



# AUDITOR GENERAL

## WILLIAM O. MONROE, CPA



### DEPARTMENT OF STATE

## APOSTILLE AND CERTIFICATE OF NOTARIAL AUTHORITY PROGRAM

### Operational Audit

#### SUMMARY

This operational audit focused on the Apostille and Certificate of Notarial Authority Program (Program) (including Certificates of Incumbency<sup>1</sup>) administered by the Department of State during the period July 2002 through February 2004 and selected Department actions taken through August 10, 2004. During the audit period, \$1,494,867 in revenues was recorded for this Program that operates out of two offices, one in Tallahassee and the other in Miami.

Our audit disclosed that some controls over the Program need to be established and others need strengthening. Specifically:

**Finding No. 1:** The interagency Memorandum of Agreement between the Department and the Executive Office of the Governor, Office of Tourism, Trade, and Economic Development, did not specifically address the Program and, consequently, was silent as to key issues related to the Program.

**Finding No. 2:** The Department has not established policies and procedures to ensure that fees collected are properly safeguarded, accounted for, and timely deposited. In addition, revenue collection duties in the Miami Office are not properly separated.

**Finding No. 3:** Department policies and procedures need to be established to prevent the possible misuse and unwarranted waste of blank forms used in the printing of Program certifications. Internal control deficiencies include the lack of requirements for prenumbered forms, reconciliations of certificates issued to

revenues collected, accounting for voided and reprinted documents, and conducting physical inventories.

**Finding No. 4:** The Department has not established procedures covering significant aspects of processing returned checks including requirements for waiving amounts owed and setting a time frame in which the Department will attempt to collect past due amounts before submitting returned checks to the Department of Financial Services for collection. To ensure an adequate correlation of fees collected to certifications issued, the Apostille/Certification System should be updated promptly upon receiving notification of returned checks.

**Finding No. 5:** Department procedures over access to the Apostille/Certification System should be established to include only authorized access and the timely deletion of access when no longer required to perform employment-related duties. Personal passwords should only be known and used by the individual having that identity.

**Finding No. 6:** The Department has not established procedures to ensure that information is recorded accurately and completely in the Apostille/Certification System through appropriate data verification. In addition, request documents should be maintained and used, ensuring compliance with records retention guidelines and the validity of the process.

**Finding No. 7:** The Department's Miami Office made referrals to one particular notary, thereby giving the appearance that the State has a preference for obtaining business from that notary.

<sup>1</sup> Represents approximately 4 percent of Program revenues.

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**BACKGROUND**


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In its desire to abolish the requirement of diplomatic or consular legalization for foreign public documents, the process of authentication by apostille was provided for by the *Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents (Hague Convention)*. The United States became a signatory to the *Hague Convention* on October 15, 1981. Pursuant to the *Hague Convention*, documents meant for use in foreign countries can be certified by officials in the jurisdiction where the documents are executed.

The apostille is a preprinted form as prescribed by the *Hague Convention*. Documents are numbered by the Apostille/Certification System starting with the year of certification and thereafter sequentially until January 1 of the next year at which time the numbering starts over with the number 1. The apostille may be in the official language of the authority that issues it; however, the title "Apostille (Convention de La Haye du 5 octobre 1961)" must be in the French language. The certificate of notarial authority<sup>2</sup> is used for documents requiring certification that are sent to states or countries not participating in the *Hague Convention*.

Section 15.16(8), Florida Statutes, gives the Department of State the sole authority in the State to establish the requirements and procedures for the issuance of apostilles. During the audit period, funds to operate the Program were appropriated to the Department of State. An interagency Memorandum of Agreement (Agreement), dated July 1, 2002, and a subsequent Amendment to the Memorandum of Agreement, dated July 22, 2002, between the Department of State and the Executive Office of the Governor (EOG), Office of Tourism, Trade, and Economic Development (OTTED), established specific responsibilities related to the Department's Office of International Affairs but was silent as to the Program. According to Department personnel, the intent of the Agreement was to transfer all international functions, including the Program, to OTTED and, accordingly, OTTED administered the Program during the 2002-03 fiscal year. On July 29, 2003, the Program was transferred to the Department's Division of Corporations.

