

**DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Administration of State Land Acquisitions
and Dispositions



Sherrill F. Norman, CPA
Auditor General

Secretary of the Department of Environmental Protection

The Department of Environmental Protection is established by Section 20.255, Florida Statutes. The head of the Department is the Secretary who is appointed by the Governor, with the concurrence of the Cabinet, and subject to confirmation by the Senate. During the period of our audit, the following individuals served as Department Secretary:

Jonathan Steverson	From December 29, 2014
Clifford Wilson	Interim, December 2, 2014, through December 29, 2014
Herschel T. Vinyard, Jr.	Through December 2, 2014

The team leader was Stephanie Baker, and the audit was supervised by Michael J. Gomez, CPA.

Please address inquiries regarding this report to Michael J. Gomez, CPA, Audit Manager, by e-mail at mikegomez@aud.state.fl.us or by telephone at (850) 412-2881.

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

Administration of State Land Acquisitions and Dispositions

SUMMARY

This operational audit of the Department of Environmental Protection (Department) focused on the Department's administration of State land acquisitions and dispositions. Our audit also included a follow-up on the findings noted in our report No. 2012-010. Our audit disclosed the following:

Finding 1: Department records did not always evidence that subsurface rights were considered in the valuation of State land dispositions.

Finding 2: For one land acquisition totaling \$3.15 million, the Department did not ensure that the third party responsible for performing due diligence services, including appraisal services, complied with all terms and conditions of the memorandum of agreement related to the services.

Finding 3: As similarly noted in our report No. 2012-010, some appraisal reports received by the Department included errors and omissions that, while not necessarily material to the value conclusions, demonstrated a lack of attention to detail in the reports and subsequent reviews by review appraisers.

Finding 4: Department records did not always include certain land acquisition documentation required by State law.

Finding 5: As similarly noted in our report No. 2012-010, the Department did not always solicit bids from multiple appraisers for required appraisal services.

BACKGROUND

Acquisitions and dispositions of State lands, other than for transportation and water management purposes, are generally made by the Board of Trustees of the Internal Improvement Trust Fund (Board), with the assistance of personnel from the Department of Environmental Protection (Department), Division of State Lands (Division). State law¹ provides the authority, procedures, and funding mechanisms for the State's acquisition and disposition of real property and Board rules² prescribe additional State land acquisition and disposition procedures.

State law³ specifies that each parcel of land being acquired is to have at least one appraisal and an additional appraisal is required when the estimated value of the parcel of land exceeds \$1 million. Additionally, State law⁴ provides that the Board may substitute other reasonably prudent procedures, as long as the public interest is reasonably protected.

¹ Chapters 253, 259, and 375, Florida Statutes.

² Board Rules, Chapter 18-1, Florida Administrative Code.

³ Section 253.025(8)(b), Florida Statutes.

⁴ Section 253.025(1)(b), Florida Statutes.

During the period July 2013 through June 2015, the Board, or the Department as the Board's designee,⁵ approved and closed on 69 State land acquisitions, totaling 25,415 acres, for a total purchase price of \$33.8 million.⁶ The Board's share of the total purchase price of these acquisitions was \$30 million, with the remaining portion funded by other governmental entities such as the Department of Military Affairs and United States Department of Defense. During the period July 2013 through June 2015, the Board, or the Department as the Board's designee, also approved and closed on 34 State land dispositions (excluding donations and exchanges), totaling 2,682 acres, for a total sales price of \$64.4 million.

Our audit included inquiries of Department personnel and an examination of Department records related to six land acquisitions and six land dispositions that closed during the period July 2013 through June 2015. Details of the land acquisitions and land dispositions examined as part of our audit are summarized in Tables 1 and 2.

