



STATE OF FLORIDA  
PUBLIC EMPLOYEES RELATIONS COMMISSION

Stephanie Williams Ray  
CHAIR

Jessica Enciso Varn  
John M. Delgado  
COMMISSIONERS

February 15, 2010

Ms. Kathy DuBose, Staff Director  
State of Florida  
Joint Legislative Auditing Committee  
111 West Madison Street  
Tallahassee, Florida 32399-1400

RE: Status of Agency Actions Regarding Operational Audit of the Department of Management Services and Related Entities on Nonpublic Information Safeguards and Revenue and Cash Receipts for the period July 2006 through February 2008

Dear Ms. DuBose:

In December 2008, the Auditor General issued his Operational Audit of the Department of Management Services and Related Entities on Nonpublic Information Safeguards and Revenue and Cash Receipts for the period July 2006 through February 2008 (Report No. 2009-078). There were three findings and corresponding recommendations for corrective action pertaining to the Public Employees Relations Commission (PERC), an independent entity administratively housed in the Department of Management Services.

The following reflects the specific actions taken to address the deficiencies cited for the agency and the current status of these issues.

**Finding No. 1: SSN Reporting Requirements**

**Auditor General Recommendation:** To comply with State law, DOAH, FCHR, and PERC should take immediate corrective action to file applicable certifications and reports. The Department and related entities should develop written procedures for safeguarding access to SSNs including, as applicable, provisions for providing written notifications to individuals when SSNs are collected and for obtaining written explanations from commercial entities explaining how the entities will use any SSNs provided.

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**Initial Agency Response dated December 17, 2008:** PERC has taken the following corrective actions to address the foregoing recommendation:

- PERC collects social security numbers from individual vendors (e.g., court reporters), as required by the State of Florida Office of Chief Financial Officer, for payment for services rendered. Prior to this audit recommendation, PERC had not provided written notice to these vendors regarding the purpose for its collection. As a corrective measure, PERC sent such notification to all of its current vendors by letter dated December 15, 2008. (See Attachment 1)

In the future, such notification will be included in the standard purchase order created for vendors at the beginning of the fiscal year.

- It is noteworthy that the Department of Management Services (DMS) maintains the official personnel files for PERC employees. It provides employees with a written statement for collection of social security numbers in accordance with section 119.071(5)(a)(2)(a), Florida Statutes. (See Attachment 2)
- PERC has reviewed its collection of social security numbers to determine compliance with the law and certified such compliance to the President of the Senate and the Speaker of the House of Representatives by letter dated December 16, 2008. (See Attachment 3)
- PERC has implemented written procedures effective December 16, 2008, for responding to requests for information pursuant to Chapter 119, Florida Statutes, including requests for social security numbers from commercial entities. (See Attachment 4)
- By letter dated December 12, 2008, PERC reported to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives, that no commercial entities had requested social security numbers from the agency during the preceding calendar year. (See Attachment 5)

**Current Status: COMPLETED.** PERC has complied with all reporting requirements relating to the collection of social security numbers. In addition, written procedures remain in place for safeguarding access to SSNs, including provisions for providing written notifications to individuals when SSNs are collected and for obtaining written explanations from commercial entities explaining how the entities will use any SSNs provided.

### **Finding No. 3: Procedures and Standard Documents**

**Auditor General Recommendation:** To appropriately safeguard SSNs and other nonpublic information: ... PERC should implement written procedures to identify all nonpublic information obtained in fulfillment of PERC responsibilities and clarify the safeguards to be employed to protect such information.

**Initial Agency Response dated December 17, 2008:** Access to information in the custody and control of PERC, which is exempt from public disclosure (confidential information) or may be exempt (privileged information), can only be obtained by a public records request pursuant to Section 119.07, Florida Statutes. In response to this audit recommendation, PERC memorialized in writing its existing practice for responding to public records requests. (See Attachment 4) In addition, PERC has also added a bold notice in its intake letter to the parties initiating each case which outlines what is confidential and privileged information and how this information will be processed by PERC. (See Attachment 6)

**Current Status:** **COMPLETED.** Agency safeguards and written procedures relating to the protection of nonpublic information remain in place.

