



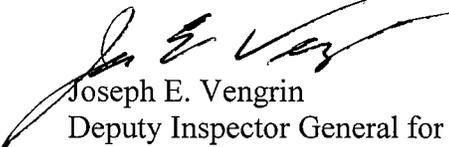
DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

JAN 15 2008

TO: Margot Bean
Commissioner, Office of Child Support Enforcement
Administration for Children and Families

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

SUBJECT: Review of Undistributable Child Support Collections in Florida From
October 1, 1998, Through December 31, 2005 (A-04-06-03508)

Attached is an advance copy of our final report on undistributable child support collections in Florida from October 1, 1998, through December 31, 2005. We will issue this report to the Florida Department of Revenue, Child Support Enforcement Program agency (the State agency), within 5 business days.

Our objectives were to determine whether the State agency reported program income for undistributable child support collections and interest earned on child support collections in accordance with Federal requirements.

The State agency generally reported program income in accordance with Federal requirements. In Florida, child support collections are not subject to the State's abandoned property laws. Instead, the State agency has to determine the collections to be undistributable or unidentifiable before processing them as program income. From 1982 through 2005, the State agency accumulated about \$31 million in child support collections (\$18.8 million in outstanding checks, \$11.9 million in undistributed collections, and \$154,029 in unidentified collections). During our audit period (October 1998 through 2005), the State agency reported only \$1.4 million as program income as a result of an Office of Child Support Enforcement (OCSE) audit.

We found that the accumulation of \$31 million in child support collections was possible, despite the State agency's compliance with Federal requirements to report program income, because of (1) the State's exemption of outstanding checks derived from child support collections from its abandoned property laws, (2) the State agency's significant delay in establishing a rule for determining when child support collections are considered undistributable, and (3) the lack of a policy to deal with child support checks that are characterized as distributed but remain uncashed indefinitely.

Even though the State agency reported some program income as a result of an OCSE audit, in 2001 and 2002, the State agency improperly reversed \$696,802 (\$459,889 Federal share) of the program income related to outstanding checks. These funds represented checks that were not exempt from the State's abandoned property laws.

The State agency properly reported program income for interest earned on child support collections.

We recommend that the State agency:

- report on the next quarterly Federal Form OCSE-396A, "Child Support Enforcement Program Financial Report," program income for outstanding checks totaling \$696,802 (\$459,889 Federal share) that was incorrectly reversed and transfer this amount back to the State's General Fund and
- develop a rule, as directed by Florida statutes, defining when a collection is deemed undistributable so that some portion of the \$12 million in undistributed and unidentified collections may be recognized as program income.

In comments on our draft report, the State agency disagreed with our first recommendation and stated that the Governor's June 1997 memorandum exempting the Child Support Clearing Trust Fund from the State's abandoned property laws applied to payments both before and after the date of the memorandum. The State agency agreed with our second recommendation.

We maintain that our first recommendation is valid. There is no basis to believe that the Governor's June 1997 memorandum applied to payments both before and after the date of the memorandum because the memorandum did not contain a retroactive provision.

If you have any questions or comments about this report, please do not hesitate to call me, or your staff may contact Lori S. Pilcher, Assistant Inspector General for Grants, Internal Activities, and Information Technology Audits, at (202) 619-1175 or through e-mail at Lori.Pilcher@oig.hhs.gov. Please refer to report number A-04-06-03508.

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General
Office of Audit Services

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

JAN 17 2008

Report Number: A-04-06-03508

Ms. Lisa R. Echeverri, Executive Director
Florida Department of Revenue
104 Carlton Building
501 South Calhoun
Tallahassee, Florida 32399-0100

Dear Ms. Echeverri:

Enclosed is the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), final report entitled "Review of Undistributable Child Support Collections in Florida From October 1, 1998, Through December 31, 2005." We will forward a copy of this report to the HHS action official noted on the following page for review and any action deemed necessary.

