



COLORADO
State Land Board
Department of Natural Resources

August 2, 2018

Dianne E. Ray, CPA
State Auditor
Colorado Office of the State Auditor
1525 Sherman St., 7th Floor
Denver, CO 80203

Dear Auditor Ray:

In response to your request, we have prepared the attached report on the implementation status of audit recommendations contained in the State Land Board Performance Audit (1681P). The report provides a brief explanation of the actions taken by the Colorado State Board of Land Commissioners to implement each recommendation.

If you have any questions about this status report and the Colorado State Board of Land Commissioners' efforts to implement the audit recommendations, please contact Alicia Hawthorne at 303-866-3454 x3339 or alicia.hawthorne@state.co.us.

Sincerely,

Bill Ryan
Director



AUDIT RECOMMENDATION STATUS REPORT

AUDIT NAME	State Land Board Performance Audit
AUDIT NUMBER	1681P
AGENCY	Department of Natural Resources
DATE OF STATUS REPORT	August 2, 2018

SECTION I: SUMMARY

REC. NUMBER	AGENCY'S RESPONSE	ORIGINAL IMPLEMENTATION DATE	CURRENT IMPLEMENTATION STATUS	CURRENT IMPLEMENTATION DATE
1A	Agree	March 2018	Implemented	2/2018
1B	Agree	March 2018	Implemented	2/2018
1C	Agree	March 2018	No Longer Applicable	N/A
1D	Agree	March 2018	Implemented	2/2018
1E	Agree	March 2018	Implemented	2/2018
2A	Agree	November 2017	Implemented	6/2018
2B	Agree	June 2018	Implemented	6/2018
2C	Agree	June 2018	Implemented	7/2018
3A	Agree	December 2017	Implemented	12/2017
3B	Agree	September 2018	Implemented	3/2018
4A	Agree	January 2018	Implemented	3/2018
4B	Agree	January 2018	Implemented	3/2018
5A	Agree	June 2018	Implemented	4/2018
5B	Agree	June 2018	Implemented	7/2018
5C	Agree	June 2018	Implemented	8/2018
6A	Agree	June 2018	Implemented	4/2018
6B	Agree	June 2018	Implemented	4/2018
6C	Agree	June 2018	Implemented	4/2018
6D	Agree	June 2018	Implemented	4/2018

SECTION II: NARRATIVE DETAIL

RECOMMENDATION 1A			
The State Land Board should improve its internal controls over the valuation of land transactions by establishing a written policy requiring that any estimate of land value used to determine the need for an appraisal take into account the value of the intended use of the land.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	February 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
The State Land Board Commissioners repealed the stand-alone Real Estate Appraisal Policy (#600-01) and adopted a new Acquisitions & Dispositions Policy in February 2018 that incorporates appropriate appraisal guidance and provisions in response to the audit findings. The new policy requires the estimated value to take into account the value of the intended use of the land. Specifically, provision IIA 1e(1) addresses the OSA recommendation.			
RECOMMENDATION 1B			
The State Land Board should improve its internal controls over the valuation of land transactions by enforcing the requirement to obtain appraisals as specified in policy, or modifying the policy as appropriate.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	February 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
The State Land Board Commissioners adopted a new policy as stated in 1A and the Real Estate Section Manager is responsible for oversight of the internal controls which are related to obtaining appraisals.			
RECOMMENDATION 1C			
The State Land Board should improve its internal controls over the valuation of land transactions by enforcing the requirement to obtain review appraisals for transactions involving land valued at \$5 million or more.			
CURRENT IMPLEMENTATION STATUS	No Longer Applicable	CURRENT IMPLEMENTATION DATE	N/A
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
The Board determined Review Appraisals do not add value in light of appraisers being licensed through the DORA/division of Real Estate. The Board further determined the requirement of hiring an appraiser to review the work of the first appraiser to be an excessive expense with no additional value. The Board adopted a new policy as stated in 1A that removes the requirement to obtain Review Appraisals for transactions involving land valued at \$5 million or more.			
RECOMMENDATION 1D			

The State Land Board should improve its internal controls over the valuation of land transactions by providing direction through written policy or procedures, about how staff should conduct a “public” solicitation for appraisers, and ensuring that the direction is consistent with a common understanding of public solicitation, or modifying the requirements for public solicitation from at least three appraisers if the board determines that the policy is not cost effective.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	February 2018
-------------------------------	-------------	-----------------------------	---------------

The Current Implementation Status and Current Implementation Date should match the information in SECTION I.

