



AUDITOR GENERAL

DAVID W. MARTIN, CPA



DEPARTMENT OF COMMUNITY AFFAIRS LOCAL GOVERNMENT COMPREHENSIVE PLANNING Operational Audit

SUMMARY

This audit of the Department of Community Affairs (Department) focused on activities of the Office of Comprehensive Planning (Office). The audit included the period July 2005 through February 2007, and selected actions taken through September 2007, and disclosed that Department operations and oversight for local government comprehensive planning activities needed improvements as described below:

Finding No. 1: The Department had not prepared and submitted several reports required by law.

Finding No. 2: The Department had not updated one of its rules or the Comprehensive Plan Amendment Review Manual (Manual) to address law changes relevant to comprehensive planning made during the period 2002 through 2007.

Finding No. 3: The Department did not always properly document whether input was received from applicable governmental agencies, or for input received, that appropriate consideration was given and proper dispositions made.

Finding No. 4: Department policies and procedures for handling customer inquiries and complaints could be improved.

Finding No. 5: The Department's procedures could be strengthened to provide greater assurance that employees are properly trained for their assigned responsibilities and that all work is properly supervised and conducted in accordance with established policies and procedures.

Finding No. 6: The Department's current policies and procedures do not require Office

employees to provide periodic disclosures to address all potential conflicts of interest.

BACKGROUND

The Department is responsible for the administrative coordination of State government policies that address the multitude of issues posed by the State's continued growth and development. The Local Government Comprehensive Planning and Land Development Regulation Act (Act), included in Chapter 163, Part II, Florida Statutes, specifies the requirements applicable to local government comprehensive plans and the Department's oversight responsibilities for such plans. Additional laws governing the State's growth management policies are included in Chapters 186, 187, and 380, Florida Statutes.

The Act requires each of the State of Florida's 67 counties and 411 municipalities to adopt Local Government Comprehensive Plans to manage and guide future development and growth. These plans may be amended up to two times per year with exceptions made for more frequent amendments for specific circumstances, such as emergencies, the addition of schools, and urban refill projects.

Section 163.3177, Florida Statutes, requires local government comprehensive plans to include elements to address each of the following: capital improvements; future land use plan; traffic circulation; general sanitary sewer, solid waste, drainage, potable water, and natural groundwater aquifer recharge; conservation; recreation and open space; housing;

coastal management (for those units of local government identified in Section 380.24, Florida Statutes); and intergovernmental coordination. Additional elements may be required based on the population of the local government, or included as optional elements, at the discretion of the local government.

A key component of the Act is the concurrency provision, which requires public facilities and services to be available concurrent with the impacts of development. The purpose of the concurrency provision is to ensure that the levels of service provided by key public facilities are maintained.

Pursuant to Section 163.3164, Florida Statutes, the Department is designated as the State’s land planning agency. The Office of Comprehensive Planning (Office), within the Division of Community Planning (Division), is responsible for all oversight activities related to comprehensive planning, including the following:

- The Office is responsible for the review of comprehensive plan amendments to determine their compliance with requirements of the Act.¹ Upon completion of the review, the Office issues a report indicating approval of the amendment or which includes objections, recommendations, and comments that identify areas of the proposed amendment that are not in compliance with the Act. If the Office finds the adopted amendment not in compliance with the Act, the local government must either take remedial actions to bring the amendment into compliance or proceed with the administrative hearing process, as described in Chapter 120, Florida Statutes, for any disagreements between the local government and the Office. A flowchart of the comprehensive plan amendment process is included as Appendix A.
- The Office is responsible for reviewing the periodic Evaluation and Appraisal Reports, submitted by local governments, or the Office

may delegate the responsibility for review to the appropriate regional planning council. The reports provide the local government’s assessment of their progress in implementing the comprehensive plan.

- The Office is required to adopt rules for the review of local government comprehensive plans and amendments; adopt a schedule and deadlines for the submission of proposed comprehensive plans or amendments; and provide assistance to local governments in the preparation, adoption, and implementation of comprehensive plans and amendments.
- Other review responsibilities include review or oversight of developments of regional impact, public school interlocal agreements, Public Service Commission certificate applications, and State permit applications, as applicable.

The Office is funded through General Revenue and a portion of the State’s documentary stamp tax. For 2005-06 and 2006-07 fiscal years, the Division, reported expenditures totaling \$13,238,453 and \$13,621,499, respectively. During the 2005-06 fiscal year, according to the Department’s Long-Range Program Plan (LRPP), dated September 2006, the Office reviewed 725 plan amendments, as part of its overall duties, at a unit cost of approximately \$2,800 per amendment review.

The Office is comprised of five teams, each headed by a Regional Planning Administrator. Each team handles all oversight and administrative activities for its assigned region(s). An organizational chart for the Office is included as Appendix B and a map showing the five teams is included as Appendix C.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Required Reports

Part of the Department’s statutory responsibilities related to comprehensive planning includes the preparation and submission of reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Legislative Committee on Intergovernmental Relations. As part of our review of applicable laws and rules, we

¹ Chapter 2007-204, Laws of Florida, established a pilot program, effective July 2007, which provides for reduced State oversight and a streamlined amendment review process for designated local governments in urban areas.

identified six reports, related to comprehensive planning, that were due during the audit period. We noted that the Department had not prepared and submitted any of these six reports, as required by law.

Specifically, we identified the following reports, required by law, which had not been prepared and submitted during the audit period:

- Section 163.3246(13), Florida Statutes, requires the Department to submit to the Governor, the President of the Senate, and the Speaker of the House Representatives a report listing certified local governments.² The report is to also provide an evaluation of the effectiveness of each certification and include recommendations for legislative actions by July 1 of each odd-numbered year. The Department had not prepared and submitted the report due July 1, 2005. We also noted that the Department had not prepared and submitted the report due July 1, 2003.
- Section 163.3245(6), Florida Statutes, requires the Department to provide an Optional Sector Plan (OSP)³ status report to the Legislative Committee on Intergovernmental Relations each year. The Department had not prepared and submitted the status reports due by December 31, 2005, and December 31, 2006. We noted that the Department last submitted this report on December 6, 2004.
- Section 163.3177(11)(d)(8), Florida Statutes, requires the Department to report to the Legislature on an annual basis the results of implementation of rural land stewardship areas authorized by the Department, including successes and failures in achieving the intent of the Legislature. The Department had not prepared and submitted the reports due during 2005 and 2006.

² The certification allows local governments to receive less State and regional oversight of the comprehensive plan amendment process.

³ The purpose of the OSP is to combine the benefits of conceptual long-range planning and detailed planning for specific areas and to avoid duplication of effort in terms of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities.

