

OFFICE OF INSPECTOR GENERAL



Stephanie C. Kopelousos
Secretary

Ethics Program Advisory Memorandum 09P-0008

June 25, 2009



Ron Russo
Inspector General

EXECUTIVE SUMMARY

The purpose of this engagement was to evaluate the implementation and effectiveness of the department's ethics program. We considered the department's ethics program as comprised of the following:

- The Ethics Policy and Pledge Form;
- Supplemental Guidance Documents;
- The Central Office Ethics Team and District Contacts that provide answers to questions and guidance for specific scenarios;
- New Employee Orientation; and
- Ethics Training.

We determined the department has many essential elements of an effective ethics program. Some districts have supplemented the ethics program with in-depth training, reference materials and development of a computer-based training course.

The ethics program has been implemented differently throughout the department; therefore, its effectiveness varies throughout the department as well. The department's program can be improved by helping to ensure all employees are trained and familiar with ethics requirements and contacts.

We recommend the Ethics Officer:

- *Coordinate efforts to provide ethics training for all department employees on an annual basis to help ensure compliance with Executive Order 07-01;*
- *Add an annual training requirement to the Ethics Policy pursuant to Executive Order 07-01;*
- *Maintain ethics contact information and training attendance logs;*

- *Consider the following when planning for the training:*
 - *Evaluate the ethics survey results to help prioritize training needs and efforts; and*
 - *Review best practices developed department-wide and implement those determined appropriate; and*
- *Formalize the ethics program to include the essential elements identified in this report.*

BACKGROUND AND INTRODUCTION

Chapter 112, Part III, Florida Statutes is the state's statutory Code of Ethics. In response to Executive Order 07-01, the Governor's Code of Ethics was adopted in January 2007 to incorporate and exceed the requirements of the statutory Code of Ethics.

Executive Order 07-01 also requires agencies to designate an ethics officer who will make reasonable efforts to ensure that the employees responsible for adhering to the Governor's Code of Ethics become familiar with relevant ethics requirements. It also requires each agency secretary to arrange for similar training of his/her employees on an annual basis.

In February 2007, the department's Ethics Policy (Topic Number 001-010-020) was adopted to clarify the actions expected of all employees, in various situations, to comply with related statutes, rules, and procedures, as well as the Governor's Code of Ethics. The Ethics Policy outlines several ethical principles to guide all employees and designates the Director of Administration as the Ethics Officer.

The Central Office Ethics Team consists of the Ethics Officer, Chief Safety Officer and Deputy General Counsel. Department employees who have questions about specific ethics scenarios can contact their supervisor, Personnel Officer, District Director of Transportation Support/Administration, or one of the Central Office Ethics Team members. They may also contact the Florida Commission on Ethics if a formal opinion is desired or required.

After the department's Ethics Policy was adopted, the Ethics Officer informed all employees via e-mail about the new policy, supplemental documentation and future training opportunities. The Ethics Team offered training at the Central Office as well as in each of the districts. Employees were required to review the Ethics Policy and sign pledge forms attesting they had received a copy, understood it and agreed to comply with the Ethics Policy.

The Ethics Policy informs employees about established regulatory requirements that prohibit all department employees from personally benefiting from their positions by accepting gifts or donations. Other requirements such as obtaining approval for unique employment circumstances (e.g., dual employment) and notifying the department of arrests or charges of criminal violations are also included.

The Ethics Policy also includes some requirements for specific employees. For example, any employee in the Motor Carrier Compliance Office (MCCO) who is charged or becomes aware that he/she will be charged in a criminal case shall notify his/her immediate supervisor immediately. Also, MCCO Policy Number 1-2, Authority, requires each employee to receive training on the Governor's Code of Ethics.

PURPOSE, SCOPE AND METHODOLOGY

The **purpose** of this engagement was to evaluate the implementation and effectiveness of the department's ethics program, in accordance with International Standards for the Professional Practice of Internal Auditing, Standard 2110.A1, published by the Institute of Internal Auditors.

The **scope** of the advisory was activities related to the Ethics Policy from February 2007 through May 2009.

