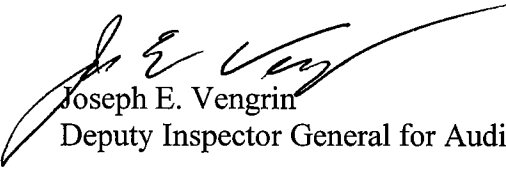




SEP - 8 2008

TO: Julie L. Gerberding, M.D., M.P.H.
Director
Centers for Disease Control and Prevention

FROM: 
Joseph E. Vengrin
Deputy Inspector General for Audit Services

SUBJECT: Allowability of Costs Claimed for Reimbursement Under Florida's Bioterrorism and Emergency Preparedness Programs for the Period August 31, 2004, Through August 30, 2006 (A-04-07-01046)

Attached is an advance copy of our final report on the allowability of costs claimed for reimbursement under Florida's bioterrorism and emergency preparedness programs for the period August 31, 2004, through August 30, 2006. We will issue this report to the Florida Department of Health (the State agency) within 5 business days.

Under sections 301, 317, and 319 of the Public Health Service Act, the Centers for Disease Control and Prevention (CDC) provides funds to State and major local health departments to improve preparedness and response capabilities for bioterrorism and other public health emergencies. From August 31, 1999, to August 30, 2005, CDC provided this funding through the Public Health Preparedness and Response for Bioterrorism Program. Since August 31, 2005, CDC has provided funding through the Public Health Emergency Preparedness Program. We refer to these two programs collectively as "the Program."

Our objective was to determine whether the costs that the State agency claimed for reimbursement under the Program for the period August 31, 2004, through August 30, 2006, were allowable, allocable, and reasonable.

Of the \$75 million that the State agency claimed for reimbursement for the period August 31, 2004, through August 30, 2006, \$71.3 million was allowable, allocable, and reasonable. However, the State agency claimed \$71,322 in unallowable costs that were improperly charged to the Program or inadequately documented. In addition, approximately \$3.6 million may be unallowable because the costs may not be authorized by Florida statutes. These deficiencies occurred because the State agency did not have adequate policies and procedures to ensure that all costs claimed for reimbursement complied with applicable laws, regulations, and program guidance.

We recommend that the State agency:

- refund \$71,322 for costs that were improperly charged to the Program or inadequately documented;
- determine, as a matter of law, whether the State agency’s initiation of staffing contracts bypassed the position limitations imposed by the Florida Legislature and, if so:
 - refund the approximately \$3.6 million in unallowable costs and
 - stop initiating staffing contracts; and
- improve policies and procedures to ensure that all costs claimed for reimbursement comply with applicable laws, regulations, and program guidance, including:
 - implementing procedures to ensure that grant charges are applied to the appropriate funding period and
 - strengthening procedures to ensure that documentation is maintained to support all payroll costs and grant-related effort.

In written comments on our draft report, the State agency agreed with our findings regarding the \$71,322 in unallowable costs. With respect to the approximately \$3.6 million in potentially unallowable costs, the State agency said that it was pursuing this issue with the State’s Department of Management Services. We recognize that State entities other than the Attorney General’s office may be able to determine whether the State agency violated the number of authorized positions in the appropriations acts. Accordingly, we have modified the recommendation included in our draft report and no longer specify that a legal opinion be obtained from the Attorney General’s office.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Lori S. Pilcher, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through e-mail at Lori.Pilcher@oig.hhs.gov or Peter J. Barbera, Regional Inspector General for Audit Services, Region IV, at (404) 562-7800 or through e-mail at Peter.Barbera@oig.hhs.gov. Please refer to report number A-04-07-01046.

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General
Office of Audit Services

REGION IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, Georgia 30303

SEP 12 2008

Report Number: A-04-07-01046

Ana M. Viamonte Ros, M.D., M.P.H.
Surgeon General
Florida Department of Health
4052 Bald Cypress Way, Bin #B00
Tallahassee, Florida 32399-1728

Dear Dr. Viamonte Ros:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Allowability of Costs Claimed for Reimbursement Under Florida's Bioterrorism and Emergency Preparedness Programs for the Period August 31, 2004, Through August 30, 2006." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

The HHS action official will make final determination as to actions taken on all matters reported. We request that you respond to this official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, this report will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact Mark Wimple, Audit Manager, at (919) 790-2765, extension 24, or through e-mail at Mark.Wimple@oig.hhs.gov. Please refer to report number A-04-07-01046 in all correspondence.

