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PERFORMANCE UPDATE

GENERAL SERVICES DIVISION

AUDIT OVERVIEW

The General Services Division Is Finding It Difficult to Properly Maintain State Facilities Because the Department of Administration Purchases Properties With Little Concern of the Financial Implications (*September 2015 Issue 1 Title*)



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Note: On Monday, February 6, 2017, the Legislative Manager/Legislative Auditor's wife, Elizabeth Summit, began employment as the Governor's Deputy Chief Counsel. Most or all the actions discussed and work performed in this report occurred after this date. However, the Governor's Deputy Chief Counsel was not involved in the subject matter of this report, nor did the audit team have any communications with her regarding the report. As Deputy Chief Counsel, the Legislative Auditor's wife is not in a policy making position within the Executive Branch. Therefore, the Performance Evaluation and Research Division does not believe there are any threats to independence with regard to this report as defined in A3.06.a and A3.06.b of the Generally Accepted Government Auditing Standards. Furthermore, the Legislative Auditor has instructed the Director of Performance Evaluation and Research Division to document and discuss any issues he believes are a threat to the division's independence with the President of the Senate and the Speaker of the House due to Ms. Summit's position.

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EXECUTIVE SUMMARY

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this follow-up review of its September 2015 report on the General Services Division (GSD) within the Department of Administration (DOA) as authorized by West Virginia Code §4-2-5. The objective of the follow-up report is to determine the extent to which the DOA has responded to the recommendations made in the September 2015 report.

Frequently Used Acronyms in This Report

DOA: Department of Administration

GSD: General Services Division

PERD: Performance Evaluation and Research Division

Report Highlights

Issue 1: The General Services Division Is Finding It Difficult to Properly Maintain State Facilities Because the Department of Administration Purchases Properties With Little Concern of the Financial Implications. *(September 2015 Issue 1 title)*

- The DOA has not purchased any real property above the price of \$1 million in FY 2015 through FY 2017 as recommended in the PERD 2015 report.
- The DOA has increased rent for certain buildings as recommended by PERD, but it still has several buildings in which the cost to maintain them exceeds revenue.
- The DOA continues to have insufficient funds in Fund 2241 to pay all operating costs for the real property in its portfolio. Consequently, the GSD continues to pay a portion of operating expenses from Fund 2257 which is required to be used for maintenance, repairs and improvements of the Capitol Dome and state-owned buildings.
- This update reveals a new finding which is that Fund 2462 is now being used to pay some operating costs because Fund 2257 has become insufficient to pay as much operating expenses as it has in the past. Fund 2462 is required to be used for renovations and improvements of the existing State Capitol building and the capitol complex.
- State-issued bonds for DOA properties are required by law (W. Va. §5-6-8(a)) to be solely paid from Fund 2241; however, the DOA still realizes the need to initially pay some state bond payments from maintenance-related funds due to the insufficiency of Fund 2241.

PERD's Evaluation of the Agency's Written Response

PERD received a written response to the update from the General Services Division on October 4, 2017. The GSD remains in agreement with all of the recommendations in the September 2015 report. The GSD indicates that it continues to be cognizant of the recommendation that it is in planned compliance and the two recommendations it is in non-compliance. The GSD continues to monitor rent revenues and expenditures. The agency indicates that rents are being raised that will allow more operating costs to be paid out of Fund 2241, but there are challenges to achieving this recommendation. Most notably, the agency incurs operating costs for Building 1 that cannot be paid with rent revenue because little is collected in rent from Building 1 pursuant to statute. Finally, the GSD recognizes the need to pay operating costs from Fund 2241 instead of Fund 2257 and to pay state bond payments solely from Fund 2241. The agency states that going forward, bond payments will be paid from Fund 2241 prior paying to any other financial obligations. GSD's response can be found in Appendix E.

ISSUE1

Update: The General Services Division Is Finding It Difficult to Properly Maintain State Facilities Because the Department of Administration Purchases Properties With Little Concern of the Financial Implications. (September 2015 Issue 1 title)

Recommendation 1 (2015)

The Legislature should consider requiring the Department of Administration to perform and document a cost-benefit analysis prior to any purchase of real property in excess of a specified threshold purchase price.

Level of Compliance: Requires Legislative Action

The Legislature has not acted on this recommendation. The Department of Administration (DOA) took administrative action and stated that it intends to conduct a cost-benefit analysis prior to any purchase of real property. The DOA developed a ‘building purchase checklist’ (see Appendix C) that requires the agency to perform certain actions prior to purchase such as an engineering analysis, appraisal, assessment of property, cost estimates, and risk assessment. Since the DOA has self-imposed a moratorium on purchasing real property above the price of \$1 million, the DOA has not had the opportunity to use the building purchase checklist. While the current administration has indicated the intent to perform and document cost-benefit analysis prior to purchasing real property, future administrations may elect not to do so. **Therefore, while the DOA responded to the recommendation administratively, the Legislative Auditor continues to recommend the Legislature consider requiring the Department of Administration to perform and document a cost-benefit analysis prior to any purchase of real property in excess of a specified threshold purchase price.**

While the current administration has indicated the intent to perform and document cost-benefit analysis prior to purchasing real property, future administrations may elect not to do so.

Recommendation 2 (2015)

The Legislature should consider placing a moratorium on the Department of Administration from purchasing real property above the price of \$1 million until the Department can demonstrate it has strengthened its financial resources.

Level of Compliance: Requires Legislative Action

The Legislature has not responded to this recommendation. Nevertheless, the Legislative Auditor stresses the need for legislative action on this recommendation. This update finds that the GSD continues to lack adequate financial balances for proper management of

its properties, and the agency will need several years to put itself in a position to prudently acquire new property. The Legislative Auditor's concern is that future administrations may not have the same regard for the current administration's moratorium.

Recommendation 3 (2015)

If the Legislature chooses not to place a moratorium on the Department of Administration from purchasing real property, the Department should avoid significant additions to its stock of real property until it has substantially improved its financial resources.

