

STATE OF FLORIDA AUDITOR GENERAL

Operational Audit

OFFICE OF INSURANCE REGULATION

Certificates of Authority,
Selected Administrative Activities,
and Prior Audit Follow-Up



Sherrill F. Norman, CPA
Auditor General

Commissioner of the Office of Insurance Regulation

The Office of Insurance Regulation is established by Section 20.121(3)(a)1., Florida Statutes. The Office is administratively supported by the Department of Financial Services but operates under the direction of the Financial Services Commission which is composed of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. The head of the Office is the Director of the Office of Insurance Regulation, who may also be known as the Commissioner of Insurance Regulation. David C. Altmaier served as the Commissioner of Insurance Regulation during the period of our audit.

The team leader was Kimberly Roberts, CPA, and the audit was supervised by Matthew Tracy, CPA.

Please address inquiries regarding this report to Matthew Tracy, CPA, Deputy Auditor General, by e-mail at matthewtracy@aud.state.fl.us or by telephone at (850) 412-2922.

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OFFICE OF INSURANCE REGULATION

Certificates of Authority, Selected Administrative Activities, and Prior Audit Follow-Up

SUMMARY

This operational audit of the Office of Insurance Regulation (Office) focused on the issuance of certificates of authority and selected administrative activities. The audit also included a follow-up on the findings noted in our report No. 2020-065. Our audit disclosed the following:

Finding 1: Office telework controls established in response to the COVID-19 pandemic did not always capture the information necessary to maintain accountability for telework arrangements and equipment assigned to teleworking employees.

Finding 2: The Office did not maintain a complete contract listing or ensure that all contract managers and administrators adhered to the training, certification, and assignment requirements specified in State law.

Finding 3: As similarly noted in our report No. 2020-065, the Office did not always timely post contract information and documents to the Florida Accountability Contract Tracking System as required by State law.

BACKGROUND

State law¹ establishes the Office of Insurance Regulation (Office) within the Financial Services Commission as a separate budget entity of the Department of Financial Services (Department) that is not subject to control, supervision, or direction by the Department. The Office is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, market conduct, issuance of certificates of authority, solvency, and administrative supervision. For the 2022-23 fiscal year, the Legislature appropriated \$34.7 million to the Office and authorized 282 positions.²

FINDINGS AND RECOMMENDATIONS

Finding 1: Telework

State law³ specifies that no person shall act as an insurer, and no insurer or its agents, attorneys, subscribers, or representatives shall directly or indirectly transact insurance in the State except as authorized by a subsisting certificate of authority issued to the insurer by the Office. In response to the COVID-19 Public Health Emergency and guidance from the Governor, beginning in March 2020 and through May 2020, the Office Commissioner authorized temporary telework for employees. Although the Office had an established telework program at the time, because all Office employees needed to telework

¹ Section 20.121(3), Florida Statutes.

² Chapter 2022-156, Laws of Florida.

³ Section 624.401, Florida Statutes.

due to the COVID-19 pandemic, teleworking employees executed Temporary Telework Agreements specifying the terms and conditions of the arrangement, including the equipment agreed upon by the employee and their supervisor to be used in telework, work location and hours, and the remote network services needed. The Temporary Telework Agreements were to be signed by the employee's supervisor and designated approving authority.

To maintain accountability over equipment issued to employees in connection with their telework duties, the Office utilized a Telework Equipment Inventory form that was to list all equipment assigned to an employee, including identifying information such as the item's serial number. The Telework Equipment Inventory form specified various conditions for equipment use and was to be signed by the employee's supervisor.

As part of our audit, we evaluated Office controls over the temporary telework program established in response to the COVID-19 pandemic and noted that the Office did not maintain a comprehensive list of all equipment in use by teleworking employees. In addition, our examination of Office telework records for ten of the employees responsible for reviewing applications for certificates of authority disclosed that:

- The Temporary Telework Agreements for six of the employees did not detail the remote network services needed.
- The Temporary Telework Agreement for one employee was not signed by either the designated approving authority or the employee's supervisor, another employee's Agreement was not signed by the designated approving authority, and a third employee's Agreement was not signed by the employee's supervisor.
- The Telework Equipment Inventory forms for two employees were not signed by their supervisor.