Sincerely,

Peter J. Barbera
Regional Inspector General
for Audit Services

Enclosure

Direct Reply to HHS Action Official:

Mr. Gary Teague
Acquisition and Assistance Analyst
Office of Policy, Oversight, and Evaluation
Centers for Disease Control and Prevention
Procurement and Grants Office (MS E-14)
2920 Brandywine Road, Room 1122
Atlanta, Georgia 30341

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**ALLOWABILITY OF COSTS
CLAIMED FOR REIMBURSEMENT
UNDER FLORIDA'S
BIOTERRORISM AND EMERGENCY
PREPAREDNESS PROGRAMS FOR
THE PERIOD AUGUST 31, 2004,
THROUGH AUGUST 30, 2006**



Daniel R. Levinson
Inspector General

September 2008
A-04-07-01046

Office of Inspector General

<http://oig.hhs.gov>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The Office of Audit Services (OAS) provides auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations. These assessments help reduce waste, abuse, and mismanagement and promote economy and efficiency throughout HHS.

Office of Evaluation and Inspections

The Office of Evaluation and Inspections (OEI) conducts national evaluations to provide HHS, Congress, and the public with timely, useful, and reliable information on significant issues. These evaluations focus on preventing fraud, waste, or abuse and promoting economy, efficiency, and effectiveness of departmental programs. To promote impact, OEI reports also present practical recommendations for improving program operations.

Office of Investigations

The Office of Investigations (OI) conducts criminal, civil, and administrative investigations of fraud and misconduct related to HHS programs, operations, and beneficiaries. With investigators working in all 50 States and the District of Columbia, OI utilizes its resources by actively coordinating with the Department of Justice and other Federal, State, and local law enforcement authorities. The investigative efforts of OI often lead to criminal convictions, administrative sanctions, and/or civil monetary penalties.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support for OIG's internal operations. OCIG represents OIG in all civil and administrative fraud and abuse cases involving HHS programs, including False Claims Act, program exclusion, and civil monetary penalty cases. In connection with these cases, OCIG also negotiates and monitors corporate integrity agreements. OCIG renders advisory opinions, issues compliance program guidance, publishes fraud alerts, and provides other guidance to the health care industry concerning the anti-kickback statute and other OIG enforcement authorities.

Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov>

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, Office of Inspector General reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5).

OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

EXECUTIVE SUMMARY

BACKGROUND

Under sections 301, 317, and 319 of the Public Health Service Act, the Centers for Disease Control and Prevention (CDC) provides funds to State and major local health departments to improve preparedness and response capabilities for bioterrorism and other public health emergencies. From August 31, 1999, to August 30, 2005, CDC provided this funding through the Public Health Preparedness and Response for Bioterrorism Program. Since August 31, 2005, CDC has provided funding through the Public Health Emergency Preparedness Program. We refer to these two programs collectively as “the Program.”

In Florida, the Department of Health, Office of Public Health Preparedness (the State agency), administers the Program. For the period August 31, 2004, through August 30, 2006, the State agency claimed Program reimbursement totaling \$75 million.

OBJECTIVE

Our objective was to determine whether the costs that the State agency claimed for reimbursement under the Program for the period August 31, 2004, through August 30, 2006, were allowable, allocable, and reasonable.

SUMMARY OF FINDINGS

Of the \$75 million that the State agency claimed for reimbursement for the period August 31, 2004, through August 30, 2006, \$71.3 million was allowable, allocable, and reasonable. However, the State agency claimed \$71,322 in unallowable costs that were improperly charged to the Program or inadequately documented. In addition, approximately \$3.6 million may be unallowable because the costs may not be authorized by Florida statutes. These deficiencies occurred because the State agency did not have adequate policies and procedures to ensure that all costs claimed for reimbursement complied with applicable laws, regulations, and program guidance.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$71,322 for costs that were improperly charged to the Program or inadequately documented;
- determine, as a matter of law, whether the State agency’s initiation of staffing contracts bypassed the position limitations imposed by the Florida Legislature and, if so:
 - refund the approximately \$3.6 million in unallowable costs and
 - stop initiating staffing contracts; and

- improve policies and procedures to ensure that all costs claimed for reimbursement comply with applicable laws, regulations, and program guidance, including:
 - implementing procedures to ensure that grant charges are applied to the appropriate funding period and
 - strengthening procedures to ensure that documentation is maintained to support all payroll costs and grant-related effort.