AGENCY UPDATE

When developing the new Real Estate Acquisition & Disposition Policy (#400-003), the Board reevaluated the provision on “public” solicitation for appraisers and determined the agency also follows State Procurement practices when selecting appraisers. Following the State’s Procurement practices ensures appropriate selection methods are used. Therefore, the Board eliminated “public” solicitation of appraisers from policy.

RECOMMENDATION 1E

The State Land Board should improve its internal controls over the valuation of land transactions by providing direction through written policy or procedures, requiring staff to document their solicitation of appraisers, review of appraisers’ past work, and verification of appraisals.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	February 2018
-------------------------------	-------------	-----------------------------	---------------

The Current Implementation Status and Current Implementation Date should match the information in SECTION I.

AGENCY UPDATE

The State Land Board Commissioners adopted a new policy as stated in 1A and the Real Estate Section Manager is responsible for oversight of the internal controls, which include requiring staff to document the appraisal process

RECOMMENDATION 2A

The State Land Board should ensure that it complies with the requirement to determine the fiscal impact of a lease, sale, or exchange for development by seeking legal or statutory clarification of the intent of the requirement for conducting fiscal impact studies.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	June 2018
-------------------------------	-------------	-----------------------------	-----------

The Current Implementation Status and Current Implementation Date should match the information in SECTION I.

AGENCY UPDATE

The State Land Board requested and received legal advice from the Department of Law regarding the intent of the requirement for making a determination of fiscal impact at the June 2018 Board of Commissioners’ meeting. Counsel provided an informal opinion that based on the available drafting history of Amendment 16, the 1996 Blue Book, and the legislative hearings on the Amendment 16 implementation statute, the fiscal impact requirement focuses on impact to school funding and does not need to consider the loss of open space and natural habitat.

RECOMMENDATION 2B			
The State Land Board should ensure that it complies with the requirement to determine the fiscal impact of a lease, sale, or exchange for development by implementing policies and procedures to conduct fiscal impact studies when required and document how the need for the study was determined and the results.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	June 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
The State Land Board Commissioners adopted modifications to the Fiscal Impact Policy that: provide more detail for clarity; expand the criteria to provide better guidelines and standards related to fiscal impact determinations; and further explain and set expectations associated with management practices of the policy. Management practices for Fiscal Impact instances include determining the buyer's intended use and likely property tax revenue to local government and/or school districts. Procedural measures have been developed to ensure fiscal impact determinations are captured for the record (addressing fiscal impact in respective Board agenda item cover sheets, Board Orders, and noted in the Board Summary minutes).			

RECOMMENDATION 2C			
The State Land Board should ensure that it complies with the requirement to determine the fiscal impact of a lease, sale, or exchange for development by reviewing the effectiveness of the existing fiscal impact study model and modifying or replacing it to serve as an effective means to conduct fiscal impact studies as needed.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
Staff has modified/replaced the way in which fiscal impact determinations are made. Inquiries are made to the buyer on the intended use. If a change of use is indicated, the Board will consider the net benefit of the transaction including: increased tax revenues to local jurisdiction less the impact on local school district; a higher rate of return to the trust with the proceeds reinvested. Board governance template documents (Cover Sheets and Board Orders) have been updated to ensure a fiscal impact determination is made for all transactions required by CO Constitution and Statute.			

RECOMMENDATION 3A			
The State Land Board should improve its management of leases by developing and following an implementation timeline for creating management plans for all properties within the Stewardship Trust to ensure that all agricultural leases on Stewardship Trust property include the management plans as an addendum to the lease.			

