

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION



RICK SCOTT
Governor

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Secretary

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Inspector General

Office of Inspector General

Annual Report

Fiscal Year 2011-2012

State of Florida
Department of Business and Professional Regulation
Office of Inspector General

2011-2012 Annual Report

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

OFFICE OF INSPECTOR GENERAL

MISSION STATEMENT

The mission of the Office of Inspector General is to be a valuable partner in conducting independent, objective audits and internal investigations, and management and compliance reviews of Agency activities and programs. Our services add value to Agency management by assisting the Department in providing greater accountability, integrity, efficiency and effectiveness in fulfilling the overall Department's vision, mission and strategic goals.



DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

OFFICE OF INSPECTOR GENERAL

EMPLOYEE CODE OF ETHICS

The members of the Office of Inspector General are a team. We succeed through assisting one another to raise the level of our performance every day. Each of us has an obligation to make known our observations and suggestions for improving each of our tasks and procedures. Our performance of duty, our dedication to our mission, our daily attitude, reflects on how we are perceived by the other members of our Agency.

Every day we represent the Secretary, and our Agency, in each and every task. We are guided in the ethical performance of our duty not only by Florida's ethics laws, but most especially by our adherence to the ethical standards enunciated by Governor Rick Scott. As such, we are held to a higher standard for moral behavior, faithful obedience to the law, and the principles of integrity, objectivity, and independence.

