

**DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

**BEACH EROSION CONTROL PROGRAM**

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**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 concurrence of the Cabinet and confirmation by the Senate. Herschel T. Vinyard Jr. served as Secretary during the period of our audit.

The audit team leader was Sabrina Ballew, CPA, and the audit was supervised by Jennifer Reeves, CPA. Please address inquiries regarding this report to David R. Vick, CPA, Audit Manager, by e-mail at [davidvick@aud.state.fl.us](mailto:davidvick@aud.state.fl.us) or by telephone at (850) 412-2817.

This report and other reports prepared by the Auditor General can be obtained on our Web site at [www.myflorida.com/audgen](http://www.myflorida.com/audgen); by telephone at (850) 412-2722; or by mail at G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Beach Erosion Control Program

SUMMARY

This operational audit of the Department of Environmental Protection (Department) focused on the Department’s management of the Beach Erosion Control Program (Program) and included a follow-up on the findings noted in our report Nos. 2012-011 and 2012-164. Our audit disclosed the following:

**Finding No. 1:** Contractors selected to monitor Program projects were not always independent of the feasibility, design, and construction project phases.

**Finding No. 2:** Department oversight of Program project costs needs improvement.

BACKGROUND

State law<sup>1</sup> establishes the Department of Environmental Protection (Department) as the State’s beach and shore preservation authority. The Department is responsible for managing the activities affecting the State’s beach and coastal systems and sovereign submerged lands. These activities include restoring and managing critically eroded beaches, safeguarding the beach and dune systems from imprudent development, and determining shoreline conditions and trends. The Beach Erosion Control Program (Program) was established to provide grant assistance to eligible local governmental entities (local sponsors) for erosion control activities.

Pursuant to State law,<sup>2</sup> the Department is required to develop and maintain a comprehensive, long-term Statewide beach management plan and establish a prioritized list of beach restoration and nourishment projects, ranked using criteria outlined in State law. Eligible projects are then to be included in the Department’s Local Government Funding Requests (Requests) for the Legislature’s consideration. For the 2011-12 fiscal year, the Requests included 81 projects totaling approximately \$101.2 million, and the Requests for the 2012-13 fiscal year included 74 projects totaling approximately \$91.9 million.

State law<sup>3</sup> provides that the Legislature may authorize appropriations to pay up to 75 percent of the costs for restoring and nourishing a critically eroded beach and that the applicable local sponsor is to be responsible for the balance of the costs. For the 2011-12 and 2012-13 fiscal years, 68 projects were approved for State funding totaling approximately \$38.1 million.

Once a Beach Erosion Control Program (Program) project is approved for funding and the project is ready to proceed, the Department and the local sponsor are to execute a grant agreement outlining each party’s responsibilities. The Program’s standard grant agreement also requires that the estimated project costs be specified and the eligible project tasks be identified by project phase.

State law<sup>4</sup> provides four project phases to be considered by the Department for Program funding and Department rules<sup>5</sup> describe the project work to be completed during each project phase:

<sup>1</sup> Section 161.101(2), Florida Statutes.

<sup>2</sup> Section 161.161, Florida Statutes.

<sup>3</sup> Section 161.101(1), Florida Statutes.

<sup>4</sup> Section 161.101(11), Florida Statutes.

<sup>5</sup> Department Rule 62B-36.002, Florida Administrative Code. This rule was revised, effective August 5, 2013, to change the definitions of the four project phases and to specify that construction oversight and construction-related monitoring were to be conducted during the Construction phase and that post-construction monitoring was to be conducted during the Monitoring phase.

- *Feasibility and related planning studies* characterize the erosion problem and constraints on remediation alternatives. During this phase, alternatives to address the problem are developed and analyzed and the selection of the cost-effective, environmentally sound alternative that avoids or minimizes adverse impacts is to be made.
- *Design* includes the development of plans, specifications, permit applications and final costs for the project.
- *Construction* is the execution of the selected project.
- *Monitoring* includes the collection of project performance, biological, and environmental data.

