

# oppaga

# Special Review



January 2002

Report No. 02-01

## Florida Communities Trust Improves Its Timeliness; Further Actions Are Needed

### *at a glance*

The Florida Communities Trust helps local governments implement comprehensive plans by providing funds to acquire land identified for conservation and open space. However, delays in closing acquisition projects and a reluctance by the trust to terminate grants reduced its ability to efficiently spend its Preservation 2000 funds. Consequently, local governments that applied for grants, but were not selected, may have missed the opportunity to receive funds through the trust.

The trust has made progress in decreasing time needed to close projects. Further actions by the trust under the Florida Forever Program also are expected to reduce the likelihood of large unexpended fund balances.

To improve the trust's timeliness in spending funds, we recommend that the Legislature

- remove language authorizing the trust's governing board to extend grants beyond 24 months;
- require that the trust's unspent Preservation 2000 funds for the Green Swamp Program and Monroe County Land Authority be expended by June 2002; and
- require unspent Preservation 2000 funds for Areas of Critical State Concern be expended by June 2003.

We also recommend that the trust not extend active grant contracts beyond June 2002.

### Purpose \_\_\_\_\_

At the Legislature's request, OPPAGA reviewed the performance of the Florida Communities Trust (trust) in spending its available funding. Specifically, this report addresses

- whether the trust has experienced problems spending its Preservation 2000 funds in a timely manner;
- factors that hindered the trust in spending funds and contributed to it having large unexpended balances of Preservation 2000 funds;
- actions taken by the trust to spend the increased amount of funds available under the current Florida Forever Program,<sup>1</sup> and
- additional actions the trust could take to reduce the time needed to spend Florida Forever funds.

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<sup>1</sup>The Florida Forever Program replaced the Preservation 2000 Program as the state's primary conservation land program.

## Background

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The Legislature created the Florida Communities Trust in 1989 to help local governments implement their comprehensive plans by providing funds to acquire land identified for conservation and open space. The trust differs from other state land-buying programs by focusing on locally important areas. Further, local governments negotiate most (66%) land acquisitions and hold the titles to lands purchased through the trust. The state and water management districts hold title to the lands acquired through other state acquisition programs.

A six-member governing board oversees the activities of the trust.<sup>2</sup> The board awards land acquisition grants to local governments on a competitive basis. Staff from the Department of Community Affairs provide administrative, personnel, and support services. These services include evaluating applications, conducting site visits, initiating and reviewing appraisals, and negotiating some land acquisitions. The Legislature appropriated 18 full-time staff positions and \$1.2 million for operating expenses to the trust in Fiscal Year 2001-02.

Local governments are eligible to apply for grants and may be required to provide matching funds.<sup>3</sup> The board ranks and selects projects based on various criteria established in rule. These criteria consider the extent to which projects provide outdoor recreation, natural and cultural resources, and further community planning goals.

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<sup>2</sup> The Secretary of the Department of Community Affairs chairs the governing board. Other members include the Secretary of the Department of Environmental Protection and four members appointed by the Governor.

<sup>3</sup> Under the Preservation 2000 Program, local governments were required to match 50% of all funds provided to the trust on a dollar-for-dollar basis. The match amount increased to 75% under the Florida Forever Program. No match is required for counties with populations of less than 75,000 and cities with populations of less than 10,000. Non-profit environmental organizations are also eligible for grants and require no match under the Florida Forever Program.

The land acquisition process begins with the execution of a grant contract between the trust and the local government. The process involves obtaining an appraisal, negotiating a selling price, preparing a project plan, and closing all financial dealings.<sup>4</sup> Under the Preservation 2000 Program, the trust issued a grant contract for nine months to acquire the property. A local government could request a contract extension, but no contract could exceed 24 months unless authorized by the governing board.<sup>5</sup> Grant funds are committed to a project and remain in the Preservation 2000 Trust Fund until the property is purchased. Funds may become available through favorable price negotiation (i.e., when property is purchased for less than the original grant award), project terminations, or grant contracts that expire without completion of the sale.

### *Funding*

Until Fiscal Year 2000-01, funding for the trust's land acquisition grants came from Florida's Preservation 2000 Program. The trust was allocated 10% of Preservation 2000 bond proceeds and was appropriated \$30 million annually.<sup>6</sup> The trust could use these funds to award grants for land acquisition to local governments. In addition, the Legislature dedicated funds for specific land acquisition programs.<sup>7</sup>

In Fiscal Year 2000-01, the trust began receiving additional land acquisition funds under the current Florida Forever Program. The 1999

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<sup>4</sup> A project plan includes a purchase agreement for acquisition of the project site, a management plan for the site, statement of project costs, statement of grant award, confirmation that project is consistent with local comprehensive plan, and evidence that grant contract conditions are satisfied.