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

Pursuant to the principles of the Freedom of Information Act, 5 U.S.C. § 552, as amended by Public Law 104-231, OIG reports generally are made available to the public to the extent the information is not subject to exemptions in the Act (45 CFR part 5). Accordingly, within 10 business days after the final report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

If you have any questions or comments about this report, please do not hesitate to call me, or contact John Drake, Audit Manager, at (404) 562-7755 or through e-mail at John.Drake@oig.hhs.gov. Please refer to report number A-04-06-03508 in all correspondence.

Sincerely,

A handwritten signature in cursive script that reads "Peter J. Barbera".

Peter J. Barbera
Regional Inspector General
for Audit Services, Region IV

Enclosure

Direct Reply to HHS Action Official:

Ms. Carlis V. Williams
Regional Administrator, Region IV
Administration for Children and Families
Atlanta Federal Center
61 Forsyth Street SW., Suite 4M60
Atlanta, Georgia 30303-8909

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**REVIEW OF UNDISTRIBUTABLE
CHILD SUPPORT COLLECTIONS
IN FLORIDA FROM OCTOBER 1,
1998, THROUGH DECEMBER 31,
2005**



Daniel R. Levinson
Inspector General

January 2008
A-04-06-03508

Office of Inspector General

<http://oig.hhs.gov>

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

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

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

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Notices

THIS REPORT IS AVAILABLE TO THE PUBLIC
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In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), Office of Inspector General, Office of Audit Services reports are made available to members of the public to the extent the information is not subject to exemptions in the act. (See 45 CFR part 5.)

OAS FINDINGS AND OPINIONS

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



EXECUTIVE SUMMARY

BACKGROUND

The Child Support Enforcement program is a Federal, State, and local partnership, established in 1975 under Title IV-D of the Social Security Act, to collect child support payments from noncustodial parents for distribution to custodial parents. Within the U.S. Department of Health and Human Services, Administration for Children and Families, the Office of Child Support Enforcement (OCSE) provides Federal oversight. In Florida, the Department of Revenue, Child Support Enforcement Program agency (the State agency), administers the program.

OCSE requires States to offset Child Support Enforcement program costs by recognizing and reporting program income from undistributable child support collections and interest earned on child support collections. OCSE defines undistributable collections as those that are considered abandoned under State law.

Under Florida law, undistributable child support collections are treated separately from abandoned property. A 2001 provision of the law requires the State agency to establish a rule to define when a collection is deemed undistributable. The law also describes how undistributed and unidentified collections, once determined undistributable, are processed and credited to the Federal and State Governments.

OBJECTIVES

Our objectives were to determine whether the State agency reported program income for undistributable child support collections and interest earned on child support collections in accordance with Federal requirements.

SUMMARY OF FINDINGS

The State agency generally reported program income in accordance with Federal requirements. In Florida, child support collections are not subject to the State's abandoned property laws. Instead, the State agency has to determine the collections to be undistributable or unidentifiable before processing them as program income. From 1982 through 2005, the State agency accumulated about \$31 million in child support collections (\$18.8 million in outstanding checks, \$11.9 million in undistributed collections, and \$154,029 in unidentified collections). During our audit period (October 1998 through 2005), the State agency reported only \$1.4 million as program income as a result of an OCSE audit.

We found that the accumulation of \$31 million in child support collections was possible, despite the State agency's compliance with Federal requirements to report program income, because of (1) the State's exemption of outstanding checks derived from child support collections from its abandoned property laws, (2) the State agency's significant delay in establishing a rule for determining when child support collections are considered undistributable, and (3) the lack of a policy to deal with child support checks that are characterized as distributed but remain uncashed indefinitely.

Even though the State agency reported some program income as a result of an OCSE audit, in 2001 and 2002, the State agency improperly reversed \$696,802 (\$459,889 Federal share) of the program income related to outstanding checks. These funds represented checks that were not exempt from the State's abandoned property laws.

The State agency properly reported program income for interest earned on child support collections.

