

**DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

LAND ACQUISITIONS

Operational Audit



SECRETARY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Section 20.255(1), Florida Statutes, created the Department of Environmental Protection. The head of the Department is the Secretary, who is appointed by the Governor, with the concurrence of three or more members of the Cabinet and confirmation by the Senate. Michael W. Sole served as the Department Secretary during the audit period and Herschel Vinyard is currently serving as the Department Secretary.

The audit team leader was Mark Hesoun and the audit was supervised by Hardee Ratliff, CPA. Please address inquiries regarding this report to Marilyn D. Rosetti, CPA, Audit Manager, by e-mail at marilynrosetti@aud.state.fl.us or by telephone at (850) 487-9031.

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DEPARTMENT OF ENVIRONMENTAL PROTECTION

Land Acquisitions

SUMMARY

Our operational audit disclosed the following:

COMPLIANCE WITH ACCEPTED APPRAISAL PRACTICES

Finding No. 1: The appraisal reports received by the Department did not, in some instances, include proper appraisal methodology with sufficient detail and reasoning to support the value conclusions reached by the appraisers.

Finding No. 2: In some instances, the highest and best use analysis included within the appraisal reports was not fully supported.

ACCURACY, COMPLETENESS, AND DOCUMENTATION OF APPRAISAL REPORTS AND NEGOTIATIONS

Finding No. 3: We noted many instances of errors and omissions within the appraisal reports that, while not material to the value conclusions made by the appraisers, demonstrated a lack of attention to detail in the preparation of the reports by the appraisers, and the subsequent review by the contracted review appraisers.

Finding No. 4: In some instances, the negotiation files maintained by the Department did not contain written offers and counteroffers, contrary to Section 259.041(8)(c), Florida Statutes.

Finding No. 5: Evidence of pre-approval of extraordinary assumptions applied in appraisal reports was not maintained in the Department's appraisal files.

ACQUISITION OF APPRAISAL-RELATED SERVICES

Finding No. 6: Department procedures used to acquire appraisers and review appraisers were not written and should be revised to increase the minimum number of bids solicited. Also, the Department did not obtain required affidavits in a timely manner.

BACKGROUND

Acquisitions of lands by the State, other than for transportation and water management purposes, are generally made by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) utilizing staff of the Florida Department of Environmental Protection (Department), Division of State Lands. Chapters 253, 259, and 375, Florida Statutes, provide the authority, procedures, and funding mechanisms for the State's acquisition of real property. Board of Trustees Rule 18-1, Florida Administrative Code, prescribes additional State land acquisition procedures.

Section 259.041(7)(b), Florida Statutes, requires that each parcel to be acquired have at least one appraisal, except that two appraisals are required when the estimated value of the parcel exceeds \$1,000,000. Section 259.041(1), Florida Statutes, provides the Board of Trustees the authority to substitute other reasonably prudent procedures provided the public's interest is reasonably protected.

The Department requires appraisers and review appraisers to comply with the Uniform Standards of Professional Appraisal Practice (USPAP), as promulgated by the Appraisal Standards Board of The Appraisal Foundation, and the Supplemental Appraisal Standards for Board of Trustees Land (Supplemental Standards). The intent of these requirements is to ensure that appraiser and review appraiser reports are prepared in a thorough, credible, and consistent manner. To carry out these requirements, appraisers use common industry-accepted publications, such as

The Appraisal of Real Estate, Twelfth Edition, issued by the Appraisal Institute, which provide details of proper appraisal techniques and methodology in performing appraisals.

From July 2008 through June 2009, the Board of Trustees approved 19 acquisitions, totaling 6,961.05 acres (including conservation easement acquisitions with restrictions that limit the future use of the property), for a total purchase price of \$87,134,958 (including a conservation easement acquisition of 1,489 acres at a total purchase price of \$7,000,000). The Board of Trustees' share of the purchase price for all of these acquisitions was \$60,199,470.

Our audit included six acquisitions, totaling 3,397.75 acres. The total purchase price of these acquisitions was \$71,399,461, and the Board of Trustees' share of the purchase price was \$44,858,973. Details of the six acquisitions included in our audit are included in this report as Exhibit A.

FINDINGS AND RECOMMENDATIONS

Compliance with Accepted Appraisal Practices

Finding No. 1: Valuation Analyses

Appraisers and review appraisers under contract with the Department are required to comply with USPAP and the Supplemental Standards issued by the Department. The appraisal reports received by the Department did not, in some instances, include proper appraisal methodology with sufficient detail and reasoning to support the value conclusions reached by the appraisers as required by applicable appraisal standards and applicable industry publications. These instances are discussed below.

Rakestraw Acquisition

The Rakestraw acquisition (Florida First Magnitude Springs Florida Forever Project) consisted of 54.48 acres, comprising three adjacent parcels of 16.96 acres, 18.42 acres, and 19.10 acres, with the northernmost boundary located on Natural Bridge Road approximately six miles east of Woodville Highway and the southernmost boundary located on the Leon-Wakulla County line. Of the 54.48 acres, 35.65 acres is wetlands. Each of the three parcels is improved with one single-family residence and typical associated improvements. There are approximately nine or ten spring-fed ponds (swallets) of varying sizes that are associated with the St. Marks River and the Floridan aquifer, the actual battlefield site for "The Battle of Natural Bridge," Civil War and Paleo-Indian artifacts, and an unknown number, possibly in the hundreds, of deadhead logs. The property was purchased on February 25, 2009, for \$3,395,000.

Two fee appraisers prepared market value appraisals for this acquisition. The appraised values were \$3,273,000 and \$3,395,000, respectively. Our review of these appraisals disclosed the following:

- In the land valuation in one appraiser's report, the unit of comparison of the comparable sales to the subject properties was a "whole-to-whole" comparison. As indicated in *The Appraisal of Real Estate*, Twelfth Edition, a whole-to-whole comparison should only be used when the comparable sales are very similar to the subject in size and topography (wetlands/uplands distribution). The use of the whole-to-whole unit of comparison was questionable given the large variations in size, improvements, and topographical features between the comparable sales and subject properties. For example, in determining the land value of the subject properties, the comparable sales ranged in size from 7.15 acres to 175 acres; whereas the subject properties were between 16.96 and 19.10 acres (the fee appraisers appraised each of the three subject properties separately). Also, three of the comparable sales included substantial improvements, such as houses, cabins, and a boat house. A more appropriate unit of comparison would have been on a price per upland acre, or possibly a price per gross acre excluding improvement values. The appraiser's qualitative analysis using the

whole-to-whole comparison resulted in very non-specific general adjustments to the sales, particularly for size and improvements, and an excessively wide range of value indications, resulting in less than reliable support for his value conclusions. Furthermore, the review appraiser commented on the appraiser's unit of comparison by stating, "This is somewhat unusual for acreage tracts and is more typical of residential appraising where the improvements are on a single lot or a couple of acres."