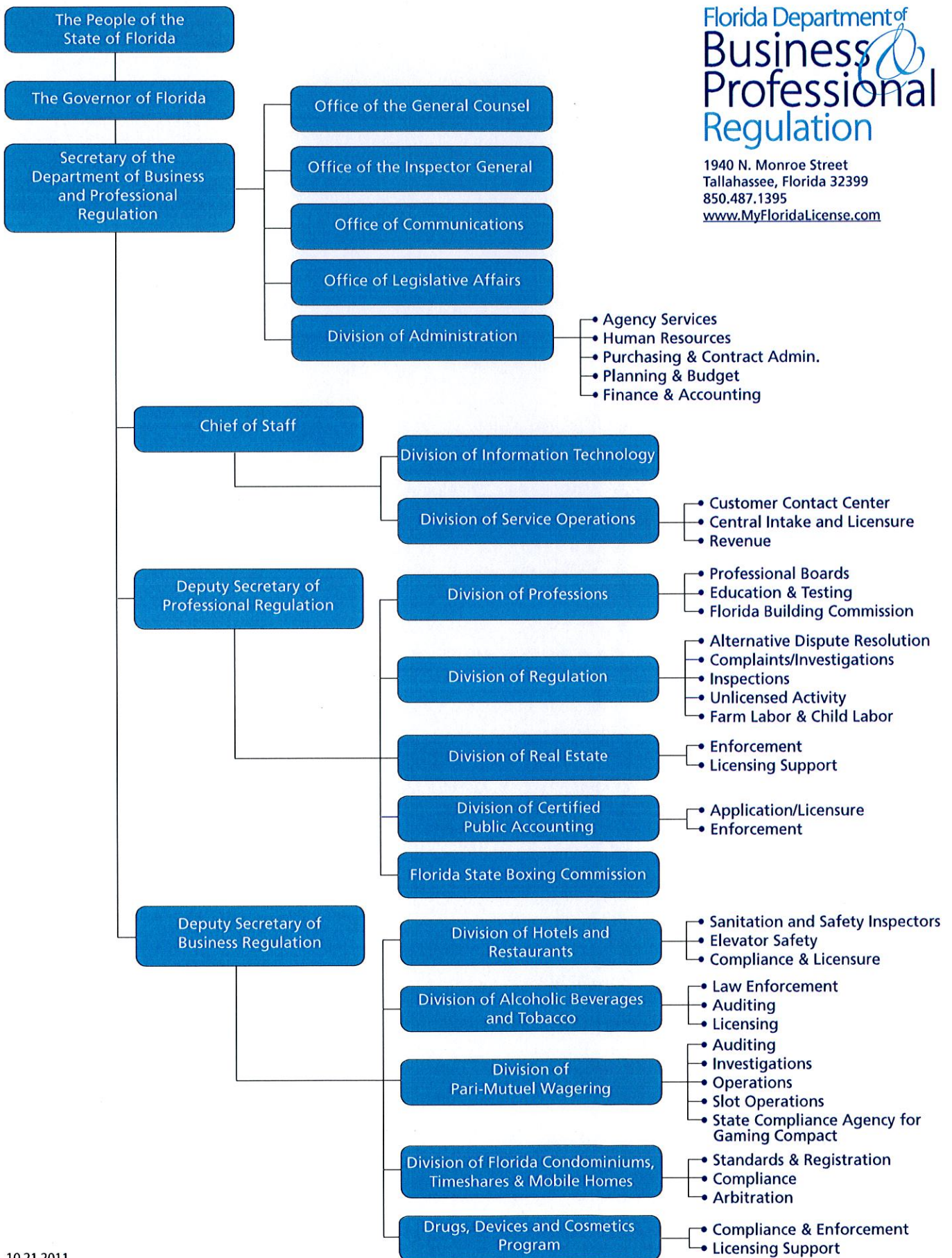


SETTING A STANDARD OF EXCELLENCE!

OVERVIEW OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

The Florida Department of Business and Professional Regulation (Department) managed a budget of **\$131 million** and revenues of **\$2.4 billion** during fiscal year 2011-2012. The Department is staffed by **1598** full-time positions, regulating approximately one million professionals and businesses across some 200 licensee categories. The Department licenses individuals ranging from electricians to real estate agents, from cosmetologists to professional boxers. Other department-regulated areas include hotels, restaurants, alcohol and tobacco retailers, condominiums and mobile home parks and pari-mutuel wagering. Our mission is to license efficiently and regulate fairly.





DUTIES OF THE INSPECTOR GENERAL

Section 20.055, Florida Statutes, defines numerous areas of responsibility for the Office of Inspector General. These duties include a requirement to:

Advise in the development of performance measures, standards, and procedures for the evaluation of Department of Business and Professional Regulation programs.

Assess the reliability and validity of the information provided by the Department on performance measures and standards, and make recommendations for improvement, if necessary.

Review the actions taken by the Department to improve program performance and meet program standards and make recommendations for improvement, if necessary.

Provide direction for, supervise, and coordinate audits, investigations, and management reviews relating to the programs and operations of the Department.

Conduct, supervise, or coordinate other activities carried out or financed by the Department for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, its programs and operations.

Ensure effective coordination and cooperation between the Auditor General, federal auditors, and governmental bodies with a view toward avoiding duplication.

Review rules relating to the programs and operations of the Department, and make recommendations concerning their impact.

Ensure that an appropriate balance is maintained between audit, investigative, and other accountability activities.

Review and evaluate internal controls necessary to ensure the fiscal accountability of the Department.

Conduct financial, compliance, electronic data processing, and performance audits of the Department and prepare audit reports of these findings and determine the scope and assignment of the audits.

Direct the performance of special audits assigned by the Secretary of the Department.

Submit all final reports to the Secretary of the Department and to the Auditor General.

DUTIES OF THE INSPECTOR GENERAL (continued)

Monitor the implementation of the Department's response to any audit of the Department conducted by the Auditor General pursuant to Section 11.45, Florida Statutes.

Report the status of corrective actions for Auditor General and OPPAGA reports to the Secretary of the Department and provide a copy of the status report to the Legislative Auditing Committee.

Develop a long-term and annual audit plan based on the findings of periodic risk assessments. The plan shall show the individual audits to be conducted during each year and related resources to be devoted to the respective audits.

Submit the annual audit plan to the Secretary of the Department for approval and provide a copy of the approved plan to the Auditor General and the Chief Inspector General.

Initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government.

Receive complaints and coordinate all activities of the Department as required by the Whistle-blowers Act pursuant to Sections 112.3187 - 112.31895, Florida Statutes.

Receive and consider the complaints which do not meet the criteria for an investigation under the Whistle-blowers Act and conduct such inquiries, investigations, or reviews as the Inspector General deems appropriate.

Report expeditiously to the Department of Law Enforcement or other law enforcement agencies, as appropriate, whenever the Inspector General has reasonable grounds to believe there has been a violation of criminal law.