RECOMMENDATIONS

We recommend that the State agency:

- report on the next quarterly Federal Form OCSE-396A, "Child Support Enforcement Program Financial Report," program income for outstanding checks totaling \$696,802 (\$459,889 Federal share) that was incorrectly reversed and transfer this amount back to the State's General Fund and
- develop a rule, as directed by Florida statutes, defining when a collection is deemed undistributable so that some portion of the \$12 million in undistributed and unidentified collections may be recognized as program income.

STATE AGENCY'S COMMENTS

In comments on our draft report, the State agency disagreed with our first recommendation and stated that the Governor's June 1997 memorandum exempting the Child Support Clearing Trust Fund from the State's abandoned property laws applied to payments both before and after the date of the memorandum. The State agency agreed with our second recommendation.

Appendix B presents the complete text of the State agency's comments.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

We maintain that our first recommendation is valid. There is no basis to believe that the Governor's June 1997 memorandum applied to payments both before and after the date of the memorandum because the memorandum did not contain a retroactive provision.

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INTRODUCTION

BACKGROUND

Child Support Enforcement Program

The Child Support Enforcement program is a Federal, State, and local partnership, established in 1975 under Title IV-D of the Social Security Act, to ensure that noncustodial parents provide support to their children. The program collects child support payments from noncustodial parents for distribution to custodial parents. Within the U.S. Department of Health and Human Services, Administration for Children and Families (ACF), the Office of Child Support Enforcement (OCSE) provides Federal oversight by setting program standards and policy, evaluating performance, and offering technical assistance. In Florida, the Department of Revenue, Child Support Enforcement Program agency (the State agency), administers the program and receives Federal reimbursement, generally at a rate of 66 percent of program costs.

Before 1999, the County Clerks of Court (COC) were responsible for collecting child support payments, and the State agency was responsible for distributing those payments. In 1999, the State agency established the State Disbursement Unit (SDU) to collect and distribute child support payments. However, the COCs still receive some child support collections, which they pass to SDU.

Requirements for Reporting Program Income

OCSE requires States to offset Child Support Enforcement program costs by recognizing and reporting program income from undistributable child support collections and interest earned on child support collections. OCSE defines undistributable collections as those that are considered abandoned under State law. States are required to report undistributable collections and program income quarterly on Federal Forms OCSE-34A, "Child Support Enforcement Program Quarterly Report of Collections," and OCSE-396A, "Child Support Enforcement Program Financial Report," respectively. In addition, OCSE Action Transmittal 89-16 requires States to offset Child Support Enforcement program costs by recognizing and reporting program income from interest earned on child support collections.

Undistributable Collections

State agencies are required to report program income from undistributable collections to offset program costs pursuant to 45 CFR § 304.50 and OCSE Policy Interpretation Question (PIQ)-88-7 and PIQ-90-02.

OCSE-PIQ-88-7 states: "If a . . . collection is truly undistributable, the State may dispose of it in accordance with State law. States may, for example, provide that such collections . . . become the property of the State if unclaimed after a period of time . . . this revenue must be counted as program income and be used to reduce IV-D program expenditures, in accordance with Federal regulations"

OCSE-PIQ-90-02 states: “Every State has statutes and regulations governing the handling of unclaimed or abandoned property left in its care. OCSE-PIQ-88-7, dated July 11, 1988, recognizes this fact and encourages each State to utilize these individual State procedures to report undistributable or uncashed . . . collections as title IV-D program income.”

Under Florida statutes, undistributable collections are treated separately from abandoned property and are governed by the Florida Social Welfare provisions, sections 409.2551–409.25995. Section 409.2558, effective in June 2001, describes how undistributed and unidentified collections, once determined undistributable, are processed and credited to the Federal and State Governments. This section also requires the State agency to establish a rule defining when a collection becomes undistributable or unidentifiable. The State agency has not yet established such a rule; until it does so, it will not report undistributable or unidentifiable collections as program income. Prior to the enactment of section 409.2558, there was no requirement to declare undistributable child support collections as abandoned property.