This same appraiser made the following statements concerning the handling of the improvements on the comparable sales in determining the land value of the subject parcels: "All five comparable sales contain improvements, but have not been compared to the subject parcels as improved due to substantial differences in the included improvements. Instead, an estimated depreciated value was derived for the improvements on each comparable sale and downward adjustments are made under the "Improvements" category in the Direct Sales Comparison grid." He also stated "the subject parcels are analyzed as though vacant and downward adjustments are applied to completely remove the value of the improvements from the sale price of each of the comparable sales." Notwithstanding these statements, it appears that the appraiser only identified the improvements on the comparable sale data sheets, without estimating the depreciated value of the improvements and simply made a general qualitative adjustment in the comparable sales adjustment grid (i.e., a notation of a "downward" qualitative adjustment) to determine the land value. Accepted appraisal practice, as indicated in *The Appraisal of Real Estate*, Twelfth Edition, would be to subtract the estimated depreciated value of the improvements from the sales price to obtain a price reflective of the land only, and then compare the sale to the subject properties. The methodology used by the appraiser in addressing the contributory value of improvements on the comparable sales to determine the land value of the subject properties may have had a material impact on the value conclusions for the subject properties.

In determining the value of the subject property improvements, which include a house and dock on each of the three properties, the same appraiser applied (added) a \$9.32 per square foot wood floor adjustment to the total living area of all three houses on the subject properties, although there were different kinds of floor covering for different parts of each house, such as carpet, vinyl, tile, and parquet. Also, the cost of two docks was not included in the improvement breakdown in the cost approach.

- One appraiser, in the narrative description of the spring influence adjustments, indicated that "the appraisers believe that speculation for potential commercial and/or municipal water use of the subject parcel remains an impact on market value." The appraisal report further stated, "the majority of recent interest in the subject parcels has been for potential commercial water use. Considering these two factors, the springs or swallets located on the subject parcel have a positive influence on value which goes beyond their aesthetic appeal and the recreational amenities which they provide." This conclusion is inconsistent with other information contained in the report that eliminated water bottling as a potential use (e.g., legal restrictions, written comments by government officials and experts on water quality, and withdrawal of prior offers that were originally based on a use of water bottling) and may have resulted in a higher value estimate than was justified.
- In the valuation analysis of all three subject properties, it appears that both appraisers considered the subject properties' location and water features (sinks, swallets, or spring-fed ponds) to be superior to some of the comparable sales' characteristics of fronting on navigable waterways (rivers) and closer proximity and access to the Gulf of Mexico. While the subject properties' water features are desirable, it is not likely that they contribute more value than the comparable sales with river or lake frontage, some of which also have spring influence or access to the Gulf of Mexico down river. Properties fronting on navigable waterways and lakes are typically more valuable than rural properties with small spring-fed pond features that do not have these features. At best, the subject properties, which do not have access to a navigable waterway, may be similar recreationally and aesthetically, but not superior. We were informed during our audit that the water in the swallets is not clear year-round due to tannic acid from trees affecting the water clarity certain times of the year. The appraisers' optimistic treatment of the subject properties for these features may have resulted in a higher value than was justified.

Wood Sink Acquisition

The Wood Sink acquisition (Upper St. Marks River Corridor Florida Forever Project) was acquired through The Nature Conservancy and consisted of 1,052.99 acres. Subsequent to the appraisals, and at no additional charge, some additional acreage was added bringing the acquisition to 1,062.67 acres. The property is an irregularly-shaped vacant tract of land with significant bands of wetlands, totaling approximately 412 acres, meandering throughout the property fragmenting the uplands. Located on the north side of U.S. Highway 27 in Leon County, approximately one mile west of the Jefferson County line, the area is rural in nature with a mix of agricultural, recreational, and residential uses. The upper reaches of the St. Marks River pass through the subject property. There are also some sinkholes, including Wood Sink, wetlands, and wet weather ponds. The property was purchased on December 8, 2008, for \$5,093,669.

Two fee appraisers prepared market value appraisals for this acquisition. The appraised values were \$5,200,000 and \$5,264,950, respectively. Our review of the appraisals disclosed the following:

- In determining the changes in market conditions (time adjustment) from the sale dates of the comparable sales to the effective date of the appraisal, the first appraiser made large adjustments based on support from a third party to three of the comparable sales, and which resulted in higher value indications for the comparable sales and a higher estimated value for the subject property than may have been justified. It appears the appraiser relied almost exclusively on the 2004 and 2005 Florida Land Value Surveys (Surveys), conducted by the Food and Resource Economics Department, an extension of the Institute of Food and Agricultural Sciences at the University of Florida. However, this report included a statement cautioning the use of its results in valuing specific properties. The report stated, "It is important to emphasize that the value of a specific tract of land may vary substantially from these estimates because of the physical characteristics of the tract, the location of the tract, and the economic and institutional factors that may affect or restrict its use. Therefore, the value of a specific tract of land should not be determined by these survey results."

Because the appraiser disregarded the indication in the Surveys that the results should not be used to value a specific tract of land and used the information contained in the Surveys as her basis to determine the market conditions adjustment (for time) from the sale dates of the comparable sales to the effective date of the appraisal, this report is without independent analysis and other evidence to support the market conditions adjustments contained in the report. Consequently, it is not apparent to us why the Department would accept this appraisal report and rely upon it in the negotiation process with the sellers.

