



AUDITOR GENERAL

DAVID W. MARTIN, CPA



DEPARTMENT OF ENVIRONMENTAL PROTECTION

LAW ENFORCEMENT EMPLOYMENT AND

DISPOSITION OF MOTOR VEHICLES

Operational Audit

SUMMARY

Our operational audit of the Department of Environmental Protection focused on a review of the effectiveness of Division of Law Enforcement controls applicable to law enforcement officer employment and State-owned property assigned to law enforcement officers. This audit included the period July 2005 through February 2007 and selected actions through July 2007. We concluded that some improvements can be made as discussed below:

Finding No. 1: Employment decisions were not always adequately documented in personnel files, and where required, employment and separation documents were not always signed, notarized, or timely processed.

Finding No. 2: The Department did not always provide the required timely notification of excess motor vehicles to the Department of Management Services.

BACKGROUND

Department of Environmental Protection (Department), Division of Law Enforcement (Division), responsibilities include environmental crime investigation and patrol of State lands, such as parks and recreational areas. As of March 1, 2007, the Division employed 149 active sworn law enforcement officers (officers), including 135 full-time officers and 14 reserve officers. Reserve officers are fully sworn officers who volunteer to work without payment and who have all the rights and responsibilities and must

meet the same employment requirements as their full-time officer counterparts.

The Criminal Justice Standards and Training Commission (Commission), within the Department of Law Enforcement, is responsible for establishing various minimum standards and requirements for law enforcement officers, including those relating to employment. The Division has established additional minimum qualifications for employment, including some relating to vision requirements. Appendix A of this report provides additional information concerning the Commission's law enforcement officer employment standards.

The Division has established the Office of Public Education and Training (OPET) to ensure that its officers meet the requirements set by the Commission, as well as the additional requirements set by the Division. OPET maintained files for each officer that included an employment documentation section.

Officers are assigned various equipment, such as firearms, computers, and motor vehicles. Appendix B of this report describes State requirements applicable to the acquisition and disposal of motor vehicles.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Law Enforcement Officer Employment Documentation

We reviewed the files related to the employment of 15 officers and the separation of 15 officers to determine

the extent of compliance with applicable laws and rules and the effectiveness of Department procedures. Our review of the applicable files disclosed the following:

- Four instances in which the documentation supporting the employment decision was not clear or complete, as discussed below.
 - In one instance, although an officer's background investigation disclosed several previous violations of law, the Department appointed the officer.¹ The Department's consideration and disposition of the information in making the decision to appoint the individual was not documented.
 - Three files did not document that the officers had met the Division's vision requirements. In response to our inquiries, we were informed that in two of these instances, the depth perception portion of the required eye exam was not performed. In the remaining instance, the officer failed the depth perception test.
- Eight instances in which required forms were not signed, notarized, or necessary information timely input into the Automated Training Management System (ATMS) as required by Commission rules:
 - In one instance, the "Employment Background Investigative Report," CJSTC Form 77, was not signed by the agency administrator. The signature block on the Form requires the agency administrator to verify that the applicant is of good moral character as required by Section 943.13(7), Florida Statutes.
 - In one instance, the "Registration of Employment Affidavit of Compliance," CJSTC Form 60, was not signed by the agency administrator and notarized. In another instance, the Form contained a signature represented to be that of the agency administrator but, the Form had not been notarized. Further, one of the Forms was input into ATMS 48 days late.

¹ Section 943.13(7), Florida Statutes, requires that any person appointed as a law enforcement officer have good moral character as determined by a background investigation under procedures established by the Commission.

Commission rules require that information on the Form be input into ATMS within 30 days of the hire date. As indicated by Attachment A, the CJSTC Form 60 is to be used by the Department to document its verification that officers selected for employment have met the minimum employment standards set by the Commission.

- We noted two instances in which the "Affidavit of Separation," CJSTC Form 61, contained a signature represented to be that of the agency administrator; however, the form had not been notarized. We also noted three instances in which required CJSTC Form 61 information was not timely input into ATMS. Information from the three Forms was input into ATMS on dates ranging from 3 to 7 months after the employee's separation date. Commission rules require that Form information be immediately input into ATMS. The purpose of CJSTC Form 61 is to document the reasons for officer separation from an employing law enforcement agency.

Details relating to the above-described instances were provided to the Department for further research and corrective actions, as appropriate. In several instances, the Department, during the course of our audit field work, provided evidence of corrective actions.

The failure to follow and document adherence to established employment processes may result in the Department's inability to fully demonstrate the basis for employment decisions. The failure to timely input information into ATMS may deprive the Commission and other law enforcement agencies the information needed to meet their respective responsibilities for law enforcement officer standards, training, and employment.

Recommendation: We recommend that the Department ensure law enforcement officer files contain appropriate documentation of appointment decisions and reviews and approvals of variances, as appropriate, when minimum Department qualifications are not met. The Department should also ensure that Commission employment forms are properly completed and

that required information is timely input into ATMS.