The **methodology** included:

- Administering a department-wide survey and analyzing the results;
- Interviewing the Ethics Officer; and
- Collecting and evaluating relevant documentation.

RESULTS OF REVIEW

Following are the results of our evaluation:

Ethics Survey

The Office of Inspector General (OIG) sent an e-mail to approximately 9,100 of the department's Microsoft Outlook users requesting their participation in an online ethics survey. This survey asked the three questions shown in Table 1 below.

A total of 2,794 online responses were received, a 30% response rate. Some respondents did not select an answer for one of the questions. Therefore the number of responses for each question varies slightly. For example, six responses did not include an answer for question number one; this reduces the total responses for question number one to 2,788 (2,794 – 6).

Table 1 below provides a summary of responses for each question. More detailed survey results are provided in Attachment 2.

Table 1

Question	Number Yes	Number No	Total	Percent Yes	Percent No
1. Have you received training for the department's Ethics Policy?	2,402	386	2,788	86%	14%
2. Are you familiar with the requirements in the department's Ethics Policy?	2,540	249	2,789	91%	9%
3. Do you know who to contact regarding ethics related issues?	2,120	664	2,784	76%	24%

Overall, the survey results show that of the respondents:

- 386 (14%) indicated they had not received training for the department's Ethics Policy;
- 249 (9%) indicated they are not familiar with the requirements in the department's Ethics Policy; and
- 664 (24%) indicated they do not know who to contact regarding ethics-related issues.

Ethics Program

Based on our interview with the Ethics Officer and review of relevant documentation, we determined the department's ethics program is comprised of the following:

- The Ethics Policy and Pledge Form (Number 250-011-03), available on the department's Forms and Procedures Intranet site, including state regulations referenced in the Ethics Policy;
- Supplemental Guidance Documents, such as the following documents available on the Central Office Personnel website;
 - *Guideline Information for Department of Transportation Ethics Policy;*
 - *Scenarios under Current Ethics Interpretations;*
 - *Employment Scenarios; and*
 - *Supplement to State of Florida Workforce Employee Handbook;*
- The Central Office Ethics Team and District Contacts that provide answers to questions and guidance for specific scenarios;
- New Employee Orientation; and
- Ethics Training.

The Central Office Ethics Team and the district contacts are available to answer ethics related questions. Although they do not maintain a log of communications, some retain questions and answers for those scenarios they believe will be useful for future reference. Survey results show most of the respondents (76%) know who to contact regarding ethics related issues; however 24 percent do not.

According to the Central Office and district ethics contacts, new employees are required to sign the department's Ethics Pledge Form during their orientation, attesting they

received a copy, understood and agreed to comply with the Ethics Policy. This requirement is not included in any of the department's policies or procedures, but it is included on the Document/Receipt Acknowledgement Form (Number 250-015-06) new employees sign upon their hiring.

Some districts offer more in-depth training and discussions as part of their new employee orientation. For example, District Six provides supplemental information such as:

- A Reference Card for the Governor's Code of Ethics; and
- The ethics presentation documents available on the Department of Management Services website.

Others, such as Districts Four and Seven and Florida's Turnpike Enterprise (Turnpike), include ethics policy information in their Supervisor's Academy courses.

Most of the training on the Ethics Policy was provided during initial implementation in 2007 by the Ethics Team and was supplemented by further training in some districts. For example, MCCO required employees to take the PeopleFirst computer-based training (CBT) course titled *State of Florida Code of Ethics Training for Executive Branch Employees* during the implementation in 2007.

The CBT course is specific to Florida's Code of Ethics (Chapter 112, Part III, Florida Statutes). It reviews the purpose, major components, penalties for violations, and provides resources available for assistance and guidance. The department maintains a link to the course through the CBT Library (Number BT-18-0081); however, there is currently no requirement for employees to take the course and it does not cover the Governor's Code of Ethics or the department's Ethics Policy.

In the past, the department's Performance Management Office offered ethics training in some courses, but all related topics were removed from their programs after the Ethics Policy was adopted.

Survey results show most of the respondents have received training for the department's Ethics Policy (86%) and are familiar with its requirements (91%). Others who responded indicated they have not received training (14%) and are not familiar with the requirements (9%). When employees are not familiar with ethics requirements, the department is at greater risk for unethical behavior and fraudulent activities than it would be if employees are familiar with them.

