

STATE OF FLORIDA AUDITOR GENERAL

Performance Audit

DEPARTMENT OF REVENUE

Administration of the Ad Valorem Tax Program



Sherrill F. Norman, CPA
Auditor General

Executive Director of the Department of Revenue

The Department of Revenue is established by Section 20.21, Florida Statutes. The head of the Department is the Governor and Cabinet. Pursuant to Section 20.05(1)(g), Florida Statutes, the Governor and Cabinet are responsible for appointing the Executive Director of the Department. During the period of our audit, the following individuals served as Executive Director:

Leon Biegalski From April 1, 2016
Marshall Stranburg Through April 1, 2016

The team leader was Mark Hesoun and the audit was supervised by Jacqueline Bell, CPA.

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DEPARTMENT OF REVENUE

Administration of the Ad Valorem Tax Program

SUMMARY

This performance audit of the Department of Revenue (Department) focused on the Department's administration of the ad valorem tax program related to the 2016 ad valorem property assessment rolls. The audit also included a follow-up on the findings noted in our report No. 2016-076. Our audit disclosed the following:

Finding 1: The Department did not adequately ensure that ratio study samples were representative of the population.

Finding 2: The Department's method of sub-stratifying studied strata into value group subclassifications magnifies the impact of the nonrepresentative ratio study samples in higher value groups, contrary to the intent of State law.

Finding 3: The Department did not utilize the median level of assessment¹ for county assessment roll evaluation and approval purposes as recommended by the International Association of Assessing Officers *Standard on Ratio Studies* nor compute certain statistical measures required by State law.

Finding 4: Department records did not evidence the basis for reducing from \$1.3 billion to \$635 million the assessed value of a railroad company property.

Finding 5: The Department made sale qualification changes for one county without sufficient, credible evidence from the county justifying the changes.

Finding 6: Contrary to State law, and as similarly noted in our report No. 2016-076, Department in-depth reviews did not include personal property values reported on county assessment rolls.

Finding 7: Although required by State law, the Department did not maintain a current property tax administration manual. A similar finding was noted in our report No. 2016-076.

BACKGROUND

Pursuant to State law,² the Department of Revenue (Department) is responsible for the general supervision of the assessment and valuation of property so that all property is placed on tax rolls and valued according to its just valuation,³ as required by the State Constitution. The Department is also responsible for supervising the collection and administration of ad valorem taxes, including assisting county officers in the assessment and collection functions. Accordingly, the Department provides training to enhance the assessment skills of both State and local assessment personnel. State law also requires the Department to:

¹ The median level of assessment is the ratio of assessed values to market values.

² Section 195.002, Florida Statutes.

³ The Florida Supreme Court has held that just value and fair market value are legally synonymous.

- Prescribe reasonable rules and regulations for the assessment and collection of taxes, which are to be followed by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards.⁴
- Promulgate rules and regulations for the exchange of information among the Department, property appraisers, tax collectors, the Auditor General, and the Office of Program Policy Analysis and Government Accountability.⁵
- Establish and promulgate standard measures of value, consistent with the standards provided by State law, to be used by property appraisers in all counties, including taxing districts, to assist in arriving at assessments of all property.⁶
- Conduct research and maintain accurate tabulations of data and conditions existing as to ad valorem taxation, annually publish such data as may be appropriate to facilitate fiscal policymaking, and annually make recommendations to the Legislature as necessary to ensure that property is valued according to its just value and is equitably taxed throughout the State.⁷
- Prepare and maintain a current instruction manual for officials connected with the administration of property taxes.⁸
- Promulgate uniform definitions for all classifications of property.⁹
- Annually determine whether counties and municipalities are assessing the real and tangible personal property within their jurisdiction in accordance with State law.¹⁰
- Issue a notice to any property appraiser who the Executive Director has determined has one or more classes of property listed on the assessment rolls in a manner inconsistent with the requirements of State law or is otherwise not assessing property in accordance with State law.¹¹

Additionally, the Department is to review the assessment rolls of each county and conduct, at least every 2 years, an in-depth review of the assessment rolls of each county.¹² Among other steps, Department in-depth reviews generally include ratio studies of the relationship between assessed values and market values, independent appraisals of randomly selected parcels, and analyses of assessment rolls. Indicators of market values used in ratio studies may be either sales (sales ratio study) or independent appraisals (appraisal ratio study).

The results of the in-depth reviews are to include all statistical and analytical measures computed for the real property assessment roll as a whole, the personal property assessment roll as a whole, and independently for the following seven classes of real property, commonly referred to as strata, established in State law:¹³

⁴ Section 195.027(1), Florida Statutes.

⁵ Section 195.084(1), Florida Statutes.

⁶ Section 195.032, Florida Statutes.

⁷ Section 195.052, Florida Statutes.

⁸ Section 195.062(1), Florida Statutes.

⁹ Section 195.073, Florida Statutes.

¹⁰ Section 195.101(1), Florida Statutes.

¹¹ Section 195.097(1)(a), Florida Statutes.

¹² Section 195.096(1) and (2), Florida Statutes.

¹³ Section 195.096(3)(a), Florida Statutes.

1. Residential property that consists of one primary living unit, including, but not limited to, single-family residences, condominiums, cooperatives, and mobile homes.
2. Residential property that consists of two or more primary living units.
3. Agricultural, high-water recharge, historic property used for commercial or certain nonprofit purposes, and other use-valued property.
4. Vacant lots.
5. Nonagricultural acreage and other undeveloped parcels.
6. Improved commercial and industrial property.
7. Taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

Department standards for tax roll approval required a county's assessment for each stratum, and in total, be at least 90 percent of market value (i.e., a 90 percent level of assessment (LOA)).¹⁴ Pursuant to State law,¹⁵ when one or more strata of real property listed on the assessment rolls are inconsistent with the requirements of law, the Department is to issue a notice to the applicable county property appraiser describing the necessary corrections. If the corrections are not made, the Department is to disapprove the assessment roll and begin the process outlined in State law¹⁶ for an interim assessment roll.

When a stratum of real property constitutes less than 5 percent of a county's total assessed value of all real property on the previous assessment roll, the Department may combine it with one or more other strata of real property for purposes of the in-depth review or use the weighted average of the other strata for purposes of calculating the LOA for all real property in a county.¹⁷ When the Department's in-depth review is completed, each county property appraiser may review with Department staff each appraisal sample item utilized in the assessment ratio study and sale qualifications exceptions.¹⁸ After the review, the Department produces a summary report of the in-depth review that is used in the tax roll approval process. The Department certifies the estimated LOA for each county and Statewide to the Commissioner of Education for use in the equalization of required local effort funding for school districts.

FINDINGS AND RECOMMENDATIONS

Finding 1: Ratio Study Sampling

State law¹⁹ requires the Department, in conducting an in-depth review, to use all practicable steps, including stratified statistical and analytical reviews, sale-qualification studies, and studies of assessment roll strata by subclassification (e.g., value groups), to maximize the representativeness or statistical reliability of assessment ratio study samples. The International Association of Assessing Officers (IAAO) *Standard on Ratio Studies* suggests that unbiased estimations of the required LOAs and related

¹⁴ The LOA is the ratio of assessed values to market values.

¹⁵ Section 195.097, Florida Statutes.

¹⁶ Section 193.1145, Florida Statutes.

¹⁷ Section 195.096(3)(a), Florida Statutes.