Finding No. 2: Disposition of Excess Motor Vehicles

Part II of Chapter 287, Florida Statutes, and Department of Management Services (DMS) Rules, Chapter 60B, Florida Administrative Code, govern the purchase and disposition of State-owned motor vehicles. Section 287.14(4), Florida Statutes, specifically provides that motor vehicles for which replacement funds have been appropriated may not be retained in service unless they are required to meet emergency or major unforeseen needs. (See Appendix B for State requirements for the acquisition and disposal of motor vehicles.)

In addition to the State requirements for disposal of motor vehicles, the Department had established internal procedures. Pursuant to these procedures, it was the responsibility of the individual program areas to notify the Records and Inventory Management Section, within the Bureau of General Services, about excess vehicles through the submission of the DMS Form, "Request for Disposal of Mobile Equipment." The Department's written procedures required the Form to be submitted within 30 days after a motor vehicle became excess. The Records and Inventory Management Section was then responsible for submission of the Form to DMS.²

Appropriations for the 2005-06 fiscal year for the acquisition and replacement of patrol vehicles totaled \$549,251 for the Division's Bureaus of Environmental Investigations and Park Patrol. With the replacement funds appropriated, the Division purchased 34 motor vehicles. Our audit tests of the disposition of 19 of the replaced vehicles disclosed that as of July 13, 2007, for 18 of the replaced vehicles, the Division had not submitted to the Department's Records and Inventory Management Section or DMS, a "Request for Disposal of Mobile Equipment" Form. The related

replacement vehicles had been acquired in January 2006 (1 vehicle), May 2006 (7 vehicles) and June 2006 (10 vehicles). Department records did not indicate that the replaced vehicles were retained to meet emergency or major unforeseen needs. Review of the usage records for five of the replaced vehicles disclosed that, subsequent to August 2006, the vehicles continued to be driven. For these replaced vehicles, mileage incurred subsequent to the purchase of the new vehicles ranged from 1,300 to 11,100 miles.

Absent the Department's reporting and subsequent transfer of excess motor vehicles, the DMS is unable to identify and transfer serviceable motor vehicles to other State agencies or governmental agencies or, alternatively, achieve equitable returns from the disposal of vehicles which are surplus to State needs.

Recommendation: We recommend Department management monitor compliance with established Department procedures relating to the identification and reporting of excess motor vehicles.

OBJECTIVES, SCOPE, AND METHODOLOGY

This operational audit for the period July 2005 through February 2007, and selected actions through July 2007, focused on the employment of and assignment of property to Department law enforcement officers. Our objectives were to:

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

Our methodology included interviewing Department personnel, reviewing policies, procedures, and

² DMS Rule, Chapter 60B-3, Florida Administrative Code, provides that an agency must notify DMS within 45 days upon a motor vehicle becoming excess.

processes, performing analyses of Department records, and performing other procedures as deemed necessary in the circumstances.

AUTHORITY

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



David W. Martin, CPA
Auditor General

MANAGEMENT RESPONSE

In a letter dated November 15, 2007, the Secretary of the Department of Environmental Protection provided a response to our preliminary and tentative audit findings. The letter is included at the end of this report as Appendix C.

Operational audits are conducted to promote accountability in government and improvement in government operations. This operational audit was conducted in accordance with applicable *Generally Accepted Government Auditing Standards*. This audit was conducted by Suzanne Sullenberger, CPA, and supervised by Michael E. McCloskey, CPA.

Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail at (davidvick@aud.state.fl.us) or by telephone (850-487-9100). This report and audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.myflorida.com/audgen>); by telephone (850-487-9024); or by mail (G74, Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

APPENDIX A
LAW ENFORCEMENT OFFICER EMPLOYMENT STANDARDS

Section 943.11, Florida Statutes, created the Criminal Justice Standards and Training Commission (Commission) within the Department of Law Enforcement. Section 943.13, Florida Statutes, establishes for law enforcement officers, minimum employment and appointment standards.

Minimum employment standards established include that a law enforcement officer:

1. Be at least 19 years of age;
2. Be a citizen of the United States;
3. Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;
4. Have passed a medical examination; and
5. Have a good moral character as determined by a background investigation under procedures established by the Commission.

To document the above, the Commission created various forms including:

1. CJSTC Form 77, Employment Background Investigative Report, to document the performance of background investigations to include evidence regarding the moral character of law enforcement applicants.
2. CJSTC Form 60, Registration of Employment Affidavit of Compliance, to document that the hiring agency has verified that employed law enforcement officers met established minimum employment standards.
3. CJSTC Form 61, Affidavit of Separation, to document the reasons for law enforcement officers leaving employment (e.g., voluntary separation, retirement, death, etc.).

Commission procedures require that copies of all the above forms are to be retained in a law enforcement officer's file. They also provide that the original forms are to be submitted to the Commission so that information on the Forms can be input into its' Automated Training Management System (ATMS) or a law enforcement agency can input required information on the Forms directly into ATMS. Staff of the Department's Division of Law Enforcement input the information directly into the ATMS.