<sup>5</sup> The governing board may extend a grant beyond 24 months if the recipient shows significant progress or extenuating circumstances in closing the project.

<sup>6</sup> The Preservation 2000 Act established in 1990 authorized the sale of \$3 billion (\$300 million annually) in bonds from 1991 to 2000 for land acquisition.

<sup>7</sup> Specific acquisition programs include Areas of Critical State Concern, the Monroe County Land Authority, and the Green Swamp Land Authority.

Florida Forever Act changed the funding allocation for land acquisition programs previously funded through the Preservation 2000 Program.<sup>8</sup> Starting in Fiscal Year 2000-01, the percentage of land acquisition bond proceeds allocated for the trust under the Florida Forever Program increased from 10% to 22% (\$66 million annually). Of these funds, 30% (\$19.8 million) is to be used in metropolitan and urban core areas and 5% (\$3.3 million) for recreational trail systems.

## Findings

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The Legislature created the Florida Communities Trust to promptly respond to opportunities for correcting undesirable development patterns and conserving natural resources. However, the trust has experienced problems in spending funds, which resulted in it having large unexpended fund balances. Specific trust acquisition programs also had difficulty spending funds.

Various factors have contributed to this problem. Delays in closing projects and a reluctance by the trust to terminate projects hindered spending of funds. However, the trust has recently made progress in reducing the time taken to close projects. Further actions by the trust should help reduce the likelihood of it experiencing large cash balances under the Florida Forever Program.

## The trust has experienced difficulties in spending Preservation 2000 funds

The trust has experienced problems in spending Preservation 2000 funds, resulting in large unexpended balances. To illustrate, the trust had received a total of \$120 million in Preservation 2000 funds by Fiscal Year 1993-94, but had expended only \$13.2 million in grant funds. The unexpended funds also generated

interest earnings, which further increased the cash balance in the Preservation 2000 Trust Fund. This situation has persisted. As of August 31, 2001, the trust had \$71.4 million committed but unspent Preservation 2000 funds.

The existence of a large unexpended balance led the Legislature to redirect some of the trust's Preservation 2000 funds. In Fiscal Year 2000-01, the Legislature redirected \$27.8 million of the trust's interest earnings to the Save Our Everglades Trust Fund. The Legislature also redirected an additional \$4.5 million of the trust's cash balance to the Save Our Everglades Trust Fund in Fiscal Year 2001-02.

As of August 31, 2001, the trust had not expended all of its Preservation 2000 Program funds, although most of these funds have been committed to projects. Exhibit 1 shows that the trust had expended \$202.9 million (80%) of its Preservation 2000 appropriations by the end of August 2001. It had \$50.4 million remaining in unexpended funds, of which \$46.8 million was committed to projects that had not been closed.

Specific land acquisition programs funded through the trust also have not been very successful in spending their appropriated funds. Of the \$42 million appropriated to the trust for specific acquisition programs, \$24.6 million (or 59%) had not been expended as of August 31, 2001.<sup>9</sup> Specifically, funds for the Green Swamp Program were last spent over three years ago.<sup>10</sup> The 2001 Legislature required the trust to make available \$2.9 million for local governments in the Florida Keys and Key West Areas of Critical State Concern.<sup>11</sup> The trust opened a new application cycle for the Areas of Critical State Concern Program in September 2001.

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<sup>9</sup> The trust reimburses Monroe County Land Authority for land acquired.

<sup>10</sup> Department of Environmental Protection administers the Green Swamp Program, and the trust reimburses the department for its expenses.

<sup>11</sup> An Area of Critical State Concern is defined as an area having significant impact on environmental and historical resources (see s.380.05(2), *F.S.*).

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<sup>8</sup> See Chs. 1999-247 and 2000-170, *Laws of Florida*.

**Exhibit 1**

**\$71 Million in Preservation 2000 Appropriations Are Committed but Unexpended<sup>1</sup>**

Programs	Appropriations	Expenditures	Committed Funds	Remaining Funds
Preservation 2000	\$ 253,310,591	\$ 202,875,797	\$ 46,782,439	\$ 3,652,355
Areas of Critical State Concern	12,000,000	6,070,808	5,929,192	0
Green Swamp	18,000,000	5,949,488	12,050,512	0
Monroe County Land Authority	12,000,000	5,390,220	6,609,780	0
<b>Total</b>	<b>\$295,610,591</b>	<b>\$220,286,313</b>	<b>\$71,371,923</b>	<b>\$3,652,355</b>

<sup>1</sup> Data from July 1, 1991 through August 31, 2001.