Conduct investigations and other inquiries free of actual or perceived impairment to the independence of the Inspector General's office. This shall include freedom from any interference with investigations and timely access to records and other sources of information.

Submit in a timely fashion final reports on investigations conducted by the Inspector General to the Agency head, except for Whistle-blowers investigations, which shall be conducted and reported pursuant to Section 112.3189, Florida Statutes.

Prepare an annual report summarizing the activities of the Office of Inspector General during the immediately preceding state fiscal year. The final report shall be furnished to the Agency head.

ORGANIZATION, STAFFING, AND TRAINING

Office of Inspector General

The Office of Inspector General (Office) consists of the following positions: Inspector General, Director of Auditing, Director of Investigations, three internal auditors, three investigators, and one administrative support personnel. (Please see Office of Inspector General Organizational Chart on page 10) The operating budget for the Office was **\$858,377** for Fiscal Year 2011-2012.

Professional Designations

Collectively, the Office staff maintains the following professional designations and/or qualifications: one Certified Inspector General, two Certified Inspector General Investigators, two Certified Internal Auditors, two Certified Government Auditing Professional, two Certified Information Systems Auditors, one Project Management Professional, one employee with a Masters in Business Administration, five Certified Law Enforcement Officers, three Florida Crime Information Center/National Crime Information Center certified staff members, and three employees who provide Notary Public services. In addition, members of the Office hold degrees in criminology, criminal justice, business administration, accounting, political science, finance, sociology and one juris doctorate.

Professional Affiliations, Memberships and Board Appointments

The Office is affiliated with the following professional associations: Association of Inspectors General (AIG), The Institute of Internal Auditors (IIA), Information Systems Audit and Control Association (ISACA), Project Management Institute (PMI), and InfraGard.

Training Accomplishments

The Office personnel receives advanced training to increase knowledge and skills that will aid the staff in conducting audits and investigations, and to train new employees in proper procedures and standards. Office personnel utilize training resources from various professional organizations and associations, agencies, and individuals to fulfill its training needs.

