

Review of Land Management Plan Oversight

Division of State Lands

Report: A-2021DEP-007

Office of Inspector General

Internal Audit Section

Florida Department of Environmental Protection

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Tallahassee, Florida 32399-3000

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The Florida Department of Environmental Protection (Department), Office of Inspector General (OIG) conducted a review of Land Management Plans managed by the Division of State Lands (Division) Office of Environmental Services (OES). This review was initiated as a result of the Fiscal Year (FY) 2020-2021 Annual Audit Plan.

Scope and Objectives

The scope of this review included current conservation uplands leases managed by the Division requiring a Land Management Plan. The objective was to evaluate oversight of Land Management Plans and Land Management Reviews in compliance with Sections 253.034 and 259, Florida Statutes (F.S.).

Methodology

This review was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*, published by the Institute of Internal Auditors, and under the authority of Section 20.055, (F.S.). Our procedures included a review of statutory requirements, conservation uplands leases, Land Management Plans, and annual Land Management Review Team reports.

Background

The Division is Florida's lead agency for environmental management stewardship, serving as staff of the Board of Trustees of the Internal Improvement Trust Fund (BOT). The Division oversees management activities on more than 12 million acres of public lands including lakes, rivers, and islands. Section 253 F.S. outlines the Department's responsibilities for the acquisition, administration, and disposition of state-owned lands.

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According to Chapter 18-2.017(51), Florida Administrative Code (F.A.C.), uplands are defined as those lands above the mean high-water line (or ordinary high-water line), title to which is vested in the BOT. The BOT has ownership of over 3.3 million acres of upland property. State-owned uplands are managed for a variety of uses including parks, forests, wildlife management areas, historic sites, educational facilities (including public universities) and correctional institutions. According to Section 253.034(2)(c), F.S., “*Conservation lands*” means lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands. As of August 2020, the number of conservation upland leases managed by the Division were as follows:

Uplands Leases – Conservation Lands		
Lessee	Number of Leases	Percentage of Total Conservation Uplands Leases
Federal	9	1.9%
State	296	61.5%
County	104	21.6%
City	61	12.7%
University	3	< 1%
Commercial	1	< 1%
Private	7	1.5%
Total	481	100%

Results

Receipt of Land Management Plans

Section 253.034(5), F.S., requires that *Each manager of conservation lands shall submit to the Division a land management plan at least every ten years in a form and manner adopted by rule of the board of trustees and in accordance with s. 259.032.* Additionally, Section 253.034(5)(e), (F.S.), states, *Land management plans are to be updated every ten years on a*

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rotating basis. OES tracks Land Management Plans for conservation leases through the use of an internal spreadsheet. The dates Land Management Plans are received by the Division are not included in this spreadsheet. As a result, compliance with submission requirements under Section 253.034(5), F.S. could not be determined. As of October 2020, the tracking spreadsheet documented that 362 (75%) of the 481 leases requiring Land Management Plans were considered to be in compliance¹ with Land Management Plan submission requirements. Of the 120 leases documented by OES with overdue Land Management Plans, 49 were managed by the Department. Based on a review of these 49, we verified records from the Division of Recreation and Parks (DRP) that demonstrated one was not overdue. One of the 48 past due Land Management Plan was for a lease transferred from the Office of Greenways and Trails (OGT) to DRP in 2012 for which management was not aware of DRP's management responsibility.

Of the Division's total 481 conservation land leases, we reviewed an additional sample of nine leases requiring submission of a Land Management Plan to determine whether the Division's internal tracking records accurately reflected Land Management Plan information and approval dates. Based on this review, the Division's tracking records reflected accurate Land Management Plan information and approval dates for the nine sampled leases.

Division Review of Land Management Plans

Section 253.034(5)(g), F.S., states, *The division shall review each plan for compliance with the requirements of this subsection, the requirements of chapter 259, and the requirements of the rules adopted by the board of trustees pursuant to this section.* Land Management Plans are received by OES and reviewed through the use of a checklist for requirements outlined in

¹ Land Management Plans approved within the last ten years are considered compliant.

