



SUMMARY

S.C. DEPARTMENT OF LABOR, LICENSING, AND REGULATION A Limited Review of the Division of Fire and Life Safety



INTRODUCTION

Members of the General Assembly asked the Legislative Audit Council to conduct an audit of the S.C. Department of Labor, Licensing, and Regulation Office of State Fire Marshal.

South Carolina state law places the Office of State Fire Marshal in the S.C. Department of Labor, Licensing and Regulation.

The State Fire Marshal is solely responsible for the South Carolina Fire Academy and has oversight of the South Carolina Emergency Response Task Force.

State law does not define what constitutes the Division of Fire and Life Safety; however, the Office of State Fire Marshal is now known as the Division of Fire and Life Safety which includes:

- Office of State Fire Marshal
- South Carolina Fire Academy
- South Carolina Emergency Response Task Force

The S.C. Department of Labor, Licensing, and Regulation nor the Division of Fire and Life Safety have control or management of the S.C. State Firefighter's Association which is a separate non-profit organization.

DIVISION OF FIRE AND LIFE SAFETY

Division of Fire and Life Safety (DFLS) does not have sufficient legal authority to enforce correction of violations nor issue fines for uncorrected violations, which may result in unnecessary risk to the public.

DFLS is not properly storing some sensitive data it collects and is not always following its training plan regarding the training of first responders in the South Carolina Emergency Response Task Force (SCERTF).

Other areas needing improvement include:

- Inventory control
- Purchasing
- Systems to improve training courses and instructor evaluations.
- South Carolina Fire Academy (Fire Academy) facilities
- Training prop maintenance
- Communication to the public regarding code violations, the appeal process, and fire suppression equipment upgrades.

OFFICE OF STATE FIRE MARSHAL

CODE ENFORCEMENT ISSUES

DFLS is given the duties of fire code enforcement but the law is unclear about the agency's authority to enforce the law. This may have resulted in a large number of uncorrected violations in facilities, such as schools and prisons, which are inspected by DFSL. State law does not provide DFSL with the authority to issue fines for uncorrected violations. The ability to issue fines could provide for greater compliance with DFSL findings.

PRISON INSPECTIONS

Although S.C. Code §24-9-20 requires DFSL, in conjunction with the S.C. Department of Corrections, to inspect prisons, the law is unclear as to what DFSL's enforcement options are when violations are found.

FIREWORKS INSPECTIONS

The S.C. Board of Pyrotechnic Safety, a board regulated by S.C. Department of Labor, Licensing, and Regulation (LLR), uses a checklist to approve permits for fireworks vendors; however, the operator may still be found in violation of fire codes. Vendors might not understand how they qualified for a permit but after its issuance be cited for fire safety code violations.

RECORDS RETENTION AND CONTROL

Students' personally identifiable information contained in old training records, as well as credit card information, are being stored at the Fire Academy and are not being properly secured.

JANUARY 2018

FINANCIAL

DIVISION OF FIRE AND LIFE SAFETY

LLR allocated an agreed upon, capped charge of \$400,000 for administrative services it provided to DFSL. LLR lifted the cap in FY 15-16 resulting in an increase to \$800,000 for the same types of administrative services, but did so without formal written analysis to show why the cap was lifted.

LLR allocated its costs for providing administrative support services, such as payroll and human resources support, to DFSL and other licensing boards within LLR on the basis of each entities' prior year total expenses. Using total expenses as a basis to allocate and charge for administrative expenses is not necessarily a proper method of allocation.

This resulted in the Fire Academy, possibly due to high capital expenditures, paying substantially more in allocated administrative fees than OSFM and may have resulted in the Fire Academy's receiving a disproportionate share of the cost when compared to the other boards receiving the allocation.

SOUTH CAROLINA FIRE ACADEMY

The Fire Academy lacks an inventory control system for some of its equipment, such as fire suits, furniture, and textbooks. The agency could be losing stock and not be aware of the loss, resulting in unnecessary replacement costs.

Some cafeteria-related items were not competitively purchased; therefore, the state has less assurance that the agency is procuring items at the best price. According to the S.C. procurement code, any purchase with predictable and quantifiable requirements must be competitively procured.

SOUTH CAROLINA FIRE ACADEMY

FIRE ACADEMY PROPS

The Fire Academy does not have a maintenance policy for its training props. It also does not perform regular preventive maintenance on its props, unlike five of the seven states we contacted. The props are used to provide firefighters with hands-on firefighter training and the lack of routine preventive maintenance could lead to more breakdowns of equipment and at more critical times – such as during training sessions. The Fire Academy did not maintain a history of equipment out-of-service.