- Section 163.31771(6), Florida Statutes, requires the Department to evaluate the effectiveness of using accessory dwelling units to address a local government’s shortage of affordable housing and to report to the Legislature by January 1, 2007. The report was to specify the number of ordinances adopted by applicable local governments and the number of accessory dwelling units that were created under these ordinances. As of May 2007, the Department had not prepared and submitted the required report.

Absent the receipt of required information, the applicable State officials may lack pertinent information to make informed decisions regarding comprehensive planning.

The Department indicated that two vendors were hired in March and April 2007 to complete the required reports. The contract amounts for completion of these reports, totaled \$192,404. According to the Department, the reports related to local government certification, OSPs, rural land stewardship, and the final report for accessory dwelling units were received by the Department in September 2007. Department personnel indicated that these reports will be submitted after the Department completes its review and revision of these reports.

Recommendation: We recommend that the Department timely complete and submit the required reports.

Finding No. 2: Rules, Policies, and Procedures

Section 163.3177(9), Florida Statutes, requires the Department adopt by rule, minimum criteria for the review of the local government comprehensive plan elements required by the Act. Department of Community Affairs Rule 9J-5, Florida Administrative Code, was established to satisfy this requirement, and the Rule was used by local governments and other entities to prepare and review comprehensive plan amendments. The Rule was also used by Department employees who review the comprehensive plan amendments for compliance with the Act. We found that the Rule was last updated in February 2001.

The Department also established a Comprehensive Plan Amendment Review Manual (Manual) which includes the Department's policies and procedures to be followed by Department employees responsible for the review of comprehensive plan amendments. The Manual provides an overview of the comprehensive plan amendment process and the approach that plan reviewers should utilize for review of a plan amendment, with examples of the circumstances under which the reviewer may or may not raise objections to a proposed amendment. We found that the Manual was last updated in December 1999.

As indicated in the preceding paragraphs, the Department had not in recent years updated the Rule or Manual to incorporate significant law changes and significant revisions made to the Act. Examples of these law revisions include changes in the requirements for evaluation and review of comprehensive plans, including introductions of new plan elements and revisions for existing plan elements. A summary of significant law changes relevant to local government comprehensive planning is included as Appendix D.

Absent applicable revisions to both the Rule and Manual to reflect applicable statutory and other changes, local governments, other entities, and Department employees may make decisions that are not in compliance with law or in the best interest of the State.

Recommendation: We recommend that the Department take steps to ensure that the Rule and the Manual are timely updated to address current requirements of law.

Finding No. 3: Documentation and Disposition of Input from Other Governmental Agencies

The State's local government comprehensive planning process requires the input of multiple governmental entities in considering the effects of planned growth and development. Upon the submission to the Department of a local government comprehensive plan amendment, the local government is also required to submit copies to other applicable governmental

agencies for their comments or objections. Pursuant to Section 163.3184(4), Florida Statutes, these other governmental agencies are required to provide comments to the Department within 30 days of receipt of the complete proposed amendment from the local government.

Section 163.3184(2), Florida Statutes, requires the Department to maintain a single file for each proposed or adopted plan amendment submitted by a local government for review, including copies of all correspondence, papers, notes, memoranda, and other documents received or generated by the Department. Such correspondence is to include written comments or objections provided by the applicable other governmental agencies. Paper copies of all electronic mail correspondence must also be placed in the file.

During the audit period, the Office maintained for each local government plan amendment, a single file which included the requests for governmental agencies' comments, responses received, and a report, which included a summary section addressing each governmental agency's comments.

As part of our audit, we reviewed the Department's files for 20 local government comprehensive plan amendment packages, each requiring comments from multiple governmental agencies. In Appendix E, we have included a summary of the number of instances in which documented input was received from applicable governmental agencies, whether or not the Department documented the disposition of such input, and the timeliness of such input.

As shown by Appendix E, our review of Department records relating to 20 amendments disclosed the following:

- For 29, or 22 percent of 133 responses due from the various other governmental agencies, the Department's records did not evidence whether any input had been received. The Department's reports, which include all conclusions made regarding compliance of the amendment and the impacts for all of the relevant plan elements, did not address any objections, recommendations, or comments from these

other governmental agencies, and did not provide any explanation for the lack of this information.

- For 8, or 6 percent of the 133 responses due, Department records included input from the other governmental agencies, although the applicable reports did not include any disposition of this input. For example, relative to one amendment, the South Florida Water Management District objected to the deletion of a policy and identified two aspects of the amendment package where additional information was necessary. However, the Department's report did not address these issues or their impact on the Department's conclusions.
- Approximately 13 percent of the 89 responses included in the files were not received timely. The number of days late averaged 10 days, and ranged from 3 to 35 days, based on the documented receipt dates or the transmittal letter dates.

Without documentation that all applicable governmental agencies had provided input, and appropriate Department dispositions were made for all of the input received, the completeness of the review process and the basis for the reported conclusions cannot be fully demonstrated.

Recommendation: We recommend that the Department maintain documentation to evidence that appropriate consideration is given and dispositions are made for all governmental agency input received. We also recommend that the Department identify in its reports those governmental entities which do not respond and the impact, if any, that the lack of input may have on the Department's review and conclusions.

Finding No. 4: Customer Service

The Office's regulatory and technical assistance programs serve a diverse group of stakeholders, or customers, in the comprehensive planning process. Examples of these customers include local government elected officials and planning staff, land developers and builders, organizations that advocate for protection of natural resources, neighborhood associations and other community-based organizations, military installation commanders

regarding encroachment issues, regional planning councils and other governmental agencies with oversight responsibilities related to local government comprehensive planning, and concerned citizens.

The Office receives from customers miscellaneous inquiries, requests for technical assistance, and complaints. Office employees responsible for the review of local government comprehensive plan amendments, or other related applications, are the point of contact for customers in the event that they have inquiries or complaints. Inquiries and complaints are assigned based on the areas involved or the nature of the inquiry or complaint. Once assigned, an employee is then responsible for providing a response directly to the person with the inquiry or complaint. No record or documentation of the nature of the inquiry or complaint or its resolution was required. Further, we found that the Department lacked written policies and procedures for handling the receipt and resolution of inquiries and complaints and lacked a formal mechanism to monitor the timely and appropriate resolution or disposition of such issues.

Written policies and procedures, regarding the receipt and disposition of inquiries and complaints, and documentation of the nature and date of inquiries or complaints received, the employee responsible for addressing the issue, and notes on how and when the issue was resolved, could help provide assurance that all inquiries or complaints have been addressed timely and appropriately. Additionally, the periodic review of such information by Division management may aid in the identification of areas requiring improvement or changes in policies and procedures.

