



RON DESANTIS
GOVERNOR

JASON WEIDA
SECRETARY

December 1, 2023

Jason Weida, Secretary
Agency for Health Care Administration
2727 Mahan Drive
Tallahassee, Florida 32308

Dear Secretary Weida:

In accordance with Internal Auditing Standards, attached is a status update from the Office of General Counsel in response to our audit report number *AHCA-2122-02-A Public Records Process Audit* published on December 1, 2022.

Management has indicated corrective action has been initiated for the open report issues. A detailed description of all issues, recommendations, and management's responses can be found in the attached table. We will schedule another follow-up review in six months to assess the status of the efforts taken by the Office of General Counsel to correct all open issues.

If you have any questions regarding this report, please let me know.

Sincerely,

Brian P. Langston
Inspector General

BPL/pr

Attachment

cc: Stefan Grow, Chief of Staff
Andrew T. Sheeran, General Counsel
Caylen Darbouze, Attorney, Public Records Officer



Agency for Health Care Administration
Office of Inspector General – Internal Audit
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| 1 | The Agency does not consult uniform guidance for redacting records for public records requests, which led to the Agency releasing records with unredacted confidential and protected information | 1. We recommend the Public Records Office update AHCA Policy #99-Ex-1 to identify guidance resource information for all categories of confidential and protected information | <p><u>Status as of June 2023</u></p> <p>1.1.2.-1.1.3. AHCA Policy # 99-Ex-1 has not been updated or sent to the Secretary and/or Chief of Staff for approval. See reasons stated below.</p> <p><i>Anticipated Completion Date:</i></p> <p>1.1.2. & 1.1.3. <i>Original Deadline:</i> Within 3 months after the Public Records Office intranet page is created. <i>Changes to Deadline:</i> We have been told by upper management that the Public Records Office may be moving out of the General Counsel’s Office. If the Public Records Office moves, the Policy will need to be revamped by the receiving Division. It does not make sense for the General Counsel’s Office to update the policy and send to the Secretary or Chief of Staff for approval unless the Public Records Office is staying in the General Counsel’s Office. As such, the anticipated completion date is currently unknown.</p> <p><i>Contact(s):</i></p> <p>Andrew Sheeran, General Counsel Tracy George, Chief Appellate Counsel</p> <p><u>Status as of December 1, 2022:</u></p> <p>1. The OGC/Public Records Office will create an updated version of AHCA Policy #99-Ex-1 (“Updated Policy”) that states that AHCA employees should consult the guidance and training resources that are posted and available on the Public Records Office intranet page (once that page has been created, see below) when responding to public records requests. This solution is preferred to listing specific guidance and training resources in the Updated Policy because it gives the OGC/Public</p> | <p><u>Status Update:</u></p> <p>The Public Records Office Intranet page has been created and the appropriate language has been added to the working draft of the updated Public Records Policy. The updated policy will be submitted by the end of January.</p> <p>Requests to Division Coordinators for unit-specific guides on commonly redacted items will be sent out the first week of December 2023.</p> <p><u>Anticipated Completion:</u></p> <p>End of January 2024.</p> <p><u>Contacts:</u></p> <p>Andrew Sheeran, General Counsel Caylen Darbouze, Public Records Officer</p> <p>Auditor verified completion, November 2023 for 1.1.4., 1.1.5., and 1.1.6.</p> |

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| | | | <p>Records Office flexibility to add and/or update the list of guidance and training resources (as discussed below) without having to modify the Updated Policy and re-obtain approval (also as discussed below).</p> <ol style="list-style-type: none"> 2. Once the Updated Policy is created, the OGC/Public Records Office will submit it to the Secretary and/or Chief of Staff for approval. Such approval is necessary because the OGC/Public Records Office lacks the authority to require employees outside of the OGC/Public Records Office to review and comply with the Updated Policy. 3. Once the Updated Policy is approved by the Secretary and/or Chief of Staff, the OGC/Public Records Office will immediately require OGC/Public Records Office employees to review it and comply with it. 4. With assistance from IT, the OGC/Public Records Office will post/provide links to the following guidance and training resources to the Public Records Office intranet page (once the page is created, see below): The Sunshine Manual; The Office of Open Government; The First Amendment Foundation; The Department of State, Division of Library and Information Services; AHCA's HIPAA Compliance Office; contact information for AHCA's Public Records Unit; and the PowerPoint presentation on Public Records and Records Management that is currently provided to new AHCA employees during New Employee Orientation. These resources are already available to employees and afford comprehensive guidance on every aspect of the public records law. 5. The OGC/Public Records Office may identify and/or create additional guidance and training materials over time. When additional guidance and training materials are identified or created, they will be posted to the Public Records Office intranet page (once the page is created, see below). | |

