

**COUNTY VALUE ADJUSTMENT BOARDS
AND
DEPARTMENT OF REVENUE'S OVERSIGHT
THEREOF**

Performance Audit



COUNTY VALUE ADJUSTMENT BOARD MEMBERS

Section 194.015, Florida Statutes, provides for the creation of a value adjustment board (VAB) for each county composed of five members. Each VAB consists of two members of the board of county commissioners elected from the membership of the board, one of whom shall be elected VAB chairperson; one member of the school board elected from the membership of the school board; and two citizen members, one of whom shall be appointed by the board of county commissioners and must own homestead property within the county, and one of whom must be appointed by the school board and must own a business occupying commercial space located within the school district. Exhibit B includes a listing of VAB members for the 15 counties included in our review who served on the VAB when petitions relating to the 2011 ad valorem tax rolls were heard.

HEAD OF THE DEPARTMENT OF REVENUE AND THE EXECUTIVE DIRECTOR

Pursuant to Section 20.21(1), Florida Statutes, the head of the Department of Revenue is the Governor and Cabinet, which includes the Attorney General, Chief Financial Officer, and the Commissioner of Agriculture. Pursuant to Section 20.05(1)(g), Florida Statutes, the Governor and Cabinet is responsible for employing an Executive Director of the Department of Revenue. Lisa Vickers served as the Executive Director during the period July 2011 through June 2012, after which Marshall Stranburg served as the Executive Director.

The audit team leader was Stephanie Baker, and the audit was supervised by Michael J. Gomez, 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) 412-2881.

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

COUNTY VALUE ADJUSTMENT BOARDS AND DEPARTMENT OF REVENUE'S OVERSIGHT THEREOF

EXECUTIVE SUMMARY

Our performance audit of the county VABs and the Department of Revenue (DOR)'s oversight thereof disclosed the following:

MANAGEMENT OVERSIGHT

Finding No. 1: Independence in the appeal process at the local level may have been compromised due to local officials involved in the process who may not have been impartial and whose operations are funded with the same property tax revenue at stake in the appeal process. Additionally, enhanced uniformity in the way VABs document compliance with appeal process requirements, and the establishment of general information on Florida's property tax system for use Statewide by all VABs in complying with DOR Rule 12D-9.013(1)(i), Florida Administrative Code (FAC), could promote fairness and consistency in the appeal process.

Finding No. 2: Our review disclosed an instance of noncompliance with DOR rules for one VAB that gave the appearance of bias and undue influence in the appeal process.

SPECIAL MAGISTRATES IN THE APPEAL PROCESS

Finding No. 3: Special magistrates served on multiple VABs during the same tax year, which appears to be inconsistent with the State Constitution dual office holding prohibition.

Finding No. 4: Selection of special magistrates may not have been based solely on experience and qualifications, contrary to law and DOR rules, and verification of such information was not always documented.

Finding No. 5: Special magistrate training was not verified by the DOR prior to issuing statements acknowledging receipt of training, and one VAB did not document special magistrate training in its records.

VAB ADMINISTRATIVE HEARINGS

Finding No. 6: Verification of compliance with law and DOR rules relating to VAB prehearing requirements was not always documented.

Finding No. 7: VAB organizational meetings were not always held in accordance with the requirements prescribed by DOR rules.

Finding No. 8: Prescribed procedures for commencing VAB hearings were not always followed by the VABs, contrary to DOR rules.

Finding No. 9: Some VAB's records did not evidence consideration of the property appraiser's presumption of correctness issue, and one VAB did not consider this issue first at hearings, contrary to DOR rules.

Finding No. 10: VAB written decisions were not always sufficiently detailed contrary to law and DOR rules.

ADMINISTRATIVE MATTERS

Finding No. 11: Public notice of VAB organizational meetings and hearings were not always in accordance with DOR rules.

Finding No. 12: VABs did not always allocate expenses between the board of county commissioners and the school board, contrary to law.

Finding No. 13: VAB citizen members did not always meet the specific requirements provided in law and DOR rules to serve on the VABs, and verification of such requirements was not always documented.

Finding No. 14: Documentation of taxpayer representation for a hearing was not evident for some petitions, contrary to DOR rules.

BACKGROUND

Each August, the county property appraisers send property owners a *Notice of Proposed Property Taxes*, which identifies the just, assessed, and taxable value of the parcel and the tax that will be due based on the millage rates proposed by local governments. Property owners who disagree with their property's assessment can appeal to their respective county's VAB. The VABs meet for the purposes of hearing petitions related to assessments, complaints relating to homestead exemptions, appeals for exemptions denied, and appeals concerning ad valorem tax deferrals and classifications. VABs are quasi-judicial bodies independent from the property appraiser and tax collector, and remain in session until all petitions, complaints, appeals, and disputes are heard for the tax year. The clerk of the governing body of the county serves as the VAB clerk, whose responsibilities include maintaining a record of the proceedings and preserving evidence, processing petitions, scheduling hearings, and notifying the public of the results of VAB proceedings.

Section 194.011(5)(b), Florida Statutes, requires the DOR to prescribe by rule uniform procedures for hearings before the VABs and to develop a uniform policies and procedures manual to be used by the VABs, special magistrates, and taxpayers in VAB proceedings. Section 194.035(3), Florida Statutes, requires the DOR to provide training for persons involved in the VAB process. Additionally, Section 195.002, Florida Statutes, provides that the DOR shall have general supervision of the assessment and valuation of property so that all property will be placed on the tax rolls and shall be valued according to its just valuation, as required by the State Constitution. DOR's supervision consists primarily of aiding and assisting county officers in the assessing and collection functions, with particular emphasis on the more technical aspects.

Information on the number of property parcels included in petitions filed, withdrawn, heard, granted, and denied for the 15 VABs selected for our review are shown in Table 1 (see the Objectives, Scope, and Methodology section of this report regarding the 15 VABs selected).

Table 1

County	Parcels Included in Petitions Filed	Parcels Included in Petitions Withdrawn	Parcels Included in Petitions Withdrawn as a Percentage of Parcels Filed	Parcels Included in Petitions Heard by VAB (1)	Parcels Included in Petitions Granted	Parcels Included in Petitions Granted as a Percentage of Parcels Heard by VAB	Parcels Included in Petitions Denied (1)	Parcels Included in Petitions Denied as a Percentage of Parcels Heard by VAB
Broward	25,075	18,109	72	6,966	1,235	18	5,731	82
Gilchrist	38	3	8	35	0	0	35	100
Hillsborough	3,324	1,851	56	1,473	87	6	1,386	94
Lee	2,219	1,515	68	704	136	19	568	81
Leon	1,618	1,445	89	173	29	17	144	83
Martin	812	518	64	294	51	17	243	83
Miami-Dade	91,519	11,898	13	79,621	38,864	49	40,757	51
Monroe	686	642	94	44	0	0	44	100
Orange	7,493	3,180	42	4,313	71	2	4,242	98
Palm Beach	8,417	4,092	49	4,325	916	21	3,409	79
Pasco	675	524	78	151	15	10	136	90
Pinellas	2,298	1,037	45	1,261	492	39	769	61
Seminole	760	319	42	441	57	13	384	87
Suwannee	20	12	60	8	0	0	8	100
Washington	100	75	75	25	0	0	25	100
Total	146,504	47,548	32	98,956	41,458	42	57,498	58

Source: Forms DR-529 filed by the VABs, as amended.

(1) Includes property parcels for which the petitioner failed to appear at the scheduled hearing.

FINDINGS AND RECOMMENDATIONS

Management Oversight

Finding No. 1: Appeal Process

VABs are created in each county for the purpose of administering an appeal process for property owners that disagree with their exemption status or their real or tangible personal property assessment. If a property owner disagrees with their assessment or exemption status, they can file a petition with their VAB or contest an assessment in circuit court in the county where the property is located. In addition, at any time before or during their appeal, property owners may request an informal meeting with the property appraiser. If the property appraiser agrees to revise the assessment or persuades the property owner of its validity, the property owner can withdraw the petition. If the two parties do not reach an agreement, the property owner can continue the VAB appeal or pursue legal remedies. Under current law, whatever action the property owner may decide to pursue, the actions are conducted at the local level by local

officials (VAB, clerk of the circuit court, and property appraiser). The VAB is comprised of two board of county commissioners, one school board member, and two citizens appointed by the board of county commissioners and the school board. Property taxes in Florida make up approximately 50 percent of public education funding and 30 percent of local government revenues¹.

To assist in the appeal process, the DOR is required by law² to develop a uniform policies and procedures manual to be used by VABs, special magistrates, and taxpayers in proceedings before VABs. While the policies and procedures manual includes references to rules and laws, and other guidelines regarding VAB procedures and rights of taxpayers, it does not include guidance regarding rules of conduct or ethical codes for VAB members or staff, VAB clerks, VAB attorneys, or special magistrates. Such rules of conduct or ethical codes may be beneficial to promoting the integrity of the appeal process. For example:

- In our review of the Hillsborough County VAB, we noted while listening to an audio recording of its July 21, 2011, meeting that the VAB chairperson, who also served as a county commissioner, addressed the VAB with the following statement “What you need to look at is the end game because every review costs us money but it affects the tax roll, we allow \$35 million, millions of dollars to be taken off the tax rolls through additional review, the whole VAB process amount and I think you have to kind of keep that in mind because as you know and I know where you are educating children, and I’m trying to take care of needs in the county....” This statement appeared to place an inappropriate emphasis on preserving property tax revenues rather than promoting an appeal process that should be based on fairness and equality in the just valuation of property.
- Our review of the Broward County VAB indicated that information gathered on special magistrates who historically recommended large property assessment reductions was used by the VAB when considering continuing the special magistrate’s service in the subsequent year (see further discussion in finding No. 4).

Considering the example statement made by a VAB chairperson and the special magistrate rehiring practices, the instance of apparent bias and undue influence discussed in finding No. 2, and local officials’ involvement in the appeal process, property assessment appeals at the local level could be strengthened by establishing rules of conduct or ethical codes for the VAB members and staff, VAB clerks, VAB attorneys, and special magistrates in their respective roles in the appeal process.

Our review of the appeal process in 14 states disclosed that 6 of the 14 states provide various appeal processes that allow property owners and property assessors or tax assessors to challenge their assessments beyond the local level. While all 14 states had some form of an initial county level appeal process, in the event the property owner did not prevail at the county level, 6 of the 14 states provided for state-level review of the appeals with a state agency such as a tax commission, board of tax appeals, or department of revenue.

Our audit included an assessment of the composition of the VAB and possible changes to enhance fairness and objectivity in the appeal process. One possibility would be for the VABs to not include local government officials. Our review of the composition of the VAB (or equivalent) for the same 14 states discussed above disclosed that for 7 of the 14 states, the VAB (or equivalent) was composed of individuals that were not local government officials. Alternatively, the number of local government officials on the VAB and their role could be decreased. For example, the composition of the VAB could consist of one member, not two, from the governing body of the county; one member from the school board; two citizen members; and one professional member who would be a resident of the county, with the chairperson and alternate chairperson of the VAB being a citizen member or professional member, not members from the taxing authorities.

¹ DOR – *Information for Taxpayers*

² Section 194.011(5)(b), Florida Statutes

In this report, we noted inconsistencies in the manner in which VAB proceedings were conducted and in the results of such proceedings, and have made recommendations to improve consistency. Additionally, we noted circumstances that could inhibit a perception of fairness and equity in the process, and have made recommendations to improve that perception. An appeal process at the State or regional level could enhance consistency in proceedings. In addition, such an appeal process or the VAB being composed of individuals, the majority of which are not county government or school board officials, could enhance fairness and objectivity in the process. However, it would be prudent to consider the other recommendations in this report, addressing the inconsistencies and improving the perception of fairness, and the extent they are subsequently adopted, prior to evaluating the form and extent of any appellate process or the composition of the VAB.

Elsewhere in this report, we noted instances of insufficient documentation of compliance with requirements associated with the appeal process, such as compliance with prehearing legal requirements; completing VAB organizational meeting requirements; and conducting VAB hearings in accordance with various DOR rules. Also, we noted inconsistencies in the manner in which the VABs provided general information on Florida's property tax system pursuant to DOR Rule 12D-9.013(1)(i), FAC. A uniform manner in which verification requirements are met and documented, such as through the completion of a checklist form, as well as establishing general information on Florida's property tax system to be used Statewide by all VABs, would promote fairness and consistency in the appeal process.

Recommendation: The Legislature should consider: (1) requiring that rules of conduct or ethical codes, with appropriate sanctions, be established for VAB members and staff, VAB clerks, VAB attorneys, and special magistrates in their respective roles in the appeal process; (2) creating an appeal process at the regional or State level; and (3) requiring that the VAB be composed of individuals, the majority of which are not county government or school board officials. In doing so, the Legislature should consider the other recommendations in this report and the extent to which those recommendations are adopted by the Legislature, the DOR, and the VABs. Additionally, the DOR should develop uniform checklist forms for inclusion in its uniform policies and procedures manual for the VABs use in documenting compliance with various appeal process requirements. The DOR should also establish general information on Florida's property tax system to be used by the VABs in fulfilling the requirements prescribed in DOR Rule 12D-9.013(1)(i), FAC.

Finding No. 2: Appearance of Bias and Undue Influence

To assure that all participants in the VAB process receive fair treatment, it is critical that the process be conducted in a manner free of the appearance of bias, undue influence, or conflicts of interest. DOR Rule 12D-9.017(1)(a), FAC, provides that no participant, including the petitioner, property appraiser, VAB clerk, special magistrate, VAB member, or other person directly or indirectly interested in the proceeding, nor anyone authorized to act on behalf of any party must communicate with a VAB member or the special magistrate regarding the issues in the case without the other party being present or without providing a copy of any written communication to the other party. Additionally, DOR Rule 12D-9.017(3), FAC, states that ex parte communication must not be considered by the VAB or the special magistrate unless all parties have been notified about the ex parte communication, no party objects, and all parties have an opportunity during the hearing to cross-examine, object, or otherwise address the communication.

Our review of a video recording from a Suwannee County VAB meeting disclosed that the property appraiser and the property appraiser's attorney were present after the hearing for the VAB's discussion of the final decision on a petition, and during the final discussion the property appraiser's attorney spoke with the VAB regarding the consideration of the costs of sale in deriving just valuation of the subject property. Contrary to DOR Rule

12D-9.017(3), FAC, such discussion was held without the petitioner being present. Allowing one of the parties to discuss with the VAB issues affecting the petition while the other party is not present may give the appearance of bias or undue influence.

Recommendation: The VABs should ensure all participants in the appeal process receive fair and equitable treatment regarding ex parte communication consistent with DOR rules.

Special Magistrates in the Appeal Process

Pursuant to Section 194.035(1), Florida Statutes, in counties with populations of more than 75,000 (or 36 counties using 2012 population estimates³), the VAB appoints special magistrates for the purpose of taking testimony and making recommendations to the VAB, which may act upon such recommendations without a further hearing. These special magistrates may not be elected or appointed officials or employees of the county and are selected from a list of qualified individuals willing to serve as special magistrates. Also, the DOR provides a list of qualified special magistrates to counties with populations of 75,000 or less, although these counties are not required to use the list to select special magistrates. Subject to State appropriation, the DOR is authorized to reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of taking testimony and making recommendations to the VAB.

Finding No. 3: Special Magistrates' Dual Office Holding Prohibition

Article II, Section 5(a) of the State Constitution provides in part that no person may hold at the same time more than one office under the government of the State and the counties and municipalities therein, except that a notary public or military officer may hold another office, and any officer may be a member of a constitution revision commission, taxation and budget reform commission, constitutional convention, or statutory body having only advisory powers. The Attorney General has opined, in opinion Nos. 2005-29 and 2012-17, that service as a special magistrate for a VAB constitutes an office within the scope of Article II, Section 5(a) of the State Constitution.

Our review of the 12 VABs included in our review that appointed special magistrates disclosed that 37 special magistrates in 11 VABs (all except Leon County VAB) served in multiple counties for the 2011 tax year, which appears to be inconsistent with the constitutional dual office holding prohibition. We noted that 24 special magistrates served on 2 VABs, 9 special magistrates served on 3 VABs, and 4 special magistrates served on 4 VABs. In response to our inquiries, the VABs generally indicated that they do not believe the dual office holding prohibition applies to special magistrates. One VAB referred to an opinion issued to a VAB by DOR's Chief Assistant General Counsel that a special magistrate in one county would not violate the dual office holding provision by serving another county VAB in the same capacity.

Recommendation: The Legislature should consider revising Section 194.035, Florida Statutes, to clarify whether special magistrates may serve on multiple VABs.

Finding No. 4: Verification of Special Magistrates' Experience and Qualifications

In addition to the required professional certifications and years of relevant work experience for special magistrates provided for in Section 194.035(1), Florida Statutes, and DOR Rule 12D-9.010(4), FAC, a special magistrate must not

³ Source: University of Florida, Bureau of Economic and Business Research

be an elected or appointed official or employee of a taxing jurisdiction or of the State. Most VABs we reviewed obtained the needed information on potential special magistrates by means of a special magistrate application or resume. The VABs are required by law and DOR rules to verify a special magistrate's qualifications before appointing the special magistrate, and the selection of a special magistrate must be based solely on the experience and qualifications of such special magistrate.

Our review of the VABs verification of special magistrates' experience and qualifications for the 12 VABs included in our review that appointed special magistrates disclosed that improvement was needed in verifying the information provided by the special magistrates and documenting the results of such verification. For example, we noted that 7 VABs (Broward, Lee, Leon, Miami-Dade, Monroe, Orange, and Seminole Counties) either did not verify the special magistrates' work experience or such verification was not evident in its records. Verification of work experience is important to ensure that special magistrates have the appropriate level of experience in the areas of ad valorem taxation, real property valuation, and tangible personal property valuation to fulfill their role with the VABs. Additionally, we noted that the Lee County VAB did not verify of record possible conflicts of employment or inappropriate representations for returning special magistrates since verifications had been previously performed. However, verification of conflicting employment and representations is needed annually for returning special magistrates because changes may have occurred since the previous verifications that could affect the special magistrate's qualifications.

We noted in our review of the Broward County VAB that a complaint letter dated October 8, 2012, was filed with the DOR by a former special magistrate regarding the special magistrate appointment process at the Broward County VAB and the use of special magistrate reduction tracking reports. These reports identified and tracked, by special magistrate, those special magistrates who recommended property assessment reductions that either exceeded 50 percent of the original property assessment or exceeded \$200,000. An analysis of the tracking reports by the complainant showed that, with the exception of one special magistrate, the special magistrates with the six highest assessment reductions were not initially reappointed from the 2010 tax year to serve in the 2011 tax year.

DOR forwarded the complaint letter to the Broward County VAB and requested the Broward County VAB legal counsel to respond and copy the DOR with the response. The Broward County VAB legal counsel's response maintained that the VAB's appointment of special magistrates is in compliance with the law, but did not address the issues of transparency and influence on the special magistrates. Subsequently, the Broward County VAB agreed to discontinue its practice of reviewing the information regarding petitions in which the petitioner's property valuation had been reduced by either 50 percent or exceeded \$200,000. When a special magistrates' history of reductions to property assessments is given consideration when rehiring a special magistrate, rather than relying only on the factors prescribed by law, there may be the appearance that bias entered into the selection process.

While the law and DOR rules require the selection of a special magistrate be based only on the experience and qualifications of such special magistrates, the selection process may be enhanced if consideration was also given to specific work performance factors of special magistrates.

Recommendation: The VABs should ensure that only the factors prescribed by law are considered in selecting special magistrates, that information provided by special magistrates is verified each tax year, and such verification is documented. Additionally, the Legislature should consider revising Section 194.035, Florida Statutes, to provide for consideration of specific prior work performance factors when selecting special magistrates.

