

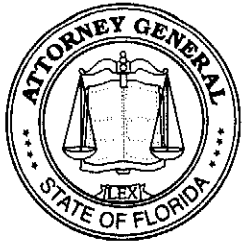
Legislative Budget Request

FY 2012-13



Department of Legal Affairs Office of the Attorney General Department Level Exhibits and Schedules

**PL 01 The Capitol
Tallahassee, Florida 32399-1050**



OFFICE OF THE ATTORNEY GENERAL

Department of Legal Affairs
Plaza Level 01, The Capitol
Tallahassee, FL 32399-1050
<http://www.myfloridalegal.com>

PAM BONDI
ATTORNEY GENERAL
STATE OF FLORIDA

Legislative Budget Request

Department of Legal Affairs

October 15, 2011

Jerry L. McDaniel, Director
Office of Policy and Budget
Executive Office of the Governor
1701 Capitol
Tallahassee, Florida 32399-0001

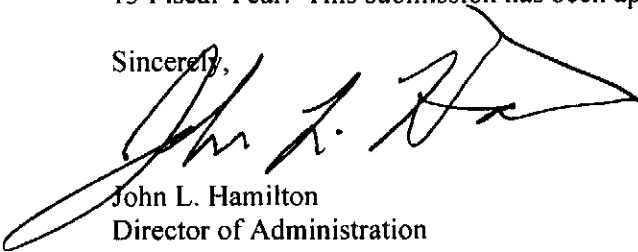
JoAnne Leznoff, Council Director
House Full Appropriations Councils
221 Capitol
Tallahassee, Florida 32399-1300

Terry Rhodes, Staff Director
Senate Budget Committee
201 Capitol
Tallahassee, Florida 32399-1300

Dear Directors:

Pursuant to Chapter 216, Florida Statutes, our Legislative Budget Request for the Department of Legal Affairs is submitted in the format prescribed in the budget instructions. The information provided electronically and contained herein is a true and accurate presentation of our proposed needs for the 2012-13 Fiscal Year. This submission has been approved by Attorney General Pam Bondi.

Sincerely,



John L. Hamilton
Director of Administration

Department Level Exhibits and Schedules



Schedule IV-C

Recurring Information Technology Budget Planning

Non- Strategic IT Service:

Agency Financial and Administrative Systems Support Service

Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources
 Apportioned to this IT Service in FY 2012-13

Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012-13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			1.00		\$70,105
A-1	State FTE		1.00		\$70,105
A-2	OPS FTE		0.00		\$0
A-3	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware			1	0	\$0
B-1	Servers	1	1	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3	Other Hardware Assets (Please specify in Footnote Section below)		0	0	\$0
C. Software		2			\$11,928
D. External Service Provider(s)			0	0	\$0
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$82,033
G. Please identify the number of users of this service.					1,350
H. How many locations currently host agency financial/administrative systems?					16
I. Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	SQL server used for Accounting and Finance transaction and reporting				
2	Citrix GoToMeeting 10 Licenses \$5,760. BlueZone \$5,160. Camtasia \$458. OSCFile \$550 Total \$11,928				
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Non-Strategic IT Service:

Data Center Service

Dept/Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources
 Apportioned to this IT
 Service In FY 2012-13

Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012-13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel (performing data center functions defined in w. 282.201(2)(d)1.e., F.S.)			0.00		\$0
A-1.1	State FTE		0.00		\$0
A-2.1	OPS FTE		0.00		\$0
A-3.1	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware					\$0
B-1	Non-Mainframe Servers (including single-function logical servers not assigned to another service)		0	0	\$0
B-2	Servers - Mainframe		0	0	\$0
B-3	Server Maintenance & Support		0	0	\$0
B-4	Online or Archival Storage Systems (indicate GB of storage)		0		\$0
B-5	Data Center/ Computing Facility Internal Network				\$0
B-6	Other Hardware (Please specify in Footnotes Section below)				\$0
C. Software					\$0
D. External Service Provider(s)					\$0
D-1	Southwood Shared Resource Center (indicate # of Board votes)		0		\$0
D-2	Northwood Shared Resource Center (indicate # of Board votes)		0		\$0
D-3	Northwest Regional Data Center (indicate # of Board votes)		0		\$0
D-4	Other Data Center External Service Provider (specify in Footnotes below)				\$0
E. Plant & Facility					\$8,246
E-1	Data Center/Computing Facilities Rent & Insurance	1			\$8,246
E-2	Utilities (e.g., electricity and water)	1			\$0
E-3	Environmentals (e.g., HVAC, fire control, and physical security)	1			\$0
E-4	Other (please specify in Footnotes Section below)				\$0
F. Other (Please describe in Footnotes Section below)					\$0
G. Total for IT Service					\$8,246
H. Please provide the number of agency data centers.					0
I. Please provide the number of agency computing facilities.					0
J. Please provide the number of single-server installations.					0
H. Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	Annual agency Data Center Rent is \$8246.40 and includes utilities and environmentals.				
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Non- Strategic IT Service:		Desktop Computing Service			
Agency: Dept. of Legal Affairs/Off of Attorney Gen		# of Assets & Resources Apportioned to this IT Service in FY 2012- 13			
Prepared by: Deborah Stevens / Director of Information Services					
Phone: 850-414-3511					
Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012- 13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			4.25		\$289,748
A-1	State FTE	1, 6, 7	4.25		\$289,748
A-2	OPS FTE		0.00		\$0
A-3	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware			2062	260	\$189,875
B-1	Servers		0	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3.1	Desktop Computers	2	1482	185	\$138,750
B-3.2	Mobile Computers (e.g., Laptop, Notebook, Handheld, Wireless Computer)	3	480	50	\$48,000
B-3.3	Other Hardware Assets (Please specify in Footnote Section below)	4, 5	100	25	\$3,125
C. Software					\$0
D. External Service Provider(s)			0	0	\$0
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$479,623
G. Please identify the number of users of this service.					1,350
H. How many locations currently use this service?					16
I. Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	Total 4.25 FTE actually represents staff time across at least 17 different people, who also provide support in strategic and other non-strategic services.				
2	Based on 17% replacements @ \$750/desktop. PC cost has dropped and not replacing monitors unless needed, replacement schedule is 6 years.				
3	Based on 17% replacements @ \$960/laptop. Replacement schedule is 6 years.				
4	Based on 25% replacement @ \$125/unit for desktop printer/scanners.				
5	Prior years used replacement schedule/costs as for high-end networked printers/scanners, which are now reported in Network Service. As more lower-end desktop printers have been purchased, life span is shorter, but replacement costs are much lower.				
6	Includes staff time required for supporting strategic Lotus Notes client desktop, critical to this agency, since the notes client is part of the agency's standard desktop configuration.				
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Non- Strategic IT Service:

E-Mail, Messaging, and Calendaring Service

Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources
 Apportioned to this IT Service in FY 2012-13

Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012-13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel					\$80,330
A-1	State FTE	1	1.00		\$80,330
A-2	OPS FTE		0.00		\$0
A-3	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware					\$0
B-1	Servers	2	5	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3	Wireless Communication Devices (e.g., Blackberries, I-phones, PDAs, etc.)		0	0	\$0
B-4	Online Storage (indicate GB of storage)		0		\$0
B-5	Archive Storage (indicate GB of storage)		0		\$0
B-6	Other Hardware Assets (Please specify in Footnote Section below)	3			\$0
C. Software					\$33,532
D. External Service Provider(s)					\$44,988
D-1	Southwood Shared Resource Center				\$0
D-2	Northwood Shared Resource Center				\$0
D-3	Northwest Regional Data Center				\$0
D-4	Other Data Center External Service Provider (specify in Footnotes below)	6			\$44,988
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$158,850
G. Please provide the number of user mailboxes.					1,368
H. Please provide the number of resource mailboxes.					62
I. Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	Total FTE actually represents staff time across at least 7 different people. At least 90% of this staffing would still be required by the agency to support strategic and workflow apps, even if migrated to statewide email system.				
2	There are a total of 5 Email/Messaging servers, 3 mail, 1 smtp, 1 blackberry. None due for replacement during FY 2012-13				
3	Ironport Email Security Appliance(s)				
4	Software licensing costs: (Notes Licenses \$9,792, Domino Blackberry Messaging - \$732, Blackberry Server Maintenance \$3,053, Ironport Email filter subscription \$19,035 Total \$33,532)				
5	Because of different category structures with different budget entities these expenditures can be paid from OCO, Expenses, Data Processing Services or numerous Special Categories.				
6	Blackberry service plan costs paid to Verizon for e-mail (unlimited data) service: 100 devices x \$37.497/mo x 12 => \$44,988 per year. Needed for mobile workforce of field investigators and attorneys.				
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Non-Strategic IT Service:

Helpdesk Service

Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources
 Apportioned to this IT Service in FY 2012-13

Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012-13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			0.50		\$33,577
A-1	State FTE	1, 2	0.50		\$33,577
A-2	OPS FTE		0.00		\$0
A-3	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware			0	0	\$0
B-1	Servers		0	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3	Other Hardware Assets (Please specify in Footnote Section below)		0	0	\$0
C. Software		3			\$0
D. External Service Provider(s)			0	0	\$0
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$33,577
G. Please identify the number of users of this service.					1,350
H. How many locations currently host IT assets and resources used to provide this service?					16
I. What is the average monthly volume of calls/cases/tickets?					10,980
J. Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	in prior years, staffing had incorrectly included resources resolving desktop, application, and strategic problems. Reduced number correctly reports total staff resources spent performing help desk duties.				
2	Helpdesk duties are actually shared by numerous individuals statewide, who also perform duties in desktop, network, security/risk, IT admin, and strategic service areas.				
3	Helpdesk System is custom in-house Notes based system developed 10 years ago which has no cost associated with it. No centralized helpdesk.				
4	Average annual volume of calls/cases/tickets reported to allow for the calculated cost per ticket to be correct.				
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Non- Strategic IT Service:

IT Administration and Management Service

Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources
 Apportioned to this
 IT Service in FY
 2012- 13

C

Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012- 13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			1.00		\$72,519
A-1	State FTE	1	1.00		\$72,519
A-2	OPS FTE		0.00		\$0
A-3	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware			0	0	\$0
B-1	Servers		0	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3	Other Hardware Assets (Please specify in Footnote Section below)		0	0	\$0
C. Software					\$0
D. External Service Provider(s)			0	0	\$0
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$72,519
G. How many locations currently host assets and resources used to provide this service?					0
G. Footnotes – Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	Low IT Admin cost correctly indicates the flat IT organizational structure (matrix) and lack of overhead for extensive management, project management, and contractual oversight.				
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Non- Strategic IT Service:

IT Security/Risk Mitigation Service

Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources
 Apportioned to this IT Service in FY 2012- 13

Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012- 13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			2.50		\$206,427
A-1	State FTE		2.50		\$206,427
A-2	OPS FTE		0.00		\$0
A-3	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware			1	0	\$0
B-1	Servers	1	1	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3	Other Hardware Assets (Please specify in Footnote Section below)		0	0	\$0
C. Software		2			\$48,185
D. External Service Provider(s)			0	0	\$0
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$254,612
G. Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.					
1	Safeboot/Symantec parent server				
2	Renewals: McAfee Endpoint Encryption 400 machines/800 users - \$1,656, Symantec Antivirus for 1350 users - \$18,221, Ironport Web Security - \$26,271, GFI LanGuard - \$2,037, Total \$48,185				
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Non- Strategic IT Service:		Network Service			
Dept/Agency: Dept. of Legal Affairs/Off of Attorney Gen				# of Assets & Resources Apportioned to this IT Service in FY 2012- 13	
Prepared by: Deborah Stevens / Director of Information Services					
Phone: 850-414-3511					
Service Provisioning -- Assets & Resources (Cost Elements)		Footnote Number	Number used for this service	Number w/ costs in FY 2012- 13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			2.25		\$192,985
A-1.1	State FTE	10	2.25		\$192,985
A-2.1	OPS FTE		0.00		\$0
A-3.1	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware					\$204,101
B-1	Servers	1, 4, 9	41	6	\$72,000
B-2	Server Maintenance & Support	2	140	82	\$0
B-3	Network Devices & Hardware (e.g., routers, switches, hubs, cabling, etc.)	1, 3, 4	70	14	\$35,000
B-4	Online Storage for file and print (indicate GB of storage)		0		\$0
B-5	Archive Storage for file and print (indicate GB of storage)		0		\$0
B-6	Other Hardware Assets (Please specify in Footnote Section below)	1, 4, 7, 13			\$97,101
C. Software		4, 6			\$29,070
D. External Service Provider(s)					\$270,610
D-1	MyFloridaNet	4, 5			\$211,620
D-2	Other (Please specify in Footnote Section below)	8			\$58,990
E. Other (Please describe in Footnotes Section below)					\$0
F. Total for IT Service					\$696,766
G. Please identify the number of users of the Network Service					1,350
H. How many locations currently host IT assets and resources used to provide LAN services?					14
I. How many locations currently use WAN services?					14
J.	Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.				
1	Standard life expectancy for all network service hardware is 5 years. Of the 41 Non-Strategic Servers, 13 are out of warranty hardware used for various purposes, leaving 28 as the number of servers used in calculating annual replacement costs.				
2	We do not pay hardware maintenance on servers, nor have any service contracts. 5 year warranty is purchased with equipment and is supported by staff.				
3	Total represents one NAT router at \$5,000 and 12 switches for MFCU \$30,000				
4	These expenditures may be paid from OCO, Expense, Data Processing Services, or numerous Special Categories.				
5	MFN - \$16,237.54 x 12 = \$194,844, MAN Access and Port charge \$1398 x 12 = \$16,776, Total \$211,620				
6	Annual software maintenance. Quantity includes (4) Diskkeeper \$9,720, 21 OnDelete \$1,200, 40 ReplicationExec \$8,500, 3 BackupExec \$375, 14 VMWare \$12,250 Total \$24,245). Added Citrix Server and clients (70 client licenses \$3,150 and annual Verisign certificate(s) \$995, Tricerat Screwdriver				
7	Quantity includes 207 network printers and 30 OPS devices. Annual maintenance on network printers: \$5500. Annual maintenance on network copier/scanner/printers \$37,164. Printers are only replaced as needed, approx 8-yr cycle, 26 x \$2000 each \$52,000. Cisco ASA Firewall - \$4,437 Total				
8	service print costs for 102 aircards x \$40.01 x 12 = \$49,772. needed for mobile workforce of field investigators and attorneys. 8 investigative networks x \$139.15/mo. X12 = \$10,019. Total \$58,990				
9	There are a total of 70 servers. 27 are Strategic. Others: 3 Email/messaging, 1 Risk, 1 Agency Admin, 1 Portal Leaving a total of 41 Non-Strategic servers.				
10	Total staffing includes statewide support of network printers by field office IT staff				
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Non-Strategic IT Service:

Web/Portal Service

Dept/Agency: **Dept. of Legal Affairs/Off of Attorney Gen**
 Prepared by: **Deborah Stevens / Director of Information Services**
 Phone: **850-414-3511**

of Assets & Resources Apportioned to this IT Service In FY 2012-13

Service Provisioning -- Assets & Resources <i>(Cost Elements)</i>		Footnote Number	Number used for this service	Number w/ costs in FY 2012-13	Estimated FY 2012-13 Allocation of Recurring Base Budget (based on Column G64 minus G65)
A. Personnel			0.25		\$12,875
A-1.1	State FTE		0.25		\$12,875
A-2.1	OPS FTE		0.00		\$0
A-3.1	Contractor Positions (Staff Augmentation)		0.00		\$0
B. Hardware					\$0
B-1	Servers	1	1	0	\$0
B-2	Server Maintenance & Support		0	0	\$0
B-3	Other Hardware Assets <i>(Please specify in Footnotes Section below)</i>		0	0	\$0
C. Software					\$0
D. External Service Provider(s)		2	5	5	\$175
E. Other <i>(Please describe in Footnotes Section below)</i>					\$0
F. Total for IT Service					\$13,050
G. Please identify the number of Internet users of this service.					1,000,000
H. Please identify the number of intranet users of this service.					1,350
I. How many locations currently host IT assets and resources used to provide this service?					1
J.	Footnotes - Please indicate a footnote for each corresponding row above. Maximum footnote length is 1024 characters.				
1	Agency non-strategic web portal				
2	Domain name registration 5 x \$35 = \$175				
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Agency: Dept. of Legal Affairs/Off of Attorney Gen

E-Mail, Messaging, and Calendaring Service	Network Service	Desktop Computing Service	Helpdesk Service	IT Security/Risk Mitigation Service	Agency Financial and Administrative Systems Support Service	IT Administration and Management Service	Web/Portal Service	Data Center Service
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Budget Entity Name	BE Code	Program Component Code	Program Component Name	Identified Funding as % of Total Cost of Service		E-Mail, Messaging, and Calendaring Service	Network Service	Desktop Computing Service	Helpdesk Service	IT Security/Risk Mitigation Service	Agency Financial and Administrative Systems Support Service	IT Administration and Management Service	Web/Portal Service	Data Center Service
				Costs within BE	Funding Identified for IT Service									
				\$1,790,276		100.0000%	100.0001%	99.9999%	100.0012%	96.4652%	99.9999%	99.9999%	100.0003%	100.0000%
				\$158,850		\$158,850	\$696,766	\$479,623	\$33,577	\$245,612	\$82,033	\$72,519	\$13,050	\$8,246
1	Executive Direction and Supc	41100500	1602000000	Executive Leadership and Support S	\$1,790,276	\$158,850	\$696,766	\$479,623	\$33,577	\$245,612	\$82,033	\$72,519	\$13,050	\$8,246
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Sum of IT Cost Elements Across IT Services

Personnel	State FTE (#)	12.75	1.00	2.25	4.25	0.50	2.50	1.00	1.00	0.25	0.00
Personnel	State FTE (Costs)	\$958,566	\$80,330	\$192,985	\$289,748	\$33,577	\$206,427	\$70,105	\$72,519	\$12,875	\$0
Personnel	OPS FTE (#)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Personnel	OPS FTE (Cost)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Personnel	Vendor/Staff Augmentation (# Positions)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Personnel	Vendor/Staff Augmentation (Costs)	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Hardware		\$393,976	\$0	\$204,101	\$189,875	\$0	\$0	\$0	\$0	\$0	\$0
Software		\$122,715	\$33,532	\$29,070	\$0	\$0	\$48,185	\$11,928	\$0	\$0	\$0
External Services		\$315,773	\$44,988	\$270,610	\$0	\$0	\$0	\$0	\$0	\$175	\$0
Plant & Facility (Data Center Only)		\$8,246									\$8,246
Other		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	Budget Total	\$1,799,276	\$158,850	\$696,766	\$479,623	\$33,577	\$254,612	\$82,033	\$72,519	\$13,050	\$8,246
	FTE Total	12.75	1.00	2.25	4.25	0.50	2.50	1.00	1.00	0.25	0.00
	Users		1,430	1,350	1,350	1,350		1,350		1,001,350	
	Cost Per User		111.0838808	\$516.12	\$355.28	\$24.87		\$60.77		\$0.01	

(cost/all mailboxes)

Help Desk Tickets: 10,980

Cost/Ticket: \$3

IT Cost Element Data as entered on IT Service Worksheets

Department Level Exhibits and Schedules



Schedule IIV

Agency Litigation Inventory

STATE PROGRAMS

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Blaine Winship	Phone Number:	850-414-3657
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	State of Florida, Office of the Attorney General v. Bradenton Group, Inc., et al.		
Court with Jurisdiction:	Ninth Judicial Circuit, Orange County		
Case Number:	1995-CA-6890-O		
Summary of the Complaint:	Civil RICO forfeiture action for multiple bingo operations in violation of lottery statute as predicate for Florida RICO violation; later amended to include bingo operations in violation of federal RICO as predicate for Florida RICO violation		
Amount of the Claim:	\$ 6 million		
Specific Statutes or Laws (including GAA) Challenged:	Florida RICO Act, section 895.01, et seq., Fla. Stat.; bingo statute, section 849.0931, Fla. Stat.; lottery statute, section 849.09, Fla. Stat.		
Status of the Case:	Plaintiff, State of Florida, Office of the Attorney General, sought and obtained temporary injunction in November 1995, enjoining continued operation of bingo halls in violation of law. Injunction was later overturned by Florida Supreme Court. Defendants moved for wrongful injunction damages, and won awards of lost business profits and attorney’s fees and costs. Attorney’s fees and costs judgments have been satisfied by Division of Risk Management. Lost business damages award, entered on August 20, 2008, totaled \$4,603,722, as to which legal interest accrues. The case is at the collection stage. Plaintiff has demonstrated that no legislative appropriation exists to pay the judgment, and thus maintains that section 11.066, Fla. Stat., limits defendants to petitioning the Legislature for redress.		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Blaine Winship	Phone Number:	850-414-3657
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	State of Florida, by and through Pam Bondi, Attorney General of the State of Florida, et al., v. United States Department of Health and Human Services, et al.		
Court with Jurisdiction:	United States Court of Appeals, Eleventh Circuit		
Case Number:	11-11021 & 11-11067		
Summary of the Complaint:	The Patient Protection and Affordable Care Act, as amended, (“ACA”) is unconstitutional in that it exceeds Congress’s powers under Article I, violates the 9 th and 10 th Amendments and the Constitution’s principles of federalism and dual sovereignty, and violates due process rights of individuals; declaratory and injunctive relief sought.		
Amount of the Claim:	Greater than \$500 million in extra Medicaid program costs in the event the PPACA is ruled to be constitutional.		
Specific Statutes or Laws (including GAA) Challenged:	Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by Pub. L. No. 111-152, 124 Stat. 1029 (2010).		
Status of the Case:	Second Amended Complaint joined 26 States as plaintiffs along with Nat’l Ass’n of Ind. Business and 2 individuals. District Court entered summary judgment in plaintiffs’ favor, holding Act to be		

	<p>unconstitutional. 11th Circuit affirmed lower court’s holding that the “individual mandate” portion of Act is unconstitutional, but reversed the holding that the entire Act must be stricken, instead deeming the mandate to be severable. The 11th Circuit affirmed the lower court’s denial of plaintiffs’ claim that the Medicaid changes under the Act exceeded Congress’s spending power under Article I. The case is widely expected to be heard by the U.S. Supreme Court. If the Medicaid provisions of the Act survive intact, there likely will be significant adverse effects on the fisc of the State of Florida for Medicaid-related outlays, with the outlays proportionally increasing through FY 2020; the dollar amounts of outlay increases are uncertain, but could be in the tens of millions of dollars, if not more.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
	X	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Blaine Winship	Phone Number:	850-414-3657
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	George Williams, et al. v. Rick Scott, et al.		
Court with Jurisdiction:	Circuit Court, 2nd Jud. Cir., Leon County		
Case Number:	2011 CA 1584		

Summary of the Complaint:	Civil action seeking declaratory, injunctive, and other relief, arising from legislative changes to Florida Retirement System, effective July 1, 2011, requiring FRS employees to contribute 3 percent of salary to FRS, and changing cost of living adjustment to reduce it from 3 percent for FRS benefits based on labor services provided by FRS employees on or after July 1, 2011. The complaint alleges that these changes in FRS are unconstitutional (1) impairment of contract (Art. I, sec. 10); (2) takings (Art. X, sec. 6); and (3) abridgement of collective bargaining right (Art. I, sec. 6).	
Amount of the Claim:	approximately \$800 million per FY.	
Specific Statutes or Laws (including GAA) Challenged:	Chapter 2011-68, sections 5, 7, 11, 13, 17, 24, 26, 29, 33, 40, Laws of Florida (2011).	
Status of the Case:	Complaint was filed on or about June 20, 2011. Plaintiffs moved for a temporary injunction to sequester the 3 percent FRS employee contributions pending litigation; motion was denied. The parties are engaging in discovery in preparation for filing cross-motions for summary judgment in their favor. The hearing on the summary judgment motions is presently set for October 26, 2011.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input checked="" type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	(Initial class allegations were dropped by plaintiffs.)	

Schedule VII: Agency Litigation Inventory (2011).

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Florida Department of Health		
Contact Person:	Jon Whitney	Phone Number:	(850) 414-3672

Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Fernandez Antonio Asberry, DC# 304858 v. Officer Gary D. Collier, I.D. # 62666 of P.T.D.F., an individual; Officer Joshua Lee Dasher, I.D. # 62665, an individual; Sergeant Kenneth Westberry, I.D. # 5780 of P.T.D.F., an individual; A.R.N.P. Garner, health services staff member in her individual capacity, also known as Jane Doe.	
Court with Jurisdiction:	U. S. District Court, Middle District of Florida.	
Case Number:	Case No. 3:11-cv-180-J-34TEM	
Summary of the Complaint:	In this s.1983 civil rights action, Plaintiff's pro se Amended Complaint claims he was subject to excessive use of force and cruel and unusual punishment while incarcerated in Duval County Jail, and that appropriate medical treatment was withheld by Defendant Garner, represented by OAG.	
Amount of the Claim:	\$1,290,000.00	
Specific Statutes or Laws (including GAA) Challenged:	None.	
Status of the Case:	Defendant Garner's Motion to Dismiss is pending.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	Not applicable.	

Schedule VII: Agency Litigation Inventory (2011)

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Department of Highway Safety and Motor Vehicles		
Contact Persons:	Jon Whitney	Phone Number:	850-414-3672

Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Michael Bradsheer and Michael K. Johnson v. Electra Theodorides-Bustle, Executive Director, Florida Department of Highway Safety and Motor Vehicles.
Court with Jurisdiction:	Second Judicial Circuit in and for Leon County.
Case Number:	2007-CA-864
Summary of the Complaint:	This case involves a putative class action suit against HSMV for administratively ordering ignition interlock devices installed on the vehicles of those convicted of DUI and who have served their sentences as a condition of reinstatement of their driver licenses, which was done in the absence of a court order requiring installation of the interlock device. Plaintiffs' appeal to the First DCA resulted in remand of the case to the Circuit Court, with directions to determine availability of sec. 1983 and declaratory relief, and whether Plaintiffs were denied due process.
Amount of the Claim:	Potentially in excess of \$3 million but less than \$10 million.
Specific Statutes or Laws (including GAA) Challenged:	None.
Status of the Case:	HSMV's Motion to Dismiss is pending. Plaintiff's Motion to Lift Stay and Motion to Amend and Supplement Complaint are also pending.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	M. Stephen Turner, P.A. David Miller, P.A. Kelly Overstreet Johnson, P.A. Broad and Cassel 215 South Monroe Street Suite 400 Post Office Drawer 11300 Tallahassee, FL 32301

Schedule VII: Agency Litigation Inventory 2011.	
<i>For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.</i>	
Agency:	Florida Department of Health (Dr. Max Solano, M.D.).

Contact Person:	Jon Whitney	Phone Number:	(850) 414-3672
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Michael Maier v. Max Solano, M.D.; Gordon A. Bass; Sheriff John Rutherford; John Doe(s) 1 - 5, Correction Officer(s).		
Court with Jurisdiction:	U. S. District Court, Middle District of Florida, Jacksonville Division.		
Case Number:	3:09-cv-191-J-34TEM.		
Summary of the Complaint:	Plaintiff, a male to female transgendered person, alleges that staff at the Jacksonville Pre-trial Detention Center failed to allow her to access her hormonal medication and dilator from the vehicle she was driving between May 18, 2007 and May 21, 2007.		
Amount of the Claim:	\$500,000 - \$999,999.		
Specific Statutes or Laws (including GAA) Challenged:	None.		
Status of the Case:	Open. On July 21, 2011, the parties participated in informal mediation at the direction of the U. S. District Court, reaching terms of settlement, including dismissal of the case with prejudice, subject to payment to Plaintiff of \$20K by Defendants.		
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel	
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management	
	<input type="checkbox"/>	Outside Contract Counsel	
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	N/A.		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Florida Department of Health
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Contact Person:	Jon Whitney	Phone Number:	(850) 414-3672
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Dr. Harsh Sharma v. Susan Johnston, Board of Medicine, Department of Health		
Court with Jurisdiction:	U. S. Eleventh Circuit Court of Appeals.		
Case Number:	11-10488-A		
Summary of the Complaint:	<p><i>Pro se</i> Plaintiff Harsh Sharma, a federal prisoner currently confined at the Jesup Federal Correctional Institution in Jesup, Georgia, is appealing the dismissal of his <i>pro se</i> civil rights complaint, filed pursuant to 42 U.S.C. §1983, concerning the revocation of his medical license. The Plaintiff/Appellant is proceeding <i>in forma pauperis</i>. He seeks relief in this case from the revocation of Plaintiff's license to practice medicine. Plaintiff's license to practice medicine in the State of Florida, License No. ME0071440, was revoked by Defendant Florida Board of Medicine on June 26, 2007 by separate Final Orders entered in Florida Department of Health Case Nos. 2004-37110 and 005-08226. The plaintiff alleges that he was a physician licensed by the Florida Department of Health and Board of Medicine and the defendants conspired to violate his civil rights and deprive him of his property rights when they revoked his license to practice medicine without first providing him with proper notice of the proceeding and without his appearance at a Board of Medicine meeting.</p>		
Amount of the Claim:	\$25 million or greater.		
Specific Statutes or Laws (including GAA) Challenged:	None.		
Status of the Case:	Order Granting Appellant's Motion for Extension of Time to File Brief (7-7-2011).		
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel	
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management	
	<input type="checkbox"/>	Outside Contract Counsel	
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	Not applicable.		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Agency for Health Care Administration, Department of Children and Family Services and Department of Health		
Contact Person:	Stephanie Daniel	Phone Number:	850-414-3666
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	FLORIDA PEDIATRIC SOCIETY/THE FLORIDA CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS; FLORIDA ACADEMY OF PEDIATRIC DENTISTRY, INC.; ASHLEY DOVE, as the next friend of Kaleb Kelley, a minor child; RITA GORENFLO and LES GORENFLO, as the next friends of Thomas and Nathaniel Gorenflo, minor children, JESSY WATLEY, a minor child, by and through his next friend, Edna Watley; N.A., now known as N.R., a minor child, by and through his next friend, C.R., K.S., as the next friend of J.S., S.B., as the next friend of S.M., S.C., as the next friend of L.C., and K.V., as the next friend of N.V. ¹ v. ELIZABETH DUDEK, in her official capacity as interim Secretary of the Florida Agency for Health Care Administration; DAVID WILKINS, in his official capacity as acting Secretary of the Florida Department of Children and Family Services; and HARRY FRANK FARMER, JR., M.D., PH.D., in his official capacity as the Surgeon General of the Florida Department of Health		
Court with Jurisdiction:	United States District Court, Southern District of Florida		
Case Number:	05-23037-CIV-JORDAN/O’Sullivan		
Summary of the Complaint:	This is a class action for declaratory and injunctive relief challenging the administration of the Medicaid Early Periodic Screening, Diagnosis and Treatment Program. The action is brought pursuant to 42 U.S.C. §1983, and various provisions of the Social Security Act, 42 U.S.C. §1396 et seq. Plaintiffs assert that Medicaid enrolled beneficiaries under the age of 21 are being denied timely access to necessary physician care as well as dental care. Plaintiffs also allege that outreach to the uninsured about Medicaid is inadequate, and that, as a result, children who would otherwise be eligible for Medicaid are not enrolled in Medicaid (and don’t get the EPSDT services to which they are entitled). Plaintiffs also allege that the outreach conducted to Medicaid		

¹ This lawsuit involves minor children. While Plaintiffs failed to fully protect the identity of the minor children in the initial and amend complaint, they have complied with appropriate privacy requirements in filing the Second Amended Complaint. Accordingly, these children are identified by initial only.

