



Office of Inspector General
Internal Audit Section

Report No. 2010-0122-A
June 2011

Agency-Wide Environmental Ethics Audit

FINAL REPORT

Background

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 (EOG) was tasked with providing training on ethics to each executive agency head. It was the desire of the Governor that such agencies will, thereafter, arrange for similar ethics training for all employees on an annual basis. Another stipulation of the order declared that each executive agency designate an Ethics Officer. The order stated that the Ethics Officer shall 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 an EOG 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 Rick Scott issued Executive Order 11-03, directing the immediate adoption and implementation of a revised EOG Code of Ethics. The revised EOG Code of Ethics applies to all employees within the EOG, as well as the Secretaries, Deputy Secretaries, and Chiefs of Staff of all executive agencies under the Governor's purview. The EOG Code of Ethics 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 employees responsible for adhering to the EOG Code of Ethics become familiar with relevant ethics, public records, open meetings, and other ethics-related requirements. Each executive agency under the Governor's purview is directed to implement any agency-specific adjustments to their internal policies to comply with the EOG Code of Ethics within 45 days of the date of the order. The revised EOG Code of Ethics imposes more stringent requirements than the previous EOG Code of Ethics.

In March 2011, the Governor's Chief Inspector General, in order to provide an overall review of ethics in state government in Florida, requested all of the agencies' Inspectors General to participate in conducting an enterprise evaluation of the ethical environment. Over 20 state agencies have undertaken this assignment. Each agency Inspector General will provide a report to their agency head. Agency reports provided to the Chief Inspector General will be rolled up to create an enterprise-wide report.

The Governor's Executive Order and Governor's Chief Inspector General's request applies only to those agencies that report directly to the Governor. Revenue is a Governor and Cabinet agency. Although Revenue is not required to comply with the Governor's Executive Order 11-03 directing the immediate adoption and implementation of a revised EOG Code of Ethics, the agency chose to participate in the enterprise evaluation of its ethical environment. Additionally, Revenue management requested that the audit scope be expanded to review Revenue's implementation of Ethics and Open Government and evaluate the design and effectiveness of the ethics-related objectives, guidance, and activities.

The Department of Revenue (Revenue) began work on its ethics environment in the 1980s and continued the focus of improving its ethics environment with an established list of values, Standards of Conduct for employee behavior, and employee awareness training of Florida Statutes pertaining to conflict of interest, gifts, and financial disclosure requirements for state employees as well as reporting individuals and procurement employees.

In March of 2005, Revenue updated its Standards of Conduct in response to legislative changes in Florida Statutes. In October of 2005, Revenue established an Internal Dispute Resolution Team, which was renamed in April 2006 to the Appropriate Workplace Behavior Team. This team mapped the process of reporting behavior problems through intake, investigation, action, and appeals, and worked on establishing an enterprise reporting tool. In January of 2007, in response to Executive Order 07-01, a steering committee was established to review the EOG Code of Ethics and Code of Personal Responsibility in comparison to Revenue's established Standards of Conduct and ethics-related policies. During 2007, Revenue held a four-hour session on ethics at its managers' meeting, revised its Standards of Conduct, held an organizational ethics workshop for senior leaders, and formed ethics focus groups. In 2008, Revenue established an ethics intake system called "EthicsLink." The system is still currently used and Revenue employees report ethics-related issues such as discrimination, sexual harassment, harassment, theft, falsification of records, breach of confidentiality, unauthorized use of state property or equipment, violation of laws, rules, regulations, or policies, conflict of interest, and threatening behavior.

Also, Revenue's leadership created a leadership board made up of executive and senior management to further improve its governance, risk management, and internal control. The Strategic Leadership Board (SLB) assists the Executive Director in making major business decisions. The SLB as documented in the charter is responsible for fact finding and advising when setting agency direction and the agency's strategic plan, as well as monitoring and improving agency performance.

Revenue also created an Organizational Governance Structure at the same time. The Organizational Governance Structure, in addition to the Executive Director and the SLB, includes Strategic Area Committees. The Strategic Area Committees are led by Committee Chairs and include areas of strategic planning, financial management, workforce management, compliance and risk, and information and technology. The Compliance and Risk Committee Chair is also the Ethics Officer. This committee reviews and recommends policies, procedures, or other similar actions for dealing with organizational and personal ethics, regulatory compliance, statutory compliance, privacy, open government, corrective actions, risk assessment, and risk management.

During fiscal year (FY) 2008/09, the SLB continued its efforts to improve its governance, risk management, and internal control by implementing a process to routinely review, evaluate, and update its policies and associated procedures, as well as other guidance documents provided to its employees. This process ensures management's involvement and interaction on agency-wide policies and procedures.

The current charter for the SLB was signed by the Executive Director on January 18, 2011. Revenue through the Compliance and Risk Committee and SLB is continuing its efforts for a strong ethical environment.

Audit Scope and Objectives

The scope of this audit focused on actions taken by Revenue for the period July 1, 2009, through March 31, 2011, to design, communicate, monitor, promote, and enforce ethical standards and policies applicable to its employees. The scope of the audit included a review of ethics-related communication, training, and other

activities provided at the agency-wide level. The scope of the audit did not include a review of ethics-related communication, training, and other activities provided by each program.

The objectives of this audit were to:

- Review Revenue's implementation of Ethics and Open Government.
- Evaluate the design and effectiveness of ethics-related objectives, guidance, and activities in order to identify areas of potential weakness and best practices.

