



# AUDITOR GENERAL

William O. Monroe, CPA



## PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION OPERATIONAL AUDIT

### SUMMARY

The Florida Department of Environmental Protection is the principal environmental and natural resources agency of the State. This review focused on the Department's administration of two key program areas: environmental permitting programs and contractual agreements with local governmental entities (including water management districts). Our audit included a review of Department records and related actions during the period July 1999 through January 2001.

As summarized below, our audit disclosed several weaknesses in the Department's administration of these program areas that should be addressed to ensure compliance with current legal requirements, enhance management controls, and improve the economic and efficient performance of Department duties and responsibilities:

#### PERMITTING PROGRAMS

- ◆ To ensure compliance with Legislative intent regarding the establishment of environmental permit application fees, the Department must establish guidelines that clearly define those permit related costs that should be recovered through the assessment of permit application fees. Upon identifying such costs, the Department should allocate them to the individual types of permits issued by the Department (rather than at the program level). The Department's adopted fee schedule should be amended as deemed appropriate based on the results of these cost allocations.

- ◆ To minimize the risk of environmental damage to Florida's natural resources, the Department's consideration of a permit applicant's history of environmental compliance is a key factor when reviewing permit applications. The Department should enhance management controls to ensure that a permit applicant's history of compliance with environmental laws, rules, and regulations is adequately and consistently considered prior to issuing a permit.
- ◆ The necessity of Section 403.0876(3), Florida Statutes, should be clarified in order to establish Department responsibilities relating to the expeditious processing of permit applications. The Department should, in consultation with the Legislature, clarify the need for establishing a special unit for permit coordination and processing, as well as the need for the assessment of special fees.

#### LOCAL GOVERNMENT AGREEMENTS

- ◆ Contractual agreements between the Department and local governmental entities did not always contain information required by applicable Federal regulations. Specifically, these agreements did not always contain necessary language to ensure that all moneys distributed to local governmental entities would be properly expended, accounted for, or audited.
- ◆ Improvements are needed in management controls over the administration of contractual agreements with local governmental entities. Department

**PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS**  
**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

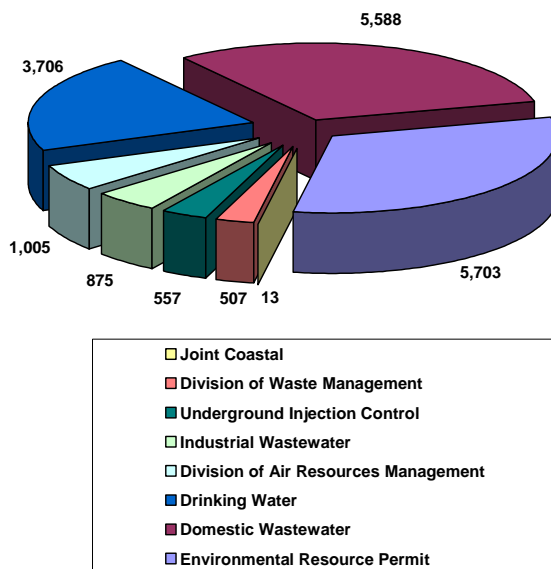
*records did not always contain adequate documentation for reimbursements to local governments, nor were Department monitoring efforts always adequate.*

- ◆ *Management controls over the Department's reporting of Federally funded grant agreements should be improved. Instances were noted in which required reports were not always submitted to the appropriate Federal agency, while other reports contained errors.*

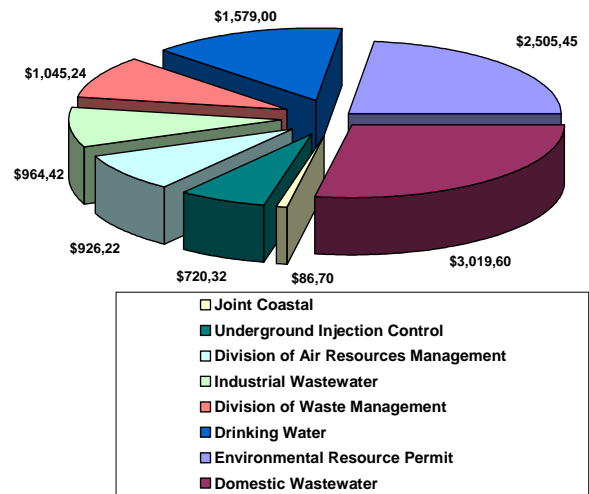
**INTRODUCTION**  
**PERMITTING PROGRAMS**

Environmental permits serve a valuable role in minimizing potential environmental disruption as a result of common human activities. During the audit period the Department processed environmental permits in 8 program areas. Pursuant to current law, the Department is authorized to issue over 100 different types (including over 900 subtypes) of permits. According to Department records 18,000 permit applications (totaling approximately \$11 million in revenue) were processed during the audit period. The following illustrations summarize the number of these permit applications processed within each program area, and the revenue generated from such applications:

**Permit Applications Processed by Program**



**Permit Application Revenues by Program**



Additional information relating to the Department's permitting activities during the audit period is included in Exhibit A to this report. Applications for permits may be made at the Department's six district offices, various satellite offices, or the headquarters in Tallahassee. The Department's on-line One-Stop Permit Registry (OSPREY) also offers information related to environmental permitting.