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	December 2017
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
<p>The implementation timeline completed in Dec. 2017 included a determination of additional staff resources required to address this finding (~1900 hrs). As of 7/24/18, 79 of the 104 Stewardship Trust management plans have been completed and signed. Draft management plans have been prepared for 21 of the remaining 25 properties and are currently being reviewed by line of business managers. 41 of the 104 lease addenda to agricultural leases on Stewardship Trust lands have been sent to lessees: 29 of the lease riders have been signed and returned. Anticipated completion date for executed riders: 10/2018</p>			

RECOMMENDATION 3B			
<p>The State Land Board should improve its management of leases by implementing controls to track lease signatures to better ensure that leases are signed by lessees prior to the start of the lease term.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	March 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
<p>Staff has updated the “Out for signature” process to use ATLAS (the agency’s asset management and billing system) to accurately track the status of the physical lease. Staff that is involved with the process step of acquiring signed leases have been trained on the process change and have been provided a procedures reference sheet to ensure the leases are fully executed prior to the start of the lease.</p>			

RECOMMENDATION 4A			
<p>The State Land Board should improve its controls over public posting of available leases by using a system-generated report in ATLAS to compile a list of expiring leases.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	March 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
<p>Staff has updated the “Expiring Lease” process to use ATLAS (the agency’s asset management and billing system) to automate the quarterly reporting process. Data fields have been aligned with system workflows and standardized communications protocols among respective team members have been implemented to ensure proper noticing of Expiring Leases. Staff has been trained on the updated process. Staff continues to ensure public noticing by posting the quarterly expiring lease reports on the agency’s website.</p>			

RECOMMENDATION 4B			
The State Land Board should improve its controls over public posting of available leases by continuing the review procedure by which district staff review the expiring lease lists before publication to help ensure that the lists are complete.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	March 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
This process improvement recommendation has been addressed and is incorporated into the updated “Expiring Lease” process as described in 4A. Staff has been trained on the updated process. Staff continues to ensure public noticing by posting the quarterly expiring lease reports on the agency’s website.			

RECOMMENDATION 5A			
The State Land Board should improve its controls over disclosing and resolving employee conflicts and potential conflicts of interest by developing written policies or guidance that (1) clearly instruct employees on what types of situations should be disclosed, including definitions of terminology as needed; (2) clarify who is responsible for reviewing employee disclosures (both written and verbal) and what the reviews entail; (3) clarify the circumstances that may need mitigation and require written mitigation plans that align with the State Controller’s conflict of interest guidance; and (4) implement the use of a single form for employees seeking approval for outside employment that includes documentation of approval.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	April 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
A Conflict of Interest Policy has been established and the conflicts disclosure form updated to provide staff and Commissioners better guidance in disclosing and responding to perceived and actual conflicts of interest. The policy and disclosure form work together to provide broad parameters of potential conflict more open to interpretation rather than specify distinct conflicts which runs the risk of creating loopholes. Policy was written to respond to conflicts on a per-occurrence basis. Separately, the procedure for outside employment has been updated to use a single form.			

RECOMMENDATION 5B			
The State Land Board should improve its controls over disclosing and resolving employee conflicts and potential conflicts of interest by revising the conflict disclosure form to (1) align with the policies			

or guidance developed in response to Part A of the recommendation, (2) accurately reference all key conflicts and ethics requirements applicable to State Land Board employees, (3) make clear that employees are affirming that they understand and adhere to applicable requirements, and (4) document supervisory review and any mitigation of disclosed conflicts.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2018
-------------------------------	-------------	-----------------------------	-----------

The Current Implementation Status and Current Implementation Date should match the information in SECTION I.

AGENCY UPDATE

The Board Governance Manual Conflict of Interest section has been revised to remove references to requirements of staff. Procedure now requires State Land Board Commissioners and staff to annually review and affirm by signature they have read the agency’s Conflict of Interest Policy #200-008 with the start of each new fiscal year and/or within 30 days of when a potential conflict of interest arises. This information is collected via the “Conflicts Disclosure Statement” and managed by the State Land Board Assistant Director. Forms receipt is documented and conflicts are brought to the attention of the State Land Board leadership and/or Board. Conflicts raised are documented on the form. The Assistant Director reviews documented conflicts with the employee’s supervisor. Supervisor response, including any mitigation needed, is captured on the form.

