

**DEPARTMENT OF FINANCIAL SERVICES**  
**BUREAU OF UNCLAIMED PROPERTY**

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Operational Audit

March 2006 through February 2008



### CHIEF FINANCIAL OFFICER

Pursuant to Article IV, Section 4(c) of the State Constitution, and Section 17.001, Florida Statutes, the Chief Financial Officer is the chief fiscal officer of the State, responsible for settling and approving accounts against the State and keeping all State funds and securities. The Chief Financial Officer also heads the Department of Financial Services, which as an agency, has a wide range of statutory responsibilities including those relating to the custody and disposition of unclaimed property. The Honorable Alex Sink was the Chief Financial Officer during the audit period.

The audit team leader was Frank Belt, CPA, and the audit was supervised by Nancy C. Tucker, CPA. Please address inquiries regarding this report to Nancy C. Tucker, CPA, Audit Manager, by e-mail at [nancytucker@aud.state.fl.us](mailto:nancytucker@aud.state.fl.us) or by telephone at (850) 487-4370.

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## DEPARTMENT OF FINANCIAL SERVICES

### Bureau of Unclaimed Property

#### SUMMARY

This operational audit of the Department of Financial Services (Department) focused on the operations of the Bureau of Unclaimed Property (Bureau) during the period March 2006 through February 2008 and selected actions taken through June 30, 2008. Our audit disclosed the following:

#### Claimant Representatives

#### DISTRIBUTION OF UNCLAIMED PROPERTY MANAGEMENT INFORMATION SYSTEM COMPACT DISCS

**Finding No. 1:** Information relating to unclaimed property items and their owners of record was maintained in the Department's Unclaimed Property Management Information System (UPMIS). Using data in UPMIS, the Bureau produced and distributed to some claimant representatives (locators) compact discs (CDs) containing owners' personal data. The information was to be used by the locators to assist them in their efforts in locating unclaimed property owners. Bureau controls over the distribution of these CDs did not reduce to an acceptable level the risk that the CDs could be lost and personal data within the CDs used for unauthorized purposes.

#### MONITORING LOCATOR COMPLIANCE

**Finding No. 2:** Florida Law provides that locators must wait 45 days before making a claim on an unclaimed property account with a value in excess of \$250. Bureau oversight of locator compliance with this waiting period was not always effective.

#### Penalty Waivers

#### WAIVING PENALTIES FOR LATE REPORTS

**Finding No. 3:** The Bureau's *General Policy for Penalty Assessment, Waivers and Payment* did not provide for an independently performed reconciliation between waived penalties reported in UPMIS and corresponding waived penalty authorization forms. The lack of a reconciliation process precluded the Bureau from detecting unauthorized penalty waivers. Also, the Bureau's policy to automatically waive penalties for first time filers was not authorized by Department rule.

#### Abandoned Securities

#### DELIVERY OF SECURITIES

**Finding No. 4:** Bureau instructions provided to holders of abandoned securities did not ensure that all holders delivered such securities to the designated Department investment service provider.

#### INVESTMENT WORKSHEETS

**Finding No. 5:** Worksheets were used to assist in the Bureau's efforts to track and value abandoned securities. Periodic reconciliations of relevant UPMIS data to the worksheets were not performed.

#### Property Safeguards

#### PHYSICAL SECURITY CONTROLS

**Finding No. 6:** Bureau physical security controls over unclaimed property needed improvement.

## BACKGROUND

Unclaimed property consists of funds or other property that has remained inactive, unclaimed, or abandoned by an owner for some set period of time, usually five years. Examples of unclaimed property include dormant bank accounts, unclaimed insurance proceeds, stocks, dividends, mutual fund shares, uncashed checks, deposits, credit balances, and abandoned safe-deposit box contents. Florida law<sup>1</sup> requires holders of unclaimed property, which typically are banks, investment firms, and insurance companies, to periodically report and remit unclaimed property items to the Department.

The Florida Disposition of Unclaimed Property Act (Chapter 717, Florida Statutes), provides the Department with specific responsibilities related to the disposition of unclaimed property. The Department administers the Act through the Bureau, the responsibilities of which include receiving and maintaining accurate unclaimed property records, locating owners of reported unclaimed property accounts, safeguarding unclaimed property held by the Department, and verifying the validity of claims made on unclaimed property accounts.

The Bureau receives a significant amount of property from abandoned safe-deposit boxes. The types of property items found in safe-deposit boxes include valuable gemstones, precious metals, United States and foreign currency (coins and paper), jewelry, bonds, stock certificates, and other heirloom and collectible property items. Florida law<sup>2</sup> provides that property contained in a safe-deposit box that has not been claimed by an owner for more than three years after the lease or rental period has expired is presumed unclaimed. Safe-deposit box contents in the Bureau's custody are housed in a secured vault until claimed, sold at auction, or destroyed as a property item with no commercial value (e.g., miscellaneous papers, keys, jewelry boxes, etc.). The total value of all property housed in the vault can vary from approximately \$500,000 to \$1 million, depending on the proximity of the valuation date to the last property auction.

All the proceeds from the sale of unclaimed property and other funds received under Chapter 717, Florida Statutes, are deposited by the Department into the Unclaimed Property Trust Fund. Pursuant to law,<sup>3</sup> the Department retains up to a maximum of \$15 million in the Trust Fund to pay claims and administrative costs of the program. All excess funds are deposited by the Department into the State School Fund.