The Institute of Internal Auditors' *Professional Practices Framework* (Standard 2110.A1) requires that internal audit periodically evaluate ethics-related objectives, programs, and activities. Fieldwork for this audit was conducted during March 2011.

Ongoing Process Improvements

Since July 1, 2008, Revenue has reviewed, revised, and issued updated versions for some of ethics-related policies and procedures such as:

- Gift Acceptance.
- Confidential Information.
- Drug-Free Workplace.
- Fund-Raising and Collection Drives.
- Non-Discrimination and Complaint Procedures.
- Personnel Files.
- Workplace Learning and Performance.
- Standards of Conduct.

Findings and Recommendations

During this audit, we reviewed:

- Executive Orders 99-20, 07-01, and 11-13.
- EOG Code of Ethics.
- Revenue's Standards of Conduct and other ethics-related policies and procedures.
- Revenue's organizational chart indicating personnel responsible for implementing ethics compliance.
- Job descriptions of personnel responsible for high-level ethics and compliance oversight responsibility.
- Revenue's screening process of applicants for employment at all levels for evidence of past wrongdoing such as criminal convictions.
- Revenue's "EthicsLink" and other reporting venues to determine the volume of activities of unethical or illegal activity reported.
- Communications to employees related to notifications of ethics-related issues, policies, and training programs.
- Revenue's responses to substantiated offenses of unethical or illegal activities performed by employees.
- Revenue's annual climate surveys.

We conducted an environmental ethics survey prepared by the Chief Inspector General's Enterprise Ethics Audit team. The survey link was sent by e-mail to 5,236 Revenue and contracted employees. The survey was opened by 4,479 individuals and completed by 3,411 individuals resulting in a 76.1% answer rate of those who opened the survey. The survey contained ten questions regarding employees' opinions of Revenue's ethical

environment. We evaluated the results of the employee responses to the ethics survey to determine areas of concern.

We reviewed and summarized approximately 400 comments received from employees through the ethics survey to determine if any action is required by the Office of Inspector General, Office of Workforce Management, or management.

We reviewed documents, conducted interviews with key staff, researched ethics-related issues, and identified best practices to determine possible gaps in Revenue's ethics-related objectives, guidance, and activities. We compared Revenue's ethics program to those considered as effective programs by identified best practices.

The environmental ethics survey results indicated that of the Revenue employees responding to the survey:

- 93.1% know how to report suspected unethical behavior and fraud within the agency.
- 94.4% know the agency has written ethical guidance such as a code of conduct, policy and/or other guidelines.
- 63.5% received ethics training provided by the agency within the last year and 24.8% received ethics training within the last 1-3 years.
- 80.4% strongly agree or agree the agency's senior management model and promote ethical behavior.
- 87.3% strongly agree or agree their supervisors model and promote ethical behavior.
- 86.9% strongly agree or agree their co-workers model and promote ethical behavior.
- 88.3% strongly agree or agree they have been adequately trained by the agency to know what constitutes ethical and unethical behavior.
- 90.9% strongly agree or agree the agency's ethical guidance, including the code of conduct, policy and/or other guidelines, is clear and comprehensive.
- 91.9% strongly agree or agree the agency has made clear to employees their ethical responsibilities.
- 62.5% strongly agree or agree unethical conduct is appropriately handled by agency management and 25.5% responded they did not know or had no opinion on whether agency management handles unethical conduct appropriately.

Analysis of the employee comments included in the employee environmental ethics survey also revealed:

- Employees in general had knowledge of Revenue's ethics-related policies and procedures and indicated they thought the agency's management and employees were ethical.
- Some ideas regarding specific ethics training and communication were offered.
- Some specific concerns about ethics issues were raised that will be categorized and analyzed to determine if further investigation is warranted.
- Some general concerns about ethics were raised that warrant consideration in the annual risk assessment for possible audit in the future such as:
 - Communication about and training on specific ethics topics.
 - The hiring process and employee evaluation and development.
 - Management efficiency and effectiveness.
 - Management control and governance.

The Institute of Internal Auditors supplemental guidance, *Ethics and Compliance, Challenges for Internal Auditing*, identifies eight good governance practices for internal auditors to look for when assessing an organization's ethics processes and identifying any governance-related weaknesses:

- Formal written code of conduct.
- Clear statement of the organization's cultural and ethical objectives.

- Effective communication of the code of conduct, expectations of compliance, and the penalties for violation.
- Use of a needs analysis to determine the effectiveness of ethics-related communications and to identify training needs.
- Unimpeded and widely available communications channels for use in reporting code of conduct violations.
- Required individual confirmation of accountability.
- Consistent, effective investigation and enforcement regardless of the status of the individual involved.
- Clear management commitment to support oversight activities, including adequate resources and disciplined measurement of governance-related events and activities.