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| | | | <p>6. Each unit within the Agency is the subject matter expert for the laws that govern it and which it administers, has unique knowledge of the records that it has in its custody, and has unique experience in determining which categories of information, documents, and portions of documents are confidential, exempt, or otherwise protected from disclosure by law. The OGC/Public Records Office lacks this level of knowledge and specialization needed to create a comprehensive list for the Agency and/or each unit of the Agency. Accordingly, the OGC/Public Records Office will ask each unit of the Agency to provide a unit-specific list of common redactions and categories of information, documents, and portions of documents within its custody that are confidential, exempt, or otherwise protected from disclosure, with appropriate supporting citations to law. The OGC/Public Records Office will ask each unit to update its unit-specific list annually. Each unit-specific list that is provided in response to this request will be reviewed by the OGC/Public Records Office and then posted on the Public Records Office intranet page (once the page is created, see below). However, it will be up to the units whether to comply with the OGC/Public Records Office's request; the OGC/Public Records Office does not have the authority to require units located outside of the OGC/Public Records Office to provide the requested unit-specific list or to update it annually.</p> <p><i>Anticipated Completion Date:</i></p> <p>1-2. The OGC/Public Records Office will create and then submit the Updated Policy to the Secretary and/or Chief of Staff for approval within 3 months after the Public Records Office intranet page is created (as discussed below).</p> <p>3. See Management Response for timeline information.</p> <p>4. See Management Response for timeline information.</p> <p>5. See Management Response for timeline information.</p> | |

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| | | | <p>6. Once the Audit and the OIG’s recommendations become final, the OGC/Public Records Office will submit a request via the Division Coordinators for each unit within the Division to provide a unit-specific list and thereafter will request an updated list annually. See Management Response for additional timeline information.</p> <p><i>OGC/Public Records Office Contacts:</i></p> <p>Andrew Sheeran, Acting General Counsel/Deputy General Counsel Tracy George, Chief Appellate Counsel</p> | |
| | | <p>3. We recommend the Public Records Office implement ongoing periodic training for Agency staff involved in the public records process to include identifying all categories of confidential and protected information.</p> | <p><i>Status Update: June 2023</i></p> <p>1.3.2. The Public Records Office has begun identifying information to be included in the training.</p> <p>1.3.3. Will occur once the computer-based training is created.</p> <p><i>Anticipated Completion Date:</i></p> <p>1.3.2. <i>Previous deadline:</i> Within 6 months of finalization of the audit. <i>Changes to deadline:</i> This project has been delayed due to employee turnover, a backlog that occurred within the Public Records Office that required extensive resources to address, and workload/other mission-essential projects requiring employee time. Additionally, we have been told by upper management that the Public Records Office may be moving out of the General Counsel’s Office. If the Public Records Office moves, the computer-based training will need to be revamped by the receiving Division. As a result of these difficulties and continued demands on resources, it is anticipated that this project may take another 6 months or more to complete.</p> <p>1.3.3. To be completed once the computer-based training is complete.</p> | <p><u>Status Update:</u></p> <p>A PowerPoint with the relevant information has been created and will be submitted to the General Counsel for review by December 1, 2023. Once approved, the Public Records Office will contact Human Resources about translating the information into a computer-based learning.</p> <p><u>Anticipated Completion:</u></p> <p>January 1, 2024</p> <p><u>Contacts:</u></p> <p>Andrew Sheeran, General Counsel Caylen Darbouze, Public Records Officer</p> |