Source: Florida Communities Trust.

## Factors that hindered the trust in spending funds

### *Trust practices allowed projects to remain open for an unreasonably long time*

One factor hampering the trust’s spending of funds was that some projects were not closed within a reasonable time. A project is closed when ownership of a property is transferred from the seller to buyer in accordance with a sales contract and all dealings in the purchase of a property are finalized. We determined that certain trust practices were contributing to some projects remaining open for extended periods, thereby contributing to delays in spending funds.

The trust has extended some projects beyond the time limit established in law. Before 1996, there was no time limit on closing projects. In 1996, the Legislature established that no contract could exceed 24 months unless authorized by the governing board.<sup>12</sup> We believe this legislative action was intended to establish a reasonable timeframe for closing a project. However, the trust’s governing board approved contract extensions beyond 24 months in some cases. To illustrate, of the 222 projects the trust reported as being closed as of the end of August 2001, 56 (25%) projects took 24 months or more to close after the governing board had approved the projects’ grant

contracts. This is problematic because grant funds remain committed to a project until that project is successfully closed, terminated, or the contract expires without action.

The trust’s governing board has also extended contracts for “active” or uncompleted projects that have been open for longer than 24 months. Of the 41 uncompleted projects as of August 31, 2001, 9 projects have been open more than 24 months. One project approved in 1995 has been open for over five years. The unexpended funds associated with these projects not only increases the size of the trust’s cash balance, but increases staff time in monitoring both old and new projects.

According to trust staff, a major reason why projects take more than 24 months to close is that some acquisitions involve multiple sellers, which can take more time to negotiate. This conclusion is supported by trust data which indicates that 52% of the projects that took more than 24 months to close involved multiple sellers compared to 15% of the projects that closed in less than 24 months. Other reasons for delays reported by trust staff includes unwilling sellers and the time needed to resolve environmental concerns, such as contamination.

Another factor hampering the spending of funds is the trust’s reluctance to terminate projects unless requested by the local government. For example, of the 65 projects terminated by the trust as of the end of August 2001, most (56) terminations were initiated at the request of local governments.

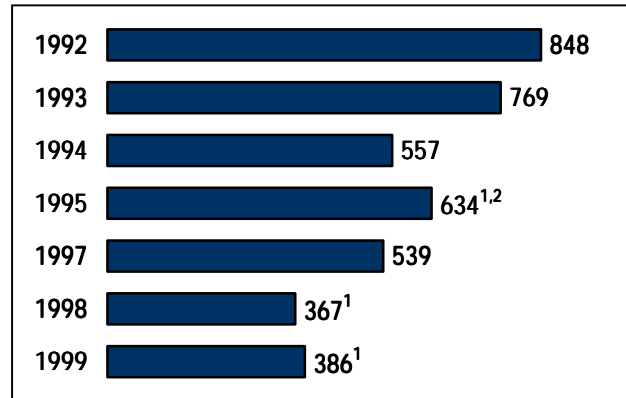
<sup>12</sup> The governing board may extend a grant beyond 24 months if the recipient shows significant progress or extenuating circumstances in closing the project.

The trust initiated the remaining 9 terminations after it concluded the applicants could not fulfill their grant contracts. Further, of the 17 projects that had been opened for longer than 24 months before they were terminated, 15 projects were terminated at the request of local governments while the trust initiated the 2 remaining terminations.<sup>13</sup> The trust's reluctance to terminate projects is problematic because funds are committed to these projects until they are terminated. Although it may be appropriate for the trust to grant extensions, we believe that 24 months should be sufficient to complete land acquisitions.

*Progress made in decreasing time needed to close projects*

The trust has shortened the time to close projects over the last several years. For example, it took an average of 386 days for projects selected in 1999 to close compared to an average of 848 days for projects selected in 1992 (see Exhibit 2). However, 20 projects had not closed by the end of August 2001, which would increase the average time to close once they were completed.<sup>14</sup> Trust staff attributes the decline to improving its ability to negotiate an acceptable price with sellers and ensuring actions to acquire the property are being taken. Trust staff also said that it increased the number of staff handling appraisals and negotiations from one to two persons in 1997. This allowed the trust to increase its ability to negotiate more acquisitions.

**Exhibit 2**  
**The Average Number of Days to Close Projects Has Decreased in the Last Several Years**



<sup>1</sup> This data does not include 20 projects awarded grants in 1995 (1), 1998 (8), and 1999 (11) that were not completed as of August 31, 2001. If these projects had closed by the end of August 2001, the average days to close projects would increase to 651 for 1995, 487 for 1998, and 464 for 1999.