Recommendation: We recommend that the Department establish and implement policies and procedures to document that all customer inquiries and complaints are appropriately addressed in a timely manner.

Finding No. 5: Training and Supervision

The review of local government comprehensive plan amendments is a highly technical activity, requiring specific skills and expertise in areas, such as

economics, capital improvements planning, and urban design. The review process involves both the detailed review of documentation and the exercise of employee judgment regarding the application of law, rules, and policies. Additionally, such reviews must be accomplished within specific statutory timeframes. For example, the Office must complete reviews of a proposed local government comprehensive plan amendment within 60 days of receipt from the local government.

As of June 2007, the Office had 34 filled positions and 5 vacant positions. Of these 34 filled positions, 6 were supervisory positions. Based on our review of personnel information recorded in the State’s payroll system, we noted that for 11 of the filled positions, or 32 percent, the employee had less than two years of experience at the Department. Additionally, the annualized staff turnover rate, for the period July 2004 through June 2007, ranged from 17 percent to 35 percent.

As part of our audit, we reviewed the Office’s policies and procedures regarding training and supervision of employees. Our audit disclosed the following:

- Appropriate training should be provided to ensure that employees, especially those with minimal experience, acquire the necessary skills to accomplish their assigned responsibilities. We found that employee training procedures included on-the-job training by supervisors and other employees, mentoring by senior staff, and review of the Comprehensive Plan Amendment Review Manual (described in Finding No. 2). In response to our inquiries, the Department indicated that employees were required to attend regular meetings, including a weekly compliance review meeting, and periodic training was provided through the annual Growth Management Implementation Workshop (Workshop), hosted by the Division, and through some in-house lecture-style training. However, during the audit period, no documentation was maintained to evidence the training provided to individual employees, identification of which employees attended the Workshops, or a determination that necessary training was provided to all employees.

- Due to the significance of the Department’s responsibilities for comprehensive planning and the risks of error associated with the high staff turnover rates of the Office, evidence of appropriate supervisory review is necessary to provide assurance regarding the quality of comprehensive plan amendment reviews performed. Our audit disclosed that the Office did not have procedures regarding the types and amount of supervision required. Additionally, the Office lacked any established procedures regarding documentation of supervisory review, such as the use of checklists. Our review of 20 comprehensive plan amendments disclosed no documentation of supervisory review. Department personnel indicated that upon completion of a comprehensive planning review, the noted issues are reviewed by a supervisor before actions are taken and random supervisory reviews are completed for less experienced staff to determine if all appropriate issues were included in reports.

Documentation that Office employees are properly trained and work is properly supervised could help provide the Department reasonable assurance that decisions made by staff were appropriate and in compliance with all requirements of laws, rules, policies, and procedures and that all relevant issues were identified.

Recommendation: We recommend that the Department establish and implement procedures to document that employees are appropriately trained for their assigned responsibilities and that all work is properly supervised and conducted in accordance with established laws, rules, policies, and procedures.

Finding No. 6: Conflicts of Interest

Section 112.313, Florida Statutes, addresses standards of conduct for public officers and employees of State agencies. Our audit included a review of policies and procedures established to reasonably ensure the identification of and proper course of action upon disclosure of actual or perceived conflicts of interest related to Office responsibilities.

The results of our audit disclosed that the Department had not established policies and procedures to require

all employees involved in local government comprehensive planning activities to provide, with respect to entities subject to their oversight, periodic disclosures addressing actual and potential conflicts of interest, including the acceptance of gifts, personal relationships, financial interests, and offers of employment, or otherwise affirming the absence of all such conflicts. An effective procedure might require from each Office employee, submission of an annual statement (and updates upon any changes), disclosing all actual and potential conflicts of interest or affirming the absence of such. These statements could then be used by Office management to ensure that in making staff assignments, actual or perceived conflicts of interest have been considered and avoided.

In response to our inquiries, the Department indicated that no conflict of interest impairments were identified during the audit period and that assurance of independence was obtained through the following:

- All outside employment required approval by the Division.
- Select-exempt and senior management staff were required to file an annual financial disclosure form.

While these methods provide some assurance of the detection of some potential conflicts of interest, these methods may not timely disclose all actual or perceived conflicts of interest which, should they occur, would impair the credibility of the Department's comprehensive plan amendment reviews. For example, it is not clear that these methods would require disclosure of conflicting personal relationships or recent offers of employment. Due to the significance of the Office's responsibilities, stringent policies and procedures are necessary to maintain public confidence in the Office's decisions.

Recommendation: We recommend that the Department establish and implement policies and procedures requiring Office employees to submit an annual statement disclosing all conflicts of interest or affirming the absence of such impairments. We also recommend that this information be used by Department management

to schedule review assignments in a manner that avoids any actual or potential conflicts of interest.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our audit focused on the Department's responsibilities related to local government comprehensive planning. The objectives of the audit were to:

- Determine whether the Department had adopted by rule the minimum criteria for review and determination of compliance of the local government comprehensive plan elements with applicable laws and rules.
- Evaluate whether the Department had met established deadlines for actions in accordance with applicable laws.
- Evaluate the consistency of the Department's reviews and other actions with established procedures.
- Evaluate whether established procedures, relevant to providing training for Department staff responsible for comprehensive planning responsibilities were effective.
- Evaluate the effectiveness of established internal controls in achieving management's control objectives in the categories of compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the validity and reliability of records and reports; and the safeguarding of assets.

In conducting our audit, we interviewed Department personnel, observed selected operations, reviewed Department records, and completed various analyses and procedures. Our audit included examination of various documents (as well as events and conditions) applicable to the period July 2005 through February 2007, and selected actions taken through September 2007.

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.