**Table 1
Summary of Land Acquisitions Tested**

Property	Approval Date	Closing Date(s)	Acres	Appraised Value(s)	Purchase Price	Purchase Price Per Acre	Board's Share of Purchase Price
Camp Blanding - Raiford Greenway	03/07/13	07/11/13 10/01/13	1,577.07	\$ 2,998,000 2,920,000	\$ 2,100,000	\$ 1,331.58	\$ 600,000
Charlotte Harbor Flatwoods	01/13/15	02/04/15	669.01	4,000,000 3,500,000	3,150,000	4,708.45	3,150,000
Fakahatchee Strand	03/20/15	04/10/15	89.85	161,730	89,850	1,000	89,850
Lake Jackson Mounds State Park	10/21/14	02/27/15	1.00	165,000	165,000	165,000	165,000
Seven Runs Creek	08/20/13	10/30/13	20,800.00	22,256,000 19,500,000	12,500,000	600.96	10,200,000
Southwest Florida Water Management District Bartow Office Building	05/13/14	05/30/14	7.06	1,875,000 1,855,000	1,350,000	191,218.13	1,350,000
Totals			<u>23,143.99</u>		<u>\$19,354,850</u>		<u>\$15,554,850</u>

Source: Department records.

⁵ Section 253.002(1), Florida Statutes, provides that, unless expressly prohibited by law, the Board may delegate to the Department any statutory duty or obligation relating to the acquisition, administration, or disposition of lands, title to which is or will be vested in the Board.

⁶ The 69 State land acquisitions included the Seven Runs Creek conservation easement acquisition of 20,800 acres at a total purchase price of \$12.5 million, \$10.2 million of which was the Board's share.

**Table 2
Summary of Land Dispositions Tested**

County	Approval Date	Closing Date	Acres	Appraised Value	Sale Price	Sale Price Per Acre
Alachua	07/11/13	10/28/13	1.814	\$5,400 to \$6,800	\$ 5,400	\$ 2,976.85
DeSoto	12/09/14	05/13/15	499.50	450,000	2,500,101	5,005.21
Hillsborough	04/22/14	05/23/14	142.72	945,000	803,000	5,626.40
Miami-Dade	04/14/15	04/21/15	81.95	12,300,000	12,300,000	150,091.52
Wakulla	11/24/14	02/18/15	3.00	18,000	18,000	6,000.00
Washington	11/07/13	02/03/14	14.21	133,000	135,000	9,500.35
Totals			<u>743.194</u>		<u>\$15,761,501</u>	

Source: Department records.

FINDINGS AND RECOMMENDATIONS

Finding 1: Subsurface Rights

State law⁷ specifies that, unless the Board chooses not to reserve its subsurface rights, in all contracts and deeds for the sale of land executed by the Board must include an interest in, and title in and to an interest in, all phosphate, minerals, and metals that are or may be in, on, or under the land and an interest in all petroleum that is or may be in, on, or under the land must be reserved for the Board and its successors. Additionally, the 2012 *Supplemental Appraisal Standards for the Board of Trustees (Supplemental Standards)* provided that, if applicable, these rights must be considered in the land valuation.

As part of our audit, we made inquiries of Department personnel and examined Department records for the six land dispositions summarized in Table 2 and noted that the appraisal records for four of the land dispositions (DeSoto, Hillsborough, Miami-Dade, and Washington) did not evidence that applicable subsurface rights were considered in the valuation. In response to our audit inquiry, Department management indicated that appraisers typically did not include in the appraisal report a discussion of the subsurface rights being retained by the State unless their research indicated that value was associated with the subsurface rights. However, absent documentation demonstrating that subsurface rights were considered in the valuation of all land dispositions, the risk that an appraised value may not represent actual market value of the conveyed interests is increased.

Recommendation: Consistent with the *Supplemental Standards* and the property rights being conveyed, we recommend that Department management take steps to ensure that appraisers document their consideration of subsurface rights when making land valuations.

Finding 2: Due Diligence Requirements

In an August 2014 memorandum of agreement (agreement) between the Board and a nonprofit corporation (corporation), the parties agreed that it was in the best interest of the State to cooperate on

⁷ Section 270.11(1), Florida Statutes.

certain aspects of the \$3.15 million Charlotte Harbor Flatwoods land acquisition. Pursuant to the agreement, the corporation was to acquire and pay for all pre-acquisition due diligence services, including applicable timber appraisals, boundary surveys or sketches, title searches, environmental assessments, and any other studies, inspections, or searches deemed necessary by the corporation to accurately value and ascertain the actual condition of the subject property. To allow the Division and Board to rely on the due diligence services obtained by the corporation, the agreement further specified that the corporation was to follow all Division and Board rules and requirements.

