

City of
Gainesville

Inter-Office Communication

June 22, 2004

TO: Audit and Finance Committee
Mayor Pegeen Hanrahan, Chair
Mayor-Commissioner Pro Tem Tony Domenech, Member

FROM: Alan D. Ash, City Auditor

SUBJECT: Review of Equal Opportunity Program

RECOMMENDATION

The Audit and Finance Committee recommend that the City Commission:

- 1) Accept the City Auditor's report and the Equal Opportunity Director's response; and
- 2) Instruct the City Auditor to follow-up on recommendations made and report the results to the Audit and Finance Committee.

EXPLANATION

In accordance with our Fiscal Year 2003 - 2004 Annual Audit Plan, we have completed our review of the Equal Opportunity Program. Our review was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our report is attached for your review.

We request the Committee recommend that the City Commission accept our report. Also, in accordance with City Commission Resolution 970187, Section 10, Responsibilities for Follow-up on Audits, we request that the Committee recommend the City Commission instruct the City Auditor to follow-up on recommendations made and report the results to the Audit and Finance Committee.

May 10, 2004

TO: Jimmie Williams, Equal Opportunity Director
FROM: Alan D. Ash, City Auditor
SUBJECT: Review of Equal Opportunity Program

On December 8, 2003 the City Commission approved the City Auditor's Annual Audit Plan which included an operational review of the Equal Opportunity Program. We conducted interviews with key personnel, reviewed operating and financial information and tested management controls. We have completed our review and prepared the attached report with recommendations for improvement in management controls.

In accordance with Commission Resolution 970187, Section 9(b), Report Processing Procedures, please submit your written response to the recommendations presented in the report within 30 days and indicate an actual or expected date of implementation. Our report and your response will then be submitted to the Audit and Finance Committee for review and approval.

We would like to thank you and your staff for the cooperation extended to us during our review. Please let me know if you have any comments or questions.

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EXECUTIVE SUMMARY

On December 8, 2003 the City Commission approved the City Auditor's Annual Audit Plan which included an operational review of the Equal Opportunity Department. Our primary objective was to review compliance with the Equal Opportunity Policy Handbook and review administrative and quality assurance controls related to equal opportunity investigations conducted by the Department. We also benchmarked other organizations with similar functions to determine industry best practices and compared those with the City of Gainesville Equal Opportunity Department. Based on our review, we made recommendations in the following areas:

1. Equal Opportunity Department (EOD) related investigations and disciplinary actions were conducted and implemented by management in a manner not in compliance with City Commission approved policies. We recommend management comply with City Commission approved policies contained in the Equal Opportunity Policy Handbook.
2. In our benchmarking of municipalities and review of the U.S. Department of Labor Contract Compliance Program for Investigations, we determined that a written investigative plan is a standard practice for EO investigations. Prior to January 2004, EOD primarily reviewed allegations reported only by City employees. The protocol for conducting internal investigations has been established and is in place. However, the methodology for preparing and completing an investigation from external sources including businesses, landlords and individuals within the City is not standardized and does not provide the necessary guidance to ensure a complete investigation is performed. EOD methods and practices do not include generally accepted industry investigative and interview plans to ensure adequate quality control over external and internal investigations. We recommend management develop both investigative and interview plans to guide external and internal investigations. The plans should be included in investigative files as a quality control measure to ensure consistency in investigations and to provide reasonable assurance of due diligence.
3. We reviewed closed investigative files and determined that file contents contained necessary documentation to support conclusions reached. However, files were not consistent in format and organization. We recommend management establish standards of consistency and uniformity for all investigative files. Additionally, we recommend a standardized report format be developed and include key components including investigative methodology, summary of findings, rebuttals, conclusions, remedies and other significant highlights of the investigation process.
4. During our review of the EOD investigative process, a transmittal to department management notifying them of an informal inquiry relating to unfair treatment was not followed up by EOD on a timely basis. Adequate internal controls are not in place to track the timeliness of management responses. We recommend EOD management develop internal controls designed to assist in tracking the status of investigations and ensure timely follow up on information requests.
5. During our review we performed procedures to determine whether or not EOD received timely notification of completed GPD investigations. EOD was unable to locate completed reports or letters notifying complainants of investigation results. We recommend management ensure reports received from GPD be maintained with the same degree of diligence as those prepared by EOD. Reports should be properly secured with all EOD investigation files and reports.
6. In September 2003 the interlocal agreement between the City and Alachua County regarding the administration of the City's Human Rights Ordinance for EO complaints received from citizens was not renewed. The terms and conditions of the now expired interlocal agreement required that the County continue to investigate and resolve all pending claims. We recommend

