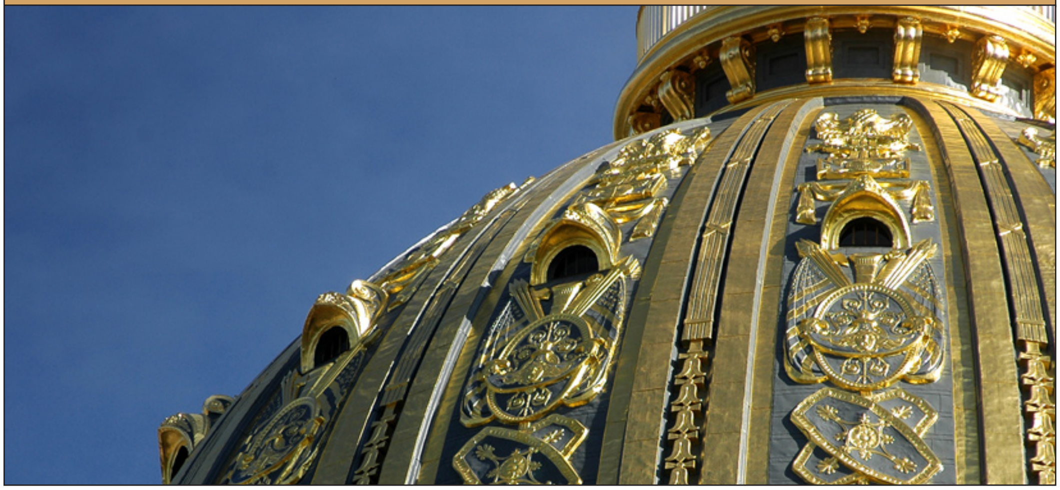

September 2015
PE 15-8-575

AGENCY REVIEW

GENERAL SERVICES DIVISION
DEPARTMENT OF ADMINISTRATION

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

WEST VIRGINIA LEGISLATIVE AUDITOR
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EXECUTIVE SUMMARY

The Legislative Auditor conducted an Agency Review of the Department of Administration (DOA) pursuant to W. Va. Code §4-10-8(b)(2). As part of this review, a performance audit was conducted on the General Services Division within the DOA. The General Services Division is responsible for the care, custody and operation of buildings owned by the DOA. The objective of this audit is to determine the causes of the DOA having real properties that are or have been inadequately maintained, unoccupied, or uninhabitable for extended periods of time. The highlights of this review are discussed below.

Frequently Used Acronyms in This Report

DOA: Department of Administration
GSD: General Services Division
BRIM: Board of Risk and Insurance Management
DNR: Division of Natural Resources
HVAC: Heating, Ventilating, and Air Conditioning

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.

- Despite financial reports from its Finance Division on insufficient funds, the DOA continued to purchase or construct new buildings.
- The DOA's stock of real property is overextended and beyond the agency's financial resources to properly maintain or operate it. Moreover, this situation has existed for several years.
- Other causes for the insufficiency of funds is that the DOA charges an inadequate amount in rent, relatively old buildings are often purchased that incur significant expenses to repair or renovate, and the agency has no clear objective in planning its real property formation.
- The Legislature should consider imposing 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.

PERD's Response to Agency's Written Response

PERD received a written response to the report from the Department of Administration on September 2nd, 2015. The Department of Administration is in agreement with all of the report's recommendations. In his response, Secretary Pizatella does not dispute any of the information or methods utilized by PERD in the preparation of the report. The Secretary recognizes the need for the DOA to improve the efficiency and effectiveness with which the General Services Division operates.

The agency agrees that it should perform a cost-benefit analysis prior to future purchases of real property. The DOA also agrees that clarifications from the Legislature are necessary concerning the proper use of the Capitol Dome and Capitol Improvements Fund (2257). Furthermore, Secretary Pizatella recognizes the need to pay operating costs from Fund 2241 instead of Fund 2257. The agency indicated 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.

Recommendations

1. *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.*

2. *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.*

3. *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 it financial resources.*

4. *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 statute as it relates to Fund 2257.*

5. *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.*

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

7. *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).*

8. *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 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.*

ISSUE1

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.

Issue Summary

The Department of Administration (DOA) has several buildings that have either become uninhabitable due to severe deterioration or have gone several consecutive years in need of major improvements. In its 2014 presentation to the Joint Standing Committee on Government Organization, the DOA indicated that "*Due to budget cuts and decrease[s] in excess lottery funding, the General Services Division is finding it difficult to properly maintain state facilities.*" Although excess lottery revenues have declined, **the Legislative Auditor finds that the main reason the DOA cannot adequately maintain its properties is that it has purchased buildings with little regard for the financial implications of the acquisitions.** Despite the drop in lottery revenues and several buildings in disrepair, the DOA continued to acquire new properties which only compounded the problem. Some of the newly acquired properties are relatively old and in need of repairs or significant renovations at the time of purchase. **The Legislative Auditor has determined that the DOA's inventory of real property is overextended, and as a result the State Building Commission Fund has been for several years insufficient to properly operate and maintain DOA facilities.** The Legislative Auditor also finds that in response to the insufficiency of the State Building Commission Fund, the DOA is paying operating expenses from the Capitol Dome and Capitol Improvements Fund that the Legislature may have intended for repairs and improvements. The loss of these funds for repairs and improvements has further exacerbated the problem of inadequately maintained properties. Primary recommendations are that the Legislature require the DOA to perform a cost-benefit analysis prior to the purchase of real property, impose a temporary moratorium on the DOA in purchasing real property in excess of $1 million, and clarify the legislative intent of the Capitol Dome and Capitol Improvements Fund.

The Legislative Auditor has determined that the DOA's inventory of real property is overextended, and as a result the State Building Commission Fund has been for several years insufficient to properly operate and maintain DOA facilities.

The objective of this performance audit is to determine the causes for the DOA having office buildings that have gone several consecutive years inadequately maintained, unoccupied, uninhabitable and in need of extensive improvements.

Several DOA Properties Have Gone Consecutive Years in Need of Major Capital Improvements

The objective of this performance audit is to determine the causes for the DOA having office buildings that have gone several consecutive years inadequately maintained, unoccupied, uninhabitable and in need of extensive improvements. Although this report highlights the deficiencies of several DOA properties, it should be noted that the DOA spends millions of dollars towards maintenance each year, and several buildings are in good condition. Furthermore, the Legislative Auditor understands that buildings will eventually require maintenance and that maintenance sometimes may be deferred. However, this review is warranted by the observation that a significant amount of deferred maintenance over an extended length of time has occurred in several large DOA buildings that suggest a systemic problem exists. In addition, the scope of this audit was extended to the year 2000 in order to capture a complete historic progression of the problem as well as the pervasiveness of the DOA's practices.

Over the 2000 to 2014 time period, the DOA had buildings that were uninhabitable for several years, while other buildings, such as Buildings 4, 5 and 6 on the State Capitol Complex, have areas that are uninhabitable and have been in poor condition for years.

Pursuant to W. Va. Code §5-6-4 and §5A-4, the Department of Administration is responsible for the care and custody of Capitol buildings, and has authority to acquire, maintain, construct and operate real property. Over the 2000 to 2014 time period, the DOA had buildings that were uninhabitable for several years, while other buildings, such as Buildings 4, 5 and 6 on the State Capitol Complex, have areas that are uninhabitable and have been in poor condition for years. In a May 2006 PERD report, it was reported that the GSD had not properly maintained the Capitol Complex parking garage (Building 13) and it was experiencing accelerated deterioration despite the facility being only around six years old. Moreover, other DOA properties are dysfunctional for their present use or need major repairs and capital improvements.

Table 1 below shows four DOA buildings that were vacant for extended periods of time. These buildings are relatively large in square footage. The office buildings in Fairmont and Clarksburg have been razed and new buildings have recently been constructed to replace them.

Table 1
DOA Buildings With Extended Vacancies

Name of Building	Years of Vacancy	Square Footage
Building 3- Former DMV Building	2011 – Present	162,075
Building 21- Former Fairmont Office Building	2009 – 2012	120,000
Building 24- Former Clarksburg Office Building	2004 – 2011	80,000
Building 28- Former State Medical Examiner's Office	2005 – 2011	28,090

Sources: The Department of Administration, General Services Division, and data from the Board of Risk and Insurance Management.

