

FINAL AUDIT REPORT

DEPARTMENT OF COMMUNITY AFFAIRS

ETHICS PROGRAM AUDIT

Report No. A-1011EOG-008

OIG ACN 11-A002

Connie Schulze
Contract Auditor

Candie Fuller
Inspector General

DEPARTMENT OF COMMUNITY AFFAIRS
OFFICE OF INSPECTOR GENERAL
May 26, 2011

TABLE OF CONTENTS

<u>CONTENTS</u>	<u>PAGE</u>
Table of Contents	i
Executive Summary	ii
Background	1
Audit Scope and Objectives	1
Methodology	1
Standards	1
Results of Audit	2
Ethical Climate Survey	6
Conclusion	13

Executive Summary

Pursuant to Section 14.32, Florida Statutes, the Executive Office of the Governor, Office of the Chief Inspector General initiated an enterprise audit of organizational ethics. In cooperation, the Department of Community Affairs (Department), Office of Inspector General, conducted an ethics audit that will be included in a roll-up report published by the Chief Inspector General's office. The ethics audit focused primarily on recent actions taken by the Department and the Division of Emergency Management (Division) to design, communicate, monitor, promote and enforce ethical standards and policies applicable to its employees. The Division, while administratively housed within the Department, maintains a separate ethics policy and has designated a Division Ethics Officer.

The purpose of our audit was: 1) to determine whether the Department implemented the Office of the Governor's Executive Order Number 11-03, Ethics and Open Government; 2) to identify potential weaknesses and best practices that could be shared among all agencies.

We noted the following Findings:

- The Department and Division did not implement the Ethics Executive Order timely;
- The Department and Division need improvement in ethics training, communication, and ethics violation reporting;
- The Department and Division need improvement in employee acknowledgement of ethics policy; and
- The Department and Division need improvement in Dual Compensation Approval process

The audit findings, control deficiencies, and recommendations as they relate to this audit are further detailed in the **Findings and Recommendations** section of this report.

Introduction

Background:

In January 2011, Governor Scott issued Executive Order 11-03, directing the immediate adoption and implementation of a revised Code of Ethics. This Code of Ethics applies to State of Florida employees including Secretaries, Deputy Secretaries, and Chiefs of Staff. It requires each agency Secretary to designate an individual at his or her agency to act as the agency's Chief Ethics Officer, who will make reasonable efforts to ensure that the employees responsible for adhering to this Code of Ethics become familiar with relevant ethics, public records, and open meeting requirements. Each agency was directed to implement any agency-specific adjustments to the code within 45 days of the date of the order.

Audit Scope and Objectives:

The scope of the audit focused primarily on recent actions taken by the Department and Division to design, communicate, monitor, promote, and enforce ethical standards and policies applicable to Department employees.

The objective of the audit was to evaluate:

- The Department's and Division's implementation of the Office of the Governor's Executive Order Number 11-03, Ethics and Open Government; and
- To identify potential weaknesses and best practices that could be shared among all agencies.

Methodology:

To accomplish our objective, we:

- Reviewed applicable laws, rules and Executive Orders regarding ethics;
- Reviewed the Department and the Division's ethics policies and procedures;
- Administered a department-wide, which included the Division, survey and analyzed the results;
- Interviewed the Ethics Officer for the Department and Division; and
- Collected and evaluated relevant documentation.

Standards:

Our audit was conducted in accordance the International Standards for the Professional Practice of Internal Auditing (IIA Standards).

Results of Audit

Findings and Recommendations

Finding 1: The Department and Division did not implement the Ethics Executive Order timely

The Executive Order (effective as of January 4, 2011) requires each agency Secretary to designate an individual at his or her agency to act as the agency's chief ethics officer, who will make reasonable efforts to ensure that the employees responsible for adhering to the Executive Office of the Governor's Code of Ethics become familiar with relevant ethics, public records, and open meeting requirements.

The Governor's Code of Ethics further requires each agency Secretary to review and evaluate the current policies adopted at his or her agency and to make adjustments for the program requirements and variables unique to his or her agency. Each agency was directed to implement any agency-specific adjustments to the code within 45 days of the date of the order, which was February 18, 2011.

The Department and Division have not updated their Ethics Policy and Procedure since the issuance of the Governor's Code of Ethics, dated January 4, 2011.

Department: The Department's designated Ethics Officer is the General Counsel. The Department did not have a designated Ethics Officer between January 4, 2011 and February 28, 2011 due to the General Counsel position being vacant during this timeframe. The Department henceforth was unable to meet the time requirement set forth in the Governor's Code of Ethics to implement any agency specific adjustments to the Department's Ethics Policy.

In accordance with the Executive Order, the Secretary of the Department designated the General Counsel on February 28, 2011 as the Department's Chief Ethics Officer. The position provides legal information and interpretation of ethical issues and also ensures that employees become familiar with relevant ethics, public records, and open meeting requirements. The Chief Ethics Officer has reviewed the Code of Ethics and examined the need to update the Department's current ethics policy. The Department's current ethics policies and procedures are in the process of being revised.

Recommendation: We recommend that the Department and Division complete the implementation of revisions to existing ethics related policies in response to *Executive Order 11-03*.

Department Response: The Department has reviewed and evaluated the Department's Code of Ethics and Standards of Conduct in light of the standards established by the Governor's Code of Ethics adopted January 4, 2011, and have revised the Department's Code and Standards accordingly.

Division Response: The Governor's General Counsel determined that DEM would be subject to all of the policies of the EOG upon the transfer of DEM from DCA to the EOG. Therefore, it was determined the DEM would not independently revise and adopt a new ethics policy, as we would be subject to the stricter policy of the EOG in the immediate future. DEM will adopt the EOG Ethics Policy, Including the EOG's ethics reporting procedure.

