



AUDITOR GENERAL

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DEPARTMENT OF TRANSPORTATION

ASSET MANAGEMENT CONTRACTING AND MONITORING

Operational Audit

SUMMARY

The audit of the Department of Transportation focused on asset management contracting and monitoring processes during the period July 2002 through January 2004, and selected actions through July 2004. Our audit disclosed that these processes were generally performed in accordance with applicable laws, rules, procedures, and good business practices. However, improvements could be made in the contract procurement, amendment, and monitoring processes.

Contract Procurement and Amendments

Finding No. 1: Improvements are needed in Department cost estimation processes to ensure consistency in preparation and to document that estimates were considered during the contract procurement process.

Finding No. 2: The Department could enhance assurances that the contractor selection process is free of conflicts of interest by documenting the impartiality of key decision makers.

Finding No. 3: For one contract out of five contracts tested, Department staff did not follow Department procedures and timely amend the contract when the scope of services was reduced.

Contract Monitoring

Finding No. 4: The Department could enhance its assurance of the accuracy of Maintenance Rating Program (MRP) data and that the appropriate level of contract monitoring occurred by ensuring that the MRP consistency checks are performed and documented and the Asset Monitoring Plans are completed.

Finding No. 5: Department and contractor personnel did not always use the revised rest area performance measure rating and checklist. As a result, contractors, and in one instance the same contractor, were held to different standards.

Finding No. 6: In some instances, specific contract performance measures related to rest area inspections and highway lighting outages were not applied by District personnel in assessing contractor performance and contractors were not always assessed penalties.

Finding No. 7: The Department does not have a process in place to ensure accurate final contractor performance evaluations and updated Central Office cost savings estimates are available for use in future contract renewal decisions.

Finding No. 8: Some District Safety Office personnel were not always performing safety inspections related to highway facilities. Worker safety, and that of the traveling public, could be improved through the continued inspection of these facilities.

BACKGROUND

The Department of Transportation is a decentralized agency with a Central Office responsible for establishing rules, policies, and procedures, and performing quality assurance reviews related to various aspects of Department operations. The Department's seven district offices and the Florida Turnpike Enterprise are responsible for ensuring that established rules, policies, and procedures are followed in accomplishing Department objectives.

One of the many activities performed by the Department is routine maintenance for roadways, bridges, and facilities (i.e., rest areas, weigh stations, and welcome centers). Historically, the Department has outsourced these activities through numerous individual contracts that included mowing, sign and guardrail maintenance, pavement striping, raised pavement marker replacement, fence repair, shoulder maintenance, and drainage system cleaning. Under these traditional contracts, the Department retained the responsibility for daily management, inspection, and evaluation of the transportation infrastructure.

The Department began utilizing asset management contracts for routine maintenance and management of Florida's transportation infrastructure in July 2000. The four types of asset management contracts currently in use are:

- Road corridor contracts centered around a core roadway.
- Facility contracts including rest areas, weigh stations, and welcome centers.
- Geographic contracts with multiple transportation facility types.
- Fixed and movable bridge contracts.

In addition to the traditional maintenance activities described above, highway asset management contracts have three distinctive features:

- Expansion of contracted services to include compliance with environmental requirements, incident response, natural disaster preparedness and damage repair, permit application review and evaluation, highway lighting and call box maintenance, customer service complaint resolution, formal inspection of bridges and safety features, and motorist aid service patrols.
- Assignment of responsibility for daily management, inspection, and evaluation of the transportation system.
- Utilization of contracts that range from six to ten years in length and are renewable contingent upon satisfactory performance evaluations by the Department and subject to availability of funds.

The asset management contracting concept is also utilized by other states with the primary benefits described as fixed long-term prices, cost savings, risk reduction, fewer contracts to administer, and savings in administrative staff and resources.

During the 2002-03 fiscal year, the Department expended \$418.1 million on routine maintenance, of which approximately \$37.5 million related to asset management contracts.

As of February 2004, the Department had entered into 16 asset management contracts totaling an estimated \$469.4 million over the contract periods. The Department plans to have 28 asset management contracts totaling \$978.4 over the contract periods in place by June 2008, with estimated annual expenditures totaling \$135 million.

FINDINGS AND RECOMMENDATIONS

Contract Procurement and Amendments

Processes to be followed by State agencies when considering outsourcing services previously provided by State employees have not been prescribed in Florida Statutes. The Governor has recently established a centralized gate process for initiating, reviewing, and evaluating outsourcing initiatives¹. Good business practices dictate that at least the following processes are followed:

- A determination is made and documented of how outsourcing the services is in the best interest of Florida’s citizens, including cost savings estimates.
- A competitive procurement process that is open and fair to encourage and manage competition for services.
- Outsourcing contract language clearly defines contract scope of services and contains appropriate provisions to protect the State’s interests and help ensure contractor performance.
- A contract monitoring process is established to ensure that the State is getting the services for which contracted.

Once the decision to outsource has been made, there are State and Department established procedures governing the procurement process².

Our review included the five asset management contracts, as shown on Exhibit A, for which we determined whether the Department established and implemented an appropriate procurement cost estimation process, complied with the applicable contract procurement laws and procedures, and implemented contract amendments, as needed. As discussed in the following findings, we noted that improvements could be made in the following areas.