A brief description of the vacant buildings mentioned above and other facilities are given below.

Building 3 - The DMV Building

The DMV building was vacated in November 2010 due to a variety of issues that made the building functionally obsolete. This building is in the worst condition of the Capitol Complex buildings, and it remains uninhabitable to date. Figure 1 at the right shows the first floor of Building 3. Plans to renovate Building 3 have been in place as early as 2000. The building had asbestos abatement completed in fiscal year (FY) 2013. The first attempt to renovate Building 3 was in FY 2011. However, bids for the project came in at $35 million, which exceeded the maximum budget of $30 million. The second attempt took place in May 2015 and a contract was awarded in the amount of $34 million, which is at the maximum budget for the design. Renovations began in June of this year and could be completed by December 2016.

Figure 1 - First Floor of Building 3

Plans to renovate Building 3 have been in place as early as 2000.

Building 21 - The Former Fairmont Office Building

The former Fairmont office building was located at 109 Adams Street. The DOA entered into a 10-year lease-purchase agreement in 1986 with the Marion County Building Commission, which had issued revenue bonds in December 1985 for the amount of $3.3 million (principal and interest). The DOA made final payment for the five-story property in February 1997. The building became uninhabitable in early 2009 after the State's Board of Risk and Insurance Management requested a structural inspection that revealed severe deterioration in various areas of the basement and the potential for a catastrophic failure due to a severely corroded main gas line. The Fairmont building remained vacant until it was razed in the spring of 2012. The location of the former building is currently a vacant lot. The DOA replaced the former building with a new five-story state office building located a few blocks away at 416 Adams Street. The construction of the new building was substantially completed in February 2015, with tenants moving in the following month. The estimated final completion construction cost is over $17.6 million. Approximately 180 employees work in the building for several state agencies.

The former Fairmont office building became uninhabitable in early 2009 after the State's Board of Risk and Insurance Management requested a structural inspection that revealed severe deterioration in various areas of the basement and the potential for a catastrophic failure due to a severely corroded main gas line.

Building 24 - The Former Clarksburg Office Building

The DOA entered into a lease-purchase contract with the Harrison County Building Commission for the old Clarksburg office building located at 151 Main Street in August 1988. The total purchase price was an estimated $5.7 million. The DOA made final payment for the building in June 2004. The Clarksburg building was vacated in December 2003, six months before the final payment, because of severe water damage from a leaking roof and piping failures according to the GSD. The building remained vacant for over seven years through the fall of 2011 when it was razed. Construction of a new five-story office building began in July 2014 approximately on the same site as the former building. The expected completion date is March 2016 and the estimated total construction cost is over $24.9 million.

The Clarksburg building was vacated in December 2003, six months before the final payment, because of severe water damage from a leaking roof and piping failures according to the GSD.

Building 28 - The Former State Medical Examiner's Building

Building 28, the former State Medical Examiner's Office located at 701 Jefferson Road in South Charleston adjacent to the State Police Headquarters, became vacant when the Medical Examiner's Office moved out of the building in 2005. According to a 2007 inspection report, one room on the second floor was closed due to mold, and mold was present in several areas of the building. The building remained vacant from 2005 to 2013 and was used for storage by the State Police. The GSD performed asbestos abatement in the building in November 2011 and September 2013. In mid-2013 the State Police awarded a contract to renovate the building for $4.4 million. The renovations have been completed and the building is in the process of being transferred to the State Police.

Building 4 on the State Capitol Complex

According to the GSD, Building 4 is in the second worst condition on the Capitol Complex.

Figure 2 - Floor 6 of Building 4

According to the GSD, Building 4 is in the second worst condition on the Capitol Complex. The building has asbestos throughout the structure, the HVAC system is functionally obsolete, and the restrooms do not comply with American Disability Act (ADA) standards. Floor 3 of Building 4 is completely unoccupied and is being used for storage, and one-third of floor six is uninhabitable, per the Fire Marshal (see Figure 2). The building is about 80 percent occupied by staff of Workforce West Virginia. The GSD indicated that there are no structural issues with Building 4. A design plan is expected for the building in the early part of FY 2016, and if funding is available, renovations will begin in FY 2017. The current tenants would be relocated to Building 3. The renovations are expected to take 16 to 18 months at a cost of $20-$22 million. Following the renovation, Workforce West Virginia employees would remain in Building 3 and new tenants would move into Building

4 in FY 2018 or 2019.

Buildings 5 & 6 on the State Capitol Complex

There are many functional issues throughtout Buildings 5 and 6 such as electrical infrastructure, the HVAC system is in poor condition, and the restrooms are not ADA compliant.

There are many functional issues throughout Buildings 5 and 6 such as electrical infrastructure, the HVAC system is in poor condition, and the restrooms are not ADA compliant (see Figure 3). Also, a sprinkler system is needed throughout each building. A 12-year agreement with the Fire Marshal has been in place since 2005 to have sprinklers in place by 2017. At the time of PERD's tour of these buildings (April 2015) only 5 of the 25 floors had fire sprinklers installed. The GSD realized in 2014 that having sprinklers on each floor of the buildings would not be completed by 2017. Therefore, the Fire Marshal agreed to allow the GSD to have sprinkler systems on all floors in each building that meet the West Virginia definition of high-risers (above 75 feet) by 2017.

Figure 3 - Floor 4 of Building 6

Despite the conditions in Buildings 5 and 6, they are completely occupied. In addition, floor 10 in Building 5 (see Figure 4) and floor eight in Building 6 have been completely renovated.

In addition to the above-mentioned structures, the DOA has other facilities that are in poor condition and functionally obsolete.

In addition to the above-mentioned structures, the DOA has other facilities that are in poor condition and functionally obsolete. The Public Employee Day Care (Building 16) is in poor condition and unsuitable for its present use as a day care center, yet it is still being used as such. The GSD Master Plan calls for this building to be demolished and replaced with a new construction nearby. The State's Surplus Property facility (Building 27), located in Dunbar, is a poorly functioning site and will need significant work to make it functional for its current use. Building 33, located at 311 Jefferson Street near the Capitol Complex, is being used as a mail room and carpenter shop. It is in fair to poor condition and is functionally obsolete. GSD's

Figure 4 - Floor 10 in Building 5

Master Plan calls for Building 33 to be razed.

Eighteen (18) GSD Properties Have Been Acquired Since the Year 2000

Table 2 lists DOA properties that were under the care of the GSD in the year 2000. Most of these properties are still in use and most are located in the city of Charleston. According to the GSD, the range of conditions of these properties as of 2014 is good to poor and functionally obsolete. However, most of these properties are in good to fair condition, and the old parking garage (Building 2) was demolished in 2004, and the Fairmont and Clarksburg buildings have been demolished as mentioned previously.

Table 2
DOA Buildings in Existence in the Year 2000 and Their 2014 Status

Building Number	Property Name/Occupants	Location	2014 GSD Status
1	Capitol Building	Charleston	Generally good condition.
2	Parking Garage #2 – California Ave	Charleston	Demolished in 2004.
3	Former DMV Building	Charleston	Uninhabitable for years.
4	Workforce WV	Charleston	Functionally obsolete/20% uninhabitable.
5	DOH/CPRB/DOT	Charleston	Good to poor condition/fully occupied.
6	Commerce/DHHR	Charleston	Good to poor condition/fully occupied.
7	Conference/Training	Charleston	Generally good condition.
8	Governor's Mansion	Charleston	Generally good to fair condition.
10	Holy Grove Mansion	Charleston	Restoration work needed/unoccupied.
11	Chiller Plant	Charleston	Generally good condition.
13	Capitol Complex Parking Garage	Charleston	Generally good condition.
15	Purchasing-Finance Divisions/DOA	Charleston	Generally fair condition.
16	Public Employee Day Care	Charleston	Poor and dysfunctional/in use.
17	Division of Finance/DOA	Charleston	Generally good to fair condition.
20	Warehouse	Charleston	Generally fair condition.
21	Old Fairmont State Office Building	Fairmont	Uninhabitable for years. Demolished in 2012.
22	State Tax Department	Charleston	Generally fair to good condition.
23	Beckley Office Complex	Beckley	Generally fair condition, dysfunctional for office use.
24	Old Clarksburg Complex	Clarksburg	Uninhabitable for years. Demolished in 2011.
25	DHHR/Corrections/Tax/Rehab	Parkersburg	Dysfunctional for office and customer service
27	State Surplus Property Surplus Property – Warehouse #1 Surplus Property – Warehouse #2 Surplus Property – Warehouse #3	Dunbar	Poorly functioning with antiquated infrastructure. Significant work needed.
28	Old State Medical Examiner's Office	South Charleston	Unoccupied for years. Being transferred to State Police.
29	Airport Hanger	Charleston	Administrative functions removed. Work needed.

