

DEPARTMENT OF TRANSPORTATION

**PROCUREMENT AND EXPENDITURES AND
PRIOR AUDIT FOLLOW-UP**

Operational Audit



SECRETARY OF THE DEPARTMENT OF TRANSPORTATION

The Department of Transportation is created by Section 20.23, Florida Statutes. The head of the Department is the Secretary who is appointed by the Governor subject to confirmation by the Senate. During the period of our audit, Stephanie C. Kopelousos served as Secretary.

The audit team leader was Joshua Barrett and the audit was supervised by David R. Vick, 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 at (850) 487-4494.

This report and other reports prepared by the Auditor General can be obtained on our Web site at www.myflorida.com/audgen; by telephone at (850) 487-9175; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

DEPARTMENT OF TRANSPORTATION

Procurement and Expenditures and Prior Audit Follow-Up

SUMMARY

This operational audit of the Department of Transportation (Department) focused on procurement and expenditures and included a follow-up on findings included in audit report No. 2009-093.

Finding No. 1: The procedures established by the Department to ensure that all staff involved in the procurement of goods and services are free from conflicts of interest require enhancement.

Finding No. 2: Improvements continue to be needed in the Department's administration of its responsibilities under the Florida Single Audit Act.

Except as discussed in finding No. 2, Department staff had taken corrective actions for the findings included in audit report No. 2009-093.

BACKGROUND

The Department's mission is to provide a safe, Statewide transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of the environment and communities. The Department is created pursuant to 20.23(5)(a), Florida Statutes, as a decentralized organization with seven Districts responsible for the operations of the Department within those districts. The Central Office is responsible for establishing Departmental policies, rules, and procedures and for ensuring uniform compliance and quality performance.

State and Federal law, Department of Management Services (DMS) Rules, and Department procedures govern the Department's procurement of goods and services.¹ The Department utilizes the State's e-procurement system, MyFloridaMarketPlace (MFMP), to procure supplies, commodities, and tangible personal property, and also to competitively procure contractual services, when applicable. Total Department expenditures for the 2009-10 fiscal year totaled \$5.4 billion.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Conflict of Interest Certification Forms

Department procedures require all staff involved in the procurement process to sign a Conflict of Interest Certification form attesting that they have no conflicts of interest in relation to contractors or consultants. Specifically, Department procedures required that the Conflict of Interest Certification forms be executed and kept on file in the procurement unit for each Department employee involved in the development of the specifications, scope of work, or criteria to be used for bid evaluation; the evaluation process; or the award process for all procurements of commodities or services costing more than \$25,000.²

¹ Chapters 287 and 337, Florida Statutes; DMS Rules, Chapter 60A-1, Florida Administrative Code; and Department Procedure Topic No. 375-000-001-t *District Contracts*, No. 375-030-002-j *Acquisition of Professional Services*, No. 375-040-020-l *Procurement of Commodities and Contractual Services*, and No. 350-090-310-j *Tangible Personal Property*.

² Department procedures are linked to the dollar threshold for purchasing Category Two as defined in Section 287.017, Florida Statutes. Effective July 1, 2010, the Category Two threshold amount was increased to \$35,000.

Our tests of Department procedures and six selected competitively procured contracts and five supply and commodity purchases, disclosed the following:

- While Department procurement procedures required procurement staff to complete and sign a Conflict of Interest Certification form, the procedures did not require staff to periodically update the forms.
- For one of the six competitively procured contracts that we reviewed, totaling approximately \$4.6 million for road resurfacing and improvements, Conflict of Interest Certification forms were not on file for two staff involved with the procurement. These two procurement staff were responsible for verifying that potential bidders had the financial capacity to cover the contract amount for the prospective project. According to Department policy, if a company's financial capacity is judged to be inadequate, the Department will not submit bid documents to the bidder.
- For two of the five competitively procured purchases of supplies and commodities, we noted that Conflict of Interest Certification forms were not on file for some staff involved in the procurement process. Specifically:
 - For one procurement of asphalt mix totaling \$40,170, the Department was unable to locate a Conflict of Interest Certification form for one of the involved staff members. On June 30, 2010, subsequent to our audit inquiry, the staff member completed and signed a form.
 - One computer software procurement totaling approximately \$1.2 million was accomplished through a DMS alternate source contract that required requests for quotes be provided to United States General Services Administration Schedule 70 contractors. Our review of the alternate source contract file disclosed that the Department had obtained three quotes from Schedule 70 contractors and, in accordance with Department procedures,³ should have required Conflict of Interest Certification forms from staff involved in the procurement. However, for two staff members, completed Conflict of Interest Certification Forms were not on file. On July 7, 2010, subsequent to our audit inquiry, the forms were completed.

Absent completed Conflict of Interest Certification forms from personnel involved in the procurement process and procedures that require the forms to be periodically updated, the Department's ability to timely identify potential staff conflicts of interest is reduced.

Recommendation: We recommend the Department management monitor the completion of Conflict of Interest Certification forms by all staff involved in the procurement process. Additionally, since the relationships affecting procurement staff could change over time, we recommend that all staff involved with the procurement process be required to periodically update their Conflict of Interest Certification forms.

Finding No. 2: State Financial Assistance

State Financial Assistance (SFA) is financial assistance provided from State resources to non-State entities to carry out a State project. SFA is to be administered in accordance with the Florida Single Audit Act (FSAA).⁴

The FSAA identifies the responsibilities of various entities involved in the FSAA process, including those of the Department of Financial Services (DFS) and the State agencies that award SFA to recipients. One of the responsibilities assigned to State awarding agencies, such as the Department, is the maintenance of accurate and complete accounting records showing the amounts of SFA disbursed to non-State entities. Other significant responsibilities are those relating to the review of recipient Financial Reporting Packages (FRPs)⁵ to determine

³ Procedure Topic No. 375-040-020-1, *Procurement of Commodities and Contractual Services*.

⁴ Section 215.97, Florida Statutes.

⁵ Section 215.97(2)(e), Florida Statutes, requires that, at a minimum, the FRP should include the recipients' financial statements, Schedule of Expenditures for SFA, auditor's reports, management letter, auditee's written responses or corrective action plan, and correspondence on follow-up of prior years' corrective actions taken.

whether SFA has been accounted for and reported by the non-State entity and whether timely and appropriate corrective action has been taken with respect to any audit findings and recommendations. The Department assigned to District liaisons the responsibility for meeting the Department's responsibilities under the FSAA. District liaisons were responsible for ensuring that Department accounting records accurately identified SFA disbursed to non-State entities, all FRPs were timely received and reviewed, and recipients appropriately implemented corrective actions.

We performed various reviews and analyses of Department records applicable to the Department's administration of its FSAA responsibilities. Our tests disclosed the following:

- To identify SFA disbursed to non-State entities, DFS and Department procedures required that in the Department's accounting records, SFA be classified according to the applicable State project, as shown by the Catalog of State Financial Assistance (CSFA) number, and by expenditure object code (75xx). Our tests disclosed that the Department did not have effective controls in place to ensure that SFA was appropriately classified according to the applicable expenditure object code. As shown by **EXHIBIT A**, a comparison of the amounts recorded as State projects, totaling \$958 million, to the amounts recorded as SFA (expenditure object code 75xx) disclosed State project charges totaling \$108 million that had been recorded in expenditure object code accounts other than object code 75xx. Based on our examination of Department records relating to \$68.3 million of the \$108 million, \$57.1 million (84 percent) should have been recorded as expenditure object code 75xx. Adherence to a uniform coding structure is important because it provides a means to readily identify and report the amount of SFA provided to non-State entities. Inconsistent use of uniform SFA accounting conventions prevents the accurate determination of the amount of SFA provided to non-State entities and, therefore, may limit the Department's ability to fully discharge its responsibilities under the FSAA. Inaccurate coding of expenditures may also result in inaccurate financial and budgetary reporting.
- Based on our analysis of the Department's database of information relating to the receipt and review of FRPs, we identified 1,089 FRPs that were due from recipients during the period July 2008 through February 2010. Our analysis of the timeliness of the receipt and review of those FRPs disclosed that:
 - FRPs are due within 12 months of the SFA recipient's fiscal year end. The Department did not receive 105 FRPs within 12 months of the applicable recipient's fiscal year end. The SFA disbursed to these recipients totaled approximately \$74.6 million. Our examination of 10 FRPs that were not received within 12 months disclosed that, for 7 FRPs, no documentation was available to demonstrate that the Department had communicated with the recipient to obtain the FRP. In response to a similar finding in audit report No. 2009-093, Department management described a plan to create a standard reminder letter. On July 28, 2010, the Department implemented a standard reminder letter process.
 - Department procedures require that FRPs be reviewed by Department staff within 6 months of receipt. Department staff had not reviewed 101 FRPs within 6 months of receipt. The SFA disbursed to the recipients that submitted these FRPs totaled approximately \$65.8 million. In explanation, Department staff indicated that new employees were unaware of the 6-month review period, vacancies impacted the Department's ability to timely complete the review, or the related SFA expenditures were not appropriately recorded as SFA.

Untimely receipt and review of FRPs reduces the Department's assurance that SFA has been properly administered by recipients and that any deficiencies in legal compliance or controls were timely identified and resolved. Similar findings were noted in audit report No. 2009-093.

Recommendation: We again recommend that the Department take steps to ensure the proper recording of SFA in Department accounting records and the timely receipt and review of FRPs.

PRIOR AUDIT FOLLOW-UP

Except as discussed in finding No. 2, Department staff had taken corrective actions for the findings included in audit report No. 2009-093.

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 December 2009 to October 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 procurement and expenditures and included a follow-up on prior audit findings. 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.
- 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 Department management had corrected, or was in the process of correcting, all applicable deficiencies disclosed in our audit report No. 2009-093.

In conducting our audit we:

- Obtained an understanding of Department internal controls over the procurement and expenditure processes, and evaluated whether selected controls were appropriately designed, implemented, and operating effectively.
- Examined Department records for 40 procurements totaling \$107,356,806 made during the period July 2008 through February 2010 for contractual services, supplies and commodities, tangible personal property, and fixed capital outlay to determine whether goods and services were procured in accordance with governing laws, rules, and Department policy, and served an authorized purpose of the State.⁶
- Tested 200 expenditure transactions totaling \$32,970,324 incurred during the period July 2008 through December 2009 for contractual services, supplies and commodities, tangible personal property, travel, fixed capital outlay, and general administration and operations, to determine whether the Department:
 - Purchased goods and services in accordance with governing laws, rules, and Department policy.
 - Ensured that goods and services served an authorized purpose of the State and were procured at a reasonable and necessary cost.

⁶ Departmental financial transactions are also included within the scope of our annual financial audit of the State of Florida's financial statements. In addition, the Highway Planning and Construction Cluster (CFDA Nos. 20.205 and 20.219) administered by the Department, with total Federally funded expenditures in excess of \$1.5 billion, was included within the scope of our audit of 2008-09 and 2009-10 fiscal year Federal awards.

- Ensured that transactions recorded in the Florida Accounting Information Resource Subsystem (FLAIR) were accurate, authorized, timely recorded, correctly coded (i.e., appropriate funding source, fiscal period, object code, etc.), and supported by adequate documentation.
- Evaluated the Department’s corrective actions taken to resolve the findings disclosed in audit report No. 2009-093. Specifically, we:
 - Evaluated the Department’s efforts to accomplish its Florida Single Audit Act responsibilities.
 - Analyzed the process developed by the Department to ensure that the annual cap for contracting highway projects using innovative techniques was not exceeded.
 - Evaluated Department processes to ensure that the FLAIR access of terminated employee’s was timely removed.
- 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 April 15, 2011, the Acting Secretary of the Department concurred with our audit findings and recommendations. The letter is included as **EXHIBIT B**. Supportive documentation was referenced in the response that constitutes public records of the Department. These documents were not reproduced in this report.