### **Finding No. 6: Positions of Special Trust**

**Auditor General Recommendation:** To ensure that persons occupying positions of special trust, responsibility, or sensitive location, are subject to a level 2 screening as required by law, DOAH, FCHR, and PERC should each:

- Establish written policies clearly identifying such positions.
- Verify that all employees occupying positions of special trust have been subjected to level 2 screenings.

**Initial Agency Response dated December 17, 2008:** In response to this recommendation, PERC has designated all of its positions as those occupying special trust or responsibility due to the quasi-judicial mission of PERC and the employees' access to its Case Management System. PERC has established and implemented a policy for security background investigations and provided it to all PERC employees (See Attachment 7). All employees have been submitted to level 2 background investigations coordinated by the Department of Management Services, Office of the Inspector General.

**Current Status:** **COMPLETED.** All PERC employees have passed level 2 background investigations coordinated by the Department of Management Services, Office of the Inspector General.

Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,

  
Stephanie Williams Ray  
Chair

Attachments (7)

cc: David W. Martin, Auditor General

ATTACHMENT 1



STATE OF FLORIDA  
PUBLIC EMPLOYEES RELATIONS COMMISSION

Stephanie Williams Ray  
Chair

Charles H. Kossuth, Jr.  
Jessica Enciso Varn  
Commissioners

December 15, 2008

Dear :

Pursuant to Section 119.071(5), Florida Statutes, the Public Employees Relations Commission (PERC) is required to notify all vendors of the purpose for which any social security numbers (SSN) is collected. SSNs are confidential and exempt from public inspection, and may only be procured by a State agency if authorized by law. As a PERC vendor, the Office of the Chief Financial Officer is required by federal law to acquire your SSN in order to make payment.

If you have any questions about this matter, please call our office at (850) 488-8641.

Sincerely,

Mary Ann Burns

ATTACHMENT 2

**Written Statement for Collection of Social Security Number in Accordance with F.S. § 119.071(5)(a)(2)(a)**

The collection of your social security number is imperative for the performance of the duties and responsibilities of the Department of Management Services, as prescribed by law. The Department of Management Services, Personnel Office is responsible for completing the Federal Form I-9, Employment Eligibility Verification. Although providing the social security card is voluntary, it is the most important form of identification used by our employees. We also use the social security number for previous employment verification because it is the unique identifier of previous employees.

Division of State Group Insurance, as administrator for the State Group Insurance Program, requires collection of social security numbers in order to properly administer the benefit program by providing necessary information to State of Florida, Department of Financial Services, Bureau of State Payroll, and other state agencies, including state universities, which are responsible for performing payroll and federal tax withholding and reporting functions. The collection of the social security number is therefore imperative for the performance of this Department's duties and responsibilities as prescribed by law.

Florida Statute 110.116 requires the Department of Management Services to establish and maintain a complete personnel information system. The People First system records social security numbers and interfaces with the State of Florida Department of Financial Services, Bureau of State Payrolls (BOSP). BOSP must have social security numbers to process payroll, payroll deductions, federal tax withholding, and perform related reporting functions.

Social Security numbers are confidential and exempt from public records requests under Section 119.07(1), Florida Statutes, and s 24(a), Article 1 of the State Constitution.



STATE OF FLORIDA  
PUBLIC EMPLOYEES RELATIONS COMMISSION

Stephanie Williams Ray  
Chair

Charles H. Kossuth, Jr.  
Jessica Enciso Varn  
Commissioners

December 16, 2008

The Honorable Jeff Atwater, President  
Florida Senate  
409 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1100

The Honorable Ray Sansom, Speaker  
Florida House of Representatives  
420 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300

RE: Certificate of Compliance with Section 119.071(5)(a)4.a., Florida Statutes (2008),  
Collection of Social Security Numbers

Dear Senator Atwater and Representative Sansom:

Pursuant to the requirements of Section 119.071(5)(a)4.b, Florida Statutes (2008), the Public Employees Relations Commission hereby certifies that it has complied with Section 119.071(5)(a)4.a, Florida Statutes (2008), concerning collection of social security numbers.