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| | | | <p>1.3.4. To be completed once the computer-based training is complete.</p> <p><i>Contact(s):</i></p> <p>Andrew Sheeran, General Counsel Tracy George, Chief Appellate Counsel</p> | |
| | | <p>4. Additionally, we recommend the Public Records Office implement the requirement for a secondary review of records responsive to public records requests prior to release and to codify the requirement in policy.</p> | <p><u>Status as of June 2023</u></p> <p>1.4.1. Same as status on 12/1/22.</p> <p>1.4.2. Thus far, funding has not been obtained.</p> <p>1.4.3. Same as status on 12/1/22.</p> <p><i>Anticipated Completion Date:</i></p> <p>See above.</p> <p><i>Contact(s):</i></p> <p>Andrew Sheeran, General Counsel Tracy George, Chief Appellate Counsel</p> <p><u>Status as of December 1, 2022:</u></p> <p>1. The OGC/Public Records Office currently lacks the resources, including staff, to provide secondary review of the records provided to it in response to public records requests prior to their release. Currently, records that have been identified by an attorney or by an Agency unit as requiring attorney review prior to their release are assigned to an OGC attorney for review before being sent to the requestor.</p> | <p><u>Status Update:</u></p> <p>Same as December 1, 2022.</p> <p><u>Anticipated Completion:</u></p> <p>Dependent on funding</p> <p><u>Contacts:</u></p> <p>Andrew Sheeran, General Counsel Caylen Darbouze, Public Records Officer</p> |

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| | | | <p>2. The Agency has requested funding that will enable it to hire two full-time attorneys to assist the OGC/Public Records Office. If this funding is obtained and the attorneys are successfully hired, the OGC/Public Records Office will be able to offer secondary review of at least some responses to public records requests.</p> <p>3. Individual units within the Agency may choose to implement their own secondary review processes.</p> <p><i>Anticipated Completion Date:</i></p> <p>1-3. Not applicable. See Management Response.</p> <p><i>OGC/Public Records Office Contacts:</i></p> <p>Andrew Sheeran, Acting General Counsel/Deputy General Counsel Tracy George, Chief Appellate Counsel</p> | |
| 2. | Access to the Agency's correspondence tracking system and controls for emails with confidential and protected information need improvements. | 1. We recommend the Public Records Office implement ongoing periodic training for Agency staff involved in the public records process to include email and technical safeguards to which staff must adhere. | <p><u>Status as of June 2023</u></p> <p>2.1.1. See responses to 1.3.1. and 1.3.2.</p> <p><i>Anticipated Completion Date:</i></p> <p>2.1.1. See responses to 1.3.1. and 1.3.2.</p> <p><i>Contact(s):</i></p> <p>Andrew Sheeran, General Counsel Tracy George, Chief Appellate Counsel</p> | <p><u>Status Update:</u></p> <ol style="list-style-type: none"> 1. The Public Records Office will contact Human Resources to inquire about including a reminder specifically regarding public records in the already existing annual Keep Informed Training. 2. Previously spoke with the former Director of Communications regarding existing training for safeguards for their tracking systems- did not receive a response. The Public Records office will follow-up with the new Director of Communications when possible about |

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| | | | <p><u>Status as of December 1, 2022:</u></p> <ol style="list-style-type: none"> All Agency employees currently receive training at New Employee Orientation and as part of the annual Keep Informed Training regarding technical safeguards for email, discs, drives, etc., to which all employees must adhere. However, the OGC/Public Records Office will include a reminder in the computer-based training that it intends to create for persons involved in the public records process (as discussed above) that these technical safeguards are equally applicable in the public records context when the records that have been requested and are being produced contain confidential information. The OGC/Public Records Office does not oversee the communications tracking system for public records but will recommend to the Office of Communications that training on technical safeguards for the tracking system be implemented. The OGC/Public Records Office will also offer to include any technical safeguards for the public records tracking system that the Office of Communications develops or recommends in the computer-based training it intends to create for persons involved in the public records process (as discussed above). <p><i>Anticipated Completion Date:</i></p> <ol style="list-style-type: none"> See Management Response for Findings Statement 1 regarding the creation of an additional computer-based training for persons engaged in the public records process. The OGC/Public Records Office will make the recommendation to the Office of Communications once the Audit and OIG's recommendations become final. See Management Response for Findings Statement 1 regarding the creation of an additional computer-based training for persons engaged in the public records process. | <p>incorporating that training if it does not already exist.</p> <p><u>Anticipated Completion:</u> End of January 2024</p> <p><u>Contacts:</u> Andrew Sheeran, General Counsel Caylen Darbouze, Public Records Officer</p> |

