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February 2023

**STATE OF FLORIDA AUDITOR GENERAL**

**Operational Audit**

**DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

Selected Administrative Activities  
and Prior Audit Follow-Up



Sherrill F. Norman, CPA  
Auditor General

## Secretary of the Department of Environmental Protection

The Department of Environmental Protection is established by Section 20.255, Florida Statutes. The head of the Department is the Secretary who is appointed by the Governor, with the concurrence of either three members of the Cabinet or confirmation by the Senate. Noah Valenstein served as Department Secretary during the period of our audit.

The team leader was Susan Walthall, CPA, and the audit was supervised by Melisa Hevey, CPA.

Please address inquiries regarding this report to Melisa Hevey, CPA, Audit Manager, by e-mail at [melisahevey@aud.state.fl.us](mailto:melisahevey@aud.state.fl.us) or by telephone at (850) 412-2935.

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# DEPARTMENT OF ENVIRONMENTAL PROTECTION

## Selected Administrative Activities and Prior Audit Follow-Up

### **SUMMARY**

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This operational audit of the Department of Environmental Protection (Department) focused on selected administrative activities and included a follow-up on the findings noted in our report No. 2020-026. Our audit disclosed the following:

**Finding 1:** Department controls over mobile device text messaging and Apple® device iMessages® and the retention of text messages and iMessages in accordance with State law and the State records retention schedule need improvement.

### **BACKGROUND**

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The Department of Environmental Protection (Department) is the State's lead agency for environmental management, stewardship, and protecting the State's air, water, and land. The Department is divided into three primary program areas:

- Land and recreation programs that acquire and protect lands for preservation and recreation.
- Regulatory programs that safeguard natural resources by overseeing permitting and compliance activities that protect air and water quality and manage waste cleanups.
- Ecosystems restoration programs that protect and improve water quality and aquatic resources.

To oversee these programs, the Department is organized into nine divisions: Division of Administrative Services; Division of Air Resource Management; Division of Water Resource Management; Division of Environmental Assessment and Restoration; Division of Waste Management; Division of Recreation and Parks; Division of State Lands; Division of Water Restoration Assistance; and the Division of Law Enforcement.<sup>1</sup> Additionally, the Department established the Office of Technology and Information Services to provide information technology support services, including oversight of mobile devices,<sup>2</sup> to the various Department divisions and offices. For the 2020-21 and 2021-22 fiscal years, the Legislature appropriated approximately \$2.3 billion and \$2.2 billion to the Department and authorized 2,917.50 and 2,989.50 positions, respectively.<sup>3</sup>

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<sup>1</sup> Section 20.255(3), Florida Statutes.

<sup>2</sup> Mobile devices are portable devices, such as laptop computers, smartphones, and tablets, that allow storage and transmittal of entity data.

<sup>3</sup> Chapters 2020-111 and 2021-36, Laws of Florida.

## FINDINGS AND RECOMMENDATIONS

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### Finding 1: Text and Instant Message Controls

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State law<sup>4</sup> requires the Department to maintain public records in accordance with the records retention schedule<sup>5</sup> established by the Department of State, Division of Library and Information Services. The schedule specifies that the retention periods for electronic communications, including text and instant messages, are determined by the content, nature, and purpose of the messages. Some of the purposes include administrative correspondence (3 fiscal years), program and policy development correspondence (5 fiscal years), and transitory messages, which are to be maintained until obsolete, superseded, or administrative value is lost.

According to Department records, as of June 2021, the Department was responsible for 2,571 mobile devices, including 124 Apple devices. To evaluate Department mobile device controls, we inquired of Department management, reviewed Department guidelines,<sup>6</sup> and analyzed Department mobile device invoices for the period July 23, 2019, through March 26, 2021. Our audit procedures disclosed that:

- Although Department guidelines specified that text messaging capabilities, except during declared emergencies, were to be blocked on Department mobile devices, and management reported requesting mobile device carriers to do so, the Department did not always verify that such actions were taken. Consequently, and as subsequently described, text messages were sent or received by Department mobile devices despite policy prohibitions and such messages were not appropriately captured and retained. According to Department management, they were not aware that they needed to follow up with the carriers to verify that text messaging had been blocked as requested.
- The Department had not established a method to capture and retain text messages sent or received by Department mobile devices. Our analysis of selected Department mobile device invoices disclosed that text messaging capabilities had not always been appropriately disabled and 621 Department mobile devices sent or received 4,563 text messages outside of declared emergencies during the period July 23, 2019, through March 26, 2021. Also during this period, 84,670 text messages were sent or received from 654 Department mobile devices in connection with declared emergencies. In response to our audit inquiry, Department management indicated that the carriers retained text messages, but a subpoena is required to obtain a copy of the text messages and Department management was not sure how long the carriers retained the text messages.
- The Department had not disabled instant messaging (iMessages) on Department Apple devices or established a method to capture and retain iMessages sent or received by these devices.

