

Julie L. Jones
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June 21, 2011

Ms. Julie Jones
Executive Director
Department of Highway Safety and Motor Vehicles
2900 Apalachee Parkway B443
Tallahassee, Florida 32399-0500

Re: **Auditor General Report No. 2011-073**
Regulation of Motor Dealers and Procurement and Expenditures

Dear Ms. Jones:

In accordance with Section 20.055(5)(h), Florida Statutes, we are providing an assessment of the implementation or current status of the recommendations in the Auditor General's Report No. 2011-073.

If you need additional information, please contact me at 617-3129.

Sincerely,

A handwritten signature in black ink that reads "Julie M. Leftheris".

Julie M. Leftheris, CPA
Inspector General

cc: Ms. Kathy Dubose, Acting Coordinator
Joint Legislative Auditing Committee

Florida Department of Highway Safety and Motor Vehicles
Office of Inspector General

Source of Audit: Auditor General
Report Number: 2011-073
Report Title: Regulation of Motor Vehicle Dealers and
Procurement and Expenditures

Finding No. 1: Regulatory Procedures

The Division had not established consistent policies and procedures among the ten Regions within the Bureau of Field Operations (Bureau).

Recommendation: We recommend that the Bureau establish and implement consistent written policies and procedures to be followed by all Regions in their regulation of motor vehicle dealers in order to promote the consistency and efficiency of the Bureau's operations and consistent and fair treatments of consumers and motor vehicle dealers.

Initial Response: We concur with the recommendation. The Bureau has developed a procedure requiring field supervisors to conduct unannounced ride-alongs with their compliance examiners twice a year. This procedure will be in effect by January 31, 2011.

The Bureau will issue a directive requiring zone rotation in urban areas where it can be accomplished without detrimentally affecting productivity. Zone rotation cannot be accomplished in some areas due to their large geographic and remote (rural) nature without affecting productivity, increasing travel time for compliance examiners and increasing taxpayer costs.

The Bureau will update Procedure EP-12, Records Inspections, to clearly indicate the frequency of record inspections to be performed for existing licensees and ensure all Regions comply with the procedure.

The requirement to notify headquarters of complaints over 60 days on a bi-weekly basis will be incorporated in the Bureau's Procedure CC-01, Consumer Complaints.

The Bureau's Procedure CC-04, Administrative Actions, is being updated to provide better guidance on when administrative actions should be initiated.

Six month Response: The Bureau developed Administrative Procedure 17 "Performance of Ride-Along Reviews" effective January 1, 2011, to ensure consistency in the frequency of ride-alongs. The procedure was disseminated to all regional offices requiring "ride-alongs" twice annually for all compliance examiners.

A zone rotation directive was issued to all regions in December 2010, to be effective in those areas where zone rotation can be accomplished without detrimental effect to productivity. All regions have rotated zones where possible at this time.

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The Bureau's procedure, EP-12 "Dealer Records Inspections", has been updated to clearly indicate routine record inspections are to be performed every three years. Follow-up inspection directives were also specified to ensure consistency.

Bureau procedure, CC-01 "Consumer Complaints", was updated on January 1, 2011, indicating all regions were to report unresolved complaints in excess of 60 days to the program manager on a bi-weekly basis.

The Bureau's Procedure CC-04, Administrative Actions, was updated in the question and answer section to provide better guidance on when a number or pattern of violations require an administrative action to be initiated.

Status: Closed

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Finding No. 2: Compliance Examiner's Independence

The Bureau had not established policies and procedures to require all compliance examiners to provide, with respect to the motor vehicle dealers under their oversight, periodic disclosures addressing actual and potential conflicts of interest.

Recommendation: We recommend that the Bureau establish and implement written policies and procedures requiring compliance examiners and other Bureau staff who interact with motor vehicle dealers to submit an annual statement disclosing all conflicts of interest or affirming the absence of such impairments. We also recommend that this information be used by Bureau management to schedule compliance examiner assignments in a manner that avoids any actual or potential conflicts of interest.

Initial Response: We concur with the recommendation. The Bureau will develop an independence statement and establish a procedure that requires compliance examiners and other staff that interact with motor vehicle dealers to annually submit the independence statement disclosing all conflicts of interest or affirming the absence of such impairments.