The UPMIS was developed by the Department. UPMIS includes a searchable database of unclaimed property records that can be accessed from the Department's Unclaimed Property Web site.<sup>4</sup>

## FINDINGS AND RECOMMENDATIONS

### Claimant Representatives

Florida law<sup>5</sup> provides that licensed private investigators,<sup>6</sup> Florida certified public accountants, and attorneys licensed to practice in the State may register with the Department and file claims as a claimant's representative, acquire ownership or entitlement to unclaimed property, receive distribution of fees and costs from the Department, and obtain unclaimed property information from the Department including, but not limited to, dollar amounts, number of

<sup>1</sup> Section 717.117, Florida Statutes.

<sup>2</sup> Section 717.116, Florida Statutes.

<sup>3</sup> Section 717.123(1), Florida Statutes.

<sup>4</sup> Web site: [www.fltreasurehunt.org](http://www.fltreasurehunt.org).

<sup>5</sup> Section 717.1400, Florida Statutes.

<sup>6</sup> Private investigators holding class "C" individual licenses under Section 493.6201, Florida Statutes.

reported shares of stock, and owner social security numbers. Registered claimant representatives are referred to by the Department, and by this report, as “locators.” According to Department records, there were approximately 200 registered locators during the audit period.

Locators were provided unclaimed property information including owner personal data by accessing the Bureau UPMIS Web site portal or by obtaining UPMIS information through the use of Bureau-produced CDs. Locators utilize UPMIS data to assist them in locating and mailing notifications to reported owners of unclaimed property. A notification is an offer made by a locator to assist an owner, for an agreed upon fee,<sup>7</sup> in recovering unclaimed property items. For unclaimed property other than real property items, the locator fee is paid directly by the Department. An amount equal to the fee is deducted by the Department from the corresponding claim payment made to the owner. As shown below in Table 1, Department records indicate that 25.5 percent of the claims submitted during the audit period were filed with the assistance of locators, resulting in the payment of fees totaling in excess of \$6.9 million.

**Table 1**  
**Claims Filed**  
**March 2006 through February 2008**

	Owner Filed Claims		Locator Filed Claims		Total
	Amount	Percent	Amount	Percent	
Number of Claims Filed	386,328	74.5	132,152	25.5	518,480
Value of Claims	\$222,328,000	73.8	\$78,768,000	26.2	\$ 301,096,000
Fees Paid			\$ 6,915,000		\$ 6,915,000

Source: Department Records

**Finding No. 1: Distribution of UPMIS Compact Discs**

According to Bureau staff, between 6 and 10 UPMIS CDs were produced and distributed weekly to locators at an administrative charge of \$35 for each CD. Each CD contained approximately 8.8 million records that included owner names, addresses, account numbers, and social security numbers and unclaimed property descriptions and values.

A Bureau survey of 38 other states found that Florida’s unclaimed property law is unique in providing locators with access to owners’ social security numbers. Providing such access increases the burden upon the Bureau to ensure that all practical measures have been taken to protect owner social security numbers from unnecessary exposure and unauthorized use. Without adequate scrutiny of locators’ licenses prior to the distribution of UPMIS CDs and strong controls over the production, distribution, and destruction of the CDs, the risk of the unauthorized use of the CDs is increased.

As part of this audit, we reviewed Bureau controls over the production, distribution, and destruction of CDs. Our review disclosed:

- Although it was Department policy to verify a locator’s license status prior to providing the locator with a CD, our tests of the distribution of 282 CDs during the period July 1, 2007, through May 16, 2008, disclosed five instances where CDs were distributed to two private investigators with expired licenses. In these instances, a

<sup>7</sup> Section 717.135(2)(a), Florida Statutes, provides that locator fees are generally limited to 20 percent of the amounts claimed, with total fees for individual claim accounts not to exceed \$1,000.

total of five CDs were distributed, and as of the date these CDs were distributed, the period of time the two licenses had been expired ranged from 72 days to almost four years.

- The Bureau had not implemented written policies and procedures to govern the tracking of the production, distribution, and destruction of CDs. Deficiencies such as those noted below could be addressed through the proper administration of written policies and procedures:
  - CDs were not assigned unique control numbers. Such control numbers would enable the Bureau to track, through the use of a log, the status and disposition of each CD. The absence of such control numbers precluded the Bureau from reconciling the CDs produced to corresponding CDs that were undistributed, distributed, and destroyed.
  - The Bureau did not properly document the destruction of undistributed CDs. As previously noted, CDs were produced for locators on a weekly basis. Bureau personnel indicated that weekly production amounts were estimated amounts based on previous distribution amounts, and it was not unusual for the number of CDs produced to exceed the actual number of CDs distributed, which left some number of undistributed CDs. Although Bureau personnel stated that all undistributed CDs were eventually destroyed by the Bureau, no related records were maintained. The absence of CD destruction records precluded the Bureau from supporting its assertion that all undistributed CDs were properly destroyed.
- Our tests of Department security controls over the UPMIS CDs also disclosed other significant control deficiencies. Specific details of these deficiencies are not disclosed in this report to avoid the possibility of compromising protected information. However, appropriate Department personnel have been notified of these issues.