According to Office management, the missing information was due to employees not being sure what remote network services would be needed and that oversights contributed to the missing signatures as the primary goal of the Office was the safety of employees and swiftly transitioning from in-office to telework operations. Additionally, Office management indicated that, while the Office maintained individual property forms, subsequent to our audit inquiry, a listing of equipment used by teleworking employees had been developed.

Appropriately completed and approved telework agreements and equipment inventory forms, as well as a comprehensive list of all equipment assigned for telework purposes, would enable the Office to demonstrate of record that the specifics of teleworking arrangements had been agreed to by management and would promote proper accountability over equipment issued to teleworking employees.

Recommendation: We recommend that Office management ensure that all telework arrangements are supported and documented by complete and approved telework agreements and equipment inventory forms and that the Office maintain a comprehensive list of all equipment in use by teleworking employees.

Finding 2: Contract Management

Effective contract management reporting provides decision makers with relevant information on all contracts to which the Office is a party. Contract information such as the procurement method, contract

number, provider name, expenditures, period, deliverables, and manager for each active contract should be readily available to management for contract planning, budgeting, monitoring, and reporting purposes.

State law⁴ specifies that, for each contractual services contract, State agencies are to designate an employee to function as the contract manager responsible for enforcing performance of the contract terms and conditions. Additionally, State law provides that contract managers are to complete certain contracts and grant management training conducted by the Chief Financial Officer. For example, each contract manager responsible for contracts in excess of \$100,000 annually must complete training in contract management and become a certified contract manager within 6 months of being assigned as contract manager. State law⁵ further specifies that State agencies are to designate at least one employee to serve as a contract administrator responsible for maintaining a contract file and financial information on all contractual services contracts, and bars contract administrators from serving as the contract manager for all contracts in excess of \$500,000 annually.

As part of our audit, we evaluated Office contract management controls and found that:

- The Office did not maintain a complete listing of all applicable Office contracts. In response to our requests for a complete listing of all applicable Office contracts for the period March 2020 through February 2022, the Office provided varying incomplete contract listings.
- Although the Office had designated five contract managers who satisfied the statutory training and certification requirements, another Office employee who performed contract manager duties, such as monitoring the receipt of deliverables and reviewing and approving vendor invoices, had received neither the required contracts and grants management training nor been certified as a contract manager in accordance with State law.
- While the Office had designated a contract administrator for all Office contracts, contrary to State law, the contract administrator also served as the contract manager for a \$2 million contract with Florida International University for the maintenance of the Florida Public Hurricane Model.

In response to our audit inquiry, Office management indicated that contract manager duties had been split between the contract administrator and various project managers, one of whom inadvertently had not completed the required training and certification. In addition, Office management indicated that the Office was not aware of the statutory prohibitions on contract administrators serving as contract managers.

Maintaining a complete listing of all Office contracts and ensuring that contract managers and administrators comply with statutory training, certification, and assignment requirements would better promote the effective management of Office contracts.

Recommendation: We recommend that Office management enhance contract management controls to ensure that a complete listing of all Office contracts is maintained, all contract managers complete the training and certification requirements specified in State law, and contract administrators do not serve as the contract manager for any contract in excess of \$500,000.

⁴ Section 287.057(15), Florida Statutes.

⁵ Section 287.057(16), Florida Statutes.

Finding 3: Contract Information Reporting

Pursuant to State law,⁶ the Department established the Florida Accountability Contract Tracking System (FACTS), an online tool that provides users and the public access to State contract and grant financial information. State law requires, within 30 calendar days of executing a contract,⁷ State agencies to post to FACTS for each contract:

- The names of the contracting entities and procurement method.
- The contract beginning and ending dates and the nature or type of commodities or services purchased.
- Applicable contract unit prices and deliverables and the total compensation to be paid or received under the contract.
- All payments made to the contractor to date and applicable contract performance measures.
- If a competitive solicitation was not used to procure the goods or services, the justification of such action, including a citation to a statutory exemption or exception from competitive solicitation, if any.
- Electronic copies of the contract and procurement documents redacted to exclude confidential and exempt information.