Sincerely,

  
Stephanie Williams Ray  
Chair

SWR/pap

**Florida Public Employees Relations Commission  
Procedures for Responding to Chapter 119 Requests**

**Effective Date:**

*12-16-08*

**Approved by Chair:**

*Stephanie W. Ray*

**PURPOSE:**

The purpose of this policy is to document the procedures for responding to requests for information made pursuant to Chapter 119, Florida Statutes, to safeguard against the release of nonpublic information.

**PROCEDURES:**

1. The Commission has an internal Case Management System (CMS) and a hard copy file of the cases and filings that come before it. Any form of a request for information from a source outside the Commission (Public Records Request) shall be promptly advanced to the General Counsel (GC) for an evaluation of whether the hard copy file contains Confidential Information or Privileged Information. No individual who is not a PERC employee shall be given access to CMS.
2. Confidential Information, such as the names of children or disabled person receiving State services, victims of sexual crimes, child abuse victims, or HIV positive individuals, must be altered to protect the identity of the individual before filing with the Commission or submission into evidence at hearing. Any questions on this should be directed to the Clerk or GC, who will research the issue through the Government in the Sunshine Manual.
3. Privileged Information, such as personnel information of certain designated public employees, can only be exempted from public disclosure upon a written request by the designated employee. See §119.071(4), Fla. Stat. (2008). Notice to this effect is included in the Acknowledgement of Receipt letter sent to the parties in each case. If such request is made, it should be directed to the Clerk, who will conceal the information in the hard copy file. The public records provided shall state that the redacted material is "on file" with the Commission.
4. Agency Personnel Information. Any request for social security numbers, payroll records, travel vouchers, or personnel files of current or former Commission employees will be referred to the Department of Management Services (DMS) as official custodian of those records, with a caution to DMS that those records must be evaluated for confidential and privileged information. DMS should also be



apprised that a request for employee social security numbers by commercial entities must be evaluated by Section 119.071(5), Florida Statutes.

5. Any questions on public disclosure shall be directed to the Clerk or GC.



STATE OF FLORIDA  
PUBLIC EMPLOYEES RELATIONS COMMISSION

Stephanie Williams Ray  
Chair

Charles H. Kossuth, Jr.  
Jessica Enciso Varn  
Commissioners

December 12, 2008

The Honorable Charlie Crist  
Office of the Governor  
The Capitol, PL05  
400 S. Monroe St.  
Tallahassee, FL 32399-0001

The Honorable Jeff Atwater, President  
Florida Senate  
409 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399-1100

The Honorable Ray Sansom, Speaker  
Florida House of Representatives  
420 The Capitol  
402 South Monroe Street  
Tallahassee, FL 32399-1300

RE: Report of request by commercial entities of social security numbers required by Section 119.071(5)(a)9.a., Florida Statutes (2008).

Dear Governor Crist, Senator Atwater and Representative Sansom:

Pursuant to Section 119.071(5)(a)9.c., Florida Statutes (2008), the Public Employees Relations Commission hereby certifies that no commercial entities have requested social security numbers from the agency during the preceding calendar year.