The agreement specified that, at the time the corporation requested reimbursement for pre-acquisition costs totaling \$74,105, the corporation was to furnish to the Department satisfactory evidence of payment of the pre-acquisition costs and an affidavit signed by the corporation's Legal Director certifying that all pre-acquisition costs were actual, reasonable, and legally incurred. Additionally, the agreement and Board rules⁸ required the corporation seek through competitive bidding multiple bids for appraisal services.

Our audit procedures disclosed that, contrary to the agreement, the corporation did not provide the Department an affidavit from the corporation's Legal Director certifying that all pre-acquisition costs were actual, reasonable, and legally incurred. Additionally, we noted that, instead of using competitive bidding procedures, the corporation directly solicited the two appraisal services bids. In response to our audit inquiry, Department management indicated that the Department had not established review procedures to verify whether appraisal services are appropriately obtained by third parties.

Absent sufficient review procedures, the Department has reduced assurance that due diligence services, including appraisal services, are appropriately obtained by third parties in accordance with applicable Division and Board rules and requirements.

Recommendation: We recommend that Department management establish procedures to ensure that all required documents and actions associated with land acquisitions transacted by a third party are obtained or made in accordance with applicable Division and Board rules and requirements.

Finding 3: Compliance with Accepted Appraisal Standards

The Department's land acquisition and disposition process relies on appraisals for determining the market value of subject parcels. To determine the market value of subject parcels, appraisers use the following approaches described in *The Appraisal of Real Estate*:⁹

- **Sales Comparison Approach.** This approach estimates the market value of property by comparing similar properties that have recently sold to the property being appraised, identifying appropriate units of comparison, and making adjustments to the sale prices of the comparable properties based on relevant, market-derived elements of comparison.
- **Cost Approach.** This approach estimates the current cost to construct a reproduction of (or replacement for) the existing structure, including a profit or entrepreneurial incentive, deducts depreciation from the total cost, and adds the estimated land value.

⁸ Board Rule 18-1.007(3), Florida Administrative Code.

⁹ Appraisal Institute, *The Appraisal of Real Estate*, 14th Edition.

- **Income Approach – Direct Capitalization.** This approach analyzes a property's capacity to generate future benefits (income) and capitalizes the income into an indication of present or market value.

Additionally, appraisal standards¹⁰ provide that an appraiser must not render services in a careless or negligent manner, such as by making a series of errors that, although individually might not significantly affect the results, in the aggregate affect the credibility of the results.

To determine whether the appraisals used to support the land acquisition and disposition values shown in Tables 1 and 2 were consistent with applicable appraisal standards and Department policies, procedures, and guidelines, we examined Department records for 13 of the appraisals obtained (9 related to the tested acquisitions and 4 related to the tested dispositions) and 4 acquisition appraisal reviews. Our examination disclosed that:

- One of the appraisals for the Charlotte Harbor Flatwoods acquisition (669.01 acres acquired at a purchase price of \$3.15 million) listed five comparable sales. Based on the use of an incorrect formula for making adjustments to the price per acre, an incorrect adjustment was applied to all five comparable sales, resulting in the adjusted prices for the comparable sales being overstated. For example, the appraiser calculated the adjusted price per acre for sales 1 through 5 at \$13,757, \$8,626, \$14,864, \$7,048, and \$9,334, respectively, while the adjusted price per acre, based on the appraiser's stated adjustment, should have been \$12,898, \$8,431, \$13,935, \$6,977, and \$9,240, respectively. However, these errors did not appear large enough to create a material impact on the value conclusion. In response to our audit inquiry, Department management acknowledged that the appropriateness and reasonableness of the appraiser's formula and calculations should have been questioned.