EXHIBIT A
STATE PROJECT EXPENDITURES CLASSIFIED BY STATE PROJECT AND OBJECT CODE
FOR THE PERIOD JULY 2008 THROUGH FEBRUARY 2010

State Project Charges Classified by Catalog of State Financial Assistance (CSFA) Number		
CSFA No.	State Project Description	Amount
55.001	Commission for the Transportation Disadvantaged Trip & Equipment Grant Program	\$ 58,846,664
55.002	Commission for the Transportation Disadvantaged Planning Grant Program	2,511,761
55.003	Florida Highway Beautification Council Grants	2,962,989
55.004	Aviation Development Grants	243,823,147
55.005	Seaport Grants	74,120,596
55.006	Seaport Transportation & Economic Development Program	5,837,451
55.007	Commuter Assistance/Rideshare Grants	12,531,619
55.008	County Incentive Grant Program	54,004,064
55.009	Small County Outreach Program	64,442,821
55.010	Public Transit Block Grant Program	87,500,577
55.011	Park & Ride Lot Program	1,719,861
55.012	Public Transit Service Development Program	10,290,920
55.013	Transit Corridor Program	16,167,521
55.014	Intermodal Development Program	42,016,276
55.015	Seaport Access	2,629,020
55.016	Small County Road Assistance Program	39,862,094
55.017	New Starts Transit Program	11,805,576
55.018	South Florida Regional Transportation Authority Operating & Capital Assistance Program	24,446,467
55.019	Toll Facilities Revolving Trust Fund	295,992
55.020	State Infrastructure Bank	51,309,658
55.021	Rail Development Grants	4,286,009
55.022	Transportation Outreach Program	5,023,450
55.023	State Highway Project Reimbursement	25,407,662
55.026	Transportation Regional Incentive Program	115,395,302
55.028	Tampa Bay Area Regional Transportation Authority	588,929
	Total State Project Charges	<u>\$957,826,426</u>

State Project Charges by Expenditure Object Code		
Object Code	Object Code Description	Amount
13xx	Personal Services - Independent Contracts	\$ 8,171,534
24xx	Repairs & Maintenance	3,125
26xx	Current Charges - Travel	16,132
51xx	Tangible Personal Property	38,127
56xx	Real Property	2,950,820
71xx	Aid to Municipalities	1,012,764
73xx	Aid to Counties	69,104
79xx	Grants & Distributions-Other	94,775,020
81xx	Distributions & Transfers	914,474
	Total State Project Charges – Object Codes Other Than 75xx	\$ 107,951,100
75xx	State Financial Assistance	<u>\$849,875,326</u>
	Total State Project Charges	<u>\$957,826,426</u>

Source: Department FLAIR records.

EXHIBIT B
MANAGEMENT'S RESPONSE



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

OFFICE OF THE
SECRETARY

April 15, 2011

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

Dear Mr. Martin:

I am pleased to respond to the preliminary and tentative audit findings and recommendations concerning the audit of:

Procurement and Expenditures and Prior Audit Follow-up
July 1, 2008 – February 28, 2010

As required by Section 11.45(4)(d), Florida Statutes, our responses to the findings are enclosed.

I appreciate the efforts of you and your staff in assisting to improve our operations. If you have any questions, please contact our Inspector General, Bob Clift, at 850-410-5800.

Sincerely,

Francis B. Gibbs
Acting Secretary

FBG:tw

Enclosure

cc: Robert E. Clift, Inspector General

www.dot.state.fl.us

EXHIBIT B
MANAGEMENT'S RESPONSE (CONTINUED)

FLORIDA DEPARTMENT OF TRANSPORTATION

**Response to the Auditor General's
Preliminary and Tentative Audit Findings and Recommendations**

**Procurement and Expenditures and Prior Audit Follow-up
July 1, 2008 – February 28, 2010**

Finding No. 1: Conflict of Interest Certification Forms

The procedures established by the Department to ensure that all staff involved in the procurement of goods and services are free from conflicts of interest require enhancement.