Outstanding Checks

Section 17.26 of the Florida statutes specifies that State warrants not presented for payment within 1 year after issuance must be canceled and processed as abandoned property. However, this section also authorizes the Governor of Florida to exempt warrants from becoming abandoned property if they represent funds derived from Federal contributions and if disposition of the funds under the abandoned property laws would cause a loss of Federal contributions. Effective June 26, 1997, the Governor exempted the Child Support Clearing Trust Fund, an account administered by the State agency for funds credited from child support payments pending distribution. Therefore, when the State agency issues a check to the intended recipient, the collection is considered distributed and remains distributed even if the check is never cashed. As a result, issued but uncashed checks accumulate in the State agency’s account for an indefinite period and do not need to be reported as program income.

Prior Office of Child Support Enforcement Audit

The OCSE Division of Audit conducted an audit of Florida’s collection and statistical reporting systems for the period January 1996 through June 1997 and issued a final report (FL-97-RSR) on February 4, 1999. The report identified \$1,435,712 in uncashed child support checks that the State had transferred to its General Fund from October 1996 through June 1997 in accordance with the State’s abandoned property requirement. However, the State agency had not reduced Title IV-D program expenditures by the amount of these checks. The OCSE Division of Audit recommended that the State agency make an adjustment for program income not claimed. The State agency agreed and reported the checks as program income on its September 2000 supplemental Form OCSE-396A.

OBJECTIVES, SCOPE, AND METHODOLOGY

Objectives

Our objectives were to determine whether the State agency reported program income for undistributable child support collections and interest earned on child support collections in accordance with Federal requirements.

Scope

We reviewed Form OCSE-34A for reported undistributed collections and Form OCSE-396A for reported program income for the period October 1, 1998, through December 31, 2005.¹ The State agency received these collections from 1982 through 2005. The collections in this report pertain to (1) checks for collections that were disbursed to the recipient but not cashed (outstanding checks), (2) collections that could not be disbursed to the custodial parent or returned to the noncustodial parent (undistributed), and (3) collections that could not be identified (unidentified).

We also reviewed child support collections for 10 COCs because, even though they no longer were responsible for collecting child support payments, they passed child support collections to SDU as a service to local residents.²

We limited our review of internal controls to understanding the State agency's policies and procedures for reporting undistributable collections and interest earned on child support collections as program income. Specifically, we reviewed the policies and procedures that the State agency used to identify abandoned property and to report it as undistributable and program income according to Federal requirements. In addition, we reviewed the State agency's policies and procedures and the cooperative agreements between the State agency and the COCs that were used to identify interest earned on child support collections and to report it as program income.

We performed fieldwork at the Florida Department of Revenue in Tallahassee, Florida, from March through September 2006.

Methodology

To accomplish our objectives, we:

- reviewed applicable Federal and State laws and regulations and ACF program and policy announcements;

¹The undistributed collections balance shown on Form OCSE-34A as of December 31, 2005, is cumulative and therefore includes child support collections dating back to 1982.

²The COCs selected for review included Brevard, Dade, Escambia, Hillsborough, Okaloosa, Orange, Pinellas, Polk, Seminole, and Volusia. We selected these COCs because they accounted for 64 percent of county collections during calendar year 2005.

- interviewed State agency officials to identify and understand their policies and procedures for recognizing and reporting program income pertaining to undistributable collections and interest earned on child support collections;
- reviewed unclaimed child support collections data from the State agency and selected COCs as of December 31, 2005, to quantify the amount;
- compared and reconciled undistributed child support collections data to amounts reported on Form OCSE-34A for the quarter ended March 2006,³ and
- verified interest that the State agency and selected COCs earned and reported on child support accounts.

We performed our audit in accordance with generally accepted government auditing standards.