management notify the County and request the status of outstanding investigations prior to December 31, 2003 on a quarterly basis until all investigations are closed.

7. Prior to EOD becoming a Charter Office in FY 2003, the Director, through the City Manager, was to prepare an annual report. Although an annual report was presented in accordance with the Code, we believe a verbal presentation of activities is not sufficient representation of departmental accomplishments and thus does not provide an adequate and readily accessible public record of departmental performance. Management should prepare a written annual report containing related performance measurement and activity information. The annual report should be presented to the City Commission and available to citizens.
8. In our best practices review we determined that a valuable resource for ensuring citizen access to information was the worldwide web. Currently information provided by EOD on the City's website consists of general information including an organization chart and contact information. We recommend management coordinate with the City's Computer Services Department to enhance EOD's website to ensure it provides online access to all relevant information regarding EOD services.

SCOPE, METHODOLOGY AND OBJECTIVES

On November 5, 2002, as part of the passage of the Equal Opportunity Charter provision, Gainesville voters approved the inclusion of mandatory audits of related programs in the City Auditor's Annual Audit Plan. The primary objective of this review of the Equal Opportunity Department was to review compliance with the Equal Opportunity Policy Handbook and review the administrative and quality assurance controls related to equal opportunity investigations conducted by the Department. We also benchmarked other organizations with similar functions to determine industry best practices and compared those with the City of Gainesville Equal Opportunity Department.

Management is responsible for establishing effective management controls. Management controls, in the broadest sense, include the plan of organization, methods and procedures adopted by management to ensure that goals are met. Management controls include the processes for planning, organizing, directing and controlling program operations. These include systems for measuring, reporting and monitoring program performance. Annual audits in the various Equal Opportunity programs are mandated by the City Charter. Our review was conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. We conducted interviews with appropriate EOD personnel and Alachua County Equal Opportunity Office personnel. We also obtained reporting and investigative standards from the U.S. Department of Labor, Equal Employment Opportunity Commission and other municipalities. The scope of our testing was generally for the period August 2002 through February 2004. Based on the results of our review, we have prepared a report of issues, conclusions and recommendations.

SUMMARY AND BACKGROUND

The City's Equal Opportunity Department, through a recommendation from a Blue Ribbon Panel and ballot initiative in November 2002, became a charter level office of the City. The role of EOD is to assist in ensuring equal opportunity/equal access to all employment, programs, services, activities and facilities of the City without regard to an individual's sex, race, religion, national origin, marital status, sexual orientation, color, age or disability. It also works to ensure the City's workforce is diverse and well trained on equal opportunity related matters. The EOD provides several services including:

- Overseeing the City's compliance with related local, state and federal equal opportunity laws and policies;

- Ensuring employees are aware of their rights and responsibilities related to local, state and federal Equal Opportunity laws, policies and procedures;
- Working closely with city departments to integrate diversity management into all areas of the organization and work environment;
- Working closely with departments on recruiting and retaining minority and female employees at all levels of city government;
- Monitoring and reporting Affirmative Action Plan objectives and achievements to the City Commission;
- Developing positive working relationships with various community, state and national organizations;
- Investigating and assisting in resolving internal City allegations of discrimination, harassment, retaliation and other forms of inappropriate behavior based upon sex, race, religion, national origin, marital status, sexual orientation, color, age or disability.