	<p>enrolled children is not adequate, and that, as a result, parents and children do not know the Medicaid services available for children. The Plaintiffs include both pediatric and dental associations, as well as individual plaintiffs. The named official capacity Defendants are the agency heads of the Department of Health, Agency for Health Care Administration, and the Department of Children and Family Services. If Plaintiffs succeed, they seek, among other things, increased reimbursement rates to physician and dentist providers, which they allege will ensure access to services for children.</p>						
<p>Amount of the Claim:</p>	<p>This is a claim for prospective declaratory and injunctive relief. Plaintiffs have provided no precise estimates of the increased reimbursement rates they seek. Reportedly, they seek physician fees that are comparable to Medicare rates, and the 50th or 75th percentile of usual and customary fees for dentists (i.e., a rate at which 50 percent of Florida dentists' usual charge is at or lower than the set rate). Some estimate that it would cost \$400 million, if Plaintiffs obtain everything they seek.</p>						
<p>Specific Statutes or Laws (including GAA) Challenged:</p>	<p>42 U.S.C. §§1396a(a)(8), (10), (30)(A) & 43.</p>						
<p>Status of the Case:</p>	<p>The case has been pending since November 2005. A previously filed motion to dismiss was denied, except for one count of the complaint (dealing with a statutory claim not recited above, 42 U.S.C. §1396u-2(b)(5)). About 100 depositions have been taken in the case, and the case has been litigated by both sides. Both sides have multiple experts.</p> <p>On September 30, 2009, the Court issued an Order Granting In Part The Plaintiffs' Motion For Class Certification. The certified class consists of "all children under the age of 21 who now, or in the future will, reside in Florida and who are, or will be, eligible under Title XIX of the Social Security Act for Early Periodic Screening, Diagnosis and Treatment Services."</p> <p>This class action matter is being tried in segments, as the court has time available. Thus far, trial has been held over 40 days, during 11 trial segments. Plaintiffs' closed their case-in-chief on February 10, 2011. Defendants are 6 days into their case-in-chief. Best estimates are that the trial will take another 34 days.</p>						
<p>Who is representing (of record) the state in this lawsuit? Check all that apply.</p>	<table border="1"> <tr> <td data-bbox="524 1598 597 1661"></td> <td data-bbox="597 1598 1477 1661">Agency Counsel</td> </tr> <tr> <td data-bbox="524 1661 597 1724">X</td> <td data-bbox="597 1661 1477 1724">Office of the Attorney General or Division of Risk Management</td> </tr> <tr> <td data-bbox="524 1724 597 1772">X</td> <td data-bbox="597 1724 1477 1772">Outside Contract Counsel</td> </tr> </table>		Agency Counsel	X	Office of the Attorney General or Division of Risk Management	X	Outside Contract Counsel
	Agency Counsel						
X	Office of the Attorney General or Division of Risk Management						
X	Outside Contract Counsel						

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	<p>A class has been certified in this matter.</p> <p>Stuart H. Singer, Esq. Carl E. Goldfarb, Esq. Damien J. Marshall, Esq. Boies, Schiller & Flexner LLP 401 East Las Olas Blvd. Suite 1200 Fort Lauderdale, FL 33301</p> <p>James Eiseman, Jr., Esq., Public Interest Law Center of Philadelphia 125 South Ninth Street Suite 700 Philadelphia, PA 19107</p> <p>Louis W. Bullock, Esq., Bullock, Bullock, & Blakemore 110 W. 7th Street Tulsa, Oklahoma 74112</p>
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Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Governor, Office of the Attorney General		
Contact Person:	Jason Vail	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	KEVIN CAMM, et al., v. CHARLIE CRIST, et al.		
Court with Jurisdiction:	U.S. District Court, Middle District of Florida		
Case Number:	Case No. 2:10-cv-656-FtM-29DNF		
Summary of the Complaint:	Declaratory judgment action by homeowners facing foreclosure who challenge § 28.241(1)(c)(2), Fla.Stat., requiring a graduated scale of filing fees for counterclaims.		
Amount of the Claim:	Plaintiffs seek injunctive relief that could amount to a decline in State revenue of greater than \$5 million.		

Specific Statutes or Laws (including GAA) Challenged:	Section 28.241(1)(c)(2), Fla.Stat.	
Status of the Case:	Motion to dismiss filed; action stayed pending resolution of the motion.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	Plaintiffs seek class status. Marcus W. Viles 6350 Presidential Ct. Suite A Ft. Myers, FL 33919	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Board of Medicine, Department of Health		
Contact Person:	Jay Vail	Phone Number:	850-41-3663
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	DR. BERND WOLLSCHLAEGER, et al., v. FRANK FARMER, et al.,		
Court with Jurisdiction:	U.S. District Court, Southern District of Florida		
Case Number:	Case No. 1:11-cv-22026-MGC		
Summary of the Complaint:	Constitutional attack on Chapter 2011-112, Laws of Florida, an act "relating to the privacy of firearm owners," on the ground that it violates the First Amendment rights of physicians.		
Amount of the Claim:	No claim for \$\$ damages. The action is for injunctive relief.		
Specific Statutes or Laws (including GAA) Challenged:	Chapter 2011-112, Laws of Florida		

Status of the Case:	Plaintiffs' motion for preliminary injunction heard on July 13, 2011.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	Not a class action.	

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.</i>			
Agency:	Department of Highway Safety and Motor Vehicles		
Contact Person:	Jason Vail	Phone Number:	850-414-3663
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES, v. NATIONAL SAFETY COMMISSION		
Court with Jurisdiction:	First District Court of Appeal		
Case Number:	Case No. 1D10-6448		
Summary of the Complaint:	Breach of contract action by vendor producing the Florida Driver's Handbook; seeks construction of the contract to provide for a vendor's unilateral right of renewal and for specific performance.		
Amount of the Claim:	\$ n/a		
Specific Statutes or Laws (including GAA) Challenged:	n/a		
Status of the Case:	Oral argument held June 2011. Awaiting decision by DCA.		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	Holland & Knight, LLP Tallahassee, FL	

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	State of Florida, Public Defender and State Attorney		
Contact Person:	Phillip P. Quaschnick	Phone Number:	850-414-3671
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Anthony Garland v. David B. Wheeler, Assistant Public Defender; Peter Sapak, Assistant State Attorney		
Court with Jurisdiction:	Second Judicial Circuit, Leon County		
Case Number:	2010-CA-1477		
Summary of the Complaint:	Plaintiff claims Legal Malpractice, Neglect, violation of Federal and State Laws. OAG represents both Defendants, Wheeler and Sapak		
Amount of the Claim:	\$10,092,000.00		
Specific Statutes or Laws (including GAA) Challenged:			
Status of the Case:	New case		
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel	
	X	Office of the Attorney General or Division of Risk Management	
		Outside Contract Counsel	

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	
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Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	State of Florida and Twentieth Judicial Circuit		
Contact Person:	OAG- Phillip P. Quaschnick	850-414-3671:	
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Kidwell v. Federal Bureau of Investigation, U.S. Dept. of Justice, State of Florida, Twentieth Judicial Circuit, Lee County Judge John Duryea, Brian Beason, Gibson Guitar, Inc., Barbara O’Connell		
Court with Jurisdiction:	United States District Court for the District of Columbia		
Case Number:	11-cv-0778		
Summary of the Complaint:	Plaintiff’s claims are frivolous. He alleges that his due process rights and rights under the ADA were violated by the Defendants after he lost a breach of warranty suit against Gibson Guitar in Lee County Court. As to the state government defendants, he alleges that County Court Judge Duryea “fixed” his case in favor of Gibson Guitar’s attorney and that Pl. was not afforded reasonable accommodations in the course of the proceedings. Pl. claims the Judicial Circuit concealed the fact that it had an ADA coordinator, and that unnamed state agencies do not accommodate the disabled.		
Amount of the Claim:	\$25,000,000.00		
Specific Statutes or Laws (including GAA) Challenged:	none		
Status of the Case:	Motions to dismiss pending		
Who is representing (of record) the state in this lawsuit? Check all that		Agency Counsel	
	X	Office of the Attorney General or Division of Risk Management	

apply.		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	N/A	

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	University of North Florida		
Contact Person:	Phillip P. Quaschnick	Phone Number:	850-414-3671
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Yvelan Pierre v. Jacksonville Sheriff’s Office, Officer Phillip Rossomano, Detective Juan Roa and Detective Adam Kline		
Court with Jurisdiction:	United States District Court, Middle District of Florida, Jacksonville Division		
Case Number:	3:10-cv-73-J-32MCR		
Summary of the Complaint:	Plaintiff alleges that Detective Kline, University of North Florida, violated his civil rights under the 4th, 8th and 14th Amendment for use of excessive force during arrest and for failure to render medical treatment. OAG represents Detective Kline only, remaining Defendants are Jacksonville Sheriff’s Office Deputies		
Amount of the Claim:	\$20,000,000.00		
Specific Statutes or Laws (including GAA) Challenged:	none		
Status of the Case:	Order Denying Motion to Dismiss Partial Summary Judgment; Answer to Amended Complaint served; Discovery outstanding		
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel	
	X	Office of the Attorney General or Division of Risk Management	
		Outside Contract Counsel	

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	N/A
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Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Blaine Winship	Phone Number:	850-414-3657
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	State of Florida, by and through Pam Bondi, Attorney General of the State of Florida, et al., v. United States Department of Health and Human Services, et al.		
Court with Jurisdiction:	United States Court of Appeals, Eleventh Circuit		
Case Number:	11-11021 & 11-11067		
Summary of the Complaint:	The Patient Protection and Affordable Care Act, as amended, (“ACA”) is unconstitutional in that it exceeds Congress’s powers under Article I, violates the 9 th and 10 th Amendments and the Constitution’s principles of federalism and dual sovereignty, and violates due process rights of individuals; declaratory and injunctive relief sought.		
Amount of the Claim:	Greater than \$500 million in extra Medicaid program costs in the event the PPACA is ruled to be constitutional.		
Specific Statutes or Laws (including GAA) Challenged:	Pub. L. No. 111-148, 124 Stat. 119 (2010), as amended by Pub. L. No. 111-152, 124 Stat. 1029 (2010).		
Status of the Case:	Second Amended Complaint joined 26 States as plaintiffs along with Nat’l Ass’n of Ind. Business and 2 individuals. District Court entered summary judgment in plaintiffs’ favor, holding Act to be unconstitutional. 11 th Circuit affirmed lower court’s holding that the “individual mandate” portion of Act is unconstitutional, but reversed the holding that the entire Act must be stricken, instead deeming the mandate to be severable. The 11 th Circuit affirmed the lower court’s denial of plaintiffs’ claim that the Medicaid changes under the Act exceeded Congress’s spending power under Article I. The case is widely expected to be heard by the U.S. Supreme Court. If the Medicaid provisions of the Act survive intact, there likely will be significant adverse effects on the fisc of the State of Florida for Medicaid-related outlays, with the outlays proportionally increasing through FY 2020; the dollar amounts of outlay increases are uncertain, but could be in the tens of millions of dollars, if not more.		

Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
	X	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Blaine Winship	Phone Number:	850-414-3657
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	George Williams, et al. v. Rick Scott, et al.		
Court with Jurisdiction:	Circuit Court, 2nd Jud. Cir., Leon County		
Case Number:	2011 CA 1584		
Summary of the Complaint:	Civil action seeking declaratory, injunctive, and other relief, arising from legislative changes to Florida Retirement System, effective July 1, 2011, requiring FRS employees to contribute 3 percent of salary to FRS, and changing cost of living adjustment to reduce it from 3 percent for FRS benefits based on labor services provided by FRS employees on or after July 1, 2011. The complaint alleges that these changes in FRS are unconstitutional (1) impairment of contract (Art. I, sec. 10); (2) takings (Art. X, sec. 6); and (3) abridgement of collective bargaining right (Art. I, sec. 6).		
Amount of the Claim:	approximately \$800 million per FY.		
Specific Statutes or Laws (including GAA) Challenged:	Chapter 2011-68, sections 5, 7, 11, 13, 17, 24, 26, 29, 33, 40, Laws of Florida (2011).		

Status of the Case:	Complaint was filed on or about June 20, 2011. Plaintiffs moved for a temporary injunction to sequester the 3 percent FRS employee contributions pending litigation; motion was denied. The parties are engaging in discovery in preparation for filing cross-motions for summary judgment in their favor. The hearing on the summary judgment motions is presently set for October 26, 2011.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input checked="" type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	(Initial class allegations were dropped by plaintiffs.)	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Florida Department of Health		
Contact Person:	Jon Whitney	Phone Number:	(850) 414-3672
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Dr. Harsh Sharma v. Susan Johnston, Board of Medicine, Department of Health		
Court with Jurisdiction:	U. S. Eleventh Circuit Court of Appeals.		
Case Number:	11-10488-A		
Summary of the Complaint:	<i>Pro se</i> Plaintiff Harsh Sharma, a federal prisoner currently confined at the Jesup Federal Correctional Institution in Jesup, Georgia, is appealing the dismissal of his <i>pro se</i> civil rights complaint, filed pursuant to 42 U.S.C. §1983, concerning the revocation of his medical license. The Plaintiff/Appellant is proceeding <i>in forma pauperis</i> . He seeks relief in this case from the revocation of Plaintiff's license to practice medicine. Plaintiff's license to practice medicine in the State of Florida, License No. ME0071440, was revoked by Defendant Florida Board of Medicine		

	on June 26, 2007 by separate Final Orders entered in Florida Department of Health Case Nos. 2004-37110 and 005-08226. The plaintiff alleges that he was a physician licensed by the Florida Department of Health and Board of Medicine and the defendants conspired to violate his civil rights and deprive him of his property rights when they revoked his license to practice medicine without first providing him with proper notice of the proceeding and without his appearance at a Board of Medicine meeting.	
Amount of the Claim:	\$25 million or greater.	
Specific Statutes or Laws (including GAA) Challenged:	None.	
Status of the Case:	Order Granting Appellant's Motion for Extension of Time to File Brief (7-7-2011).	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	Not applicable.	

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.</i>			
Agency:	Agency for Health Care Administration, Department of Children and Family Services and Department of Health		
Contact Person:	Stephanie Daniel	Phone Number:	850-414-3666
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	FLORIDA PEDIATRIC SOCIETY/THE FLORIDA CHAPTER OF THE AMERICAN ACADEMY OF PEDIATRICS; FLORIDA ACADEMY OF PEDIATRIC DENTISTRY, INC.; ASHLEY DOVE, as the next friend of Kaleb Kelley, a minor child; RITA GORENFLO and LES GORENFLO, as the next friends of Thomas and Nathaniel Gorenflo, minor children, JESSY WATLEY, a minor child, by and through his next friend, Edna Watley; N.A., now known as N.R., a		

	<p>minor child, by and through his next friend, C.R., K.S., as the next friend of J.S., S.B., as the next friend of S.M., S.C., as the next friend of L.C., and K.V., as the next friend of N.V.¹ v. ELIZABETH DUDEK, in her official capacity as interim Secretary of the Florida Agency for Health Care Administration; DAVID WILKINS, in his official capacity as acting Secretary of the Florida Department of Children and Family Services; and HARRY FRANK FARMER, JR., M.D., PH.D., in his official capacity as the Surgeon General of the Florida Department of Health</p>
Court with Jurisdiction:	United States District Court, Southern District of Florida
Case Number:	05-23037-CIV-JORDAN/O'Sullivan
Summary of the Complaint:	<p>This is a class action for declaratory and injunctive relief challenging the administration of the Medicaid Early Periodic Screening, Diagnosis and Treatment Program. The action is brought pursuant to 42 U.S.C. §1983, and various provisions of the Social Security Act, 42 U.S.C. §1396 et seq. Plaintiffs assert that Medicaid enrolled beneficiaries under the age of 21 are being denied timely access to necessary physician care as well as dental care. Plaintiffs also allege that outreach to the uninsured about Medicaid is inadequate, and that, as a result, children who would otherwise be eligible for Medicaid are not enrolled in Medicaid (and don't get the EPSDT services to which they are entitled). Plaintiffs also allege that the outreach conducted to Medicaid enrolled children is not adequate, and that, as a result, parents and children do not know the Medicaid services available for children. The Plaintiffs include both pediatric and dental associations, as well as individual plaintiffs. The named official capacity Defendants are the agency heads of the Department of Health, Agency for Health Care Administration, and the Department of Children and Family Services. If Plaintiffs succeed, they seek, among other things, increased reimbursement rates to physician and dentist providers, which they allege will ensure access to services for children.</p>
Amount of the Claim:	<p>This is a claim for prospective declaratory and injunctive relief. Plaintiffs have provided no precise estimates of the increased reimbursement rates they seek. Reportedly, they seek physician fees that are comparable to Medicare rates, and the 50th or 75th percentile of usual and customary fees for dentists (i.e., a rate at which 50 percent of Florida dentists' usual charge is at or lower than the set rate). Some estimate that it would cost \$400 million, if Plaintiffs obtain everything they seek.</p>

¹ This lawsuit involves minor children. While Plaintiffs failed to fully protect the identity of the minor children in the initial and amend complaint, they have complied with appropriate privacy requirements in filing the Second Amended Complaint. Accordingly, these children are identified by initial only.

Specific Statutes or Laws (including GAA) Challenged:	42 U.S.C. §§1396a(a)(8), (10), (30)(A) & 43.	
Status of the Case:	<p>The case has been pending since November 2005. A previously filed motion to dismiss was denied, except for one count of the complaint (dealing with a statutory claim not recited above, 42 U.S.C. §1396u-2(b)(5)). About 100 depositions have been taken in the case, and the case has been litigated by both sides. Both sides have multiple experts.</p> <p>On September 30, 2009, the Court issued an Order Granting In Part The Plaintiffs' Motion For Class Certification. The certified class consists of “all children under the age of 21 who now, or in the future will, reside in Florida and who are, or will be, eligible under Title XIX of the Social Security Act for Early Periodic Screening, Diagnosis and Treatment Services.”</p> <p>This class action matter is being tried in segments, as the court has time available. Thus far, trial has been held over 40 days, during 11 trial segments. Plaintiffs’ closed their case-in-chief on February 10, 2011. Defendants are 6 days into their case-in-chief. Best estimates are that the trial will take another 34 days.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
	x	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	<p>A class has been certified in this matter.</p> <p>Stuart H. Singer, Esq. Carl E. Goldfarb, Esq. Damien J. Marshall, Esq. Boies, Schiller & Flexner LLP 401 East Las Olas Blvd. Suite 1200 Fort Lauderdale, FL 33301</p> <p>James Eiseman, Jr., Esq., Public Interest Law Center of Philadelphia 125 South Ninth Street Suite 700 Philadelphia, PA 19107</p> <p>Louis W. Bullock, Esq., Bullock, Bullock, & Blakemore 110 W. 7th Street Tulsa, Oklahoma 74112</p>	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	State of Florida and Twentieth Judicial Circuit		
Contact Person:	OAG- Phillip P. Quaschnick	850-414-3671:	
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	Kidwell v. Federal Bureau of Investigation, U.S. Dept. of Justice, State of Florida, Twentieth Judicial Circuit, Lee County Judge John Duryea, Brian Beason, Gibson Guitar, Inc., Barbara O’Connell		
Court with Jurisdiction:	United States District Court for the District of Columbia		
Case Number:	11-cv-0778		
Summary of the Complaint:	Plaintiff’s claims are frivolous. He alleges that his due process rights and rights under the ADA were violated by the Defendants after he lost a breach of warranty suit against Gibson Guitar in Lee County Court. As to the state government defendants, he alleges that County Court Judge Duryea “fixed” his case in favor of Gibson Guitar’s attorney and that Pl. was not afforded reasonable accommodations in the course of the proceedings. Pl. claims the Judicial Circuit concealed the fact that it had an ADA coordinator, and that unnamed state agencies do not accommodate the disabled.		
Amount of the Claim:	\$25,000,000.00		
Specific Statutes or Laws (including GAA) Challenged:	none		
Status of the Case:	Motions to dismiss pending		
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel	
	X	Office of the Attorney General or Division of Risk Management	
		Outside Contract Counsel	
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	N/A		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3144		
Summary of the Complaint:	<p>This case involves a challenge by the taxpayer (Arnold) to the Department’s refund denial of motor fuel tax for the tax period of 09-01-05 through 09-30-08. Arnold is a common carrier engaged in interstate commerce. Arnold purchases undyed diesel fuel in Florida. Arnold filed a timely refund claim pursuant to Section 212.08(9)(b), Florida Statutes, which authorizes a carrier to pay sales tax on certain Florida purchases based on an apportionment factor. Arnold applied the apportionment factor to the fuel taxes it paid on undyed diesel fuel it used in interstate commerce. Arnold alleges that a portion of the fuel sales its pays on undyed diesel fuel is sales tax, and it is subject to the refund provided for in Section 212.08(9)(b), Florida Statutes. <u>See also</u> Fla. Admin. Code R. 12A-1.059 and Section 206.87(1)(e), Fla. Stat.</p> <p>This case is similar to <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; and <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit. See Agency Litigation Inventory reports, above and below, for <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; and <u>Covenant Transport, Inc.</u></p>		

	<p><u>v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit.</p> <p>This case is also similar to <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit. See Agency Litigation Inventory report, below, for <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit.</p>	
Amount of the Claim:	\$449,981 refund denial, plus accrued interest.	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set in this case.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Astro Telecommunications, Inc. v. The Florida Department of Revenue</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	9-6056		
Summary of the Complaint:	<p>This case involves the Department's assessment of communication services tax resulting from an audit of the taxpayer's business for the years 2004-2006. The taxpayer provides wiring, equipment, maintenance, and connection for multifamily housing complexes to access DirecTV. The taxpayer challenged a notice of decision, which sustained a communications services tax assessment.</p> <p>The taxpayer contends its charges are solely for "installation or maintenance of wiring and equipment," which would be exempt from communications services tax.</p> <p>The Department contends that the taxpayer's charges are for "transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals. . . to a point, or between or among points . . .," which would be subject to tax. The case is likely to hinge on discovery clarifying the nature of the services taxpayer provides.</p>		
Amount of the Claim:	\$60,000.00 (Plus potential precedential impact in an unknown amount.)		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The Department filed an unopposed motion to close file without prejudice to reopening the case at a later date, or alternative Motion to continue hearing and to extend deadlines in order of prehearing instructions in October, 2010. The Administrative Law Judge granted the Department's unopposed motion in October, 2010 and entered an order closing the file. The case remains temporarily closed.		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Bank of America, N.A. v. Florida Department of Revenue, as agency of the State of Florida</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	05-7427		
Summary of the Complaint:	<p>Bank of America (BoA) brought this case under Chapter 86, Florida Statutes, to challenge two refund denials made against it by the Department of Revenue: documentary stamp tax under Chapter 201, Florida Statutes, and nonrecurring intangible personal property tax under chapter 199, Florida Statutes.</p> <p>BoA made real property mortgage loans. The referenced taxes were paid when the mortgage was recorded. The borrowers subsequently refinanced their loans, borrowing an amount of money greater than the outstanding principal balance of the original loan. The real property securing the refinanced loan was the same as that securing the original loan. The original loan was closed and a satisfaction of mortgage was recorded. A new loan number and new loan documents were created for each of the refinanced loans. BoA collected the referenced taxes on the</p>		

	<p>new money - the amount by which the refinanced loan exceeded the outstanding principal balance of the original loan. The county clerk required tax on the full amount of the refinanced loan as a condition to recording the refinanced mortgage.</p> <p>The gravamen of this action concerned the proper tax base - the new money (BoA's position) or the full principal of the new loan (the Department's position).</p> <p>With respect to the documentary stamp challenge BoA asserted that Florida Administrative Code Rule 12B-4.05(12)(f)4 exceeds the authority of Section 201.09(1), Florida Statutes, "Renewal of existing promissory notes and mortgages." The Department averred in its rule that a renewal does not include a new loan (from the same lender) when the original loan is satisfied.</p> <p>With respect to the intangible tax challenge, BoA asserted that the Department's administration of Section 199.145(4), Florida Statutes, amounts to an unpromulgated rule when the Department proceeds on the premise that a refinance does not include a new loan (from the same lender) when the original loan is satisfied.</p>
Amount of the Claim:	Refund claim in excess of \$22 million
Specific Statutes or Laws (including GAA) Challenged:	
Status of the Case:	The parties settled this case in November, 2010 with the Department refunding \$6,868,438. This amount encompassed all of BoA's transactions throughout the state of Florida.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Timothy Dennis	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Bonaventure Partners, LLC v. The Florida Department of Revenue</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	11-3161		
Summary of the Complaint:	<p>This case involves a challenge by the taxpayer (Bonaventure) against an assessment of sales and use taxes issued by the Department. The issues in the petition are set forth below.</p> <ol style="list-style-type: none"> 1. Whether the Notice of Proposed Assessment was an "assessment" sufficient for purposes of an agreement to extend the statute of limitations otherwise imposed by 95.091, Florida Statutes. 2. Whether various agreements entered into by Bonaventure are agreements for services rendered or are for the lease or license to use real property, and therefore taxable. 3. Whether the purchase of certain software licenses for use by the golf course are the purchase of tangible personal property, and therefore taxable, or, rather, such purchase is the purchase of services or intangible personal property, and therefore not taxable. 		
Amount of the Claim:	\$476,563.85		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	In June, 2011 the Administrative Law Judge granted a joint motion to close the file, without prejudice to reopen at a later date.		
Who is representing (of record) the state in this lawsuit? Check all that		Agency Counsel	
	x	Office of the Attorney General or Division of Risk Management	

apply.	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Bruner v. Department of Revenue, et. al.</u>		
Court with Jurisdiction:	United States Supreme Court		
Case Number:	10-276		
Summary of the Complaint:	<p>This concluded class action refund case concerned a constitutional challenge to the Save Our Homes provisions, Article VII, section 4 (c), Florida Constitution, and section 193.155, Florida Statutes, which implements the constitutional provision, and Joint Resolution 2D, enacted by the Legislature on October 29, 2007(adopted by the electorate as Amendment 1), as violative of Equal Protection under the Florida Constitution and the Right to Travel under the U.S. Constitution. The Plaintiffs claimed that Save Our Homes and the portability provision of Joint Resolution 2D (Amendment 1) create a durationally weighted ad valorem tax shelter which benefited long term homestead property owners to the disadvantage of new Florida homestead owners.</p> <p>This case is similar to both <u>Lanning, et. al. v. Department of Revenue, et. al.</u>, Second Judicial Circuit/First District Court of Appeal/Florida Supreme Court/United States Supreme Court, Case no. 07-582/1D07-6564/SC09-1796/US10-281, and <u>Deluccio v. Havill</u>, Second Judicial</p>		

	Circuit/First District Court of Appeal/Florida Supreme Court/United States Supreme Court, Case no. 8-1412/ 1D08-5529, 1D10-975/ SC10-1966/10-1329, both described below.	
Amount of the Claim:	The refund claim in this case was estimated to have exceeded \$35 billion dollars, consisting solely of county ad valorem property taxes.	
Specific Statutes or Laws (including GAA) Challenged:	Article VII, Section 4(d), Florida Constitution, and Section 193.155, Florida Statutes.	
Status of the Case:	<p>On October 29, 2008, the trial court issued a final judgment and ruled that that the provisions of Florida’s “Save Our Homes” taxation system (“SOH”) did not violate the United States Constitution because they treated all owners of Florida property the same – regardless of their length of residence in the state. The trial court in granting the Department's motion to dismiss found that it did have jurisdiction, despite Plaintiffs having filed their complaint outside the non-claim period, seeking retroactive relief for a period barred under the provisions of section 194.171(1), Florida Statutes, because they raised a constitutional challenge. The Plaintiffs appealed the final judgment and the Department filed a cross notice of appeal to the First District Court of Appeal on the issue of jurisdiction. On November 17, 2009 the First District held that SOH remains constitutional despite the passage of Amendment 1 based on the holdings of <u>Reinish v. Clark</u>, 765 So. 2d 197 (Fla. 1st DCA 2000) (<u>Reinish</u>) and <u>Lanning v. Pilcher</u>, 16 So. 3d 294 (Fla. 1st DCA 2009) (<u>Lanning</u>) which ruled on virtually identical constitutional challenges to SOH. <u>Bruner v. Hartsfield</u>, 23 So. 3d 192 (Fla. 1st DCA 2009) (<u>Bruner</u>).</p> <p>As for the issue raised on cross-appeal, the First District ruled that that the trial court did not err in concluding it had subject matter jurisdiction and held that the issue was governed by <u>Lanning</u>, 16 So. 3d at 296-97. The Plaintiffs subsequently filed a notice to invoke discretionary review by the Florida Supreme Court of the First District's decision, which the Court denied in May, 2010, case no. SC09-2292. <u>Bruner v. Hartsfield</u>, 37 So. 3d 846 (Fla. 2010). The Plaintiffs filed a petition for certiorari in the United States Supreme Court which the Court denied on November 29, 2010. <u>Bruner v. Hartsfield</u>, 131 S.Ct. 646 (2010). This case is concluded.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel

<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>	<p>William C. Owen, Esquire 241 Pinewood Drive Tallahassee, Florida 32303 (850) 513-0600 (850) 877-2809 - Facsimile</p> <p>Talbot D'Alemberte, Esquire D'Alemberte & Palmer, PLLC P.O. Box 10029 Tallahassee, Florida 32301 (850) 325-6292</p> <p>James G. Feiber, Jr., Esquire Salter, Feiber, Murphy, Hutson & Menet, P.A. P.O. Box 357399 Gainesville, Florida 32635 (352) 376-8201 (352)376-7996 - Facsimile</p> <p>Douglas S. Lyons, Esquire Marsha Lyons, Esquire Lyons & Farrar 325 N. Calhoun Street Tallahassee, Florida 32301 (850) 222-8811 (850) 222-5583 - Facsimile</p> <p>William M. Slaughter, Esquire Matthew T. Franklin, Esquire Mark D. Hess, Esquire Haskell, Slaughter, Young & Rediker, LLC 1400 Park Place Tower 2001 Park Place North Birmingham, Alabama 35203 (205) 251-1000 (205) 324-1133 - Facsimile</p> <p>Thomas T. Gallion, III, Esquire Haskell, Slaughter, Young & Gallion, LLC P.O. Box 4660 305 South Lawrence Street Montgomery, Alabama 36103-4660 (334) 265-8573 (334) 264-7945 - Facsimile</p>
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Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Scott Carswell and Julie Carswell, Husband and Wife, Mary Gifford Walton, Kent McCoy and Jannine McCoy, Husband and Wife, and Robert Howard individually and as Representatives of similarly situated persons v. Lisa Echeverri, as Executive Director of the Florida Department of Revenue, acting in her official capacity, and BP, plc; BP Production North America, Inc.; BP America, Inc.; BP Exploration and Production, Inc.; BP American Production Company; Transocean, LTD.; Transocean Offshore Deepwater Drilling, Inc.; Transocean Deepwater, Inc.; Transocean Holdings, LLC; Triton Asset Leasing GMBH; Halliburton Energy Services, Inc.; Cameron International Corporation f/k/a Cooper Cameron Corporation; Anadarko Petroleum Corporation; Anadarko E&P Company, L.P.; Moex Offshore 2007, L.L.C.; M-I, LLC; Dril-Quip, Inc.; Mitsui Oil Exploration; and Hyundai Heavy Industries Co. LTD., Inc.</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-2321		
Summary of the Complaint:	<p>In July 2010, Plaintiffs commenced a declaratory judgment class action arising from the Deepwater Horizon oil spill that occurred on April 20, 2010 against the Florida Department of Revenue (the Department) in the Second Judicial Circuit in and for Leon County, Florida, under the caption of <u>Scott Carswell, et al. v. Doris B. Pendleton, et al.</u>, case No. 10-2321. On October 8, 2010, Plaintiffs filed a first amended complaint under the caption of <u>Scott Carswell, et al. v. Lisa Echeverri, et al.</u>, 10-10-2321, dropping three former defendants, maintaining the Department, and adding the “BP defendants” and a new second cause of action.</p> <p>First, the Plaintiffs seek an injunction prohibiting local tax appraisers and the Department and the State Court System from exercising their respective statutorily granted authority involving the valuation and assessment of real property for <i>ad valorem</i> property tax purposes in Florida through the use of a special master(s) and for the circuit court to substitute its judgment on difficult decisions surrounding the valuation of each parcel of property in Florida. Secondly, the Plaintiffs seek a declaration of liability against the BP defendants with respect to the oil spill.</p>		

Amount of the Claim:	The amount is unknown at this time.
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	<p>On November 1, 2010, the BP defendants removed the case to the Northern District of Florida, Case no. 10-486, initially claiming federal jurisdiction. In an amended notice of removal filed on November 10, 2010 the BP Defendants claimed there was “federal question” jurisdiction. On November 10, 2010 the Multidistrict Litigation (MDL, Case No. 2179), court in New Orleans entered Conditional Transfer Order No. 6 conditionally transferring Case no. 10-486, and, in response, the Department timely filed a Notice of Opposition on November 15, 2010.</p> <p>On November 29, 2010, the Plaintiffs filed a “Motion to Remand” in the Northern District and a Motion to Vacate in the MDL court. In the Motion to Remand, attached to their Motion to Vacate, the Plaintiffs represented to both the Northern District and the MDL court that their request for declaratory relief in the first amended complaint did not “present a case or controversy as to the existence of liability” of the BP Defendants for “damages under state or federal law.”</p> <p>On November 30, 2010 the Department filed in the Northern District a Motion to Dismiss and in the Alternative Remand and a Motion to Expedite the Consideration of that motion. In the Motion to Dismiss the Department requested the Court dismiss the case and in the alternative remand it back to the Second Judicial Circuit and argued that the Court lacks jurisdiction based upon the 11th Amendment, the Tax Injunction Act (28 U.S.C. Section 1341) and the principle of comity.</p> <p>In the Motion to Expedite, the Department argued that any delay constituted potential disruption and harm to Florida’s yearly property tax system process of valuation, assessment and collection of taxes. Such delay would adverse affect the budgetary process and operation of school districts, special districts, water management districts, counties and municipalities, directly impacting the provision of police, fire, health, water, and sewer services.</p> <p>On November 30, 2010, the Department also filed a Motion to Vacate the Conditional Transfer Order in the MDL court and argued that the case is governed by Florida law under the principle of comity and, thus, the proper forum for resolution of state tax law matters is Florida whereas the underlying cases in the MDL litigation relate to liability and damages relating to the Deepwater Horizon explosion, fire, sinking, and resulting oil spill. The Department reiterated that Plaintiffs in their Motion to Remand filed in the Northern District stated that their case did not present a case or controversy as to the existence of liability</p>

	against the BP defendants. In addition, the Department argued that transfer will not “promote the just and efficient conduct of such actions,” and the relief sought was premature and purely speculative. On January 5, 2011 the Northern District remanded the claim relating to the Department to the Second Judicial Circuit. No trial date has yet been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>CC-Investors 1997-11 v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	12th Judicial Circuit		
Case Number:	41-2006-CA-003514		
Summary of the Complaint:	The issue in this sales tax assessment case is whether the circuit court should reject a commercial rent tax assessment by deeming a business lease to be a nontaxable financing arrangement pursuant to the Final Order in the <u>Bridgestone/Firestone, Inc. v. Department of Revenue</u> , 1993 Fla. Tax Lexis 204, Case No. 92-2483 (DOAH).		