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**FINDINGS AND RECOMMENDATIONS**


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The Program, established pursuant to State laws,<sup>3</sup> provides that, upon receipt of a written request, the notarized documents, and a fee of \$10, the Secretary of State will issue an apostille or a certificate of notarial authority allowing for documents notarized in the State of Florida to be recognized in foreign countries as valid documents.

This Program operates out of two offices, one in Tallahassee and the other in Miami. The accomplishment of Program responsibilities requires the establishment of appropriate, cost-effective internal controls that promote the achievement of management objectives in categories relating to compliance with applicable legal requirements; efficient and effective operations; reliability of financial records and reports; and safeguarding of assets.

Inherent in this Program are challenges requiring the establishment of certain management processes to assure that the receipts available to the Department are properly identified, acquired, safeguarded, and utilized. Given that the Program, during some of the audit period, was operated by OTTED via a very nonspecific Agreement and that the Miami Office is staffed with only one Other Personal Services (OPS) employee and is located approximately 450 miles from Tallahassee where the other employees for this Program are located, these challenges and related risks are magnified. It is Department management's responsibility to develop methods to manage and minimize these risks while ensuring Program service delivery is not disrupted.

In this report, we describe numerous internal control deficiencies related to the Program. Some of the findings are indicative that Department management has not established or implemented the necessary procedures to minimize the risks associated with the operation of the Miami Office by one employee. Our audit disclosed that some controls over the Program need to be established and others need strengthening.

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<sup>2</sup> Section 117.103, Florida Statutes.

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<sup>3</sup> Sections 15.16(8) and 117.103, Florida Statutes.

**Finding No. 1: Interagency Agreement**

The Department entered into an interagency Agreement with OTTED for OTTED to assume specific responsibilities related to the Department’s Office of International Affairs for the 2002-03 fiscal year. Our review disclosed that the interagency Agreement did not specifically address the Program and, consequently, was silent as to key issues related to OTTED’s administration of the Program such as:

- Monitoring the Program to ensure that all requests were timely handled and all moneys were properly collected and deposited.
- Overseeing the Miami Office operated by one OPS employee and handling over 50 percent of the workload. The Agreement did not address the safeguards that should be in place when one employee handles all the functions related to the receipt of moneys, data entry, issuance of certificates, validations, and preparation of deposit slips. In addition, since the Miami Office was operated by one employee, there would be a need for a contingency plan describing how the Office would remain open if the employee was sick, on vacation, and during other absences.
- Identifying specific responsibilities of OTTED and the Department, including staff evaluations and disciplinary actions, if necessary.
- Accounting for Program financial data including Program appropriations and where fee collections should be deposited. A review of Program financial records disclosed that expenditures associated with the Program were processed by the Department and recorded in Department accounts.

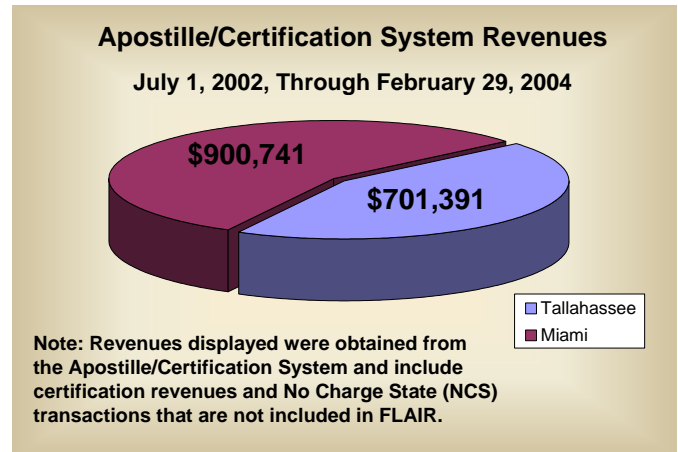
Florida Statutes do not address a specific fund for the deposit of moneys collected from the Program and whether the Program is intended to be self supporting (i.e., revenues matched to costs). A review of the 2002-03 Appropriations Act<sup>4</sup> disclosed that the only OPS funding was from the Grants and Donations Trust Fund. Further, we noted that, for the 2002-03 fiscal year, personnel costs for the Miami Office were paid from the Grants and Donations Trust Fund as directed by the Appropriations Act, but revenues collected were deposited to the General Revenue Fund.