We analyzed FACTS data for the 95 applicable Office contracts entered in FACTS during the period July 2020 through February 2022 and found that the Office did not timely post to FACTS the required contract information and documents for 7 contracts. The Office posted the contract information and documents 36 to 97 days (an average of 48 days) late. According to Office management, Office policies and procedures were updated subsequent to our audit inquiry to ensure the timely posting of contract information and documents and that an employee had been hired to facilitate this process.

Timely posting required contract information and documents to FACTS enhances transparency, strengthens accountability, and ensures compliance with State law. A similar finding was noted in our report No. 2020-065 (Finding 3).

Recommendation: We recommend that Office management ensure that all contract information and documents are timely posted to FACTS in accordance with State law.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Office had taken corrective actions for the findings included in our report No. 2020-065.

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

⁶ Section 215.985(14), Florida Statutes.

⁷ Section 215.985(2)(b), Florida Statutes, defines a contract to include a written agreement or purchase order for the purchase of goods or services or a written agreement for the receipt of State or Federal financial assistance.

information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March 2022 through January 2023 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Office of Insurance Regulation (Office) focused on the issuance of certificates of authority. For those areas, the objectives of the audit were to:

- Evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- Examine internal controls designed and placed into operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report No. 2020-065.

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, Office policies and procedures, and other guidelines, and interviewed Office personnel to obtain an understanding of certificates of authority issuance processes and responsibilities.
- Inquired of Office management regarding whether the Office made any expenditures or entered into any contracts under the authority granted by a state of emergency declared or renewed on or after July 1, 2021, and through March 31, 2022, that either expired or exceeded 1 year.
- Obtained an understanding of selected Office information technology (IT) controls, assessed the risks related to those controls, evaluated whether selected general and application IT controls for COREN and iApply-WECCA were in place, and tested the effectiveness of the controls.
- From the population of 123 certificates of authority (COA) applications approved during the period March 2020 through February 2022, examined Office records for 40 selected COA applications to determine whether Office controls ensured that approved COA applications were supported by the documentation required by Section 624.413, Florida Statutes, and the applying companies satisfied the requirements of Chapter 624, Part III, Florida Statutes, and Office Rules, Chapter 690-136, Florida Administrative Code.
- Analyzed COREN data for the period March 2020 through February 2022 to assess whether COA applications were timely reviewed and approved or denied in accordance with Chapter 120, Florida Statutes.
- From the population of all application and fingerprint fees related to the 123 COA applications approved during the period March 2020 through February 2022, examined Office and other records for the application and fingerprint fees associated with 40 selected COA applications to determine whether such fees were timely received and evidenced and recorded in applicable records.
- From the population of 21 Office employees who teleworked at some point during the period March 2020 through February 2022 and who were involved in the COA issuance process, examined Office records for 10 selected employees to determine whether the Office maintained a complete off-site equipment inventory list, appropriately completed and approved telework equipment inventory forms, and approved telework agreements that specifically detailed the terms and conditions for telework.
- Analyzed Office records and COA processing data for the 21 Office employees who teleworked at some point during the period March 2020 through February 2022 and who were involved in the COA issuance process to determine whether equipment necessary to enable teleworking was timely assigned to the employees.
- Evaluated Office actions to correct the findings noted in our report No. 2020-065. Specifically, we:
 - Inquired of Office personnel, reviewed Office policies and procedures, and examined Office records to determine whether Office controls promoted the timely deactivation of user access privileges to the Financial Analysis and Monitoring Electronic Data Management System (FAME) upon a user's separation from Office employment. Specifically, we examined Office records for the 55 employees whose FAME access privileges were deactivated and who separated from Office employment during the period March 2020 through February 2022 to determine whether the employees' access privileges were timely deactivated upon employment separation.