¹⁸ See Finding 5 for information related to sale qualifications.

¹⁹ Section 195.096(2)(c), Florida Statutes.

confidence intervals²⁰ can be best derived using randomly selected parcels from the entire target population (both sold and unsold parcels) and their independent appraisals, which are used in the appraisal ratio study. While this is the preferred method of conducting an assessment ratio study, which the Department uses when sales information is not available, the IAAO's *Standard on Ratio Studies* conditionally sanctions use of a selection of sales if sold and unsold properties are treated the same and the sales are representative of the population of parcels. According to the IAAO's *Standard on Ratio Studies*, a ratio study sample is representative of the population when the distribution of ratios of properties in the sample reflects the distribution of ratios of properties in the population.

The Department's 2016 in-depth review included 33 counties and, in conducting the review, the Department used a sales ratio study for the strata and subclassifications (i.e., value groups) that had a sufficient number of sales. However, the Department's use of this methodology, in which only sold properties were considered, presents special challenges. Although the assumption of representativeness of a sample is reasonable when a random sample is used, such representativeness cannot be presumed when the sample selection is based on the event of a sale. Value-related characteristics of sold parcels are frequently quite different than parcels that have not sold. In these cases, the sales and associated statistical measures only represent the population of sold properties, rather than the target population of both sold and unsold properties. Thus, the Department has the responsibility to demonstrate, within reasonable limits, that their samples are representative and that the conditions of State law for conducting assessment ratio studies are met.

To assist in our audit, we utilized the services of a statistical consultant to evaluate the adequacy of Department statistical procedures and methodologies. Our audit procedures included a test of sample representativeness (percent change test) comparing average value changes between Department sampled properties and the population of properties within the specified value group. The IAAO's *Standard on Ratio Studies* suggests establishing some reasonable tolerance, such as 3 percentage points, before concluding that a meaningful problem exists. Our test of 383 Department value groups with sample data found that 155 of the groups (40 percent) had percent change differences between the population and the samples exceeding 3 percent, including 40 value groups (10 percent) with differences exceeding 10 percent.

Additionally, we computed an alternate ratio for each of the 383 value groups, 96 strata, and overall for each of the 33 counties included in the review, based on the 2016 assessment rolls. An alternate ratio is designed to project the expected LOA for an assessment roll, adjusted for percent change differences between the samples and population, as an appropriate measure of representativeness. The alternate ratio assumes that changes that occurred in the assessed values of the ratio study sample items between the prior and current years will be consistent with the changes in assessed values that occurred within the entire assessment roll during the same period. Representation is assumed when the measured LOA equals the alternate ratio. Our alternate ratio calculations corroborated, in many instances, the nonrepresentativeness observed in the percent change test, finding significant differences between the measured LOA and the alternate ratio. Specifically, we found that:

²⁰ A confidence interval represents a range of values, calculated from the sample observations, that are believed, with a particular probability, to contain the true population parameter.

- 95 value groups (25 percent) had alternate ratios below 90 percent.
- 18 strata (19 percent) had alternate ratios below 90 percent.
- 6 county (18 percent) alternate ratios were below 90 percent.

While the Department utilized percent change and alternate ratio tests, we found no evidence that these measures impacted the Department's decisions regarding the use of sales in their ratio studies, nor did the Department issue any review notices, post-audit notification of defects, or administrative orders for any of the counties studied in 2016.

Sample nonrepresentativeness and other ratio study weaknesses directly affects the statistical results relied on by the Department for county assessment roll approvals and education funding determinations, including the equalization of required local effort funding for school districts.

Recommendation: We recommend that Department management make efforts to maximize the representativeness of ratio study samples.

Follow-Up to Management's Response

Department management indicated in their written response that the comments concerning representativeness were overstated because the comments were based on raw data that did not take into consideration certain factors. However, our analysis, supported by the work of a statistical consultant, was based on the data and property classifications and subclassifications used by the Department for approving the 2016 assessment rolls. Consequently, the finding and related recommendation stand as presented.

Finding 2: Value Group Subclassifications

To maximize the representativeness of ratio sample studies, State law²¹ requires Department in-depth reviews, to the greatest extent practicable, to study assessment roll strata by subclassifications such as value groups and market areas for each classification or stratum studied. As previously noted, the Department used a minimum 90 percent LOA for each stratum studied. Additionally, Department procedures²² required the Department to sub-stratify each studied stratum into four similar but separate value groups arrayed in ascending order by value such that each group had approximately the same number of parcels. The Department determined the required sample size for the stratum and allocated the samples to each value group based on value-weighted assessment levels.

Our analysis of the Department's use of approximately an equal number of parcels in value groups to sub-stratify studied strata and assignment of ratio study samples based on the value of each group found that the methodology magnifies the impact of nonrepresentative ratio study samples, contrary to the intent of State law. Specifically, we noted that value group 4 (the group with the greatest value) in each stratum constituted such a significant percentage of each stratum's total value on the stratum's LOA measure that even minimal nonrepresentation biases could affect the entire stratum and the county LOA, potentially negating the results of the other value groups. Additionally, group 4 frequently had the greatest percent change differences between the sample and the population and potential sample

²¹ Section 195.096(2)(c), Florida Statutes.

²² Department 2016 Procedures for the Review of Assessment Roll.

representativeness issues. For example, one county had large percent change differences in value between the samples and the population in multiple value groups. In addition, the corresponding alternate ratio for this county's stratum 6, value group 4, was so small that, based on the alternate ratio, the LOA was less than 90 percent for both stratum 6 and the county as a whole.

In response to our audit inquiry, Department management indicated that the Department assigned an equal number of parcels to each value group to help ensure enough sample items were included in all groups.

Recommendation: We recommend that Department management take steps to ensure that the sub-stratification of strata maximizes the representativeness of ratio study samples as required by State law.

Finding 3: In-Depth Review Measures

State law²³ requires the Department, as part of an in-depth review, to compute the median²⁴ and the value-weighted mean²⁵ for each classification or subclassification studied and for the county's assessment roll as a whole. State law²⁶ further requires, within 120 days of receiving a county assessment roll, or within 10 days of approving the assessment roll, whichever is later, the Department to complete the review of the county's assessment roll and publish the Department's findings. The findings must include a statement of the confidence interval for the median and such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, as well as related statistical and analytical details. The measures in the findings must be based on a 95 percent level of confidence.

The IAAO's *Standard on Ratio Studies* recommends using the median LOA for roll evaluation and approval purposes because it gives equal weight to each parcel, is less affected by extreme ratios or parcel values, and indicates the exact midpoint of the parcel ratios being studied, as opposed to the value-weighted mean LOA, which the *Standard on Ratio Studies* recommends using for indirect equalization (e.g. school funding equalization) purposes. As part of our audit, we noted that, while the Department used the value-weighted mean LOA for school funding equalization, the Department used the value-weighted mean LOA for roll evaluation and approval purposes, contrary to IAAO recommendations. Consequently, while the Department computed the median for each classification and subclassification studied, the Department did not calculate a median LOA for each county as required by State law. Additionally, we noted that the Department did not compute a confidence interval for the overall value-weighted mean LOA.

The use of median LOA for roll evaluation and approval purposes would align to IAAO recommendations, provide greater assurance that the measures used are statistically reasonable, and facilitate the calculation of required statistical measures.

²³ Section 195.096(2)(c), Florida Statutes.