Pursuant to State law,<sup>6</sup> for each Program project, the local sponsor is to select, on the basis of competitive negotiation, a project engineer that is acceptable to the Department. The selected project engineer may contract with other entities to perform work during the project phases, as well as to perform specialized services such as turtle and shorebird population monitoring and dredging. Alternatively, the local sponsor may select the contractors for the project. Pursuant to the Program's standard grant agreement, the Department's prior written consent is required before any contracts may be entered into for project work. While the Department is to provide Program funds to the local sponsors on a cost-reimbursement basis, the local sponsors are responsible for paying the project engineer and contractors.

## FINDINGS AND RECOMMENDATIONS

### Finding No. 1: Contractor Selection and Project Monitoring

Required project monitoring activities are specified in the Program grant agreements and may include biological monitoring and physical monitoring, both of which may be required before, during, and after project completion. Biological monitoring may include monitoring of the area's sea grass, hard bottom (coral, reefs, worm rock, sponges, etc.), and sea turtle and shore bird populations. Physical monitoring may include monitoring sediment quality, taking shoreline measurements and aerial photographs, and collecting topographic and bathymetric<sup>7</sup> survey data. Physical monitoring requirements are defined by each specific project permit and may be required annually for 3 years after construction completion, and then biennially until the next nourishment event. Monitoring activities are necessary for both the local sponsor and the Department to regularly observe and assess, with quantitative measurements, project performance; any adverse effects that may have occurred; and the need for any project adjustments, modifications, or mitigative actions. The monitoring process also provides the local sponsor and the Department the information necessary to plan, design, and optimize subsequent follow-up projects, potentially reducing the need for, and costs of, additional work as well as potentially reducing any environmental impacts that may have occurred or would be expected to occur.

During the period July 2011 through February 2013, the Department executed 33 Program project grant agreements totaling approximately \$42 million. During that time period, 20 other projects<sup>8</sup> were also in progress. For the 53 Program projects, the Department expended approximately \$22 million during the period July 2011 through February 2013. As part of our audit, we examined Department records for 20 of the 53 Program projects in progress. Department expenditures for the 20 selected projects totaled \$16,473,407 during the period July 2011 through February 2013 and 16 of the 20 projects had monitoring activities required during that period. Our audit tests disclosed that, while Department records indicated that the required monitoring activities were performed, the

<sup>6</sup> Section 161.101(14), Florida Statutes.

<sup>7</sup> According to the U.S. Environmental Protection Agency, bathymetric surveys are used to record the sediment surface both prior to remediation, and over time to assist project managers in determining the transience of bottom sediments.

<sup>8</sup> The 20 other projects had been approved and started prior to July 2011.

contractors selected to monitor the Program projects were not always independent of the project phases subject to the monitoring. Specifically, for 13 (81 percent) of the 20 projects selected for audit, a contractor that performed work on the feasibility, design, and construction phases of the project also performed the project monitoring. For the period July 2011 through February 2013, the monitoring costs for the 13 projects totaled approximately \$1.4 million and the Department reimbursed the local sponsors \$742,294 for the State's share.

We also noted that, although the standard Program grant agreement specifies that the local sponsor is not to subcontract, assign, or transfer any work under the agreement without the prior written consent of the Department's project manager, and that the local sponsor is to notify the project manager of the selection of an intended contractor, the Department had not established a standardized process for the review of, or provided guidance to the local sponsors regarding, the selection of contractors that addressed such things as how to identify and evaluate potential conflicts of interest. In response to our audit inquiry, Department management indicated that, although a standardized review process has not been established, Department staff scrutinize the contract scope of work to identify weaknesses and to ensure compliance with the Department's strategic beach management plan. According to Department management, this process may have resulted in revisions to the contracts' scope of work; however, all contractor selection decisions made by local sponsors (or project engineers) for the projects executed during the 2011-12 and 2012-13 fiscal years were approved by the Department.

When monitoring activities are performed by contractors that were also engaged to provide services for the project phases being monitored, Department management's assurances regarding the objectivity, accuracy, and completeness of reported monitoring information and results are limited. In addition, absent the establishment of a standardized review process and local sponsor contractor selection guidance, the risk is increased that potential conflicts of interest may not be identified or properly evaluated during the contractor selection and approval processes. A June 2011 construction project monitoring report<sup>9</sup> funded, in part, by the Department, also noted concerns regarding conflicts of interest when one contractor was responsible for both the project monitoring and work on the project phases subject to monitoring.