Recommendation: We recommend the Department management monitor the completion of Conflict of Interest Certification forms by all staff involved in the procurement process. Additionally, since the relationships affecting procurement staff could change over time, we recommend that all staff involved with the procurement process be required to periodically update their Conflict of Interest Certification forms.

Management Response: We concur with the findings. During the time-frame of August – December 2010, Department Senior Management visited district offices statewide, to review processes and identify best practices for benchmarking. Periodic updates of Conflict of Interest Certification forms was identified as a best practice to be implemented on a statewide basis. This recommendation was discussed with Department District Secretaries, and all agreed to significantly modify the requirements on how frequently the Conflict of Interest Forms would need to be updated by Technical Review and Awards Committee members, Selection Committee members, and Procurement Office contracting staff directly involved in the contract acquisition process.

Effective February 7, 2011, the Department implemented new statewide guidance requiring Technical Review and Awards Committee members to sign a new Conflict of Interest Certification Form for each contract procurement. Similarly, Selection Committee members will sign Certification Forms at every selection committee meeting. Procurement Office staff are now required to sign a Certification Form for every new contract acquisition. More frequent updates of the Conflict of Interest Certification Form will assist with identifying and avoiding conflicts which could potentially compromise the objectivity of the procurement process. Procurement Office Procedures are being updated to reflect this new guidance. Five revamped versions of the Conflict of Interest Certification forms have been created, to address the specific profiles of the type of staff involved in decision making, approval, disapproval or recommendation of consultants, contractors and vendors for contract acquisitions. The five types of forms are attached:

- Conflict of Interest Certification-Technical Review Committee
- Conflict of Interest Certification-Selection Committee
- Conflict of Interest Certification-for Consultants/Contractors who serve on Technical Review Committees
- Conflict of Interest Certification-for Public Officers/Employees
- Conflict of Interest Certification-Technical Review/Awards Committee Low Bid Projects

Compliance with the modified Conflict Certification requirements will be monitored through the Department's Quality Assurance Reviews for procurements.

EXHIBIT B
MANAGEMENT'S RESPONSE (CONTINUED)

Finding No. 2: State Financial Assistance

Improvements continue to be needed in the Department's administration of its responsibilities under the Florida Single Audit Act.

Recommendation: We again recommend that the Department take steps to ensure the proper recording of State Financial Assistance in Department accounting records and the timely receipt and review of Financial Reporting Packages.

Management Response: We concur with the findings. The Office of Inspector General (OIG) has addressed this issue over the past year by conducting five district compliance reviews, seven training classes and providing necessary guidance to the districts on an ongoing basis through routine telephone and e-mail correspondence, regular coordination with the Federal Highway Administration and through quarterly OIG newsletters. Compliance reviews conducted in the current fiscal year have appropriately identified issues regarding checklists not completed, timely receipt and review of financial reporting packages, a lack of reconciliation of FLAIR payments to the expenditures in the audit report and other areas where lack of oversight was noted. Recommendations made as a result of these reviews include the district management ensuring the timely receipt and review of financial reporting packages. District management has been responsive to the compliance reviews and is in the process of implementing corrective actions.

The OIG will continue to conduct compliance reviews and training classes through the remainder of fiscal year 2010-2011 to ensure compliance with state and federal regulation and ensure districts and project/program managers are aware of all single audit requirements. The Department's Single Audit Procedure is scheduled for an update in the summer of 2011, to include specific responsibilities of the district single audit liaisons and proper recording of state financial assistance in the Florida Single Audit Act System (FSAAS). The FSAAS was updated with an additional control to allow program managers to enter in only a state or federal assistance object code when completing the checklists.