Finding 2: The Department and Division need improvement in ethics training, communication, and ethics violation reporting

Ethics Training

Pursuant to the Executive Order and as set forth in the Code of Ethics, each agency Secretary is to arrange ethics, public records, and open meeting training for his or her employees on an annual basis. Best practices in ethics programs also emphasize annual training on ethics for all employees.

Our review indicated that the Department and Division do not offer ethics training to its employees. There is no required annual ethics training. Without mandatory annual ethics training for employees, the Department and Division are not in compliance with the Code of Ethics. Further, without an effective ethics training program, the Department and Division are not able to ensure that ethics standards are properly communicated and enforced to all employees.

Department: The Department subsequent to the start of this audit has developed an Ethics Work-plan which encompasses a tentative schedule of ethics training to be implemented with those currently in operation. The Chief Ethics Officer is in the process of developing multiple training methods including; online PowerPoint, Department wide weekly ethics tip email, and a Basic Training Handbook for the Secretary and Senior Staff.

Recommendation: We recommend that the Department and Division update the ethics policies and procedures to include training for all employees on an annual basis as provided for by the Governor's Code of Ethics.

Department Response: The Department has updated its ethics policies and procedures to include a requirement for training all employees on an annual basis on ethics, public records, and open government.

Communication

Pursuant to the Executive Office of the Governor's Code of Ethics each agency is required to designate a Chief Ethics Officer for the agency. While the Department and the Division designated a Chief Ethics Officer in compliance with the code, we noted the following areas for improvements:

- **The Department and Division** do not have a procedure in place to make employees aware of the ethics officer position.

- **The Department and Division** need to update the position descriptions of the Chief Ethics Officers to reflect their duties and responsibilities.
- **The Division** orally communicated to Counsel the authorization to act as the Division's Chief Ethics Officer. No official documentation exists appointing Counsel as Chief Ethics Officer. By not providing appropriate documentation and communication, Human Resources was unaware the Division designated a Chief Ethics Officer.

Recommendation:

- We recommend that the Chief Ethics Officer designation and role, to include defined tasks, be added to the applicable position descriptions.
- We recommend that the Department and the Division employees be made aware of the Chief Ethics Officer position; role, responsibilities and contact information, to encourage communication for situational ethics questions.
- We recommend that the Division's delegation of authority be documented and communicated with Human Resources.

Department Response: A designation and specific tasks of the General Counsel as the Chief Ethics Officer have been included in applicable position descriptions; employees will be made aware of the position and its role and contact information. The Department's revised Code and Standards clearly sets forth who to contact for ethics questions and issues.

Ethics Violation Reporting

An effective ethics program requires an ethics violation reporting mechanism. The Department and Division do not have any procedures in place to ensure that staff is aware of how to report any potential ethics violations.

Recommendation: We recommend revising the Department and Division's ethic policy to include procedures on reporting any potential ethics violations.

Department Response: The revision of the Department's Code and Standards focuses on providing training and resources through which employees may obtain clarification on ethics requirements they must follow. The Code and Standards direct questions and concerns to the Ethics Commission and to the Office of the General Counsel.

Division Response: DEM agrees that Ethics training should be provided to all employees on an annual basis, that the Chief Ethics Officer be added to the position description of the attorney for the DEM, and that an ethics reporting procedure should be established. The position description of the attorney for DEM will be expanded to include the role of the Chief Ethics Officer to include providing ethics training and violation reporting.

Finding 3: The Department and Division need improvement in employee acknowledgement of ethics policy

While the Department and the Division do not use a pledge form as provided in the Governor's Code of Ethics, each new employee is provided an acknowledgement form at his/her new employee orientation that identifies the intranet location of important Departmental/Divisional procedures. The acknowledgement form also notes the employees responsibility to review the

procedures and requires the employee to sign the form acknowledging that the employee was provided the information regarding the Department's policies and procedures. While the acknowledgement form does not provide assurance that the employee read and understood the referenced policy and procedure, it does state that it is the responsibility of the new employee to review the instructions and request clarification if needed.

Upon our review it was discovered that the Secretary had not signed an acknowledgement form or pledge form as required in the Governor's Code of Ethics. Subsequent to our review, the Secretary signed the pledge form on March 25, 2011.

Recommendation: We recommend updating the acknowledgement form to incorporate the recommended language included in the pledge form provided in the Governor's Code of Ethics. We also recommend that Human Resources ensure that all new employees sign a copy of the required form during the new employee orientation process.

Department Response: The Department's revised Code and Standards require all employees to sign an acknowledgment of their understanding that the Department requires adherence to both the statutory Code of Ethics for Public Officer and Employees and to the Department's Code and Standards. Since the changes to the Department's Code and Standards are significant, the Department will require an acknowledgment from all current employees that they were advised of the changes to the Code of Ethics, were provided information on how to access to the revised version, and were advised that they must comply with its terms.

With respect to the Governor's Code of Ethics pledge form, both the Secretary and the Acting Assistant Secretary have executed the pledge to comply with the Governor's Code and the executed pledge forms have been filed with the Governor's Director of Administration.

Division Response: DEM agrees that the acknowledgement of employees could be more explicit. DEM will train and inform its employees on ethics procedures by making the acknowledgment from more explicit and by conducting regular training.

Finding 4: The Department and Division need improvement in Dual Compensation Approval process

The Governor's Code of Ethics requires that no employee may have any on-going dual employment or dual compensation without prior approval from the agency's Chief Ethics Officer.

The Department and the Division both require that employees seek approval for dual employment and dual compensation; however the current policies and procedures, last updated in 1988, do not require approval from the Chief Ethics Officer.

Recommendation: In order to comply with the Governor's Code of Ethics we recommend that the Department and the Division include in its policies and procedures the approval of all dual employment or dual compensation by the Chief Ethics Officer. We recommend that Human Resources continue to maintain a current listing of all Department and Division employees dually employed or dually compensated in or outside of State Government.