Investigation Process

City Ordinance 980524 provides specific guidelines for Equal Opportunity investigative processes. When an aggrieved person files a complaint with the EOD, which can include employment, public housing and public accommodations discrimination, EOD collects information related to the complaint, reviews the allegation and determines if there is cause to begin an investigation. A copy of the complaint is sent to the respondent along with procedural rights and obligations. The respondent is also instructed to preserve all records and other evidence pertaining to the complaint until the investigation is completed and must file a response no later than 10 days after receipt of notice. EOD obtains information during the course of the investigation through oral interviews, written statements or affidavits for all witnesses relevant to the investigation. The investigation process is to be completed within 100 days of filing at which time if there is sufficient evidence to support the allegation, EOD attempts to resolve the allegations related to the investigation. A written conciliation agreement is prepared if the complainant and respondent come to terms.

In the event conciliation is not reached within 100 days, and it is determined there is cause, the Human Rights Board convenes to review the EOD report. If the Board agrees that a violation has occurred, a determination of reasonable cause notice is issued which the claimant can use to bring civil action against the respondent or request an administrative hearing. In addition to the ordinance, the City has developed an Equal Opportunity Policy Handbook, which provides greater specificity regarding equal opportunity responsibilities of the City's charter officers and management. It also requires the full cooperation of employees and witnesses to ensure all evidence is received. At the conclusion of the investigation a report is submitted to the appropriate Charter Officer regarding the investigation results and appropriate recommendations (as required).

Prior to January 2004, EOD performed external allegations from citizens only if the basis for the allegation was sexual orientation. All other external investigations were referred to the Alachua County Equal Opportunity Department. In January, all City related responsibilities were transferred to the City EOD. Under the terms of the previous interlocal agreement, any open investigations would continue to be investigated by the County until completed.

Complaint Intake Activity

Table 1 represents the number of complaint intakes received by EOD for the past three years. In general, the City total represents internal investigations while the County consists of external investigations.

**Table 1
Number of Intakes by Fiscal Year**

Year	City	County	Total
FY 2002	7	27	34
FY 2003	4	22	26
FY 2004 *	25	5	30

*Through March 2004. The City total includes those that occurred after the termination of the County contract.

Table 2 represents the area in which discrimination was alleged to have occurred.

**Table 2
Areas Alleged Discrimination Occurred**

Year	Employment	Housing	Public Accommodations	Public Service
FY 2002	30	2	1	1
FY 2003	24	0	2	0
FY 2004**	23	2	5	0

**Includes six internal complaints.

Prior to December 2003, EOD consisted of an Equal Opportunity Director, an Affirmative Action Officer and two support staff positions. Since December 2003, EOD has added two specialist positions, one dedicated to the investigative process and the other focuses on developing and providing training for equal opportunity and diversity programs.

Advisory Boards

EOD has three advisory boards including the Human Rights Board, Citizens' Disability Advisory Committee and Equal Opportunity Diversity Advisory Committee. The role of the Human Rights Board is to enforce, file, process and hear complaints of discrimination based upon sex, race, religion, national origin, marital status, sexual orientation, color, age or disability. If the conclusion of an external investigation indicates civil action may be necessary, EOD informs the Human Rights Board. In the event the board determines reasonable cause exists, the claimant and respondent are informed along with the options available. To date no investigations have reached this level. Internal investigations are not submitted to the Human Rights Board.

Best Practices

During our review, we obtained best practice information from several agencies including Alachua County, Palm Beach County, U.S. Department of Labor, U.S. Equal Employment Opportunity Commission and North Carolina State University.

The Alachua County Equal Opportunity Department reports to the Department of Administrative Services, a County department reporting directly to the County Manager. The Palm Beach County Equal Opportunity Department reports to the Director of Human Resources. The City of Gainesville appears to be unique in providing for an Equal Opportunity Department that reports directly to an elected legislative body.

In terms of investigations performed, Palm Beach County investigates employment discrimination only while Alachua County and the City of Gainesville also investigate Housing and Public Accommodation. Each office issues reports with conclusions, however the City of Gainesville is the only one that requires a management response. Each office also indicated department managers and the EO Director monitor outstanding recommendations and remedies. We also reviewed information from a variety of other entities which provided information regarding annual performance reports and investigative file and reporting standards described in the following pages.