**Recommendation:** We recommend that the Department, when entering into future interagency agreements, ensure that key issues are addressed, such as provisions for Program monitoring, oversight, and handling of financial data (revenues and expenditures).

**Finding No. 2: Revenue Collection Controls**

Program certificates are issued for a \$10 fee at the two Department offices in Tallahassee and Miami. The Tallahassee Office processes both walk-in and mail-in requests for certifications while the Miami Office, operated by one OPS employee, processes only walk-in requests. Revenue recorded in the Florida Accounting Information Resource Subsystem (FLAIR) from both offices during the audit period totaled \$1,494,867. Funds collected are deposited directly into the General Revenue Fund.

As noted in the chart below, revenues totaling \$1,602,132 were recorded in the Apostille/Certification System during the audit period:



Our audit included on-site observations and interviews with Program revenue processing personnel in both the Miami and Tallahassee Offices.

The following internal control deficiencies were noted during our observations at the Miami Office:

- Checks and money orders are endorsed the next business day when the deposit from the previous day is prepared. Checks and money orders should be immediately endorsed to restrict negotiability.

<sup>4</sup> Chapter 2002-394, Laws of Florida.

- We observed that the payee line on money orders was sometimes not filled in when offered in payment for Program certifications. If the payee line on the money order is blank, "Department of State" is handwritten on the payee line by the OPS employee operating the Miami Office. If left blank, this instrument is similar to a blank check in that it can be negotiated by anyone who has possession.
- Checks and money orders are not physically secured prior to deposit and are put in an unlocked drawer overnight. The Miami Office is also unlocked during working hours and, when the OPS employee leaves for breaks, lunch, etc., the checks and money orders are vulnerable to theft.
- Revenue collection duties in the Miami Office are not properly separated as the one OPS employee is responsible for the custody of the collections, the accuracy of the records supporting the collections, and securing collections until sent to the Tallahassee Office for deposit.
- Fees collected from the Miami Office are deposited in Tallahassee from three to five calendar days after receipt. We reviewed documentation relating to four deposits from the Miami Office. For two of the four deposits, the deposit date in Tallahassee was three days after the funds were received and, if a weekend fell between the receipt date and the deposit date, the number of days increased to five.

The following internal control deficiencies were noted during our observations at the Tallahassee Office:

- Department staff in Tallahassee restrictively endorse checks and money orders at the time the Funds Official Listing report is run at the end of the day instead of immediately upon receipt.
- If the payee line on checks or money orders is not filled in, the collections are forwarded to the Apostille/Certification Section and the line is filled in "Department of State" and processed. If left blank, the instrument can be negotiated by anyone who has possession.
- Procedures that include the timely reconciliation of revenues recorded in the Apostille/Certification System and those recorded in FLAIR have not been established. The Apostille/Certification Section does perform a daily comparison of checks and money orders collected to revenues recorded in the Apostille/Certification System and subsequently deposited.
- Actual revenues collected and recorded in FLAIR do not always agree with the revenues recorded in the Apostille/Certification System. In response to audit inquiry, the Department indicated that Program fees

can be mistaken for corporate filings or may also be included in a corporate filing request. In both instances, Program certificates are issued but no fees are recorded in the Apostille/Certification System. The Department refers to these transactions as No Charge State transactions (NCS). As the Corporations System and the Apostille/Certification System are not integrated, a manual adjustment must be made to accurately record revenue. The Department further indicated that the computer programs for the Apostille/Certification System are in the process of being rewritten and, although no timeline for completion has been set, the Department hopes that System changes will be complete by 2005.

- Revenue collections in excess of fee amounts are referred to by the Department as mailing revenue (overpayments). The Department indicated that, when an overpayment is received, no notification of the overpayment is made to the applicable individual. A review of the Apostille/Certification System disclosed that the Department collected \$4,464 in mailing revenue (overpayments) during the audit period in amounts ranging from \$.80 to \$94.11. State law<sup>5</sup> provides that no refund of moneys shall be made of an amount which is less than \$1, except upon application.

Policies and procedures that ensure security and accountability for fee collections are essential to effective and efficient management. Our review disclosed that the Department has not established policies and procedures addressing the revenue collection and deposit process. The internal control deficiencies described above at both offices increase the risk that fraud or abuse could occur and not be timely detected.

