



Office of Inspector General
Internal Audit Section

Report No. #A-1011EOG-011

Enterprise Ethics Audit

FINAL AUDIT REPORT

April 27, 2011

Background

Merriam-Webster's Dictionary defines ethics as a noun meaning the discipline dealing with what is good and bad and with moral duty and obligation, or a set of moral principles governing an individual or a group.

The 2011 Sterling Criteria for Organizational Performance Excellence states: "Organizations should stress ethical behavior in all stakeholder transactions and interactions. Highly ethical conduct should be a requirement of and should be monitored by the organization's governance body."¹

Since November 1991, the United States Sentencing Commissions "Federal Sentencing Guidelines Manual" has encouraged organizations (including governments) to adopt formal ethics and legal compliance programs.² These include establishing standards and procedures, high-level oversight, due diligence in hiring and promoting, effective communication (including training), compliance monitoring, enforcement, and preventive measures.

In January 1999, Governor Jeb Bush issued Executive Order 99-20, directing the immediate adoption and implementation of a revised Code of Ethics by all Secretaries and Deputy Secretaries of executive agencies under the purview of the Governor. In the Order, the Executive Office of the Governor/Lieutenant Governor was to provide training on ethics to each executive agency head. It was the desire of the Governor such agencies arrange for similar ethics training to all employees on an annual basis. Another stipulation of the Order declared that each executive agency designate an Ethics Officer, who should undertake appropriate measures to ensure that the employees responsible for adhering to the Code of Ethics become familiar with all relevant ethics requirements. In January 2007, Governor Charlie Crist issued Executive Order 07-01, which also directed immediate adoption and implementation of a Governor's Office Code of Ethics and a Code of Personal Responsibility. Executive Order 07-01 both reinforced and built upon sections of Executive Order 99-20.

In January 2011, Governor Scott issued Executive Order 11-03, directing the immediate adoption and implementation of a revised Code of Ethics by the Office of the Governor and that it applies to all employees within the Office of the Governor, as well as the secretaries, deputy secretaries, and chiefs of staff of all executive agencies under the Governor's purview. It requires each executive 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 Code 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. This Code of Ethics imposes more stringent requirements than the Code it revises.

To provide an overall look at ethics in state government in Florida, the Governor's Chief Inspector General has called on all inspectors general to come together to conduct an enterprise evaluation of each agency's ethical climate. Over 20 state agencies have undertaken this assignment. Each team will provide a report to their agency head. Based on findings and recommendations in agency reports, the Chief Inspector General will provide a roll-up report to the Governor.

Audit Scope and Objectives

The scope of this audit focused primarily on recent actions taken by the agency to design, communicate, monitor, promote and enforce ethical standards and policies applicable to its employees. Specifically the objectives included an evaluation of DOEA's implementation of the Office of the Governor's Executive Order Number 11-03, Ethics and Open Government and an evaluation of the design and effectiveness of DOEA's ethics-related objectives, guidance, and activities in order to identify areas of potential weakness and best practices that could be shared among all state agencies.

¹ The 2011 Sterling Criteria for Organizational Performance Excellence, page 49.

² Chapter 8, Part B, Section 2.1, of the manual entitled, Effective Compliance and Ethics Program, outlines the minimum requirements to achieve an effective ethics and legal compliance program.

Opinion

In our opinion the Department has in place a good system of general controls that cover the key elements of establishing an ethical workplace. These elements are:

1. Organizational implementation of compliance standards and procedures that is reasonably capable of reducing the prospect of criminal conduct.
2. The assignment of high-level personnel to oversee compliance with such standards and procedures.
3. Due care in avoiding delegation to individuals whom the organization knew, or should have known, had a propensity to engage in illegal activities.
4. Communication of standards and procedures, by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required.
5. Establishing monitoring, auditing, and reporting systems by creating and publicizing a reporting system whereby employees and other agents can report criminal conduct without fear of retribution.
6. Enforcing standards through appropriate mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense.
7. Developing appropriate responses to offenses by taking all reasonable steps to respond appropriately and to prevent further similar offenses, including any necessary modification of programs.