Our interviews with key Revenue staff responsible for the design and effectiveness of ethics-related objectives, guidance, and activities in Revenue including the Ethics Officer revealed the agency has:

- Designated an Ethics Officer in Revenue's Office of General Counsel, who advises the agency's Strategic Leadership Team (SLB) on changes in the State's Ethics laws and answers questions regarding the application of those laws.
- Requested informal and formal opinions from the Commission on Ethics regarding various ethics-related issues raised by Senior Management.
- Provided employees additional guidance on ethics-related issues.
- Established ethics-related policies and procedures as follows:
 - Standards of Conduct.
 - Gift Acceptance Policy.
 - Dual Employment Policy.
 - Confidential Information Policy.
 - Assaults and Threats Policy.
 - Criminal History Record Checks Policy.
 - Drug-Free Workplace Policy.
 - Equal Employment Opportunity and Affirmative Action Policy.
 - Non-Discrimination Policy and Complaint Procedure.
 - Workplace Violence.
- Required employee acknowledgement of policies such as:
 - Standards of Conduct.
 - Confidential Information.
 - Drug-Free Workplace.
 - Revenue Work Hours.
 - Non-Discrimination Policy and Complaint Procedure.
- Conducted the following ethics-related training for employees and management:
 - Using Information Resources Appropriately
 - Protecting Information Resources.
 - Ethics Training for Reporting Individuals.
 - Records Management for Senior Leaders.
 - Safeguarding Confidential Information.
 - The Delicate Balance Between Open Government and Confidential Information.
 - FL Law and DOR Policy on Accepting Gifts for Reporting Individuals.
 - Department Standards of Conduct.
 - Building Respectful Workplace.
 - Supervisory Training.
 - Open Government Public Records Request Training.

- Organizational Ethics Workshop.
- Department Standards of Conduct and Personnel Procedures.
- New Employee Orientation.
- Established an Open Government Web page.
- Created an electronic reporting system, EthicsLink, for reporting of ethics issues.
- Created an Ombudsman position that is accessible to all employees to discuss issues in confidence and without fear of reprisal and who reports directly to the Executive Director.
- Communicated Revenue's values and the importance of an ethical environment through:
 - Employee and Supervisor Newsletters.
 - Intranet Web pages.
 - Training programs.
 - E-mail messages from the Executive Director and other management.
 - Monthly managers and employee meetings with key messages from management.
 - Employee Evaluation and Development.
 - 360-degree Climate Survey.

Our audit disclosed the Executive Director and senior leadership have attended training in:

- Ethics.
- Public records.
- Open meetings.
- Records retention.
- Equal opportunity
- Proper personnel procedures.

Our audit disclosed that 100% of Revenue's employees identified as Reporting Individuals (RIs) under Chapter 112, Part III, Florida Statutes, filed Financial Disclosure forms as required.

Our audit also revealed the Office of the Inspector General, the Office of the General Counsel, the Office of Workforce Management, and senior management in the programs worked on various corrective actions for ethics-related issues such as violations of the standards of conduct, workplace violence, discrimination, and confidentiality policies, reported through EthicsLink or other sources.

Conclusion

Based on our analysis, we determined Revenue's ethical environment is not formally documented, but is comprised of the following elements recognized as good governance practices:

- Written Standards of Conduct and other policies and procedures which clearly identify prohibited activities.
- An Ethics Officer.
- A system for screening applicants for employment for evidence of past criminal convictions or other unethical behavior.
- A system for promoting ethics and values.
- A system for communicating with and training employees about Revenue's ethical environment.
- A system for regularly conducting employee surveys with questions about the ethical environment.
- A system for reporting unethical or illegal activities.
- A system for reviewing, investigating, and responding to complaints and allegations of inappropriate, unethical, or illegal behavior.

Revenue is a Governor and Cabinet agency and not required to comply with the Governor's Executive Order 11-03 directing the immediate adoption and implementation of a revised EOG Code of Ethics. Although Revenue is not required to comply, we compared Revenue's ethical environment with the EOG Code of Ethics. Based on our review, Revenue is generally in compliance with the spirit and intent of the revised EOG Code of Ethics and Revenue's acceptance of responsibility for ethics goes beyond what is required.

Our audit disclosed the following opportunities for improvement:

Finding One: Revenue's communication and training for the ethical environment could be improved.

According to the Institute of Internal Auditors, supplemental guidance, *Ethics and Compliance, Challenges for Internal Auditing*, an ethics communication strategy is a major component of an effective ethics program. Without an effective communication strategy, management may miss opportunities to increase employees' awareness of ethics-related issues. The ethics communication strategy should include activities promoting ethics and values, periodic (at least annual) ethics-related training, periodic (at least quarterly) communications from management regarding ethical issues, and an annual acknowledgment that employees have read and are aware of ethics-related policies.

Although employees are provided with information related to ethical issues when they are hired during the employee orientation process, supervisory training, and other training, as well as routinely through newsletters and other communications, Revenue does not annually update this knowledge with specific ethics training. Dissemination of information by itself does not ensure that employees will read the information or gain an understanding of the information provided. Without periodic training that reinforces information disseminated, employees may become complacent and not be fully aware of management's expectations regarding ethical issues. Training efforts may include classroom training, informal "brown bag" or round-table discussions on ethics-related matters, or online training.

Our audit revealed that Revenue uses its Learning Management System (LMS) to provide on-line training and to require acknowledgement that employees have read specific policies or procedures that have been disseminated. One advantage of LMS and the on-line training is completion of a quiz to determine whether employees have understood the material covered.

Our audit revealed that currently Revenue does not require annual acknowledgement of the Standards of Conduct, gift acceptance policy, and other ethics-related policies by employees. Acknowledgement is sometimes required when new policies and procedures are implemented or existing policies and procedures are updated. Notification and acknowledgement of ethics-related policies and procedures are key elements in the enforcement of those requirements and management's expectations for an ethical environment.

Although Revenue has implemented a periodic review process for policies and procedures and has recently updated some of its ethics-related policies and procedures, such as the gift acceptance policy, our audit revealed that some of the ethics-related policies have not been updated. Revenue's current Standards of Conduct has an effective date of November 1, 2008. The Standards of Conduct is currently being reviewed for revision and anticipated to go before the SLB in the near future.