Sources: The Department of Administration, General Services Division, and data from the Board of Risk and Insurance Management.

Since 2000, the DOA has acquired 18 additional properties. Table 3 lists these properties and the year in which they were acquired. Eight (8) of these 18 properties were acquired through state or local bond issues. The three most recent purchases, Logan, New Clarksburg and New Fairmont buildings, are new constructions using cash. However, the DOA indicated to PERD that it may issue bonds for the Clarksburg and Fairmont buildings. The Energy Saving Project listed in Table 3 involved the purchase of a central high-pressure steam plant that is more efficient than the previous heating system according to the GSD. The equipment is located on the 11th floor of Building 5 (see Figure 5). The heating system provides heating and cooling for most of the Capitol Complex (Buildings 1, 3, 4, 5, and 7). The system does not serve Building 6, but it can be linked to it once Building 6's hot water system exceeds its life span. The Energy Saving Project also involved new pipes and pumps through each building on the Capitol Complex. Building 98 comprises a lot that is used to store grounds-keeping equipment and office space for grounds-keeping staff. To date, the DOA has a total of 37 properties. This total includes properties that have structures, but it does not include parking lots that have been purchased primarily near the State Capitol Building.

Figure 5 - Energy Saving Project on Floor 11 of Building 5

To date, the DOA has a total of 37 properties. This total includes properties that have structures, but it does not include parking lots that have been purchased primarily near the State Capitol Building.

Table 3
DOA Buildings Acquired Since the Year 2000

Bldg No.	Building	Acquired	Location	Method of Acquisition	Amount*
14	Supreme Court Office	2001	Charleston	Cash	$312,000
18	GSD Engineering	2008	Charleston	Cash	$179,695
32	Huntington Office Building	2003	Huntington	State Bonds	$18,000,000
33	Howard Property – Parking Lots	2002	Charleston	Local Bonds	$1,510,355
34	Weirton	2004	Weirton	State Bonds	$10,300,000
36	DHHR – One Davis Square	2004	Charleston	State Bonds	$5,200,000
37	DEP – PEIA	2003	Kanawha City	State Bonds	$53,700,000
55	Logan	2013	Logan	Cash	$15,200,000
74	DNR	2008	South Charleston	Cash	$3,310,260
84	Division of Corrections	2008	Charleston	Cash	$1,937,725
86	Greenbrooke	2008	Charleston	State Bonds	$18,700,000
87	Former Holiday Inn	2010	Parkersburg	Cash	$2,200,000
88	7 Players Club, Charleston**	2011	Charleston	Cash	$2,000,347
97	DHHR – Williamson	2006	Williamson	Local Bonds	$6,000,000
98	321 Michigan Ave/ Grounds	2011	Charleston	Cash	n/a
n/a	Energy Saving Project	2006	Charleston	State Bonds	$15,400,000
n/a	New Fairmont Office Building	2015	Fairmont	Cash	$17,600,000
n/a	New Clarksburg Building	2016	Clarksburg	Cash	$25,000,000

Sources: General Services Division, Local and State Bond Agreements received from the Real Estate Division within the Department of Administration.

**Includes principal and interest on state and local bond issues.*

***Building 88 was purchased using a state agency's fund, but the building was deeded to the DOA.*

The Large Lottery Revenue Gains in 2008 and 2009 Have Been Largely Spent on Acquisitions and Construction of Office Buildings.

The DOA has several funds for acquiring and maintaining properties. Table 4 lists the names of these funds, a brief description of the fund's purposes, and their primary revenue sources. The primary revenue sources are office rent charged by the DOA, video lottery transfers, parking fees, court settlements on asbestos litigation, and a general fund appropriation. The state appropriation received in Fund 0230 covers the GSD's payroll and office expenses. Fund 2241 (State Building Commission) receives the largest source of GSD revenue from rent charged to state agencies. Video lottery revenues are the second largest source of GSD funds. Lottery revenues are transferred into four separate GSD funds (Funds 2255, 2257, 2461 and 2462), each with a distinct statutory purpose. Fund 2255 was created by W. Va. Code §5A-4-5(e) to receive lottery funds for the construction and maintenance of the parking garage located on the Capitol Complex (Building 13). Fund 2257 was established by Code (§5A-4-2(c)) to provide for maintenance, repairs and improvements of the Capitol dome and state-owned buildings. Fund 2461 was created by §5A-4-5e to receive lottery funds to construct and maintain another parking garage on or adjacent to the Capitol Complex. Fund 2462 was created by §5-4-6 to receive lottery revenues to make renovations and improvements of the State Capitol building and the Capitol Complex in order to "reverse deterioration to existing facilities." The Asbestos Litigation Recovery (2250) was created by §5-6-5a to receive litigation recoveries pertaining to asbestos, and investment earnings on recovery funds held in a special revenue account. Fund 2250 must be used exclusively to pay expenses associated with asbestos abatement in state buildings. Court settlement recoveries have not been received since 2004. Consequently, over the last 10 years, asbestos abatement has reduced the investment balance to $2,851,053 as of the end of FY 2014, and investment earnings received in Fund 2250 has been declining. The Governor's Mansion Fund (2463), created by (§5A-4-2(d)), has received only a few thousand dollars since FY 2006, and has a balance of less than $3,000.

The primary revenue sources are office rent charged by the DOA, video lottery transfers, parking fees, court settlements on asbestos litigation, and a general fund appropriation.

Table 4 GSD Funds for Property Acquisition & Maintenance			
Fund No.	**Fund Name**	**Purpose**	**Primary Revenue Sources**
0230	Division of General Services	GSD payroll & office expenses.	Gen. Fund appropriation
2240	Parking Lots Operating	Maintain parking lots.	Parking fees, fines
2241	State Building Commission	Construct, purchase, maintain and operate state properties.	Building rent
2250	Asbestos Litigation	Asbestos abatement in state buildings.	Court settlements, investment earnings
2255	Parking Garage	Maintain Capitol Complex Parking Garage.	Video Lottery
2257	Capitol Dome and Capitol Improvements	Maintenance and improvements to Capitol dome and state-owned buildings.	Video Lottery
2461	2004 Capitol Complex Parking Garage	Construct and maintain parking garage on or adjacent to Capitol Complex.	Video Lottery
2462	Capitol Renovation and Improvement	Renovations and improvements of the State Capitol building and the Capitol Complex.	Video Lottery
2463	Governor's Mansion	Enhance the Governor's Mansion.	Excess inaugural contributions,investment earning
Sources: West Virginia Code, the Finance Division within the Department of Administration, and the State Treasurer's Office.			

As Table 5 below shows, the GSD has overspent revenues received in each of the last five fiscal years by relatively large amounts. This increased spending was prompted by a substantial increase in video lottery revenues in fiscal years 2008 and 2009. Lottery revenues increased by $50 million in FY 2008 and by another $17 million in FY 2009, with respect to the 2007 revenue figure. The increases affected only the Capitol Dome and Capitol Improvements Fund (2257). Furthermore, virtually all of the additional spending that occurred also came out of Fund 2257.

