



Florida Department of Environmental Protection

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3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

March 24, 2008

Mr. Terry Shoffstall, Staff Director
Joint Legislative Auditing Committee
Room 876
Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1400

Dear Mr. Shoffstall:

Enclosed is the Department's written status of recommendations contained in the Auditor General's audit Land Acquisitions Operational Audit (2008-019). If you have any questions in this regard, please call Joe Aita, Director of Auditing, at 245-3151.

Sincerely,

Pinky G. Hall
Inspector General

Enclosure

PGH/ ksr

**Six-Month Status Letter for the Joint Legislative Auditing Committee
Department of Environmental Protection, Land Acquisitions Operational Audit
Auditor General Report 2008-019 (September 2007)**

FINDING NUMBER 1:

Documentation supporting the Babcock Ranch acquisition gave an appearance of influence of the appraisal amounts by the Department in the establishment of value estimates of contracted fee appraisers.

RECOMMENDATION:

The Department should assure that documentation in its acquisition files is dated and signed by the preparer. Additionally, to avoid any appearance of influence on the appraisal amounts, the documentation should clearly show that any updates or appraisal addendums were based on value estimates made in an unbiased and independent environment by the fee appraisers.

DIVISION:

State Lands

STATUS AS OF MARCH 2008:

The Department does not direct or influence the contracted fee appraiser's opinion of value. To avoid any appearance of influence, the Bureau Chief of Land Acquisition has, as a result of preliminary meetings with Auditor General staff, instituted policies to ensure negotiation information is properly documented. A telephone communication log has been created and is used when speaking with landowners and their representatives. A negotiation strategy must be approved before negotiations start and all offers must be in writing. This log is currently in use with current acquisition projects.

The Auditor General recommends that the documentation show value estimates are made in an unbiased and independent environment by the fee appraisers. The certification in each appraisal update contains this affirmation and certification documentation is included in each appraisal the Department obtains.

The Office of Inspector General found that the recommendation has been implemented.

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Department of Environmental Protection; Land Acquisitions Operational Audit
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FINDING NUMBER 2:

In accepting a \$2,100,000 increase in the approved value for the Norfolk Southern acquisition, the Department relied on appraised values based on a hypothetical condition that was demonstrated in the appraisal reports to be unlikely to occur. Further, Department records should document consideration of the impact of the City of Jacksonville's decision to pay an additional \$5,116,000 for the property on the State's decision to pay the entire maximum amount (\$8,400,000).

RECOMMENDATION:

The Department should review the support for any hypothetical conditions contained in appraisal reports and clearly evidence the basis relied upon in accepting appraisal reports that contain such conditions, particularly when evidence contained in the appraisal report clearly indicates that the hypothetical condition is unlikely to occur. Further, Department records should document consideration of the impact of the City's decision to pay an additional \$5,116,000 for the property on the State's decision to pay the entire maximum amount (\$8,400,000).

DIVISION:

State Lands

STATUS AS OF MARCH 2008:

The Department agrees with the recommendation regarding hypothetical conditions and it is currently in effect. Prior to this audit being initiated, the Department, through the Bureau of Appraisal in July 2005, recognizing the ramifications and importance of the use of either hypothetical conditions or extraordinary assumptions, required that the use of them by a contracted appraiser be pre-approved by the Bureau. Correspondence regarding this requirement was sent to all fee appraisers in June 2004. Current task assignments contain Division direction that appraisals are not to contain extraordinary assumptions of hypothetical conditions unless directed and approved by the Bureau of Appraisal.

Documentation and disclosure regarding the City's payment of an additional \$5,116,000 above the State's maximum approved value is in the Board of Trustees' September 7, 2005 Agenda Item #7. It should be noted the City of Jacksonville independently decided to pay additional monies for the property, demonstrating the importance of the acquisition to the City. The State's costs did not exceed the statutorily approved maximum value. The Department strongly agrees that every effort should be made to avoid paying more than a property is worth. The City's decision to pay the additional money for the property was based on an appraisal the City obtained prior to the State's involvement in the project. A copy of that appraisal was provided to the Department and, upon review, the Department found deficiencies in the City's appraisal.

