



AUDITOR GENERAL

DAVID W. MARTIN, CPA



DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

ELEVATOR SAFETY INSPECTIONS

PRIOR AUDIT FOLLOW-UP

Operational Audit

SUMMARY

This operational audit, for the period March 1, 2005, through February 28, 2007, focused on following up on the findings and recommendations included in audit report No. 2006-075, Elevator Safety Inspections. We found that, generally, the Department has made progress in implementing the recommendations made in our prior audit report, except as noted below:

Finding No. 1: In our prior audit, we recommended that the Department amend its written policies and procedures to facilitate more effective oversight of elevator safety inspections. Our current audit disclosed that the Department had made progress toward resolving these issues; however, written policies and procedures had not been adopted as of May 2007.

Finding No. 2: In our prior audit, we recommended that the Department improve monitoring of the five local governments to which elevator safety responsibilities had been delegated. Inquiries during our current audit indicated that the Department made monitoring visits to only two of the five local governments. Also, the monitoring visits completed did not include a review of accident reports and investigations. We also found that although Department staff indicated that they had reviewed the local governments' monthly activity reports, the Department did not maintain documentation of such reviews.

Finding No. 3: In our prior audit, we recommended that the Department take actions to encourage the timely submission of complete

accident reports. We also recommended that the Department analyze the accident report information received and implement strategies or regulatory actions to minimize the risk of accidents. We found in our current audit that the Department did take some actions to encourage certificate of operation holders to submit timely and complete accident reports. However, we found that the Department was not enforcing a statutorily required fine for failure to submit timely accident reports, and the Department was not utilizing information in accident reports to determine trends and related regulatory responses.

BACKGROUND

The express purpose of the Elevator Safety Act¹ (Act) is to protect employees and the public from injury and unsafe conditions that may involve elevators.² The Act governs the inspection and regulation of elevators and enforcement of Florida Building Code provisions relating to elevators. Pursuant to Florida law, the Department of Business and Professional Regulation, Division of Hotels and Restaurants (Division), is empowered to carry out and enforce the provisions of the Act.

The Division's major responsibilities for elevator regulation may be summarized as follows:

¹ Chapter 399, Florida Statutes.

² Section 399.01(6), Florida Statutes, defines an elevator as one of the following mechanical devices: a hoisting and lowering mechanism, equipped with a car; an escalator; a dumbwaiter; a moving sidewalk; an inclined stairway lift; or an inclined or vertical wheelchair lift used to overcome architectural barriers.

- The licensure of certified elevator inspectors.
- The provision of oversight to ensure the quality of the elevator inspections obtained by elevator owners.
- The receipt and review of annual elevator inspection reports to confirm elevator safety.
- The issuance of annual elevator certificates of operation.
- The receipt, review, and analysis of elevator accident reports submitted to the Department by elevator operators.
- Through Florida Administrative Code (FAC) Rule, the maintenance of the State’s elevator safety code.
- The issuance of permits to erect, move, or alter elevators and temporarily operate them.
- The registration of companies that employ persons working on elevators.
- The issuance of certificates of elevator competency to persons who work for registered elevator companies, meet statutory qualifications, and pass a Division-approved test.

Florida law also authorizes the Division to enter into contracts with local governments and, through the contracts, delegate specific aspects of the Division’s statutory authority to regulate elevators.³ The Division has entered into such contracts with five local governments.

FINDINGS AND RECOMMENDATIONS

In response to report No. 2006-075, the Department identified corrective actions that were to be taken to address numerous deficiencies in Department oversight of elevator inspections. Our current audit, which included tests of the effectiveness of key procedures and tests of selected transactions, indicated that the Department had implemented sufficient corrective action to resolve some of the deficiencies reported in our prior audit. For example:

- For the files tested, documentation was available to demonstrate the qualifications of Certified Elevator Inspectors (CEIs).