Department Response: The Department has adopted two policies relating to dual employment: “Dual Employment within State Government” and “Additional Employment Outside State Government.” The procedures used are comprehensive and have operated to provide sufficient safeguards to ensure against conflicts of interest or other legal problems. However, both policies were last adopted or modified in 1988 and refer to outdated rules and non-existent positions. It is expected that the Department will be dissolved between July and October 1 of this year. In light of the fact that the policies have continued to be used successfully to direct the conduct of the Department and its employees, amending the policies at this stage would not serve a useful purpose.

Division Response: DEM agrees that the Chief Ethics Officer should review and approve any employee request for dual employment. The position description of the attorney for the Division will be expanded to include the role of Chief Ethics Officer of the Division and shall include the approval of dual employment.

Ethical Climate Survey Results

Ethical Climate:

Ethical climate refers to an organization's culture, environment, motives, and pressures. It is the role of senior executives to establish and reinforce ethical climate throughout an organization. If their "tone at the top" differs from the tone at other levels, the organization's ethical climate will be questionable.

The Survey:

The Department and Division employees were requested to voluntarily participate in a survey consisting of 12 questions as well as an opportunity for comments. The purpose of the survey was to assess the ethical environment of the Department and Division.

Method:

The survey to assess the ethical climate at the Department and Division was a self-administered Web survey. All employees with email accounts were asked to participate in the survey. The survey was anonymous and participation was voluntary. The survey was open from March 7-11, 2011 for Department employees. The survey was open from March 8-11, 2011 for Division employees.

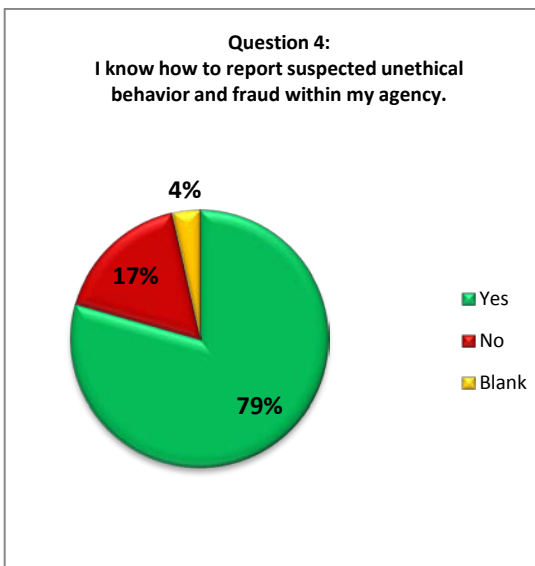
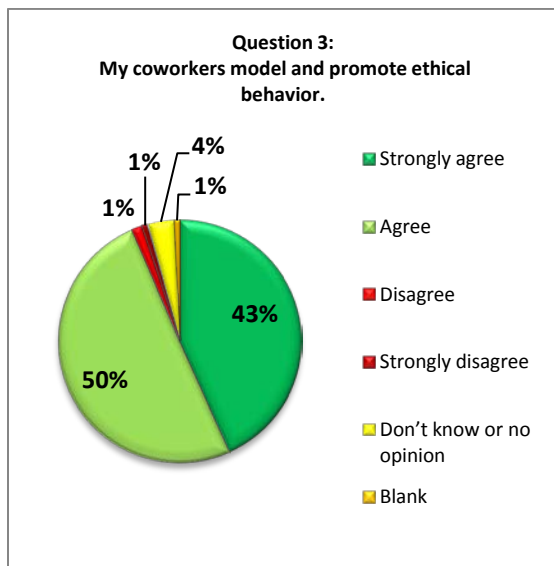
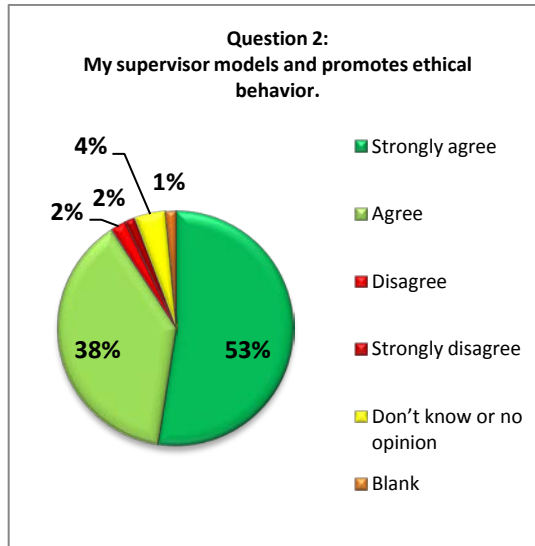
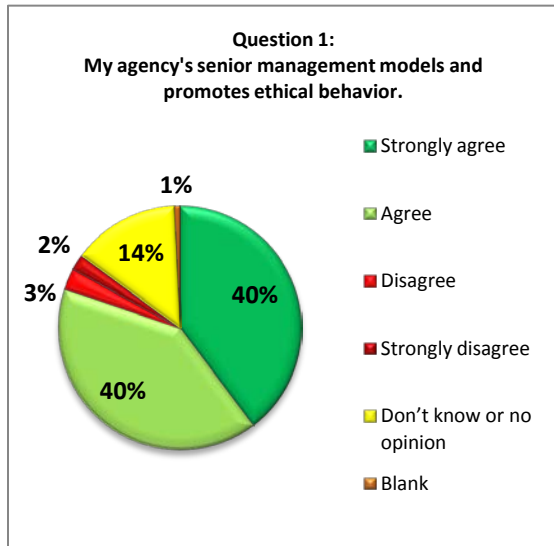
Response Rate:

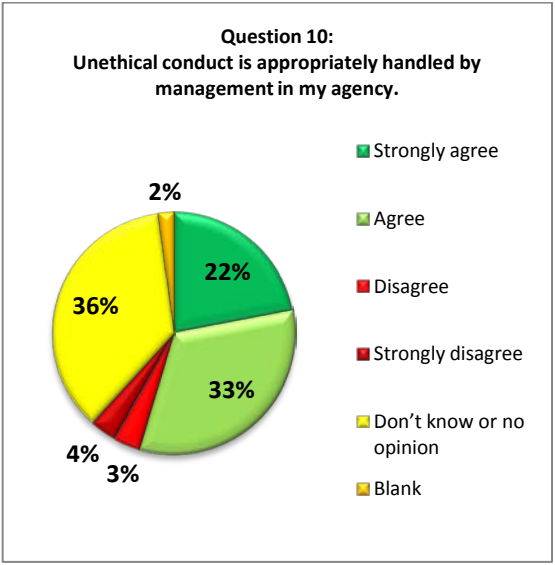
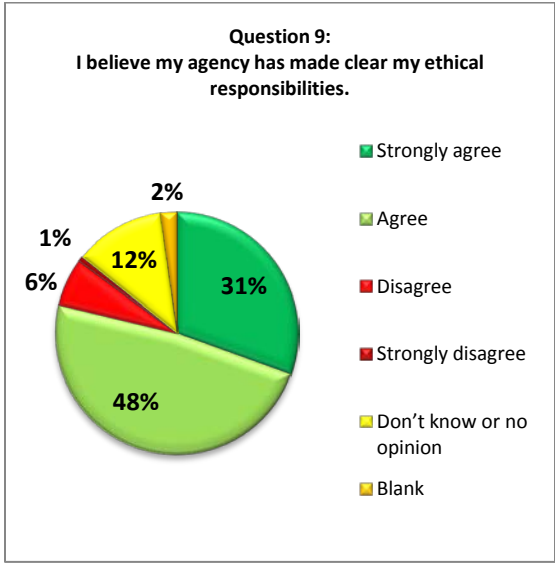
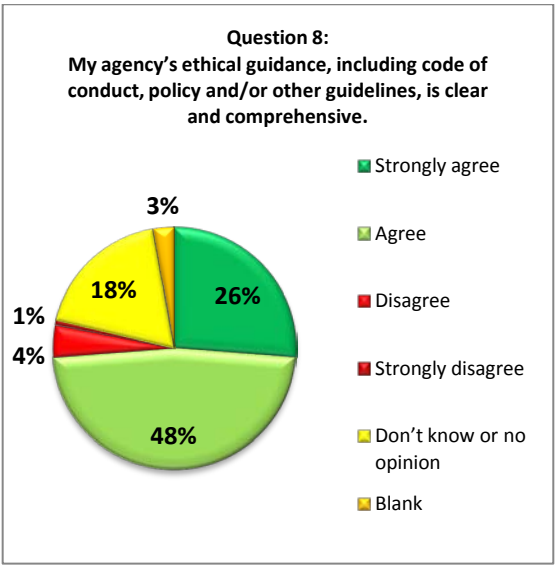
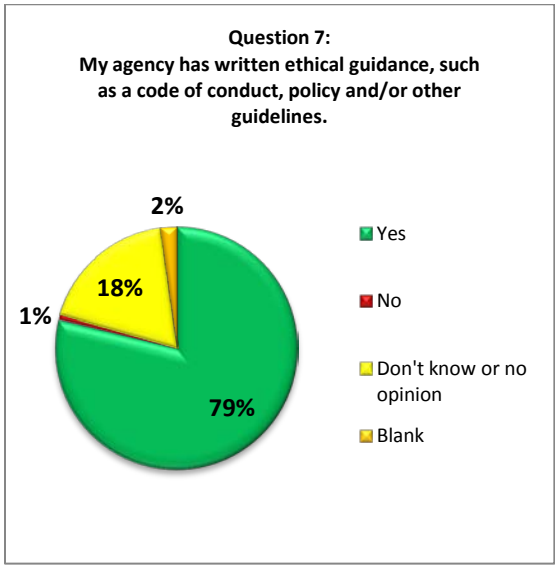
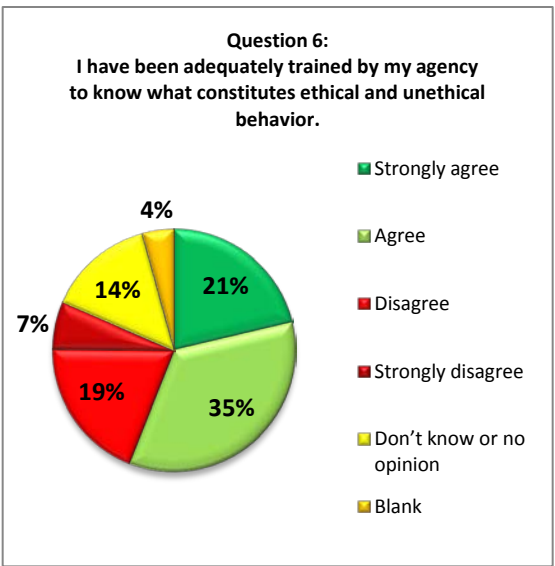
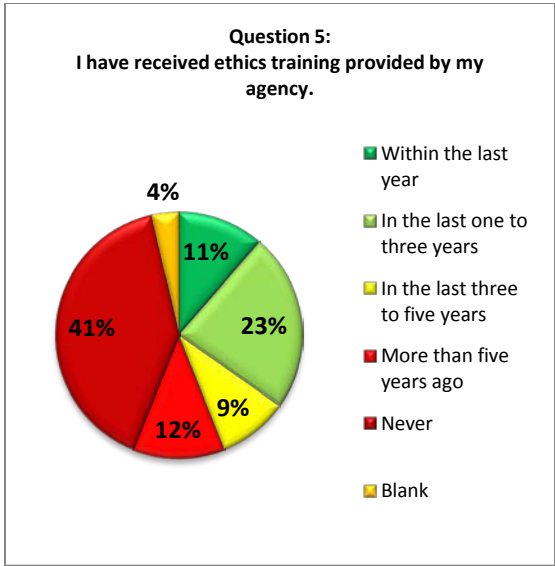
The Department had 232 full time and OPS employees that received email notification to participate in the survey. Responses were received from 141 of those 232 employees or a 60.78% response rate.