¹ In March 2004, the Center for Efficient Government was created by the Governor’s Executive Order Number 2004-45.

² For example, Chapter 287, Florida Statutes; Chapter 60A, Florida Administrative Code; and DOT Procedure Topic No. 375-040-020 “Procurement of Commodities and Contractual Services.”

Finding No. 1: Procurement Cost Estimations

Although not required by law, the Department established an informal policy requiring the preparation of procurement cost estimates, since one of the reasons for using asset management contracts is expected cost savings over “traditional” maintenance contracts. This cost estimate is typically prepared by the applicable District Maintenance Office for use in the procurement process to evaluate contractor price proposals.

During our audit of the procurement cost estimation processes, we noted the following:

- The Department had not established formal procedures or guidelines for preparation and use of the estimates. As a result, different districts, or even different staff within the same district, may calculate cost estimates using different methodologies. Subsequent to our inquiry, the Department established a formal directive³, effective July 23, 2004, requiring the preparation of District cost estimates, defining a preferred cost estimate method, and specifying document retention in project files.
- Documentation was not always provided to demonstrate that cost estimates were prepared by District staff prior to contract award and were considered when evaluating price proposals.
- District contract files for four of five contracts tested did not include the cost estimates prepared by Department staff. Although the four cost estimates were obtained from District engineers, Florida law⁴ and Department procedures require that documentation supporting a contract award be maintained in the contract file.

Recommendation: We recommend that the Department follow its newly established procedures requiring the preparation of District asset management cost estimates and document how such estimates are used in the procurement decision.

³ DOT Procedure Topic No. 375-000-005 “Maintenance Asset Management Contracts.”

⁴ Section 287.057(2)(b), Florida Statutes.

Finding No. 2: Conflict of Interest

Two key sets of individuals involved in asset management contracting are those that develop the scopes of services for which the Department solicits requests for proposals from contractors and those that evaluate the responses to such solicitations.

In audit report No. 03-102, Finding No. 2, we noted the Department did not require attestations of impartiality from key decision makers involved in professional services acquisitions. We recommended, and the Department agreed, that documentation should be maintained evidencing the impartiality of those individuals.

The Department revised its procedures to require such documentation for those involved in professional services acquisitions; however, the Department had not established a requirement for attestations of impartiality to be prepared by asset management decision makers and retained as part of the procurement record. We did note that in response to the professional services finding, District 5 separately implemented the preparation of conflicts of interest certifications by District staff in October 2003 for various types of procurements, including asset management contracting.

Recommendation: We recommend that the Department, as a whole, require key individuals in contracting processes to provide attestations of their impartiality and that documentation of such be retained in procurement files.

Finding No. 3: Contract Amendments

The Central Office has developed standard maintenance scopes of services for use by District personnel. When utilized in asset management contracts, contractors are responsible for maintaining the applicable transportation infrastructure in compliance with Department procedures, manuals, guides, handbooks, and other contractual performance standards.

The Department has established procedures requiring amendments to written agreements for various reasons, including changes in contract scope of services. We noted one instance during our audit testing where these procedures were not followed.

District 3 entered into one of the earliest asset management contracts (effective July 2001), the scope of which included all State primary and interstate roads in five counties. This contract incorporated a list of preexisting Department contracts scheduled to continue past the start date of the new asset management contract. As it related to rest area monitoring, repair, and maintenance:

- A preexisting contractor was responsible for repair and maintenance of two rest areas.
- The asset management contractor was responsible for monitoring the efforts of the preexisting contractor.

A new District 3 asset management contract covering all rest areas went into effect February 2003. Since these are multi-year contracts, the same rest area monitoring responsibilities exist in two different asset management contracts.

Rather than amending the first contract, District staff verbally informed the contractor that it was no longer responsible for monitoring the two rest areas. No change in contract price was negotiated with the contractor because District staff believed that the timing was not right, the cost associated with the reduction in services was not significant, and issuing a contract amendment would not be cost effective.

In response to subsequent inquiries, District staff indicated the contract had not been amended as of June 2004, but expects it will be amended, with a negotiated price reduction by September 2004, because additional cost data associated with the reduction in services is now available.

Recommendation: We recommend that Department staff follow Department procedures and timely amend written contracts to reflect all changes in contract terms and conditions.

Monitoring of Contractor Performance

The Asset Management Program (Program) is administered by the State Maintenance Office, and implemented by the Department's seven District offices and Florida Turnpike Enterprise. As stated in the report Background, a distinctive feature of asset management contracts is that the day-to-day management of maintenance responsibilities for contractually designated highway components⁵ is assigned to contractors.

Performance accountability under asset management contracts is a shared process between the Department and the contractor.

- Performance outcomes measured by performance standards are stipulated in the contract terms.
- The Department periodically revises its procedures, manuals, guides, handbooks, and other maintenance-related material used by contractors, many of which are incorporated by reference in the contracts.
- The contractors perform maintenance responsibilities (or may subcontract some), monitor maintenance activities, and report results to District personnel on prescribed documents.
- District and Central Office maintenance personnel perform formal and informal physical inspections to support that contractor-reported performance results were being achieved. The State Maintenance Office has developed an Asset Management Monitoring Plan to assist and provide uniform structure to contract monitoring activities of District personnel.
- The Department assesses penalties if contractors do not meet the performance standards.
- Either party to the contract may request and be granted a conference to discuss the status of the contractor's work.