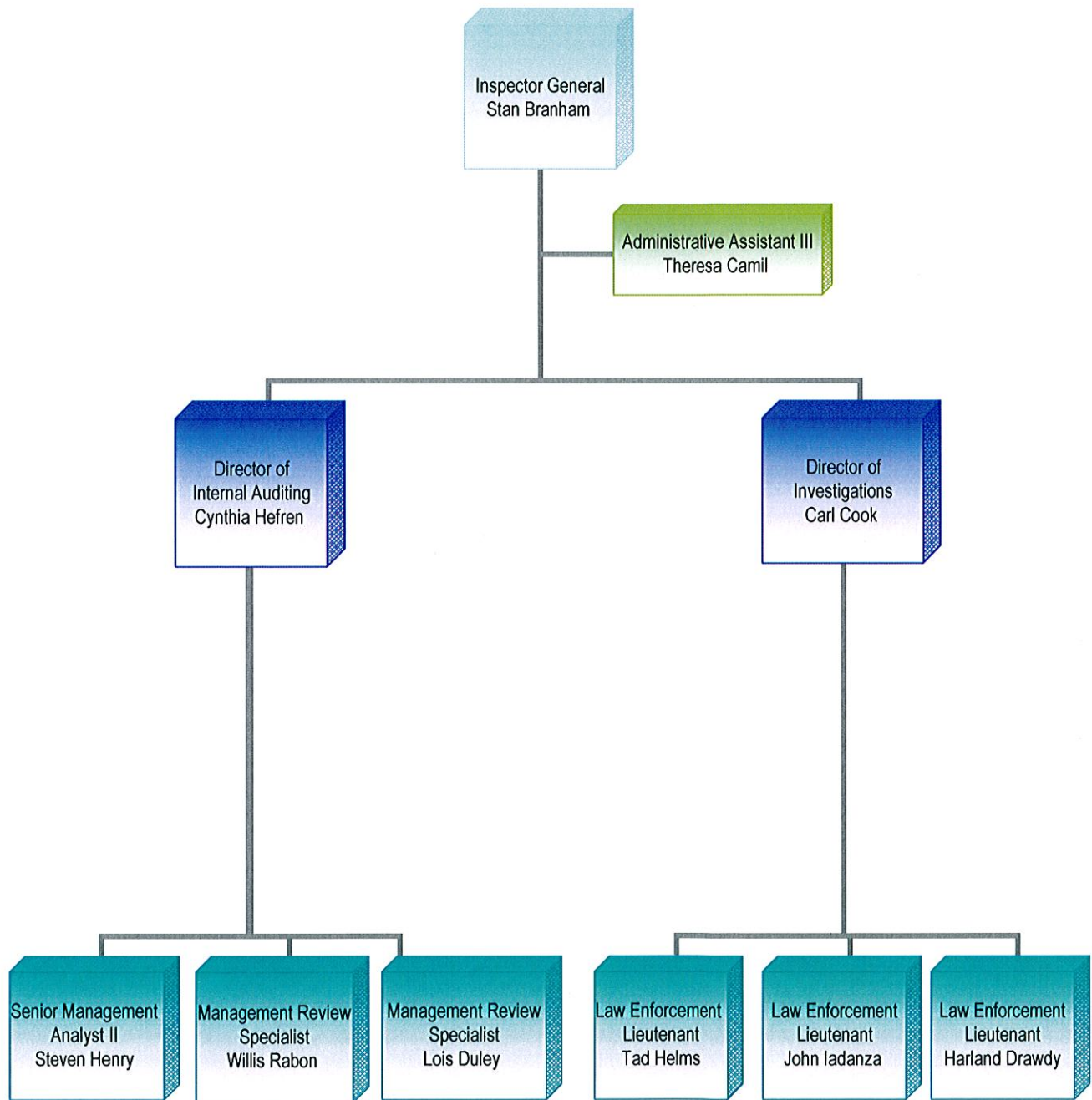
The Office continues to educate the Department's management team regarding complaint handling. We also continue to utilize the 360 degree complaint resolution approach, which is a process that ensures proper documentation and tracking of every complaint received by the Office. The independent approach this office uses in complaint resolution ensures that the appropriate attention and response is provided in each case.

Additionally, during Fiscal Year 2011-2012, staff from this Office provided training eight times at the New Employee Orientation Training. This training outlines the Office's role in audits and investigations.

Each staff member has a personal responsibility to achieve and maintain the level of competence required to perform their respective jobs, duties, and responsibilities. The Office of Inspector General encourages staff members to remain informed about improvements and current developments in internal auditing and investigation issues. Each staff member is required to complete continuing education and training.

The Office staff members participate in training sponsored by the Association of Inspectors General, Institute of Internal Auditors, Florida Department of Law Enforcement, The Institute of Police Technology and Management, the Pat Thomas Law Enforcement Academy, the Association of Governmental Auditors, the Florida Governmental Technology Conference, as well as in-house Department training.

Department of Business and Professional Regulation Office of Inspector General



As of 9/30/2012

Office of Inspector General

2011-2012 Annual Report

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

INTERNAL AUDIT SECTION

Internal Auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.¹ The Internal Audit Section's primary responsibility is to assist Department management in determining whether adequate controls exist and risks are mitigated to ensure the orderly and efficient conduct of business. The ultimate contribution is better management to maximize achievement of goals.

In addition, §20.055(7)(c)1, F.S., requires a description of activities related to the development, assessment, and validation of performance measures. These activities are integrated into the audit process.

¹ As defined by The Institute of Internal Auditors, www.theiia.org
Office of Inspector General

Audit Summaries FY 2011-12

**Report No. A-0910BPR-002
Audit of the Bureau of Education and Training
August 2011**

This project evaluated the adequacy and effectiveness of the Bureau of Education and Testing's (Bureau) procedures and practices for contracting and managing contracts for consultant services. Audit testing revealed that the Bureau established many more contracts than needed to support operations and procurement of the consulting contracts did not fully comply with statutory or rule requirements. In addition, invoices submitted for payment did not provide sufficient detail for proper audit as they frequently failed to clearly identify the services or activities for which the Bureau had authorized payment. The Bureau also maintains Service Level Agreements (SLA) with the department entities for which it provides testing, continuing education monitoring, and other services. Weaknesses in the process for maintaining SLA with Department entities and in written operating policies and procedures for services identified in the agreements were outdated and no longer represented current business practices we identified.

