



AUDITOR GENERAL
WILLIAM O. MONROE, CPA



COUNTY WIRELESS E911 FUNDS
Operational Audit

For the Period October 1, 2002, through September 30, 2003

COUNTY WIRELESS E911 FUNDS

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EXECUTIVE SUMMARY

This report provides the results of our audit of the moneys derived from the levy of a fee on wireless telephone service subscribers pursuant to Section 365.172, Florida Statutes, and distributed to the 67 counties during the period October 1, 2002, through September 30, 2003. Our audit disclosed the following:

Finding No. 1: Twelve of the 20 counties tested did not maintain, through the use of separate funds, separate general ledger codes, or some other means, separate accountability for the receipt and expenditure of E911 revenues.

Finding No. 2: Due to the lack of separate accountability, we were unable to determine compliance with the carry forward provisions of Section 365.173(2)(a), Florida Statutes, for 12 counties. In addition, 5 of the 8 counties that had established separate accountability for E911 revenues carried forward approximately \$10.6 million of E911 revenues in excess of that allowable by law. Further, Section 365.173, Florida Statutes, should be amended to provide for a carry forward period that coincides with county fiscal years and to clarify the Legislature's intention regarding the disposition of E911 revenues not utilized during the calendar year received or carried forward, or that remains unexpended after the allowable three-year carry forward period.

Finding No. 3: Expenditures totaling \$1,506,596 for 11 of the 20 counties tested did not appear to be for authorized purposes. Although the questioned expenditures were for purposes not expressly authorized by law, because such purposes appear to be associated with 911 or E911 programs, the Legislature should clarify the appropriateness of using E911 revenues for such purposes. In addition, one county, without apparent authority to do so, distributed E911 revenues totaling \$1,329,808 to the County's various municipalities for Public Safety Answering Point operations and did not, of record, monitor the municipalities' use of these E911 revenues during the audit period.

This audit was coordinated by Alma Wade, CPA, and supervised by Ted J. Sauerbeck, CPA. Please address inquiries regarding this report to James M. Dwyer, CPA, Audit Manager, via e-mail at jimdwyer@aud.state.fl.us or by telephone at (850) 487-9031.

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

BACKGROUND

The Wireless Emergency Communications Act (Section 365.172, Florida Statutes) establishes a comprehensive Statewide emergency telephone number system to provide wireless telephone users with rapid direct access to public safety agencies by dialing “911.” The Act provides for the levy of a fee on wireless telephone service subscribers to, among other purposes, provide funds to counties to pay the cost of installing and operating wireless 911 systems. Section 365.172(5), Florida Statutes, establishes the Wireless 911 Board and assigns the Board, with oversight by the State Technology Office, responsibility for collecting the fees and distributing the resulting revenues to the counties and others.

Section 365.173(1), Florida Statutes, requires that all revenues derived from the E911 fee levied pursuant to Section 365.172, Florida Statutes, be initially paid into the State Treasury and accounted for in a special fund designated as the Wireless Emergency Telephone System Fund. Section 365.173(2)(a), Florida Statutes, provides that 44 percent of the moneys derived from the fee shall be distributed each month to counties for payment of recurring costs of providing 911 or E911 service and costs to comply with E911 service requirements contained in applicable Federal Communications Commission (FCC) orders. The FCC requires wireless providers to implement E911 in two phases as follows:

- Phase I technology allows a 911 operator to receive the distressed caller’s telephone number and the location and coverage area of the cellular antenna that transmits the call. As of January 2005, all but 1 of the 20 counties tested (Suwannee County) had completed Phase I.
- Phase II technology allows a 911 operator to receive the distressed caller’s telephone number and the location of the caller within 50 to 100 meters. As of January 2005, 15 of the 20 counties tested had either completed, or were in the final stages of completing, Phase II.

The Wireless Emergency Telephone System Fund is subject to annual audits by the Auditor General; however, the use of E911 revenues distributed to the counties is not within the scope of those audits. According to data provided by the Wireless E911 Board, approximately \$21.6 million was distributed to the counties during the audit period.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Accountability for E911 Revenues

Restrictions as to the use of E911 revenues are imposed by Section 365.173(2)(a), Florida Statutes. Counties are responsible for establishing adequate controls that provide reasonable assurance that all expenditures of E911 revenues are properly authorized by State and local law. Because of the restrictions as to the use of E911 revenues, in accordance with generally accepted accounting principles and pursuant to the Florida Department of Financial Services’ *Uniform Accounting System Manual (Manual)* (promulgated pursuant to Section 218.33(2), Florida Statutes), counties must maintain separate accountability for E911 revenues by establishing either a separate fund to account for the receipt and expenditure of E911 revenues or by using separate general ledger codes or other means to establish

separate accountability. This is necessary so that county management can plan and monitor the use of E911 revenues in a manner consistent with the restrictions imposed by State and local law.