Six month Response: Administrative-18 "Annual Independence Statement" Procedure was developed in February, 2011, requiring all compliance examiners and staff that interact with dealers to sign an Independence Statement and to reaffirm annually at their performance evaluation. This policy was communicated and discussed with all regional staff.

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Finding No. 3: Management Reviews

The Bureau did not always perform annual management reviews for all Regions.

Recommendation: We recommend that the Bureau increase its efforts to perform an annual management review for each Region to better monitor the Regions' regulation of motor vehicle dealer licensing.

Initial Response: We concur with the recommendation. Management reviews of the five regional offices located in the South District were not conducted due to vacancies and travel restrictions. However, the Program Manager position for the South District will be filled, effective January 2011, and management reviews will then be scheduled. In the future, the Bureau will ensure management reviews are performed on all regions on an annual basis.

Six month Response: The Bureau has taken measures to ensure timely reviews are performed on all regions and management reviews in the South District were completed by May 31, 2011.

Status: Closed

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Finding No. 4: Dealer Records Inspections Reports

The Division did not always adequately complete records inspection reports or timely follow-up on failed records inspections.

Recommendation: The Division should enhance its procedures to ensure that supervisors review Reports for adequate completion and documentation and monitor the timely follow-up of failed records inspections.

Initial Response: We concur with the recommendation. The Bureau will update Procedure EP-12, Records Inspections, to enhance requirements for supervisory review of completed record inspection reports and monitoring timeliness of follow-up inspections. The procedure will clarify the number of inspections each compliance examiner should perform and when a follow-up inspection should be conducted. The procedure will also clarify that the report should document any deviations from the procedure, including an explanation for selecting fewer than five vehicles, and that certain transaction reports must be obtained prior to the inspection.

Six month Response: Procedure EP-12 "Dealer Records Inspections" was modified January, 2011, to indicate the number of record inspections compliance examiners were to perform and when follow-up inspections should be performed. The procedure includes requirements for supervisors to review record inspection reports and to monthly provide compliance examiners with a record inspection report that reflects follow-up requirements to ensure timely completion of follow-up inspections.

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Finding No. 5: Selection and Performance of Dealer Records Inspections

The Division did not adequately plan or perform records inspections of motor vehicle dealers. Further, the Division's rationale for selecting dealers for records inspections was not adequately documented.

Recommendation: We recommend that the Division provide specific guidance to the Regional Offices relating to the selection of new and existing dealers for routine records inspections. The Division should also consider establishing a uniform risk-based methodology for planning, performing, and monitoring routine records inspections.

Initial Response: We concur with the recommendation. The Bureau will update Procedure EP-12, Records Inspections, to clarify the definition and elements of a routine record inspection, selection of dealers, the requirements of a follow-up inspection and tracking planned and performed inspections. A risk based approach for the selection of dealers to audit and the frequency of audits will be considered when updating the procedure. When the procedure is updated, the Regional Offices will be notified of the changes.

Six month Response: Procedure EP-12 "Dealer Records Inspections" was modified January, 2011, to clarify the timing of an initial record inspection and the reports and data to be reviewed as part of a routine record inspection. The procedure clarifies how often to perform routine record inspections and establishes a uniform risk based method to select dealers for routine record inspections.

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Finding No. 6: Surety Bond and Garage Liability Insurance

The Department did not timely suspend motor vehicle dealer licenses for the dealer's failure to maintain the required surety bond or garage liability insurance.

Recommendation: We recommend that the Department enhance its procedures to ensure immediate suspension of motor vehicle dealer licenses when a surety bond or garage liability insurance is canceled or expired.

Initial Response: We concur with the recommendation. The Bureau agrees that in the interest of consumer protection that an Emergency Suspension Order (ESO) should be processed as expeditiously as possible. However, we believe it is prudent to ensure that the dealer or licensee is factually non-compliant prior to issuing an ESO. In the past, some cancellation letters were sent in error after dealers had reinstated surety bond or garage liability insurance coverage.

We will review and enhance procedures where necessary to ensure quick action. Since an ESO effectively closes a business, an ESO is a severe action and should not be utilized until we are confident the business is non-compliant. We believe one of our first responsibilities is to prove non-compliance with a statutory requirement before taking an adverse action with a business.

Six month Response: The process of issuing Emergency Suspension Orders (ESO) has been enhanced to timely ensure an ESO is issued upon the effective date of cancellation of a surety bond or garage liability insurance after verification of noncompliance.