Sincerely,

  
Stephanie Williams Ray  
Chair

SWR/pap

**BOLD NOTICE CONTAINED IN PERC'S ACKNOWLEDGEMENT  
LETTER FOR NEW FILINGS**

**IMPORTANT NOTICE – ALL INFORMATION IS SUBJECT TO PUBLIC DISCLOSURE PURSUANT TO SECTION 119, FLORIDA STATUTES. CONFIDENTIAL INFORMATION, SUCH AS THE NAMES OF CHILDREN OR DISABLED PERSONS RECEIVING STATE SERVICES, VICTIMS OF SEXUAL CRIMES, CHILD ABUSE VICTIMS OR HIV POSITIVE INDIVIDUALS, MUST BE ALTERED TO PROTECT THE IDENTITY OF THE INDIVIDUAL BEFORE FILING OR SUBMISSION INTO EVIDENCE. PRIVILEGED AGENCY PERSONNEL INFORMATION SET FORTH IN SECTION 119.071(4), FLORIDA STATUTES, SUCH AS HOME ADDRESSES AND TELEPHONE NUMBERS OF CERTAIN DESIGNATED PUBLIC EMPLOYEES AND SOCIAL SECURITY NUMBERS OF ALL CURRENT AND FORMER EMPLOYEES THAT IS DESIRED TO BE EXEMPT FROM PUBLIC DISCLOSURE CAN ONLY BE PROTECTED BY PERC UPON A WRITTEN REQUEST BY THE DESIGNATED EMPLOYEE. SECTION 119.071(4)8, FLORIDA STATUTES.**

<b>Florida Public Employees Relations Commission Security Background Investigations Policy and Procedures</b>	
<b>Effective Date:</b> <i>November 26, 2008</i>	<b>Approved by Chair:</b> <i>Stephanie W. Ray</i>

**PURPOSE:**

The purpose of this policy is to establish the requirements for background investigations, including fingerprinting, as a condition of employment for positions of special trust or responsibility.

**AUTHORITY:**

Section 110.1127, Florida Statutes (Employee Security Checks)  
Chapter 435, Florida Statutes (Employment Screening)

**SCOPE:**

This policy applies to all Commission employees, contractors, volunteers and interns.

**POLICY:**

Pursuant to section 110.1127(1), Florida Statutes, the Chair (or designee) may, from time to time, designate Commission positions as positions of special trust or responsibility requiring a security background investigation, including fingerprinting, as a condition of employment.

Based upon the Commission's mission of adjudicating labor and employment disputes and because each Commission employee has access to information which may be exempt from the public records law, all employee positions within the Commission have been designated as positions of special trust or responsibility.

Positions held by Commission contractors, volunteers and interns will be assessed on an ongoing basis to determine the level of security background check required for those positions based upon the job duties for each position.

**DEFINITIONS:**

"Position of special trust or responsibility" means a position that, because of special trust, special responsibility, or sensitive location, requires a security background investigation, including fingerprinting, in accordance with section 435.04, Florida Statutes, as a condition of employment.

"Security background investigation" means an investigation that includes, but is not limited to, fingerprinting, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement, and federal criminal records checks through the Federal Bureau of Investigation, and may include criminal records checks through local law enforcement agencies, in accordance with section 435.04, Florida Statutes.

**PROCEDURES:**

1. Employees occupying positions of special trust or responsibility, and applicants who have been offered employment with the Commission to a position of special trust or responsibility, shall be required to undergo a security background investigation, including fingerprinting, as a condition of employment and continued employment.
2. Security background investigations shall be coordinated through the Department of Management Services, Office of Inspector General (OIG), and conducted as provided in Chapter 435, Florida Statutes, using the level 2 standards for screening set forth in that chapter.
3. Background investigations and fingerprinting of Commission employees are conducted at the expense of the Commission.
4. The Commission may refuse to hire an applicant, or may take disciplinary action against an employee occupying a position of special trust or responsibility, up to and including dismissal, if the results of the security background investigation indicate that the individual does not meet the minimum standards of good character as established by Chapter 435, Florida Statutes, or if the employee failed to disclose required information on his or her State of Florida Employment Application.
5. Disqualification and Exemptions
  - a. The OIG shall review the results of all security background investigations to identify criminal records that could disqualify an employee or applicant from employment in a position of special trust or responsibility pursuant to section 435.04, Florida Statutes.
  - b. If a security background investigation reveals a disqualifying criminal conviction, as defined in section 435.04(2), Florida Statutes, the OIG shall notify the Commission's General Counsel who will report the finding to the Chair. Written notification of the finding shall be furnished to the employee or applicant in accordance with section 435.06(1), Florida Statutes.
  - c. Exemptions from disqualification for employment in a position of special trust or responsibility may be granted by the Chair in accordance with section 435.07, Florida Statutes.