Finding No. 5: Special Magistrate Training

Section 194.035(3), Florida Statutes, and DOR Rule 12D-9.012, FAC, requires the DOR to conduct training for special magistrates⁴ at least once each State fiscal year. Such training, which is Web based, is the official training for special magistrates regarding the administrative review process, and must be completed before the special magistrates conduct hearings. Each special magistrate, depending on the number of years of experience, is required to provide the VAB's clerk either a statement acknowledging receipt of the training or a copy of the certificate of completion of the training and examinations.

Our review of special magistrate training documentation for the 15 VABs included in our review disclosed that the training was generally documented and received in a timely manner except for the Broward County VAB. We noted that three special magistrates were appointed by the Broward County VAB that had not completed the special magistrate training prior to conducting hearings. The special magistrates were appointed contingent on them completing the DOR special magistrate training; however, the Broward County VAB had not verified that the training was completed subsequent to the appointments and prior to the special magistrates conducting hearings. Special magistrate training developed by the DOR is intended to provide guidance for those conducting administrative hearings and to promote consistency among the special magistrates and the VABs. Absent such training, the special magistrates may be conducting hearings in a manner inconsistent with law and DOR rules.

We also noted that certain special magistrates sent an e-mail to the DOR requesting a statement acknowledging that the special magistrates had received the required training, and that the DOR provided such statements without requiring the special magistrates to provide proof of having reviewed or completed the training material (i.e., DOR provided such statements based on the honor system). Notwithstanding the veracity of the special magistrates' statements regarding training, without proof of review and comprehension of the training, there is an increased risk that a VAB may appoint a special magistrate that has not received the required training.

Recommendation: The VABs should ensure that special magistrates receive appropriate training in a timely manner and that training is evident in its records. Also, the DOR should verify that training has been received by special magistrates prior to issuing statements acknowledging receipt of training.

VAB Administrative Hearings

Finding No. 6: VAB Prehearing Verification of Compliance with Legal Requirements

Section 194.034(1)(a), Florida Statutes, provides that hearings must be conducted in the manner prescribed by DOR rules. DOR Rule 12D-9.014, FAC, provides that the VAB clerk must not allow the holding of scheduled hearings until the VAB legal counsel has verified that all requirements in Chapter 194, Florida Statutes, and DOR rules are met as follows:

- The composition of the VAB is as provided by law;
- VAB legal counsel has been appointed as provided by law;
- VAB legal counsel meets the requirements of Section 194.015, Florida Statutes, which provides that the VAB must appoint private counsel who has practiced law for over five years and who will receive such compensation as may be established by the VAB. The private counsel may not represent the property

⁴ Such training is required for VAB members or the VAB legal counsel in counties that do not use special magistrates.

appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes;

- While members of the VAB, no VAB members represent other governmental entities or taxpayers in any administrative or judicial review of property taxes, and citizen members are not members or employees of a taxing authority;
- In a county that does not use special magistrates, either all VAB members have received the DOR's training or VAB legal counsel has received the DOR's training;
- The organizational meeting, as well as any other VAB meetings, will be or were noticed in accordance with Section 286.011, Florida Statutes, and will be or were held in accordance with law (see further discussion in finding Nos. 7 and 11);
- The DOR's uniform VAB procedures were made available at the organizational meeting and copies were provided to special magistrates and VAB members;
- The DOR's uniform policies and procedures manual is available on the VAB clerk's Web site if the VAB clerk has a Web site;
- The qualifications of special magistrates were verified, including that special magistrates received the DOR's training and that special magistrates with less than five years of required experience successfully completed the DOR's training, including any updated modules and an examination, and were certified as having received such training;
- The selection of special magistrates was based solely on proper experience and qualifications and neither the property appraiser nor any petitioners influenced the selection of special magistrates⁵.
- All procedures and forms of the VAB or special magistrate are in compliance with Chapter 194, Florida Statutes, and DOR Rule 12D-9, FAC;
- The VAB is otherwise in compliance with Chapter 194, Florida Statutes, and DOR Rule 12D-9, FAC; and
- Notice has been given to the chief executive officer of each municipality as provided in Section 193.116, Florida Statutes.

The VAB clerk must notify the VAB legal counsel and the VAB chair of any action needed to comply with the above requirements.

Given the vast responsibility assigned to the VAB clerk and legal counsel prior to holding hearings, it is important that the verification process be documented in the VAB's records. We noted that some VABs documented the verification process by completing a formalized, written prehearing checklist, while other VABs used a less formal approach. Our review of documentation evidencing the verification process for the 15 VABs included in our review disclosed that 11 VABs (Gilchrist, Hillsborough, Lee, Martin, Miami-Dade, Monroe, Orange, Palm Beach, Pasco, Seminole, and Washington Counties) did not document the results of the verification. In most cases, the VAB clerk stated that the information was verified with VAB legal counsel, either verbally or through e-mails, but no documentation of the verification was maintained in the records. Leon County VAB completed a prehearing checklist with appropriate signatures and dates, but the VAB legal counsel dated the checklist subsequent to holding hearings.

Absent documented verification of compliance with Florida Statutes and DOR rules as prescribed by DOR Rule 12D-9.014, FAC, prior to holding hearings, there is an increased risk that appeals may not be held in a fair and equitable manner.

⁵ This provision does not prohibit the VAB from considering any written complaint filed with respect to a special magistrate by any party or citizen.

Recommendation: The VAB clerks should ensure that verification of compliance with Florida Statutes and DOR rules as prescribed by DOR Rule 12D-9.014, FAC, is documented.

Follow-up to Management Responses

In their responses, Pasco and Hillsborough Counties VAB chairmen and legal counsel indicated that the recommendation to this finding needs to be specific as to what documentation would be required that is not already being provided since the counties adhere to the procedural requirements in many ways that are not outlined in the findings. The point of our finding is not that the procedural requirements are not necessarily being performed but that the verification of such requirements by the VAB legal counsel is not evident in the records. The manner in which such documentation should take place, absent a specific law, rule or procedure, would be up to the individual VABs to decide.

Finding No. 7: VAB Organizational Meeting

DOR Rule 12D-9.013, FAC, provides that the VAB must annually hold one or more organizational meetings, at least one of which must meet certain prescribed requirements, including the following:

- Introduce the VAB members and provide contact information;
- Introduce the VAB clerk or any designee of the VAB clerk and provide the VAB clerk's contact information;
- Appoint or ratify the VAB legal counsel. At the meeting at which VAB legal counsel is appointed, this item must be the first order of business;
- Make available to the public, special magistrates, and VAB members certain DOR rules and the associated forms that have been adopted by DOR and the requirements of Florida's Government in the Sunshine/open government laws including information on where to obtain the current Government-In-The-Sunshine manual;
- Discuss general information on Florida's property tax system, respective roles within this system, taxpayer opportunities to participate in the system, and property taxpayer rights;
- For purposes of this rule, making available to the public means, in addition to having copies at the meeting, the VAB may refer to a Web site containing copies of such documents; and
- The VAB must announce the tentative hearing schedule for the VAB, taking into consideration the number of petitions filed, the possibility of the need to reschedule, and the requirement that the VAB stay in session until all petitions have been heard.

Our review of the organizational meeting requirements at the 15 VABs included in our review disclosed the following:

- Gilchrist and Martin County VABs did not provide contact information for the VAB members or clerk.
- Hillsborough County VAB did not appoint legal counsel as the first order of business, and the Monroe VAB did not appoint or ratify legal counsel at its meeting.
- Monroe County VAB did not have copies of applicable DOR rules and the associated forms available at the meeting.
- Lee, Pinellas, and Seminole County VABs did not have a general discussion on Florida's property tax system, taxpayer's rights, or opportunities to participate in the property tax system.
- Monroe and Seminole County VABs did not announce an adequate tentative schedule for its hearings.

Ensuring that prescribed organizational meeting requirements are followed and documented serves to promote fairness and equity in the process.

Recommendation: The VABs should ensure that organizational meetings are conducted in accordance with applicable DOR rules, that all requirements are adequately satisfied, and that the meeting minutes reflect all discussions.

Finding No. 8: VAB Hearing Commencement

DOR Rule 12D-9.024, FAC, prescribes the procedures to be followed for commencement of VAB hearings, including:

- Before or at the start of the hearing, the VAB, the VAB's designee, or the special magistrate must give a short overview verbally or in writing of the rules of procedure and any administrative issues necessary to conduct the hearing.
- Before or at the start of the hearing, unless waived by the parties, the VAB or special magistrate must make an opening statement or provide a brochure or taxpayer information sheet that states:
 - The VAB or special magistrate is an independent, impartial, and unbiased hearing body or officer, as applicable;
 - The VAB or special magistrate does not work for the property appraiser or tax collector, is independent of the property appraiser and tax collector, and is not influenced by the property appraiser or tax collector;
 - The hearing will be conducted in an orderly, fair, and unbiased manner;
 - The law does not allow the VAB or special magistrate to review any evidence unless it is presented on the record at the hearing or presented upon agreement of the parties while the record is open; and
 - The law requires the VAB or special magistrate to evaluate the relevance and credibility of the evidence in deciding the results of the petition.
- The VAB or special magistrate shall ask the parties if they have any questions regarding the verbal or written overview of the procedures for the hearing.

Our review of the hearing commencement requirements for 114 petitions for the 15 VABs included in our review disclosed the following:

- Three VABs did not provide an overview of the rules of procedure for 7 petitions (Broward-2, Pinellas-1, and Suwannee-4 Counties).
- Three VABs did not make an opening statement or provide a brochure or taxpayer information sheet containing prescribed information for 8 petitions (Broward-2, Gilchrist-2, and Suwannee-4 Counties).
- Four VABs did not ask the parties if they had any questions regarding the verbal or written overview of the procedures for the hearing for 8 petitions (Broward-1, Gilchrist-2, Pinellas-1, and Suwannee-4 Counties).

Ensuring that prescribed hearing commencement procedures are followed and documented serves to promote fairness and equity in the process.

Recommendation: The VABs should ensure that all hearings are conducted in accordance with DOR Rule 12D-9.024, FAC.

Finding No. 9: Presumption of Correctness of Property Appraisers' Assessments

Section 194.301(1), Florida Statutes, provides that in any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the property appraiser's assessment is presumed correct if the

property appraiser proves by a preponderance of the evidence that the assessment was arrived at by taking into consideration the factors prescribed in Section 193.011, Florida Statutes; any other applicable statutory requirement relating to classified use values or assessment caps; and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. Additionally, DOR Rule 12D-9.024(7), FAC, provides that the property appraiser must indicate for the record his or her determination of just value, classified use value, tax exemption, property classification, “portability” assessment difference, deferral, or penalties. In a hearing on just, classified use, or assessed value, the first issue to be considered is whether the property appraiser establishes a presumption of correctness for the assessment. The property appraiser must present evidence on this issue first.

Our review of 114 petition hearings for the 15 VABs included in our review disclosed that for 4 VABs (Lee, Martin, Palm Beach, and Washington Counties), the records did not evidence that the property appraiser’s presumption of correctness issue was considered for 2, 7, 4, and 2 petitions, respectively. Additionally, for the 4 petitions heard in Suwannee County, the presumption of correctness issue was not the first issue considered, contrary to DOR rules, as the petitioner spoke first.

Failure to consider the property appraiser’s presumption of correctness issue, and to present issues in the required order in the appeal process, does not serve to promote fairness and equity in the process.

Recommendation: The VABs should ensure that the presumption of correctness of property appraisers’ assessments is the first issue considered in hearings in accordance with DOR Rule 12D-9.024(7), FAC.

Finding No. 10: VAB Written Decisions

Section 194.034(2), Florida Statutes, provides that in each case, unless the petition is withdrawn by the petitioner or the petition is acknowledged as correct by the property appraiser, the VAB must render a written decision. The VAB’s decision must contain findings of fact and conclusions of law, and must include reasons for upholding or overturning the determination of the property appraiser. Also, DOR Rule 12D-9.032(1)(a), FAC, provides that each final decision must contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and must otherwise meet the requirements of law. The VAB may fulfill the requirement to produce a written final decision by adopting a recommended decision of the special magistrate containing the required elements and providing notice that it has done so. DOR Rule 12D-9.032(2), FAC, also requires that a VAB’s final decision must state the just, assessed, taxable, and exempt value for the county both before and after VAB action.

Our review of 114 petitions for the 15 VABs included in our review disclosed that for 7 VABs, from 14 to 100 percent of the petitions reviewed at the VAB contained decisions with insufficient information, as noted in Table 2.

Table 2

County VAB	Number of Petitions Reviewed	Number of Decisions With Insufficient Information	Percent of Decisions With Insufficient Information
Broward	6	4	67
Leon	10	3	30
Miami-Dade	8	8	100
Palm Beach	10	3	30
Pasco	7	1	14
Seminole	8	3	38
Suwannee	4	1	25

For example, two final decisions for the Leon County VAB included statements such as “I believe the property appraiser’s approach to value to be more reflective of the current market” and “I find that credible evidence presented by the property appraiser supports the just value as determined by the market” without providing facts and or analysis to support the statements. For the Miami-Dade County VAB, we noted eight decisions in which the Findings of Fact section lacked specific information with regard to the individual property, and the Conclusions of Law section did not provide reasons as to how the assessed value was derived and its relation to market value. Additionally, for Seminole County VAB, we noted three final decisions that did not contain the values before and after VAB actions, contrary to DOR rules.

Failure to include sufficient information in written decisions does not provide an adequate basis for decisions and does not promote fairness and equity in the appeal process.

Recommendation: The VABs should ensure that written decisions sufficiently document the findings of fact, conclusions of law, and reasoning for upholding or overturning the determination of the property appraiser as required by Section 194.034(2), Florida Statutes, and DOR Rule 12D-9.032, FAC.

Follow-up to Management’s Response

In their response, the Pasco County VAB chairman and legal counsel indicated that the finding and recommendation were insufficient in that they did not outline in detail how the VAB did not meet DOR rules or statutes. As discussed with the VAB legal counsel, the findings of fact section of the questioned petition provided broad statements regarding land value estimates and mentioned using different valuation approaches; however, no specific details of the land value comparisons and valuation approaches were provided to support the value conclusion. As a result, the petition lacked sufficient information and reasoning to enable the parties to understand the basis for the decision contrary to DOR Rule 12D-9.032(1)(a), Florida Statutes.

Administrative Matters

Finding No. 11: Public Notice of VAB Organizational Meetings and Hearings

Organizational Meetings. DOR Rule 12D-9.013(1), FAC, provides that the VAB must annually hold one or more organizational meetings prior to holding VAB hearings. The VAB must provide reasonable notice of each organizational meeting and such notice must include the date, time, location, purpose of the meeting, and information required by Section 286.0105, Florida Statutes. Section 286.0105, Florida Statutes, provides that the notice must state that, if a person decides to appeal any decision made by the VAB with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Our review of the organizational meeting notices for the 15 VABs included in our review disclosed that 7 VABs (Broward, Leon, Monroe, Pasco, Pinellas, Seminole, and Washington Counties) did not include in the notices the required disclosure relating to a verbatim record of the proceedings for an appeal. Although the disclosure information was posted elsewhere for Leon and Pinellas County VABs, it was not included in the organizational meeting notice as required by DOR rules. Omitting the required disclosure in the organizational meeting notice prevents the taxpayer from being aware of the availability of such record, which may be needed if an appeal is filed.

VAB Hearings. DOR Rule 12D-9.007(8), FAC, provides that the VAB clerk must ensure public notice of, and access to, all hearings. Such notice must contain a general description of the locations, dates, and times hearings are scheduled. This notice requirement may be satisfied by making such notice available on the VAB clerk's Web site.

Our review of the public notice of hearings for the 15 VABs included in our review disclosed that 3 VABs (Broward, Miami-Dade, and Martin Counties) did not notice the public of hearings, and Lee County VAB's notice did not include a general description of the locations and times. Although there was no public notice, Martin County VAB staff stated that the information was available to the public upon request. However, without proper notice of hearings, the public may not be aware of when hearings are scheduled or where the hearings will take place in case they choose to attend.

Recommendation: The VABs should ensure that the public is properly noticed of its organizational meetings and hearings, and that the notices include all information prescribed by DOR rules.

Finding No. 12: Allocation of VAB Petition Fees and Expenses

Section 194.013(1), Florida Statutes, provides that if required by VAB resolution, a petition filed with the VAB must be accompanied by a filing fee to be paid to the VAB clerk in an amount determined by the VAB not to exceed \$15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. Pursuant to Section 194.013(4), Florida Statutes, all filing fees collected by the VAB clerk must be allocated and utilized to defray, to the extent possible, the costs incurred in connection with the administration and operation of the VAB. Additionally, Section 194.015, Florida Statutes, provides that two-fifths of the VAB expenses are to be borne by the school board and three-fifths by the board of county commissioners.

Our review of petition filing fees collected and VAB expenses allocated for the 15 VABs included in our review disclosed that, contrary to law, 6 VABs (Gilchrist, Martin, Monroe, Pinellas, Seminole, and Washington Counties) did not reduce the VAB expenses billed to the boards of county commissioners and school boards by the amount of filing

fees collected. As a result, the filing fees were not used to defray the VAB expenses contrary to Section 194.013(4), Florida Statutes. The filing fees collected at the 6 VABs for the 2011 tax year were reported to be \$570, \$8,705, \$10,191, \$25,115, \$7,636, and \$1,500, respectively. Staff at the 6 VABs stated that they were unaware of the provision in law regarding defraying VAB expenses with petition filing fees.

Recommendation: The VABs should ensure that amounts billed to boards of county commissioners and school boards are reduced by the amount of petition filing fees collected. Also, each of the 6 VABS cited in the finding should refund to its respective board of county commissioners and school boards any excess VAB expenses charged as a result of not defraying such expenses with petition filing fees.

Finding No. 13: VAB Citizen Members

Section 194.015, Florida Statutes, and DOR Rule 12D-9.004, FAC, provide that every county must have a VAB that consists of, among other members, two citizens. One of the citizen members must own homestead property in the county appointed by the county commission, and one citizen member must own a business that occupies commercial space located within the school district appointed by the school board of the county. Additionally, citizen members must not be members or employees of any taxing authority in the State or a person who represents property owners, property appraisers, tax collectors, or taxing authorities in any administrative or judicial review of property taxes. Also, DOR Rule 12D-9.014(1)(d), FAC, provides that the VAB clerk must not allow the holding of scheduled hearings until the VAB legal counsel has verified that citizen members are not members or employees of a taxing authority during their membership on the VAB. Some VABs obtained the needed information on citizen members through a special application or resume, while other VABs obtained the information orally from the citizen member.

Our review of whether citizen members serving at the 15 VABs included in our review met the requirements specified in law and DOR rules disclosed the following:

- For 6 VABs (Lee, Leon, Miami-Dade, Palm Beach, Seminole, and Washington Counties), VAB records did not evidence that citizen members met the specific requirements. VAB records did not evidence that information contained in either written applications or oral statements made by the citizen members had been verified.
- For the Lee and Leon County VABs, the citizen member appointed by the school board did not own a business that occupied commercial space within the school district. For the Lee County VAB, the citizen member's wife was the owner of the business identified, which was located at their residence and not in occupied commercial space.

Documenting the verification of citizen member qualifications is important to ensure that only eligible individuals serve on the VABs as citizen members.

Recommendation: The VABs should ensure that citizen members meet the specific requirements in law and DOR rules to serve on the VABs, and that verification of such requirements is documented.

Finding No. 14: Taxpayer Representation

For the purpose of requesting a hearing before the VAB, a taxpayer must file a standardized petition form with the VAB clerk. Pursuant to DOR Rule 12D-9.015(2)(f), FAC, petition forms must contain a signature field to be signed by the taxpayer, or if the taxpayer is a legal entity, the employee of a legal entity with authority to file such petitions. The petition forms must also contain a signature field to be signed by an authorized agent, in case one is used. If the authorized agent is subject to licensure, a space is required on the petition form to provide identification of the

licensing body and license number. If the authorized agent is not subject to licensure (for example a family member), a space is required to indicate the petition is accompanied by a written authorization of the taxpayer if not otherwise signed by the taxpayer. Additionally, DOR Rule 12D-9.018(4), FAC, provides that a petition filed by an unlicensed agent must also be signed by the taxpayer or accompanied by a written authorization from the taxpayer.