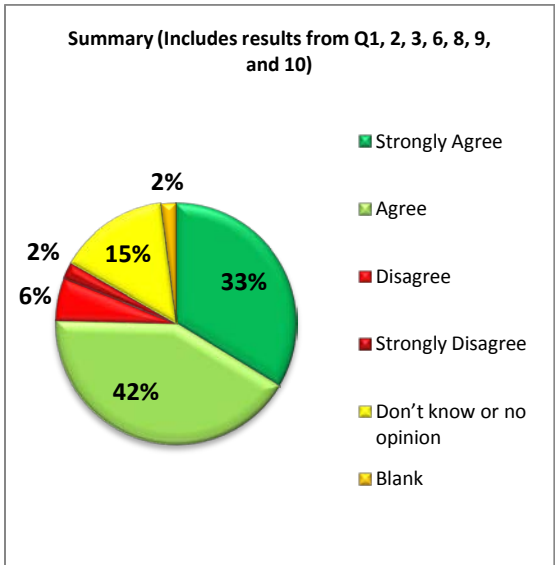
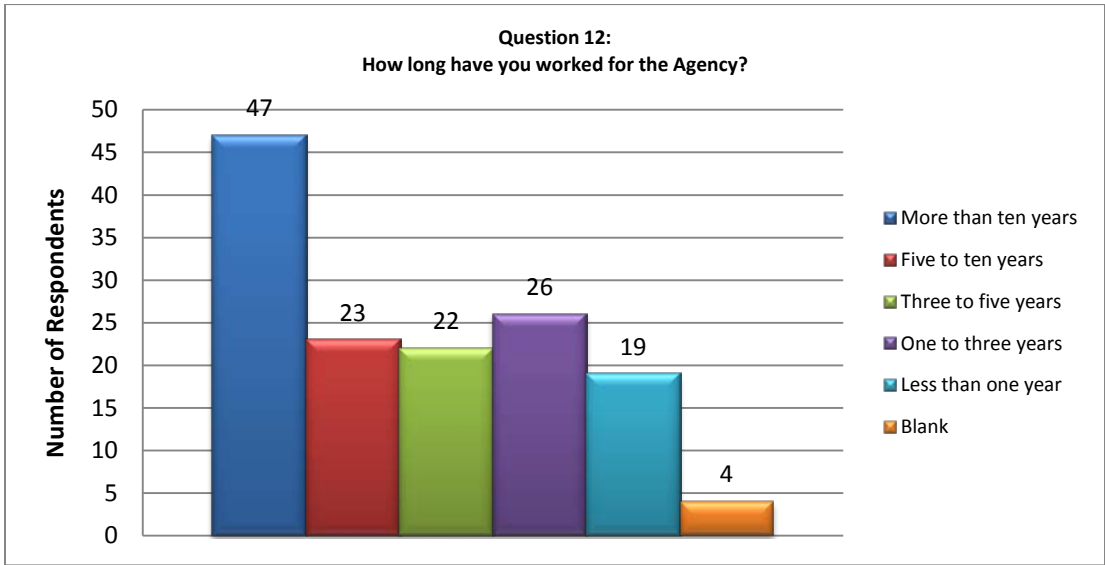
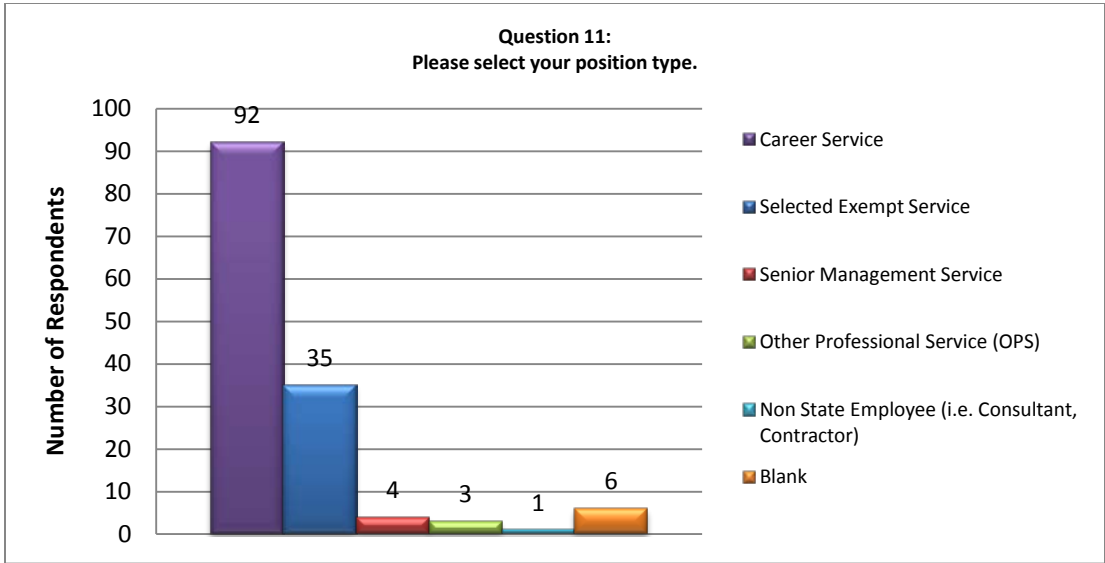
The Division had 259 full time and OPS employees that received email notification to participate in the survey. Responses were received from 196 of those 259 employees or a 75.68% response rate.