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| 3. | <p>The Agency does not have a consistent formula for assessing fees for public records requests.</p> | <p>1. We recommend the Public Records Office develop a comprehensive fee structure for all public records requests, and to update AHCA Policy #99-Ex-1 to include the comprehensive fee structure.</p> | <p><u>Status as of June 2023</u></p> <p>3.1.1., 3.1.2. Same status as of 12/1/22.</p> <p>3.1.3. See response regarding 3.2.1. and 3.2.2.</p> <p><i>Anticipated Completion Date:</i></p> <p>3.1.3. See response regarding 3.2.1. and 3.2.2.</p> <p><i>Contact(s):</i> Andrew Sheeran, General Counsel Tracy George, Chief Appellate Counsel</p> <p><u>Status as of December 1, 2022:</u></p> <ol style="list-style-type: none"> Chapter 119, Florida Statutes, and case law provide the governing fee structure for public records requests. This fee structure is reflected in the existing version AHCA Policy #99-Ex-1. The OGC/Public Records Office does not have the authority to set a fee structure different than provided by law. To the extent existing AHCA Policy #99-Ex-1 includes additional requirements or limitations on charges (such as not charging for request under \$5 or not imposing a special service charge for requests involving less than 30 minutes of employee work time), the OGC/Public Records Office does not have the authority to make any change to these policies. See the Management Response regarding the development and approval of a cost estimate worksheet (below). | <p><u>Status Update:</u></p> <p>3.1.1 – Same status as of 12/1/22 3.1.2 – Same status as of 12/1/22</p> <p><u>Anticipated Completion:</u></p> <p>End of January 2024</p> <p><u>Contacts:</u></p> <p>Andrew Sheeran, General Counsel Caylen Darbouze, Public Records Officer</p> |

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| | | | <p><i>Anticipated Completion Date:</i></p> <ol style="list-style-type: none"> 1. None applicable. 2. None applicable. 3. See Anticipated Completion date regarding the development and approval of a cost estimate worksheet (below). <p><i>OGC/Public Records Office Contacts:</i></p> <p>Andrew Sheeran, Acting General Counsel/Deputy General Counsel Tracy George, Chief Appellate Counsel</p> | |
| | | <p>2. Additionally, we recommend the Public Records Office develop a template for estimating the cost estimates for public records requests, and to require Agency staff to use the template.</p> | <p><u>Status as of June 2023</u></p> <p>3.2.1. and 3.2.2. The draft is complete and will be sent to the Secretary and/or Chief of Staff for approval at the same time as the Updated Policy. See response regarding 1.1.2.-1.1.3.</p> <p><i>Anticipated Completion Date:</i></p> <p>3.2.1. and 3.2.2. Draft is complete and will be sent to the Secretary and/or Chief of Staff for approval at the same time as the Updated Policy. See response regarding 1.1.2.-1.1.3.</p> <p><i>Contact(s):</i></p> <p>Andrew Sheeran, General Counsel Tracy George, Chief Appellate Counsel</p> | <p><u>Status Update:</u></p> <p>Cost Estimate Worksheet has been drafted and will be submitted along with final draft of updated Public Records Policy to the Secretary and Chief of Staff when completed.</p> <p><u>Anticipated Completion:</u></p> <p>End of January 2024</p> <p><u>Contacts:</u></p> <p>Andrew Sheeran, General Counsel Caylen Darbouze, Public Records Officer</p> |

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| | | | <p><u>Status as of December 1, 2022:</u></p> <ol style="list-style-type: none"> 1. The OGC/Public Records Office has developed a draft cost estimate worksheet for Agency personnel to use as guidance when calculating fees to better implement the fee structure mandated by law and the existing Policy, which has already been provided to the OIG. The OGC/Public Records Office will work towards finalizing the draft. 2. The OGC/Public Records Office does not have the authority to require units outside the OGC/Public Records Office to utilize the cost estimate worksheet, once finalized. The OGC/Public Records Office will seek approval of the cost worksheet from the Secretary and/or Chief of Staff. If approved, the OGC/Public Records Office will post the cost estimate worksheet on the Public Records Office intranet page (once the page is created, see above) and reference it in trainings (see above). <p><i>Anticipated Completion Date:</i></p> <p>1-2. The draft cost estimate worksheet has already been developed. The OGC/Public Records Office will finalize the draft and submit it to the Secretary or Chief of Staff for approval at the same time the Updated Policy is submitted for approval. See Management Response for additional timeline information.</p> <p><i>OGC/Public Records Office Contacts:</i></p> <p>Andrew Sheeran, Acting General Counsel/Deputy General Counsel Tracy George, Chief Appellate Counsel</p> | |