Our review of 114 petitions at the 15 VABs included in our review disclosed that 4 VABs (Broward, Leon, Pasco, and Suwannee Counties) accepted at least one petition filed by agents that did not include a license number, the taxpayer's signature, or written authorization from the taxpayer, contrary to DOR rules. We noted for the Leon County VAB that there were two petitions filed with missing information. Consequently, the VABs did not, in these instances, demonstrate that the individuals acting as an agent for the petitioner had the proper authorization to do so on the petitioner's behalf.

Recommendation: The VABs should ensure that petitions filed with the VABs contain the appropriate information, signatures, and authorizations required by DOR rules.

Follow-up to Management's Response

In their response, the Pasco County VAB chairman and legal counsel indicated that the petition referenced in the finding met the requirements of DOR rules and that the information cannot be completely verified by the VAB clerk as there may need to be a legal determination. The point of our finding regarding the Pasco County VAB petition is not whether the authorized agent had legal standing to represent the taxpayer but that the petition did not include an authorization from the taxpayer specifically for the 2011 tax year.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts 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 audit pursuant to Section 11.45(3)(a), Florida Statutes.

We conducted this performance audit from September 2012 to September 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.

The objectives of this performance audit were to:

- Evaluate DOR and VAB 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, rules, policies, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage compliance of the VAB process with applicable laws, rules, policies, and other guidelines, and identify weaknesses in those controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

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 laws, rules, policies, and

other guidelines, 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.

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 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.

The scope and methodology of this performance audit are described in Exhibit A. Our audit included selection and examinations of various records and transactions from July 2011 through June 2012, and selected actions taken prior and subsequent thereto, for the 2011 ad valorem tax rolls. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of 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.

To accomplish our audit objectives, it was not feasible to review all 67 VABs. Therefore, we selected 15 VABs for audit. The 15 VABs selected, as shown on Exhibit B, are representative of small, medium, and large county VABs. Although the VABs in Broward and Miami-Dade Counties had not concluded all of its hearings on petitions for the 2011 tax year at the time of our audit, we selected from the 2011 tax petitions those petitions that had been heard.

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, waste, abuse, or inefficiency.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our performance audit.



David W. Martin, CPA
Auditor General

MANAGEMENT RESPONSES

The preliminary and tentative findings and recommendations were delivered to the DOR and the 15 VABs listed in Exhibit B. Management responses are included as Exhibit C. Some of the responses were accompanied by attachments, which may be viewed on our Web site.

EXHIBIT A
AUDIT SCOPE AND METHODOLOGY

Scope (Topic)	Methodology
Composition of VAB members.	Examined forms DR-529 and other supporting documentation for selected VABs to determine whether the composition of VAB members for the 2011 tax year was in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
Qualifications of private legal counsel to VABs.	Reviewed supporting documentation of VAB legal counsels' qualifications for selected VABs to determine whether legal counsels for the 2011 tax year were appointed in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
VAB organizational meetings.	Reviewed VAB meeting minutes of selected VABs to determine whether the organizational meetings for the 2011 tax year were held in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
VAB clerks.	Inquired of VAB clerks and examined records and supporting documentation of selected VABs for the 2011 tax year to determine whether the clerks performed their duties in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
VAB special magistrates.	Inquired of VAB clerks and attorneys, and examined records and supporting documentation of selected VABs for the 2011 tax year, to determine whether special magistrates were appointed, trained, and also performed, in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
VAB petitions.	Examined VAB petitions at selected VABs for the 2011 tax year to determine whether the petition forms and processes were in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
VAB petition hearings.	Reviewed VAB meeting minutes and other records and supporting documentation at selected VABs for the 2011 tax year to determine whether VAB hearings were conducted and documented in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
Final decision on VAB petitions.	Examined a sample of written recommended decisions of the special magistrates, as well as the written final decisions of the VAB, for selected VABs for the 2011 tax year to determine whether the decisions were consistent with established procedures and contained the elements prescribed in applicable laws and rules, and the DOR's uniform policies and procedures manual.

EXHIBIT A (CONTINUED)
AUDIT SCOPE AND METHODOLOGY

Scope (Topic)	Methodology
VAB accounting.	Examined VAB records and supporting documentation regarding VAB fee collections and expenditures for selected VABs for the 2011 tax year to determine whether fees and expenditures were accounted for in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
DOR training of special magistrates.	Examined records and supporting documentation at the DOR and selected VABs to determine whether the training of special magistrates was in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.
DOR supervision of VABs.	Examined records and supporting documentation at the DOR and selected VABs to determine whether the DOR's supervision of VABs was in accordance with applicable laws and rules, and the DOR's uniform policies and procedures manual.

EXHIBIT B
VABS SELECTED FOR REVIEW AND THOSE
VAB MEMBERS IN OFFICE FOR PETITIONS RELATING TO THE 2011 AD VALOREM TAX ROLLS

County	Board of County Commissioners (BOCC) Representatives ⁶	School Board Member Representative	Citizen Appointed by BOCC	Citizen Appointed by School Board
Broward	John E. Rodstrom, Jr. Ilene Lieberman	Patricia Good	Norman Thabit	Thomas Kallman
Gilchrist	Tommy Langford Kenrick Thomas	Robert Clemons	Lowell Chesborough	Doug Crawford
Hillsborough	Sandra L. Murman Ken Hagan	Susan Valdes	Sara E. Cucchi	Ron Dyser
Lee	A. Brian Bigelow John Manning	Dr. Jane Kuckel	Alan Garges	Richard Ripp
Leon	Nick Maddox Kristin Dozier	Forrest Van Camp	Douglas J. Dane	Allison Tant
Martin	Patrick Hayes Sarah Heard	Sue Hershey	Cynthia Oakowsky	Jody Bond
Miami-Dade	Audrey M. Edmonson Lynda Bell	Dr. Dorothy Bendross-Mindingall	Anibal Duarte-Viera	Hani Jardack
Monroe	Sylvia Murphy Mayor David Rice	John Dick	John Repetto	Nancy Mayhew
Orange	S. Scott Boyd Fred Brummer	Christine Moore	Matthew Boerger	Martin Prague
Palm Beach	Steven Abrams Paulette Burdick	Frank Barbieri	Scott Johnston	Stormet Norem
Pasco	Ted Schrader Ann Hildebrand	Allen Altman	Jim McBride	Mike Prilliman
Pinellas	Susan Latvala Norm Roche	Carol Cook	Robert Symanski	Michael A.J. Bindman
Seminole	Bob Dallari Dick Van Der Weide	Diane Bauer	Michelle Ertel	Deborah Turner
Suwannee	Phil Oxendine Clyde Fleming	Muriel Owens	Bettye Bracewell	John Robinson
Washington	Todd Abbott Hulan Carter	Pam Cates	Salvatore Zurica	Nick Dillard

⁶ VAB chairperson is the first county commissioner listed for each county.

EXHIBIT C
MANAGEMENT RESPONSES



Finance and Administrative Services Department

VALUE ADJUSTMENT BOARD

115 S. Andrews Avenue, Room 120 • Fort Lauderdale, Florida 33301 • 954-357-7205 • FAX 954-357-5573

April 30, 2014

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

Dear Mr. Martin:

Enclosed please find Broward County's response to the list of Preliminary and Tentative Findings and Recommendations which may be included in a report to be prepared on your audit of county Value Adjustment Boards.

We appreciate the opportunity your audit team gave the VAB staff and VAB attorney, at Broward's Exit Conference, on Tuesday, March 18, 2014. During the 2011 Tax Cycle, Broward staff processed 26,525 petitions and scheduled 11,657 hearings, the second highest volume of petitions filed throughout the state. Our meeting allowed Broward to shed light on the challenges larger counties like Broward face to remain in compliance with the Florida Statutes and Department of Revenue (DOR) Uniform Policies and Procedures (Rules) for Value Adjustment Boards. Broward County supports all efforts by the Auditor General's office and the DOR, and looks forward to working collaboratively towards a better VAB process throughout the State.

Please contact our VAB staff, if more information is needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Stacy Ritter", is written over a horizontal line.

Stacy Ritter
Broward County Commissioner
VAB Chair

Attachments: 8

- c: Value Adjustment Board Members
Bertha Henry, Broward County Administrator
Monica Cepero, Assistant County Administrator
Bob Miracle, Acting CFO/Director, Finance and Administrative Services
Department

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

STATEMENT OF EXPLANATION

BROWARD COUNTY

April 30, 2014

Finding No. 1: Appeal Process

Independence in the appeal process at the local level may have been compromised due to local officials involved in the process who may not have been impartial and whose operations are funded with the same property tax revenue at stake in the appeal process. Additionally, enhanced uniformity in the way VABs document compliance with appeal process requirements, and the establishment of general information on Florida's property tax system for use Statewide by all VABs in complying with DOR Rule 12D-9.013(1)(i), Florida Administrative Code, could promote fairness and consistency in the appeal process.

Recommendation: The Legislature should consider: (1) requiring that rules of conduct or ethical codes, with appropriate sanctions, be established for VAB members and staff, VAB clerks, VAB attorneys, and special magistrates in their respective roles in the appeal process; (2) creating an appeal process at the regional or State level; and (3) requiring that the VAB be composed of individuals, the majority of which are not county government or school board officials. In doing so, the Legislature should consider the other recommendations in this report and the extent to which those recommendations are adopted by the Legislature, the DOR, and the VABs. Additionally, the DOR should develop uniform checklist forms for inclusion in its uniform policies and procedures manual for the VABs use in documenting compliance with various appeal process requirements. The DOR should also establish general information on Florida's property tax system to be used by the VABs in fulfilling the requirements prescribed in DOR Rule 12D-9.013(1)(i), Florida Administrative Code.

Broward County's Response:

The Broward County VAB asserts that at all times, its VAB members, special magistrates, members of staff, clerk and attorney have always conducted themselves in a high ethical manner. Further, it should be noted that the VAB attorney is held to a high ethical standard by the Florida Bar.

It should be noted that no legal prohibition appears to exist which would have prohibited the Board from requesting and reviewing said "matrix" information, especially since the VAB likely utilized the information to ensure that our special magistrate worksheets complied with the law. You will note that at the time this information was reviewed, Florida Statutory Law, Florida Case Law, the Florida Administrative Code, and the Department of Revenue in its advisory opinions did not appear to prohibit the review of such information.

Broward County concurs with requiring rules of conduct or ethical codes for VAB members, staff, VAB clerks, VAB attorneys, and special magistrates.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Broward County has concerns regarding the creation of a regional or State level appeal process relating to: Costs to the citizens and county governments; whether citizens must travel outside of their respective counties or will a satellite office be placed in each county, and will State employees oversee this operation.

If the composition of the VAB is changed, Broward is concerned that a citizen member or professional member sitting as the chairperson or alternate chairperson of the VAB may not have the same experiences as a county government official or school board member would have in the chairperson seat. As DOR sets specific requirements for the citizen members who serve as VAB members, DOR should include a requirement of past experiences serving on community or government advisory boards for its citizen members and professional member with knowledge of parliamentary procedures (Robert's Rules of Order).

Broward County supports the use of DOR uniform checklist forms.

Broward County's Corrective Action:

At its February 25, 2013 meeting, the current Board directed staff to discontinue providing the matrix information.

Finding No. 3: Special Magistrates' Dual Office Holding Prohibition (Optional Comment)

Finding No. 3: Special magistrates served on multiple VABs during the same tax year, which appears to be inconsistent with the State Constitution dual office holding prohibition.

Recommendation: The Legislature should consider revising Section 194.035, Florida Statutes, to clarify whether special magistrates may serve on multiple VABs.

Broward County's Comment:

On February 19, 2014, the Broward County Value Adjustment Board provided information to the Auditor General with regard to this matter. (See Exhibit 1) In particular, the Broward County VAB sought guidance from the Florida Department of Revenue with regard to Attorney General Opinion 2012-17, which addresses special magistrates and the dual office holding prohibition of the Florida Constitution. The DOR provided the VAB attorney a letter it had sent on May 6, 2010 to the Manatee County VAB in which it was the DOR's opinion that a special magistrate could serve in multiple VAB's for any given tax year and not violate the Dual Office Holding prohibition. The DOR indicated that it had the same position even after the Attorney General issued Attorney General Opinion 2012-17. As a result, since the email was written in 2010 and since the DOR continued to have that same interpretation of the law in 2012, it clearly was the DOR's position that the dual office holding prohibition would not apply to special magistrate's serving more than one VAB for the 2011 tax year. It should be noted that the VAB is obligated in many circumstances to follow the direction of the DOR. As a result, the VAB followed the DOR's direction that a Value Adjustment Board special magistrate may be selected even if the special magistrate serves as a special magistrate in more than one county. However, since the Auditor General has raised a concern with this matter, the VAB Attorney and staff are going to bring this matter to the VAB's attention.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Finding No. 4: Verification of Special Magistrates' Experience and Qualifications

Selection of special magistrates may not have been based solely on experience and qualifications, contrary to law and DOR rules, and verification of such information was not always documented.

Recommendation: The VABs should ensure that only the factors prescribed by law are considered in selecting special magistrates, that information provided by special magistrates is verified each tax year, and such verification is documented. Additionally, the Legislature should consider revising Section 194.035, Florida Statutes, to provide for consideration of specific prior work performance factors when selecting special magistrates.

Broward County's Response:

It should be noted that the VAB Attorney reviews the qualifications of each special magistrate applicant and provides guidance to the VAB as to which applicants qualify under both Florida Statutory Law and the Florida Administrative Rules to serve as special magistrates. Nowhere in the VAB Attorney's written review does it make any reference to any special magistrate "matrix" and the VAB Attorney's review is written solely on which special magistrates are qualified to serve. The special magistrate applications and documentation contained therein and the information provided by the Broward County Real Property Section, have been the only information utilized by the VAB in determining who should be hired to serve as a special magistrate.

It should be noted that at all times the Broward County VAB has been transparent and has never unduly influenced the decision of any special magistrate. It appears that only one special magistrate raised a concern with regard to the "matrix" information being reviewed and no other special magistrate appears to have raised such a concern. Regardless however, the Board determined that it would discontinue reviewing said information.

Broward County's Corrective Action:

The Value Adjustment Board, at its February 25, 2013 meeting, determined that it would discontinue using the matrix information.

Finding No. 5: Special Magistrate Training

Special magistrate training was not verified by the DOR prior to issuing statements acknowledging receipt of training, and one VAB did not document special magistrate training in its records.

Recommendation: The VABs should ensure that special magistrates receive appropriate training in a timely manner and that training is evident in its records. Also, the DOR should verify that training has been received by special magistrates prior to issuing statements acknowledging receipt of training.

Broward County's Response:

Under 12-9.012(1), the Department of Revenue training is the official training for special magistrates regarding administrative reviews. Counties are restricted from training special magistrates.

EXHIBIT C MANAGEMENT RESPONSES (CONTINUED)

Of the three special magistrates, one special magistrate took the 2011 training prior to the training release date causing her to unknowingly take the 2010 DOR training twice. Our VAB attorney consulted with DOR counsel. (See Exhibit 2) DOR recommended that our attorney take the steps necessary to assure the 2011 decisions already produced by this magistrate were in compliance with the law. Our attorney was able to confirm that all of her 2011 hearing worksheets were, in fact, in compliance with the law. The special magistrate was not scheduled for further 2011 hearings. The magistrate produced a statement of acknowledgement from DOR confirming that she took the 2012 training prior to being scheduled for the 2012 hearings. A second special magistrate was appointed by the VAB. Once notified by staff to take the DOR training, she declined and advised that she accepted employment elsewhere. The issue regarding the third special magistrate in question was due to a staff error. This magistrate tendered his resignation August 8, 2012, due to unforeseen medical issues. (See Exhibit 3)

Please see remarks in Finding 10 – Written Decisions

Broward County's Corrective Action:

Staff will ensure accuracy in confirming that magistrates have been trained by DOR and receive DOR's acknowledgment certificate for each magistrate prior to serving as a hearing officer. An internal checklist was created for staff use to ensure this is accomplished. (Exhibit 4)

Finding No. 8: VAB Hearing Commencement

Prescribed procedures for commencing VAB hearings were not always followed by the VABs, contrary to DOR rules.

Recommendation: The VABs should ensure that all hearings are conducted in accordance with DOR Rule 12D-9.024, FAC.

Broward County's Response:

Pursuant to Rule 12D-9.024(5): *"Before or at the start of the hearing, unless waived by the parties, the special magistrate shall make an opening statement or provide a brochure or taxpayer information sheet ..."*

Broward uses a *taxpayer information sheet*. As petitioners sign in for their hearings, a hearing clerk provides them with the Taxpayer's Information Sheet. (See Exhibit 5) In the hearing room, the special magistrate asks the parties if they have received the "information sheet," and if they have any questions regarding the opening statement and procedures for the hearing. To ensure the magistrates read this statement and ask questions, each hearing room has a laminated hearing commencement statement. The VAB Attorney, as well as the Senior Manager, reiterates this requirement during all Magistrate Orientations for each tax cycle.

The Department of Revenue training is the official training for special magistrates regarding administrative reviews. Counties are restricted from training special magistrates.

Broward County's Corrective Action:

In addition to the Department of Revenue's training, VAB staff is placing a reference sheet of Rule 12D-9.024 Commencement of a Hearing in each hearing room for magistrates to use as an additional tool to

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

ensure all procedures are followed for commencement of VAB hearings. (See Exhibit 6) (Each hearing room has a complete set of relevant Florida Statutes, DOR Rules and other reference materials for magistrates to refer to during a hearing.) These reference books are discussed during all special magistrate orientations for each tax cycle. In addition, the reference sheet will be emailed to all magistrates reminding them of the importance of following DOR rules, as well as Florida Statutes.

Further, Broward will include a box to check by the petitioners within the existing sign-in sheet that states the petitioner received the statement and acknowledged reading it or waived reading the statement. (See Exhibit 7)

Finding No. 10: VAB Written Decisions

VAB written decisions were not always sufficiently detailed contrary to law and DOR rules.

Recommendation: The VABs should ensure that written decisions sufficiently document the findings of fact, conclusions of law, and reasoning for upholding or overturning the determination of the property appraiser as required by Section 194.034(2), Florida Statutes, and DOR Rule 12D-9.032, FAC.

Broward County's Response:

Broward County continues to work diligently to ensure that special magistrate recommended decisions are sufficiently detailed to put the parties on notice of the special magistrate's recommended value.

As Broward is one of the largest counties in the state, with a high volume of hearings, (11,657 hearings in the 2011 Tax Cycle) it would be extremely difficult and costly for our attorney to review every worksheet for compliance. However, the Broward County VAB has enacted safeguards to help ensure that recommended worksheets are sufficiently detailed. Those safeguards are more thoroughly set forth below under corrective action.

Broward County's Corrective Action:

The VAB directed the VAB attorney to provide monthly random reviews of magistrate worksheets to ensure that the magistrates' written decisions are in compliance with the law. Each month, VAB staff provides the VAB Attorney with worksheets selected randomly from VAB special magistrates. Reviewing these randomly selected worksheets and hearings are helpful in ensuring that our special magistrates are appropriately following the law and are providing due process to both parties in all petitions heard by the special magistrates. When the VAB Attorney reviews a randomly selected worksheet that fails to comply with the law, the VAB Attorney sends the Worksheet back to the special magistrate to revise it to comply with the law and provides guidance to the special magistrate so that he or she can ensure that all future worksheets comply with the law.

Also, the rules provide a procedure for a party to seek a review of a recommended decision that fails to comply with Florida law. In particular, a number of 12D-9 Administrative Rules permit the Board to instruct the VAB Attorney to review petition worksheets for legal sufficiency and a number of 12D-9 Administrative Rules permit a party to set forth written concerns regarding a special magistrate's recommended decision. If the VAB attorney opines that the worksheet should be further revised to include more detail, then the VAB attorney will issue a memorandum to the special magistrate that he

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

or she must revise the recommended worksheet to contain more detail so as to better put the parties on notice as to the reasoning for his or her recommended value. After the worksheet is revised to include more detail, then the VAB attorney will review the revised recommended worksheet to ensure that it contains sufficient detail as is required by Florida law.