Subsequent to audit inquiry and observation, Department management informed both the Miami and Tallahassee Offices that checks are to be restrictively endorsed upon receipt and that checks and money orders without a completed payee line should be stamped. In addition, Department management informed us that a safe has been provided to the Miami Office and "Department of State" stamps have been provided to both offices.

<sup>5</sup> Section 215.26, Florida Statutes.

**Recommendation:** To strengthen internal controls over the revenue collection process, we recommend that the Department establish policies and procedures to include that checks and money orders be restrictively endorsed immediately upon receipt; the payee line on money orders be filled out or stamped prior to being received by Department employees; checks and money orders be physically secured and properly safeguarded prior to deposit; revenue collection and recording duties be adequately separated; reconciliations be timely performed; and individuals notified in a timely manner of any overpayments. To minimize the number of days between the collection of fees and subsequent deposits and to improve the safeguarding of fees collected, we recommend that the Miami Office deposit collections in a Miami depository. Also, we recommend that the Department continue its efforts to merge the Apostille/Certification System with the Corporations System to ensure a proper recording of Program revenues.

### Finding No. 3: Issuance of Certificates

During the audit period, the Department purchased 210,000 blank, special-order forms that were stored in the vendor's warehouse until January 2004, when the Department began storing the forms in a limited-access warehouse. The forms, including the apostilles that must be in compliance with rules set by the *Hague Convention*, have the signature of the Secretary of State printed on them.

Our review disclosed that, over the course of the audit period, 166,000 forms were shipped to Department offices. In discussions with Department personnel, it was determined that 44,000 forms (or the difference between the number purchased and the number shipped to Department offices) were destroyed when there was a change in administration (i.e., change in Secretary of State). We were provided no certification of destruction to validate that the forms were destroyed.

For the purpose of printing and issuing Program certificates, the Tallahassee and Miami Offices maintain a small supply of forms on hand and periodically request the needed blank forms from the warehouse by either a telephone call or an e-mail. The warehouse determines when the Department should reorder forms from the vendor by visually performing an inventory of the number of boxes in the warehouse. When the

warehouse receives a shipment of blank forms, the boxes are counted to ensure that the order is complete and a receipt is signed; however, a copy of the receipt is not kept.

The following internal control deficiencies over blank forms were noted:

- The Department was unable to provide any written policies and procedures relating to the ordering, purchasing, or issuing of blank forms or any procedures sufficient to ensure that blank forms are adequately safeguarded.
- Although not prohibited by the *Hague Convention*, the Department does not utilize prenumbered forms. Prenumbered forms would assist the Department in reconciling revenues deposited to documentation of certificates issued and fees collected.
- The Miami Office does not store unopened boxes of forms in a secure location. The Miami Office is not locked during working hours and when the OPS employee is away from the Office during working hours, blank forms are vulnerable to theft or abuse. The Tallahassee Office stores boxes of forms in a locked closet. However, when the printer paper drawer is filled, the remaining forms in the ream are stored unsecured on a shelf.
- The Department has not conducted physical inventories of blank forms. Conduct of inventories and reconciliations of the information obtained from the inventories to inventory records would provide assurance that records accurately reflect the existence and location of unopened boxes of blank forms.
- The Department does not account for all voided or reprinted forms. If information is entered incorrectly in the Apostille/Certification System and a certificate has already been printed, the transaction is voided by contacting the individual who has the authority to void transactions; then reprinting the document; and finally destroying the original certificate. Similarly, if the printing ink on a certificate is smeared or if the certificate is not properly aligned on the form, the certificate must be reprinted and the original certificate destroyed. The Apostille/Certificate System does not track the number of reprinted documents.
- The Department does not reconcile certificates issued to revenues collected. The reconciliation should account for all documents including voided and reprinted forms that have been destroyed. In response to audit inquiry, the Department provided information used in reconciling; however, the information provided did not allow for the

accounting of all documents including those voided and reprinted.

The Department has not established policies and procedures to assist in ensuring that management objectives for the safeguarding of the forms will be achieved. The internal control deficiencies described above increase the risk that errors or fraud could occur and not be timely detected.

