



ASSIGNMENT NO. 10/11-73-A
MAY 2011

AUDIT: ORGANIZATIONAL ETHICS



STATE OF FLORIDA
DEPARTMENT OF LOTTERY
INSPECTOR GENERAL
ANDY MOMPOLLER

Memorandum

Office of Inspector General



To: Cynthia F. O'Connell, Secretary
From: Andy Mompeller, Inspector General
Date: May 26, 2011
Subject: Audit of Organizational Ethics 10/11-73-A

Attached is the final report for the Office of Inspector General's Audit of Organizational Ethics. The objectives were to evaluate the implementation of the Office of the Governor's Executive Order Number 11-03, *Ethics and Open Government*, and assess the effectiveness of the Lottery's ethics program and promotion of an ethical environment.

This audit was performed in cooperation with the Chief Inspector General's initiative, *Enterprise Wide Audit of Organizational Ethics*. Over 20 state agencies cooperated on this assignment. Each participating agency's Office of Inspector General issued a separate report. Based on findings and recommendation in agency reports, the Chief Inspector General will provide a roll-up report to the Governor.

cc: Glenda Thornton, General Counsel
Louisa Warren, Deputy General Counsel
Marcy Jackson, Chief Financial Officer
Karen Boulding, Director, Human Resources

Final Report

Office of Inspector General



DATE ISSUED:	May 26, 2011	
AUDITOR:	Debra Jahns-Nelsen, Office of Inspector General Analyst II	
TITLE:	Audit of Organizational Ethics	ASSIGNMENT: 10/11-73-A
RESPONSIBLE MANAGERS:	Glenda Thornton, General Counsel Louisa Warren, Deputy General Counsel Marcy Jackson, Chief Financial Officer Karen Boulding, Director of Human Resources	

STATEMENT OF INDEPENDENCE:	In all matters related to the work performed on this audit, the audit staff were free from personal, external and organizational impairments to independence.
PROFESSIONAL AUDITING STANDARDS:	This audit was conducted to assist Lottery management in their oversight of the Florida Lottery and was conducted in accordance with the <i>International Standards for the Professional Practice of Internal Auditing</i> published by the Institute of Internal Auditors, and <i>The Principles and Standards for Offices of Inspector General</i> developed by the Association of Inspectors General.
INTRODUCTION	Pursuant to Section 14.32, Florida Statutes, the Executive Office of the Governor, Office of the Chief Inspector General initiated an enterprise wide audit of organizational ethics. The Florida Lottery Inspector General's Office is cooperating with the Chief Inspector General on this project. Over 20 state agencies undertook this assignment. Each participating Agency's Inspector General Office will issue a separate report to their Agency Head. Based on findings and recommendation in agency reports, the Chief Inspector General will provide a roll-up report to the Governor.
AUDIT OBJECTIVES:	<p>The Office of Inspector General (OIG) is charged with providing the Secretary with an objective review and analysis of Lottery operations. This audit is intended to provide executive and operating management reasonable, but not absolute, assurance regarding the adequacy of the operational and control environment.</p> <p>The objectives were to evaluate the implementation of the Office of the Governor's Executive Order Number 11-03, Ethics and Open Government and assess the effectiveness of the Lottery's ethics program and promotion of an ethical environment. The purpose of this audit is to fulfill the Office of Inspector General's responsibility under Performance Standard 2130¹, of the</p>

¹ The Professional Practices Framework (March 2007)