ISSUE #1

Non-Compliance with Equal Opportunity Complaint Policy

Discussion

City Ordinance 980524 approved by the City Commission on December 14, 1998 establishes the authority of the Equal Opportunity Director to conduct investigations. The Ordinance establishes the Equal Opportunity Policy Handbook as the basis for providing direction to the Charter Officers regarding the handling of issues related to Equal Opportunity.

Policy Number 36 establishes the authority of the Equal Opportunity Department to obtain all information and records in the custody of the Charter Officers and city employees and establishes the authority of the Equal Opportunity Director to conduct investigations.

We observed instances of non-compliance with Policy No. 36. The first occurred in April 2003. In accordance with policy, the EOD Director provided notification of complaint to management and requested information regarding the allegation within the required time frame. Management responded to the complaint allegation within the required time frame, however management's response included a complete investigative report and a recommended disciplinary action. Shortly thereafter, without the benefit of EOD input and prior to completion of the EO investigation, measures to discipline the employee were implemented.

EOD issued a final report on the matter in June 2003 and concurred with management's findings and recommendation. However the EOD report included a qualification that all information may not have been available at the time of management's investigation and this may have impacted the results of their investigation. In the event the EOD investigation had resulted in a different conclusion, the City may have been placed in the difficult situation of attempting to resolve differences between the conclusions and recommendations of two Charter Officers and other affected parties.

In another instance shortly thereafter, EOD notified management of an informal inquiry regarding unfair treatment. Again EOD requested information regarding the allegation. A second notice was sent approximately 30 days later. Information regarding this complaint was not provided by management until approximately three months later. Once again, management provided a summary of its completed investigation and determined disciplinary action without the benefit or input of EOD. Based on the circumstances we observed in the instances cited above, it appears the following sections of Policy 36 from the EOD Handbook, have not been complied with:

Section (2): "The Charter Officer or designee will have ten (10) working days from receipt of the complaint and request in which to provide information and/or documents requested by the Equal Opportunity Department Director."

Section (3): "The Equal Opportunity Department Director or designee, may work alone or in conjunction with other investigator(s) selected by the Equal Opportunity Director to conduct a formal investigation of the alleged charges....If other investigator(s) are used, they will work under the direction and supervision of the Equal Opportunity Director or designee....and scope of work will be coordinated and approved through the Equal Opportunity Director or designee."

Section (4): "The complainant and the alleged discriminating party may give a list of witnesses to be interviewed by the Equal Opportunity Department Director or other investigator(s) in support or denial of charge(s) of discrimination. Also, any documents related or pertinent to the allegation(s) should be submitted to the Equal Opportunity Director."

The Equal Opportunity Department is responsible for ensuring all related laws and policies are complied with and for conducting investigations as provided for in the Equal Opportunity Complaint Policy. The Charter Officers are also required to abide by the procedures prescribed in the EO Policy. Management's

circumvention of the role and responsibility of the Equal Opportunity Department creates a myriad of issues which have a negative impact on the credibility of resulting investigative work and erodes both the credibility and role of the EOD. In the first incident, EOD believed the reminder in the previous investigative report was sufficient notification to management that further instances of non-compliance would not be tolerated. However, the second incident occurring shortly thereafter appears to be a deliberate circumvention of approved policies and procedures.

On April 13, 2004 the EO Director sent a memorandum to all Charter Officers reminding them of their roles in providing specific documents and information requested by the EOD.

Conclusion

EO related investigations and disciplinary actions were conducted and implemented by management not in compliance with City policy.

Recommendation

We recommend management comply with the City Commission approved Equal Opportunity Complaint Policy Number 36.

In addition, EO management should also consider methods for reminding Charter Officers and city employees regarding their respective roles in the investigative process.

Management Response

Equal Opportunity Office staff agree that in two instances equal opportunity related investigations and disciplinary actions were not conducted and implemented in accordance with Equal Opportunity Complaint Policy Number 36 by management responding to the complaints. However, it should be noted that as stated in the discussion of this issue that the Equal Opportunity Office took action to remind management of our concerns about non-compliance with this policy in both instances.