We reviewed various aspects of the Department's design and implementation of contract monitoring

⁵ State assets located within the right-of-way for an entire geographical area, portion of roadway, or rest area.

procedures and practices. Our review included six asset management contracts, as shown on Exhibit A, to determine the effectiveness of the Department's monitoring of contractor performance and compliance with contract provisions. We noted that the Department had concluded, based on its monitoring efforts, that contractors are meeting contract expectations. However, as discussed in Findings Nos. 4 through 7, improvements by contractors and the Department are needed.

Finding No. 4: Implementation of Asset Management Monitoring Plan

The Asset Management Monitoring Plan (Plan) is one of the processes used by District personnel to document their monitoring efforts and to evidence the contractor's performance. Key elements of the monitoring process and the Plan include:

- Biannual contractor performance reviews.
- Communication of review results to the contractor and appropriate Department personnel.
- Retention of monitoring results in Department contract files (contract manager).
- Department monitoring of results by specific critical requirements and compliance indicators within 15 monitoring categories, as applicable to the contract.

We tested a total of eight Plan categories for six contracts for the period July 2002 through February 2004 (20 months). The Maintenance Rating Program (MRP) and Rest Area Operation and Maintenance were two of the eight categories tested.

The MRP was designed to review and score the condition of the Statewide highway environment. It was adopted by the Department as a performance measure for the contractor's maintenance of roadways⁶.

The contractor rates various elements (pavement, roadside, etc.) of all types of highway facilities (rural

⁶ A tool that the Department has used to measure its own Statewide maintenance performance since 1985. MRP is not used for rest areas and structures (bridges).

arterial, urban limited access, etc.) on a sample basis. The Department reviews contractor-submitted information and also re-performs ratings in a monitoring capacity. The general process is as follows:

- Every four months, Districts provide contractors⁷ with sample locations to survey for the required maintenance conditions.
- Contractor-completed evaluations are submitted to the Department, along with a certification of accuracy.
- The elements rated must equal or exceed specified rating scores.
- Department staff review submitted MPR data and draw conclusions regarding contractor performance.
- The Department has District MRP teams to reperform ratings (consistency checks) using an evaluation points spreadsheet.
- Department evaluation conclusions are summarized on a consistency check form that also includes assessment statistics such as the number of locations and characteristics evaluated.
- Contractor evaluation results are compared to contractually specified ratings scores.

The results of our tests disclosed the following:

- Several Plans prepared by contract managers indicated that MRP consistency checks were within the target range specified by the compliance indicator; however, consistency checks were not always performed or documentation was not available to support that the procedures were performed. For example:
 - For District 1 contracts BD332 and BD418, the Plans' monitoring results completed by the contract manager indicated that the MRP consistency checks had been performed for the second biannual period for contract BD332 and for both biannual periods for contract BD418 for the 2002-03 fiscal year Plan. However, District management indicated that the MRP

consistency checks for these periods had not been performed because the benefits did not justify the amount of time involved in the checks. Department personnel subsequently stated that prior miscommunications have been cleared up and consistency checks will be performed.

- For District 5 contract BD355, the Plan's monitoring results indicated that the MRP consistency check had been performed, although District personnel could not provide documentation, such as the MRP consistency check form (the second biannual Plan for the 2002-03 fiscal year).
- Plans were not completed at required intervals:
 - During the period October 2002 through February 2004 (17 months), no Plans were completed for District 3 contract BD049, although Plans are required to be completed biannually. Subsequent to audit inquiry, a Plan was completed in March 2004 for the period August 2003 through February 2004 and provided for our review. Based on the District's response to our inquiry, it appears that the contract manager was unaware of the biannual Plan requirement. The contract manager provided other documentation that showed that contract monitoring had been performed.

Although other monitoring procedures may have been performed, the Department cannot readily demonstrate that the appropriate level of contract monitoring occurred, how the lack of consistency checks impacted the accuracy of MRP data collected by the contractor, and that adequate documentation was retained in the contract files.

Recommendation: We recommend that District personnel perform the MRP consistency checks as required by the Plan and retain the consistency check forms in contract files and complete the Plans for the required time intervals.

⁷ One of the contractors subcontracted the MRP process.

Finding No. 5: Rest Area Monitoring Procedures

As described in Finding No. 3, the Department has developed standard maintenance scopes of services. This portion of the standard written agreements between the Department and the contractors identifies many contractual expectations, provides significant guidance, and quantifies performance measures. The following materials are incorporated into the contract by reference:

- Numerous Department procedures by topic number and name.
- Various manuals, guides, and handbooks.
- Associated checklists, forms, and report formats contained within the referenced materials.

As it relates to rest area contract monitoring, we noted that the following documents identify the performance measure score for rest area inspections:

- The contract's scope of services (score of 85 or better) utilizing the Rest Area Inspection Form (58 evaluation criteria)⁸.
- Topic No. 850-000-015, titled Roadway and Roadside Maintenance (score 85 or better).
- Asset Management Monitoring Plan (rating of 85 or better).