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**Recommendation:** The Department should consider the risks posed by the production and distribution of UPMIS CDs and evaluate whether these activities should be continued. If the Department determines that the benefits of distributing UPMIS CDs outweighs the risks, the Bureau should, at a minimum:

- Enhance controls to ensure that UPMIS CDs are distributed only to properly licensed and registered locators;
- Establish and implement written policies and procedures over the production of CDs, the distribution of CDs to locators, and the destruction of undistributed CDs. These policies and procedures should address:
  - The assignment of unique control numbers to UPMIS CDs for the purpose of logging and tracking the status and disposition of each CD produced. Logs should be independently reconciled to applicable production, distribution, and destruction records;
  - Documentation required to evidence the destruction of undistributed CDs.

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## **Finding No. 2: Monitoring Locator Compliance**

State law<sup>8</sup> provides that protecting the interests of owners of unclaimed property is the public policy of the State and that it is in the best interest of the owners that they have the opportunity to receive the full amount of the unclaimed property returned to them without deduction of any fees. The law further provides that the State has an obligation to make a meaningful and active effort to notify owners concerning their unclaimed property and, to do so, the State must be provided the first opportunity to notify the owners of unclaimed property that they may file a claim for their property with the Department. In furtherance of this policy, for unclaimed property accounts valued in excess of \$250, locators must wait 45 days after the Department has processed and added the property account to UPMIS before entering an oral or written agreement or power of attorney with the unclaimed property owners.

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<sup>8</sup> Section 717.1381(1)(a)/(b), Florida Statutes.

As part of their monitoring responsibilities, Bureau staff periodically compared the date claims were filed by locators to the dates accounts were added to UPMIS to determine the extent to which locators complied with the 45-Day Law. During the audit period, when a 45-Day Law offense was detected by staff, it was the Department’s practice to enter into a *Voluntary Settlement Agreement (Agreement)* with the locator. *Agreement* terms required the offending locator to forfeit the fees from the applicable claims and, for future claims, only submit claims that are in compliance with the 45-Day Law. In exchange, the Department agreed not to assess any fines, other penalties, or sanctions, such as the suspension or revocation of the locator’s registration. Our tests of Bureau monitoring procedures disclosed:

- The Bureau had not established written policies and procedures for the monitoring of locator compliance with the 45-Day Law. Such written policies and procedures, if properly designed and followed, would increase the likelihood that monitoring procedures are effectively communicated and consistently performed.
- The Bureau’s procedures for monitoring locator compliance with the 45-Day Law could be improved. Our tests included an analysis of UPMIS data for accounts added during the audit period. Our analysis identified a total of 162 locator initiated account claims pursuant to which the locator did not comply with the 45-Day Law. For 100 of these claims, we found that the Bureau had correctly withheld a fee payment to the initiating locator. However, as shown in Table 2, for the other 62 claims (38.3 percent), the Bureau erroneously paid a locator fee. These erroneously paid fees totaled \$8,672 and were paid to 12 different locators. The Bureau’s payments of erroneous fees to locators deprived the property owners of the receipt of the full amounts due.
- Efforts made by the Bureau to monitor locator compliance with *Voluntary Settlement Agreements* were not always effective. As shown in Table 2, the Bureau failed to detect *Agreement* noncompliance on the part of three locators. In these instances, fees in violation of the 45-Day Law were paid relative to 36 claims, as further shown by Table 2. During the audit period, the Bureau did not assess any fines or suspend any locators as repeat offenders of the 45-Day Law.

**Table 2**  
**Analysis of Exceptions to 45-Day Law**

Violation Status	No. of Locators Filing Claims	No. of Account Claims	Amount of Fees Paid
Violation of 45-Day Law No <i>Agreement</i>	9	26 <sup>(1)</sup>	\$5,603
Violation of 45-Day Law After <i>Agreement</i> was Signed	3	36	\$3,069
<b>Total</b>	<b>12</b>	<b>62</b>	<b>\$8,672</b>

Source: UPMIS

<sup>(1)</sup> Includes three accounts with *Agreements* signed after the claim was filed

**Recommendation:** The Department should take action to seek refunds from locators for any improperly paid fees for the claims cited above and remit such refunds to the applicable owners. Additionally, to ensure violations of the 45-Day Law are consistently detected by staff, the Department should establish and implement written policies and procedures to monitor locator compliance with the 45-Day Law. To enforce compliance with the 45-Day Law, the Department should also consider imposing fines or other penalties on locators who have violated *Voluntary Settlement Agreement* terms by continuing to violate the 45-Day Law.

**Penalty Waivers**

**Finding No. 3: Waiving Penalties for Late Reports**

State law<sup>9</sup> requires holders of unclaimed property to annually report and remit property items to the Department by May 1 of each year. Although the Department is authorized to impose and collect penalties on holders that fail to timely submit reports, the Department may, with appropriate justification, waive any penalty due. Department rule<sup>10</sup> provides that the Department, upon written request, shall waive penalties for situations that involve, for example,

<sup>9</sup> Section 717.117(1),(3) Florida Statutes.

<sup>10</sup> Department of Management Services Rule 69I-20.038(4)(c), Florida Administrative Code.

natural disasters, acts of war or terrorism, the initial reports filed by holders that were not induced by a Department examination, and penalty amounts that would be in excess of the reported amounts.

On September 12, 2006, the Bureau adopted a *General Policy for Penalty Assessment, Waiver and Payment (Waiver Policy)* that required a supervisor’s written approval of a *Penalty Waiver Approval Denial (Waiver Form)* prior to waiving a penalty. A summary of Bureau penalty assessments and waivers during the period March 1, 2006, through February 29, 2008, is shown in Table 3.