As a result, all parties are provided an opportunity to express a party's concerns with regard to the level of detail contained in a recommended worksheet.

Further, since the promulgation of the DOR Uniform Policies and Procedures, March 30, 2010, under Section 12-9.012 (1), *"The department (DOR) shall provide and conduct training for special magistrates at least once each state fiscal year available in at least five locations throughout the state."* The Department's training is the official training for special magistrates regarding administrative reviews. Counties are restricted from training special magistrates. Broward recommends that DOR enhance its training regarding worksheet development to ensure sufficient content is provided in the written decisions. This should include a component for technical writing and proof reading skills; namely, to ensure that grammar, punctuation and calculations are correct.

In addition, Broward recommends that larger commercial properties that are valued in the millions of dollars be heard by Master of the Appraisal Institute (MAIs). (DOR can set a threshold that requires properties over a certain value to be heard by MAIs only.) Appraisal Institute Designated members have met rigorous requirements relating to education, testing, experience and demonstration of knowledge, understanding and ability. Those individuals holding the Appraisal Institute's MAI and Senior Residential Property Appraiser (SRPA) designations are experienced in commercial valuation, including industrial, retail and multifamily properties. Those holding the Senior Residential Appraiser (SRA) designation are experienced in residential valuation. All Appraisal Institute professionals adhere to a strictly enforced Code of Professional Ethics and Standards of Professional Appraisal Practice. Magistrates with five years' experience in appraising property, as required by the DOR Rules (12D-9.012), may not have the necessary appraisal skills to hear high profile cases.

Finding No. 11: Public Notice of VAB Organizational Meetings and Hearings

Public notice of VAB organizational meetings and hearings were not always in accordance with DOR rules.

Recommendation: The VABs should ensure that the public is properly noticed of its organizational meetings and hearings, and that the notices include all information prescribed by DOR rules.

A. Organizational Meetings

Broward County's Response:

Broward County posts its Sunshine notices electronically to reduce costs and to provide a broader targeted distribution of this information.

Broward County's Corrective Action:

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Broward will ensure that the required disclosure information relating to a verbatim record of the proceedings for an appeal (Section 286.0105, Florida Statutes) is in every electronic public notice for VAB Organizational meetings going forward.

B. VAB Hearings

Broward County's Response:

Broward has a statement regarding VAB hearings and that hearings are open to the public on its website at: <http://www.broward.org/Finance/VAB/Resources/Pages/Hearings.aspx>. Posting notice for all scheduled hearings would be extremely difficult as Broward County schedules thousands of hearings for each tax year. In Tax Cycle 2011, VAB staff scheduled **11,657**. Once a petition is filed, Petitioners are provided a PIN number to use in the Axia software system. Petitioners can follow the progress of their petition/s and hearing status throughout the entire VAB process. For additional information, the public can contact the VAB office.

Broward's County's Corrective Action:

Broward will ensure that the required disclosure information relating to a verbatim record of the proceedings for an appeal is posted on its website for public notice for VAB hearing information.

Finding 14: Taxpayer Representation

Documentation of taxpayer representation for a hearing was not evident for some petitions, contrary to DOR rules.

Recommendation: The VABs should ensure that petitions filed with the VABs contain the appropriate information, signatures, and authorizations required by DOR rules.

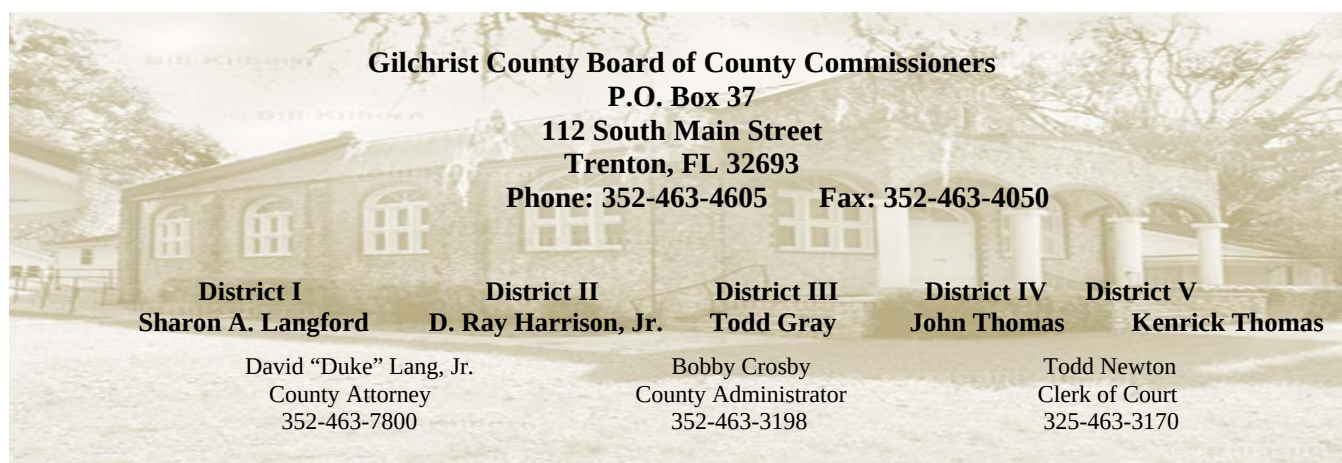
Broward County's Response:

Upon review of the subject incomplete petition provided by the Auditor's office, the VAB Supervisor listened to the audio of the hearing. The VAB Supervisor discovered that the Attorney special magistrate overseeing the hearing recognized the petitioner's representative as a fellow attorney. The special magistrate asked for the attorney's business card to verify. The attorney's professional license number was previously on file for other petitions filed in 2011. The VAB Supervisor verified his professional license number on the Florida Bar Association's website and updated the subject petition with the proper license number (See Exhibit 8) Staff erred in not properly reviewing the subject petition that did not have the attorney's license number.

Broward County's Corrective Action:

Broward will implement a new process to verify that all appropriate information is contained in the petitions at the time petitions are filed, as cited in DOR 12D-9.015(9)a. Further, staff will include additional information on Broward's website and on the Axia system as a reminder to all petitioners of the importance of completing all areas in the petitions they file, including the Authorization number if the party completing the form is representing a petitioner. (Under construction)

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



April 25, 2014

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

Re: Explanation concerning actual or proposed *corrective actions* on preliminary and tentative audit findings for Gilchrist County Value Adjustment Board

Dear Mr. Martin:

Please find the explanations concerning the actual or proposed corrective actions on the preliminary and tentative audit findings for the Gilchrist County Value Adjust Board, as follows:

Finding No. 6: VAB Prehearing Verification of Compliance with Legal Requirements

- **Corrective Action:** Prepare and utilize a prehearing checklist following Section 194.031 (1)(a), Florida Statutes, that hearings are conducted in the manner prescribed by DOR rules and that the VAB Clerk must not allow the holding of scheduled hearings until the VAB legal counsel has verified that all requirements in Chapter 194 F.S. and DOR rules are met as noted; **The VAB Clerk will ensure that verification of compliance with Florida Statutes and DOR Rules as prescribed by DOR Rule 12D-9.014, FAC, is documented.**

Our Vision for Gilchrist County in 2030 is rural communities working in harmony to provide opportunities for all its citizens through balanced growth and enhanced education, while preserving our proud heritage, natural resources and agriculture.



EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Finding No. 7: VAB Organizational Meeting

- **Corrective Action:** The VAB will provide contact information for the VAB members and Clerk; **The VAB will ensure that all hearings are conducted in accordance with DOR Rule 12D-9.024, FAC and documented.**

Finding No. 8: VAB Hearing Commencement

- **Corrective Action:** The VAB will ensure that at the commencement of the hearing that an opening statement, a brochure or taxpayer information sheet containing prescribed information, is provided for petitions; and will ask the parties if they have any questions regarding the verbal or written overview of the procedures for the hearing; **VAB will ensure that all hearings are conducted in accordance with DOR Rule 12D-9.024, FAC and documented.**

Finding No. 12: Allocation of VAB Petition Fees and Expenses

- **Corrective Action:** The VAB will ensure that amounts billed to Boards of County Commissioners and School Boards are reduced by the amount of petition filing fees collected. **Gilchrist County being one of six VABs cited in the finding will refund to its respective Board of County Commissioners and School Board any excess VAB expense charged as a result of not defraying such expense with petition filing fees.**

This concludes the *corrective actions* to be taken by the Gilchrist County Value Adjustment Board on the preliminary and tentative findings therefore mentioned.

If we may be of any further assistance with this matter, please feel free to contact me at 352.463.3170 or Patty McCagh, Deputy Clerk at 352.463.4605.

Sincerely,
Gilchrist County VAB Staff



Todd Newton
Clerk of Court/VAB Clerk

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Value Adjustment Board
Hillsborough County, Florida

April 24, 2014

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

Dear Mr. Martin:

Enclosed is the Hillsborough County Value Adjustment Board (VAB) response, as prepared by VAB Counsel Rinky Parwani, to the preliminary and tentative audit findings and recommendations that were sent on March 31, 2014. As requested, you will find specific responses to Findings 1, 6, and 7, as well as 3, and 4. Comments are also included for the remainder of the findings and recommendations.

As an observation, the rules governing the VAB process changed significantly in 2010. The audit was for the 2011 tax year. Many counties were still struggling with implementation of these rules in 2011. It would be prudent to relook at the issues being recommended for legislative change before the Legislature considers any substantial changes.

Respectfully,


Sandra L. Murman
Chair, Value Adjustment Board

SLM/rp
Enclosures

c: Value Adjustment Board Members
The Honorable Pat Frank, Clerk of the Circuit Court

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**HILLSBOROUGH COUNTY VALUE ADJUSTMENT BOARD RESPONSES TO THE PRELIMINARY AND
TENTATIVE FINDINGS FOR THE 2011 TAX YEAR**

Response to Finding No. 1, Independence in the Appeal Process: The analysis and documentation provided to support the finding does not support the need for an ethical code or the finding that there is no independence in the appeal process. Unfortunately, the quote from the Hillsborough County meeting was only a sliver of the meeting and does not place the information in the context of the meeting, in which the Value Adjustment Board (VAB) was considering whether to continue an additional appeal process—after VAB hearings. All results from the additional appeal process had been documented, as well as the additional costs. Basically VAB action did not change due to the additional appeal process, so the extra costs (outside of the normal VAB process) were not justified, which was the context of the comment. Many of the issues that had been appealed a second time by the VAB needed legislative changes in order to help Petitioners with changes.

Moreover, the analysis provided by the audit report shows that there is in fact a double appeal process in place: an independent review by the Property Appraiser and appeal to the Circuit Court after the VAB process. The audit report does not take into account that independent special magistrates are selected to conduct hearings and provide recommendations that must comply with law. Hillsborough County has tried an additional appeal process, and the results did not warrant continuing the extra layer. Adding yet another appeal process with a different agency or changing the composition of the VAB is not necessary.

In addition, the tracking reports used in the analysis for the audit report does not take into consideration the individual merits of each of the petitions reviewed by the special magistrates being tracked. In other words, tracking special magistrates does not provide a clear analysis of the process or why a special magistrate was or was not selected in a particular year to serve a particular county. It is suggested that this finding is removed for lack of supporting factual analysis.

On December 5, 2012, the Hillsborough County BOCC approved a standard of conduct form, which must be signed by any individual seeking appointment to any board, council, or committee for Hillsborough County. VAB staff members and clerks are required to adhere to the Clerk's Code of Ethics policy. As for VAB attorneys and special magistrates, attorneys are held accountable through standards and rules established by the Florida Bar while appraiser magistrates are held accountable through their local appraisal institute. Adding additional rules of conduct or ethical codes would be duplicative and could be in conflict with other standards in place.

Response to Finding No. 2, Appearance of Bias and Undue Influence: A rule should be established that requires for hearings purposes that all parties must enter and leave the room simultaneously as part of the recommendation. This is already practiced in Hillsborough County.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Response to Finding No. 3, Special Magistrates' Dual Office Holding Prohibition: Special magistrates must be allowed to serve in multiple counties. Due to the specialized nature of the education, training and skills required for special magistrates, there would not be enough special magistrates to serve all counties if any sort of limitation is imposed on the number of counties in which a special magistrate may serve. In addition, because a special magistrate is not paid at typical market rates, limiting their service to a single county will inevitably drive up the cost of the VAB process for the counties. The recommendation should state that special magistrates be allowed to serve in multiple counties with the above analysis.

Response to Finding No. 4, Verification of Special Magistrates' Experience and Qualifications: The recommendation does not address how special magistrate verification should occur or the procedures that should be followed. The recommendation could create more inconsistency in the process if the specifics of how to implement the changes are not addressed. It is suggested this finding be removed since the recommendation lacks implementation specifics.

Response to Finding No. 5, Special Magistrate Training: Hillsborough County is in compliance.

Response to Finding No. 6, VAB Prehearing Verification of Compliance with Legal Requirements: The Florida Rules and statutes do not require specific detailed documentation. In fact, the analysis and recommendation of the report does not lay out the specific procedures and requirements that should be met by each of the county VABs to adhere to the statutes. For example, training certificates are provided by special magistrates to the VABs. This would be considered documentation and compliance as discussed by the audit report, but it is not laid out in the findings of the report. This recommendation needs to be specific as to what documentation would be required that is not already being provided, since the Counties do adhere to the procedural requirements in many ways that are not outlined in the audit findings. For example, in Hillsborough County all but one of the prehearing requirements are addressed in the open and noticed organizational meeting and/or a VAB meeting held prior to the start of hearings. Copies of the municipality notification letters are on file in the VAB department. While 12D-9.014 does not require written documentation to verify compliance, in 2012 Hillsborough County began the practice of receiving a written memorandum from VAB counsel confirming compliance prior to holding hearings.

Response to Finding No. 7, VAB Organizational Meeting: The Florida Rules and statutes do not require documentation as suggested by the recommendation and finding. Rather, a review of the organizational meeting agenda for each of the county VABs would be instructive as to whether this statutory requirement was properly met.

In prior years and again this year, Hillsborough County has the VAB legal counsel appointment confirmed before the Organizational Meeting; however, there was more to that issue in 2011. Catherine Teti was the attorney at that meeting. Her contract was for the time period of September 1, 2010, through August 31, 2011. The attorney hired at the July 21, 2011, Organizational Meeting was to begin her term on September 1, 2011. After the new appointment took place at the meeting, Attorney Teti requested that the VAB release her from

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

her contract and allow Attorney Parwani's contract to begin sooner. Attorney Parwani's contract shows the effective date of July 26, 2011, through August 31, 2012. The first order of business at the July 21st meeting was to elect the VAB Chairman. Since the VAB Attorney was already under contract and represented the VAB throughout the entire meeting, it was more prudent to select the chairman to conduct the meeting.

Response to Finding No. 8, VAB Hearing Commencement: To ensure compliance, a written standardized form that complies with Florida Administrative Code Rule 12D-9.024 should be provided. The special magistrate would have each petitioner read and sign the form at the start of each hearing and placed in the record. Hillsborough County already uses a similar process.

Response to Finding No. 9, Presumption of Correctness of Property Appraiser's Assessments: Each hearing is an individualized process. There would be several reasons why the presumption of correctness would not be the first issue addressed or why the petitioner would speak first that were not specifically addressed in the audit findings. Without reviewing the hearings or seeing more information, it is currently hard to say that the audit findings are valid. It is suggested that more specificity in the facts supporting the audit findings be provided.

Response to Finding No. 10, VAB Written Decisions: All Hillsborough County recommendations are reviewed by legal counsel to ensure they meet statutory and rule requirements.

Response to Finding No. 11, Public Notice of VAB Organization Meetings and Hearings: Hillsborough County is in compliance.

Response to Finding No. 12, Allocation of VAB Petition Fees and Expenses: Hillsborough County is in compliance.

Response to Finding No. 13, VAB Citizen Members: The Recommendation should specify the steps that should be taken in order to properly document the qualifications. (Hillsborough County incorporates a sworn statement, verification of homestead on Property Appraiser's website, and verification of the business on the SunBiz website.)

Response to Finding No. 14, Taxpayer Representation: Hillsborough County requires letters of authorization before hearings are scheduled and also requires special magistrates to verify the authorization on the record at the hearing. However as a preliminary note, the information cannot be completely verified by the clerk as it may need to be a legal determination. If a property is sold during a tax year that a Petition is pending, this would require specific information the clerk may not have at the time the Petition is accepted. In addition, while the clerk can review the forms, they are not in a position to determine the legal validity of the authorization. The clerk can only determine the form has been turned in and has been completed. The legal validity must be done by the special magistrate. It may require a rule change to require the special magistrate to verify authority at the beginning of each hearing.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

LAW OFFICE OF HOLLY E. COSBY, P.A.

602 CENTER ROAD
FORT MYERS, FLORIDA 33907
239-931-0006
239-418-0006 (FAX)
WWW.COSBYLAW.COM

Lee County Value Adjustment Board (VAB)
Response to Auditor General's Tentative
Audit Findings and Recommendations

Audit Finding No. 1 (optional)

Independence in the appeal process at the local level in Lee County has not been compromised. No local officials involved in the process have exhibited any partiality. Additionally, all local officials are aware that many county operations are funded with the same property tax revenue at stake in the appeal process, but such awareness has not and does not affect any local official's duty to maintain a fair and impartial value adjustment board process. Having local officials from the County Commission and School Board included on the VAB seems most appropriate, as said entities fund VAB operations, three-fifths (3/5) County Commission and two-fifths (2/5) School Board. Limiting the number of County Commissioners could negatively impact VAB operations, as it would make it more difficult to set meetings and maintain quorum with conflicting schedules. Additionally, having local officials involved in the process keeps the VAB populated with some members familiar with governmental operations, Robert's Rules of Order, Florida's Government in the Sunshine Laws, etc. Lee County has developed a local checklist for prehearing requirements, which will be utilized unless and until the Department of Revenue (DOR) provides a uniform checklist for all Florida VABs.

Audit Finding No. 3 (optional)

The position of Special Magistrate has the same duties and responsibilities in all counties across Florida. There is no real or perceived conflict of interest in a Special Magistrate serving more than one county, as the "office" held by a Special Magistrate would not pose a conflict simply by serving more than one county. Additionally, limiting Special Magistrates from serving more than one county in Florida will create a serious burden on the value adjustment board process throughout Florida, and would create competition among counties with regards to compensation offered for such services. This will potentially leave many smaller counties, with smaller budgets, with few or no Special Magistrates, as such individuals would be best served by providing services to the "highest bidder." This will also seriously impede the efficient operation of a value adjustment board subject to any such lack of Special Magistrate interest.

Audit Finding No. 4

Selection of Special Magistrates in Lee County has been based solely on experience and qualifications. The VAB Clerk and VAB Attorney verified all experience and qualifications of any and all applicants upon submission of interest, whether such applicant was new to the Lee County VAB or returning for an additional year of service, where experience and qualifications were previously reviewed. Lee County VAB requires a resume and two letters of reference. Additionally, Lee County VAB requires copies of updated licenses every two (2) years from all Special Magistrates; individuals who fail to provide the same are not scheduled to hear appeals after the current license expiration date unless and until an updated license is provided. Lee County VAB admits that the verification of such information was not always documented

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Audit Finding No. 4 (con't)

outside of email confirmation after review of an applicant's interest submission, and to update this process, the Lee County VAB will be implementing the following additional measures of documentation and verification:

- 1) Applicants showing interest in serving as Special Magistrate will fill out an application, which will include affirmative statements with regards to qualifications pursuant to F.S. §194.035, prior experience and completion of Department of Revenue (DOR) required training,
- 2) VAB Attorney will continue to review all interest submissions, and will be creating a checklist for such review process to document that a review was completed. The checklist will include all elements considered during said review and such checklist will be reviewed and signed by the VAB Attorney upon completion, for each applicant, and
- 3) VAB clerks and VAB counsel will be provided an opportunity to review the performance of each special magistrate, and document any positive or negative feedback with regards to the same. These performance reviews will be considered during the review process for any applicants submitting interest in serving subsequent sessions.