Additionally, although the gift acceptance policy has been updated, some information on Revenue's intranet pages providing guidance to employees is not current. The Guidelines for Reporting Individuals (RIs) and Employees and Procurement Employees for Accepting Gifts and Honoraria listed on the Office of General Counsel's Web page have not been updated to match the updates in the policy. Employees are advised during

training and in ethics-related policies such as the gift acceptance policy to contact Revenue's Ethics Officer within the Office of General Counsel. If employees are seeking guidance and refer to those guidelines on the General Counsel's web page, they might not get the most current information.

The ethical environment survey revealed that 63.5% of those responding to the survey thought they had received ethics training provided by the agency within the last year and 24.8% thought they had received ethics training within the last 1-3 years. The percentage of Revenue employees that actually received ethics-related training provided by the agency within the last year and the last 1-3 years could not be determined as the scope of the audit did not include training provided by the programs or training not provided through Revenue's on-line training application.

The survey and the employee comments made in connection with the ethical environment survey indicate additional communication or training is needed in the following areas:

- Supervision specifically relating to the hiring process and employee relationships.
- EthicsLink process specifically relating to corrective actions that are taken when allegations or complaints are substantiated.
- Inappropriate and unethical behavior including specific examples and associated Standards of Conduct sections.
- Executive management commitment to an ethical environment and support of employee actions to report unethical behavior.

The effectiveness of annual ethics training can be enhanced with additional communication from executive management on ethics-related issues including examples. Employees and managers may not be willing to report known or suspected unethical or illegal behavior for fear of retaliation. Some employee comments made in connection with the ethical environment survey indicated a perceived fear of retaliation. As a result, unethical or illegal behavior may occur and go unreported.

Recommendations:

- 1.1 We recommend** the SLB develop or direct the appropriate Strategic Area Committee to develop an ethics communication strategy including activities to promote ethics and values and ethics-related training at least annually.
- 1.2 We recommend** the SLB consider requiring regular review and update of all ethics-related policies and procedures and an annual acknowledgement by employees.
- 1.3 We recommend** the Office of Workforce Management, in consultation with the Ethics Officer and the SLB, prepare specific segments to be included in the Employee Orientation and Basic Supervisory Training on ethics, particularly regarding ethics in the hiring process, employee relationships, and vendor/client relationships.
- 1.4 We recommend** executive and program management reemphasize Revenue's commitment to an ethical environment and their support for employees who report unethical or illegal behavior by reassuring employees that retaliation for reporting will not be tolerated.

Finding Two: Monitoring and evaluation of the effectiveness of the ethical environment could be improved.

According to the Institute of Internal Auditors, supplemental guidance, *Ethics and Compliance, Challenges for Internal Auditing*, a system for auditing, monitoring, and evaluation of the effectiveness of compliance is a major component of an effective ethics program. Without effective monitoring and evaluation of compliance,

management cannot determine if the design and effectiveness of ethics-related objectives, guidance, and activities in Revenue are meeting their expectations and whether the ethics environment is effective. Effective monitoring and evaluation should include routine assessment of managers' and employees' understanding and application of the ethical environment.

Revenue's ethical environment has many of the elements recognized as good governance practices by the Institute of Internal Auditors and has established and implemented some goals, objectives, and strategies. However, Revenue has not clearly defined and documented the Ethics Program and fully implemented a system for monitoring compliance and evaluation of the effectiveness of its ethics-related policies and procedures.

A key element in implementing detective and preventive controls for monitoring compliance and evaluating the effectiveness of the ethical environment is assigning the authority and responsibility. The assignment should be made to an individual in a position high-enough in the organization that the employees will recognize management's commitment to a strong ethical environment.

Typically, the Ethics Officer in private and governmental organizations is recognized as an individual with knowledge of the appropriate laws and the organization's ethics-related policies and as the individual who has the authority and responsibility to ensure compliance with those laws and policies. The definition of an "ethics officer" according to the McGraw-Hill on-line dictionary is "an individual hired by a company to be responsible for making sure that all employees are trained to be ethically aware, that ethical considerations enter the decision-making process, and that employees follow the company's code of ethics."

Although Revenue has a designated Ethics Officer, the Ethics Officer has not been assigned the authority or responsibility for making sure that employees comply with Revenue's ethics-related policies and procedures, employees are trained, or that ethical considerations enter the decision-making process. The position description of the individual designated as the Ethics Officer does not contain any duties and responsibilities associated with being the Ethics Officer.

Revenue's *Gift Acceptance Policy* states "The Department of Revenue has designated an Ethics Officer within the Office of the General Counsel. The Ethics Officer will keep the Department informed about changes in Florida's ethics standards and will advise employees at their request."

Revenue has established Strategic Area Committees within the SLB Organizational Governance structure attached to its current charter. The *Organizational Governance Strategic Area Committee Chair Roles and Responsibilities* document dated January 11, 2011 on the SLB web pages states:

"The committee chairs' primary responsibility is to communicate the Board's direction to the appropriate work teams and managers and ensure alignment and oversee implementation of strategies, projects, and activities with the Department. The chairs in each of the areas are responsible for coordinating the Department-wide work of teams/processes and interacting with other team leads and the Board. This overall responsibility provides opportunities for the Board to receive recommendations, requests for strategic direction, and proposals for Department-wide policies and projects. This also enables the Board to provide specific direction and approval to the appropriate chairs in an efficient manner and without creating redundant work in the Department."