- The Department amended its rules to clearly specify liability insurance coverage requirements for all CEIs.
- For the files tested, documentation was available to show that Certificates of Operation were issued after fees had been paid and inspections had been passed.
- For the transactions tested, the Department recorded documents and fee payments into the Single Licensing System (SLS)⁴ in a timely and accurate manner.

However, as reflected in the findings and recommendations which follow, our current audit tests disclosed additional improvements were needed.

Finding No. 1: Inspection Oversight

In audit report No. 2006-075, we recommended that the Department amend its written policies and procedures to require:

- Preparation and maintenance of documentation summarizing the details and reporting of the Department’s overall conclusions as to the quality of each monitored inspector’s work,
- Periodic reviews of elevators in delinquent or sealed status,
- Inspector verification of owner resolution of significant code violations,
- Department follow-up in the event that the resolution of code violations is not timely reported,
- For elevators exempt from annual safety inspections, periodic reviews of machine room maintenance records.

As indicated by the following, our current audit found that the Department had made progress toward resolving these problems; however, written procedures still had not been implemented. Specifically:

- During the audit period, the Department began maintaining a control list to document:
 - The inspectors and inspections selected for review,

³ Section 399.13, Florida Statutes.

⁴ The Single Licensing System is the automated system which, among other things, manages information related to elevator operations and oversight.

- The inspections reviewed and re-performed,
- The final disposition of findings resulting from the review and re-performance,
- The final conclusions as to the quality of each selected inspector’s work, differences noted between the Division’s inspection and that of the private inspector, and the resolution of those differences.

The Department also began requiring each of its State inspectors to perform ten monitoring visits each week and hired a private company to perform additional monitoring. Department records indicated that 3,654 enforcement monitoring visits were conducted during the audit period. However, as of May 2007, the Department’s written procedures had not been updated to reflect these requirements.

- In our prior audit, we reported that as of March 8, 2005, Department records indicated that 5,211 (or approximately 12 percent) of the 42,000 elevators licensed by the Department were in delinquent status. As shown by Table 1, as of April 16, 2007, Department records indicated that 4,343 (or approximately 10 percent) of the 42,799 elevators licensed by the Department were in delinquent status. Observation of the elevators in delinquent status may allow the Department to identify and remove from operation potentially unsafe elevators and identify instances in which Department records should be adjusted to reflect elevators that are no longer in service. Our current audit disclosed that the Department had contracted with a private company to observe delinquent elevators and advise the owners of the need to correct the delinquency. However, as of May 2007, written procedures requiring Department inspectors to periodically observe elevators in delinquent status had not been implemented.

**Table 1
Elevators in Delinquent Status
As of April 16, 2007**

	Expiration Date	No. of Elevators
Delinquent Status Since	July 31, 2002	161
	July 31, 2003	165
	July 31, 2004	238
	July 31, 2005	1,118
	July 31, 2006	2,661
Total		4,343

- Department records indicated that as of February 28, 2007, sealed elevators totaled approximately 1,210. Elevators may be sealed by the Department to prevent the operation of unlicensed or unsafe elevators. As of May 2007, the Department’s written procedures still did not require the periodic observation of elevators previously sealed. Absent such procedures, the Department lacks a reliable means for detecting instances in which owners may have placed unlicensed or unsafe elevators back into operation. The Department did, however, observe 166 sealed elevators during the audit period.
- Upon receipt of an inspection report containing code violations, the elevator owner is responsible for taking timely action to correct the potentially unsafe conditions. Following resolution of the violations, it is then the owner’s responsibility to provide evidence that the problem or problems have been resolved. In our prior audit, we reported that the Department accepted owners’ attestations stating violations were corrected. Our current audit disclosed that this practice was no longer being followed. Department personnel indicated that a current inspection report, submitted by a Certified Elevator Inspector, showing corrected code violations was required. However, as of May 2007, written procedures were not updated to reflect this requirement.
- Elevators serving only two landings are exempt from annual inspection requirements if the elevators are covered by service maintenance contracts. In our prior audit, we reported that the Department had not established a monitoring methodology to ensure, over a reasonable period of time, code compliance for these elevators. Our current audit disclosed that the Department now requires periodic reviews of machine room maintenance records. From July 1, 2005, through May 30, 2006, State inspectors reviewed records for 642 of approximately 10,000 exempt elevators; however, as of May 2007, written procedures were not updated to reflect this requirement.