²⁴ The median is the value of the middle item in an uneven number of items arranged or arrayed according to size or the arithmetic average of the two central items in an even number of items similarly arranged.

²⁵ The value-weighted mean is an average in which each value is adjusted by a factor reflecting relative importance before the values are summed and divided by their number.

²⁶ Section 195.096(2)(f), Florida Statutes.

Recommendation: We recommend that the Department utilize the median LOA for assessment roll evaluation and approval purposes and compute the statistical measures required by State law.

Follow-Up to Management’s Response

Department management indicated in their written response that Auditor General staff did not know of, nor suggest, a recognized method of calculating the statistics in question. However, a performance audit is designed, in part, to evaluate compliance with applicable laws, rules, policies, and other guidelines, and not to determine for management the method of compliance. Consequently, we continue to recommend that the Department compute the statistical measures required by State law.

Finding 4: Railroad Property Value Changes

State law²⁷ requires the Department to ensure all railroad property is properly listed in the appropriate county’s assessment roll. Each year, based on the railroad property’s annual return submitted to the Department, the Department is to determine the annual assessment to be apportioned to each county based upon actual situs.²⁸ In situations where the railroad property does not have situs in a county, the Department is to base the assessment on track miles. Prior to finalizing the assessed values, the Department is to notify an affected taxpayer of the proposed assessment and provide the opportunity for an informal conference.

The Department’s 2016 in-depth review included 33 counties. As part of our audit, we selected and examined Department records for 3 of these counties (Highlands, Liberty, and Marion) to determine whether the county’s assessed railroad values were appropriately calculated, supported, and apportioned. Our examination disclosed that, based on discussions held during the informal conference, the Department reduced the total assessed value of one large railroad company property in the State from \$1.3 billion to \$635 million, approximately 51 percent. While the Department provided a PowerPoint presentation from the railroad company detailing the company’s reduction in earnings in the first quarter of 2016 as compared to the first quarter of 2015, the company’s settled value in ten states for 2014 and 2015, and the company’s proposed and settled assessments in Florida from 2012 through 2015, the Department could not provide documentation demonstrating the basis for the assessed value agreed upon at the informal conference. In response to our audit inquiry, Department management indicated that compromise assessment amounts are usually based on information presented in the conferences.

Absent documentation demonstrating the basis for changes in assessed railroad property values resulting from informal conferences, Department management cannot demonstrate the appropriateness of the assessment amounts.

Recommendation: We recommend that Department management adequately document the basis for changes in assessed railroad property values resulting from informal conferences.

²⁷ Section 193.085(4), Florida Statutes.

²⁸ Situs is the place to which, for purposes of legal jurisdiction or taxation, a property belongs.

Follow-Up to Management's Response

Department management indicated in their written response that the Department provided documentation supporting the basis for compromise of the assessed railroad property value. Additionally, Department management cited prior court proceedings from 2003 through 2008 that identified substantive legal issues and substantial litigation risks associated with these assessments that provide a continuing basis to support a compromise of subsequent assessments at informal conference. Notwithstanding the Department's response, the Department did not provide documentation demonstrating how the railroad's 2016 assessed value was settled on nor is it clear how court proceedings and resulting assessment values from 2003 through 2008 bear on the value of the railroad property 8 years later. Consequently, the finding and related recommendation stand as presented.

Finding 5: Sale Qualification Changes

State law²⁹ requires that, for each sale transaction disqualified³⁰ by a county property appraiser, the property appraiser document the reason for the disqualification in the manner prescribed by the Department. The Department's 2016 *Real Property Field Manual (Field Manual)* required county property appraisers maintain credible evidence to support the qualification and disqualification of sales. The *Field Manual* defined acceptable credible evidence to include documents such as accurately completed verification forms and accurately completed independent affidavits from the grantor, grantee, third-party agent, or other person having personal knowledge of the sale.

State law also requires the Department to randomly sample all sales in the county and determine whether the sales were properly qualified or disqualified (sale qualification study). The *Field Manual* specified that, to consider changing a sale qualification or disqualification, the Department must have credible evidence from the county justifying the change. The *Field Manual* required a 90 percent minimum sale qualification match rate between the Department and county property appraiser. If the final discrepancy rate was more than 10 percent, the Department was required to issue a post-audit notification of defects and follow the process provided by State law.³¹

As part of our audit, we examined Department records for 15 Department sale qualification changes related to the 2016 assessment rolls for four counties (Highlands, Lafayette, Liberty, and Marion). Our examination disclosed that, for 2 Department sale qualification changes related to Highlands County, Department records did not include sufficient, credible evidence from the county property appraiser justifying the changes. By changing the 2 sale qualifications, the county's sale qualification study went from failing (87.5 percent) to passing (92.5 percent). According to Department management, the Department inadvertently did not document the verbal explanation provided by the county property appraiser justifying 1 of the changes.

²⁹ Section 195.0995, Florida Statutes.

³⁰ Qualified sales best represent market pressures, as they are transactions which are arrived at by unrelated educated buyers and sellers with no undue pressures on either party. Disqualified sales may consist of foreclosures, transfers of deed between relatives, or instances in which full market value is not arrived at in the transaction.

³¹ Section 195.097, Florida Statutes.

Making qualification changes without sufficient, credible evidence inhibits the Department's ability to demonstrate the propriety of sale qualification changes and resulting study results.

Recommendation: We recommend that Department management ensure that all changes to sale qualifications are supported by sufficient, credible evidence from the county.

Finding 6: Review of Personal Property Assessment Rolls

State law³² provides that county assessment rolls include taxable values for both real and personal property and that Department in-depth reviews include all statistical and analytical measures prescribed by State law for real and personal property assessment rolls as a whole. In addition, State law³³ requires the Department to annually certify to the Commissioner of Education (COE) certain data on taxable values (including personal property) for school funding purposes.

In our report No. 2016-076 (Finding 3), we noted that, contrary to State law, Department in-depth reviews did not include personal property values reported to the Department on county assessment rolls. As part of our follow-up audit procedures, we noted that Department procedures for reviewing personal property were still limited to verification of the data received from the county property appraisers (e.g., mathematical accuracy and completeness) and did not include statistical and analytical measures of the personal property assessment rolls. According to Department management, the Department plans to begin procedural reviews of tangible personal property by August 2019.

Although, according to Department records, personal property represented a small portion (7 percent) of the 2016 Statewide property assessment roll, personal property was significant to some individual counties. For example, the percentage of personal property to total property for 17 counties ranged from 21 percent (Bradford County) to 51 percent (Hamilton County) and averaged 29 percent. When a significant portion of a county's assessment roll is excluded from Department in-depth reviews, the results of such reviews may not adequately support the information certified to the COE for school funding purposes.

Recommendation: We again recommend that Department management ensure that in-depth reviews include personal property as required by State law.

Follow-Up to Management's Response

Department management indicated in their written response that the Department's responsibility is to ensure the data on each roll is in the manner and form prescribed and that each roll complies with all the appropriate requirements of law relating to just value. However, the Department, in its response, did not address the pertinent part of Section 195.096, Florida Statutes, which requires Department in-depth reviews to include, at a minimum, each classification specified in subsection (3). As noted in our finding, pursuant to Section 195.096(3)(a), Florida Statutes, personal property as a whole is a classification subject to in-depth review requirements. Consequently, the finding and related recommendation stand as presented.

³² Section 195.096(1) and (3)(a), Florida Statutes.