<sup>2</sup> The trust selected two years of projects in 1995.

Source: OPPAGA analysis of trust data.

**Further improvement in spending expected under the Florida Forever Program**

The trust recently awarded Florida Forever funds. The trust had received two years of Florida Forever appropriations totaling \$132 million. On November 30, 2001, the trust funded 75 projects totaling \$122 million and contingently funded an additional 10 projects for \$11.5 million.

The trust staff expects to shorten the time taken to close projects under the Florida Forever Program. It believes these improvements will result from new rules, changes to the grant contract, and a new project monitoring database.<sup>15</sup>

In 2001, the trust made several rule changes that were intended to facilitate the reimbursement of local governments for

<sup>13</sup> Data for calculating the time elapsed between the contract approval and termination date was available for 49 of the 65 projects.

<sup>14</sup> Projects selected in 2000 were excluded from the analysis because most were not completed.

<sup>15</sup> Rule 9K-7 and 9K-8, *Florida Administrative Code*.

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property already acquired. For example, the trust extended the time limit for a property to be considered pre-acquired by a local government.<sup>16</sup> This rule also provides that additional consideration is given to pre-acquired land and phased projects in awarding grants funded by Florida Forever bond proceeds. The trust staff reports that approximately 35% of the Florida Forever grant applicants it received in August 2001 involve pre-acquired property.

New rules under the Florida Forever Program are also expected to help further reduce the time taken to close projects. For example, under these rules, the trust will not serve as lead negotiator on projects with six or more owners. This is expected to encourage applicants to develop projects with fewer owners, which should be easier to acquire. Further, these rules authorize trust staff to approve appraisals for properties valued at \$100,000 or less rather than going through a administrative process to contract out final appraiser reviews.

The trust also expects to reduce the time taken to close projects by changing its grant contract. These changes include adding reporting requirements for recipients to ensure progress on acquisitions, and eliminating language referring to the 24-month deadline so as to preclude recipients from assuming two years are available for acquisition.

Lastly, the trust is developing a database to better track the progress of projects. The trust's current database does not adequately track a project's status or progress. For example, the current database tracks and reports on the individual parcels within a project, which makes it difficult to assess the project's overall status. The trust staff indicates the new database will track the status of both the individual parcels and the overall project

through the appraisal, negotiation, and closing processes. The trust anticipates the new database will be operational by December 2001.

In addition to actions discussed above, we believe that the trust should identify projects beyond those initially selected to receive funds. These projects would receive funding contingent on the availability of additional funds resulting from favorable price negotiations, projects terminations, and withdrawals of projects. The trust had used this approach in the last five years of the Preservation 2000 Program to address its unexpended cash balances. We believe it would be advantageous for the trust to continue to select contingent projects, since it could help quickly distribute funds to projects if they became available.

### *New bond issuance practice expected to reduce high cash balances*

Practices for issuing bonds under the Florida Forever Program should also help reduce the trust's high cash balances. Under the Preservation 2000 Program, a single \$300 million bond was issued each year and allocated to various agencies, including the Florida Communities Trust. Delays in spending the \$300 million resulted in large cash balances in the Preservation 2000 Trust Fund. To address this problem, the state will now periodically issue bonds to cover anticipated closings under the Florida Forever Program. For example, the first Florida Forever bond was issued in June 2001 for \$50 million to cover anticipated projects closing within a 2-3 month period. The practice of issuing smaller amounts of bonds to cover land closings should help reduce the cash balance in the Florida Forever Trust Fund.

## Recommendations ———

To further improve the trust's spending of funds, we recommend that the Legislature amend s. 380.510(3)(f), *Florida Statutes*, to remove language authorizing the governing

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<sup>16</sup> Previously, properties acquired by the local government within one year before and 6 months after the application deadline were eligible for funding. The time was extended to two years before and 18 months after the application deadline.

board to extend grants beyond 24 months. This would require the trust to terminate projects awarded grants that do not close within 24 months. In addition, applicants whose projects were terminated should be allowed to apply for future funding, but should also be required to demonstrate they could close the project. For example, the trust could require a signed contract between the local government and the seller(s) or pre-acquisition of land as a condition for allowing an applicant whose project was previously terminated to re-apply for funding.

We further recommend that the Legislature require that unspent Preservation 2000 funds for Monroe County Land Authority and the Green Swamp Program be expended by June 2002. Any unexpended funds for these programs remaining as of this date would revert to the Preservation 2000 Trust Fund.