Level of Compliance: In Compliance

The DOA is in compliance with recommendation 3 as it has not purchased any real property above the price of \$1 million in FY 2015 through FY 2017.¹ According to the DOA, the agency continues to agree with recommendation 3.

In the last three fiscal years alone DOA has paid over \$6 million in operating expenses from Fund 2257.

Recommendation 4 (2015)

The Legislative Auditor recommends that the Legislature clarify its intent of the Capitol Dome and Capitol Improvements Fund (Fund 2257), established in W. Va. Code (§5A-4-2(c)), for its use in capital improvements and repairs of state-owned buildings. Also, a specific definition for capital improvements should be provided in the statute as it relates to Fund 2257.

Level of Compliance: Requires Legislative Action

In the September 2015 report, PERD found that the DOA was using Fund 2257 to pay custodial and utility bills, purchase office furniture, make leasehold improvements and make debt service payments. This is shown in Table 1, which duplicates a table in the 2015 PERD report but adds data for FY 2015-2017. Table 1 indicates that there has not been much change in the last three fiscal years since the original report. In the last three fiscal years alone DOA has paid over \$6 million in operating expenses from Fund 2257. It should also be noted that an additional \$2.2 million in operating costs was initially incurred in FY 2015 but the costs were transferred to Fund 2462. Furthermore, over \$209,000 in payments for a locally-issued bond were made from Fund 2257. While there is no statutory requirement that locally-issued bonds be paid out of Fund 2241, the purposes for Funds 2257 and 2462 do not dictate paying for bonds.

¹ *The September 2015 report included data through FY 2014. In September 2014 (FY 2015), the GSD purchased land on California Avenue in Charleston, WV for \$193,198.*

Table 1
Operating Expenses Paid From Fund 2257 Instead of Fund 2241
FY 2007 through FY 2017

Fiscal Year	Utilities*	Custodial Services	Security Personnel	BRIM Insurance	Furniture Expenditures	Total
2007	\$4,465	--	\$4,949	--	\$10,459	\$19,873
2008	--	--	--	--	53,470	53,470
2009	3,949	\$1,406,835	--	--	207,672	1,618,456
2010	254,127	767,192	142,417	--	2,386,126	3,549,862
2011	667,630	1,640,778	151,145	--	106,741	2,566,294
2012	126,158	2,526,745	127,198	23,421	14,942	2,818,464
2013	730,686	1,935,082	4,349	22,045	--	2,692,162
2014	22,856**	2,320,540	10,465	--	73,162	2,427,023
2015	75,823**	1,804,389**	--**	--	--	1,880,211
2016	11,529	2,405,586	2,170	--	--	2,419,284
2017	3,576	1,962,799	303	--	132,696	2,099,374
Total	\$1,900,798	\$16,769,946	\$442,996	\$45,466	\$2,985,268	\$22,144,474

Source: PERD compilations using data from the State Auditor's Office.

*Utilities include gas, electric, water/sewage, fire service, and sanitation/disposal.

**In FY 2014, the DOA transferred \$687,796 in utility expenses from Fund 2257 to Fund 2241.

In FY 2015, the DOA transferred \$27,590 in utility expenses and \$126,449 in energy expense from Fund 2257 to Fund 2462.

In FY 2015, the DOA transferred \$12,469 in utility expenses from Fund 2241 to Fund 0230.

In FY 2015, the DOA transferred \$2,088,358 in custodial expenses from Fund 2257 to Fund 2462.

In FY 2015, the DOA transferred \$9,731 in security personnel expenses from Fund 2257 to Fund 2462.

The Legislative Auditor took exception to the use of Fund 2257 for operating expenses because the fund was created statutorily for “. . . maintenance and repairs of the capitol dome and other capital improvements and repairs to state-owned buildings” (W. Va. §5A-4-2(c)). All operating expenses should have been expended from Fund 2241 but it does not have sufficient funds. The DOA acknowledged this in response to the original report, and also for this update by stating:

All operating expenses should have been expended from Fund 2241 but it does not have sufficient funds.

As described in the agency's response to the September 2015 PERD report, the Department has used Fund 2257 to absorb some of the expenses that would be paid from Fund 2241, such as operations costs associated with the state buildings, due to inadequate funding in Fund 2241. As noted below, and in the September report, the Department's increase in rental payments, which are paid into Fund 2241, has addressed some of the issues with inadequate funds in Fund 2241.

As Table 2 shows, Fund 2257 has been depleted to a precarious level. This level of funding is inadequate to properly maintain GSD buildings.

Fiscal Year	Total Expenditures	Total Revenues	End-of-Year Balance
2000	\$387,546	\$1,060,639	\$721,454
2001	269,623	1,811,221	2,263,053
2002	652,800	2,531,758	4,142,012
2003	640,886	2,981,220	6,482,347
2004	1,669,864	4,226,068	9,038,551
2005	2,985,632	6,195,095	12,248,014
2006	3,776,900	6,576,769	15,047,884
2007	5,616,001	6,799,727	16,198,996
2008	6,860,303	57,665,705	67,004,398
2009	14,569,030	23,958,701	76,394,069
2010	24,654,839	4,883,446	56,622,675
2011	16,272,706	7,371,903*	47,721,873
2012	21,371,939	13,193,495*	39,543,429
2013	15,875,300	4,069,279	27,737,408
2014	15,459,351	3,511,228	15,789,284
2015	4,435,267	2,596,796	13,950,813
2016	4,278,751	2,200,641	11,874,911
2017	6,301,598	2,155,201	7,725,789

Source: PERD compilations using data from the State Auditor's Office.
*Includes grant funding of \$2.5 million in FY 2011, and a reimbursement fund transfer of \$8.1 million in FY 2012.

Fund 2257 has been depleted to a precarious level. This level of funding is inadequate to properly maintain GSD buildings.

