

# DEPARTMENT OF CITRUS

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## Operational Audit



## FLORIDA CITRUS COMMISSION

Pursuant to Section 601.03(13), Florida Statutes, the Florida Citrus Commission is the head of the Department of Citrus and is composed of 12 Commissioners appointed to 3-year terms by the Governor, subject to confirmation by the Senate. The following Commission members served during the period of our audit:

Benny W. Albritton, Jr., Chair	Michael W. Haycock
Wesley Brumback, to May 31, 2009	Virginia S. Pena
Robert M. Behr	Steven M. Smith
Michael L. Carrere	Victor B. Story, Jr., from June 1, 2009
E. Stanley Carter	George H. Streetman, Vice Chair
Cody Estes, Sr., to May 31, 2009	Michael O. Taylor
Michael J. Garavaglia, Jr., from June 1, 2009	David P. Wheeler

Pursuant to Section 601.10(3), Florida Statutes, the Department of Citrus may employ an executive director. During the period of our audit, Kenneth Keck served as Executive Director and was responsible for directing, planning, and administering the overall activities of the Department.

The audit team leader was Gregory J. Lemieux, CPA, and the audit was supervised by David A. Blanton, CPA. Please address inquiries regarding this report to Sherrill F. Norman, CPA, Audit Manager, by e-mail at [sherrillnorman@aud.state.fl.us](mailto:sherrillnorman@aud.state.fl.us) or by telephone at (850) 487-9316.

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## DEPARTMENT OF CITRUS

### Operational Audit

#### SUMMARY

**This operational audit of the Department of Citrus focused on the procurement of contractual services, selected contract management procedures, expenditures, revenue processing, and other selected administrative matters. The audit also included a follow-up on the prior audit finding.**

**Finding No. 1: Department records did not demonstrate compliance with State law for a \$1.69 million contract awarded without competition.**

#### BACKGROUND

The Florida Citrus Code<sup>1</sup> created the Florida Department of Citrus to regulate, conduct research for, and promote Florida's citrus industry. The Department is also responsible for implementing the policies of the Florida Citrus Commission (FCC), which serves as the Department head. The Department maintained its executive offices at Lakeland, Florida, until February 20, 2010, when the offices were moved to Bartow, Florida.

The Department's primary sources of revenue are Federal grants and an excise tax placed on each box of citrus moved by Florida growers through commercial channels. For the 2009-10 fiscal year, the Legislature appropriated \$66.8 million to the Department. Of this amount, the Department's 2009-10 fiscal year operating budget provided 65.4 percent for products marketing, 28.3 percent for citrus research, and 6.3 percent for executive direction and support services. The citrus research activities funded by the Department included marketing research (e.g., consumer purchasing data analyses, studies to track the effectiveness of advertising and analyze consumer awareness and attitudes toward citrus products, and consumer taste tests) and scientific research (e.g., development of methods and strategies to improve tree management and combat citrus canker and greening<sup>2</sup>).

#### FINDING AND RECOMMENDATION

According to Department records, during the period July 2008 through February 2010, the Department made payments to independent contractors totaling approximately \$66.4 million. Of this amount, approximately \$18 million related to 113 contracts classified in Department accounting records as research, approximately \$38.3 million related to 20 contracts classified as promotional advertising, and the remaining \$10.1 million related to promotional advertising and research expenditures not referenced in the Department's accounting records to a particular contract and various consulting, legal, and other contracts. In addition to the independent contractor payments totaling \$66.4 million, Department records show that during the period July 2008 through February 2010, \$10.2 million was exchanged for foreign currency to pay foreign promotional advertising contractors, and \$111,432 was paid to contractors as reimbursement for travel expenses directly related to a research or promotional advertising contract.

<sup>1</sup> Chapter 601, Florida Statutes.

<sup>2</sup> Citrus canker is a bacterial disease that causes premature leaf and fruit drop. Citrus greening (Huanglongbing) is a bacterial disease that attaches to the plant's vascular system, ultimately killing the plant.

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**Finding No. 1: Competitive Procurement**

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Pursuant to State law,<sup>3</sup> when the purchase price of commodities or contractual services exceeds the \$25,000 threshold amount for category two (\$35,000, effective July 1, 2010), no purchase of commodities or contractual services may be made without receiving competitive sealed bids or proposals, unless certain conditions are met. As part of our audit, we examined the procurement documentation for ten contracts entered into by the Department during the period July 2008 through February 2010 to determine whether the Department procured the applicable goods or services in accordance with State laws, rules, and other applicable guidelines. Six of the ten contracts included in our testing were identified by the Department as single source procurements authorized pursuant to State law<sup>4</sup> and the contract file documentation included appropriate Department of Management Services (DMS) approval or Department management's justification for the lack of competitive procurement. The documentation for the other four contracts indicated that the Department had requested proposals from prospective vendors.