We also recommend that the Legislature require that unspent Preservation 2000 funds for the Areas of Critical State Concern Program be expended by June 2003. This would allow the trust sufficient time to receive applications from local governments and select projects under the recently opened application cycle for the Florida Keys and Key West Areas of Critical State Concern. The trust has also committed funding to the City of Apalachicola Area of Critical State Concern until October 2002. Any unexpended funds for this program remaining as of June 2003 would revert to the Preservation 2000 Trust Fund.

We also recommend that the trust not extend active grant contracts under the Preservation

2000 Program beyond June 2002. The funds committed to projects not closed by this date would revert to the Preservation 2000 Trust Fund.

Finally, we recommend that the trust select contingent projects under the Florida Forever Program. The number of contingent projects selected should be based on the anticipated success of negotiations to obtain lands on the initial list of selected projects.

## Agency Response

The executive director of the Florida Communities Trust provided a written response to our preliminary and tentative findings and recommendations. The executive director's written response is reprinted herein beginning on page 8.

We considered the Florida Communities Trust's response to our report and made changes where appropriate. However, we disagree with the trust's comments that some of our findings are misleading. In its response, the trust stated that our report mistakenly placed responsibility on it for project delays. It contended that project delays were due to factors outside its trust's control, such as local government actions. While our report acknowledged that some factors are outside the trust's control, it correctly noted that the trust is directly responsible for actions such as granting contract extensions that cause projects to remain open and delay spending. Ultimately, it is the trust's responsibility to ensure that land acquisitions are completed within a reasonable time.

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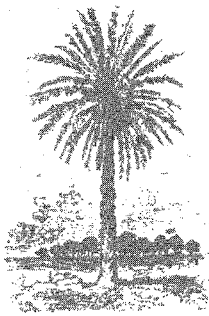
Project supervised by Larry Novey (850/487-9243)

Project conducted by Alex Regalado (850/487-9234)

Tom Roth, Staff Director (850/488-1024)

John W. Turcotte, OPPAGA Director





# Florida Communities Trust

December 17, 2001

John W. Turcotte, Director  
Office of Program Policy Analysis and Government Accountability  
111 West Madison Street, Room 312  
Tallahassee, Florida 32399-1475

RE: Preliminary findings and recommendations for FCT program

Dear Mr. Turcotte:

We have reviewed the preliminary findings and recommendations of your special review included with your letter dated November 26, 2001 and have provided the enclosed response.

We appreciate the recommendations, constructive comments, and technical assistance provided by your staff. If further information is needed, please contact Janice Browning, Executive Director, at 922-2207.

Sincerely,

A large, stylized handwritten signature in black ink that reads "Steven M. Seibert". The signature is written over the printed name and title.

Steven M. Seibert  
Chair

SMS/jb

Enclosure

cc: Charles Anderson, Inspector General  
Department of Community Affairs





**FLORIDA COMMUNITIES TRUST**  
**WRITTEN RESPONSE**

*Draft OPPAGA Special Review: Florida Communities Trust Improves Its Timeliness*

**General Comments:**

While we are pleased that OPPAGA finds that the Florida Communities Trust has significantly improved its timeliness in assisting local governments in land acquisitions, it appears that the bulk of this report emphasizes past difficulties and a backlog previously addressed by the Trust. We acknowledge that between 1990-95, the Trust took longer to complete acquisitions, but at the time, the Trust was a start-up program, only had one acquisition staff person and local governments were just beginning to learn acquisition procedures for purchasing land with Preservation 2000 dollars. As noted in the report, local governments serve as the lead negotiator in approximately 50 to 65 percent of projects.

However, since that time, the Trust has completed all old projects. For instance, the table below indicates the number of projects and the length of time they have been active.

**FCT PRESERVATION 2000 PROJECTS**  
**(status as of December 14, 2001)**

<b>FCT Application Cycle</b>	<b>Number of Active Projects</b>	<b>Remaining Commitments</b>	<b>Original Contract Execution Date</b>	<b>Contract Expiration Date</b>
2000	18 (56.2%)	\$22,788,446.50 (62.0%)	Jan 31, 2001	March 4, 2002
1999	8 (25.0%)	\$7,731,297.28 (21.0%)	Jan 24, 2000	Dec 31, 2001 - Mar 4, 2002
1998	6 (18.8%)	\$6,223,574.74 (17.0%)	Jan 29 - Jun 9, 1999	Jan 27, 2002
<b>total</b>	<b>32 (100%)</b>	<b>\$36,743,318.52 (100%)</b>		

The table shows 26 (or 69%) of the 32 active projects are less than two years old. Further, \$22.7 million of the \$36.7 million in commitments have been active for less than one year.