David W. Martin, CPA
Auditor General

MANAGEMENT RESPONSE

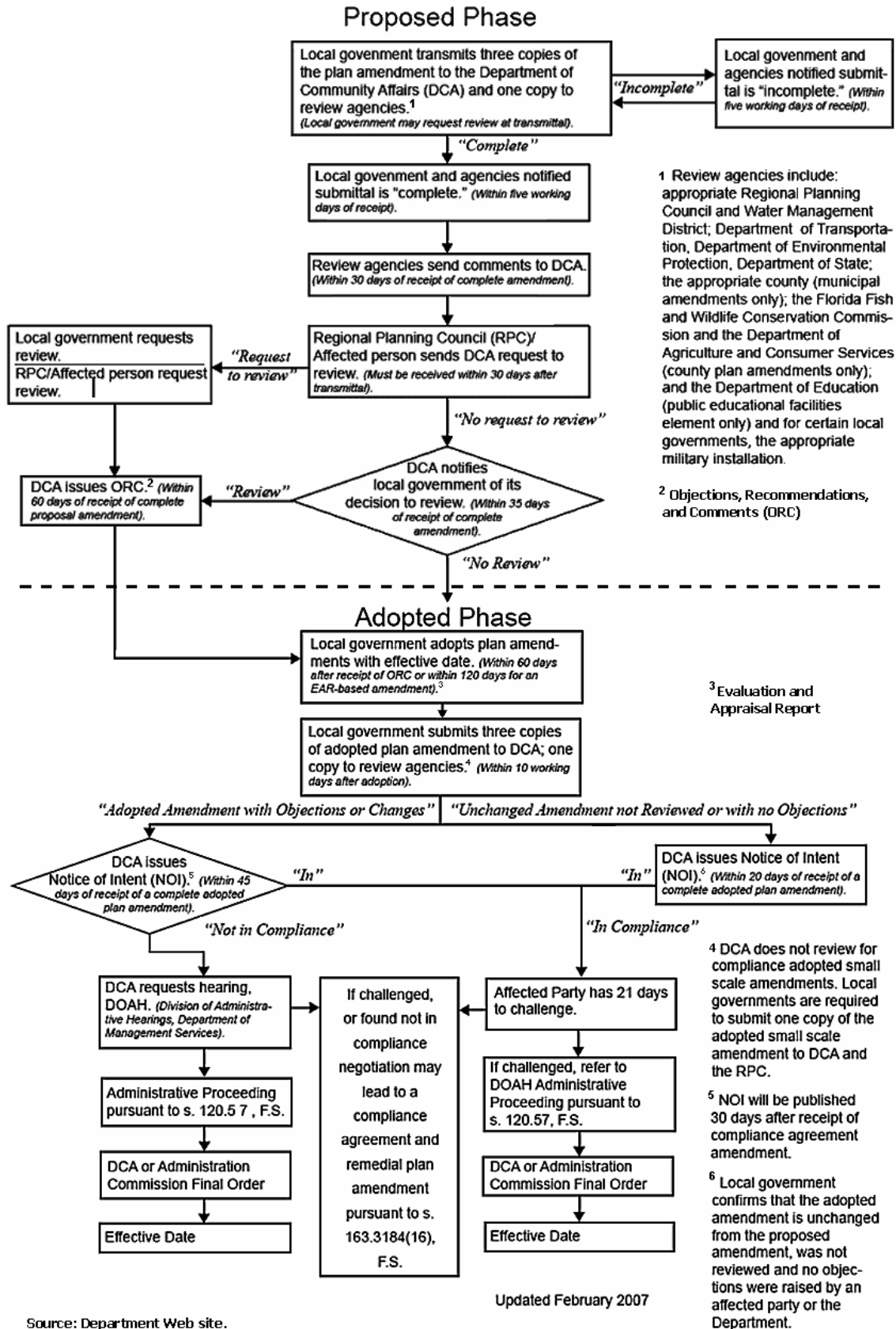
In a letter dated November 16, 2007, the Secretary of the Department of Community Affairs provided a response to our preliminary and tentative audit findings. The letter is included at the end of this report as Appendix F.

Operational audits are conducted to promote accountability in government and improvement in government operations. This operational audit was conducted in accordance with applicable *Generally Accepted Government Auditing Standards*. This audit was conducted by Haesun Baek, CPA, and supervised by Jennifer Reeves, CPA.

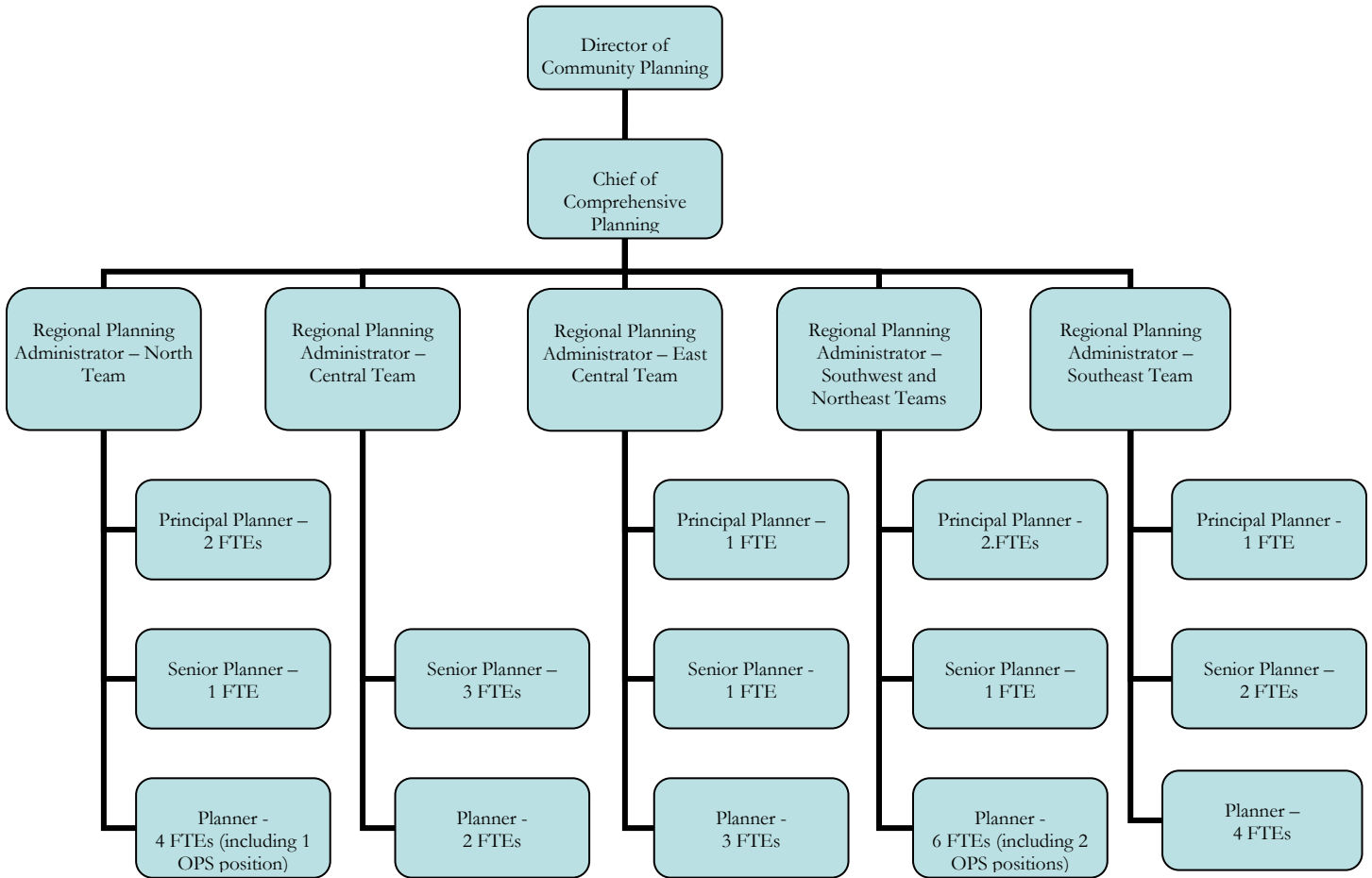
Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail at (davidvick@aud.state.fl.us) or by telephone (850-487-9100). This report and audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.myflorida.com/audgen>); by telephone (850-487-9024); or by mail (G74, Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

