

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

Performance Audit



COUNTY VALUE ADJUSTMENT BOARD MEMBERS

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

HEAD OF THE DEPARTMENT OF REVENUE AND THE EXECUTIVE DIRECTOR

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

The audit team leader was Stephanie Baker, and the audit was supervised by Michael J. Gomez, CPA. Please address inquiries regarding this report to Marilyn D. Rosetti, CPA, Audit Manager, by e-mail at marilynrosetti@aud.state.fl.us or by telephone at (850) 412-2881.

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

EXECUTIVE SUMMARY

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

MANAGEMENT OVERSIGHT

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

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

SPECIAL MAGISTRATES IN THE APPEAL PROCESS

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

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

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

VAB ADMINISTRATIVE HEARINGS

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

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

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

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

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

ADMINISTRATIVE MATTERS

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

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

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

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

BACKGROUND

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

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

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

Table 1

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

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

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

FINDINGS AND RECOMMENDATIONS

Management Oversight

Finding No. 1: Appeal Process

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

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

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

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

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

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

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

¹ DOR – *Information for Taxpayers*

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

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

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

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

Finding No. 2: Appearance of Bias and Undue Influence

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

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

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

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

Special Magistrates in the Appeal Process

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Finding No. 5: Special Magistrate Training

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

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

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

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

VAB Administrative Hearings

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

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

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

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

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

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

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

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

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

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

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

Follow-up to Management Responses

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

Finding No. 7: VAB Organizational Meeting

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

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

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

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

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

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

Finding No. 8: VAB Hearing Commencement

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

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

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

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

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

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

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

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

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

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

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

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

Finding No. 10: VAB Written Decisions

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

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

Table 2

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

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

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

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

Follow-up to Management’s Response

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

Administrative Matters

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

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

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

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

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

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

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

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

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

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

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

Finding No. 13: VAB Citizen Members

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

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

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

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

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

Finding No. 14: Taxpayer Representation

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

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

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

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

Follow-up to Management's Response

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

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations. We conducted this audit pursuant to Section 11.45(3)(a), Florida Statutes.

We conducted this performance audit from September 2012 to September 2013 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of this performance audit were to:

- Evaluate DOR and VAB management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse and in administering assigned responsibilities in accordance with applicable laws, rules, policies, and other guidelines.
- Examine internal controls designed and placed in operation to promote and encourage compliance of the VAB process with applicable laws, rules, policies, and other guidelines, and identify weaknesses in those controls.
- Identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable laws, rules, policies, and

other guidelines, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

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

The scope and methodology of this performance audit are described in Exhibit A. Our audit included selection and examinations of various records and transactions from July 2011 through June 2012, and selected actions taken prior and subsequent thereto, for the 2011 ad valorem tax rolls. Unless otherwise indicated in this report, these records and transactions were not selected with the intent of projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

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

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

AUTHORITY

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



David W. Martin, CPA
Auditor General

MANAGEMENT RESPONSES

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

EXHIBIT A
AUDIT SCOPE AND METHODOLOGY

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

EXHIBIT A (CONTINUED)
AUDIT SCOPE AND METHODOLOGY

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

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

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

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

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)



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**Palm Beach County
Board of County
Commissioners**

**Priscilla A. Taylor, Mayor
Fazilette Durdick, Vice Mayor**

Earl R. Velasco

Shelley Vana

Steven L. Abrams

Mary Lou Berger

Joan R. Santomarchi

County Administrator

Robert Weisman

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Official Electronic Letterhead

April 23, 2014

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

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

Dear Mr. Martin:

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

Sincerely,

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

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

**EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)**

PALM BEACH COUNTY VALUE ADJUSTMENT BOARD (VAB)

RESPONSE TO FLORIDA AUDITOR GENERAL PRELIMINARY AUDIT REPORT

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

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

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

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

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

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

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

Finding No. 10: VAB Written Decisions

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

Finding No. 13: VAB Citizen Members

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

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

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

Finding No. 1: Independence of the Appeal Process

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

EXHIBIT C
MANAGEMENT RESPONSES (CONTINUED)

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

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

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

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

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

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

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