For the same Charlotte Harbor Flatwoods appraisal, an adjusted price in the narrative discussion of the sales comparison approach (\$12,387 per upland acre and \$5,128 per gross acre) was inconsistent with the corresponding adjusted price in the sales summary chart (\$14,864 per upland acre and \$6,154 per gross acre). While this inconsistency may not have affected the overall value conclusion, it is indicative of inattention to detail.

- The second appraisal for the Charlotte Harbor Flatwoods acquisition included inconsistent descriptions. For example, the land size section of the sales summary chart was labeled "Gross/Usable Land Size (acres)" and listed land sizes for both the subject property and each of seven comparable sales. Another section of the chart was labeled "Price per Upland Acre" and listed the price per gross acre for the subject property and six of the comparable sales. For the seventh comparable sale, the price per usable acre was listed. While the last section on the chart was labeled "Price per Lot", the values listed in this section were listed as price per acre. Department management indicated that the use of different descriptors for the unit value being considered was confusing, should have been questioned during the Department's review, and likely contributed to an inconsistent calculation of the comparable sales.
- The two appraisal reports for the Southwest Florida Water Management District Bartow office building acquisition (an improved 7.06 acres acquired at a cost of \$1.35 million) included surplus land. The Appraisal Institute¹¹ defines surplus land as land that is not currently needed to support the existing use but cannot be separated from the property and sold off for another use. Surplus land does not have an independent highest and best use and may or may not contribute value to the improved parcel. However, one appraiser applied the same value per acre to the surplus land as the value estimated for the main portion of the subject property and did not document in the appraisal report the reason for applying the value to the surplus land. In response to our audit

¹⁰ *Uniform Standards of Professional Appraisal Practice*, Standards Rule 1-1(c).

¹¹ *The Dictionary of Real Estate Appraisal*, 6th Edition.

inquiry, Department management indicated that, although the appraiser's analysis could have been more complete, the methodology was acceptable appraisal practice. Notwithstanding Department management's explanation, without an explanation or support for the estimated value of the surplus land, the appraisal appears, in part, incomplete and unsupported, and inconsistent with acceptable appraisal practice. We also noted that the other appraiser added an estimated surplus land value to the value of the main portion of the subject property based on value determined from land sales that did not have the subject property's surplus land restrictions and the appraiser did not adjust for the comparable sales' superior attributes. These practices are inconsistent with appraisal standards.¹²

Also, one of the two appraisals contained several inconsistencies between the sales comparison adjustment chart, narrative discussion of the adjustments, and the sale data sheets. These inconsistencies may have affected the value indications of the comparable sales and the final value conclusion using the sales comparison approach. For example, for comparison properties 1 and 2, the sale summary and analysis section of the report included an upward adjustment for the conditions of sale. For comparison property 1, the report indicated that the sale was a foreclosure, and for comparison property 2, the report indicated that the seller was reportedly anxious to sell and sold at a discounted price. However, the sale data sheets indicated that the conditions of sale were typical open market transactions. In response to our audit inquiry, Department management indicated that, while some minor discrepancies existed, the inconsistencies did not appear to have affected value correlations or the determination of the final value opinion. Additionally, this appraisal lacked the necessary supporting evidence to enable intended users to understand how the appraiser arrived at amounts within the valuation approaches. For example, the appraiser omitted market support for adjustments made to comparable sales in the sales comparison approach for the land value and the market rental rate for the shop building, and the vacancy rate and expenses for the income approach. Department management indicated in response to our audit inquiry that the appraisers and review appraisers providing appraisal services to the Department should understand that all adjustments in a report are to be supported.

A similar finding was noted in our report No. 2012-010 (finding No. 3).

Recommendation: We recommend that the Department exercise greater oversight of appraisers and review appraisers to ensure that adjustments and conclusions are appropriately supported and appraisal reports are complete, accurate, and in compliance with applicable standards.