The law generally requires the Department to review each application and request any additional required information from the applicant within 30 days of the receipt of the application. Upon receipt of a completed application the Department generally has 90 days to approve or deny the permit.

**INTRODUCTION**  
**LOCAL GOVERNMENT AGREEMENTS**

In providing a comprehensive and consistent policy for protecting and conserving the State's environmental and natural resources, the Department has entered into contractual agreements with local governmental entities (including water management districts) to provide various types of assistance. Such assistance may include, but not necessarily be limited to, projects related to beach restoration, pollution contamination cleanup, wastewater treatment, and various other water-related projects.

In general, funding for these projects (both Federal and State) is distributed to local governments as determined by

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*

the Department or by the Legislature through the General Appropriations Act. Such funding is distributed on either a cost-reimbursement or advance basis. According to Department records, approximately \$190 million was distributed through agreements with local governments during the audit period (excluding State Revolving Fund Programs).

Moneys provided to the local governments are to be used solely for specified purposes. Accordingly, the Department has a responsibility to perform certain oversight activities to ensure that such moneys are used in a manner consistent with the specified purposes, and to determine that the local governments complied with applicable Federal and State laws, rules, and other guidelines. The development and implementation of management controls to ensure such compliance may include the periodic on-site review of a project, as well as the review of periodic project progress reports, expenditure reports, and independent audit reports.

*FINDINGS AND RECOMMENDATIONS  
PERMITTING PROGRAMS*

**Finding No. 1: The Department's methodology for identifying costs associated with permitting activities should be enhanced to ensure that such costs are identified at the individual permit level as required by law.**

In general, the law (Section 403.0871, Florida Statutes) requires all moneys received from permit applicants to be deposited in the Florida Permit Fee Trust Fund and be used by the Department, with the advice and consent of the Legislature, to supplement appropriations and other funds received by the Department for the administration of its permitting responsibilities. As discussed below, several statutory provisions establish guidelines for the fees that can be charged to permit applicants; however, they also have differing definitions of the basis for the permit application fees.

- ◆ Section 161.0535, Florida Statutes, provides that the fee schedule for permits issued under Sections 161.041 and 161.053, Florida Statutes, must contain categories of permits based on the varying costs of evaluating applications for different types of proposed coastal construction. The fee schedules

must be based on the actual costs of administering these permitting programs.

- ◆ Section 403.087(6)(a), Florida Statutes, provides that the Department shall require a processing fee in an amount sufficient, to the greatest extent possible, to cover the costs of reviewing and acting upon any application for various permits and to cover the costs of surveillance and other field services and related support activities associated with any permit. In establishing fees to cover certain costs, the Department is required to adopt a fee schedule by rule. However, the law also establishes limitations on applicable fees for many permits.
- ◆ Section 403.861(8), Florida Statutes, provides that the Department shall have the power to require a fee in the amount sufficient to cover the costs of viewing and acting upon any application for the construction and operation of a public water supply system and the costs of surveillance and other field services associated with any permit issued.

Although these laws indicate Legislative intent to establish application fees for individual permits based on the costs associated with those permits, the Department has not established permit application fees that are based on actual costs. In Report No. 13104, dated December 1997, we noted the Department had not established an adequate cost accounting system to determine the costs associated with specific permit types. The Department agreed with our finding and received a \$250,000 appropriation in 1998-99 for an independent review of the Department's permit costs methodology and the cost-benefit of implementing an accounting/tracking system at the detailed permit level. The Department subsequently decided to perform the review in-house and established an internal task force to review our recommendations.

The Department's task force concluded in February 2000 that trying to establish a system to identify costs at the permit type level would require too many separate cost codes and provide questionable cost data. The task force decided that a more practical approach was to identify costs of the Department's different permitting programs by five types of activities (standard setting, permit issuance, surveillance and support activities, ambient monitoring,

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*

and support activities). Subsequently, the Department has undertaken efforts to accumulate such information by type of activity within each program by utilizing a new automated time-keeping system.

Notwithstanding the Department's concerns related to the reliability of cost data accumulated at the permit type level, the absence of such cost data limits the Department's ability to demonstrate compliance with existing law requiring the establishment of application fees for individual permits based on the costs associated with those permits. According to Department records, the majority of the Department's current permit application fee schedule has not been modified since 1991, nor is it supported by any Department analyses of actual costs incurred.

We recommend that the Department enhance its methodology for identifying both direct and indirect costs of permitting activities to ensure that such costs are properly identified by type of permit. Subsequently, the Department should periodically prepare cost analyses to support necessary adjustments to the permit application fee schedule. We also recommend that Department management consult with the Legislature to ensure that Department actions regarding the establishment and periodic adjustment of permit application fees are consistent with Legislative intent.

*In his written response, the Secretary disagrees that Florida law requires costs to be identified by type of permit. Citing inconsistencies in the statutes, the Secretary concludes that a broader approach to setting fees is appropriate. We recognize that the broader approach espoused by the Secretary could provide for the collection of sufficient fees to cover overall permitting costs. However, fully identifying costs by type of permit would ensure compliance with existing statutory provisions. In light of the Secretary's concerns, the Department may desire to seek specific legislation governing the Department's methodology for identifying permitting costs.*

**Finding No. 2: Department controls should be enhanced to ensure that a permit applicant's history of compliance with environmental laws, rules, and regulations is adequately and consistently considered prior to issuing a permit.**

To minimize the risk of environmental damage to Florida's natural resources, the Department's consideration of a permit applicant's history of environmental compliance is a key factor when reviewing permit applications. Although the risk of environmental noncompliance would appear to be greater for those individuals and entities with a history of noncompliance, we noted that the Department has not developed and implemented controls to adequately and consistently evaluate and document each applicant's history of environmental compliance.