The performance measure score quantifies the observed rest area maintenance conditions to the expected conditions as described in the contracts.

The contract authorizes the Department to update the standards and specifications during the contract term. Effective October 2002, the Department increased the number of criteria on the Quality Assessment Review/Rest Area Inspection checklist from 45 to 58 and in May 2003 revised the performance measure rating for rest area inspections from 85 to 90.

Upon audit inquiry, the Director of the State Maintenance Office confirmed that the new procedure related to performance measures for rest area

inspections (scores of 90) applied to all active contracts at the time the procedure became effective, except for contract BD341, as explained below.

Three of four contracts tested included rest area maintenance and were executed prior to the implementation of the 90 passing score and the 58 criteria inspection checklist (revised checklist). Additionally:

- Contract BC680 was the first asset management contract executed in June 2000, effective for July 2000.
- Contracts BD341 and BD355 early implemented the use of the revised checklist but not the new passing score when the contracts were executed in May 2002, effective for July 2002.

Our review disclosed that Department and contractor personnel did not always use the revised rest area performance measure rating and checklist, as discussed below.

- Contract BC680, Districts 1, 4, 5, and 7
- We noted that 4 of 32 rest area inspections performed by the **contractor** on the ten rest areas under contract, during the period June 2003 through January 2004, correctly utilized the revised checklist. The contractor used the old checklist for the remaining 28 inspections, with 2 scores below 90 for rest areas in Districts 1 and 7.
- We noted that 26 rest area inspections were performed by **Department** personnel on the rest areas in Districts 1, and 7, during the period June 2003 through April 2004, utilizing the revised checklist (58 criteria); however, if the score was below 85, the inspection score was recalculated on the old checklist (45 criteria) and the passing score of 85 was used (see Finding No. 6).

⁸ For Contract BC680, the number of evaluation criteria was 45 since it was the first contract implemented.

Contract BD341, District 2

- **District** personnel and the **contractor** did not implement the new performance measure (score of 90). The Director of the State Maintenance Office stated that as an outcome of a partnering session and additional discussions with the contractor it was decided to hold the score at 85 and that District personnel had documented this decision (see Finding No. 6).

Contract BD355, District 5

- The **Contractor** did not implement the new performance measure (score of 90). We noted that four of six rest area inspections performed by the contractor during the period June 2003 through January 2004 had scores less than 90. District personnel indicated that the new scoring was discussed with the contractor at various meetings and that the rest area was very old and in need of some upgrades (see Finding No. 6).

Professional judgment plays a role in assessing maintenance conditions and evaluating contractor performance. However, by not consistently utilizing the revised rest area performance measure score and revised checklist, the Department is holding contractors and, in one case the same contractor, to different standards.

Recommendation: We recommend that Districts work toward more consistent implementation of established Department performance measures and revised checklists.

Finding No. 6: Penalty Assessment Practices

An effective contract monitoring system includes processes that identify when the contractor fails to comply with performance standards. Appropriately designed contracts allow the Department to ensure that agreed upon contractor performance standards are satisfactorily achieved.

The Department has established a multi-faceted contract monitoring system and its asset management contracts include provisions for assessing penalties for not meeting certain performance standards. Both Department and contractor personnel have defined responsibilities in the performance assessment process

and written contract terms are specific regarding the consequences of underperformance. For example:

- District personnel are required to provide a schedule to the contractor indicating the date and time of each monthly rest area inspection. If the contractor is not present at the scheduled date and time, a zero score will be assessed.
- A rest area performance measure requires a \$1,000 per point penalty for any month for scores less than the required rating.
- As described in Finding No. 5, effective October 2002, the Department increased the number of criteria on the Quality Assessment Review/Rest Area Inspection checklist from 45 to 58 and in May 2003 revised the performance measure rating for rest area inspections from 85 to 90.
- The performance measures for highway lighting (overhead, underdeck, and sign), require a \$5,000 penalty per cost center, per occurrence for lighting outages exceeding ten percent for each month.

We tested four contracts to determine whether Department monitoring procedures relating to rest areas and highway lighting were operating effectively and if District personnel, where appropriate, assessed penalties in accordance with the contract terms. While the Department should have some degree of flexibility in evaluating contractor performance and affecting future contractor activities, we noted needed areas of improvement, as described below.

- Districts did not always provide contractors with the monthly rest area inspection schedules or conduct the joint inspections. For example:
 - District 2 personnel, for contract BD341, discontinued providing the inspection schedule to the contractor in the later part of the 2002-03 fiscal year because it was cumbersome for the District to provide personnel to meet the contractor for the inspection.
 - District 5 personnel, for contract BD355, did not implement the use of the schedule.

Consequently, the Department cannot always demonstrate compliance with the contract terms and could subject contractors to different penalty assessment practices.

➤ Districts were inconsistent with the methodologies used to calculate underperformance penalties or did not assess penalties at all. For example:

- Based on contractor payment records, for six months during the period July 2002 through May 2003, we noted District 2 personnel had used different methods in calculating the monthly penalty for contract BD341, which decreased the amount of penalties assessed. As a result of a partnering session with the contractor, the decision was made to change the District procedure of using the lowest inspection score as the means for applying penalties to averaging the scores effective July 2003. Also, for February 2003, District personnel indicated the decision was made to lessen the impact of the penalties by allowing time for corrective action and then reassessing through additional inspections.