While the zoning and land use regulations allow the subject property to be developed to a density of one residential dwelling unit per ten acres, there are environmental and physical issues making this density unattainable. Both appraisers in their highest and best use determination of the subject property noted the severe limitations of the subject property's development potential and included support from the county's growth management department. The two main restrictions are 1) approximately 82 percent of the subject property is located in the 100-year flood zone (Zone A), in which development is prohibited; and 2) much of the uplands are isolated by surrounding wetlands and may be difficult to access. Although both appraisers recognized the limitations in their highest and best use analyses, our review of the appraisals disclosed the following regarding their value conclusions:

- In the first appraiser's valuation analysis the overall value indications of the comparable sales and final value conclusion of the subject property do not appear to accurately reflect the extent of the development restrictions and poor utility of the subject property. Due to these development restrictions, the subject property's demand is primarily for a recreational or agricultural type tract, and the comparable sales (excluding one government sale) have a greater potential for more intense uses, including residential development, which adds to their demand and value.

- Similarly, while the second appraiser emphasized the highest and best use of the subject property as being primarily recreation or agriculture, which appears reasonable based on the subject property's physical and legal limitations, the valuation analysis appears to portray the subject as having more residential development potential than is justified. However, the comparable sales have much greater potential for low density residential development than the subject property because of their superior physical and environmental characteristics.

As further evidence for inconsistencies between the highest and best use analysis and the valuation analysis, the appraiser's reconciliation and correlation of the market data and analyses includes some contradictory statements concerning the possibility of residential development by obtaining a Planned Unit Development (PUD) for the subject property. Governmental officials clearly indicate that clustering PUDs and development at a density equal to or even close to the overall density of one dwelling unit per ten acres is unlikely, primarily due to the high percentage of property within the flood plain and the extent and location of wetlands, which isolate many of the uplands. However, in the Correlation of Market Data (reconciliation of value indications) section, the appraiser stated, "Given the possibility of developing portions of the property as a PUD, our reconciled value will be based upon the assumption that a maximum overall density of one unit per ten acres could be achieved." This statement contradicts statements in other areas of the appraisal report, which state that the "Rural" land use code prohibits clustering, and "it was the position of Tallahassee-Leon County Growth Management that a PUD would be opposed due to the property being located outside the Urban Services Area of Tallahassee-Leon County. It is possible, due to the wetlands and flood status, that the property may not be able to be developed to an overall density as great as one unit per ten acres."

Point Washington Acquisition

The Point Washington acquisition (Point Washington State Forest Florida Forever Project) consisted of 19.5 vacant acres located in south Walton County between the Choctawhatchee Bay and the Gulf of Mexico, bordered mostly by State-owned and -managed conservation lands. The property is comprised of 11.5 acres of wetlands and 8 acres of uplands. Of the 8 acres of uplands, 1.47 acres are isolated by wetlands and would be difficult to develop. Subsequent to purchasing the property, the sellers were granted a development order from Walton County to subdivide the subject property into a 35-lot residential development. They also obtained permits that would allow them to fill .79 acres of the wetlands in exchange for placing the remaining on-site wetlands in a conservation easement and providing an additional 30 acres of off-site mitigation land. As of the effective dates of value (January 4, 2008, and March 17, 2008), water and sewer services were not readily available to the subject property, so developing this property into residential lots would minimally require the extension of a paved road for public access and utilities. The property was purchased on December 4, 2008, for \$1,440,000.

Two fee appraisers prepared market value appraisals for this acquisition. The appraised values were \$1,600,000 and \$1,835,000, respectively. Our review of these appraisals disclosed the following:

- One appraiser, whose value conclusion represented the maximum approved value for acquisition purposes, made significant adjustments to the sales for wetlands. However, his methodology of selecting one of the comparable sales to use as his basis to establish the value of the wetlands, and then using that value to adjust the value of the wetlands on the other four comparable sales used in his analysis, is not accepted appraisal methodology. Common appraisal practice, as indicated in *The Appraisal of Real Estate*, Twelfth Edition, emphasizes the need to utilize a sufficient quantity of similar market sales from which to base value and adjustment determinations. A lack of sufficient supporting data may reduce the validity of the adjustments. In addition, the appraiser's value attributable to wetlands (\$46,282 per acre) appears significantly overstated in that elsewhere in his report he stated that the value for mitigation land in the area of the subject property is \$6,000 per acre and typically the value of wetlands would approximate the value of mitigation land.

- This appraiser also did not include the prior sale of the subject property as one of his comparable sales in his valuation analysis. This prior sale of the subject property occurred in May 2005 (the same date as comparable sale #5 used by the appraiser). The appraiser's stated reasons for not including the prior sale of the subject property sale included: 1) that the buyers of the subject property are active market participants in the local real estate market, and "typically would not buy unless the purchase price was favorable to them, which appears to be the case" and 2) "since the sale took place market conditions have gone up and come down and the property owners obtained subdivision development approval." However, these conditions are common for many comparable sales typically used in comparison to subject properties, and they are not valid reasons to omit a sale from the valuation analysis, especially if it was the prior sale of the subject property. Furthermore, the appraiser stated elsewhere in his report that subdivision approval appears to have a nominal effect on value, which would seem to lessen the justification for excluding this prior sale of the subject property from his analysis.

The second appraiser's land sales and valuation analysis for the subject property involved a first set of sales (with development potential), whereby the appraiser arrived at an adjusted value indication for each sale. Then the appraiser indicated values on a price per acre and a price per upland acre basis. The appraiser provided the minimum, average, and maximum price per acre for each of the two units of comparison. The appraiser then provided a concluded price per acre for each unit of comparison and multiplied that number by the applicable number of acres for the subject property to arrive at the conclusion of value. This same procedure was used in the analysis of the second set of land sales, which have recreation or future low density development potential. However, in the analysis of both types of sales, the appraiser did not explain the reasoning for the indicated value per acre for each unit of comparison (narrative reconciliation of the statistics). Likewise, this reconciliation of value for both analyses was inadequate to justify the value per acre chosen and did not provide a supportable and understandable reasoning for the appraiser's concluded value estimate.

Recommendation: The Department should ensure that appraisers and review appraisers practice greater due diligence in applying proper valuation methodology along with sufficient detail, reasoning, and support for value conclusions.

Finding No. 2: Highest and Best Use Analyses

Highest and best use, as defined in Section A-7.00 of the Supplemental Standards, is the reasonably probable and legal use of vacant land or an improved property that is physically possible, legally permissible, financially feasible, and that results in the maximally productive highest value. The Supplemental Standards require that highest and best use be considered to apply to the "immediate future," which shall mean a period of time not to exceed five years, and require the conclusions to be specific as to the type of use, and timing of that use, especially when it involves future development.