FINDINGS AND RECOMMENDATIONS

The State agency generally reported program income in accordance with Federal requirements. In Florida, child support collections are not subject to the State's abandoned property laws. Instead, the State agency has to determine the collections to be undistributable or unidentifiable before processing them as program income. From 1982 through 2005, the State agency accumulated about \$31 million in child support collections (\$18.8 million in outstanding checks, \$11.9 million in undistributed collections, and \$154,029 in unidentified collections). During our audit period (October 1998 through 2005), the State agency reported only \$1.4 million as program income as a result of OCSE's audit.

We found that the accumulation of \$31 million in child support collections was possible, despite the State agency's compliance with Federal requirements to report program income, because of (1) the State's exemption of outstanding checks derived from child support collections from its abandoned property laws, (2) the State agency's significant delay in establishing a rule for determining when child support collections are considered undistributable, and (3) the lack of a policy to deal with child support checks that are characterized as distributed but remain uncashed indefinitely.

Even though the State agency reported some program income as a result of the OCSE audit, in 2001 and 2002, the State agency improperly reversed \$696,802 (\$459,889 Federal share) of the program income related to outstanding checks. These funds represented checks that were not exempt from the State's abandoned property laws.

The State agency properly reported program income for interest earned on child support collections.

³The State agency was unable to provide a report and detailed data as of December 31, 2005. We excluded any collections received after December 31, 2005, from our review.

OUTSTANDING CHECKS EXEMPT FROM PROGRAM INCOME

As of December 31, 2005, the State agency had accumulated \$18.8 million (\$12.4 million Federal share) in outstanding checks. Prior to 1997, the State agency was required to report outstanding checks more than 1 year old as program income. On June 26, 1997, the Office of the Governor signed a memorandum exempting outstanding child support checks from treatment as abandoned property. Following the exemption, the State agency accumulated \$14.5 million (\$7.6 million Federal share) in outstanding checks dated from 1999 through 2004. Under current State law and policy, this amount will never be recognized as program income; only the interest that accrues on these amounts will be reported. If State law had treated outstanding checks derived from child support collections the same as other outstanding checks, it could have reported \$14.5 million in outstanding child support checks as program income.

According to the State agency, the upcoming rule will not address distributed but uncashed checks. Although there is no Federal requirement to recognize as program income child support checks uncashed after a certain period, we are concerned that the State agency has no policies to deal with the large amounts of money that are characterized as distributed child support collections but remain uncashed indefinitely.

UNDISTRIBUTED CHILD SUPPORT COLLECTIONS

As of December 31, 2005, the State agency had accumulated \$11.9 million (\$7.9 million Federal share) in undistributed collections. Once the State agency finalizes its rule for determining when collections become undistributable, some or all of the accumulated collections we identified will be reported as program income if the State agency cannot locate the intended recipient or noncustodial parent.

UNIDENTIFIED CHILD SUPPORT COLLECTIONS

As of December 31, 2005, the State agency had accumulated \$154,029 (\$101,659 Federal share) in unidentified collections. The current Florida statute (section 409.2558) requires unidentifiable collections to be processed as program income. Once the State agency defines when collections become unidentifiable, some or all of the unidentified collections will be reported as program income if the collections remain unidentifiable.

OUTSTANDING CHECKS PREVIOUSLY REPORTED AS PROGRAM INCOME

In September 2000, as a result of OCSE's audit, the State agency reported as program income \$1,435,712 in outstanding child support checks that the State had declared abandoned and transferred to its General Fund in 1996 and early 1997. However, during 2001 and 2002, the State agency reversed \$1,378,106 of this amount. The State agency should have reversed only \$681,304, which represents the amount of child support subsequently paid to parents. The State agency should not have reversed the remaining \$696,802 (\$459,889 Federal share) because those funds were not disbursed as child support and were not subject to the Governor's June 1997

memorandum prospectively exempting from treatment as abandoned property those outstanding child support checks that were issued from the Child Support Clearing Trust Fund.

