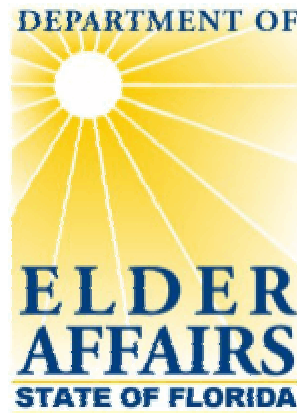


Office of Inspector General

Annual Report
FISCAL YEAR 2008/2009



September 30, 2009

STANLEY J. BEHMKE, CIA, CIQ
Inspector General

E. DOUGLAS BEACH, PH.D
Secretary



Charlie Crist
GOVERNOR

E. Douglas Beach Ph.D
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September 30, 2009

E. Douglas Beach Ph.D
Secretary
Department of Elder Affairs
4040 Esplanade Way
Tallahassee, Florida 32399-7000

Letter of Transmittal

Dear Secretary Beach:

In accordance with Section 20.055(7), Florida Statutes, enclosed is the annual report of the major work efforts and activities in the Office of Inspector General for the 2008-2009 fiscal year.

The Office of Inspector General looks forward to serving you in the future. Our mission is to provide independent, objective assurance and consulting services designed to add value and improve the agency's operations. If you have any questions please call me at 414-2013.

Sincerely,

Stanley J. Behmke, CIA, CIG
Inspector General

SB/af

Enclosure

CC: Auditor General
Chief Inspector General
Joint Legislative Auditing Committee

<http://elderaffairs.state.fl.us>

Table of Contents

Introduction

OFFICE OF INSPECTOR GENERAL -----	PAGE 1
OFFICE OF INSPECTOR GENERAL DUTIES AND RESPONSIBILITIES	
ORGANIZATION OF DOEA OFFICE OF INSPECTOR GENERAL	

Audit Activities

INTERNAL AUDITS -----	PAGE 5
LONG-TERM CARE OMBUDSMAN PROGRAM	
EXTERNAL AUDITS -----	PAGE 10
OPPAGA	
AGING RESOURCE CENTERS	
LONG –TERM CARE INSURANCE PARTNERSHIP PROGRAM	
AUDITOR GENERAL	
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS	

Preliminary Inquiries and Investigations

INVESTIGATIONS-----	PAGE 15
AREA AGENCY OF PALM BEACH/TREASURE COAST, INC.	
PRELIMINARY INQUIRY -----	PAGE 23
LEGAL AID SOCIETY OF PALM BEACH COUNTY, INC.	

Other Accountability Activities

SPECIAL PROJECTS -----	PAGE 30
INFORMATION SYSTEMS SECURITY RISK EVALUATION	
MARTIN COUNTY FIXED CAPITAL OUTLAY	
AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009	
CELLULAR TELEPHONES AND OTHER WIRELESS DEVICES	
PLANNED ACTIVITIES-----	-Page 36

Appendices

ANNUAL AUDIT PLAN	
GRAPH – PERCENTAGE OF HOURS WORKED IN THE OIG	
BY TYPE OF ACTIVITY IN FISCAL 2008/2009	



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Introduction

The Florida Department of Elder Affairs is the agency constitutionally designated by Florida voters to “serve as the primary state agency responsible for administering human services programs for the elderly...” (Section 430.03 Florida Statutes). Its purpose is to serve elders in every aspect possible to help them keep their self-sufficiency and self-determination.

The agency administers a variety of innovative programs and services that empower elders to age in place with dignity, security and purpose, in an elder-friendly environment.

The majority of programs administered by the department are privatized. Over 94 percent of its budget goes to services provided primarily by non-profit agencies and local governments under contract through the state’s 11 area agencies on aging, which are mandated by the federal Older Americans Act.

Office of Inspector General

On October 1, 1994, Chapter 94-235 Laws of Florida took effect and created in all state agencies an Office of Inspector General (OIG). The qualifications for the Inspector General, and the specific duties and responsibilities of the OIG, are mandated and described in Section 20.055, Florida Statutes.

The Office of Inspector General is an essential component of executive direction in the Department of Elder Affairs; it provides independent, objective assurance and consulting activities designed to add value and improve agency operations.

The OIG provides a central point for coordination of, and responsibility for, activities that provide accountability, integrity and efficiency in government.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

The OIG conducts audits, investigations and other accountability activities for the purpose of promoting economy and efficiency, or preventing and detecting fraud and abuse in programs and operations carried out or financed by the department.

The OIG ensures effective coordination and cooperation between the Florida Auditor General, the Office of Program Policy Analysis and Government Accountability, and federal auditors, to avoid duplication of services.

Pursuant to state statute, the Inspector General reports directly to the agency Secretary. The OIG has full, free, unrestricted access to all departmental activities, records, data, and property, and may request any other information it deems necessary to carry out audit assignments or investigations as needed.

OIG employees stay up to date with current trends in internal auditing and maintain professional proficiency through membership in various industry associations, participation in conferences, and by attending relevant training or continuing professional education programs.

OIG Duties and Responsibilities

- ▶ To assess the reliability and validity of the information provided by the department on performance measures and standards, and make recommendations for improvement, if necessary;
- ▶ To review actions taken by the department to improve program performance, to meet program standards and, if necessary, make recommendations for improvement;
- ▶ To supervise and coordinate audits, investigations and management reviews relating to the programs and operations of the department;



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

- ▶ To conduct, supervise or coordinate other activities carried out or financed by the agency for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations;
- ▶ To keep the department head informed concerning fraud, abuses and deficiencies relating to programs and operations administered or financed by the department, recommend corrective action and report on the implementation of the corrective actions;
- ▶ To review, as appropriate, rules relating to the programs and operations of the department and make recommendations concerning their impact;
- ▶ To maintain an appropriate balance between audit, investigative and other accountability activities;
- ▶ To monitor the implementation of the department's response to Auditor General audits; and
- ▶ To receive complaints and coordinate department activities as required by the Whistle-Blowers' Act and/or the Chief Inspector General.