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**APPENDIX A
COMPREHENSIVE PLAN AMENDMENT PROCESS
SECTION 163.3184, FLORIDA STATUTES**



APPENDIX B
OFFICE OF COMPREHENSIVE PLANNING
ORGANIZATIONAL CHART
AS OF JUNE 30, 2007



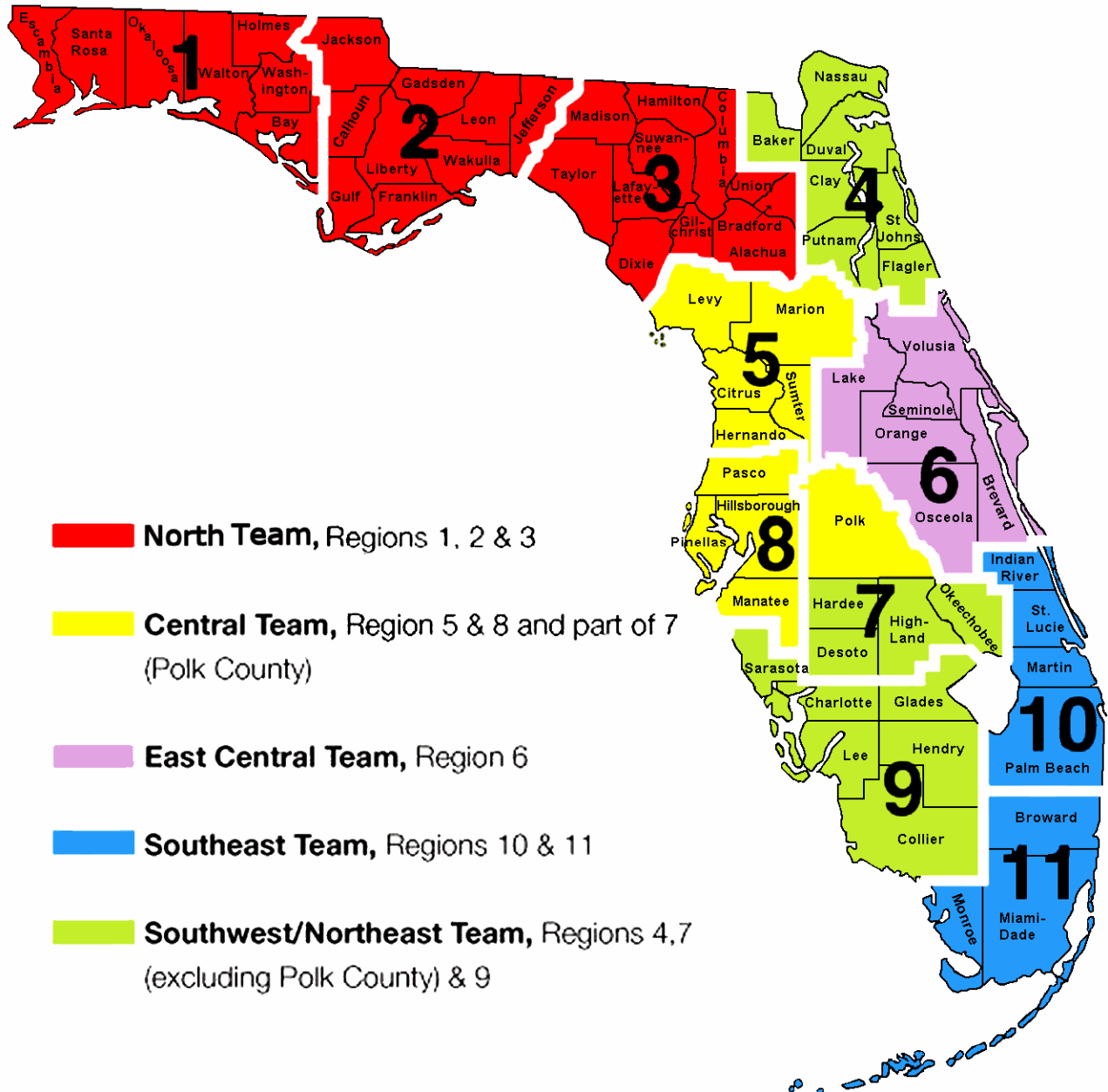
Abbreviations:

FTE – Full-time equivalent position

OPS – Other Personal Services

Source: Department records.

APPENDIX C
OFFICE OF COMPREHENSIVE PLANNING
MAP OF REGIONAL TEAM RESPONSIBILITIES
AS OF JUNE 2007



Source: Department Web site

APPENDIX D
SUMMARY OF SIGNIFICANT LAW CHANGES
APPLICABLE TO LOCAL GOVERNMENT COMPREHENSIVE PLANNING

Source: Florida Statutes and Laws of Florida.

Year	Laws of Florida	Description of Significant Changes
2002	Chapter 2002-20	Added to comprehensive plans airport master plans that have specific components.
	Chapter 2002-295	Revised requirements for future land use plans.
	Chapter 2002-296	Revised elements of comprehensive plans. Provided requirements for future land use maps. Provided a process for adopting the public educational facilities element. Provided the Department's roles and responsibilities regarding public school interlocal agreements. Revised provisions governing the process for adopting comprehensive plans and plan amendments. Created a Local Government Comprehensive Planning Certification Program to be administered by the Department and identified the Department's role and responsibilities.
2004	Chapter 2004-230	Introduced the military installation element to comprehensive plans.
	Chapter 2004-372	Established new Department responsibilities for rural land stewardship areas and urban infill and re-development.
2005	Chapter 2005-157	Revised requirements for the future land use plan element with regard to coastal counties.
	Chapter 2005-291	Introduced the adequate water supply concurrency provision and updated the evaluation and appraisal report accordingly.
	Chapter 2005-290	Revised requirements for the capital improvements element of a comprehensive plan. Revised the requirements and criteria for establishing a rural land stewardship area. Introduced the public schools facilities element and established Department responsibilities. Revised the transportation concurrency element and established the Department's duties regarding the revisions. Provided additional requirements for the evaluation and assessment of the comprehensive plan. Created the Century Commission for a Sustainable Florida and defined the Department's role.
2006	Chapter 2006-68	Provided guidelines for compliance with the State coastal high-hazard provisions (coastal management element).
	Chapter 2006-220	Introduced recreational surface water use to comprehensive plans.
	Chapter 2006-252	Revised concurrency requirements for sanitary sewer.
	Chapter 2006-255	Established new Department requirements for the review of agricultural enclave amendments.
2007	Chapter 2007-196	Provided for the creation, powers, and responsibilities of transportation concurrency backlog authorities. Required transportation concurrency backlog plans to be adopted as part of the local government comprehensive plan.
	Chapter 2007-198	Provided guidance regarding transportation concurrency. Established requirements regarding affordable housing.
	Chapter 2007-204	Established a pilot program which provided for a streamlined amendment review process for designated local governments in urban areas. Redefined "urban redevelopment" and "financial feasibility." Provided guidance regarding transportation concurrency.