LACK OF A RULE DEFINING UNDISTRIBUTABLE CHILD SUPPORT COLLECTIONS

As of 2007, nearly 5 years after legislation required the State agency to establish a rule defining when an unidentified or undistributed collection is deemed abandoned, the State agency had not established such a rule. State agency officials told us that they were continuing to design a process for deeming collections undistributable. To that end, State agency officials said that they were developing the forms, operating procedures, and system modifications needed to support the process. The officials further said that they needed to ensure that the administrative rule included all appropriate information before they began the formal rulemaking process.

With respect to outstanding checks, the officials stated that the proposed rule would not deem issued but uncashed checks as undistributable or abandoned property. According to the State agency, once a check has been issued, the collection is distributed in accordance with Federal and State requirements and policy even if the check remains uncashed indefinitely. In limited circumstances, however, the new rule will apply to those returned checks that the State agency voids and cannot reissue to the intended recipient after reasonable efforts to locate the recipient. In these situations, checks will become undistributable pursuant to the new rule.

CONCLUSION

The State's various amendments to the child support distribution laws and the State agency's significant delay in implementing the laws and establishing a rule defining when a collection is deemed undistributable or unidentifiable have resulted in a significant accumulation of child support collections that could have been reported as program income to offset program costs.

We plan to issue a report to OCSE summarizing our findings in several States and addressing broad policy issues related to undistributable collections.

RECOMMENDATIONS

We recommend that the State agency:

- report on the next quarterly Form OCSE-396A program income for outstanding checks totaling \$696,802 (\$459,889 Federal share) that was incorrectly reversed and transfer this amount back to the State's General Fund and
- develop a rule, as directed by Florida statutes, defining when a collection is deemed undistributable so that some portion of the \$12 million in undistributed and unidentified collections may be recognized as program income.

STATE AGENCY'S COMMENTS

In comments on our draft report, the State agency disagreed with our first recommendation and stated that the Governor's June 1997 memorandum exempting the Child Support Clearing Trust Fund from the State's abandoned property laws applied to payments both before and after the date of the memorandum. The State agency agreed with our second recommendation and anticipated that all procedures and programming would be ready for implementation in early 2011.

Appendix B presents the complete text of the State agency's comments.

OFFICE OF INSPECTOR GENERAL'S RESPONSE

We maintain that our first recommendation is valid. There is no basis to believe that the Governor's June 1997 memorandum applied to payments both before and after the date of the memorandum. A similar Governor's memorandum, dated March 9, 1999, contained a provision that retroactively exempted funds from the Grants and Donations Trust Fund, which is within the State's child support program, from the State's abandoned property laws. However, the Governor's June 1997 memorandum, which applied to the State's Child Support Clearing Trust Fund, did not contain a retroactive provision. Because the June 1997 memorandum was silent on this point, it was reasonable to conclude that the exemption in that memorandum was clearly meant to be prospective only.

APPENDIXES

APPENDIX A

OUTSTANDING CHECKS AND UNDISTRIBUTED AND UNIDENTIFIED COLLECTIONS AS OF DECEMBER 2005

Calendar Year	Outstanding Checks ¹	Undistributed Collections	Unidentified Collections	Total
1982–1985		\$926		\$926
1986–1990		125,498		125,498
1991–1995		543,433	\$53,943	597,376
1996		529,880	23,402	553,282
1997		399,455	7,478	406,933
1998		424,022	952	424,974
1999	\$302,438	549,275	17,940	869,653
2000	2,522,949	438,327	479	2,961,755
2001	2,207,954	805,789	15,547	3,029,290
2002	3,421,814	503,398	11,685	3,936,897
2003	2,872,744	865,508	4,373	3,742,625
2004	3,179,839	1,425,215	4,720	4,609,774
2005	<u>4,309,212</u>	<u>5,330,860</u>	<u>13,510</u>	<u>9,653,582</u>
Total	<u>\$18,816,950</u>	<u>\$11,941,586</u>	<u>\$154,029</u>	<u>\$30,912,565</u>
Federal share	<u>\$12,419,187</u>	<u>\$7,881,447</u>	<u>\$101,659</u>	<u>\$20,402,293</u>

¹Outstanding checks before 1999 were either reported as program income that was identified through a prior Office of Child Support Enforcement audit or voided.