Organization of the office of Inspector General

The Office of Inspector General at the Department of Elder Affairs consists of the Inspector General, a Senior Management Analyst II (Director of Internal Audit) and one Administrative Assistant. Employees work together on all OIG activities, with the Inspector General focusing on investigative activities and the Director of Internal Audit primarily involved in audit-related activities.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Inspector General

Stanley J. Behmke, CIA, CIG

Mr. Behmke is a graduate of the University of Wisconsin and has been designated a Certified Internal Auditor by the International Institute of Internal Auditors and a Certified Inspector General by the National Association of Inspectors General. He is a member of the Governor's Council on Integrity and Efficiency.

Mr. Behmke has been employed with the State of Florida since 1985, and has 20 years' experience in OIG work, serving as Chief of Investigations for the OIG in the Department of Banking and Finance, and as Inspector General at the Florida Parole Commission prior to becoming the Inspector General at the Department of Elder Affairs in 2001.

Director of Internal Audit

Antony A. Hernandez, CIA, CISA

Mr. Hernandez holds a BA and MA from Florida State University, is designated a Certified Internal Auditor by the International Institute of Internal Auditors and has been designated a Certified Information Systems Auditor by the Information Systems Audit and Control Association.

Mr. Hernandez has been employed with the State of Florida since 1992, starting his career with the Department of Commerce followed by the Governor's Office, the Department of Revenue and now Elder Affairs. In addition to his 16 years' experience in OIG work, he was employed at the Florida Legislature while attending graduate school.

The Office of Inspector General maintains an activity tracking system in a Microsoft "Access" database to record and manage all OIG activities. Projects are categorized into three classifications: 1) audits (internal and external), 2)



FLORIDA DEPARTMENT OF ELDER AFFAIRS OFFICE OF INSPECTOR GENERAL ANNUAL REPORT 2008-2009

preliminary inquiries and investigations, and 3) other accountability activities (special projects and consulting activities).

This system is used for managing the workload in the office and to evaluate employee performance. Time allocated to each project is recorded; this data is used for annual reporting, and for both short-term and strategic planning.

In accordance with Section 20.055(2)(i), Florida Statutes, the Inspector General ensures that an appropriate balance is maintained between audit, investigative and other accountability activities.

Internal Audit Activities

The scope of internal auditing encompasses the examination and evaluation of the adequacy and effectiveness of the organization's system of internal control and the quality of performance. To this end, audits review the following: the reliability and integrity of financial and operating information, the systems established to ensure compliance with required guidelines, the means of safeguarding assets, and the economy and efficiency with which resources are employed.

Internal audits completed in fiscal year 2008/2009 contained recommendations for improvements in internal controls and offered enhancements to agency operational policy and procedures.

Long-Term Care Ombudsman Program

Complaint Resolution Process

DOEA OIG Report No. #08-09-A-018, June 2009

Background



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

The Long-Term Care Ombudsman Program (LTCOP) is a volunteer-based program within the Department of Elder Affairs. Volunteer ombudsmen are Florida citizens who advocate on behalf of others to resolve specific issues and concerns. They respond to concerns raised by long-term care facility residents. This is accomplished by providing free services such as investigating complaints and aiding the development of family and resident councils, educating long-term care residents about their rights and performing annual assessments of long-term care facilities.

The Long-Term Care Ombudsman Program partners with other state agencies in carrying out its mission. These agencies include the Agency for Health Care Administration (AHCA), the Department of Children and Families (DCF), the Attorney General's Office, and the Statewide Advocacy Council.

The LTCOP receives complaints, which then requires the opening of a "case" and subsequent investigation. A complaint is defined as a concern that is brought to the attention of, or is initiated by, the ombudsman for investigation on behalf of one or more residents of a long-term care facility.

Once a case is opened, the ombudsman conducts an investigation that focuses on the rights, health, safety and welfare of the resident. The investigation consists of fact gathering, which may include direct observation, interviews and a review of relevant records. The objective of an ombudsman investigation is to develop and implement a resolution strategy.

Audit Scope and Objectives

The scope of the audit focused primarily on the level of resolution of LTCOP investigations for the time period October 1, 2007, to September 30, 2008. The objective was to determine the level of resolution to unresolved Long-Term Care Ombudsman Program investigations forwarded both internally and externally for further action.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Findings, Recommendations and Program Responses

Finding 1

Follow-up on LTCOP complaint referrals to external partners was inconsistent or did not occur.

Recommendations

We recommended the programming of adequate data fields within the LTCOP web-based application system to track final resolution of complaints referred to external partners.

We further recommended LTCOP procedures be updated to clarify the necessity of tracking external referrals and usage of any new fields created in the system.

Program Response

The Office is collaborating with the Application Support Group to upgrade the Long-Term Care Ombudsman Program's web-based management system to include a new "referral section." Through this new system, program staff will be able to effectively monitor and act upon referred agency complaints. Program procedures will be updated to include instructions on how to use the system. Additionally, Headquarters staff will provide training to District Ombudsman Managers and their staff on the new procedures, ensuring accurate, consistent utilization of the system.

Finding 2

Communication with external partners was weak and inconsistent.

Recommendation

We recommended LTCOP establish a workgroup with representatives from external partner agencies, ombudsman, and District Ombudsman Management to establish enhanced tools for communication and complaint referral management.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Program Response

The Program will coordinate an interagency workgroup to identify the elements necessary to identify and strengthen communication conduits with respect to ombudsman referrals. Established Memoranda of Agreement will be revised to incorporate these agreed upon components.

Finding 3

LTCOP does not fully utilize its enforcement authority under section 400.0075, Florida Statutes.

Recommendation

We recommend the State Ombudsman institute measures to utilize its authority under section 400.0075, Florida Statutes.

Program Response

In consultation with the State Long-Term Care Ombudsman Council, the Office is formulating the procedures necessary for the State Council to initiate action on complaints as prescribed in s. 400.0075, F.S. Procedures will include an action plan for districts to forward complaints to the State Council and the State Ombudsman for additional disposition.

Finding 4

Data consistency continues to be a problem within the LTCOP web-based application system.

Recommendation

We recommended LTCOP continue working with DOEA's Application Support Group to ensure all required fields are populated with appropriate information before a case/complaint is closed.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Program Response

The Long-Term Care Ombudsman Program will recommend to the Application Support Group that referral fields within the web-based system be changed to required fields. The system will prompt and require staff to complete the referral information prior to the case being saved into the system.