House Bill 4516, introduced during the 2016 regular legislative session, sought to clarify the intent of the Legislature for proper use of Fund 2257. However, the bill did not leave the committee of first reference. The bill would have addressed all the concerns expressed in the audit. Specifically, the bill would have prohibited using Fund 2257 for operating expenses, purchasing or constructing stand-alone buildings, repairing leased properties or making debt service payments.

In addition, this update finds that not only is the agency using Fund 2257 to pay operating expenses, it is now using the Capitol Renovation and Improvement Fund (Fund 2462) to pay operating

In addition, this update finds that not only is the agency using Fund 2257 to pay operating expenses, it is now using the Capitol Renovation and Improvement Fund (Fund 2462) to pay operating expenses for buildings on the State Capitol Complex.

expenses for buildings on the State Capitol Complex. Fund 2462 is also inappropriate for paying operating costs because its purpose is for renovations and improvements. Table 3 shows that over \$2.2 million in various operating expenses were expended from Fund 2462. In some cases, these operating expenses were initially incurred in Fund 2257 but were transferred to Fund 2462. Moreover, debt service payments for the state-issued Energy Savings Project were made initially from Fund 2462 in violation of W. Va. §5-6-8(a) which specifies that all principal and interest on state issued revenue bonds are payable solely from Fund 2241. While the bond payments were transferred back to Fund 2241 later that fiscal year, the issue is that at the time the payments were due, Fund 2241 was determined to be insufficient to make the payments. There was no evidence of Fund 2462 being used to pay operating expenses during the 2015 audit. Additionally, the Legislative Auditor found that Fund 2462 was used to pay expenses on non-State Capitol Complex buildings. While the amount was modest, less than \$6,400, statute states the funds are to be expended on the State Capitol Complex. The Capitol Renovation and Improvement Fund was created statutorily to “. . . make renovations and improvements of the existing State Capitol building and the capitol complex for the purpose of reversing deterioration to existing facilities, securing the safety of the general public and state employees, promoting efficiency of governmental operations and enhancing tourism in the state” (W. Va. §5A-4-6(a)). **The Legislative Auditor concludes that Fund 2462 was not created to pay operating expenses such as utilities, custodial services and debt service.**

While the bond payments were transferred back to Fund 2241 later that fiscal year, the issue is that at the time the payments were due, Fund 2241 was determined to be insufficient to make the payments.

**Table 3
Operating Expenses Paid From Fund 2462 Instead of Fund 2241
FY 2015 through FY 2017**

Fiscal Year	Utilities*	Debt Service**	Custodial Services	Security Personnel	Building Rent	Total
2015	\$154,028	**	\$2,088,358	\$11,019	\$4,935	\$2,258,340
2016	6,391	--	--	--	250	6,641
2017	398	**	--	599	--	997
Total	\$160,817	**	\$2,088,358	\$11,618	\$5,185	\$2,265,978

Source: PERD compilations using data from the State Auditor’s Office.

* Utilities include gas, electric, water/sewage, fire service, sanitation/disposal, and energy expense utilities

** In FY 2015, the DOA transferred \$498,497 in bond payments from Fund 2462 to Fund 2241.

**In FY 2017, the DOA transferred \$86,653 in bond payments from Fund 2462 to Fund 2241.

The evidence for this update report suggests that Fund 2462 is being used to pay operating expenses because Fund 2257 has become insufficient to pay as much of these expenses as it has in the past and now must shift some of the burden to Fund 2462. Table 4 shows that Funds 2241, 2257 and 2462, which are the primary funds for operating and maintenance of GSD properties, are at relatively low levels as of the end of FY 2017.

Table 4
End-of-Year Fund Balances
Funds 2241, 2257, 2462
FY 2004 through FY 2017

FY	Fund 2241	Fund 2257	Fund 2462
2004	\$425,429	\$9,038,551	\$5,000,000
2005	772,488	12,248,014	6,922,242
2006	632,778	15,047,884	8,723,995
2007	898,471	16,198,996	13,274,195
2008	784,697	67,004,398	9,049,107
2009	1,350,906	76,394,069	4,425,920
2010	904,145	56,622,675	4,248,055
2011	1,045,006	47,721,873	5,862,542
2012	977,050	39,543,429	10,358,244
2013	2,219,396	27,737,408	14,422,937
2014	3,354,239	15,789,284	14,744,592
2015	3,774,445	13,950,813	9,912,964
2016	3,452,068	11,874,911	10,283,147
2017	2,778,675	7,725,789	8,062,968

Fund 2462 is being used to pay operating expenses because Fund 2257 has become insufficient to pay as much of these expenses as it has in the past and now must shift some of the burden to Fund 2462.

Source: PERD compilations using data from the State Auditor's Office.

Recommendation 5 (2015)

The Department of Administration should take steps to improve its process of monitoring rent revenues and expenditures with the intention of raising rent appropriately to cover rising costs.

Level of Compliance: Planned Compliance

The DOA informed PERD that it has adjusted rents on new leases over the past two fiscal years to allow rent revenue to cover operating costs related to building maintenance and debt service. While there is evidence of some rent increases for half a dozen state agency tenants in four buildings, cost overruns continue in many buildings. The DOA further indicated that it plans to continue to adjust new lease rates to a level that will cover operating costs associated with the leased space.

However, the DOA stated that due to state agency budget constraints, it has tried to avoid creating rental expense shocks throughout state government agencies by sharp increases in rent.

Although the DOA has increased rent for certain buildings, it still has several buildings in which the costs to maintain them exceed revenue. Table 5 duplicates a table in the 2015 PERD report but adds data for the three fiscal years (FY 2015-2017) since the report was issued. Table 5 shows that the total imbalance between rent revenue and costs has decreased slightly.

The DOA stated that due to state agency budget constraints, it has tried to avoid creating rental expense shocks throughout state government agencies by sharp increases in rent.