APPENDIX E
INPUT BY OTHER GOVERNMENTAL AGENCIES
FOR 20 LOCAL GOVERNMENT COMPREHENSIVE PLAN AMENDMENTS

<u>Other Governmental Agencies</u>	Number of Instances Input Required	Not in File and Not Addressed in Report (1)	In File But Not Addressed in Report (1)	Not Received Timely
State Agency	82	22	4	9
Regional Planning Council	20	0	0	4
Water Management District	22	1	4	4
County	9	6	0	0
Total	<u>133</u>	<u>29</u>	<u>8</u>	<u>17</u>
Percentage of Total		22%	6%	13%

(1) Report includes the results of the Office’s review of the comprehensive plan amendments, including a summary of input received from other governmental agencies.

The other governmental agencies identified above are responsible for reviewing the aspects of the comprehensive plan amendments for the specific areas relevant to their oversight. The primary interests of each of these other governmental agencies are described below:

- State agency interests include, for example:
 - The Department of Agriculture and Consumer Services’ review includes consideration of issues related to agriculture, forestry, and aquaculture and is only applicable to county comprehensive plan amendments.
 - The Department of Environmental Protection’s review focuses on issues related to air and water pollution, solid waste, sewage, drinking water, State parks, greenways and trails, State-owned lands, and wetlands.
 - The Fish and Wildlife Conservation Commission’s review includes consideration of fish and wildlife issues, and endangered species and is only applicable to county comprehensive plan amendments.
 - The Department of State’s review focuses on to historic and archeological resources.
 - The Department of Transportation’s review focuses on roads and transportation facilities.
- Review by the applicable Regional Planning Council (RPC) includes an evaluation of consistency with the regional plan, and the consideration of any decisions and the related impacts which affect multiple governments. In some cases, the plan amendment may be subject to review by more than one RPC. There are 11 RPCs in Florida: Apalachee; Central Florida; East Central Florida; North Central; Northeast Florida; South Florida; Southwest Florida; Tampa Bay; Treasure Coast; West Florida; and Withlacoochee.
- Review by the applicable water management district (WMD) includes review of water consumption issues and consideration of applicable wetlands and well fields. The plan amendment may be subject to review by more than one water management district. The five WMDs in Florida include: Northwest Florida; South Florida; Southwest Florida; St. Johns River; and Suwannee River.
- For municipalities, the plan amendment is also subject to review by the related county or multiple counties. Review by each applicable county includes consideration of the effect of the amendment on the applicable county comprehensive plan elements.

If the plan amendment includes or relates to public school facilities element, the Office of Educational Facilities of the Commissioner of Education must also review the amendment. None of the amendments included in our review required such review.

Source: Department plan amendment files and applicable Florida Statutes.

**APPENDIX F
MANAGEMENT RESPONSE**



STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

CHARLIE CRIST
Governor

THOMAS G. PELHAM
Secretary

November 16, 2007

BY ELECTRONIC AND U.S. MAIL

David W. Martin, CPA
State of Florida
Auditor General
G 74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Re: *Response to Audit, Local Government Comprehensive Planning*

Dear Mr. Martin:

This letter is to provide the Department's responses to the preliminary and tentative audit findings and recommendations dated October 15, 2007, regarding the Office of Comprehensive Planning.

First allow me to express appreciation for the findings and recommendations prepared by your office. When I was appointed Secretary in January 2007, it was immediately apparent that organizational improvement was necessary. Since that time, we have worked to fill critical vacancies, complete a reorganization of the Division of Community Planning that included a transfer of personnel resources to the Office of Comprehensive Planning, and to address pressing needs including several of those identified in your report. While much progress has been made since January 2007, your findings and recommendations will help focus our continued efforts.

It is important to note that the Division of Community Planning's staff and resources have been significantly reduced over the last seven or eight years, including as recently as the special session of the Legislature this summer. At the same time, the division's responsibilities have been increasing. The resulting workload increases on remaining staff, coupled with our non-competitive salaries compared to local government and private land planner positions, have made it very difficult to retain experienced staff and fill vacancies quickly. The findings of the audit, as well as our responses, should be read in light of this reality.

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Fax: 850-922-5623/SUNCOM 292-5623

APPENDIX F
MANAGEMENT RESPONSE (CONTINUED)

David W. Martin, CPA
November 16, 2007
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Finding No. 1: The Department had not prepared and submitted several reports required by law

Auditor General Recommendation: We recommend the Department timely complete and submit the required reports.

Finding: (1) Subsection 163.3246(13), Florida Statutes, requires the Department to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report identifying certified local governments, an evaluation of the effectiveness of each certification, and recommendations for legislative action by July 1 of each odd-numbered year. No report was submitted July 1, 2005, and the report due July 1, 2007, had not been prepared and submitted by the due date.

Department Response: The Department acknowledges that, to the best of its knowledge, the previous administration did not submit the required report on July 1, 2005. Preparation of the required reports for 2005 and 2007 was initiated in May 2007, and they are anticipated to be submitted to the Governor, the President of the Senate, and the Speaker of the House within 45 days.

Finding: (2) Subsection 163.3245(6), Florida Statutes, requires the Department to provide an Optional Sector Plan status report to the Legislative Committee on Intergovernmental Relations each year. The Department had not prepared and submitted the status reports due by December 31, 2005, and December 31, 2006.

Department Response: The Department acknowledges that, to the best of its knowledge, the previous administration did not submit the required status report to the Legislative Committee on Intergovernmental Relations on December 31, 2005, or December 31, 2006. Preparation of the required reports for 2005, 2006, and 2007 was initiated in May 2007, and they are anticipated to be submitted within 45 days.