Finding 5

An outcome-based performance metric is needed for tracking resolution of complaints referred to external partners.

Recommendation

We recommended the LTCOP establish an outcome-based performance metric tracking the level of resolution for referred cases.

Program Response

The State Long-Term Care Ombudsman Council's Data and Information Committee is collaborating with program staff on development of this metric. Volunteers and staff will discuss at the August quarterly leadership meeting in Altamonte Springs. Additionally, program staff are developing recommendations for the Application Support Group to develop real-time reports to assist in monitoring the resolution of referred cases.

Finding 6

This is a repeat finding from our Audit #05-06-A-004. The state complaint resolution rate remains below the national average.

Recommendation

We again recommended that management emphasize ongoing training with district staff and ombudsman with respect to resolution of complaints. This training should target those districts based on data analysis, which have high variances from the state and national averages in the usage of particular codes.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Program Response

The Program's State Trainer is working in conjunction with State Council's Training Committee to customize targeted district training focused on improved advocacy services on behalf of residents. Additionally, promulgation of the new ombudsman rule will clarify ombudsman complaint procedures and demystify some of these processes for our program's volunteer representatives resulting in greater efficiency in complaint resolution rates more comparable to national averages. Program representatives believe resolution rates may actually be higher than reported due to undocumented, resolved complaints. Ombudsmen identify and resolve resident concerns through the administrative assessments process. However, our web-based system lacks the capability to capture this data. Once the ombudsman rule is complete, program staff and the Application Support Group will modify the system to track this critical information.

External Audit Activities

The Office of Inspector General coordinates internal and external audit engagements to ensure adequate audit coverage and to minimize duplication of efforts. In addition, it monitors and assesses any corrective action taken by the agency in response to recommendations made by the Auditor General, the Office of Program Policy Analysis and Government Accountability (OPPAGA), and federal auditors.

A summary of significant external audit engagements conducted in fiscal 2008/09 is presented below.

OPPAGA

Aging Resource Centers

The 2004 Legislature created the Aging Resource Center Initiative in an effort to reduce fragmentation in the elder services delivery system. The Legislature



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

directed DOEA to establish a process to help the 11 area agencies on aging transition to aging resource centers to provide easier access to elder services. The initiative aims to accomplish this through a locally focused, coordinated approach that integrates information and referral for all available services.

The legislation requires each of the area agencies to transition to aging resource centers by taking on additional responsibilities, while at the same time maintaining an identity as the local area agency on aging.

OPPAGA was directed by the Legislature to monitor and report every six months on the DOEA's progress in implementing this initiative. Both the Auditor General and the Office of Inspector General actively participate in the monitoring process, but only OPPAGA issues progress reports twice a year in March and September. The following is a summary of the two most recent reports issued in fiscal year 08/09.

All But One Aging Resource Center Is Fully Implemented,

OPPAGA Report No. 08-51, September 2008

OPPAGA reported the following: As of August 2008, the department completed Aging Resource Center implementation at 10 of the 11 area agencies on aging, and is in the final stages of approving the last center. The Department of Elder Affairs continues to provide technical assistance to the centers, primarily through conference calls, quarterly meetings, and its contract management staff.

The department and centers are working on three enhancements to the elder services system. These are making their information and referral data system more publicly accessible and compatible with the department's data systems; taking a more active role with the Nursing Home Diversion Program; and working with the Department of Children and Families to



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

develop a method for obtaining signatures from clients who provide Medicaid application information to the centers over the phone.

The centers spent \$2.2 million of the \$3.3 million available during fiscal year 2007-08. The department continues to pursue federal approval for a method to maximize available funding.

The department and the Aging Resource Centers need to give priority to developing a standard measure for evaluating the centers' performance in streamlining Medicaid eligibility determination for seniors.

*Transition to Aging Resource Centers Complete;
Enhancement of Elder Service System Continues,
OPPAGA Report No. 09-15, March 2009*

In the follow-up report OPPAGA reported: Each of the state's 11 area agencies on aging are now fully functioning as Aging Resource Centers, with the final center completing the transition process in November 2008. The centers are working to enhance the elder service system by

- Making their information and referral data system more publicly accessible and compatible with the Department of Elder Affairs' data system;
- Taking a more active role with the Nursing Home Diversion Program; and
- Developing a standard measure to assess the timeliness of the Medicaid eligibility determination process.

The department expects to spend most of its fiscal year 2008-09 appropriation for Aging Resource Centers to support center staff who help seniors seeking Medicaid services. To provide more flexibility in how centers use their staff, the department is pursuing federal approval of a



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

method to use federal funding for center staff that spend a portion of their time on Medicaid-related activities.

In addition to the two ARC progress reports, OPPAGA provided a report on the Long-Term Care Insurance Partnership Program to the Legislature.

Increased Public Awareness of the Long-Term Care Insurance Partnership Program Would Contribute to the Program's Success,
OPPAGA Report No. 09-08, February 2009

The Florida Legislature directed OPPAGA to assess the implementation of the state Long-Term Care Insurance Partnership Program. This report addressed four questions.

- What are state agencies doing to implement the Long-Term Care Insurance Partnership Program?
- How many Florida residents have purchased partnership policies and what are the demographic characteristics of these policyholders?
- What partnership policy features have Florida residents selected?
- What barriers could affect the program's success?

The OPPAGA report provided answers to these questions, and included two recommendations to improve the Long-Term Care Insurance Partnership Program in Florida.

- The Long-Term Care Insurance Partnership Program seeks to alleviate the financial burden on the state's Medicaid program by encouraging individuals to purchase private long-term care insurance. Five state agencies, including the Department of Elder Affairs are coordinating efforts to implement the program.
 - As of June 30, 2008, over 15,000 Floridians had partnership policies, obtained either by purchasing new policies or exchanging older
-



FLORIDA DEPARTMENT OF ELDER AFFAIRS OFFICE OF INSPECTOR GENERAL ANNUAL REPORT 2008-2009

- policies for partnership long-term care policies. Prior to the program's implementation in Florida, 465,800 residents were covered by long-term care insurance. Thus, the partnership program represents a relatively small proportion of total long-term care coverage for Florida residents.
- Partnership policyholders were most frequently between the ages of 55 and 65 at the time they acquired policies. Most purchased three to five years of long-term care coverage. Policyholders' maximum benefit coverage ranged from \$54,000 to \$1,440,000, with some policyholders purchasing unlimited benefits. Older policyholders paid higher premiums and purchased lower levels of coverage.
 - Several obstacles could affect the program's success including a lack of public awareness and impediments to purchasing long-term care insurance.

