



CHIEF FINANCIAL OFFICER
JIMMY PATRONIS
STATE OF FLORIDA

January 31, 2020

Mr. Alton L. "Rip" Colvin, Jr., Executive Director
Florida Justice Administrative Commission
227 N. Bronough Street, Suite 2100
Tallahassee, Florida 32301-1380

Dear Director Colvin:

As authorized in sections (ss.) 17.03, 215.971(3), and 287.136, Florida Statutes (F.S.), the Department of Financial Services has conducted an audit of the Florida Justice Administrative Commission and the contract deliverables monitoring processes of the Commission and its judicial related offices. Our audit, conducted by the Division of Accounting and Auditing, Bureau of Auditing, focused on contracts and agreements active July 1, 2018, through June 30, 2019.

The results of our audit are included in the enclosed audit report. By copy of this letter, the enclosed report has also been provided to the applicable judicial related offices. Pursuant to ss. 215.971(3) and 287.136, F.S., the Commission and the judicial related offices must provide within 30 days their response(s) and corrective action plan(s) to address the findings and recommendations in the report. If you have any questions, please contact Ms. Kim Holland, Bureau Chief, at (850) 413-5700 or kim.holland@myfloridacfo.com.

We appreciate the support and courtesy extended to our audit team. Completed reports of the Bureau of Auditing are available at <https://www.myfloridacfo.com/Division/AA/AuditsReviews/default.htm>.

Sincerely,

Paul Whitfield

PW/jf
Enclosure

c: Mr. Alan Abramowitz, Executive Director, Statewide Guardian ad Litem Office
Ms. Diamond Litty, Public Defender, 19th Judicial Circuit
Ms. Nona McCall, Director of Financial Services

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

Paul Whitfield • Director

Division of Accounting and Auditing

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JIMMY PATRONIS
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

Florida Department of Financial Services

STATUTORY AUDIT
CONTRACT DELIVERABLES MONITORING
FLORIDA JUSTICE ADMINISTRATIVE COMMISSION

January 29, 2020

AUDIT AUTHORITY

The Department of Financial Services (DFS) has performed an audit of the Florida Justice Administrative Commission and the contract deliverables monitoring processes of the Commission and its related offices. Authority for this audit is provided by sections (ss.) 17.03, 215.971(3), and 287.136, Florida Statutes (F.S.). Our audit focused on contracts active July 1, 2018 through June 30, 2019.

SELECTED CONTRACTS

In evaluating contract monitoring processes, we interviewed the assigned contract managers and reviewed related documentation and invoices for the following contracts:

<u>Judicial Related Office</u> <u>// Contracting Agency</u>	<u>Purpose</u>	<u>Contract</u> <u>Amount</u>	<u>Term</u>
GAL - Legal Aid Society of the Orange County Bar Association - #19-001	Guardian ad Litem representation to dependent children	\$1,674,999	7/1/18-6/30/19
GAL - Voices for Children Miami-Dade - #19-002	Children's Advocacy	\$945,656	7/1/18-6/30/19
GAL - Voices for Children Miami-Dade - #19-003	Support for child needs assistance	\$100,000	7/1/18-6/30/19
JAC - Foster Care Review, Inc. - JACF7	Management Advisory Services	\$618,160	7/1/18-6/30/19
JAC - Foster Care Review, Inc. - JACF8	Management Advisory Services	\$618,160	7/1/19-6/30/20
19 th PD - Investigative Support Specialist, Inc. - PS010	Supervision of Volunteers	\$40,000	7/1/18-6/30/19
19 th PD - Investigative Support Specialist, Inc. - PS013	Supervision of Volunteers	\$60,000	7/1/19-6/30/20
11 th SA - Miami-Dade Clerk of the Courts - SK240	Clerical Service for Child Support Cases	\$101,460	7/1/18-6/30/19
11 th SA - Miami-Dade Police Department - SK241	Service of Process	\$259,405	7/1/18-6/30/23
	Total	\$4,417,840	

COMMISSION DUTIES

Pursuant to Section (s.) 43.16, F.S., the duties of the Commission include the maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian ad Litem Program. The Commission refers to these entities as judicial related offices (JROs).

- For disbursement transactions, the JROs are responsible for preparing vouchers that represent valid claims for reimbursement by the state for authorized expenses, and forwarding such vouchers to the Commission for recording and submission to the proper state officer.
- The Commission's Accounting Section/Disbursements Unit is responsible for reviewing JRO disbursement transactions for adherence with ss. 29.005, 29.006, 40.29, 43.16, 112.061, 215.422, 394.910, 215.97, F.S., and others; as well as adherence to applicable Department of Financial Services guidance.