	The Department considers this case to have precedential value.	
Amount of the Claim:	\$1,387,280.29	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	Discovery is ongoing. The trial court has not set a final hearing date.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Chicago Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		

Case Number:	9-2205
Summary of the Complaint:	<p>This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2006. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>The taxpayer (Chicago Title) is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines "premium" as not including commissions. Chicago Title's agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount Chicago Title claims to be a commission.</p> <p>This case is similar to <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p> <p>This case is also similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case nos. 07-2894, 09-1708, 10-3540, and 11-1671, Second Judicial Circuit, and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 10-3539 and 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, below.</p> <p>In addition, this case is also similar to the following cases: <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v.</u></p>

	<p><u>State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit, below.</u></p>	
Amount of the Claim:	Refund denial in the amount of \$571,678.30	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	<p>The Department filed its answer and affirmative defenses to the taxpayer's complaint in July, 2009. In June, 2010 the trial court granted the taxpayer's motion to stay, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 9-1708 (Fidelity 9-1708)</u>, which the parties agreed to decide the outcome of the case. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u>, below. No trial date has been set in <u>Fidelity 9-1708</u>.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Chicago Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3539		
Summary of the Complaint:	<p>This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2010. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>The taxpayer (Chicago Title) is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. Chicago Title’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount Chicago Title claims to be a commission.</p> <p>This case is similar to <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p> <p>This case is also similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case nos. 07-2894, 09-1708, 10-3540,</p>		

	<p>and 11-1671, Second Judicial Circuit, and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 10-3539 and 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, below.</p> <p>In addition, this case is also similar to the following cases: <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit, below.</p>
Amount of the Claim:	Assessment of approximately \$935,000
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The Department filed its answer and affirmative defenses to the taxpayer's complaint in December, 2010. The trial court granted the taxpayer's motion to stay in December, 2010, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 9-1708 (<u>Fidelity 9-1708</u>), which the parties agreed to decide the outcome of the case. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u> , below. No trial date has been set in <u>Fidelity 9-1708</u> .
Who is representing (of	Agency Counsel

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Timothy Dennis	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Chicago Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-1669		
Summary of the Complaint:	<p>This case involves a challenge to an assessment of insurance premium tax pursuant to Section 624.509, Florida Statutes, by the Plaintiff (Chicago Title) for calendar year 2010. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>Chicago Title is domiciled in California and writes title insurance coverage in Florida. The applicable statute defines “premium” as not including commissions. See Section 627.7711(2), Florida Statutes. Chicago Title’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the</p>		

	<p>amount Chicago Title claims to be commission.</p> <p>This case is similar to <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit.</p> <p>This case is similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case nos. 07-2894, 09-1708, 10-3540, and 11-1671, Second Judicial Circuit, and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 10-3539 and 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, below.</p> <p>In addition, this case is also similar to the following cases: <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit, below.</p>
Amount of the Claim:	\$1,680,997.67

Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department filed its answer and affirmative defenses in July 2011 in this recently filed case. No trial date has yet been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Circle K Enterprises, Inc. v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-1353		
Summary of the Complaint:	The issue in this corporate income tax case is whether the taxpayer (Enterprises) is entitled to a refund of corporate income tax when Enterprises included royalty income which Section 220.15, Florida Statutes, excludes from the sales apportionment factor, but the Department included under Section 220.152, Florida Statutes.		

	<p>1. Whether Enterprises has, at all pertinent times, been “conducting business, earning or receiving income in this state. . .” within the meaning of Section 220.11, Florida Statutes?</p> <p>2. Whether Enterprises has a sufficient connection with the State of Florida to permit taxation of its royalty income under the Due Process and Commerce Clauses of the United States Constitution?; and</p> <p>3. Whether Enterprises is entitled to millions in tax refunds by reapportionment, when its original returns correctly paid the corporate income tax using single-factor apportionment?</p>
Amount of the Claim:	\$2,995,533 refund claim
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The Department answered the complaint in October, 2010. The parties are engaged in discovery. No trial date has yet been set in this case.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Citibank International v. Florida Department of Revenue</u>		
Court with Jurisdiction:	11 th Judicial Circuit		
Case Number:	07-1352		
Summary of the Complaint:	<p>This concluded case involved an assessment of a corporate income tax and several millions in amended return adjustments which arose post-audit and which were not addressed by the Department during the informal hearing process. The Plaintiff, a wholly owned subsidiary of Citigroup, engages in international banking activities under federal and state law. These amended return adjustments, if allowed, would entirely offset the assessment and (if the Plaintiff prevailed on the assessment challenge), would have resulted in a net refund, rather than an assessment. The issues involved in this case are set forth below.</p> <p>Issue No. 1: Whether the Taxpayer's manner of allocating expenses constitutes a change in its method of accounting.</p> <p>Issue No. 2: Whether the Taxpayer was required to use its earlier method of computing and allocating the expenses associated with the eligible gross income of its International Banking Facility offices.</p> <p>Issue No. 3: Whether the Taxpayer's expense calculations associated with the eligible gross income of its Florida International Banking Facility fairly reflected income.</p> <p>Issue No. 4: Whether Taxpayer's Amended Return adjustments to eligible income were correct.</p>		
Amount of the Claim:	\$4,375,348 assessment and \$541,630 refund claim		

Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	After the parties engaged in discovery, this case settled in October, 2009 with Citibank withdrawing its refund claim and paying the Department \$383,476.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Timothy Dennis	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Commonwealth Land Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-1670		
Summary of the Complaint:	This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2010. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted		

to the insurance carriers after payment of the title insurance agent's commission. The taxpayer (Commonwealth) is domiciled in Nebraska and writes title insurance coverage in Florida. See Section 627.7711(2), Fla. Stat. Commonwealth's agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount Commonwealth claims to be commission.

This case is similar to Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, for Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540; and Fidelity National Title Insurance Company v. Florida Department of Revenue , case no. 11-1671, Second Judicial Circuit.

This case is also similar to Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit.

	<p>In addition, this case is also similar to the following cases: <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>	
Amount of the Claim:	\$333,567 refund denial	
Specific Statutes or Laws (including GAA) Challenged:		
Status of the Case:	The Department has not yet filed its answer to the complaint in this recently filed case. No trial date has yet been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

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Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3143		
Summary of the Complaint:	<p>This case involves a challenge by the taxpayer (Covenant Transport) to the Department’s refund denial of motor fuel tax for the tax period of 10-01-05 through 09-30-08. Covenant Transport is a common carrier engaged in interstate commerce. Covenant Transport purchases undyed diesel fuel in Florida. Covenant Transport filed a timely refund claim pursuant to Section 212.08(9)(b), Florida Statutes, which authorizes a carrier to pay sales tax on certain Florida purchases based on an apportionment factor. Covenant Transport applied the apportionment factor to the fuel taxes it paid on undyed diesel fuel it used in interstate commerce. Covenant Transport alleges that a portion of the fuel sales it pays on undyed diesel fuel is sales tax, and it is subject to the refund provided for in Section 212.08(9)(b), Florida Statutes. <u>See also</u> Fla. Admin. Code R. 12A-1.059 and Section 206.87(1)(e), Fla. Stat.</p> <p>This case is similar to <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit. See Agency Litigation Inventory reports, above and below, for <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida,</u></p>		

	<p><u>Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit.</p> <p>This case is also similar to <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit. See Agency Litigation Inventory report, below, for <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit.</p>	
Amount of the Claim:	\$510,003	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set in this case.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Deluccio v. Department of Revenue, et. al.</u>		
Court with Jurisdiction:	United States Supreme Court		
Case Number:	10-1329		
Summary of the Complaint:	<p>This concluded class action refund case concerned a constitutional challenge to the Save Our Homes provisions, Article VII, section 4 (c), Florida Constitution, and section 193.155, Florida Statutes, which implements the constitutional provision, and Joint Resolution 2D, enacted by the Legislature on October 29, 2007(adopted by the electorate as Amendment 1), as violative of Equal Protection under the Florida Constitution and the Right to Travel under the U.S. Constitution. The Plaintiffs claimed that Save Our Homes and the portability provision of Joint Resolution 2D (Amendment 1) create a durationally weighted ad valorem tax shelter which benefited long term homestead property owners to the disadvantage of new Florida homestead owners.</p> <p>This case is similar to both <u>Lanning, et. al. v. Department of Revenue, et. al.</u>, Second Judicial Circuit/First District Court of Appeal/Florida Supreme Court/United States Supreme Court, Case no. 07-582/1D07-6564/SC09-1796/US10-281, described below, and <u>Bruner, et. al. v. Department of Revenue, et. al.</u>, Second Judicial Circuit/First District Court of Appeal/Florida Supreme Court/United States Supreme Court, Case no. 07-003247/1D08-5524/SC09-2292/US10-276 (<u>Bruner</u>), described above.</p>		
Amount of the Claim:	Refund claim estimated to exceed \$35 billion dollars, consisting solely of county ad valorem property taxes. .		
Specific Statutes or Laws (including GAA) Challenged:	Article VII, Section 4(d), Florida Constitution, and Section 193.155, Florida Statutes		

<p>Status of the Case:</p>	<p>On November 4, 2008, the trial court ruled on and granted the Department's motions to dismiss finding that the Plaintiffs had failed to raise their claims within the sixty-day period required by Florida law to file a cause of action challenging the assessment of property taxes. The trial court also alternatively ruled that if it had jurisdiction, precedent from this Court foreclosed all of Plaintiffs' constitutional claims because "the Save Our Homes property tax provisions do not discriminate against out of state commerce." Finally, the trial court held that Plaintiffs had failed to state a cause of action upon which it could grant relief under section 1983, and that the court lacked subject matter jurisdiction over the section 1983 claims "because there exists a plain, speedy and adequate remedy under Florida law." The Plaintiffs appealed to the First District Court of Appeal. On November 17, 2009 the First District issued its opinion and under the authority of <u>Lanning</u> and <u>Reinish</u> declined to rule on the merits because the trial court's erroneous conclusion that it lacked subject matter jurisdiction when appellants did not comply with section 194.171(1), Florida Statutes, which divested itself of authority to rule on the merits. <u>Deluccio v. Havill et al.</u>, case no. 1D08-5529, as reported in 25 So. 3d 31 (Fla. 1st DCA 2009). The First District thus remanded this case to the trial court for it to issue a final judgment consistent with its opinion in the case and its opinion in <u>Bruner</u>. The trial court entered a final judgment of dismissal on remand against the Plaintiffs on February 22, 2010. The Department filed a cross appeal arguing that the trial court erred by not following the precedent of <u>Lanning v. Pilcher</u>, 16 So. 3d 294 (Fla. 1st DCA 2009), which established that a circuit court did not have jurisdiction to grant a tax reduction or refund claim made under section 86.061, Florida Statutes, when there is a failure to allege compliance with the sixty-day jurisdictional time limit established in section 194.171, Florida Statutes.</p> <p>The First District issued its opinion in September, 2010. <u>Deluccio v. Havill</u>, 43 So. 3d 925 (Fla. 1st DCA 2010) and rejected the arguments of the Plaintiffs under the authority of <u>Reinish</u>, <u>Lanning</u> and <u>Bruner</u> and dismissed the Department's cross-appeal without comment. The Plaintiffs subsequently filed a notice to invoke discretionary review by the Florida Supreme Court of the First District's decision, which the Court denied in January, 2011, case no. SC10-1966. <u>Deluccio v. Havill</u>, 54 So. 3d 973 (Fla. 2011). The Plaintiffs filed a petition for certiorari in the United States Supreme Court in April, 2011 which remains pending before the Court, case no. 10-1329, with the briefing by the parties concluded.</p>	
<p>Who is representing (of record) the state in this lawsuit? Check all that apply.</p>	<input type="checkbox"/>	<p>Agency Counsel</p>
	<input checked="" type="checkbox"/>	<p>Office of the Attorney General or Division of Risk Management</p>
	<input type="checkbox"/>	<p>Outside Contract Counsel</p>

<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>	<p>William C. Owen, Esquire 241 Pinewood Drive Tallahassee, Florida 32303 (850) 513-0600 (850) 877-2809 - Facsimile</p> <p>Talbot D'Alemberte, Esquire D'Alemberte & Palmer, PLLC P.O. Box 10029 Tallahassee, Florida 32301 (850) 325-6292</p> <p>James G. Feiber, Jr., Esquire Salter, Feiber, Murphy, Hutson & Menet, P.A. P.O. Box 357399 Gainesville, Florida 32635 (352) 376-8201 (352)376-7996 - Facsimile</p> <p>Douglas S. Lyons, Esquire Marsha Lyons, Esquire Lyons & Farrar 325 N. Calhoun Street Tallahassee, Florida 32301 (850) 222-8811 (850) 222-5583 - Facsimile</p> <p>William M. Slaughter, Esquire Matthew T. Franklin, Esquire Mark D. Hess, Esquire Haskell, Slaughter, Young & Rediker, LLC 1400 Park Place Tower 2001 Park Place North Birmingham, Alabama 35203 (205) 251-1000 (205) 324-1133 - Facsimile</p> <p>Thomas T. Gallion, III, Esquire Haskell, Slaughter, Young & Gallion, LLC P.O. Box 4660 305 South Lawrence Street Montgomery, Alabama 36103-4660 (334) 265-8573 (334) 264-7945 - Facsimile</p>
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Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>DirectTV, Inc., and EchoStar Satellite L.L.C. v. State of Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	05-1037		
Summary of the Complaint:	<p>Plaintiffs, who are satellite television providers, brought this tax refund claim to challenge the facial constitutionality of provisions of the communications services tax, contained in Chapters 202 and 203, Fla. Stat., pursuant to the Commerce Clause of the United States Constitution. Plaintiffs seek a judgment invalidating various provisions of the communications services tax and a refund of taxes which they collected from their customers and remitted to the Department since October 1, 2002, in an amount they estimate to exceed \$150 million. Plaintiffs allege that satellite television is an inherently "interstate" business, that cable television is an inherently local business, and that the communications services tax discriminates impermissibly against interstate satellite television by imposing a higher tax rate (10.8%) than on cable television (6.8%). <u>See</u> Section 202.12(1)(a) and (b), Fla. Stat. The Department argues that every federal court and every state appellate court which has considered Plaintiffs' constitutional theories has rejected those claims; satellite television and cable television are both interstate businesses so Plaintiffs' Commerce Clause arguments are inapplicable; Plaintiffs cannot state a facial challenge on any theory because the tax statutes, read <i>in pari materia</i>, actually equalize the tax burdens between satellite and cable television, and because cable television sometimes bears a higher tax rate in Florida than satellite television; and the Florida legislature had a constitutionally permissible rational basis to distinguish between satellite and cable television.</p>		
Amount of the Claim:	The refund claim exceeds \$150 million.		

Specific Statutes or Laws (including GAA) Challenged:	Section 202.12(1)(c), Fla. Stat
Status of the Case:	<p>The Department of Revenue has not answered the complaint, but instead has filed motions to dismiss. The Department of Revenue in its motions to dismiss argues that plaintiffs have not exhausted their administrative remedies and that plaintiffs have not satisfied the jurisdictional requirements set forth in section 72.011, Fla. Stat., for bringing this action.</p> <p>The Department of Revenue in its motion to dismiss also argued that the complaint does not allege ultimate facts showing that the case is ripe for a declaratory judgment under Chapter 86, Fla. Stat.; that plaintiffs (rather than their subscribers who bore the economic burden of the tax) have no adverse interest that would create standing to seek a declaratory judgment; that plaintiffs (rather than their subscribers) have not borne the economic burden of the tax and therefore have no standing to seek a tax refund; and, that plaintiffs would not be entitled to injunctive relief.</p> <p>On June 5, 2008 the Department filed a Motion for Compulsory Judicial Notice and Motion to Stay Pending Outcome of Appeal (see Agency Litigation Inventory report, <u>Marcus and Patricia Ogborn on behalf of themselves and others similarly situated v. Jim Zingale, Acting in His Official Capacity as the Director, Florida Department of Revenue, First District Court of Appeal, Case no. 1D07-1831</u>) (<u>Ogborn</u>).</p> <p>On June 9, 2008 the Department of Revenue filed an Amended Motion to Dismiss. On June 16, 2008 the trial court issued an "Agreed Order Granting Defendant's Motion for Compulsory Judicial Notice and Motion to Stay Pending Outcome of Appeal," staying the case pending the appeal in <u>Ogborn</u>.</p> <p>On July 11, 2008 the First District issued its opinion and remanded the case back to the trial court to apply the correct legal standard for a facial challenge to Plaintiffs' challenge to the statute. See <u>Ogborn v. Zingale</u>, 988 So.2d 56 (Fla. 1st DCA 2008). This case was consolidated with <u>Marcus and Patricia Ogborn on behalf of themselves and others similarly situated v. Jim Zingale, acting in his official capacity as the Director, Florida Department of Revenue, Case no. 05-CA-1354, Second Judicial Circuit, in September, 2008</u>. Please see Ogborn Agency Litigation Inventory report, below.</p> <p>In July, 2008 the Department filed a motion to dismiss and motion to strike jury trial following remand in <u>Ogborn</u> and a motion to transfer to the judge presiding over <u>DirecTV</u>. Plaintiffs filed a motion to strike the Department's motion to dismiss and motion to strike jury trial following remand. Plaintiffs Ogborn filed a response in opposition to the Department's motion to transfer and a response in opposition to the</p>

Department's motion to dismiss and motion to strike jury trial following remand. The trial court granted the Department's motion to transfer in September, 2008, consolidating Ogborn under DirecTV.

In October, 2008 the Plaintiffs, DirecTV, Inc., and Dish Network, LLC, filed an amended complaint and in January, 2009 the Department filed a motion to dismiss the amended complaint and Motion to Strike. In its motion to dismiss the Department argues for dismissal because the second amended complaint continues to rely upon as-applied allegations that the First District recognized that Plaintiffs cannot assert and the communications services tax does not unconstitutionally discriminate against delivery of television programming by satellite in favor of delivery of television programming by cable dealers.

After obtaining leave from the trial court, Plaintiffs Ogborn filed a second amended class action complaint in March, 2009. In April, 2009 the Department filed a motion to dismiss the second amended class action complaint. In its motion to dismiss the Department argues for dismissal because the second amended complaint continues to rely upon as-applied allegations that the First District recognized that Plaintiffs cannot assert and the communications services tax does not unconstitutionally discriminate against delivery of television programming by satellite in favor of delivery of television programming by cable dealers.

The parties began discovery and the trial court entered a confidentiality/protective order in August, 2009 in a form that was acceptable to the Department. After a hearing held on October 14, 2009 on the Florida Cable Association's Motion to Dismiss the Amended Complaint, the Department's motion to dismiss the Plaintiffs' amended complaint, and the Department's motion to dismiss the second amended class action complaint, the trial court ruled that it would deem those motions to dismiss to be motions for summary judgment, and allowed the parties a time for discovery and for supplementing the record for summary judgment. Discovery between the parties remains ongoing. No trial date has yet been set.

Who is representing (of record) the state in this lawsuit? Check all that apply.

<input type="checkbox"/>	Agency Counsel
<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
<input type="checkbox"/>	Outside Contract Counsel

<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>	<p>Counsel for DirecTV/Echostar:</p> <p>Peter O. Larsen, Esquire Timothy J. McDermott, Esquire Akerman Senterfitt 50 North Laura Street, Suite 3100 Jacksonville, Florida 32202 Tel: (904) 798-3700 Fax: (904) 798-3730</p> <p>J. Riley Davis, Esq. Akerman Senterfitt 106 E College Avenue Suite 1200 Tallahassee, Florida 32301 Tel: (850) 224-9634 Fax: (850) 224-0103</p> <p>E. Joshua Rosenkranz, Esquire Jeremy Kudon, Esquire Scott Bridge, Esquire Orrick, Herrington & Sutcliffe, LLP 51 West 52nd Street New York, NY 10019-6142 Tel: (212) 506-5000 Fax: (212) 506-5151</p> <p>Counsel for Ogborns:</p> <p>Joel Terwilliger, Esquire 2344 Spruce Street, Suite A Boulder, CO 80202 Tel: (303) 442-2156</p> <p>Stacy Barnett, Esquire, The Barnett Law Firm, P.C., 181 East Main Street Canton GA, 30114 Tel.: (770) 720-9522 Fax: (770) 720- 1770</p>
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Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	John Mika	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Equity Industrial IV, Inc. v. Department of Revenue</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	10-10936		
Summary of the Complaint:	This case involves a challenge to Department's assessment as sales tax on commercial rent. The taxpayer (landlord) claims lease agreement requires tenant to pay all taxes, therefore, the taxpayer is not liable.		
Amount of the Claim:	\$1,163,847.23		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	<p>The Department requested documents from the taxpayer which the taxpayer has not provided to the Department. The Administrative Law Judge (ALJ) granted the Department's motion to compel and ordered that the taxpayer produce the requested documents by June 8, 2011. When the taxpayer did not produce the documents, the ALJ issued a show cause order to the taxpayer. The taxpayer responded to the order to show cause and stated that it had satisfactorily answered the Department's discovery requests. The ALJ issued an order on August 2, 2011 requiring the taxpayer to provide the documents to the Department by August 3, 2011. The Department filed a status report on August 9, 2011 and stated that the taxpayer had not complied with the Court's order and requested that the taxpayer should be required to respond to the discovery, or suffer the dismissal of its petition for its willful failure. The ALJ has not yet ruled or responded to the Department's status report.</p>		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	07-2894		
Summary of the Complaint:	<p>This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2006. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>The taxpayer (Fidelity) is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. Fidelity’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is</p>		

imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.

This case is similar to Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, for Fidelity National Title Insurance Company v. Florida Department of Revenue case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540; and Fidelity National Title Insurance Company v. Florida Department of Revenue , case no. 11-1671, Second Judicial Circuit.

This case is also similar to Chicago Title Insurance Company v. Florida Department of Revenue, case nos. 09-2205, Second Judicial Circuit; Chicago Title Insurance Company v. Florida Department of Revenue, case no. 10-3539, Second Judicial Circuit; and Chicago Title Insurance Company v. Florida Department of Revenue, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for Chicago Title Insurance Company v. Florida Department of Revenue, case no. 09-2205, Second Judicial Circuit; Chicago Title Insurance Company v. Florida Department of Revenue, case no. 10-3539, Second Judicial Circuit; and Chicago Title Insurance Company v. Florida Department of Revenue, case no. 11-1669, Second Judicial Circuit.

In addition, this case is also similar to the following cases: Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports, below, for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance

	<u>Company v. Florida Department of Revenue</u> , Case No. 05-695, Second Judicial Circuit.	
Amount of the Claim:	\$1,700,972	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department filed an amended answer and affirmative defenses to the Fidelity's complaint in November, 2007. In June, 2010 the trial court granted Fidelity's motion to stay, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 9-1708 (<u>Fidelity 9-1708</u>), which the parties agreed to decide the outcome of this case. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u> , above. No trial date has been set in <u>Fidelity 9-1708</u> .	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	09-1708		
Summary of the Complaint:	<p>This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2006. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>The taxpayer (Fidelity) is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. Fidelity’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.</p> <p>This case is similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540, Second Judicial Circuit; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-</p>		

	<p>1671, Second Judicial Circuit.</p> <p>This case is also similar to <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p> <p>In addition, this case is also similar to the following cases: <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports, below, for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit.</p>
Amount of the Claim:	\$1,713,725 refund claim
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	<p>The Department filed an amended answer and affirmative defenses to the Fidelity's complaint in July, 2009. Discovery is ongoing. No trial date has been set in this case which the parties have agreed is the "Test case" for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case nos. 07-2894 and 10-3540, Second Judicial Circuit, and other related cases.</p>

Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3540		
Summary of the Complaint:	<p>This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2009. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>The taxpayer (Fidelity) is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. The taxpayer’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for</p>		

themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.

This case is similar to Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 09-1708, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, for Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue case no. 09-1708, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit.

This case is also similar to Chicago Title Insurance Company v. Florida Department of Revenue, case nos. 09-2205, Second Judicial Circuit; Chicago Title Insurance Company v. Florida Department of Revenue, case no. 10-3539, Second Judicial Circuit; and Chicago Title Insurance Company v. Florida Department of Revenue, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for Chicago Title Insurance Company v. Florida Department of Revenue, case no. 09-2205, Second Judicial Circuit; Chicago Title Insurance Company v. Florida Department of Revenue, case no. 10-3539, Second Judicial Circuit; and Chicago Title Insurance Company v. Florida Department of Revenue, case no. 11-1669, Second Judicial Circuit.

In addition, this case is also similar to the following cases: Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports, below, for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case

	No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u> , Case No. 05-695, Second Judicial Circuit.	
Amount of the Claim:	\$627,030.07	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department filed its answer and affirmative defenses to the taxpayer's complaint in December, 2010. The trial court granted the taxpayer's motion to stay in December, 2010, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 9-1708 (<u>Fidelity 9-1708</u>), which the parties agreed to decide the outcome of this case. . Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u> , above. No trial date has been set in <u>Fidelity 9-1708</u> .	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Timothy Dennis	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-1671		
Summary of the Complaint:	<p>This is an action contesting the Department's application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2010. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>The taxpayer (Fidelity) is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. Fidelity’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount Fidelity claims to be commission.</p> <p>This case is similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-1708, Second Judicial Circuit; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540, Second Judicial Circuit. See Agency Litigation Inventory Reports, for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708, Second Judicial Circuit; and <u>Fidelity National Title Insurance Company v. Florida Department of</u></p>		

	<p><u>Revenue</u>, case no. 10-3540, Second Judicial Circuit.</p> <p>This case is similar to <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669.</p> <p>In addition, this case is also similar to the following cases: <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports, below, for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit.</p>	
Amount of the Claim:	\$49,995 refund denial	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department has not yet filed an answer in this recently filed case. No trial date has been set.	
Who is representing (of record) the state in this lawsuit? Check all that		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management

apply.		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ford Credit Titling Trust, a foreign common law trust v. State of Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	09-3020		
Summary of the Complaint:	<p>This case involves an administrative rule challenge brought by Ford Credit Titling Trust (FCTT) to the Department's rule, Florida Administrative Code Rule 12A-16.002. The issues are set forth below:</p> <ol style="list-style-type: none"> 1. Whether FCTT’s “Lease End Extension Agreement,” by which FCTT renews and extends certain automobile leases at the end of the original lease term, is subject to an additional surcharge on the first 30 days of the renewal term, pursuant to Section 212.0606(1), Florida Statutes, where a surtax has already been paid on the first 30 days of the original lease term. 2. Whether Florida Administrative Code Rule 12A-16.002, which declares such lease renewals to constitute an additional taxable term, constitutes an invalid effort to enlarge, modify or contravene the tax statute. 		

	3. Whether Florida Administrative Code Rule 12A-16.002 is void for vagueness.
Amount of the Claim:	\$1,739,865 assessment
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The Department has filed its answer and a mandatory request for judicial notice of Florida Administrative Code Rule 12A-16.002 in effect for the period 3/20/96 through 9/27/04; and Florida Administrative Code Rule 12A-16.002 in effect for the period 9/28/04 through the present. The Department has also served written discovery that FCTT has answered. FCTT filed an unopposed motion to abate in March, 2011 which the trial court granted in April, 2011, provided that the parties file a status report notifying the court by January 12, 2012 of the status of settlement negotiations. The parties are currently engaged in settlement negotiations. No trial date has been set.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>General Motors Corporation v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	04-2739		
Summary of the Complaint:	<p>The case involves an assessment for sales and use tax (and related local use taxes) pertaining to parts used for discretionary after-warranty adjustments/repairs to vehicles made by General Motors (“GM”) dealers for its customers. These warranty “adjustments” are done by GM dealers after the expiration of the [express] new vehicle limited warranty (e.g., three-year/36,000 miles) which is included in the purchase price of the vehicle. This case is similar to the pending action of <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 07-1680, also filed in the Second Judicial Circuit.</p> <p>There are three types of programs of warranty adjustments, referred to as: (1) “Special Policy Adjustment Programs”; (2) “Dealer Product Campaign Bulletins”; and (3) “Goodwill Adjustments.” The first relates to government-mandated safety and emissions matters; the second relates to GM (i.e., non-mandated) repairs regarding other safety matters; and, the third relates to all other adjustments without charge to the customer after the expiration of the basic warranty period. The third type of adjustments (the so-called “case-by-case adjustment program”) is the only one at issue in this case.</p> <p>Case-by-case adjustments are discretionary repairs of parts and/or labor made at no charge to the customer, after the expiration of the express warranty. The Department of Revenue’s assessment is for the value of the parts installed and labor costs at no (or a reduced) charge to the customers. GM argues that the cost of this warranty program is included in original price of the vehicle when purchased, even though it is not legally required to make these repairs (it is made solely at GM’s discretion). GM further argues this is required to provide customer</p>		

	<p>goodwill and satisfaction when there are defects in materials and/or workmanship in the vehicle after the expiration of the original express warranty. The Department of Revenue's position is that these discretionary repairs by GM are taxable as a separate transaction from the original purchase of the motor vehicle. <u>See Florida Hotel & Motel Association, Inc. v. Department of Revenue</u>, 635 So. 2d 1044 (Fla. 1st DCA 1994). The Supreme Court of Ohio has considered this issue and ruled in favor of Ohio's taxing authority. <u>See General Motors Corporation v. Wilkins</u>, 2004 Ohio 1869, 806 N.E. 2d 517 (2004).</p> <p>The tax period at issue is 01-01-91 through 12-31-96. The Notice of Reconsideration sustained the sales and use tax assessment in the aggregate amount of approximately \$31,912,352, along with aggregate local government surtax assessments of approximately \$1,745,000. GM paid an undisputed portion of the assessment on 03-03-03 in the sum of \$2,537,100. The main assessment of state sales and use tax consists of tax in the amount of \$15,240,667, penalty in the amount of \$6,876,952, and interest through 08-16-04 in the amount of \$18,590,000.</p> <p>This case is similar to <u>General Motors Corporation v. Florida Department of Revenue</u>, Case nos. 07-1680 and 11-807, Second Judicial Circuit.</p>
Amount of the Claim:	\$32,932,950.27
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	<p>After GM emerged from bankruptcy, GM filed a motion for summary judgment in January, 2011. In May, 2011, this case was consolidated with <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 07-1680, Second Judicial Circuit, and <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 11-807, Second Judicial Circuit. See Agency Litigation Inventory Reports, below, for <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 07-1680, Second Judicial Circuit, and <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 11-807, Second Judicial Circuit. The Department engaged in discovery with GM, requesting documents and conducting depositions. On July 15, 2011 the Department filed its response to GM's motion for summary judgment. The trial court has not yet ruled on GM's motion. The non-jury trial in this case is set for the week of December 5, 2011.</p>
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	
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Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>General Motors Corporation v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	07-1680		
Summary of the Complaint:	<p>The case involves an assessment for sales and use tax (and related local use taxes) pertaining to parts used for discretionary after-warranty adjustments/repairs to vehicles made by General Motors (“GM”) dealers for its customers. These warranty “adjustments” are done by GM dealers after the expiration of the [express] new vehicle limited warranty (e.g., three-year/36,000 miles) which is included in the purchase price of the vehicle. The tax period at issue is 01-01-97 through 12-31-02.</p> <p>There are three types of programs of warranty adjustments, referred to as: (1) “Special Policy Adjustment Programs”; (2) “Dealer Product Campaign Bulletins”; and (3) “Goodwill Adjustments.” The first relates to government-mandated safety and emissions matters; the second relates to GM (i.e., non-mandated) repairs regarding other safety matters; and, the third relates to all other adjustments without charge to the customer after the expiration of the basic warranty period. The third type of adjustments (the so-called “case-by-case adjustment program”) is the only one at issue in this case.</p>		

	<p>Case-by-case adjustments are discretionary repairs of parts and/or labor made at no charge to the customer, after the expiration of the express warranty. The Department of Revenue’s assessment is for the value of the parts installed and labor costs at no (or a reduced) charge to the customers. GM argues that the cost of this warranty program is included in original price of the vehicle when purchased, even though it is not legally required to make these repairs (it is made solely at GM’s discretion). GM further argues this is required to provide customer goodwill and satisfaction when there are defects in materials and/or workmanship in the vehicle after the expiration of the original express warranty. The Department of Revenue’s position is that these discretionary repairs by GM are taxable as a separate transaction from the original purchase of the motor vehicle. <u>See Florida Hotel & Motel Association, Inc. v. Department of Revenue</u>, 635 So. 2d 1044 (Fla. 1st DCA 1994). The Supreme Court of Ohio has considered this issue and ruled in favor of Ohio’s taxing authority. <u>See General Motors Corporation v. Wilkins</u>, 2004 Ohio 1869, 806 N.E. 2d 517 (2004).</p>
Amount of the Claim:	\$9,416,518.42
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	<p>The parties have engaged in discovery. This case was consolidated with <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 04-2739, Second Judicial Circuit and <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 11-807, Second Judicial Circuit, in May 2010. See Agency Litigation Inventory report for <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 04-2739, Second Judicial Circuit, above, and <u>General Motors Corporation v. Florida Department of Revenue</u>, Case no. 11-807, Second Judicial Circuit, below.</p>
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>General Motors Corporation v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-807		
Summary of the Complaint:	<p>The case involves an assessment for sales and use tax (and related local use taxes) pertaining to parts used for discretionary after-warranty adjustments/repairs to vehicles made by General Motors (“GM”) dealers for its customers. These warranty “adjustments” are done by GM dealers after the expiration of the [express] new vehicle limited warranty (e.g., three-year/36,000 miles) which is included in the purchase price of the vehicle. The tax period at issue is January 1, 2002 through December 31, 2007.</p> <p>There are three types of programs of warranty adjustments, referred to as: (1) “Special Policy Adjustment Programs”; (2) “Dealer Product Campaign Bulletins”; and (3) “Goodwill Adjustments.” The first relates to government-mandated safety and emissions matters; the second relates to GM (i.e., non-mandated) repairs regarding other safety matters; and, the third relates to all other adjustments without charge to the customer after the expiration of the basic warranty period. The third type of adjustments (the so-called “case-by-case adjustment program”) is the only one at issue in this case.</p> <p>Case-by-case adjustments are discretionary repairs of parts and/or labor made at no charge to the customer, after the expiration of the express warranty. The Department of Revenue’s assessment is for the value of the parts installed and labor costs at no (or a reduced) charge to the customers. GM argues that the cost of this warranty program is included in original price of the vehicle when purchased, even though it is not legally required to make these repairs (it is made solely at GM’s discretion). GM further argues this is required to provide customer goodwill and satisfaction when there are defects in materials and/or</p>		