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Chapter 18.2-2.021(4), F.A.C., Section 253.034 F.S., and Section 259.032, F.S. prior to submission to the Acquisition and Restoration Council (ARC) for review. Based on our review, the checklist used by OES includes all the elements required by Statute and Rule.

Land Management Reviews

Section 259.036(1)(b), F.S., states, *the department shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions.* Additionally, Section 259.036(2), F.S., states, *the land management review team shall review select management areas before the date the manager is required to submit a 10-year land management plan update. For management areas that exceed 1,000 acres in size, the department shall schedule a land management review at least every 5 years. The manager shall consider the findings and recommendations of the land management review team in finalizing the required 10-year update of its management plan.* Each year, OES staff conduct land management reviews for managed areas which exceed 1,000 acres on a five-year rotation. These reviews assess whether the lands are being managed for the purpose for which they were acquired, and whether they are being managed in accordance with their approved Land Management Plans. An annual Land Management Review Team Report is published each year with the collective review results. Per interviews with Division staff, the land management review schedule is tracked using an internal spreadsheet. According to OES records, 150 leases include management areas exceeding 1,000 acres. We compared these leases to reviews documented in the Division's published Land Management Review Team Reports beginning FY 2009-2010 through FY 2019-2020 and verified that the reviews had been conducted at least every five years as required.

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Land Management Plan Conservation Goals

Section 253.034(5), F.S., states that *Each land management plan for state conservation lands shall provide a desired outcome, describe both short-term and long-term management goals, and include measurable objectives to achieve those goals.* Section 253.034(4), F.S., states that *If an entity managing or leasing state-owned lands from the board of trustees does not meet the short-term goals under paragraph (5)(b) for conservation lands, the Department of Environmental Protection may submit the lands to the Acquisition and Restoration Council to review whether the short-term goals should be modified, consider whether the lands should be offered to another entity for management or leasing, or recommend to the board of trustees whether to surplus the lands.*

Based on discussions with OES staff and review of Land Management Review Team Reports, short term goals are not specifically addressed during the Division's land management reviews process. As a result, the Division does not have a mechanism in place which would outline the process in which lands not meeting short-term goals would be submitted to ARC for review. However, in response to a Division Performance Measure Assessment issued by the OIG on August 18, 2020, the Division established a Performance Measure Assessment Improvement Plan on September 29, 2020, which addressed this process. According to the plan, going forward OES Land Management Review teams will include a review of short-term goals during scheduled land management reviews.

Conclusions

Based on our review, the Division has established a tracking system for Land Management Plans required under Section 253.034, F.S. However, this system does not include

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the date Land Management Plans are received to determine statutory compliance. The Division has established a process for reviewing Land Management Plans which is consistent with statutory and rule requirements. Of the Land Management Plans that had not been updated in the past ten years, 40% (48) were managed by the Department.

Findings and Recommendations

Finding 1: Land Management Plan Submissions

Section 253.034(5), F.S., requires that *Each manager of conservation lands shall submit to the Division a land management plan at least every ten years in a form and manner adopted by rule of the board of trustees and in accordance with s. 259.032.* Additionally, Section 253.034(5)(e), F.S., states, *Land management plans are to be updated every ten years on a rotating basis.* OES tracks Land Management Plans for conservation leases through the use of an internal spreadsheet. The dates Land Management Plans are received by the Division are not included in this spreadsheet. Alternatively, OES uses the date Land Management Plans are updated as a determining factor regarding compliance. While this date demonstrates the managing entity's level of compliance with Section 253.034(5)(e), F.S., it does not represent the required submission date as a measure of compliance with Section 253.034(5), F.S. Once Land Management Plans are received, they must be reviewed by the Division and submitted to ARC for review and approval. The time necessary for this process varies depending on individual Land Management Plan's circumstances.

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Recommendation

We recommend the Division work with OES to better document and monitor the date of Land Management Plan submission by managing entities as a means of demonstrating the level of compliance with Section 253.034(5), F.S.