Attendance logs have not been consistently maintained for ethics training; therefore the department does not have an adequate record of the employees trained. Annual ethics training is not provided or required by the Ethics Policy, but it is required by Executive Order 07-01.

However, District One is developing a CBT course on ethics. The District's Director of Transportation Support noted the target date to begin using the course is early September 2009. The course will be posted to District One's Intranet site.

Also, the OIG offers a fraud presentation, providing awareness for crime and employee misconduct in the department. This presentation provides an overview of the department's Ethics Policy and examples of actual cases regarding unethical conduct of employees and consequences.

The OIG drafted a new department policy titled *Integrity in Government* (Number 001-450-003a). It states that all department employees are responsible for reporting suspected wrongdoing to their supervisor and the OIG, and suspected wrongdoing will be investigated promptly and appropriate action will be pursued. This policy will be shared with department employees when it is finalized and adopted.

Conclusion and Recommendations

The department's Ethics Policy was adopted in response to Governor Crist's Executive Order 07-01, which requires agencies' ethics officers to make reasonable efforts to ensure that the employees responsible for adhering to the Governor's Code of Ethics become familiar with relevant ethics requirements. It also requires ethics training for employees on an annual basis. MCCO Policy Number 1-2, Authority, also requires each MCCO employee to receive training on the Governor's Code of Ethics.

The primary purpose of the Ethics Policy is to inform employees about established regulatory requirements that prohibit all department employees from personally benefiting from their positions by accepting gifts or donations as a result of filling their positions. All employees are personally responsible for compliance with the Ethics Policy.

The department has not adopted a formal ethics program. For the purpose of this evaluation, we considered the ethics program to consist of the department's activities associated with the Ethics Policy. Those activities have been established and conducted to equip employees with information to comply with and report violations of the Ethics Policy. Therefore, we considered the department's ethics program as comprised of the following:

- The Ethics Policy and Pledge Form, including state regulations referenced in the Ethics Policy;
- Supplemental Guidance Documents;
- The Central Office Ethics Team and District Contacts that provide answers to questions and guidance for specific scenarios;
- New Employee Orientation; and
- Ethics Training.

Many essential elements are contained in the department's ethics program to help make it effective. Districts have supplemented the ethics program with in-depth training, reference materials and development of a CBT ethics course (in process).

The ethics program has been implemented differently throughout the department; therefore, its effectiveness varies throughout the department as well. The department's program can be improved by helping to ensure all employees are trained and familiar with ethics requirements and contacts.

We recommend the Ethics Officer:

- *Coordinate efforts to provide ethics training for all department employees on an annual basis to help ensure compliance with Executive Order 07-01;*
- *Add an annual training requirement to the Ethics Policy pursuant to Executive Order 07-01;*
- *Maintain ethics contact information and training attendance logs;*
- *Consider the following when planning for the training:*
 - *Evaluate the ethics survey results to help prioritize training needs and efforts; and*
 - *Review best practices developed department-wide and implement those determined appropriate, as well as the various resources available, such as:*
 - *The ethics presentation documents available on the Department of Management Services website;*
 - *The PeopleFirst CBT course, State of Florida Code of Ethics Training for Executive Branch Employees. The department maintains a link to the course through the CBT Library (Number BT-18-0081);*
 - *District One's CBT course on ethics, which will be available in September 2009; and*
 - *The OIG's fraud awareness presentation; and*
- *Formalize the ethics program to include the essential elements identified in this report.*

ATTACHMENT 1 – Addressee and Distribution List

Stephanie C. Kopelousos, Secretary of Transportation

Copies distributed to:

Jon Bussey, Chief of Staff/Legislative Programs Administrator

Marcos Marchena, Chairman, Florida Transportation Commission
Attention: Sally Patrenos

Bill Thorp, Interim Assistant Secretary for Finance and Administration
Ruth Dillard, Director, Office of Administration and Ethics Officer

Kevin Thibault, Assistant Secretary for Engineering and Operations
Marianne A. Trussell, Chief Safety Officer