Table 5
GSD Funds*
Revenues Minus Expenditures
FY 2000 – 2014

Fiscal Year	Total Expenditures	Total Revenue	Revenues Minus Expenditures
2000	$12,911,115	$10,808,874	-$2,102,241
2001	13,211,239	12,281,660	-929,579
2002	12,966,496	13,966,519	1,000,023
2003	12,659,524	13,434,300	774,776
2004	14,682,900	20,233,425	5,550,525
2005	20,169,176	24,760,324	4,591,148
2006	22,407,223	25,823,148	3,415,925
2007	21,777,837	26,023,965	4,246,128
2008	32,347,899	76,505,512	44,157,613
2009	42,519,013	44,547,142	2,028,129
2010	48,138,219	24,808,555	-23,329,664
2011	38,676,067	28,378,441	-10,297,626
2012	40,721,412	33,492,614	-7,228,798
2013	39,793,296	24,366,152	-15,427,144
2014	41,597,635	24,672,239	-16,925,396

Source: PERD compilations using data from the State Auditor's Office.
**Does not include GSD state appropriations received in Fund 0230.*

Lottery revenues increased by $50 million in FY 2008 and by another $17 million in FY 2009.

Table 6 documents the revenue and expenditures of Fund 2257 from 2000 to 2014. The table shows the two bulges of video lottery revenues of $50 million in FY 2008 and around $17 million in FY 2009, compared to FY 2007. The GSD began to increase expenditures in FY 2009; however, beginning in FY 2010, lottery revenues returned to their pre-2008 levels. Despite the drop in lottery revenues, the GSD continued to incur expenses substantially above revenues in each year from FY 2010 through 2014. As a result, Fund 2257's end-of-year balance has dwindled from a high of $76 million in FY 2009 to $15.8 million in FY 2014.

Despite the drop in lottery revenues, the GSD continued to incur expenses substantially above revenues in each year from FY 2010 through 2014.

Table 6
End-of-Year Fund Balance
Capitol Dome and Capitol Improvements Fund (2257)
FY 2000 – 2014

Fiscal Year	Total Expenditures	Total Revenue	End-of-Year Fund 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

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 .*

The expenditure increases beginning in FY 2009 from Fund 2257 were for two basic purposes:

1. to buy and construct office buildings, and
2. to pay a significant amount of operating expenses of buildings that the State Building Commission Fund could not pay.

The DOA used the additional lottery revenue to purchase or construct the following buildings:

- Building 74 (DNR), purchased for $3.3 million (FY 2009);
- Building 84 (Division of Correction), purchased for $1.9 million (FY 2009);
- Building 87 (Former Holiday Inn), purchased for $2.2 million (FY 2010);
- Building 88 (7 Players Club), purchased using another state agency's funding but the building is in DOA's name and under its care.
- Building 55 (Logan), constructed for $15.2 million (FY 2011-2013);
- New Fairmont Building constructed for $17.6 million (FY 2012-2015); and
- New Clarksburg Building under construction for $25 million (FY 2012-2016).

The Legislative Auditor contends that it may not be the intent of the Legislature to use Fund 2257 to pay for operating expenses of DOA buildings.

The State Building Commission Fund Has Been Insufficient to Properly Maintain and Operate State Facilities for Several Years

The acquisitions and construction projects used up most of the lottery increases of 2008 and 2009. However, the DOA also used some of the lottery increases to pay a significant amount of operating expenses for numerous office buildings that would normally be paid with rent revenue deposited into Fund 2241 (State Building Commission Fund). Fund 2241 was established in W. Va. Code §5-6-5 to receive rent charged by the DOA to maintain and operate office buildings. From FY 2009 to FY 2014, the DOA charged Fund 2257 an average of $2.6 million a year in operating expenses. **The Legislative Auditor contends that it may not be the intent of the Legislature to use Fund 2257 to pay for operating expenses of DOA buildings.** As stated previously, Fund 2257 was created to provide for maintenance, repairs and improvements of the Capitol dome and state-owned buildings. This will be discussed in greater detail in another section of this report.

The need to shift some of the operating expenses from Fund 2241 to Fund 2257 can be seen in Table 7. For many years Fund 2241 has had barely enough finances to maintain and operate DOA buildings. As Table 7 shows, Fund 2241's revenues have been close to expenditures over the last 15 years. As a result, this fund's end-of-year balances have been under $1 million in most years. Having cash balances under $1 million for the number of facilities in DOA's care does not allow it sufficient funds to plan for major maintenance projects, which explains the significant amount of deferred maintenance that has extended over long periods of time. Although the fund had a balance of over $3.3 million in FY 2014, this occurred primarily because the DOA shifted a significant amount of operating expenses to Fund 2257 as will be seen.

For many years Fund 2241 has had barely enough finances to maintain and operate DOA buildings.

Furthermore, since Fund 2241 has not had significant cash available to purchase buildings, the DOA used its authority to issue revenue bonds to purchase several large buildings. However, a major consequence of acquiring facilities through bonds is that the agency's debt service payments have taken on a larger percentage of the fund's total expenditures. Over the last few years, debt service payments have totaled over $5 million and have been 35 to 40 percent of the fund's expenditures. Debt service as a percentage of expenditures increased significantly beginning in FY 2009. This was due to the DOA issuing bonds in FY 2010 to purchase the Greenbrooke building in Charleston, which added over $672,000 a year in debt service payments. In addition, a few bond issues, including Greenbrooke, had payment schedules that escalated annual principal and interest payments. Greenbrooke's annual payment schedule escalated over time from $672,644 in FY 2010 to $752,586 in FY 2014. The Huntington bond payment increased gradually from $696,355 in 2009 to $793,000 in 2014. The Weirton bond and the Energy Saving bond also had increases totaling over $30,000 and $63,000 respectively for the same time period.

However, a major consequence of acquiring facilities through bonds is that the agency's debt service payments have taken on a larger percentage of the fund's total expenditures.

Table 7
State Building Commission Fund (2241)
FY 2000 – 2014

Fiscal Year	Total Expenditures	Total Revenue	End-of-Year Fund Balance	Debt Service	Debt Service as 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

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

Table 8 shows the main operating expenses that were paid out of Fund 2257 instead of Fund 2241. Expenses for custodial services, utilities, security, insurance and furniture were for a host of DOA office buildings across the state. Other operating expenses not included in Table 8 are for window cleaning, snow removal/deicing, water treatment, grounds-keeping/landscaping, moving expenses, and other miscellaneous expenses. As Table 8 shows, the shift of these expenses to Fund 2257 began primarily in FY 2009. The average annual amount of operating expenses shifted to Fund 2257 was $2.6 million from FY 2009 to FY 2014. **Had these expenses been paid out of Fund 2241, the fund would have a deficit of over $12 million in FY 2014.** While it is obvious the DOA was taking advantage of the extra lottery revenues to pay for these expenses, the shift of expenses was also out of necessity because it is apparent **the rent charged by the DOA has been insufficient to maintain and operate its office buildings.**

The average annual amount of operating expenses shifted to Fund 2257 was $2.6 million from FY 2009 to FY 2014. Had these expenses been paid out of Fund 2241, the fund would have a deficit of over $12 million in FY 2014.

Table 8
Operating Expenses Shifted From Fund 2241 to Fund 2257
FY 2007 – 2014

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	1,618,457
2010	254,127	767,192	142,417	--	2,386,126	3,549,864
2011	667,630	1,640,778	151,145	--	106,741	2,566,295
2012	126,158	2,526,745	127,198	$23,421	14,942	2,818,465
2013	730,686	1,935,082	4,349	22,045	--	2,692,164
2014	22,856**	2,320,540	10,465	--	73,162	2,427,025
Total	$1,809,871	$10,597,172	$440,523	$45,446	$2,852,572	$15,745,613

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.*

The insufficiency of Fund 2241 is revealed in other indicators. For example, in July 2012, the DOA paid over $498,000 in bond payments from Fund 2257. This amount was transferred back to Fund 2257 from Fund 2241 in December 2012. The bonds associated with these payments were for the Energy Saving Project, the DEP building in Kanawha City, the One Davis Square building, the Greenbrooke building, and the buildings located in Huntington, Weirton, and Williamson. Also, in November 2011, a bond payment of $169,651 for the DEP building was paid from Fund 2257. The significance of paying these bond payments from Fund 2257 is that it violates the statutory requirement in W. Va. 5-6-8(a) which states:

> The Commission is hereby empowered to raise the cost of a project, as defined in this article, by the issuance of state building revenue bonds of the state, the principal and interest on which shall be payable **solely from the special revenue fund provided in section five [§5-6-5]** of this article for the payment. [emphasis added]

The special revenue fund created in §5-6-5 is Fund 2241, the State Building Commission Fund. Therefore, the principal and interest of revenue bonds issued by DOA's authority, which it received when the State Building Commission was terminated in 2000 (§5-6-4(19)), should be paid out of Fund 2241. The bond for the Williamson building is the only one that was not issued by the DOA. Although the expenses of the July 2012 bond payments were transferred back to Fund 2241 five months later, **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"*(§5-6-4(19)). 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.** It should be noted that there is no record that the bond payment made in November 2011 from Fund 2257 has been reimbursed from Fund 2241.