Finding: (3) Subparagraph 163.3177(11)(d)(8), Florida Statutes, requires the Department to report to the Legislature on an annual basis the results of implementation of rural land stewardship areas authorized by the Department, including successes and failures in achieving the intent of the Legislature. The Department had not prepared and submitted the reports due during 2005 and 2006.

Department Response: The Department acknowledges that, to the best of its knowledge, the previous administration did not submit the required reports to the Legislature for the years 2005 and 2006. Preparation of the required reports for 2005, 2006, and 2007 was initiated in May 2007, and they are anticipated to be submitted within 45 days.

Finding: (4) Subsection 163.31771(6), Florida Statutes, requires the Department to evaluate the effectiveness of using accessory dwelling units to address a local government's shortage of

APPENDIX F
MANAGEMENT RESPONSE (CONTINUED)

David W. Martin, CPA
November 16, 2007
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affordable housing and to report to the Legislature by January 1, 2007 As of May 1, 2007, the Department had not prepared and submitted the required report.

Department Response: The Department acknowledges that, to the best of its knowledge, the previous administration did not submit the required report to the Legislature on January 1, 2007. The Department has completed the report and it was submitted to the Legislature on October 4, 2007.

Finding No. 2: Rules, Policies, and Procedures

Auditor General Recommendation: We recommend that the Department take steps to ensure that the Rule [9J-5] and the Manual [Comprehensive Plan Amendment Review] are timely updated to address current requirements of law.

Finding: (1) Subsection 163.3177(9) requires the Department to adopt by rule, minimum criteria for the review of the local government comprehensive plan elements required by the Act. The Department of Community Affairs Rule 9J-5, Florida Administrative Code, was established to satisfy this requirement. The Rule was last updated in February 2001.

Department Response: The Department acknowledges that under the previous administration Rule 9J-5 had not been updated since February 2001. The Division of Community Planning is currently conducting an overall review of Rule 9J-5 in relation to statutory changes and other needs and is preparing concepts for potential rule amendments. In addition, a rulemaking process has been initiated pursuant to Paragraph 163.3177(11)(h), Florida Statutes, to address the Rural Lands Stewardship Program. Two rule development workshops have been conducted and a proposed rule will be released in the near future.

Finding: (2) The Department established a Comprehensive Plan Amendment Review Manual which includes the Department’s policies and procedures to be followed by Department employees responsible for the review of comprehensive plan amendments. The Manual was last updated in December 1999.

Department Response: The Department acknowledges that the Comprehensive Plan Amendment Review Manual has not been updated since December 1999. The Division of Community Planning is currently reviewing the Manual to identify necessary updates.

Finding No. 3: Documentation and Disposition of Input from Other Governmental Agencies

Auditor General Recommendation: We recommend that the Department maintain documentation to evidence that appropriate consideration is given and dispositions are made for all governmental agency input received. We also recommend that the Department identify in its reports those governmental entities which do not respond and

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the impact, if any, that the lack of input may have on the Department's review and conclusions.

Finding: The local government comprehensive plan review process requires the input of multiple governmental entities in considering the effects of growth and development. Upon submission of a proposed comprehensive plan amendment to the Department, the local government is required to submit copies to other governmental agencies identified in Section 163.3184, Florida Statutes, for their comments. The governmental agencies are required to provide comments to the Department within 30 days of receipt of the complete proposed amendment from the local government. The Department is required to maintain a single file for each proposed or adopted plan amendment submitted including copies of all correspondence, papers, notes, memoranda, and other documents received or generated by the Department.

Files for 20 local government comprehensive plan amendment packages were reviewed by the auditors, with the following findings:

(1) For 29 of 133 responses due from the various other governmental agencies, the Department's records did not evidence whether any input had been received.

(2) For 8 of the 133 responses due, the Department records included input from other governmental agencies, although the applicable reports did not include any disposition of this input.

(3) Approximately 13% of the 89 responses included in the files were not received timely. The number of days late averaged 10 days, and ranged from 3 to 35 days, based on the documented receipt dates or the transmittal letter dates.

Without documentation that all applicable governmental agencies had provided input, and appropriate Department dispositions made for all of the input received, the completeness of the review process and the basis for the reported conclusions cannot be fully demonstrated.

Department Response: Subsection 163.3184(4), Florida Statutes, requires comments from the governmental agencies identified in Paragraph 163.3184(3)(a). A local government is required to submit copies of proposed amendments to the governmental agencies at the time of transmittal to the Department. Once the Division of Comprehensive Planning receives a proposed comprehensive plan amendment and determines that the amendment package is complete, the governmental agencies are notified by electronic message of the timeframe for comments, a tracking number, and the Department's contact.

In addition, the electronic notification provides a copy of the letter from the Department to the local government indicating receipt of a complete amendment package. The notification also provides a statement that the Department is required to provide a courtesy information statement regarding the publication date for the Notice of Intent to

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citizens who furnish their names and addresses at the local government's plan amendment transmittal or adoption hearings.

In practice, there are occasions when the governmental agencies do not provide comments. This may occur in instances when a proposed comprehensive plan amendment is not relevant to the mission of the agency due to inadequate staff resources or other organizational priorities of that agency. To supplement the routine notification and call for comments provided by the Department to the governmental agencies, over the past ten months representatives of the Department have worked with the governmental agencies to encourage their participation and provide guidance. For instance, meetings have been conducted with representatives of the Department of Environmental Protection and the five water management districts, the Department of Transportation and its seven districts, the eleven regional planning councils, and the Florida Fish and Wildlife Commission. Ultimately, it is incumbent upon the governmental agencies to properly respond to the requirements of Subsection 163.3184(4), Florida Statutes; however, it is a responsibility of the Department to encourage and guide that response. The Department has actively pursued that duty and will continue to do so.

In regard to the disposition of comments received or not received in the comprehensive plan review process, the role of the Department is to conduct its own independent assessment and to synthesize and balance the comments received from the governmental agencies. Review documents issued by the Department represent its conclusions based on the expertise and the responsibilities of the Department. There are no specific statutory requirements for the Department to maintain written itemization of the disposition of each individual comment, and such an exercise would be difficult if not impractical given both the available personnel resources and the often conflicting, overlapping, and complicated nature of the various comments the Department receives.

Finding No. 4: Customer Service

Auditor General Recommendation: We recommend that the Department establish and implement policies and procedures to document that all customer inquiries and complaints are appropriately addressed in a timely manner.