Subsequent to our audit inquiry, Department management revised Department procedures<sup>7</sup> to require employees to complete a *Corporate Mobile Device Acknowledgement Form (Form)* within 10 business days of receipt of a Department mobile device. By signing the *Form*, Department employees acknowledge they understand that they are to adhere to State public records laws and that text messaging and Internet-based messaging, such as iMessages, is not permitted for Department business

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<sup>4</sup> Section 119.021(2)(b), Florida Statutes.

<sup>5</sup> State of Florida *General Records Schedule GS1-SL for State and Local Government Agencies*.

<sup>6</sup> Department *Corporate Mobile Device Responsibilities and Guidelines*.

<sup>7</sup> Department Administrative Procedures, *Communications Equipment and Services*, effective October 19, 2022.

use and must be disabled on Department devices unless authorized during a declared emergency. However, as of December 2022, the Department had not determined how to retain text messages sent or received by Department mobile devices when such capabilities are not disabled.

Effective controls for enforcing policy prohibitions on text messaging and iMessage use on Department mobile devices would help ensure that Department mobile devices are used in accordance with management's expectations. Absent such controls, or a method to adequately retain text messages and iMessages, such messages may be sent or received and not be retained in accordance with State law, diminishing the Department's ability to provide access to public records.

**Recommendation: We recommend that Department management enhance mobile device controls to enforce policy prohibitions on text messaging and iMessage use on Department mobile devices. We also recommend that, should text messages or iMessages be sent or received by Department mobile devices, management ensure that such messages are retained in accordance with State law and the records retention schedule.**

## ***PRIOR AUDIT FOLLOW-UP***

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The Department had taken corrective actions for the findings included in our report No. 2020-026.

## ***OBJECTIVES, SCOPE, AND METHODOLOGY***

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The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from May 2021 through June 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Department of Environmental Protection (Department) focused on selected administrative activities. For those areas, the objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed into operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- Determine whether management had corrected, or was in the process of correcting, all deficiencies disclosed in our report No. 2020-026.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in internal controls significant to our audit objectives; instances of noncompliance with applicable governing laws, rules, or contracts; and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; identifying and evaluating internal controls significant to our audit objectives; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, waste, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, and interviewed Department management to obtain an understanding of selected Department administrative processes and responsibilities.
- Obtained an understanding of selected Department information technology (IT) controls, assessed the risks related to those controls, and evaluated whether selected electronic document management system controls for the OCULUS system were in place.
- Analyzed Department expenditure records for the period July 2017 through June 2020 to identify significant fluctuations or unusual transactions related to travel, mobile devices, and purchases, and investigated and assessed the reasonableness of any such fluctuations or unusual transactions.
- From the population of 21,128 travel expenditure transactions, totaling \$1,995,081, made during the period July 2019 through March 2021, examined Department records for 25 selected travel expenditure transactions, totaling \$28,877, to determine whether travel expenditures were properly authorized and approved, recorded, and reimbursed in accordance with applicable laws, rules, and other guidelines.
- From the population of 243,447 expenditure transactions related to selected goods and services, totaling \$468,461,649, made during the period July 2019 through March 2021, examined Department records for 25 selected expenditure transactions, totaling \$5,109,102, to determine whether expenditures for goods and services were properly authorized, supported, and reviewed,

goods and services were received prior to payment, and expenditure transactions were accurately recorded in the State's accounting records, in accordance with applicable laws, rules, and other guidelines.