Our audit disclosed that of the 20 counties tested (see exhibit A), 12 counties (Clay, Flagler, Hardee, Hernando, Hillsborough, Leon, Orange, Palm Beach, Pinellas, Seminole, Suwannee, and Volusia) had not used a separate special revenue fund, separate general ledger codes, or other means to maintain separate accountability for E911 revenues. Pinellas County established a special revenue fund to account for 911 and E911 revenues received pursuant to Sections 365.171 and 365.173(2)(a), Florida Statutes, respectively. However, Pinellas County, during the 2002-03 fiscal year, transferred \$2,040,510 from the special revenue fund to the General Fund to cover 911-related expenditures. This negated the accountability provided by the use of a special revenue fund because the County did not use unique expenditure codes to keep track of E911 and 911 expenditures made from the General Fund. Because the E911 revenues for these 12 counties were commingled with other unrestricted and restricted revenues, we could not determine with certainty that E911 revenues were expended only for the purposes provided for by Section 365.173(2)(a), Florida Statutes. A similar finding was noted in our audits of the State Technology Office, Wireless Emergency Telephone System Fund, in December 2001 (report No. 02-114) and December 2002 (report No. 03-085).

One of the 12 counties (Hardee County) received \$11,880 for the Small County Supplemental Grant Program from the Wireless 911 Rural County Grant Program pursuant to Section 365.173(2)(c), Florida Statutes. Because the grant proceeds were commingled with other restricted revenues, we could not determine with certainty that the proceeds were expended only for the purposes provided for by Section 365.173(2)(c), Florida Statutes.

Recommendation: Counties should establish separate accountability for E911 revenues. The Legislature should consider amending Section 365.173, Florida Statutes, to require that all counties receiving E911 revenues establish separate accountability for receipts, expenditures, and cash balances.

Auditee Response and Auditor Clarification:

The Palm Beach County's Public Safety Department Director, in his response to this finding, indicated that Section 365.173, Florida Statutes, does not require E911 receipts and expenses to be separately accounted for in an individual fund, and that Section 365.173(2)(a)1, Florida Statutes, allows E911 revenues to be used to pay recurring costs of both 911 or E911 service. Similarly, the County Administrator for the Orange County Board of County Commissioners, in response to this finding, indicated that because the County maintains 911 and E911 revenues in a separate special revenue fund, and Section 365.173(2)(a)1, Florida Statutes, allows E911 revenues to be used to pay recurring costs of both 911 or E911 service, it can be determined with certainty that E911 revenues received by Orange County were expended for authorized purposes. We agree that the authorized uses for 911 and E911 revenues are virtually identical and that Section 365.173, Florida Statutes, does not explicitly require that E911 revenues be accounted for separately from other restricted and unrestricted revenues. However, since the carry-forward provisions of Section 365.173(2)(a), relate only to E911 revenues necessitating the need to separately account for such revenues, we believe separate accountability is necessary and, as such, have recommended that the Legislature consider mandating separate accountability.

Finding No. 2: Carry Forward of Unused E911 Revenue

Section 365.172(8)(a), Florida Statutes, requires wireless providers to collect a 50 cents per month fee imposed on each service subscriber who has a service number with a billing address in Florida. The Wireless 911 Board is required to distribute 44 percent of these revenues collected by providers to counties based on the total number of wireless subscriber billing addresses in each county. Section 365.173(2)(a), Florida Statutes, allows a county to carry forward, for up to three successive calendar years after a calendar year in which a county receives E911 revenues, up to 30 percent of the total E911 revenues disbursed to the county for allowable expenditures related to capital outlay, capital improvements, or equipment replacement.