The implementation of written policies and procedures is necessary for the effective communication and consistent application of the

control policies and procedures adopted by Department management.

Recommendation: We recommend the Department update its written policies and procedures to reflect current practices. We also recommend the Department periodically monitor and evaluate the effectiveness with which the procedures minimize risks associated with the operation of elevators.

Finding No. 2: Local Government Programs – Contract Monitoring

In our prior audit, we recommended that the Department conduct annual on-site monitoring of the five local governments to which elevator safety responsibilities had been delegated. We also recommended that the Department’s procedures be revised to require testing of the accuracy and completeness of pertinent local government records and that local government monthly activity reports be analyzed.

Our current audit disclosed that the Department had performed some monitoring visits and had adopted procedures requiring the testing of pertinent local government records for accuracy and completeness. However, additional improvements were needed. Specifically:

- The Department made on-site monitoring visits at two of the five local governments between August 2006 and February 2007. However, monitoring visits had not been recently conducted for the remaining three local governments. For these local governments, the most recent monitoring visit was completed in June 2002.
- Upon reviewing Department documentation of the monitoring visits completed for the two local governments, we could find no support showing that during the on-site visits, the Department had reviewed accident reports and follow-up investigations. As indicated above, Department procedures required a review and test of the accuracy and completeness of local government records, including those relating to accident reports and follow-up investigations.

- Contracts with local governments delegating authority to regulate and enforce elevator safety require local governments to provide monthly activity reports to the Department. These reports provide the number of inspections performed, complaints received, permits issued, accidents reported, and the total number of elevators and escalators being operated in the local governments’ jurisdictions. Department staff can analyze this information to determine if significant or unusual fluctuations are occurring from month-to-month. Although we found that the monthly reports were being submitted as required by the Department, and Department staff indicated that they reviewed monthly activity reports for anomalies such as dramatic increases in complaints and accidents, the Department did not document its review of the activity reports. The documentation of such reviews is necessary to demonstrate the effective implementation of this monitoring procedure.

Absent on-site monitoring visits to all five local governments and documentation to show that Department staff reviewed accident reports, follow-up investigations, and monthly activity reports, it cannot be demonstrated that the monitoring process is sufficiently comprehensive to reasonably ensure that the local governments are effectively enforcing elevator safety requirements.

Recommendation: We recommend that the Department make annual on-site monitoring visits to all local governments that have been delegated responsibility for elevator safety and, during the monitoring process, review accident reports and follow-up investigations. We also recommend that the Department document its review of all activity reports, including results of the reviews and actions taken.

Finding No. 3: Accident Reports

In our prior audit, we recommended that the Department take actions to encourage the timely submission of complete accident reports. We also recommended that the Department analyze the accident report information received and implement strategies or regulatory actions to minimize the risk of accidents.

In our current audit, we found that the Department did encourage certificate of operation holders to timely submit complete accident reports. For example, the Department implemented a revised report format to capture more information and make it easier to use, and the report was placed on the Department's Web site for greater accessibility. In addition, SLS was updated to accept entry of the date of accident report submission to identify whether the report was received within the five-day requirement.⁵

While we recognize the steps taken by the Department to encourage timely submission of accident reports, we found that contrary to Section 399.125, Florida Statutes, the Department did not assess or collect fines for late submissions. Assessing fines for late submission of accident reports will provide further incentive for certificate of operation holders to submit the reports as required.