It is clear that in the first incident that management involved had good intentions. The concern is that this office could have been privy to information that could have impacted the investigation and resulting discipline differently. When made aware of the concern in our Final Investigative Report on this investigation, the Charter Officer responded that he would direct all of his managers to review Policy 36 during a July 2003 communications meeting. In the second instance Management did ask this office for extensions of time to provide the requested documentation and complete its response. Again, the concern is that this office could have been privy to information that could have impacted the investigation and resulting discipline differently. The April 13, 2004 memorandum was sent to Charter Officers to firmly remind them of their role in ensuring compliance with Equal Opportunity Policy Number 36 as a result of this second incident. The Equal Opportunity Office cannot swiftly and thoroughly investigate internal complaints without the prescribed assistance of other Charter Officers.

All managers and supervisors were reminded of their role in the investigative process during Discrimination and Harassment training provided to them during March and May 2004. New employees are informed of their rights concerning discrimination and harassment during Equal Opportunity Orientation. This office will immediately include instruction on their role in the entire investigative process during that training.

ISSUE #2

Written Investigative and Interview Plans Should be Developed and Maintained

Discussion

Upon receipt of a complaint, EOD prepares an intake form and a probable cause determination is made. Depending on the allegation, particularly in external matters, each investigation may require different procedures. In our benchmarking of municipalities and review of the U.S. Department of Labor Contract Compliance Program for Investigations, we found that the development of a written investigative plan is a standard practice for EO investigations. The investigative plan should be developed and included in the file as a guide for the investigator to follow during the investigation process. Prior to January 2004, EOD primarily reviewed allegations reported only by City employees. The protocol for conducting internal investigations has been established and is in place. However, the methodology for preparing and completing an investigation from external sources including businesses, landlords and individuals within the City is not standardized and may not provide the necessary guidance to ensure a complete investigation is performed.

The investigative plan serves as a systematic plan and checklist for proceeding through the investigation. The plan need not identify each action taken by the investigator, but it should identify major steps relevant to the particular circumstance. The Employment Standards Administration found that plans discussed with supervisors or structured meetings with staff proved to be useful in developing a comprehensive investigative plan.

A written investigative action plan provides the investigator with an outline and step-by-step process to follow which ensures all documentation is received, questions are asked and responses received and provides a record of data for future reference. Another significant benefit of a written investigative plan is that it ensures procedural consistency which can be helpful in the event the investigative process is scrutinized during litigation. Onsite investigations related to specific allegations should also be incorporated into the plan.

An “interview plan” is also a component of the written investigative plan and contains specific questions tailored to obtain the necessary information to support or refute the complainant’s allegations. The Alachua County Equal Opportunity Office has developed pre-determined questions based on the type of complaint to be investigated and allows for follow up questions, when necessary to ensure all information is uniformly documented. The plan should include an interview process that contains specific questions tailored to the complainant’s allegations.

The Department of Labor also recommends written interview plans be prepared prior to witness interviews. Additional follow up questions should be added during the interview. Another Department of Labor practice is to obtain the interviewees certification that the information provided on interview notes is true and correct. In the event the interviewee declines to certify their representation of the circumstances, the investigator should document the witness’s decision to decline.

Some elements of an investigative plan are currently performed by EOD, however investigative files are not organized in a consistent systematic manner (see Issue #3). A written investigative and interview plan assists in supervisory review of documentation, provides quality control for investigations performed and ensures the same standards are consistently used by EOD investigators.

Conclusion

EOD methods and practices do not include written investigative and interview plans, generally accepted in the industry to ensure adequate quality control over external and internal investigations.

Recommendation

We recommend management develop both written investigative and interview plans to guide external and internal investigations. The plans should be included in investigative files as a quality control measure to ensure consistency in investigations and to provide reasonable assurance of due diligence.

Management Response

Management agrees that both written investigative and interview plans should be developed to guide external and internal investigations. Prior to January 2004 this office primarily handled complaints that involved City employees. The protocol for conducting internal investigations has been established in writing. However, it does not include an “interview plan” component. The same methodology used in internal investigations was used for the infrequent external investigations prior to January 2004. At the time of this review the Equal Opportunity Office had just begun the process of conducting external investigations for protected classes other than sexual orientation. While the process used in the past had worked, this office is currently modifying them to include a written investigative plan and interview plan component with the realization that there may be a different set of best practices when handling an external complaint.