AUDITEE COMMENTS

In written comments on our draft report, the State agency agreed with our findings regarding the \$71,322 in unallowable costs. With respect to the approximately \$3.6 million in potentially unallowable costs, the State agency said that it was pursuing this issue with the State's Department of Management Services.

The complete text of the State agency's comments is included as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

We recognize that State entities other than the Attorney General's office may be able to determine whether the State agency violated the number of authorized positions in the appropriations acts. Accordingly, we have modified the recommendation included in our draft report and no longer specify that a legal opinion be obtained from the Attorney General's office.

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INTRODUCTION

BACKGROUND

Preparedness for Bioterrorism and Other Public Health Emergencies

The Centers for Disease Control and Prevention (CDC) provides funds to State and major local health departments to improve preparedness and response capabilities for bioterrorism and other public health emergencies. From August 31, 1999, to August 30, 2005, CDC provided this funding through the Public Health Preparedness and Response for Bioterrorism Program. Since August 31, 2005, CDC has provided funding through the Public Health Emergency Preparedness Program. This program covered a 5-year project period, with the first budget year covering August 31, 2005, to August 30, 2006.

The Public Health Preparedness and Response for Bioterrorism Program was authorized under sections 301(a), 317(k)(1)(2), and 319 of the Public Health Service Act (42 U.S.C. §§ 241(a), 247b(k)(1)(2), and 247d), and the Public Health Emergency Preparedness Program was authorized by section 319C of the Public Health Service Act (42 U.S.C. § 247d-3). We refer to these two programs collectively as “the Program.”

CDC issues Notices of Cooperative Agreement to awardees to set forth the approved budget as well as the terms and conditions of the individual awards. To monitor the expenditure of these funds, CDC requires awardees to submit financial status reports (FSR) showing the amounts expended, obligated, and unobligated.

Florida Program Funding

In Florida, the Department of Health, Office of Public Health Preparedness (the State agency), administers the Program and distributes funds to subrecipients to carry out Program objectives. For budget years 2004–2005 and 2005–2006 (August 31, 2004, through August 30, 2006), the State agency was awarded a total of \$87.5 million and expended \$75 million. The remaining \$12.5 million was carried forward to budget year 2006–2007. Table 1 summarizes the awarded and expended amounts.

Table 1: Awarded and Expended Amounts

Budget Year	Budget Period	Awarded	Expended
2004–2005	8/31/2004–8/30/2005	\$43,704,396	\$33,560,014
2005–2006	8/31/2005–8/30/2006	43,789,715	41,423,055
Total		\$87,494,111	\$74,983,069

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our objective was to determine whether the costs that the State agency claimed for reimbursement under the Program for the period August 31, 2004, through August 30, 2006, were allowable, allocable, and reasonable.

Scope

Our audit covered the \$75 million in direct and indirect costs that the State agency claimed for Program activities during the 2-year period August 31, 2004, through August 30, 2006. We limited our review of direct costs to nonstatistical samples of Program expenditures. Table 2 summarizes the total expenditures from which we selected samples and the samples selected.

Table 2: Total and Sampled Expenditures

Type of Expenditure	Total Dollar Value	Sample Size	Dollar Value of Sample
Payroll	\$21,514,935	30	\$71,334
Nonpayroll	47,055,973	60	8,420,261
Adjustments ¹	(1,331,263)		
Total	\$67,239,645²	90	\$8,491,595

We did not review the overall internal control structure of the State agency or its subrecipients.³ We limited our review of internal controls to obtaining an understanding of (1) the procedures that the State agency and two subrecipients, Florida State University and the University of Miami, used to account for Program funds and (2) the State agency's subrecipient monitoring procedures.

¹The State agency's adjustments reduced the total expenditures rather than the individual cost elements. Therefore, we were unable to identify the adjusted amounts associated with payroll and nonpayroll expenditures.