A reflection of this can be found in **Appendix A** and **Appendix B** which summarizes the results of the Ethical Climate Survey conducted by this office along with twenty three other state agencies. Overall the Department has a good ethical climate. The response rate for the Department was 65.59%.

Findings and Recommendations

Despite the agency's good ethical climate, during the course of our fieldwork, we noted the following areas for improvement:

FINDING 1 – (repeat finding) Effective communication of the Department's ethics standards, policies, and procedures still needs improvement.

The Governor signed Executive Order 11-03, dated January 4, 2011, directing the immediate adoption and implementation of a revised Code of Ethics applicable

to the Governor and all employees within the Office of the Governor, as well as secretaries, deputy secretaries, and chiefs of staff of all Executive Office of the Governor agencies. The revised Code of Ethics states: "The Governor has also directed that each agency secretary attend training on the subjects of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures and that thereafter each agency secretary arrange for similar training of his or her employees on an annual basis."

During our previous Ethics Audit #06-07-A-002 we recommended the following:

"...the Department develop and implement an annual training program for all employees on ethics standards and procedures. This strengthens conformity with Executive Order 07-01 and improves employee's understanding of the complaint process if ethical transgressions are noted. Training can be in a classroom environment or electronically via web-based training, for geographically dispersed locations."

Our fieldwork found the Department has not implemented mandatory requirements for annual training of employees on ethics, public records, open meetings, records retention, equal opportunity, and proper personnel procedures for employees pursuant to Executive Order 11-03 and the Executive Office of the Governor's Code of Ethics both dated January 4, 2011.

The Department requires all new employees attend orientation training which covers elements of ethics, public records and equal opportunity. Employees are also required to attend on-line Florida Sunshine Law and Public Records Act training.

Answers to question #5, "I have received ethics training provided by my agency;" on our agency-wide ethics climate survey revealed the following responses: 32 percent of 404 respondents received training within the last year, 38 percent received training in the last one to three years, 16 percent received training in the last three to five years, 5 percent received training more than five years ago and 7 percent indicated never receiving training. Two percent did not respond to the question. A high percentage of employees responding have not received training within the last year. **(SEE Appendix A)**

Furthermore, the following statement in our survey, "Unethical conduct is appropriately handled by management in my agency," 21 percent of 404 respondents strongly agreed, 37 percent agreed, 5 percent disagreed, 2 percent strongly disagreed and 34 percent don't know or have no opinion. One percent did not respond to the question. It appears that a high percentage of employees are unaware of how unethical conduct is addressed when reported to the appropriate agency management. **(SEE Appendix A)**

All agency employees are required to sign an "Employee Acknowledgement Form" affirming that it is their responsibility to review all agency policies and procedures and if necessary, to request any additional clarification from their supervisor. However, there is no specific requirement for employees to acknowledge the receipt and subsequent understanding of the Governor's new code of ethics. Furthermore, upon the signing of the Executive Order 11-03 and implementation of the Governor's new code of ethics there was no immediate effort to implement changes to training.

Without continuous communication, education and annual retraining of the Department's code of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures, senior management cannot clearly and convincingly communicate the Department's values, ethics, and behavior expected of each employee.

We continue to **recommend** the Department develop and implement an annual training program for all employees on the subjects of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures to strengthen conformity with Executive Order 11-03 and the Governor's Code of Ethics, effective as of January 4, 2011.

FINDING 2 - Department policies and procedures have not been updated since implementation of the Governor's Executive Order 11-03 (Ethics and Open Government) and the Governor's new code of Ethics both dated January 4, 2011.

The Governor's Executive Order 11-03, dated January 4, 2011 states: "Each agency secretary is further directed to review and evaluate the current policies adopted at his or her agency in light of this revised Code, with a view to using this revised Code as a standard for his or her agency, adjusted for the program requirements and variables unique to his or her agency. Agency secretaries are directed to implement any agency-specific adjustments to the Code within forty-five (45) days of the date of this Order."