³³ Section 1011.62(4), Florida Statutes.

Finding 7: Property Tax Administration Manual

State law³⁴ requires the Department to prepare and maintain a current instruction manual for county property appraisers and other officials connected with the administration of property taxes. The manual must contain all rules and regulations, standard measures of value, forms, and instructions relating to the use of forms and maps. Guidelines associated with standard measures of value may be updated annually to incorporate new market data, technical changes indicated by decisions of the State Supreme Court, and other changes relevant to appropriate assessment practices or standard measurement of value.

As similarly noted in our report No. 2016-076 (Finding 5), our audit disclosed that the Department had not updated the Department's *Manual of Instructions and Guidelines for the Administration of Property Taxes (Manual)* located on the Department's Web site in years. For example, the *Tangible Personal Property Appraisal Guidelines* segment of the *Manual* was issued in 1997 and does not include information regarding the exemption from ad valorem taxation of up to \$25,000 of assessed value on each tangible personal property tax return that was added to State law³⁵ in 2007. In response to our audit inquiry, Department management indicated that, while the Department had drafted updated market area, real property appraisal, and tangible personal property guidelines for the *Manual*, the draft guidelines were not available on the Department's Web site and a change in management resulted in a new approach to updating the *Manual*. Under this new approach, the Department planned to draft guideline revisions, focused on legal and subject matter issues, for public comment beginning in 2019.

As county property appraisers and other interested parties may rely on information included in the *Manual* to administer property taxes, it is important that the *Manual* be up to date.

Recommendation: We recommend that Department management continue efforts to update the *Manual* and maintain the *Manual* in accordance with State law.

PRIOR AUDIT FOLLOW-UP

Except as discussed in the preceding paragraphs, the Department had taken corrective actions for the findings included in our report No. 2016-076.

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 performance audit from January 2017 through April 2019 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

³⁴ Section 195.062(1), Florida Statutes.

³⁵ Section 196.183, Florida Statutes.

based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This performance audit of the Department of Revenue (Department) focused on the Department's administration of the ad valorem tax program related to the 2016 ad valorem property assessment rolls. The overall objectives of the audit were to:

- Evaluate management's performance in administering the ad valorem tax laws as described in Section 195.096, Florida Statutes, for the 2016 property assessment rolls.
- Evaluate:
 - The effectiveness of controls designed and placed in operation by management to promote and encourage the economy, efficiency, and effectiveness of the ad valorem tax program;
 - The structure or design of the program to accomplish its goals and objectives;
 - The adequacy of the program to meet the needs identified by the Legislature;
 - Alternative methods of providing program services or products;
 - The goals, objectives, and performance measures used to monitor and report program accomplishments;
 - The accuracy or adequacy of public documents, reports, or requests prepared under the program; and
 - Compliance of the program with applicable laws, rules, policies, and other guidelines.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

Our audit also included steps to determine whether management had corrected, or was in the process of correcting, all deficiencies noted in our report No. 2016-076.

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

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

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting

the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

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

In conducting our audit, we:

- Reviewed applicable laws, rules, Department policies and procedures, and other guidelines, and interviewed Department personnel to obtain an understanding of Department in-depth reviews and related property tax oversight processes.
- Engaged a contracted consultant to:
 - Evaluate the relevance, reasonableness, and representativeness of Department statistical methodologies and formulas used to produce statistical measurements for in-depth county reviews.
 - Examine the statistical and analytical measures computed by the Department in approving the 2016 real property assessment rolls for 4 selected counties (Highlands, Lafayette, Liberty, and Marion), and all 67 counties for some measures, to determine whether Department-verified county tax rolls complied with applicable laws, rules, policies, and industry standards.
 - Examine whether sample sizes for strata (property classifications) and value groups (property sub-classifications) within the strata were sufficiently representative of the population to enable meaningful statistical analyses of the Department's in-depth review of 33 counties.
- From the population of 33 counties selected for in-depth review by the Department for the 2016 ad valorem tax roll, selected and examined Department records for 4 counties (Highlands, Lafayette, Liberty, and Marion), related to 15 Department-made sale qualification changes, to determine whether sale qualification samples were adequately supported and whether Department-made sale qualification changes were based on sufficient, credible evidence from the county.
- Analyzed Department records for all 67 counties to determine whether at least 90 percent of the sampled sale qualification decisions by the Department matched the county decisions.
- From the population of 33 counties selected for in-depth review by the Department for the 2016 ad valorem tax roll, selected and examined Department records for 4 counties (Highlands, Lafayette, Liberty, and Marion), related to 62 appraisals, to determine whether the required number of appraisals were sampled by the Department for each county and whether the appraisals appeared complete.
- Analyzed Department records for all 67 counties to determine whether the level of assessment required by Department standards was met.
- From the population of 33 counties selected for in-depth review by the Department for the 2016 ad valorem tax roll, examined Department records for all 20 appraisals with code 4 changes (a value change made by the Department to a sample parcel based on additional parcel-specific or appraisal information provided by the county) to determine whether the changes were supported and appropriately processed and recorded.
- From the population of 568 stratum 3 (classified use) appraisal samples related to the 33 counties selected for in-depth review by the Department for the 2016 ad valorem tax roll, examined Department records for 24 selected stratum 3 appraisal samples related to 3 counties (Highlands, Lafayette, and Liberty) to determine whether the number of appraisals selected per county was adequate and whether the appraisal was complete and supported.

- From the population of 33 counties selected for in-depth review by the Department for the 2016 ad valorem tax roll, examined Department records for 3 selected counties (Highlands, Liberty, and Marion) to determine whether central assessments (railroad and car line company assessments) were properly valued.
- Reviewed Department records for the 2016 ad valorem assessment roll review to determine whether the Department completed the assessment ratio studies as required by State law.
- Reviewed Department records for the 2016 ad valorem assessment roll review and approval to determine whether the assessment roll review was timely completed and appropriately supported.
- Evaluated Department actions to correct the findings noted in our report No. 2016-076. Specifically, we performed:
 - Inquiries of Department personnel and selected and examined Department records for 86 appraisals related to 4 counties (Highlands, Lafayette, Liberty, and Marion) to determine whether the appraisals were complete and supported.
 - Inquiries of Department personnel to determine whether the Department continued to analyze some multifamily residential properties as part of stratum 6 instead of stratum 2, as required by State law.
 - Inquiries of Department personnel to determine whether the Department included personal property in Department in-depth reviews as required by Section 195.096, Florida Statutes.
 - Inquiries of Department personnel to determine whether requirements had been established regarding the disclosure of the basis for 8th factor adjustments made by county property appraisers to ensure the adjustments are reasonable, supported, and accurately represent the marketplace.
 - Inquiries of Department personnel to determine whether the Department had updated the property tax administration manual in accordance with State law.
 - Inquiries of Department personnel, reviewed Department policies and procedures, and examined fee schedules and Certification Program Trust Fund (Trust Fund) documentation to determine whether the Department had established an adequate separation of duties related to Trust Fund collections, the fee schedule was modified based on the cash needs of the Trust Fund, and service charges were appropriately allocated to the Trust Fund.
- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Pursuant to the provisions of Section 11.45(2)(h), Florida Statutes, I have directed that this report be prepared to present the results of our performance audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is written in a cursive style with a large initial 'S'.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE



Florida Department of Revenue
Office of the Executive Director

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

July 1, 2019

Ms. Sherrill F. Norman, CPA
Auditor General
Office of the Auditor General
G74 Claude Pepper Building
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

As required by section 11.45(4)(d), Florida Statutes, attached is the Department's response to the preliminary and tentative findings and recommendations included in your report for the audit of the Department of Revenue Operational Audit: Administration of the Ad Valorem Tax Program 2016.