As discussed in Finding No. 1, there existed a lack of separate accountability for E911 revenues for 12 of the 20 counties tested. Consequently, for these 12 counties, we were unable to determine compliance with the carry forward provisions of Section 365.173(2)(a), Florida Statutes. Of the 8 counties that had established separate accountability for E911 revenues, 5 counties (Broward, Dade, Duval, Polk, and St. Lucie) carried forward approximately \$10.6 million of E911 revenues in excess of that allowable by law (i.e., the amounts carried forward exceeded the 30 percent limitation).

We also noted that the provisions of Section 365.173, Florida Statutes, could be enhanced to improve accountability over E911 revenues as follows:

- Section 365.173(2)(a), Florida Statutes, in establishing carry forward provisions for unexpended E911 revenues, refers to calendar years. However, counties account and report on a fiscal year ending September 30, not December 31. If the carry forward provisions were on a fiscal-year basis consistent with the fiscal year used by counties, it would improve the counties' abilities to ensure compliance with the carry forward provisions.
- Five of the 8 counties that had established separate accountability for E911 revenues (Broward, Citrus, Dade, Duval, and St. Lucie) had approximately \$1.26 million of unexpended E911 revenues after the allowable carry forward period had expired. Section 365.173, Florida Statutes, does not address the disposition of E911 revenues not utilized during the calendar year in which the revenues were received or carried forward, or that remains unexpended after the allowable three-year carry forward period. As the E911 revenues are originally disbursed to the counties through the Wireless Emergency Telephone System Fund, it would seem appropriate for any unexpended E911 revenues not carried forward, or remaining after the carry forward period, to revert back to that Fund. A similar finding was noted in our audits of the State Technology Office, Wireless Emergency Telephone System Fund, in December 2001 (report No. 02-114) and December 2002 (report No. 03-085).

Recommendation: Counties should develop procedures and records necessary to ensure compliance with the carry forward provisions of Section 365.173(2)(a), Florida Statutes. In addition, the Legislature should consider enacting legislation to provide for a carry forward period that coincides with the county fiscal year and to clarify its intention regarding the disposition of E911 revenues not utilized during the calendar year received or carried forward, or that remains unexpended after the allowable three-year carry forward period.

Auditee Response and Auditor Clarification:

The CFO and Director of the Broward County Finance and Administrative Services Department, in his response to this finding, indicated that the County disagrees with our suggestion that unused E911 revenues revert back to the Wireless Emergency Telephone System Fund, and suggested that a more appropriate action would be to simply remove the carryover limitation provision. We have not recommended that E911 revenues that are needed by counties to implement Phases I and II be returned to the Wireless Emergency Telephone System Fund. However, because counties must comply with the three-year carry forward provision included in Section 365.173(2)(a), Florida Statutes, we believe it is important that the Legislature clarify its intention regarding the disposition of these revenues.

The Leon County Sheriff, in response to this finding, stated that Leon County was in full compliance with the requirements of Section 365.171(13)(a)(3), and Section 365.173(2)(a), Florida Statutes; however, he did not indicate the basis for his statement.

Finding No. 3: Unauthorized Use of E911 Revenue

Authorized uses of E911 revenues are limited to specific types of expenditures. Pursuant to Section 365.173(2)(a), Florida Statutes, E911 revenues may be expended for: (1) recurring costs of providing 911 or E911 service, as provided by Section 365.171(13)(a)6., Florida Statutes, and (2) costs to comply with the requirements for E911 service contained in orders issued by the Federal Communications Commission and any rules related to such orders.

Section 365.171(13)(a)6., Florida Statutes, enumerates the authorized uses of the E911 revenues which include the acquisition, implementation, and maintenance of Public Safety Answering Point (PSAP) equipment and service features; salary and associated expenses for call takers for that portion of their time spent taking and transferring calls; salary and associated expenses for a county to employ a full-time equivalent coordinator position and a full-time equivalent staff assistant position per county for the portion of their time spent administering the system; training costs for PSAP call takers in the proper methods and techniques used in taking and transferring calls; and expenses required to develop and maintain all information necessary to properly inform call takers as to location address, type of emergency, and other information directly relevant to the call-taking and transferring function. The E911 revenues cannot be used to pay for any item not listed, including, but not limited to, any capital or operational costs for emergency responses which occur after the call transfer to the responding public safety entity and the costs for constructing buildings, leasing buildings, maintaining buildings, or renovating buildings, except for those building modifications necessary to maintain the security and environmental integrity of the PSAP and 911 equipment rooms. As discussed in Finding No. 1, because of the lack of separate accountability for E911 revenues for 12 counties, we were unable to determine,

with certainty, whether E911 revenues were expended for authorized purposes. However, our audit also disclosed the following instances, for 11 of the 20 counties tested, in which E911 revenues, totaling \$1,506,596, were used for purposes not expressly authorized by law:

- **Indirect Costs** - Six counties (Hillsborough \$48,500; Orange \$18,427; Palm Beach \$4,613; Seminole \$78,353; Suwannee \$4,147; and Volusia \$46,636) used a total of \$200,676 of E911 revenues for indirect costs. These indirect costs of general governance were allocated to benefiting departments through a cost-allocation procedure in three counties and an administrative fee in three counties.
- **Salary Costs and Benefits** - Five counties paid salary costs and related benefits totaling \$1,232,298 for job positions not authorized by statute (Hillsborough \$797,919; Orange \$218,311; Palm Beach \$106,926; Pinellas \$55,811; and Seminole \$53,331). The job positions were in addition to the full-time equivalent 911 coordinator, full-time equivalent staff assistant, and 911 call taker positions authorized by Section 365.171(13)(a)6., Florida Statutes, and included positions such as a public education coordinator, 911 specialist, training coordinator, and system analyst.
- **Promotion and Education** - Six counties incurred promotional or educational expenditures totaling \$40,014 (Hernando \$4,852; Hillsborough \$6,751; Leon \$408; Orange \$7,577; Pinellas \$16,269; and Seminole \$4,157).
- **Vehicle Purchase** - Orange County purchased a Ford Expedition, for \$21,058, which is used to service and transport 911-related equipment.
- **Rental Charges** - Polk County made 11 payments totaling \$5,028 for the rental of a building; however, building leases are specifically excluded from allowable costs by law.
- **Utilities and Insurance Premiums** - Two counties (Volusia \$1,217 and Suwannee \$411) made payments totaling \$1,628 for utilities and insurance premiums.
- **Travel** - Two counties (Orange \$1,650 and Pinellas \$306) incurred travel costs totaling \$1,956.
- **Other Miscellaneous Costs** - Broward County made a \$3,700 payment for a portion of the County's Single Audit Act audit fee, and Polk County paid \$238 for the tinting of automotive glass in a vehicle used to carry 911 equipment.

Section 365.171(13)(a)6., Florida Statutes, provides that E911 revenues may be expended for salary and "associated expenses" for a county to employ a full-time equivalent coordinator position and a full-time equivalent staff assistant position per county for the portion of their time spent administrating the 911 system; however, the term "associated expenses" is not defined. In response to our inquiry as to the allowability of charging certain expenses to the E911 program, Orange County representatives provided us with an e-mail from the State 911 Coordinator indicating that associated expenses, while not clearly defined, have always been considered as the cost of doing business for the County coordinator and would include administrative costs, supplies, and educational materials. Current law does not specifically

provide for the use of E911 revenues for the expenditures we have questioned. However, because the questioned expenditures appear to be for purposes associated with 911 or E911 programs, the Legislature should clarify the appropriateness of using E911 revenues for such purposes.

Miami-Dade County distributed \$1,329,808 of E911 revenues to the various municipalities (Coral Gables, Hialeah, Miami, Miami Beach, and Pincrest) for Public Safety Answering Point (PSAP) operations. Section 365.173, Florida Statutes, does not authorize counties to transfer E911 revenues to municipalities. In response to our inquiry, we were provided a copy of Miami-Dade County Resolution No. R-1036-88, which authorized the execution of interlocal agreements between the County and the municipalities to which the E911 revenues were distributed; a copy of the interlocal agreement between the County and the City of Miami; and a copy of the City of Hialeah's Resolution No. 88-78 authorizing the mayor and city clerk to enter into an interlocal agreement with the County for the collection and distribution of 911 fees. However, in the absence of specific statutory authority for a county to enter into interlocal agreements for the transfer of E911 revenues to municipalities, the transfers appear to be unauthorized. Further, the documents provided by Miami-Dade County did not contain any provisions requiring the County to monitor the municipalities use of the E911 revenues, and the County did not, of record, provide for any such monitoring of the municipalities' use of the E911 revenues during the audit period. As such, it was not apparent how Miami-Dade County could have ensured that these E911 revenues were used for authorized purposes.