Section 943.133(1), Florida Statutes, provides that the employing agency of a law enforcement officer is fully responsible for the collection, verification, and maintenance of documentation establishing that the law enforcement officer met the minimum employment standards.

APPENDIX B
STATE REQUIREMENTS FOR THE ACQUISITION
AND DISPOSAL OF MOTOR VEHICLES

Section 287.16(6), Florida Statutes, provides that the Department of Management Services (DMS) shall adopt and enforce rules and regulations for the efficient and safe use, operation, maintenance, repair, disposal, and replacement of all state-owned motor vehicles. Section 287.14(4), Florida Statutes, provides that motor vehicles for which replacement funds have been appropriated may not be retained in service unless they are required to meet emergency or major unforeseen needs.

DMS Rule 60B-1.001, Florida Administrative Code, provides that no agency shall purchase any motor vehicle without prior DMS approval. To implement this Rule, DMS created a Request for Purchase of Mobile Equipment Form (MP-6301) to be used by agencies seeking approval for motor vehicle acquisitions. Section F of the Form provides for the requesting agency to describe the vehicle that is being replaced. This description includes the vehicles' tag or property and vehicle identification numbers.

DMS created Rule Chapter 60B-3, Florida Administrative Code, to establish criteria to enable the State to achieve equitable returns from the disposal of State-owned motor vehicles, which are surplus to State needs and to assure that serviceable motor vehicles which become excess to the needs of a State agency are made available to other State agencies and to other governmental entities. This Chapter defines "excess units" as any State-owned motor vehicle which has been replaced by other equipment, or which has been determined by the custodian to be excess to agency needs, or which has been determined economically unfit for continued use in normal service. It also provides that DMS is to be notified within 45 days of a vehicle becoming excess to the needs of an agency. To implement this Rule, DMS created a Request for Disposal of Mobile Equipment Form (MP6401).

APPENDIX C
MANAGEMENT RESPONSE



**Florida Department of
Environmental Protection**

Marjory Stoneman Douglas Building
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Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

November 15, 2007

Mr. David W. Martin
Office of the Auditor General
G74 Claude Denson Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

Enclosed is the Florida Department of Environmental Protection's response pertaining to the Audit of Law Enforcement Employment and Disposition of Motor Vehicles July 2005 through February 2007 and Selected Actions Through July 2007. If you have questions in this regard, please call Joseph Aita, Director of Auditing, at 850-245-3151. Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Sole".

Michael W. Sole
Secretary

PGH/ja/ksr
Enclosure

cc: Director Henry Barnet, Division of Law Enforcement, DEP

APPENDIX C
MANAGEMENT RESPONSE (CONTINUED)

DEP Division of Law Enforcement
Responses to Auditor General Report of October 16, 2007

Finding No. 1: Employment decisions were not always adequately documented in personnel files, and where required, employment and separation documents were not always signed, notarized, or timely processed.

The Florida Department of Environmental Protection, Division of Law Enforcement does not dispute the above finding. The Chief of the Office of Public Education and Training indicated that the absence of staff due to medical or family needs during the period in question led to the identified recording errors noted in this audit. Additionally, as discussed in meetings between DEP and Auditor General staff, it was not the practice of the DLE to document, in detail, the rationale behind employment actions at that point in time. This practice has been modified to reflect greater reliance upon written documentation of management decisions. On the whole, it can be accurately stated that steps have been taken to retroactively address the specific concerns identified and new practices implemented to avoid recurrences thereof.

Finding No. 2: The Department did not always provide the required timely notification of excess motor vehicles to the Department of Management Services.

Program areas have been encouraged to work together in an effort to surplus vehicles that are operationally the best candidates to be declared excess at the agency level. The Division of Law Enforcement has shared its list of potential trade vehicles with other divisions in the agency who may be in need of decent, operating vehicles prior to declaring the vehicles excess to the needs of the agency in accordance with Chapter 60B-3, F.A.C. In this fashion, typically more than two-thirds of these vehicles are traded with other program areas such as the Division of Recreation and Parks, Coastal and Aquatic Managed Areas, Greenways and Trails, Division of State Lands, and the Regulatory District Offices. In the current climate of budget cuts, we are taking every opportunity to stretch limited resources. We have found no provision in existing statute or rule to preclude the transfer of vehicles to other divisions within the agency as long as the total agency fleet size is not increased.

All vehicles for which replacements were purchased during the audit period have subsequently been disposed of. The Division of Law Enforcement will continue to work closely with the agency's Bureau of General Services to improve this process.

In the future, when vehicles are replaced a "Request for Disposal of Mobile Equipment" form will be completed and submitted to the Bureau of General Services within 30 days in accordance with DEP guidelines or an extension sought if the vehicles need to be retained "to meet emergency or unforeseen needs". Such needs will be clearly articulated by the DLE Bureau of Operational Support and Planning to the Bureau of General Services.