RECOMMENDATION 5C

The State Land Board should improve its controls over disclosing and resolving employee conflicts and potential conflicts of interest by revising the board governance manual to clarify the commissioners’ responsibilities for dealing with senior management disclosures, including assessment and mitigation.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	August 2018
-------------------------------	-------------	-----------------------------	-------------

The Current Implementation Status and Current Implementation Date should match the information in SECTION I.

AGENCY UPDATE

With the creation and adoption of a Conflicts of Interest Policy (200-008), the staff and Commissioner disclosures and mitigation have been clearly addressed. The Commissioner Handbook has been updated to clarify that the Commissioners review and determine mitigation when needed for any potential or actual conflicts of interest concerning the Director. The Conflicts of Interest Policy additionally informs Commissioners of their responsibilities of dealing with senior management disclosures. Policy provision III.2.b)(1) applies to senior management and the Commissioners who serve as the supervisor to the Director.

RECOMMENDATION 6A

The State Land Board should improve its controls over commissioners’ conflicts and potential conflicts of interest by clarifying in policy what is required of commissioners, including whether commissioners are required to complete annual conflict of interest disclosure statements and enforcing any requirements.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	April 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
<p>The new Conflicts of Interest Policy requires Commissioners to disclose for the record actual or potential conflicts in-the-moment or preemptively when known ahead of time. The policy includes guidance to Commissioners in the documentation and resolution of such conflicts. Conflict response may include ongoing participation in an item of business or abstention from participation in the same. Disclosure is handled through a single form whether annual disclosure or in-the-moment, and the form guides Commissioners to review a variety of formal definitions and regulatory positions on conflict of interest.</p>			

RECOMMENDATION 6B			
<p>The State Land Board should improve its controls over commissioners' conflicts and potential conflicts of interest by establishing written guidance to help commissioners determine what types of relationships or knowledge of a situation should be disclosed and would be considered actual conflicts.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	April 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
<p>The new Conflicts of Interest Policy requires Commissioners to disclose for the record actual or potential conflicts in-the-moment or preemptively when known ahead of time. The definition of what constitutes a conflict of interest is left intentionally broad by the Board to encourage liberal disclosure and discussion of concerning items. This position creates an environment that supports transparency while encouraging maximum participation in the business before the Board. A conflict of interest is generally defined for the Board and Staff as state business that creates the potential for personal economic benefit. Policy also provides detail on those things that <u>do not</u> constitute a conflict of interest.</p>			

RECOMMENDATION 6C			
<p>The State Land Board should improve its controls over commissioners' conflicts and potential conflicts of interest by establishing written procedures assigning responsibilities for collecting and reviewing commissioners' conflict disclosure statements and outlining how the board will collectively evaluate disclosures and ensure that commissioners do not participate in proceedings related to matters in which they have a conflict.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	April 2018
<i>The Current Implementation Status and Current Implementation Date should match the information in SECTION I.</i>			
AGENCY UPDATE			
<p>The Conflict of Interest Policy documents the collection of annual and in-the-moment disclosures of conflict by the agency's Assistant Director. Additionally, the Policy documents how the</p>			

Commissioners should respond to conflicts or potential conflicts raised in the course of business. Response to conflict includes documentation for the public record and procedures for fellow Commissioners to determine continued participation in the matter at hand by the Commissioner(s) who disclosed the conflict.

RECOMMENDATION 6D

The State Land Board should improve its controls over commissioners’ conflicts and potential conflicts of interest by implementing written procedures to document key information in board minutes to demonstrate the board’s diligence, such as the nature of commissioners’ disclosures and how potential conflicts are resolved.

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	April 2018
-------------------------------	-------------	-----------------------------	------------

The Current Implementation Status and Current Implementation Date should match the information in SECTION I.

AGENCY UPDATE

The Conflict of Interest Policy documents when conflicts raised by Commissioners should be captured for the record. Keepers of the Summary Board Minutes have been trained to ensure sufficient detail is captured during conflict of interest disclosure and resolution/mitigation.