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The City's appraisal had a market value in excess of \$16,000,000 but was not relied upon by the State. The City's decision was made with a full knowledge of the Department's approved value.

To further clarify the appropriate use of hypothetical conditions, as used in the appraisals, there is an allowable provision of the "Uniform Standards of Professional Appraisal Practice" (USPAP), as follows:

**"Standard Rule 1-2 in developing a real property appraisal, an appraiser must:
(g) Identify any hypothetical conditions necessary in the assignment."**

USPAP continues with the following clarification:

"A hypothetical condition may be used in an assignment only if:

- use of the hypothetical condition is clearly required for legal purposes, for purposes of reasonable analysis, or for purposes of comparison;
- use of the hypothetical condition results in a credible analysis; and
- the appraiser complies with the disclosure requirements set forth in USPAP for hypothetical conditions."

This provision was appropriately used in full compliance with the above description and with a complete understanding by Department staff.

The Office of Inspector General found that the recommendation has been implemented.

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FINDING NUMBER 3:

Inconsistencies and deficiencies in the highest and best use analyses and conclusions of appraisals for the Overstreet Ranch and Tiger Island acquisitions may have impacted the value estimates for those parcels.

RECOMMENDATION:

The Department should exercise greater oversight of appraisal reports to ensure that appraisers' highest and best use analyses and conclusions, as well as valuation analyses, are accurate, thorough, reasonable, and supported by relevant market data.

DIVISION:

State Lands

STATUS AS OF MARCH 2008:

The Department agrees that oversight of the appraisal process and appraisal reports is vital and important to ensure that a fair and reasonable price is paid for acquisitions. The Uniform Standards of Professional Appraisal Practice (USPAP) require an appraiser to conduct an appraisal which is accurate, thorough, reasonable and supported by relevant market data as indicated by the audit finding. As part of the quality control process in the oversight of appraisal reports, the Department hires an independent fee appraiser to review appraisal reports with a value conclusion above \$500,000. The review is conducted conforming to Standard 3 of the USPAP. The review appraiser prepares a report indicating the acceptability of the appraisal and its conformity to the USPAP.

The Bureau of Appraisal closely monitors and manages the appraisal and review process. In most cases, three staff members read the review report and request clarifications, modifications, additional support and/or revisions from the appraiser and/or the review appraiser. In the cases cited in this finding, upon completion of the quality assurance process, the review appraiser and the Bureau of Appraisal staff determined that the appraisals were acceptable.

The Office of Inspector General found that the recommendation has been implemented.

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FINDING NUMBER 4:

There was lack of documentation of the Department's appropriate consideration of the prior sale, the value estimates in the appraisal reports, and the negotiation process of the Three Rivers acquisition.

RECOMMENDATION:

The Department should ensure that appraisals adequately document consideration of prior subject sales and the value of land retained by the seller in negotiating the price for the subject property. The Department should be more diligent in reviewing appraisal and review appraiser reports to ensure that the appraisal reports are properly prepared and documented. Also, the Department and any joint acquisition participants should comply with terms of the joint acquisition agreements concerning documentation of the negotiation process.

DIVISION:

State Lands

STATUS AS OF MARCH 2008:

The Department agrees with the recommendation that prior sales of a subject property be considered and, in fact, appraisal standards require such. However, in the case of the Four Creeks Forest acquisition, the property was only under contract to purchase (the party who would sell to the State did not yet own the property as of the appraisal date). The seller would not disclose and did not provide a copy of the contract and had no obligation to as the contract was between two private parties. Thus, there was no previous sale or reliable information regarding the sale to be considered by the appraisers.

The recommendation is that the Department and any joint acquisition participants should comply with terms of the joint acquisition agreements concerning documentation of the negotiation process. The Department will be diligent in monitoring and enforcing the provisions of joint acquisition agreements. For each Joint acquisition agreement, the Acquisition agent is required to document requests made to the water management district for negotiation records, board approvals, contract agreements and other related records.

The Office of Inspector General found that the recommendation has been implemented.