Based on the contract terms and giving consideration to the results of the partnering session, we determined that approximately \$121,000 in penalties could have been assessed to the contractor; however, the District only assessed approximately \$45,000.

- For District 7 contract BC680, there were 17 rest area checklist scores below the required rating during the period of June 2003 through April 2004. The checklists were completed by Department personnel. The contract manager indicated penalties were not assessed because the new checklist (58 criteria) was used and that when the scores were recalculated using the old checklist (45 criteria) they were within the required rating. Although not specified in the written agreement, the contract manager also stated that the inspections had to be attended by both the contractor and Department personnel for penalties to be assessed. Using the revised performance measure rating of 90, we determined that

approximately \$171,000 in penalties could have been assessed to the contractor.

- For District 5 contract BD355, there were four rest area checklist scores below the required rating during the period June 2003 through January 2004. The checklists were completed by the contractor and the Department did not assess any penalties. Using the revised performance measure rating of 90, we determined that the contractor could have been assessed approximately \$10,600 in penalties. District personnel indicated that, in the future, the District would not allow scores below 90 to go without a penalty without written justification, if warranted.
- Districts exercised judgments similar to those described above for rest area inspections in its evaluations on contractor performance for the highway lighting category. For example:
 - From the review of District 6 Light Count Records, dated July and August 2002, we noted that there were two instances in which the lighting outage percentage exceeded ten percent for contract BC680. District 6 personnel indicated that a penalty was not assessed because the contractor did not attend the inspection and agree with the results.
 - For contract BC680, District 4 personnel reported to the contract manager that the contractor's lighting outage reports for August 2002 did not exceed ten percent. One of the scores exceeded ten percent and was averaged with the results of a second lighting outage inspection score performed within the same month, producing a passing score.
 - The lighting outage for one cost center for contract BD341 was 11.1 percent. District 2 personnel stated that a new way of conducting inspections had been implemented and that in an effort to make sure the Department and the contractor counted lights the same the 11.1 percent was treated as a deficiency and not a deduction.

The Director of the State Maintenance Office indicated that Districts may reduce or eliminate a penalty based on sound engineering judgment to be fair and reasonable. The Districts then document the circumstances and outcome with the contractors and retain all documentation within the contract file. However, such discretion for District personnel is not specified in the contract terms and, as a result, inconsistent penalty assessment practices have occurred. Although the penalty amounts identified above were not significant in comparison to the contract amounts, the assessment of penalties is a useful tool in ensuring that contractors are meeting certain performance standards.

Recommendation: We recommend that Department personnel periodically review the Districts’ methodologies for assessing penalties and take appropriate action to promote consistency in the assessment of contract penalties.

Finding No. 7: Contract Renewal Process

The asset management contracts include a renewal option, not to exceed the duration of the original contract. Contract renewals are contingent upon satisfactory performance evaluations by the Department. The Director of the State Maintenance Office indicated that contract cost savings is also a determining factor in the renewal process. In some contracts, there is a stated percentage (generally 12 or 20 percent) increase in compensation, to account for inflation⁹, in the event the contract is renewed. The date the first contract will be subject to renewal is June 2007.

Several difficulties exist related to assessing overall contractor performance in support of a contract renewal decision on multi-year contracts. For example:

- Current Department procedures only require that a Contractor Field Performance Report (Report) be prepared upon the completion of

⁹ The inflation factor is generally two percent per year for each year of the renewal.

each maintenance contract (e.g., once at the end of a multi-year contract).

- The Department utilizes a number of monitoring and evaluation methods throughout the year, but performance documentation is maintained in different locations (see Exhibit B).
- Multiple contract managers may exist over the course of a six to ten year contract period.
- Turnover in other key District and Central Office personnel involved with the contract may occur over the contract period.

Given the duration of the contracts (six to ten years), the Department should have an evaluation process in place that assesses the contractor’s overall performance and organizes the relevant historical performance records and comments, by each contract, to facilitate an accurate final evaluation prior to the renewal decision being made.

Although the Department has not established procedures requiring interim evaluations for rating overall contractor performance, we noted that District 3 has performed annual evaluations for contract BD049, using the Contractor Field Performance Report. According to District personnel, the annual rating is based on daily interaction with the contractor, the results of the monthly reports submitted to the Department by the contractor, and the MRP.

In addition to the procurement cost estimate described in Finding No. 1, Central Office personnel prepare a cost estimate after contract award to track and report cost savings over “traditional” maintenance contracts. Although the scope of our audit did not include a verification of the reliability of the cost data included in the preparation of the Central Office cost estimates¹⁰, it is clear that such estimates, if periodically updated to reflect realized savings, could be a valuable resource for making contract renewal decisions (i.e., compare the updated cost savings

¹⁰ In Report No. 03-30 dated April 2003, the Office of Program Policy Analysis and Government Accountability assessed the Department’s employee downsizing and privatization efforts to reduce its overall costs. The highway maintenance program area was covered in that report.

amount to proposed renewal amounts, including applicable inflation factors for both).