The regulatory and technical assistance programs serve a diverse group of stakeholders, or customers, in the comprehensive planning process. The Department receives from customers, miscellaneous inquiries, requests for technical assistance, and complaints. Office employees responsible for the review of local government comprehensive plan amendments, or other related applications, are the point of contact for customers in the event that they have inquiries or complaints. Inquiries and complaints are assigned based on the areas involved or the nature of the inquiry or complaint. Once assigned, an employee is then responsible for providing a response directly to the person with the inquiry or complaint. No record or documentation of the nature of the inquiry or complaint was required. Further, we found that the Department lacked

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written policies and procedures for handling the receipt and resolution of inquiries and complaints and lacked a formal mechanism to monitor the timely and appropriate resolution or disposition of such issues.

Department Response: The Department responds to inquiries and complaints in a variety of ways. If the referral comes to the Division of Community Planning or the Office of Comprehensive Planning from the Secretary's Office, the letter or electronic communication is logged-in and forwarded to the appropriate staff member for action or response. It is then tracked to ensure a prompt response. Technical assistance provided to governmental agencies is documented in a software program maintained by the Division of Community Planning, including the entity to which assistance has been provided, date, type of technical assistance, and final status.

However, the preliminary and tentative audit findings and recommendations properly point out that more can be done. The Department has prepared a Customer Service Plan and is in the process of establishing a common correspondence tracking software for use across all divisions to provide more efficient service and ensure quality control. It is also the Department's intent to use this agency-wide tracking system to track and ensure prompt response to any complaints received by individual members of staff. The Division of Community Planning is also evaluating the use of a standard customer service questionnaire to gauge customer satisfaction.

Finding No. 5: Training and Supervision

Auditor General Recommendation: We recommend that the Department establish and implement procedures to document that employees are appropriately trained for their assigned responsibilities and that all work is properly supervised and conducted in accordance with established laws, rules, policies and procedures.

(1) Appropriate training should be provided to ensure that employees, especially those with minimal experience, acquire the necessary skills to accomplish their assigned responsibilities. However, during the audit period, no documentation was maintained to evidence the training provided to individual employees, identification of which employees attended the Workshops, or a determination that necessary training was provided to all employees.

Department Response: In August of 2007, the Division of Community Planning initiated monthly training for its staff. The program provides for professional and technical training conducted for a three-hour time period on the first Friday of each month. To date, four Division-wide training events have been held. In addition, training has been provided to supervisors on the Personnel Performance System.

Finding: (2) Due to the significance of the Department's responsibilities for comprehensive planning and the risks of error associated with the high staff turnover rates of the Office (of Comprehensive Planning), evidence of appropriate supervisory review is necessary to provide

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assurance regarding the quality of comprehensive plan amendment reviews performed. Our audit disclosed that the Office did not have procedures regarding the types and amount of supervision required. Additionally, the Office lacked any established procedures regarding documentation of supervisory review, such as the use of checklists. Our review of 20 comprehensive plan amendments disclosed no documentation of supervisory review. Department personnel indicated that upon completion of a comprehensive planning review, the noted issues are reviewed by a supervisor before actions are taken and random supervisory reviews are completed for less experienced staff to determine if all appropriate issues were included in reports.

Department Response: The Division of Community Planning is responsible for the review of proposed and adopted comprehensive plan amendments. When a review item arrives, it is entered into a data base and assigned to a Regional Review Team. The supervisor of the team typically completes a brief initial review to understand the contents of the proposed or adopted plan amendment and then assigns the review item to a planner. Planners are organized by local government so that they can gain familiarity with the local government and its comprehensive plan. The planner, under the direction of his or her supervisor, conducts a review and prepares a review memo. The review memo is then brought to a team meeting for discussion and to set direction. At the next stage, the review memo is brought to a weekly compliance review meeting for discussion with the Chief of Comprehensive Planning who confirms any recommended objections, recommendations, and comments, or compliance determinations, and sets direction. Should there be significant issues, or in the case of recommendations to determine that a comprehensive plan amendment be found not in compliance with the requirements of state law, the review item is brought to the Director of Community Planning, and then to the Secretary. Review memos are initialed by the planner, his or her supervisor, the Chief of Comprehensive Planning, and then, as appropriate, the Director, and Secretary. It was upon my direction in January 2007, that the staff of the Division of Community Planning reinstated the practice of completing staff reviews in memorandum format with the initials of the planner, supervisor, and Chief representing their concurrence.

Finding: (3) Documentation that employees are properly trained and work is properly supervised could help provide the Department reasonable assurance that decisions made by staff were appropriate and in compliance with all requirements of laws, rules, policies, and procedures and that all relevant issues were identified.

Department Response: Commencing in August 2007, a systematic training program has been established for staff of the Division of Community Planning. New emphasis will be given to internal review procedures as outlined above.

Finding No. 6: Conflicts of Interest

Auditor General Recommendation: We recommend that the Department establish and implement policies and procedures requiring Office employees to submit an annual

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statement disclosing all conflicts of interest or affirming the absence of such impairments. We also recommend that information be used by Department management to schedule review assignments in a manner that avoids any actual or potential conflicts of interest.

(1) The results of our audit disclosed that the Department had not established policies and procedures to require all employees involved in local government comprehensive planning activities to provide, with respect to entities subject to their oversight, periodic disclosures addressing actual and potential conflicts of interest, including the acceptance of gifts, personal relationships, financial interests, and offers of employment, or otherwise affirming the absence of all such conflicts. An effective procedure might require from each Office employee, submission of an annual statement (and updates upon any changes), disclosing all actual and potential conflicts of interest or affirming the absence of such. These statements then could be used by Office management to ensure that in making staff assignments, actual or perceived conflicts of interest have been considered and avoided.

In response to our inquiries, the Department indicated that no conflict of interest impairments were identified during the audit period and that assurance of independence was obtained through the following:

- a) All outside employment required approval by the Division.
- b) Select-exempt and senior management staff were required to file an annual financial disclosure form.

While these methods provide some assurance of the detection of some potential conflicts of interest, these methods may not timely disclose all actual or perceived conflicts of interest which, should they occur, would impair the credibility of the Department's comprehensive plan amendment reviews. . . . Due to the significance of the Office's responsibilities, stringent policies and procedures are necessary to maintain public confidence in the Office's decisions.

Department Response: In response to the Governor's Executive Order 07-1, on February 16, 2007, the Department adopted Administrative Procedure 1101.9 to provide for a Code of Ethics/Standards of Conduct. All employees, including Full Time Equivalent and Other Personnel Services, are subject to the Administrative Procedure and are required to sign a form acknowledging receipt of the Code of Ethics/Standards of Conduct. The Department will consider whether any special measures are appropriate and necessary for staff within the Office of Comprehensive Planning.

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On behalf of the Department, we look forward to your final audit findings and recommendations and will implement corrective actions, as appropriate.

Sincerely yours,



Thomas G. Pelham
Secretary

TGP/cg

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