Pine Plantation Acquisition

The Pine Plantation acquisition (Wekiva-Ocala Greenway Florida Forever Project) consisted of 384.71 acres of uplands located in northern Orange County and the property is 88 percent planted pines. At the time of this acquisition, the subject neighborhood was transitioning from rural to residential in nature with complementing commercial uses. Of particular influence was the new expressway to be built in the immediate future with an interchange close to the subject parcel. This roadway would provide an express route from the subject property to the Orlando area. The property was purchased on October 3, 2008, for \$30,430,304. This was a joint acquisition, with the Orlando-Orange County Expressway Authority (OOCEA) contributing \$5,500,000, the Florida Department of Transportation contributing \$15,000,000, and the Board of Trustees contributing the remaining \$9,930,304.

Two fee appraisers prepared market value appraisals for this acquisition. The appraised values were \$25,070,000 and \$28,000,000, respectively. Our review of the appraisals disclosed the following:

- In one appraisal report the highest and best use determination was future residential or mixed-use development two to five years in the future at the highest density that would be approved by the City of Apopka and the Florida Department of Community Affairs. Because the final approval of the highest density could be for a higher density than the market demands, the appraiser should have qualified the statement to include the specific type and density of development the market would support. However, the highest and best use conclusion included no such qualification.
- The second appraisal report did not address agricultural uses, including the existing planted pines, anywhere in the highest and best use analysis, even though this was physically possible, legally permissible, and financially feasible given that the property is 88 percent planted pines and much of the neighborhood is also comprised of agricultural uses. This appraisal report appeared to be focused exclusively on a low density residential use throughout the analysis and did not appear to consider any other uses besides residential subdivision development.
- Neither appraisal report addressed the extensive planted pines as an interim use until development of the property is feasible, which was determined to be two to five years in the future. At the time of development, the pine plantation could likely be harvested for use as pulp wood or chip-n-saw (wood chips) for a measurable amount of money. There was no indication in either appraisal report that the appraisers consulted a forester to help determine whether there would be measurable value in the timber, or at what point in time harvesting the timber would be financially feasible.

Promise Ranch Acquisition

The Promise Ranch acquisition (Promise Ranch Florida Forever Project) was for a perpetual conservation easement covering an irregularly shaped 1,489 acres, located approximately two miles west of the City of Umatilla and four miles north of the City of Eustis. The property consists of roughly 897.62 upland acres and 591.38 wetland acres, mostly covered with native vegetation, except for a few agricultural improvements. This acquisition includes over one mile of frontage on the eastern shore of Lake Yale in Lake County and a series of basin marshes associated with the lake; however, the configuration of the wetlands makes use of, and access to, the lake difficult. The property was purchased on March 17, 2009, for \$7,000,000.

Two fee appraisers prepared market value appraisals for this acquisition. The appraised values were \$11,200,000 and \$12,700,000, respectively. Our review of the appraisals disclosed the following:

- One of the appraisal report's highest and best use determinations was low-density residential development at the highest density that would be approved by Lake County or the City of Umatilla. Because the final approval of the highest density could be for a higher density than the market demands, the appraiser should have qualified the statement to include the specific type and density of development the market would support as well as an estimated time of development, particularly if it were to be later than the immediate future, which is up to five years according to the Supplemental Standards. However, the highest and best use conclusion included no such qualification.
- In the second appraisal report, under the Physically Possible section of the highest and best use analysis, the appraisal report included the following statement concerning the subject's access, "There are vacant parcels of land along the eastern portion of the subject property that could provide access from the west side of State Road 19 if they could be purchased." The appraisal report further states, "Due to the size (1,489.17+- acres)¹ of the subject property and residential development potential, it is financially prudent to explore the possibility of acquiring and purchasing additional land for access. Therefore, it is physically possible to

¹ Although the appraiser's report cited 1,489.17 acres, the final survey reported 1,489 acres.

develop the property in accordance with the zoning and land use.” However, because the eastern side of the subject property is mostly wetlands, and many of the parcels in between the subject property and State Road 19 are improved or include wetlands, the ability to improve the access to the subject property does not appear feasible.

In addition, the second appraisal report did not mention the large wetland area that must be crossed in the northern end of the property to access the bulk of the property. There is currently dirt road access across this wetland that would need to be substantially improved if the property is developed with a residential subdivision as proposed in the appraiser’s highest and best use analysis. While it may be feasible to do this, it would likely require some mitigation of additional wetlands that would be affected.

Point Washington Acquisition

Section A-7.00 of the Supplemental Standards states that “Highest and best use shall be considered to apply to the ‘immediate future,’ which shall mean a period of time not to exceed five years... The appraiser shall provide support for and explain the reasoning process in the development of the highest and best use. The appraiser should address the four criteria in the highest and best use analysis.”

Section A-7.02 of the Supplemental Standards states that “Highest and best uses, such as speculative investment, future development, assemblage with the adjoining ownership, etc., are not acceptable unless the appraiser states the ultimate use of the property. The appraiser must state which speculative investment, or specifically what type of future development is contemplated. For example, a residential highest and best use should be appropriately categorized as to single family or multi family, high, medium or low density, etc.”

Our review of the two market value appraisals prepared for this acquisition disclosed that one appraisal report’s highest and best use conclusion was to hold the property until future demand exceeds current supply, at which time a residential development would be in order. However, contrary to Sections A-7.00 and A-7.02 of the Supplemental Standards, the appraiser did not specify an estimated time of development or the specified type of residential development, such as single family or multi-family, or high, medium, or low density. The appraiser also did not discuss an interim use if the estimated time of development exceeds five years. Within the highest and best use analysis, the appraiser mentioned that there was a nine-year supply of lots, which indicates that development within five years may not be likely.

Recommendation: The Department should ensure that the highest and best use analysis in appraisal reports thoroughly discusses all uses that are physically possible, legally permissible, and financially feasible, rather than focusing on one use throughout the analysis. The Department should also make sure that highest and best use conclusions are specific, provide an estimated time for development (based on supply and demand factors), and address interim uses during the short-term if a change in use is proposed in the future.