Additionally, several portions of the report reference unspent appropriations to the Green Swamp Land Authority and Monroe County Land Authority. As indicated to OPPAGA staff during the preparation of this report, while these funds technically show balances under the Trust, the Trust nor the Department of Community Affairs have the authority to spend these funds. Specifically, Section 259.101(3)(c), Florida Statutes, states:

From funds allocated to the trust, \$3 million annually shall be used by the Division of State Lands within the Department of Environmental Protection to implement the Green Swamp Land Initiative specifically for the purchase of

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conservation easements, as defined in s. 380.0677(4), of lands, or severable interests or rights in lands, in the Green Swamp Area of Critical State Concern.

From funds allocated to the trust, \$3 million annually shall be used by the Monroe County Comprehensive Plan Land Authority specifically for the purchase of any real property interest in either those lands subject to the Rate of Growth Ordinances adopted by local governments in Monroe County or those lands within the boundary of an approved Conservation and Recreation Lands project located within the Florida Keys or Key West Areas of Critical State Concern.

Another aspect that was not touched on in the report is FCT's "success rate." The Trust successfully closes on approximately 65% of the projects that are actually awarded funding. This is a statistic for which we are very proud of and applicants greatly value. We understand this percentage compares very favorably to other state land acquisition programs.

We are also extremely proud of the recent changes made in our new Florida Forever rules, application and internal procedures. As noted in the report, the Trust is making changes to its contract with grant recipients to promote faster acquisitions and has developed a new database to better track the progress of projects.

In the recent Florida Forever application cycle, the Trust received approximately **\$240 million in grant requests**. When added with local match, this equals over **\$400 million in land acquisition projects across the state**. The demand and popularity of this program is unquestionable. We are committed to continuing process improvements and enhancing our strong partnerships with local governments and non-profit organizations.

### Specific Comments (by Section)

#### **AT A GLANCE and PURPOSE SECTIONS (page 1)**

Page 1, Paragraph 1 - "**Delays in closing acquisition projects and a reluctance by the trust to terminate grants reduced its ability to efficiently spend its Preservation 2000 funds.**"

*Response:* This statement is misleading because it implies that the Trust has complete control over the closing process. The OPPAGA report on page 2, paragraph 1, states that "local governments negotiate 66% of land acquisitions" under the FCT administered grant program. Additionally, on page 4 of the report, it states that "other reasons for delays reported by trust staff include unwilling sellers and the time needed to resolve environmental concerns, such as contamination." Aside from this one sentence, the report does not go into any additional detail regarding these other types of delays.

*It is also important to note that due to statutory and procedural safeguards under Preservation 2000, FCT staff could not unilaterally cut off funding to local governments who are not timely in the submission of their documents.*

*As mentioned to OPPAGA staff during interviews for this report, the Trust has included in its new rules for Florida Forever, authority to terminate projects that are not showing significant progress in acquisitions. Additional changes were also included in the Trust's contract with recipients (CAA), to require grant recipients to provide monthly status reports. This will assist the Trust in assuring that projects are completed in a timely manner.*

**Page 1, Paragraph 1 - "Local governments that applied for grants, but were not selected, may have missed the opportunity to receive funds through the trust."**

*Response: This statement is misleading because it implies that local governments who were not selected for funding have no recourse, when in fact non-funded projects can re-apply.*

*Under the Preservation 2000 program, there are three classifications of grant applicants: funded, contingent, and non-funded. Applicants who are funded, are eligible to receive the full amount of their grant request from the Trust. Applicants who are contingently funded have an opportunity to receive the full amount of their grant request, if funding becomes available. Under Preservation 2000, additional funding became available through interest accruals, projects closing under budget, grants being declined by a recipient, or from projects which could not be successfully completed. Therefore, the statement that local governments "may have missed the opportunity to receive funds through the trust" is misleading. If anything, local governments received more opportunities to receive funds by their inclusion on the contingently funded list. Additionally, FCT staff often work with non-funded applicants to improve their applications and resubmit their grant request in the following application cycle.*

**Page 1, Paragraph 3 - "To improve the trust's timeliness in spending funds, we recommend the Legislature remove language authorizing the trust's governing board to extend grant beyond 24 months."**

*Response: Removing the language authorizing the trust's governing board to extend grants beyond 24 months may not necessarily improve timeliness in spending funds. It is worth emphasizing again that unforeseen delays or extenuating circumstances may occur with the local government or with the seller, that may prevent a project from closing within a 24 month period, which is precisely why the statute allows the Board the discretion to extend.*