FIRE ACADEMY DORMITORY

The Fire Academy dormitories have a mold problem in several rooms. The dormitory is in the early stages of being remodeled at a cost of \$3,677,039, and it is estimated to be completed in January 2019. The remodeling should address the mold issue.

The Fire Academy does not track training participants or dormitory visitors, by fire department, which could identify potential customers who are currently not using the Fire Academy's training programs and dormitory.

TRAINING, INSTRUCTORS, EDUCATION, AND CERTIFICATION

SCERTF TRAINING

DFLS is not ensuring that highly specialized SCERTF personnel always follow the established training policy. This could result in firefighters and other responders being ill-prepared for the challenges they face.

FIREFIGHTER TRAINING

The Fire Academy's mission is to educate and train South Carolina's paid, volunteer, and industrial fire service personnel. Firefighter training is not required.

TRAINING FEES

The Fire Academy does not analyze how much it costs to deliver its training courses. This makes it difficult for it to adjust its fees in order to keep them affordable, yet keep its level of subsidizing the cost of the training consistent as costs rise. This also makes it difficult for it to reduce its percentage of subsidies.

TURNOVER RATE AND PAY AMONG PART-TIME INSTRUCTORS

LLR analyzed part-time instructor pay and determined it was appropriate and competitive despite the fact that the actual average pay at the Fire Academy was lower than the average pay of three outside entities it selected for review. LLR did not recommend increases in pay, despite this analysis and the fact that DFLS has experienced periods of relatively high turnover among part-time instructors. However, DFLS recently initiated modest pay increases.

LLR did not analyze the reasons for relatively high turnover among part-time instructors at the Fire Academy. This can result in the agency's inability to detect underlying causes for the turnover, which can negatively affect the agency's ability to accomplish its mission.

INSTRUCTOR EVALUATIONS

There is no system to catalogue and track instructor performance over time, resulting in there being no effective method to remove underperforming full-time or part-time instructors.

CERTIFICATION FOR LOCAL FIRE MARSHALS

The OSFM component of DFLS replaced its in-house certification process with the certification processes of the National Fire Protection Association (NFPA) and the International Code Council (ICC), assuming it was a better process. DFLS has no information on the number of individuals who have sought or achieved their certification. DFLS may be able to work with the third-party providers of certification exams to collect additional data on residents' pass rates.

State law does not require those enforcing the fire safety code to earn certification as an inspector; however, DFLS has a certification process. Without the certification, it is unclear whether the individual enforcing the fire code has the requisite knowledge and skills.

Candidates for certification as local fire inspectors, including those who already possess ICC or NFPA certification, must complete a course on South Carolina codes and regulations, but DFLS does not require a proficiency test at the end of the course. Without a test to ensure a candidate has mastered material regarding state rules and regulations, there is less assurance of proper and consistent enforcement among local fire marshals.

CAREER AND TECHNOLOGY CENTERS

The Fire Academy is taking steps to support the firefighting curriculum in career and technology centers around the state, but has no system in place to capture data that would:

- Support the development of outcome measures in order to determine the effectiveness of the program in encouraging students to pursue careers in the fire service.
- Determine the cost effectiveness of its investment in course design and testing and IT support.

S.C. FIREFIGHTER MOBILIZATION OVERSIGHT COMMITTEE

The current statewide mobilization plan, required by law and established by the S.C. Firefighter Mobilization Oversight Committee, is over a decade old with an effective date of August 24, 2006. This plan may not be reflective of more up-to-date, improved response protocols.

Because the mobilization plan is not used in day-to-day operations, and is outdated, it may lead to confusion among first responders as to who has the authority to manage and coordinate emergency response, and hinder their understanding of current emergency management practices.

V-SAFE GRANT APPLICATION AND EVALUATION INSTRUMENT

Grant applications are scored by a peer-review panel for the purpose of awarding grants through the Volunteer Strategic Assistance and Fire Equipment (V-SAFE) program.

We found that fire departments with the greatest financial needs are often not scored as highly as other fire departments that have more resources. The two V-SAFE regions with the *highest* amount of poverty were the two *least* funded regions. This may have occurred because departments with fewer resources cannot avail themselves of the best grant writers, the scoring of the applications by the peer-review panel could be biased, or other reasons.

The evaluation process, which uses a point system to award the grants, has deficiencies that could affect scoring and result in grants being awarded unfairly and incorrectly.