Results: Ethical Climate Survey Results - Department – 141 Respondents

The graphs below indicate the responses received by Department employees for all 12 questions asked in the survey.





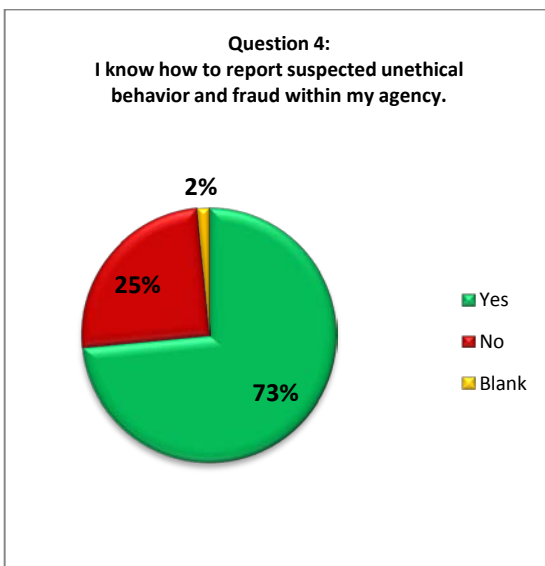
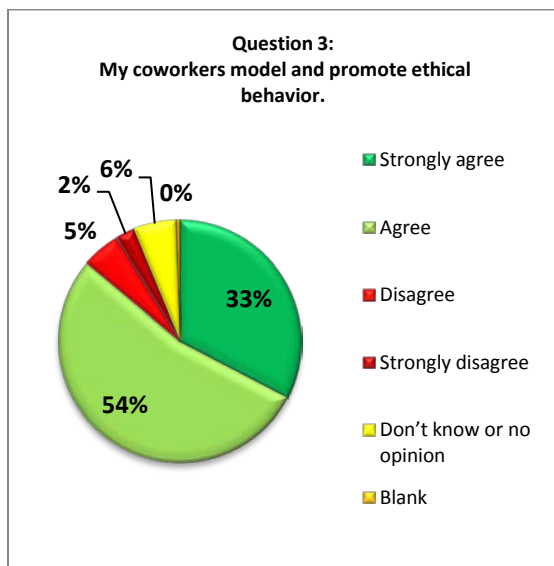
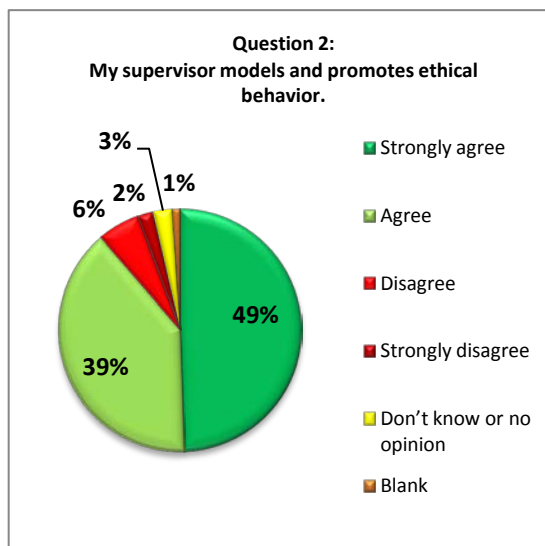
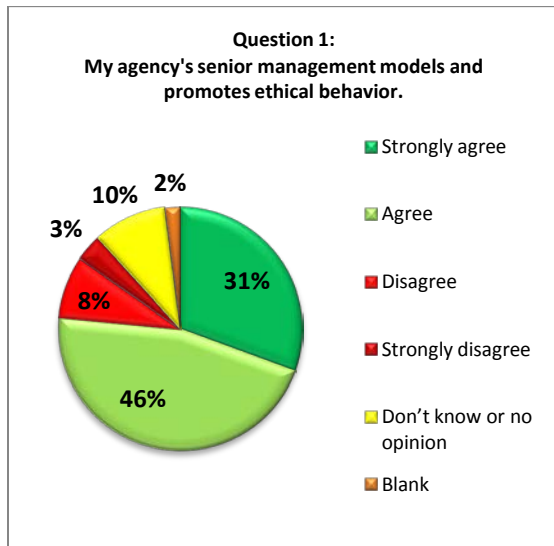