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Finding No. 7: Administrative Actions

The Department did not always take timely and effective administrative actions against motor vehicle dealers with frequent and severe violations.

Recommendation: We recommend that the Department be more proactive in taking timely and effective administrative actions against motor vehicle dealers for frequent and severe violations.

Initial Response: We concur with the recommendation. The Bureau will emphasize the importance of timely and effective action against dealers with frequent and severe violations and will investigate the functionality of a process to periodically review dealers with an extensive history of violation.

If the case revolves around such serious violations that, to allow the dealer to continue in business while awaiting a hearing on the charges may be detrimental to the welfare of the public, the administrative complaint may be accompanied by an Order of Emergency Suspension that immediately suspends the dealer's right to do business, pending the outcome of a hearing and the issuance of a final order. Orders of Emergency Suspension are issued only in cases where allowing a dealer to remain in operation may cause irreparable harm (loss of money) to the public who may continue to purchase vehicles from the dealer. Most such cases involve fraudulent practices.

The voluntary revocation process is the most expeditious way to cancel a dealer's license and prevent further harm to consumers. This revocation is immediate and no further administrative action or legally required notices are necessary. The Department considers a Voluntary Revocation of License to hold the same weight as a license revoked via the administrative process.

The Bureau attempts to use proactive measures in monitoring dealers including record inspections, educational workshops, industry communications and dealer alerts. However, when there has been an allegation of non-compliance that alleges financial harm, such as a lien not paid, those allegations are processed on a priority basis and in an expeditious manner. In cases where the allegations are technical violations, such as failure to register a vehicle in a timely manner, the Bureau works with both parties to resolve in a compliant manner as it is in the best interest of both parties.

Six month Response: Regional staff are currently generating reports in conjunction with the opening of a consumer complaint that indicate a history of complaints for a particular dealer. These reports are reviewed and the regional staff determines if administrative action is appropriate. Procedure CC-01 "Consumer Complaints" has been modified to reflect this. Procedure EP-12 "Dealer Records Inspections", currently

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emphasizes the importance of taking immediate administrative action, regardless of a pattern, on violations found during a record inspection that cause consumer harm.

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Finding No. 8: Legal Review and Approval for Procurements

The Department lacked internal controls to reasonably ensure the legal review and approval for all contractual services contracts of \$50,000 or more.

Recommendation: The Department should enhance its internal controls to ensure that, prior to contract execution, legal review and approvals are obtained for all contractual services contracts (including contracts processed through MyFloridaMarketPlace (MFMP)) of \$50,000 or more.

Initial Response: We concur with the recommendation. The Department has always been diligent about having contractual service contracts in excess of Category Three (now \$65,000) processed outside of MFMP reviewed by the Legal Office. To ensure further compliance with Section 287.057(18), Florida Statutes, all contractual service contracts in excess of Category Three (\$65,000) that are processed through MFMP now have an appropriate member of the Department's Legal Office added to the approval flow for review and approval of the contract prior to execution of the Direct Order.

Six month Response: Immediately following our audit exit conference, the Department instituted additional safeguards to further enhance compliance with Florida Statute Section 287.057(18), by updating our procedures on how contractual service purchases are processed within My Florida Marketplace (MFMP), which are in excess of Category Three (\$65,000). This issue was rectified by adding an appropriate member of the Legal Staff as an approver within My Florida Market Place for contractual service purchases in excess of Category Three, or by hand delivering a hard copy of the agreement to the Legal Department for approval. Once the hard copy has been approved by the Legal Department in writing, the appropriate documentation is added to the Purchase Requisition (PR) within MFMP prior to execution.

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Finding No. 9: Invoices with Available Discounts

The Department did not always take available discounts when processing invoices for payment.

Recommendation: The Department should consider reviewing the payments made to other vendors offering discounts and verify that all discounts have been taken.

Initial Response: We concur with the recommendation. The Department is in the process of determining other vendors who offer discounts and will subsequently review payments made to ensure any applicable discounts were taken.

Six month Response: Subsequent to this report, the Department requested and received refunds for the invoices identified in the audit report. Instructions for utilizing invoice discounts offered by vendors have been written and added to the Accounts Payable Desk Procedures and emails were sent out to Bureau Chiefs on June 3, 2010, requesting they make their contract managers aware of offered discounts and the procedures involved in taking them.