The Department received more than one proposal in response to the request for proposals (RFPs) for three of the four contracts, and each response was subjected to an evaluation process whereby three Department evaluators rated each respondent's proposal based on applicable criteria such as price, experience, and payment terms. However, for the fourth contract, the Department received only one proposal in response to the RFP which related to new citrus varieties development and management services. Details of the procurement activities related to this contract, with New Varieties Development and Management Corporation (NVDMC), and selected proposal information are described below:

- The proposal was dated July 22, 2009, and was provided by NVDMC, the only vendor who had been directly e-mailed the RFP notification. The proposal described various activities to be supported by NVDMC, including:
  - Sponsor research projects.
  - Facilitate a more rapid and transparent quarantine process.
  - Sponsor efforts to reduce the juvenility period of new variety selections.
  - Establish close working relationships with other citrus breeding programs – public and private.
  - Establish and maintain close professional relationships with for-profit entities in the business of commercializing and managing protected cultivars.
  - Seek contractual relationships with research teams that will produce results and access to end-products.
  - Explore other production areas worldwide.
  - Serve as liaison between all State, Federal, and private entities that contribute to variety development, evaluation, and introduction in Florida.
  - Get seedless California mandarin selections into Florida trials and negotiate favorable terms on high performers.
  - Establish and maintain one main variety evaluation block for new citrus selections and forge private partnerships with commercial cooperators to do same.
  - Continue to work with the United States Department of Agriculture (USDA) to defer variety commercialization decisions to the states and to establish a means by which domestic producers have a competitive advantage.

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<sup>3</sup> Section 287.057(5), Florida Statutes (2009).

<sup>4</sup> Section 287.057(5)(c), Florida Statutes (2009).

- Work toward greater cooperation and coordination among citrus producing states with regard to variety issues.
- On August 10, 2009, the NVDMC proposal was subjected by the Department to an evaluation whereby three evaluators rated NVDMC’s price, experience, proposed services, payment terms, and financial controls.
- On September 29, 2009, the Department awarded to NVDMC a 3-year contract the total amount of which was not to exceed \$1,690,500 (\$613,500, \$528,500, and \$548,500 for the 2009-10, 2010-11, and 2011-12 fiscal years, respectively). The cost section of the NVDMC proposal identified the budget summary as shown in Table 1:

**Table 1**  
**New Citrus Varieties Development and Management Services Proposal**

Fiscal Year	Fixed and Administrative	Research and Support	Totals
2009-10	\$ 95,000	\$ 518,500	\$ 613,500
2010-11	\$ 95,000	\$ 433,500	\$ 528,500
2011-12	\$115,000	\$ 433,500	\$ 548,500
<b>Totals</b>	<b>\$305,000</b>	<b>\$1,385,500</b>	<b>\$1,690,500</b>

Pursuant to State law,<sup>5</sup> if fewer than two responsive proposals are received for a contractual services purchase, the Department may negotiate the best terms and conditions for the services. However, the Department is to document the reasons that such action is in the best interest of the State in lieu of resolicitation for the services. Additionally, the Department is required to report all such actions to DMS on a quarterly basis. When the amount of a contract for services available from a single source exceeds the \$150,000 threshold for category four (\$195,000, effective July 1, 2010), the Department is also required to request DMS approval prior to contracting.<sup>6</sup> Further, State law requires that when funding is awarded on a noncompetitive basis, the rate of payment may not exceed the competitive prevailing rate for services.<sup>7</sup>

With respect to this contract procurement, our examination of the Department’s compliance with statutes governing the award of the contract disclosed:

- On July 6, 2009, the Department issued the RFP soliciting services for the development and management of new citrus varieties for the benefit of the Florida citrus growers and the citrus industry. The Department advertised the RFP on the Vendor Bid System<sup>8</sup> and e-mailed notification of the RFP to one vendor, NVDMC, blind-copying the e-mail to five individuals representing various citrus industry organizations. As of the RFP closing date, August 4, 2009, the Department had received only the NVDMC proposal in response. Providing direct notification of the RFP to additional potential vendors may have produced additional proposals and increased competition.
- As the procurement of this contract did not meet the definition of a competitive procurement as defined by State law,<sup>9</sup> single source procurement laws and rules were applicable. However, contrary to the governing statute, the Department did not document the reasons why it was in the best interest of the State for the Department to award the contract to NVDMC rather than resolicit for the services; the Department failed to

<sup>5</sup> Section 287.057(6), Florida Statutes (2009).