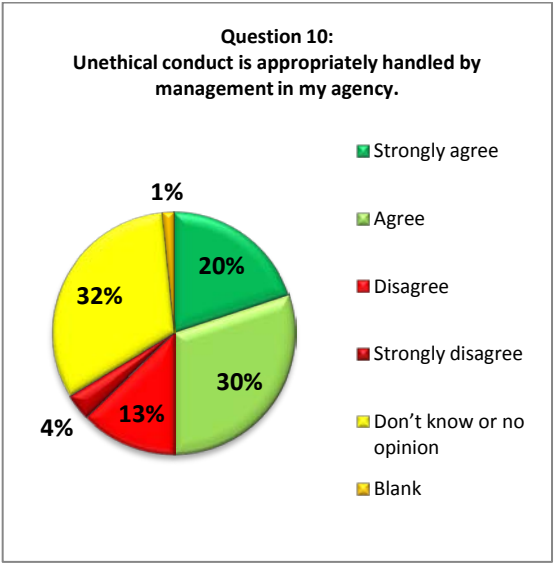
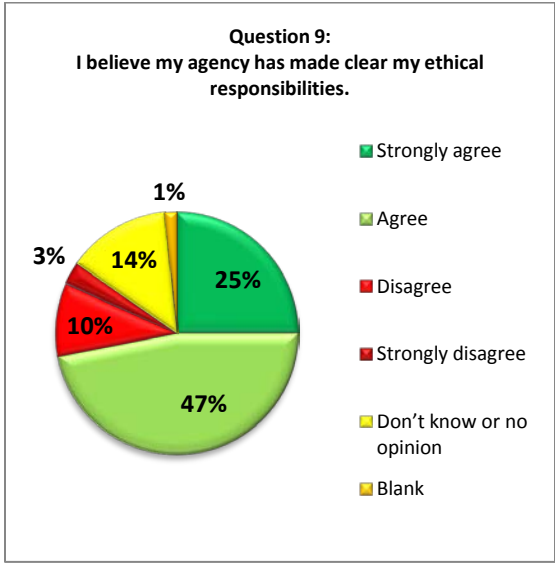
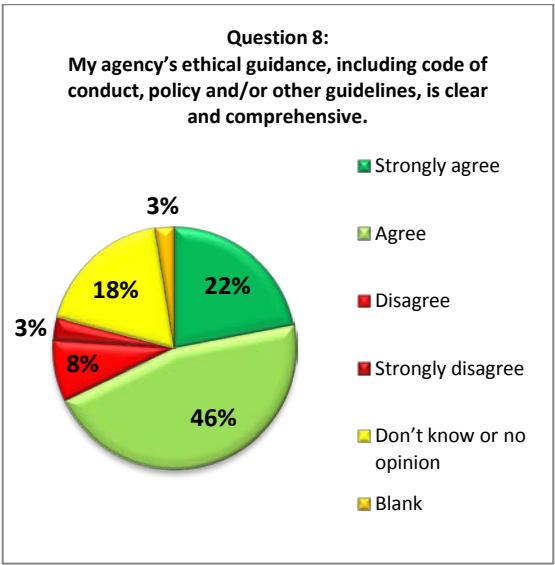
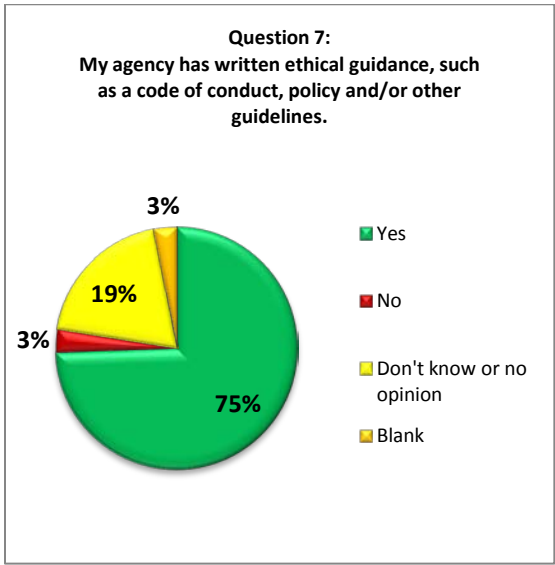
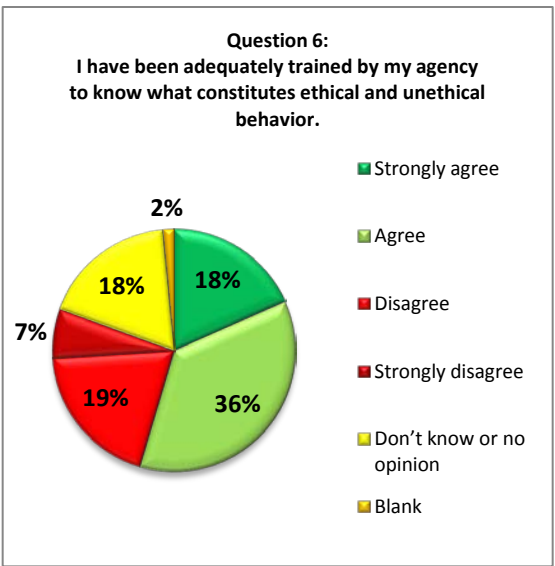
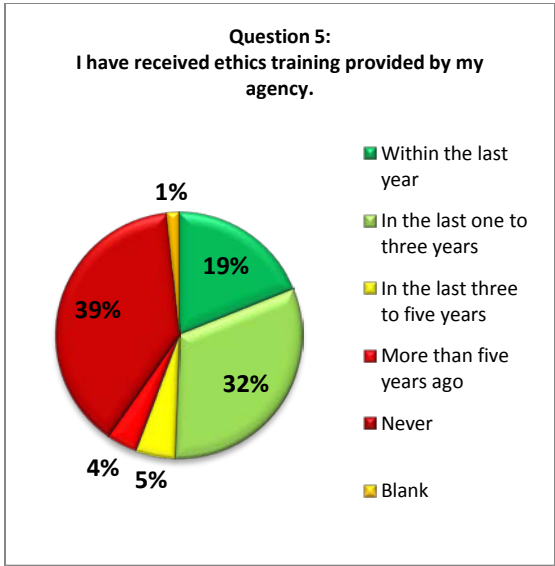
The overall results of the survey, presented in the graphs above, indicate that most Department employees, or approximately 86%, had a positive or no opinion on the Department’s overall ethics compliance. Areas of weakness identified through the ethical climate survey included lack of ethics training and management’s handling of unethical conduct.