The Governor's Code of Ethics, further states: "Each secretary of an executive agency under the purview of the Governor will review this Code of Ethics and evaluate his/her agency's existing code of ethics, with a view towards using this Code as the base standard for his or her agency to the extent practicable, adjusted for those unique program requirements and variables of his or her agency."

Based on fieldwork and interviews conducted, the Department has not updated the Department's Code of Ethics policy and procedure number 550.30 since issuance of the Governor's Executive Order No. 11-03 and Governor's Code of Ethics, both dated January 4, 2011.

The Department's General Counsel acknowledges that reviewing and updating the Department's code of ethics was not a high priority in agency transition activities. However, since the inception of this audit, management has initiated a comprehensive review of the Department's ethics policy and procedures to ensure compliance with the Governor's Executive Order 11-03 and new code of ethics.

The effect of this is the Department is currently in non compliance with certain aspects of the Governor's Executive Order 11-03 and Code of Ethics, both dated January 4, 2011.

We **recommend** the Department comply with Executive Order 11-03 and the Governor's new Code of Ethics both dated January 4, 2011 by revising DOEA policy and procedure 550.30.

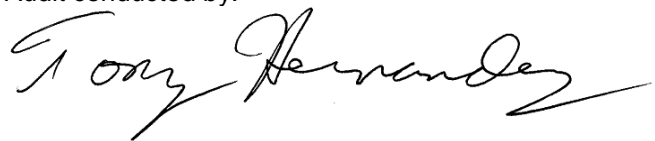
Audit Methodology

Our audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors. Accordingly, our assessment of the ethical environment included observations and interviews with management and staff and the use of analytical procedures in the review of records and reports regarding compliance with governing laws, policies and procedures.

Closing

We thank the staff and management of the Department for their cooperation and professionalism during the course of our audit.

Audit conducted by:

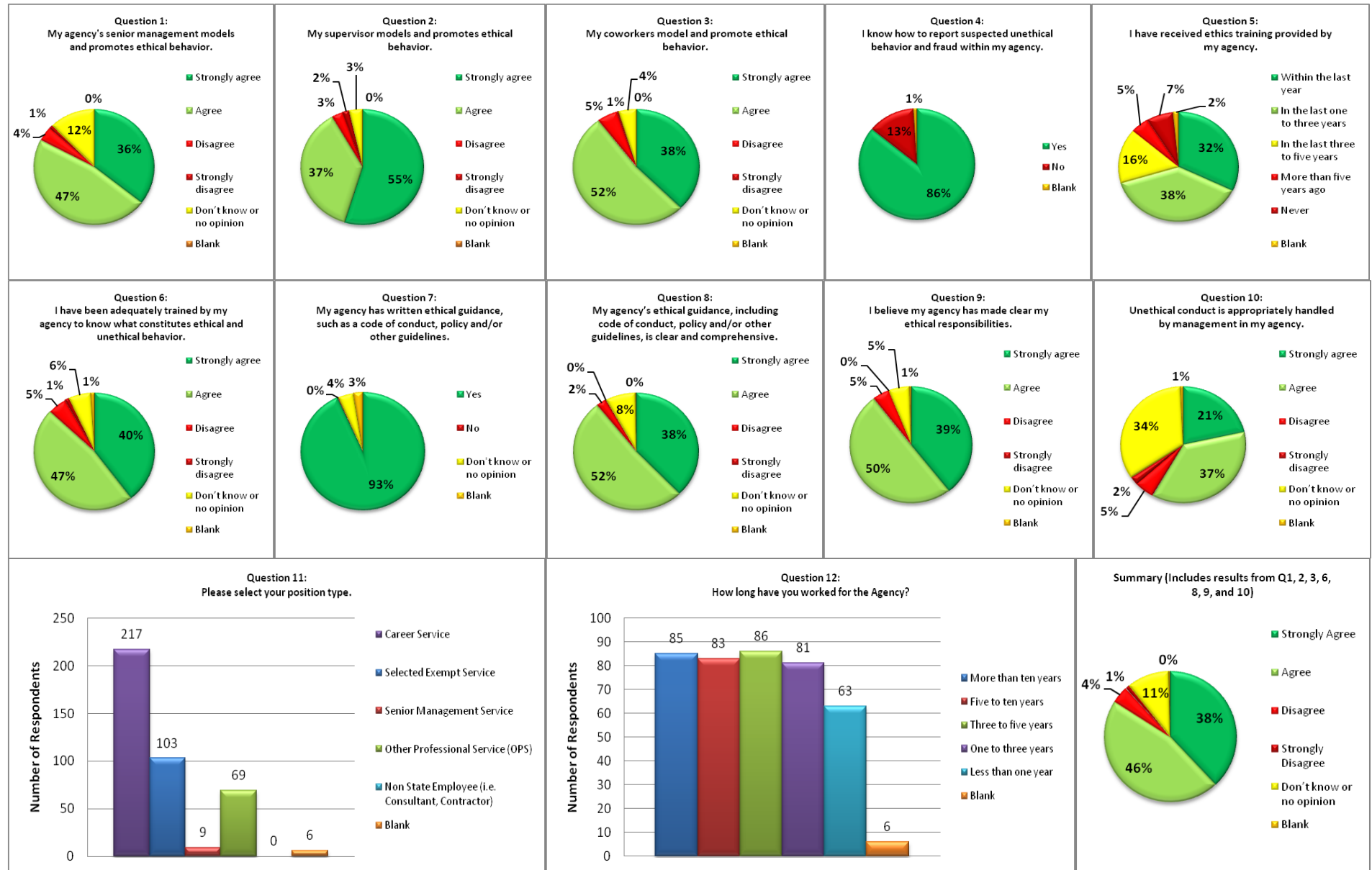


Tony Hernandez, CIA, CISA
Director of Internal Audit

Audit supervised by:

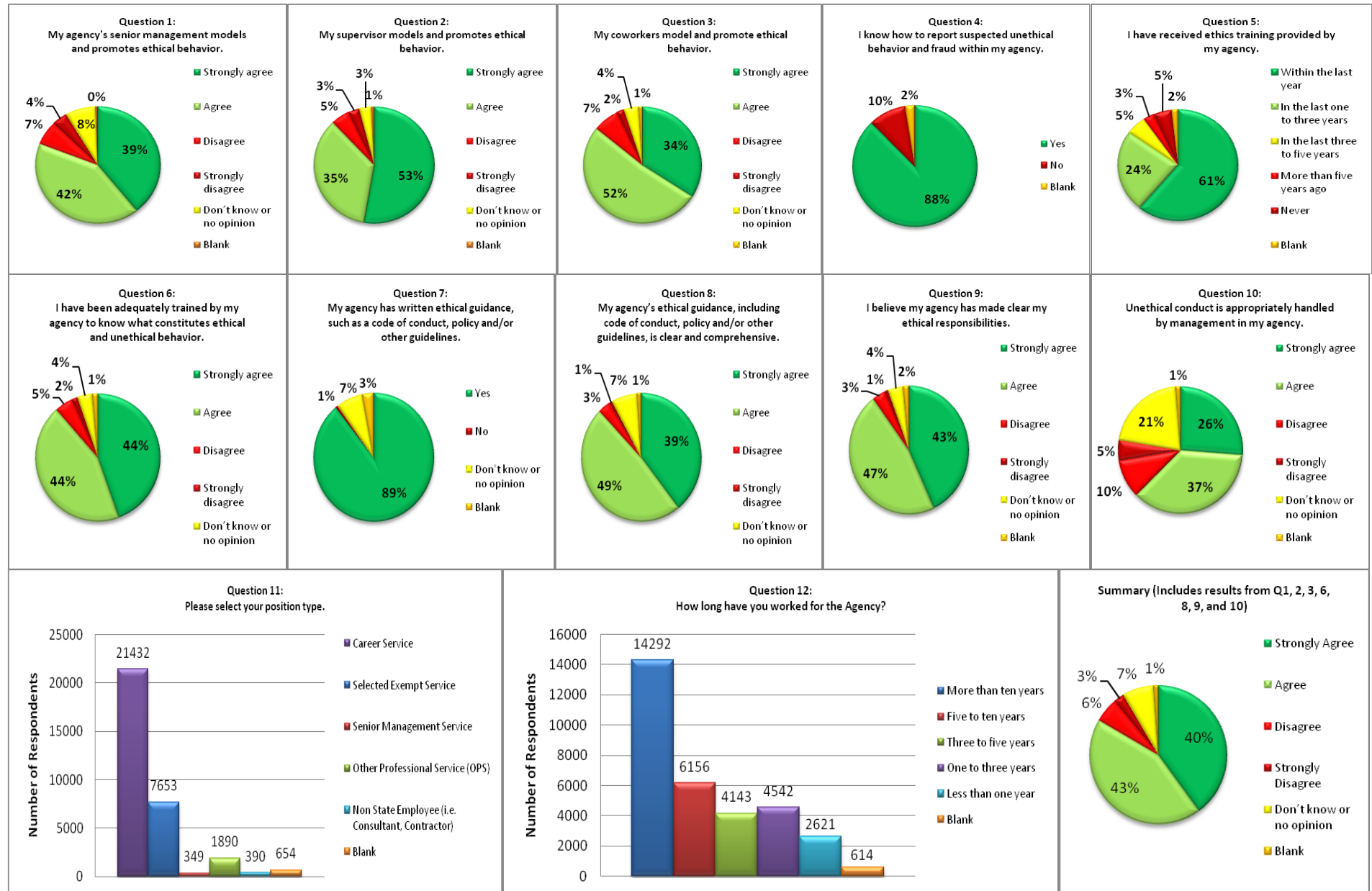
Stanley Behmke, CIA, CIG
Inspector General