Recommendation: To ensure that accurate and complete information on contractor performance throughout the duration of the contract is readily available to complete the final Report and provide meaningful information to contract renewal decision makers, we recommend the State Maintenance Office consider establishing procedures:

- Requiring the completion and retention of interim (annual) evaluations that provide an overall conclusion of the contractor’s performance using the results of the various monitoring and evaluation methods; or
- Ensuring that District personnel are informed of the use of various Department monitoring and evaluation results for each contract to facilitate the completion of the final Report.

Also, regarding cost savings, we recommend that the Department explore utilization of the Central Office cost estimates as a resource for developing updated estimates of realized costs savings for use in upcoming contract renewal decisions.

Finding No. 8: Safety Inspections

The Department has established a State Safety Office and a State Maintenance Office within the Central Office located in Tallahassee, each with defined responsibilities. Also, located within each District are maintenance and safety offices. During our review of rest area monitoring procedures, we noted a significant difference of opinion among Department personnel regarding rest area safety inspections.

The Director of the State Maintenance Office indicated that the safety inspections of rest areas did not transfer to the contractor through the execution of the asset management contracts. State Safety Office personnel indicated that there had been no discussion between the two Offices as to the transfer of the safety inspection responsibility to the contractor. This situation may account for the differences in District office practices noted during the audit. For example:

- District 2 Safety Office personnel indicated that the safety inspections of the highway facilities under contract BD341 were performed pursuant to the Governor’s Executive Order and Department policies and procedures¹¹. The safety conditions are reviewed in accordance with Federal regulations and State Rules¹². These monitoring procedures were documented in the March 2003 Asset Management Monitoring Plan for contract BD341 and included the continuation of quarterly safety inspections of the highway facilities (rest area, welcome center, and weigh stations).

The contractor was provided a copy of the safety inspection report in which the following safety hazards were identified:

- Fire extinguisher annual inspection expired;
- Emergency lighting within restrooms inoperative; and
- Improper storage containers for flammable liquids.

- The District 1 contract manager indicated that safety inspections of highway facilities under contract BC680 were no longer performed by the Department after facility maintenance was turned over to the asset management contractor.

- District 5 Safety Office personnel initially indicated that the District no longer performed the safety inspections of the highway facilities under contract BD355 subsequent to the execution of the contract as the contractor now performed the safety inspections. Subsequent to our initial inquiry, District 5 Safety Office personnel stated that while the safety inspections were covered under the Quality Assurance Review/Rest Area Inspection checklist, which addresses desired rest area maintenance conditions, specific safety issues are not listed.

The Department’s purpose for performing safety inspections is to identify and minimize hazards and unsafe work practices; however, these safety

¹¹ Governor’s Executive Order No. 2000-292 and Department Loss Prevention Manual, dated April 2003.

¹² 29 CFR, part 1910, Occupational Safety and Health Standards and Department of Environmental Protection Rules, Chapter 62.737, Florida Administrative Code.

inspections also benefit the traveling public as they also use the highway facilities.

Recommendation: We recommend that State Safety Office management notify personnel in the various District Safety Offices to continue performing the safety inspections and coordinate with the applicable contractor regarding responsibility for corrective actions. Asset management contract managers should also be made aware of the Department's safety inspection responsibilities.

OBJECTIVES, SCOPE, AND METHODOLOGY

The operational audit focused on the processes utilized by the Department in contracting for and monitoring of asset management contracts. Our objectives were to:

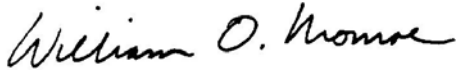
- Determine if the Department had established and implemented an effective process to estimate costs of services included in the contract prior to soliciting proposals for those services to ensure cost savings were identified before contract award.
- Determine if contract amendments, if any, were appropriate (e.g., an increase in the contract amount corresponds to an increase in the scope of services).

- Determine the efficiency and effectiveness of the Department's process for monitoring and evaluating contractor performance.
- Evaluate the Department's performance in achieving compliance with controlling laws, administrative rules, Department policies and procedures, and other guidelines relating to awarding and monitoring contracts.

In conducting our audit, we interviewed Central Office and District personnel, observed processes and procedures, examined transactions and records, and performed various other procedures as deemed necessary in the circumstances. Our audit included examinations of various transactions (as well as events and conditions) occurring during the period July 2002 through January 2004, and selected actions taken through July 2004.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



William O. Monroe, CPA
Auditor General

AUDITEE RESPONSE

In a letter dated February 25, 2005, the Secretary generally concurred with our findings and recommendations and described corrective actions already taken or planned for future implementation. This letter is included at the end of this report as Exhibit C.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable *Government Auditing Standards* issued by the Comptroller General of the United States. This audit was conducted by Karen Glymph, CPA, and supervised by Michael E. McCloskey, CPA. Please address inquiries regarding this report to Laurence W. Noda, CPA, Audit Manager, via E-mail at larrynoda@aud.state.fl.us or by telephone at (850) 487-9112.