Debbie Hunt, Assistant Secretary for Intermodal Systems Development
Attention: Cecile Del Moral
Larry Ferguson, Manager, Performance Management Office

Alexis M. Yarbrough, General Counsel
Bob Burdick, Deputy General Counsel

Stan Cann, Secretary, District 1
Carol Finn, Director of Transportation Support

Charles Baldwin, Secretary, District 2
Joye Brown, Director for Transportation Support

Larry F. Kelley, Secretary, District 3
Rena Jenkins, Director of Transportation Support

James Wolfe, Secretary, District 4
Rosielyn Quiroz, Director of Transportation Support

Noranne Downs, Secretary, District 5
Rise Wall, Director of Transportation Support

Gus Pego, Secretary, District 6
Gary Donn, Director of Transportation Support

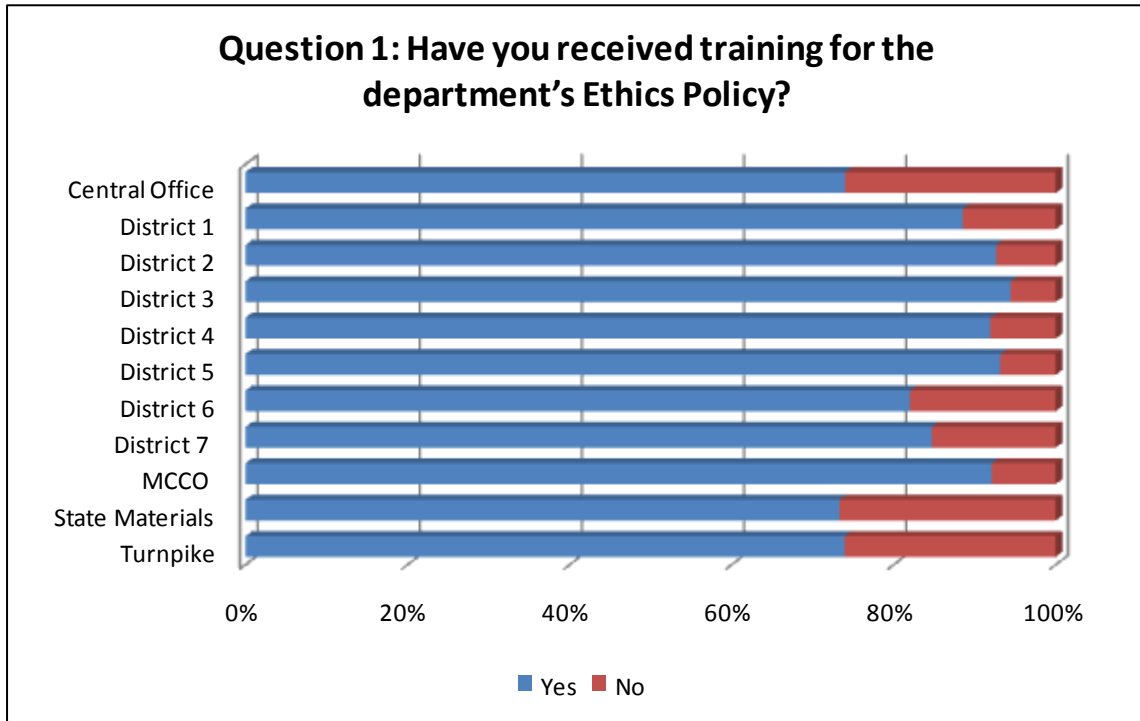
Donald Skelton, Secretary, District 7
Gloria Harmony, Director of Transportation Support

Jim Ely, Executive Director, Florida's Turnpike Enterprise
Brett W. Hartzog, Director of Administration

Colonel David Dees, Director, Motor Carrier Compliance Office
Marilyn Tabanelli, Administrative Services Manager