DELIVERABLES MONITORING

The statutes and various DFS procedural and documentation standards provide guidance¹ for the monitoring of state agency contract deliverables. Also, s. 43.16, F.S., provides that the Commission and each JRO shall establish and maintain internal controls. Attachment A provides a summary of the laws applicable to the Commission and JRO monitoring processes reviewed, including the required internal control elements.

For contract deliverables, internal controls should include current written policies and procedures within each JRO that serve as a guide to responsible personnel for ensuring a consistent, high-quality monitoring process. Also, the monitoring activities performed should be adequate to provide reasonable assurance of record that contract deliverables had been provided as required by the contract.

In auditing the contracts for various JROs and reviewing responses to audit questionnaires, we found a general absence of procedural guidance within the JROs on the monitoring of contract deliverables. Also, the contract files reviewed did not always fully document contract manager activities to verify that the deliverables were received and in compliance with criteria established in the contract.

The Commission should encourage each JRO to develop, appropriate to the nature of the contracts in place within their individual offices, guidance on contract monitoring comparable to the guidance in place for state agencies. The Commission, pursuant to s. 43.16, F.S., should assist in developing such guidance to ensure all JROs within the judicial branch have put in place appropriate internal controls for monitoring the successful performance of contract deliverables.

GUARDIAN AD LITEM

The Florida Guardian ad Litem (GAL) Program is a partnership of community advocates and professional staff providing representation for children in Florida who are involved in dependency proceedings. Pursuant to s. 39.8296, F.S., the Statewide Guardian ad Litem Office has oversight responsibilities for and provides technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

In auditing the contract deliverables monitoring processes, we reviewed GAL Office contracts relating to representation, advocacy, and needs assistance. The contracted representation and advocacy

¹ Section 287.057(14), F.S.; CFO Memo No. 05 (2019-2020); and Reference Guide for State Expenditures, Invoice Requirements.

services are to be provided in accordance with the Florida Guardian ad Litem Program Standards and applicable court rules and procedures. As noted below, the GAL Office could improve its overall policy for and documentation of the monitoring processes for contracted representation and advocacy services:

- An essential element of monitoring for these services is a reliable, shared record of activities taken on behalf of a child, such as child intake, staff assignments, court attendance/proceedings, and child visits. The GAL Program maintains a case tracking system² for these purposes and the contract manager described reliance on this system in verifying contract deliverables and approving invoices for payment.

The case tracking system, however, is not being used for verifying the unduplicated children served under the child needs assistance contract (#19-003). As an alternative verification, the contract required a monthly certification of unduplicated children by the contractor's CEO. However, such certifications were not provided to the GAL Office until after audit inquiry.

- Other oversight processes described by the contract manager and other GAL Office staff included the sampling of case representation files and Advocacy Collaboration & Teamwork (ACT) case reviews. The contract manager provided example documentation of these processes that provided some evidence that representation and advocacy services were being provided in accordance with the Florida Guardian ad Litem Program Standards and applicable court rules and procedures. However, the GAL Office had not published overall policy and guidelines that clearly laid out the relationship of these processes to the monitoring of the representation and advocacy services against contracted standards.
- In questionnaire responses and interviews, the contract manager also described reliance on the dependency court process and hands-on monitoring of these services by the applicable GAL Program Circuit Director. However, the Circuit Director's monitoring of services against the contracted standards were not documented.

We recommend the GAL Office, in consultation with the Commission, establish overall policy and guidelines that clearly present the processes relied on in monitoring the representation and advocacy services contracted for within the GAL Program.

CONTRACT FOR INVESTIGATIVE SERVICES

The Public Defender, 19th Judicial Circuit, contracted for management of the Office's volunteer investigations division and volunteer investigator intern program. The division and intern program provide support for the Office's due process and investigative activities. The total contract amount was \$40,000 for the 2018-19 contract year and \$60,000 for the 2019-20 contract year, based on 80 hours per calendar month at \$62.50 per hour. The contractor was also to provide additional investigative services for capital cases and other major crimes at agreed-upon rates above and beyond the contract rate. The contract did not provide a total funding amount for such additional investigative services. Regarding deliverables monitoring and invoice payments, we noted the following:

- The contract described several required activities for management of the division and intern program. Regarding the monitoring of these deliverables, the Office described many meaningful day-to-day interactions with contractor staff, but had not fully documented how these interactions demonstrated the successful completion of the deliverables.
- The contractor typically invoiced for a fixed monthly amount (\$5,000), as well as for additional investigative services charged at a \$50 rate. The fixed amounts were not supported by

² Optima - Case Management & Volunteer Software.

documentation of the required 80 hours worked at the \$62.50 contracted rate. Also, the invoice documentation did not adequately describe the additional investigative services performed, how the \$50 hourly rate was established, or how the additional investigative services were funded outside the original \$60,000 contract amount.