Department personnel in several program areas indicated that they were required to review each permit applicant's history of environmental compliance through Department information databases. Such databases include the Department's Compliance Enforcement Tracking System (used to identify previous Department actions against an applicant for noncompliance) and the Legal Case Tracking System (used to identify Department related litigation involving the permit applicant). However, these databases are not designed to include information related to environmental activities outside of Florida, and Department procedures do not include any additional provisions for verifying a permit applicant's history of environmental compliance outside of Florida. Department personnel also indicated that the evaluation of the applicant's history of environmental compliance within Florida was handled on a case by case basis, with much of the evaluation process being performed at the discretion of the Department personnel reviewing the application.

Notwithstanding the representations of Department personnel, our review indicated that Department records for 36 permit applications processed during the audit period did not include documentation evidencing the performance of any evaluations of the applicant's history of environmental compliance.

We recognize that there may be limitations on the Department's ability to completely evaluate an applicant's history of environmental compliance for activities outside of Florida. However, in the absence of properly developed

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*

and implemented controls to review and evaluate available information, the Department has limited assurance that such information is properly considered prior to the issuance of a permit. As a result, we recommend that the Department develop and implement adequate management controls that address these concerns. Such controls should be applied consistently and effectively and may include, but not necessarily be limited to, requiring each permit applicant to certify their complete history of environmental compliance (both within and outside of Florida), as well as evaluating such information prior to issuing any permit. Additionally, documentation evidencing the implementation of such controls should be maintained by the Department as a matter of public record.

**Finding No. 3: The necessity of Section 403.0876(3), Florida Statutes, should be clarified in order to establish Department responsibilities relating to the expeditious processing of permit applications.**

Chapter 86-186, Laws of Florida, amended Section 403.0876, Florida Statutes, to require the Department to establish a special unit for permit coordination and processing to provide expeditious processing of certain permit applications. The law also specifies the circumstances under which an applicant may request the processing of its permit application by the special unit. In general, these circumstances involve applications from businesses or industries that would have a significant economic impact in the State. In addition to regular permit application fees, the Department is authorized to assess a special fee to cover the direct cost of processing special applications expeditiously.

Our review disclosed that the Department has not established a special unit to handle the expeditious processing of permit applications. According to Department records, permit applications have occasionally been processed expeditiously. However, additional fees have not been assessed by the Department for the expedited processing. Our review of 16 permits that were issued within two days after receipt of the permit application disclosed that the Department expedited the processing of these permits at no extra cost to the applicant. According to Department management, the

necessity for establishing such a special unit has not yet been established.

We recognize that it may be in the best interest of the public to process some permit applications expeditiously. However, in those instances in which permit applications are processed expeditiously solely for the convenience of the applicant, it may be appropriate for the Department to assess a special fee to cover such additional expenses. Given these concerns, we recommend that the Department, in consultation with the Legislature, clarify the need to establish a special unit to process permits expeditiously. If such a need is not clearly established, then the Legislature should consider repealing the applicable provisions of Section 403.0876(3), Florida Statutes.

*FINDING AND RECOMMENDATIONS -  
LOCAL GOVERNMENT AGREEMENTS*

**Finding No. 4: Contractual agreements between the Department and local governmental entities did not always contain information required by applicable Federal regulations.**

United States Office of Management and Budget (OMB) Circular A-133 places certain requirements upon the Department when administering Federal program moneys. In those instances in which the Department serves as a pass-through entity and distributes Federal moneys to subrecipients such as local governmental entities, the Department is required to identify the Federal awards being passed through to the subrecipient by informing them of the Catalog of Federal Domestic Assistance (CFDA) title and number, as well as the award year and name of the Federal agency granting the money. Additionally, the Department is responsible for advising subrecipients of the applicable reporting and audit requirements related to the contractual agreement. This information is useful to both the subrecipient and its independent auditor as it helps ensure that the Federal moneys passed through are used only in accordance with the laws and regulations governing the applicable program, and that applicable reporting and auditing requirements are satisfied.

Our review of 23 Federally funded agreements between the Department and local governmental entities disclosed several instances in which these specific compliance

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*

requirements were not followed. For example, in 6 instances, either the CFDA title and number, award name, or name of the Federal agency were not included in the agreement. In 8 instances, the audit requirements of OMB Circular A-133 were not identified.

The absence of such required information within each contractual agreement limits the Department's assurance that such moneys are being expended properly. In order to ensure that all moneys distributed to subrecipients are expended, accounted for, and audited in compliance with applicable Federal regulations, we recommend that the Department continue its efforts to ensure that each agreement properly identifies all required information and subrecipient responsibilities.