Recommendations included: an evaluation of the Bureau's business needs to better support executed agreements; follow the requirements of Chapter 60A-1.002, Florida Administrative Code, for procuring non-exempt services which are less than the Category II bid threshold; greater use of purchase orders when possible; adequate supporting documentation for invoice payment; improved contract management and monitoring practices; and revision of operating policies and procedures to reflect current business processes and practices.

The Bureau agreed with all audit findings and implemented recommendations.

**Report No. A-1011BPR-012
Division of Professions, Certified Public Accounting, Real Estate and the Florida State
Boxing Commission – Board Compensation and Travel Costs
August 2011**

This project assessed management of board member travel within the Divisions of Professions, Real Estate and Certified Public Accounting. Findings included that travelers did not always use the most economical method of travel and that the use of electronic conferencing services would reduce costs. Recommendations included providing information and training to travelers regarding methods for calculating the most economical method of travel as well as increased use of electronic conferencing services.

The Divisions and the Commission concurred with audit findings and have taken corrective actions to address recommendations.

Report No. A-15-0910-005
Division of Condominiums, Timeshares and Mobile Homes - Bureau of Compliance
November 2011

This project addressed the adequacy and effectiveness of the Division of Condominiums, Timeshares, and Mobile Homes, Bureau of Compliance's complaint intake and investigation process. Audit testing revealed that although the Bureau is generally processing consumer complaints in accordance with rules and regulations and it is making efficient use of department tools for complaint intake, investigation, and processing, opportunities for improvements exist. We recommended that the Bureau could strengthen tools by: revising complaint forms to more clearly indicate its statutory authority; more timely acknowledgement of consumer complaints; ensuring that no lapse in case activity occurs; updating the Summary portion of the complaint case file; and revising the Bureau Complaint Manual to provide for the existence of complaint process checklists. Testing also identified minor inaccuracies in complaint receipt and closure dates which could impact data reliability.

The Bureau concurred with audit findings and is in the process of taking corrective actions to implement recommendations.

Report No. A-1011BPR-028
Administrative Policies and Procedures
November 2011

This project assessed the effectiveness of Department procedures and practices for adopting, updating, maintaining, and disseminating administrative policies. We found the Department's policy management process could be strengthened. We recommended that management develop a process to ensure that the policy lifecycle process is administered adequately; implementation of the new policy management application to ensure compliance with the current guidance for updating and maintaining administrative policies; and, periodic review of policies and procedures, at least annually and after the legislative session, to ensure timely revision and reflection of significant changes in law and rule.

The Division of Administration concurred with audit findings and is in the process of taking corrective actions to implement recommendations.

Report No. C-1112BPR-012
2011 State of Florida
Enterprise Information Security Risk Assessment
February 2012

Florida Statutes require each agency to "conduct, and update every three years, a comprehensive risk analysis to determine the security threats to the data, information, and information technology resources of the agency," and to "ensure that periodic internal audits and evaluations of the agency's security program for the data, information, and information technology resources of the agency are conducted" [Section 282.318 (4) (c) and (f), Florida Statutes (F.S.)].

Department Information Technology management answered the survey and assembled supporting documentation. Audit staff reviewed the completed assessment and verified the reasonableness of the responses. The completed document was signed by the Inspector General and the Secretary and was provided to the Agency for Enterprise Information Technology.

Report No. A-1112EOG -010
Enterprise Contract Monitoring
February 2012

Pursuant to Section 14.32, F.S., the Executive Office of the Governor, Office of Chief Inspector General initiated an enterprise audit of the contract monitoring process. The Department's Office of Inspector General (OIG) participated in this project and reported on issues specific to the Department. This project determined if contract monitoring policies and procedures were in compliance with state laws, rules, and other regulatory requirements; assessed the adequacy of contract manager training and development; and identified best practices. The audit revealed that improvements were needed in contracting guidance and training and development programs, and that adoption of a best practices framework would enhance the process.