	<i>International Standards for the Professional Practice of Internal Auditing</i> , to periodically assess and make appropriate recommendations for improving the governance process in promoting ethics and values within the Lottery.
SCOPE AND METHOD:	<p>The scope of this audit focused primarily on recent actions taken by the Lottery to design, communicate, monitor, promote and enforce ethical standards and policies applicable to its employees.</p> <p>To accomplish our objectives, OIG staff:</p> <ul style="list-style-type: none"> • Reviewed governing laws including applicable agency policies and procedures, • Interviewed the designated ethics officer, human resources personnel and other appropriate department personnel, • Performed tests of ethics training and employee receipt of Florida Lottery policies, and • Conducted, summarized and evaluated the results of an ethics survey of department employees to assess the Lottery's ethical climate.
BACKGROUND:	<p>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 that such agencies will, thereafter, arrange for similar ethics training to all employees on an annual basis. Another stipulation of the Order declared that each executive agency shall designate an Ethics Officer. 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.</p> <p>In January 2007, Governor Charlie Crist issued Executive Order 07-01, which also directs immediate adoption and implementation of a Governor's Office Code of Ethics and a Code of Personal Responsibility. Executive Order 07-01 both reinforces and builds upon sections of Executive Order 99-20.</p> <p>In January 2011, Governor Rick Scott issued Executive Order 11-03, directing the immediate adoption and implementation of a revised Code of Ethics by the Office of the Governor, which applies to all employees within the Office of the Governor, as well as the secretaries, deputy secretaries, and chiefs of staff of all</p>

	<p>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 this Code become familiar with relevant ethics, public records and open meeting requirements. It also directs each agency secretary to attend training on the subjects of ethics, public records, open meetings, records retention, equal opportunity and proper personnel procedures, and to arrange for similar training of agency employees on an annual basis. Each agency is 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.</p>
FIELDWORK:	<p>The following four aspects of the Lottery's Ethics Program were reviewed:</p> <p><u>Training</u> -- How adequate is training provided at the Florida Lottery regarding ethics?</p> <p>OIG staff obtained the ethics power point training presentation from the Ethics Officer, reviewed the training for content and reviewed the system used to monitor training records.</p> <p>Based on our review, the ethics training presentation fairly represents the Lottery's current ethics administrative code.</p>
	<p><u>Communication</u> -- Are ethics requirements effectively communicated to Florida Lottery employees?</p> <p>The Lottery currently has a Code of Ethics and a policy, <i>Standards of Employee Conduct and Guidelines for Disciplinary Action</i>, and both are available on the Lottery's intranet for all employees.</p> <p>New employees receive and are required to sign the Receipt of Florida Lottery Policies, which includes both of the aforementioned policies.</p> <p>In addition, ethics training is provided to new employees at the time of hire and annually to existing employees. The training is provided through a power point presentation that can be saved and maintained by each employee for future reference.</p> <p>OIG staff determined Lottery's compliance with new and annual employee training based on a test of signed employee acknowledgement forms from ethics training and the Receipt of Florida Lottery Policies.</p>



	<p><u>Enterprise Ethics Compliance</u> – Do Florida Lottery employees and its ethics program comply with state regulations?</p> <p>OIG staff determined that the Agency's ethics-related practices are in compliance with its ethics administrative codes, 53ER07-40(6) Code of Ethics for Non-Reporting Individuals and Non-Procurement Employees and 53ER07-41(8) Code of Ethics for Reporting Individuals and Procurement Employees.</p> <ul style="list-style-type: none"> • Procedures are in place to identify any conflicts of interest pertaining to outside employment opportunities by Lottery employees and Lottery employees selected to serve on procurement evaluations. • The ethics officer proactively identifies positions required to file ethics disclosure forms, and monitors staff compliance with filing requirements as annual deadlines approach. • The ethics officer maintains, distributes and monitors ethics training for new and existing employees. <p><u>Ethical Climate</u> – What is the ethical climate at the Florida Lottery?</p> <p>A key step in performing this audit was to assess the ethical climate of the Agency. To accomplish this task, the Inspector General distributed an agency wide survey of twelve questions that asked employees to rate the ethical climate and structure within the Agency. Employees were asked to select the most appropriate response based on their personal experience.</p> <p>The Agency distributed this survey to 434 employees of which 344 responses were received, a response rate of 79%. The Agency also received two hard copy surveys from the Chief Inspector General's Office. The two surveys were not included for analysis purposes since they may represent duplications of the on-line response.</p> <p>Ethics Climate Survey Results The overall response for the Agency's ethical environment was favorable. For example:</p> <ul style="list-style-type: none"> • 92% of respondents agree or strongly agree that senior management, supervisors and coworkers promote ethical behavior. • 93% of respondents agree or strongly agree that they have been adequately trained by the Agency to know what constitutes ethical and unethical behavior.