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 Marie.Walker@floridarevenue.com.

Sincerely,

Jim Zingale

JZ/mw

Attachment

cc: Kathryn Walker, Audit Manager
Jacqueline Joyner, Audit Supervisor
Andrea Moreland, Deputy Executive Director
Patrick Creehan, Deputy Program Director
Sharon Doredant, Inspector General
Marie Walker, Director of Auditing

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Finding 1: The Department did not adequately ensure that ratio study samples were representative of the population.

Recommendation: We recommend that Department management make efforts to maximize the representativeness of ratio study samples.

Response:

Representativeness is an important consideration in sales ratio study design. In its *Standard on Ratio Studies*, the International Association of Assessing Officers (IAAO) states, "The design and conduct of ratio studies requires decisions that maximize representativeness within the constraints of available resources." Section 195.096(2)(c), Florida Statutes (F.S.), requires the Department to use "all practicable steps, including stratified statistical and analytical reviews and sale-qualification studies, to maximize the representativeness or statistical reliability of samples of properties in tests of each classification, stratum, or roll made the subject of a ratio study published by it." This section further states, "For purposes of this section, the Department shall **rely primarily** on an assessment-to-sales-ratio study in conducting assessment ratio studies in those classifications of property specified in subsection (3) for which there are **adequate market sales.**" (emphasis added)

In accordance with section 195.096(2)(c), F.S., the Department relies primarily on assessment-to-sales-ratio studies and, per IAAO guidelines, augments sales with appraisals to produce an adequate sample size when necessary. The Department further augments the samples size in strata 1 and 4 by using time-trended sales. For stratum 6, Uniform Standards of Professional Appraisal Practice (USPAP) - compliant appraisals are performed to meet minimum acceptable sample sizes. These steps to augment samples have corrected sample size issues noted in prior Auditor General audit findings.

In preparing this response, the Department consulted with our expert in the field of assessment administration practices. Among other credentials, the expert was the primary author of the IAAO's *Standard on Ratio Studies*. The report's comments concerning representativeness has been overstated because the comments are based on raw data that has not taken into consideration the:

- Auditor General's use of 4 groups of equal parcel count for its analysis. Since the Auditor General is recommending 4 groups of equal value the data analysis performed by the Auditor General should align with its recommendations.
- Heterogeneous nature of stratum 6 in terms of use codes; there are 40 use codes within the commercial/industrial stratum and growth rates for one property type cannot be applied to all property types within this group. The Auditor General found that most issues noted were with stratum 6.
- Issues with geographic hot spots within some counties where growth rates cannot be applied countywide such as comparing coastal communities to noncoastal, rural areas.
- Assessment growth rates for post-disaster areas cannot be applied to growth rates in non-disaster areas.
- Anomalies occurring at the sub-group level with the data that, when verified and corrected, improve the alternate ratio.
- Lack of support from the Just Value Change report which shows differences in growth rates between use codes, strata, and market areas.

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In addition to using the alternate ratio and percent change analysis, and following IAAO recommendations, the Department has put into place numerous techniques to maximize representativeness. The Department:

- Filters out all new construction which is overrepresented in most strata
- Isolates individual properties comprised of the lower 5 percent of value (Group 5)
- Isolates single properties comprised of 15 percent or more of the stratum value (Group 6)
- Weights the data, by group
- Uses time-trended sales in strata 1 and 4 to increase the sample size
- Filters out sale change codes on sales that are significantly different on the date of sale as compared to the date of assessment to eliminate a mismatch of property characteristics
- Filters out other parcels not appropriate to ratio studies such as:
 - Outliers (ratios <30 percent and >170 percent)
 - Multiparcel sales
 - Sales where there is a mismatch in codes and property characteristics (Vacant & Improved codes)
 - Parcels having \$0.00 just value
 - Strata not reaching a 5 percent of assessed value threshold
 - Parcels with residential common elements

For appraisal ratio analysis, samples are randomly chosen and are analyzed for representativeness based on:

- Value Groups
- Use Codes
- Market Areas
- Effective Year Built
- Square Foot Range
- Improvement Quality

(Over-representativeness of samples within these groups causes a resampling of the data.)

Since rolls are submitted July 1 and roll approval follows shortly thereafter, issuing a review notice (turning down a roll) for unsubstantiated representativeness issues is not practicable. Florida law provides the post-audit review process as the mechanism to handle these and other systemic issues. Counties are notified of the issue first via an advisory in the Post-Audit Notification, aid and assistance is offered, and if there is no improvement, the defect process is invoked.

In 2016, the Department identified 23 counties with strata having Alternate Ratio issues. However, upon further review using the Just Value Change report, only one county had a supportable, significant problem. No review notices, defect letters, and/or administrative orders were issued relating to the 2016 tax rolls. However, the department issued a **post-audit report (PAR) advisory** to the one county per section 195.097, F.S.

Review notices, defect letters, and administrative orders are specific statutory actions. These actions are not taken until we have a confirmed systemic problem that establishes one or more classes or other strata of property is listed on the assessment rolls in a manner inconsistent with the requirements of law. Before an issue is confirmed, the department communicates problems

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to the property appraiser in the PAR document that each county receives after the roll approval process. This notification establishes the department has noted a potential issue and has communicated it to the county.

While the Department believes reasonable steps have been taken to ensure representativeness of the in-depth study, the Department will continue to work on ways to improve representativeness of tax roll data. If additional programming is required to add new analysis or reports, the changes would not take effect until the 2022 tax year.

Finding 2: The Department's method of sub-stratifying studied strata into value group subclassifications magnifies the impact of the nonrepresentative ratio study samples in higher value groups, contrary to the intent of State law.

Recommendation: We recommend that Department management take steps to ensure that the sub-stratification of strata maximizes the representativeness of ratio study samples as required by State law.

Response:

In Report Number 2013-034, based on records from the 2010 and 2011 tax years, the Auditor General's review indicated that the Department had difficulty populating all value groups, particularly high-value groups (group 4). The Auditor General observed, "The reliability of the statistical results for the 2010 and 2011 in-depth studies was diminished because these high value groups were not represented."

The Auditor General found the lack of samples in group 4 primarily in stratum 6 of smaller counties where the number of commercial properties is limited. The issue is not as prevalent in strata 1 and 4 since the Department began using time-trended sales for these property types. Following the sampling formula for stratum 6 in smaller counties sometimes required sample sizes larger than available samples, even if all group 4 properties had been appraised because of high coefficient of variation values.

The Auditor General's recommendation in Report Number 2013-034 was "DOR should continue to improve its sampling procedures to acquire the desired number of samples per value group to meet minimum sample sizes. Also, to achieve the targeted confidence interval or margin of error objectives, every value group should contain an adequate number of sample items, using sales, appraisals, or a combination of both."

In 2013, based on the Auditor General's recommendation, the Department changed the grouping methodology from four groups of equal value to four groups of equal number. In Report Number 2013-034, the Auditor General noted, "As a result of these past difficulties of populating all value groups, particularly some of the high value groups, DOR revised its methodology in determining which parcels are assigned to each value group. The new methodology, which is planned to be implemented in the 2013 in-depth reviews, is expected to resolve many of the problems identified above."