Building	Time Period	Revenue less Expenditures (2015 Report)	Revenue less Expenditures (2017 Update)
Bonds Issued:			
Huntington – Building 32	2009-2017	-\$1,282,511	-\$1,816,530
Weirton – Building 34	2009-2017	-51,093	-198,363
One Davis Sq. – Building 36	2009-2017	-763,057	-608,091
DEP Kanawha City – Building 37	2009-2017	153,832	981,232
Greenbrooke – Building 86	2010-2017	-530,612	-1,707,216
Williamson – Building 97	2009-2017	-312,367	-382,210
Cash Purchases:			
DNR – Building 74	2010-2017	370,255	1,037,479
Corrections – Building 84	2010-2017	-451,533	-162,786
7 Players Club – Building 88	2012-2017	-26,995	90,035
Total		-\$2,894,081	-\$2,766,450
Source: PERD compilation based on data from the State Auditor's Office.			

In addition to the deficits seen in Table 5, it should be noted that during the 2015 audit the GSD was constructing the new Clarksburg and Fairmont buildings to replace the old building in those cities, and renovations to Building 3 were started shortly before the 2015 audit was issued. These buildings have since been occupied. Table 6 shows that the additional buildings have large differentials between revenue and expenditures due to expenses far exceeding revenue. These additional buildings and renovation costs will add more stress to the agency's financial condition.

These additional buildings and renovation costs will add more stress to the agency's financial condition.

In the September 2017 interim meeting of the Joint Committee on Government and Finance, Jon Amores, Executive Director of the Real Estate Division within the Department of Administration responded to committee member questions regarding costs associated with state agencies relocating to Building 3. His written response to the requests for information can be seen in Appendix D. Some of the costs the committee inquired about included the rent rates the state agencies would have to pay after relocating to Building 3 from either privately-owned office space or state-owned office space. As can be seen in Appendix D, according to the Real Estate Division all agencies that moved into Building 3 saw an increase in the rent per square foot they will pay compared to their previous office spaces.

The DOA is not in a financial position to comply with this recommendation and under current conditions it will be many years before it can do so.

Table 6		
Total Revenue Less Total Expenditures for the Years Specified		
Building	Time Period	Revenue less Expenditures (2017 Update)
Bonds Issued:		
Charleston – Building 3	2009-2017	-\$18,730,257
Clarksburg – Building 53	2010-2017	-\$5,370,521
Fairmont – Building 54	2011-2017	-\$16,066,606
Total		-\$40,167,383

Source: PERD compilation based on data from the State Auditor’s Office.

Recommendation 6 (2015)

The Department of Administration should pay all appropriate operating costs of DOA facilities from Fund 2241.

Level of Compliance: Non-Compliance

The DOA is not in a financial position to comply with this recommendation and under current conditions it will be many years before it can do so. Table 7 shows Fund 2241 as reported in the September 2015 report but updated to include FY 2015-2017 as highlighted. While the end-of-year balances have averaged around \$3.3 million for the last three fiscal years, this has been accomplished primarily because Fund 2257 has assumed several million in expenses that should have been paid from Fund 2241. Furthermore, Table 7 shows that debt service payments are taking a larger portion of Fund 2241. This is attributed to three new bond issues by the DOA in 2015 to pay for construction of the new Fairmont (\$13.9 million) and Clarksburg office buildings (\$16.3 million), and

These three bond issues total over \$92 million with interest through the year 2040.

renovations of Building 3 (\$28.5 million) on the State Capitol Complex. These three bond issues total over \$92 million with interest through the year 2040.

Table 7
State Building Commission Fund (2241)
FY 2000 through FY 2017

Fiscal Year	Total Expenditures	Total Revenues	End-of-Year Fund Balance	Debt Service	Debt Service as a Pct. of Expenditures
2000	\$8,439,681	\$7,927,462	\$659,240	\$1,379,462	16.3%
2001	8,877,775	8,673,409	454,874	1,332,799	15.0
2002	8,642,812	8,687,786	499,848	1,427,452	16.5
2003	8,652,993	8,779,179	626,035	1,415,648	16.4
2004	10,015,085	9,814,479	425,429	1,947,551	19.4
2005	10,403,788	10,750,806	772,488	1,699,943	16.3
2006	11,423,017	11,283,307	632,778	1,668,120	14.6
2007	10,673,372	10,939,065	898,471	1,754,185	16.4
2008	11,214,531	11,101,026	784,967	2,033,416	18.1
2009	12,993,371	13,559,310	1,350,906	3,491,760	26.9
2010	14,060,536	13,613,774	904,145	5,035,225	35.8
2011	14,696,548	14,837,408	1,045,006	5,245,315	35.7
2012	13,629,292	13,561,335	977,050	5,102,144	37.4
2013	13,420,769	14,663,116	2,219,396	5,400,493	40.2
2014	14,828,456	15,963,258	3,354,239	5,040,890	34.0
2015	15,370,923	15,803,136	3,774,445	5,161,854	33.6
2016	17,076,506	16,742,422	3,452,068	7,431,993	43.5
2017	18,242,887	17,584,323	2,778,675	8,002,006	43.9

Source: PERD compilations using data from the State Auditor's Office.

The financial situation is not improving and the Legislative Auditor does not anticipate it will for many years, barring significant increases in lottery revenues, state appropriated funds or bond refinancing. Table 8 shows the total debt service payments pursuant to the bond schedules through FY 2025. The Legislative Auditor expects that the percentage of Fund 2241 expenditures on debt service will continue to increase over the next few years, possibly to 46 percent by the year 2021.

The Legislative Auditor expects that the percentage of Fund 2241 expenditures on debt service will continue to increase over the next few years, possibly to 46 percent by the year 2021.

Table 8
Debt Service Payments*
FY 2018 through FY 2025

FY	Scheduled Debt Service Payments
2018	\$8,770,495
2019	9,217,976
2020	9,240,114
2021	9,262,504
2022	9,292,731
2023	8,124,993
2024	8,134,325
2025	7,887,869

Source: PERD analysis of state bond indentures and schedules.
*State-issued bond principal and interest. Does not include locally-issued bonds.