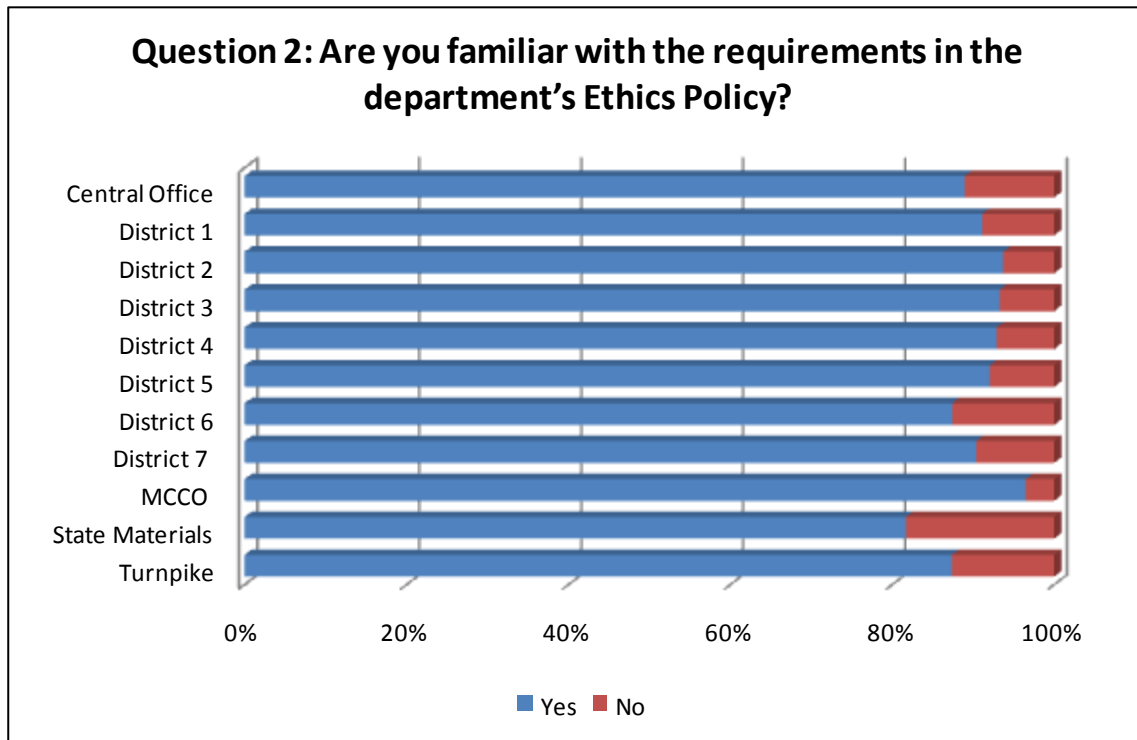
Thomas Malerk, Director, State Materials Office