One of the Strategic Area Committees established in Revenue's Organizational Governance structure under the direction of the SLB is the Compliance and Risk Committee. This committee's chair is responsible for the areas of organizational and personal ethics, open government, privacy, and regulatory and statutory compliance.

During interviews with the Ethics Officer, it was disclosed the SLB has not assigned the chair of the Compliance and Risk Strategic Area Committee the role and responsibility for the committee as stated in the *Organizational Governance Strategic Area Committee Chair Roles and Responsibilities* document. The current chair of this committee strictly acts in an advisory role and has no oversight, authority, or responsibility for compliance and risk associated with those issues listed under the committee in the document.

According to the Institute of Internal Auditors, supplemental guidance, *Ethics and Compliance, Challenges for Internal Auditing*, some indicators of performance are:

- Percentage of increased trust, accountability, and integrity.
- Percentage of reduction in noncompliance.
- Percentage of increase in reports of and detection of noncompliance.
- Percentage of increase in corrective actions in response to findings of noncompliance.
- Increase in improvement in the program to better prevent, protect, prepare, detect, and respond to noncompliance.
- Stakeholder satisfaction.
- Response time to reports of noncompliance.
- Reduction in retaliation claims from reports of noncompliance.
- Percentage of misconduct observed by employees.
- Percent of employees willing to report misconduct.
- Percent of employees pressured to engage or not report unethical conduct.
- Employee satisfaction with organizational response to reports of misconduct.

Revenue has established some informal measurement indicators to evaluate the effectiveness of its ethical environment through the Climate Survey, reports to management on violations of the standards of conduct, reports to management on complaints or allegations of wrong-doing by agency employees, and the corrective actions taken, and monthly executive management briefings. Revenue has not established the individual responsible for or the process to determine progress in meeting management's expectations and compliance with policies and procedures for the ethical environment.

Some employee comments made in connection with the ethical environment survey may indicate that some employees and managers may not be consistently applying ethics-related policies throughout the organization. Additionally, some employee comments indicate that some employees have a perception that management is not held to the same level of ethical standards as are employees, and employees believe that improper or unethical hiring practices, retaliation for reporting of improper or unethical behaviors, and management failure to follow up or enact corrective actions for improper or unethical behavior may be occurring.

Some of the comments made by employees through the ethical environment survey may be due to discontent or misunderstanding of the process for review, investigation, and corrective actions associated with reports of improper or unethical behavior. However, if management does not clearly define the authority and responsibility within the agency for monitoring compliance and evaluating the effectiveness of the ethical environment and employees are disillusioned by the perception that management will not take appropriate action, are intimidated for fear of retaliation by managers and employees for reporting of unethical behavior, and fail to report improper or unethical behaviors, Revenue's risk of loss of state tax revenues, loss of state resources, and loss of public confidence from improper or unethical behaviors increases.

Recommendations:

2.1 We recommend the SLB clearly define the Ethics Program and assign authority and responsibility. We also recommend the position description(s) be updated to reflect the assignment of this responsibility.

- 2.2 We recommend** the SLB develop or direct the appropriate Strategic Area Committee to develop goals, objectives, and strategies, and a method for monitoring compliance and evaluating the effectiveness of the ethical environment, including specific performance measures to determine whether Revenue's ethical environment meets the goals and objectives of the agency.

Audit Methodology

Our audit was conducted in accordance with the *General Principles and Standards for Offices of Inspector General* as published and revised by the Association of Inspectors General and the *International Standards for the Professional Practice of Internal Auditing* published by the Institute of Internal Auditors.

Closing

We thank all employees who completed the ethics survey, executive management, and the staffs of the Office of Workforce Management and the Office of General Counsel for their courtesy, professionalism, and cooperation during our audit.

Respectfully submitted,



Sharon Doredant, CISA, CIA, CISSP, CIG
Inspector General

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Audit Supervised by:

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Director of Auditing

CORRECTIVE ACTION PLAN
AGENCY-WIDE ENVIRONMENTAL ETHICS

Rev. 11/04

Status Date	Report No.	Report Title		
	2010-0122-A	Agency-Wide Environmental Ethics		
Contact Person	Program/Process		Phone No.	
Lauren Walker	Agency-Wide		717-7534	
Activity	Accountability		Schedule	
Continue to develop education opportunities regarding ethics in the workplace	Responsible Unit	Coordinating Unit	Repeat Finding	Anticipated Completion Date
	Depends on the training topic	OWM	No	Ongoing
Finding				
No.	1			
Date	5/20/11			
Recommendation	1.1 We recommend the SLB develop or direct the appropriate Strategic Area Committee to develop an ethics communication strategy including activities to promote ethics and values and ethics-related training at least annually.			
Original Response	<p>While we agree that communication and training for the ethical environment can always be improved, we disagree with the specific recommendation to the extent it implies that there is no strategy currently in place to promote "ethics and values" and "ethics-related training" at the Department. We also disagree that annual training is always necessary or may be the best way to promote an ethical environment. Although this audit is titled "Agency-Wide Environmental Ethics," it unfortunately does not paint the entire picture of the Department's commitment to ethics in the workplace because as stated on page 3 of the audit, "[t]he scope of the audit did not include a review of ethics -related communication, training, and other activities provided by each program." Ethics and values are an important part of the overall Department of Revenue culture and are deeply embedded throughout the agency. For example, as part of its core mission statement, the Department has adopted a set of character and performance values and promotes these to all employees, including training on this very issue in New Employee Orientation and Basic Supervisory Training (Course objectives for New Employee Orientation and Basic Supervisory Training are attached as Exhibit A). Other examples include materials contained in CSE's Policy and Procedures Manual and GTA's Basic Auditor Training. Every initiative this agency embarks upon is within the framework of a highly ethical culture.</p> <p>Additionally, when this recommendation suggests that "ethics-related training" be conducted annually, the recommendation and audit fail to specify what topics should be covered in such training. To the extent it assumes "ethics- related training" is training on the topics encompassed in the Governor's Executive Order 11-13 ("ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures"), these topics are currently the subject of many different training efforts and communications undertaken by DOR. As far as an annual requirement is concerned, such a requirement also must be weighed against the limited resources the Department has available to expend on training. Some topics may require training more frequently than once a year, some less frequently; however, as resources permit, the Office of Workforce Management, with direction and guidance provided by the Strategic Leadership Board of Directors, will continue to develop periodic continuing education opportunities for supervisors and employees to refresh their knowledge and application of ethics in the workplace. These education opportunities may include formal or informal training sessions, webinars, and ethics-related messages in department-wide communications.</p>			