**Finding No. 5: Improvements are needed in management controls over the administration of contractual agreements with local governmental entities.**

In administering contractual agreements with local governmental entities (including water management districts), it is incumbent upon the Department to ensure that moneys disbursed are used in a manner consistent with the specified purposes. The Department's assurance is contingent upon its ability to establish adequate management controls that provide the necessary level of project oversight. However, our review of Department records related to 60 contractual agreements with local governmental entities indicated that the Department has not consistently implemented such management controls:

- ◆ In two instances Department records did not include adequate documentation for reimbursements to local governments totaling \$53,750.
- ◆ In one instance the Department reimbursed approximately \$4,800 to a local government for sales tax payments that had been made, even though the payment of such taxes was contrary to the provisions of the contractual agreement.
- ◆ Project site visits or inspections were not performed in at least three instances. In response to our audit inquiry, several contract managers indicated that they relied upon the internal audit function of the Department's Office of the Inspector General (OIG) to provide the necessary assurances regarding these

agreements with local governments. However, according to OIG records, only six audit reports related to local government contractual agreements have been issued since 1997. Furthermore, three of these six audit reports questioned costs of over \$378,000.

According to the Department's agreements with these local governments, audit reports or attestation statements prepared by an independent certified public accountant must be submitted to the Department annually when specified expenditure thresholds defined in Federal or State law are exceeded. These reports are designed to provide Department managers with documentation evidencing the local governments' compliance with applicable Federal and State laws, rules, and other guidance. However, in addition to the weakness in the Department's management controls noted above, our review of Department records related to contractual agreements with 29 local governments disclosed that audit reports were not always properly obtained or reviewed:

- ◆ For 9 recipients, the Department did not obtain and review the local governments' audit reports.
- ◆ For 20 recipients, the Department obtained the necessary audit reports. However, we noted that amounts reported as expenditures of Federal or State assistance had not been reconciled to Department accounting records in order to ensure that all moneys were properly reported and accounted for by the local government. In one of these reports, the local government did not report any amounts related to the contractual agreement with the Department.
- ◆ In 1 of the 20 audit reports received and 2 of the 9 audit reports not received, the source of the moneys provided by the Department was incorrectly identified by the local government (Federal vs. State). In the 2 instances in which the source of moneys was incorrectly identified and the audit report was not received by the Department, we noted that the Department had not provided the local government with the information required by applicable Federal guidelines (see Finding No. 4).
- ◆ In 1 instance the audit report noted deficiencies related to the local government's contractual

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*

agreements with the Department. However, Department records did not evidence that the Department had issued management decisions on such deficiencies or taken timely corrective action.

In response to our audit inquiries, Department managers indicated that current management controls did not clearly establish their responsibilities as to the nature and extent of monitoring that was required for agreements with local governments. Additionally, Department managers indicated differing understandings regarding the role of the Department OIG's internal audit function.

As a result of these control deficiencies and the concerns of the contract managers, the Department has limited assurance that moneys were used only in accordance with applicable Federal or State laws, rules, and other guidelines, and that applicable reporting and auditing requirements have been satisfied. To provide such assurances and ensure proper oversight of these projects, we recommend that the Department establish and implement necessary management controls.

**Finding No. 6: Management controls over the Department's reporting of Federally funded grant agreements should be improved.**

As noted previously, the Department administers numerous Federally funded grant programs in which the Department serves as a pass-through entity and awards Federal moneys to various local government subrecipients. In conjunction with this process, the Department is often required to file periodic reports with the Federal government indicating the status of certain program activities. Additionally, pursuant to OMB Circular A-133, the Department is required each year to prepare a Schedule of Expenditures of Federal Awards detailing the expenditures made annually for each grant.

Our review disclosed that management controls related to these reporting requirements were not always effective during the audit period. For example, a required interim Financial Status Report for one grant was not submitted to the appropriate Federal agency until subsequent to our audit inquiry. Additionally, required quarterly progress reports for one grant were not submitted to the appropriate Federal agency.

Our review also disclosed that the Department's Schedule of Expenditures of Federal Awards for the fiscal year ended June 30, 2000, did not include \$50,000 in Federally funded grant expenditures. Additionally, this Schedule did not properly report over \$182,000 in moneys subgranted to local governments.

We recognize that these deficiencies are not material to the Department's total reported expenditures from Federal awards; however, the absence of effective management controls to ensure the timely, accurate, and complete reporting of Federal awards could result in noncompliance with Federal reporting requirements.

***SCOPE, OBJECTIVES, AND METHODOLOGY***

This operational audit focused on the Florida Department of Environmental Protection's management of its permitting programs and local government agreements. Our objectives were:

- ◆ To determine if the Department managed its permitting programs in accordance with applicable laws, rules, regulations, and other guidelines.
- ◆ To determine if the Department performed evaluations of the permit applicant's in-state and out-of-state history of environmental compliance.
- ◆ To determine if the Department appropriately administered contractual agreements with local governmental entities.

In conducting our audit, we reviewed applicable management controls, examined transactions and records (as well as events and conditions), and performed various other procedures as deemed necessary. This audit included the period July 1999 through January 2001.