	<p>workmanship in the vehicle after the expiration of the original express warranty. The Department of Revenue's position is that these discretionary repairs by GM are taxable as a separate transaction from the original purchase of the motor vehicle. <u>See Florida Hotel & Motel Association, Inc. v. Department of Revenue</u>, 635 So. 2d 1044 (Fla. 1st DCA 1994). The Supreme Court of Ohio has considered this issue and ruled in favor of Ohio's taxing authority. <u>See General Motors Corporation v. Wilkins</u>, 2004 Ohio 1869, 806 N.E. 2d 517 (2004).</p> <p>This case is similar to <u>General Motors Corporation v. Florida Department of Revenue</u>, Case nos. 04-2739 and 07-1680, Second Judicial Circuit.</p>
Amount of the Claim:	\$5,508,073.06
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	This case was consolidated with <u>General Motors Corporation v. Florida Department of Revenue</u> , Case no. 04-2739, also filed in the Second Judicial Circuit, in May 2010. See Agency Litigation Inventory report for <u>General Motors Corporation v. Florida Department of Revenue</u> , Case no. 04-2739, Second Judicial Circuit, above.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Grand Central at Kennedy, LLC, a Florida limited liability company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Thirteenth Judicial Circuit		
Case Number:	08-27911		
Summary of the Complaint:	<p>The issues in this concluded case which involved a refund claim of sales and use tax are summarized below:</p> <ol style="list-style-type: none"> 1. Whether the Taxpayer (Grand Central) could properly claim as "employees," for purposes of the enterprise zone tax credit, persons in the employment of a separate property management corporation, where Grand Central itself had no employees. 2. Whether the person(s) who allegedly lived in an enterprise zone were actually "residents" of that zone, for purposes of the enterprise zone credit when, at all pertinent times, they leased an apartment in the zone but simultaneously claimed homestead exemption at a single family residence located outside the enterprise zone. 		
Amount of the Claim:	\$1,015,200 (\$4,540,000 refund claim reported on 2009 report)		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	<p>In January, 2009, the Department answered the complaint and filed affirmative defenses. After the parties engaged in discovery, the taxpayer filed a motion for summary judgment and the Department filed a cross motion for summary judgment. After a hearing was held in May, 2010 on both of these motions, the trial court entered an order granting Grand Central's motion for summary judgment and denying the Department's motion for summary judgment. This case settled in June, 2010 with the Department refunding \$890,000 to Grand Central.</p>		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Haas Publishing Companies, Inc. v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	08-3477		
Summary of the Complaint:	<p>In this concluded case, the Petitioner (Haas) contested the Department's assessment of sales and use tax for the audit period of January 1, 2002 through December 31, 2004.</p> <p>Haas is a Delaware corporation (now known by the name "Consumer Source") that publishes free consumer guides to local apartments and homes and is paid by the apartment owners, property managers, builders or developers who advertise in the publications.</p> <p>In 2008, Haas carried its local area guides, including its 77 different Apartment Guide publications, in approximately 60,000 locations. During the audit period at issue, one of Haas' divisions, Distributech, distributed the guides through rack displays at retail stores. Haas' racks took up from two to four [square] feet worth of floor space. Haas negotiated with retailers for an appropriate site for its display of publications at each retail location. Haas paid for an exclusive right of</p>		

	<p>occupancy and distribution in numerous locations throughout the United States and Florida, by entering into contracts with these retail store chains.</p> <p>The contested sales and use tax assessment was based upon the Department's determination that the total monthly amounts which the Haas paid to various retail stores constituted "rent" paid under written "licensing" agreements. The Department determined that Haas was paying for the privilege of occupying a portion of the retail store premises with its display racks. Haas obtained the right to place its display racks on the various premises under written agreements, which permitted Haas to occupy retail store space and to distribute free magazines, by which Haas generated advertising revenues. The Petitioner contended that a portion, not all, of the total sums paid were not taxable as rent.</p> <p>During the course of the proceedings, Haas admitted that a portion of the revised and reduced assessment was due, even under Haas's own proposed allocation methodology.</p> <p>The issues involved in this case are set forth below:</p> <ol style="list-style-type: none"> 1. To what extent each party was bound by collateral estoppel in prior litigation. 2. Whether the Haas' agreements with retailers constitute taxable "licenses" to use real estate (on which to place advertising racks) as opposed to a franchise or "distribution" agreement. 3. Whether Haas would be able to demonstrate that a portion of the payments made by the taxpayer to retailers for the placement of its display racks and publications on a retailer's premises is allocable for the use of personal property not related to the use of real property rental.
Amount of the Claim:	\$996,037.44
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	<p>A final hearing was held on February 10-11, 2009. The parties submitted proposed recommended orders in April, 2009 and supplemental memorandums in July, 2009. The DOAH Administrative Law Judge issued the recommended order in August, 2009 recommending the Department of Revenue enter a Final Order requiring Petitioner to pay \$206,450.06, in tax, plus interest as that amount constitutes taxable rent and the Petitioner is not liable for the remaining portion of the assessment as that amount constituted tax on payments that were for "intrinsically valuable personal property," excluded from tax under Section 212.031, Fla. Stat.</p> <p>In September, 2009, the parties jointly stipulated to an extension of time to submit exceptions to the recommended order. Without filing any exceptions, the parties settled the case in January, 2010 with the taxpayer paying \$336,030.88 to the Department.</p>

Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>HCA - The Healthcare Company, a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	01-74		
Summary of the Complaint:	<p>This is the first of two HCA cases that challenge the Department's method of apportioning corporate income tax. The second case is <u>HCA - The Healthcare Company, a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 03-440, Second Judicial Circuit. See Agency Litigation Inventory report for <u>HCA - The Healthcare Company, a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 03-440, Second Judicial Circuit, below.</p> <p>The two issues in this corporate income tax case are set forth below:</p> <p>1) Whether management fees should be included in the sales factor of the apportionment formula.</p>		

	<p>Section 220.15(5)(a), Florida Statutes, provides that “as used in this subsection, the term “sales” means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities.” The taxpayer argues that Galen was not a “financial organization” under 220.15(5)(c), Florida Statutes (unlike the separate and distinct corporate entities receiving payments on promissory notes, which are alleged to be financial organizations).</p> <p>The taxpayer relies on Fla. Admin. Code Rule 12C-1.0155(1)(i), which provides that “[g]enerally, management fees charged from a parent corporation to a subsidiary are excluded from the sales factor. If the fees are just a pass-through of corporate overhead expenditures, the fees will not be included in “sales.” However, where the parent is not a vendor of tangible personal property or a “financial organization” and the preponderance of its gross receipts are management fees, these may be used in construction of the sales factor. In the case of a parent holding company, management fees are clearly in “its trade or business” and, therefore, includable in the sales factor.” The Department points out that the rule is limited to parent/subsidiary transactions, but the Department still needs to address the language of Section 220.15(5)(a), Florida Statutes (“all gross receipts”).</p> <p>The Department has argued the taxpayer's contention that management fees should be included in the sales factor should require Taxpayer to establish: (1) that the Department's rule 12C-1.0155(1)(i) treats or should treat transactions between subsidiaries the same as parent/subsidiary transactions; (2) that the parent holding company is not a financial organization; (3) that Galen Health Care, Inc.'s management fees charged to HCA's subsidiary corporations are not merely a pass-through of expenses; and (4) that the management fees constitute a preponderance of the parent holding company's gross receipts.</p> <p>(2) Whether a credit should be given for an alleged insurance premium tax overpayment.</p>
Amount of the Claim:	Refund claim exceeds \$1,000,000
Specific Statutes or Laws (including GAA) Challenged:	Facial challenge to Sections 220.03(1)(r) and 220.13(1)(b)3, Florida Statutes.
Status of the Case:	Discovery is ongoing. A trial date has not been set.
Who is representing (of record) the state in this lawsuit? Check all that	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management

apply.		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>HCA - The Healthcare Company, a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	03-440		
Summary of the Complaint:	<p>The two issues in this corporate income tax case are set forth below:</p> <p>(1) Whether intangible personal property should be included in the property factor of the apportionment formula.</p> <p>Section 220.15(2), Florida Statutes, states a general rule that property that is to be considered for apportionment purposes is limited to real and tangible personal property. However, Section 220.15(3), Florida Statutes, creates an exception by providing that “[t]he property factor used by a financial organization shall also include intangible personal property, except goodwill, which is owned and used in the business, valued at its tax basis for federal income tax purposes.”</p> <p>The Taxpayer's (HCA) contention that it is entitled to property factor adjustment requires it to prove that Columbia/HCA Capital Corp., Western Capital, Inc. and C/HCA Capital, Inc. fall within the statutory and rule definition of a "financial organization." Section 220.15(6),</p>		

Florida Statutes, defines the term "financial organization" and states that it "includes any bank, trust company, savings bank, industrial bank, land bank, safe-deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, or investment company."

Florida Administrative Code Rule 12C-1.0153(10)(a) recognizes that the statutory list is not exhaustive, by stating that the "[t]he term "financial organization" as defined in subsection 220.15(6), Florida Statutes., includes brokerage companies." Florida Administrative Code Rule 12C-1.015(9) further defines financial organization as follows: "[a]ny corporation whose only activity consists of holding stock of corporations, bonds, or other securities; earning interest on accounts maintained in banks, savings and loan associations, credit unions, mutual funds, trusts; and holding mortgages on real and tangible personal property will be required to modify the apportionment factors for property and sales as if the corporation was a financial organization."

Therefore, the threshold question on property factor relief is whether Columbia/HCA Capital Corp., Western Capital, Inc. and C/HCA Capital, Inc. were financial organizations within the meaning of the statute and implementing rules.

(2) Whether management fees should be included in the sales factor of the apportionment formula.

Section 220.15(5)(a), Florida Statutes, provides that "as used in this subsection, the term "sales" means all gross receipts of the taxpayer except interest, dividends, rents, royalties, and gross receipts from the sale, exchange, maturity, redemption, or other disposition of securities." HCA argues that Galen was not a "financial organization" under 220.15(5)(c), Florida Statutes (unlike the separate and distinct corporate entities receiving payments on promissory notes, which are alleged to be financial organizations).

HCA relies on Florida Administrative Code Rule 12C-1.0155(1)(i) which provides that "[g]enerally, management fees charged from a parent corporation to a subsidiary are excluded from the sales factor. If the fees are just a pass-through of corporate overhead expenditures, the fees will not be included in "sales". However, where the parent is not a vendor of tangible personal property or a "financial organization" and the preponderance of its gross receipts are management fees, these may be used in construction of the sales factor. In the case of a parent holding company, management fees are clearly in "its trade or business" and, therefore, includable in the sales factor." The Department points out that the rule is limited to parent/subsidiary transactions, but the Department still needs to address the language of Section 220.15(5)(a), Florida Statutes ("all gross receipts").

The Department has argued that HCA's contention that management fees should be included in the sales factor should require HCA to

	<p>establish: (1) that the Department's rule 12C-1.0155(1)(i) treats or should treat transactions between subsidiaries the same as parent/subsidiary transactions; (2) that the parent holding company is not a financial organization; (3) that Galen Health Care, Inc.'s management fees charged to HCA's subsidiary corporations are not merely a pass-through of expenses; and (4) that the management fees constitute a preponderance of the parent holding company's gross receipts.</p> <p>This case is similar to <u>HCA - The Healthcare Company, a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 01-74, Second Judicial Circuit. See Agency Litigation Inventory report for This case is similar to <u>HCA - The Healthcare Company, a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 01-74, Second Judicial Circuit, above.</p>
Amount of the Claim:	Refund claim exceeds \$7,000,000
Specific Statutes or Laws (including GAA) Challenged:	Section 220.03(1)(r), Florida Statutes
Status of the Case:	Discovery is ongoing. A trial date has not been set.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>HCA Squared, LLC, a Delaware limited liability company v. Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	08-4143		
Summary of the Complaint:	<p>This case involves two corporate tax assessment claims arising out of amended Florida corporate income tax returns filed for the tax years ending on 1987 and 1988. The amended Florida returns were filed after a federal audit of the taxpayer (HCA Squared) and its subsidiaries that required adjustments to its federal taxable income; these federal adjustments required HCA Squared to file amended Florida corporate income tax returns and to pay additional Florida corporate income tax to the Department. HCA Squared did not dispute the amount of corporate tax at issue and paid the assessed tax. The primary issue in this case is whether HCA Squared owes interest on the underpayment of tax based on the federal Revenue Agent Report (“RAR”) adjustments under the 2002 amendments to Sections 220.23 and 220.809, Florida Statutes. The five issues involved in this case are set forth below.</p> <p>(1) Whether Section 220.23, Florida Statutes, as amended by Laws of Florida Section 44, Chapter 2002-218, required HCA Squared to pay with its Amended Florida Return that was filed in 2004, interest for HCA Squared’s 1987-1988 tax years, dating all the way back to the original 1987-1988 return due dates;</p> <p>(2) Alternatively, whether interest was due dating back to the 1/1/03 effective date of Laws of Florida Section 44, Chapter 2002-218);</p> <p>(3) Whether the statute, if construed to charge interest dating back to the original 1987-1988 return year due date, would violate equal protection or due process? The Complaint seeks a declaration that the statute is unconstitutional both as applied and on its face.</p> <p>(4) Whether the Department’s construction of the statute required promulgation as a rule.</p> <p>(5) Whether the Department’s or HCA Squared has violated a</p>		

	<p>settlement agreement concerning a relatively small portion of the assessment (\$15,204).</p> <p>As stated, the primary issue in this case is whether Section 44, Chapter 2002-218, Laws of Florida, which Amended Section 220.23, Florida Statutes, effective 1/1/03, can be applied by the Department in a manner that Plaintiff characterizes as "retroactive." Florida's corporate income tax "piggybacks" federal taxable income, so taxpayers are required to notify the Department, and to pay additional tax due, within 60 days after IRS audit adjustments become "final." Prior to the enactment of the amendment, the decision in <u>Barnett Banks v. Dept. of Revenue</u>, 738 So. 2d 501 (Fla. 1st DCA 1999) held that no additional interest is due provided that the additional tax amounts arising from federal audit adjustments are timely reported and paid within the sixty day statutory window. The parties agree that the amendment does not purport to clarify but rather to change the law. However, the amendment appears to state that for amended returns filed after 1/1/03, interest on those amended returns goes back to the due date of the originally filed return. Literally applied, the statute would collect interest going back a decade or more prior to the effective date of the statute's amendment.</p> <p>When, in 2004, HCA Squared timely filed amended Florida corporate income tax returns for its 1987 and 1988 tax years, the Department assessed interest dating back to HCA Squared's original 1987 and 1988 tax return due dates, which includes one year of interest for a period after the effective date of the amendment, and fifteen years of interest for a period prior to the effective date of the amendment. Plaintiff argues that the need for prospective application means applying the amendment only to those tax years beginning with the 2003 tax year and that the Department's position is retroactive, contrary to the effective date provision, and violates due process.</p> <p>This case is similar to <u>HCA, Inc., a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 11-1145, Second Judicial Circuit. See Agency Litigation Inventory Report for <u>HCA, Inc., a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 11-1145, Second Judicial Circuit, below.</p>
Amount of the Claim:	\$1,795,204
Specific Statutes or Laws (including GAA) Challenged:	Section 220.23, Florida Statutes, as amended by Section 44, Chapter 2002-218, Laws of Florida.
Status of the Case:	The parties have engaged in discovery. The Department filed a motion for partial summary judgment in June 2010 and an amended motion for partial summary judgment in June, 2011. In June, 2011 the Department filed a motion to withdraw an admission in order to argue that the 2002 amendment should apply for the 1987-1988 tax years, so as to at least permit interest to be collected for the period of time dating from the

	<p>2004 amended return filing back to the 1/1/03 effective date of the statutory amendment. The trial court has not yet ruled on the Department's motion to withdraw the admission and a hearing on the motion has not been set.</p> <p>With respect to the amended motion for partial summary judgment, the Department moved the trial court to declare that HCA Squared is liable for the accrued interest and argued that (a) that interest is due on the Amended Returns filed after January 1, 2003, and that such interest accrues from the original due date of the Florida corporate income tax return (without extensions) through the date payment is actually made to the Department; or (b) alternatively, that interest is due on the Amended Returns filed after January 1, 2003, and that such interest accrues from January 1, 2003 through the date payment is actually made to the Department. The Department's amended motion for partial summary judgment has not been set for hearing. A trial date has not yet been set.</p>	
<p>Who is representing (of record) the state in this lawsuit? Check all that apply.</p>		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Healthtrust, Inc. -- The Hospital Company, a Delaware corporation v. Department of Revenue of the State of Florida, a state agency</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	9-509		
Summary of the Complaint:	<p>This case involves two corporate tax assessment claims arising out of amended Florida corporate income tax returns filed for the 1991 and 1993-1995 tax years. The amended Florida returns were filed after a federal audit of the taxpayer, Healthtrust, Inc. -- The Hospital Company (Healthtrust) and its subsidiaries, that required adjustments to its federal taxable income; these federal adjustments required Healthtrust to file amended Florida corporate income tax returns and to pay additional Florida corporate income tax to the Department. Healthtrust did not dispute the amount of corporate tax at issue and paid the assessed tax. The primary issue in this case is whether the taxpayer owes interest on the underpayment of tax based on the federal Revenue Agent Report (“RAR”) adjustments under the 2002 amendments to Sections 220.23 and 220.809, Florida Statutes.</p> <p>The four issues involved in this case are set forth below.</p> <ol style="list-style-type: none"> 1) Whether Section 220.23, Florida Statutes, as amended by Laws of Florida Section 44, Chapter 2002-218, required HealthTrust to pay with its Amended Florida Returns that were filed in 2008, for Healthtrust’s 1991 and 1993-1995 tax years, interest dating back to the original return due dates; (2) Alternatively, whether interest was due dating back to the 1/1/03 effective date of Laws of Florida Section 44, Chapter 2002-218; (3) Whether the statute, if construed to charge interest dating back to the original 1994 return year due date, would violate equal protection or due process? The Complaint seeks a declaration that the statute is unconstitutional both as applied and on its face. (4) Whether the Department’s construction of the statute required promulgation as a rule. 		

	<p>As stated, the primary issue in this case is whether Section 44, Chapter 2002-218, Laws of Florida, which Amended Section 220.23, Florida Statutes, effective 1/1/03, can be applied by the Department in a manner that Healthtrust characterizes as "retroactive." Florida's corporate income tax "piggybacks" federal taxable income, so taxpayers are required to notify the Department, and to pay additional tax due, within 60 days after IRS audit adjustments become "final." Prior to the enactment of the amendment, the decision in <u>Barnett Banks v. Dept. of Revenue</u>, 738 So. 2d 501 (Fla. 1st DCA 1999) held that no additional interest is due provided that the additional tax amounts arising from federal audit adjustments are timely reported and paid within the sixty day statutory window. The parties agree that the amendment does not purport to clarify but rather to change the law. However, the amendment appears to state that for amended returns filed after 1/1/03, interest on those amended returns goes back to the due date of the originally filed return. Literally applied, the statute would collect interest going back a decade or more prior to the effective date of the statute's amendment.</p> <p>When, in 2008, HealthTrust timely filed amended Florida corporate income tax returns for its 1991 and 1993-1995 tax years, the Department assessed interest dating back to HealthTrust's original 1991-1995 tax return due dates, which includes five years of interest for a period after the effective date of the amendment, and eleven years of interest for a period prior to the effective date of the amendment. Healthtrust argues that the need for prospective application means applying the amendment only to those tax years beginning with the 2003 tax year and that the Department's position is retroactive, contrary to the effective date provision, and violates due process.</p> <p>This case is similar to <u>HCA, Inc., a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>, case no. 11-1145, below; and <u>HCA Squared, LLC, a Delaware limited liability company v. Department of Revenue</u>, case no. 08-4143, Second Judicial Circuit, above.</p>
Amount of the Claim:	\$260,731
Specific Statutes or Laws (including GAA) Challenged:	Section 220.23, Florida Statutes, as amended by Section 44, Chapter 2002-218, Laws of Florida.
Status of the Case:	The parties have engaged in discovery. The Department filed a motion for partial summary judgment in May, 2010 and an amended motion for partial summary judgment in June, 2011. In June, 2011 the Department filed a motion to withdraw an admission in order to argue that the 2002 amendment should apply for the 1991 and 1993-1995 tax years, so as to at least permit interest to be collected for the period of time dating from

	<p>the 2004 amended return filing back to the 1/1/03 effective date of the statutory amendment. The trial court has not yet ruled on the Department's motion to withdraw the admission and a hearing on the motion has not been set.</p> <p>With respect to the amended motion for partial summary judgment, the Department moved the trial court to declare that HCA Squared is liable for the accrued interest and argued that (a) that interest is due on the Amended Returns filed after January 1, 2003, and that such interest accrues from the original due date of the Florida corporate income tax return (without extensions) through the date payment is actually made to the Department; or (b) alternatively, that interest is due on the Amended Returns filed after January 1, 2003, and that such interest accrues from January 1, 2003 through the date payment is actually made to the Department. The Department's amended motion for partial summary judgment has not been set for hearing. A trial date has not yet been set.</p>	
<p>Who is representing (of record) the state in this lawsuit? Check all that apply.</p>		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>HCA, Inc., a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-1145		
Summary of the Complaint:	<p>This case involves two corporate tax assessment claims arising out of amended Florida corporate income tax returns filed for the fiscal years ending on 12-31-93 and 12-31-94. The amended Florida returns were filed after a federal audit of the taxpayer (HCA) and its subsidiaries that required adjustments to its federal taxable income; these federal adjustments required HCA to file amended Florida corporate income tax returns and to pay additional Florida corporate income tax to the Department. HCA did not dispute the amount of corporate tax at issue and paid the assessed tax. The primary issue in this case is whether HCA owes interest on the underpayment of tax based on the federal Revenue Agent Report (“RAR”) adjustments under the 2002 amendments to Sections 220.23 and 220.809, Florida Statutes. The four issues involved in this case are set forth below.</p> <p>(1) Whether Section 220.23, Florida Statutes, as amended by Laws of Florida Section 44, Chapter 2002-218, required HCA to pay with its Amended Florida Return that was filed in 2008, for HCA’s 1993 and 1994 tax years, interest dating back to the original return due date;</p> <p>(2) Alternatively, whether interest was due dating back to the 1/1/03 effective date of Laws of Florida Section 44, Chapter 2002-218;</p> <p>(3) Whether the statute, if construed to charge interest dating back to the original 1993 and 1994 return year due dates, would violate equal protection or due process? The Complaint seeks a declaration that the statute is unconstitutional both as applied and on its face.</p> <p>(4) Whether the Department’s construction of the statute required promulgation as a rule.</p> <p>As stated, the primary issue in this case is whether Section 44, Chapter</p>		

	<p>2002-218, Laws of Florida, which Amended Section 220.23, Florida Statutes, effective 1/1/03, can be applied by the Department in a manner that Plaintiff characterizes as "retroactive." Florida's corporate income tax "piggybacks" federal taxable income, so taxpayers are required to notify the Department, and to pay additional tax due, within 60 days after IRS audit adjustments become "final." Prior to the enactment of the amendment, the decision in <u>Barnett Banks v. Dept. of Revenue</u>, 738 So. 2d 501 (Fla. 1st DCA 1999) held that no additional interest is due provided that the additional tax amounts arising from federal audit adjustments are timely reported and paid within the sixty day statutory window. The parties agree that the amendment does not purport to clarify but rather to change the law. However, the amendment appears to state that for amended returns filed after 1/1/03, interest on those amended returns goes back to the due date of the originally filed return. Literally applied, the statute would collect interest going back a decade or more prior to the effective date of the statute's amendment.</p> <p>When, in 2008, HCA timely filed an amended Florida corporate income tax return for its 1994 tax year, the Department assessed interest dating back to HCA's original 1994 tax return due date, which includes five years of interest for a period after the effective date of the amendment, and eight years of interest for a period prior to the effective date of the amendment. HCA argues that the need for prospective application means applying the amendment only to those tax years beginning with the 2003 tax year and that the Department's position is retroactive, contrary to the effective date provision, and violates due process.</p> <p>This case is similar to <u>Healthtrust, Inc. -- The Hospital Company, a Delaware corporation v. Department of Revenue of the State of Florida, a state agency</u>, case no. 9-509; and <u>HCA Squared, LLC, a Delaware limited liability company v. Department of Revenue</u>, case no. 08-4143, both filed in the Second Judicial Circuit. See Agency Litigation Inventory Reports for <u>Healthtrust, Inc. -- The Hospital Company, a Delaware corporation v. Department of Revenue of the State of Florida, a state agency</u>, case no. 9-509, Second Judicial Circuit; and <u>HCA Squared, LLC, a Delaware limited liability company v. Department of Revenue</u>, case no. 08-4143, Second Judicial Circuit, above.</p>
Amount of the Claim:	\$1,396,822.45
Specific Statutes or Laws (including GAA) Challenged:	Section 220.23, Florida Statutes, as amended by Section 44, Chapter 2002-218, Laws of Florida.
Status of the Case:	HCA filed an amended complaint in June, 2011. The deadline for answering the complaint in this recently filed case has been indefinitely extended pending settlement negotiations.
Who is representing (of	Agency Counsel

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Home Depot U.S.A., Inc. a Delaware corporation v. Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	07-4335		
Summary of the Complaint:	<p>The issue in this case is whether the taxpayer (Home Depot) is eligible for a refund of sales tax paid on uncollectible accounts charged off by an unrelated third party for the tax period of January 1, 2001 through November 30, 2006.</p> <p>Home Depot contests the Department’s denial of a refund for claimed bad debt credits pursuant to Section 212.17(3), Florida Statutes. The bad debts were credit sales on a private label credit card issued by an unrelated company. Home Depot itself did not own the accounts. The Department contends that only the company that owns the unpaid accounts and that paid the tax can receive a credit or refund.</p> <p>This case is similar to <u>Home Depot U.S.A., Inc., a Delaware corporation v. Department of Revenue</u>, case no. 08-14990, Second Judicial Circuit.</p>		

	See Agency Litigation Inventory Report for <u>Home Depot U.S.A., Inc., a Delaware corporation v. Department of Revenue</u> , case no. 08-14990, Second Judicial Circuit, below.
Amount of the Claim:	Refund claim currently exceeds \$8,000,000 (Previously reported as \$4,001,231.89 in the 2007 agency litigation inventory report).
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The Department answered the complaint and the taxpayer filed a reply to the Department's affirmative defenses and motion to strike the Department's second affirmative defense. Both of Home Depot's motions remain pending before the trial court. The parties have engaged in discovery. Due to Home Depot's unsatisfactory response to a production request in April, 2010, the Department filed a motion to compel which the trial court granted in August, 2010. Discovery is ongoing. No trial date has been set.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Home Depot U.S.A., Inc., a Delaware corporation v. Department of Revenue</u>		
Court with Jurisdiction:	Thirteenth Judicial Circuit		
Case Number:	08-14990		
Summary of the Complaint:	<p>The issue in this case is whether the taxpayer (Home Depot) is eligible for a refund of sales tax paid on uncollectible accounts charged off by an unrelated third party for the tax period of December 1, 2006 through January 31, 2008. This case is similar to the action filed by Home Depot pending in the Second Judicial Circuit, <u>Home Depot U.S.A., Inc. a Delaware corporation v. Department of Revenue</u>, Case no. 07-4335. See Agency Litigation Inventory Report, above, for <u>Home Depot U.S.A., Inc. a Delaware corporation v. Department of Revenue</u>, Case no. 07-4335, Second Judicial Circuit.</p> <p>As in <u>Home Depot U.S.A., Inc., a Delaware corporation v. Department of Revenue</u>, case no. 07-4335, Second Judicial Circuit, Home Depot contests the Department's denial of a refund for claimed bad debt credits pursuant to Section 212.17(3), Florida Statutes. The bad debts were credit sales on a private label credit card issued by an unrelated company. Home Depot itself did not own the accounts. The Department contends that only the company that owns the unpaid accounts and that paid the tax can receive a credit or refund.</p>		
Amount of the Claim:	Refund claim exceeds \$5,000,000.		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	In August, 2008, the Department answered the complaint and filed affirmative defenses. Home Depot filed a reply to the Department's affirmative defenses and motion to strike the Department's first, second, third and fourth affirmative defenses. Home Depot's motion remains pending before the trial court. In response to the Department's		

	<p>production request in served in March, 2010, Home Depot filed a motion for protective order in April, 2010. Home Depot's motion for protective order also remains pending before the trial court. In May, 2011 the trial court issued a Notice of Lack of prosecution providing that if no activity occurs by July 26, 2011, the case will be dismissed and a hearing date on the notice set for July 29, 2011. Home Depot served discovery on the Department in July, 2011. The trial court entered an order dismissing the case of lack of prosecution in July, 2011. Home Depot filed a motion for rehearing in August, 2011 which remains pending before the trial court. No trial date has been set.</p>	
<p>Who is representing (of record) the state in this lawsuit? Check all that apply.</p>		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Host International, Inc., a foreign corporation v. Department of Revenue</u>		
Court with Jurisdiction:	Thirteenth Judicial Circuit		
Case Number:	09-4996		
Summary of the Complaint:	<p>This concluded declaratory judgment action was brought by the taxpayer (Host) to contest a sales tax assessment for the period of October, 1, 2004 through 10-01-04 through September 30, 2007. During the audit period, Host provided airport concessions at the Tampa airport through retail vendors such as Starbucks, Cinnabon, SunGlass Hut and Burger King. Host remitted commercial rental tax to the Department pursuant to its lease agreements. Because Host made improvements to the premises at the airport; the Department asserted that Host also owed commercial rentals tax on the value of the capital improvements to the tenants premises at the airport under the holding of <u>Department of Revenue v. Seminole Clubs, Inc.</u>, 745 So. 2d 473 (Fla. 5th DCA 1999).</p>		
Amount of the Claim:	\$1,019,800		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The Department filed its answer to the complaint in August, 2009. The parties settled this case in June, 2010 with the Department withdrawing its assessment for undisputed sums already paid to Department by the taxpayer.		
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel	
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management	
	<input type="checkbox"/>	Outside Contract Counsel	

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	
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Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Infrastructure Corporation of America v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	8-916		
Summary of the Complaint:	<p>The taxpayer provides services and tangible personal property to the Florida Department of Transportation (FLADOT) pursuant to a multi-year lump-sum written contract. The work under the contract is for maintenance activities associated with the roadways, bridges, rest areas, traffic services, vegetation, and bridge inspections along I-75 in Florida. As part of the contract, the taxpayer provides security guard and maintenance services to rest areas (including furnishing tangible personal property). The taxpayer asserts that the transactions are exempt transactions with a “government entity” and/or they deal with furnishing services under the contract. See Section 212.05, Florida Statutes, and Florida Administrative Code Rules 12A-1.0161 (as to the security services) and 12A-1.051 (as to cleaning services).</p> <p>The Department asserts that the exemption to government entities under Section 212.08(6), Florida Statutes, is inapplicable. The Department also asserts that Rule 12A-1.0092 is applicable to the resale of services (security services) and that the cleaning services are not exempt “public works” (as referenced in Rule 12A-1.094). In other words, the FLADOT must directly purchase the cleaning services for the</p>		

	<p>exemption to apply.</p> <p>This case is substantially identical to the case of <u>Infrastructure Corporation of America v. Florida Department of Revenue</u>, case no. 11-702, Second Judicial Circuit. See Agency Litigation Inventory Report for <u>Revenue</u>, case no. 11-702, Second Judicial Circuit, below. The present case is for an earlier audit period.</p>	
Amount of the Claim:	\$365,872.07	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Infrastructure Corporation of America v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-702		
Summary of the Complaint:	<p>The taxpayer provides services and tangible personal property to the Florida Department of Transportation (FLADOT) pursuant to a multi-year lump-sum written contract. The work under the contract is for maintenance activities associated with the roadways, bridges, rest areas, traffic services, vegetation, and bridge inspections along I-75 in Florida. As part of the contract, the taxpayer provides security guard and maintenance services to rest areas (including furnishing tangible personal property). The taxpayer asserts that the transactions are exempt transactions with a “government entity” and/or they deal with furnishing services under the contract. See Section 212.05, Florida Statutes, and Florida Administrative Code Rules 12A-1.0161 (as to the security services) and 12A-1.051 (as to cleaning services).</p> <p>The Department asserts that the exemption to government entities under Section 212.08(6), Florida Statutes, is inapplicable. The Department also asserts that Rule 12A-1.0092 is applicable to the resale of services (security services) and that the cleaning services are not exempt “public works” (as referenced in Rule 12A-1.094). In other words, the FLADOT must directly purchase the cleaning services for the exemption to apply.</p> <p>This case is substantially identical to the case of <u>Infrastructure Corporation of America v. Florida Department of Revenue</u>, case no. 8-916, Second Judicial Circuit. See Agency Litigation Inventory Report for <u>Infrastructure Corporation of America v. Florida Department of Revenue</u>, case no. 8-916, Second Judicial Circuit. The present case is for a later audit period.</p>		
Amount of the Claim:	\$571,597.05		

Specific Statutes or Laws (including GAA) Challenged:	
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
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Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Kay Green Design, Inc. v. Department of Revenue</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	09-1766		
Summary of the Complaint:	<p>This is a concluded sales tax assessment case that involved two main issues:</p> <ol style="list-style-type: none"> 1) Whether design fees were taxable. 2. Whether the taxpayer generally underpaid his taxes or failed to remit any taxes which were collected. 		