²The total expenditures consisted solely of direct costs and excluded \$5.4 million in indirect costs and \$2.4 million in obligations that had not been liquidated at the time of our fieldwork. These obligations were subsequently liquidated.

³Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," defines a subrecipient as a non-Federal entity that expends Federal awards from a passthrough entity and sets forth certain Federal audit requirements. Payments to vendors for goods or services required for the conduct of a Federal program are not subject to the audit requirements. During the audit period, the State agency considered all recipients of program funds to be vendors rather than subrecipients. The State agency's judgment in making these determinations was outside the scope of our audit.

We conducted our fieldwork at the State agency and Florida State University in Tallahassee, Florida, and at the University of Miami in Miami, Florida, from December 2006 through January 2008.

Methodology

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and program guidance;
- reviewed the State agency's accounting procedures and monitoring of subrecipients;
- tested FSRs for completeness and accuracy and reconciled the amounts reported on FSRs to the accounting records and Notices of Cooperative Agreement;
- verified that the State agency claimed indirect costs using the rate and base in its "State and Local Rate Agreement" approved by the Department of Health and Human Services, Division of Cost Allocation;⁴
- interviewed officials and employees from the Florida Department of Health and the Florida Office of Auditor General;
- reviewed all positions funded by the Program during budget year 2005–2006 for evidence of supplanting;⁵
- selected and tested a nonstatistical sample of 30 payroll expenditures and 60 nonpayroll expenditures to determine whether the State agency expended Program funds for reasonable, necessary, allowable, and allocable costs; and
- reviewed two subrecipients' procedures to account for funds expended and tested a total of 20 nonstatistically selected subrecipient payroll expenditures for allowability.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

⁴OMB has designated the Division of Cost Allocation as the cognizant Federal agency for reviewing and negotiating facility and administrative (indirect) cost rates that grantee institutions use to charge indirect costs associated with conducting Federal programs.

⁵Sections 319(c) and 319C(e) of the Public Health Service Act (42 U.S.C. §§ 247d(c) and 247d-3(e)) state that Program funds are meant to augment current funding and not to replace or supplant any other Federal, State, or local funds provided for these activities.

FINDINGS AND RECOMMENDATIONS

Of the \$75 million that the State agency claimed for reimbursement for the period August 31, 2004, through August 30, 2006, \$71.3 million was allowable, allocable, and reasonable. However, the State agency claimed \$71,322 in unallowable costs that were improperly charged to the Program or inadequately documented. In addition, approximately \$3.6 million may be unallowable because the costs may not be authorized by Florida statutes. These deficiencies occurred because the State agency did not have adequate policies and procedures to ensure that all costs claimed for reimbursement complied with applicable laws, regulations, and program guidance.

UNALLOWABLE PROGRAM COSTS

Of the 90 sampled expenditures, 18 expenditures totaling \$71,322 were improperly charged to the Program or inadequately documented. As a result, the State agency charged the Federal award \$71,322 for unallowable Program costs.

Improperly Charged Costs

Federal regulations (2 CFR part 225, “Cost Principles for State, Local, and Indian Tribal Governments”) (OMB Circular A-87, hereinafter referred to as “the Circular”) establish the standards for States to determine the allowability of costs. In general, the Circular provides that an allowable cost must be necessary to the performance of the Federal award, reasonable, consistently applied, allocable to the grant, and adequately documented (2 CFR part 225, Appendix A, section C.1). A cost is allocable to the grant if the goods or services involved are chargeable or assignable to the grant in accordance with the relative benefits received (2 CFR part 225, Appendix A, section C.3.a).

Pursuant to 45 CFR § 92.23(a): “Where a funding period is specified, a grantee may charge to the award only costs resulting from obligations of the funding period unless carryover of unobligated balances is permitted, in which case the carryover balances may be charged for costs resulting from obligations of the subsequent funding period.”

For one sampled expenditure, the State agency improperly charged to the 2005–2006 grant \$29,939 for costs that were not allocable to the grant. In July 2005, the State agency purchased 12 computer maintenance and support plans totaling \$44,888. The plans covered the 3-year period July 12, 2005, through July 11, 2008. Because of an accounting error, the State agency did not include the \$44,888 expenditure on its 2004–2005 FSR. To recover the expense, the State agency removed the transaction from its 2004–2005 accounting records and charged the \$44,888 to the subsequent 2005–2006 grant. However, only 12 months, or \$14,949, of the 3-year plans benefited the 2005–2006 grant (August 31, 2005, through August 30, 2006). The remaining \$29,939 benefited the grants for budget years 2004–2005, 2006–2007, and 2007–2008. As a result, \$29,939 was unallowable because the costs were not applied to the appropriate budget year.