Our review of the Bureau’s process for waiving penalties disclosed the following:

- One Bureau employee performed incompatible duties in that the employee initiated and updated holder penalty records in UPMIS, prepared and mailed penalty letters to holders, and recorded waived penalties in UPMIS. Under such conditions, errors or fraud could occur and escape timely detection. For example, the employee could direct a holder to mail penalty payments to an unauthorized recipient. The employee could then waive the corresponding penalty records in UPMIS to conceal the diverted payments.
- For 3 of 14 (21.4 percent) waived penalties reviewed, the penalty was shown as waived in UPMIS, but a corresponding *Waiver Form* could not be located. Absent the availability of the forms, the Department could not readily demonstrate that the waivers had been subjected to the required supervisory review and authorization.
- The Bureau did not perform a reconciliation of waived penalties recorded in UPMIS to approved *Waiver Forms*. Such reconciliations, independently performed, would have facilitated the timely detection of the 3 missing *Waiver Forms* discussed above.
- The Bureau adopted a policy to automatically waive any penalties imposed on first time filers, which bypassed the written request requirement of Department rule.

**Table 3**  
**Penalties Assessed, Paid, and Waived**  
**March 1, 2006, Through February 29, 2008**

Penalty Status	No. of Penalties	Total Amount of Penalties
Assessed	2,418	\$ 1,095,009
Paid	817	\$ 310,616
Waived	607	\$ 209,480
Balance Due	994	\$ 574,913

Source: Bureau Staff

**Recommendation:** The Bureau should revise its *Waiver Policy* to provide for periodic and independently performed reconciliations between waived penalties in UPMIS and approved *Waiver Forms*. Additionally, the Bureau should ensure the separation of incompatible duties. Also, if the Department has determined that automatically waiving penalties for first-time filers is in the best interest of the State, the Department should take the necessary action to amend the Department rule accordingly.

**Abandoned Securities**

**Finding No. 4: Delivery of Securities**

The Bureau receives as unclaimed property a significant number of abandoned securities, including stocks, bonds, and mutual fund shares. Abandoned securities are to be annually reported by holders to the Department on a Department-prescribed report. Florida law<sup>11</sup> provides that persons required to file a report shall simultaneously pay or deliver to the Department all unclaimed property included in the report. Florida law<sup>12</sup> also provides that, unless the Department deems it to be in the public interest to do otherwise, all securities presumed unclaimed and delivered to the Department may be sold upon receipt.

<sup>11</sup> Section 717.119(1), Florida Statutes.

<sup>12</sup> Section 717.122(2), Florida Statutes.



In response to audit inquiries, Bureau personnel stated that it was the Department's objective to have holders transfer all reported abandoned securities to an investment service provider that had contracted with the Department to liquidate the abandoned securities upon receipt. Bureau personnel also indicated that efforts to transfer the securities have not always been successful, which has resulted in the Bureau having to manage a significant number of securities that were held and controlled by the holders.

Our review of the Bureau instructions provided to the holders disclosed that, consistent with the Department's stated objectives, such instructions included provisions directing holders to send reported securities directly to the Bureau's investment services provider. However, the instructions also included provisions describing steps that could be taken to accomplish the delivery of the reported securities by placing them in a Department denominated account at the holder. Bureau records indicated that a significant number of these reported securities were held by holders for considerable periods of time. Allowing such holders the apparent option of retaining the securities appears contrary to the Department's objective of centralized control over all reported securities. As described in finding No. 5 below, the failure to centralize control also increased the Bureau's record keeping requirements.

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**Recommendation:** The Bureau should take steps to ensure that all securities are consistently and expeditiously transferred to the Department's established investment service provider. The recommended steps should include the elimination of any ambiguities currently included in the Bureau's instructions provided to holders that act to impede the accomplishment of these transfers.

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#### **Finding No. 5: Investment Worksheets**

The failure to liquidate all abandoned securities upon receipt, as noted in finding No. 4, has also created an additional workload issue for the Bureau. According to Bureau personnel, UPMIS, as configured at the time of our review, could not accommodate all record keeping requirements necessary to effectively track, value, and manage securities held by outside holders. For example, for a security with more than one owner, UPMIS could not accurately track the number of each owner's shares when the shares were held for more than a single reporting cycle. Such information is necessary to ensure accurate claim payments. Additionally, UPMIS could not accommodate the recording of fair value information for securities. Maintaining fair value information for abandoned securities is necessary for both account management and financial statement reporting.

To compensate for the limitations discussed above, the Bureau established a subsidiary investment worksheet system. The system consisted of an electronic worksheet for each security held by an outside holder. Each worksheet was to be updated upon the receipt of a security holder account statement showing increases and decreases in share numbers owned, distributions, and changes in valuation. As of April 16, 2008, the subsidiary investment worksheet system consisted of 813 individual worksheets with a total recorded value of approximately \$6.8 million.