To address barriers to the success of the Long-Term Care Insurance Partnership Program in Florida, OPPAGA recommended that the Agency for Health Care Administration implement a comprehensive partnership program website by March 31, 2009, and that other agencies with program responsibilities should provide links to this site on their own websites.

OPPAGA also recommend that the Office of Insurance Regulation include on its website a list of the insurance companies selling partnership policies in Florida once this information is available from the federal government.

There were no findings or recommendations addressed to the Department of Elder Affairs.

Auditor General

As a condition of receiving Federal funds, the U.S. Office of Management and Budget (OMB) requires, as described in OMB Circular A-133, an audit of the State's financial statements and major Federal awards programs.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Pursuant to Section 11.45, Florida Statutes, the Auditor General conducted an audit of the basic financial statements of the State of Florida, which included the State's compliance with governing requirements for the Federal awards programs or program clusters that were identified as major programs for the fiscal year ended June 30, 2008.

*State of Florida – Compliance and Internal Controls
Over Financial Reporting and Federal Awards
Auditor General Report # 2009-144, March 5, 2009*

The State's Supplementary Schedule of Expenditures of Federal Awards (SEFA) was presented as an attachment to the State's basic financial statements. The SEFA disclosed 112 audit findings with regards to compliance, or with internal controls over compliance with requirements of major Federal awards programs. Where applicable, the audit disclosed actual questioned costs that exceeded \$10,000. There were no findings or questioned costs in the Federal programs or program clusters managed by the Department of Elder Affairs.

Preliminary Inquiries and Investigations

The Office of Inspector General is responsible for conducting investigations regarding violations of laws, policies, procedures, rules and regulations. The OIG must comply with the provisions of the "Whistle-blowers' Act" and conduct investigations accordingly.

Inquiries may be initiated as a result of information from state employees, private citizens, federal agencies, legislators, the agency Secretary or any other person with concerns about the integrity of the agency's operations or its employees.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

The OIG is responsible for investigating waste and abuse involving employees, vendors, contractors or consultants, and it monitors complaints against the agency on both the Governor's Whistle-Blower Hotline, and the Comptroller's Get-Lean Hotline.

In carrying out its duties and responsibilities in fiscal year 2008/2009, the OIG conducted seven preliminary inquiries and one Whistle-Blower Investigation.

*Whistle-Blower Investigation
Area Agency on Aging of Palm Beach/Treasure Coast
OIG Case # 08/09-1-032*

Predicate

In January of 2009, a complainant sent an email to the office of Florida's Attorney General concerning the Area Agency on Aging of Palm Beach/Treasure Coast (AAPBTC). The complainant stated in the email that the AAPBTC was "violating its fiduciary responsibility for the purpose of establishing a new palatial headquarters." More specifically, the complainant alleged that the agency was misappropriating grant funds in order to pay for exorbitant expenditures that were encumbered when the agency recently entered into the lease for its new headquarters building.

Subsequently, the information was forwarded to DOEA. Upon review it was determined that it met the requirements for designation as a whistle-blower complaint and that an investigation should be conducted. On February 23, 2009, the Deputy Inspector General in the Executive Office of the Governor concurred that the information disclosed demonstrated reasonable cause for an investigation under the Whistle-blower's Act and the complainant was informed that the OIG at DOEA would be conducting the investigation.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Background

Area Agencies on Aging

Area Agencies on Aging (AAAs) are federally mandated organizations charged with planning, coordinating, monitoring and funding programs benefiting the needs of persons 60 years of age and older, as well as advocating on behalf of elder concerns.

Passage of the Older Americans Act by Congress in 1965 initiated the Administration on Aging (AOA) and the building of a national network of Area Agencies throughout the United States. The Act also provided for the establishment of a designated unit on aging in each of the nation's states.

In Florida, DOEA is the state unit; the Department has the responsibility for overseeing both federal and state monies appropriated for aging programs.

All federal aging monies flow from Washington and the Administration on Aging, to regional offices throughout the country, and then to the state units. The dollars are divided, in accordance with the state's formula, and distributed locally to AAAs.

In the late 1970s, the Florida Legislature passed the Community Care for the Elderly Act (CCE), which funds services for frail dependent seniors. The General Revenue funds appropriated for CCE are also distributed by DOEA to the AAAs.

DOEA works closely with the eleven AAAs in Florida. The AAAs administer the federal and state funds locally and contract with a variety of provider agencies to offer a wide array of services designed to address the needs of their senior constituencies.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Matching funds for both the Older Americans Act (federal dollars) and the Community Care for the Elderly Appropriations (State General Revenue Dollars) must be raised locally.

Area Agency on Aging of Palm Beach/Treasure Coast, Inc. The AAAPBTC is a 501(c)(3) non-profit organization that serves the needs of seniors and their caregivers in Palm Beach, Martin, St. Lucie, Indian River and Okeechobee counties.

The AAAPBTC provides information on aging issues, advocacy, one-on-one assistance and a host of services that help seniors maintain their independence and dignity.

With the help of volunteers, donors, sponsors and professional agencies, the AAAPBTC delivers a wide range of services including but not limited to:

- Seniors Information & Referral Hotline
- Foster Grandparent Program, providing one-on-one teaching support for children.
- SHINE, health insurance counseling services.
- Leadership Institute for Active Aging, training seniors for leadership in volunteerism.
- Senior Advocacy Program, delivering support to seniors in need.
- RSVP (Retired & Senior Volunteer Program), training volunteers for local non-profit organizations and agencies.
- Abuse Registry, with helpful information on how to identify and prevent abuse, neglect and exploitation of seniors.

In the last fiscal year, the AAAPBTC managed over \$30 million dollars in Federal, State, County and Donor funds. Working in partnership with community-based service providers, the agency delivered services that impacted more than 500,000 seniors.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Scope

The scope of this investigation was limited to the period of June 2007 through March 2009, and focused on the financial management of the AAAPBTC.