Audit Finding No. 6

While Lee County maintains that the verification of compliance with law and DOR rules relating to VAB prehearing requirements has always been performed, Lee County agrees that said measures may not have always been documented outside of email or telephonic confirmation of the same. To update this process, the Lee County VAB Attorney will be creating a checklist for such verification process to document that a prehearing requirement verification was completed, will include all elements considered during such verification, and such checklist will be reviewed and signed by the VAB Attorney upon completion.

Audit Finding No. 7

While Lee County maintains that it endeavors to hold all organizational meetings in accordance with the requirements prescribed by DOR rules, it is recognized that Lee County did not document that the issue of Florida's property tax system, respective roles within this system, taxpayer opportunities to participate in the system, and property taxpayer rights was open for discussion or that any information with regards to this topic was always available during any and all organizational meetings. To improve this process, Lee County has placed a line item in the organizational meeting agenda dedicated to this issue. Further, Lee County has created a document which will be made available at all organizational meetings and will be attached to any such agenda as an exhibit thereto. Said document provides information on Florida's property tax system, respective roles within this system, taxpayer opportunities to participate in the system, and property taxpayer rights. Additionally, the Lee County VAB will ensure that this issue is specifically addressed on the record during any such organizational meeting, that evidence of such will be documented in the verbatim record and that the minutes for all such organizational meetings reflect that this issue was considered and any discussion ensuing therefrom.

Audit Finding No. 9

Until the review of Lee County VAB verbatim records by the Auditor General, VAB administration and VAB counsel were not aware that any special magistrate had not been

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

following F.S. 194.301 and the DOR rules with regards to first considering the issue of property appraiser presumption of correctness, before hearing testimony and considering evidence as to value. To remediate this issue, the Lee County VAB will be concentrating on this issue during special magistrate local orientation sessions, with emphasis on the Auditor General's findings during the audit of Lee County's 2011-12 VAB session. All orientation sessions will be open to the public and Lee County VAB will continue to maintain a verbatim record of all such orientation sessions. Additionally, all VAB clerks responsible for assisting during VAB hearings will continue to be educated on hearing requirements, to include the requirement of special magistrates to first consider the issue of property appraiser presumption of correctness, before hearing testimony and considering evidence as to value.

Audit Finding No. 11

During the Auditor General's review of Lee County 2011-12 VAB records, it was discovered that public notice of VAB hearings were not in accordance with DOR rules with respect to the dates, times and locations of such hearings on the Lee County VAB webpage. This issue has since been corrected, and Lee County VAB maintains information on its webpage with regards to proper public notice of all VAB organizational meetings and hearings, to include dates, times and locations for all, when available.

Audit Finding No. 13

During the Auditor General's review of Lee County 2011-12 VAB records, it was discovered that the school board citizen member did not meet the specific requirements provided in law and DOR rules to serve on the VAB, as it was discovered that the citizen member's wife was the owner of the business identified, which was located at their residence and not in occupied commercial space. Upon discovery of this information, Lee County VAB took immediate action to have the citizen member replaced by an individual meeting the specific requirements provided in law and DOR rules to serve on the VAB. The Lee County VAB continues to maintain a professional working relationship with the Lee County School Board, in order to promote an efficient and compliant VAB. To update and improve this process, the VAB Attorney will be creating a checklist for verification of compliance for all VAB citizen member applicants to document that a review was completed. The checklist will include all elements considered during said review and such checklist will be reviewed and signed by the VAB Attorney upon completion, for each applicant.

Respectfully,

X **Holly E Cosby**
Digitally signed by Holly E Cosby
 DN: cn=Holly E Cosby, o=Law Office of Holly E
 Cosby P.A., ou=email=holly@cosbylaw.com,
 c=US
 Date: 2014.05.28 11:18:15 -0400

 Holly E. Cosby, Esq.
 VAB Attorney
 Lee County Value Adjustment Board

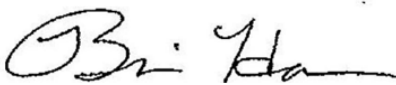
X 
 Commissioner Brian Hamman, Chair
 Lee County Value Adjustment Board
 Post Office Box 2469
 Fort Myers, Florida 33902

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



Leon County

Board of County Commissioners

301 South Monroe Street, Tallahassee, Florida 32301
(850) 606-5302 www.leoncountyfl.gov

Commissioners

April 18, 2014

BILL PROCTOR

District 1

JANE G. SAULS

District 2

JOHN DAILEY

District 3

BRYAN DESLOGE

District 4

KRISTIN DOZIER

District 5

MARY ANN LINDLEY

At-Large

NICK MADDOX

At-Large

VINCENT S. LONG

County Administrator

HERBERT W.A. THIELE

County Attorney

By Electronic Mail

David W. Martin, CPA
Auditor General c/o flaudgen_audrpt_lg@aud.state.fl.us
Local Government Audits / Section 341
111 West Madison Street
Tallahassee, Florida 32399-1450

Re: **Response to State of Florida Auditor General Preliminary and Tentative
Audit Findings and Recommendations Regarding the County Value
Adjustment Boards and Department of Revenue's Oversight**

Dear Mr. Martin:

I am in receipt of your letter of March 31, 2014 in which you provided preliminary and tentative audit findings and recommendations regarding your performance audit of County Value Adjustment Boards and Department of Revenue's Oversight. You asked that a written statement of explanation be provided concerning actual or proposed corrective actions for findings Nos. 4, 6, 10, 11, 13, and 14. We have also opted to respond to findings Nos. 1 and 3.

The Clerk of The Circuit Courts and Comptroller, Bob Inzer, who serves as the clerk for the Leon County Value Adjustment Board, has responded as detailed in the attachment to this letter.

Thank you for the opportunity to comment on the tentative audit findings and recommendations, and for the public service provided by your office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Nick Maddox", is written over a light blue horizontal line.

Nick Maddox

Attachment

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



Bob Inzer

Clerk of the Circuit Court and Comptroller

Clerk of Courts ▪ Clerk of County Commission ▪ Auditor ▪ Treasurer ▪ Recorder ▪ Custodian of County Funds

April 18, 2014

VIA EMAIL to flaudgen_audrpt_lg@aud.state.fl.us

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

SUBJECT: Preliminary and Tentative Audit Findings and Recommendations
County Value Adjustment Boards and Department of Revenue's Oversight

Dear Mr. Martin:

We appreciate the opportunity to respond to the subject report, received in the Clerk's Office on April 1, 2014. You have specifically cited Leon County in findings Nos. 4, 6, 10, 11, 13 and 14.

Finding No. 4: Selection of special magistrates may not have been based solely on experience and qualifications, contrary to law and DOR rules, and verification of such information was not always documented.

Verification standards are not specifically established by the Department of Revenue (DOR) for Value Adjustment Board (VAB) clerks. In Leon County, special magistrate applicants are vetted to the extent that license and/or professional memberships are verified and documented either by hard copy of same provided by applicant or by the VAB clerk referring to various websites to locate proof when the documents are not provided. Applicants are asked the following questions:

Are you an elected or appointed official of a county, a taxing jurisdiction, or the state? ☐ Yes ☐ No

Are you an employee of a county, a taxing jurisdiction, or the state?
☐ Yes ☐ No

EXHIBIT C MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
Auditor General
April 18, 2014
Page 2

Attorney applicants are asked “How many years of experience have you had in the area of ad valorem taxation?” Real property appraiser applicants are asked “How many years of experience have you had in property valuation?” Tangible property appraiser applicants are asked “How many years of experience have you had in tangible property valuation?” The VAB clerk reviews each application to note the number of years of experience cited, and the applicant is asked to sign the following oath:

The undersigned certifies, under penalty of disqualification from consideration, that each item contained in this application, or other document furnished by or on behalf of the applicant is true and complete as of the date it bears. The undersigned authorizes the Value Adjustment Board to obtain information from other sources to verify each item contained herein. The undersigned acknowledges that if selected he/she will follow all requirements and mandates of law in fulfilling the duties of special magistrate to the value adjustment board.

Corrective Actions Taken: An effort is underway by several county VAB clerks to create a *statewide* magistrate application form designed to address statutory requirements, experience, and writing skills. Leon County will utilize this new application in the future, in addition to adding a checklist (copy attached) to document all vetting steps taken before the board meets to consider the applicants. These steps will include VAB clerk phone calls to references that applicants will be asked to provide so that the VAB clerk can verify the work experience cited.

Finding No. 6: Verification of compliance with law and DOR rules relating to VAB prehearing requirements was not always documented.

This was an inadvertent oversight. The checklist was completed by the VAB clerk before the hearings, and discussed with VAB counsel. There was no action needed on any items that required VAB counsel’s attention; therefore, the checklist was not presented for his signature until after the hearings started.

Corrective Actions Taken: Prospectively, the VAB clerk will ensure that the checklist is completed and submitted to VAB counsel for signature in advance of the hearing dates.

Finding No. 10: VAB written decisions were not always sufficiently detailed contrary to law and DOR rules.

Since 2010, when the Leon County VAB members expressly asked staff to solicit more detail from the magistrates in their findings of fact, staff has been paying closer attention to the details contained within the special magistrate recommendations. Staff directs magistrates to be thorough and clear in describing the foundation for their recommendations so that both parties will understand the reasoning behind those recommendations.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
Auditor General
April 18, 2014
Page 3

Corrective Actions Taken: Leon believes the magistrate's recommendations have improved every year, with 2013 being the most notable. In fact, the minutes of the 2013 final meeting reference comments made by board members about the level of detail provided by the magistrates in their recommendations, noting that it was very helpful in the review process for the VAB. In an effort to have legally compliant and clear, well-reasoned special magistrate recommendations, staff provides special magistrates with the pertinent statutes and rules, reviews them again (at the publicly noticed magistrate orientation session), provides the magistrates with the Department of Revenue training segments regarding their written recommendations and verbally emphasizes the need to have detailed descriptions of the proceedings and the reasoning a case was decided a particular way. Staff provides the special magistrates with a guide to follow when writing their recommendations and instructs them to reference all evidence presented at the hearing and the weight given to the evidence when making their recommendation. Prospectively, staff will also include a copy of a well-written recommendation as a sample. Staff will continue to emphasize the point that each decision should be specific to the facts and circumstances of the petition at issue and contain detailed explanatory reasoning for the decision reached.

Finding No. 11: Public notice of VAB organizational meetings and hearings were not always in accordance with DOR rules.

All meetings of the Value Adjustment Board (organizational, magistrate orientation, hearings, final) and the notice of tax impact were publicly noticed in accordance with DOR rules. As noted in the findings, Leon's failure in this finding is limited to neglecting to disclose in the organizational meeting notice the need for a verbatim record of the proceedings for any appeals subsequently filed by either party. Presently, this information is found on the Clerk's public website and states, "NOTE: *If you are considering appealing any decision of the value adjustment board pursuant to [Fla. Stat. § 194.171](#), please be advised that you may need a record of the proceedings before the board and that preparation of a proper record transcript is the responsibility of the appealing party.*" Also, it is worth noting that all board meetings are recorded by VAB staff.

Corrective Actions Taken: This was an inadvertent oversight that will be rectified in the future. Prospectively, all public notices will be modified to include the following reference: "Parties that decide to appeal any decision made by the board with respect to any matter considered by the board will need a record of the proceedings, which record includes the testimony and evidence upon which the appeal is to be based. All board meetings are recorded; contact Cathy Mills, VAB clerk, at camills@leoncountyfl.gov if a copy of the recording is needed."

EXHIBIT C MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
Auditor General
April 18, 2014
Page 4

Finding No. 13: VAB citizen members did not always meet the specific requirements provided in law and DOR rules to serve on the VABs, and verification of such requirements was not always documented.

The Leon County VAB clerk provides the pertinent statute to each appointing board for use in making its appointments to the VAB. The VAB clerk was not aware of the requirement to check behind the appointing board to confirm with the appointee that he/she did indeed meet those statutory requirements.

Corrective Actions Taken: Beginning in 2012, the Leon County VAB clerk distributed an affidavit form to each appointing board and suggested it be attached to the respective applications used by those boards when recruiting citizens for the positions (copy attached). If the boards do not provide the signed form to the VAB clerk when the appointment notice is announced, the VAB clerk works directly with the citizen to obtain it.

Finding No. 14: Documentation of taxpayer representation for a hearing was not evident for some petitions, contrary to DOR rules.

This was an inadvertent oversight. The petition numbers were 2011-032 and 2011-036 and were from the same agent, who typically files for the same taxpayer each year. The VAB clerk could provide the proper authorization for the year before and the year after, but not for 2011.

Corrective Actions Taken: The current process in place, which we began in 2012, addresses this issue to a point; namely, we send notices to petitioners and make "LOA" notes in our data application advising petitioners about the authorization requirements. The petition is suspended until a resolution is reached with the petitioner. (See screenshot of notes category section in data application.)

Created On	Created By	Category	Note Text
9/3/2013 2:21 PM	Cathy Mills	Letter of Authorization	Sent clerk notice requesting letter of authorization for petitions 025 thru 028.
9/15/2013 10:52 AM	Cathy Mills	Letter of Authorization	Reminder email sent.
9/13/2013 10:18 AM	Cathy Mills	Letter of Authorization	Called and left a voicemail on 9/17

Category:

Note Text:

Staff believes that continuing with the current process, and encouraging staff to be diligent, will suffice to address this finding.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
Auditor General
April 18, 2014
Page 5

Although Leon is not cited in the following, we appreciate the opportunity to address findings Nos. 1 and 3.

Finding No. 1: Independence in the appeal process at the local level may have been compromised due to local officials involved in the process who may not have been impartial and whose operations are funded with the same property tax revenue at stake in the appeal process.

You state in your recommendation that "...the Legislature could consider the creation of an appeal process at the regional or State level, or requiring that the VAB be composed of individuals who are not county government or school board officials."

Respectfully, Leon County believes that this recommendation is not warranted or supported by the results of the audit. Specifically, two antidotal situations were identified which apparently lead you to the conclusion that "independence in the appeal process at the local level may have been compromised". This is a sweeping statement based on the evidence cited, and hardly supports the system-wide change to create regional appellate boards or remove public officials from the process as you recommend. Had you conducted a complete analysis directed at the independence of all value adjustment boards you reviewed, and asked the 15 value adjustment boards about their respective efforts to assure independence, Leon County believes you may have reached a different conclusion.

For example, the Leon County Value Adjustment Board hires special magistrates to conduct all hearings. These magistrates are charged with fact finding and issue recommendations based on the evidence presented. The magistrates are independent. The Leon County Value Adjustment Board, since 2008, has not disrupted the factual findings of a single magistrate. The Leon County Value Adjustment Board does not meet with or otherwise interact with the independent magistrates. Thus, the notion that the Leon County Value Adjustment Board influences the magistrates, acts improperly when considering petitions, or lacks independent judgment is not supported by evidence in Leon County.

A less dramatic change than putting in place a regional appeal process or removing county and school board officials from the process is to consider requiring all counties to make use of special magistrates. Given that an aggrieved petitioner remains free to pursue his/her/its case in circuit court on a de novo basis if dissatisfied with the result of the value adjustment board process, it hardly seems adding another layer of government oversight or removing county and school board members from the value adjustment board is warranted based on two collateral factual findings.

In sum, Leon County respectfully disagrees with your recommendation associated with finding number 1; namely, to create yet another governmental

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
Auditor General
April 18, 2014
Page 6

process to review the actions of the local value adjustment board or to remove county or school board officials from the value adjustment board. If the concern truly is about independence of the value adjustment board appeals process, a scope of work which specifically asked your office to review the independence of value adjustment boards, and provided local value adjustment boards the opportunity to share views and evidence on the subject matter would have facilitated the development of a full record on this question. The existing record is insufficient to support the recommendation.

Finding No. 3: Special magistrates served on multiple VABs during the same tax year, although prohibited by the State Constitution.

You state in your recommendation that the "...Legislature should consider revising Section 194.035, Florida Statutes, to clarify whether special magistrates may serve on multiple VABs." We support that recommendation. The Attorney General's Office has addressed the status of special magistrates on several occasions. The Attorney General opined in AGO96-91, "...that a special master of a value adjustment board was an officer for purposes of Article II, section 5(a), Florida Constitution, and could not, therefore, serve in this position at the same time he or she was serving as a traffic infraction hearing officer without violating the dual office-holding provision of the Constitution." Leon reads this to mean that the special *master* (now called special *magistrate*) can serve in the same capacity across county lines but cannot serve in any other capacity while serving as a special magistrate.

As a practical matter, when asked to serve as a special magistrate to the Leon County Value Adjustment Board, appraisers and attorneys are asked to block off certain days in their schedule to be available for hearing appeals. However, petitioners are often able to resolve their concerns with the Property Appraiser's Office prior to hearing and often withdraw their petitions before hearing. These magistrates have turned down other business opportunities in order to serve the citizens of Leon County.

Recruiting qualified professionals to serve the public in these temporary positions, that typically pay much less than private sector jobs, is difficult. If county VAB's must compete among each other for these professionals, so that a magistrate may only serve one county VAB, the difficulty increases. This would be extremely burdensome when trying to recruit qualified tangible personal property appraisers; these professionals are very difficult to recruit, and often only a few individuals apply for the positions. Thus, the recommendation that the Legislature address whether special magistrates violate the dual office holding prohibition when serving multiple counties is well founded.

Leon County would suggest that the Legislature clarify that a special magistrate can serve more than one VAB without violating the dual office holding prohibition.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
Auditor General
April 18, 2014
Page 7

Your staff conducted this audit in a very professional and cordial manner. We strive for excellence in the performance of our duties to the Value Adjustment Board and appreciate your staff's thorough review.

Sincerely,



Bob Inzer, Clerk & Comptroller
Serving the Citizens of Leon County

BI/cam
Attachments

cc: The Honorable Nick Maddox
The Honorable Kristen Dozier
The Honorable Jane Sauls
The Honorable Forrest Van Camp
Ms. Pamela-Kiser Burch
Ms. Chris Bertoch
The Honorable Bert Hartsfield
Jon C. Moyle, Jr., Esq.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



MartinClerk.com

CAROLYN TIMMANN
Clerk of the Circuit Court & Comptroller
Martin County • Florida
P. O. BOX 9016 • STUART, FLORIDA 34995
(772) 288-5576

April 30, 2014

David W. Martin, CPA
Auditor General
State of Florida
111 W Madison Street, G74
Tallahassee, FL 32399

VIA EMAIL: flaudgen_audrpt_lg@aud.state.fl.us

Re: Audit of County Value Adjustment Boards

Dear Mr. Martin:

Thank you for providing me with your list of preliminary and tentative audit findings and recommendations in connection with the above-referenced audit. The Clerk of the Circuit Court and Comptroller of Martin County (Clerk) appreciates the opportunity to respond to the preliminary and tentative audit findings and recommendations for the audit of the 2011 County Value Adjustment Boards and Department of Revenue's oversight thereof.

As a general comment, this clerk's administration assumed office in January 2013, after the time period of the audit and, therefore, does not have actual knowledge of the policies and procedures in place and the day-to-day operations of the Value Adjustment Board staff during the audit period.

As the Clerk, I greatly appreciate the expertise and guidance of the Auditor General. The following comments are offered as to the findings specifically related to the Martin County Value Adjustment Board.

Finding No. 6 – VAB Prehearing Verification of Compliance with Legal Requirements.

As to Finding No. 6, in reviewing the 2011 Value Adjustment Board compliance and legal requirements, it appears that the prehearing verification of compliance was reviewed verbally with Value Adjustment Board counsel prior to the hearings. Commencing with the 2013 Value Adjustment Board, the Martin County Clerk has implemented a written prehearing compliance checklist that is reviewed and signed by the board counsel prior to the hearings. The signed prehearing compliance form is maintained with the Value Adjustment Board records.