Our tests of the subsidiary investment worksheet system disclosed that information contained in the system was not accurate and complete. Our tests included 60 of the 813 investment worksheets at April 16, 2008, with a total recorded fair value of \$317,061. Our examination included reconciliations between share activity in the examined worksheets and the available information in UPMIS. The reconciliations disclosed that for 42 of the 60 worksheets (70 percent), the share balances shown by the worksheets were incorrect in that they did not include all of the share activity included in UPMIS. For 32 of these 42 incorrect worksheets (76.2 percent), we found that the share balances shown by the worksheets had been liquidated prior to the worksheet date of April 16, 2008. After corrections, the fair value of the 60 investment worksheets tested totaled \$144,356, or 45.5 percent, of the uncorrected worksheets' total fair value of \$317,061.

Our audit disclosed that periodic reconciliations of UPMIS data and all related worksheet data were not performed. Without such reconciliations, management had limited assurance of the accuracy and completeness of the information used to calculate claim payments and report security values.

**Recommendation:** The Bureau should immediately, and periodically thereafter, reconcile all investment worksheets to UPMIS. Additionally, if feasible, the Bureau should make changes to UPMIS to accommodate the tracking and valuation of any securities that may continue to be held by outside holders.

### Property Safeguards

#### Finding No. 6: Physical Security Controls

Physical security controls safeguard designated property by controlling and monitoring the physical access to and environment of the protected property. During our audit, we identified physical security controls over unclaimed property that needed improvement. Specific details of these issues are not disclosed in the report to avoid the possibility of compromising security. However, appropriate personnel have been notified of the security issues.

Without adequate physical security controls, the safeguarding of protected property may be compromised, increasing the risk that protected property items may be subject to destruction, damage, or theft.

**Recommendation:** The Department should strengthen physical security controls in the areas noted.

### PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective action for the applicable findings included in our report No. 2007-057.

### 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 in accordance with applicable 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 focused on the procedures and practices of the Bureau of Unclaimed Property related to maintaining accurate and complete unclaimed property records (both public and confidential records), safeguarding unclaimed property held by the Department, and verifying the validity of claims made on unclaimed property accounts. The overall objectives of the audit were:

- To evaluate the effectiveness of established internal controls in achieving management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the relevance and reliability of records and reports; and the safeguarding of assets.

- To evaluate management’s performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the relevance and reliability of records and reports; and the safeguarding of assets.
- To determine whether management had corrected, or was in the process of correcting, all applicable deficiencies disclosed in audit report No. 2007-057.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit included examinations of various records and transactions (as well as events and conditions) occurring during the period March 2006 through February 2008 and selected actions through June 30, 2008. In conducting our audit we:

- Obtained an understanding of internal controls and tested key processes and procedures related to the administration of the State’s unclaimed property by:
  - Interviewing selected Department and Bureau personnel.
  - Examining records to determine whether locators were properly registered prior to the distribution of 282 CDs.
  - Performing analytical procedures to determine the percentage of claims filed by locators during the audit period. We also compared Florida’s 45-Day Law with similar laws in the other 49 states and the District of Columbia.
  - Analyzing UPMIS data to identify claims that were submitted by locators, but which were not in compliance with the 45-Day Law. Reviewing identified claim records to determine whether the Department paid any locator fees.
  - Examining 14 waived locator penalties to determine whether a required *Penalty Waiver Approval Denial* form was properly completed and approved.
  - Examining Bureau investment practices to determine if its liquidation of unclaimed investments was effective.
  - Examining 60 investment worksheets to determine whether the data therein reconciled to UPMIS.
  - Confirming selected security share information with outside holders.
  - Evaluating the effectiveness of physical security controls.
- Performed various other auditing procedures, as necessary, to accomplish the objectives of this audit.

**AUTHORITY**

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a biennial basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA  
Auditor General

**MANAGEMENT’S RESPONSE**

In a response letter dated January 12, 2009, the Chief Financial Officer concurred with our audit findings and recommendations. The Chief Financial Officer’s response is included as Exhibit A.

**EXHIBIT A  
MANAGEMENT'S RESPONSE**



CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

ALEX SINK

January 12, 2009

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

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, the enclosed response is provided for the preliminary and tentative audit findings included in the Auditor General's Operational Audit of the Department of Financial Services, Bureau of Unclaimed Property, for the period March 2006 through February 2008.

If you have any questions or would like to discuss the matter further, please contact Bob Clift, Inspector General, at (850) 413-4960.

Sincerely,

A handwritten signature in cursive script that reads "Alex Sink".

Alex Sink

Enclosures

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

**Florida Department of Financial Services**  
**Audit Response**  
**Bureau of Unclaimed Property**  
**Operational Audit**  
**Preliminary and Tentative Audit Findings**  
**For the Period March 2006 through February 2008**

**Finding No. 1: Distribution of UPMIS Compact Discs**

According to Bureau staff, between 6 and 10 UPMIS CDs were produced and distributed weekly to locators at an administrative charge of \$35 for each CD. Each CD contained approximately 8.8 million records that included owner names, addresses, account numbers, and social security numbers and unclaimed property descriptions and values.

A Bureau survey of 38 other states found that Florida's unclaimed property law is unique in providing locators with access to owners' social security numbers. Providing such access increases the burden upon the Bureau to ensure that all practical measures have been taken to protect owner social security numbers from unnecessary exposure and unauthorized use. Without adequate scrutiny of locators' licenses prior to the distribution of UPMIS CDs and strong controls over the production, distribution, and destruction of the CDs, the risk of the unauthorized use of the CDs is increased.