	<ul style="list-style-type: none"> • 95% of respondents agree or strongly agree that the Agency's ethical guidance is clear and comprehensive. • 80% of respondents agree or strongly agree that unethical conduct is appropriately handled by management in the Agency. Another 15% did not know or did not have an opinion. <p>Twenty of these respondents provided detailed comments, which were reviewed and categorized for further analysis. Of these comments, less than half were of a critical nature. The most common concern was the need to establish an anonymous way to report unethical conduct without fear of retaliation.</p> <p>In addition to Agency results, statewide survey data was accumulated by the Chief Inspector General for presentation in the enterprise audit roll-up report. For all responses to the ten survey questions (excluding position type and years of services questions), the Florida Lottery rated higher in ethics than the state average. The Florida Lottery was well represented with a 79.26% response rate, the highest out of the 22 known participating agencies with an average 34.88% response rate.</p> <p>Exhibit I displays the graphical results of the ethics climate survey for the Florida Lottery. Summary graphs are also included for the Florida Lottery and the statewide average for comparative purposes. Based on the results of this survey, the majority of Lottery employees believe that the Lottery operates under an ethical environment.</p>
<p>AUDIT FINDING 1: LOTTERY-SPECIFIC ETHICS CODE ADJUSTMENTS HAVE NOT BEEN FINALIZED IN ACCORDANCE WITH EXECUTIVE ORDER 11-03, ETHICS AND OPEN GOVERNMENT.</p>	<p>The Executive Order (effective as of January 4, 2011) requires each executive agency secretary to designate an individual at his or her agency to act as the agency's chief ethics officer. The chief ethics officer is to make reasonable efforts to ensure that the employees responsible for adhering to the revised Executive Office of the Governor's Code of Ethics (Code) become familiar with relevant ethics, public records and open meeting requirements. The Executive Order further requires each executive agency secretary to review and evaluate the current policies adopted at his or her agency in light of the revised Code, with a view to using the revised Code as a standard for his or her agency, adjusted for the program requirements and variables unique to his or her agency. Each agency is directed to implement any agency-specific adjustments to the code within 45 days of the date of the order.</p> <p>In accordance with the Executive Order, Louisa Warren, an attorney in the General Counsel's office, is the designated Ethics</p>

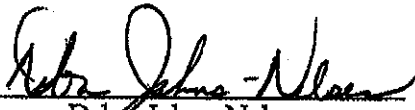
	<p>Officer. Warren serves as the Lottery's contact person and ensures that employees become familiar with relevant ethics and public records. The Director of Public Affairs, Jackie Barreiros, serves as the Lottery's contact person for open meetings requirements.</p> <p>As directed, Warren, has prepared a side-by-side comparison of the Governor's revised Code of Ethics and the agency's ethics administrative codes, 53ER07-40 <i>Code of Ethics for Non-Reporting Individuals and Non-Procurement Employees</i> and 53ER07-41 <i>Code of Ethics for Reporting Individuals and Procurement Employees</i>. To date, no final determination has been made regarding any Lottery-specific adjustments. The Lottery has experienced key agency vacancies. This includes a Chief of Staff position for three months (January – March 2011) and a Secretary for over a month (January 2011).</p> <p>Recommendation</p> <p>We <u>recommend</u> that management review the comparison of the Lottery's current ethics administrative codes, 53ER07-40 and 53ER07-41, with the Governor's Code as soon as practicable, determine if any changes are required, and update the ethics administrative code accordingly.</p> <p>Management's Response</p>
	<p>In her response dated May 19, 2011, the Deputy General Counsel stated:</p> <p><i>I concur with the finding. A comparison of the Governor's and Lottery's ethics policies was sent to executive management for review and was discussed at a meeting held on May 6, 2011. The Lottery's ethics policy will be revised in accordance with decisions made at that meeting. A final policy will be provided to the Secretary for approval by June 15, 2011.</i></p>
<p>AUDIT FINDING 2: ANNUAL ETHICS TRAINING HAS NOT BEEN CONDUCTED FOR 2011</p>	<p>Lottery administrative codes 53ER07-40(6) <i>Code of Ethics for Non-Reporting Individuals and Non-Procurement Employees</i> and 53ER07-41(8) <i>Code of Ethics for Reporting Individuals and Procurement Employees</i> stipulate all employees shall receive Code of Ethics training upon appointment and thereafter on an annual basis. This is in concurrence with the Governor's revised Code of Ethics. However, the last annual ethics training was conducted February 15, 2010.</p> <p>As of this report date, annual ethics training has not been scheduled for 2011 in order to incorporate possible changes to</p>