Finding No. 7 – VAB Organizational Meeting

As to Finding No. 7, the finding stated that contact information for the Value Adjustment Board members and the Clerk was not provided at the organizational meeting. The Martin County Clerk has addressed this deficiency. During the 2012 Value Adjustment Board year, the contact information for the Value

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
April 30, 2014
Page 2

Adjustment Board members and clerk was stated at the Organizational Meeting and included in the minutes of the Organizational Meeting. During the 2013 Value Adjustment Board year, the contact information for Value Adjustment Board members and Clerk was stated at the Organizational Meeting and included in the meeting packet.

Finding No. 9 – Presumption of Correctness of Property Appraisers' Assessments

As to Finding No. 9, the finding stated that the Value Adjustment Board did not evidence that the property appraiser's presumption of correctness was considered or was not considered in the proper order, in accordance with DOR Rule 12D-9.024(7), F.A.C. The Martin County Clerk will assist the Value Adjustment Board with compliance with the above-referenced rule and Florida Statutes 194.301(1).

Finding No. 11 – Public Notice of VAB Organizational Meetings and Hearings.

As to Finding No. 11, the Martin County Clerk affirms that the meetings are noticed in accordance with DOR Rule 12D-9.013(1) F.A.C. As to hearing notices, the Martin County Clerk has amended the procedures to comply with the notice requirements by including proper hearing notices on the Clerk's website. In addition, the Clerk will continue to make such notices available upon request by any member of the public.

Finding No. 12 – Allocation of VAB Petition Fees and Expenses

As to Finding No. 12, the Martin County Clerk agrees that the filing fees were not properly allocated as to reduce the Value Adjustment Board expenses billed to the Board of County Commissioners and the School Board. Expenses will be recalculated to include any petition filing fees collected in the overall allocation and distribution of funds. In addition, as noted in the Clerk's response to the initial questions regarding allocation of expenses, the current Clerk revised procedures to provide for the proper allocation of expenses between the Board of County Commissioners and the School Board.

Again, I would like to thank the Auditor General for taking the time to review this important process and provide my office with its findings and recommendations. I will utilize the findings in all areas to help ensure the Martin County Value Adjustment Board is in compliance with all corresponding rules and statutes.

Respectfully,



Carolyn Timmann

CT/cv

cc: Hon. Sarah Heard, Chair, Martin County Value Adjustment Board

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



LYNDA BELL
VICE CHAIR

April 23, 2014

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

Re: County Value Adjustment Boards and
Department of Revenue's Oversight Thereof

Dear Mr. Martin,

Thank you for the opportunity to respond to the Preliminary and Tentative Audit Findings ("findings") issued by your office on March 31, 2014, related to a performance audit of County Value Adjustment Boards and the Department of Revenue's oversight thereof for the 2010 and 2011 tax appeal years. In our review of the findings, we conclude that the Miami-Dade Value Adjustment Board ("VAB") has achieved almost total compliance with the complex web of laws and procedures that govern its role in Florida's ad valorem taxation system.

This response follows the order of the issues presented in the findings:

Finding No. 4. Finding No. 4 raises a concern that the VAB did not document its verification of special magistrate qualifications properly.

The VAB maintains that it has complied with the statutory requirements for evaluating and selecting special magistrates. The following procedures are followed each year in the order presented below prior to selection:

- The VAB solicits applicants for the special magistrate positions by advertising the position and reaching out to professional societies. Such professional societies include, but are not limited to, the Miami-Dade County Bar Association, the Wilkie Ferguson Junior Bar Association, the Cuban American Bar Association, the Florida Association for Women Lawyers, the Appraisal Institute, the American Society of Appraisers, and the National Society of Real Estate Appraisers. Applications are available in the office.
- VAB Counsel then screens all applications to ensure that each applicant meets the minimum qualifications prescribed in Florida Statutes section 194.035. VAB Counsel also determines whether applicants have been involved in disciplinary proceedings.
- Following the screening of applications, VAB Counsel prepares a summary report for each applicant. See Attachment A.

BOARD OF COUNTY COMMISSIONERS

DISTRICT OFFICE: 14707 S. DIXIE HIGHWAY • SUITE 101 • MIAMI, FLORIDA 33176 • (305) 378-6677 • FAX: (305) 253-7495
DOWNTOWN OFFICE: 111 N.W. FIRST STREET • SUITE 220 • MIAMI, FLORIDA 33128-1963 • (305) 375-5218 • FAX: (305) 377-6073

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

- All VAB members are provided a copy of each application and VAB Counsel's summary report prior to the VAB meeting in which members are expected to select the special magistrates.
- Interviews are conducted.

In addition to the foregoing, the VAB sought the advice of the Department of Revenue ("DOR") regarding appraiser special magistrate qualifications in 2008. It posed two questions to DOR in order to gain a precise understanding of these qualifications. See Attachment B.

Proposed Action. The VAB will continue to document its selection procedures and maintain a file reflecting its annual undertakings in this regard, thereby improving the storage and availability of this information.

Finding No. 6. Finding No. 6 indicates that the VAB has taken too informal an approach to executing the pre-hearing checklist of Rule 12D-9.014.

Each VAB agenda for its organizational meeting includes a list announcing every element of the pre-hearing checklist set forth in Rule 12D-9.014. For a copy of the agenda, see Attachment C. This agenda is prepared after the VAB Clerk and Counsel review the pre-hearing checklist for compliance. The VAB's intent was to list and announce each element of the pre-hearing checklist at the organization meeting, although it did not adopt the exact phrasing that the Rule employs.

Proposed Action. The VAB understands that its execution of the pre-hearing checklist at the organizational meeting was not explicit enough. The information for each element of the pre-hearing checklist was included in the agenda, but was not labeled with specific regard to the Rule. The VAB will isolate the pre-hearing checklist as its own agenda item. Additionally, VAB Counsel and the Board Clerk will give a presentation to the Board as to compliance with Rule 12D-9.014.

Finding No. 10. Finding No. 10 states that a sampling of VAB written decisions tended to demonstrate insufficient Findings of Fact and Conclusions of Law.

Prior to the issuance of the findings, the VAB understood that its extensive caseload caused some of its special magistrates to understate the Findings of Fact and Conclusions of Law. As a result, on March 11, 2013, VAB Counsel issued a memorandum to all appraiser special magistrates on this subject. The memorandum noted that Findings of Fact sometimes lacked sufficient detail. See Attachment D.

Proposed Action. VAB Counsel's March 11, 2013 memorandum alerted the special magistrates to the problem and they responded accordingly in the 2012 tax appeal year. Not only have the special magistrates improved their Findings of Fact, they have also written more fully reasoned Conclusions of Law. The VAB also proposes to institute a new system of review to ensure proper information is included in VAB written decisions. VAB Counsel will review a percentage

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

sampling from each special magistrate on an ongoing basis so that s/he may advise of any need for adjustments.

Finding No. 11. Finding No. 11 indicates that the VAB did not provide public notice of hearings.

Proposed Action. The VAB will continue to announce a tentative schedule of hearings at its organizational meeting. The VAB will immediately provide notice of hearings by posting to its website in accordance with Rule 12D-9.007(8).

Finding No. 13. Finding No. 13 raises a concern that VAB records do not reflect that its citizen members meet legal requirements, and that these requirements were not verified.

The VAB states that its citizen members meet the legal requirements for their respective positions. The VAB relies on the appointing entities to evaluate the qualifications, and subjects the appointees to a confirmatory review by VAB Counsel.

Proposed Action. Initially, VAB Counsel will consult with the appointing entities to ensure that their review of appointees for the citizen positions is legally sufficient. The VAB will also require that appointees provide an affidavit attesting to their respective qualifications pursuant to Rule 12D-0.004(1)(c). Finally, VAB Counsel will review the applications and affidavits, and will confirm that the appointee meets qualifications on the record.

Sincerely,



Lynda Bell
Chair, Value Adjustment Board

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

County of Monroe
The Florida Keys



BOARD OF COUNTY COMMISSIONERS

Mayor Sylvia J. Murphy, District 5
Mayor Pro Tem, Danny L. Kolhage, District 1
George Neugent, District 2
Heather Carruthers, District 3
David Rice, District 4

Commissioner David Rice, District 4
9400 Overseas Hwy. Suite 210
Florida Keys Marathon Airport Terminal
Marathon, FL 33050
PH: 305-289-6000
FX: 305-289-4610
Email: boccds4@monroecounty-fl.gov
or Rice-David@monroecounty-fl.gov

April 28, 2014

David W. Martin, CPA
Auditor General
State of Florida
c/o Local Government Audits/Section 341
111 West Madison Street
Tallahassee, FL 32399-1450

Re: County Value Adjustment Boards and
Department of Revenue's Oversight Thereof

Dear Mr. Martin,

The Monroe County Value Adjustment Board ("VAB") appreciates the opportunity to respond to preliminary and tentative audit findings issued in your letter of March 31, 2014.

The following response is in the order of the issues presented in your letter as they concern VAB.

Finding No. 4. Your letter raises a concern that VAB did not verify the work experience of its special magistrates or that such verification was not evident in our records.

VAB's imperfect verification of special magistrate qualifications arose out of a combination of factors: a small county, a small pool of applicants for the position, and a close familiarity with those applicants. The Clerk and the Counsel reviewed the applications annually and gave an oral report to the Board at its organizational meeting.

Henceforth, the Clerk and Counsel will prepare a written report of the applicants' qualifications for the Board's review. The Counsel will check for any disciplinary action involving the applicants and make these findings a part of the report. The Clerk will check that appropriate professional licenses are current and include this information in the report as well. These two additional checks will ensure an updated review for the renewal of existing special magistrates and for the evaluation of new applicants for the position.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

VAB Audit Response
April 28, 2014
Page 2

Finding No. 6. Your letter indicates that VAB did not document sufficiently the results of the verification of the annual pre-hearing checklist, as set forth in Rule 12D-9.014.

The agenda for the 2013 organizational meeting included an item that formalized the pre-hearing checklist. In prior years, the Clerk and Counsel reviewed the checklist together and, once satisfied, proceeded to schedule the organizational meeting.

VAB will continue to address the pre-hearing checklist at its organizational meeting with explicitness. In the future, the agenda back-up will contain a statement from the Clerk and Counsel that each element (which shall be identified) of the pre-hearing checklist has been verified.

Finding No. 7. Your letter states that VAB did not make available at its organizational meeting copies of applicable DOR rules and associated forms.

VAB made copies of the rules and associated forms available at the 2013 organizational meeting, and shall continue to do so annually.

Finding No. 11. Your letter indicates that VAB did not place into its notice of the organizational meeting the required disclosure related to a verbatim record of the proceedings for an appeal.

VAB immediately will place on each public notice, including meeting and hearing agendas, the disclosure relating to a verbatim record of the proceedings for an appeal, as required by Florida Statutes section 286.0105.

Finding No. 12. Your letter asserts that VAB did not reduce expenses billed to the Board of County Commissioners and the School Board by deducting the amount raised from filing fees.

The VAB Clerk corrected this oversight on January 29, 2014. In all future tax appeal years VAB will abide by this requirement, as set forth in Florida Statutes section 194.013(4).

Sincerely,



David P. Rice
Chairman, Monroe County Value Adjustment Board

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



May 29, 2014

David W. Martin, C.P.A.
Auditor General
Local Government Audits/Section 341
111 West Madison Street
Tallahassee, FL 32399-1450

Re: Audit findings letter dated March 31, 2014

Dear Auditor General Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, I submit the following written statements in response to the preliminary and tentative audit findings and recommendations dated March 31, 2014.

Management Oversight

Finding No. 1: Independence in the appeal process at the local level may have been compromised due to local officials involved in the process who may not have been impartial and whose operations are funded with the same property tax revenue at stake in the appeal process.

Recommendation: The Legislature should consider requiring that rules of conduct or ethical codes, with appropriate sanctions, be established for VAB members and staff, VAB clerks, VAB attorneys, and special magistrates. In addition, the Legislature could consider the creation of an appeal process at the regional or State level, or requiring that the VAB be composed of individuals that are not county government or school board officials. In doing so, the Legislature should consider the other recommendations in this report and the extent to which those recommendations are adopted by the Legislature, the DOR, and the VABs.

Orange County Value Adjustment Board Response: Orange County complies with all statutes. Further, it is the practice of the Orange County Value Adjustment Board to encourage special magistrates to maintain independent process in appearance and fact.

Special Magistrates in the Appeal Process

Finding No. 3: Special magistrates served on multiple VABs during the same tax year, although prohibited by the State Constitution.

COMMISSIONER FREDERICK C. BRUMMER, DISTRICT 2

201 South Rosalind Avenue, 5th Floor • Reply To: Post Office Box 1393 • Orlando, Florida 32802-1393

Telephone 407-836-7350 • Fax 407-836-5976

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

David W. Martin, CPA
April 23, 2014
Orange County Value Adjustment Board
Page 2

Recommendation: The Legislature should consider revising Section 194.035, Florida Statutes, to clarify whether special magistrates may serve on multiple VABs.

Orange County Value Adjustment Board Response: Orange County will comply with all statutes.

Finding No. 4: Selection of special magistrates may not have been based solely on experience and qualifications, contrary to law and DOR rules, and verification of such information was not always documented.

Recommendation: The VABs should ensure that only the factors prescribed by law are considered in selecting special magistrates, that information provided by special magistrates is verified each tax year, and such verification is documented. Additionally, the Legislature should consider revising Section 194.035, Florida Statutes, to provide for consideration of specific prior work performance factors when selecting special magistrates.

Orange County Value Adjustment Board Response: Orange County Value Adjustment Board will document all verifications. The written policy that will establish the documentation has been created.

VAB Administrative Hearings

Finding No. 6: Verification of compliance with law and DOR rules relating to VAB prehearing requirements was not always documented.

Recommendation: The VAB clerks should ensure that verification of compliance with Florida Statutes and DOR rules as prescribed by DOR Rule 12D-9.014, FAC, is documented.

Orange County Value Adjustment Board Response: Orange County Value Adjustment Board will document all verifications. The written policy that will establish the documentation has been created.

If you have any questions concerning this written response, please contact me at (407) 836-7350.

Sincerely,



Commissioner Frederick C. Brummer, District 2
Orange County Government, Florida
Chair, 2013 Orange County Value Adjustment Board

cc: Value Adjustment Board Members
The Honorable Martha O. Haynie

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



P.O. Box 1989
 West Palm Beach, FL 33402-1989
 (561) 355-2001
 FAX: (561) 355-3990
 www.pbcgov.com



**Palm Beach County
 Board of County
 Commissioners**

Priscilla A. Taylor, Mayor
Paulette Burdick, Vice Mayor

Hal R. Valachis

Shelley Vena

Steven L. Abrams

Mary Lou Berger

Joan R. Santamaría

County Administrator

Robert Weisman

*"An Equal Opportunity
 Affirmative Action Employer"*

Official Electronic Letterhead

April 23, 2014

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

Re: Palm Beach County Value Adjustment Board (VAB):
 Response to Auditor General Preliminary Audit Report

Dear Mr. Martin:

Pursuant to Section 11.45(4)(d), Florida Statutes, enclosed is Palm Beach County VAB's written statement of explanation concerning the Findings identified in your March 31, 2014 letter. We thank you and your staff for your consideration during this process.

Sincerely,

Steven L. Abrams, Chairman
 Palm Beach County Value Adjustment Board

cc: Value Adjustment Board Members
 The Honorable Sharon Bock, Clerk & Comptroller

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

PALM BEACH COUNTY VALUE ADJUSTMENT BOARD (VAB)

RESPONSE TO FLORIDA AUDITOR GENERAL PRELIMINARY AUDIT REPORT

I. The following responses pertain to Finding Nos. 6, 9, 10, and 13 which specifically mention Palm Beach County VAB:

Finding No. 6: VAB Pre-hearing Verification of Compliance with Legal Requirements

The Auditor General found that eleven (11) of fifteen (15) VABs, including Palm Beach County, did not document the results of their pre-hearing verification. The Auditor's report appears to accept the practice by some VABs of completing a formal, written pre-hearing checklist. This makes sense, since a similar checklist is required for the post-hearing certification under Rule 12D-9.037, F.A.C. In addition to the required verification that Palm Beach County VAB has always done and will continue to do, we will document compliance with pre-hearing requirements by completing, before holding hearings, a certification that includes the thirteen (13) requirements listed in Rule 12D-9.014(1)(a) - (m), F.A.C.

Finding No. 9: Presumption of Correctness of Property Appraiser's Assessments

The Auditor General found that four (4) of the Palm Beach County VAB's petitions sampled did not evidence that the property appraiser's presumption of correctness issue was considered. Until recently and for many years, the property appraiser's assessment was presumed correct without proof or presentation. Section 194.301(1), Florida Statutes (F.S.), significantly changed this by requiring the property appraiser to establish the presumption of correctness by showing that the assessment complies with Section 193.011, F.S., professionally accepted appraisal practices, and any other applicable statutory requirement. Section 194.301(1), F.S. was adopted in 2009. The tax season audited is 2011. Rule 12D-9, F.A.C., specifying the order and content of presentation at the hearing, was adopted the year before the tax season audited. The new law and Rule were in effect only a short time before the audited petitions were heard.

The following actions have already been taken: 1) Since the new law and Rule went into effect, the VAB has sent repeated emails to the special magistrates reminding them of the new presumption of correctness requirements (note that DOR prohibits the VABs from "training" special magistrates). 2) Recommended decisions are audited by VAB counsel to ensure the issue is considered. Special magistrates are contacted in writing to correct deficiencies in the decisions. If the audit indicates the issue was not addressed on the record, a new hearing is held. 3) During the hearing season, special magistrates are rated on their understanding of the rules. These ratings are considered during the hiring process. We will continue these actions in our goal to achieve maximum compliance.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Finding No. 10: VAB Written Decisions

The Auditor General found that nearly half of the fifteen (15) VABs audited, including Palm Beach County, had insufficient information in their written decisions. We have taken the three (3) actions described in our response to Finding No. 9 above, including emails to special magistrates on this specific issue, audit of recommended decisions, and a special magistrate rating category for “quality of written decisions.” We acknowledged some time ago that our decisions needed improvement. Many of our special magistrates have served for a long time and, admittedly, it has not been easy getting them to write more detailed, explanatory decisions. Special magistrates who did not improve their written decisions were not re-hired. The quality of our current written decisions is markedly better than in 2011 and continues to improve. The written decision represents the end result of the VAB process and is pretty much the last impression the VAB leaves on the taxpayer. The decision should give the taxpayer confidence in the VAB process and not raise doubts about compliance.

Finding No. 13: VAB Citizen Members

The Auditor General found that Palm Beach County VAB’s records did not show that citizen members met the specific requirements. The VAB’s homestead citizen member has owned the same homestead property in Palm Beach County since 1995. Before the 2011 hearing season, VAB counsel reviewed the property appraiser website to verify the homestead exemption was still in place for this member. This review is conducted each season before hearings begin. Going forward, VAB counsel will see that a copy of this webpage is placed in the VAB’s files.

The VAB’s business citizen member has owned an undertaking business in Boynton Beach since at least 1996. The business was established by his family in 1983. The business has always occupied commercial property in Boynton Beach. Before the 2011 hearing season, VAB counsel reviewed the Florida Division of Corporation’s website. The webpage verified the status of the business and the annual report was signed by the member as its president. Going forward, VAB counsel will see that a copy of the webpage and annual report are placed in the VAB’s files.

II. The following pertains to Finding Nos. 1, 3, and 4 that do not specifically mention Palm Beach County VAB but to which the Auditor invited a response:

Finding No. 1: Independence of the Appeal Process

One of the Auditor General’s recommendations under this Finding is to eliminate government and school board officials as members of the VAB. We are not aware of an occasion where our VAB

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

members perceived their role as protectors of the tax base. Greater public exposure of government and school board members arguably causes more incentive to ensure a fair hearing process to constituents. The objectivity of citizen members whose homestead property and business operations are subject to the taxing process, and who are not directly answerable to voting taxpayers, could similarly be called into question. Might this limit eligibility to only non-taxpayers? Government and school district officials' expertise in conducting the business of public boards also lends efficiency to the process.