As part of this audit, we reviewed Bureau controls over the production, distribution, and destruction of CDs. Our review disclosed:

- Although it was Department policy to verify a locator's license status prior to providing the locator with a CD, our tests of the distribution of 282 CDs during the period July 1, 2007, through May 16, 2008, disclosed five instances where CDs were distributed to two private investigators with expired licenses. In these instances, a total of five CDs were distributed, and as of the date these CDs were distributed, the period of time the two licenses had been expired ranged from 72 days to almost four years.
- The Bureau had not implemented written policies and procedures to govern the tracking of the production, distribution, and destruction of CDs. Deficiencies such as those noted below could be addressed through the proper administration of written policies and procedures:
  - CDs were not assigned unique control numbers. Such control numbers would enable the Bureau to track, through the use of a log, the status and disposition of each CD. The absence of such control numbers precluded the Bureau from reconciling the CDs produced to corresponding CDs that were undistributed, distributed, and destroyed.
  - The Bureau did not properly document the destruction of undistributed CDs. As previously noted, CDs were produced for locators on a weekly basis. Bureau personnel indicated that weekly production amounts were estimated amounts based on previous distribution amounts, and it was not unusual for the number of CDs produced to exceed the actual number of CDs distributed, which left some

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

number of undistributed CDs. Although Bureau personnel stated that all undistributed CDs were eventually destroyed by the Bureau, no related records were maintained. The absence of CD destruction records precluded the Bureau from supporting its assertion that all undistributed CDs were properly destroyed.

- Our tests of Department security controls over the UPMIS CDs also disclosed other significant control deficiencies. Specific details of these deficiencies are not disclosed in this report to avoid the possibility of compromising protected information. However, appropriate Department personnel have been notified of these issues.

**Recommendation:** The Department should consider the risks posed by the production and distribution of UPMIS CDs and evaluate whether these activities should be continued. If the Department determines that the benefits of distributing UPMIS CDs outweighs the risks, the Bureau should, at a minimum:

- Enhance controls to ensure that UPMIS CDs are distributed only to properly licensed and registered locators;
- Establish and implement written policies and procedures over the production of CDs, the distribution of CDs to locators, and the destruction of undistributed CDs. These policies and procedures should address:
  - The assignment of unique control numbers to UPMIS CDs for the purpose of logging and tracking the status and disposition of each CD produced. Logs should be independently reconciled to applicable production, distribution, and destruction records;
  - Documentation required to evidence the destruction of undistributed CDs.

**Response:** The Department concurs. In December 2008, the Bureau of Unclaimed Property (BUP) established and implemented written procedures for handling Public Records Requests, including those produced onto Compact Discs (CDs). The procedure for CDs addresses the production, which now includes the assignment of unique control numbers and file encryption, the distribution to properly licensed and registered locators, and the documented destruction of any undistributed CDs. These written procedures also include the establishment of the following control logs:

1. Public Records Request Log for Documents – to record each request for public records (documents).
2. Public Records Request CD Log – to record each request for a CD.
3. CD Control Log – to record the creation, distribution and destruction of CDs.

Periodically, these logs will be independently reconciled by a staff person other than those involved in the public records process.

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

**Finding No. 2: Monitoring Locator Compliance**

State law provides that protecting the interests of owners of unclaimed property is the public policy of the State and that it is in the best interest of the owners that they have the opportunity to receive the full amount of the unclaimed property returned to them without deduction of any fees. The law further provides that the State has an obligation to make a meaningful and active effort to notify owners concerning their unclaimed property and, to do so, the State must be provided the first opportunity to notify the owners of unclaimed property that they may file a claim for their property with the Department. In furtherance of this policy, for unclaimed property accounts valued in excess of \$250, locators must wait 45 days after the Department has processed and added the property account to UPMIS before entering an oral or written agreement or power of attorney with the unclaimed property owners.

As part of their monitoring responsibilities, Bureau staff periodically compared the date claims were filed by locators to the dates accounts were added to UPMIS to determine the extent to which locators complied with the 45-Day Law. During the audit period, when a 45-Day Law offense was detected by staff, it was the Department's practice to enter into a *Voluntary Settlement Agreement (Agreement)* with the locator. *Agreement* terms required the offending locator to forfeit the fees from the applicable claims and, for future claims, only submit claims that are in compliance with the 45-Day Law. In exchange, the Department agreed not to assess any fines, other penalties, or sanctions, such as the suspension or revocation of the locator's registration. Our tests of Bureau monitoring procedures disclosed:

- The Bureau had not established written policies and procedures for the monitoring of locator compliance with the 45-Day Law. Such written policies and procedures, if properly designed and followed, would increase the likelihood that monitoring procedures are effectively communicated and consistently performed.
- The Bureau's procedures for monitoring locator compliance with the 45-Day Law could be improved. Our tests included an analysis of UPMIS data for accounts added during the audit period. Our analysis identified a total of 162 locator initiated account claims pursuant to which the locator did not comply with the 45-Day Law. For 100 of these claims, we found that the Bureau had correctly withheld a fee payment to the initiating locator. However, as shown in Table 2, for the other 62 claims (38.3 percent), the Bureau erroneously paid a locator fee. These erroneously paid fees totaled \$8,672 and were paid to 12 different locators. The Bureau's payments of erroneous fees to locators deprived the property owners of the receipt of the full amounts due.
- Efforts made by the Bureau to monitor locator compliance with *Voluntary Settlement Agreements* were not always effective. As shown in Table 2, the Bureau failed to detect *Agreement* noncompliance on the part of three locators. In these instances, fees in violation of the 45-Day Law were paid relative to 36 claims, as further shown by Table 2. During the audit period, the Bureau did not assess any fines or suspend any locators as repeat offenders of the 45-Day Law.