- For several monthly contractor invoices, the Office paid travel expenses. While travel may be essential to the conduct of investigative services, the contract does not include language authorizing payment of travel expenses.

We recommend the Public Defender, in consultation with the Commission, consider revisions to the contract language to more clearly establish the funding and basis for payment of additional investigative services and travel expenses.

MANAGEMENT'S RESPONSE

The responses of the Commission and the applicable judicial related offices to the findings and recommendations in this audit report are attached.

Direct inquiries regarding this report to Kim Holland, Bureau Chief, at (850) 413-5700 or kim.holland@myfloridacfo.com. Completed reports of the Division of Accounting and Auditing, Bureau of Auditing, are available at <https://www.myfloridacfo.com/Division/AA/AuditsReviews/default.htm>.

ATTACHMENT A
APPLICABLE LAWS - MONITORING PROCESSES

SECTION 43.16, FLORIDA STATUTES - JUSTICE ADMINISTRATIVE COMMISSION; MEMBERSHIP, POWERS AND DUTIES

- (5) The duties of the commission shall include, but not be limited to, the following:
- (a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, and the Guardian Ad Litem Program.
 - (b) Each state attorney, public defender, and criminal conflict and civil regional counsel and the Guardian Ad Litem Program shall continue to prepare necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward such items to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, a public defender, a criminal conflict and civil regional counsel, or the Guardian Ad Litem Program, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.
 - (6) The commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, and the Guardian Ad Litem Program shall establish and maintain internal controls designed to:
 - (a) Prevent and detect fraud, waste, and abuse as defined in s. [11.45](#)(1).
 - (b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.
 - (c) Support economical and efficient operations.
 - (d) Ensure reliability of financial records and reports.
 - (e) Safeguard assets.

SECTION 39.8296, FLORIDA STATUTES - STATEWIDE GUARDIAN AD LITEM OFFICE; LEGISLATIVE FINDINGS AND INTENT; CREATION; APPOINTMENT OF EXECUTIVE DIRECTOR; DUTIES OF OFFICE

- (2) Statewide Guardian Ad Litem Office. - There is created a Statewide Guardian Ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian Ad Litem Office shall not be subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office shall be governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.
- (b) The Statewide Guardian Ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.



THE STATE OF FLORIDA
JUSTICE ADMINISTRATIVE COMMISSION

227 North Bronough Street, Suite 2100
Tallahassee, Florida 32301



Alton L. "Rip" Colvin, Jr.
Executive Director

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COMMISSIONERS

Brad King, Chair
State Attorney
Diamond R. Litty
Public Defender
Kathleen A. Smith
Public Defender
Brian Haas
State Attorney

March 5, 2020

Mr. Paul Whitfield
Department of Financial Services
Division of Accounting and Auditing
200 East Gaines St.
Tallahassee, FL 32399-0393

Dear Mr. Whitfield,

JAC has reviewed the contract audit report dated January 31, 2020. The report contained recommendations for the following:

- For contract deliverables, internal controls should include current written policies and procedures within each JRO that serve as a guide to responsible personnel for ensuring a consistent, high-quality monitoring process. Also, the monitoring activities performed should be adequate to provide reasonable assurance of record that contract deliverables had been provided as required by the contract.
- JAC to encourage each JRO to develop, appropriate to the nature of the contracts in place within their offices, guidance on contract monitoring comparable to the guidance in place for state agencies.
- JAC should assist in developing such guidance to ensure all JROs within the judicial branch have put in place appropriate internal controls for monitoring the successful performance of contract deliverables.

JAC appreciates your feedback and will take your recommendations under consideration as preparations are made for the Connect and Collaborate III statewide training conference. Staff from most JROs will attend the conference, and there will be opportunities to discuss matters related to contracts.

JAC will also begin looking at developing our own internal procedures for contracts to address the concerns listed above. JAC is open to sharing useful documents with the JROs and recommending best practices.

However, each JRO operates independently under the leadership of either an elected official or appointed agency head. Each JRO has its own internal processes, and each JRO develops their own policies and procedures. While JAC administratively serves the JROs with human resources, accounting, and administrative matters, JAC does not supervise, direct, or control them.

Sincerely,


Alton L. "Rip" Colvin, Jr.
Executive Director



FLORIDA STATEWIDE GUARDIAN AD LITEM OFFICE

Alan F. Abramowitz
Executive Director



February 17, 2020

Mr. Paul Whitfield
Division Director
Accounting and Auditing
Florida Department of Financial Services
200 East Gaines Street
Tallahassee, FL 32399-0393

Dear Mr. Whitfield:

We have reviewed the contract audit report dated January 31, 2020. The report contained the following recommendation for the Guardian ad Litem Program:

We recommend the GAL Office, in consultation with the Commission, establish overall policy and guidelines that clearly present the processes relied on in monitoring the representation and advocacy services contracted for within the GAL Program .