Finding 4: Incomplete Land Acquisition Documentation

Pursuant to State law,¹³ prior to negotiations with a parcel owner to purchase land, title to which will vest with the Board, an appraisal of the parcel is required and the appraisal fees are required to be paid by the agency proposing the acquisition. Prior to contracting with the agency, each appraiser selected to appraise a parcel is required to submit to the agency an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel. However, our examination of Department records and inquiries of Department personnel disclosed that Department records did not include the required affidavits from five of the nine appraisers who performed the appraisals of the land acquisitions summarized in Table 1. In response to our audit inquiry, Department management indicated that the Department had not established procedures to verify the receipt of affidavits from all appraisers prior to contracting.

¹² *Uniform Standards of Professional Appraisal Practice*, Standard 2-1(b), specifies that each appraisal report must contain sufficient information to enable the intended user of the appraisal to understand the report properly.

¹³ Section 253.025(8)(c), Florida Statutes.

State law¹⁴ also requires any person or entity holding real property in the form of a partnership, limited partnership, corporation, trust, or any form of representative capacity for others to, before entering into any contract whereby real property is conveyed to the State, make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, that states his or her name and address and the name and address of every person having a beneficial interest in the real property. Our examination of Department records and inquiries of Department personnel disclosed that, for the \$89,850 Fakahatchee Strand acquisition, the seller did not provide to the Department the required disclosures regarding beneficial interest in the real property. In response to our audit inquiry, Department management indicated that an oversight during closing resulted in the disclosure not being included as an addendum to the contract and acknowledged that the Department had not established procedures for verifying the receipt of required beneficial interest disclosures.

The submission of required affidavits from all appraisers would provide greater assurance and serve to demonstrate that appraisals are conducted in an independent and impartial manner. Additionally, without the filing of the disclosures required regarding beneficial interests in real property, there is an increased risk that related parties may not be fully disclosed.

Recommendation: We recommend that Department management establish procedures to ensure that, prior to contracting with the Department, appraisers complete affidavits substantiating that they have no vested or fiduciary interest in the parcels being appraised. We also recommend that Department management establish procedures for verifying the receipt of beneficial interest disclosures made in accordance with State law.

Finding 5: Competitive Selection of Appraisal-related Services

Board rules¹⁵ require that, when an agency proposing an acquisition determines that appraisal services are required, the agency is to contact the Bureau of Appraisal and request that appraisal services be obtained. Board rules provide that multiple bids are to be sought through competitive bidding, with the objective of obtaining the best possible services efficiently and at the most reasonable cost. Appraisers are chosen from an approved appraiser list maintained by the Department. As of November 2015, there were 221 appraisers included on the Department's approved appraiser list.

As similarly noted in our report No. 2012-010 (finding No. 6), our examination of Department records and inquiries of Department personnel disclosed that the Department had not established policies and procedures for the acquisition of appraisal-related services. Established policies and procedures, which clearly define the responsibilities of employees, are essential to provide both management and employees guidelines regarding the efficient and consistent conduct of Department operations. In addition, policies and procedures, if properly designed, communicated to employees, and effectively placed in operation, provide management additional assurance that Department activities are conducted in accordance with applicable laws, rules, and regulations.

Additionally, our review of Department appraiser selection practices disclosed that the Department did not always solicit a sufficient number of appraisers to ensure multiple bid responses were received for

¹⁴ Section 286.23(1), Florida Statutes.

¹⁵ Board Rule 18-1.007(3), Florida Administrative Code.

appraisal services. In response to our audit inquiry, Department management indicated that, although no policies and procedures for acquiring appraisal-related services had been established, the Department attempted to include at least three appraisers in each solicitation. Our examination of Department records for ten appraisers selected to perform appraisal services for the land acquisitions and dispositions summarized in Tables 1 and 2 disclosed that the selected appraisers were on the approved appraiser list; however, in two instances, a bid was solicited from only one review appraiser. In response to our audit inquiry, Department management indicated that only one appraiser was solicited due to a short appraisal review response time.