JIM ZINGALE
EXECUTIVE DIRECTOR

DEPARTMENT OF REVENUE

TALLAHASSEE, FLORIDA 32399-0100

September 27, 2007

Mr. Peter J. Barbera
Regional Inspector General for Audit Services
Department of Health and Human Services
Region IV
61 Forsyth Street S.W., Suite 3T41
Atlanta, Georgia 30303

RE: CIN A-04-06-03508

Dear Mr. Barbera:

Attached are our responses to the findings and recommendations outlined in the draft report entitled "Review of Undistributable Child Support Collections in Florida" as requested by your letter dated August 27, 2007.

If you have any questions, please contact Sharon Doredant, Inspector General, at 850-487-1037.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Zingale", with a date "10/7" written below it.

Jim Zingale

JZ/bs0

Attachment

Report Number A-04-06-03508

**Review of Undistributable Child Support Collections in Florida
From October 1, 1998, Through December 31, 2005****OUTSTANDING CHECKS EXEMPT FROM PROGRAM INCOME**

Finding: As of December 31, 2005, the State agency had accumulated \$18.8 million in outstanding checks. Prior to 1997, the State agency was required to report outstanding checks more than 1 year old as program income. On June 26, 1997, the Office of the Governor signed a memorandum exempting outstanding child support checks from treatment as abandoned property. Following the exemption, the State agency accumulated \$14.5 million in outstanding checks dated from 1999 through 2004. Under current state law and policy, this amount will never be recognized as program income; only the interest that accrues on these amounts will be reported. If state law had treated outstanding checks derived from child support collections the same as other outstanding checks, it could have reported \$14.5 million in outstanding child support checks as program income.

Agency Response: The Florida Department of Revenue does not agree with this finding. The Office of the Governor's June 26, 1997, memorandum clarified the applicability of section 17.26, Florida Statutes, "Cancellation of state warrants not presented within 1 year." The memorandum provided instructions clarifying that payments issued from the Child Support Clearing Trust Fund are exempt from section 17.26, Florida Statutes. Under current state law and policy, a collection will not be declared as undistributable simply because it is uncashed. In accordance with section 409.2558, Florida Statutes, only those collections that cannot be applied to child support or returned to the payor can be deemed as undistributable. The comment in the last sentence above regarding "If state law had treated outstanding checks derived from . . ." is immaterial.

UNDISTRIBUTED CHILD SUPPORT COLLECTIONS

Finding: As of December 31, 2005, the State agency had accumulated \$11.9 million in undistributed collections. Once the State agency finalizes its rule for determining when collections become undistributable, some or all of the accumulated collections we identified will be reported as program income if the State agency cannot locate the intended recipient or noncustodial parent.

Agency Response: The Florida Department of Revenue agrees with this finding. The law requires the Department to make reasonable efforts to locate individuals before the collection is deemed undistributable. After the collection is deemed undistributable, the law specifies the allocation hierarchy for the collection. The hierarchy first applies the collection to public assistance arrears; second to administrative costs; third to another custodial family after notice to the noncustodial parent; and fourth to the noncustodial parent as a refund. Only collections where the Department cannot locate the intended recipient and have proceeded through the statutory hierarchy can be considered as program income, if any remains.

The March 2006 Schedule of Undistributed Collections show 21% of the Department's undistributed collections balance is due to location issues. Assuming a constant 21% ratio, and no

successful locations, the maximum potential amount of undistributable collections that might apply as program income would be \$2.5 million (\$1.6 million Federal share).

UNIDENTIFIED CHILD SUPPORT COLLECTIONS

Finding: As of December 31, 2005, the State agency had accumulated \$154,029 in unidentified collections. Once the State agency defines when collections become unidentifiable, some or all of the unidentified collections will be reported as program income.