Objectives

The AAAPBTC moved into a new headquarters building in May 2008. The area plan submitted to the DOEA by the AAAPBTC indicated that actual expenses for the old building were \$180,000 annually, and anticipated expenses for the new building would be \$557,934 annually, which represents a 210% increase.

A review of the minutes of Board of Directors and Advisory Council meetings, reflects that Executive management and the members of the Board and Advisory Council were concerned with the ability of AAAPBTC to meet its financial obligations and pay the large increase in expenses for the new headquarters building.

The AAAPBTC planned to meet the new expenses by sub-leasing portions of the building space to other agencies, i.e. the Florida Department of Children and Families (DCF Economic Services Office), the Alzheimer's Association, the AARP, DOEA's Comprehensive Assessment and Review for Long-Term Care Services (CARES) field office, etc. and contacted a for-profit company to use a portion of the building as a wellness center.

The efforts to find tenants to share the cost of leasing the new building resulted in an agreement with DCF to occupy approximately 2,070 square feet of space. DCF submitted a floor plan to the AAABPTC so the area could be built-out to specifications that would meet the needs of the economic services employees who would be working in the building, and accommodate the clients who would be applying for benefits.

Despite all these efforts, no tenants sub-leased any space in the new building, and DCF did not move into the custom designed space as agreed. For the first



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

nine months that the AAAPBTC was in the new headquarters building, no income was received from anticipated sub-leases for space in the building.

The first objective was to determine how the AAAPBTC managed to cover the increased costs for renting the new building without any additional income from sub-leases as originally planned.

The complainant explained how employees whose salaries were paid out of grant dollars had their hours reduced and ultimately jobs were eliminated because grant funds to pay for some positions were allegedly used to pay the increase in rental expenses for the new headquarters.

The supervisor over the grants referred to by the complainant, who is still employed at the agency, does not know where or how all of the grant money is spent. However, the supervisor confirmed that recently one of her grant awards was reduced significantly, and the amount of dollars allocated from her grants for building expenses has increased noticeably since moving into the new building.

The Second Objective was to determine the amount of grant funds allocated for specific programs that were used to pay for the higher rent and increased overhead expenditures for the new headquarters building.

Conclusions

The AAABPTC clearly needed to find a larger building; the agency was crowded into an area of approximately 9,500 square feet in its old building. The agency now occupies approximately 15,000 square feet, (out of approximately 25,000 square feet in the new building) which is more than sufficient to meet its present needs and accommodate its recent growth.

Thanks to the agency's recent expansion, the number of employees and volunteers, the new Wellness Center, the Aging Resource Center, the new in-house mailroom facility, and the Information and Referral telephone area can all



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

be accommodated in the current area of the building that the agency labels as "program space."

It is evident that agency management recognized the need to obtain sub-leases to pay for the other approximately 10,000 square feet of meeting rooms and empty or unused space. Agency managers, with proper board governance and oversight, made considerable effort to sublease this space, and were confident that they could accomplish this objective. It was outside the scope of this investigation to determine why each of the potential sub-lessors failed to commit to a lease, but it is reasonable to conclude that the economic decline during this same period had a major impact on the agency's plans and efforts to obtain additional tenants.

The information obtained in the investigation supported the allegations that grant dollars were being used to pay for unused and empty space and this was considered evidence that grant resources were not being managed and used in the most efficient, effective and economical manner. However, no positions in the agency were eliminated, and no employee lost their job because funds for salaries were used to pay for increased overhead expenses.

Agency grants vary, from those with very detailed limitations to others that are far less restrictive. There was no evidence obtained in the course of the investigation to indicate that grant funds were not administered within applicable laws, regulations, policies and procedures. However, agency program managers expressed concerns that "grantfunders" will not renew the approximately \$2 million in grants at renewal time if the agency continues to use a large percentage of the funds for administrative/overhead expenses.

Seasoned program managers corroborated both the whistle-blower's allegation and the concerns of board members that excessive rental and overhead expenditures could be better spent on services to elders. More specifically, they describe how the agency could provide more training, hire more employees or



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

get more volunteers out into the community if it could spend the administrative/overhead dollars on program goals and objectives.

Current Action Plan

In accordance with the terms of its current lease, the AAAPBTC is obligated to pay a projected \$570,984.24 in rent, taxes, insurance and building maintenance for 2009. Currently agency management plans to pay for most of this obligation with administrative funds from the same six funds that are currently being used for this purpose.

If conditions remain the same with no additional sub-leases, the same allocation methodology leads to a projection that the agency will pay \$244,410.84 for the approximately 10,000 square feet of "non-program" space, with 79 percent or \$193,084.56 paid from six major administrative funds, and the remaining \$51,326.28 from other programs, including those that are grant funded.

Management at AAAPBTC continues to aggressively pursue tenants to sub-lease its "non-program" space. In addition, the Department of Elder Affairs is working with Vertical Integration, Inc., out of Tampa, (one of three state-agency leasing liaisons under state contract) in its continued efforts to determine the viability of moving the Lake Worth CARES office to the AAAPBTC building when its current lease expires in September 2009.

In addition, AAAPBTC management is still committed to meeting the OPPAGA recommendation of co-locating both the CARES and the local DCF economic services offices within the Aging Resource Center to significantly shorten the Medicaid eligibility process. As part of this effort, the AAAPBTC continues to look at options that would allow DCF to sub-lease the space that it originally planned to occupy. If both CARES and DCF economic services can move into the building, they would lease approximately 5,800 square feet of the "non-program" building space.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Preliminary Inquiry

Legal Aid Society of Palm Beach County, Inc.

Public Guardian for Palm Beach and Martin Counties

OIG Case # 08/09-PI-041

Predicate

On April 27, 2009, a former employee of the Public Guardian in Palm Beach County (The Legal Aid Society of Palm Beach County, Inc.) wrote a letter of complaint to Michelle Hollister the Executive Director of the Statewide Public Guardianship Office. The complainant shared concerns with the management controls over the social workers who conduct ward visitations. The complainant was concerned with the health and welfare of the wards and alleged that one of the three employees assigned to manage the wards is not visiting the wards as required in statute.