**Recommendation:** To enhance internal controls over the purchasing, warehousing, and issuing of forms and to prevent misuse and unwarranted waste, we recommend that the Department establish policies and procedures including the requirement that forms be prenumbered; physical inventories be conducted and the information obtained be reconciled to inventory records; all documents be accounted for (not thrown away); and a reconciliation between certificates issued and revenues collected be performed, accounting for all certificates including those that are voided and reprinted. In addition, forms should be maintained in a secure location.

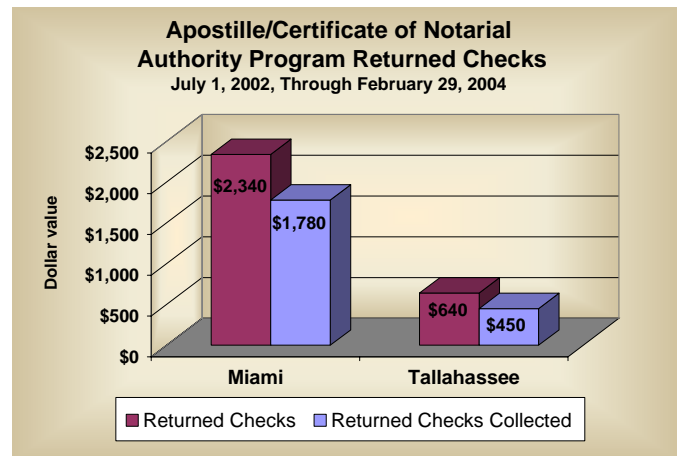
**Finding No. 4: Returned Checks**

Sometimes, subsequent to the issuance of a Program certificate and receipt of the related fee, a check for the fee is returned unpaid to the Department of Financial Services (DFS). Once DFS receives the returned check from the individual’s bank, DFS issues a debit memorandum charging the Department of State’s account for the amount of the check. In these instances, the Department is responsible for collecting a \$15 service fee in addition to the amount due for the returned check. The Department indicated that it follows the guidelines set forth in law<sup>6</sup> regarding the handling of returned checks. After receiving the debit memorandum, the Department sends a “Notice of Returned Check” to the responsible party, requesting payment (including the \$15 service fee) in the form of a cashier’s check or money order. However, our review disclosed that the Department has not established procedures covering significant aspects of processing returned checks.

Our review disclosed that, to facilitate the identification of returned checks in the Apostille/Certification System, the Department modifies the original entry, only after payment is received, by inputting the word “BAD” in the

“funds transaction” field. However, no entry is made in the Apostille/Certification System at the time the DFS notification of the returned check is received.

We reviewed the Department’s returned check file and data recorded in the Apostille/Certification System and determined that, during the audit period, the Department received 89 returned checks, totaling \$2,980. As noted in the chart below, the Department collected \$2,230 of the \$2,980 and waived payment on two checks. Including service fees, the Department collected \$2,995 while \$1,225 (including service fees) remained outstanding.



Our review of the two waived payments (\$50 due for the returned checks and \$30 in service fees) disclosed that the Department had issued the applicable certificates. The letters waiving the fees were dated September and December 2003.

Our review also disclosed that the Department failed to submit to DFS the information for applicable uncollected returned checks. The Department submitted only those amounts owed for returned checks that were over \$25 at the end of the fiscal year, regardless of when the check was received. A letter from the State Comptroller (currently, the Chief Financial Officer) stated that approval was given to write-off delinquent amounts less than \$25. Consequently, amounts owed of \$25 and more should be submitted to DFS for collection. Our review disclosed that, of the \$1,225 that remained outstanding, the Department submitted \$300 to DFS for collection and wrote off \$925. As each Program certification costs \$10 and with the service charge of \$15 added, it appears that all returned checks should be submitted to DFS for collection. The Department had

<sup>6</sup> Section 215.34, Florida Statutes.

not established procedures covering these aspects of processing returned checks.

As the Apostille/Certification System is not updated until payment (including service fees) is received and a separate control list detailing returned checks and service fees is not maintained, the Department has little assurance that fees recorded in the Apostille/Certification System have actually been collected and reconciled to documents issued. Once a Program certificate is issued, Department procedures should ensure that payment (or payment in addition to the service charge in the case of returned checks) is received. In addition, there are no controls in place to ensure that checks from individuals who have previously written checks not sufficiently covered by bank balances are not again accepted by the Department prior to making the previous returned checks good.