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**Recommendation:** We recommend that Department management establish a standardized review process and develop Program guidance for local sponsors addressing the selection of contractors. The review process and guidance should address the identification of potential conflicts of interest and require that project monitors be independent of the Program project phases they are to monitor.

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## **Finding No. 2: Oversight of Program Project Costs**

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Each Program project is assigned to a Department project manager who is responsible for reviewing and approving the project's scope of work. The scope of work and deliverables are to be specified in the grant agreement along with the terms and conditions applicable to the project. Prior to requesting reimbursement from the Department, the local sponsor is to verify that the work included in the request for reimbursement meets the terms and conditions of the project grant agreement and that all applicable permits have been satisfied. The Department's project manager is to review the local sponsor's reimbursement request and verify that deliverables were provided and permit requirements were met before approving the reimbursement. Department management is responsible for ensuring that Program

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<sup>9</sup> *Evaluation of Past Coastal Construction Project Monitoring in Southeast Florida and Recommendations to Improve Future Monitoring*, prepared by Alison Moulding of the Nova Southeastern University Oceanographic Center. The report included the results of interviews or surveys of individuals from various entities, including Federal and State agencies, local counties, universities, and consulting firms and included a recommendation that contractors responsible for monitoring be independent from project construction and design.

expenditures are made in compliance with applicable laws, rules, and grant agreements, and that Program funds are spent for the economic and efficient accomplishment of Program goals.

Program guidelines and compliance requirements, including activities allowed and allowable costs, are briefly described in the State Projects Compliance Supplement, under Catalog of State Financial Assistance (CSFA) No. 37.003. The Department referenced CSFA No. 37.003 and listed the Program compliance requirements in each local sponsor's grant agreement.

As part of our audit, we interviewed Department staff; examined Program-related documentation, including, but not limited to the CSFA and State Projects Compliance Supplement, grant agreements, and local sponsor reimbursement request packages; and evaluated the Department's project reimbursement process and efforts to ensure local sponsor compliance with the grant agreement provisions. We noted that the Department's Program management and oversight could be improved to better ensure that costs are necessary and reasonable and to demonstrate the economic and efficient completion of projects in compliance with applicable laws, rules, and grant agreement provisions. Specifically, we noted that:

- Project costs were captured in Department accounting records as lump sum payments by phase; therefore, project cost data could only be evaluated at the overall project phase level, limiting the Department's ability to analyze Program costs and compare costs across similar projects.
- While each grant agreement included overall funding amounts for activities related to the various project phases, neither the State Projects Compliance Supplement nor the project grant agreements provided detailed descriptions of the specific types of costs reimbursable under the Program. For example, although one grant agreement executed in September 2011 indicated that "eligible costs may include mobilization, demobilization, construction observation or inspection services, beach fill, tilling and scarp removal, erosion control structures, dune stabilization measures and native beach-dune vegetation," the agreement did not include provisions regarding the specific types of costs allowed for the performance of those activities. Absent such provisions in the agreements, the Department had not otherwise established guidance for local sponsors regarding the allowability of specific costs related to project activities.
- The reasonableness of the costs requested by local sponsors for reimbursement was not always demonstrated by the documentation supporting the Program expenditures made by the Department. Our examination of Department records for 40 Program expenditures totaling approximately \$14.8 million and related to 11 projects in progress during the period July 2011 through February 2013, disclosed instances in which an explanation or justification was necessary to document the reasonableness of the amounts reimbursed. For example, for two projects in the same county, the hourly rates paid to contractors for the projects' managers, senior engineers, engineers, and clerical staff performing similar project services varied, within each position, by up to \$34 per hour and there was no explanation for the higher rates of pay. We also noted that the Department had not established hourly rate guidelines for Program project services.

In response to our audit inquiries, Department management indicated that, since Program projects are cost-shared, reliance is placed on the local sponsor to keep costs down.

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**Recommendation:** We recommend that Department management establish guidance, including contractor hourly rate guidelines, addressing specific project costs allowable under the Program. To improve management and oversight of the Program and better ensure that projects are economically and efficiently completed in compliance with applicable laws, rules, and grant agreement provisions, we also recommend that the Department establish a mechanism for tracking project costs by expenditure type and strengthen its process for reviewing local sponsor project contracts and requests for reimbursement.