The Statewide Public Guardianship Office requested the assistance of the Office of Inspector General (OIG) to review the complaint and investigate the allegations as appropriate. On May 1, 2009, the OIG opened a preliminary inquiry to obtain additional information, and on May 6, 2009, the complainant was interviewed at length to establish the scope and objectives of the inquiry.

Scope and Objectives

Section 744.708(6), Florida Statutes requires the public guardian, or a member of his professional staff, to personally visit each ward at least once each calendar quarter. The complainant suspects that one of the social workers may not be meeting this standard and is not diligently caring for her wards. Moreover, it was alleged that this employee fails to timely document her ward visits, fails to follow up on "issues of concern," and may have entered fictitious entries (descriptions of ward visitations) into the ward management database.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

The complainant indicates that evidence of this wrongdoing was presented to management of the Legal Aid Society on more than one occasion. More specifically, the complainant stated that after presenting this information to the Public Guardian of Palm Beach County in 2007, the performance of the social worker in question seemed to improve. However, by November and December of 2008, because of limited monitoring and poor management control, this employee again failed to meet work expectations and properly perform her duties and responsibilities.

Scope

Based on the above information, the scope of this inquiry was limited to the period of January 2008 through May 2009, with a focus on November and December 2008, and the most recent ward visitation activities.

Objectives

The objectives of the inquiry are as follows:

- To determine if the social worker in question conducted quarterly ward visits in accordance with Section 744.708(6), Florida Statutes;
- To evaluate the quality of the performance of the social worker in question in carrying out her guardianship duties and responsibilities; and
- To examine and evaluate the adequacy and effectiveness of the system of internal controls of the Public Guardian of Palm Beach County.

Methodology

All investigative activities were pertinent and limited to the scope and objectives of the inquiry and conducted in accordance with generally accepted principles and quality standards, formally approved by the *Association of Inspectors General*.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Information was obtained from the Executive Director of the Statewide Public Guardianship Office (SPGO) Michelle Hollister and her staff in Tallahassee. The two most recent SPGO monitoring reports of the Legal Aid Society of Palm Beach were obtained and reviewed.

We were granted unlimited access to the Statewide Public Guardianship database. From this database we obtained a list of all wards under the guardianship of the social worker in question. We then produced ward "activity reports" for all of these wards for the period of January 2008 through May 2009. The records describe in detail all contacts (phone calls or visits) by any and all employees of the Legal Aid Society of Palm Beach to the individual wards.

Site visits were made to 22 institutions (out of 24) throughout Palm Beach County that currently or formerly housed (or trained) the wards under the guardianship of the social worker in question. The site visits encompassed 34 of the 36 wards in the social worker's caseload within the scope of this inquiry.

During the site visits, sign-in logs (at institutions where they are used and available) were checked to verify visits by the Legal Aid Society social worker to the wards. Interviews were conducted with a variety of employees at the various institutions, including but not limited to administrators, nurses, care plan coordinators, receptionists, classroom coordinators and directors of social services.

These interviews were used to verify the frequency of visits, and in most cases, the exact date and purpose of the most recent visit by the social worker in question. Each person interviewed was asked to describe the activities of the social worker when visiting the wards, and to offer an opinion of the quality of the guardianship services provided by the Legal Aid Society of Palm Beach County.

To independently evaluate the level of care provided by the Legal Aid Society of Palm Beach, numerous wards were visited and observed, to assess their physical



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

appearance, the appropriateness of their living situation, and the overall condition of the resident's room and the facility in general.

To obtain an understanding of the level of internal management controls over the Public Guardian Program at the Legal Aid Society of Palm Beach County, interviews were conducted with Robert Bertisch, Executive Director (Appointed Public Guardian of Palm Beach County); Michael Spillane, Director of Finance and Administration; Rena Taylor, Supervising Attorney (over the Public Guardianship Program); and the social worker in question.

Pertinent time sheets, travel reimbursement records and ward visitation logs were obtained for reconciliation with the data reflected on the "ward activity reports" generated from the Public Guardianship database.

Findings

Visitation

It was evident that the social worker responsible for performing the public guardianship duties at the institutions visited, in the course of this inquiry, clearly met and exceeded the requirements in Section 744.708(6) Florida Statutes. The statute requires a minimum of quarterly visits, and it appears the wards in this caseload were visited more frequently. There was no statistical analysis completed to determine the exact frequency; however, a review of the files reflected a pattern of at least a monthly visit to each ward by this social worker.

In addition, in most cases (when notified in writing) the social worker attended each ward's quarterly care plan meeting. Numerous management and staff at the various institutions described how the social worker was very accessible and would promptly come out to the institution as often as needed without hesitation.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Quality of Care

Based on the observations of the wards visited in this inquiry, it appeared that the social worker took good care of the clients in her caseload. Each of the wards, with a variety of diverse physical needs and challenging mental infirmities, appeared to be relatively healthy and residing in appropriate living situations in well-maintained rooms. In addition, after reviewing both public guardianship and institutional records, it appeared that the level of services provided at each institution was sufficient to adequately meet the needs of the wards.

When responding to questions regarding the quality of care provided by the public guardian/social worker from the Legal Aid Society of Palm Beach, the responses, without exception, were positive. Employees at every institution visited complimented the social worker, and no one had any complaints or negative comments. When describing the social worker, people frequently used the words "kind," "caring," "compassionate" and "competent." Nurses and care plan managers shared anecdotal stories about the social worker visiting on holidays, taking clients shopping, always meeting the needs of the clients, and even spending her own money on indigent clients to decorate their rooms.

From the records reviewed, some clients were visited more than others, but this appeared to be based on the needs of the clients and not on a visitation schedule created by the Public Guardian. The institutions covered by this social worker encompass a large geographical area ranging from downtown Palm Beach, south to Boca Raton and west to Pahokee in Palm Beach County. It appeared that all the wards were treated equally without regard to location or distance to travel.

Internal Management Controls

The supervisory attorney over the public guardian program works three days a week and admitted that she could strengthen her controls over the social



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

workers who conduct ward visitations. The social worker in question indicated that she hadn't signed or read her position description for approximately six years. Moreover, the travel reimbursement forms, visitation logs and time sheets did not contain sufficient detailed information to verify exactly what employees were doing when working in the field on any given day.