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**Recommendation:** We recommend that the Department establish procedures covering all aspects of processing returned checks including the creation of a control list, requirements for waiving amounts owed, and setting a time frame in which the Department will attempt to collect the amount owed prior to submitting the debt to DFS for collection. We also recommend that the procedures include a requirement that the Apostille/Certification System be updated immediately for returned checks and that the Department submit to DFS for collection all delinquent amounts of \$25 or more. In addition, to ensure that future checks are not accepted until the payers make payment for previous returned checks, we recommend that the Apostille/Certification Sections periodically review the control list.

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#### **Finding No. 5: Apostille/Certification System**

Fees collected for the certification of documents are recorded in the Apostille/Certification System and deposited in the General Revenue Fund.

To provide for the safeguarding of assets, the reliability of accounting records, and the detection of errors or fraud, should it occur, effective system security administration should include a standardized process for documenting requests for system access, periodic review of the appropriateness of employee access privileges, and provisions for the timely removal of access privileges when employee job status changes.

The Department did not have procedures for requesting and changing user access to the Apostille/Certification System or periodically reviewing user access.

Granting access that has not been authorized and failing to revoke employee access to system resources increases the potential for malicious or unintentional disclosure, modification, or destruction of system resources. Foregoing a periodic review of user access accounts increases the risk that the integrity and confidentiality of information systems data and resources may be compromised.

Our review of 47 individuals with active user access to the Apostille/Certification System as of August 10, 2004, disclosed the following deficiencies:

- User accounts for 25 terminated employees were not deactivated even though the individuals' employment had been terminated from 41 to 1,345 days.
- Seven additional users, whose employment did not appear to warrant access, had inappropriate access to the Apostille/Certification System during the audit period. Two users were with the Executive Office of the Governor, four users were in the Division of Elections, and one user was in the Division of Library and Information Systems. In response to audit inquiry, the Department indicated that these individuals were granted access to the System because, at one time or another, the function had been performed by employees in the Executive Office of the Governor, the Division of Elections, and the Division of Licensing.

In response to audit inquiry, the Department indicated there were no procedures relative to controlling access to the Apostille/Certification System, unauthorized employee access has been terminated, and staff has been instructed to develop and implement control procedures.

Personal passwords used to authenticate the identity of an automated data processing system user and, in some instances, to grant or deny access to private or shared data, should be known only to the individual having that identity. Alternatively, personal identifiers are data items associated with a specific individual that represent the identity of that individual and may be known by other individuals. When an authorized user accesses the System, the User Group attached to the personal identifier is automatically entered in that field. As part of our testing of user access associated with the Miami Office, we compared the System's data with OPS

Attendance Reports for the same period. Our audit disclosed that, although the Department assigned personal identifiers and personal passwords were selected or created by the user and changed every six months, the "User Group" and "Created by" fields in the System indicated the following:

- Over 2,000 transactions associated with the Miami Office were processed using the one OPS personal identifier and password during a period of 26 days when the OPS Attendance Report indicated the OPS employee was not working. In response to audit inquiry, the Department indicated that the Miami Office was not under the Division of Corporation's supervision in 2002 and the first half of 2003, that accounted for 824 of the 2,158 transactions. However, from August 11, 2003, through August 29, 2003, 1,334 Miami transactions were processed by someone other than the OPS employee using the OPS personal identifier and password. The Department indicated that there were technical problems with the computer that caused the employee standing in for the absent Miami OPS employee to not be able to sign in using his/her own identifier and password. The Department further indicated that Operations and Technical Support were advised of the problem at the time it happened.
- Ten days where no transactions were processed in the Miami Office and one day where only 9 transactions were processed although, in each instance, the OPS Attendance Report for the one Miami OPS indicates that a full eight-hour day was worked. In response to audit inquiry, the Department indicated that each date could not be specifically recalled but, more than likely, the Miami Office was closed due to technical difficulties with old computers. Also, on several occasions, the Miami Office was closed because its supply of blank forms had been depleted. The Department pointed out that there has been a sufficient number of blank forms in the Miami Office since July 29, 2003.