Ethical Climate Survey Results - DOEA - 404 Respondents



APPENDIX B

Ethical Climate Survey Results - Florida - 32,368 Respondents



Florida Department of Elder Affairs
Office of Inspector General
Enterprise Ethics Audit #A-1011EOG-011

PROGRAM RESPONSES

INSTRUCTIONS: WRITE YOUR RESPONSE ONLY IN THE HIGHLIGHTED AREAS.

Finding #	1.
Finding Title	(Repeat finding) Effective communication of the Department's ethics standards, policies, and procedures still needs improvement.
Status Date	April 27, 2011
Report Date	April 27, 2011
Contact Person	Tony DePalma
Program/Unit	Office of the General Counsel
Phone Number	414-2352
Anticipated Completion Date	3 rd Quarter, 2011.
Recommendation	We continue to recommend the Department develop and implement an annual training program for all employees on the subjects of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures to strengthen conformity with Executive Order 11-03 and the Governor's Code of Ethics, effective as of January 4, 2011.
Program Response	Consistent with this recommendation, the Chief Ethics Officer will work in unison with contacts in the Human Resources office within the Department to develop and implement certain annual web-based training for all employees on the above subject matter.

Florida Department of Elder Affairs
Office of Inspector General
Enterprise Ethics Audit #A-1011EOG-011

PROGRAM RESPONSES

INSTRUCTIONS: WRITE YOUR RESPONSE ONLY IN THE HIGHLIGHTED AREAS.

Finding #	2.
Finding Title	Department policies and procedures have not been updated since implementation of the Governor's Executive Order 11-03 (Ethics and Open Government) and the Governor's new code of Ethics both dated January 4, 2011.
Status Date	April 27, 2011
Report Date	April 27, 2011
Contact Person	Tony DePalma
Program/Unit	Office of the General Counsel
Phone Number	414-2352
Anticipated Completion Date	3 rd Quarter, 2011.
Recommendation	We recommend the Department comply with Executive Order 11-03 and the Governor's new Code of Ethics both dated January 4, 2011 by revising DOEA policy and procedure 550.30.
Program Response	Consistent with this recommendation, the Chief Ethics Officer will work in unison with contacts in the Human Resources office within the Department to revise DOEA policy and procedure 550.30 to include relevant provisions from the Governor's new Code of Ethics.