Recommendation: Counties should ensure that E911 revenues are used only for purposes specifically authorized by law. Also, the Legislature should consider enacting legislation to clarify the term "associated expenses" and to clarify whether E911 revenues should be used for indirect costs and the other costs we have questioned. In addition, Miami-Dade County, in the absence of specific legal authority, should refrain from distributing E911 revenues to municipalities.

Auditee Response and Auditor Clarification:

Responses from the Hillsborough County Director of Public Safety, Palm Beach County's Public Safety Department Director, County Administrator for the Orange County Board of County Commissioners, and Volusia County Chief Financial Officer disagreed with our finding, and indicated that the costs we questioned for those counties were authorized by statute. In addition, the State Chief Information Officer for the State Technology Office, in response to this finding, indicated that while they agree that more clarification could be provided by the Legislature concerning "associated expenses," they believed that some of the expenditures we questioned fall within the intent of the Florida Statutes. As indicated in the finding, all of the expenditures we questioned appear to be associated with 911 or E911 programs; however, we believe the Legislature should more clearly define the nature of expenditures that are eligible for funding under the 911 and E911 programs. The fact that 7 of the 11 counties with questioned costs did not disagree with our finding, while 4 counties did agree, illustrates the need for such clarification.

The Miami-Dade County Finance Director, in her response to this finding regarding the transfer of E911 revenues to municipalities, indicated that each of the municipalities to which the County transferred E911 revenues was designated as a primary Public Safety Answering Point (PSAP) for its jurisdiction. She further stated that the County disagrees with our

finding that no statutory authority exists for the County to distribute E911 revenues to municipalities designated as PSAPs, and that “The State’s recommendation to refrain from funding these essential municipal PSAPs, would degrade 911 coverage in some of the most densely-populated areas of the State.” We did not recommend that municipalities designated PSAPs should not be funded. Rather, the point of our finding was that such funding should be administered by counties for the benefit of municipalities designated as PSAPs consistent with Section 365.173, Florida Statutes, which does not authorize counties to transfer E911 revenues to municipalities. As Miami-Dade County was the only county for which our tests disclosed distributions of E911 revenues to municipalities, it would appear that the vast majority of counties concur with our interpretation of Section 365.173, Florida Statutes.

The Suwannee County Clerk of the Circuit Court, in response to this finding, stated that the County agreed with the finding with the exception of disbursing E911 revenues to municipalities; however, he did not indicate the basis for his disagreement.

SCOPE AND OBJECTIVES

The scope of this audit included all wireless E911 revenues distributed to the 67 counties during the period October 1, 2002, through September 30, 2003 (the 2002-03 county fiscal year), and a determination, on a test basis, as to whether these restricted revenues were properly budgeted and expended by the counties for statutorily authorized purposes.

Our objectives were to: (1) document our understanding of management controls relevant to the receipt and subsequent disbursement of wireless E911 revenues; (2) determine the extent to which management controls promoted and encouraged the achievement of management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic and efficient administration of the functions of receiving and disbursing the wireless E911 revenues; the reliability of financial records and reports; and the safeguarding of assets; (3) evaluate management's performance in administering assigned responsibilities in accordance with applicable laws, administrative rules, and other guidelines; and (4) make recommendations to improve accountability for wireless E911 revenues.

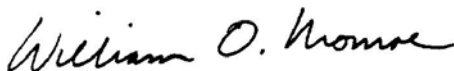
METHODOLOGY

The methodology used to develop the findings in this report included the examination of pertinent records of the counties in connection with the application of procedures required by applicable standards contained in *Government Auditing Standards* issued by the Comptroller General of the United States.

To accomplish our audit objectives, it was not feasible to examine the operations of each of the 67 counties. We, therefore, selected 20 counties for testing. The 20 counties selected, which were chosen based on factors such as population size and amount of E911 revenues received, are shown on Exhibit A.

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 RESPONSES

Responses to our preliminary and tentative findings received from the 20 counties selected for testing, and from the State Chief Information Officer for the State Technology Office, are included in this report as Exhibit B. The responses in their entirety, together with attachments provided with responses, may be viewed on the Auditor General's Web site.