Although the expenses of the July 2012 bond payments were transferred back to Fund 2241 five months later, the issue is that at the time the payments were due, Fund 2241 had insufficient funds to make the payments.

In addition, the DOA has been faced with the inability to pay in full a large number of utility bills out of Fund 2241 and those shifted to Fund 2257. As a result, a significant amount of late fees and penalties have been incurred. Table 9 shows the amount of late fees and penalties paid by the DOA on utility bills. A substantial increase in late fees occurred in FY 2011 through 2013. PERD could not review every late fee transaction. While some late fees were likely the result of late payments, many high late fees were likely because the DOA could not pay the utility bills in full and the outstanding balances incurred late fees and penalties. Although these amounts are relatively small in comparison to the millions paid out of Fund 2241, **they are another indicator of a fund that has been and continues to be under financial stress.**

Table 9
Late Fees/Penalties on Utility Bills for DOA Office Buildings

	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Late Fees/Penalties	$6,771	$55,822	$51,405	$56,968	$20,860

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

The Operating Expenses and Other Expenditures Being Paid From Fund 2257 May Not Be the Legislature's Intent

PERD evaluated each GSD fund to determine if expenditures were consistent with their intended purposes. The primary findings concern the State Building Commission Fund (2241), and the Capitol Dome and Capitol Improvements Fund (2257). It has been previously stated that the Legislative Auditor questions the use of Fund 2257 for paying various operating expenses such as utilities, custodial services, security, and furniture for DOA buildings. However, there are other expenditures from Fund 2257 that may be inconsistent with the legislative intent of the fund. In addition to operating expenses, the DOA has also used Fund 2257 to pay for the following types of expenditures:

- construction costs of stand-alone buildings,
- purchases of stand-alone land and buildings,
- improvements to leased buildings (leasehold improvements), and
- scheduled lease or bond payments on land and buildings.

According to W. Va. Code §5A-4-2(c), moneys in the Capitol Dome and Capitol Improvements Fund

> *"shall be expended for maintenance and repairs of the capitol dome and other capital improvements and repairs to state-owned buildings."*

The Legislative Auditor questions the use of Fund 2257 for paying various operating expenses such as utilities, custodial services, security, and furniture for DOA buildings.

The statutory phrase *"and other capital improvements and repairs to state-owned buildings"* could be understood to mean that capital improvements and repairs are confined to existing state-owned buildings. Purchasing real properties or constructing facilities that are adjacent to existing state-owned properties could be interpreted as improving the existing properties. However, purchasing or constructing buildings that stand alone does not improve existing state-owned property. The DOA has recently constructed three buildings. The new Clarksburg building is essentially on the same land as the former building. Therefore, it could be considered improving existing state-owned property. However, the Logan and new Fairmont buildings are stand-alone properties, and therefore, did not improve existing state-owned properties.

The DOA also used Fund 2257 to purchase Building 74 (DNR), Building 84 (Division of Correction), and Building 87 (Former Holiday Inn in Parkersburg), each of which are stand-alone properties. Furthermore, Fund 2257 has been used to make improvements to properties that are being leased to the State or the State is lease-purchasing. As leased properties, they are not state-owned. For example, in FY 2010 Fund 2257 was used to pay $457,779 in leasehold improvements to the Kanawha City Mall where the Division of Motor Vehicles is located. Fund 2257 was also used to pay $63,500 to install duct work in Building 97 (Williamson). This building is a lease-purchase owned by the city of Williamson.

Fund 2257 is also being used to pay around $75,000 per year in debt service on a lease-purchase agreement with the Charleston Building Commission for three lots on Jefferson Street near the Capitol Complex that includes Building 33 and two parking lots. Debt service payments are generally paid for by the rent generated by the project. These payments do not improve or repair the property, thus, they are operating expenses.

PERD requested a legal opinion from the Legislative Services Division within the Office of the Legislative Auditor. The question raised in the request was if the DOA is using Fund 2257 in compliance with West Virginia Code. The legal opinion indicates that, with the exception of purchasing furniture, the DOA's expenditures for operating expenses, acquisitions and construction of real properties from Fund 2257 *"fulfills the purposes of the legislation."* The opinion indicates that Black's Law Dictionary defines capital improvement as an *"outlay of funds to acquire or improve a fixed assets."* Furthermore, the opinion indicates that W. Va. Code §5A-4-2(a)(1) and (2) provide that the director of the GSD has responsibility for the care, control and custody of Capitol buildings and furnish light, heat and ventilation. Given these responsibilities, the legal opinion asserts that it follows that the legislation is allowing for certain operating costs to be paid out of Fund 2257.

The Legislature provides agencies with appropriations for rent, which are deposited into Fund 2241 once paid. Building rent is normally charged for the purpose of maintaining and operating office buildings. Therefore, it stands to reason that Fund 2241 is to provide the various operating services, not lottery revenues.

Although the legal opinion indicates that the DOA is in line with the statutory language of its enabling statute, the current use of Fund 2257 may not be the Legislature's intent. While the General Services Division is responsible for janitorial services, light, heat and ventilation for the Capitol buildings, §5A-4-2 says that these services are to be provided *". . . regardless of the budget or budgets, departmental or otherwise, <u>from which</u> the janitorial services are paid"*[emphasis added]. In other words, it is strongly implied that these services are paid from state agency budgets, not lottery revenues. The Legislature provides agencies with appropriations for rent, which are deposited into Fund 2241 once paid. Building rent is normally charged for the purpose of maintaining and operating office buildings. Therefore, it stands to reason that Fund 2241 is to provide the various operating services. Furthermore, these operating expenses were being provided solely through Fund 2241 long before the creation of Fund 2257 in 1999.

Defining the term "capital improvements" is important in determining if purchasing or constructing stand-alone buildings using Fund 2257 was the Legislature's intention. Capital improvements are defined in W. Va. Code §11-15-2(b)(3)(C)(vi) for the consumer sales tax. The definition states that capital improvements are improvements *"that are affixed to or attached to and become a part of a building or structure or real property."* By this definition, capital improvements would only involve improvements to existing property. Therefore, purchasing land or buildings that are stand-alone would not constitute capital improvements. **The Legislature should consider providing a formal definition for capital improvements as it relates to the use of Fund 2257.**

PERD requested that the DOA give its statutory interpretation that justifies its use of the Capitol Dome and Capitol Improvements Fund. The DOA's response states that:

> Historically, it has been the State Legislature's practice to appropriate funds into Fund 2257 . . . to be used for the acquisition of land, buildings and the construction of new stand-alone buildings. This Fund has also been used to pay custodial and utility bills, purchase office furniture, make leasehold improvements, and make debt service payments because Fund 2241 . . . did not contain adequate balances to pay for these expenditures. The Department has already increased certain lease rental rates and will continue to evaluate these rates, when appropriate, to ensure that the rates going forward adequately cover the operational costs listed above from Fund 2241. Since October 1, 2014, the Department has already shifted some custodial and utility expenses from Fund 2257 to Fund 2241.

According to the DOA, Fund 2257 has also been used to pay custodial and utility bills, purchase office furniture, make leasehold improvements, and make debt service payments because Fund 2241 . . . did not contain adequate balances to pay for these expenditures.

It is not clear that the Legislature has had an historical practice, as stated by the DOA, of appropriating funds into Fund 2257 to acquire land, office buildings and the construction of new stand-alone office buildings. From 2000 to 2009, most of the structures that the DOA acquired were by bond issues that are paid with rent revenue from Fund 2241. It has only been since FY 2009 that Fund 2257 was used to acquire buildings, and the construction of new buildings using Fund 2257 started recently around 2012. **Nevertheless, the Legislative Auditor considers the steps taken by the DOA to raise rent appropriately and shift the operating costs mentioned in this report back to Fund 2241 as appropriate responses to this situation.**

The DOA also stated that:

> Expenditures for these various purposes were made pursuant to West Virginia Code §5A-4-2(c), which states that funds shall be used for "other capital improvements and repairs to state-owned buildings."... There is no other fund for use to build and repair "state-owned buildings" not located on the State Capitol Complex. "Capital improvements" is a term of art, broadly defined by various sources, including the Internal Revenue Service, to include major improvements to property.