Recommendation 7 (2015)

The Department of Administration should comply with statute to pay all appropriate bond payments solely from Fund 2241 pursuant to W. Va. 5-6-8(a).

Level of Compliance: Non-Compliance

State-issued bonds for GSD buildings are required to be paid solely from Fund 2241. However, in FY 2015, \$498,497 and in FY 2017, 86,653 for debt service payments for the state-issued Energy Savings Bond for buildings on the Capitol Complex were initially paid for from Fund 2462. Although the bond payments for July through December 2014 and July 2016 were transferred back to Fund 2241 later in those fiscal years, **the issue is that at the time the payments were due, Fund 2241 had insufficient funds to make the payments.** The Legislature has made it imperative that moneys in Fund 2241 “*shall be impressed with and subject to the lien or liens on the moneys in favor of the bondholders*” (§5-6-5). In other words, no other expenses of the fund have higher priority than the bond payments. **The inability to make these bond payments from Fund 2241 and using another fund is a serious matter.**

Recommendation 8 (2015)

The Legislature should consider requiring the Department of Administration to have a structural engineering inspection performed on buildings prior to the purchase that evaluates the structural integrity of the building, the roof, the basement, HVAC systems, plumbing, electrical

Although the bond payments for July through December 2014 and July 2016 were transferred back to Fund 2241 later in those fiscal years, the issue is that at the time the payments were due, Fund 2241 had insufficient funds to make the payments.

wiring, and other major areas of the building. The results of the inspection should be factors to consider in the cost-benefit analysis specified in recommendation 1.

Level of Compliance: Requires Legislative Action

The Legislature has not acted on this recommendation. The DOA indicated it would agree to a requirement that an engineering analysis performed by a professional engineer prior to the purchase of a building. If during the course of the analysis the engineering report identifies concerns over the building structure and recommends a structural engineering report, the DOA agrees it should be acquired and the report considered in any decision to purchase a particular piece of property. The Legislative Auditor concurs with this adjustment to its initial recommendation.

The DOA indicated it would agree to a requirement that an engineering analysis performed by a professional engineer prior to the purchase of a building.

Conclusion

The DOA is in full compliance with one recommendation, planned compliance with one recommendation and non-compliant with two of the applicable recommendations of the September 2015 report. The remaining four recommendations require legislative action and legislation was introduced for one of the recommendations. The DOA has established a formal, written building-purchase checklist which includes a cost-benefit analysis it intends to use prior to the purchase of real property. However, this is the decision of the current administration. There is no requirement that future administrations will consider financial analyses and any sufficiency or insufficiency of funds the analysis may reveal. The Legislative Auditor has previously found that the absence of formal, written policies and procedures concerning purchasing real property has contributed to the current state of the DOA having an overextended stock of property. Therefore, the Legislative Auditor considers it important for the Legislature to codify a moratorium on the DOA from purchasing real property above the price of \$1 million until the DOA can demonstrate it has strengthened its financial resources.

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

September 25, 2017

Gregory Melton, Director
General Services Division
Building 1, Room MB-60
1900 Kanawha Boulevard, East
Charleston, WV 25305

Dear Mr. Melton:

This is to transmit a draft copy of the update of the September 2015 agency review of the General Services Division. This report is tentatively scheduled to be presented during the October 15-17 2017 interim meetings of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

We need your written response by noon on Wednesday, October 4, 2017 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, October 12, 2017 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink that reads "Jill Mooney".

Jill Mooney
Research Manager

C: John Myers, Cabinet Secretary
Department of Administration

Enclosure

Appendix B

Objectives, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this follow-up review of its September 2015 report on the General Services Division (GSD) within the Department of Administration (DOA) as authorized by West Virginia Code §4-2-5. The General Services Division is responsible for the care, custody and operation of buildings owned by the DOA.

Objectives

The objectives of this update are to determine to what extent the DOA responded to the eight recommendations made in the September 2015 PERD report on the General Services Division, and to assess the agency's overall financial condition as of fiscal year 2017.

Scope

The scope of this audit is limited to the agency's activities necessary to respond to the recommendations made in the 2015 PERD report of the DOA's General Services Division. The time period covers the three fiscal years since the PERD report was released, which is 2015-2017.

Methodology

Auditors requested that the DOA provide a written response on how it responded to the eight recommendations made in the September 2015 PERD audit on the General Services Division. PERD reviewed the DOA's responses and acquired financial data from the Office of the State Auditor on funds 2241, 2257 and 2462. In order to confirm the agency's responses to the recommendations, PERD interviewed staff to clarify certain responses and requested additional information concerning new bonds issued since the 2015 report. All interviews were confirmed in writing. PERD also toured Building 3 to observe the completion of the renovations. Financial data from the Office of the State Auditor were reviewed to confirm that the DOA has not purchased buildings above \$1 million, if rent has been increased, and if all operating costs and state bond payments were paid from Fund 2241 (Recommendations 3, 5, 6 and 7). No procedures were conducted on financial data received from the State Auditor because the Legislative Auditor considers it an authoritative source under GAGAS A6.05c. Therefore, State Auditor data on GSD funds were considered sufficient and appropriate. A review of legislation for the 2015 through 2017 legislative sessions was conducted using the Bill Status System to determine if the Legislature responded to recommendations that required legislative action (Recommendations 1, 2, 4 and 8). Information from the Bill Status System was determined to be sufficient and appropriate.

In order to determine the level of compliance of the DOA to the appropriate recommendations from the September 2015 report, PERD used the following table:

Levels of Compliance	
In Compliance	The agency has corrected the problems identified in the previous audit report.
Partial Compliance	The agency has partially corrected the problems identified in the previous audit report.
Planned Compliance	The agency has not corrected the problem, but it has provided sufficient and appropriate evidence that it is in the planning stages of resolving the problem.
In Dispute	The agency does not agree with either the problem identified or the proposed solution.
Non-Compliance	The agency has not corrected the problem identified in the previous audit report.
Requires Legislative Action	The recommendation was directed to the Legislature for statutory amendment.

