management indicated that the lack of documentation and delays in reviewing the FRPs were due to changes in staff responsibilities and workload issues.
- Bureau records did not evidence that the Bureau had received or reviewed 5 of the 8 FRPs and, although the Bureau maintained copies of the other 3 FRPs, Bureau records did not evidence when the FRPs were received or whether they had been reviewed by Bureau personnel. According to Bureau management, the lack of documentation evidencing receipt and review of the FRPs was due to staff turnover.

Established policies, procedures, and processes that promote compliance with the FSAA and provide for proper State project oversight help ensure that SFA is properly administered in compliance with the FSAA and applicable rules. Without the timely receipt and appropriate review of the FRPs, any recipient noncompliance or control deficiencies may not be promptly followed up on and resolved.

Recommendation: We recommend that Department management enhance FSAA oversight policies, procedures, and processes to ensure that FRPs are timely obtained from all non-State entities required to submit an FRP, FRPs are timely and appropriately reviewed, and any identified instances of recipient noncompliance or other deficiencies are promptly followed up on and resolved.

⁶ An FRP includes the recipient's financial statements, Schedule of Expenditures of State Financial Assistance, auditor's reports, management letter, auditee's written responses or corrective action plan, and correspondence on follow-up on prior corrective actions taken.

PRIOR AUDIT FOLLOW-UP

The Department had taken corrective actions for the findings included in our report No. 2019-097.

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 April 2021 through May 2023 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 Legal Affairs (Department) focused on data breach security investigations and selected administrative activities. For those areas, the 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 responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed into 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.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report No. 2019-097.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives; 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; identifying and evaluating internal controls significant to our audit objectives; 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, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws and Department policies and procedures and interviewed Department personnel to obtain an understanding of data breach security investigation processes and responsibilities.
- Examined the 2019 and 2020 data security breach annual reports submitted by the Department to the President of the Senate and Speaker of the House of Representatives to determine whether the reports were prepared and submitted in accordance with Section 501.171(7), Florida Statutes.
- From the population of 393 data security breach notifications received by the Department during the period July 2019 through January 2021, examined Department records for 25 selected data security breach notifications to assess whether the Department had established effective controls for determining whether covered entities provided timely and proper notification to the Department and affected consumers regarding the data security breaches and whether covered entities timely took reasonable steps to protect and secure data in accordance with Section 501.171, Florida Statutes.
- From the population of 14 data security breach preliminary inquiries opened by the Department during the period May 2019 through January 2021, examined Department records for 5 selected data security breach preliminary inquiries to determine whether the preliminary inquiries were timely conducted and appropriately documented in accordance with Section 501.171, Florida Statutes, and Department policies and procedures.
- From the population of 14 data security breach investigations opened by the Department during the period July 2019 through January 2021, examined Department records for 7 selected data security breach investigations to determine whether the investigations were timely conducted and appropriately documented in accordance with Section 501.171, Florida Statutes, and Department policies and procedures.
- Examined Department records for the eight data security breach settlement transactions paid during the period July 2019 through January 2021 to determine whether the settlement amounts were properly calculated, documented, and supported.
- Evaluated Department actions to correct the findings noted in our report No. 2019-097. Specifically, we:
 - From the population of 20 Medicaid Fraud Control Unit (MFCU) evidence room inventories conducted during the period July 2019 through January 2021, examined Department records for 10 selected inventories to determine whether the inventories were properly conducted and documented in accordance with Department policies and procedures.

- From the population of 17 modifications made to the MFCU's Case Management Database during the period July 2019 through January 2021, examined Department records for 5 selected modifications to determine whether the responsibilities for the modifications were appropriately separated and Department records evidenced the entire change management process.
- Compared employment separation dates recorded in People First for the five employees who separated from Department employment during the period July 2019 through January 2021 and who had Florida Accounting Information Resource Subsystem (FLAIR) access privileges to FLAIR access records to determine whether user account access privileges were timely removed upon the employees' separation from Department employment.
- From the population of 47 tangible personal property items, with costs totaling \$1,064,003, purchased by the Department during the period July 2019 through January 2021, examined Department records for 8 selected property items, with costs totaling \$184,145, to determine whether the Department timely and accurately updated the property records for the acquisitions.
- From the population of 9,534 domestic violence, sexual battery, and other crime victim compensation claim payments, totaling \$18,125,541, recorded in Victim Assistance Net Next (VANext) database records and made during the period July 2019 through January 2021, examined Department records for 25 selected claim payments, totaling \$47,233, to determine whether claim applications were appropriately completed and claim information was accurately entered in VANext and agreed with the applicable supporting documentation.
- From the population of 17 grants monitored by Bureau of Advocacy and Grants Management (BAGM) grant managers during the period July 2019 through January 2021, examined documentation related to Department monitoring of the subrecipients of 5 selected grants to determine whether the monitoring reports were timely completed and reviewed in accordance with BAGM procedures.
- Reviewed applicable laws, rules, and other State guidelines to obtain an understanding of the legal framework governing Department operations.
- Observed, documented, and evaluated the effectiveness of selected Department processes and procedures for:
 - The administration of purchasing cards in accordance with applicable guidelines. As of June 30, 2020, the Department had 238 active purchasing cards.
 - The assignment and use of mobile devices with related costs totaling \$120,953 during the period July 2019 through July 2020.
 - The administration of the requirements of the Florida Single Audit Act. During the period July 2018 through June 2020, the Department provided State financial assistance totaling \$41,310,056 to 44 non-State recipients.
- 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 finding and recommendation that is 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.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is fluid and cursive, with the first name being the most prominent.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



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MEMORANDUM

DATE: November 29, 2023

TO: Sherrill F. Norman, Auditor General
Office of Auditor General

FROM: John Guard, Chief Deputy Attorney General
For: Ashley Moody, Attorney General
Office of Attorney General

SUBJECT: Department of Legal Affairs, Data Security Breach Investigations, Selected Administrative Activities, and Prior Audit Follow-Up

Enclosed is our response to the preliminary and tentative audit finding and recommendation for the operational audit of the Department of Legal Affairs, Data Security Breach Investigations, Selected Administrative Activities, and Prior Audit Follow-Up.

Finding:

Department controls over the administration of Florida Single Audit Act requirements need improvement.

Recommendation:

We recommend that Department management enhance FSAA oversight policies, procedures, and processes to ensure that FRPs are timely obtained from all non-State entities required to submit an FRP, FRPs are timely and appropriately reviewed, and any identified instances of recipient noncompliance or other deficiencies are promptly followed up on and resolved.

Corrective Action Plan:

The Department of Legal Affairs has created a spreadsheet to track the elements.

Anticipated due date:

The Department of Legal Affairs will complete the first test in December 2023.