	<p>the administrative code. Since this exceeds one year, the Agency is not in compliance with the Agency's administrative code and the Governor's Code of Ethics.</p> <p>Recommendation</p> <p>We <u>recommend</u> that annual ethics training be given as soon as practicable to existing employees.</p> <p>Management's Response</p> <p>In her response dated May 19, 2011, the Deputy General Counsel stated:</p> <p><i>I concur with the finding. Annual training will be conducted as soon as the ethics policy has been revised. It is anticipated that 2011 training will be completed by September 30 and continued annually.</i></p>
<p>AUDIT FINDING 3: THE LOTTERY DOES NOT HAVE A REQUIREMENT OR STANDARD FOR REPORTING UNETHICAL OR FRAUDULENT BEHAVIOR.</p>	<p>Based on a review of the Lottery's Ethics Training, questions are to be directed to Florida Commission on Ethics. However, there is no clear guidance on how to internally report suspected unethical or fraudulent behavior. The ethics administrative codes 53ER07-40(6) and 53ER07-41(8) do not include the process for reporting violations. In addition, there is no employee requirement for reporting unethical or fraudulent behavior.</p> <p>Currently, there is a reporting mechanism available on the Florida Lottery website, www.flalottery.com, to report "complaints" directly to the Inspector General. This complaint system is used primarily by concerned citizens but is available to all users, including employees. Complaints received through this mechanism follow a documented investigative process. It appears that Lottery employees are unaware of the reporting mechanism available on the website. Per ethics climate survey comments, employees would like to be able to report potential ethical violations anonymously without fear of retaliation.</p> <p>Other questions and complaints are directed to the Ethics Officer. However, they may not be recorded and reported to the Secretary, Security, or to the Office of Inspector General depending upon the issue. These are discussed and resolved by the Ethics Officer and General Counsel.</p> <p>Without clear ethics violation reporting procedures, violations may not be timely and properly reported by employees to the correct authority and investigated.</p>

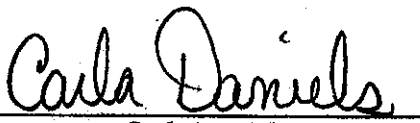
	<p>Recommendation</p> <p>We <u>recommend</u> that management develop and implement written policy and procedures for reporting unethical or fraudulent behavior. This policy should make it mandatory for employees to report known or suspected fraud.</p> <p>We also <u>recommend</u> that the Lottery Ethics Training include the mandatory requirement to report known or suspected fraudulent behavior and how to report that behavior.</p> <p>Management's Response</p> <p>In her response dated May 19, 2011, the Deputy General Counsel stated:</p> <p><i>I concur with the finding. A discussion of this issue was held at May 6, 2011 meeting and additional discussions with executive management will be scheduled by the Chief Financial Officer and General Counsel.</i></p>
<p>AUDIT FINDING 4: TRAINING AS REQUIRED BY GOVERNOR'S EXECUTIVE ORDER 11-03, ETHICS AND OPEN GOVERNMENT, HAS NOT BEEN COMPLETED.</p>	<p>The Executive Office of the Governor Code of Ethics Policy requires 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."</p> <p>Although conducted, ethics and subject related training was expedited to allow the Secretary to focus on Lottery business. To date, the Secretary has not completed public records and formal records retention training.</p> <p>Recommendation</p> <p>We <u>recommend</u> that the Secretary receive public records and records retention training as soon as practicable.</p> <p>Management's Response</p> <p>In their response dated May 19, 2011, the Deputy General Counsel and Director of Human Resources stated:</p> <p><i>The Director of Human Resources and I concur that training of the Secretary on the specific issue of public records and records retention had not been conducted as of the date of the audit; however, I completed public records and records retention training with Secretary O'Connell on April 28, 2011.</i></p>