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

Appendix C

Department of Administration Real Estate Division Building Purchase Checklist

BUILDING PURCHASE CHECKLIST

1.) BUSINESS CASE FOR PURCHASE

Inform Governor's Office of intent to evaluate

2.) STATISTICAL DATA

BUILDING NAME & ADDRESS:

Seller's Name:

Seller's Contact Information:

WV RED Contact:

3.) ACTIONS

- Signed Option Agreement Date -
 - Expiration of agreement Date -
- Perform environmental audit Date -
- Perform engineering analysis Date -
- Perform appraisal Date -
- Perform title search Date -
- Assessment of Property
 - Architectural
 - Mechanical
 - Electrical
 - Code Compliance
- Plans, Proposal and Engineer's Estimate
- Space Plans
 - Cost Estimate
 - Timeline
- Risk Assessment
 - Insurance
 - Ancillary factors
- Review environmental audit
 - Evaluate any health or safety risk
 - Determine if corrective action required
- Review engineering analysis
- Review appraisal
- Review survey
- Review title abstract

4.) APPROVALS

- Write deed
- AG approval of deed
- Governor's approval
- Request check from auditor
- Final walkthrough

5.) CLOSING

- Perform closing
- For file after closing
 - Recorded copy of deed
 - Closing statement
 -

6.) ATTACHMENTS

- Photos
- Map

Appendix D Amores LF 9-12-2017 Building 3



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
REAL ESTATE DIVISION
1124 Smith Street, Suite B100
Charleston, West Virginia 25311

LEGISLATIVE MANAGER

SEP 13 2017

RECEIVED

Jim Justice
Governor

John Myers
Cabinet Secretary

Jon Amores
Executive Director

September 12, 2017

Aaron Allred, Legislative Manager
West Virginia Legislature,
Joint Committee on Government and Finance
Building 1, Room E-132
1900 Kanawha Boulevard, East
Charleston WV 25305-0610

Re: Request for information from Joint Committee

Dear Mr. Allred,

In response to your letter request dated 5 September 2017, attached please find information received from Capitol Business Interiors indicating the furniture purchases made for Building 3.

Please note that while the Real Estate Division assisted in space planning for Building 3, and in that capacity is pleased to forward this information to you, the actual selection and purchase of furniture was done by the agencies themselves. Accordingly, the tenant agencies in Building 3 would be the ones to contact regarding the accuracy of any indicated purchases, or provide any additional details regarding same.

Sincerely,

Jon Amores

cc: Secretary John Myers

Telephone: (304) 558-3062

E.E.O./AFFIRMATIVE ACTION EMPLOYER

Fax: (304) 558-8082

Furniture Purchases for Building 3
Competitive bid - CRFQ 0506 HHR1500000002
Information from Capitol Business Interiors
September, 2017

Floor 1: Tourism

- 25 Workstations- and components, 25 storage units, 25 monitor arms, 25 keyboards, 32 side chairs
- 6 Private Offices- u-shaped desks, hutch, lights, 12 side chairs, 6 storage units, 1 meeting area/4 chairs, 1 sofa and 2 chairs
- 1 Conference Room- table with data and power, 1 credenza, 10 chairs
- File Banks- 47 Lateral Files and storage cabinets
- Open Area Meetings- 2 tables, 18 stools, 4 chairs, 3 end tables, 1 meeting table/4 chairs
- Total cost: \$270,421

Floor 2: Labor

- 47 Workstations- workstations and components, 47 storage units, 47 keyboards, 47 monitor arms
- 5 Private Offices- u-shaped desks/hutch/light, 18 side chairs, 5 lateral files
- 4 Conference Rooms- 6 tables with data and power, 40 chairs, 2 credenzas
- 4 Storage Rooms w/ Doors-
- Reception- 7 Chairs
- File Banks- 21 Lateral Files and storage cabinets
- 1 Break Area- 3 tables and 12 chairs
- Total cost: \$446,212

Floor 3: Workforce WV

- 80 Workstations- and components, 7 doors, 80 monitor arms, 80 keyboards
- 11 Private Offices- 11 u-shaped desks, hutch, lights, 11 storage cabinets, 22 side chairs, 11 monitor arms, 11 keyboards, 4 conference tables, 20 conference chairs
- 2 Conference Rooms- 2 tables with data and power, 32 chairs
- Break Area- 18 chairs
- File Banks- 22 lateral files/storage cabinets
- Total cost: \$422,317

Floor 4: Workforce WV

- 87 Workstations- and components, 9 workstation doors, 87 monitor arms, 87 keyboards, 87 storage cabinets

- 11 Private Offices- u-shaped desks, 11 monitor arms, 11 keyboards, 11 storage cabinets, 24 side chairs
- 3 Conference Rooms- 4 Tables with data and power, 44 chairs, 2 tablet arm chairs
- File Banks- 37 lateral files/storage cabinets
- 1 break area – 18 chairs
- Total cost: \$483,953

Floor 5: Personnel

- 64 Workstations- workstations and components, 64 keyboards, 64 storage cabinets
- 13 Private Offices- U-Shaped desks, 13 storage cabinets, 20 lateral files/bookcases, 8 side chairs, 5 small conferences tables/19 conference chairs
- 1 Break Area- 3 tables/12 chairs
- 1 Conference Room- 1 table with data and power, credenza, 16 chairs
- 1 Huddle Room- 3 tables, 14 chairs, 1 credenza
- Files Banks- 53 lateral /storage cabinets
- 9 Reception chairs, 4 end tables
- Small Conference room- 1 table, 6 chairs
- Total cost: \$554,635