Amount of the Claim:	\$743,093.73	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	After the parties engaged in informal discovery, the Department revised the assessment. The parties settled the case in July, 2010 with the taxpayer paying \$89,022.64 to the Department.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Lanning, et. al. v. Department of Revenue, et. al.</u>		
Court with Jurisdiction:	United States Supreme Court		
Case Number:	US10-281		
Summary of the Complaint:	This is a concluded class action refund case that involved a constitutional challenge to the Save Our Homes provisions, Article VII, section 4 (d), Florida Constitution, and section 193.155, Fla. Stat., which implements the constitutional provision. The provisions were challenged as violating the Commerce, Privileges and Immunities-Right to Travel, Equal Protection, and Due Process clauses of the U. S. Constitution. The plaintiffs also sought supplemental retroactive relief in the form of a tax reduction or refund for a four (4) year period for each of the taxing units in all of Florida's sixty-seven (67) counties..		
Amount of the Claim:	The refund claim in this case was estimated to have exceeded \$35 billion dollars, consisting solely of county ad valorem property taxes.		
Specific Statutes or Laws (including GAA) Challenged:	Article VII, Section 4(d), Florida Constitution, and Section 193.155, Florida Statutes.		
Status of the Case:	In the trial court in this case all the Defendants each filed a motion to dismiss. The Plaintiffs filed an amended complaint which all of the Defendants moved to dismiss. The Plaintiffs then moved to file a second amended complaint and the Plaintiffs' motion was granted. The Defendants each filed a motion to dismiss the Plaintiffs' second amended complaint. On August 6, 2007 the trial court heard the Defendants' motions to dismiss and ruled from the bench upholding the constitutionality of SOHA and dismissed all counts of Plaintiffs' second amended complaint with prejudice. The trial court entered its Final Judgment on October 18, 2007 and dismissed the entirety of the Plaintiffs' challenge to the Save Our Homes provisions and also dismissed the 42 U.S.C. section 1983 claims and the claims for		

	<p>attorney's fees under 42 U.S.C. section 1988.</p> <p>This case is similar to both <u>Bruner, et. al. v. Department of Revenue, et. al.</u>, Second Judicial Circuit/First District Court of Appeal/Florida Supreme Court/United States Supreme Court, Case no. 07-003247/1D08-5524/SC09-2292/US10-276 (<u>Bruner</u>) and <u>Deluccio v. Havill</u>, Second Judicial Circuit/First District Court of Appeal/Florida Supreme Court/United States Supreme Court, Case no. 8-1412/1D08-5529, 1D10-975/SC10-1966/US10-1329 (<u>Deluccio</u>), both described above.</p> <p>Plaintiffs appealed to the First District Court of Appeal and the First District upheld the Final Judgment in its entirety on August 26, 2009. <u>Lanning v. Pilcher</u>, 16 So. 3d 294 (Fla. 1st DCA 2009). The Plaintiffs unsuccessfully sought discretionary review in the Florida Supreme Court. <u>Lanning v. Pilcher</u>, 37 So. 3d 847 (Fla. 2010). In November, 2010 the United States Supreme Court denied certiorari. <u>Lanning v. Pilcher</u>, 131 S.Ct. 646 (2010). This case is concluded.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel

<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>	<p>William C. Owen, Esquire 241 Pinewood Drive Tallahassee, Florida 32303 (850) 513-0600 (850) 877-2809 - Facsimile</p> <p>Talbot D'Alemberte, Esquire D'Alemberte & Palmer, PLLC P.O. Box 10029 Tallahassee, Florida 32301 (850) 325-6292</p> <p>James G. Feiber, Jr., Esquire Salter, Feiber, Murphy, Hutson & Menet, P.A. P.O. Box 357399 Gainesville, Florida 32635 (352) 376-8201 (352)376-7996 - Facsimile</p> <p>Douglas S. Lyons, Esquire Marsha Lyons, Esquire Lyons & Farrar 325 N. Calhoun Street Tallahassee, Florida 32301 (850) 222-8811 (850) 222-5583 - Facsimile</p> <p>William M. Slaughter, Esquire Matthew T. Franklin, Esquire Mark D. Hess, Esquire Haskell, Slaughter, Young & Rediker, LLC 1400 Park Place Tower 2001 Park Place North Birmingham, Alabama 35203 (205) 251-1000 (205) 324-1133 - Facsimile</p> <p>Thomas T. Gallion, III, Esquire Haskell, Slaughter, Young & Gallion, LLC P.O. Box 4660 305 South Lawrence Street Montgomery, Alabama 36103-4660 (334) 265-8573 (334) 264-7945 - Facsimile</p>
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Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Leon County, a political Subdivision of the State of Florida v. Expedia, Inc.; Hotels.Com, LP; Hotels.Com GP, LLC; Delaware Hotwire, Inc.; Travelnow.Com, Inc.; Orbitz Worldwide, Inc.; Orbitz, LLC; Orbitz for Business, Inc.; Trip Network, Inc.; Priceline.Com, Inc.; TravelWeb LLC; Sabre Holdings, Corp.; Travelocity.Com, Inc.; Travelocity.Com, LP; and State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	9-4882		
Summary of the Complaint:	<p>The online travel companies (OTCs) provide customers with the ability to search for, reserve and pay for hotel accommodations and other travel-related services over the internet.” The Plaintiff (Leon County) receives revenue distributions from the State of Florida arising from the Department’s administration, collection and enforcement of the Transient Rentals Tax (“TRT”). The TRT is a state-level tax imposed on “the total rental charged” by those “engage[d] in the business of renting, leasing, letting, or granting a license to use any living quarters...in...any hotel, apartment house, roominghouse, tourist or trailer camp, mobile home park, recreational vehicle park, condominium, or timeshare resort.” Section 212.03(1)(a), Florida Statutes. Leon County contends that it receives a share of these distributions from the Department via an assortment of trust funds: (a) the Local Government Half-Cent Sales Tax Clearing Trust Fund, Sections 218.63, 212.20(6)(d)3, Florida Statutes; (b) the Revenue Sharing Trust Fund for Counties, Sections 218.215(1), 212.20(6)(d)4, Florida Statutes; and (c) the Discretionary Sales Tax Clearing Trust Fund, which is funded by the Discretionary Sales Surtax (“sales surtax”), a separate tax levied on the TRT tax base by the County but administered, collected and enforced by the Department. Sections 212.054, 212.055, Florida Statutes.</p> <p>Leon County believes the OTCs are subject to the TRT and the sales surtax and contends that the OTCs should register as dealers with the Department, and be compelled to pay the TRT and the sales surtax on the full price online customers pay the OTCs for facilitating their reservations, not just the price customers pay for their hotel rooms. Leon County seeks these alleged unpaid taxes for itself, and on behalf of an unspecified number of Florida counties, municipalities and school</p>		

districts that also receive revenue distributions from the Department based on the TRT or the sales surtax.

Leon County requests numerous remedies from the Court, including that the Court affirmatively “[d]irect the [the Department] to assess...collect...and distribute” the Court’s tax determination to the County, the State of Florida, and an unspecified number of other eligible counties, municipalities and school districts. (Prayers for Relief.) Thus, the County requests that the Court issue a “mandatory injunction directing the Department to collect and distribute the sales tax revenue upon the judicial determination of the amount due” and retain jurisdiction thereafter to enforce its judgment against the Department and the OTCs.

The issues to be decided in this case are set forth below.

1. Whether Leon County has standing to bring an action seeking a judicial determination that sales taxes are due or whether that determination must be made by the Department, in the exercise of its discretion on audit selection and assessment.
2. Whether Leon County's action is in substance an improper action for mandamus concerning a discretionary function of a state agency. Leon County seeks to avoid this issue by alleging that it seeks injunctive relief only to compel a ministerial act: to compel the Department to collect and distribute those taxes which the Court has already determined to be due. However, even if the Court determines liability, determining the precise "amount" due, if any, from each Defendant would not be a ministerial act but would require the utilization of experienced auditors, who exercise professional judgment in the performance of their duties.
3. Whether Leon County's action for injunctive relief against an Executive Branch agency, which has been given jurisdiction over the assessment and collection of taxes, violates the separation of powers.
4. Whether the OTC Defendants have a "physical presence" in Florida, and if not, whether they can nevertheless be required to register as dealers under Florida's sales tax laws. Under the United States Supreme Court's decision in Quill Corporation v. North Dakota, 504 U.S. 298 (1992) (Quill), states are limited in their ability to require internet vendors to register as dealers for sales tax purposes, where those vendors lack any "physical presence" in the taxing state. Quill involved sale of tangible personal property, and not a leasehold interest in real property, so the Quill decision may be distinguishable due to the greater physical presence of the Defendants in these cases.
5. Whether Florida's sales tax can be imposed upon Defendants without violation of the Internet Tax Freedom Act. That act imposes various additional nexus requirements.
6. Whether sales tax was due on the total consideration or retail price which the Defendants charged to Florida customers.
7. Whether the statute of limitations does not apply because the OTC Defendants failed to register.

	<p>8. The dollar amount of taxes and interest due from each of the OTC Defendants.</p> <p>9. Whether the Court can, consistent with separation of powers, judicially create a "common fund" when the Florida Legislature, by statute, has already created the appropriate trust fund account into which taxes are to be deposited and distributed.</p>
Amount of the Claim:	The amount at issue is unknown at this time.
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The Department and the OTC Defendants each filed a motion to dismiss Leon County's complaint in April and March, 2010. The trial court denied both motions in September, 2010. The Department filed its answer to Leon County's complaint in September, 2010. The OTCs filed affirmative defenses in which Leon County moved to strike. The trial court in July, 2011 entered an Order Approving Supplemental Joint Stipulation on OTC Defendants' Affirmative Defenses. No trial date has yet been set.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	John Mika	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Lucky Trucks Corp. v. Department of Revenue</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	11-939		
Summary of the Complaint:	This case involves a challenge to an assessment of sales and use tax. The issue in this case is the amount of sales tax owed on the Petitioner's (Lucky Trucks) truck sales. The Department based its assessment on Lucky Truck's bank deposits, such estimate being necessitated by Lucky Truck's lack of other sales or financial records which demonstrate total sales.		
Amount of the Claim:	\$570,131.03		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The petition in this case was filed in DOAH in April, 2004. In May, 2004 the parties filed a Joint Motion to Close Division File Without Prejudice to Reopen Same at a Later Date in case no. 04-1286, 11-939. The purpose of the provisional closing was for the parties to informally exchange documents and work out a settlement. The parties were unable to work out a settlement filed a joint motion to reopen the case in February, 2011, case no. 11-939, DOAH. A final hearing has been set for August 31, and September 1, 2011.		
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel	
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management	
	<input type="checkbox"/>	Outside Contract Counsel	

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	
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Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Marianna Mobil, LLC v. State of Florida</u>		
Court with Jurisdiction:	Division of Administrative Hearings (DOAH)		
Case Number:	9-6639		
Summary of the Complaint:	<p>This case involves a challenge to an assessment of sales and use tax issued by the Department of Revenue (the Department) against the taxpayer (Marianna Mobil). The Department issued a notice of proposed assessment (NOPA) based upon an estimate, using an industry average of 20% exempt sales for convenience stores. There was no audit of Marianna Mobil or of any of the entities to which Marianna Mobil allegedly sold its convenience stores. Marianna Mobil filed a formal protest upon receipt of the NOPA, without seeking informal review in the Department.</p> <p>The issues to be decided in this case are stated below:</p> <ol style="list-style-type: none"> 1. Whether the Department incorrectly attributed sales to Marianna Mobil which should have been attributed to the other entities. 2. Whether the tax underpayment was attributable solely to inclusion of nontaxable fuel sales in gross sales on the sales tax returns, and thereby distorting the ratio of taxable sales to exempt sales. <p>This case is likely to hinge on the following fact issues:</p>		

	<p>1. Did Marianna Mobil sell all of its interest in various convenience stores to unrelated entities which nevertheless continued to use the taxpayer's name and tax identification number for reporting sales during the audit period?</p> <p>2. Did Marianna Mobil ratify or authorize reporting of sales with its name and tax identification number by unrelated purchasers during the audit period?</p> <p>3. Did Marianna Mobil include fuel sales in total sales reported on the sales tax returns?</p>
Amount of the Claim:	\$1,422,360.76
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The parties filed a joint motion to close the case without prejudice to reopening it at a later date which the Administrative Law Judge granted in July, 2010. The parties agreed to close file temporarily to allow investigation of the Marianna Mobil's claim. The Department is continuing its review of additional records of Marianna Mobil.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Marriott International, Inc., a Delaware corporation, and its subsidiaries v. Department of Revenue</u>		
Court with Jurisdiction:	Ninth Judicial Circuit		
Case Number:	08-CA-24993 Div. 34		
Summary of the Complaint:	<p>This concluded and consolidated case consisted of two corporate tax assessment claims and a refund denial claim arising out of amended Florida corporate income tax returns filed for the fiscal years ending on 12-30-94, 12-29-95, 01-03-97 and 12-31-97. The amended Florida returns were filed after a federal audit of the taxpayer and its subsidiaries (Marriott) that required adjustments to its federal taxable income; these federal adjustments required Marriott to file amended Florida corporate income tax returns and to pay additional Florida corporate income tax to the Department. The issue in these two cases was whether Marriott owed interest on the underpayment of tax based on the federal Revenue Agent Report (“RAR”) adjustments under the 2002 amendments to Sections 220.23 and 220.809, Florida Statutes.</p> <p>In 2002, the Legislature passed Chapter Law 2002-218, which became effective on 01-01-03. According to the Senate Staff Analysis, the purpose of Sections 44 and 45 of the Chapter Law was, in part, to overturn the decision of <u>Barnett Banks, Inc. v. Department of Revenue</u>, 738 So. 2d 502 (Fla. 1st DCA 1999) (<u>Barnett Banks</u>). Section 220.809, Florida Statutes, provides that interest shall be paid on the unpaid amount of corporate income tax from the date the tax is due. <u>Barnett Banks</u> held that it was not clear that the Florida Legislature intended that interest was due in Florida on tax deficiencies discovered during federal tax audits. Thus, the primary question was whether the accrued interest is computed from the time the original return was filed (and later amended) or from the effective date of the amendment to Sections 220.23 and 220.809. That is, whether the application of Chapter Law 2002-218 properly applied retroactive to the original date the return was filed, or is interest imposed only prospectively.</p>		

	<p>This case is similar to the following pending cases: <u>HCA, Inc., a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency, case no. 11-1145</u>; <u>Healthtrust, Inc. -- The Hospital Company, a Delaware corporation v. Department of Revenue of the State of Florida, a state agency, case no. 9-509</u>; and <u>HCA Squared, LLC, a Delaware limited liability company v. Department of Revenue, case no. 08-4143</u>, both filed in the Second Judicial Circuit. See Agency Litigation Inventory Reports for <u>HCA, Inc., a Delaware corporation, and its Subsidiaries v. Department of Revenue of the State of Florida, a state agency, case no. 11-1145</u>, Second Judicial Circuit; <u>Healthtrust, Inc. -- The Hospital Company, a Delaware corporation v. Department of Revenue of the State of Florida, a state agency, case no. 9-509</u>, Second Judicial Circuit; and <u>HCA Squared, LLC, a Delaware limited liability company v. Department of Revenue, case no. 08-4143</u>, Second Judicial Circuit, above.</p>
Amount of the Claim:	\$1,713,260 assessment; \$15,935 refund claim
Specific Statutes or Laws (including GAA) Challenged:	Section 220.23, Florida Statutes, as amended by Section 44, Chapter 2002-218, Laws of Florida.
Status of the Case:	<p>In July, 2009, this case was consolidated with <u>Marriott International, Inc., a Delaware corporation, and its subsidiaries v. Department of Revenue, Case No. 08-CA-30544</u>, Ninth Judicial Circuit. Discovery was conducted. Marriot filed for summary judgment and the Department filed a cross motion for summary judgment. After a hearing in November, 2010 the trial court granted summary judgment for Marriott. The trial court entered a final judgment for Marriott in June, 2011. The Department did not appeal the final judgment. This case is concluded.</p>
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Mortgage Guaranty Insurance Corporation, a Wisconsin corporation v. Department of Revenue</u>		
Court with Jurisdiction:	Thirteenth Judicial Circuit		
Case Number:	08-27215		
Summary of the Complaint:	<p>The Plaintiff (Mortgage Guaranty) challenges a refund denial and corporate income tax assessment by contesting the Department's apportionment to Florida of income from its LLC subsidiaries. Mortgage Guaranty disputes the Department's interpretation of Florida Administrative Code Rule 12C-1.015(10). As an insurance company, Mortgage Guaranty's income apportionment factor is based upon direct written premiums. The Department's Rule on which Mortgage Guaranty relies addresses apportionment of income from subsidiary partnerships which are not insurance companies. Mortgage Guaranty asserts that the Department should apply the three factor apportionment formula comparing payroll, property and sales in Florida with payroll, property and sales everywhere which would result in a reduced assessment. The Rule on which Mortgage Guaranty relies, however, does not apply to insurance businesses.</p> <p>This case is similar to <u>Mortgage Guaranty Insurance Corporation, a Wisconsin corporation v. Department of Revenue</u>, case no. 11-40, Second Judicial Circuit. See Agency Litigation Inventory Report for <u>Mortgage Guaranty Insurance Corporation, a Wisconsin corporation v. Department of Revenue</u>, case no. 11-40, Second Judicial Circuit, below.</p>		
Amount of the Claim:	\$1,300,000		
Specific Statutes or Laws (including GAA) Challenged:	None		

Status of the Case:	The Department filed its answer to the complaint in this case in March, 2009. Discovery remains ongoing. No trial date has been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Mortgage Guaranty Insurance Corporation, a Wisconsin corporation v. Department of Revenue of the State of Florida, a state agency</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-40		
Summary of the Complaint:	The Plaintiff (Mortgage Guaranty) challenges a corporate income tax assessment by contesting the validity of the Notice of Proposed Assessment (NOPA) and the Department's apportionment to Florida of income from its LLC subsidiaries. With respect to the validity of the NOPA, the Plaintiff alleges that the Department did not deliver the NOPA to the Plaintiff on September 7, 2010, the date of the NOPA. Mortgage Guaranty also contests the assessment amount pertaining to the 2005 tax year as Mortgage Guaranty alleges that Department failed to deliver or mail the notice of intent to audit to the Mortgage Guaranty		

	<p>on the date specified, and, therefore, the Department is barred by the three year statute of limitations under Section 95.091(3), Florida Statutes.</p> <p>Mortgage Guaranty also disputes the Department's interpretation of Florida Administrative Code Rule 12C-1.015(10). As an insurance company, Mortgage Guaranty's income apportionment factor is based upon direct written premiums. The Rule on which Mortgage Guaranty relies addresses apportionment of income from subsidiary partnerships which are not insurance companies. Mortgage Guaranty asserts that the Department should apply the three factor apportionment formula comparing payroll, property and sales in Florida with payroll, property and sales everywhere which would result in a reduced assessment. The Rule, on which Mortgage Guaranty relies, however, does not apply to insurance businesses.</p> <p>This case is similar to <u>Mortgage Guaranty Insurance Corporation, a Wisconsin corporation v. Department of Revenue</u>, case no. 08-27215, Thirteenth Judicial Circuit. See Agency Litigation Inventory Report for <u>Mortgage Guaranty Insurance Corporation, a Wisconsin corporation v. Department of Revenue</u>, case no. 08-27215, Thirteenth Judicial Circuit.</p>
Amount of the Claim:	\$4,017,038
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The Department filed its answer, defense and affirmative defense to the amended complaint in April, 2011. In May, 2011 Mortgage Guaranty filed a motion to strike the Department's defense and affirmative defense. Mortgage Guaranty's motion remains pending in the trial court. No trial date has yet been set.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Marcus and Patricia Ogborn on behalf of themselves and others similarly situated v. Jim Zingale, acting in his official capacity as the Director, Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	5-1354		
Summary of the Complaint:	<p>The Plaintiffs have brought this class action refund claim alleging that the communications services tax, contained in Chapters 202 and 203, Fla. Stat., is unconstitutional in violation of the Commerce Clause of the United States Constitution. The Plaintiffs allege that the communications services tax, is "facially" unconstitutional because they pay 10.8% tax on their satellite television service but customers of cable service only pay 6.8%. See Section 202.12(1)(a) and (b), Fla. Stat. The Department argues Plaintiffs' challenge is "as applied" rather than "facial," and that Plaintiffs/Appellants failed to exhaust administrative remedies and failed to file their action within 180 days as required by section 202.23(2), Florida Statutes.</p>		
Amount of the Claim:	The amount of the refund claim exceeds \$150,000,000.		
Specific Statutes or Laws (including GAA) Challenged:	The communications services tax contained in Chapters 202 and 203, Florida Statutes.		
Status of the Case:	<p>The Plaintiffs filed an Amended Complaint in November, 2005. In December, 2005 the Department filed an Amended Motion to Dismiss and Motion to Strike which was heard in the trial court on July 10, 2006. The trial court granted the Department's motion with prejudice in March, 2007. The Plaintiffs timely appealed. The First District issued its opinion on July, 2008 and this case was remanded case back to the trial court. (See <u>Ogborn v. Zingale</u>, 988 So. 2d 56 (Fla. 1st DCA 2008) <u>Ogborn</u>). The First District held that the Plaintiff's challenge was facial in nature and not "as applied," as the trial court had characterized it, and, therefore, the trial court had jurisdiction to hear the Plaintiffs' case. Back in the trial court, this case was consolidated with <u>DirecTV, Inc., and EchoStar Satellite L.L.C. v. State of Florida Department of Revenue</u></p>		

	<p>(DirecTV) case no. 05-1037, Second Judicial Circuit, in September, 2008. See Agency Litigation Inventory Report for <u>DirecTV, Inc., and EchoStar Satellite L.L.C. v. State of Florida Department of Revenue (DirecTV)</u>, case no. 05-1037, Second Judicial Circuit, above. The Department's motion to dismiss remains pending. Please see Agency Litigation Inventory report for <u>DirecTV</u>, above.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	<p>Joel Terwilliger, Esquire 2344 Spruce Street, Suite A Boulder, CO 80202 Tel: (303) 442-2156</p> <p>Stacy Barnett, Esquire, The Barnett Law Firm, P.C., 181 East Main Street Canton GA, 30114 Tel.: (770) 720-9522 Fax: (770) 720- 1770</p>	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Qualcomm Incorporated, a Delaware corporation v. Florida Department of Revenue, an administrative agency of the State of Florida</u>		
Court with Jurisdiction:	Eleventh Judicial Circuit		
Case Number:	06 20005 CA 31		
Summary of the Complaint:	<p>This concluded case involved a challenge by the taxpayer (Qualcomm) to a refund denial by the Department of communication services tax under Chapters 202, Florida Statutes, paid by Qualcomm on sales of a service which allows its customers to track and communicate with Qualcomm’s vehicle fleet.</p> <p>The main issue in this case was whether the services involved were taxable “communications services” or non-taxable “information services.”</p> <p>The Department considered this case to have precedential value with a potential revenue impact that exceeded \$1 million.</p>		
Amount of the Claim:	\$407,522 (Reported as \$258,275.00 in 2009 report)		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	After the parties engaged in discovery, both Qualcomm and the Department filed a motion for summary judgment. After a hearing was held on these motions in February, 2010, the trial court entered a final judgment in favor of Qualcomm in March, 2010. The Department refunded \$407,522, including the principal amount of the judgment for tax refund and prejudgment and of postjudgment interest. This case is concluded.		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3142		
Summary of the Complaint:	<p>This case involves a challenge by the taxpayer (Southern Refrigerated) of the Department’s refund denial of motor fuel tax for the tax period of 11-01-05 through 09-30-08. Southern Refrigerated is a common carrier engaged in interstate commerce. Southern Refrigerated purchases undyed diesel fuel in Florida. Southern Refrigerated filed a timely refund claim pursuant to Section 212.08(9)(b), Florida Statutes, which authorized a carrier to pay sales tax on certain Florida purchases based on an apportionment factor. Southern Refrigerated applied the apportionment factor to the fuel taxes it paid on undyed diesel fuel it used in interstate commerce. Southern Refrigerated alleges that a portion of the fuel sales its pays on undyed diesel fuel is sales tax, and it is subject to the refund provided for in Section 212.08(9)(b), Florida Statutes. <u>See also</u> Fla. Admin. Code R. 12A-1.059 and Section 206.87(1)(e), Fla. Stat.</p>		

	<p>This case is similar to <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit. See Agency Litigation Inventory reports, above and below, for <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit.</p> <p>This case is also similar to <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit. See Agency Litigation Inventory report, below, for <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit.</p>	
Amount of the Claim:	\$204,474	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set in this case.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	08-2234		
Summary of the Complaint:	<p>The taxpayer (Sprint) in this case seeks a refund of communication services tax for periods before the enactment of the current Communications Services Tax ("CST"), Chapter 202, Florida Statutes. Sprint argues that the current statute would permit refunds, and that the legislative history indicates that the statutory amendment was intended to be revenue-neutral. Sprint concludes that it should receive the contested refunds for the earlier periods.</p> <p>The major issues in the case are set forth below:</p> <ol style="list-style-type: none"> 1. Were sales of telecommunication services made prior to October 1, 2001, by Sprint to its affiliated customers for their own internal use in providing telecommunication services for hire exempt from the sales tax imposed pursuant to Chapter 212, Florida Statutes? 2. Is the exclusion from the sales tax imposed on the cost of operating substitute telecommunication systems, pursuant to Section. 212.05(1)(g), Florida Statutes (2000), relevant in determining whether retail sales of telecommunication services by Sprint to its affiliated customers were subject to sales tax? 3. Is the exclusion from the "sales price" definition of communications services, under section 202.11(13)(b)6., Florida Statutes, for a dealer's internal use of communications services in connection with its business of providing communications services relevant in determining whether sales of telecommunication services by Sprint to its affiliated customers were subject to sales tax, pursuant to Chapter 212, Florida Statutes, for a period prior to the enactment of Chapter 202, Florida Statutes? 		

	This case is similar to the case of <u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u> , case no. 9-2232, Second Judicial Circuit.	
Amount of the Claim:	\$2,190,645.60 refund claim	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department filed its answer and affirmative defenses in September, 2008. The Department filed a Motion for Leave to Serve Amended Answer, Defense, and Affirmative Defenses in January, 2011. That motion remains pending before the trial court. Discovery remains ongoing. No trial date has been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	9-2232		
Summary of the Complaint:	<p>The taxpayer (Sprint) in this case seeks a refund of communication services tax for periods before the enactment of the current Communications Services Tax ("CST"), Chapter 202, Florida Statutes. Sprint argues that the current statute would permit refunds, and that the legislative history indicates that the statutory amendment was intended to be revenue-neutral. Sprint concludes that it should receive the contested refunds for the earlier periods.</p> <p>The major issues in the case are set forth below:</p> <ol style="list-style-type: none"> 1. Were sales of telecommunication services made prior to October 1, 2001, by Sprint to its affiliated customers for their own internal use in providing telecommunication services for hire exempt from the sales tax imposed pursuant to Chapter 212, Florida Statutes? 2. Is the exclusion from the sales tax imposed on the cost of operating substitute telecommunication systems, pursuant to Section. 212.05(1)(g), Florida Statutes (2000), relevant in determining whether retail sales of telecommunication services by Sprint to its affiliated customers were subject to sales tax? 3. Is the exclusion from the "sales price" definition of communications services, under section 202.11(13)(b)6., Florida Statutes, for a dealer's internal use of communications services in connection with its business of providing communications services relevant in determining whether sales of telecommunication services by Sprint to its affiliated customers were subject to sales tax, pursuant to Chapter 212, Florida Statutes, for a period prior to the enactment of Chapter 202, Florida Statutes? 		

	This case is similar to the case of <u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u> , case no. 08-2234, Second Judicial Circuit. See Agency Litigation Inventory Report for of <u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u> , case no. 08-2234, Second Judicial Circuit, above.	
Amount of the Claim:	\$86,000.00 refund	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department filed its answer and affirmative defenses in July, 2009. The Department filed a Motion for Leave to Serve Amended Answer, Defense, and Affirmative Defenses in January, 2011. That motion remains pending before the trial court. Discovery remains ongoing. No trial date has been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	9-2232		
Summary of the Complaint:	<p>The taxpayer (Sprint) in this case seeks a refund of communication services tax for periods before the enactment of the current Communications Services Tax ("CST"), Chapter 202, Florida Statutes. Sprint argues that the current statute would permit refunds, and that the legislative history indicates that the statutory amendment was intended to be revenue-neutral. Sprint concludes that it should receive the contested refunds for the earlier periods.</p> <p>The major issues in the case are set forth below:</p> <ol style="list-style-type: none"> 1. Were sales of telecommunication services made prior to October 1, 2001, by Sprint to its affiliated customers for their own internal use in providing telecommunication services for hire exempt from the sales tax imposed pursuant to Chapter 212, Florida Statutes? 2. Is the exclusion from the sales tax imposed on the cost of operating substitute telecommunication systems, pursuant to Section. 212.05(1)(g), Florida Statutes (2000), relevant in determining whether retail sales of telecommunication services by Sprint to its affiliated customers were subject to sales tax? 3. Is the exclusion from the "sales price" definition of communications services, under section 202.11(13)(b)6., Florida Statutes, for a dealer's internal use of communications services in connection with its business of providing communications services relevant in determining whether sales of telecommunication services by Sprint to its affiliated customers were subject to sales tax, pursuant to Chapter 212, Florida Statutes, for a period prior to the enactment of Chapter 202, Florida Statutes? 		

	This case is similar to the case of <u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u> , case no. 08-2234, Second Judicial Circuit. See Agency Litigation Inventory Report for of <u>Sprint Communications Company, LP v. State of Florida, Department of Revenue</u> , case no. 08-2234, Second Judicial Circuit, above.	
Amount of the Claim:	\$86,000.00 refund	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The Department filed its answer and affirmative defenses in July, 2009. The Department filed a Motion for Leave to Serve Amended Answer, Defense, and Affirmative Defenses in January, 2011. That motion remains pending before the trial court. Discovery remains ongoing. No trial date has been set.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Jeffrey Dikman	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Stellar Group Incorporated v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-418		
Summary of the Complaint:	This case involves a challenge by the taxpayer (Stellar) to an assessment of sales and use tax issued by the Department. The issue to be decided in this case is whether the leases between Stellar and its related LLCs are taxable leases for the use of real property such that the payments made by Stellar are subject to sales tax. Stellar claims that the leases are mortgages not subject to sales tax.		
Amount of the Claim:	\$777,723 refund denial		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set.		
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel	
	x	Office of the Attorney General or Division of Risk Management	
		Outside Contract Counsel	
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).			

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Tenth Judicial Circuit		
Case Number:	10-7605		
Summary of the Complaint:	This case involves a challenge by the taxpayer (Sunco) of the Department’s refund denial of motor fuel tax for the tax period of 12-01-05 through 12-31-08. Sunco is a common carrier engaged in interstate commerce. Sunco purchases undyed diesel fuel in Florida. Sunco filed a timely refund claim pursuant to Section 212.08(9)(b), Florida Statutes, which authorizes a carrier to pay sales tax on certain Florida purchases based on an apportionment factor. Sunco applied the apportionment factor to the fuel taxes it paid on undyed diesel fuel it used in interstate commerce. Sunco alleges that a portion of the fuel sales its pays on undyed diesel fuel is sales tax, and it is subject to the refund provided for in Section 212.08(9)(b), Florida Statutes. <u>See also</u> Fla. Admin. Code R. 12A-1.059 and Section 206.87(1)(e), Fla. Stat.		
Amount of the Claim:	\$354,993		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set in this case.		
Who is representing (of record) the state in this lawsuit? Check all that		Agency Counsel	
	X	Office of the Attorney General or Division of Risk Management	

apply.		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ticor Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	05-695		
Summary of the Complaint:	<p>This case involves a taxpayer’s (Ticor) challenge of the Department’s application of premium tax pursuant to Section 624.509, Fla. Stat., for the tax year 2004. This case is consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695 also filed in the Second Judicial Circuit. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent’s commission.</p> <p>Ticor is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. Ticor’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross</p>		

premium, without subtraction of the amount Ticor claims to be a commission.

The Department considers this case to have precedential value with a potential revenue impact that exceeds \$1 million.