*Over the last year, the FCT Governing Board has been less likely to grant contract extension requests from local governments.*

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Page 1, Paragraph 3 - **"We also recommend that the trust not extend active grant contracts beyond June 2002."**

*Response: Currently, there are 32 active projects funded with Preservation 2000 dollars. These projects are in various stages of the closing process. While it is probable that most of these projects will be closed by June 2002, it is not definite.*

*Since the Florida Forever program replaced the Preservation 2000 program as the state's primary conservation land program, a better recommendation would be to allow any unexpended Preservation 2000 funds to be applied to current Florida Forever selection list.*

**BACKGROUND SECTION (page 2)**

Page 2, Paragraph 2 - **"The trust currently has 18 full time positions and received \$1.2 million for operating expenses in Fiscal Year 2001-02."**

*Response: The report leaves the impression that the Trust has employed 18 full time positions throughout the 10 year history of the program, when in fact there were 10 full time positions and one OPS position.*

*The 2000 Legislature appropriated 8 additional full time positions in anticipation of an increased workload under Florida Forever. Under recent budget reductions, the Trust eliminated one newly appropriated position and an OPS position. An additional full time position was recently eliminated in Special Session C. Five of the seven new positions were filled within the last six months; the remaining two have been advertised.*

*The Trust currently has a total of 17 full time positions.*

Page 2, Paragraph 2 - Strike third sentence and insert: *"These services are broken out by three distinct areas: evaluation, acquisition, and legal. Evaluation staff review grant applications, conduct site visits and provide technical assistance and training. Acquisition staff initiate and review appraisals, conduct contract negotiations, and review applicant project plans. Legal staff provides legal counsel and manages the real estate closing process."*

Page 2, Paragraph 4 - Strike last sentence and insert: *"Funds may become available through interest accruals, projects closing under budget, grants being declined by a recipient, or from projects which cannot be successfully completed."*

## FINDINGS SECTION (pages 3-6)

Page 3, Paragraph 1 - **"The Legislature created the Florida Communities Trust to promptly respond to opportunities for correcting undesirable development patterns and conserving natural resources. However, the trust has experienced problems in spending funds, which resulted in it having large expended fund balances."**

*Response:* The OPPAGA report correctly states that the Trust previously experienced problems in spending funds; however, the context in which the statement is given tends to mislead the reader that the "problems" are based solely on the internal procedures of the trust. On page 6 of the report, there is a discussion regarding one reason why the cash balances were so high under the Preservation 2000 program, but this discussion was not carried over to the previous pages.

Some other reasons why FCT has had a problem expending monies from its trust fund is due to a number of problems, which includes, but is not limited to: projects closing under budget, grants being declined by a recipient, environmental concerns on the project site or from projects which cannot be successfully completed. All of these aforementioned problems originate with the either the seller or at the local government level, and they can cause serious delays in FCT's ability to re-allocate these funds.

Page 3, Paragraph 3 - **"As of August 31, 2001, the trust had \$71.4 million but unspent Preservation 2000 funds."**

*Response:* The report fails to clarify that a significant portion of this balance includes Green Swamp Land Authority, Monroe County Land Authority and Area of Critical State Concern balances (outlined below).

<i>Preservation 2000</i>	<i>Encumbered Balance as of Aug. 31, 2001</i>	<i>Encumbered Balance as of Dec. 1, 2001</i>
<i>Green Swamp Land Authority</i>	<i>\$12,050,511.97</i>	<i>\$12,050,511.97*</i>
<i>Monroe County Land Authority</i>	<i>\$6,609,779.95</i>	<i>\$6,145,662.02</i>
<i>City of Apalachicola Area of Critical State Concern</i>	<i>\$2,500,000.00</i>	<i>\$2,500,000.00</i>
<i>Lake Lowery Corridor Area of Critical State Concern</i>	<i>\$500,000.00</i>	<i>All funds expended</i>
<i>Area of Critical State Concern Funds</i>	<i>\$2,929,191.69</i>	<i>\$2,929,191.69</i>
<b><i>Total</i></b>	<b><i>\$24,589,483.61</i></b>	<b><i>\$23,625,365.68*</i></b>

\*FCT recently received notification from the Department of Environmental Protection of its intent to use \$5,984,061.97 from the set-aside funds for the Green Swamp Land Authority. This reduction would change the total to \$17,558,915.68. To date, this transaction has not cleared, therefore this is only provided for informational purposes.