Additionally, our audit disclosed that the Department was not analyzing the accident report information received. Analysis of accident report information for negative trends and unacceptable accident levels would enable the Department to take appropriate actions, as needed. Department staff indicated that they will perform trend analyses once sufficient information resulting from the new format is received.

Recommendation: We again recommend that the Department analyze submitted accident reports and data. We also recommend that the Department enforce the fine imposed by Florida Statutes for failing to submit timely accident reports.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objective of our audit was to follow up on the findings and recommendations included in report No. 2006-075, released in December 2005. Our audit included examinations of various transactions (as well as events and conditions) occurring during the period March 2005 through February 2007. In conducting our audit, we:

- Interviewed Department personnel.
- Obtained an understanding of internal controls and observed, documented, and tested key processes and procedures related to elevator inspection oversight.
- Conducted tests to determine whether policies and procedures implemented during the audit period were effective.
- Examined 70 elevator records (30 inspection reports, 30 fee payments, and 10 certificates of operation) to determine whether inspections were performed by qualified inspectors, as required by law, whether inspectors provided evidence of liability insurance, whether code violations were corrected in a timely manner, whether fee payments were accurately and timely recorded in the Department's records, and whether inspections had been passed and fees had been paid prior to issuance of certificates of operation.
- Requested and examined on-site monitoring reports and documentation for local governments to which elevator safety responsibilities had been delegated.
- Reviewed the Department's procedures for encouraging submission of accident reports by holders of elevator certificates of operation.

⁵ Section 399.125, Florida Statutes requires elevator accidents to be reported within 5 days after occurrence.

AUTHORITY

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



David W. Martin, CPA
Auditor General

MANAGEMENT RESPONSE

In a letter dated October 22, 2007, the Secretary provided a response to our preliminary and tentative findings. The letter is included at the end of this report as Appendix A.

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 *Generally Accepted Government Auditing Standards*. This audit was conducted by Angela Mitchell, CPA, and supervised by Don Reeder, CPA. Please address inquiries regarding this report to Kathryn Walker, CPA, Audit Manager, by e-mail (kathrynwalker@aud.state.fl.us) or by telephone (850-487-9085).

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

APPENDIX A
MANAGEMENT RESPONSE



Charlie Crist, Governor
Holly Benson, Secretary

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October 22, 2007

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

Dear Mr. Martin:

In accordance with Section 11.45(4)(d), Florida Statutes, enclosed is our response to the Auditor General's September 25, 2007 preliminary and tentative audit findings and recommendations based on an audit of the Elevator Safety Inspections Prior Audit Follow-up.

We appreciate the time and energy put forth by your staff, and your efforts to improve the operations of state government.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Holly Benson".

Holly Benson
Secretary

HB/RF/rf

Enclosure

CC: Chuck Drago, Deputy Secretary of Business Regulation
Bill Veach, Director of Hotels and Restaurants

**APPENDIX A
MANAGEMENT RESPONSE
(CONTINUED)**

**Department of Business and Professional Regulation
Division of Hotels and Restaurants
Response to Findings and Recommendations
Follow-up to Auditor General Report No. 2006-075
Elevator Safety Inspections**

Finding# 1.

In our prior audit, we recommended that the Department amend its written policies and procedures to facilitate more effective oversight of elevator safety inspections. Our current audit disclosed that the Department had made progress toward resolving these issues; however, written policies and procedures had not been adopted as of May 2007.

AG Recommendation.

We recommend the Department update its written policies and procedures to reflect current practices. We also recommend the Department periodically monitor and evaluate the effectiveness with which the procedures minimize risks associated with the operation of elevators.

Agency Response.

The Department of Business and Professional Regulation is charged with enforcing and regulating the provisions of the State's Elevator Safety Act, and beginning in FY2005/2006, the Bureau has worked diligently to re-engineer its operations to meet the Auditor General Report #2006-075 audit recommendations.