ATTACHMENT 2A – Survey Results – Question 1



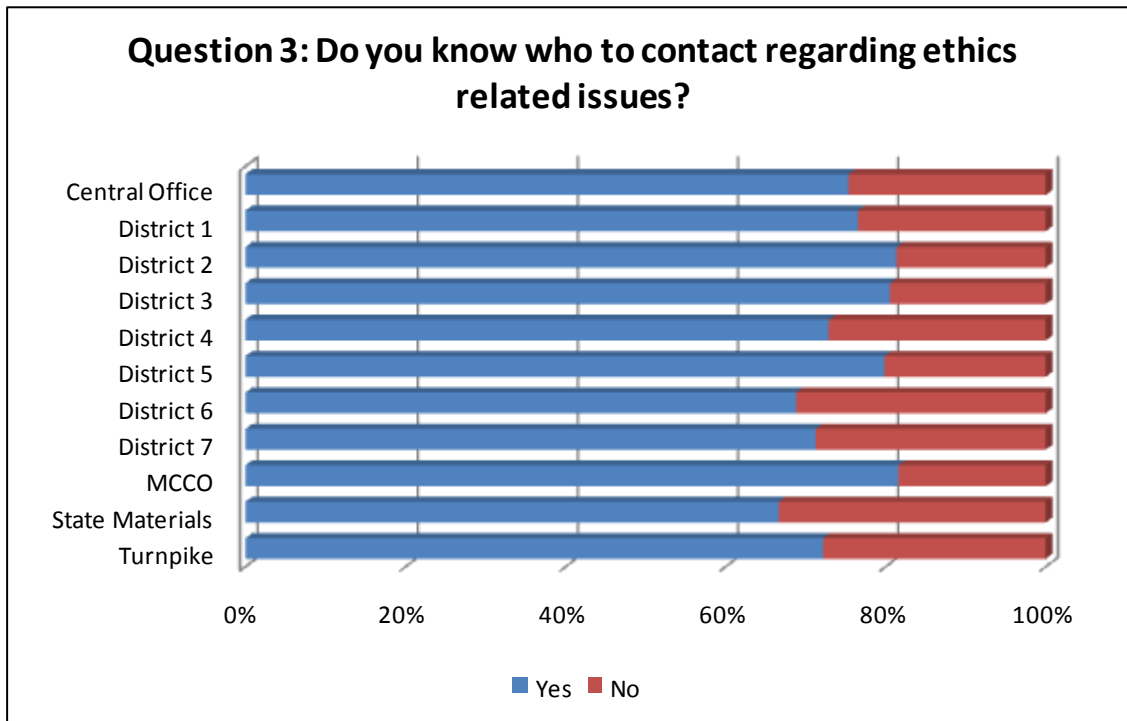
District	Number Yes	Number No	Total	Percent Yes	Percent No
Central Office	313	110	423	74%	26%
District 1	240	31	271	89%	11%
District 2	340	27	367	93%	7%
District 3	238	14	252	94%	6%
District 4	285	25	310	92%	8%
District 5	328	24	352	93%	7%
District 6	105	23	128	82%	18%
District 7	211	38	249	85%	15%
MCCO	105	9	114	92%	8%
State Materials Office	44	16	60	73%	27%
Transportation Commission	0	1	1	0%	100%
Turnpike	193	68	261	74%	26%
Total	2402	386	2788	86%	14%

ATTACHMENT 2B – Survey Results – Question 2



District	Number Yes	Number No	Total	Percent Yes	Percent No
Central Office	379	47	426	89%	11%
District 1	246	24	270	91%	9%
District 2	344	23	367	94%	6%
District 3	236	17	253	93%	7%
District 4	287	22	309	93%	7%
District 5	324	28	352	92%	8%
District 6	111	16	127	87%	13%
District 7	225	24	249	90%	10%
MCCO	110	4	114	96%	4%
State Materials Office	49	11	60	82%	18%
Transportation Commission	1	0	1	100%	0%
Turnpike	228	33	261	87%	13%
Total	2540	249	2789	91%	9%

ATTACHMENT 2C – Survey Results – Question 3



District	Number Yes	Number No	Total	Percent Yes	Percent No
Central Office	321	105	426	75%	25%
District 1	209	64	273	77%	23%
District 2	297	68	365	81%	19%
District 3	203	49	252	81%	19%
District 4	226	84	310	73%	27%
District 5	281	71	352	80%	20%
District 6	86	39	125	69%	31%
District 7	176	71	247	71%	29%
MCCO	93	21	114	82%	18%
State Materials Office	40	20	60	67%	33%
Transportation Commission	1	0	1	100%	0%
Turnpike	187	72	259	72%	28%
Total	2120	664	2784	76%	24%

Florida Department of Transportation
Office of Inspector General

This report is respectfully submitted by:

Stephanie Allen
Stephanie Allen, CGAP
Auditor-in-Charge

6/25/09
Date

Reviewed by:

Millicent Burns
Millicent Burns, CPA, CIA, CFE
Audit Manager

6/25/09
Date

Joseph K. Maleszewski
Joseph K. Maleszewski, CIA, CISA
Director of Audit

6-26-09
Date

Approved by:

Ron Russo
Ron Russo
Inspector General

6-26-09
Date

This engagement was conducted in accordance with applicable International Standards for the Professional Practice of Internal Auditing published by the Institute of Internal Auditors and Principles and Standards for Offices of Inspector General published by the Association of Inspectors General.

The mission of the department is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities. Office of Inspector General conducts audits and reviews of department programs to assist the Secretary and other agency management and staff in fulfilling this mission.

Please address inquiries regarding this report to Joe Maleszewski at 850-410-5506.
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