This case, Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit (Ticor 05), was consolidated with Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit (Ticor 06).

This case is similar to Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; and Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit. See Agency Litigation Reports for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit.

This case is also similar to Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540; and Fidelity National Title Insurance Company v. Florida Department of Revenue , case no. 11-1671, Second Judicial Circuit.

In addition, this case is also similar to the following cases: Chicago Title Insurance Company v. Florida Department of Revenue, case nos. 09-2205, Second Judicial Circuit; Chicago Title Insurance Company v.

	<p><u>Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>	
Amount of the Claim:	Assessment of approximately \$500,000	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	<p>In January, 2007 this case, <u>Ticor 05</u>, was consolidated with, <u>Ticor 06</u>, also filed in the Second Judicial Circuit. The parties have agreed to use a “Test case,” <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 9-1708 (<u>Fidelity 9-1708</u>), for this case and the other related cases still pending. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u>, above. No trial date has been set in <u>Fidelity 9-1708</u>.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ticor Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	06-111		
Summary of the Complaint:	<p>This case involves a taxpayer’s (“Ticor”) challenge of the Department’s application of premium tax pursuant to Section 624.509, Fla. Stat., for the tax year 2004. This case is consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695 also filed in the Second Judicial Circuit. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent’s commission.</p> <p>Ticor is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines “premium” as not including commissions. Ticor’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount Ticor claims to be a commission.</p> <p>The Department considers this case to have precedential value with a potential revenue impact that exceeds \$1 million.</p> <p>This case, <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit (<u>Ticor 06</u>), was consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit (<u>Ticor 05</u>).</p>		

	<p>This case is similar to <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; and <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit. See Agency Litigation Reports for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit.</p> <p>This case is also similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540, Second Judicial Circuit; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, Second Judicial Circuit.</p> <p>In addition, this case is also similar to the following cases: <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>
Amount of the Claim:	Exceeds \$100,000

Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	This case, <u>Ticor 06</u> , was been consolidated with <u>Ticor 05</u> in January, 2007. The parties have agreed to use a “Test case,” <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 9-1708 (<u>Fidelity 9-1708</u>), for this case and the other related cases still pending. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u> , above. No trial date has been set in <u>Fidelity 9-1708</u> .
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ticor Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	09-1707		

Summary of the Complaint:

This is an action brought by the taxpayer (Ticor) contesting the Department of Revenue's (the Department) application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2006. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.

Ticor is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines "premium" as not including commissions. Ticor's agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.

This case is similar to Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit.

This case is also similar to Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for Fidelity National Title Insurance

	<p><u>Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, Second Judicial Circuit.</p> <p>In addition, this case is also similar to the following cases: <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>
Amount of the Claim:	\$669,853 assessment; \$563,370 refund claims (\$1,233,223 total amount in controversy)
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	In July, 2009 the Department answered and filed affirmative defenses to Ticor’s amended complaint. In June, 2010 the trial court granted Ticor’s motion to stay, pending the outcome of the “Test case,” <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 9-1708 (<u>Fidelity 9-1708</u>) which the parties agreed to decide the outcome of this case. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u> , above. No trial date has been set in <u>Fidelity 9-1708</u> .
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ticor Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	09-2204		
Summary of the Complaint:	<p>This is an action brought by the taxpayer (Ticor) contesting the Department of Revenue's (the Department) application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2006. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission.</p> <p>Ticor is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines "premium" as not including commissions. Ticor's agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.</p> <p>This case is similar to <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit. See Agency</p>		

	<p>Litigation Reports for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit.</p> <p>This case is also similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540, Second Judicial Circuit; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, Second Judicial Circuit.</p> <p>In addition, this case is also similar to the following cases: <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>
Amount of the Claim:	\$145,676 refund denial
Specific Statutes or Laws (including GAA) Challenged:	None

Status of the Case:	In August, 2009 the Department answered and filed affirmative defenses to the complaint. In June, 2010 the trial court granted the Ticor's motion to stay, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 9-1708 (<u>Fidelity 9-1708</u>), which the parties agreed to decide the outcome of this case. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u> , above. No trial date has been set in <u>Fidelity 9-1708</u> .	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
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Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ticor Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3537		
Summary of the Complaint:	This is an action brought by the taxpayer (Ticor) contesting the Department of Revenue's (the Department) application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2009. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted		

to the insurance carriers after payment of the title insurance agent's commission.

Ticor is domiciled in California and writes title insurance coverage in Florida. The applicable statute, Section 627.7711(2), Florida Statutes, defines "premium" as not including commissions. Ticor's agents collect 100% of the amount charged to the insured and remit 30% to the carrier (keeping 70% for themselves, allegedly as a commission). The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.

This case is similar to Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3541, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, case no. 10-3537, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-2204, Second Judicial Circuit; Ticor Title Insurance Company v. Florida Department of Revenue, Case no. 09-1707, Second Judicial Circuit, and Ticor Title Insurance Company v. State of Florida, Department of Revenue, Case No. 06-111, Second Judicial Circuit, consolidated with Title Insurance Company v. Florida Department of Revenue, Case No. 05-695, Second Judicial Circuit.

This case is also similar to Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540, Second Judicial Circuit; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 07-2894, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue case no. 09-1708, Second Judicial Circuit; Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 10-3540; and Fidelity National Title Insurance Company v. Florida Department of Revenue, case no. 11-1671, Second

	<p>Judicial Circuit.</p> <p>In addition, this case is also similar to the following cases: <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>	
Amount of the Claim:	\$320,628 assessment and refund claim of \$26,730	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	<p>The Department filed its answer and affirmative defenses to Ticor's complaint in December, 2010. The trial court granted Ticor's motion to stay in December, 2010, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 9-1708 (<u>Fidelity 9-1708</u>), which the parties agreed to decide the outcome of this case. Please see Agency Litigation Inventory report for <u>Fidelity 9-1708</u>, above. No trial date has been set in <u>Fidelity 9-1708</u>.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory

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Agency:	Office of the Attorney General		
Contact Person:	Clifton Cox	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Ticor Title Insurance Company v. Florida Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3541		
Summary of the Complaint:	<p>This is an action brought by the taxpayer (Ticor) contesting the Department of Revenue's (the Department) application of insurance premium tax pursuant to Section 624.509, Florida Statutes, for calendar year 2009. The issue in the case is whether insurance premium tax for title insurance companies is based upon the gross premiums charged to customers, or upon the portion of the gross premiums which is remitted to the insurance carriers after payment of the title insurance agent's commission. Ticor is domiciled in California and writes title insurance coverage in Florida. Section 627.7711(2), Fla. Stat., defines “premium” as not including commissions. Ticor’s agents collect 100% of the amount charged to the insured and remit 30% to the carrier with Ticor keeping 70% for themselves, allegedly as a commission. The Department asserts that the tax is imposed on 100% of the gross premium, without subtraction of the amount the taxpayer claims to be a commission.</p> <p>This case is similar to <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit. See Agency Litigation Reports for <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3541, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, case</p>		

	<p>no. 10-3537, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-2204, Second Judicial Circuit; <u>Ticor Title Insurance Company v. Florida Department of Revenue</u>, Case no. 09-1707, Second Judicial Circuit, and <u>Ticor Title Insurance Company v. State of Florida, Department of Revenue</u>, Case No. 06-111, Second Judicial Circuit, consolidated with <u>Title Insurance Company v. Florida Department of Revenue</u>, Case No. 05-695, Second Judicial Circuit.</p> <p>This case is also similar to <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540, Second Judicial Circuit; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1671, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 07-2894, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> case no. 09-1708, Second Judicial Circuit; <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3540; and <u>Fidelity National Title Insurance Company v. Florida Department of Revenue</u> , case no. 11-1671, Second Judicial Circuit.</p> <p>In addition, this case is also similar to the following cases: <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case nos. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit. See Agency Litigation Inventory Reports, above, for <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 09-2205, Second Judicial Circuit; <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 10-3539, Second Judicial Circuit; and <u>Chicago Title Insurance Company v. Florida Department of Revenue</u>, case no. 11-1669, Second Judicial Circuit.</p>
Amount of the Claim:	\$168,670.83
Specific Statutes or Laws (including GAA) Challenged:	
Status of the Case:	The Department filed its answer and affirmative defenses to Ticor's complaint in December, 2010. The trial court granted Ticor's motion to stay in December, 2010, pending the outcome of the "Test case," <u>Fidelity National Title Insurance Company v. Florida Department of</u>

	<u>Revenue</u> , case no. 9-1708 (<u>Fidelity</u> 9-1708). Please see Agency Litigation Inventory report for <u>Fidelity</u> 9-1708, above. No trial date has been set in <u>Fidelity</u> 9-1708.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	John Mika	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Times Publishing Company, a Florida Corporation v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	04-913		
Summary of the Complaint:	<p>The issue to have been decided in this now concluded case was whether the taxpayer (Times Publishing) was entitled to a refund for the years 1997-1999 based on the exemption available to purchases of industrial machinery and equipment purchased for use in an expanding manufacturing printing business.</p> <p>Times Publishing met the 10% increase in production threshold as required by Section 212.08(5)(b), Florida Statutes, and Florida Administrative Code Rule 12A-1.096 for expanding printing facilities</p>		

	that manufacture, process, compound or produce for sale, items of tangible personal property at fixed locations in this state. Thus, the primary issue in the case was whether the items claimed by the taxpayer were integral to the production process.	
Amount of the Claim:	\$612,887.81 refund claim (reported as \$1,323,394.57 in 2007 report)	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	<p>The Department filed a motion to dismiss the Times Publishing's complaint in April, 2004 for lack of subject matter jurisdiction on the basis that it failed to file its challenge to the Department's refund denial within 60 days in order to invoke the jurisdiction of the circuit court as required by Section 72.011, Fla. Stat.</p> <p>In May, 2007 this case was consolidated with <u>Times Publishing Company, a Florida Corporation v. State of Florida, Department of Revenue</u>, Case no. 04-2090, Second Judicial Circuit, a similar case pertaining to a refund claim for the year 2000 in the amount of \$235,823.20.</p> <p>On August 30, 2007, after initially granting the motion and upon rehearing, the trial court reversed itself and denied the Department's motion to dismiss. The Department filed its answer to the complaint in this case in December, 2007.</p> <p>The parties conducted discovery. In August, 2009 the Plaintiff filed a motion to continue the trial and the Department filed a response in opposition. The trial court granted the motion for continuance in August, 2009 and set a new trial date to be held in January, 2010.</p> <p>After the trial court granted Times Publishing's counsel motion for leave to withdraw as counsel, the Department filed a motion to dismiss the complaint in March 2010 which the trial court granted in April, 2010. This case and <u>Times Publishing Company, a Florida Corporation v. State of Florida, Department of Revenue</u>, Case no. 04-2090, Second Judicial Circuit, are concluded.</p>	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	John Mika	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Times Publishing Company, a Florida corporation v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	07-1550		
Summary of the Complaint:	<p>The taxpayer (Times Publishing) in this now concluded case challenged the Department's denial of its refund claim for the years 2005 and 2006. Times Publishing asserted that it was entitled to a refund of sales tax because it met the 10% increase in productive output as required by Section 212.08(5)(b), Florida Statutes, and Florida Administrative Code Rule R. 12A-1.096 for expanding printing facilities that manufacture, process, compound or produce for sale, items of tangible personal property at fixed locations in this state. The issue to have been decided in this case was whether the Times Publishing can count advertising "inserts," of which it is the publisher and printer, as part of the 10% increase in productive output. The Department argued that the inserts were a component part of the newspaper into which they are inserted and cannot be counted separate from the newspaper production total. Therefore, Times Publishing failed to show that manufacturing printing facility increased productive capacity by at least 10% as required by Section 212.08(5)(b), Florida Statutes.</p> <p>This case is similar to two other concluded cases brought in the Division of Administrative Hearings (DOAH), <u>Times Publishing Company v. Florida Department of Revenue</u>, case nos. 08-3938 and 08-3939, Division of Administrative Hearings (DOAH). After a final hearing was held in 2009, the Department's final order denying the refund denial was upheld on appeal. See Agency Litigation Inventory Report for <u>Times Publishing Company, a Florida corporation v. State of Florida, Department of Revenue</u>, case no. 1D10-1021, First District Court of Appeal.</p>		
Amount of the Claim:	\$522,283.69 refund claim		

Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The parties conducted discovery. In December, 2009 and in March, 2010 Time Publishing's counsel moved to withdraw from the case which the trial court granted February and March, 2010, respectively. In April, 2010 the Department filed a motion to dismiss for the corporation's (Times Publishing) failure to secure licensed counsel to continue representation in circuit court. The trial court issued a Final Order Dismissing Complaint for Failure of Corporation to Secure Licensed Counsel to Maintain Action in July, 2010. This case is concluded.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	John Mika	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Times Publishing Company, a Florida corporation v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	First District Court of Appeal		
Case Number:	1D10-1021		
Summary of the Complaint:	<p>This now concluded case involved an appeal brought by the taxpayer (Times Publishing Company) of a Final Order denying its refund claim for the years 2005 and 2006 as a result of a challenge to that denial brought in the Division of Administrative Hearings (DOAH), case nos. 08-3938 and 08-3939. Times Publishing Company asserted that it was entitled to a refund of sales tax because it met the 10% increase in productive output as required by Section 212.08(5)(b), Florida Statutes, and Florida Administrative Code Rule 12A-1.096 for expanding printing facilities that manufacture, process, compound or produce for sale, items of tangible personal property at fixed locations in this state. The issue decided in this case was whether Times Publishing Company met the 10% increase in productive output.</p>		
Amount of the Claim:	\$1,096,436.61 refund claim		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	<p>This case, <u>Times Publishing Company v. Florida Department of Revenue</u>, Case no. 08-3939, DOAH was consolidated with <u>Times Publishing Company v. Florida Department of Revenue</u>, Case no. 08-3938, DOAH. A final hearing was held on June 10-11 and August 21, 2009. The Administrative Law Judge upheld the Department's decision denying the refund application for failure of Times Publishing Company to meet the 10% expansion threshold under Section 212.08(5)(6), Florida Statutes. After the Department issued a Final Order, the taxpayer appealed. In October, 2010 the First District per curiam affirmed the Department's Final Order. <u>Times Pub. Co. v. Florida Dept.</u></p>		

	<u>of Revenue</u> , 46 So. 3d 1006 (Fla. 1st DCA 2010. This case is concluded.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	X	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-3141		
Summary of the Complaint:	This case involves a challenge by the taxpayer (Total Transportation) to the Department’s refund denial of motor fuel tax for the tax period of 09-01-05 through 09-30-08. Total Transportation is a common carrier engaged in interstate commerce. Total Transportation purchases undyed diesel fuel in Florida. Total Transportation filed a timely refund claim pursuant to Section 212.08(9)(b), Florida Statutes, which authorizes a carrier to pay sales tax on certain Florida purchases based on an apportionment factor. Total Transportation applied the apportionment factor to the fuel taxes it paid on undyed diesel fuel it used in interstate		

	<p>commerce. Total Transportation alleges that a portion of the fuel sales it pays on undyed diesel fuel is sales tax, and it is subject to the refund provided for in Section 212.08(9)(b), Florida Statutes. <u>See also Fla. Admin. Code R. 12A-1.059 and Section 206.87(1)(e), Fla. Stat.</u></p> <p>This case is similar to <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit. See Agency Litigation Inventory reports, above and below, for <u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-2974, Second Judicial Circuit; <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit.</p> <p>This case is also similar to <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit. See Agency Litigation Inventory report, above, for <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit.</p>	
Amount of the Claim:	\$124,318	
Specific Statutes or Laws (including GAA) Challenged:	None	
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set in this case.	
Who is representing (of record) the state in this lawsuit? Check all that apply.		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel

If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	
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Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory			
<i>For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.</i>			
Agency:	Office of the Attorney General		
Contact Person:	Andrew Lutostanski	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>U.S. Xpress, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	10-2974		
Summary of the Complaint:	<p>This case involves a challenge by the taxpayer (U.S. Xpress) to the Department’s refund denial of motor fuel tax for the tax period of 09-01-05 through 03-31-08. U.S. Xpress is a common carrier engaged in interstate commerce. U.S. Xpress purchases undyed diesel fuel in Florida. U.S. Xpress filed a timely refund claim pursuant to Section 212.08(9)(b), Florida Statutes, which authorizes a carrier to pay sales tax on certain Florida purchases based on an apportionment factor. U.S. Xpress applied the apportionment factor to the fuel taxes it paid on undyed diesel fuel it used in interstate commerce. U.S. Xpress alleges that a portion of the fuel sales its pays on undyed diesel fuel is sales tax, and it is subject to the refund provided for in Section 212.08(9)(b), Florida Statutes. <u>See also</u> Fla. Admin. Code R. 12A-1.059 and Section 206.87(1)(e), Fla. Stat.</p> <p>This case is similar to <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Southern</u></p>		

	<p><u>Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit. See Agency Litigation Inventory reports, above, for <u>Star Transportation, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3140, Second Judicial Circuit; <u>Total Transportation of Mississippi, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3141, Second Judicial Circuit; <u>Southern Refrigerated Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3142, Second Judicial Circuit; <u>Covenant Transport, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3143, Second Judicial Circuit; and <u>Arnold Transportation Services, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-3144, Second Judicial Circuit.</p> <p>This case is also similar to <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit. See Agency Litigation Inventory report, above, for <u>Sunco Carriers, Inc. v. State of Florida, Department of Revenue</u>, case no. 10-7605, Tenth Judicial Circuit.</p>
Amount of the Claim:	\$778,714
Specific Statutes or Laws (including GAA) Challenged:	None
Status of the Case:	The parties are engaged in discovery. No trial date has yet been set in this case.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	06-3081		
Summary of the Complaint:	<p>This concluded case involved a challenge to the Department’s assessment of corporate income tax for the tax years of 1996 through 2000 against UPS Worldwide Forwarding, Inc. (UPS), a taxpayer that provides interstate air transportation services. UPS used the apportionment formula to calculate its Florida income subject to tax. The apportionment formula described in Section 220.151(2), Florida Statutes, is premised on revenue miles. Section 220.151(2)(c), Florida Statutes, defines Florida revenue miles - that is, miles deemed traveled in Florida for purposes of comparing Florida miles to everywhere miles. The statutory definition uses latitude and longitude to create a box. This box covers more territory than the official boundary description of Florida contained in Article II, Section 1 of the Florida Constitution. Thus, UPS asserted that Florida’s statutory definition of revenue miles violates the commerce and due process clauses of the Federal constitution and the due process and state boundary clauses of Florida’s Constitution.</p> <p>The issues to have been decided in this case are set forth below.</p> <p>Issue 1: Whether UPS had no nexus with Florida when it filed and continued to file Florida corporate income tax returns.</p> <p>Issue 2: Whether the mileage method contained in Section 220.152(2), Florida Statutes, which is used by airlines to apportion their income, was unconstitutional because the measurement of Florida miles may have contravened the state boundary clauses of Florida’s constitution.</p>		
Amount of the Claim:	\$1,117,845.00		

Specific Statutes or Laws (including GAA) Challenged:	Section 220.152(2), Fla. Stat.	
Status of the Case:	The Department answered UPS's complaint and filed a motion to strike UPS's claim for attorney's fees in December, 2006. In April, 2009 this case was consolidated with <u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u> , case No. 07-721, filed in the Second Judicial Circuit. See Agency Litigation Inventory Report for <u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u> , case No. 07-721, Second Judicial Circuit, below. The parties settled the case in June, 2010 with the Department receiving \$517, 973 from UPS.	
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/>	Agency Counsel
	<input checked="" type="checkbox"/>	Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/>	Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Joe Mellichamp	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	07-721		
Summary of the Complaint:	<p>This concluded case is the same as <u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u>, Case no. 06-CA-3081, also filed in the Second Judicial Circuit. <u>See</u> Litigation Inventory report for <u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u>, Case no. 06-CA-3081, above. The Department assessed the taxpayer (UPS) in this case for the tax years 2001 through 2003.</p> <p>This case involved a challenge to the Department’s assessment of corporate income tax against UPS, a taxpayer that provides interstate air transportation services. UPS used an apportionment formula to calculate its Florida income subject to tax. The apportionment formula described in Section 220.151(2), Florida Statutes, is premised on revenue miles. Section 220.151(2)(c), Florida Statutes, defines Florida revenue miles - that is, miles deemed traveled in Florida for purposes of comparing Florida miles to everywhere miles. The statutory definition uses latitude and longitude to create a box. This box covers more territory than the official boundary description of Florida contained in Article II, Section 1 of the Florida Constitution. Thus, UPS asserted that Florida’s statutory definition of revenue miles violated the commerce and due process clauses of the Federal constitution and the due process and state boundary clauses of Florida’s Constitution.</p> <p>The issues to have been decided in this case are set forth below.</p> <p>Issue 1: Whether UPS had no nexus with Florida when it filed and continued to file Florida corporate income tax returns.</p> <p>Issue 2: Whether the mileage method contained in Section 220.152(2),</p>		

	Florida Statutes, which is used by airlines to apportion their income, was unconstitutional because the measurement of Florida miles may have contravened the state boundary clauses of Florida's constitution.
Amount of the Claim:	\$1,683,138.67.
Specific Statutes or Laws (including GAA) Challenged:	Section 220.152(2), Florida Statutes
Status of the Case:	The Department answered UPS's complaint in March, 2007. In April, 2009 this case was consolidated with <u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u> , case No. 06-3081, filed in the Second Judicial Circuit. See Agency Litigation Inventory Report for <u>UPS Worldwide Forwarding, Inc. v. State of Florida, Department of Revenue</u> , Case No. 06-3081, Second Judicial Circuit, above. The parties settled the case in June, 2010 with the Department receiving \$233, 931.60 from UPS.
Who is representing (of record) the state in this lawsuit? Check all that apply.	<input type="checkbox"/> Agency Counsel
	<input checked="" type="checkbox"/> Office of the Attorney General or Division of Risk Management
	<input type="checkbox"/> Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).	

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the “Legislative Budget Request (LBR) Instructions” located on the Governor’s website.

Agency:	Office of the Attorney General		
Contact Person:	Carrol Cherry	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Martin J. Vallejo d/b/a Vallejo Auto Sales v. Florida Department of Revenue, a political subdivision of the State of Florida</u>		
Court with Jurisdiction:	Second District Court of Appeal		
Case Number:	2D11-982		
Summary of the Complaint:	<p>This case involves an appeal brought by the taxpayer (Vallejo) of a Final Judgment of Dismissal with prejudice for lack of subject matter jurisdiction entered by the circuit court. This case arises from the challenge brought by Vallejo to the Department’s assessment of sales and use tax. The issues in this sales and use tax assessment case are set forth below.</p> <ol style="list-style-type: none"> 1. Whether the Department issued an assessment prior to the expiration of the statute of limitations established in Section 95.091, Florida Statutes. 2. Whether Vallejo's payment of \$690,008.77, based on a demand letter from the Department arising from a criminal investigation, was an accord and satisfaction of the Department's assessment. 3. Whether there was a breach of contract by the Department. 4. Whether Vallejo is entitled to a jury trial. 		
Amount of the Claim:	\$1,392,771.51		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The trial court entered its Final Judgment of dismissal with prejudice for lack of jurisdiction over the subject matter of this action because Vallejo failed to meet any of the security requirements of Section 72.011(3), Florida Statutes. The security requirements that Vallejo failed to meet included (1) tender with the complaint the amount of the contested assessment, or (2) file a cash or surety bond, or (3) already have obtained a written waiver from the Department of Revenue or, (4) request by motion “other security arrangement” at the time of bringing		

	<p>the cause of action that may be approved by the court. At the time Vallejo filed the complaint, Vallejo also filed a motion for alternative security arrangement which the trial court denied. After the Department filed a motion for summary judgment in July, 2010, Vallejo filed an emergency motion for alternate security arrangement. The trial court subsequently issued an order in October, 2010 denying that motion. Vallejo filed a motion for reconsideration and the Department filed a motion to dismiss, in November, 2010. After a hearing on Vallejo's motion for reconsideration and the Department's motion for summary to dismiss, the trial court dismissed the case, in February, 2011. Briefing has been concluded. Oral Argument has been requested, but not yet granted.</p>	
<p>Who is representing (of record) the state in this lawsuit? Check all that apply.</p>		Agency Counsel
	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
<p>If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).</p>		

Office of Policy and Budget – July 2011

Schedule VII: Agency Litigation Inventory

For directions on completing this schedule, please see the "Legislative Budget Request (LBR) Instructions" located on the Governor's website.

Agency:	Office of the Attorney General		
Contact Person:	Timothy Dennis	Phone Number:	414-3300
Names of the Case: (If no case name, list the names of the plaintiff and defendant.)	<u>Verizon Business Purchasing, LLC, a foreign limited liability company v. State of Florida Department of Revenue, an agency of the State of Florida</u>		
Court with Jurisdiction:	Second Judicial Circuit		
Case Number:	11-1498		
Summary of the Complaint:	<p>This case involves a challenge brought by Verizon Business Purchasing, LLC (Verizon) against the Department's assessment of sales and use tax, based on the set forth below.</p> <ol style="list-style-type: none"> 1. Whether the Department's Notice of Proposed Assessment (NOPA) constituted an "assessment" for purposes of an agreed extension to the statutes of limitations pursuant to s. 95.091(3), Florida Statutes. Verizon contends that the NOPA does not constitute a "final assessment" and therefore the entire assessment reflected in the NOPA is invalid. 2. Whether the Department correctly audited and calculated additional sales tax due on Verizon's purchases of tangible real property from vendors. 3. Whether the Department correctly audited and calculated additional sales tax due on Verizon's rental of certain real property. 4. Whether the Department correctly determined certain sales and use taxes due on Verizon's audited transactions. 		
Amount of the Claim:	\$3,169,168		
Specific Statutes or Laws (including GAA) Challenged:	None		
Status of the Case:	The Department has not yet filed its answer to the complaint in this recently filed case. No trial date has yet been set.		
Who is representing (of		Agency Counsel	

record) the state in this lawsuit? Check all that apply.	x	Office of the Attorney General or Division of Risk Management
		Outside Contract Counsel
If the lawsuit is a class action (whether the class is certified or not), provide the name of the firm or firms representing the plaintiff(s).		

Office of Policy and Budget – July 2011

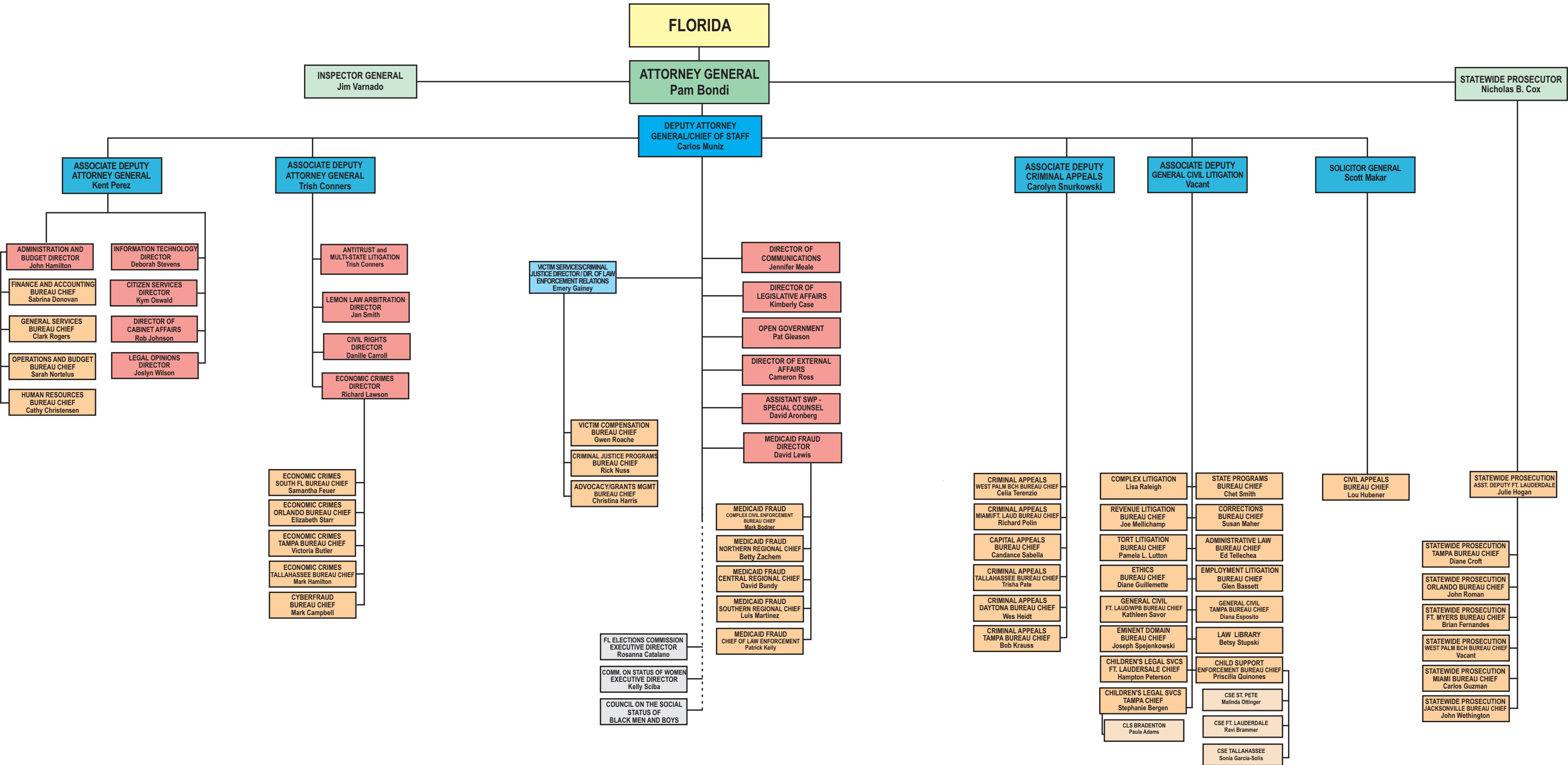
Department Level Exhibits and Schedules



Schedule X

Organization Structure

STATE OF FLORIDA OFFICE OF THE ATTORNEY GENERAL



Department Level Exhibits and Schedules



Schedule XI

Unit Cost Summary

LEGAL AFFAIRS, DEPARTMENT OF, AND ATTORNEY GENERAL		FISCAL YEAR 2010-11			
SECTION I: BUDGET		OPERATING		FIXED CAPITAL OUTLAY	
TOTAL ALL FUNDS GENERAL APPROPRIATIONS ACT		186,717,402		0	
ADJUSTMENTS TO GENERAL APPROPRIATIONS ACT (Supplementals, Vetoes, Budget Amendments, etc.)		4,468,968		0	
FINAL BUDGET FOR AGENCY		191,186,370		0	
SECTION II: ACTIVITIES * MEASURES		Number of Units	(1) Unit Cost	(2) Expenditures (Allocated)	(3) FCO
Executive Direction, Administrative Support and Information Technology (2)					0
Child Predator Cybercrime * Number of active cybercrime cases		302	10,584.35	3,196,475	
Lemon Law * Number of Arbitration Hearings Conducted		342	4,006.88	1,370,354	
Child Support Enforcement * Number of final orders obtained representing the Department of Revenue in child support enforcement proceedings.		33,306	237.48	7,909,425	
Antitrust * Number of cases enforcing provisions of the Antitrust Act		94	33,321.56	3,132,227	
Racketeer Influenced And Corrupt Organization (rico)/ Consumer Fraud * Cases enforcing the Racketeer Influenced and Corrupt Act and Unfair and Deceptive Trade Practices Act.		167	49,836.09	8,322,627	
Commission On Ethics Prosecutions * Number of cases prosecuted before the Florida Commission on Ethics		91	3,190.44	290,330	
Medicaid Fraud Control * Number of cases investigated involving Medicaid fraud activities		1,054	15,530.29	16,368,926	
Children's Legal Services * Number of cases representing the Department of Children and Families in juvenile dependency and termination of parental rights proceedings		29,693	308.79	9,169,000	
Civil Rights * Number of cases investigated and prosecuted involving violations of civil rights		42	15,493.76	650,738	
Solicitor General And Complex Litigation * Number of cases		325	4,438.35	1,442,464	
Opinions * Number of Opinions Issued		318	1,614.07	513,273	
Cabinet Support Services * Number of Cabinet Meetings		18	19,894.61	358,103	
Eminent Domain * Cases representing the Department of Transportation and other government agencies in eminent domain proceedings.		453	944.48	427,849	
Sexual Predator Civil Commitment Appeals * Number of cases		240	867.68	208,244	
Non-capital Criminal Appeals * Number of cases - non-capital appellate litigation		21,786	576.75	12,565,033	
Capital Appeals * Number of cases - capital appellate litigation		240	10,175.89	2,442,214	
Administrative Law * Number of cases		1,158	2,112.99	2,446,842	
Tax Law * Number of cases enforcing, defending and collecting tax assessments		1,319	1,109.90	1,463,960	
Civil Litigation Defense Of State Agencies * Number of cases defending the state and its agents in litigation of appellate, corrections, employment, state programs and tort.		4,467	2,175.44	9,717,702	
Grants-victims Of Crime Advocacy * Number of victims served through grants.		302,287	82.24	24,859,513	
Victim Notification * Number of appellate services provided		6,752	278.69	1,881,697	
Victim Compensation * Number of victim compensation claims paid		29,838	957.02	28,555,656	
Minority Crime Prevention Programs * Number of crime prevention programs assisted		4	1,632,479.75	6,529,919	
Grants-crime Stoppers * Number of crime stopper agencies assisted		33	113,228.12	3,736,528	
Crime Prevention/Training * Number of people attending training		3,305	140.51	464,398	
Investigation And Prosecution Of Multi-circuit Organized Crime-drugs * Annual volume of investigations handled		347	83.71	29,047	
Investigation And Prosecution Of Multi-circuit Organized Crime * Annual volume of investigations handled/financial assessments		500	12,717.87	6,358,937	
Prosecution Of Violations Of The Florida Election Code * Number of prosecutions handled.		330	4,034.19	1,331,284	
TOTAL				155,742,765	
SECTION III: RECONCILIATION TO BUDGET					
PASS THROUGHS					
TRANSFER - STATE AGENCIES					
AID TO LOCAL GOVERNMENTS					
PAYMENT OF PENSIONS, BENEFITS AND CLAIMS					
OTHER					
REVERSIONS				35,443,547	
TOTAL BUDGET FOR AGENCY (Total Activities + Pass Throughs + Reversions) - Should equal Section I above. (4)				191,186,312	

SCHEDULE XI/EXHIBIT VI: AGENCY-LEVEL UNIT COST SUMMARY

(1) Some activity unit costs may be overstated due to the allocation of double budgeted items.