The grouping change in 2013 resolved the issue of insufficient sales in value group 4, and the Department has continued this grouping protocol. However, the weight of group 4 can skew the overall stratum level of assessment. Because of the diversity of counties across the state, no one method fits all data sets and each method presents both strengths and weaknesses.

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The 2019 tax rolls deadline for submission is July 1, 2019. Consequently, any changes to address these issues will not occur on the 2019 roll.

However, the Department will change the grouping methodology back to four groups of equal value and will implement changes to resolve the issue of too few samples in group 4 that this methodology creates (e.g., reducing to three groups when sufficient samples are not possible in group 4). In addition, where necessary the Department will augment the sample size with additional appraisals. These changes may be available for the 2020 roll approval cycle.

Finding 3: The Department did not utilize the median level of assessment¹ (LOA) for county assessment roll evaluation and approval purposes as recommended by the International Association of Assessing Officers *Standard on Ratio Studies* nor compute certain statistical measures required by State law.

Recommendation: We recommend that the Department utilize the median LOA for assessment roll evaluation and approval purposes and compute the statistical measures required by State law.

Response:

Sections 195.096(2)(c) and (f), F.S., specifies that the Department calculates at a 95 percent confidence interval the mean, weighted mean, and median based on sample data. The Department calculates the weighted mean based on the Department-estimated population market value; we do not calculate the median for the whole roll or an overall confidence interval.

Ratio study statistics are used for two purposes: performance monitoring and indirect equalization of public-school funding. Section 195.096(2), F.S., addresses statistical analysis of rolls for roll approval (performance monitoring), and section 195.096(3), F.S., addresses using statistical analysis for the Department of Education's Florida Education Finance Program formula for indirect equalization of education funding for public schools.

For performance monitoring, roll approval decisions are based on the level of assessment (LOA) for each in-depth stratum studied, not the roll as a whole. An overall LOA, however, is necessary for the funding formula. As the Auditor General pointed out, the median is recommended for performance monitoring, but the weighted mean is recommended for indirect equalization purposes. The Department does not calculate a confidence interval for the countywide level of assessment. **There is no known formula for a countywide confidence interval for the median, nor does the IAAO have a standard for a countywide confidence interval for either the median or the weighted mean.**

After reviewing IAAO material and consulting with the Department's expert on assessment administration practices (who was the primary author of the IAAO's *Standard on Ratio Studies*), **the Department did not find a recommended methodology for calculating a countywide confidence interval for either the weighted mean or the median.** In addition, Auditor General staff did not know of, nor suggest, a recognized method of calculating these statistics.

Beginning in 2020, the Department will continue to produce all roll statistics, but will rely primarily on the median, at the stratum level, for in-depth county roll approval purposes. As

¹ The level of assessment is the ratio of assessed values to market values.

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required by law, the Department will continue to produce an overall level of assessment based on the weighted mean for indirect equalization purposes.

Finding 4: Department records did not evidence the basis for reducing from \$1.3 billion to \$635 million the assessed value of a railroad company property.

Recommendation: We recommend that Department management adequately document the basis for changes in assessed railroad property values resulting from informal conferences.

Response:

The Department provided documentation supporting the basis for compromise of the assessed railroad property value resulting from the Informal Conference process held in conformance with the law.² The documentation provided by the Department was consistent with what has been available during prior Performance Audits of the Administration of Ad Valorem Tax Program without issue.³

The supporting documentation provided by the Department included information submitted by the affected taxpayer during the Informal Conference held as required by law. The Informal Conference process encompassed a review of documents submitted by the taxpayer to the Department in furtherance of the taxpayer's Annual Report and Return (e.g. financial statements, annual reports, inventory of real property schedules, etc.), as well as the Department's appraisal report and supporting documentation. It also included review and consideration of documentation presented to the Department by the affected taxpayer at the Informal Conference.

The affected taxpayer raised several issues (factual and legal) in presenting their position to the Department at the Informal Conference including those related to income projections, operating statistics, and prior year values. The Department recognized these issues as being germane to the proposed assessment and duly considered them in accordance with law. The Department provided this information in support of the basis for the compromise.

In addition, the Department provided documentation from prior court proceedings in federal court that specifically identified substantive legal issues and substantial litigation risks associated with these special types of assessments that provide a continuing basis to support a compromise of subsequent assessments at Informal Conference. The prior court proceeding documentation provided was from the following matters involving CSX Transportation ("CSXT") v. Florida Department of Revenue (Department) litigated in the United States District Court for the Northern District of Florida:

- Case No. 4:03-cv-00169-RH-WCS
 - On May 30, 2003, CSXT filed a Complaint Seeking Injunctive and Declaratory Relief from Ad Valorem Tax Discrimination against the Department. CSXT challenged the Department's proposed 2003 taxable value assessment of \$722,802,752.
 - CSXT asserted the Department's assessment was unlawful and constituted an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce in violation of federal law.

² See section 193.085, F.S., and Chapter 12D-2, F.A.C.

³ Auditor General Performance Audit Nos.: 2004-177, 2007-037, 2010-013, and 2013-034.

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- The case necessitated the procurement, use and payment for additional outside legal counsel as well as expert witness services in defense of the assessed railroad property valuation. It also involved substantial litigation related discovery and motion practice, including efforts to exclude witness testimony on behalf of the Department.
- The case litigation continued until a Judgment was entered requiring both parties to abide by the Consent Order of Settlement and Dismissal entered by the Honorable Robert L. Hinkle on October 22, 2004.
- As part of the settlement, the parties resolved the disputed valuation and equalization issues by agreeing that the maximum aggregate assessed value of CSXT's railroad operating property in Florida (after consideration of all exemptions, deductions and equalization) as of January 1, 2003, was \$488,000,000; as of January 1, 2004, was \$478,000,000; and as of January 1, 2005, was \$468,000,000.
- Case No. 4:04-cv-00179-RH-WCS:
 - On June 1, 2004, CSXT filed a Complaint Seeking Injunctive and Declaratory Relief from Ad Valorem Tax Discrimination against the Department pertaining to the proposed 2004 tax year assessment.
 - This was additional litigated case matter initiated while Case No. 4:03-cv-00169-RH-WCS was already proceeding. Similar to the aforementioned case, CSXT asserted the Department's assessment was unlawful and constituted an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce in violation of federal law.
 - The case matter was resolved collectively with Case No. 4:03-cv-00169-RH-WCS identified above.
- Case No. 4:06-cv-00342-SPM-WCS
 - On July 18, 2006, CSXT filed a Complaint Seeking Injunctive and Declaratory Relief from Ad Valorem Tax Discrimination against the Department pertaining to the proposed 2006 tax year assessment. CSXT challenged the Department's proposed 2006 tax year assessment (\$795,987,853) arguing it was discriminatory and violated federal and state law.
 - Similar to the previously noted case matters, CSXT asserted the Department's assessment was unlawful and constituted an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce in violation of federal law.
 - Similar to the previously noted case matters, this involved substantial litigation related discovery and motion practice on behalf of the Department.
 - The case litigation continued until a Consent Order of Settlement and Dismissal was entered by the Honorable Stephen P. Mickle on March 20, 2008.
 - As part of the settlement, the parties resolved the disputed valuation and equalization issues by agreeing that the maximum aggregate assessed value CSXT's railroad operating property in Florida (after consideration of all exemptions, deductions and equalization) as of January 1, 2006, was \$515,000,000; as of January 1, 2007, was \$525,000,000; and as of January 1, 2008, was \$520,000,000.
- Case No. 4:07-cv-00462-RH-WCS
 - On October 31, 2007, CSXT filed a Complaint Seeking Injunctive and Declaratory Relief from Ad Valorem Tax Discrimination against the Department pertaining to the proposed 2007 tax year assessment (\$1,019,574,118).