Floor 6: Development Office

- 45 Workstations and components with 21 U-Shaped desks, 21 Doors, 21 Storage Cabinets
- 12 Private Offices- 12 U-Shaped desks/Hutch/Desk Lights, 12 Storage units, 11 lateral files
- 1 Conference Room- table and chairs for 12 with data and power
- 1 Break Area- 3 tables/12 chairs, 10 lounge chairs/, 2 sofas
- Files/ Storage- 27 lateral files/bookcases/storage
- 1 Small Meeting Room- Credenza, table, 4 chairs
- 3 Offices- 3 conference tables, 10 conference chairs, 2 credenzas
- Total cost: \$536,920

Floor 7: Development Office

- 20 Workstations- with 20 U shape desks 20 Storage Cabinets,
- 13 Private Offices- U-Shaped desks/hutch, lights, 13 storage cabinets, 13 files, 26 guest chairs
- 1 Break area- 4 tables/ 16 chairs
- 1 Conference Room- 1 table with data and power /no chairs
- 1 Small conference room table and 4 chairs
- File Banks- 33 Files with tops
- 4 Lounge Seating-
- Total cost: \$241,801

Floor 8: Development Office

- 13 Workstations and components
- 7 Private Offices- U-shape desks, overhead hutch/storage cabinet, lateral files
- 37 lateral files and storage units
- 1 Break Room- Credenza, 2 Tables, 8 Chairs
- 1 Conference Area- Table, 4 chairs
- Total cost: \$133,602

General Services:

- Floor 1- Training Room Large, conference room small, 130 stack chairs, 42 folding tables: Total cost: \$77,875
- Demountable walls competitive bid - CRFQ 0211 GSD1700000007; signage on all offices, glass walls floors 1-8, whiteboards, all electric & data in those walls: Total cost: \$1,359,000



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
REAL ESTATE DIVISION
1124 Smith Street, Suite B100
Charleston, West Virginia 25311

LEGISLATIVE MANAGER

SEP 13 2017

RECEIVED

Jim Justice
Governor

John Myers
Cabinet Secretary

Jon Amores
Executive Director

September 12, 2017

Aaron Allred, Legislative Manager
West Virginia Legislature,
Joint Committee on Government and Finance
Building 1, Room E-132
1900 Kanawha Boulevard, East
Charleston WV 25305-0610

Re: Request for information from Joint Committee

Dear Mr. Allred,

In response to the inquiry from committee members during the meeting on Tuesday, August 22nd, attached please find information detailing the agencies that have moved into the newly-renovated Building 3, and a comparison with their previously occupied space.

As requested, the data sets forth the comparative rates per square foot, the square footage occupied, and the annual rental expenses.

Should you have any additional questions, please do not hesitate to contact me.

Sincerely,

Jon Amores

cc: Secretary John Myers

Telephone: (304) 558-3062

E.E.O./AFFIRMATIVE ACTION EMPLOYER

Fax: (304) 558-8082

Building 3 Tenant Overview:

Tourism, 1st Floor -- Tourism gained a needed presence on campus for business prospects visiting the Development Office as well as tourists visiting the Capitol.

Space leased in Building 3: 21,358 SF, consisting of 14,926 SF @ \$19.00 PSF (total \$283,594.00), and 6,432 SF of basement storage @ \$14.00 PSF (\$90,048.00); total Annual Rent: \$373,642

Prior lease: Cambridge Building in South Charleston, 27,769 SF @ \$12.34 PSF; annual rent \$342,669.46

Labor, 2nd Floor -- Was on 7th Floor of Building 6; had outgrown space which was preventing them from hiring needed staff. The agency also needed to improve the customer interview/processing area.

Space leased in Building 3: 21,758 SF @ \$19.00 PSF; total Annual Rent: \$413,402.00

Prior lease in Building 6: 15,334 SF @ \$11.00 PSF; total Annual Rent: \$168,674.00

WorkForce WV, 3rd and 4th Floors -- The old space in Building 4 needed major repairs and upgrades, including elevator work. Space was very dated and inefficient.

Space leased in Building 3: 47,666 SF, consisting of 46,246 SF @ \$19.00 PSF (total \$882,094.00), and 1,420 SF of basement storage @ \$14.00 PSF \$19,880.00; total Annual Rent: \$901,974.00

Prior lease in Building 4: 70,952 SF @ \$11.00 PSF; total Annual Rent: \$780,472.00

Personnel, 5th Floor -- Agency was selected to move to Building 3 rather than do an extensive remodel of their space in Building 6. They had the funds to help occupy Building 3 and were willing to move.

Space leased in Building 3: 23,213 SF @ \$19.00 PSF; total Annual Rent: \$441,047.00

Prior lease in Building 6: 22,421 SF @ \$11.00 PSF; total Annual Rent: \$246,631.00

Development Office, 6th 7th and 8th floors -- Secretary's office, Business and Industrial Development, International Division, and Marketing and Communications are on the 6th Floor; Community Development and Small Business Division are on the 7th Floor, and newly consolidated HR and Accounting are on the 8th Floor, along with planned meeting / hoteling space. The agency had been in mostly antiquated space on the 5th Floor and 6th Floor in Building 6. The space did not present well to potential domestic and international business prospects. Additionally, the Marketing Division was formerly located at Northgate Business Park, and needed to rejoin the other Commerce agencies.

Space leased in Building 3: 51,800 SF @ \$19.00 PSF; total Annual Rent: \$984,200

Prior space in Building 6: 35,093 SF @ \$11.00 PSF; total Annual Rent: \$386,023.00

Appendix E Agency Response



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION
State Capitol
Charleston, West Virginia 25305

John A. Myers
Cabinet Secretary
October 3, 2017

Gregory L. Melton
Director

Jill Mooney, Research Manager
Performance Evaluation and Review Division
Building 1, Room W314
1900 Kanawha Blvd, East
Charleston WV 25305



Dear Ms. Mooney:

I am happy to provide the following response to your team's update of the September 2015 agency review of my Division. My deputy and I look forward to attending the appropriate meetings to answer any questions that may come up; I believe that my boss, Secretary John Myers, and a few others may also participate in those sessions in which this update is presented.