This report and audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone ((850) 487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

**EXHIBIT A
SCHEDULE OF ASSET MANAGEMENT CONTRACTS AUDITED**

Task Name	Contract Number	Contractor	Start	End	Estimated Annual Cost (Millions) (1)
District 1 - North Bridges (2)	BD522	Infrastructure Corporation of America	01/01/03	12/23/08	\$4.5
District 7 - Bridges (Movable and Fixed) (2)	BD520	Infrastructure Corporation of America	01/01/03	12/23/08	\$5.2
District 5 - Movable Bridges (2)	BD490	VMS, Inc.	01/15/03	01/05/10	\$2.7
District 3 - Rest Areas (2)	BD524	Infrastructure Corporation of America	02/03/03	01/18/13	\$7.3
District 1 - I-75 and Rest Areas in Lee and Charlotte Counties (2)	BD596	Jorgensen Contract Services, L.L.C.	07/01/03	06/21/10	\$2.6
I-75 for Districts 4, 5, 6, 7 and Collier County in District 1. (Roadway, rest areas, and bridges) (3)	BC680	Infrastructure Corporation of America	07/03/00	06/22/07	\$10.5
District 3- All State primary and interstate roads in Gulf, Franklin, Liberty, Wakulla, and Jefferson counties (Roadway, wayside park, and bridges) (3)	BD049	VMS, Inc.	07/02/01	06/20/08	\$4.7
District 1 - Manatee and Sarasota County I-75, I-275, and SR-681 (Roadway, South Skyway Rest Area, and North Skyway Rest Area in District 7) (3)	BD332	Jorgensen Contract Services, L.L.C.	07/01/02	06/19/09	\$3.2
District 1 - Collier County (Department-maintained primary roadways) (3)	BD418	Collier County	07/01/02	06/15/12	\$1.6
District 2 - Rest Areas (3)	BD341	Infrastructure Corporation of America	07/01/02	06/15/12	\$6.5
District 5 - Flagler, Volusia, and Brevard County I-95 and SR-528 and District 4 -Indian River County I-95 (Roadway, rest areas, and bridges) (3)	BD355	VMS, Inc.	07/01/02	06/19/09	\$5.1

(1) Source: Department contract records.
 (2) Contracts selected for audit testing of Contract Procurement and Amendments.
 (3) Contracts selected for audit testing of Monitoring of Contractor Performance.

EXHIBIT B**DEPARTMENT MONITORING AND EVALUATION METHODS AND RESULTING DOCUMENTATION LOCATIONS**

The Director of the State Maintenance Office has identified the following ongoing methods of monitoring and evaluating contractor performance:

- Department customer comment card system for rest areas, welcome centers, and rest area weigh stations;
- Contact from the Department's partners, such as, law enforcement and emergency response personnel concerning the contractor's handling of incident response;
- Customer contacts made directly with the Department;
- Formal (e.g., Maintenance Rating Program (MRP) consistency checks and rest area inspections) and informal inspections made by District personnel;
- District Quality Control Reviews;
- Quality Assurance Reviews conducted by the State Maintenance Office; and
- Completion of the Asset Management Monitoring Plan (Plan).

Location of Monitoring and Evaluation Documentation:

- Customer comment card results are published on the Department's Web site. State Maintenance Office personnel have indicated that the comment card system is an independent means to monitor public opinion about the maintenance and cleanliness of the highway facilities.
- MRP data is collected and retained in a Departmental database.
- Rest area inspection checklist results are not computerized; however, the contractor is required to submit copies to the Department monthly. The checklists were usually kept by the contract manager.
- District Quality Control Reviews are generally retained by the District personnel that performed the review.
- State Maintenance Office Quality Assurance results are recorded in the Quality Assurance database.
- The Plan is maintained in the contract manager's file.

EXHIBIT C
AUDITEE RESPONSE



Florida Department of Transportation

JEB BUSH
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

JOSÉ ABREU
SECRETARY

February 25, 2005

William O. Monroe, CPA
Auditor General
Office of the Auditor General
Room G74, Claude Pepper Building
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mr. Monroe:

This is in response to your letter dated January 27, 2005, concerning the audit of the Department of Transportation's Asset Management Program. Asset management contracting for maintenance services is a relatively new outsourcing method both within the State of Florida and nationally, yet we are extremely pleased with the benefits it has brought to the citizens of Florida. The first asset management contract awarded in Florida began on July 1, 2000. As of this date, we have awarded 18 contracts totaling \$490.4 million, with contract durations of between six and ten years. We expect to realize a savings, over the life of these 18 contracts, in excess of \$105 million with overall performance meeting or exceeding our contractual requirements and expectations. This is an extremely successful story involving the outsourcing of state services.

Even though asset management contracting is relatively new, our program has experienced two previous reviews. One by KPMG for the Florida Transportation Commission and the other by Office of Policy, Programming and Government Accountability (OPPAGA); both have recommended that we continue to expand the program. We are able to report the current level of our program (\$490.4 million) exceeds the collective level of asset management contracting nationally, by all other state Departments of Transportation. The development and implementation of this program has been a learning experience, especially since in many ways we are leading the initiative nationally.