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**Recommendation:** The Department should develop, implement, and enforce procedures outlining the security administration function for the Apostille/Certification System to ensure the integrity, confidentiality, and availability of information systems data and resources. In addition, for the purposes of maintaining integrity of the data, users should sign in using only their personal password and identifier. Department management should review the established time frame of changing passwords (currently six months) to ensure that its security requirements are met. Also, the Department should maintain sufficient

**documentation to evidence periods of technical difficulty, as well as those times when blank forms have been depleted.**

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**Finding No. 6: Data Verification Procedures**

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The Department does not have procedures in place and does not maintain the necessary documents to enable a verification of data accuracy and completeness following input into the Apostille/Certification System. We requested 40 certification request documents for review (30 documents from the Tallahassee Office and 10 from the Miami Office). Request documents should include, at a minimum, the date, name of person or company requesting the certification, address, telephone number, destination of document, number of certifications requested, signature, and the dollar amount of the check or money order related to the certification fee. In response to audit inquiry, the Department provided a total of 8 certification request documents from the Tallahassee Office. The response indicated that requests prior to July 29, 2003, were not kept and warehoused; neither were documents maintained for the walk-in requests at the Tallahassee and Miami Offices.

Erroneous or incomplete information in the Apostille/Certification System could jeopardize the Department's ability to reconcile the number of documents requested and issued to fees collected.

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**Recommendation:** We recommend that the Department establish procedures to ensure that information is recorded accurately and completely in the System through appropriate data verification. Also, we recommend that request documents be maintained and used in the verification process, ensuring compliance with State records retention guidelines and the validity of the process.

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**Finding No. 7: Referrals to Approved Notary**

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Our audit included an on-site visit of the Miami Office on June 28, 2004, where we observed that individuals who did not possess properly notarized documents were being directed by the Department's OPS employee to a notary located in a storage facility across the street from the Miami Office.

A review of the Department's notaries public database for commissioned notaries disclosed that the individual



located across the street from the Miami Office was an approved notary. While a review of the Apostille/Certification System for the 2002-03 fiscal year disclosed that the individual had notarized 40 documents, our review also disclosed that during the eight-month period from July 1, 2003, through February 29, 2004, the individual had notarized 684 documents on which an apostille or certificate of notarial authority had been issued.

We observed during our on-site visit that information regarding the location of the above-described notary was only given when individuals asked if there was a notary located in the building. However, for the OPS employee in Miami to make referrals to one particular notary gives the appearance that the State has a preference for obtaining business from that notary.

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**Recommendation:** We recommend that the Department ensure that information including location, telephone number, facsimile number, and e-mail address of multiple commissioned notaries is made available to the inquiring public. This could be accomplished by the use of postings and referrals to a prominently displayed bulletin board.

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**OBJECTIVES, SCOPE, AND METHODOLOGY**

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This operational audit focused on the Department’s Apostille and Certificate of Notarial Authority Program (including Certificates of Incumbency) procedures and records pertaining to the issuance of certificates, collection of related fees, and the recording of such information in the Apostille/Certification System. Our objectives were:

- To evaluate the effectiveness of established internal controls in achieving management’s control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and

reliability of records and reports; and the safeguarding of assets.

- To evaluate management’s performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.

In conducting our audit, we interviewed Department personnel, observed Department processes and procedures both in Tallahassee and Miami, performed tests of Department transactions, and completed various analyses and other procedures as determined necessary. Our audit included an examination of various transactions (as well as events and conditions) applicable to the period July 2002 through February 2004 and selected Department actions taken through August 10, 2004.

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**AUTHORITY**

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



William O. Monroe, CPA  
Auditor General

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**AUDITEE RESPONSE**

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In a response letter dated October 27, 2004, the Secretary of State concurred with our audit findings and recommendations. This letter is included in its entirety at the end of this report.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable **Government Auditing Standards** issued by the Comptroller General of the United States. This audit was conducted by Elizabeth B. Smith, CPA, and supervised by Frank Becton, CPA. Please address inquiries regarding this report to Dorothy R. Gilbert, CPA, Audit Manager, via e-mail ([dorothygilbert@aud.state.fl.us](mailto:dorothygilbert@aud.state.fl.us)) or by telephone (850-488-5444).

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



STATE OF FLORIDA  
DEPARTMENT OF STATE

JEB BUSH  
*Governor*

GLEND A. HOOD  
*Secretary of State*

October 27, 2004

Mr. William O. Monroe, C.P.A.  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Re: Operational Audit-Department of State/Division of Corporations  
(Apostille/Certificate of Notarial Authority Program, September 28, 2004).