CORRECTIVE ACTION PLAN
AGENCY-WIDE ENVIRONMENTAL ETHICS

Status Updates

- ☐ Open
- ☐ Management assumes risk
- ☐ Partially complete
- ☐ Complete pending verification by OIG
- ☐ Complete

CORRECTIVE ACTION PLAN
AGENCY-WIDE ENVIRONMENTAL ETHICS

Status Date	Report No.	Report Title		
	2010-0122-A	Agency-Wide Environmental Ethics		
Contact Person	Program/Process		Phone No.	
	Agency-Wide			
Activity	Accountability		Schedule	
N/A	Responsible Unit	Coordinating Unit	Repeat Finding	Anticipated Completion Date
			No	
Finding	Revenue's communication and training for the ethical environment could be improved.			
No.	1			
Date	5/20/11			
Recommendation	1.2 We recommend the SLB consider requiring regular review and update of all ethics-related policies and procedures and an annual acknowledgement by employees.			
Original Response	<p>While we agree that communication and training for the ethical environment can always be improved, we are somewhat puzzled by this recommendation since we believe that the essential requirements of this recommendation are already in place. Agency-wide ethics related policies and procedures already have a requirement that there be periodic review and updating. Further, this recommendation seems to suggest a process for the review and acknowledgement of ethics-related policies and procedures which are different than those required of other agency policies and procedures.</p> <p>The Policy on Policy Administration, Policy Number DOR-1010-001B effective January 25, 2010 (Exhibit B), applies to all agency-wide policies. This Policy requires that the Strategic Leadership Board of Directors (SLB) review and recommend approval to the Executive Director of all new and revised agency-wide policies. This policy specifically states that all agency-wide policies should have a periodic review and that each agency-wide policy will contain a scheduled review date. The stated purpose of this policy is "to standardize the development and administration of agency-wide policies." Additionally, all policies must have a communication and training plan. The SLB reviews and recommends approval of the plan along with the policy. The plan may or may not require employee acknowledgement. That decision is reached pursuant to a recommendation made by the SLB after taking into consideration all relevant factors including the relative importance of the policy, the most effective way of communicating the policy, and available resources. We do not believe it is appropriate to usurp this discretion though an audit recommendation.</p> <p>We also disagree that an annual acknowledgement is necessarily the best and most effective way to make an employee aware of ethics-related issues. The Department currently communicates ethics-related policies and procedures in many different ways; for example, through formal training, computer based training, Messages of the Month delivered by a supervisor directly to his or her direct reports, electronic newsletters, and by maintaining an updated agency policy page on the DOR Intranet where employees can easily find policies. Finally, the purpose of the annual acknowledgment recommendation appears to be to raise the level of awareness of the Department's employees regarding ethics-related policies. This might not be an efficient use of resources as the environmental ethics survey revealed that 94.4% of our employees responding know the agency has written ethical guidance such as a code of conduct, policy and /or other guidelines and 91.9% strongly agree or agree the agency's ethical guidance, including the code of conduct, policy and/or other guidelines, is clear and comprehensive.</p>			