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**PRIOR AUDIT FOLLOW-UP**

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Our audit procedures found that the Department had taken corrective actions for the findings included in our report Nos. 2012-011 and 2012-164.

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**OBJECTIVES, SCOPE, AND METHODOLOGY**

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

We conducted this operational audit from January 2013 through June 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit focused on the Department's management of the Beach Erosion Control Program (Program). The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report Nos. 2012-011 and 2012-164.

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

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

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

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

In conducting our audit we:

- Reviewed applicable laws, rules, and regulations, and Department policies and procedures, and interviewed Department personnel to evaluate whether the Department had established controls relevant to the Program.
- Obtained an understanding of Program controls, assessed the risks of those controls, evaluated whether the controls were in place, and tested the effectiveness of the controls.
- Reviewed Department Inspector General reports and selected working papers related to two internal audits of the Program: *Review of Bureau of Beaches and Coastal Systems' Beach Restoration Funding Scoring System* and *Beach Nourishment Contract 08PB04, Palm Beach County, Juno Beach*.
- Examined Department records for 15 Program grant awards, totaling \$40,396,340 and executed during the period July 2011 through February 2013, to determine whether the grants were awarded in accordance with the requirements of Chapter 161, Florida Statutes, and the Florida Single Audit Act.
- Examined Department records for 40 expenditures, totaling \$14,754,342, related to 11 Program projects in progress during the period July 2011 through February 2013 to determine whether the expenditures were allowable for reimbursement under the grant agreement and were made in compliance with applicable laws, rules, and grant agreements.
- Examined Department records for 20 Program projects in progress with expenditures totaling \$16,473,407 during the period July 2011 through February 2013 to determine whether monitoring requirements were met.
- Interviewed Department personnel, reviewed Department procedures, and examined documentation (such as the Office of Financial Management's tracking log of completed compliance reviews) to evaluate the process used by the Department to ensure that district annual compliance reviews were completed for each State Park and to determine whether Department procedures were amended to include an examination of the controls over land use fees, timber revenues, and inventories held for resale.
- Interviewed Department personnel regarding the transition of the management of the Real Florida Café to the Division of Blind Services effective July 1, 2011.
- Interviewed Department personnel, reviewed Department procedures, and examined Department records to determine whether the Department had established and implemented procedures requiring that documentation be maintained evidencing the monitoring of timber sales in State parks, including a reconciliation of the prioritized list of sites to the actual timber sales, and reviewed applicable documents demonstrating the implementation of the revised procedures
- Interviewed Department personnel and reviewed Department records to determine whether the Department exercised due diligence in pursuing full payment of administrative fines receivable and reported delinquent accounts to a collection agent as required by Section 17.20, Florida Statutes.
- Interviewed Department personnel and reviewed Department records to determine whether controls had been put in place to timely remove access to the Legal Case Tracking Application and Cash Receiving Application.
- Reviewed Department procedures and examined Department records (e.g., documentation of timely follow-up on facilities found to be out of compliance and documentation of Department actions to bring noncompliant facilities into full compliance) to determine whether the Integrated Land Management System had been enhanced to facilitate the monitoring of submerged land leases and the scheduling of on-site inspections.

- Interviewed Department personnel and reviewed Department records to evaluate Department efforts to obtain delinquent land management and use plans.
- Reviewed the Department’s Hunt Camp Inspection Form and Hunt Camp Lease Maintenance procedures to evaluate whether the Department’s process for reviewing hunt camp leases had been revised to include specific inspection criteria (such as the date of inspection, the inspector’s name, communication of any noncompliance to the lessee, and supervisory review) and examined documented examples of management actions taken to assure due diligence on hunt camp lease reviews.
- Interviewed Department personnel and examined Department records regarding Department processes for noncompliant leases to determine how the receipt and review of land management and use plans are tracked and logged and to evaluate the sufficiency of Department procedures.
- Interviewed Department personnel regarding whether there had been any changes since the last application fee rate increase that would necessitate, for applicable Department lease and easement management costs, an analysis to determine the appropriateness of the established fee amounts.
- Observed, documented, and evaluated the effectiveness of, selected processes and procedures for ensuring the management of Department tangible personal property in compliance with applicable laws and rules. The acquisition costs of Department tangible personal property totaled approximately \$123.9 million as of July 31, 2012.
- Observed, documented, and evaluated the effectiveness of, selected processes and procedures for the assignment and use of motor vehicles with acquisition costs totaling approximately \$58.9 million as of July 31, 2012.
- Observed, documented, and evaluated the effectiveness of, selected processes and procedures for the management of Department contracts and Florida Single Audit Act activities.
- Reviewed Department procedures and interviewed Department personnel to gain an understanding of and to evaluate the Department’s processes for safeguarding social security numbers maintained in Department records.
- Reviewed Department records to evaluate the appropriateness of Florida Accounting Information Resource Subsystem and MyFloridaMarketPlace access privileges granted to Department employees.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions.