<p>AUDIT FINDING 5: THE LOTTERY DOES NOT HAVE A MECHANISM TO ENSURE THAT EMPLOYEES RECEIVE TRAINING, AS NEEDED, IN PUBLIC RECORDS, OPEN MEETINGS, RECORDS RETENTION AND EQUAL OPPORTUNITY.</p>	<p>There is minimal agency training development and delivery for subjects such as public records, open meetings, records retention, and equal opportunity due to ambiguity on who should administer and deliver the respective training. The Governor's Code of Ethics Policy requires that each agency secretary attend this training and arrange for similar training of his or her employees on an annual basis. This Code is to be viewed as the base standard to the extent practicable, with each secretary evaluating his/her agency's existing code of ethics adjusted for those unique program requirements and variables of his or her agency.</p> <p>In the past, Lottery training for public records, open meeting, records retention and equal opportunity has been provided on an ad hoc basis. As a result, not all employees may be aware of or comply with state regulations.</p> <p>Recommendation</p> <p>We <u>recommend</u> that management identify subject matter experts to develop and deliver agency-specific training on public records, open meetings, records retention, and equal opportunity to affected employees.</p> <p>Management's Response</p>
	<p>In their response dated May 19, 2011, the Deputy General Counsel and Director of Human Resources stated:</p> <p><i>The Director of Human Resources and I concur that there is no formal training on the specified issues. Human Resources will provide training in the areas of public records, open meetings and equal opportunity. A training plan will be presented by August 31, 2011.</i></p>
<p>CONCLUSION:</p>	<p>Based on the audit work performed, it is our opinion that the Florida Lottery has established an ethics program that generally supports Governor Scott's Executive Order 11-03. Additionally, we determined that, a positive ethical climate exists and is promoted within the Florida Lottery.</p> <p>As noted in the report, there are opportunities to improve the effectiveness of the Lottery's Ethics Program. Lottery Management are aware of these challenges and are actively working towards resolution.</p>

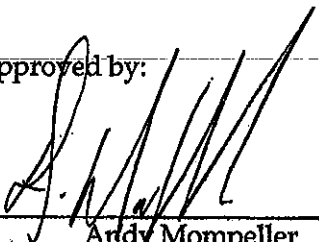
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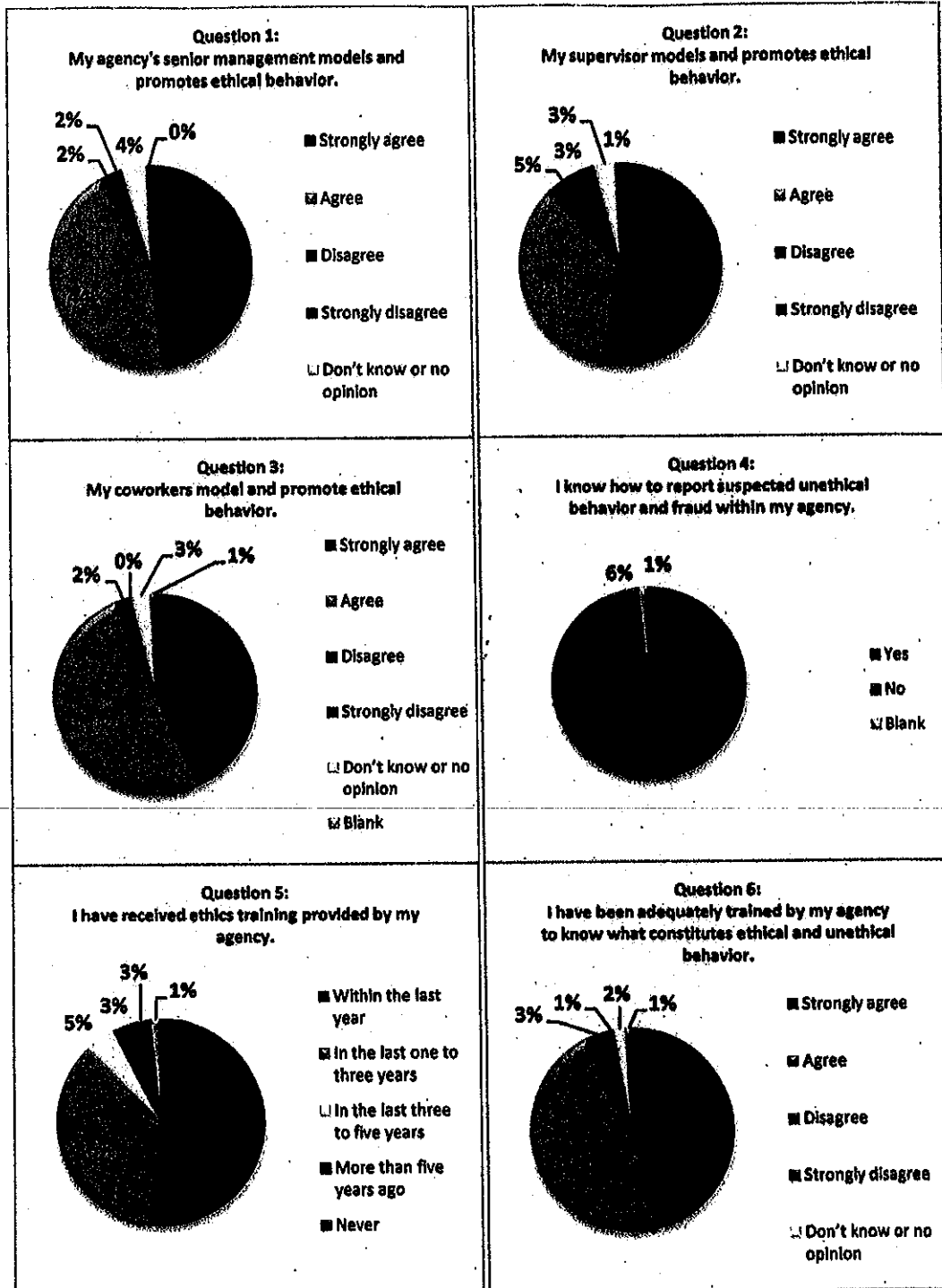