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION*

**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 operational audit.

*William O. Monroe*

William O. Monroe, CPA  
Auditor General

**AUDITEE RESPONSE**

As required by law, our preliminary and tentative findings were provided to the Secretary of the Department of Environmental Protection. In a letter dated February 18, 2002, the Secretary provided his written response, which is included as Exhibit B to this report. Where appropriate, we have included clarifications within this report to address concerns noted by the Secretary.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was made in accordance with applicable **Government Auditing Standards** issued by the Comptroller General of the United States. This audit was conducted by Haesun Baek, CPA, and supervised by Michael E. McCloskey, CPA. Please address inquiries regarding this report to David F. Westberry, CPA, Audit Manager, via E-mail at [davewestberry@aud.state.fl.us](mailto:davewestberry@aud.state.fl.us) or by telephone at (850) 488-0961.

This report and audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.state.fl.us/audgen>); by telephone (850 487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

**PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS**  
**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**EXHIBIT A**  
**PERMITS PROCESSED FROM JULY 1999 THROUGH JANUARY 2001**

| Permit Type   | Program                              | Number of Permits | Revenue Generated    |
|---|--------------------------------------|-------------------|----------------------|
| 1 Air - Construction Permit   | Division of Air Resources Management | 349               | \$ 577,950           |
| 2 Air - Operation Permit  | Division of Air Resources Management | 335               | \$ 260,100           |
| 3 Air - General Permit  | Division of Air Resources Management | 260               | \$ 25,200            |
| 4 Air - Federally Enforceable State Operating Permit (FESOP)  | Division of Air Resources Management | 61                | \$ 62,979            |
| 5 Waste - Solid Waste Operation Permit  | Division of Waste Management         | 294               | \$ 400,110           |
| 6 Waste - Solid Waste Closure Permit  | Division of Waste Management         | 54                | \$ 76,750            |
| 7 Waste - Solid Waste Construction Permit   | Division of Waste Management         | 52                | \$ 163,230           |
| 8 Waste - Hazardous Waste Operation Permit  | Division of Waste Management         | 41                | \$ 80,750            |
| 9 Waste - Waste Tire Permit   | Division of Waste Management         | 38                | \$ 21,150            |
| 10 Waste - Hazardous Waste Closure Permit   | Division of Waste Management         | 25                | \$ 263,000           |
| 11 Waste - Hazardous Waste Construction Permit  | Division of Waste Management         | 3                 | \$ 40,250            |
| 12 Water - Domestic Wastewater Collection/Transmission System                                       | Domestic Wastewater                  | 4,153             | \$ 1,518,850         |
| 13 Water - Domestic Wastewater Type III Wastewater Treatment Plant Permit                           | Domestic Wastewater                  | 445               | \$ 450,000           |
| 14 Water - Domestic Wastewater Type I Facility Permit   | Domestic Wastewater                  | 215               | \$ 101,900           |
| 15 Water - Domestic Wastewater Type III Facility Permit   | Domestic Wastewater                  | 175               | \$ 17,600            |
| 16 Water - Domestic Wastewater Type III (less than 10,000 gpd) Wastewater Treatment Plant Permit    | Domestic Wastewater                  | 141               | \$ 92,630            |
| 17 Water - Domestic Wastewater Facility Permit  | Domestic Wastewater                  | 137               | \$ 11,450            |
| 18 Water - Domestic Wastewater Type I Wastewater Treatment Plant Permit                             | Domestic Wastewater                  | 123               | \$ 465,500           |
| 19 Water - Domestic Wastewater Type II Facility Permit  | Domestic Wastewater                  | 53                | \$ 14,300            |
| 20 Water - Domestic Wastewater Type II Wastewater Treatment Plant Permit                            | Domestic Wastewater                  | 49                | \$ 132,400           |
| 21 Water - Domestic Wastewater Type III Reuse/Land Application System Permit                        | Domestic Wastewater                  | 33                | \$ 31,800            |
| 22 Water - Domestic Wastewater Type I Reuse/Land Application System Permit                          | Domestic Wastewater                  | 17                | \$ 62,200            |
| 23 Water - Domestic Wastewater Type II Reuse/Land Application System Permit                         | Domestic Wastewater                  | 17                | \$ 55,175            |
| 24 Water - Domestic Wastewater Type III (less than 10,000 gpd) Facility Permit                      | Domestic Wastewater                  | 11                | \$ 1,100             |
| 25 Water - Domestic Wastewater Type III Residuals/Septage Management Facility Permit                | Domestic Wastewater                  | 7                 | \$ 9,800             |
| 26 Water - Domestic Wastewater Type II Residuals/Septage Management Facility Permit                 | Domestic Wastewater                  | 6                 | \$ 30,000            |
| 27 Water - Domestic Wastewater Type III (less than 10,000 gpd) Reuse/Land Application System Permit | Domestic Wastewater                  | 4                 | \$ 2,400             |
| 28 Water - Domestic Wastewater Type I Residuals/Septage Management Facility Permit                  | Domestic Wastewater                  | 2                 | \$ 22,500            |
| 29 Water - Drinking Water Distribution System Permit  | Drinking Water                       | 1,966             | \$ 916,450           |
| 30 Water - Drinking Water Distribution System General Permit  | Drinking Water                       | 1,303             | \$ 317,500           |
| 31 Water - Drinking Water Treatment Construction Permit   | Drinking Water                       | 426               | \$ 343,950           |
| 32 Water - Drinking Water Treatment Construction General Permit                                     | Drinking Water                       | 11                | \$ 1,100             |
| 33 Water - ERP Noticed General Permit   | Environmental Resource Permit        | 1,370             | \$ 138,400           |
| 34 Water - Surface Water Runoff Construction/Operation General Permit                               | Environmental Resource Permit        | 1,285             | \$ 313,850           |
| 35 Water - ERP SGP No Conceptual Approval Permit  | Environmental Resource Permit        | 1,257             | \$ 632,500           |
| 36 Water - Dredge and Fill Permit   | Environmental Resource Permit        | 832               | \$ 473,600           |
| 37 Water - ERP Modifications Permit   | Environmental Resource Permit        | 301               | \$ 112,650           |
| 38 Water - Individual With No Conceptual Approval Permit  | Environmental Resource Permit        | 152               | \$ 606,600           |
| 39 Water - Mangrove Alterations Permit  | Environmental Resource Permit        | 127               | \$ 27,600            |