<sup>6</sup> Section 287.057(5)(c)2., Florida Statutes (2009).

<sup>7</sup> Section 216.3475, Florida Statutes.

<sup>8</sup> The DMS’ Vendor Bid System is a Web-based application that provides vendor access to posted State agency bid solicitations, including RFPs.

<sup>9</sup> Section 287.012(6), Florida Statutes.

obtain prior approval from DMS; and Department records were not available to demonstrate that the rate of payment did not exceed the competitive prevailing rate for services. In addition, the Department failed to quarterly report the lack of resolicitation to DMS. In response to our audit inquiries, Department management asserted that due diligence was conducted by the Department in the solicitation of the contract and that NVDMC’s successes and proven capability in providing services related to the development and management of new citrus varieties<sup>10</sup> served as explanation for the Department not resoliciting for the services. Department management also provided that the Department’s purchasing director had only been in the position for 10 months at the time the NVDMC proposal was received and was not aware of the DMS reporting requirement. Further, Department management indicated that the fixed and administrative costs in the contract (\$95,000 for the 2009-10 and 2010-11 fiscal years and \$115,000 for the 2011-12 fiscal year) were lower than those of a similar contract.<sup>11</sup>

Absent compliance with applicable legal requirements and a demonstration thereof in the records of the Department, there is reduced assurance that contractual services are obtained in a manner and at a price that serves the best interest of the State.

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**Recommendation:** We recommend that the Department ensure that adequate training be provided to employees involved in the State procurement process and maintain documentation in Department records to demonstrate compliance with State procurement laws.

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**PRIOR AUDIT FOLLOW-UP**

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As part of our audit, we determined that the Department had corrected, or was in the process of correcting, the finding in report No. 2009-013.

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**OBJECTIVES, SCOPE, AND METHODOLOGY**

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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 March to November 2010 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 focused on the procurement and management of contractual services, expenditures, revenue processing, and other selected administrative matters and included a follow-up on the prior audit finding related to the security of confidential records. The overall objectives of the audit were:

- To 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 relevance and reliability of records and reports; and the safeguarding of assets.

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<sup>10</sup> The Department had previously, in September 2006, entered into a 3-year contract totaling \$470,000 with NVDMC for similar services.

<sup>11</sup> The referenced contract, a 16-month contract in the amount of \$134,667 with the Florida Citrus Industry Research Coordinating Council (FCIRCC), limited payments for administration, overhead, and FCIRCC performance expenses to \$101,000 during any 12-month period.

- To evaluate management's performance in achieving compliance with controlling laws, administrative rules, and other guidelines; the economic, efficient, and effective operation of State government; the relevance and reliability of records and reports; and the safeguarding of assets.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all applicable deficiencies disclosed in report No. 2009-013.

In conducting our audit, we:

- Interviewed selected Department staff and reviewed Department policies and procedures.
- Obtained an understanding of internal controls, and observed, documented, and tested the effectiveness of key processes and procedures.
- Examined Department records related to 15 contracts totaling \$9.27 million to determine the accuracy and completeness of the Department's contract listings and applicable contract payment control sheets.
- Determined whether the Department had established controls to reasonably ensure that goods and services were procured in accordance with applicable laws and rules. In making this determination, we examined documentation for Department procurements made during the period July 2008 through March 2010 relating to:
  - Six sole source procurements totaling \$1,448,277.
  - Three competitive procurements of contractual services totaling \$2,373,500.
  - One competitive procurement for equipment (a gas chromatograph) totaling \$78,550.
- Examined 9 cost estimates totaling \$7.3 million that had been prepared by advertising and promotional contract agencies and approved by the Department to determine whether the cost estimates included sufficiently detailed information to allow for proper monitoring.
- Determined whether selected expenditures were adequately documented; made in accordance with applicable laws, rules, and contract terms; properly authorized and approved; and in the correct amounts. Specifically, for Department purchasing card transactions and promotional advertising, research, and travel expenditures totaling approximately \$65.3 million during the period July 2008 through February 2010 and Bartow office renovation expenditures through May 2010, we examined:
  - From the population of promotional advertising expenditures totaling \$45,955,326, documentation related to payments totaling \$2,231,402 made to 15 advertising and promotions vendors and 15 invoices totaling \$619,785 for commercial advertising airtime purchased by the Department.
  - From the population of research expenditures totaling \$18,578,729, documentation related to ten payments totaling \$1,249,695 made to scientific research providers.
  - From the population of purchasing card transactions totaling \$444,516, documentation related to ten transactions totaling \$30,606.
  - From the population of travel expenditures totaling \$332,412, documentation related to 15 expenditures totaling \$14,033.
  - Documentation relating to expenditures for the renovation of and relocation to the Bartow office building totaling \$635,822.
- Examined the records related to 17 tangible personal property items acquired during the period July 2008 through March 2010 and costing \$341,650 to determine whether the Department timely recorded the items in Department property records.