We thank you for the time and courtesy of your audit staff and provide the following response. GAL will review its contract monitoring practices and adopt best practices and policies for future contract monitoring activities.

Please feel free to have a member of your staff contact our Budget Director, David Windle, at 850-922-7206 if you have any questions or need any additional information about these or any other Guardian ad Litem contract.

Sincerely,

Alan Abramowitz
Executive Director

Cc: Rip Colvin
Dennis Moore
Debra Ervin
David Windle
Nona McCall



OFFICE OF

Diamond R. Litty

Public Defender

NINETEENTH JUDICIAL CIRCUIT

216 SOUTH SECOND STREET
FORT PIERCE, FLORIDA 34950

TELEPHONE (772) 462-2048
FAX (772) 462-2047

February 26, 2020

Mr. Paul Whitfield, Director
Division of Accounting and Auditing
200 East Gaines Street
Tallahassee, Florida 32399-0393

Dear Mr. Whitfield:

This letter will serve as our response to your letter of January 31, 2020, addressed to Mr. Colvin of the Justice Administrative Commission, regarding the results of the audit report conducted on the Contract for Investigative Services for the Public Defender's Office, Nineteenth Judicial Circuit.

Regarding the monitoring of deliverables described in the Contract we offer the following explanation. Classes are conducted by Investigative Support Specialist, Inc. (ISS) personnel weekly within the office of the Public Defender, in the conference room. ISS personnel are also on the premises weekly to fulfill their contractual obligations, distribute investigative requests to volunteer investigators, mentor and monitor their progress, maintain the various timesheets and other records kept for each class, and meet with staff as well as the Public Defender as needed to discuss case notes and Program matters. In addition to visually witnessing ISS staff in the office, investigative requests submitted by attorneys and the subsequent reports from the volunteer interns are reviewed by ISS staff before and after being performed by the volunteer and are maintained in our case tracking data base with emails to the requesting attorney sent by ISS staff before and after each request. If these requests are not fulfilled, the requesting attorney would follow up with ISS staff to determine resolution of the request.

In addition to the records already maintained by ISS staff, we are requesting ISS staff submit a time record monthly, outlining the hours each day they perform contractual obligations in and outside the office to meet the minimum time requirements of the contract, with each invoice monthly. The Public Defender will review the invoice and accompanying document and sign a "Request for Payment of Costs" certifying the payment of said invoice.

The findings also state: *"The contractor was also to provide **additional investigative services** for capital cases and other major crimes at agreed-upon rates above and beyond the contract rate. The contractor did not provide a total funding amount for such additional investigative services."* The findings also stated that the *"contract does not include language authorizing payment of travel expenses."*

The language in the contract does not correctly reflect the contractual relationship with our office as it pertains to **"mitigation investigation support services"** conducted personally by employees of ISS. This contract does not include and was never meant to include investigative services conducted by ISS employees on capital cases and other major crimes. Its sole purpose was to supervise and direct the Volunteer Investigator Program. Both parties understood that expertise and experience were vital to the handling of capital and other major crimes and were beyond the skill level of volunteer investigative interns just learning the basic skills of detective work in the Volunteer Investigator Intern Program. It is worth noting that since the Program's inception in 1994, the Program has accumulated approximately 216,000 volunteer hours resulting in an enormous savings in manpower to the State and the community we serve.


Additional mitigation investigative support services for major crimes and related travel expenses were invoiced separately from the contract. The contract will be amended to delete any reference to the investigative services conducted personally by ISS employees and their related travel expenses. These separate investigative services are case costs funded through the Due Process funds appropriated to our office.

The \$50 per hour rate for investigative services on major crimes reflected on separate invoices is discounted from the vendor's standard rate of \$100 per hour for private attorneys using the same services of ISS and was negotiated many years ago between the Office of the Public Defender and ISS.

Revisions to the contract language will be made to more clearly establish the sole intent of the contract and subsequent review for payment of invoices pertaining to the contract.

We hope and trust we have addressed the findings outlined in your January letter. If there are any questions regarding any of the above please contact Patricia Arnold, the Administrative Director, at 772/337-5665 or email her at patricia.arnold@pd19.org.

Sincerely,


Diamond R. Litty
Public Defender
Nineteenth Judicial Circuit

cc: L. R. Weathermon, Financial Administrator, Bureau of Auditing
Alton L. "Rip" Colvin, Jr., Executive Director, Justice Administrative Commission
Nona McCall, Director of Financial Services, Justice Administrative Commission