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Director of Internal Audit

Approved by:

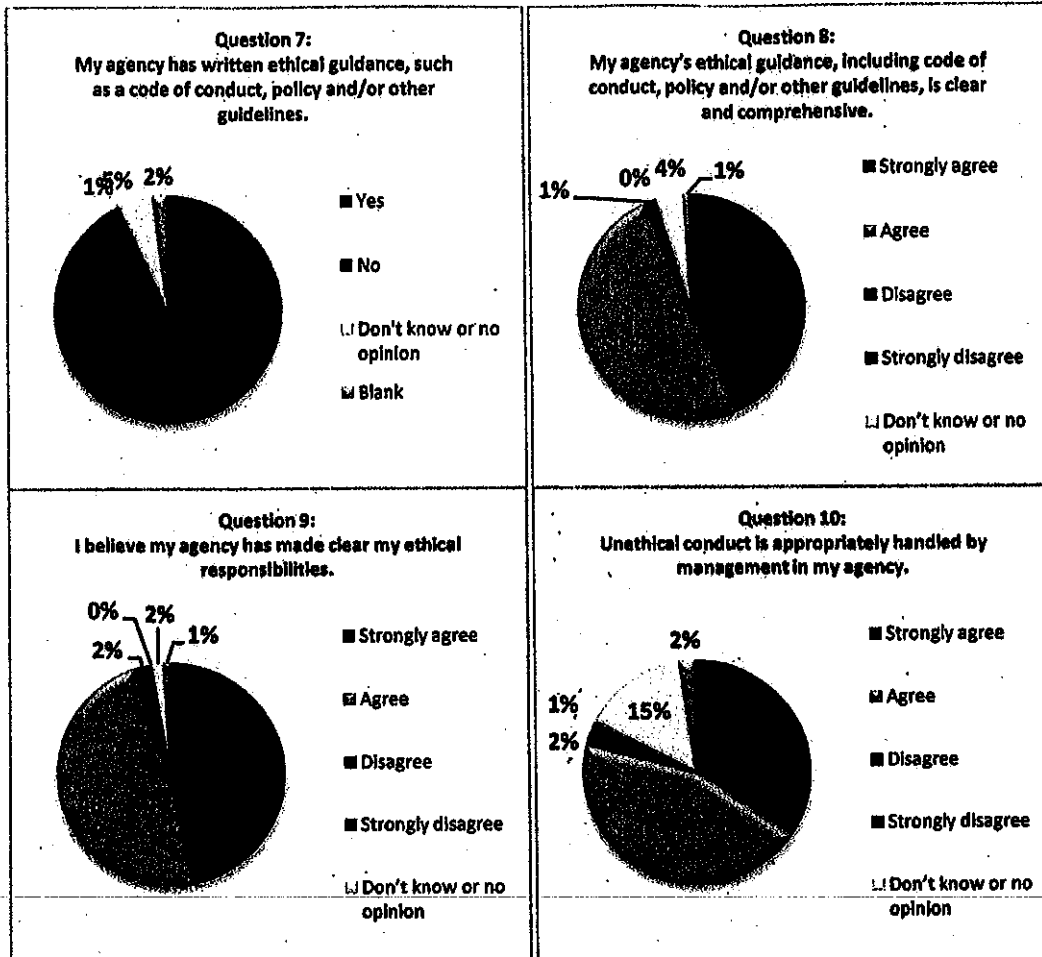

Andy Mompeller
Inspector General

Attachment: Exhibit I - Florida Lottery Ethics Climate Survey Results

Audit of Organizational Ethics
Assignment 10/11-73-A
Florida Lottery Ethics Climate Survey Results