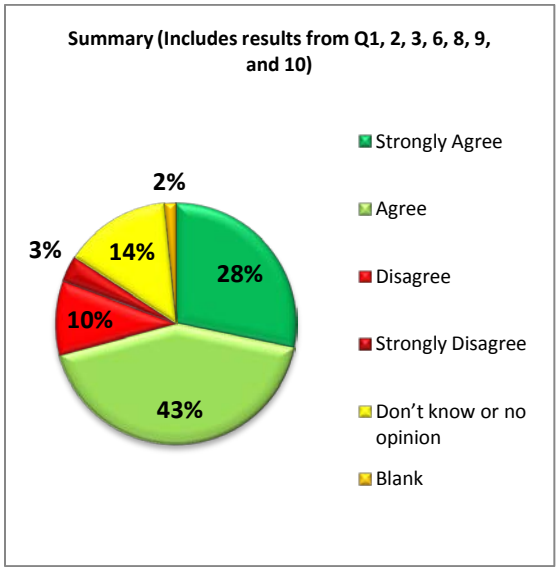
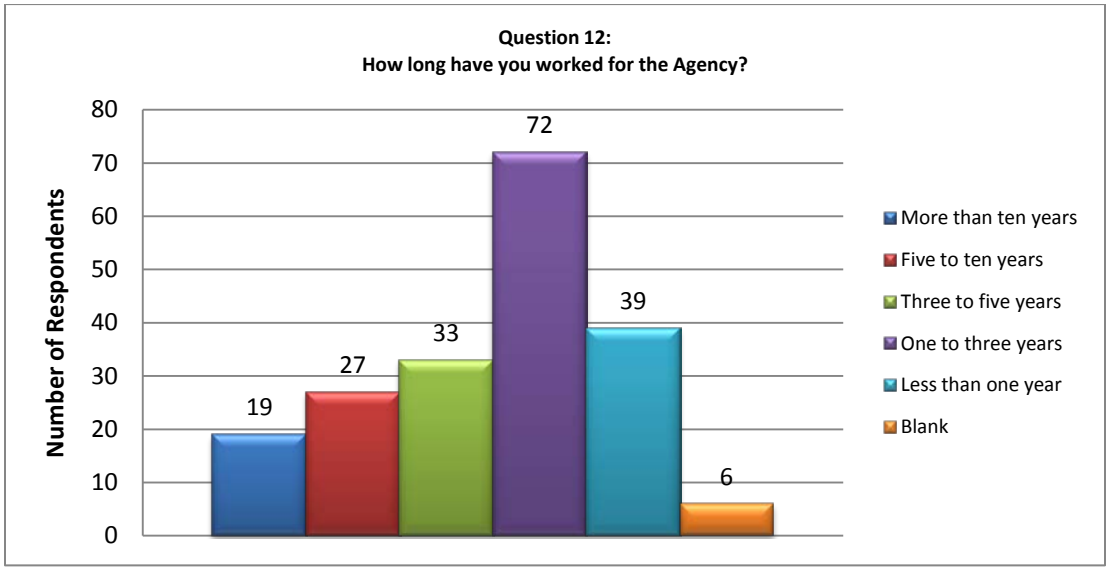
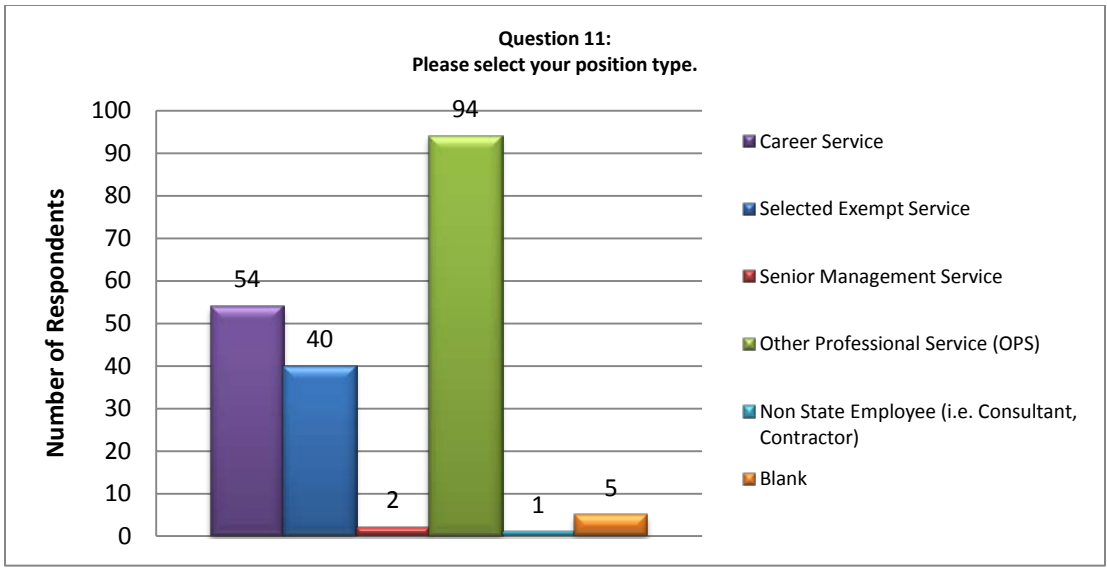
The Ethical Climate Survey distributed to Department employees provided the opportunity for comments. The Department received a total of 14 comments of which 8 comments or 57% were negative/suggesting change and 6 comments or 43% were positive or neutral remarks.

Results: Ethical Climate Survey Results - Division – 196 Respondents

The graphs below indicate the responses received by Division employees for all 12 questions asked in the survey.







The overall results of the survey, presented in the graphs above, indicate that most Division employees or approximately 83%, had a positive or no opinion on Division's overall ethics compliance. Areas of weakness identified through the ethical climate survey included lack of ethics training, unawareness of reporting procedures for suspected ethical misconduct, and management's handling of unethical conduct.

The Ethical Climate Survey distributed to Division employees provided the opportunity for comments. The Division received a total of 26 comments of which 18 comments or 69% were negative/suggesting change and 8 comments or 31% were positive or neutral remarks.

Conclusion

We believe that the implementation of the recommendations we have presented will serve to strengthen the Department and Division ethics climate and provide greater assurance of ethical awareness.

We would like to recognize and acknowledge the Department and Division management and staff for their assistance during the course of this audit. The fieldwork and audit results relied on their greatly appreciated participation during the audit.

AUDIT REPORT DISTRIBUTION SHEET
DEPARTMENT OF COMMUNITY AFFAIRS
ETHICS PROGRAM AUDIT

<u>Distribution to:</u>	<u>Number Copies</u>
Secretary	1
Director of Emergency Management	1
Chief Inspector General	1
Auditor General	1