The evaluation instrument used by the peer-review panel improperly merges two statutorily-mandated evaluation criteria so that they are not eligible for full and equal points, which is required by statute. Another criterion is listed twice in the evaluation instrument so it is “over-weighted,” potentially providing twice the number of points that should be available. These flaws may skew the scores assigned to fire departments’ grant applications, thereby impacting the equitable awarding of the grants.

We recommend a more objective evaluation process: revisions to the evaluation instrument that will help ensure the neediest fire departments have a fair chance at being awarded grants, or a statutory revision providing for a formula-driven distribution of V-SAFE funds.

ADMINISTRATION

FIRE ACADEMY DATABASE

We found numerous cases of inaccurate and missing data in the Fire Academy database, which contains information on the state’s firefighters, including information on the training they have completed. Incomplete and inaccurate data undermines the confidence in the integrity of the information on which DFSL relies when making decisions affecting firefighter and instructor training.

POLICIES AND PROCEDURES

DFSL had no policy and procedure manual without which the DFSL had no consistent way to guide managers and administrators in decision-making.

STATUS OF RECOMMENDATIONS IMPLEMENTED AFTER 2010 LAC AUDIT

We reviewed the status of the 14 recommendations from our 2010 audit of the Office of State Fire Marshal.

Of the 14 recommendations:

- 4 had been implemented
- 6 had been partially implemented
- 4 had not been implemented

Of the 11 recommendations directed to OSFM:

- 2 had been implemented
- 6 had been partially implemented
- 3 had not been implemented.

Of the 3 recommendations made to the General Assembly:

- 2 had been implemented
- 1 had not been implemented

STATUS OF RECOMMENDATIONS			
	IMPLEMENTED	PARTIALLY IMPLEMENTED	NOT IMPLEMENTED
OSFM	2	6	3
GENERAL ASSEMBLY	2	-	1
TOTAL	4	6	4

REVIEW OF VENDORS' INSPECTIONS

OSFM still has no process in place to check vendors' inspections for unnecessary upgrades. This could result in some users of required equipment, such as cooking stove hood fire suppressors and fire extinguishers, being required to upgrade the equipment unnecessarily.

INSPECTION FORMS

The agency cannot confirm that it directly notified vendors about its appeals process relating to unnecessary upgrades. Therefore, users of fire suppression equipment are less likely to be aware of their appeal rights, as generally, vendors who perform the inspections are their customary point of contact. In our 2010 audit, we recommended that OSFM require vendors' inspection forms to provide information about the OSFM appeals process.

MAJOR RECOMMENDATIONS

POLICIES AND PROCEDURES

DFLS should consolidate its policies and procedures into a single manual, where they can be organized and easily retrieved.

LLR should thoroughly document changes to its administrative fee charges and any reasons for those changes, and perform cost analysis to ensure that the charges are properly allocated.

ENFORCEMENT AUTHORITY

The General Assembly should amend state law to clarify the enforcement authority of DFLS, including allowing DFLS the ability to issue fines.

HUMAN RESOURCES

DFLS should annually monitor the turnover rate for all of its part-time instructors and use that analysis in determining what steps to take in order to retain qualified instructors.

DFLS should develop a means to collect and measure data from instructor evaluations, and use that data to gauge performance over time.

LLR should create a formal policy within its policy manual on the proper retention time periods for information (including payment and student records data) and disseminate this policy agency-wide.

FIRE ACADEMY AND TRAINING

DFLS should develop a maintenance policy with a preventative maintenance schedule for all of its facilities, props, and equipment, and should include the policy in the division's policy manual.

The General Assembly should consider amending §23-9-30 of the S.C. Code of Laws to require that anyone enforcing the fire safety code of the State of South Carolina be certified according to a process approved by the State Fire Marshal.

EMERGENCY RESPONSE

DFLS should continue working with the S.C. Firefighter Mobilization Oversight Committee to re-examine the Firefighter Mobilization Oversight Plan to make any necessary updates and revisions to reflect state law and currently accepted methods and best practices.

DFLS should require mandatory continuing education for all SCERTF members to respond to threats using the latest and safest equipment and techniques.

DFLS should develop a set standard for physical fitness for all SCERTF members.

V-SAFE

The General Assembly should consider a formula-driven distribution of V-SAFE funds rather than the current grant application process.

FOR MORE INFORMATION

Our full report, including comments from relevant agencies, is published on the Internet. Copies can also be obtained by contacting our office.

LAC.SC.GOV

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