ISSUE #3

Investigative Files and Reports Should be Consistent

Discussion

In December 2003, EOD hired staff responsible for performing internal and external investigations. Prior to December, the EOD Director performed internal and external investigations not contracted to the County. Two components of an investigator's work product include investigative files and investigative reports. We observed several issues related to the preparation and development of these two elements.

Investigative Files

We reviewed closed investigative files and determined that file contents contained necessary documentation to support conclusions reached. However, files were not consistent in format and organization.

Uniform file organization is crucial to investigative work for a variety of reasons including timely access to supporting documentation and withstanding the scrutiny of legal counsel in the event of disciplinary or legal action as a result of the investigative process. In our discussions with representatives from the Alachua County Equal Opportunity Office and our review of the Department of Labor Contract Compliance Program regarding complaint investigations, we found both use a standard for file uniformity and consistency. A uniform system for file development and maintenance provides fast access to supporting documentation, reduces the risk of overlooking key components of the investigation and reduces staff hours required for file preparation and review.

Relevant sources recommend that investigative files be structured in an organized and systematic manner. According to the agencies benchmarked, the investigative action file usually contains at least the following information:

- A clear and complete list of allegations;
- All interview notes with the complainant, witnesses, management and others;
- Documentation related to the appropriate privacy laws and medical releases;
- Listing of company/department records reviewed and copies of related excerpts;
- Documentation related to the onsite facility visit;
- All third party opinions;
- The final report including findings, conclusions and recommendations; and
- All other relevant information related to the investigation.

Reporting Format

Reporting format should also be consistent. Although key elements of the investigative report are included in reports produced by EOD, there are some practices we found in our research that may assist EOD in making reports easier to read and reference to supporting documentation in the file. This is especially important now that EOD will be performing external complaint investigations within the City. Although EOD includes some of these elements in reports issued, we benchmarked some organizations that include the following information in all reports issued:

- Name of the complainant and case number;
- Name of business, department or landlord;
- Address of business or landlord;

- Basis for the complaint;
- Identification of issues and allegations;
- Dates of on-site investigation visits;
- Defendant rebuttal;
- Findings of fact which can include descriptions of relevant personnel policies, reviews of documentary evidence, and interviews with management, supervisory employees and witnesses;
- Analysis explaining how and why findings of fact confirm or refute allegations;
- Conclusion if violations occurred or not; and
- Remedy if violation occurred and corrective action to be taken, if necessary.

Conclusion

The form and organization of investigative files and reports is not consistent.

Recommendation

We recommend management establish standards of consistency and uniformity for all investigative files.

Additionally, we recommend a standardized report format be developed and include key components including investigative methodology, summary of findings, rebuttals, conclusions, remedies and other significant highlights of the investigation process.

Management Response

Management agrees that investigative files and reports should be consistent. We also note and agree that current closed investigative files contain necessary documentation to support conclusions reached. Investigative action files generally include the information obtained from benchmarking agencies and the reporting format is generally consistent. Management will establish standards to ensure that there is a uniform system for file development and maintenance, and that there is a consistent reporting format. Both the investigative files and reporting format will include applicable benchmarking information and be in place by the end of this Fiscal Year.

ISSUE #4

Internal Controls Should be Developed to Monitor Timely Responses

Discussion

During our review of the EOD investigative process, a transmittal to department management notifying them of an informal inquiry relating to unfair treatment was not followed up by EOD on a timely basis. The notification included a request for specific information and documentation needed for EOD to begin the investigation and requested a response within the ten days required by the complaint policy. A response from management was not received and there was no evidence at the time of our review of a follow up request issued. At the conclusion of our audit, there was documentation indicating a reminder transmittal was submitted approximately 30 days later, but department management did not respond in a timely manner. Currently EOD does not have a mechanism in place to monitor and track the return of management responses. Proper controls would enable EOD to ensure responses are timely and assist in the timely completion of the investigation.