Finding 2: Past Due Land Management Plans Managed by the Department

Section 253.034(5), F.S., requires that *Each manager of conservation lands shall submit to the Division a land management plan at least every ten years in a form and manner adopted by rule of the board of trustees and in accordance with s. 259.032.* Additionally, Section 253.034(5)(e), F.S., states, *Land management plans are to be updated every ten years on a rotating basis.* Of the 119² conservation land leases with past due Land Management Plans, 48 were managed by the Department. Of these, DRP is the managing entity for 47 leases and the Office of Resilience and Coastal Protection (ORCP) is the managing entity for one lease. DRP Office of Park Planning (OPP) and ORCP management provided documentation demonstrating that 16 were being prioritized for completion in FY 2020-2021. The past due dates for the remaining 31 ranged from 2002 to 2020. Both OES and OPP staff indicated that keeping DRP Land Management Plans updated in compliance with Section 253.034(5)(e), F.S. had been identified as a challenge over the past several years. OPP management provided correspondence from 2017 demonstrating the Division's and OPP's past efforts to address the noncompliance. OPP management indicated that limited staff

² The Division's list included 120 leases with past due management plans. During the course of our audit, we noted that one of these was not past due.

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resources and addressing input from external entities had historically hindered timely updates to DRP Land Management Plans.

Recommendation

We recommend the Division work with DRP to identify current circumstances hindering overdue Land Management and develop a process which documents and addresses causes of delay in order the ensure Land Management Plans under the Department’s responsibility are updated in compliance with Section 253.034(5)(e), F.S.

Management Comment

Lease 4364 for the Lake Okeechobee Scenic Trail

One past due Land Management Plan under the Department’s responsibility was for Lease 4364 of the Lake Okeechobee Scenic Trail. According to documentation obtained from the Division and DRP, this lease was assigned to OGT on September 2, 2004 and was subsequently transferred to DRP on December 21, 2011.



Map of Leased Area

Annual lease fees of \$300 have been paid by DRP. However, DRP OPP management was unaware of the Department’s management responsibility and advised that the land was managed by the United States Army Corps of Engineers. Based on a title determination obtained from the Division’s Title and Lands Records Section, the leased property is subject to three Right of Way Easements granted to the Central and Southern Florida Flood Control

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District³ and three Right of Way Easements to the United States of America⁴. While Right of Way Easements grant these entities a perpetual easement for right of way for specific works, they do not convey management responsibility as established under the lease. Upon request, neither OGT nor DRP could provide documentation of any other agreements with the United States Army Corps of Engineers regarding management of the trail. The Division and DRP would benefit from a review of the lease, Right of Way Easements, and any other related party documents to determine necessary actions regarding DRP's management responsibility and required Land Management Plan.

To promote accountability, integrity, and efficiency in state government, the OIG completes audits and reviews of agency programs, activities, and functions. Our review was conducted under the authority of Section 20.055, F.S., and in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors, and Principles and Standards for Offices of Inspector General, published by the Association of Inspectors General. The review was conducted by Jay Cumbie and was supervised by Valerie J. Peacock.

Please address inquiries regarding this report to the OIG's Audit Director by telephone at (850) 245-3151. Copies of final reports may be viewed and downloaded via the internet at <https://floridadep.gov/oig/internal-audit/content/final-audit-reports>. Copies may also be obtained by telephone (850) 245-3151, by fax (850)245-2994, in person or by mail at Department of Environmental Protection, Office of Inspector General, 3900 Commonwealth Boulevard, Mail Station #41, Tallahassee, FL 32399.

*Valerie J. Peacock,
Director of Auditing*

*Candie M. Fuller,
Inspector General*

³ The Central and Southern Florida Flood Control District was the predecessor to the South Florida Water Management District, which was established in 1972 with the Florida Water Resources Act. (Section 373, F.S.)

⁴ Easement is designated for use by the United States Army Corps of Engineers.