Recommendations included a periodic review, and subsequent revision, of policies and implementing guidance; more explicit language and requirements in the standard contract template; enforcement of the requirement for contracting staff to attend mandated training and obtain required certification; and, implementation of a best practices framework for contract monitoring.

The Division of Administration concurred with our audit findings and is in the process of taken corrective actions to implement recommendations.

Report No. C-1112BPR-026
Division of Service Operations – Bureau of Central Intake and Licensure
Revenue, Mail Intake and Scan Units
March 2012

This consulting project evaluated internal controls for the Mail Intake, Scan and Revenue Units business processes, particularly with regard to the cash receipting process. Testing revealed that the process could be improved, without significant expense, by: establishing control over monies earlier; enhancing physical security; greater safeguarding of assets; and oversight through regular control assessments.

Report No. A-1112BPR-011
Division of Alcoholic Beverages and Tobacco – Bureau of Enforcement Management
June 2012

The objective of this project was to determine if the Bureau's workforce was adequately tasked and supervised to effectively meet its mission. The audit focused on evaluating alcohol and

tobacco surveys and inspection records and supporting documentation as a method of assessing adequate Bureau management processes for workforce tasking and supervision.

Testing revealed that supervisors could not properly account for the activities of staff and the existence of documentation for reported agent activity; inspection reports lacked uniformity; and inconsistencies in carrying out enforcement management and supervision throughout the state. As such, supervision and oversight of agent activity were ineffective. The volume of unsupported survey and inspection activity significantly impacted our ability to provide assurance that reported agent activities occurred and increases the risk that managers are making business decisions based on inaccurate information.

The Division agreed to all audit findings and is in the process of taking corrective action to implement recommendations to mitigate risks associated with audit findings.

On-going Issues

Corrective actions resulting from findings and recommendations made in response to internal audits are monitored by the Office of Inspector General. A status report of corrective action is provided to the Secretary approximately six months after the final report is issued.

Section 20.055(7) (c) 4, F.S., requires that significant findings identified in previous annual reports that have not been completely corrected be acknowledged. Our office previously conducted an **Audit of Department Policies and Procedures for Usage of State Cellular Telephones and Blackberries (F-1112BPR-001)** that explored agency information on the issuance of mobile communication devices, the policies regarding accountability of these devices, and personal usage and reimbursement for personal usage of state-issued devices. The Department partially implemented our recommendations. This Unit has experienced significant turnover and has requested additional time to implement corrective action in response to audit findings and recommendations. The Office of Inspector General will monitor corrective action until the Department implements additional changes in policies and procedures for managing the department's mobile communication devices or assumes the risk of not implementing recommendations.

In addition, we continue to monitor the progress of the implementation of recommendations for **Report No. A-1011BPR-006 - Audit of Secondary Employment**. The Department is currently revising its policy for secondary employment and audit staff is in the process of conducting follow-up work.

INVESTIGATION SECTION

The primary function of the Office of Inspector General's investigative staff is to conduct internal investigations based on allegations or evidence of mismanagement or employee misconduct. This is accomplished through both proactive and reactive investigative efforts. These investigations are authorized in accordance with Section 20.055(6), Florida Statutes, which in part states "...each inspector general shall initiate, conduct, supervise, and coordinate investigations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses in state government."

Additionally, internal investigations may identify deficiencies in policies and procedures, other internal controls, or business processes that caused or contributed to the situation requiring investigation. By reporting these deficiencies to management, the Department has the opportunity to address the deficiency and thereby reduce the likelihood of future occurrences of fraud, waste, mismanagement, misconduct or other abuses. Our findings are reported to the Department's Secretary, the Bureau of Human Resources, and as appropriate, to the respective Division Directors, the immediate supervisors, and the Office of the General Counsel. Recommendations for improved processes, policies, or procedures are made when warranted by the findings.

Types of Cases in Fiscal Year 2011-2012

The Office of Inspector General received the following types of cases during Fiscal Year 2011-2012:

Backgrounds - Investigations and criminal history reviews of individuals who are being considered to fill positions designated as sensitive. This includes Career Service, Senior Management, Select Exempt Service and Other Personal Service positions.