Exhibit I



Audit of Organizational Ethics
Assignment 10/11-73-A
Florida Lottery Ethics Climate Survey Results
Exhibit I

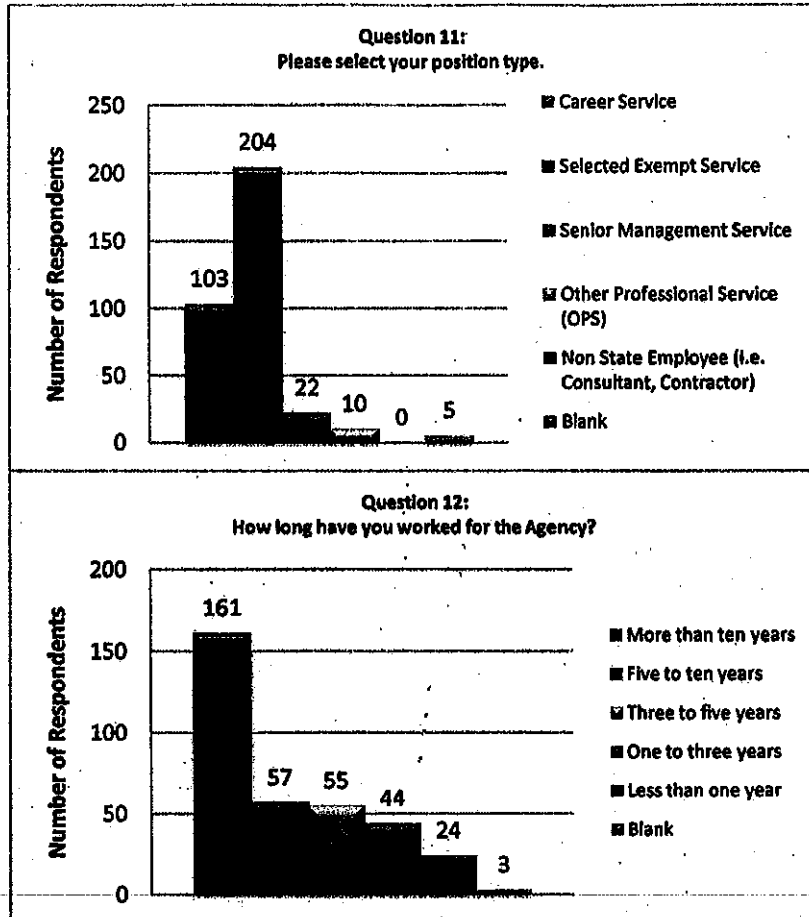


Audit of Organizational Ethics

Assignment 10/11-73-A

Florida Lottery Ethics Climate Survey Results

Exhibit I



FLORIDA LOTTERY VERSUS STATEWIDE AVERAGE