Dear Mr. Monroe:

Attached is the Department of State's response to your preliminary and tentative findings and recommendations for the Apostille and Certificate of Notarial Authority Program in accordance with Section 11.45(4)(d), Florida Statutes.

Should you have any questions or desire additional information, please contact Dave Mann, Deputy Secretary of State for Records at 245-6011. Thank you for the opportunity to respond to your report.

Sincerely,

Handwritten signature of Glenda E. Hood in cursive script.

Glenda E. Hood  
Secretary of State

Attachment

cc. Candice Crawford, Assistant Secretary of State  
Dave Mann, Deputy Secretary of State for Records  
Jay Kassees, Director, Division of Corporations

R. A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250  
Telephone: (850) 245-6500 • Facsimile: (850) 245-6125 • WWW: <http://www.dos.state.fl.us>

**RESPONSE TO THE AUDITOR GENERAL'S PRELIMINARY AND  
TENTATIVE FINDINGS AND RECOMMENDATIONS APPLICABLE TO ITS  
OPERATIONAL AUDIT, APOSTILLE/CERTIFICATE OF NOTARY  
AUTHORITY PROGRAM, DATED SEPTEMBER 28, 2004.**

**Overview:**

The processes for this program are based on an application that could not be readily integrated into the Division of Corporations' current processes and applications. The return of the operation of this program to the Department of State came after extremely short notice. Therefore, we were compelled to continue to operate as is without our normal control and security procedures. We were able to institute a number of efficiency measures. As you discovered, the application was being reviewed for the purpose of a comprehensive rewrite for incorporation into the Division's various subsystems. Once the rewrite is complete (2005), the vast majority of the citations in this audit finding will be alleviated. The Department finds no exceptions to your audit findings. The Department immediately implemented a number of control procedures designed to rectify the deficiencies you noted. Written procedures should be completed by January 1, 2005. As you are aware, there is no funding for the Miami operation and we lack the resources to adequately staff that office. We are pursuing the outsourcing of the Miami operation. If that endeavor proves unsuccessful, we will centralize the function back to Tallahassee. Listed below are the corrective actions the Department has already instituted. Each corrective action is listed to correlate with the audit finding shown in the Auditor General's preliminary report.

**Finding No. 1:** In the future the Department will endeavor to be more specific in the creation of any interagency agreement to ensure that all issues are addressed.

**Finding No. 2:** The Department has already instituted procedures that require immediate restrictive endorsement and completion of payee line prior to acceptance of checks/money orders, and the secure and proper handling of checks/money orders prior to deposit. A safe has been provided to the Miami office for use in this regard. While checks are now being mailed overnight to Tallahassee for immediate deposit, we will explore alternate procedures for depositing checks in a Miami depository. We do not have the financial and manpower resources to adequately separate revenue collection and revenue recording duties in the Miami office. The Department is continuing its efforts to merge the apostille and notarial certification system with the Division's system. The Department has submitted to the Department of Management Services a proposal to outsource the Miami operation.

**Finding No. 3:** Procedures have been implemented relative to the purchasing, storing, handling and issuance of blank certificates. While numbered forms have been ordered and utilization will commence upon depletion of current stock, it should be noted that

once the application is integrated, each activity will then have it's unique numerical identifier and reconciliation will occur systematically.

**Finding No. 4:** The Department has established and implemented procedures covering all key elements in the processing of returned checks, including the creation of a control list and the establishment of collection timeframes. The apostille and notarial certification system is updated in a timely manner regarding returned checks. Collection procedures now require the apostille and notarial certification staff to periodically review the control list.

**Finding No. 5:** The Department is currently enforcing system security procedures which include the utilization of a control access form for adding and removing employees from network access. All inactive users have been removed. When the rewrite is complete, access will be controlled systematically and the current password problem should be rectified. Documentation relative to technical difficulties will be maintained.

**Finding No. 6:** The Department has established and implemented procedures that require specific data elements for initiating a request for an apostille or a notarial certificate by walk-in clients. This documentation will be retained in accordance with state records retention guidelines to allow for data verification.

**Finding No. 7:** The Department has established and implemented a protocol which will ensure that the Miami office will maintain a multiple commissioned notary listing for possible referrals.