**Recommendation:** The Department should take action to seek refunds from locators for any improperly paid fees for the claims cited above and remit such refunds to the applicable owners. Additionally, to ensure violations of the 45-Day Law are consistently detected by staff, the Department should establish and implement written policies and procedures to monitor locator

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

compliance with the 45-Day Law. To enforce compliance with the 45-Day Law, the Department should also consider imposing fines or other penalties on locators who have violated Voluntary Settlement Agreement terms by continuing to violate the 45-Day Law.

**Response:** The Department concurs. The training manual has been modified to include instructions for addressing claims containing 45-day violations. In July 2008, initial enhancements were made to UPMIS, so that claimed accounts are flagged in such a way that staff can more readily detect a violation of the 45-day provision. Further UPMIS enhancements are planned, so that accounts cannot be approved when there is a violation. BUP anticipates that this enhancement will be made no later than April 30, 2009. The Department will take action to seek refunds from locators on applicable claims.

**Finding No. 3: Waiving Penalties for Late Reports**

State law requires holders of unclaimed property to annually report and remit property items to the Department by May 1 of each year. Although the Department is authorized to impose and collect penalties on holders that fail to timely submit reports, the Department may, with appropriate justification, waive any penalty due. Department rule 10 provides that the Department, upon written request, shall waive penalties for situations that involve, for example, natural disasters, acts of war or terrorism, the initial reports filed by holders that were not induced by a Department examination, and penalty amounts that would be in excess of the reported amounts.

On September 12, 2006, the Bureau adopted a *General Policy for Penalty Assessment, Waiver and Payment (Waiver Policy)* that required a supervisor's written approval of a *Penalty Waiver Approval Denial (Waiver Form)* prior to waiving a penalty. A summary of Bureau penalty assessments and waivers during the period March 1, 2006, through February 29, 2008, is shown in Table 3.

Our review of the Bureau's process for waiving penalties disclosed the following:

- One Bureau employee performed incompatible duties in that the employee initiated and updated holder penalty records in UPMIS, prepared and mailed penalty letters to holders, and recorded waived penalties in UPMIS. Under such conditions, errors or fraud could occur and escape timely detection. For example, the employee could direct a holder to mail penalty payments to an unauthorized recipient. The employee could then waive the corresponding penalty records in UPMIS to conceal the diverted payments.
- For 3 of 14 (21.4 percent) waived penalties reviewed, the penalty was shown as waived in UPMIS, but a corresponding *Waiver Form* could not be located. Absent the availability of the forms, the Department could not readily demonstrate that the waivers had been subjected to the required supervisory review and authorization.
- The Bureau did not perform a reconciliation of waived penalties recorded in UPMIS to approved *Waiver Forms*. Such reconciliations, independently performed, would have facilitated the timely detection of the 3 missing *Waiver Forms* discussed above.
- The Bureau adopted a policy to automatically waive any penalties imposed on first time filers, which bypassed the written request requirement of Department rule.



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

**Recommendation:** The Bureau should revise its *Waiver Policy* to provide for periodic and independently performed reconciliations between waived penalties in UPMIS and approved *Waiver Forms*. Additionally, the Bureau should ensure the separation of incompatible duties. Also, if the Department has determined that automatically waiving penalties for first-time filers is in the best interest of the State, the Department should take the necessary action to amend the Department rule accordingly.

**Response:** The Department concurs. By January 31, 2009, BUP will update appropriate penalty-related procedures, and implement procedures for the periodic and independent reconciliation between completed "Penalty Waiver Approval/Denial" forms and the corresponding waived penalties maintained in UPMIS by a staff person not otherwise involved in the penalty process.

We agree that separation of duties is paramount to strong internal controls and we will assure that it takes place. However, BUP would like to clarify that UPMIS, not any individual staff member, systematically assesses a holder penalty, based on the input of the holder report by the Processing Section. The Compliance Section employee, who is responsible for the penalty process, reviews and mails the letters to the holder, addresses and mails the "Penalty Waiver Approval/Denial" form and, if approved by the Compliance supervisor, waives the penalty record in UPMIS. All penalty waivers are approved by the Compliance supervisor. A sampling of the penalty letters is compared with UPMIS by the Compliance Supervisor monthly to ensure the letters are being mailed in accordance with the established procedures. The Department believes that with the implementation of the independent reconciliation process, and the review and authorization of the "Penalty Waiver Approval/Denial" form by the supervisor, there are controls in place to ensure integrity of the penalty process.

BUP has discontinued the process of automatically waiving penalties of very small dollar amounts, as well as those assessed first-time filers. Penalties will be assessed consistent with Department rule, until such time that the rule can be amended.

<b>Finding No. 4: Delivery of Securities</b>
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The Bureau receives as unclaimed property a significant number of abandoned securities, including stocks, bonds, and mutual fund shares. Abandoned securities are to be annually reported by holders to the Department on a Department-prescribed report. Florida law<sup>11</sup> provides that persons required to file a report shall simultaneously pay or deliver to the Department all unclaimed property included in the report. Florida law<sup>12</sup> also provides that, unless the Department deems it to be in the public interest to do otherwise, all securities presumed unclaimed and delivered to the Department may be sold upon receipt.