- Interviewed Department personnel, examined Department records, and evaluated Department mobile device controls, including policies and procedures, to determine whether mobile device security controls for Department-owned and personally owned mobile devices were adequately designed and properly implemented.
- Interviewed Department management and examined 118 Department monthly mobile device billing statements for services received during the period July 2019 through March 2021 to determine whether the Department had established adequate controls to retain text and instant messages in accordance with State law.
- From the population of 1,766 Department employees, 19 contracted employees, and 2,571 Department mobile devices as of June 2021, examined Department records for 24 selected Department employees and 1 selected contracted employee assigned a total of 91 Department mobile devices to determine whether mobile device agreements defining employee and Department responsibilities were completed and signed prior to the assignment of Department mobile devices.
- From the population of 2,353 Department employees who participated in the Department's telework program at some point during the period July 2019 through March 2021, examined Department records for 25 selected employees to determine whether telework agreements were properly completed and whether the Department designated the participating employee's position to be appropriate for telework in accordance with Section 110.171, Florida Statutes.
- Compared Department telework records to People First records for the period July 2019 through March 2021 to determine whether any employees teleworking were in positions that had not been designated by the Department to be appropriate for telework.
- Interviewed Department management and reviewed Department records and policies and procedures related to the Department's telework program to determine whether the Department developed a telework plan in accordance with Section 110.171, Florida Statutes.
- Evaluated Department actions to correct the findings noted in our report No. 2020-026. Specifically, we:
  - Reviewed State laws, Department of Management Services rules, and Department policies and procedures to obtain an understanding of Department responsibilities related to the oversight of background screenings and IT user access privileges.
  - Compared Department Air Resource Management System (ARMS), ARMS Permitting Application (PA), Cash Receiving Application (CRA), Electronic Annual Operating Report System (EAOR), and Electronic Permit Submittal and Processing System (EPSAP) access control records for user accounts deactivated during the period July 2019 through March 2021 to People First records to determine whether employee access privileges were timely deactivated upon separation from Department employment.
  - Compared Department ARMS, PA, CRA, EAOR, and EPSAP access control records for user accounts active as of June 2021 to People First records to determine whether any user access accounts remained active after an employee's separation from Department employment.
  - From the population of 23 Department employees who functioned as an IT Systems Administrator for AirCom, ARMS, PA, EAOR, EPSAP, or the OCULUS system during the period July 2019 through March 2021, examined Department records for 10 selected employees to determine whether level 2 background screenings were conducted in accordance with State law, applicable rules, and Department policies and procedures.

- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

## ***AUTHORITY***

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

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is written in a cursive style with a large initial 'S'.

Sherrill F. Norman, CPA  
Auditor General



## MANAGEMENT'S RESPONSE

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### FLORIDA DEPARTMENT OF Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, FL 32399

**Ron DeSantis**  
Governor

**Jeanette Nuñez**  
Lt. Governor

**Shawn Hamilton**  
Secretary

February 9, 2023

Ms. Sherrill F. Norman, CPA  
Auditor General, State of Florida  
Claude Denson Pepper Building, Suite G74  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Ms. Norman,

Enclosed is the Department's response to the preliminary and tentative audit findings and recommendations for the operational audit of the Department of Environmental Protection, Selected Administrative Activities and Prior Audit Follow-up. Thank you for the opportunity to review and comment on this audit report. If you have questions or require additional information, please contact Candie Fuller, Inspector General, at (850) 245-2548.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn Hamilton".

Shawn Hamilton  
Secretary

SH/dfm

Enclosures

cc: Anna DeCerchio, Chief of Staff  
Darinda McLaughlin, Deputy Chief of Staff of Operations  
Donald Kinchen, Acting Chief Information Officer

Department of Environmental Protection  
Response to Preliminary and Tentative Audit Findings  
Auditor General Operational Audit

This operational audit of the Department of Environmental Protection (Department) focused on selected administrative activities. This audit also included a follow-up on the findings noted in Auditor General report No. 2020-026.

**Finding 1: Text and Instant Message Controls**

Department controls over mobile device text messaging and Apple® device iMessages® and the retention of text messages and iMessages in accordance with State law and the State records retention schedule need improvement.

**Recommendation:** We recommend that Department management enhance mobile device controls to enforce policy prohibitions on text messaging and iMessage use on Department mobile devices. We also recommend that, should text messages or iMessages be sent or received by Department mobile devices, management ensure that such messages are retained in accordance with State law and the records retention schedule.

**Department Response:** The Department agrees and will enhance the mobile device controls. In addition, the Department will explore a solution that will enable the Department to capture, analyze and archive mobile text messages or iMessages in accordance with state law and the records retention schedules.