

# LEGISLATIVE AUDIT DIVISION

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## MEMORANDUM

**TO:** Legislative Audit Committee Members

**FROM:** John Harrington, Senior Performance Auditor

**Cc:** John Lewis, Director, Department of Administration  
Steve Baiamonte, Administrator, General Services Division, Department of Administration  
John Tubbs, Director, Department of Natural Resources and Conservation  
Shawn Thomas, Administrator, Trust Lands Management Division, Department of Natural Resources and Conservation

**DATE:** October 2017

**RE:** Performance Audit Follow-Up 17SP-10: State Real Property Management (orig. 14P-07)

**ATTACHMENTS:** Original Performance Audit Summary

### Introduction

The *State Real Property Management (14P-07)* performance audit was issued to the Legislative Audit Committee in November 2015. The audit included one recommendation to the Department of Administration (DOA), one recommendation to the Department of Natural Resources and Conservation (DNRC), and two recommendations to the legislature. We conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

#### **Overview**

Audit work recommended that DNRC improve its statutorily required inventory of non-trust real property, and improve its working relationships with other agencies in the area of real property transactions. Follow-up work indicated implementation is ongoing. Follow-up work also indicated that DOA has not implemented a recommendation to include state-owned and occupied real property in its biennial report on space utilization, and the legislature has not taken recommended steps toward the development of a more thorough real property management strategy.

### Background

The state of Montana owns millions of acres of real property, across every county in the state. However, our performance audit found the state does not have a comprehensive, accurate inventory of its non-trust real property holdings. The audit also determined that a more centralized process for real property transactions and a stronger centralized real property management strategy would make the state's management of this strategic asset more efficient and effective.

## **Audit Follow-Up Results**

The following sections summarize the progress toward implementation of the report recommendations. To complete our follow-up work, we solicited information from DNRC and DOA regarding the implementation of the report's recommendations; reviewed files and agency reports; interviewed staff; and reviewed records from the most recent legislative session.

### **RECOMMENDATION #1**

**We recommend the Department of Natural Resources and Conservation:**

- A. Comply with statute and prioritize the completion and accuracy of its inventory of non-trust state real property.**
- B. Develop consistent language and identifiers for the inventory for use across state government.**
- C. Develop a process for working with other state agencies to ensure that the inventory is updated regularly and in a timely manner to reflect all future non-trust real property transactions.**

### **Implementation Status – *Partially Implemented***

In response to the audit, DNRC indicated it concurred with the recommendation and would prioritize the completion and accuracy of its inventory of non-trust real property. Currently, state law requires DNRC to provide a “secure yet accessible” repository for the ownership records of state land, and to develop a filing system/index for certain information on state lands. At the time of the original audit, we determined the mandated inventory of non-trust real property holdings was incomplete and inaccurate.

Follow-up work indicated DNRC has reorganized its inventory of non-trust state real property, both the electronic record and physical files. A new spreadsheet has been created separating easements, which are nonpossessory rights to use property that is not owned and thus should not be included in the inventory, from the main inventory of state-owned real property. The spreadsheet includes file numbers corresponding to physical files that contain background information on each property (location, date of acquisition, etc.). The physical files are now located in filing cabinets at DNRC headquarters, whereas previously they were in unorganized boxes. Examination of the physical files indicated there are still some files that need to be organized, but it was apparent the new filing system was more accessible than the previous one.

DNRC provided a “Procedure for Maintaining Ownership Records of Non-Trust State-Owned Lands” in response to the recommendation to develop consistent language and identifiers for the inventory for use across state government. While this procedure appears useful for DNRC’s internal purposes, there is no indication it is readily useable across state government. The procedure has an effective date of March 5, 2014, indicating it was created before the audit occurred.

DNRC is in the process of drafting a form letter to send to other agencies to ensure they contact DNRC regarding any land transfers. The agency also has a short list of contacts, a total of seven individuals, for land transactions at other state agencies. The list is far from exhaustive but ideally will be updated with more contacts as DNRC plans to contact agencies by phone or email on a quarterly basis to remind agencies of the need to work with DNRC regarding non-trust real property transfers. As part of the follow-up process, we contacted three of the seven DNRC contacts at other state agencies to inquire whether they had been contacted by DNRC regarding the process for non-trust real property transfers. Two of these contacts informed us they had not been contacted by DNRC, while the third did not respond; indicating this piece of the recommendation has yet to be implemented.