- Inquired of Office personnel, reviewed Office policies and procedures, and examined Office records to determine whether Office controls promoted the conduct of periodic reviews of the appropriateness of TeamMate user access privileges and the timely deactivation of access privileges upon a user's separation from Office employment. Specifically, we examined Office records for the July 2021 and January 2022 TeamMate user access privileges reviews and for 15 of the 138 users whose access privileges were deactivated after project completion during the period March 2020 through February 2022 to determine whether user access privileges were timely and appropriately reviewed and deactivated.
- Analyzed Florida Accountability Contract Tracking System (FACTS) data for the 95 applicable Office contracts entered in FACTS during the period July 2020 through February 2022 to determine whether the Office timely posted required contract information and documents to FACTS in accordance with Section 215.985(14), Florida Statutes.
- Observed, documented, and evaluated the effectiveness of selected Office processes and procedures for:
 - The administration of Office contracts.
 - The administration of purchasing cards in accordance with applicable guidelines. As of January 31, 2022, the Office had 31 active purchasing cards.
- 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

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.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

FINANCIAL SERVICES
COMMISSION

RON DESANTIS
GOVERNOR

JIMMY PATRONIS
CHIEF FINANCIAL OFFICER

ASHLEY MOODY
ATTORNEY GENERAL

WILTON SIMPSON
COMMISSIONER OF
AGRICULTURE

May 18, 2023

VIA EMAIL: flaudgen_audrpt_SGA@aud.state.fl.us.

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Tallahassee, Florida 32399-1450

RE: Preliminary and Tentative Audit Findings Office of Insurance Regulation (OIR)
Certificates of Authority, Selected Administrative Activities, and Prior Audit Follow-Up

Dear General Norman:

Please accept the following in response to the above referenced preliminary and tentative audit findings and recommendations for the operational audit of the Office of Insurance Regulation, Certificates of Authority, Selected Administrative Activities, and Prior Audit Follow-Up which your office recently performed. This operational audit of the Office of Insurance Regulation (OIR) focused on the issuance of certificates of authority and selected administrative activities. The audit also included a follow-up on the findings noted in report No. 2020-065.

Upon review of the preliminary and tentative audit findings, OIR generally concurs with the following:

Finding No. 1: Telework

OIR's primary goal when facilitating temporary telework was to ensure the safety of employees and to transition swiftly from in-office to telework operations. OIR management stressed the importance of filling out paperwork properly to each employee and supervisor and provided detailed instructions on how to access technology and files remotely. OIR acknowledges, however, that a limited number of forms did not include all required signatures. Accordingly, OIR, in future, will ensure that any and all telework arrangements are supported and documented by complete and approved telework agreements and equipment inventory forms. Further, OIR has updated its policies and procedures to ensure maintenance of a comprehensive list of all equipment in use by teleworking employees.

• • •

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Finding No. 2: Contract Management

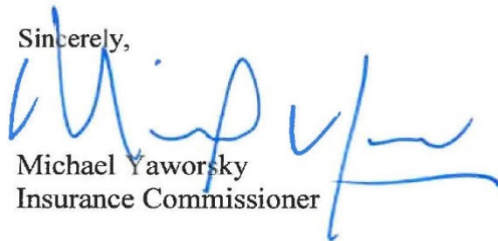
OIR acknowledges the finding related to contract management and continues to work to ensure contract management personnel are fully aware of applicable contract requirements and receive proper training. Additionally, during the 2021 legislative session, OIR received authority and funding for a Contracts Administrator position, which is now filled and incorporated into OIR contract management processes. OIR continues to review its processes to ensure compliance with all contract management requirements and responsibilities.

Finding No. 3: Contract Information Reporting

OIR acknowledges the finding related to contract information reporting and has since updated its policies and procedures to ensure timely reporting.

We appreciate the professional cooperation extended by you and your team throughout this audit and thank you for your assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'M. Yaworsky', is written over the typed name and title.

Michael Yaworsky
Insurance Commissioner