After comparing the social worker's travel reimbursement forms with her visitation logs, her time sheets and the database "activity reports" for the month of December, we truncated this test because the records did not reconcile.¹

The following exemplifies some of the inconsistencies uncovered:

- There was travel recorded for a day when the employee was on sick leave.
- Conversely, there were visits recorded on the log and in the database, with no travel reimbursement requested.
- The dates of ward visits on the visitation log were different from the dates entered into the database.
- The travel reimbursement form recorded travel to institutions that were different from those listed on the visitation log, and the "activity report" in the database reflected information that didn't reconcile with either of these two documents.

Based on these inconsistencies, it was clear that these documents do not accurately depict the daily activities of the social worker when she is in the field conducting her ward visits. Therefore, we considered the documents to be invalid and unreliable.

Based on our independent verification of the actual visits to the wards, it was reasonable to conclude that the misinformation recorded on these documents,

¹ We had timesheets, logs, travel reimbursement forms and "activity reports" from the database for November 2008 and April 2009, but did not attempt to reconcile these records based on the assumption that they would be no more valid than the December documentation.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

and in the database, were done in error and were not considered evidence that anyone deliberately falsified reports of ward visitation.

In addition, a review of the information entered into the database reflected that some of the entries were made long after the date of the actual visit to the ward. In some cases it appeared to be weeks after the visit, which was in violation of the Public Guardian's policy and procedures, and may explain why this information didn't reconcile with the other documentation.

All of the above was considered a material weakness in the system of internal controls at the Legal Aid Society of Palm Beach County, which could result in the likelihood that noncompliance with visitation requirements could occur and not be prevented or detected in a timely manner.

Conclusion

Based on the complainant's knowledge of the late entries into the database, the inaccuracy of the supporting documentation and the weak internal controls, it seems reasonable for the complainant to suspect possible wrongdoing and falsification of ward visits to the detriment of their health and welfare.

However, there was no evidence uncovered in the course of this inquiry to support the suspicion that the wards were not being visited as reported. The wards were visited more frequently than required, and it appeared that all of their needs are being served. Consequently the health and welfare of clients was not in question, to the contrary, the wards appeared to be well cared for by Legal Aid Society of Palm Beach County.

There was no evidence of wrongdoing or falsifying of records, but the system of internal controls over the public guardianship program needs strengthening. More specifically, management should reconcile documents on a regular basis, and ensure timely entry of visitation information into the ward database to ensure accuracy.



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

It was recommended that the Statewide Public Guardianship Office follow up with a thorough review of the system of management controls at its next monitoring of the Legal Aid Society of Palm Beach, Inc.

Special Projects

The Inspector General provides advisory and consulting services to all areas of the agency. The OIG and agency management agree on the nature and scope of these activities, and they are designed to add value and improve agency operations.

The OIG conducted a variety of other accountability activities in FY 2008/09, including but not limited to, continuing self-assessment, legislative monitoring, agency-wide risk assessment, monitoring of a fixed capital outlay project, continuous training needs assessment, and numerous other special projects and follow-up activities. Following is a summary of some of the higher priority projects.

Information Systems Security Risk Evaluation OIG Project # 08/09-S-015

Section 282.318 Florida Statutes, known as the "Security of Data and Information Technology Infrastructure Act," mandates that each agency shall conduct, and update every 3 years, a comprehensive risk analysis to determine the security threats to the data, information, and information technology resources of the agency.

The last comprehensive risk analysis was conducted in fiscal year 2005/06; therefore in conjunction with the staff and management of the bureau of information systems, the OIG conducted a risk assessment of critical information technology assets. Using a risk assessment survey instrument developed by the



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

Florida Agency for Enterprise Information Technology, Office of Information Security we examined agency technology issues and security needs.

By using this systematic approach to assessing information security risks, the agency obtained a clear understanding of its current security posture, and subsequently initiated the development of an appropriate protection strategy for its information systems. More importantly, the department implemented appropriate cost-effective safeguards to reduce, eliminate, or recover from the identified risks to the data, information, and information technology resources of the agency.

Martin County Fixed Capital Outlay OIG Project # 08/09-S-007

Fixed capital outlay projects are appropriations used to purchase real property. In fiscal 2008/09 the OIG continued to monitor the disbursements of a 5 million dollar appropriation to the Council on Aging of Martin County for the construction of a new Senior Center.

DOEA entered into an agreement with this non-profit agency to purchase the property and construct the new building. Our systematic monitoring of selected deliverables in the contract includes, but is not limited to, the budget, quarterly status reports, restrictive covenants, the issuance of a variety of permits, and the final report.

American Recovery and Reinvestment Act (ARRA) of 2009 OIG Project # 08/09-S-035

The objective of this project is to assess the status of the implementation of internal controls, to mitigate the risk of fraud, waste, or abuse, in programs that



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

will, or have received funds under the American Recovery and Reinvestment Act of 2009.

The American Recovery and Reinvestment Act (ARRA) of 2009 provides funds to be administered by the Florida Department of Elder Affairs in the amount of approximately seventeen million dollars over an eighteen-month period in three separate programs, Congregate Nutrition Services, Home Delivered Meals and the Older Workers Program. The existing infrastructure at DOEA did not have to be modified to absorb the increased flow of funds to these programs.

The ARRA legislation requires significant oversight and assurance and mandates that accountability and transparency initiatives are put in place. To meet these requirements the OIG developed the following objectives to ensure alignment with ARRA accountability and transparency objectives.

1. Funds are awarded and distributed in a prompt, fair, and reasonable manner.
2. The recipients, and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner.
3. Funds are used for authorized purposes, and instances of fraud, waste, error, and abuse are mitigated.
4. Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

In addition, we conducted a comprehensive assessment of the risk in each program where ARRA funds were provided. The assessment included the following ARRA specific control points:

- Are controls in place to ensure funds are awarded and distributed in a prompt, fair, and reasonable manner?
- Are data collection systems in place for tracking data associated with Recovery Act reporting requirements?
- Are there controls in place to ensure Recovery Act funds are clearly distinguishable from non-Recovery Act funds?
- Are procedures or processes in place to track and report Recovery Act funds?



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

- Are controls in place to ensure the timely expenditure of Recovery Act dollars?
- Are processes in place to ensure that reporting requirements are met?
- Does the program have sufficient, qualified, well-trained contract management staff to meet the requirements of the Recovery Act?