The Legislative Auditor does not question that Fund 2257 is to be used to repair and improve state-owned buildings not located on the State Capitol Complex. Furthermore, the agency's statement that there is no other fund for use to build state-owned buildings not located on the Capitol Complex is clearly incorrect because the DOA has used its authority to build several buildings around the state using Fund 2241. The issue is if the Legislature intended to use Fund 2257 to repair and improve only **existing** state-owned properties, which would exclude constructing or purchasing stand-alone buildings and making leasehold improvements. It may be that the Legislature intended that constructing or purchasing new structures was to be done through Fund 2241, which is the only DOA fund with clear authority to build with no restrictions on the geographical location of the building. **The Legislative Auditor recommends that the Legislature clarify its intent of Fund 2257 in these areas.**

Furthermore, the agency's statement that there is no other fund for use to build state-owned buildings not located on the Capitol Complex is clearly incorrect because the DOA has used its authority to build several buildings around the state using Fund 2241.

The Insufficiency of GSD Funds Has Several Causes

The DOA has indicated that it is finding it difficult to properly maintain state facilities due to budget cuts and decreases in lottery funds. While PERD acknowledges the drop in video lottery revenues since FY 2010, this is not the cause for the financial insufficiencies of Funds 2241 and 2257, two of the DOA's principal funds for maintaining and operating DOA properties. PERD lists the following reasons for DOA's financial inability to maintain its properties:

- The DOA purchases buildings with little regard for the financial implications.
- The planning of DOA properties is uncoordinated and incomplete.
- The rent charged in many instances is inadequate to maintain and operate the buildings.
- The DOA purchases buildings that are relatively old and in need of repairs and renovations at the time of purchase.
- The DOA does not have structural engineering inspections performed on relatively old buildings prior to purchase.

The issue is if the Legislature intended to use Fund 2257 to repair and improve only existing state-owned properties, which would exclude constructing or purchasing stand-alone buildings and making leasehold improvements.

These five causes are discussed in greater detail below.

<u>The DOA Purchases Buildings Without Concern for the Financial Implications</u>

PERD finds that the Finance Division, within the DOA, has ample management information reflecting the decline of video lottery revenues since FY 2008, the dwindling balances of Fund 2257, and the inadequacies of rent revenues to cover building operating and maintenance expenses in Fund 2241. **Therefore, PERD concludes that despite the DOA's awareness of funding deficiencies, the acquisition of properties at least since FY 2008 have been made with little concern for their financial impact.** These acquisitions diverted funds from being used to address the significant amount of deferred maintenance in several buildings, particularly Buildings 3-6 on the Capitol Complex. Moreover, some of these additional purchases have added to the financial burden in terms of expenditures exceeding rent revenue (see Table 10 below).

PERD requested from the DOA a description of the decision-making process it uses in acquiring real property. The Department Secretary indicated that purchases of property are suggested by either the directors of the Real Estate Division or the General Services Division. The decision to make the transaction is based on several factors including, but not limited to, short-term and long-term budget and fiscal implications, the ability to maintain the real property, and the contemplated use of the property. The DOA indicated that no written documentation exists for this process, but that it is considering implementing one. **It is the Legislative Auditor's recommendation that the Legislature require the DOA to document all relevant factors that are essential in making a financially responsible purchase of real property.** The Legislature should consider specifying some of the factors in Code, as well as imposing the requirement on transactions of certain amounts. The Real Estate Division has on occasion been requested to perform cost-benefit analyses on a few select proposed property transactions. Therefore, the DOA has the expertise to perform the analysis.

These acquisitions diverted funds from being used to address the significant amount of deferred maintenance in several buildings, particularly Buildings 3-6 on the Capitol Complex.

The Planning of DOA Properties Is Uncoordinated and Incomplete

The GSD periodically prepares Master Plans, Capital Improvement Plans, and Facility Assessments. In previous years these plans were provided on a five-year schedule. The last five-year Facility Master Plan was issued in 2007. There has not been a five-year plan issued since the conclusion of the 2007 five-year plan. PERD finds that GSD's capital improvement plans have been incomplete, unfulfilled, and contradictory. For example, in the agency's 2000-2005 Capital Improvement Plan, the plan for Building 2 (Parking Garage) was to restore it at an estimated cost of $700,000. However, Building 2 was demolished in 2004. The plan also intended to totally restore Building 3 at an estimated cost of $20.4 million but it was unfulfilled. The 2007 plan intended to restore Building 3 between 2007 and 2009 at an estimated cost of $30 million. This also was not accomplished. These renovations are recently being addressed some 15 years later.

In the 2007 Master Plan, the GSD discussed the needs of many facilities, but no mention was made of the agency's plan for Building 24 (Clarksburg Office Building), which had been vacant for four years at the time the plan was issued, and no mention was made of Building 28 (Old State Medical Examiner's Office), which became vacant in 2005. Furthermore, in September 2006 the GSD spent $86,826 for a roof replacement on Building 24 at a time when it had been vacant for over two years, remained vacant through 2011 and subsequently demolished. The plan mentioned Building 21 (Fairmont Office Building) and proposed a host of renovations with an estimated cost of $1 million. However, Building 21 became vacant two years later and would be demolished in FY 2012.

Since the 2007 plan, the GSD issued a Facilities Master Plan in 2013. However, this plan addresses only the buildings on the Capitol Complex. PERD finds that appropriate facility planning would have to incorporate all facilities. Several new facilities have been added since 2007, but at the present time there is no plan that speaks to the entire stock of DOA properties. **Furthermore, the decisions to acquire additional properties during this time period were illogical given the financial constraints and the amount of deferred maintenance.** For example, in FY 2011, the DOA purchased the 7 Players Club property. The DOA did not incur costs for the purchase because the Miners Safety and Health agency used money from the Miners Health Safety and Training Fund. However, the building was deeded to the DOA, which makes it DOA's responsibility to maintain and operate it. As of the end of FY 2014, expenditures have exceeded rent revenue due in part because of the initial building improvements of nearly $90,000 (see Table 10 below). **Given the state of DOA funds, the decision of adding more property to its inventory has been questionable. This underscores a concern that the DOA does not have a definitive objective in what it is trying to accomplish in its real property formation.**

Since the 2007 plan, the GSD issued a Facilities Master Plan in 2013. However, this plan addresses only the buildings on the Capitol Complex and it is only for the current year. Several new facilities have been added since 2007, but at the present time there is no plan that speaks to the entire stock of DOA properties.

The Rent Charged Is Often Inadequate

A primary cause for the insufficiency of Fund 2241 is the inadequate amount of rent charged by the DOA. Table 10 illustrates the difference between total revenues and expenditures for buildings with debt service payments, and buildings recently purchased with the additional lottery revenues. **The agency does not adequately monitor the rent charged in relation to building expenses, especially buildings that were purchased through revenue bonds.** When bond payment schedules escalate, as they have over the last several years, the DOA has not raised rent appropriately. In addition, the recently purchased buildings all had major renovations soon after the purchase, particularly Building 84. Only Building 74 made up the difference in rent revenue by the end of FY 2014.

Table 10 Total Revenue Less Total Expenditures for the Years Specified		
Building	Time Period	Revenue less Expenditure
Bonds Issued:		
Huntington – Building 32	2009-2014	-$1,282,511
Weirton – Building 34	2009-2014	-51,093
One Davis Sq. – Building 36	2009-2014	-763,057
DEP Kanawha City – Building 37	2009-2014	153,832
Greenbrooke – Building 86	2010-2014	-530,612
Williamson – Building 97	2009-2014	-312,367
Cash Purchases:		
DNR – Building 74	2010-2014	370,255
Corrections – Building 84	2010-2014	-451,533
7 Players Club – Building 88	2012-2014	-26,995
Net Total		-$2,894,081
Source: PERD compilation based on data from the State Auditor's Office.		