In response to audit inquiries, Bureau personnel stated that it was the Department's objective to have holders transfer all reported abandoned securities to an investment service provider that had contracted with the Department to liquidate the abandoned securities upon receipt. Bureau personnel also indicated that efforts to transfer the securities have not always been successful, which has resulted in the Bureau having to manage a significant number of securities that were held and controlled by the holders.

Our review of the Bureau instructions provided to the holders disclosed that, consistent with the Department's stated objectives, such instructions included provisions directing holders to send

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

reported securities directly to the Bureau's investment services provider. However, the instructions also included provisions describing steps that could be taken Department of Financial Services Bureau of Unclaimed Property to accomplish the delivery of the reported securities by placing them in a Department denominated account at the holder. Bureau records indicated that a significant number of these reported securities were held by holders for considerable periods of time. Allowing such holders the apparent option of retaining the securities appears contrary to the Department's objective of centralized control over all reported securities. As described in finding No. 5 below, the failure to centralize control also increased the Bureau's record keeping requirements.

**Recommendation:** The Bureau should take steps to ensure that all securities are consistently and expeditiously transferred to the Department's established investment service provider. The recommended steps should include the elimination of any ambiguities currently included in the Bureau's instructions provided to holders that act to impede the accomplishment of these transfers.

**Response:** The Department concurs. BUP has modified the reporting instructions provided to holders of unclaimed securities, stating that all securities eligible for electronic transfer shall be sent to the contracted custodian. These updated instructions are available to holders, effective January 2009, at the beginning of the 2008 Report Year cycle (for reports due prior to April 30, 2009, for calendar year 2008).

**Finding No. 5: Investment Worksheets**

The failure to liquidate all abandoned securities upon receipt, as noted in finding No. 4, has also created an additional workload issue for the Bureau. According to Bureau personnel, UPMIS, as configured at the time of our review, could not accommodate all record keeping requirements necessary to effectively track, value, and manage securities held by outside holders. For example, for a security with more than one owner, UPMIS could not accurately track the number of each owner's shares when the shares were held for more than a single reporting cycle. Such information is necessary to ensure accurate claim payments. Additionally, UPMIS could not accommodate the recording of fair value information for securities. Maintaining fair value information for abandoned securities is necessary for both account management and financial statement reporting.

To compensate for the limitations discussed above, the Bureau established a subsidiary investment worksheet system. The system consisted of an electronic worksheet for each security held by an outside holder. Each worksheet was to be updated upon the receipt of a security holder account statement showing increases and decreases in share numbers owned, distributions, and changes in valuation. As of April 16, 2008, the subsidiary investment worksheet system consisted of 813 individual worksheets with a total recorded value of approximately \$6.8 million.

Our tests of the subsidiary investment worksheet system disclosed that information contained in the system was not accurate and complete. Our tests included 60 of the 813 investment worksheets at April 16, 2008, with a total recorded fair value of \$317,061. Our examination included reconciliations between share activity in the examined worksheets and the available information in UPMIS. The reconciliations disclosed that for 42 of the 60 worksheets (70 percent), the share balances shown by the worksheets were incorrect in that they did not include

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

all of the share activity included in UPMIS. For 32 of these 42 incorrect worksheets (76.2 percent), we found that the share balances shown by the worksheets had been liquidated prior to the worksheet date of April 16, 2008. After corrections, the fair value of the 60 investment worksheets tested totaled \$144,356, or 45.5 percent, of the uncorrected worksheets' total fair value of \$317,061.

Our audit disclosed that periodic reconciliations of UPMIS data and all related worksheet data were not performed. Without such reconciliations, management had limited assurance of the accuracy and completeness of the information used to calculate claim payments and report security values.

**Recommendation:** The Bureau should immediately, and periodically thereafter, reconcile all investment worksheets to UPMIS. Additionally, if feasible, the Bureau should make changes to UPMIS to accommodate the tracking and valuation of any securities that may continue to be held by outside holders.

**Response:** BUP concurs with the recommendation that all investment worksheets should be periodically reconciled to UPMIS. BUP has initiated a reconciliation of all securities held by outside holders in conjunction with the receipt of 2008 calendar year-end statements. These statements, which reflect activity occurring in the accounts through December 31, 2008, will be updated on the investment worksheets and reconciled to UPMIS by June 30, 2009. BUP also concurs with the recommendation that UPMIS be modified to accommodate the tracking and valuation of all securities. BUP had requested this enhancement to UPMIS prior to this audit. BUP anticipates the enhancement will be complete by June 30, 2009. Once this enhancement is complete, BUP intends to discontinue the use of investment worksheets.

**Finding No. 6: Physical Security Controls**

Physical security controls safeguard designated property by controlling and monitoring the physical access to and environment of the protected property. During our audit, we identified physical security controls over unclaimed property that needed improvement. Specific details of these issues are not disclosed in the report to avoid the possibility of compromising security. However, appropriate personnel have been notified of the security issues.

Without adequate physical security controls, the safeguarding of protected property may be compromised, increasing the risk that protected property items may be subject to destruction, damage, or theft.

**Recommendation:** The Department should strengthen physical security controls in the areas noted.

**Response:** The Department concurs. BUP has enhanced its internal procedures designed to strengthen physical security controls.