| 40 Water - Individual Stormwater System Permit  | Environmental Resource Permit        | 111               | \$ 32,700            |
| 41 Water - Dredge and Fill General Permit   | Environmental Resource Permit        | 91                | \$ 9,100             |
| 42 Stormwater - Multisector Generic Permit  | Environmental Resource Permit        | 67                | \$ 33,500            |
| 43 Stormwater - Construction Generic Permit   | Environmental Resource Permit        | 38                | \$ 5,700             |
| 44 Water - ERP Formal Determination Permit  | Environmental Resource Permit        | 26                | \$ 87,700            |
| 45 Water - ERP SGP Conceptual Approval Permit   | Environmental Resource Permit        | 25                | \$ 12,700            |
| 46 Water - Surface Water Runoff Construction Permit   | Environmental Resource Permit        | 10                | \$ 7,350             |
| 47 Water - ERP Variance Permit  | Environmental Resource Permit        | 5                 | \$ 1,300             |
| 48 Water - Management and Storage of Surface Waters Permit  | Environmental Resource Permit        | 4                 | \$ 1,200             |
| 49 Water - ERP Conceptual Approval Permit   | Environmental Resource Permit        | 2                 | \$ 9,000             |
| 50 Water - Industrial Wastewater Petroleum Cleanup Site Permit                                      | Industrial Wastewater                | 290               | \$ 29,000            |
| 51 Water - Industrial Wastewater Facility Permit  | Industrial Wastewater                | 125               | \$ 66,150            |
| 52 Water - Industrial Wastewater Concrete Batch Plant Permit  | Industrial Wastewater                | 81                | \$ 40,100            |
| 53 Water - Industrial Wastewater Group 9B, Recycling 10,000 or Less GPD Permit                      | Industrial Wastewater                | 81                | \$ 11,850            |
| 54 Water - Industrial Wastewater Group 10B - Other Facility Permit                                  | Industrial Wastewater                | 52                | \$ 13,150            |
| 55 Water - Industrial Wastewater Group 1, Surface Water Discharge Permit                            | Industrial Wastewater                | 45                | \$ 288,750           |
| 56 Water - Industrial Wastewater Group 8D, Design Daily Flow of 50,000 or Less GPD Permit           | Industrial Wastewater                | 33                | \$ 28,625            |
| 57 Water - Industrial Wastewater Group 1, Non-surface Water Discharge Permit                        | Industrial Wastewater                | 22                | \$ 124,200           |
| 58 Water - Industrial Wastewater Group 3, Surface Water Discharge Permit                            | Industrial Wastewater                | 17                | \$ 41,000            |
| 59 Water - Industrial Wastewater Group 7D, Design Daily Flow 50,000 or Less GPD Permit              | Industrial Wastewater                | 15                | \$ 14,750            |
| 60 Water - Industrial Wastewater Group 5C, Design Daily Discharge >10,000 to 100,000 GPD Permit     | Industrial Wastewater                | 14                | \$ 29,100            |
| 61 Water - Industrial Wastewater Group 3, Non-surface Water Discharge Permit                        | Industrial Wastewater                | 12                | \$ 24,400            |
| 62 Water - Industrial Wastewater Group 7C, Design Daily Flow >50,000 Up to 100,000 GPD Permit       | Industrial Wastewater                | 11                | \$ 31,000            |
| 63 Water - Industrial Wastewater Group 8C, Design Daily Flow >50,000 to 100,000 GPD Permit          | Industrial Wastewater                | 10                | \$ 16,500            |
| 64 Water - Industrial Wastewater Group 5A, Design Daily Discharge >500,000 GPD Permit               | Industrial Wastewater                | 9                 | \$ 66,000            |
| 65 Water - Industrial Wastewater Group 7A, Design Daily Flow >500,000 GPD Permit                    | Industrial Wastewater                | 9                 | \$ 45,000            |
| 66 Water - Industrial Wastewater Group 5d, Design Daily Discharge 10,000 or Less GPD Permit         | Industrial Wastewater                | 8                 | \$ 5,725             |
| 67 Water - Industrial Wastewater Group 8B, Design Daily Flow >100,000 to 500,000 GPD Permit         | Industrial Wastewater                | 8                 | \$ 25,000            |
| 68 Water - Industrial Wastewater Group 4A, Feedlots W/> Than Number Of Listed Animals Permit        | Industrial Wastewater                | 7                 | \$ 16,250            |
| 69 Water - Industrial Wastewater Group 9A, Recycling >10,000 GPD Permit                             | Industrial Wastewater                | 6                 | \$ 3,750             |
| 70 Water - Industrial Wastewater Group 6C, >1 Million BTU/HR Heat Loss Up to 20 Million Permit      | Industrial Wastewater                | 4                 | \$ 6,000             |
| 71 Water - Industrial Wastewater Group 6D, 1 Million BTU/HR Heat Loss or Less Permit                | Industrial Wastewater                | 4                 | \$ 2,500             |
| 72 Water - Industrial Wastewater Group 5B, Design Daily Discharge >100,000 to 500,000 GPD Permit    | Industrial Wastewater                | 3                 | \$ 12,000            |
| 73 Water - Industrial Wastewater Group 7B, Design Daily Flow >100,000 Up to 500,000 GPD Permit      | Industrial Wastewater                | 3                 | \$ 9,000             |
| 74 Water - Industrial Wastewater Group 10A - 'No Discharge' Facility Permit                         | Industrial Wastewater                | 2                 | \$ 120               |
| 75 Water - Industrial Wastewater Group 4B, Other Feedlots Permit                                    | Industrial Wastewater                | 1                 | \$ 1,500             |
| 76 Water - Industrial Wastewater Group 6A, BTU/HR Heat Loss >100 Million Permit                     | Industrial Wastewater                | 1                 | \$ 6,000             |
| 77 Water - Industrial Wastewater Group 6B, >20 Million BTU/HR Heat Loss Up to 100 Million Permit    | Industrial Wastewater                | 1                 | \$ 3,000             |
| 78 Water - Industrial Wastewater Group 8A, Design Daily Flow >500,000 GPD Permit                    | Industrial Wastewater                | 1                 | \$ 4,000             |
| 79 Water - Joint Coastal Permit   | Joint Coastal Permit Application     | 13                | \$ 86,708            |
| 80 Water - Injection Well Construction Permit   | Underground Injection Control        | 251               | \$ 450,250           |
| 81 Water - Injection Well Operation Permit  | Underground Injection Control        | 217               | \$ 267,700           |
| 82 Water - Underground Injection Control - Construction/Operation Permit                            | Underground Injection Control        | 49                | \$ 1,325             |
| 83 Water - Injection Well Permit  | Underground Injection Control        | 27                | \$ 725               |
| 84 Water - Underground Injection Control - Operation Permit   | Underground Injection Control        | 13                | \$ 325               |
| <b>Total</b>  |                                      | <b>17,954</b>     | <b>\$ 10,846,977</b> |