(2) Expenditures associated with Executive Direction, Administrative Support and Information Technology have been allocated based on FTE. Other allocation methodologies could result in significantly different unit costs per activity.

(3) Information for FCO depicts amounts for current year appropriations only. Additional information and systems are needed to develop meaningful FCO unit costs.

(4) Final Budget for Agency and Total Budget for Agency may not equal due to rounding.

IUCSSP03 LAS/PBS SYSTEM
BUDGET PERIOD: 2002-2013
STATE OF FLORIDA

SP 09/15/2011 08:28
SCHED XI: AGENCY-LEVEL UNIT COST SUMMARY
AUDIT REPORT LEGAL AFFAIRS/ATTY GENERAL

ACTIVITY ISSUE CODES SELECTED:

TRANSFER-STATE AGENCIES ACTIVITY ISSUE CODES SELECTED:

1-8:

AID TO LOCAL GOVERNMENTS ACTIVITY ISSUE CODES SELECTED:

1-8:

THE FOLLOWING STATEWIDE ACTIVITIES (ACT0010 THROUGH ACT0490) HAVE AN OUTPUT STANDARD (RECORD TYPE 5)
AND SHOULD NOT:

*** NO ACTIVITIES FOUND ***

THE FCO ACTIVITY (ACT0210) CONTAINS EXPENDITURES IN AN OPERATING CATEGORY AND SHOULD NOT:
(NOTE: THIS ACTIVITY IS ROLLED INTO EXECUTIVE DIRECTION, ADMINISTRATIVE SUPPORT AND INFORMATION
TECHNOLOGY)

*** NO OPERATING CATEGORIES FOUND ***

THE FOLLOWING ACTIVITIES DO NOT HAVE AN OUTPUT STANDARD (RECORD TYPE 5) AND ARE REPORTED AS 'OTHER' IN
SECTION III: (NOTE: 'OTHER' ACTIVITIES ARE NOT 'TRANSFER-STATE AGENCY' ACTIVITIES OR 'AID TO LOCAL
GOVERNMENTS' ACTIVITIES. ALL ACTIVITIES WITH AN OUTPUT STANDARD (RECORD TYPE 5) SHOULD BE REPORTED
IN SECTION II.)

*** NO ACTIVITIES FOUND ***

TOTALS FROM SECTION I AND SECTIONS II + III:

DEPARTMENT: 41	EXPENDITURES	FCO
FINAL BUDGET FOR AGENCY (SECTION I):	191,186,370	
TOTAL BUDGET FOR AGENCY (SECTION III):	191,186,312	
	-----	-----
DIFFERENCE:	58	
(MAY NOT EQUAL DUE TO ROUNDING)	=====	=====

Department Level Exhibits and Schedules



Schedule XIV

Variance from Long Range Financial Outlook

**Schedule XIV
Variance from Long Range Financial Outlook**

Agency: Department of Legal Affairs

Contact: John Hamilton

Article III, Section 19(a)3, Florida Constitution, requires each agency Legislative Budget Request to be based upon and reflect the long range financial outlook adopted by the Joint Legislative Budget Commission or to explain any variance from the outlook.

- 1) Does the long range financial outlook adopted by the Joint Legislative Budget Commission in September 2011 contain revenue or expenditure estimates related to your agency?

Yes No

- 2) If yes, please list the estimates for revenues and budget drivers that reflect an estimate for your agency for Fiscal Year 2012-2013 and list the amount projected in the long range financial outlook and the amounts projected in your Schedule I or budget request.

	Issue (Revenue or Budget Driver)	R/B*	FY 2012-2013 Estimate/Request Amount	
			Long Range Financial Outlook	Legislative Budget Request
a				
b				
c				
d				
e				
f				

- 3) If your agency's Legislative Budget Request does not conform to the long range financial outlook with respect to the revenue estimates (from your Schedule I) or budget drivers, please explain the variance(s) below.

* R/B = Revenue or Budget Driver

Budget Entity Level Exhibits and Schedules



Civil Enforcement

41100100

SCHEDULE IX: MAJOR AUDIT FINDINGS AND RECOMMENDATIONS				Budget Period: 2011 - 2012	
Department: Department of Legal Affairs		Chief Internal Auditor: Judy Goodman			
Budget Entity: 41100100		Phone Number: (850) 414-3591			
(1)	(2)	(3)	(4)	(5)	(6)
REPORT NUMBER	PERIOD ENDING	UNIT/AREA	SUMMARY OF FINDINGS AND RECOMMENDATIONS	SUMMARY OF CORRECTIVE ACTION TAKEN	ISSUE CODE
2010-11	December-10	Follow-Up to the CyberCrime Audit (09-02)	Finding No. 1: CPCU vehicles were underutilized	Current Status (December 2010):	
			Recommendation: CPCU should utilize unused state vehicles as pool cars for victim advocates and the gasoline should be reimbursed through the VOCA grant program. CPCU should not replace the State vehicles if not needed.	In all possible instances the state pool cars are utilized by victim advocates. Each location is assigned a pool car, and the locations with 2 victim advocates are assigned 2 pool cars. The victim advocates drive their own vehicles only if they have an assignment that requires them to leave home an hour before the regular work day begins and it is in the opposite direction of their work location. This avoids the state pool car being stored at the victim advocate's home overnight and does not further extend their work day.	
				The Grantor, VOCA, has denied reimbursement of fuel on the basis that fuel is not a cost allowed for any other agency that receives a VOCA grant. CPCU has implemented the maximum use of pool vehicles while complying with the Grantor's guidelines. No further action is possible by CPCU.	
				Additionally, the August sampling does not represent the average monthly usage of CPCU vehicles. The August finding does not take into consideration the following information:	

				Two vehicles were unused due to unfilled LEO positions, now filled.	
				The Chief of Police vehicle was vacant while he was in transit and moving to Jacksonville.	
				One vehicle was in the shop awaiting repairs from an accident.	
				Auditor's Conclusion: Partially Implemented	
				In some cases, state vehicles are utilized as pool cars by victim advocates. This however is not a consistent practice for the month we reviewed, August 2010. Gasoline is not reimbursed by the VOCA grant for CPCU state pool cars, rather mileage for use of Victim Advocates' personal cars.	
				According to EMIS, for the month of August, four cars had zero miles charged. CPCU recently made a budget request to replace four vehicles which was internally denied. For the period August 2009 to July 2010, nine vehicles were driven less than 8,600 miles. It is our opinion that additional vehicles should not be requested while other pool cars remain idle.	
			Finding No. 2: CPCU was behind in collecting reimbursements from federal agencies	Current Status (December 2010):	

			<p>Recommendation: CPCU should ensure reimbursement requests are prepared monthly. One person should be assigned the responsibility of capturing overtime and billing the appropriate agencies. Supporting cost information should be obtained from Finance and Accounting to ensure the proper amount is billed for recovery and booked as a receivable. The receivables should be monitored by CPCU for payment status.</p>	<p>Current Status (December 2010): CPCU requested and obtained a spreadsheet from Finance & Accounting for overtime rates with benefits. CPCU monitored overtime payments by providing Finance & Accounting with a spreadsheet on two separate occasions requesting information regarding payments. No further action can be done without the assistance of Finance & Accounting.</p>	
				<p>Auditor's Conclusion: Partially implemented</p>	
				<p>While CPCU continued to bill for some of the overtime monthly, the amount did not include benefits and the basis was not obtained from Finance and Accounting. Finance and Accounting has offered to provide actual costs with benefit costs added to CPCU.</p>	
				<p>Overtime invoices were generated by five different CPCU staff from different offices. In some cases, Finance and Accounting was not advised of the billings and had difficulty ascertaining what invoices were paid upon receipt of wire transfers.</p>	
				<p>CPCU did not monitor payment status of the receivable by payment confirmation with Finance and Accounting other than when F/A questioned about wire transfers received.</p>	
			<p>Finding No. 3: Grant administration could be improved</p>	<p>Current Status (December 2010):</p>	

			<p>Recommendation: We recommend CPCU reconsider the match components or reduce direct costs which need match. The amount of time allocated as match by the Director should be reviewed to validate the percentage of time charged. Possibly the match percentage should be proportionate to the number of victim advocate employees supervised as a function of the whole unit. VOCA should reconsider reimbursing for gasoline for state cars. VOCA should also consider allowing other training expenses which CPCU victim advocates select if the State has been able to meet its match requirements.</p>	<p>CPCU's goal is to provide education and training to the Victim Advocates. The Grantor, VOCA, does not allow training cost or the reimbursements of fuel cost. CPCU follows the guidelines and decisions of the Grantor as required.</p>	
				<p>Per the Grantor, 30% is an allowable match approved by our grant manager. However, CPCU did follow the recommendation of the IG's office, by calculating the percentage on a prorated basis for each employee: 30 employees divided by 9 VOCA employees is 30%.</p>	
				<p>CPCU does not control VOCA payout schedule or approval process.</p>	
				<p>No further compliance is possible by CPCU.</p>	
				<p>Auditor's Conclusion: Partially implemented</p>	
				<p>The recovered match component for the director remained the same (30 %), and did not appear to be a function of supervision of all CPCU employees (40).</p>	
				<p>VOCA is not reimbursing CPCU for gasoline expenses for state cars, but rather in some cases it pays for mileage for use of personal cars by Victim Advocates.</p>	
				<p>Victim Advocates' training was allowed for and paid out of the COPS (not the VOCA) grant.</p>	

				The approval of grant expenditures could be timelier. We reviewed a few VOCA grant reimbursement vouchers which took several months to go through the approval process. That is to say, April 2010 was approved October 1st and May 2010 voucher was approved August 24th.	
			Finding No. 4: Review of vouchers revealed some missing documentations, non-reimbursement for some private use of cell phones, and a P-Card expenditure that was not signed and dated by user.	Current Status (December 2010):	
			Recommendation: CPCU should provide Finance and Accounting with documentation for all vouchers presented for payment. CPCU should review cell phone bills and ensure reimbursement for personal calls. Purchases that are made on the P-Card should be substantiated by invoices that are signed, dated, and provided as documentation.	Not all CPCU personnel in possession of an OAG cell phone use it for personal use, so using a standard of monies paid to the state will not reflect CPCU's compliance because there are little or no personal costs incurred by CPCU employees. CPCU has followed the recommendation of the Inspector General Office, by reviewing cell phone bills w/greater diligence and random 411 reverse look ups. CPCU requests additional information to the contrary, if applicable.	
				Auditor's Conclusion: Partially implemented.	
				The sample of P-Card vouchers reviewed contained supporting documentation.	
				Finance and Accounting records indicated reimbursements were made for 5 of the 27 CPCU staff who had cell phones.	
			Finding No. 5: Monthly Mileage Log maintenance could be improved and commuting charges were incurred through SunPass transponder use	Current Status (December 2010):	

			Recommendation: (1) CPCU should continue to detail daily trips and utilization (2) SunPass should not be used for commute purposes (3) Management should review the reports for accuracy and ensure proper completion	As in the initial response CPCU disagrees with the finding for SunPass usage. It is not against policy for use of Sun Pass, and CPCU is in compliance with all the remaining recommendations on finding number 5.	
				Auditor's Conclusion: Partially Implemented	
				Our review of monthly vehicle use expense and inspection logs for August 2010 demonstrated logs were detailed for daily use and they evidenced management review.	
				Surpass continues to be used for commute purposes.	
			Finding No. 6: Routine psychological testing was not obtained for applicants hired from within other Attorney General Units and psychological reassessments are not routinely performed	Current Status (December 2010):	
			Recommendation: We recommend that CPCU establish guidelines for providing psychological assessments or counseling for personnel who have exposure or will have exposure to child exploitation material.	CPCU conducted a PowerPoint training for the wellness program and distributed information at the CPCU All Team Workshop during the first week of November. CPCU has another counseling session scheduled for January for the Jacksonville Office which will apply to eight employees.	
				Auditor's Conclusion: Partially implemented.	
				For the two new September 2010 CPCU hires, psychological testing was performed. In addition, one counseling session was reported in July 2010. Four of the CPCU staff were involved in the counseling session. We recommend CPCU continue counseling sessions for other locations.	

			Finding No. 7: Inventories need to be brought up-to-date and Evidence Rooms should be inventoried and reconciled to evidence logs	Current Status (December 2010):	
			Recommendation: It is recommended that inventory be conducted annually and documented accurately, with efforts made to reconcile CPCU's inventory lists with that of Finance and Accounting's.	CPCU has fully implemented the recommendation of the Inspector General's Office to bring inventories up to date and to reconcile evidence logs. The Chief of Police has conducted inspections at all five CPCU locations. Any violations were immediately corrected. CPCU will conduct biannual inspections in accordance with CPCU policy.	
				Auditor's Conclusion: Partially implemented.	
				While the Jacksonville Office was brought into compliance, it was noted on a July 2010 CPCU internal inspection that the Tampa Evidence Log was not kept up to date. We did not perform inspections of the Tampa, Milton, Orlando, or Fort Lauderdale evidence rooms but rather relied upon internal CPCU internal inspections.	
			Finding No. 8: The CPCU Performance Measurement could be improved	Current Status (December 2010):	
			Recommendation: We recommend the CPCU evaluate the performance measure and develop a measure that is outcome focused. In addition, the CPCU should consider preparing an annual report containing statistics and information from their cybercrime endeavors.	CPCU's request to change the performance measures presented to the legislature was denied by the agency. CPCU maintains a broad range of performance measures and will produce an annual report for the calendar year 2010 at the end of January 2011, which will include and make public all of this information.	
				Auditor's Conclusion: Partially implemented.	

				The CPCU offers a variety of crime statistic reports to outsiders in media requests.	
				While CPCU plans to issue an annual report at year end, they have not been able to produce such report yet.	

SCHEDULE IX: MAJOR AUDIT FINDINGS AND RECOMMENDATIONS				Budget Period: 2011 - 2012	
Department: Department of Legal Affairs		Chief Internal Auditor: Judy Goodman			
Budget Entity: 41100100		Phone Number: (850) 414-3591			
(1)	(2)	(3)	(4)	(5)	(6)
REPORT NUMBER	PERIOD ENDING	UNIT/AREA	SUMMARY OF FINDINGS AND RECOMMENDATIONS	SUMMARY OF CORRECTIVE ACTION TAKEN	ISSUE CODE
2010-28	May-11	Follow-Up to the Child Support Enforcement Audit (08-53)	Finding No. 1: Case information in the OAG database could be updated.	Current Status as of February 2011: CSE has met weekly with IT to define, prioritize, and process all IT related recommendations. CSE's database currently has standardized status reports which all CSE users can access. These reports are categorized by their last action and the date the last action took place. CSE Managers and Supervisors are currently reviewing all categories of these statuses to determine whether they can be modified and/or eliminated to better suit the needs of CSE.	
			Recommendation: In addition to the PAMs reports, OAG should consider adopting a status report which analyzes trends in cases. Also, aged cases should be periodically reviewed and closed as appropriately necessary every six months.	Auditor's Conclusion: On going	
			Finding No. 2: Certain Court practices could be improved.		
			Recommendation:	Current Status as of February 2011:	
			1. OAG should meet with administrative hearing officers and judicial personnel to discuss the option of having parties wait outside the Courtroom until their case is called; for paternity establishment cases, when possible, Court should not be scheduled until the results are received.	1. No change to Management's prior response.	

			2. OAG should meet with administrative hearing officer or Court personnel to discuss translators taking turns speaking.	2. No change to Management's prior response.	
			3. Information Technology and OAG should work together in order to create form templates to assist in automating the process of creating Court orders. Designated OAG staff should have the ability to make minor edits as necessary to templates.	3. OAG/CSE has met weekly with IT to define, prioritize, and process all IT related recommendations. Numerous changes have been made to the autoforms in Teddy to increase efficiency. OAG/CSE, in conjunction with IT, has developed a "Teddy Forms Task Force" to review and modify OAG/CSE's current processes for generating orders in Teddy. The Task Force is currently working to streamline the generation and processing of the orders across all regions by merging information into the orders in a more efficient manner. The Task Force is also exploring the use of thumb drives to copy docket information from the system in the event that Internet connectivity is ever an issue in the courtrooms. The estimated completion date of this project is 04/29/2011.	
			4. If possible, for those cases whereby paternity is being established, Court should not be scheduled until paternity results are obtained. Perhaps the PAM addressing timing in Court issues should be revised upon contract extension negotiations.	4. No change to Management's prior response.	

			<p>5. OAG should work with DOR to focus more attention on determining a better address, to accept other more current addresses as supplied by the custodial parent.</p>	<p>5. DOR uses a multitude of resources available to them to obtain valid addresses and this includes verifying information from the custodial parents as to the whereabouts of the non-custodial parents. Often times, DOR obtains verification on multiple addresses for the Respondent and each OAG/CSE office has developed a criteria for their local DOR offices to better prioritize these addresses. In all Regions, DOR now rarely provides more than two addresses. In Region 1, if the case calls for service of process, any address DOR provides is used. If the case calls for service of process by mail, OAG/CSE will use the address provided by DOR and add in the last address of record (if not provided by DOR). In Region 3, DOR provides the Respondent's last address of record. In any instance where DOR obtains verification of multiple addresses for one Respondent, DOR has been instructed that they must provide information as to where each address was obtained, such as; "last address of record," "DMV address," etc. In Region 5, in any instance where DOR provides more than one address, the addresses are numbered for priority. These methods of prioritization allow OAG/CSE to determine which addresses will be used for either service of process by mail or by process server.</p>	

			6. OAG should suggest to DOR that a phlebotomist be available at the Courthouse on certain days of the month; paternity hearings should be scheduled on those days.	6. Region 3 continues to arrange for a laboratory technician to be present when available and Region 5 is still unable to have a laboratory technician/phlebotomist available due to restrictions by the Court administrator. Region 1 is unable to implement the IGs Recommendation due to the fluctuating amount of paternity cases and the time restraints of the PAMs set forth by DOR. All Regions revisit this issue periodically to determine if there is a change in circumstances that would allow for this.	
			7. OAG should contact regional Court staff to see if additional space could be provided for OAG staff.	7. No change to Management's prior response.	
			8. There does not seem to be a viable recommendation. The administrative hearing officers could issue higher penalties, but this is entirely up to them.	8. No change to Management's prior response.	
			9. When feasible, Court time should be divided into blocks and parties scheduled accordingly.	9. No change to Management's prior response.	
				Auditor's Conclusion:	
				1. No change	
				2. No change	
				3. CSE has begun automation process	
				4. No change	
				5. Some improvement noted	
				6. No change in Regions 1 and 5	
				7. No change	
				8. No assessment needed	
				9. No change	
			Finding No. 3: The amount of time that OAG attorneys spend entering billable hours in Lotus Notes could be used more productively.	Current Status as of February 2011: No change to Management's prior response.	
			Recommendation: OAG attorneys should not be required to enter time into the Lotus Notes billable hour database since they are a contract bureau.	Auditor's Conclusion: No change	

			Finding No. 4: The importance of confidentiality should be emphasized.	Current Status as of February 2011: Upon inquiry to the OAG's Human Resources Department, it was determined that no additional action be taken on this recommendation as the OAG guidelines for confidentiality are cited in the OAG Policies and Procedures Manual. All OAG employees are required on a yearly basis to read and sign off on these policies. Since the recommendation was made, CSE has on numerous occasions, referred OAG employees to DOR or OAG Management to address their inquiries.	
			Recommendation: Reiterate and emphasize to non-CSE (OAG) employees that inquiring information of CSE staff for unofficial purposes is prohibited.	Auditor's Conclusion: No additional action taken by CSE and no known breaches during audit period.	
			Breaches in confidentiality should be immediately reported to appropriate authorities, including the Office of Inspector General and/or CSIRT.		

			<p>Finding No. 5: Diversified reports and analysis would assist in identifying problem areas that may otherwise be overlooked.</p>	<p>Current Status as of February 2011: CSE Managers can currently review reports from PAILS as well as from Teddy. As set forth in CSEs Current Status as of February 2011 for Finding /Recommendation No. 2, the Task Force has committed to finalizing the revision of current processes for generating orders in Teddy. Once this project has been completed, CSE will begin an in-depth review of the reports in Teddy to determine their effectiveness and efficiency for CSEs staff and management. In addition, DOR is in the process of implementing a new system (CAMS) and will completely eliminate the use of their current system (PAILS). CAMS is scheduled to be implemented by February 2012. CSE and IT will continue to meet with DOR over the next year to ensure that OAGs reporting needs are met with this new system as well.</p>	
			<p>Recommendation: OAG IT should develop a trend analysis report so CSE could produce quarterly analyses of case referrals by phase and compare among regions over time to gauge performance. This could help address conditions whereby problems might be emerging.</p>	<p>Auditor's Conclusion: CSE I.T. is working on other issues, such as automated forms.</p>	
			<p>Finding No. 6: Certain Performance Accountability Measures could be modified.</p>	<p>Current Status as of February 2011: No change to Management's prior response.</p>	
			<p>Recommendation: At the contract re-negotiation, PAMs should not be included for which OAG does not have control such as those relating to a judge's signing of the orders.</p>	<p>Auditor's Conclusion: No change</p>	

			<p>Finding No. 7: Methodologies pertaining to process servers could be compared across the region for efficiency purposes.</p>	<p>Current Status as of February 2011: In addition to Region 1 using mail service as frequently as possible, they also began using Sheriffs in lieu of Private Process unless specifically requested by DOR. On 02/23/2010, one of our service contracts was changed to a different provider to allow for more cost efficient service of process. Unfortunately, due to continued unacceptable practices from this service provider, their contract was terminated and a temporary contract was awarded to our previous service provider. CSE continues to work with OAG Purchasing to review and amend the Invitation to Bid (ITB) for a service of process provider who would best suit the legal and budgetary needs of CSE. The publication of the ITB is imminent.</p>	
			<p>Recommendation: OAG's Child Support Enforcement Bureau should compare practices among regions and try new methodologies to reduce costs. The service of process contract should be reviewed and possibly amended for cost efficiency.</p>	<p>Auditor's Conclusion: CSE is in the process of amending the service of process contract.</p>	
			<p>Region 1 should do what is appropriate to create confidence in the Courts' use of mail for regular notice versus service of process to minimize costs.</p>		

Budget Entity Level Exhibits and Schedules



Victim Services

41100400

SCHEDULE IX: MAJOR AUDIT FINDINGS AND RECOMMENDATIONS				Budget Period: 2011 - 2012	
Department: Department of Legal Affairs		Chief Internal Auditor: Judy Goodman			
Budget Entity: 41100400		Phone Number: (850) 414-3591			
(1)	(2)	(3)	(4)	(5)	(6)
REPORT NUMBER	PERIOD ENDING	UNIT/AREA	SUMMARY OF FINDINGS AND RECOMMENDATIONS	SUMMARY OF CORRECTIVE ACTION TAKEN	ISSUE CODE
2010-05	September-10	Follow-Up to the Victim Compensation Payments Audit Report (08-28)	Finding No. 1: A review of the Internal Controls related to the processing of claims indicated that in the Lotus Notes VAN system some people have the ability to both enter and approve claims.	VC Reported Status July 2010: VAN programming contains checks and balances that limit the ability of individuals in the processes of data entry, eligibility and benefits determinations, payment authorization, and actual payment. For example, while all employees can perform data entry and many can authorize payment, only a select few have an access level that generates a benefit payment record (BPR) that initiates a request to the Office of Finance and Accounting (OFA) to actually notify the Department of Financial Services to issue state warrants in payment on the claims. The current procedures function within an acceptable perceived level of risk based on the mission of the agency. Accordingly, no further action is anticipated on this issue.	
			Recommendation: The duties of recording, approving, and paying of claims should be segregated to deter and detect inconsistencies and errors in the processing of claims.	Auditors Current Conclusion: Auditee accepts risk, recommendation not implemented.	
			Finding No. 2: Although in general, Victim Compensation claims sample payments reviewed were found to be in compliance with payment guidelines, there were opportunities for improvement.		

			Recommendation: That accountability in the processing of Victim Compensation claims can be improved by implementing the following:	VC Current Status July 2010:	
			a. The Bureau of Victim Compensation should request documentation for how incidental funeral funds are spent after defining guidelines for incidental funeral expenses.	a. Revised victim compensation claims processing rules were effective July 1, 2010. Under the revised rules, funeral expenses are limited to \$5,000 and "incidental costs associated with the death of the victim" are disallowed. Payment is made directly to a provider except when the applicant has already paid all or a portion of the bill. In that situation, the claimant is reimbursed for his or her out-of-pocket expense and the balance is paid directly to the provider, which by law is payment in full, if accepted.	
			b. The Bureau of Victim Compensation should consider making payments only to health care providers; or if a victim is compensated directly, only 75% should be paid.	b. Under the revised rules, the benefit amount for medical/dental/mental health costs has been reduced to \$7,500. Further reductions would seriously impede victims' accessibility to treatment, as providers would more frequently decline to treat victims of crime.	
			c. The Bureau of Victim Compensation should annualize the victim's salary in order to determine hourly rate before compensating for wage losses.	c. The wage loss formula is spelled out explicitly in the revised rules, including specific documentation required for wage loss benefits. Of particular note is the requirement that the wage loss documentation from the victim's employer include the printed name and title of the employer's chief executive or chief financial officer or authorized designee, signature and date.	

			d. The vendor number database should be reviewed periodically and updated.	d. A review of payments processed during January through June, 2010, reflects that there were 15,277 payments and 129 payment rejections during this six-month period. This means that 99.99 percent of payments were processed with the accurate vendor identification. The current procedures function within an acceptable perceived level of risk based on the mission of the agency. Accordingly, no further action is anticipated on this issue.	
			e. Claims analysts should follow up periodically on claims which haven't been maximized and contact victims to determine if payments should be made; or, alternatively, have the VAN program automatically send clients notification of impending time period expiration for payment of bills.	e. While there have been no VAN updates to accomplish this recommendation, the goal remains to have this procedural update within the next 24 months.	
			f. Victim Compensation payments should be adequately documented and payments made only from itemized invoices, not statements. Requests should be made for duplicate itemized invoices.	f. We concur with this recommendation and provide ongoing training to staff to ensure compliance. Revised rules specifically identify the information which is required in an "itemized" bill.	
				Auditor's Current Conclusion:	
				a. Incidental provision of \$1,000 has been eliminated.	
				b. Maximum reduced from \$10,000 to \$7,500 limited to one year, the thrust of the recommendation met.	
				c. Attempts have been made to strengthen the proof of the wage hourly rate by adding to the requirement the Chief Executive or Chief Financial Officer verify the rate paid to the victim.	

				d. According to VC staff, updates to the database are made as time permits. Stated error rate appears low, management accepts risk.	
				e. No substantive VAN changes, recommendation not implemented. Considering the benefits have been reduced, this recommendation no longer appears to be relevant.	
				f. Recommendation accepted to pay from invoices, not statements.	
			Finding No. 3: Enhancements could be made to the VAN system to improve accountability and claims processing performance.	VC Current Status July 2010: There have been no substantive programming updates to VAN beyond those required for implementation of revised victim compensation claims processing rules. These items remain on the listing of VAN enhancements that we anticipate being effected by June 2012.	
			Recommendation: That Information Technology management reconsiders workloads to accommodate or make changes as needed to improve the VAN system to meet the following needs:	Auditor's Current Conclusion: Not implemented.	
			a. Capturing \$2,500 spent on mental health needs.		
			b. Adding voids and refunds to the bills view in VAN.		
			c. Preventing kicking out multiple cost category payments.		
			d. Paying to the nearest penny, not dollar.		

			e. Continuous auditing subroutines should be developed by Information Technology or a computer specialist employed within the Bureau to assist the VAN staff in preventing and detecting erroneous or fraudulent claims and to enhance the efficient use of Bureau Resources. These routines could also be used to assist the staff in evaluating the effectiveness of the program. A database extraction could be analyzed periodically by Quality Control to look for anomalies and overpayments in the VAN system.		
			f. Improving link analysis to reduce the need for manual operations.		
			g. Researching the computer problem to improve linking archived domestic violence claims to lessen the inclusion of manual operations during the processing of claims.		
			h. Advising clients of unpaid funds.		
			i. Develop and implement an effective interface for applicants to determine on-line or via the phone whether their claims have been paid. The Attorney General might consider employing a computer specialist in the Victims Assistance area to meet VAN information technology needs. Hardware needs would have to be addressed for interactive voice recognition.		
			Finding No. 4: Fund balances continue to accumulate while health care bills remain unpaid.	VC Current Status July 2010: There have been no substantive programming updates to VAN beyond those required for implementation of revised victim compensation claims processing rules. These items remain on the listing of VAN enhancements that we anticipate being effected by June 2012.	
			Recommendation:	Auditor's Current Conclusion:	

			a. The area should evaluate the process to determine whether more training is needed by the victim advocates regarding determination of victims' eligibility.	a. Previously implemented.	
			b. Additional contact is maintained with the victim to "push payments" if funds remain unspent.	b. Not implemented, but recommendation no longer viable.	
			c. Management should develop a follow-up procedure to maximize payments to victims. Perhaps the VAN should be enhanced to process reminder letters advising the client the time period for reimbursement is going to expire and victims should direct the analysts as to which payments should be made. Benefit payments could be maximized to better serve the victims and health care providers. Analysts could routinely follow up with clients to evaluate payment of claims.	c. Not implemented, but recommendation no longer viable.	
			d. Once eligibility has been denied by the claims analysts' management, pending bills should be set to "not payable" to differentiate them from eligible unpaid claims.	d. Not implemented, but recommendation still valid.	
			Finding No. 5: The domestic violence program payment process is weak and allows opportunity for misuse of funds.	VC Current Status July 2010: Revised rules effective July 1, 2010, mandate more stringent requirements for domestic violence centers when certifying a victim's need for assistance. Additionally, revised forms will be developed to ensure that victims and domestic violence centers are aware of their duties and responsibilities under the revised rules. There have been no substantive programming updates to VAN beyond those required for implementation of revised victim compensation claims processing rules. These items remain on the listing of VAN enhancements that we anticipate being effected by June 2012.	
			Recommendation:	Auditor's Current Conclusion:	

			a. Guidelines as to what is allowable should be better defined. The focus should be upon moving expenses and costs associated with relocating. This should curtail frivolous expenditures and keep the focus on the intent of the program. The area should monitor payments to supporting agencies on behalf of the victims and review supporting documentation on-site visits.	a. Not implemented although the domestic violence center handling the relocation check must certify the need for assistance and the center must assert the victim is cooperating with law enforcement and include documentation the victim has developed a safety plan.	
			b. Checks should be written directly to the moving company, utility company, or phone company, and not to the victim. Perhaps reimbursements should be written directly to crisis intervention centers, and they should be responsible for allocating funds adequately.	b. Not implemented.	
			Finding No. 6: There is no determination of financial hardship when considering the effect of property losses on elderly/disabled victims. We were unable to determine whether serious diminution occurred, as required by Florida statute, in victims' lives based on current qualifying criteria.	VC Current Status July 2010: Revised rules effective July 1, 2010, mandate more stringent requirements for property loss claims, particularly in the definition of "substantial diminution" and "activities of daily living." Additionally, revised forms may be necessary to ensure that victims and victim assistance organizations are aware of the revised rules. There have been no substantive programming updates to VAN beyond those required for implementation of revised victim compensation claims processing rules. However, these items remain on the listing of VAN enhancements that we anticipate being effected by June 2012.	
			Recommendation: That the program area should add income determination and property insurance confirmation before reimbursing those who have suffered losses.	Auditor's Current Conclusion: The income determination component has not been implemented but it appears as if collateral sources are considered.	