Response to the Office of Inspector General, Internal Audit Section
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The Florida Department of Environmental Protection (Department), Office of Inspector General (OIG) conducted a review of Land Management Plans managed by the Division of State Lands (Division) Office of Environmental Services (OES). This review was initiated as a result of the Fiscal Year (FY) 2020-2021 Annual Audit Plan. The scope of this review included current conservation uplands leases managed by the Division requiring a Land Management Plan. The objective was to evaluate oversight of Land Management Plans and Land Management Reviews in compliance with Sections 253.034 and 259, Florida Statutes (F.S.). The results of the review included two findings with recommendations. The findings, recommendations, and the Divisions response can be found below.

Finding 1: Land Management Plan Submissions

Section 253.034(5), F.S., requires that *Each manager of conservation lands shall submit to the Division a land management plan at least every ten years in a form and manner adopted by rule of the board of trustees and in accordance with s. 259.032.* Additionally, Section 253.034(5)(e), F.S., states, *Land management plans are to be updated every ten years on a rotating basis.* OES tracks Land Management Plans for conservation leases using a spreadsheet. The dates Land Management Plans are received by the Division are not included in this spreadsheet. Alternatively, OES uses the date Land Management Plans are updated as a determining factor regarding compliance. While this date demonstrates the managing entity's level of compliance with Section 253.034(5)(e), F.S., it does not represent the required submission date as a measure of compliance with Section 253.034(5), F.S. Once Land Management Plans are received, they must be reviewed by the Division and submitted to ARC for review and approval. The time necessary for this process varies depending on individual Land Management Plan's circumstances.

Recommendation

We recommend the Division work with OES to better document and monitor the date of Land Management Plan submission by managing entities as a means of demonstrating the level of compliance with Section 253.034(5), F.S.

Response (Action)

1. OES has added a column for submittal date to the current internal tracking spreadsheet. Historically, compliance has been based on the ARC approval date. The submittal date column in the current tracking sheet has been added, and submittal dates have started being tracked as of February 11, 2021.

2. Submittal date is a required field in the upcoming Land Stewardship Module of the Land Management System (LMS). In LMS, the submittal date will be entered and saved in the appropriate field. Bureau of State-Owned Lands Inventory has estimated that enhancements to the system will be functional by June 30, 2021.

Finding 2: Past Due Land Management Plans Managed by the Department

Section 253.034(5), F.S., requires that *Each manager of conservation lands shall submit to the Division a land management plan at least every ten years in a form and manner adopted by rule of the board of trustees and in accordance with s. 259.032.* Additionally, Section 253.034(5)(e), F.S., states, *Land management plans are to be updated every ten years on a rotating basis.* Of the 119 conservation land leases with past due Land Management Plans, 48 were managed by the Department. Of these, DRP is the managing entity for 47 leases and the Office of Resilience and Coastal Protection (ORCP) is the managing entity for one lease. DRP Office of Park Planning (OPP) and ORCP management provided documentation demonstrating that 16 were being prioritized for completion in FY 2020-2021. The past due dates for the remaining 31 ranged from 2002 to 2020. Both OES and OPP staff indicated that keeping DRP Land Management Plans updated in compliance with Section 253.034(5)(e), F.S. had been identified as a challenge over the past several years. OPP management provided correspondence from 2017 demonstrating the Division's and OPP's past efforts to address the noncompliance. OPP management indicated that limited staff resources and addressing input from external entities had historically hindered timely updates to DRP Land Management Plans.

Recommendation

We recommend the Division work with DRP to identify current circumstances hindering overdue Land Management and develop a process which documents and addresses causes of delay in order the ensure Land Management Plans under the Department's responsibility are updated in compliance with Section 253.034(5)(e), F.S.

Response (Action)

1. DRP will conduct a review of circumstances that have hindered completion of Land Management Plans including process, products and availability of staffing. This review will be conducted by April 30, 2021.
2. Based on the above review, DSL will assist DRP as needed with updating processes and adapting the product, and DRP will put in place adequate staff to comply with Section 253.034(5)(e), F.S. A report with the recommended improvements will be completed by June 30, 2021.