Accuracy, Completeness, and Documentation of Appraisal Reports and Negotiations
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Finding No. 3: Appraisal Errors and Omissions

The following errors and omissions were noted in the appraisal reports prepared in support of the six land acquisitions included in our audit.

Rakestraw Acquisition

- One appraisal report incorrectly identified the location of a parcel adjacent to the subject property. The parcel in question was actually located on the northeast corner of the subject property. However, the

appraisal report indicated, in several instances, that this parcel was located on the northwest corner of the subject property.

- The same appraisal report identified two swallets (ponds) on subject parcel 3 (parcel 4 per the survey) based on aerial photographs (with boundaries shown) included in the appraisal report. However, the official survey showed only one pond located on the subject property.
- The other appraisal report used the wrong photographs of the river for comparable sales #1 and #5. It appears that the photograph for sale #1 applies to sale #5, and the photograph for sale #5 appears to apply to sale #1.

Point Washington Acquisition

- In one appraisal report, comparable sale #4 was not verified, even though the appraiser made several attempts to verify the sale. However, the sale was used by the appraiser in the analysis, contrary to Section A-8.03 of the Supplemental Standards and Standards Rule 1-4 of USPAP, which require that comparable sales used in an appraisal report be verified.
- In this same appraisal report there was a discrepancy in the allowed dwelling units per acre. The appraiser stated on the sales data sheet and the sales grid that the allowed density was 24 dwelling units (du) for the tract, which equates to 2.4 du per acre. However, on the sales grid, immediately below the 24 du, he indicated that the allowable density was 4 du per acre.
- Additionally, this appraiser used the wrong photographs for comparable sale #3. They are the same photographs as those for comparable sale #4, and the locations of comparable sales #1, #2, and #4 were not accurately indicated on the comparable sales location map.

Pine Plantation Acquisition

- In one appraisal report, comparable sale #3 was not verified, contrary to Section A-8.03 of the Supplemental Standards and Standards Rule 1-4 of USPAP.
- The same appraisal report did not include copies of the vesting deeds for the comparable sales, contrary to Section A-8.06 of the Supplemental Standards. The comparable sales were also lacking dates of the aerial photographs, contrary to Section A-8.05 of the Supplemental Standards.

Promise Ranch Acquisition

- Section A-8.02 of the Supplemental Standards prescribes the required comparable sales format and minimum number of sales. The form to be used is included in the Supplemental Standards as Exhibit C and provides a list of all items that must be included on, or attached to, the form. The following required items were not included on, or attached to, the form of one of the appraisal reports: 1) present use, 2) intended use, 3) highest and best use, 4) land use (from comprehensive plan), and 5) vesting deeds (required by Section A-8.06 of the Supplemental Standards). The other appraisal report did not include the sale vesting deeds.

Harbor Branch Acquisition

- In both appraisal reports, the comparable sale aerial photographs did not indicate the dates on which the photographs were taken, contrary to Section A-8.05 of the Supplemental Standards.
- In both appraisal reports, one or more sales were misidentified on the comparable sales location map or data sheet.

- In one appraisal report, the vesting deeds for all comparable sales were omitted, contrary to Section A-8.06 of the Supplemental Standards. While the review appraiser requested the appraiser to provide these deeds, they were not included in the final appraisal report.

While these errors and omissions, individually, may not have had a material effect on the value conclusions reached by the appraisers in their reports, they demonstrate a lack of attention to detail and could, when considered in view of the other deficiencies noted throughout this report, ultimately cast doubt on the reliability of the appraisal reports acquired by the Department to support land acquisitions of the State. Although during the appraisal review process, contracted review appraisers identified certain errors and omissions, they did not cite most of the errors and omissions discussed above and discussed in finding Nos. 1 and 2. This indicates a need for the Department to reevaluate the completeness of the appraisal review services acquired.

Recommendation: The Department should exercise greater oversight of appraisers and review appraisers to ensure that appraisal reports are complete, accurate, and in full compliance with applicable standards.

Finding No. 4: Acquisition Negotiations

Section 259.041(8)(c), Florida Statutes, requires that all offers or counteroffers for State land acquisitions be documented in writing, and requires the Department to maintain complete and accurate records of all such offers and counteroffers. Our review of Department records for the Wood Sink acquisition disclosed that only a summary of offers and counteroffers was on file with the Department and, for the Promise Ranch acquisition, there was a summary of offers and counteroffers but only the final offer was in writing and included in the file, contrary to Section 259.041(8)(c), Florida Statutes. Although the agreement between the Department and The Nature Conservancy (TNC) for the Wood Sink acquisition provided that TNC would provide the Department a negotiation summary memorandum summarizing all offers and counteroffers, we are unaware of any authority for the Department to include provisions in multi-party agreements that are contrary to Florida Statutes. Similar findings were noted in finding No. 4 of our report No. 2008-019.

Recommendation: The Department should take steps to ensure that written offers and counteroffers are obtained pursuant to Section 259.041(8)(c), Florida Statutes, and amend any existing multi-party agreements that contain language contrary to that law.

Finding No. 5: Extraordinary Assumptions

Section A-2.03 of the Supplemental Standards requires that any hypothetical conditions or extraordinary assumptions be pre-approved by the Chief of the Bureau of Appraisal (Bureau Chief). For both appraisal reports for the Rakestraw, Point Washington, and Harbor Branch acquisitions, and one appraisal report for the Pine Plantation and Promise Ranch acquisitions, the provisions of the above-cited Supplemental Standards were applicable; however, Department records did not evidence that the required pre-approval by the Bureau Chief was obtained. For the Rakestraw, Pine Plantation, and Promise Ranch acquisitions, Department management indicated that approval to apply the extraordinary assumptions was communicated verbally, and there was evidence in the Point Washington acquisition that Department staff other than the Bureau Chief instructed the appraisers to apply an extraordinary assumption in their appraisals; however, there was no evidence that the application of the assumptions were approved by the Bureau Chief.

Department management stated that the approval of the extraordinary assumptions is implicit in the acceptance and approval of the appraisal report. However, since appraisal reports are approved at the completion of the assignment, it is not apparent how approval through acceptance and approval of the appraisal report satisfies the requirement for pre-approval in the above-cited Supplemental Standards.