Inadequately Documented Costs

The Circular establishes the standards for States to determine the allowability of costs. In general, the Circular provides that an allowable cost must be necessary to the performance of the Federal award, reasonable, consistently applied, allocable to the grant, and adequately documented. The Circular (2 CFR part 225, Appendix B, section 8.h.(3)) also states:

Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semi-annually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

Unsupported Effort

The State agency did not provide the required time-and-effort certifications for 16 expenditures totaling \$39,939 for 15 employees whose salaries were charged 100 percent to the Federal award. Although we found no evidence that the employees were not working on the grant, the State agency could provide no assurance that the \$39,939 claimed (\$31,951 for payroll and \$7,988 for associated indirect costs) solely benefited the Program. These expenditures were therefore unallowable.

Unsupported Transfer

For one sampled expenditure, the State agency was unable to provide documentation to demonstrate that a \$1,444 journal transfer charged to the Federal grant in July 2005 was appropriate. The accounting entry identified the expenditure as a “post journal transfer” without an additional explanation. As a result, the \$1,444 expenditure (\$1,155 for payroll and \$289 for associated indirect costs) was unallowable.

POTENTIALLY UNALLOWABLE PROGRAM COSTS

Expenditures totaling approximately \$3.6 million may not be authorized under Florida statutes; therefore, these costs may be unallowable under Federal awards.

State and Federal Requirements

Florida law limits the number of authorized positions for a Florida State agency to the total number of positions provided in the appropriations acts, unless otherwise expressly provided by law (Florida Statutes, Title XIV, section 216.262(1)(a)). Exceptions to this limitation for the State agency apply to positions funded by the County Health Department Trust Fund or the United States Trust Fund (Florida Statutes, Title XIV, section 216.2625(2)). Florida law also describes a process for requesting and receiving approval to increase the number of authorized positions (Florida Statutes, Title XIV, section 216.262(1)(a)).

The Circular (2 CFR part 225, Appendix A, section C) provides basic standards governing the allowability of costs claimed for reimbursement under Federal awards to State and local governments. Among these standards, section C.1.c. specifies that to be allowable under Federal awards, costs must “be authorized or not prohibited under State or local laws or regulations.”

Costs for Staffing Contracts

The State agency claimed costs of \$3,562,349 related to contracts with other governmental organizations, i.e., State universities and a local community college. The contracts were used to acquire staff (contracted employees) to perform grant-related activities in lieu of using agency-authorized positions or outsourcing the services.

In previous audit reports,⁶ which were supported by a legal opinion from its counsel, the Florida Office of Auditor General reported that the State agency had:

- bypassed the position limitations imposed by the Florida Legislature by initiating staffing contracts with other governmental organizations,
- used Federal funds to procure more positions than permitted under State law, and
- used another governmental agency to acquire staffing services from a private organization on the State agency’s behalf without the express statutory authority to do so.

The Florida Department of Health’s Office of General Counsel (the General Counsel) maintained that the State agency was authorized to enter into contracts for services that otherwise would be performed by agency employees. Although we do not dispute the General Counsel’s position that the State agency may enter into contracts for services, the General Counsel did not address the Office of Auditor General’s position that the State agency used Federal funds to procure more positions than permitted under State law.

Absent some provision of law that permits the State agency to exceed the total number of authorized positions that are provided in the State’s appropriations acts, the approximately \$3.6 million expended for the costs of acquiring staff through contracting may be unallowable.

INADEQUATE POLICIES AND PROCEDURES

The State agency claimed unallowable and potentially unallowable costs because it did not have adequate policies and procedures to ensure that all costs claimed for reimbursement complied with applicable laws, regulations, and program guidance.

⁶Report No. 2005-158, dated March 2005, and Report No. 2006-152, dated March 2006, for the fiscal years ended June 30, 2004 and 2005, respectively.