Some Buildings Purchased Are Relatively Old and Require Significant Repairs and Renovations

Several DOA properties purchased are relatively old and in need of repairs or renovations at the time of purchase (see Table 11). Renovation costs to make the facilities suitable for office space and make them compliant with federal and state law can be considerable, and it may be years before those costs are recouped in rent payments. The Greenbrooke building (Building 86), located in Charleston, was constructed in the 1920s. The DOA issued revenue bonds for the building in 2009 with a principal and interest amount of close to $19 million. The bonds have a 24-year term (2010 to 2034). The GSD states the building's condition as good to fair. However, PERD visited the building and was shown various places on the top floor where the roof leaks (see Figure 6). In one place the leak was so bad that a large container was placed underneath it. The building will also need new carpet on the third floor. In addition, the DOA has incurred over $115,000

Figure 6 - Areas of leaks on top floor of Building 86

in FY 2011 for repairs and replacements to the building's heat pumps and HVAC system. As Table 10 previously shows, expenditures for Building 86 have exceeded revenues by over $530,000 from FY 2010 to FY 2014.

The Greenbrooke building will also need new carpet on the third floor. In addition, the DOA has incurred over $115,000 in FY 2011 for repairs and replacements to the building's heat pumps and HVAC system.

Table 11
DOA Buildings Purchased
and Their Approximate Construction Date

Building	Approximate Year Built
Public Employees Day Car – Building 16	1937
Old Fairmont Building -- Building 21	1927
Beckley Office Complex -- Building 23	1930
Old Clarksburg Building -- Building 24	1968
DHHR Parkersburg -- Building 25	1940s
Surplus Property – Building 27	1954
One Davis Sq. – Building 36	1958
DNR -- Building 74	1978
Corrections – Building 84	1979
Greenbrooke – Building 86	1920s

Sources: The General Services Division and the Board of Risk and Insurance Management.

Within a year after the DOA purchased Building 84, located at 1409 Greenbrier Street in Charleston, costs of over $520,000 were incurred to renovate restrooms, install carpet and vinyl tile, install new windows, and repair the HVAC system. This building also needs a new roof but funding is not available.

Within a year after the DOA purchased Building 84, located at 1409 Greenbrier Street in Charleston, costs of over $520,000 were incurred to renovate restrooms, install carpet and vinyl tile, install new windows, and repair the HVAC system. This building also needs a new roof but funding is not available. In FY 2010, Building 36, located at One Davis Square in Charleston, incurred over $350,000 for roof and HVAC repairs. The entire HVAC system in Building 36 needs to be replaced but funding is not available. The estimated cost of the project is $3.6 million.

In FY 2010, Building 36, located at One Davis Square in Charleston, incurred over $350,000 for roof and HVAC repairs. The entire HVAC system in Building 36 needs to be replaced but funding is not available. The estimated cost of the project is $3.6 million.

The DOA has purchased buildings that were not only relatively old but were not conducive for office space. Building 24, the former Clarksburg office building, was converted from a hotel into an office facility. A 1998 PERD report indicated that 2,424 square feet of the building could not be leased because the area was too costly to renovate. This building eventually developed severe interior water damage from a leaking roof and piping failures. The building was evacuated in 2003 while the State still had seven months of bond payments remaining. The DOA questioned the wisdom of the Clarksburg purchase in the following statement:

> In hindsight, the decision to convert this old hotel into an office building was a questionable one, at best. Even at its highest use, the building was only at 50% occupancy.

The 1998 PERD report also indicated that 15,900 square feet of Building 21, the former Fairmont office building, was deemed "*not suitable for use.*"

<u>Older Properties Acquired Without Structural Engineering Inspections</u>

The DOA has purchased buildings that were not only relatively old but were not conducive for office space. The 1998 PERD report also indicated that 15,900 square feet of Building 21, the former Fairmont office building, was deemed "not suitable for use."

PERD requested engineering inspection reports for several relatively old properties purchased by the DOA. The DOA was unable to provide such documents for any of the buildings. Some of the buildings in question were purchased quite some time ago, so an inspection may have been conducted prior to purchase but no record exists. However, no inspection reports were available for more recent purchases such as the Greenbrooke building which was built in the 1920s. There is no evidence indicating the DOA requires structural engineering inspections of buildings prior to purchase. It is interesting to note that several examples were provided by the Real Estate Division of environmental inspections of properties prior to purchases, but not a structural engineering review.

There are examples of DOA buildings that had serious issues that may have been foreseen with a structural engineering inspection. As stated previously, the Clarksburg building had severe interior water damage. The Fairmont building had significant problems identified in 2005 and 2009 structural engineer reports conducted for BRIM. The 2009 report led to the building being closed that year because of structural weaknesses, water infiltration in the basement, rusted beams, rusted elevator rails from standing water in the elevator pit, and a corroded gas line that could have resulted in a catastrophic event. Although the 2005 report did not mention the corroded gas line, it mentioned the structural issues, water infiltration, rusted beams and elevator rails that were identified in the 2009 report. The 2005 report also specified that a few of the issues created unsafe conditions that needed to be addressed immediately. Moreover, the 2009 report stated that "*There had been problems with moisture intrusions through the foundation walls in the basement over an extended period of time.*" Since the 2005 report identified similar conditions, the water infiltration was likely an issue well before 2005. This raises the questions of how far back did these issues exist, and would they have been detected by a structural engineering inspection before the purchase?

There is no evidence indicating the DOA requires structural engineering inspections of buildings prior to purchase. There are examples of DOA buildings that had serious issues that may have been foreseen with a structural engineering inspection.

The Legislative Auditor recommends that the Legislature require the DOA, prior to the purchase of a building, have a complete engineering inspection done to evaluate the structural integrity, as well as the condition of the roof, basement, HVAC system, plumbing, electrical wiring, and other important features. The results of the inspection should be factors to consider in the cost-benefit analysis previously recommended.

Conclusions

The Legislative Auditor concludes that the Department of Administration has an overextended stock of real property that it cannot properly maintain or operate, and this situation has existed for several years. Furthermore, it is evident that in purchasing these properties the DOA ignored financial analyses provided by its Finance Division that clearly showed the insufficiencies of its funds. The situation is further aggravated by the DOA charging an inadequate amount in rent, and purchasing relatively old buildings that incur significant expenses to repair and renovate them soon after the purchase. This has resulted in some buildings incurring more expenses than rent generated. Any significant additions to the agency's inventory of real property should be avoided.

Any significant additions to the agency's inventory of real property should be avoided.

Recommendations

1. *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.*

2. *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.*

3. *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 it financial resources.*

4. *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 statute as it relates to Fund 2257.*

5. *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.*

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

7. 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).

8. 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 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.

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

August 14, 2015

Jason Pizatella, Cabinet Secretary
Department of Administration
State Capitol Complex
Building 1, Room E119
1900 Kanawha Blvd East
Charleston, WV 25305

Dear Secretary Pizatella:

This is to transmit a draft copy of the Performance Review of the West Virginia General Services Division. This report is tentatively scheduled to be presented during the September 13-14 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 the committees may have.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting during the week of August 17-21. Please notify us to schedule an exact time. In addition, we will need your written response by Wednesday, September 2, 2015 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, September 10th, 2015 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,

John Sylvia

John Sylvia

c: Gregory Melton, Director, GSD
Enclosure

Joint Committee on Government and Finance

Appendix B
Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance audit of the General Services Division as part of the Agency Review of the Department of Administration (DOA), as required and authorized by the West Virginia Performance Review Act, Chapter 4, Article 10, of the *West Virginia Code,* as amended. The purposes of the General Services Division (GSD), as established in West Virginia Code §5A-4, are to have care, custody and control of the capitol buildings and buildings under the jurisdiction of the DOA.

Objective

The objective of this review is to determine the causes of the Department of Administration having real properties that are or have been inadequately maintained, unoccupied, uninhabitable or underutilized for an extended period of time.