Recommendation: To comply with Section A-2.03 of the Supplemental Standards, the Department should ensure that written pre-approval from the Bureau Chief of any extraordinary assumptions to be applied in appraisal reports is obtained and maintained in the Department's appraisal files.

Acquisition of Appraisal-related Services
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Finding No. 6: Competitive Selection of Appraisal-related Services

Board of Trustees Rule 18-1.007(3), Florida Administrative Code, requires that when an agency proposing a specific acquisition has determined that appraisal services are required, the agency shall contact the Division of State Lands, Bureau of Appraisal, and request that such services be obtained. Through competitive bidding, multiple bids will be sought 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. During our review period, there were 290 appraisers on the Department's approved appraiser list.

The Department does not have written procedures for the acquisition of appraisal-related services. Written policies and procedures, which clearly define the responsibilities of employees, are essential to provide both management and employees with guidelines regarding the efficient and consistent conduct of Department operations. In addition, written 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. Written policies and procedures also assist in the training of new employees.

Although Board of Trustees Rules require multiple bids to be sought, the Department's practice for selecting appraisers and review appraisers to conduct appraisals or reviews of appraisal reports for compliance with applicable appraisal standards involved sending bid requests to a relatively small number of those on the Department's approved appraiser list, typically five to seven appraisers representing only about two percent of the total number of appraisers included on the list. Pursuant to Board of Trustees Rule 18-1.007(3), Florida Administrative Code, factors included in selecting those sent a bid request were experience, expertise, and past history of the particular appraisers.

Our test of 28 acquisitions of appraisal-related services (18 for appraisal services and 10 for appraisal review services) disclosed 5 instances where the Department received two bids, and 1 instance where it received only one bid. The practice of sending bid requests to a relatively small number of appraisers on the Department's approved list appears contrary to the intent of the Board of Trustees Rules, contributes to instances where two or less bids are received, and limits the opportunity for interested and eligible appraisers to participate in the process.

Sections 259.041(7)(c) and 253.025(6)(b), Florida Statutes, require each appraiser selected to appraise a particular parcel to submit an affidavit substantiating that he or she has no vested or fiduciary interest in such parcel prior to contracting with the agency. Our review disclosed 2 instances of noncompliance for the 28 acquisitions for appraisal-related services reviewed. In one instance, Department records did not evidence that the required affidavit was provided to the Department and, in the other instance, the affidavit was not timely filed in that it was dated after the completion of the appraisal assignment rather than prior to contracting with the Department.

Recommendation: The Board of Trustees should revise its rules to specify a minimum acceptable number of bids that should be considered for each acquisition of appraisal services without appropriate written justification. The Department should develop and implement written policies and procedures to ensure compliance with applicable laws and rules pertaining to the acquisition of appraisal and appraisal review 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 the Board of Trustees' rules.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective actions for findings included in our report No. 2008-019.

SCOPE, OBJECTIVES, 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.

Pursuant to Sections 253.025(11) and 259.041(16), Florida Statutes, we are required to do preliminary assessments within 60 days following final approval of State land acquisitions by the Board of Trustees and to perform audits as we deem necessary. Six acquisitions approved by the Board during the period July 1, 2008, through June 30, 2009, were selected for audit based on our preliminary risk assessments (see Exhibit A).

We conducted this operational audit from October 2009 to November 2010 in accordance with applicable 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 Department activities related to the acquisition of lands, the acquisition of appraisal and appraisal review services, and follow-up on prior audit findings. The overall objectives of the audit were to:

- Document our understanding of management controls relevant to the acquisition and appraisal of properties acquired by the State.
- Evaluate management's performance in administering its assigned responsibilities in accordance with applicable laws, rules, and other guidelines.
- Determine the extent to which the Department's management controls promote and encourage the achievement of management's control objectives in the categories of compliance with applicable laws, rules, and other guidelines; the economic and efficient operation of the Department; the reliability of financial records and reports; and the safeguarding of assets.

Also, pursuant to Section 11.45(7)(h), Florida Statutes, our audit may identify statutory and fiscal changes to be recommended to the Legislature.

Our audit included examinations of various transactions, as well as events and conditions occurring during the period July 2008 through June 2009, and selected actions prior and subsequent thereto. In conducting our audit, we:

- Interviewed selected Department personnel.

- Obtained an understanding of internal controls and tested processes and procedures related to areas within the scope of the audit, including, as appropriate, a walk-through of relevant internal controls through observation and examination of supporting documentation and records.
- Tested six land acquisitions to determine that applicable accepted appraisal standards and practices, and Department procedures were followed in acquiring these lands for the benefit of the citizens of Florida. See Exhibit A for the six acquisitions tested.
- Tested the acquisition of appraisal services (18 contracts) utilized by Department staff to determine compliance with applicable laws, rules, and Department procedures.
- Tested the acquisition of appraisal review services (10 contracts) utilized by Department staff to determine compliance with applicable laws, rules, and Department procedures.
- Determined whether the Department had taken corrective actions for findings included in our report No. 2008-019.
- Performed various other auditing procedures as necessary to accomplish the objectives of the audit.

Specific information describing the work conducted to address audit objectives is also included in the individual findings.

AUTHORITY

Pursuant to the provisions of Sections 253.025(11) and 259.041(16), 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 letter dated September 28, 2011, the Secretary provided responses to our preliminary and tentative findings. This letter is included in this report as Exhibit B.

EXHIBIT A

LAND ACQUISITIONS INCLUDED IN THE SCOPE OF AUDIT

<i>Property</i>	<i>Acquisition Partners</i>	<i>Date of BOT Approval</i>	<i>Closing Date</i>	<i>Acreage (Final)</i>	<i>Appraised Values</i>	<i>Purchase Price (Final)</i>	<i>Price per Acre</i>	<i>Trustees' Share of Purchase Price</i>
Wood Sink	The Nature Conservancy	9/16/08	12/08/08	1,062.67	\$5,200,000 5,264,950	\$5,093,669	\$4,793	\$5,093,669
Point Washington	N/A	9/30/08	12/04/08	19.5	1,835,000 1,600,000	1,440,000	73,846	1,440,000
Pine Plantation	Orlando-Orange County Expressway Authority	9/30/08	10/03/08	384.71	25,070,000 28,000,000	30,430,304	79,099	9,930,304(1)
Rakestraw	N/A	11/20/08	2/25/09	54.48	3,273,000 3,395,000	3,395,000	62,316	3,395,000
Promise Ranch	N/A	12/09/08	3/17/09	1,489.0	11,200,000 12,700,000	7,000,000	4,701	7,000,000(2)
Harbor Branch	Florida Communities Trust	5/27/09	3/05/10	387.39	33,400,000 26,400,000	24,040,488	62,058	18,000,000(3)
<p>(1) The Florida Department of Transportation paid \$15,000,000 of the purchase price and the Orlando-Orange County Expressway Authority paid \$5,500,000 of the purchase price.</p> <p>(2) This purchase was for a conservation easement.</p> <p>(3) The Board of Trustees paid \$18,000,000 for 139.57 acres plus improvements, and the Florida Communities Trust paid \$6,040,488 for 247.82 acres and then deeded the acreage to The Board of Trustees.</p>								