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- This was an additional litigated case matter initiated while Case No. 4:06-cv-00342-SPM-WCS was already proceeding. Similar to the aforementioned case, CSXT asserted the Department's assessment was unlawful and constituted an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce in violation of federal law.
- The case litigation continued until a Consent Order of Settlement and Dismissal was entered by the Honorable Robert Hinkle on March 27, 2008. As part of the settlement, the parties resolved the disputed valuation and equalization issues by agreeing that the maximum aggregate assessed value CSXT's railroad operating property in Florida (after consideration of all exemptions, deductions and equalization) as of January 1, 2007, was \$525,000,000; and as of January 1, 2008, was \$520,000,000.

The Department provided all the aforementioned documentation in support of the compromise in the assessed railroad property value resulting from the Informal Conference process. The Department believes it was appropriate pursuant to s. 193.085, F.S., and Chapter 12D-2, F.A.C. As noted above, the previous litigation continues to be a factor in resolving subsequent assessments on a substantially consistent basis so that the taxpayer is afforded their due process rights without the necessity of additional litigation.

Finding 5: The Department made sale qualification changes for one county without sufficient, credible evidence from the county justifying the changes.

Recommendation: We recommend that Department management ensure that all changes to sale qualifications are supported by sufficient, credible evidence from the county.

Response:

The annual Sale Qualification Study (SQS) is required by section 195.0995, F.S. It covers all 67 counties, and in 2016, approximately 770,000 sales transactions were recorded in the state. The Department's study randomly selects transactions for each county based on a sampling formula. In the 2016 study, the Department reviewed qualification decisions for 3,850 sale transactions.

During the SQS, the Department's reviewers determine, on the face of the deed document, whether the transaction should be qualified or disqualified for use in the sales ratio study based on Department specifications. The Department's qualification decisions are compared with the decisions the property appraiser made, and, where there is a mismatch, the Department requires further documentation from the property appraiser. If the property appraiser has adequately documented their decision, and the Department concurs with the reason for the property appraiser's decision, the county gets credit for that transaction. The statute requires a 90 percent pass rate.

In its review of the 2016 SQS, the Auditor General studied four counties, which included 160 randomly selected transactions. For those transactions, where a discrepancy existed, the Auditor General reviewed the documentation the Department accepted for 15 samples. The Auditor General's review determined that in one county the documentation provided to support changes of two sales, where the property appraiser disqualified the sales, was insufficient.

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For one of the two, the documentation was a phone call from the property appraiser's office. While the property appraiser's reason to disqualify the sale was valid, the documentation did not meet the Department's documentation requirement and the county should not have been given credit for this transaction.

For the change made to the second sale noted, the Department deems the decision to change the code was based on credible evidence, which included a written attestation from a member of the property appraiser's staff. The written attestation is included in the study documentation. With the inclusion of this sample, the pass rate of the county is over 90 percent.

Section 195.097, F.S., states in part, "*...the Department shall issue a notice to any property appraiser who the executive director has determined has one or more classes or other strata of property listed on the assessment rolls in a manner inconsistent with the requirement of law, or is otherwise not assessing in accordance with law.*" After reviewing all transaction decisions for this county, the Department found no reason to believe that, based on the study, one or more classes of property listed on the assessment rolls were assessed inconsistently with the requirements of law.

The Department operates on a continual cycle of improvement and will continue to make improvements to the SQS, including clarifying the documentation standards in the SQS procedure documents.

Finding 6: Contrary to State law, and as similarly noted in our report No. 2016-076, Department in-depth reviews did not include personal property values reported on county assessment rolls.

Recommendation: We again recommend that Department management ensure that in-depth reviews include personal property as required by State law.

Response:

Section 195.096, F.S., states in relevant part: "(1) The assessment rolls of each county shall be subject to review by the Department of Revenue. (2) The department shall conduct, no less frequently than once every 2 years, an **in-depth review of the assessment rolls** of each county. The department need not individually study every use-class of property set forth in s. 195.073, but shall at a minimum study the level of assessment in relation to just value of each classification specified in subsection (3). Such in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property." (emphasis added)

The Tangible Personal Property (TPP) tax is administered by 67 locally elected county property appraisers. To assess TPP at market value, Florida law requires businesses within each of the 67 counties to submit to their respective property appraisers an annual return listing the original cost of each item of TPP, the year the TPP was acquired, and other relevant information. Property appraisers review the information provided on the return and assess a value on the submitted TPP. For the 2016 tax year, property appraisers processed more than 1.2 million TPP returns from eligible businesses. The TPP roll accounts for nearly 7 percent of total statewide taxable value. The county TPP roll is submitted to the Department of Revenue by July 1 of each year for review.

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In-Depth Review

Prior to FY 08-09, the Department conducted in-depth reviews for half of the counties' TPP rolls on an alternating two-year cycle. To perform this function, a dedicated team of DOR auditors conducted audits of a random sample of businesses and the corresponding TPP annual returns. These audits were in addition to audits performed by property appraisers.

In FY 08-09, following significant changes to the property tax system due to the passage of four constitutional amendments and major legislative initiatives, the Legislature approved a budget amendment which reassigned the dedicated TPP positions to conduct field work relating to real property. The realignment of staff was consistent with legislative policy and allowed the Department to make the most efficient and effective use of existing staff resources.

The Legislature has not restored the dedicated TPP positions in subsequent budgets. Consequently, in-depth reviews of the property appraisers TPP assessments have not been performed for more than a decade. Each individual property appraiser has the constitutional responsibility to assess TPP in their county at just value and the Department accepts the property appraisers just value as being in substantial compliance with the law.

With respect to relative level of assessment (LOA) for the TPP roll, the Department uses the real property LOA when certifying to the Department of Education. The Department's practice in this regard is consistent with all provisions of section 195.096, F.S., which limits the Department's standard of care in reviewing assessment rolls to: "all practicable steps," "the greatest extent practicable," "fullest extent practicable," and "the best information available."

TPP Compliance Reviews

This reprioritization required the Department to revise oversight roles relating to TPP reviews and scale down the review. Although the funding for the TPP positions was shifted, the Department continues to perform the compliance review below on TPP roll submissions:

- A determination of the use of the proper electronic submission of the roll.
- A determination of the use of the necessary data fields and format specified by the Department. The roll is manually reviewed for underpopulated fields (e.g. physical address) and electronically reviewed for 13 specific compliance checks, including but not limited to:
 - Verifying that the reported just values, assessed values, and total exemptions correspond correctly to the total reported taxable values.
 - Verifying that each account is reported with a valid industry code.
 - Checking for required fields that are left blank.
- A comparison of the previously submitted roll to the current roll to check for extraordinary changes in number of accounts reported, number of exemptions, as well as the reported just, assessed, and taxable value fields.