			<p>Finding No. 7: Accountability needs to be strengthened regarding sexual battery test approval documentation.</p>	<p>VC Current Status July 2010: Revised rules effective August 1, 2010, mandate more stringent requirements for facilities that perform forensic sexual assault examinations. Additionally, revised forms will be developed to ensure that sexual assault examination providers are aware of their duties and responsibilities under the revised rules. There have been no substantive programming updates to VAN beyond those required for implementation of revised victim compensation claims processing rules. There have been several staffing changes within the last year and we anticipate that the individual now responsible for quality assurance will be in a position to expand the scope of the quality assurance review to include some of the factors addressed in the audit.</p>	
			<p>Recommendation: Victim Compensation ensures compensating controls are implemented to ensure sexual battery tests paid for by the state are valid. Compensating controls could consist of: Continuing quarterly monitoring of payments to sexual battery test providers. Utilizing continuous auditing routines analyzing payment history to providers to search for anomalies.</p>	<p>Auditor's Current Conclusion: Not implemented as intended, quarterly monitoring of aggregated payments to sexual assault examination providers are not performed and continuous auditing routines are not utilized.</p>	

2010-05	September-10	Follow-Up to the Bureau of Criminal Justice Programs Report (08-40)	<p>Finding No. 2: The monitoring of Crime Stoppers grants could be improved upon by requesting further documentation, requiring written approval of timesheets and vouchers, educating the council regarding allowable expenses, requiring timely remittances of reports, timely travel reimbursement submission, and monitoring of Single Audit Report findings.</p>	<p>Crime Stoppers Current Status July 2010: Beginning with the 2009-2010 grant year, support documentation is required for all requests for reimbursement from the Crime Stopper programs. Timesheets and travel vouchers require the signature of a board authorizing official; no executive director may sign his or her own timesheet or travel voucher. Reimbursement cannot be processed until all required signatures have been properly affixed to the appropriate timesheets, travel vouchers or other forms.</p>	
			<p>Recommendation: Quarterly and monthly reports should be submitted in a timely manner.</p>	<p>Single audit reports required for Hillsborough County, Pinellas County, Central Florida CrimeLine, and Pinellas County Urban League are reviewed by the supervisor for time submission and any negative findings. There were no negative findings noted in any of these four programs. Negative findings would result in a corrective action plan as provided in the Performance Review Guidelines established for the management of the grant programs.</p>	

				Grant managers and the supervisor strive to bring all programs into compliance with the timely submission of quarterly and monthly reports. However, one program has not yet fully complied with the timely submission of reports. This program has not and will not receive any reimbursements until all required reports are submitted. The supervisor has applied the language in Article 9 of the Agreement, which authorizes the grant manager to hold up the processing of reimbursements until all required monthly and quarterly reports are submitted in a satisfactory manner. A monitoring tool has been developed which allows the staff to view the status of all required reports at any time during the month. See attachment 1-CS. This document allows us to better apply the sanctions in Article 9 of the Agreement.	
				Auditor's Current Conclusion: Substantially implemented.	
			Finding No. 3: Florida Crime Prevention Institute accounting/record keeping could be strengthened.		
			Recommendation: The Office of Attorney General Information Technology Division should consider allocating resources to develop a Lotus Notes application that could be used to track registrations and designations. In addition, the Department should consider developing an on-line registration process.	Bureau of Criminal Justice Program Current Status July 2010: The Lotus Notes database, website, and on-line registration are still under construction. I.T. staff indicated that the website requires approximately one month for completion, while the database has approximately six months worth of work remaining until completed. On-line registration will be available once the website is complete. However, the efficiency level will be somewhat diminished until the database is operational. The delay is due to higher priority assignments of other division projects.	

			In addition, those responsible for handling checks should endorse checks immediately upon receipt, and ensure that checks deposited are reconciled to Finance and Accounting's records, and refunds are tracked.	Auditor's Current Conclusion: There has been significant progress in the development of the on-line registration and accounting system in Lotus Notes, but the Florida Crime Prevention Training Institute database is not deployable yet.	
				Check handling and reconciliation portion of recommendation has been implemented.	

Budget Entity Level Exhibits and Schedules



Executive Direction and Support Services

41100500

SCHEDULE IX: MAJOR AUDIT FINDINGS AND RECOMMENDATIONS				Budget Period: 2011 - 2012	
Department: Department of Legal Affairs		Chief Internal Auditor: Judy Goodman			
Budget Entity: 41100500		Phone Number: (850) 414-3591			
(1)	(2)	(3)	(4)	(5)	(6)
REPORT NUMBER	PERIOD ENDING	UNIT/AREA	SUMMARY OF FINDINGS AND RECOMMENDATIONS	SUMMARY OF CORRECTIVE ACTION TAKEN	ISSUE CODE
2010-15	November-10	Six-Month Follow-Up to Auditor General's Report 2010-200	Finding No. 1: Receivable Accounting and Reconciliation	Statewide Prosecution Status Report: Statewide Prosecution reconciles receivable balances to the FL Department of Corrections on a regular basis. OSP will work with Finance and Accounting staff with the goal of reconciling account balances to those of Finance & Accounting on a regular basis. Due to the large number of accounts, and limited OSP staff, this will be an ongoing project and will take time to accomplish.	
			Recommendation: We recommend that program unit and Department receivable records be periodically reconciled. The reconciliation process should include investigation and disposition of all differences between records.	Victim Services Status Report: Two positions were assigned in July of 2010 to reconcile accounts receivable records. Coordination efforts were established with other OAG program units to identify successful practices with the goal of implementing similar procedures using existing electronic databases. Individual accounts receivable were established for offenders, which include coordinating court documents, correlating offender data with individual victim compensation claims in the Victim Assistance Network (VAN) database, and documentation of collection efforts. Reconciliation of bureau accounts receivable will be made with Finance and Accounting records on a quarterly basis for those accounts established after July 1, 2010.	

				Status: Partially implemented by Victim Services to address the recommendations.	
			Finding No. 2: Separation of Duties	Statewide Prosecution Status Report: Duties have been separated as follows: AR establishment - OMC Consultant Manager; Collection - Criminal Financial Specialist; Check handling - Criminal Financial Specialist; Write-off - OMC Consultant Manager	
			Recommendation: We recommend that the Department take appropriate steps to ensure that adequate separation of duties are maintained.	Economic Crimes Status Report: The check deposit and Accounts Receivable duties have been separated. An adequate separation of duties is being maintained.	
				Status: Based on the assertions above, the finding is considered implemented.	
			Finding No. 3: Collections and Receivable Write-Offs	Office of Finance and Accounting Status Report: Finance and Accounting is in the process of revising the procedures related to accounts receivable. The revision will incorporate the statutory changes effective July 1, 2010, for debt collection referral. We have requested clarification from DFS regarding the applicability of DFS approval for settlements related to A/R activity. The department feels this should not apply to the legal settlements entered into for collection of funds. The procedures will be finalized upon a response from DFS. A copy of the proposed revision is attached.	

			<p>Recommendation: We recommend that the Department enhance its procedures by establishing guidelines prescribing the frequency of collection attempts and their escalation upon a failure to pay. The procedures should also prescribe when to send receivable information to the DFS for collection assistance and write-off review and approval and to the Lottery for offset of the debt against any prize winnings.</p>	<p>As a result of changes being implemented by DFS regarding A/R's and the usage of vendor files, the department will be developing an internal database application to handle A/R activity. Once the application is completed, DLA will no longer record A/R's and associated transactions in FLAIR. There will be summary transactions posted during year end processing for financial reporting purposes. This has been discussed with DFS and they have determined this is an acceptable practice. The internal application will be developed to enhance our reporting capabilities and to assist with the new requirement for timely referral for collection.</p>	
			<p>Additionally, the Department should enforce its procedures requiring Victim Services staff to perform collection activities on accounts receivable or assign such responsibility elsewhere within the Department. Also procedures should be updated to provide for program unit director approval of receivable write-off requests.</p>	<p>We have also requested exemptions for the 120 day requirement for referral for collection for two situations: 1) accounts on current payment plans, and 2) extension to 240 days for Economic Crime Assurances of Voluntary Compliance.</p>	
				<p>Victim Services Status Report: Two positions were assigned in July 2010 to handle collections on any accounts receivable with no action taken within the last five years. For accounts established after July 1, 2010, at least one attempt will be made within 60 days of creation. If no payment is received within 120 days and due diligence has been established, the account will be forwarded to a third-party collection agency for further collection efforts. Note: To date, we have received several written responses and one \$500 payment from an offender as a result of our collection efforts.</p>	

				<p>Procedures have been established to determine the status of the offender prior to initiating collection efforts. If the offender is not incarcerated but is still under supervision, at least two written contacts will be attempted with the offender at his or her last known residential address. No collection action will be initiated when the offender has been sentenced to life or a period of incarceration greater than five years, based on the date of the court order or other documentation mandating payment to the Crimes Compensation Trust Fund. Periodic notice will be provided to the courts in the event further proceedings are necessary to ensure payment is made to the trust fund. When an offender initiates payment to the trust fund, the account receivable can be re-opened so that collections may be pursued. These accounts then will be handled as a new account and agency collection efforts will ensue accordingly. Requests for write-offs will include notations of the level of due diligence efforts and will be approved by the Division Director.</p>	
				<p>Status: Substantially Implemented or begun: OFA has implemented the relevant recommendations with the exception of submitting accounts to the Lottery for offset against any prize winnings. This is because much of DLA's account establishment information does not include a Social Security number which the Lottery needs as an integral part of their collection against winnings. Collections efforts have begun in Victim Services but more time is needed to test all components of the prescribed procedures.</p>	

Department Level Exhibits and Schedules



Technical Checklist

Fiscal Year 2012-13 LBR Technical Review Checklist

Department/Budget Entity (Service): Legal Affairs

Agency Budget Officer/OPB Analyst Name: Sarah Nortelus / Melissa Patino

A "Y" indicates "YES" and is acceptable, an "N/J" indicates "NO/Justification Provided" - these require further explanation/justification (additional sheets can be used as necessary), and "TIPS" are other areas to consider.

Action	Program or Service (Budget Entity Codes)		
	Attorney General	Statewide Prosecution	Elections Commission

1. GENERAL

1.1	Are Columns A01, A02, A04, A05, A36, A93, IA1, IA5, IP1, IV1, IV3 and NV1 set to TRANSFER CONTROL for DISPLAY status and MANAGEMENT CONTROL for UPDATE status for both the Budget and Trust Fund columns? Are Columns A06, A07, A08 and A09 for Fixed Capital Outlay (FCO) set to TRANSFER CONTROL for DISPLAY status only? (CSDI)	Y	Y	Y
1.2	Is Column A03 set to TRANSFER CONTROL for DISPLAY and UPDATE status for both the Budget and Trust Fund columns? (CSDI)	Y	Y	Y

AUDITS:

1.3	Has Column A03 been copied to Column A12? Run the Exhibit B Audit Comparison Report to verify. (EXBR, EXBA)	Y	Y	Y
1.4	Has security been set correctly? (CSDR, CSA)	Y	Y	Y
TIP	The agency should prepare the budget request for submission in this order: 1) Lock columns as described above; 2) copy Column A03 to Column A12; and 3) set Column A12 column security to ALL for DISPLAY status and MANAGEMENT CONTROL for UPDATE status.			

2. EXHIBIT A (EADR, EXA)

2.1	Is the budget entity authority and description consistent with the agency's LRPP and does it conform to the directives provided on page 59 of the LBR Instructions?	Y	Y	Y
2.2	Are the statewide issues generated systematically (estimated expenditures, nonrecurring expenditures, etc.) included?	Y	Y	Y
2.3	Are the issue codes and titles consistent with <i>Section 3</i> of the LBR Instructions (pages 15 through 30)? Do they clearly describe the issue?	Y	Y	Y
2.4	Have the coding guidelines in <i>Section 3</i> of the LBR Instructions (pages 15 through 30) been followed?	Y	Y	Y

3. EXHIBIT B (EXBR, EXB)

3.1	Is it apparent that there is a fund shift and were the issues entered into LAS/PBS correctly? Check D-3A funding shift issue 340XXX0 - a unique deduct and unique add back issue should be used to ensure fund shifts display correctly on the LBR exhibits.	Y	N/A	N/A
3.2	Are the 33XXXXX0 issues negative amounts only and do not restore nonrecurring cuts from a prior year or fund any issues that net to a positive or zero amount? Check D-3A issues 33XXXXX0 - a unique issue should be used for issues that net to zero or a positive amount.	Y	Y	Y

AUDITS:

3.3	Negative Appropriation Category Audit for Agency Request (Columns A03 and A04): Are all appropriation categories positive by budget entity at the FSI level? Are all nonrecurring amounts less than requested amounts? (NACR, NAC - Report should print "No Negative Appropriation Categories Found")	Y	Y	Y
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Action		Program or Service (Budget Entity Codes)		
		Attorney General	Statewide Prosecution	Elections Commission
3.4	Current Year Estimated Verification Comparison Report: Is Column A02 equal to Column B07? (EXBR, EXBC - Report should print "Records Selected Net To Zero")			
TIP	Generally look for and be able to fully explain significant differences between A02 and A03.			
TIP	Exhibit B - A02 equal to B07: Compares Current Year Estimated column to a backup of A02. This audit is necessary to ensure that the historical detail records have not been adjusted. Records selected should net to zero.			
TIP	Requests for appropriations which require advance payment authority must use the sub-title "Grants and Aids". For advance payment authority to local units of government, the Aid to Local Government appropriation category (05XXXX) should be used. For advance payment authority to non-profit organizations or other units of state government, the Special Categories appropriation category (10XXXX) should be used.			
4. EXHIBIT D (EADR, EXD)				
4.1	Is the program component objective statement consistent with the agency LRPP, and does it conform to the directives provided on page 62 of the LBR Instructions?	Y	Y	Y
4.2	Is the program component code and title used correct?	Y	Y	Y
TIP	Fund shifts or transfers of services or activities between program components will be displayed on an Exhibit D whereas it may not be visible on an Exhibit A.			
5. EXHIBIT D-1 (ED1R, EXD1)				
5.1	Are all object of expenditures positive amounts? (This is a manual check.)	Y	Y	Y
AUDITS:				
5.2	Do the fund totals agree with the object category totals within each appropriation category? (ED1R, XD1A - Report should print "No Differences Found For This Report")	Y	Y	Y
5.3	FLAIR Expenditure/Appropriation Ledger Comparison Report: Is Column A01 less than Column B04? (EXBR, EXBB - Negative differences need to be corrected in Column A01.)	Y	Y	Y
5.4	A01/State Accounts Disbursements and Carry Forward Comparison Report: Does Column A01 equal Column B08? (EXBR, EXBD - Differences need to be corrected in Column A01.)	Y	Y	Y
TIP	If objects are negative amounts, the agency must make adjustments to Column A01 to correct the object amounts. In addition, the fund totals must be adjusted to reflect the adjustment made to the object data.			
TIP	If fund totals and object totals do not agree or negative object amounts exist, the agency must adjust Column A01.			
TIP	Exhibit B - A01 less than B04: This audit is to ensure that the disbursements and carry/certifications forward in A01 are less than FY 2010-11 approved budget. Amounts should be positive.			
TIP	If B08 is not equal to A01, check the following: 1) the initial FLAIR disbursements or carry forward data load was corrected appropriately in A01; 2) the disbursement data from departmental FLAIR was reconciled to State Accounts; and 3) the FLAIR disbursements did not change after Column B08 was created.			

Action	Program or Service (Budget Entity Codes)		
	Attorney General	Statewide Prosecution	Elections Commission

6. EXHIBIT D-3 (ED3R, ED3) (Not required in the LBR - for analytical purposes only.)

6.1	Are issues appropriately aligned with appropriation categories?	Y	Y	Y
TIP	Exhibit D-3 is no longer required in the budget submission but may be needed for this particular appropriation category/issue sort. Exhibit D-3 is also a useful report when identifying negative appropriation category problems.			

7. EXHIBIT D-3A (EADR, ED3A)

7.1	Are the issue titles correct and do they clearly identify the issue? (See pages 15 through 30 of the LBR Instructions.)	Y	Y	Y
7.2	Does the issue narrative adequately explain the agency's request and is the explanation consistent with the LRPP? (See page 65 of the LBR Instructions.)	Y	Y	Y
7.3	Does the narrative for Information Technology (IT) issue follow the additional narrative requirements described on pages 69 through 70 of the LBR Instructions?	N/A	N/A	N/A
7.4	Are all issues with an IT component identified with a "Y" in the "IT COMPONENT?" field? If the issue contains an IT component, has that component been identified and documented?	N/A	N/A	N/A
7.5	Does the issue narrative explain any variances from the Standard Expense and Human Resource Services Assessments package? Is the nonrecurring portion in the nonrecurring column? (See pages E-4 and E-5 of the LBR Instructions.)	Y	Y	Y
7.6	Does the salary rate request amount accurately reflect any new requests and are the amounts proportionate to the Salaries and Benefits request? Note: Salary rate should always be annualized.	Y	N/A	Y
7.7	Does the issue narrative thoroughly explain/justify all Salaries and Benefits amounts entered into the Other Salary Amounts transactions (OADA/C)? Amounts entered into OAD are reflected in the Position Detail of Salaries and Benefits section of the Exhibit D-3A.	Y	N/A	Y
7.8	Does the issue narrative include the Consensus Estimating Conference forecast, where appropriate?	N/A	N/A	N/A
7.9	Does the issue narrative reference the specific county(ies) where applicable?	Y	Y	Y
7.10	Do the 160XXX0 issues reflect budget amendments that have been approved (or in the process of being approved) and that have a recurring impact (including Lump Sums)? Have the approved budget amendments been entered in Column A18 as instructed in Memo #12-009?	N/A	N/A	N/A
7.11	When appropriate are there any 160XXX0 issues included to delete positions placed in reserve in the OPB Position and Rate Ledger (e.g. unfunded grants)? Note: Lump sum appropriations not yet allocated should <u>not</u> be deleted. (PLRR, PLMO)	N/A	N/A	N/A
7.12	Does the issue narrative include plans to satisfy additional space requirements when requesting additional positions?	Y	N/A	N/A
7.13	Has the agency included a 160XXX0 issue and 210XXXX and 260XXX0 issues as required for lump sum distributions?	Y	Y	Y
7.14	Do the amounts reflect appropriate FSI assignments?	Y	Y	Y
7.15	Do the issues relating to <i>salary and benefits</i> have an "A" in the fifth position of the issue code (XXXXAXX) and are they self-contained (not combined with other issues)? (See page 29 and 88 of the LBR Instructions.)	N/A	N/A	N/A

Action		Program or Service (Budget Entity Codes)		
		Attorney General	Statewide Prosecution	Elections Commission
7.16	Do the issues relating to <i>Information Technology (IT)</i> have a "C" in the sixth position of the issue code (36XXXXX) and are the correct issue codes used (361XXC0, 362XXC0, 363XXC0, 17C01C0, 17C02C0, 17C03C0, 24010C0, 33001C0 or 55C01C0)? Have the correct issue codes been used for the Statewide Email Consolidation (17C10C0, 17C11C0, 17C14C0, 33015C0 and 55C04C0)	N/A	N/A	N/A
7.17	Are the issues relating to <i>major audit findings and recommendations</i> properly coded (4A0XXX0, 4B0XXX0)?	N/A	N/A	N/A
AUDIT:				
7.18	Are all FSI's equal to '1', '2', '3', or '9'? There should be no FSI's equal to '0'. (EADR, FSIA - Report should print "No Records Selected For Reporting")	Y	Y	Y
7.19	Does the General Revenue for 160XXXX (Adjustments to Current Year Expenditures) issues net to zero? (GENR, LBR1)	Y	Y	Y
7.20	Does the General Revenue for 180XXXX (Intra-Agency Reorganizations) issues net to zero? (GENR, LBR2)	Y	Y	Y
7.21	Does the General Revenue for 200XXXX (Estimated Expenditures Realignment) issues net to zero? (GENR, LBR3)	Y	Y	Y
7.22	Have FCO appropriations been entered into the nonrecurring column A04? (GENR, LBR4 - Report should print "No Records Selected For Reporting" or a listing of D-3A issue(s) assigned to Debt Service (IOE N) or in some cases State Capital Outlay - Public Education Capital Outlay (IOE L))	N/A	N/A	N/A
TIP	Salaries and Benefits amounts entered using the OADA/C transactions must be thoroughly justified in the D-3A issue narrative. Agencies can run OADA/OADR from STAM to identify the amounts entered into OAD and ensure these entries have been thoroughly explained in the D-3A issue narrative.			
TIP	The issue narrative must completely and thoroughly explain and justify each D-3A issue. Agencies must ensure it provides the information necessary for the OPB and legislative analysts to have a complete understanding of the issue submitted. Thoroughly review pages 67 through 71 of the LBR Instructions.			
TIP	Check BAPS to verify status of budget amendments. Check for reapprovals not picked up in the General Appropriations Act. Verify that Lump Sum appropriations in Column A02 do not appear in Column A03. Review budget amendments to verify that 160XXX0 issue amounts correspond accurately and net to zero for General Revenue funds.			
TIP	If an agency is receiving federal funds from another agency the FSI should = 9 (Transfer - Recipient of Federal Funds). The agency that originally receives the funds directly from the federal agency should use FSI = 3 (Federal Funds).			
TIP	If an appropriation made in the FY 2011-12 General Appropriations Act duplicates an appropriation made in substantive legislation, the agency must create a unique deduct nonrecurring issue to eliminate the duplicated appropriation. Normally this is taken care of through line item veto.			

Action	Program or Service (Budget Entity Codes)		
	Attorney General	Statewide Prosecution	Elections Commission

8. SCHEDULE I & RELATED DOCUMENTS (SC1R, SC1 - Budget Entity Level or SC1R, SC1D - Department Level)

8.1	Has a separate department level Schedule I and supporting documents package been submitted by the agency?	Y	Y	Y
8.2	Has a Schedule I and Schedule IB been completed in LAS/PBS for each operating trust fund?	Y	Y	Y
8.3	Have the appropriate Schedule I supporting documents been included for the trust funds (Schedule IA, Schedule IC, and Reconciliation to Trial Balance)?	Y	Y	Y
8.4	Have the Examination of Regulatory Fees Part I and Part II forms been included for the applicable regulatory programs?	Y	Y	Y
8.5	Have the required detailed narratives been provided (5% trust fund reserve narrative; method for computing the distribution of cost for general management and administrative services narrative; adjustments narrative; revenue estimating methodology narrative)?	Y	Y	Y
8.6	Has the Inter-Agency Transfers Reported on Schedule I form been included as applicable for transfers totaling \$100,000 or more for the fiscal year?	Y	Y	Y
8.7	If the agency is scheduled for the annual trust fund review this year, have the Schedule ID and applicable draft legislation been included for recreation, modification or termination of existing trust funds?	N/A	N/A	N/A
8.8	If the agency is scheduled for the annual trust fund review this year, have the necessary trust funds been requested for creation pursuant to <i>section 215.32(2)(b), Florida Statutes</i> - including the Schedule ID and applicable legislation?	N/A	N/A	N/A
8.9	Are the revenue codes correct? In the case of federal revenues, has the agency appropriately identified direct versus indirect receipts (object codes 000700, 000750, 000799, 001510 and 001599)? For non-grant federal revenues, is the correct revenue code identified (codes 000504, 000119, 001270, 001870, 001970)?	Y	Y	Y
8.10	Are the statutory authority references correct?	Y	Y	Y
8.11	Are the General Revenue Service Charge percentage rates used for each revenue source correct? (Refer to Chapter 2009-78, Laws of Florida, for appropriate general revenue service charge percentage rates.)	Y	Y	Y
8.12	Is this an accurate representation of revenues based on the most recent Consensus Estimating Conference forecasts?	N/A	N/A	N/A
8.13	If there is no Consensus Estimating Conference forecast available, do the revenue estimates appear to be reasonable?	Y	Y	Y
8.14	Are the federal funds revenues reported in Section I broken out by individual grant? Are the correct CFDA codes used?	Y	Y	Y
8.15	Are anticipated grants included and based on the state fiscal year (rather than federal fiscal year)?	Y	Y	Y
8.16	Are the Schedule I revenues consistent with the FSI's reported in the Exhibit D-3A?	Y	Y	Y
8.17	If applicable, are nonrecurring revenues entered into Column A04?	N/A	N/A	N/A

Action		Program or Service (Budget Entity Codes)		
		Attorney General	Statewide Prosecution	Elections Commission
8.18	Has the agency certified the revenue estimates in columns A02 and A03 to be the latest and most accurate available? Does the certification include a statement that the agency will notify OPB of any significant changes in revenue estimates that occur prior to the Governor's Budget Recommendations being issued?	Y	Y	Y
8.19	Is a 5% trust fund reserve reflected in Section II? If not, is sufficient justification provided for exemption? Are the additional narrative requirements provided?	Y	Y	Y
8.20	Are appropriate service charge nonoperating amounts included in Section II?	Y	Y	Y
8.21	Are nonoperating expenditures to other budget entities/departments cross-referenced accurately?	Y	Y	Y
8.22	Do transfers balance between funds (within the agency as well as between agencies)? (See also 8.6 for required transfer confirmation of amounts totaling \$100,000 or more.)	Y	Y	Y
8.23	Are nonoperating expenditures recorded in Section II and adjustments recorded in Section III?	Y	Y	Y
8.24	Are prior year September operating reversions appropriately shown in column A01?	Y	Y	Y
8.25	Are current year September operating reversions appropriately shown in column A02? DUE TO THE EARLY SUBMISSION DATE OF THE 2012-13 LBR, CERTIFIED FORWARD REVERSIONS AT 9/30/11 WILL NEED TO BE ADDED BY AGENCIES DURING THE TECHNICAL REVIEW PERIOD.			
8.26	Does the Schedule IC properly reflect the unreserved fund balance for each trust fund as defined by the LBR Instructions, and is it reconciled to the agency accounting records?	Y	Y	Y
8.27	Does Column A01 of the Schedule I accurately represent the actual prior year accounting data as reflected in the agency accounting records, and is it provided in sufficient detail for analysis?	Y	Y	Y
8.28	Does Line I of Column A01 (Schedule I) equal Line K of the Schedule IC?	Y	Y	Y
AUDITS:				
8.29	Is Line I a positive number? (If not, the agency must adjust the budget request to eliminate the deficit).	Y	Y	Y
8.30	Is the June 30 Adjusted Unreserved Fund Balance (Line I) equal to the July 1 Unreserved Fund Balance (Line A) of the following year? If a Schedule IB was prepared, do the totals agree with the Schedule I, Line I? (SC1R, SC1A - Report should print "No Discrepancies Exist For This Report")	Y	Y	Y
8.31	Has a Department Level Reconciliation been provided for each trust fund and does Line A of the Schedule I equal the CFO amount? If not, the agency must correct Line A. (SC1R, DEPT)	Y	Y	Y
TIP	The Schedule I is the most reliable source of data concerning the trust funds. It is very important that this schedule is as accurate as possible!			
TIP	Determine if the agency is scheduled for trust fund review. (See page 125 of the LBR Instructions.)			

		Program or Service (Budget Entity Codes)		
Action		Attorney General	Statewide Prosecution	Elections Commission
TIP	Review the unreserved fund balances and compare revenue totals to expenditure totals to determine and understand the trust fund status.			
TIP	Typically nonoperating expenditures and revenues should not be a negative number. Any negative numbers must be fully justified.			
9. SCHEDULE II (PSCR, SC2)				
AUDIT:				
9.1	Is the pay grade minimum for salary rate utilized for positions in segments 2 and 3? (BRAR, BRAA - Report should print "No Records Selected For This Request") Note: Amounts other than the pay grade minimum should be fully justified in the D-3A issue narrative. (See <i>Base Rate Audit</i> on page 157 of the LBR Instructions.)	Y	Y	Y
10. SCHEDULE III (PSCR, SC3)				
10.1	Is the appropriate lapse amount applied in Segment 3? (See page 90 of the LBR Instructions.)	N/A	N/A	N/A
10.2	Are amounts in <i>Other Salary Amount</i> appropriate and fully justified? (See page 97 of the LBR Instructions for appropriate use of the OAD transaction.) Use OADI or OADR to identify agency other salary amounts requested.	Y	N/A	Y
11. SCHEDULE IV (EADR, SC4)				
11.1	Are the correct Information Technology (IT) issue codes used?	N/A	N/A	N/A
TIP	If IT issues are not coded correctly (with "C" in 6th position), they will not appear in the Schedule IV.			
12. SCHEDULE VIIIA (EADR, SC8A)				
12.1	Is there only one #1 priority, one #2 priority, one #3 priority, etc. reported on the Schedule VIII-A? Are the priority narrative explanations adequate?	Y	Y	Y
13. SCHEDULE VIIIB-1 (EADR, S8B1)				
13.1	NOT REQUIRED FOR THIS YEAR			
14. SCHEDULE VIIIB-2 (EADR, S8B2)				
14.1	Do the reductions comply with the instructions provided on pages 102 through 104 of the LBR Instructions regarding a 10% reduction in recurring General Revenue and Trust Funds, including the verification that the 33BXXX0 issue has not been used?	Y	Y	Y
15. SCHEDULE XI (LAS/PBS Web - see page 105 of the LBR Instructions for detailed instructions)				
15.1	Agencies are required to generate this spreadsheet via the LAS/PBS Web. The Final Excel version on longer has to be submitted to OPB for inclusion on the Governor's Florida Performs Website. (Note: Pursuant to <i>section 216.023(4)(b), Florida Statutes</i> , the Legislature can reduce the funding level for any agency that does not provide this information.)	Y	Y	Y
15.2	Do the PDF files uploaded to the Florida Fiscal Portal for the LRPP and LBR match?	Y	Y	Y
AUDITS INCLUDED IN THE SCHEDULE XI REPORT:				
15.3	Does the FY 2010-11 Actual (prior year) Expenditures in Column A36 reconcile to Column A01? (GENR, ACT1)	Y	Y	Y
15.4	None of the executive direction, administrative support and information technology statewide activities (ACT0010 thru ACT0490) have output standards (Record Type 5)? (Audit #1 should print "No Activities Found")	Y	Y	Y
15.5	Does the Fixed Capital Outlay (FCO) statewide activity (ACT0210) only contain 08XXXX or 14XXXX appropriation categories? (Audit #2 should print "No Operating Categories Found")	Y	Y	Y

Action		Program or Service (Budget Entity Codes)		
		Attorney General	Statewide Prosecution	Elections Commission
15.6	Has the agency provided the necessary standard (Record Type 5) for all activities which <u>should</u> appear in Section II? (Note: Audit #3 will identify those activities that do NOT have a Record Type '5' and have not been identified as a 'Pass Through' activity. These activities will be displayed in Section III with the 'Payment of Pensions, Benefits and Claims' activity and 'Other' activities. Verify if these activities should be displayed in Section III. If not, an output standard would need to be added for that activity and the Schedule XI submitted again.)	Y	Y	Y
15.7	Does Section I (Final Budget for Agency) and Section III (Total Budget for Agency) equal? (Audit #4 should print "No Discrepancies Found")	Y	Y	Y
TIP	If Section I and Section III have a small difference, it may be due to rounding and therefore will be acceptable.			
16. MANUALLY PREPARED EXHIBITS & SCHEDULES				
16.1	Do exhibits and schedules comply with LBR Instructions (pages 110 through 154 of the LBR Instructions), and are they accurate and complete?	Y	Y	Y
16.2	Are appropriation category totals comparable to Exhibit B, where applicable?	Y	Y	Y
16.3	Are agency organization charts (Schedule X) provided and at the appropriate level of detail?	Y	Y	Y
AUDITS - GENERAL INFORMATION				
TIP	Review <i>Section 6: Audits</i> of the LBR Instructions (pages 156-158) for a list of audits and their descriptions.			
TIP	Reorganizations may cause audit errors. Agencies must indicate that these errors are due to an agency reorganization to justify the audit error.			
17. CAPITAL IMPROVEMENTS PROGRAM (CIP)				
17.1	Are the CIP-2, CIP-3, CIP-A and CIP-B forms included?			
17.2	Are the CIP-4 and CIP-5 forms submitted when applicable (see CIP Instructions)?			
17.3	Do all CIP forms comply with CIP Instructions where applicable (see CIP Instructions)?			
17.4	Does the agency request include 5 year projections (Columns A03, A06, A07, A08 and A09)?			
17.5	Are the appropriate counties identified in the narrative?			
17.6	Has the CIP-2 form (Exhibit B) been modified to include the agency priority for each project and the modified form saved as a PDF document?			
TIP	Requests for Fixed Capital Outlay appropriations which are Grants and Aids to Local Governments and Non-Profit Organizations must use the Grants and Aids to Local Governments and Non-Profit Organizations - Fixed Capital Outlay major appropriation category (140XXX) and include the sub-title "Grants and Aids". These appropriations utilize a CIP-B form as justification.			
18. FLORIDA FISCAL PORTAL				
18.1	Have all files been assembled correctly and posted to the Florida Fiscal Portal as outlined in the Florida Fiscal Portal Submittal Process?	Y	Y	Y

	Program or Service (Budget Entity Codes)		
Action	Attorney General	Statewide Prosecution	Elections Commission

19. CREATION OF DEPARTMENT OF ECONOMIC OPPORTUNITY (DEO)

<p>19.1 If you are an agency that no longer exists or is transferred to DEO after the approval of the reorganization by the Legislative Budget Commission (LBC), have you submitted the following schedules, as applicable:</p> <ul style="list-style-type: none"> • Schedule I: Trust Funds Available and Schedule IB -DEPARTMENT LEVEL • Schedule IA: Detail of Fees and Related Costs (Part I and Part II) • Schedule IC: Reconciliation of Unreserved Fund Balances • Reconciliation: Beginning Trial Balance to Schedule I and IC • Exhibit D-1: Detail of Expenses • Schedule XI: Agency-Level Unit Cost Summary • Opening Trial Balance as of July 1, 2011 • Schedule I Narratives related to Column A01 • Inter-Agency Transfer Form 			
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