**AUTHORITY**

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic 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 December 16, 2013, the Secretary of the Department provided responses to our audit findings and recommendations. The Secretary’s response is included as **EXHIBIT A**.

**EXHIBIT A  
MANAGEMENT'S RESPONSE**



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

MARJORY STONEMAN DOUGLAS BUILDING  
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RICK SCOTT  
GOVERNOR  
HERSCHEL T. VINYARD JR.  
SECRETARY

December 16, 2013

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

Dear Mr. Martin:

Enclosed is the Florida Department of Environmental Protection's response to the preliminary and tentative findings and recommendations pertaining to the Audit of the Department of Environmental Protection, Beach Erosion Control Program. If you have questions in this regard, please call Candie Fuller, Inspector General at (850) 245-3151. Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. T. Vinyard Jr.', written over a faint, larger version of the same signature.

Herschel T. Vinyard Jr.  
Secretary

HTV/cmf  
Enclosure

Cc: Mark Thomasson, Division of Water Resource Management, DEP  
Danielle Irwin, Division of Water Resource Management, DEP

**EXHIBIT A (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

**Department of Environmental Protection**  
**Response to Preliminary and Tentative Audit Findings**  
**Auditor General Audit**  
**December 13, 2013**

**Finding No.1: Contractor Selection and Project Monitoring**

Contractors selected to monitor Program projects were not always independent of the feasibility, design, and construction project phases.

**Recommendation:** We recommend that Department management establish a standardized review process and develop Program guidance for local sponsors addressing the selection of contractors. The review process and guidance should address the identification of potential conflicts of interest and require that project monitors be independent of the Program project phases they are to monitor.

**Department Response:**

The Department of Environmental Protection (Department) agrees with the audit finding and recommendation. The Department will take two courses of action to address future monitoring activities. First, the Beach Erosion Control Program (Program) will draft a guidance document for grant recipients that outlines a scope of work review process for project monitoring services. The guidance will detail program standards and allowable costs. The guidance will also address the contractor selection process to avoid conflicts of interest. Staff will post the guidance document on the program webpage when it is completed.

Second, the Program will investigate appropriate chapters of administrative code that could be amended to restrict the use of contractors from directly monitoring the projects that they construct. Currently, Chapters 62B-41 and 62B-49, Florida Administrative Code, are open for rulemaking. These rules address the application submittal and review procedures for the issuance of coastal construction permits. An amendment of one or both of these rules may be proposed to require that all future permits require project performance (post-construction) monitoring to be conducted by an entity other than the contractor constructing the project.

**Finding No. 2: Oversight of Program Project Costs**

Department oversight of Program project costs needs improvement.

**Recommendation:** We recommend that Department management establish guidance, including contractor hourly rate guidelines, addressing specific project costs allowable under the Program. To improve management and oversight of the Program and better ensure that projects are economically and efficiently completed in compliance with applicable laws, rules, and grant agreement provisions, we also recommend that the Department establish a mechanism for tracking project costs by expenditure type and strengthen its process for reviewing local sponsor project contracts and requests for reimbursement.

**Department Response:**

The Department agrees with this recommendation. The Department will investigate other state and federal funding programs that have successfully implemented rate

**EXHIBIT A (CONTINUED)**  
**MANAGEMENT'S RESPONSE**

standardization. Using approved scopes of work, staff will develop a database for tracking the costs of project tasks for statewide beach and inlet projects and establish guidelines for rates eligible for reimbursement, consistent with the Consultants Competitive Negotiation Act. Rate guidelines will be added to the guidance document developed as indicated in the response to Recommendation number 1 above.