The ARRA special project will continue to be a priority for the OIG and we will be consulting with both program managers and the Division of Financial Administration as they reconcile and report on ARRA expenditures to the federal government.

Rule monitoring *OIG 08/09-S-014*

Pursuant to Section 20.055(2)(h), Florida Statutes, the Inspector General is to review, as appropriate, rules relating to the programs and operations of such state agency and make recommendations concerning their impact.

During fiscal year 2008/09, the OIG attended numerous rule-making workshops and made recommendations to the appropriate program managers, or to the Office of General Counsel.

Proposed rule amendments and new rules included in Rule Chapters 58L-1.001 thru 58L-008, pertaining to the Long-Term Care Ombudsman Program, took up most of our rule making monitoring efforts this past year.

Options for Reducing State Agency Costs for Cellular Telephones and Other Wireless Devices *OIG 08/09-S-029*

In March 2009, as directed by Ch. 2009-15, *Laws of Florida*, OPPAGA, in consultation with the Department of Management Services (DMS), developed



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

recommendations regarding the prudent issuance and use of state-owned wireless communications devices, including cellular telephones, personal digital assistants, and other electronic devices.

Subsequently during the 2009 Legislature, Section 51 of Senate Bill 2602 provided for the following; In order to implement the appropriations provided in the 2009-2010 General Appropriations Act to each agency for cellular phone equipment and services, and to ensure the cost-effective acquisition and use of wireless devices:

(1) Each agency shall develop a wireless device assignment plan that limits use of cellular telephones, personal digital assistants (PDAs), and other devices to only those employees who, as part of their official assigned duties, must routinely be immediately available to citizens, supervisors, or subordinates; be available to respond to emergency situations; be available to calls outside of regular working hours; have access to the technology in order to productively perform job duties in the field; or have limited or no access to a standard phone, or have no ability to use a personal cell phone, if needed. The plan shall result in reducing the number of wireless devices used in each agency.

(2) Each agency must review the use of cellular telephones, PDAs, and other wireless devices by employees and submit a report to the President of the Senate and the Speaker of the House of Representatives by September 1, 2009.

The report shall include:

- (a) The criteria that the agency has developed to limit assignment of wireless devices;
 - (b) The results of implementing the wireless device assignment plan, including the reduction in the number of wireless devices used and the cost of such devices;
-



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

- (c) The number of wireless devices that remain in use by type and expenditures by type of device and total agency expenditures for wireless devices;
- (d) The procurement method used to procure wireless devices and the rationale for procuring wireless devices by any mechanism other than statewide term contracts and side-by-side comparison of costs for services purchased through the statewide term contracts and the mechanisms otherwise used by the agency; and
- (e) A description of innovative techniques the agency has used to manage wireless devices that have improved efficiency or reduced costs, which may be applicable for implementation by other agencies.

Consequently, the agency formed an Ad Hoc committee to formulate new policy and procedures for procurement and use of cellular telephones and other wireless devices. This large committee was comprised of numerous members from each division in the department and the OIG facilitated both the meetings and the drafting of the final report.

The new policy, as reflected in the report to the legislature, addresses the issuance, procurement and authorization for wireless communications devices as follows:

It is the policy of the department that wireless communication devices will be issued only when immediate and frequent voice and data communications are required to perform job duties and wired telephone systems are not available or practical.

The use, procurement and possession of wireless communication devices will be managed to increase both the efficiency and productivity of the department's workforce. Additional savings may be realized from a



FLORIDA DEPARTMENT OF ELDER AFFAIRS

OFFICE OF INSPECTOR GENERAL

ANNUAL REPORT 2008-2009

related reduction in operating costs and by closely monitoring the utilization of devices to ensure that only the essential number of devices is purchased to meet the needs of the employees to perform job duties.

The authorization for issuance of wireless devices and purchase of services will be submitted by the Division Director to the Deputy Secretary and to the Secretary for approval.

Planned Activities

The OIG prepares an annual and long-term engagement plan to ensure that it can accomplish its goals within its budget. Audit work schedules include the activities to be audited, when they will be audited, and the estimated time required for completing the audits. The work schedule is sufficiently flexible to cover unanticipated demands on the OIG.

The engagement plan is created through an ongoing risk assessment process. New information and changes in the department are integrated and systematically assessed using professional judgment about the probability of how, and to the degree, that an event or action may affect the department. Our recently approved annual engagement plan is attached as an addendum to this report.

Section 20.055 (2)(i), F.S. requires agency Inspectors General to maintain an appropriate balance between audit, investigative and other accountability activities. In recent years the OIG has maintained approximately 33% in each of these three areas. A chart attached as an addendum to this report displays the percentage of time worked in these three categories for fiscal 2008/2009.

OFFICE OF INSPECTOR GENERAL ANNUAL ENGAGEMENT PLAN

FISCAL YEAR 2009/2010

The American Recovery and Reinvestment Act (ARRA) – conduct an agency readiness review for agency administration of ARRA money related to implementation of internal controls to help mitigate the risk of fraud, waste, or abuse in programs receiving this money. - 300

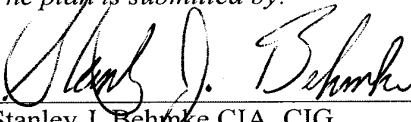
Conduct a review of agency Switchboard Operations, to determine compliance with agency policy and procedures, with an emphasis on training and professional certifications. - 200 Hours

Senior Center Grants, - conduct a review of the management and monitoring of the grants awarded to Senior Centers throughout the state during the past two fiscal years. – 300 Hours

Budget & Financial Administration and Accounting, with a focus on invoice, accounting and payment. – 200 Hours

An audit of the Long-Term Care Community Based Diversion Project – focusing on monitoring and Quality Assurance provisions – 400 Hours

The plan is submitted by:



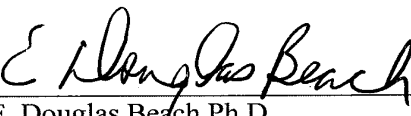
Stanley J. Behrke CIA, CIG
Inspector General

Date:

7/20/09

Secretary's Comments:

Approved By:



E. Douglas Beach Ph.D
Secretary

Date:

7/20/09

Hours Worked in the OIG by Activity in FY 08/09

