



DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
OFFICE OF INSPECTOR GENERAL

CHARLIE CRIST
GOVERNOR

CHUCK DRAGO
INTERIM SECRETARY



TO: Chuck Drago, Interim Secretary
FROM: Ron Ferguson, Acting Inspector General *RF*
SUBJECT: Six-month Status of Corrective Actions, Auditor General Report No. 2008-0031, Elevator Safety Inspections, Prior Audit Follow-Up
DATE: April 29, 2008

In accordance with the provisions of s. 20.055(5)(g), Florida Statutes, we have reviewed the status of corrective actions taken by the Division of Hotels and Restaurants in response to recommendations made by the Auditor General in the above-referenced report. A copy of the original AG report is included for your review.

The findings, recommendations, and the division's current status of corrective actions as of March 2008 are attached.

Please contact me if you have any questions.

Thank you.

CC: Bill Veach, Director of Hotels and Restaurants
Legislative Auditing Committee

RR/rf

Attachment

**Department of Business and Professional Regulation
Division of Hotels and Restaurants
Response to Findings and Recommendations
Elevator Safety Inspections, Prior Audit Follow-Up
Auditor General Report No. 2008-0031**

Finding# 1.

In our prior audit, we recommended that the Department amend its written policies and procedures to facilitate more effective oversight of elevator safety inspections. Our current audit disclosed that the Department had made progress toward resolving these issues; however, written policies and procedures had not been adopted as of May 2007.

AG Recommendation.

We recommend the Department update its written policies and procedures to reflect current practices. We also recommend the Department periodically monitor and evaluate the effectiveness with which the procedures minimize risks associated with the operation of elevators.

Agency Initial Response.

The Department of Business and Professional Regulation is charged with enforcing and regulating the provisions of the State's Elevator Safety Act, and beginning in FY2005/2006, the Bureau has worked diligently to re-engineer its operations to meet the Auditor General Report #2006-075 audit recommendations.

In response to the recommendation of preliminary and tentative Finding #1 that the Department update its written policies and procedures to reflect current practices and periodically monitor and evaluate the effectiveness with which the procedures minimize risks associated with the operation of elevators, the following applies:

The Bureau of Elevator Safety (Bureau) implemented a systems approach to improving daily operations and currently has pilot procedures in place to monitor the quality of elevator inspections and reports, improve licensing of inspectors, and to enforce the owner's responsibility for inspection and licensing compliance.

Since July 2005, many changes have been initiated in response to the audit. The staff has identified 'best practices', designed and distributed new oversight forms, updated monitoring procedures, reviewed outcomes for effectiveness, and received feedback from stakeholders to incorporate in the redesign. Examples of some of the positive outcomes resulting from these changes are as follows:

- Improved daily reporting and weekly monitoring to achieve a rate of 6%,
- Increased licensing compliance to achieve a rate of 94% - best ever; and
- Reduced delinquencies through new enforcement notices and warnings.

Also, as recommended by the audit, the Bureau now receives an inspection report for every visit by a state inspector and a report for every oversight monitoring inspection - effective July 1, 2005. This monitoring effort also includes a comparison of violations cited to determine accuracy or possible follow-up required. Also, the practice of accepting owner correction letters was discontinued. A completed inspection report with no uncorrected violations is required to issue a valid certificate of operation.

In preparation for Bureau activities as a result of the audit, an action plan was developed in August 2005, to begin the development of new and/or revised operating procedures to meet the anticipated Audit Findings.

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Also, in December 2005 and March 2006, procedures were distributed to contracted jurisdictions developed to improve oversight operations and to institute timely monitoring. They were incorporated as business practices and will be finalized in formal policy and procedures in the near future.

During the last 24 months, the Bureau has drafted, reviewed, and revised operations and support guidelines at least five times beginning in July 2005 and continuing through the period February 2007, in anticipation of having them finalized in March and effective July 1, 2007. We missed our planned release date and anticipate release of the updated procedures by November 30, 2007.

Current Status of Corrective Actions (March 2008):

In keeping with the Agency Initial Response:

- The bureau is in 100% compliance with this audit finding.
- Effective December 1, 2007, the bureau completed development of its written policies and procedures to facilitate more effective oversight of elevator safety inspections.
 - This included updating its written policies and procedures to reflect current practices in addition to periodically monitor and evaluate the effectiveness with which the procedures minimize risks associated with the operation of elevators.

Finding #2.

In our prior audit, we recommended that the Department improve monitoring of the five local governments to which elevator safety responsibilities had been delegated. Inquiries during our current audit indicated that the Department made monitoring visits to only two of the five local governments. Also, the monitoring visits completed did not include a review of accident reports and investigations. We also found that although Department staff indicated that they had reviewed the local governments' monthly activity reports, the Department did not maintain documentation of such reviews.

AG Recommendation.

We recommend that the Department make annual on-site monitoring visits to all local governments that have been delegated responsibility for elevator safety and, during the monitoring process, review accident reports and follow-up investigations. We also recommend that the Department document its review of all activity reports, including results of the reviews and actions taken.

Agency Initial Response.