Our response is as follows for each of the recommendations from the original agency review as updated:

Recommendation 1 (2015)

The Legislature should consider requiring the Department of Administration to perform and document a cost-benefit analysis prior to any purchase of real property in excess of a specified purchase threshold.

Level of Compliance: Requires Legislature Action

General Services Division (GSD) Response: The Department of Administration (DOA) took administrative action and stated its intent to conduct a cost-benefit analysis prior to any purchase of real property which totals \$1 million or more. DOA restates its intent to comply to thoroughly vet any real property purchases meeting/exceeding this amount.

Recommendation 2 (2015)

The Legislature should consider placing a moratorium on the DOA from purchasing real property above the price of \$1million until the Department can demonstrate it has strengthened its financial resources.

Jill Mooney, Research Manager
October 3, 2017
Page Two

Level of Compliance: Requires Legislature Action

GSD Response: DOA concurs that no real property purchases of more than \$1 million be made until the financial situation of GSD improves.

Recommendation 3 (2015)

If the Legislature chooses not to place a moratorium on the Department of Administration from purchasing real property, the Department should avoid significant addition to its stock of real property until it has substantially improved its financial resources.

Level of Compliance: In Compliance

GSD Response: DOA continues to agree with this recommendation and the level of compliance as indicated.

Recommendation 4 (2015)

The Legislative Auditor recommends that the Legislature clarify its intent of the Capitol Dome and Capital Improvements Fund (Fund 2257), established in W. Va. Code (§5A-4-2(c)), for its use in capital improvements and repairs of state-owned buildings. Also, a specific definition for capital improvements should be provided in the statute as it relates to Fund 2257.

Level of Compliance: Requires Legislative Action

GSD Response: DOA recognizes that Fund 2257 was not intended for payment of operating expenses; however, GSD must pay its financial obligations, and the level of funding available in Fund 2241 (the account into which rental payments are deposited and current expenses should be paid from) is inadequate. Currently, Fund 2241 is nearly 50% encumbered by debt service, leaving little room for any improvement until debt service obligations are fulfilled (expirations between 2023-2040). If Legislative action is taken to require operating expenses to only come from Fund 2241, either the level of service provided will degrade or rents will need to be substantially increased. In the 2016 Regular Session, a bill was introduced to clarify the intent for expenditures from Fund 2257 and restrict DOA's use of the fund for anything except its intended use. While the DOA was not opposed to the legislation, it would also require an increase in appropriation Fund 2241 so that debt service payments and operating costs could be paid exclusively from Fund 2241, particularly for expenses associated with the Main Capitol for which very few rental payments are collected.

Jill Mooney, Research Manager
October 3, 2017
Page Three

Recommendation 5 (2015)

The Department of Administration should take steps to improve its process of monitoring rent revenues and expenditures with the intention of raising rent appropriately to cover rising costs.

Level of Compliance: Planned Compliance

GSD Response: The DOA concurs, and continues to improve its process for monitoring rent revenues and expenditures. However, it is statutorily precluded from collecting rent for most of the space occupied in the Main Capitol. The inability to collect rental payments for the Main Capitol, which requires a great deal of specialized maintenance and repair, continues to put pressure on Fund 2241. Over the past few years, the DOA has made an effort to adjust rents that are collected, which in most cases required increasing them, to adequately cover any expenses associated with the property. DOA recognizes that any increase in rent is not without an impact on the budgets of tenant agencies.

Recommendation 6 (2015)

The Department of Administration should pay all appropriate operating costs of DOA facilities from Fund 2241.

Level of Compliance: Non-Compliance

GSD Response: As noted in Recommendations 4 and 5, DOA continues to balance the need to pay current expenses with rent revenue collected from tenant agencies. As noted in portions of this update, DOA has increased rents in buildings that have been improved to modern standards, as well as set rents appropriately for new construction or major renovations. (*i.e.*: Logan, Fairmont and Clarksburg new construction efforts, Greenbrooke, Huntington and Building 3 major renovations or system retrofits).

Recommendation 7 (2015)

The Department of Administration should comply with statute to pay all appropriate bond payments solely from Fund 2241 pursuant to W. Va. 5-6-8(a).

Level of Compliance: Non-Compliance

GSD Response: The DOA concurs with the findings, that due to short-term cash flow issues in FY2015, Energy Conservation Bond payments were made from Fund 2462 (Jul-Dec 2014) and then later transferred to Fund 2241 (Jan 2015). DOA also concurs with the recommendation. Going forward, the DOA will strictly comply with the statute and pay bond payments first before other

Jill Mooney, Research Manager
October 3, 2017
Page Four

payments from Fund 2241. All debt service payments for Bond issues are currently being paid in compliance with this recommendation.

Recommendation 8 (2015)

The Legislature should consider requiring the Department of Administration to have a structural engineering inspection performed on buildings prior to the purchase that evaluate the structural integrity of the building, the roof, the basement, HVAC systems, plumbing, electrical wiring, and other major areas of the building. The results of the inspection should be factors to consider in the cost-benefit analysis specified in recommendation 1.

Level of Compliance: Requires Legislative Action

GSD Response: DOA appreciates PERD's willingness to recognize that a structural engineering inspection should not be mandated unless an engineering assessment turns up potential structural issues. We would further suggest that on rare occasions structures may need to be bought for the sole purpose of demolition. DOA looks forward to working with PERD and/or the appropriate Legislative committee(s) to best word any legislation proposed.

If you have further questions or we can help clarify any additional issues, please let me know.

Sincerely,



Gregory L. Melton
Director

cc: John A. Myers, DOA Cabinet Secretary



WEST VIRGINIA LEGISLATIVE AUDITOR

PERFORMANCE EVALUATION & RESEARCH DIVISION

Building 1, Room W-314, State Capitol Complex, Charleston, West Virginia 25305

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