Obtaining appraisal services efficiently and at the most reasonable cost requires that a sufficient number of appraisers are made aware of and given the opportunity to bid on appraisal services. The practice of sending bid requests to a relatively small number of appraisers on the Department's approved list of appraisers with a short response time appears contrary to the intent of Board rules, contributes to instances where two or fewer bids are received, and limits the opportunity for interested and eligible appraisers to participate in the process. In response to our audit inquiry, Department personnel indicated that there may be certain circumstances, such as the recurring need for additional appraisal services in a specific project area or for a specific parcel, for which the Department will not solicit multiple appraisers, and the number of solicitations can be impacted by the number of appraisers who have geographic competency, proficiency in a specific property type, and prior experience with the Department. While we recognize that there may be certain circumstances where it might not be possible to solicit a sufficient number of appraisers, the Department should strive to solicit bids from multiple appraisers to ensure the acquisition of appraisal services in the most economical and efficient manner possible.

Recommendation: We again recommend that Department management establish policies and procedures to ensure compliance with applicable laws and rules pertaining to the acquisition of appraisal services. Such policies and procedures should include the establishment of a minimum number of appraisers that should be solicited for bids to ensure compliance with Board rules.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective actions for the findings included in our report No. 2012-010.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from July 2015 through March 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Department of Environmental Protection (Department) focused on the Department's administration of State land acquisitions and dispositions. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To determine whether management had corrected, or was in the process of correcting, all deficiencies disclosed in our report No. 2012-010.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit we:

- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, and interviewed Department personnel to gain an understanding of Department operations and processes related to State land acquisitions and dispositions.
- Obtained an understanding of Department internal controls and evaluated the effectiveness of key processes, policies, and procedures related to State land acquisitions and dispositions. Specifically, we:
 - From the population of 69 State land acquisitions approved and closed by the Board of Trustees of the Internal Improvement Trust Fund (Board) or its designee during the period July 2013 through June 2015, examined Department records for 6 State land acquisitions to determine whether applicable appraisal standards, Board rules, and Department procedures were followed in acquiring these lands.
 - From the population of 38 State land dispositions approved and closed by the Board or its designee during the period July 2013 through June 2015, examined Department records for 6 State land dispositions to determine whether applicable appraisal standards, Board rules, and Department procedures were followed in disposing of these lands.
- From the population of 221 appraisers approved by the Department as of November 2015, examined Department records for 10 selected appraisers to determine if appraisers were appropriately chosen in accordance with applicable laws, rules, and Department procedures.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 253.025(14), Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

March 1, 2018

Ms. Sherrill F. Norman
Auditor General
Claude Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

Enclosed is the Department's response to the preliminary and tentative findings on the audit of the Department of Environmental Protection, Administration of State Land Acquisitions and Dispositions and Prior Audit Follow-up. Thank you for the opportunity to review and comment on this audit report. If you have questions or require additional information, please contact Candie Fuller, Inspector General, at (850) 245-2548.

Sincerely,

A handwritten signature in black ink, appearing to read "Noah Valenstein".

Noah Valenstein
Secretary

NV/em

Enclosures

cc: David Clark, Deputy Secretary for Land and Recreation
Callie DeHaven, Director, Division of State Lands
Candie Fuller, Inspector General

Department of Environmental Protection
Response to Preliminary and Tentative Audit Findings
Auditor General Audit
January 31, 2018

Administration of State Land Acquisition and Dispositions

This operational audit of the Department of Environmental Protection (Department) focused on the Department's administration of State land acquisitions and dispositions. The audit also included a follow-up on the findings noted in our report No. 2012-101. Those matters requiring continuing corrective action and the recommendation for the action are described below along with the Department's responses.

Finding No. 1: Subsurface Rights

Department records did not always evidence that subsurface rights were considered in the valuation of State land dispositions.

Recommendation: Consistent with the *Supplemental Standards* and the property rights being conveyed, we recommend that Department management take steps to ensure that appraisers document their consideration of subsurface rights when making land valuations.

Agency Response: The Department will remind all appraisers by written notice in the "Scope of Work" - consistent with the Supplemental Standards of Appraisal, they will consider the impact on value due to the presence of, or lack of, subsurface rights and ensure this consideration is documented in their reports when making land valuations.