SOURCE: DEPARTMENT ACQUISITION AND APPRAISAL FILES

EXHIBIT B
MANAGEMENT'S RESPONSE



Florida Department of
Environmental Protection

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

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

September 28, 2011

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

Dear Mr. Martin:

Enclosed is the Department's response to the preliminary and tentative findings on the Land Acquisition Operational Audit. Thank you for the opportunity to review and comment on this audit report. If you have questions or require additional information, please contact Valerie Peacock, Acting Director of Auditing, at (850) 245-3170.

Sincerely,

A handwritten signature in black ink, appearing to read 'H.T.V. Jr.' with a stylized flourish at the end.

Herschel T. Vinyard Jr.
Secretary

HTV/mh/s

Enclosures

cc: Erma Slager, Acting Deputy Secretary for Land and Recreation
Clay Smallwood, Director, Division of State Lands
Valerie Peacock, Acting Director of Auditing

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF INSPECTOR GENERAL
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FINDING NUMBER 1:

The appraisal reports received by the Department did not, in some instances, include proper appraisal methodology with sufficient detail and reasoning to support the value conclusions reached by the appraisers.

RECOMMENDATION:

The Department should ensure that appraisers and review appraisers practice greater due diligence in applying proper valuation methodology along with sufficient detail, reasoning, and support value conclusions.

DIVISION:

State Lands

RESPONSE:

The Department agrees that oversight of the appraisal process and appraisal reports is vital to ensure that a fair and reasonable price is paid for acquisitions. The Uniform Standards of Professional Appraisal Practice (USPAP) requires 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 the appraisal reports, the Department hires an independent fee appraiser to review those 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, as needed, three staff members read the review report and request clarifications, modifications, additional support and/or revisions from the appraiser and/or the review appraiser.

The concerns cited in the audit report primarily are in regard to compliance with the Supplemental Appraisal Standards for Board of Trustees Land (Supplemental Standards). The Introduction section of the Supplemental Standards states that these standards are to serve only as a guideline and that adherence to USPAP is the most appropriate requirement. The Supplemental Standards state that adherence to substantive standards, those which are likely to result in a change in value, is required. Non-substantive standards, as those described in the Supplemental Standards, are those which if omitted, ignored or violated, are not likely to result in a change in value. The appraisals are in compliance with the substantive appraisal standards and are, therefore, in compliance with USPAP and the Supplemental Standards.

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
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Many of the listed concerns were a matter of professional judgment and a difference in opinion between the auditor and the appraiser's analysis and conclusions. Appraisals are opinions of value based on market data and analysis of the data. The time frame for these appraisals and acquisitions was after the height of the market in the mid-2000's. Appraisers have to rely on the market data and the sales available, which were scarce during this period during the recession. Appraisal standards allow for use of such sales, which have characteristics different from the acquisition property, and the analysis and valuation process is to reflect and account for those differences.

The audit report included a valid concern regarding the amount of detail provided within the time constraints given for an appraisal report, as well as the credibility gained by spending additional time. Within the constraints of time and the effort needed to produce the ideal appraisal report and ideal appraisal review, it is necessary to look at what is reasonable detail, reasonable narrative discussion of the data and statistics collected, and what can reasonably be expected from the reports, given the limitations of the appraisal process.

While we respect the audit's questioning of the analysis used in the basis of the sampled appraisals, the reviewer gave no indication that the techniques used compromised the appraiser's value conclusion. The Department acknowledges that appraisers analyze and rely upon the available sales, which many times, do not meet the ideal textbook situation. The appraisers must appropriately use available information and make logical adjustments to compensate for the differences between the subject and the sales in the analysis. Given the circumstances of the report, the methods used were acceptable.

However, as the Department continually strives to improve its processes, we will take the Auditor General's recommendations under advisement. Beginning in October 2010, a procedure was implemented to grade the review appraisers. This procedure provides additional information to be used in the appraiser selection process and benefits the quality of the appraisal products obtained by the Department.

FINDING NUMBER 2:

Finding No. 2: In some instances, the highest and best use analysis included within the appraisal reports was not fully supported.

RECOMMENDATION:

The Department should ensure that the highest and best use analysis in appraisal reports thoroughly discusses all uses that are physically possible, legally permissible,

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
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and financially feasible, rather than focusing on one use throughout the analysis. The Department should also make sure that highest and best use conclusions are specific, provide an estimated time for development (based on supply and demand factors), and address interim uses during the short-term if a change in use is proposed in the future.

DIVISION:
State Lands

RESPONSE:

The Department agrees that a thorough highest and best use analysis is an important part of the appraisal report. The Department believes that the highest and best use analyses within the appraisal reports were satisfactory and comply with the USPAP, statutes and rules. The time period for the acquisitions cited in the audit report was after the height of the real estate market in the mid-2000's. The projected highest and best use for many of the acquisitions was for the property to remain undeveloped. Therefore, a highly detailed and in-depth analysis was not needed for the appraisal methodology to be reliable and credible. For some of the acquisitions the appraiser did not discuss the time frame for development in the highest and best use analysis as stated in the Supplemental Standards, although a development time frame was discussed elsewhere in the appraisal. This did not have an effect on the analysis or the opinion of value.

We agree there were instances that the appraiser could have explained his process more succinctly, or could have listed more physically-possible uses, but the analysis was logical and acceptable to the Department.