We are pleased with the results of your audit in that it provides recommendations on how to further improve the program, some of which have already been implemented. Additionally, we are pleased the audit did not identify any significant deficiencies warranting major program changes. Overall, we agreed with the findings and recommendations. As required by Section 11.45(4)(d), Florida Statutes, our detailed response is attached.

We appreciate the efforts of you and your staff in assisting to improve our operations. If you have any questions, please contact Cecil Bragg, our Inspector General, at 410-5800.

Sincerely,

A handwritten signature in blue ink, appearing to read "José Abreu".

José Abreu, P.E.
Secretary

JA/hmt

Enclosure

EXHIBIT C (CONTINUED)
AUDITEE RESPONSE

FLORIDA DEPARTMENT OF TRANSPORTATION

***Response to the Auditor General's
Preliminary and Tentative Audit Findings and Recommendations***

**Operational Audit – Asset Management Program
July 2002 through January 2004**

Contract Procurements and Amendments

Finding No. 1: Procurement Cost Estimation

Recommendation: We recommend that the Department follow its newly established procedures requiring the preparation of District asset management cost estimates and document how such estimates are used in the procurement decision.

Management Response: Concur. The Department will follow its newly established procedures and document how such estimates are used in the procurement decision.

Finding No. 2: Conflict of Interest

Recommendation: We recommend that the Department, as a whole, require key individuals in contracting processes to provide attestations of their impartiality and that documentation of such be retained in procurement files.

Management Response: Concur. The Department will evaluate the current methods used within the Department for attestations of impartiality and revise our procedures to ensure coverage of appropriate personnel involved in asset management contract decision making. The attestations of impartiality will be maintained.

Finding No. 3: Contract Amendments

Recommendation: We recommend that the Department staff follow Department procedures and timely amend written contracts to reflect all changes in contract terms and conditions.

Management Response: Concur. Department staff will be reminded to follow procedures and timely amend written contracts to reflect all changes in contract terms and conditions.

Monitoring of Contractor Performance

Finding No. 4: Implementation of Asset Management Monitoring Plan

Recommendation: We recommend that the District personnel perform the MRP consistency checks as required by the Plan and retain the consistency check forms in contract files and complete the Plans for the required time intervals.

Management Response: Concur. District personnel will be directed to perform the MRP consistency checks, retain the consistency check forms in contract files, and complete the Plans for the required time intervals.

EXHIBIT C (CONTINUED)
AUDITEE RESPONSE

Finding No. 5: Rest Area Monitoring Procedures

Recommendation: We recommend that Districts work toward more consistent implementation of established Department performance measures and revised checklists.

Management Response: Concur. Districts will be directed to take actions to more consistently implement established Department performance measures and revised checklists.

Finding No. 6: Penalty Assessment Practices

Recommendation: We recommend that Department personnel periodically review the Districts' methodologies for assessing penalties and take appropriate action to promote consistency in the assessment of contract penalties.

Management Response: Concur. Central Office personnel periodically review the District's methodologies for assessing penalties and have been involved in providing input into specific penalty assessments. Inconsistent penalty assessment practices may have occurred but there are differing circumstances around each penalty assessment. This sometimes dictates that penalty assessments should differ. Anytime a variation from established penalty rates occurs, the differing circumstances causing the variation are to be documented and retained in the project files. We will continue to emphasize with District staff the importance of consistency in penalty assessments and the need to document when variations occur.

Finding No. 7: Contract Renewal Process

Recommendation: To ensure that accurate and complete information on contractor performance throughout the duration of the contract is readily available to complete the final Report and provide meaningful information to contract renewal decision makers, we recommend the State Maintenance Office consider establishing procedures:

- Requiring the completion and retention of interim (annual) evaluations that provide an overall conclusion of the contractor's performance using the results of the various monitoring and evaluation methods; or
- Ensuring that District personnel are informed of the use of various Department monitoring and evaluation results for each contract to facilitate the completion of the final Report.

Also, regarding cost savings, we recommend that the Department explore utilization of the Central Office cost estimates as a resource for developing updated estimates of realized costs savings for use in upcoming contract renewal decisions.

Management Response: Concur. A procedure will be prepared for evaluating the asset management contractor at the midpoint of each asset management contract. The procedure will include instructions on how various Department monitoring and evaluation information is to be used in performing the interim and final evaluation reports. The Department will use either District and/or Central Office developed estimates for determining cost savings in contract renewal decisions. Our first potential asset management renewal decision is over two years away.

EXHIBIT C (CONTINUED)
AUDITEE RESPONSE

Finding No. 8: Safety Inspections

Recommendation: We recommend that State Safety Office management notify personnel in the various District Safety Offices to continue performing the safety inspections and continue performing the safety inspections and coordinate with the applicable contractor regarding responsibility for corrective actions. Asset management contract managers should also be made aware of the Department's safety inspection responsibilities.

Management Response: Concur. While documented inspections were performed at all rest areas, which included looking at safety conditions, some were not to the same degree at all locations as required by Department procedure. The State Safety Office will notify all District Safety Offices of the need to continue performing the independent verification safety inspections conducted by District Safety Personnel. However, coordination of the results requiring corrective actions on facilities being maintained by asset management contractors will be with the asset management project manager, who is responsible for ensuring the asset management contractor takes appropriate corrective actions.

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