Information – Information cases are completed in order to document information and/or actions that otherwise do not meet the criteria for inquiries or investigations.

Inquiries - Informal investigations conducted to determine the validity of a complaint prior to the initiation of a Case Investigation. The determination as to whether the allegation remains an Inquiry Case is dependant on the evidence obtained during the course of the informal investigation.

Internal Investigations - Investigations conducted by the Office of Inspector General in response to a complaint received by the Office, and from the evidence obtained during an inquiry that warrants a full investigation into the facts surrounding the allegation. Complaints alleging employee misconduct, fraud, waste, abuse, or mismanagement may be made orally or in writing by an employee or non-employee.

Referrals - Evaluation of complaints, typically of minor misconduct, to determine whether the complaint should be addressed by the appropriate division within the Agency or sent to the applicable external Agency.

Reviews – Reviews are conducted in order to examine the actions of the Agency and/or its members, and to ensure that the actions were adequate, accurate, or correct.

Use of Force - Investigations into the circumstances that involve a law enforcement officer’s use of force when performing his or her duties.

Whistle-Blower – Receive complaints, by a State employee, former State employee, or Applicant for State employment, of serious allegations of wrongdoing on the part of a public employer or independent contractor and coordinate all activities of the Agency as required by the Whistle-Blower’s Act pursuant to Sections 112.3187-112.31895, Florida Statutes.

Case Totals for Fiscal Year 2011-2012:	277
Accidents	29
Backgrounds	8
Information	53
Inquiries	39
Internal Investigations	5
Referrals	141
Reviews	1
Use of Force	1
Whistleblower	0

Investigative Conclusions for Fiscal Year 2011-2012

Upon conclusion of an investigation, a finding is made as to the validity of the allegation and is reported under the *Conclusion(s)* segment of the case report.

The 5 internal investigations resulted in 9 findings. These findings consisted of 9 sustained. A summary of these investigations is provided on page 19. The definitions of the types of finding are as follows:

Sustained - The allegation(s) were supported by the preponderance of the evidence to justify a realistic conclusion that the actions did occur and were a violation of law, rule or policy.

Not Sustained - The allegation(s) were not supported by fact and insufficient evidence was acquired during the investigation to prove or disprove the allegations.

Unfounded - Allegation(s) of the complaint were not supported by facts and were shown not to have occurred.

Exonerated – The alleged conduct occurred, but was lawful and proper.

Policy Failure – The alleged conduct occurred and caused harm; however, the conduct was consistent with policy (i.e., a policy change may be needed).

INVESTIGATIVE PLAN OF SUPPLEMENTARY ACTIVITIES FOR FISCAL YEAR 2011- 2012

Training/Outreach Initiative – Continue the program to familiarize new employees with the role and responsibilities of the Office of Inspector General. Additionally, this program will continue to familiarize Department supervisors and managers with the role and responsibilities of the Office of Inspector General, as well as the importance of their positions relating to prompt and appropriate supervisory intervention regarding employee performance issues and customer complaints.

Policy Review – Conduct periodic reviews and training sessions, in regard to internal affairs investigations, with Division Directors to ensure that all laws, rules, policies and procedures are followed and that the rights of employees are not violated.

INVESTIGATIVE SUMMARIES FOR FISCAL YEAR 2011-2012

CASE NUMBER	DATE RECEIVED	DIVISION	ALLEGATIONS	SUMMARY OF FINDINGS
2011-190-IA	11/02/2011	Division of Hotels and Restaurants	Conduct Unbecoming a Public Employee Violation of Law or Agency Rules	Sustained
2012-018-IA	02/06/2012	Division of Alcoholic Beverages and Tobacco	Conduct Unbecoming a Public Employee Poor Performance	Sustained
2012-025-IA	02/14/2012	Division of Alcoholic Beverages and Tobacco	Conduct Unbecoming a Public Employee	Sustained
2012-098-IA	04/30/2012	Division of Alcoholic Beverages and Tobacco	Conduct Unbecoming a Public Employee Negligence	Sustained
2012-100-IA	04/30/2012	Division of Hotels and Restaurants	Conduct Unbecoming a Public Employee Violation of Law or Agency Rules	Sustained