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
EXHIBIT B  
AUDITEE'S RESPONSE*



Jeb Bush  
Governor

## Department of Environmental Protection

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

David B. Struhs  
Secretary

February 18, 2002

Mr. William O. Monroe, CPA  
Auditor General  
G74 Claude Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32302-1450

Dear Mr. Monroe:

Thank you for the opportunity to respond to the preliminary and tentative findings for the Operational Audit of Permitting Programs and Local Government Agreements for the period July 1999 through January 2001. We appreciate the work of your staff and will diligently pursue appropriate resolution of findings. If you have questions or need additional information in this regard, please feel free to call me at 488-2287.

Sincerely,

A handwritten signature in black ink that reads "David B. Struhs".

David B. Struhs  
Secretary

JA/aw

Enclosures

cc: Mimi Drew  
Howard Rhodes  
John Ruddell  
Myra Williams

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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**FINDING NUMBER: 1**

The Department has now fully implemented the newly designed permit cost tracking coding structure, which will be used at the conclusion of the current fiscal year to calculate an average cost for each of the various permit types. This will provide sufficient data needed to support any adjustments to the Department's fees; and is therefore, consistent with legislative intent of the statutory provisions related to permitting fees and costs. It is the Department's opinion that the methodology developed can efficiently produce a high degree of reliable information.

We do not concur with the Auditor General's opinion that Florida law requires such costs to be identified "at the individual permit level." The audit findings selectively cite certain sections of Florida law in support of that opinion. However, when read in context, s. 161.0535, F.S., and s. 403.087, F.S., the primary statute governing the department's permit fees, support the agency position that a broader approach to setting fees is appropriate. In addition, the statutes are inconsistent. This issue is being actively reviewed by the Legislature with the introduction of SB 692 State Agencies/Fee Equity Measures by Senator Pruitt. This proposed legislation states that fees charged for services and regulatory oversight should be adequate to cover both direct and indirect costs of providing such service or regulatory oversight.

Additionally, tracking permit fees at the individual permit level would be both impractical and inconsistent with the Department's regulatory process. The Department has dozens of separate permit types and similar authorizations and issues more than 25,000 permits each year. More significantly, Florida law requires the department's fees to cover (at some level) not just the cost of permit processing but also the costs of surveillance and other field services and related support activities associated with permits-that is, the costs of the overall regulatory program. These associated activities are not implemented on a permit by permit basis but rather based on a strategy designed to ensure that facilities and other sites stay in or return to compliance with environmental standards. Many sites have multiple permits, often from different programs.