Scope

The scope of this review consists of all real properties that are presently owned or are being lease-purchased by the DOA or were owned by the DOA at any time during 2000 to 2014. Some background information for years prior to 2000 was necessary to learn the age of some buildings and when they were purchased by the State. The scope includes an examination of all revenues sources, expenditures, lease-purchase agreements and bond issues used to purchase, construct, operate, maintain, repair and improve these properties from 2000 to 2014. The GSD funds that were analyzed consisted of Fund 0230 (Division of General Services), Fund 2240 (Parking Lots Operating), Fund 2241 (State Building Commission), Fund 2250 (Asbestos Litigation Recovery), Fund 2255 (Parking Garage), Fund 2257 (Capitol Dome and Capitol Improvements), Fund 2461 (2004 Capitol Complex Parking Garage), Fund 2462 (Capitol Renovation and Improvement) and Fund 2463 (Governor's Mansion). Fund 2249 (Debt Service Regional Jail Authority) and Fund 2252 (Education, Arts, Sciences, and Tourism, Debt Service) are not in the scope of this audit because they are strictly flow-through accounts for receiving funds to pay debt service on bond issues. The West Virginia State Auditor's Financial Information Management System (FIMS) was the primary source of data on GSD revenues and expenditures. In addition, the scope includes the agency's financial reports on GSD funds, long and short-term plans for GSD properties, and GSD assessment reports on the conditions of each property.

Methodology

PERD gathered and analyzed several sources of information and conducted audit procedures to assess the sufficiency and appropriateness of the information used as audit evidence. A complete inventory of GSD properties that existed during the 2000-2014 period was necessary as a starting point for the audit. PERD received GSD's current inventory of properties; however, the list did not include properties that were previously demolished or scheduled to be demolished or transferred to another state agency. In order to complete the list of DOA properties, PERD received from the Board of Risk and Insurance Management (BRIM) a list of DOA properties it insured in each year dating back to 2000. PERD also examined the GSD Master Plans back to 2000 that listed various buildings, and FIMS data were also used to identify buildings that were still incurring expenses or receiving revenue for years back to 2000. PERD was able to use these sources to develop an inventory of DOA real property for 2000-2014 that gave reasonable assurance of being sufficient and appropriate.

In order to establish the current conditions of existing buildings, PERD relied on GSD condition reports for each building. However, PERD also toured several buildings, took photographs and confirmed other physical evidence of buildings through written confirmation from the GSD. In order to confirm the length of time existing or non-existing buildings were uninhabitable, or to document the condition of buildings prior to their demolition or renovation, PERD used GSD information and corroborating evidence from Schirmer reports and engineering inspections conducted for BRIM that described the conditions of buildings and length of vacancies prior to renovations or demolition. Financial data were also used in some cases to confirm the length of vacancies by identifying when rent ceased to be paid in certain buildings. These sources of data and tests of evidence provided reasonable assurance of the conditions and length of vacancies of GSD buildings in existence during the 2000-2014 period.

As a means to determine the causes for several GSD buildings being improperly maintained for extended periods of time, PERD conducted financial analyses to determine how the DOA used the large influx of lottery revenues of fiscal years 2008 and 2009 during the time in which buildings were in need of major improvements, and how did it respond to excess lottery revenues returning to normal levels in FY 2010. In addition, PERD obtained the agency's Master Plans and compared them to financial decisions in order to assess the agency's planning process. PERD obtained financial data on revenue sources, operating expenses, maintenance and improvement expenses, purchases, lease purchases and construction of buildings, and fund balances. Financial data and invoices were obtained through the State Auditor's FIMS system and were used to confirm financial reports provided by DOA's Finance Division. There were no discrepancies between the agency's financial reports and FIMS data. No procedures were conducted on FIMS data because the Legislative Auditor considers it an authoritative source under GAGAS A6.05c. Therefore, FIMS data on GSD funds were considered sufficient and appropriate.

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
Agency Response

STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

EARL RAY TOMBLIN
GOVERNOR

JASON PIZATELLA
ACTING CABINET SECRETARY

September 2, 2015

PERFORMANCE EVALUATION
SEP 2 2015
AND RESEARCH DIVISION

Mr. John Sylvia
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610

Dear Mr. Sylvia,

Thank you for the opportunity to respond to the Performance Review of the West Virginia General Services Division ("GSD"). I appreciate the thorough and thoughtful nature of the recommendations made and am excited to move forward with the implementation of these and other suggestions to improve the efficiency and effectiveness with which GSD carries out its core functions. The centerpiece of the Department of Administration's ("DOA") current portfolio is the renovation of Building 3 on the State Capitol Complex which is currently scheduled to be completed in October 2016. The agency has also recently opened new state office buildings in Logan and Fairmont with a new building in Clarksburg scheduled for final completion in May 2016. We are grateful for the support of the Governor and the State Legislature over the last several years for these and other projects.

1. ***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.***

   The agency agrees with this recommendation. Absent any specific legislation, the agency is and will continue to work with its colleagues in the Finance and Real Estate Divisions to ensure that an appropriate cost-benefit analysis is made. As of the date of this letter, the agency has no current or future purchases of real property planned at any stage.

2. ***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.***

   The agency agrees with this recommendation, in principle. Just like the state budget works on a six-year plan, GSD currently operates from a six-year plan for all current and future capital improvements. The agency will require the support of the Governor's Office and the State Legislature in the future to ensure that we have the necessary resources to carry

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DEPARTMENT OF ADMINISTRATION
OFFICE OF THE CABINET SECRETARY

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September 2, 2015
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out our mission. Moreover, we believe that, among other things, the planned increases in rent at certain DOA-owned facilities beginning July 1, 2016 will be a tremendous step in the right direction.

3. ***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 statute as it relates to Fund 2257.***

The agency agrees with this recommendation.

4. ***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.***

The agency agrees with this recommendation and we want the Committee to be assured that rental revenues and building expenses are monitored and adjusted regularly. In an effort to raise rents to offset rising expenses, the Finance Division solicited quotations from vendors in early 2012 to analyze and prepare facilities costs for buildings maintained by GSD. Maximus, Inc. prepared an analysis detailing operating costs by building, including depreciation, bond interest, maintenance, utilities, administrative allocations, and other building costs. Using the costs from this report, the Real Estate Division raised rents in Fiscal Year 2013 (July 1, 2012). The Finance Division adjusted the 2012 report to account for changes in spending and raised rents again on several buildings, effective in Fiscal Year 2017 (July 1, 2016). The agency plans to have a formal facilities cost analysis prepared every five years and will continue to monitor rent revenues and building expenditures and raise rents as appropriate.

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

The agency agrees with this recommendation. One obstacle to fulfilling this requirement is the maintenance of some buildings that do not currently collect rent. Most notable is the main capitol building (Building 1), 95% of which receives no rent due to the provisions of W.Va. Code §5-6-4(12) exemption for the Governor, Attorney General, Secretary of State, State Auditor, State Treasurer, the Legislature and the Supreme Court of Appeals. In the Maximus, Inc. report, the operating costs for Building 1 were $5,873,661, of which only 5% would be covered by rents. Federal guidelines restrict the agency from overcharging rent on some buildings to pay for those buildings that cannot bear the burden of rents.

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The agency's recent increases in rent described above have allowed some costs paid out of Fund 2257 to be shifted back to Fund 2241. Beginning in fiscal year 2016, a portion of custodial expenses will be paid out of Fund 2241 that were previously paid out of Fund 2257. The agency will continue to review and implement ways to move operating costs to the appropriate fund.

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

The agency agrees with this recommendation. The same challenges remain, however, that I highlighted in the answer to question 5 concerning our inability to collect rent on most of Building 1.

7. ***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.***

The agency agrees with this recommendation. Please be assured, however, that the agency takes the purchase of real property and related buildings, facilities, etc., as well as our fiduciary responsibility for the same, extremely seriously. These and other related inspections will always be taken into account before major purchases described above are contemplated or made.

I am proud of the recent progress that has been made but recognize that there is much more work to be done. If you have any further questions, or need additional information, please do not hesitate to contact me.

Very truly yours,

Jason Pizatella

JP:cjn

cc: Susannah Carpenter, Assistant Cabinet Secretary
Greg Melton, Director, General Services Division
Jon Amores, Director, Real Estate Division

WEST VIRGINIA LEGISLATIVE AUDITOR
PERFORMANCE EVALUATION & RESEARCH DIVISION

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