- Examined documentation supporting the Department's annual physical inventory of tangible personal property to determine whether inventory was conducted in accordance with applicable laws and rules and that the Department had reconciled the inventory results to the property records.
- Examined Department documentation to verify that purchasing cards were timely canceled for the three cardholders who separated from the Department during the period July 2008 through March 2010.
- Examined payments for unused leave credit balances made to the six employees who separated from the Department during the period July 2008 through March 2010 to determine whether the terminal leave payment calculations were accurate and adequately supported and that the payments were made in accordance with applicable laws and rules.
- Examined Department documentation to verify that, for the six employees who separated from the Department during the period July 2008 through March 2010, the Department had timely removed the employees' access to Department resources, including information technology data and resources.
- Examined the personnel files for 4 of the 11 temporary workers employed by the Department during the period July 2008 through March 2010 to determine whether the Department had documented verification of the workers' qualifications.
- From the population of tax receipts totaling \$69,625,521 during the period July 2008 through February 2010, examined documentation supporting ten tax receipts totaling \$10,935,122 to determine whether the related taxes were properly calculated in accordance with law and to verify that the related transactions were authorized, accurate, complete, and properly accounted for by the Department.
- Examined the Department's audit plan to determine whether the method used for selecting citrus processors for audit during the period July 2008 through March 2010 was consistent with established procedures.
- Evaluated the sufficiency of the Department's tax audit process including the audit programs used, audit procedure documentation, and evidence of Department actions taken to follow-up on required corrective actions .
- Examined the 2008-09 fiscal year annual travel report required by Section 601.99035, Florida Statutes, to verify the completeness, accuracy, and timeliness of the report.
- Performed procedures to verify that the Department had taken appropriate actions to correct the finding noted in report No. 2009-013 regarding the Department's collection of social security numbers and security of confidential records.
- 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 those matters requiring corrective actions.

**AUTHORITY**

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a biennial basis. 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'S RESPONSE**

In a response letter dated March 1, 2011, the Executive Director of the Department of Citrus generally concurred with our audit finding and recommendation. The Executive Director's response is included as **EXHIBIT A**.

EXHIBIT A  
MANAGEMENT'S RESPONSE



STATE OF FLORIDA  
DEPARTMENT OF CITRUS

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GEORGE H. STREETMAN  
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March 1, 2011

Mr. David W. Martin  
Auditor General, State of Florida  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450

Dear Mr. Martin:

We have received the list of preliminary and tentative findings and recommendations regarding the operational audit of the Department of Citrus for the period July 2008 through February 2010. Your staff was very thorough and professional during the audit process. We are extremely pleased that only one tentative finding was noted in your report, and have made the appropriate change, but we are disappointed that it met your finding criteria at all.

The Department of Citrus takes pride in our competitive procurement process, and that process has full support of executive management. Additionally, Section 601.10(6) F.S. requires the Florida Citrus Commission to approve all contracts in a public meeting prior to execution by the executive director. The full Commission receives a written summary, the contract, and a presentation on each recommended contract, including a description of the procurement method, before approval is given.

As reported by your office, nine out of ten contracts tested during this audit period were sufficiently documented. Six contracts were appropriately identified and documented as single source; four contracts were procured through the State of Florida Vendor Bid System, with one receiving only one response. As noted in your report, the Department had notified five citrus industry organizations of the request for proposal to extend the competitive field for this contract. Four of these groups are directly involved in citrus research and are considered reliable resources to further distribute the request for proposal or submit a proposal themselves. The organizations receiving the RFP were the Florida Foundation Seed Producers and the Citrus Research and Development Foundation (both Direct Support Organizations of the University of Florida); Florida Citrus Industry Research Coordinating Council, Florida Citrus Production Research Advisory Council, and Florida Citrus Mutual.

With only one proposal received, the Department forged ahead with the Commission approval process to execute the contract with the incumbent vendor who had performed to the satisfaction of the citrus industry in the management of the new variety development. The finding identifies one statutorily required notification step that was not completed; our procurement process now includes the consideration of Section 287.057(5) F.S. In the future, all proposals receiving only one response to the request for proposal will be reported to Department of Management Services in the manner and form prescribed by the department.

We appreciate the opportunity to respond and will use the recommendation to strengthen our controls and procedures.

Sincerely,

Ken Keck  
Executive Director

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Grow the market for the Florida citrus industry to enhance the economic well-being  
of the Florida citrus grower, citrus industry and State of Florida.

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