In order to address these complexities, and as noted in the report, the Department convened a technical advisory committee to identify what activities should be included as "permitting" costs and to determine the most accurate way to track these costs. The TAC was comprised of people knowledgeable about permitting activities from the Department's regulatory divisions, Office of Inspector General, Department's Bureau Chief of Finance and Accounting, and staff from the legislature. The TAC determined that the most appropriate mechanism for accounting for permit-related (regulatory) costs would be by five broad regulatory activities and by program area. Cost accounting in this matter, using sound cost accounting allocation methodologies, allows an average cost to be determined for each program area. Empirical evidence from previous cost-accounting systems makes clear that a system designed to track costs at a lower level, such as individual permit type, would result in a completely unmanageable number of tracking codes, making the system overly complicated and rendering the cost information inaccurate, therefore useless.

The Department has now fully implemented the newly designed permit cost tracking codes, which will be used at the conclusion of the current fiscal year to calculate an average cost for each permitting program. The resulting data can then be used as a basis for supporting adjustments to the department's current permit fees consistent with statutory provisions regarding the establishment and maintenance of fees.

**FINDING NUMBER: 2**

The department concurs that an applicant's history of compliance should be taken into consideration when evaluating a permit application. While existing law provides general authority toward this end, the department has included in its legislative package the last two years a proposal for specific authority to account for compliance history. The department's proposal, generally referred to as "performance-based permitting," has been embodied in Senate Bill 564 and House Bill 609 during the current legislative session. These bills would require the department to consider the compliance history of permit applicants (and give it the authority to do so), provide for categories of violations and factors to be considered in evaluating them, and set forth a range of actions the agency could take with respect to permits under specified conditions. The bills also would provide compliance incentives for applicants. The bills would amend sections 161.041, 373.413, and 403.087, F.S., and would create sections 403.08761, .08762, and .08763, F.S.

Absent the additional statutory authority and clarity provided by the proposed legislation, the department cannot make progress relative to Finding 2.

*PERMITTING PROGRAMS AND LOCAL GOVERNMENT AGREEMENTS  
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**FINDING NUMBER: 3**

The Department believes the Auditor General's finding attributes more significance to s. 403.0876(3), F.S., than is warranted. While it is true that the department has not established a discrete unit for expedited permitting, the demand for such a unit by the regulated community is virtually non-existent. The anecdotal evidence of 16 permits processed within two days bears no apparent relationship to s. 403.0876(3), F.S.

The premise of the section is that the department is to create such a unit "to provide expeditious processing of department permits which the district offices are unable to process expeditiously and to provide accelerated processing of certain permits or renewals for economic and operating stability ." The district offices process the vast majority of the agency's permits and historically have processed them well within the timeframes established in chapter 120, F.S. Complicated permit applications are handled by experienced staff with technical assistance from Tallahassee. Agency staff accommodates the occasional special request by an applicant for an expedited review, when possible, but only to the extent such attention is not at the expense of other applicants. As stated previously, however, the demand for such expedited processing simply does not warrant the creation of a separate bureaucracy. The districts were created specifically for the purpose of providing a local presence able to handle permit applications expeditiously, with the assistance of the Tallahassee office.

Department staff is available to participate with other agencies, under the aegis of the Office of Tourism, Trade, and Economic Development, on the expedited permitting teams created under s. 403.973, F.S. This section, created after s. 403.0876(3), F.S., is more specific and more comprehensive.

Given that the continuing value of s. 403.0876(3), F.S., cannot be demonstrated, we recommend that the Auditor General make its recommendation to repeal the provision more direct. The department would concur with this recommendation.

**FINDING NUMBER: 4**

The Department has recently established a Grants Development and Review Unit located in the Division of Administrative Services, Bureau of General Services, Procurement Section. This unit will be responsible for developing a grants issuance directive for Department programs to follow in the preparation of grant agreements with governmental, for-profit and non-profit entities. Once the grants directive is in place, this unit will be responsible for assisting program areas in the development of grant agreement templates to improve the Department's compliance with State and Federal guidelines. This unit will also be responsible for reviewing all grant agreements prior to execution in an effort to ensure compliance with the grants directive and state/federal guidelines. The grants directive is currently being drafted with input from the Office of Inspector General, the Bureau of Finance and Accounting, and the Procurement Section.

**FINDING NUMBER: 5**

The grants issuance directive currently under development will clearly establish the responsibilities of Department managers as to the nature and extent of monitoring required for agreements with local governments. The directive will address desk reviews, including criteria for allowable costs and standards for adequate documentation; project site visits and inspections; and improving the function of obtaining and reviewing single audit reports required of grant recipients. The Grants Development and Review Unit will coordinate with the Department's OIG and Bureau of Finance and Accounting to provide training for department grant managers and fiscal staff regarding these requirements.

In addition, the Department's OIG will continue to evaluate funding to local governments when developing the annual audit plan. Management needs and potential risks, including those related to administration of local government agreements are evaluated for the entire agency, and audit resources are allocated accordingly.

**FINDING NUMBER: 6**

Additional controls including a tracking schedule and supervisory review have been implemented to ensure that interim and final Financial Status Reports are timely filed.

The recently established Grants Development and Review Unit will review all grant agreements prior to execution to ensure that the agreements are properly coded to indicate expenditure or subgrant of Federal funds and the associated CFDA#. A unique object code has been assigned for coding disbursements of Federal funds to subgrantees. These controls will enable the Department to obtain accurate data regarding expenditures and subgrants of Federal awards for preparation of the Department's Schedule of Expenditures of Federal Awards.