CORRECTIVE ACTION PLAN
AGENCY-WIDE ENVIRONMENTAL ETHICS

Status Updates

☐ Open

☒ Management
assumes risk

☐ Partially
complete

☐ Complete
pending
verification by
OIG

☐ Complete

CORRECTIVE ACTION PLAN
AGENCY-WIDE ENVIRONMENTAL ETHICS

Status Date	Report No.	Report Title		
	2010-0122-A	Agency-Wide Environmental Ethics		
Contact Person	Program/Process		Phone No.	
Lauren Walker	Agency-Wide		717-7534	
Activity	Accountability		Schedule	
Update training courses to ensure the hiring process and employee relationships is addressed sufficiently	Responsible Unit	Coordinating Unit	Repeat Finding	Anticipated Completion Date
	SLB	OWM	No	One year
Finding				
No.	1			
Date	5/20/11			
Revenue's communication and training for the ethical environment could be improved.				
Recommendation	1.3 We recommend the Office of Workforce Management, in consultation with the Ethics Officer and the SLB, prepare specific segments to be included in the Employee Orientation and Basic Supervisory Training on ethics, particularly regarding ethics in the hiring process, employee relationships, and vendor/client relationships.			
Original Response	<p>While we agree that training efforts can always be enhanced, we disagree with the implication that these topics are not already addressed in existing training. For example, see the New Employee Orientation and Basic Supervisor Training Course Objectives, attached as Exhibit A. Also, specific training regarding appropriate vendor/client relationships is generally conducted at the program level. This Audit did not review program level efforts, so a specific recommendation on the best method of training on this issue seems to be inappropriate.</p> <p>The Office of Workforce Management will work with the Ethics Officer and the Strategic Leadership Board of Directors to update and expand, as appropriate, specific segments in employee orientation and new supervisor training courses to ensure that the topics of ethics in the hiring process and employee relationships is addressed sufficiently. In addition, we will continue to develop periodic continuing education opportunities for supervisors and employees throughout the year to refresh their knowledge and application of ethics in the workplace. These education opportunities may include formal or informal training sessions, webinars and ethics-related messages in department-wide communications.</p> <p>To further promote compliance, the Standards of Conduct are being revised and will be distributed to all employees in January 2012, with a requirement that employees acknowledge understanding of and compliance with the standards. The Department's Standards of Conduct include information about employee relationships and ethics in the hiring process.</p>			
Status Updates				
<input type="checkbox"/> Open <input type="checkbox"/> Management assumes risk <input type="checkbox"/> Partially complete <input type="checkbox"/> Complete pending verification by OIG <input type="checkbox"/> Complete				

CORRECTIVE ACTION PLAN
AGENCY-WIDE ENVIRONMENTAL ETHICS

Status Date	Report No.	Report Title		
	2010-0122-A	Agency-Wide Environmental Ethics		
Contact Person	Program/Process		Phone No.	
	Agency-Wide			
Activity	Accountability		Schedule	
N/A	Responsible Unit	Coordinating Unit	Repeat Finding	Anticipated Completion Date
			No	
Finding		Revenue's communication and training for the ethical environment could be improved.		
No.	1			
Date	5/20/11			
Recommendation		1.4 We recommend executive and program management reemphasize Revenue's commitment to an ethical environment and their support for employees who report unethical or illegal behavior by reassuring employees that retaliation for reporting will not be tolerated.		
Original Response		<p>While we agree that communication and training for the ethical environment can always be improved, we disagree with the recommendation and do not believe that it is an accurate reflection of what takes place at the Department. This particular recommendation appears to be based on selected comments that were made during the recent environmental ethics survey. While comments may be useful as anecdotal support for a position, they are not as generally viewed as statistically reliable and can easily be taken out of context. This particular survey was opened by 4,479 employees and completed by 3,411. Of those, 398 submitted written comments. An analysis of those comments reveals that approximately one-half were either generally positive (e.g., "I have worked for both private and another state agency. I find the Department of Revenue has the highest ethical standards of any place I have been associated with. The training is outstanding and the example management sets for the employee is unreal-Tops!") or lacked substantive value (such as "thanks" or contained observations like "Ethics is doing the right thing when no one is looking."). Approximately 200 could be considered negative. The vast majority of the negative comments dealt with poor management, favoritism, or lack of ethics among management (e.g., "I believe at times the punishment guidelines are too broad, If you are in favor you get the lighter punishment, if not you get fired. The punishment should fit the crime."). The remaining comments encompassed retaliation, discrimination, and problems with the hiring process of which approximately 45 dealt with perceived retaliation. 45 comments out of 3,411 responses are not statistically significant and these comments seems to have been given greater emphasis than deserved. This is especially true when one considers that in this very same survey: a) 93.1% responding agreed that they knew how to report suspected unethical behavior and fraud within the agency; b) 90.9 % strongly agreed or agreed the agency's ethical guidance, including the code of conduct, policy and/or other guidelines, is clear and comprehensive; and c) 91.9% strongly agreed or agreed the agency has made clear to employees their ethical responsibilities.</p> <p>This recommendation implies that executive and program management's efforts to communicate their commitment to an ethical environment and that retaliation will not be tolerated has been ineffective. The Department takes claims of retaliation very seriously. For example, the Non-Discrimination Policy and Complaint procedure approved in February 2011, and then distributed to and acknowledged by every Department employee clearly states that retaliation for reporting instances of discrimination or harassment will not be tolerated. Further, this policy is required to be re-acknowledged every year, by every employee, during their evaluation. Exhibit C. In March of this year a Department-wide Key Communication (Message of the Month) explaining the Non-Discrimination Policy was issued. This Message of the Month required all supervisors to discuss the Non-Discrimination Policy with their direct reports. Exhibit D. In addition to communicating about retaliation, the Department actively investigates claims of retaliation</p>		