Finding No. 2: Due Diligence Requirements

For one land acquisition totaling \$3.15 million, the Department did not ensure that the third party responsible for performing due diligence services, including appraisal services, complied with all terms and conditions of the memorandum of agreement related to the services.

Recommendation: We recommend that Department management establish procedures to ensure that all required documents and actions associated with land acquisitions transacted by a third party are obtained or made in accordance with applicable Division and Board rules and requirements.

Agency Response: In this instance, the Department had a delay in completing the documentation requirements for a receipt of an affidavit certifying all pre-acquisition costs were actual, reasonable and legally incurred and that the competitive bid process was followed when appraisers were hired by the third-party. This delay was remedied, and the affidavit was included in the file during the closing process. The Department will follow all applicable Division and Board rules and requirements and develop a checklist protocol for ensuring third parties adhere to their memorandum of agreement.

Finding No. 3: Compliance with Accepted Appraisal Standards

As similarly noted in our report No. 2012-010, some appraisal reports received by the Department included errors and omissions that, while not necessarily material to the value conclusions, demonstrated a lack of attention to detail in the reports and subsequent reviews by review appraisers.

Recommendation: We recommend that the Department exercise greater oversight of appraisers and review appraisers to ensure that adjustments and conclusions are appropriately supported, and appraisal reports are complete, accurate, and in compliance with applicable standards.

Agency Response: The Department will meet with current Staff Appraisers to review the oversights made in the appraisals and appraisal reviews to provide in-house training and how to avoid similar errors and omissions in the future.

Finding No. 4: Incomplete Land Acquisition Documentation

Department records did not always include certain land acquisition documentation required by State law.

Recommendation: We recommend that Department management establish procedures to ensure that, prior to contracting with the Department, appraisers complete affidavits substantiating that they have no vested or fiduciary interest in the parcels being appraised. We also recommend that Department management establish procedures for verifying the receipt of beneficial interest disclosures made in accordance with State law.

Agency Response: Department Staff Appraisers request the signed affidavit from the appraisers when final selections are made, during the contracting process. To ensure greater compliance with the affidavit requirement, "Request for Proposal" (RFP) packages sent out for bids will include language that makes a definitive statement that no contract will be valid, and that no "Notice to Proceed" will be issued, until the Department receives the signed affidavit. For those assignments that the Department does not manage, the appraisal contracts and/or task assignments, we will work with those appraisal service users to ensure the Department receives signed affidavits.

The Bureau of Real Estate Services (BRES) staff has procedures in place for verifying receipt of beneficial interest disclosures. In the recent past, outside vendors were used for small holding acquisitions which included Option Agreement preparation; currently, all acquisitions are being handled internally. Part of BRES' standard procedures include the review of all documents by the Department's Office of the General Counsel.

Finding No. 5: Competitive Selection of Appraisal-related Services

As similarly noted in our report No. 2012-010, the Department did not always solicit bids from multiple appraisers for required appraisal services.

Recommendation: We again recommend that Department management establish policies and procedures to ensure compliance with applicable laws and rules pertaining to

the acquisition of appraisal services. Such policies and procedures should include the establishment of a minimum number of appraisers that should be solicited for bids to ensure compliance with Board rules.

Agency Response: The Department has an established policy of securing professional appraisal services that are the "best bid" on behalf of the Board of Trustees. Such bids are typically the result of sending out RFPs to several (3 or more) qualified appraisers and/or review appraisers. The "best bid" is defined as a bid that demonstrates the appraiser has a solid understanding of the assignment based on their statement of the "Scope of Work", their ability to provide the appraisal product in the most advantageous time frame and at a competitive fee. There are times, although rare, when the Department determines, that the "best bid" will come from bidding to a single appraiser, or perhaps only two appraisers. In such cases, where the appraiser has unique experience and/or knowledge of the project area, the real estate market, neighborhood trends, and has sale data already collected on previous appraisals for the Department, those same appraisers typically should have a shorter proposed completion time and competitive, reasonable fee. The current practice is to get several bids for all assignments, with few exceptions.