In addition, the Department:

- Reviews the county's recapitulation reports to determine if the values reported on the TPP roll match those on the recapitulation reports. These crosschecks include whether reported values (Just, Assessed, and Taxable) and exemption amounts, and account counts match the values on the TPP roll.
- Reviews the county's recapitulation reports to determine if the central assessment real and tangible values reported on the TPP roll match those on the recapitulation reports and the assessment information provided by the DOR central assessment team.

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- These crosschecks include whether reported values (Just, Assessed, and Taxable), and exemption amounts match the values on the TPP roll. The value check between the recapitulation report and the central assessment team information is performed on all counties with central assessment value. The check of the TPP roll is done with counties reporting central assessment TPP for railroads and private car lines on the TPP roll.

Although the compliance review provides a level of confidence in the practices of property appraisers to include TPP on their rolls, it does not fully meet the standards of an in-depth study consisting of a “review of procedures” that will result in “statistical or analytical measures” as noted in section 195.096, F.S.

The Department’s responsibility is to ensure the data on each roll is in the manner and form prescribed and that each roll complies with all the appropriate requirements of law relating to just value, pursuant to section 193.1142, F.S.

Court Ruling and Statutory Reference

In other consideration, TPP assessment and review was part of several matters litigated in *Hylton v. Department of Revenue, State of Florida (Case No. 97-4584, Second Judicial Circuit In And For Leon County, Florida)*. In its Amended Order on Defendant’s Motion For Summary Judgment, the Court stated:

“DOR is not required to specifically audit tangible personal property in its statutorily mandated in-depth review of county assessment rolls because section 195.096(2), Florida Statutes, provides that **[DOR] need not individually study every use-class of property set forth in s. 193.073 but shall at a minimum study the classification specified in subsection (3).**” (emphasis added)

The classifications specified in section 195.096(3), F.S., do not specifically list provisions related to tangible personal property and include:

1. Residential property that consists of one primary living unit, including, but not limited to, single family residences, condominiums, cooperatives, and mobile homes
2. Residential property that consists of two or more primary living units
3. Agricultural, high-water recharge, historic property used for commercial or certain nonprofit purposes, and other use-valued property
4. Vacant lots
5. Nonagricultural acreage and other developed parcels
6. Improved commercial and industrial property
7. Taxable institutional or governmental, utility, locally assessed railroad oil, gas and mineral land, subsurface rights, and other real property

Finding 7: Although required by State law, the Department did not maintain a current property tax administration manual. A similar finding was noted in our report No. 2016-076.

Recommendation: We recommend that Department management continue efforts to update the *Manual* and maintain the Manual in accordance with State law.

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Response:

The Department has a statutory requirement to prepare and maintain a current manual of instructions ("Manual") for property appraisers and other officials connected with the administration of property taxes. The law⁴ requires the Manual to contain:

- 1-Rules and regulations;
- 2-Standard measures of value; and
- 3-Forms and instructions concerning the use of forms and maps.

The law⁵ also authorizes the Department to include any other information which it deems pertinent or helpful in the administration of taxes in the Manual.

The report accurately states that the Manual is not current, and that the Department should continue its efforts to update the Manual and maintain it in accordance with State law.

Currently, the online Manual for property appraisers contains the following information required by law:

- Standard Measures of Value
 - Florida Real Property Appraisal Guidelines (2002)
 - Classified Use Real Property Guidelines (1982)
 - Tangible Personal Property Appraisal Guidelines (1997)
- Cadastral Mapping Guidelines (Part of the required forms and instructions concerning the use of forms and maps)

Additionally, the Department has made the following document available online for property appraisers to help and assist in their administration of property taxes:

- Uniform Market Area Guidelines (2009)⁶

Corrective Action Plan

Provided below is the Department's corrective action plan to bring the manual of instructions for property appraisers into compliance with statutory requirements.

1. **Rules and Regulations:** The Manual is required to contain all applicable rules and regulations. The Department's rules governing property tax oversight are contained in Rule Chapters 12D and 12-9, F.A.C. While the Department has adopted rules addressing property tax administration, the rules are not specifically identified on the webpage that contains the Manual. The Department has updated its website to clearly reference the Department's rules relating to property tax oversight.
2. **Standard Measures of Value:** The Manual is required to contain standard measures of value. The standard measures of value provide guidelines for the valuation of property

⁴ Section 195.062(1), F.S.

⁵ Section 195.062(2), F.S.

⁶ Unlike Standard Measures of Value, the Uniform Market Area Guidelines ("UMAG") are not appraisal guidelines. UMAG are specifically required by sections 193.114 and 193.1142, F.S. They provide guidance to property appraisers for placing market area codes on real property assessment rolls.

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and methods for the property appraisers to use in arriving at just valuation for particular types of property. By law⁷, they do *not* have the force and effect of rules. They are to be used only to assist property appraisers in their assessments of property.

Over the years, the Department has developed three sets of standard measures of value guidelines in accordance with the law⁸ to address this requirement.

- Florida Real Property Appraisal Guidelines (2002)
- Classified Use Real Property Guidelines (1982)
- Tangible Personal Property Appraisal Guidelines (1997)

The Department has already initiated the legal and subject matter research and review process necessary to update all of these guidelines. Although they do *not* have the force and effect of rules, the law⁹ requires that these standard measures of value be adopted in general conformity with the procedures set forth in section 120.54, F.S, which relates to rulemaking. Guidelines may also be updated annually with new data in accordance with the law which includes substantial conformity with section 120.54, F.S. While there is no specific legislative definition for the conformity standards, the Department believes this requires the standard measures of value to go through an open process with the opportunity for public vetting including:

- Publication by the Department of proposed draft updated guidelines on its website.
- Notice in the Florida Administrative Register with links to its website containing the proposed draft updated guidelines to provide the public a full and open opportunity to participate and provide comments regarding draft updated guidelines at workshops conducted by the Department.
- Review by the Department of any comments received.
- Publication of revised proposed drafts of updated guidelines after review of comments received and opportunity for public input has been completed.

Due to the highly technical and legal nature of the information contained in these standard measures of value guidelines, the limited number of available staff to work on the project, anticipated public interest in the project, and the number of public workshops that may be needed to obtain and address public input, the Department estimates that the process for updating the standard measures of value will take until December 31, 2022, to complete.

As noted above, the statutory process for adopting the standard measures of value is not clear. It is not clear which steps must be taken to meet the conformity standards. This lack of a clear process in the law could lead to legal challenges and implementations delays.

3. Forms and Instructions: The Manual is required to address forms and instructions for forms and maps. The Department's forms for property tax oversight are contained in Rule Chapter 12D-16, F.A.C. While the Department has adopted forms addressing property tax administration, the forms are not specifically identified on the webpage

⁷ Section 195.062(1), F.S.

⁸ Sections 195.032 and 195.062, F.S.

⁹ Section 195.062(1), F.S.

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containing the Manual. The Department has updated its website to clearly reference the rules that contain the promulgated forms. The Department will continue to update and publish the forms and instructions to its website as needed.

4. Other Information: As previously noted, the Uniform Market Area Guidelines (“UMAG”) are not appraisal guidelines. The Department has completed the UMAG as required by sections 193.114 and 193.1142, F.S., and uploaded them to its website for use by property appraisers. They provide guidance to property appraisers for placing market area codes on real property assessment rolls.

The Department has previously initiated efforts to update the UMAG as authorized under sections 193.114 and 193.1142, F.S. The Department anticipates finalizing the updating process for these guidelines by December 31, 2020.