RECOMMENDATIONS

We recommend that the State agency:

- refund \$71,322 for costs that were improperly charged to the Program or inadequately documented;
- determine, as a matter of law, whether the State agency's initiation of staffing contracts bypassed the position limitations imposed by the Florida Legislature and, if so:
 - refund the approximately \$3.6 million in unallowable costs and
 - stop initiating staffing contracts; and
- improve policies and procedures to ensure that all costs claimed for reimbursement comply with applicable laws, regulations, and program guidance, including:
 - implementing procedures to ensure that grant charges are applied to the appropriate funding period and
 - strengthening procedures to ensure that documentation is maintained to support all payroll costs and grant-related effort.

AUDITEE COMMENTS

In written comments on our draft report, the State agency agreed with our findings regarding the \$71,322 in unallowable costs. The State agency said that it would update and reinforce its policies and procedures to prevent future violations of grant requirements and work with CDC to revise its financial reports.

With respect to the approximately \$3.6 million in potentially unallowable costs, the State agency said that the Florida Department of Health's Office of General Counsel and a lawyer for the Executive Office of the Governor had concluded that an Attorney General opinion was not warranted at this time. The State agency also said that it was pursuing this issue with the Department of Management Services (DMS), the agency that oversees the administration of State contract procurement and statutes.

The complete text of the State agency's comments is included as the Appendix.

OFFICE OF INSPECTOR GENERAL RESPONSE

Our expectation is that the State agency will definitively resolve the question of whether State law, including Florida Statutes, Title XIV, section 216, limits the total number of staff positions that the State agency was authorized to procure using Federal funds. We recognize that State entities other than the Attorney General's office may be able to issue such a decision.

Accordingly, we have modified the recommendation included in our draft report and no longer specify that a legal opinion be obtained from the Attorney General's office.

APPENDIX



Charlie Crist
Governor

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

July 31, 2008

Peter J. Barbera
Regional Inspector General
for Audit Services, Region IV
61 Forsyth Street, S.W., Suite 3T41
Atlanta, GA 30303

Dear Mr. Barbera:

We are pleased to respond to the preliminary and tentative audit findings and recommendations concerning the draft report entitled:

**Allowability of Costs Claimed for Reimbursement Under
Florida's Bioterrorism and Emergency Preparedness Programs for the
Period August 31, 2004 through August 30, 2006
CIN-A-04-07-01046**

Pursuant to Florida Department of Health Inspector General Policy please find attached our response to your draft findings.

We appreciate the effort of you and your staff in assisting to improve our operations. If you have any questions, please contact our Director of Auditing, Lynn Riley at 245-4444 extension 2146.

Sincerely,

A handwritten signature in black ink, appearing to read "Ana M. Viamonte Ros".

Ana M. Viamonte Ros, M.D., M.P.H.
State Surgeon General

AMVR/kir
Attachment

cc: James D. Boyd, C.P.A., M.B.A.
Inspector General
Lynn H. Riley, C.P.A.
Director of Auditing
Karen Zeiler
Chief of Staff

InterOffice Memorandum

DATE: August 4, 2008
TO: Karen Zeiler, Chief Staff
FROM: Ana M. Viamonte Ros, M.D., M.P.H.
Stat Surgeon General, Florida Department of Health
SUBJECT: Delegation of Authority for August 4, 2008

You are hereby delegated the authority to act on my behalf for the effective operation and administration of the Florida Department of Health while I am traveling August 4, 2008.

AVR/ebr

<i>Para. # Finding:</i>	<i>Recommendation:</i>	<i>Management Response:</i>	<i>Corrective Action Plan:</i>
	effort. (1)	<p>Preparedness Grant Management Team and the Division of Administration budget analyst and grant analyst. The Bureau of Revenue Management will work with DEMO to emphasize the use of 45CFR92 and the Grant Policy Directives issued by the Department of Health and Human Services (HHS).</p> <p>(2) The DOH General Counsel and lawyer for the Executive Office of the Governor have concluded that an Attorney General opinion is not warranted at this time. The DOH is pursuing this issue with the Department of Management Services (DMS), the agency that oversees the administration of state contract procurement and statutes. The attorney for the Auditor General has been advised of the conclusion regarding an Attorney General opinion and the DOH request for DMS clarification of this issue. The DOH General Counsel's office anticipates updating the DOH Division of Administration on the results of DMS' review within the next 90 days.</p>	