## *Special Review*

*Also, as noted in our general comments, FCT currently has \$36 million in active projects, and \$22 million of that amount are committed to projects that have been active for less than one year.*

Page 3, Paragraph 4 - **"The existence of a large unexpended balance led the Legislature to redirect some of the trust's Preservation 2000 funds. In Fiscal Year 2000-01, the Legislature redirected \$27.8 million to the Save Our Everglades Trust Fund. The Legislature also redirected an additional \$4.5 million of the trust's cash balance to the Save Our Everglades Trust Fund in Fiscal Year 2001-02."**

*Response: The \$27.8 million directed to the Save Our Everglades Trust Fund in FY 00-01 were interest earnings that the Trust did not have authority to spend.*

*In FY 01-02, the Legislature took \$75 million from all Preservation 2000 programs. The reduction was based on each program's pro rata share on uncommitted funds. The Trust's pro rata portion of uncommitted Preservation 2000 dollars was only 5.94%, resulting in a reduction of \$4.45 million. These statements are misleading in that it gives the impression the Legislature took funds from only FCT.*

Page 3, Paragraph 5 - **As of August 31, 2001, the trust had not expended all of its Preservation 2000 Program funds ..."**

*Response: No other Preservation 2000 program had expended all of funds either.*

Page 4, Exhibit 1 - See updated Preservation 2000 information in general comments, page 1 of this response.

Page 4, Paragraph 1 - **"We determined that certain trust practices were contributing to some projects remaining open for extended periods, thereby contributing to delays in spending funds."**

*Response: The report does not go into the same amount of detail regarding the reasons for the delays in closing. The report should provide more clarity to the reader regarding the context in which this statement is made. As previously stated, FCT staff must coordinate with local governments and sellers - in the case of multiple parcels, that often means multiple sellers. Additionally, in the case of multiple parcel projects, the key/priority parcel must be acquired prior to initiating negotiations on remaining parcels. While it maybe true that FCT could further improve its process to cut down on time, it would also be prudent to mention that some of the delays experienced by FCT do originate from the local government level.*

*As it relates to a reluctance by the trust to terminate project, it would be important to point out that the Trust must follow certain guidelines set forth in rule and statute regarding the termination of projects. In some cases, additional time is needed to complete the more complicated and complex projects closed.*

Page 4, Paragraph 5 - "**Another factor hampering the spending of funds is the trust's reluctance to terminate projects unless requested by the local government.**"

*Response: The Trust had no authority under statute or rule to unilaterally terminate Preservation 2000 projects.*

*As mentioned to OPPAGA staff during interviews for this report, the Trust has included in its new rules for Florida Forever, authority to terminate projects that are not showing significant progress in acquisitions. Additional changes were also included in the Trust's contract with recipients (CAA), to require grant recipients to provide monthly status reports. This will assist the Trust in assuring that projects are completed in a timely manner.*

Page 5, Paragraph 1 - "**The trust's reluctance to terminate projects is problematic because funds are committed to these projects until they are terminated.**"

*Response: The Trust had no authority under statute or rule to unilaterally terminate Preservation 2000 projects. Under Florida Forever, the Trust has included in its new rules, authority to terminate projects that are not showing significant progress in acquisitions. Additional changes were also included in the Trust's contract with recipients (CAA), to require grant recipients to provide monthly status reports. This will assist the Trust in assuring that projects are completed in a timely manner.*

*Additionally, under Florida Forever, bonds are only sold as cash is needed for closings.*

Page 6, Paragraph 1 - "**...40% of FF1 applications are pre-acquired.**"

*Comment: At final count, it was closer to 35%. After Florida Forever projects were selected for funding by the Governing Board on November 30, 2001, 19 (25%) of the funded projects were fully pre-acquired and 6 additional projects were partially pre-acquired. Combined, 33 % of the funded list was fully or partially pre-acquired.*

*The Trust is very confident that our new emphasis on pre-acquisition will result in faster acquisitions and use of Florida Forever funds.*



**RECOMMENDATIONS (page 7)**

Page 7, Paragraph 4 - **"We recommend that the trust not extend active grants under the Preservation 2000 Program beyond June 2002."**

*Response: For informational purposes, the majority of these projects will have been active for 1½ year. A suggestion would be to add "unless a signed contract with the seller is in existence." A question arises however, what happens to surplus funds in the Preservation 2000 Trust Fund that are generated by terminating numerous projects? The Trust recommends providing authorization that allows any unexpended Preservation 2000 funds be applied to current Florida Forever selection list.*

*The Trust received approximately \$240 million in grant requests during the recent Florida Forever application cycle.*