We learned when the County was establishing an investigative process, several cities and agencies were visited to obtain information regarding generally accepted investigative standards, practices and procedures. The Florida Commission on Human Relations (FCHR) provided the Alachua County Equal Opportunity Office with software which the County customized to meet its needs. This system automatically assigns a file number for each intake form received and provides staff the ability to monitor and track data including the timeliness of responses. The system also provides the ability to prompt and print a second notice for past due requests. In addition, it provides the current status of all investigations on file.

Conclusion

Adequate internal controls are not in place to track the timeliness of management responses.

Recommendation

We recommend management develop internal controls designed to assist in tracking the status of investigations and ensure timely follow up on information requests.

Management Response

Management concurs. In the past the Equal Opportunity Office was able to monitor and track management responses to ensure timely completion of investigations with the one exception noted. However, as a best practice, and to ensure that there are no exceptions, we will investigate the feasibility of obtaining from FCHR the software discussed. In the interim we will develop a "tickler system" to remind us when responses are due.

ISSUE #5

Internal Controls Over GPD Investigative Reports Should be Strengthened

Discussion

Citizens who believe police officers have acted inappropriately may choose to file a complaint with EOD if they are uncomfortable reporting directly to the Gainesville Police Department (GPD). EOD prepares an intake form and forwards it to GPD Internal Affairs for investigation. Upon completion, EOD and the complainant receive a copy of the report from GPD. During our review, we performed procedures to determine whether or not EOD received timely notification of completed GPD investigations. EOD was unable to locate completed reports or letters notifying complainants of investigation results.

The retention and maintenance of investigative files and reports is necessary to access information for public and legal purposes, as well as the ability to compile accurate and complete reporting data.

Conclusion

GPD investigative reports are not properly maintained by EOD.

Recommendation

We recommend management ensure reports received from GPD be maintained with the same degree of diligence as those prepared by EOD. Reports should be properly secured in a locked cabinet with all EOD investigation files and reports.

Management Response

Management concurs. This office began to provide an alternative process for citizens to file complaints against members of the Gainesville Police Department in 2002. Twelve complaints were received during the period of April 2002 through September 2002. None were received since that period until we received one within the last week. There is a protocol in place to retain and maintain the GPD investigative files. Although the files were secured in a locked cabinet the process has not been handled in the same manner as Equal Opportunity investigation files. GPD investigative files will no longer be maintained separately. Effective immediately they will be handled in the same manner as all Equal Opportunity investigation files and reports.

ISSUE #6

Pending County Investigations Should be Monitored Until Completed

Discussion

In September 2003 the interlocal agreement between the City and Alachua County regarding the administration of the City's Human Rights Ordinance for EO complaints received from citizens was not renewed. Since the City required lead time to develop staff to begin this process, the City requested the assistance of the County through December 31, 2003. During our review of the intake log and County files, we noted nine outstanding County referrals. The terms and conditions of the now expired interlocal agreement require that the County continue to investigate and resolve all pending, active claims.

Under the terms of the interlocal agreement, the County Equal Opportunity Department was required to notify the City of the outcome of investigations referred to the County each quarter along with their invoice for payment. Since the County is no longer billing quarterly, the reporting status is ambiguous and currently there are no procedures in place to ensure the City can monitor the status of open claims.

Conclusion

EOD needs to ensure adequate monitoring of outstanding cases referred to the County.

Recommendation

Management should request that the County provide on a quarterly basis notification of the status of outstanding investigations referred to the County prior to December 31, 2003 until all investigations are closed.

Management Response

Management concurs. It was our expectation that the Alachua County Equal Opportunity Office would continue to notify the City of the outcome of investigations referred to them each quarter until their final disposition. To ensure that there is no ambiguity this office has now put a procedure in place to follow-up on these complaints on a quarterly basis.

ISSUE #7

Written Annual Reports Should be Prepared

Discussion

Prior to EOD becoming a Charter Office in FY 2003, the Director, through the City Manager, was to prepare an annual report. It is our understanding this was done verbally to the City Commission.