Finding No. 3: Special Magistrates' Dual Office-holding Prohibition

We do not feel that a VAB special magistrate's serving in multiple counties violates the dual office-holding prohibition. In the alternative, an exception should be made because of the shortage of TPP appraisers. Here is an excerpt from an email we sent to the Auditor last February:

"The Palm Beach County VAB does not prohibit the hiring of a special magistrate who also serves as a special magistrate for another VAB because:

1. We might not be able to hold TPP hearings if we prohibited this "practice." Qualified TPP magistrates are hard to come by. If our two or three TPP magistrates were forced to choose only one VAB, they would skip Palm Beach if the amount of work, hourly rate, location, schedule, or other factors are better with another VAB. We would be left with nobody to hear our TPP cases.
2. A VAB special magistrate is under the same law, rules, Training, and State oversight (FDOR) throughout Florida. The position of VAB special magistrate is the same from county to county. The duties and responsibilities of a VAB special magistrate are identical for each VAB. It is one and the same office regardless of how many VABs are served.
3. The FDOR creates and posts on their website a chart of special magistrates and the "County(ies) Served" (See "Special Magistrates List for 2012 Petitions"). The FDOR takes information sent by VAB Clerks and deliberately formats it to show that many special magistrates serve more than one VAB. The FDOR's acknowledgment of this practice (without objection) has given the VAB no reason to believe it should be prohibited."

Finding No. 4: Verification of Special Magistrates' Experience and Qualifications

For the past several years we have instituted "specific prior work performance factors" when selecting "return" special magistrates. Special magistrates are evaluated throughout the hearing season on factors such as knowledge of VAB rules, decision-making skills, professionalism, quality of written decisions, and availability. The results are considered if the special magistrate applies the next season and are helpful in the hiring process.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



PASCO COUNTY, FLORIDA

"Bringing Opportunities Home"

- ☐ 37918 Meridian Avenue, Dade City, Florida 33525
(352) 521-4111 – FAX (352) 521-4105
- ☐ 8731 Citizens Drive, New Port Richey, Florida 34654
(727) 847-8100 – FAX (727) 847-8969

District 1 - Ted Schrader
District 2 - Pat Mulieri, Ed.D.
District 3 - Kathryn Starkey
District 4 - Henry Wilson
District 5 - Jack Mariano

May 29, 2014

Via US Mail and Electronic Mail (flaudgen_audrpt_lg@aud.state.fl.us)

Auditor General
 Local Government Audits/Section 341
 111 West Madison Street
 Tallahassee, Florida 32399-1450

RE: Pasco County Value Adjustment Board Response to Letter Dated March 31, 2014 Regarding Preliminary and Proposed Audit Findings Pursuant to Section 11.45(4)(d)

Dear Mr. Gomez:

This letter revises the initial response regarding the letter to the Pasco County Value Adjustment Board concerning the Preliminary and Tentative Audit Findings pursuant to our conversation with you this week. We have only revised the response to findings 10 and 14 based on the additional information provided. The other responses will remain as is.

Response to Finding No 1: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 2: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 3: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 4: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 5: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 6: The Florida Rules and Statutes do not require specific detailed documentation in a certain manner of compliance. In fact, the analysis and recommendation of the report does not lay out the specific procedures and requirements that are met by each of the County Value Adjustment Boards to adhere to the statutes. For example, training certificates are provided by special magistrates to the Value Adjustment Boards. This would be considered documentation and compliance as discussed by the report, but is not laid out in the findings of the report. This recommendation needs to be specific as to what specific documentation would be required that is not already being provided since the Counties do adhere to the procedural requirements in many ways that are not outlined in the findings.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Auditor General
May 29, 2014
Page Two

Response to Finding No. 7: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 8: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No.9: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 10: The response and recommendation is insufficient in that it does not outline in detail how the recommendation does not meet the rule or statute. All recommendations are reviewed by counsel for meeting statutory and rule requirements. A review of the findings for Pasco as determined by the auditor shows that the requirements of rules and statutes were adhered to.

Response to Finding No. 11: Value Adjustment Board has corrected the notice to comply with statute.

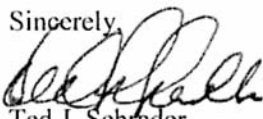
Response to Finding No. 12: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 13: Not applicable to Pasco County Value Adjustment Board.

Response to Finding No. 14: The specific instances as related to Pasco pursuant to audit findings met the requirements of the rule. As a preliminary note, the information cannot be completely verified by the clerk as it may need to be a legal determination. If a property is sold during a tax year that a Petition is pending, this would require specific information the clerk may not have at the time the Petition is accepted. In addition, while the clerk can review the forms, they are not in a position to determine the legal validity of the authorization. The clerk can only determine the form has been turned in and been completed. The legal validity must be done by the magistrate and this may require a rule change in that regard requiring the magistrate to verify authority at the beginning of each hearing of the Petitioner.

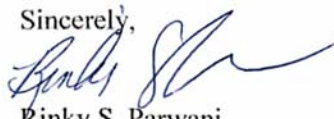
Thank you for the opportunity to respond. We look forward to working with you and continuing to improve the Value Adjustment Board Process.

Sincerely,



Ted J. Schrader
Chairman
Pasco County Value Adjustment Board

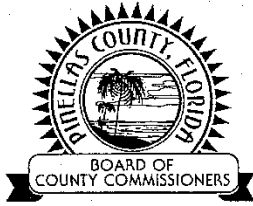
Sincerely,



Rinky S. Parwani
Legal Counsel
Pasco County Value Adjustment Board
rinky@parwanilaw.com

cc: Pasco County Value Adjustment Board
Donalee Schmidt
Connie Schroeder

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



BOARD OF COUNTY COMMISSIONERS

PINELLAS COUNTY, FLORIDA

P.O. BOX 2438
CLEARWATER, FL 33757
Telephone: (727) 464-8300
FAX: (727) 464-8370

KEN BURKE

CLERK OF BOARD OF COUNTY COMMISSIONERS
CLERK OF WATER AND NAVIGATION CONTROL AUTHORITY
COUNTY AUDITOR AND TREASURER

April 25, 2014

Auditor General
Local Government Audits/Section 341
111 West Madison Street
Tallahassee, FL 32399-1450

RE: Response to 2011 VAB Audit Findings

To Whom It May Concern:

Based on 1) the findings enumerated in your performance audit of county Value Adjustment Boards (VABs) and the Department of Revenue (DOR)'s oversight thereof and 2) an exit teleconference held with the Auditor General's Office on March 14, 2014, below are the required responses to Findings 7, 8, 11 and 12 and additional comments to Findings 1 and 3.

Finding No. 7: VAB organizational meetings were not always held in accordance with the requirements prescribed by DOR rule.

- "Lee, Pinellas, and Seminole County VABs did not have a general discussion on Florida's property tax system, taxpayer's rights, or opportunities to participate in the property tax system at the organizational meeting."

AG Recommendation: The VABs should ensure that organizational meetings are conducted in accordance with applicable DOR rules, that all requirements are adequately satisfied, and that the meeting minutes reflect all discussions.

Proposed/Actual Corrective Actions

During the 2013 Property Tax season (and prior to the inception of this 2011 VAB Audit), Pinellas County had already enhanced its VAB Organizational Meeting to include a handout and general discussion on Florida's property tax system, taxpayer's rights, and opportunities to participate in the property tax system. The discussion was recorded in the meeting's minutes.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Auditor General
April 25, 2014

Finding No. 8: Prescribed procedures for commencing VAB hearings were not always followed by the VABs, contrary to DOR rules.

- “Three VABs did not provide an overview of the rules of procedure for 7 petitions (Broward-2, Pinellas-1, and Suwannee-4 Counties).”
- “Four VABs did not ask the parties if they had any questions regarding the verbal or written overview of the procedures for the hearing for 8 petitions (Broward-1, Gilchrist-2, Pinellas-1, and Suwannee-4 Counties).”

AG Recommendation: The VABs should ensure that all hearings are conducted in accordance with DOR Rule 12D-9.024, FAC.

Proposed/Actual Corrective Actions

Pinellas Special Magistrates are provided written opening remarks procedures/statements to be made and/or handed out prior to each hearing which include an overview of the rules of procedures to be used and to ask the parties if they have any questions regarding the verbal or written overview of the procedures. Special Magistrates are informed of this requirement during the VAB Orientation Meeting and will be reminded prior to each VAB hearing to insure they follow these procedures.

Finding No. 11: Public notice of VAB organizational meetings and hearings were not always in accordance with DOR rules.

- “Our review of the organizational meeting notices for the 15 VABs included in our review disclosed that 7 VABs (Broward, Leon, Monroe, Pasco, Pinellas, Seminole, and Washington Counties) did not include in the notices the required disclosure relating to a verbatim record of the proceedings for an appeal. Although the disclosure information was posted elsewhere for Leon and Pinellas County VABs, it was not included in the organizational meeting notice as required by DOR rules.”

AG Recommendation: The VABs should ensure that the public is properly noticed of its organizational meetings and hearings, and that the notices include all information prescribed by DOR rules.

Proposed/Actual Corrective Actions

Pinellas will include in its future organizational meeting notice the required disclosure relating to a verbatim record of the proceedings for an appeal.

Irrespective, we are in disagreement with the VAB Organizational meeting notice requirement to disclose the availability of a verbatim record of the proceedings for an appeal. At this point in the VAB process, there have been no hearings and therefore there is nothing to appeal. We request DOR to address this with their Counsel for clarification and possible amendment to the DOR rules.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Auditor General
April 25, 2014

Finding No. 12: VABs did not always allocate expenses between the board of county commissioners and the school board, contrary to law.

- “6 VABs (Gilchrist, Martin, Monroe, Pinellas, Seminole, and Washington Counties) did not reduce the VAB expenses billed to the boards of county commissioners and school boards by the amount of filing fees collected.”

AG Recommendation: The VABs should ensure that amounts billed to boards of county commissioners and school boards are reduced by the amount of petition filing fees collected. Also, each of the 6 VABS cited in the finding should refund to its respective board of county commissioners and school boards any excess VAB expenses charged as a result of not defraying such expenses with petition filing fees.

Proposed/Actual Corrective Actions

The School Board will be charged forty (40) % of the net VAB expenditures (total VAB expenditures less VAB petition filing fee revenue). Concurrently, Pinellas County will refund to the School Board excess net VAB expenditures charged to the School Board since, and including, the 2011 VAB audit period.

Finding No. 1: Independence in the appeal process at the local level may have been compromised due to local officials involved in the process who may not have been impartial and whose operations are funded with the same property tax revenue at stake in the appeal process.

AG Recommendation: The Legislature should consider requiring that rules of conduct or ethical codes, with appropriate sanctions, be established for VAB members and staff, VAB clerks, VAB attorneys, and special magistrates. In addition, the Legislature could consider the creation of an appeal process at the regional or State level, or requiring that the VAB be composed of individuals that are not county government or school board officials. In doing so, the Legislature should consider the other recommendations in this report and the extent to which those recommendations are adopted by the Legislature, the DOR, and the VABs.

Proposed Corrective Action

Equity in the VAB process has been paramount to the members of the Pinellas County VAB. As displayed on Table 1, we had the second highest percentage of petitions granted. Irrespective, we would strongly support having a set of Rules of Conduct. Further, to promote consistency, we would support having these Rules of Conduct established by the DOR. As to the Board's structure, the present participation by two (2) County officials, a school official and two (2) non-government taxpayers, it is a fair representation of the stakeholders.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Auditor General
April 25, 2014

Finding No. 3: Special Magistrates' Dual Office Holding Prohibition.

- "Our review of the 12 VABs included in our review that appointed special magistrates disclosed that 37 special magistrates in 11 VABs (all except Leon County VAB) served in multiple counties for the 2011 tax year, contrary to the constitutional dual office holding prohibition. We noted that 24 special magistrates served on 2 VABs, 9 special magistrates served on 3 VABs, and 4 special magistrates served on 4 VABs. In response to our inquiries, the VABs generally indicated that they do not believe the dual office holding prohibition applies to special magistrates. One VAB referred to an opinion issued to a VAB by DOR's Chief Assistant General Counsel that a special magistrate in one county would not violate the dual office holding provision by serving another county VAB in the same capacity."

AG Recommendation: The Legislature should consider revising Section 194.035, Florida Statutes, to clarify whether special magistrates may serve on multiple VABs.

Proposed Corrective Action

Pinellas County agrees with the recommendation to seek legislative clarification.

We disagree that there is a violation of the Dual Office Holding Prohibition and would suggest Special Magistrates hold a single office serving multiple counties.

Thank you, in advance, for your attention to this correspondence. If you have any questions, please feel free to contact me at 727-464-3360.

Regards,


Norm Roche
Chair, Value Adjustment Board

- c: Value Adjustment Board Members
The Honorable Ken Burke, CPA, Clerk of the Circuit Court and Comptroller

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

BOARD OF COUNTY COMMISSIONERS



April 24, 2014

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

Re: Seminole County's Value Adjustment Board Performance Audit

Dear Mr. Martin:

Enclosed, please find Seminole County's response to the list of Preliminary and Tentative Findings and Recommendations, which may be included in a report to be prepared on the Auditor General's performance audit of county Value Adjustment Boards (VABs).

My understanding is that 15 VABs in Florida counties were audited for the 2011 tax year. Those findings and recommendations were based upon your office's performance audit of those VABs, which vary in size.

For ease of reading, the preliminary findings and recommendations are repeated in a summarized format and are immediately followed by management responses to each. For succinctness and focus, I have limited my comments to Finding Nos. 4, 6, 7, 10, 11, 12 and 13 requiring corrective actions.

I trust the enclosed written responses satisfactorily address your concerns regarding the aforementioned findings. However, should you require additional information, please feel free to contact my office.

Sincerely,

Robert Dallari
Chairman of the Seminole County
Value Adjustment Board

Enclosure

cc: Honorable Maryanne Morse, Clerk of the Circuit Court and Comptroller
Value Adjustment Board Members

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

Special Magistrates in the Appeal Process

Finding No. 4: Verification of Special Magistrates' Experience and Qualifications

VABs are required by law and DOR rules to verify a special magistrate's qualifications before appointing the special magistrate, and the selection of a special magistrate must be based solely on the experience and qualifications of such special magistrate.

Our review of the VABs verification of special magistrates' experience and qualifications for the 12 VABs included in our review that appointed special magistrates disclosed that improvement was needed in verifying the information provided by the special magistrates and documenting the results of such verification. For example, we noted that 7 VABs either did not verify the special magistrates' work experience or such verification was not evident in its records. Verification of work experience is important to ensure that special magistrates have the appropriate level of experience in the areas of ad valorem taxation, real property valuation, and tangible personal property valuation to fulfill their role with the VABs.

Recommendation: The VABs should ensure that only the factors prescribed by law are considered in selecting special magistrates, that information provided by special magistrates is verified each tax year, and such verification is documented. Additionally, the Legislature should consider revising Section 194.035, Florida Statutes, to provide for consideration of specific prior work performance factors when selecting special magistrates.

Management's Response: We concur VABs should ensure that only factors prescribed by law should be considered in selecting special magistrates, and information provided by special magistrates should be verified annually, and audit evidence be retained of such verification. Seminole County's VAB Board now evaluates the experience and qualifications of all special magistrates prior to appointment. The evaluation process is documented as evidence of review and such qualifications will be performed and verified annually.

In addition, we agree, the Legislature should consider revising Section 194.035, Florida Statutes, to provide for consideration of specific prior work performance factors when selecting special magistrates.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

VAB Administrative Hearings

Finding No. 6: VAB Prehearing Verification of Compliance with Legal Requirements

Section 194.034(1)(a), Florida Statutes, provides that hearings must be conducted in the manner prescribed by DOR rules. DOR Rule 12D-9.014, FAC, provides that the VAB clerk must not allow the holding of scheduled hearings until the VAB legal counsel has verified that all requirements in Chapter 194, Florida Statutes, and DOR rules are met. The VAB clerk must notify the VAB legal counsel and the VAB chair of any action needed to comply with the above requirements.

Given the vast responsibility assigned to the VAB clerk and legal counsel prior to holding hearings, it is important that the verification process be documented in the VAB's records. We noted that some VABs documented the verification process by completing a formalized, written prehearing checklist, while other VABs used a less formal approach. Our review of documentation evidencing the verification process for the 15 VABs included in our review disclosed that 11 VABs did not document the results of the verification.

Recommendation: The VAB clerks should ensure that verification of compliance with Florida Statutes and DOR rules as prescribed by DOR Rule 12D-9.014, FAC, is documented.

Management's Response: Seminole County's prehearing verification, while it was being performed, was performed in an informal manner. Seminole County has subsequently developed a prehearing checklist to ensure compliance with legal requirements as prescribed by Section 194.034(1)(a), Florida Statutes and DOR Rule 12D-9.014, FAC.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

VAB Administrative Hearings

Finding No. 7: VAB Organizational Meeting

DOR Rule 12D-9.013, FAC, provides that the VAB must annually hold one or more organizational meetings, at least one of which must meet certain prescribed requirements.

Our review of the organizational meeting requirements at the 15 VABs included in our review disclosed the following:

- Certain VABs did not provide contact information for the VAB members or clerk.
- A certain VAB did not appoint legal counsel as the first order of business.
- A certain VAB did not appoint or ratify legal counsel at its meeting.
- A certain VAB did not have copies of applicable DOR rules and the associated forms available at the meeting.
- Some VABs did not have a general discussion on Florida's property tax system, taxpayer's rights, or opportunities to participate in the property tax system.
- Certain VABs did not announce an adequate tentative schedule for its hearings.

Ensuring that prescribed organizational meeting requirements are followed and documented serves to promote fairness and equity in the process.

Recommendation: The VABs should ensure that organizational meetings are conducted in accordance with applicable DOR rules, that all requirements are adequately satisfied, and that the meeting minutes reflect all discussions.

Management's Response: Seminole County agrees organizational meetings should be conducted in accordance with applicable DOR rules, all requirements are adequately satisfied and the meeting minutes should reflect all discussions. Therefore in future VAB organizational meetings, Seminole County will conduct a general discussion on Florida's property tax system, taxpayer's rights, and opportunities to participate in the property tax system. In addition, an adequate tentative schedule of VAB hearings will be announced at the organizational meeting.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

VAB Administrative Hearings

Finding No. 10: VAB Written Decisions

Section 194.034(2), Florida Statutes, provides that in each case, unless the petition is withdrawn by the petitioner or the petition is acknowledged as correct by the property appraiser, the VAB must render a written decision. The VAB's decision must contain findings of fact and conclusions of law, and must include reasons for upholding or overturning the determination of the property appraiser. Also, DOR Rule 12D-9.032(1)(a), FAC, provides that each final decision must contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and must otherwise meet the requirements of law. The VAB may fulfill the requirement to produce a written final decision by adopting a recommended decision of the special magistrate containing the required elements and providing notice that it has done so. DOR Rule 12D-9.032(2), FAC, also requires that a VAB's final decision must state the just, assessed, taxable, and exempt value for the county both before and after VAB action.

Our review of 114 petitions for the 15 VABs reviewed disclosed insufficient information. Additionally, for the Seminole County VAB, three final decisions did not contain the values before and after VAB actions, contrary to DOR rules. Failure to include sufficient information in written decisions does not provide an adequate basis for decisions and does not promote fairness and equity in the appeal process.

Recommendation: The VABs should ensure that written decisions sufficiently document the findings of fact, conclusions of law, and reasoning for upholding or overturning the determination of the property appraiser as required by Section 194.034(2), Florida Statutes, and DOR Rule 12D-9.032, FAC.

Management's Response: Seminole County provided a copy of the preliminary and tentative findings to its VAB attorney in order to inform him of all concerns expressed in the Audit, including that VAB written decisions reached should be fully documented. Such documentation should include the findings of fact, conclusions of the law and their basis for upholding or overturning the determination of the property appraiser as required by Section 194.034(2), Florida Statutes and DOR Rule 12D-9.032, FAC.