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Status Date	Report No.	Report Title			
	2010-0122-A	Agency-Wide Environmental Ethics			
Contact Person	Program/Process		Phone No.		
	Agency-Wide		617-8349		
Activity	Accountability		Schedule		
Update Position Descriptions to more accurately reflect the advisory nature of the Ethics Officer and the compliance responsibilities of the Program Directors	Responsible Unit	Coordinating Unit	Repeat Finding	Anticipated Completion Date	
	Chief of Staff	Chief of Staff	No	January 1, 2012	
Finding	Monitoring and evaluation of the effectiveness of the ethical environment could be improved.				
No.					2
Date					5/20/11
Recommendation	2.1 We recommend the SLB clearly define the Ethics Program and assign authority and responsibility. We also recommend the position description(s) be updated to reflect the assignment of this responsibility.				
Original Response	<p>While we agree that monitoring and evaluation of the effectiveness of the ethical environment could be improved, we disagree with this recommendation to the extent that it appears to say that authority and responsibility for maintaining an ethical environment have not been assigned to anyone within the Department. We agree however to update the position descriptions of the SLB members and the Ethics Officer to more accurately reflect the current structure in place at the Department. Ethics is by its very nature a process encompassing the entirety of an organization and is present at each and every decision point and core function. Every employee is responsible for maintaining high ethical standards in their employment at the Department. Likewise, the Program Directors have the responsibility to oversee their respective programs with the Executive Director ultimately having oversight responsibility for the entire agency. This oversight includes adherence and compliance with ethics-related policies and procedures. Additionally, the recommendation seems to suggest that "ethics" could be easily administered as a single "program" with one individual having oversight and responsibility for "ethics." This is an archaic model and would be ineffective in a complex and multi-faceted organization like the Department.</p> <p>At the Department, traditional "ethics" activities are robust and handled through a decentralized model, spread throughout the agency and housed within different programs. This is necessary to maintain checks and balances and yet another reason why a centralized compliance model would be ineffective. To the extent this recommendation is calling for a senior level employee to act as a coordinator to integrate traditional "ethics" functions with those other traditional risk management concerns (legal liability, financial management, information security) into an enterprise wide risk management model, the agency has discussed adopting this structure, but existing resources do not yet permit it. Exhibit F. In the meanwhile, the Department is utilizing the Strategic Area Committees of the SLB Governance Structure as an adequate substitute. The Strategic Area Committees are Strategic Planning, Financial, Workforce, Compliance and Risk, and Information and Technology. The Chairs of these committees, through scheduled meetings and formal review processes, are performing this coordination and communication function under the direction of the Chief of Staff.</p>				

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though the Investigations Unit within the Office of the Inspector General. The Department also gives employees many avenues to raise concerns in an anonymous fashion, thereby decreasing the risk of retaliation. Each year, the Department administers an agency-wide climate survey that gives employees the opportunity to share opinions anonymously about their job, their workplace, and the Department. The Department also, through the annual "360 Degree Feedback Survey," allows employees to provide anonymous feedback to their managers on the effectiveness of their leadership. Further, employees are encouraged to contact the Department's independent objective Ombudsman with concerns. The Ombudsman reports directly to the Executive Director.

While the Department considers it important to recognize that even a small number of employees may fear retaliation despite the Department's efforts, we do not believe that this is evidence that the Department's efforts have been ineffective.

Data from the most recent Climate Survey also does not appear to support this recommendation. The Department's Climate Survey solicits open and honest feedback from employees on the current climate of their workplace and the agency as a whole. It is anonymous. The Climate Survey has been conducted electronically since 2002 and was last administered in November 2010. The survey asks questions regarding both the physical and intangible elements of the work environment. When presented with the statement "If I became aware of fraud, theft, abuse or other illegal, or unethical action, I would feel comfortable reporting the situation to the appropriate person," only 5.9% of the 3810 employees who responded disagreed. While this may seem like a large number, it was actually a positive statistical response because the average "disagree" for questions involving the non- physical work environment was 10.55% and the median was 10.45%. Exhibit E

The Department is committed to maintaining an environment where employees feel free to raise concerns without fear of retaliation, and will continue its efforts to emphasize this through various means of communication.

Status Updates

- ☐ Open
- ☒ Management assumes risk
- ☐ Partially complete
- ☐ Complete pending verification by OIG
- ☐ Complete

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Status Date	Report No.	Report Title			
	2010-0122-A	Agency-Wide Environmental Ethics			
Contact Person	Program/Process		Phone No.		
	Agency-Wide		617-8349		
Activity	Accountability		Schedule		
Continue developing goals, objectives and strategies and performance measures of Executive Direction and Support Services functions	Responsible Unit	Coordinating Unit	Repeat Finding	Anticipated Completion Date	
	Chief of Staff	Strategic Planning Chair	No	2 years	
Finding	Monitoring and evaluation of the effectiveness of the ethical environment could be improved.				
No.					2
Date					5/20/11
Recommendation	2.2 We recommend the SLB develop or direct the appropriate Strategic Area Committee to develop goals, objectives, and strategies, and a method for monitoring compliance and evaluating the effectiveness of the ethical environment, including specific performance measures to determine whether Revenue's ethical environment meets the goals and objectives of the agency.				
Original Response	We agree with this recommendation as it relates to the processes within the Department that contain ethics-related components (Office of Workforce Management, Office of the General Counsel, Office of Inspector General, and Office of Financial Management). These offices are currently engaged in this process. While the operating programs have reached a level of maturity in their goals, objectives, and strategies and have established performance measures, the offices and business processes housed within the Executive Direction and Support Services Program have just recently started this journey. Although there are a number of monitoring methods located throughout the agency (e.g., 360 Degree Survey, Climate Survey), they have not yet been completely integrated into goals, objectives, and strategies for the appropriate office or process. To the extent this recommendation envisions a higher level view and integration of ethics-related and other traditional risk management concerns, the Department has not received sufficient resources necessary to obtain this expertise.				
Status Updates <input type="checkbox"/> Open <input type="checkbox"/> Management assumes risk <input type="checkbox"/> Partially complete <input type="checkbox"/> Complete pending verification by OIG <input type="checkbox"/> Complete					

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<input type="checkbox"/> Open XManagement assumes risk <input type="checkbox"/> Partially complete <input type="checkbox"/> Complete pending verification by OIG <input type="checkbox"/> Complete	