In response to the recommendation of preliminary and tentative Finding #1 that the Department update its written policies and procedures to reflect current practices and periodically monitor and evaluate the effectiveness with which the procedures minimize risks associated with the operation of elevators, the following applies:

The Bureau of Elevator Safety (Bureau) implemented a systems approach to improving daily operations and currently has pilot procedures in place to monitor the quality of elevator inspections and reports, improve licensing of inspectors, and to enforce the owner's responsibility for inspection and licensing compliance.

Since July 2005, many changes have been initiated in response to the audit. The staff has identified 'best practices', designed and distributed new oversight forms, updated monitoring procedures, reviewed outcomes for effectiveness, and received feedback from stakeholders to incorporate in the redesign.

Examples of some of the positive outcomes resulting from these changes are as follows:

- Improved daily reporting and weekly monitoring to achieve a rate of 6%,
- Increased licensing compliance to achieve a rate of 94% - best ever; and
- Reduced delinquencies through new enforcement notices and warnings.

Also, as recommended by the audit, the Bureau now receives an inspection report for every visit by a state inspector and a report for every oversight monitoring inspection - effective July 1, 2005. This monitoring effort also includes a comparison of violations cited to determine accuracy or possible follow-up required. Also, the practice of accepting owner correction letters was discontinued. A completed inspection report with no uncorrected violations is required to issue a valid certificate of operation.

**APPENDIX A
MANAGEMENT RESPONSE
(CONTINUED)**

**Department of Business and Professional Regulation
Division of Hotels and Restaurants
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Elevator Safety Inspections**

In preparation for Bureau activities as a result of the audit, an action plan was developed in August 2005, to begin the development of new and/or revised operating procedures to meet the anticipated Audit Findings.

Also, in December 2005 and March 2006, procedures were distributed to contracted jurisdictions developed to improve oversight operations and to institute timely monitoring. They were incorporated as business practices and will be finalized in formal policy and procedures in the near future.

During the last 24 months, the Bureau has drafted, reviewed, and revised operations and support guidelines at least five times beginning in July 2005 and continuing through the period February 2007, in anticipation of having them finalized in March and effective July 1, 2007. We missed our planned release date and anticipate release of the updated procedures by November 30, 2007.

Finding #2.

In our prior audit, we recommended that the Department improve monitoring of the five local governments to which elevator safety responsibilities had been delegated. Inquiries during our current audit indicated that the Department made monitoring visits to only two of the five local governments. Also, the monitoring visits completed did not include a review of accident reports and investigations. We also found that although Department staff indicated that they had reviewed the local governments' monthly activity reports, the Department did not maintain documentation of such reviews.

AG Recommendation.

We recommend that the Department make annual on-site monitoring visits to all local governments that have been delegated responsibility for elevator safety and, during the monitoring process, review accident reports and follow-up investigations. We also recommend that the Department document its review of all activity reports, including results of the reviews and actions taken.

Agency Response.

In response to the recommendation of preliminary and tentative Finding #2 that the Department make annual on-site monitoring visits to all local governments that have been delegated responsibility for elevator safety and, during the monitoring process, review accident reports and follow-up investigations, and document its review of all activity reports, including results of the reviews and actions taken, the following applies:

**APPENDIX A
MANAGEMENT RESPONSE
(CONTINUED)**

**Department of Business and Professional Regulation
Division of Hotels and Restaurants
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Elevator Safety Inspections**

The Bureau developed a quarterly schedule to meet with representatives and to monitor the five (5) contracted jurisdictions. The first meeting was chaired on September 30, 2005 to discuss the statutory role and expectations for each delegated authority, audit recommendations for monitoring process, Monthly Activity Reports, and to distribute revised copies of the *Inspection Oversight and Contract Monitoring Procedures Manual* which outlines the monitoring process. Future plans to implement quarterly on-site monitoring visits were also discussed. Additionally, the format for submitting the contracted jurisdiction monthly activity report was standardized at the September 2005 meeting. To date, the Bureau has chaired quarterly meetings through August 2, 2007.