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Finding No. 10: Fees Charged for Bank Services

The Department did not always verify fees charged on invoices for bank services.

Recommendation: The Department should verify the accuracy of bank service fees prior to payment.

Initial Response: We concur with the recommendation. In accordance with our written procedures, the Department is now verifying the accuracy of bank service fees on invoices prior to payment.

Six month Response: The verification of fee rate charges on bank service contracts are now being completed by the Contract Manager and Accounts Payable staff. The Revenue Section in the Bureau of Accounting has updated desk procedures to include procedures for the verification of fees charged.

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Finding No. 11: Cancellation of Purchasing Cards

The Department did not ensure that purchasing cards were timely canceled upon a cardholder's separation from the Department.

Recommendation: We recommend that the Department continue its efforts to enhance its procedures for routine identification of terminated employees to ensure the timely cancellation or deactivation of purchasing cards upon a cardholder's separation from the Department.

Initial Response: We concur with the recommendation. After the positive review of our purchasing card program by the Department's Office of Inspector General, we used the recommendations to further improve our purchasing card program. In addition to revising internal guidelines and conducting training courses on various topics such as the proper collection and return of the purchasing card to the Purchasing Card Program Administrator, a new on-line personnel alert system was developed and recently implemented. This new system, which was developed in conjunction with the Bureau of Personnel Services, provides the Purchasing Card Program Administrator with immediate notification of employee separation from the Department. These new measures will ensure the timely cancellation of Departmental purchasing cards and continued success of the program.

Six month Response: The Purchasing Card Program Administrator is now utilizing the new on-line personnel alert system to ensure timely cancellation of Department purchasing cards. In addition, a comparison is done quarterly of current members recorded in the State of Florida Peoples First System and Purchasing Card records of card holders. This provides an additional system of checks and balances that no invalid cardholder exists.

Status: Closed

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Finding No. 12: FLAIR Access

The Department did not timely remove Florida Accounting Information Resource Subsystem (FLAIR) user access for terminated employees.

Recommendation: Department staff should continue efforts to enhance Department procedures for routine identification of terminated employees to ensure that the FLAIR access privileges are timely removed.

Initial Response: We concur with the recommendation. This finding suggests that effective April 21, 2010, the Department's internal procedures were updated to require notification be made via email to the FLAIR access control custodian within 24 hours of an employee's access need changing. To date, this procedural modification is helping to ensure FLAIR access is timely removed and integrity of FLAIR at the Department is maintained. We will continue to monitor the effectiveness of this procedure.

Six month Response: On April 21, 2010 the Department's internal procedures were updated to require that notification be made via email to the FLAIR access custodian within 24 hours of an employee's access needing to be changed. Also, the Bureau of Accounting has added this requirement to its Bureau member guidelines thus providing an additional method of awareness.

Status: Closed

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Finding No. 13: Security Awareness Training

The Department did not provide ongoing security awareness training to its employees.

Recommendation: The Department should continue its efforts to improve the ongoing security awareness training program.

Initial Response: The Department has produced and published a security awareness training module that is part of our learning curriculum. This module is available through our on-line training system iLearn and is assigned to each user annually as a training requirement. It is also assigned to new members when they join the Department. Once assigned, the member has 30 days to complete the training. Those that have not completed the training will receive email reminders along with their supervisor indicating their need to complete the training. The new training module for security awareness was assigned to all employees beginning July 1, 2010. As of December 13, 2010, 4,034 members have completed the training program (88.52 percent). Another improvement to our security awareness training process is the reporting capability. Reports are available to show the progress of each member, including who has taken the training as well as the date completed. It also shows members who have not taken the annual training.

Six month Response: The Department has continued to require security awareness training through iLearn. To date, 98.95% of current members have completed the training. Beginning in January, 2011, the course is being assigned as a part of the New Member Orientation block of courses. Of the new members who were assigned the course in this manner, 100% completed the course by the required due date. Those who do not complete the training receive an automated email, which is also sent to the supervisor. Each month, reports of those who have not completed the course by its due date are circulated to Division leadership. In addition, the course is required to be completed by all members bi-annually. The Department's learning management system, iLearn, will automatically assign the course when two years have passed since a learner completed the course. The learner will receive an email, which is copied to the supervisor informing them that they need to complete the course again.

Status: Closed