Agency Response: The Florida Department of Revenue agrees with this finding.

OUTSTANDING CHECKS PREVIOUSLY REPORTED AS PROGRAM INCOME

Finding: In September 2000, as a result of OCSE's audit, the State agency reported as program income \$1,435,712 in outstanding child support checks that the State had declared abandoned and transferred to its General Fund in 1996 and early 1997. However, during 2001 and 2002, the State agency reversed \$1,378,106 of this amount. The State agency should have reversed only \$681,304 which represents the amount of child support subsequently paid to parents. The State agency should not have reversed the remaining \$696,802 (\$459,889 Federal share) because those funds were not disbursed as child support and were not subject to the Governor's June 1997 memorandum prospectively exempting from treatment as abandoned property those outstanding child support checks that were issued from the Child Support Clearing Trust Fund.

Agency Response: The Florida Department of Revenue does not agree with this finding. The Office of the Governor's June 26, 1997, memorandum clarified the applicability of section 17.26, Florida Statutes, "Cancellation of state warrants not presented within 1 year." The memorandum provided instructions clarifying that payments issued from the Child Support Clearing Trust Fund are exempt from section 17.26, Florida Statutes. There is no basis for the finding that the Governor's instruction has prospective effect only. The instruction applies to all payments issued from the Child Support Enforcement Trust Fund, both before and after the date of the memorandum. Therefore, the Department's actions taken to reverse the amounts were correct.

LACK OF RULE DEFINING UNDISTRIBUTABLE CHILD SUPPORT COLLECTIONS

Finding: As of 2007, nearly 5 years after legislation required the State agency to establish a rule defining when an unidentified or undistributed collection is deemed abandoned, the State agency had not established such a rule. State agency officials told us that they were continuing to design a process for deeming collections undistributable. To that end, State agency officials said that they were developing the forms, operating procedures, and system modifications needed to support the process. The officials further said that they needed to ensure that the administrative rule included all appropriate information before they began the formal rulemaking process.

Agency Response: The Florida Department of Revenue agrees with this finding and the recommendation to develop a rule, as directed by Florida Statutes. It should be noted however that the state legislation was amended in 2004. To implement the undistributable rule and procedures now will require programming on the legacy automated system to ensure sufficient audit trails and

tracking of location activities. The Department has been approved for Federal funding to develop a new automated system. Requirements for implementing the provisions of section 409.2558, Florida Statutes, are included in the design elements for the new system. Therefore, it is not cost effective to request Federal funding for extensive modifications to the legacy system. The Department anticipates that all procedures and necessary programming will be completed for implementation in early 2011.

Finding: With respect to outstanding checks, the officials stated that the proposed rule would not deem issued but uncashed checks as undistributable or abandoned property. According to the State agency, once a check has been issued, the collection is distributed in accordance with Federal and State requirements and policy even if the check remains uncashed indefinitely. In limited circumstances, however, the new rule will apply to those returned checks that the State agency voids and cannot reissue to the intended recipient after reasonable efforts to locate the recipient. In these situations, checks will become undistributable pursuant to the new rule.

Agency Response: The Florida Department of Revenue agrees, in part, with this finding. A collection will not be declared as undistributable simply because it is uncashed. In accordance with section 409.2558, Florida Statutes, only those collections that cannot be applied to child support or returned to the payor can be deemed as undistributable. The challenge is that the agency does not currently have an automated process to seek out uncashed checks. The Department agrees there is a need to establish an automatic stale-dating process and has held preliminary discussions with the State Disbursement Unit vendor, Affiliated Computer Systems, and the Florida Association of Court Clerks to outline a stale-dating process. This project has been delayed due to implementation of electronic disbursement options statewide, but is expected to resume in early 2008. At that point, the Department will determine what system software changes will be required on the multiple systems involved, and how extensive the changes will be. The cost and resources needed to complete these changes will determine whether it is reasonable, in light of other program priorities, to proceed with development of a stale-dating process at that time.