While work to implement this recommendation is far from complete, DNRC has taken steps toward improving the accuracy and accessibility of the non-trust inventory of state-owned lands.

**RECOMMENDATION #2**

**We recommend the legislature evaluate the need for a centralized real property transaction function, to facilitate and oversee processes for acquiring, disposing of, and transferring real property on behalf of agencies that do not have such management authority under existing state law.**

**Implementation Status – *Not Implemented***

Audit work found that there is little to no formal, defined process for executive branch agencies to follow when a decision is reached to buy or sell property. A centralized real estate office that helps with buying and selling real property is part of the Department of Administration or equivalent agency in several states. Montana's Department of Administration handles leasing of office space for other agencies but has little or no role in the process for acquiring or disposing of real property assets. A review of introduced and un-introduced bills and drafts from the 2017 Session indicated no legislation was proposed that would address the recommendation.

**RECOMMENDATION #3**

**We recommend the legislature evaluate the need for a centralized, statewide real property management strategy covering all real property assets used by various agencies for the day-to-day administration of state government, including responsibility for maintenance of the existing inventory of non-trust real property.**

**Implementation Status – *Not Implemented***

Audit work found that because different elements of real property management are handled by different agencies, a cohesive and comprehensive strategy is difficult to implement. The lack of a broad, holistic strategy for managing real property assets may lead to inefficient use of real property as well as untimely decisions to re-purpose or dispose of underutilized or surplus real property. A review of introduced and un-introduced bills and drafts from the 2017 Legislative Session indicated no legislation was proposed that would address the recommendation. Senate Bill 43, which was signed into law, calls for the development of a statewide facility and condition assessment for certain state-owned buildings, which could be viewed as a step toward a more comprehensive real property management system. The facility condition assessment will provide a more thorough look at the condition of all state-owned buildings than was previously available and will help the legislature prioritize maintenance needs in state buildings. This bill was the result of work done in the interim by the Legislative Finance Committee and was not proposed in response to this audit.

**RECOMMENDATION #4**

**We recommend the Department of Administration comply with statute by including space occupied by state agencies in state-owned buildings in its biennial report on space utilization.**

**Implementation Status – *Not Implemented***

Based on our audit work, owned space that is occupied by state agencies has not been effectively included in the biennial report on space utilization. In the context of a control environment, reporting information about all space used by state agencies is an important element of a sound control structure supporting the state's real property assets and management. Providing a report on the state's space utilization in its entirety, and not just leased space, would allow for a more complete and accurate picture of the space

needs across state government, and would help in the development of a management strategy for the most efficient and effective use of all occupied space, whether leased or owned.

In response to the audit, the DOA indicated it concurred with the recommendation, and would add information regarding state-owned space to its next statutorily required report to the Office of Budget and Program Planning and to the Legislative Fiscal Analyst. As part of our follow-up work, we contacted both the Governor's Office of Budget and Program Planning (OBPP) and the Legislative Fiscal Analyst to determine what was provided by the DOA by the September 1, 2016, deadline as required by law (§2-17-101, MCA).

We learned that the recipients of the reports did in fact receive information beyond the leased space summaries provided previously. However, the additional information, which per the recommendation was to include space occupied by state agencies in state-owned buildings, was in fact a PDF of a spreadsheet from DOA's Risk Management and Tort Defense (RMTD) Division that included far more than just the office space to which the statute, report, and recommendation speak. This 68-page list included structures such as wind turbines, latrines, microwave towers, storage sheds, rest areas, playgrounds, and other structures that, while being real property owned by the state, are not structures occupied by state agencies in the spirit of the report and the recommendation. Further, the RMTD spreadsheet included structures owned by the university system, which are specifically excluded from the DOA's purview in statute, as well as buildings at historical sites such as Virginia City and scores of other structures that did not fit the intent of the recommendation.

In an interview, DOA staff acknowledged the information would be of limited value in developing a more complete picture of all real property occupied by state agencies and their staff, whether leased or owned. It also would not be of significant help in developing a broad real property management strategy that focused in part, on whether it is more efficient for agencies to occupy leased or owned space. Staff said resource limitations prevented the development of a more specific database of state-owned and occupied real property that would be more useful in addressing the recommendation.

Even rudimentary sorting and filtering of the information in the spreadsheet would have been more valuable than what was provided. However, the information was given to Legislative Fiscal Division and OBPP in PDF format, meaning the recipients were unable to manipulate the information to make it more useful.