City Ordinance 030313 includes a provision in section 8-21 (b) (8) requiring the Equal Opportunity Director to:

“make annual reports to the City Commission of activities under the provisions of this chapter and make recommendations concerning methods by which to reduce discrimination and such other comments and recommendations as the Director may choose to make.”

Although the charter is not explicit in terms of whether the annual reports are written or verbal, and our benchmarking did not indicate any EO functions that provide an annual report except with regard to budgetary information, we found several sources from the Equal Employment Opportunity Commission, the U.S. Department of Labor and North Carolina State University Office for Equal Opportunity which provide a framework for elements that could be included in an Equal Opportunity Department Annual Report. At a minimum the Annual Report could include the:

- Structure and function of EOD
- Mission of the Office (description of office history, duties)
- Programs offered (training, investigations)
- Summary of accomplishments (hires/promotions/number of internal/external investigations)
- Overview of fiscal year activities
- Statistical analysis of programs/investigations
- Advisory committee information
- Office resources (staffing – education and experience, professional development, committee memberships)
- Issues, concerns and recommendations that may affect Departmental operations, City government or the community.

A written annual report would enable the department to present accomplishments achieved during the year, the type of activities performed and provides a basis for performance evaluation. Another significant benefit of the annual report is that it provides a means to communicate with the public.

Conclusion

Although an annual report was presented in accordance with the Code of Ordinances, we believe a verbal presentation of activities of this Charter Office is not sufficient representation of departmental accomplishments and does not provide an adequate and readily accessible public record of departmental performance.

Recommendation

We recommend management prepare a written annual report that at a minimum contains relevant industry standard information. The annual report should be presented to the City Commission and be available to citizens.

Management Response

Management concurs. City Ordinance 030313 is silent on whether the required annual reports should be written or verbal. Although the Equal Opportunity Office has made periodic verbal presentations to the City Commission we believe that an annual written report should be presented to the Commission and be made available to citizens. We have begun research to determine what resources will be required to produce such a report. Our goal is to produce one by the end of the calendar year.

ISSUE #8

Online Access Should be Made Available for EOD Services and Information

Discussion

The Equal Opportunity Department provides several tools and sources of information for City employees in terms of identifying, avoiding and reporting inappropriate behavior. Information is disseminated in several formats including handbooks, policies and procedures and training sessions. Information is also available through the City's Outlook system. Prior to the inception of the Charter Office of Equal Opportunity, primary duties were directed internally. Information and resources related to equal opportunity issues were developed primarily for City employees. Now that EOD roles and responsibilities have expanded to include external investigations, more information should be available to the general public.

We found through our research of other municipal EO departments that one source of ensuring citizens have access to information was the use of the municipal website. Currently information provided by EOD on the City's website consists of general information including an organization chart and contact information. Information regarding services provided by the City's EOD could be greatly enhanced to serve the citizens. Since EOD is now performing external investigations, information should be available and directed to business owners, employers, landlords and tenants describing the services available and the capability to download related documentation. Information available could include a description on how to file a complaint, and action to be taken by employers to ensure their business has taken appropriate steps to prevent inappropriate employee behavior.

The City's website is already utilized by other departments to provide a variety of services and resources including vendor requirements for procurements, MBE/SBE forms for vendors to complete, job notices and applications. EOD could provide a source for citizens to gain access to useful information regarding inappropriate behavior, information needed and time parameters related to EO complaints, available assistance, on-line or downloadable intake forms, as well as information on contacts regarding other agencies.

In addition, the website would provide another avenue for reporting information to citizens including duties of the office and annual reports.

Conclusion

The City website is not yet equipped with relevant and useful information to inform citizens, business owners and landlords of EOD services.

Recommendation

We recommend management coordinate with the City's webmaster to enhance EOD's website to ensure it provides citizens, businesses and landlords with the ability to access and obtain information regarding EOD services.

Management Response

Management concurs. We hired an Intern in May 2004 to focus solely on development of the Equal Opportunity Website. Management is coordinating with the City's webmaster to ensure that the site is updated and maintained as required when the Intern has completed development. The website will

provide access to education, investigation, forms, and other relevant information. Our goal is to have the enhanced website completed before the end of this fiscal Year.