The Department has a checklist that appraisers are to include in their appraisal report for items to comply with the Supplemental Standards. This checklist will be revised and made more specific to help ensure that appraisal reports comply with the Supplemental Standards in regard to the highest and best use requirements.

FINDING NUMBER 3:

We noted many instances of errors and omissions within the appraisal reports that, while not material to the value conclusions made by the appraisers, demonstrated a lack of attention to detail in the preparation of the reports by the appraisers, and the subsequent review by the contracted review appraisers.

RECOMMENDATION:

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF INSPECTOR GENERAL
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The Department should exercise greater oversight of appraisers and review appraisers to ensure that appraisal reports are complete, accurate, and in full compliance with applicable standards.

DIVISION:
State Lands

RESPONSE:

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 USPAP requires an appraiser to conduct an appraisal which is accurate, thorough, reasonable and supported by relevant market data as indicated by the audit finding.

The Bureau of Appraisal closely monitors and manages the appraisal and review process. In most cases, as needed, three staff members read the review report and request clarifications, modifications, additional support and/or revisions from the appraiser and/or the review appraiser.

The concerns cited in the audit report primarily are in regard to compliance with the Supplemental Standards. The Introduction section of the Supplemental Standards states that these standards are to serve only as a guideline and that adherence to the USPAP is the most appropriate requirement. The Supplemental Standards state that adherence to substantive standards, those which are likely to result in a change in value, is required. Non-substantive standards, as those described in the Supplemental Standards, are those which if omitted, ignored or violated, are not likely to result in a change in value. The appraisals apply proper methodology and are in compliance with substantive appraisal standards. 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 Department respectfully disagrees with the auditor's opinion that there is insufficient oversight of the appraisal reports. However, through heightened awareness of the errors and omissions noted in this finding, due care will be taken in the future to ensure that appraisal reports are complete, accurate, and in full compliance with applicable standards.

FINDING NUMBER 4:

In some instances, the negotiation files maintained by the Department did not contain written offers and counteroffers, contrary to Section 259.041(8)(c), Florida Statutes.

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
OFFICE OF INSPECTOR GENERAL
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RECOMMENDATION:

The Department should take steps to ensure that written offers and counteroffers are obtained pursuant to Section 259.041(8)(c), Florida Statutes, and amend any existing multi-party agreements that contain language contrary to that law.

DIVISION:
State Lands

RESPONSE:

In 2007, the Department implemented a "Chronology of Offers" form used to track offers and counteroffers. The Department will now require that all written offers and counteroffers be attached to this form, and the file reviewed by the supervisor prior to contracting. In addition, the Department has been in the process of amending its multi-party acquisition agreements, and shall finalize the amendments to specifically require that all offers and counteroffers be made in writing and included in the file submitted to the Department. The Department will be diligent in monitoring and enforcing the provisions of multi-party acquisition agreements.

FINDING NUMBER 5:

Evidence of pre-approval of extraordinary assumptions applied in appraisal reports was not maintained in the Department's appraisal files.

RECOMMENDATION:

To comply with Section A-2.03 of the Supplemental Standards, the Department should ensure that written pre-approval from the Bureau Chief of any extraordinary assumptions to be applied in appraisal reports is obtained and maintained in the Department's appraisal files.

DIVISION:
State Lands

RESPONSE:

Written documentation of the pre-approval of extraordinary assumptions is not required in the Supplemental Standards. The purpose of pre-approval of extraordinary assumptions and hypothetical conditions is to eliminate or minimize the use of unexpected extraordinary assumptions or hypothetical conditions in appraisal reports. If these are used in appraisal reports when they are submitted to the Department, and they are found to be not acceptable, then the report has to be revised. The pre-approval requirement is only in the Supplemental Standards and not in the USPAP. Ultimately,

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
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the Department does not approve appraisal reports unless the extraordinary assumption is acceptable, whether or not the extraordinary assumption was pre-approved.

However we agree with the recommendation. The Department will develop a procedure to implement the auditor's recommendation to obtain written pre-approval of extraordinary assumptions and hypothetical conditions.

FINDING NUMBER 6:

Department procedures used to acquire appraisers and review appraisers were not written and should be revised to increase the minimum number of bids solicited. Also, the Department did not obtain required affidavits in a timely manner.

RECOMMENDATION:

The Board of Trustees should revise its rules to specify a minimum acceptable number of bids that should be considered for each acquisition of appraisal services without appropriate written justification. The Department should develop and implement written policies and procedures to ensure compliance with applicable laws and rules pertaining to the acquisition of appraisal and appraisal review 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 the Board of Trustees' rules.

DIVISION:

State Lands

RESPONSE:

The Department is in the process of writing a procedures manual for the appraisal process, which will help ensure compliance with applicable laws and rules. Applicable statutes and rules were complied with in obtaining appraisal services, with the one exception of receiving an affidavit after the contracting process; however, it was received prior to payment to the contractor. The Department believes that the existing process regarding bidding and obtaining appraisal services is highly effective. The rules provide flexibility in the obtaining of appraisal services in the most efficient manner. For example, in cases where appraisers have previously appraised the property or other property in the same project area, the same appraisers can be contacted to provide bids. In these cases, with the appraiser's experience and knowledge of the project area, the real estate market, neighborhood trends, and sale data already collected, those same appraisers should have a short completion time and reasonable fee. When bidding to the same appraisers, staff time is reduced, as it is not

EXHIBIT B (CONTINUED)
MANAGEMENT'S RESPONSE

DEPARTMENT OF ENVIRONMENTAL PROTECTION
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necessary to bid to numerous appraisers, examine and rank the responses, and notify all of the bidders of the results. If the bid amount or timeframe in these cases are not reasonable, the Department would seek additional bids. For other appraisal services where appraisers have not previously appraised the property or in the project area, multiple bids are sought.

The audit report cites a concern over the submission of conflict of interest affidavits prior to contracting with an appraiser. The first case noted in the audit involved the affidavit being received after contracting. However, it was received prior to payment of the fee to the appraiser. In the second case there was an affidavit in the file from when the appraiser previously appraised the same property for the Department, and it was accepted as the affidavit for the re-appraisal.

As of October 2010, the Department implemented a new database and tracking system for the appraisal process. An indicator of whether or not the affidavit has been received has been incorporated in the new system. Prior to issuing a contract or task, the Department will be sure that the affidavit is received, to comply with statute.