In response to the recommendation of preliminary and tentative Finding #2 that the Department make annual on-site monitoring visits to all local governments that have been delegated responsibility for elevator safety and, during the monitoring process, review accident reports and follow-up investigations, and document its review of all activity reports, including results of the reviews and actions taken, the following applies:

The Bureau developed a quarterly schedule to meet with representatives and to monitor the five (5) contracted jurisdictions. The first meeting was chaired on September 30, 2005 to discuss the statutory role and expectations for each delegated authority, audit recommendations for monitoring process, Monthly Activity Reports, and to distribute revised copies of the *Inspection Oversight and Contract*

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Monitoring Procedures Manual which outlines the monitoring process. Future plans to implement quarterly on-site monitoring visits were also discussed. Additionally, the format for submitting the contracted jurisdiction monthly activity report was standardized at the September 2005 meeting. To date, the Bureau has chaired quarterly meetings through August 2, 2007.

As of this response, the City of Miami Beach is the only contracted jurisdiction that has not received a quarterly monitoring visit and is scheduled for review November 27-30, 2007. Miami-Dade County and the City of Miami are in the process of finalizing their inspection follow-up results from recent monitoring visits. Broward County and the Reedy Creek Improvement District visits were completed successfully. To assure timely reviews, the Bureau anticipates scheduling a full-time inspector to monitor the City of Miami and Miami Beach, and the counties of Broward and Miami-Dade in the near future.

Prior to this audit, the scope of the Bureau's review of the Monthly Activity Report was limited to data anomalies such as, unexplained decreases in the number of units in their inventory and decreases in inspections performed from previous reports. Recent reviews of accidents reported indicate there may be inconsistent follow-up at the local program level. Note, effective August 2, 2007 the representatives of each contracted jurisdiction were requested to submit hardcopy accident reports and investigations, along with the monthly activity report, for the Bureau to review. In the future, reviews will be documented, along with actions taken, if necessary. The Bureau will continue to revise its procedures, along with the addition of inspectors assigned the primary task of providing full-time oversight, a recent change made possible by new positions within the Bureau.

Current Status of Corrective Actions (March 2008):

In keeping with the Agency Initial Response above:

- The bureau is in 100% compliance with this audit finding
- The bureau completed monitoring inspection activities of all five (5) contracted jurisdictions and will continue to maintain an annual monitoring schedule.
 - The City of Miami Beach monitoring activities were conducted in November 2007.
- To assure continuous monitoring activities of the five contracted jurisdictions, the bureau has hired two full-time inspectors to monitor approx. 4-5% of the annual inspections conducted.

Finding #3.

In our prior audit, we recommended that the Department take actions to encourage the timely submission of complete accident reports. We also recommended that the Department analyze the accident report information received and implement strategies or regulatory actions to minimize the risk of accidents. We found in our current audit that the Department did take some actions to encourage certificate of operation holders to submit timely and complete accident reports. However, we found that the Department was not enforcing a statutorily required fine for failure to submit timely accident reports, and the Department was not utilizing information in accident reports to determine trends and related regulatory responses.

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AG Recommendation.

We again recommend that the Department analyze submitted accident reports and data. We also recommend that the Department enforce the fine imposed by Florida Statutes for failing to submit timely accident reports.

Agency Initial Response.

In response to the recommendation of preliminary and tentative Finding #3 that the Department analyze submitted accident reports and data. We also recommend that the Department enforce the fine imposed by Florida Statutes for failing to submit timely accident reports, the following applies:

In keeping with this audit finding, in February 2007 the Bureau released a comprehensive accident reporting form with 41 data points available to identify equipment and rider behavior in relation to accidents and provide future trends for analysis. As data from this new report is accumulated, the Bureau will be able to document, review, compare similarities, and recommend actions to be taken.

Section 399.125, F.S. allows for a fine to be imposed in the event accident reports are not submitted timely. On September 26, 2006, as part of a department-wide service pack (enhancement) to LicenseEase, the capability to capture the postmark date was initiated to identify whether the accident report was submitted within the five day requirement. This date is important, as it will drive the enforcement process and possible fines.

Also, in mid-August 2007, the Bureau submitted revised language for Section 399.049, F.S. for FY2008/2009 to strengthen disciplinary actions the Bureau may impose against each identified certificate holder that fails to comply with the provisions of this chapter.

It is important to note that as a result of this audit, the level of awareness concerning accidents, particularly for escalators, has expanded throughout the industry. Bureau emphasis on timely reporting and the need to minimize the owner's risk from accidents has prompted industry inspection firms to acquire the necessary test equipment to perform the required annual safety tests.

The Bureau will continue to focus its efforts on statewide outreach and communication to improve accident reporting compliance, especially timeliness of reports and use of the revised form.

Current Status of Corrective Actions (March 2008):

In keeping with the Agency Initial Response above:

- The bureau has begun to analyze accident data submitted to identify factors contributing to the incident and outcomes that will minimize owner's risk of recurrence in the future.
- The bureau has developed an administrative complaint format specifically tailored for timely accident reporting and processing of the first five (5) administrative complaints is underway.
- The bureau is continuing to offer education and outreach compliance assistance to inform owners of the need to submit accident reports on the correct form prescribed by the division and within the 5-day period required by statute.