As of this response, the City of Miami Beach is the only contracted jurisdiction that has not received a quarterly monitoring visit and is scheduled for review November 27-30, 2007. Miami-Dade County and the City of Miami are in the process of finalizing their inspection follow-up results from recent monitoring visits. Broward County and the Reedy Creek Improvement District visits were completed successfully. To assure timely reviews, the Bureau anticipates scheduling a full-time inspector to monitor the City of Miami and Miami Beach, and the counties of Broward and Miami-Dade in the near future.

Prior to this audit, the scope of the Bureau's review of the Monthly Activity Report was limited to data anomalies such as, unexplained decreases in the number of units in their inventory and decreases in inspections performed from previous reports. Recent reviews of accidents reported indicate there may be inconsistent follow-up at the local program level. Note, effective August 2, 2007 the representatives of each contracted jurisdiction were requested to submit hardcopy accident reports and investigations, along with the monthly activity report, for the Bureau to review. In the future, reviews will be documented, along with actions taken, if necessary. The Bureau will continue to revise its procedures, along with the addition of inspectors assigned the primary task of providing full-time oversight, a recent change made possible by new positions within the Bureau.

Finding #3.

In our prior audit, we recommended that the Department take actions to encourage the timely submission of complete accident reports. We also recommended that the Department analyze the accident report information received and implement strategies or regulatory actions to minimize the risk of accidents. We found in our current audit that the Department did take some actions to encourage certificate of operation holders to submit timely and complete accident reports. However, we found that the Department was not enforcing a statutorily required fine for failure to submit timely accident reports, and the Department was not utilizing information in accident reports to determine trends and related regulatory responses.

AG Recommendation.

We again recommend that the Department analyze submitted accident reports and data. We also recommend that the Department enforce the fine imposed by Florida Statutes for failing to submit timely accident reports.

**APPENDIX A
MANAGEMENT RESPONSE
(CONTINUED)**

**Department of Business and Professional Regulation
Division of Hotels and Restaurants
Response to Findings and Recommendations
Follow-up to Auditor General Report No. 2006-075
Elevator Safety Inspections**

Agency Response.

In response to the recommendation of preliminary and tentative Finding #3 that the Department analyze submitted accident reports and data. We also recommend that the Department enforce the fine imposed by Florida Statutes for failing to submit timely accident reports, the following applies:

In keeping with this audit finding, in February 2007 the Bureau released a comprehensive accident reporting form with 41 data points available to identify equipment and rider behavior in relation to accidents and provide future trends for analysis. As data from this new report is accumulated, the Bureau will be able to document, review, compare similarities, and recommend actions to be taken.

Section 399.125, F.S. allows for a fine to be imposed in the event accident reports are not submitted timely. On September 26, 2006, as part of a department-wide service pack (enhancement) to LicenseEase, the capability to capture the postmark date was initiated to identify whether the accident report was submitted within the five day requirement. This date is important, as it will drive the enforcement process and possible fines.

Also, in mid-August 2007, the Bureau submitted revised language for Section 399.049, F.S. for FY2008/2009 to strengthen disciplinary actions the Bureau may impose against each identified certificate holder that fails to comply with the provisions of this chapter.

It is important to note that as a result of this audit, the level of awareness concerning accidents, particularly for escalators, has expanded throughout the industry. Bureau emphasis on timely reporting and the need to minimize the owner's risk from accidents has prompted industry inspection firms to acquire the necessary test equipment to perform the required annual safety tests.

The Bureau will continue to focus its efforts on statewide outreach and communication to improve accident reporting compliance, especially timeliness of reports and use of the revised form.

**APPENDIX A
MANAGEMENT RESPONSE
(CONTINUED)**

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