Seminole County VAB clerk will schedule "magistrate orientation" workshops with the VAB attorney for all special magistrates prior to holding any hearings. The VAB attorney will conduct these workshops to ensure that VAB written decisions fully comply with DOR rules. The workshops will be open to the public per DOR Rule 12D-9.013(5).

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

Administrative Matters

Finding No. 11: Public Notice of VAB Organizational Meetings and Hearings

Organizational Meetings DOR Rule 12D-9.013(1), FAC, provides that the VAB must annually hold one or more organizational meetings prior to holding VAB hearings. The VAB must provide reasonable notice of each organizational meeting and such notice must include the date, time, location, purpose of the meeting, and information required by Section 286.0105, Florida Statutes. Section 286.0105, Florida Statutes, provides that the notice must state that, if a person decides to appeal any decision made by the VAB with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Our review of the organizational meeting notices for the 15 VABs included in our review disclosed that 7 VABs did not include in the notices the required disclosure relating to a verbatim record of the proceedings for an appeal. Omitting the required disclosure in the organizational meeting notice prevents the taxpayer from being aware of the availability of such record, which may be needed if an appeal is filed.

Recommendation: The VABs should ensure that the public is properly noticed of its organizational meetings and hearings, and that the notices include all information prescribed by DOR rules.

Management's Response: Seminole County's VAB will ensure that the public is properly noticed of its organizational meetings and such notices will contain all information prescribed by DOR rules, including the required disclosure of procedures for an appeal.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

Administrative Matters

Finding No. 12: Allocation of VAB Petition Fees and Expenses

Section 194.013(1), Florida Statutes, provides that if required by VAB resolution, a petition filed with the VAB must be accompanied by a filing fee to be paid to the VAB clerk in an amount determined by the VAB not to exceed \$15 for each separate parcel of property, real or personal, covered by the petition and subject to appeal. Pursuant to Section 194.013(4), Florida Statutes, all filing fees collected by the VAB clerk must be allocated and utilized to defray, to the extent possible, the costs incurred in connection with the administration and operation of the VAB.

Additionally, Section 194.015, Florida Statutes, provides that two-fifths of the VAB expenses are to be borne by the school board and three-fifths by the board of county commissioners.

Seminole did not reduce the VAB expenses billed to the boards of county commissioners and school boards by the amount of filing fees collected. As a result, the filing fees were not used to defray the VAB expenses contrary to Section 194.013(4), Florida Statutes. The filing fees collected by Seminole County for the 2011 tax year were reported to be \$7,636.

Recommendation: The VABs should ensure that amounts billed to boards of county commissioners and school boards are reduced by the amount of petition filing fees collected. Also, each of the 6 VABS cited in the finding should refund to its respective board of county commissioners and school boards any excess VAB expenses charged as a result of not defraying such expenses with petition filing fees.

Management's Response: Seminole County will ensure that amounts billed to the school board are offset by the amount of petition filing fees collected. As such, the school board will be reimbursed for its pro-rata share of fees collected for the respective tax years.

Petitions fees are collected in one fiscal year, while the VAB expenses are incurred the following fiscal year. Due to the overlapping fiscal years, the school board will be reimbursed two-fifths of the petition filing fees when they are collected and the VAB expenses incurred will be allocated two fifths to the school board and three-fifths to Seminole County.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

**Seminole County, Florida Value Adjustment Board
Response to Preliminary and Tentative Findings**

Administrative Matters

Finding No. 13: VAB Citizen Members

Section 194.015, Florida Statutes, and DOR Rule 12D-9.004, FAC, provide that every county must have a VAB that consists of, among other members, two citizens. One of the citizen members must own homestead property in the county appointed by the county commission, and one citizen member must own a business that occupies commercial space located within the school district appointed by the school board of the county. Additionally, citizen members must not be members or employees of any taxing authority in the State or a person who represents property owners, property appraisers, tax collectors, or taxing authorities in any administrative or judicial review of property taxes.

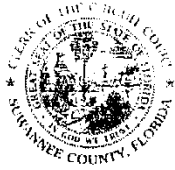
Also, DOR Rule 12D-9.014(1)(d), FAC, provides that the VAB clerk must not allow the holding of scheduled hearings until the VAB legal counsel has verified that citizen members are not members or employees of a taxing authority during their membership on the VAB. Some VABs obtained the needed information on citizen members through a special application or resume, while other VABs obtained the information orally from the citizen member.

VAB records did not evidence that citizen members met the specific requirements. VAB records did not evidence that information contained in either written applications or oral statements made by the citizen members had been verified. Documenting the verification of citizen member qualifications is important to ensure that only eligible individuals serve on the VABs as citizen members.

Recommendation: The VABs should ensure that citizen members meet the specific requirements in law and DOR rules to serve on the VABs, and that verification of such requirements is documented.

Management's Response: The citizen member identified as not meeting the specific requirements of DOR rules no longer serves on the VAB. Seminole County now ensures that VAB citizen members' serving on the VAB are verified and such verification is properly documented.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



Barry A. Baker
Clerk

OFFICE OF THE
CLERK OF THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT • SUWANNEE COUNTY

April 21, 2014

Mr. David W. Martin
Auditor General Local Government Audits/Section 341
111 West Madison Street
Tallahassee, FL 32399-1450

Dear Mr. Martin:

The following is written proposed corrective action for Suwannee County in response to the performance audit of County Value Adjustment Boards and Department of Revenue's Oversight Thereof concerning finding Nos. 2, 8, 9, 10 and 14.

- **Finding No. 2: Appearance of Bias and Undue Influence**

To assure that all participants in the VAB process receive fair treatment, it is critical that the process be conducted in a manner free of the appearance of bias, undue influence, or conflicts of interest. DOR Rule 12D-9.017(1)(a), Florida Administrative Code (FAC), provides that no participant, including the petitioner, property appraiser, VAB clerk, special magistrate, VAB member, or other person directly or indirectly interested in the proceeding, nor anyone authorized to act on behalf of any party must communicate with a VAB member or the special magistrate regarding the issues in the case without the other party being present or without providing a copy of any written communication to the other party. Additionally, DOR Rule 12D-9.017(3), FAC, states that ex parte communication must not be considered by the VAB or the special magistrate unless all parties have been notified about the ex parte communication, no party objects, and all parties have an opportunity during the hearing to cross-examine, object, or otherwise address the communication.

Action: The VAB will ensure all participants in the appeal process receive fair and equitable treatment regarding ex parte communication consistent with DOR rules.

- **Finding No. 8: VAB Hearing Commencement**

DOR Rule 12D-9.024, FAC, prescribes the procedures to be followed for commencement of VAB hearings, including:

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

1. Before or at the start of the hearing, the VAB, the VAB's designee, or the Special Magistrate must give a short overview verbally or in writing of the rules of procedure and any administrative issues necessary to conduct the hearing.
2. Before or at the start of the hearing, unless waived by the parties, the VAB or Special Magistrate must make an opening statement or provide a brochure or taxpayer information sheet that states:
 - a. The VAB or Special Magistrate is an independent, impartial, and unbiased hearing body or officer, as applicable;
 - b. The VAB or special magistrate does not work for the Property Appraiser or Tax Collector, is independent of the Property Appraiser and Tax Collector, and is not influenced by the Property Appraiser or Tax Collector;
 - c. The hearing will be conducted in an orderly, fair, and unbiased manner;
 - d. The law does not allow the VAB or Special Magistrate to review any evidence unless it is presented on the record at the hearing or presented upon agreement of the parties while the record is open; and
 - e. The law requires the VAB or Special Magistrate to evaluate the relevance and credibility of the evidence in deciding the results of the petition.
3. The VAB or Special Magistrate shall ask the parties if they have any questions regarding the verbal or written overview of the procedures for the hearing.

It has been the practice of the VAB Clerk to distribute the above information in written format at the time the petition is filed, however, there has never been a procedure implemented that actually documents this procedure has been followed.

Action: The VAB Clerk will continue to distribute the information in written format at the time the petition is filed and will also ensure that all hearings are conducted in accordance with DOR Rule 12D-9.024, FAC.

- **Finding No. 9: Presumption of Correctness of Property Appraisers' Assessments**
Section 194.301(1), Florida Statutes, provides that in any administrative or judicial action in which a taxpayer challenges an ad valorem tax assessment of value, the Property Appraiser's assessment is presumed correct if the Property Appraiser proves by a preponderance of the evidence that the assessment was arrived at by taking into consideration the factors prescribed in Section 193.011, Florida Statutes; any other applicable statutory requirement relating to classified use values or assessment caps; and professionally accepted appraisal practices, including mass appraisal standards, if appropriate. Additionally, DOR Rule 12D-9.024(7), FAC, provides that the Property Appraiser must indicate for the record his or her determination of just value, classified use value, tax exemption, property classification, "portability" assessment difference, deferral, or penalties. In a hearing on just, classified use, or assessed value, the first issue to be considered is whether the property appraiser establishes a presumption of correctness for the assessment. The Property Appraiser must present evidence on this issue first.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Action: The VAB will ensure that the presumption of correctness of Property Appraisers' assessments is the first issue considered in hearings in accordance with DOR Rule 12D-9.024(7), FAC.

- **Finding No. 10: VAB Written Decisions**

Section 194.034(2), Florida Statutes, provides that in each case, unless the petition is withdrawn by the petitioner or the petition is acknowledged as correct by the Property Appraiser, the VAB must render a written decision. The VAB's decision must contain findings of fact and conclusions of law, and must include reasons for upholding or overturning the determination of the property appraiser. Also, DOR Rule 12D-9.032(1)(a), FAC, provides that each final decision must contain sufficient factual and legal information and reasoning to enable the parties to understand the basis for the decision, and must otherwise meet the requirements of law. The VAB may fulfill the requirement to produce a written final decision by adopting a recommended decision of the special magistrate containing the required elements and providing notice that it has done so. DOR Rule 12D-9.032(2), FAC, also requires that a VAB's final decision must state the just, assessed, taxable, and exempt value for the county both before and after VAB action.

Action: The VAB will ensure that written decisions sufficiently document the findings of fact, conclusions of law, and reasoning for upholding or overturning the determination of the Property Appraiser as required by Section 194.034(2), Florida Statutes, and DOR Rule 12D-9.032, FAC.

Finding No. 14: Taxpayer Representation

For the purpose of requesting a hearing before the VAB, a taxpayer must file a standardized petition form with the VAB clerk. Pursuant to DOR Rule 12D-9.015(2)(f), FAC, petition forms must contain a signature field to be signed by the taxpayer, or if the taxpayer is a legal entity, the employee of a legal entity with authority to file such petitions. The petition forms must also contain a signature field to be signed by an authorized agent, in case one is used. If the authorized agent is subject to licensure, a space is required on the petition form to provide identification of the licensing body and license number. If the authorized agent is not subject to licensure (for example a family member), a space is required to indicate the petition is accompanied by a written authorization of the taxpayer if not otherwise signed by the taxpayer. Additionally, DOR Rule 12D-9.018(4), FAC, provides that a petition filed by an unlicensed agent must also be signed by the taxpayer or accompanied by a written authorization from the taxpayer.

Action: The VAB will ensure that petitions filed with the VAB contain the appropriate information, signatures, and authorizations required by DOR rules.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Sincerely,

A handwritten signature in black ink, appearing to read "Clyde Fleming". The signature is written in a cursive, flowing style.

Clyde Fleming
Chair, Value Adjustment Board
Suwannee County

Enclosures

c: Value Adjustment Board Members
The Honorable Barry A. Baker, Clerk of the Circuit Court

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Derrick Bennett, P.A.
CHARTERED
ATTORNEYS AND COUNSELORS AT LAW
PANAMA CITY BEACH, FLORIDA

DERRICK BENNETT
JULIAN BENNETT 1929-2013

P. O. BOX 2422 32402
15238 FRONT BEACH ROAD
PANAMA CITY BEACH, FL 32413
FAX (850) 640-2018
PHONE (850) 588-8909

May 7, 2014

VIA EMAIL:

Flaudgen_audrpt_lg@aud.state.fl.us

and

U.S. MAIL TO:

Mr. David W. Martin, CPA
State of Florida
Auditor General Office
Local Government Audits/Section 341
111 West Madison Street
Tallahassee, FL 32399-1450

Re: Washington County Value Adjustment Board

Dear Mr. Martin:

I serve as counsel for the Washington County Value Adjustment Board ("VAB"). On March 31, 2014 you sent a letter to Mr. Alan Bush as Chair of the VAB regarding various findings and recommendations resulting from a report of the VAB's performance of its duties in compliance with Florida law. On behalf of the Chair Mr. Alan Bush and Washington County VAB, I am providing this letter as a response.

At the outset, I would remind you that Washington County is a small county having a population of less than 25,000. As such they are not subject to the rules and procedures for Special Magistrates. In your correspondence you have requested that the VAB respond to Findings Nos. 6, 9, 11, 12 and 13 and an option to respond to Nos. 1, 3 and 4. I will respond to each of the above Findings excluding the optional requests.

Finding No. 6. This finding states that there exists a lack of written record verifying the VAB's compliance with Florida law. The VAB clerk for Washington County and the undersigned discuss and review all of the requirements of Section 194.034(1)(a) F.S. and DOR Rule 12D-9.014 FAC prior to the first meeting of the VAB. The Clerk and counsel confirm the satisfaction of each requirement prior to conducting hearing. While historically this verification has not been documented, the Clerk and counsel will ensure documentation in the future.

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Finding No. 9. This finding states that at two hearings involving Washington County petitions the record did not evidence the establishment of the property appraiser's presumption of correctness. The undersigned is not familiar with which of the two petitions were involved in the investigation but would state, as having attended all of the hearings, that the property appraiser always begins the hearing with a presentation, typically in PowerPoint format, that describes the property in question and provides his evidence and argument of the support of their proposed just value. While the property appraiser presented evidence to support his request for a rebuttable presumption, the VAB will assure in the future that the record contains not only the property appraiser's presentation and evidence but the determination of the VAB as to the existence of the property appraiser's rebuttable presumption, if established.

Finding No. 11. This finding states that the public notice of the VAB organizational meeting did not include the required disclosure that a verbatim record of the meeting would be conducted by the Clerk and available to the public. In response, the VAB Clerk will modify all notices to include disclosure that the meetings will be recorded pursuant to Florida law.

Finding No. 12. This finding states that the VAB failed to reduce their expense reports and requests to the County and School Board by the amount of the filing fees collected from petitioners. The VAB Clerk will modify the funding reports and requests in the future to include a reduction of any filing fees collected by the VAB Clerk and will reimburse the County and/or School Board for the last years filing fees.

Finding No. 13. This finding states that the VAB did not provided evidence that the citizen member of the VAB met the requirements of Section 194.015 F.S. and DOR Rule 12D-9.004 FAC. The VAB Clerk and VAB counsel will collect and document the satisfaction of the legal requirements to qualify the sitting citizen member of the VAB in the future.

If there are any questions relating to any of the responses stated herein, please do not hesitate to contact me to discuss. If you should need any documentation in relation to the response, please advise.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Derrick G. Bennett', with a large, stylized initial 'D' and 'B'.

Derrick G. Bennett

DB/da

cc: Washington County Value Adjustment Board
Honorable Harold Bazzel, Washington County Clerk Interim

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



**Executive
Director**
Marshall Stranburg

**Child Support
Enforcement**
Ann Coffin
Director

**General Tax
Administration**
Maria Johnson
Director

**Property Tax
Oversight**
James McAdams
Director

**Information
Services**
Damu Kuttikrishnan
Director

May 28, 2014

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

Dear Mr. Martin:

As required by section 11.45(4)(d), Florida Statutes, attached is the Department's response to the revised preliminary and tentative findings and associated recommendations included in your report of:

County Value Adjustment Boards and Department of
Revenue's Oversight Thereof

We appreciate the professionalism displayed by your audit staff. If further information is needed, please contact Marie Walker, Director of Auditing, at 717-7598 or walkem@dor.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Moreland for".

Marshall Stranburg

MS/mw

Attachment

cc: Marilyn Rosetti, Audit Manager
Andrea Moreland, Deputy Executive Director
Blanca Bayó, Chief of Staff
James McAdams, Property Tax Oversight Program Director
Sharon Doredant, Inspector General
Marie Walker, Director of Auditing

Tallahassee,
Florida
32399-0100

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Response to Preliminary and Tentative Audit Findings
Value Adjustment Boards

Finding No. 1: Appeal Process

“ . . . Elsewhere in this report, we noted instances of insufficient documentation of compliance with requirements associated with the appeal process, such as compliance with prehearing legal requirements; completing VAB organizational meeting requirements; and conducting VAB hearings in accordance with various DOR rules. Also, we noted inconsistencies in the manner in which the VABs provided general information on Florida’s property tax system pursuant to DOR Rule 12D-9.013(1)(i), Florida Administrative Code. A uniform manner in which verification requirements are met and documented, such as through the completion of a checklist form, as well as establishing general information on Florida’s property tax system to be used Statewide by all VABs, would promote fairness and consistency in the appeal process.”

Recommendation:

“ . . . Additionally, the DOR should develop uniform checklist forms for inclusion in its uniform policies and procedures manual for the VABs use in documenting compliance with various appeal process requirements. The DOR should also establish general information on Florida’s property tax system to be used by the VABs in fulfilling the requirements prescribed in DOR Rule 12D-9.013(1)(i), Florida Administrative Code.”

DOR Response:

The Department agrees that a set of procedural checklists and additional educational materials may be helpful for the Value Adjustment Boards. Some of these items may require additional statutory authority as contemplated in the finding and/or promulgation under the provisions of the Florida Administrative Code.

Finding No. 3: Special Magistrates’ Dual Office Holding Prohibition

“ . . . Our review of the 12 VABs included in our review that appointed special magistrates disclosed that 37 special magistrates in 11 VABs (all except Leon County VAB) served in multiple counties for the 2011 tax year, which appears to be inconsistent with the constitutional dual office holding prohibition. We noted that 24 special magistrates served on 2 VABs, 9 special magistrates served on 3 VABs, and 4 special magistrates served on 4 VABs. In response to our inquiries, the VABs generally indicated that they do not believe the dual office holding prohibition applies to special magistrates. One VAB referred to an opinion issued to a VAB by DOR’s Chief Assistant General Counsel that a special magistrate in one county would not violate the dual office holding provision by serving another county VAB in the same capacity.”

Recommendation:

“The Legislature should consider revising Section 194.035, Florida Statutes, to clarify whether special magistrates may serve on multiple VABs.”

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

DOR Response:

The Department has issued guidance that allows for special magistrates to serve in more than one county. This was reviewed by our legal counsel and will be re-reviewed in light of the Auditor General's finding on the matter.

Finding No. 5: Special Magistrate Training

"Special magistrate training was not verified by the DOR prior to issuing statements acknowledging receipt of training . . .

"We also noted that certain special magistrates sent an e-mail to the DOR requesting a statement acknowledging that the special magistrates had received the required training, and that the DOR provided such statements without requiring the special magistrates to provide proof of having reviewed or completed the training material."

Recommendation:

". . . Also, the DOR should verify that training has been received by special magistrates prior to issuing statements acknowledging receipt of training."

DOR Response:

The Department agrees that verifying special magistrates' completion of required value adjustment board training is important.

The Department revised its procedures for issuing value adjustment board training completion documentation to special magistrates in 2012. Current procedures require a special magistrate to complete, sign, and submit a Request for Certificate form to the Department. A certificate of value adjustment board training completion is currently only provided to special magistrates after this Request form has been received and reviewed by DOR staff.

Steps are also underway to provide the online value adjustment board training in a format that requires magistrates to sign in with a unique user name and password. Such a system would also allow the Department to verify the progress of each course participant and maintain a record of when each participant completed the training. This information would also be provided to value adjustment boards.

The Department is committed to providing special magistrates and other value adjustment board participants with the most practical, accessible, and up-to-date training possible.