EXHIBIT – A
COUNTIES SELECTED FOR TESTING

- Counties Tested**
- Broward
 - Citrus
 - Clay
 - Duval
 - Flagler
 - Hardee
 - Hernando
 - Hillsborough
 - Leon
 - Miami-Dade
 - Orange
 - Palm Beach
 - Pinellas
 - Polk
 - St. Lucie
 - Sarasota
 - Seminole
 - Suwannee
 - Union
 - Volusia

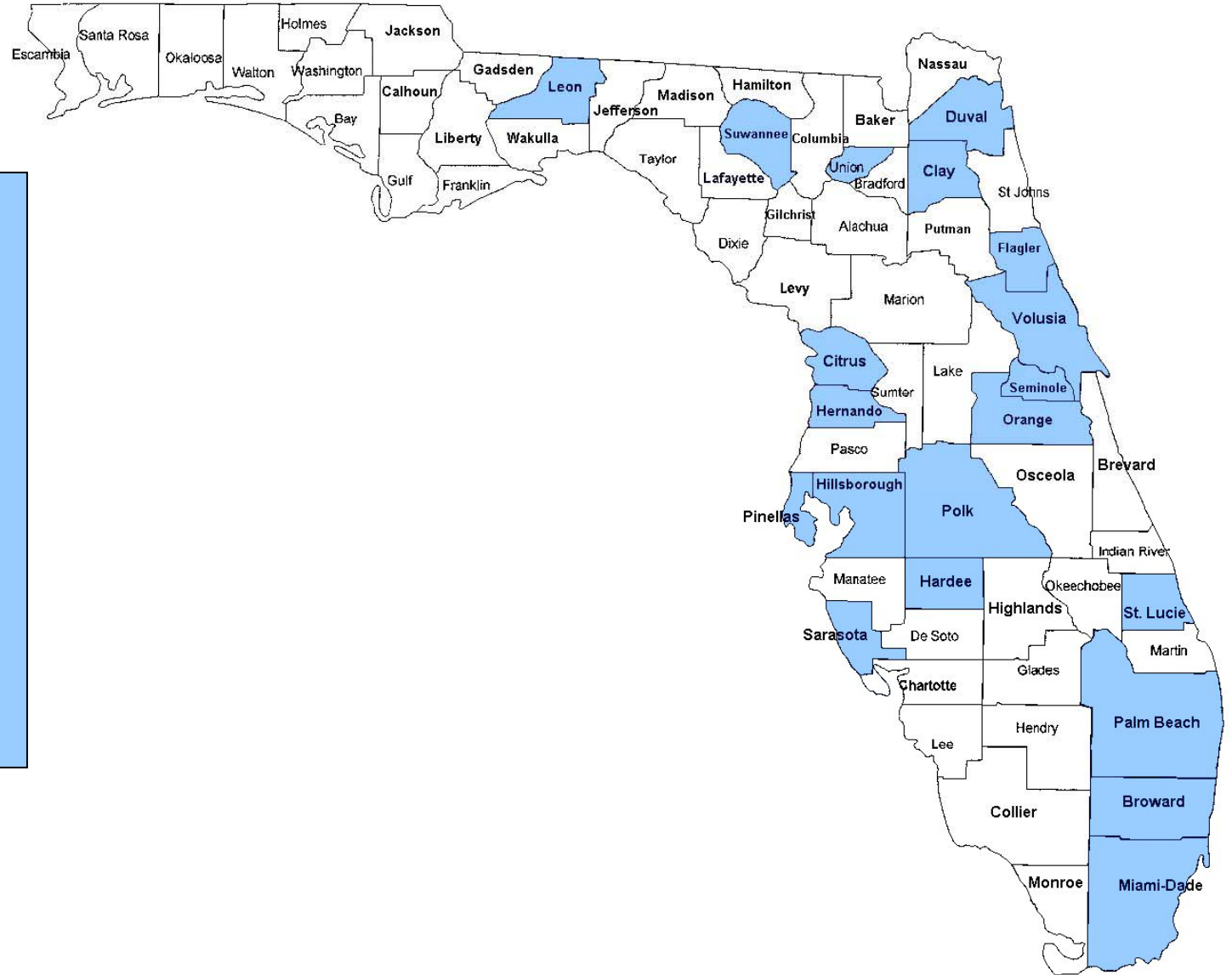


Exhibit – B Responses from Auditees

State Technology Office, Broward, Citrus, Clay, Duval, Flagler, and Hardee Counties

Hernando, Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach Counties

Pinellas, Polk, Seminole, St. Lucie, Suwannee, Union, and Volusia Counties