Steve Sisolak
Governor
Chairman

Warren Lowman
Administrator
Division of Internal Audits
Governor's Finance Office

STATE OF NEVADA
EXECUTIVE BRANCH AUDIT COMMITTEE

209 E. Musser Street, Room 302 │ Carson City, NV 89701-4298
Phone: (775) 684-0222 │ http://budget.nv.gov/IAudits/About/EBAC/EBAC/ │ Fax: (775) 687-0145

Members

Kate Marshall
Lieutenant Governor

Barbara K. Cegavske
Secretary of State

Zach Conine
State Treasurer

Catherine Byrne
State Controller

Aaron D. Ford
Attorney General

Trudy Dulong
Public Member

MEETING MINUTES

Date and Time:	Monday, July 6, 2020, 1:00 PM
Location:	*Pursuant to section 1 of Emergency Directive 006, there was no physical location for this meeting. The public was provided with the option to attend the meeting telephonically or view virtually.*

1. Call Meeting To Order / Roll Call / Remarks

Governor Sisolak called the Executive Branch Audit Committee meeting to order at 1:00 PM. Roll call was conducted and a quorum was established.

Members Present:
Governor Steve Sisolak, Chairman
Lieutenant Governor Kate Marshall
Secretary of State Barbara K. Cegavske
State Treasurer Zach Conine
State Controller Catherine Byrne
Attorney General Aaron D. Ford
Member Trudy Dulong

2. Public Comment

There were no requests to speak.

3. Approval of the February 26, 2020 Minutes (For Action)

Governor Sisolak asked for changes or corrections to the minutes; there were none.

Motion: Approve February 26, 2020 EBAC Meeting Minutes
By: Secretary Cegavske
Vote: Passed unanimously

4. Presentation of Audit Six-Month Follow-Up Status Reports Pursuant to NRS 353A.090 (Information Only)

A. Department of Taxation – Marijuana Enforcement Division (DIA 20-01)

Jeff Landerfelt, Executive Branch Audit Manager, reported Tyler Klimas, Executive Director of the Cannabis Compliance Board is on the phone representing the Cannabis Compliance Board. Action on the three audit recommendations was suspended pending transfer of the Marijuana Enforcement Division's regulatory authority to the Cannabis Compliance Board effective July 1, 2020, pursuant to Assembly Bill 533 in the 2019 legislative session. Mr. Landerfelt thanked the Department of Taxation and the Executive Director for their cooperation assistance during this review. Ms. Dulong questioned that since this has been transferred and there has been no action in the last six months, would they continue to follow-up on it? Warren Lowman, Administrator, responded the audit would be on DIA's annual follow-up schedule a year from now so the agency has time to continue to build their operations, develop their policies and procedures, and then be able to address recommendations.

B. Department of Administration, State Public Works Division, Buildings and Grounds – Commercial Office Leasing (DIA 20-02)

Jeff Landerfelt, Executive Branch Audit Manager, reported the State Public Works Division has partially implemented the two recommendations contained in the audit report. To ensure that negotiated rates for commercially leased office space reflect the strength of the State's negotiating position, Leasing Services revised space request forms and now requires 12 months' advanced submission before the expiration rather than the previous timeframe of three months. Leasing Services revised the standard lease template to include a provision reserving the right to renegotiate throughout the lease term. The cost of tenant-requested improvements is now included as a standard feature on the statewide lease information form to help decision-makers in the review and approval process of the impact on the negotiated lease rates. Full implementation of the recommendation is expected July 2021.

To address DIA's recommendation to develop a method to ensure all available state office space options are considered, Leasing Services is researching real estate management software programs and coordinating with EITS to develop a cross-agency data compilation solution to identify all available state-owned office space. SPWD will draft supporting regulations after IT solutions are identified. SPWD reports it will request funding for IT solutions in the FY22 budget build. Full implementation of the recommendation is expected July 2021.

Treasurer Conine questioned reasoning for not working with the Nevada Real Estate Division or other licensing agency to avoid additional staffing costs for something used a few times a month.

Jeff Landerfelt responded that he had spoken with the Real Estate Division, and at that time there was no one at that agency with access to MLS listings. The State Public Works Division informed him that they are attempting to upgrade the position from a Management

Analyst 2 to a Management Analyst 4 and also are reviewing potential workaround solutions to get access to listings through some other service that may be less costly.

C. Department of Administration, State Public Works Division, Buildings and Grounds – Project Management (DIA 20-03)

Warren Lowman, Administrator, reported SPWD/B&G had fully implemented two of the three recommendations and were in the process of defining construction contracts for inclusion in the State Administrative Manual. They are in final review before submitting for the Department of Administration Director's approval. Upon approval, the SAM update will be forwarded for BOE approval.

D. Department of Corrections – Mental Health Services (DIA 20-04)

Warren Lowman, Administrator, reported the six-month follow-up report shows NDOC is moving along and progressing on the recommendations to establish performance measures and also to coordinate relationships with other state agencies. Specifically, NDOC is looking at data in their NOTIS system and developing a continuous quality improvement program to achieve performance measures. NDOC is working with DHHS to coordinate requirements more closely for health services for offenders in the south.

Secretary of State Cegavske questioned whether videoconferencing or teleservice was being provided. Dr. Green, Mental Health Director, reported hiring a full-time person in the south to now provide ample psychiatric coverage without having teleconference-medicine directing it. This coverage has been in-person, but videoconferencing or teleservice is available if requested.

5. Presentation of Audit Reports Pursuant to NRS 353A.085 (Information Only)

A. Department of Administration, Administrative Services Division – Bond Management and Accounting (DIA 20-08)

Heather Domenici, Executive Branch Auditor, reported the audit focused on ASDs bond management and accounting practices with the objective of developing recommendations to improve operations. Imprecise bond spending forecasts cost the state an average $6.8 million annually in the last biennium. Lack of detailed analysis of CIP project closings resulted in opportunity costs to the state of $2 million in the current biennium in unspent federal funds. ASD's nonconforming accounting practices increased the risks of fraud and management override of controls.

The audit contained three recommendations for ASD to improve bond management and accounting. ASD should: 1) assist State Public Works Division improve the precision of bond spending forecast; 2) enhance fiscal management and advisory services provided to SPWD; and 3) ensure accounting practices conform with accounting standards and requirements.

An average $6.8 million in lost interest earnings and bond holder payments was incurred due to prematurely issued bonds based on imprecise and overstated SPWD bond spending forecasts. Over-forecasted and unspent bond proceeds were approximately $69.3 million in fiscal years 2018 and 2019. The audit recommended ASD assist SPWD improve the precision of bond spending forecasts by evaluating underlying CIP spending assumptions, calculations, and forecast methodology. More precise bond spending forecasts will assist SPWD effectively manage the CIP, minimize costs to the state, and secure the public trust.

Review of ASD project and accounting records revealed an opportunity cost to the state of $2 million in the current biennium. Public Works did not fully spend federal project funds or pursue project reauthorization for an expiring CIP project. ASD did not perform a detailed analysis for all expiring CIP projects and funds that could have assisted SPWD ensure project funds were reauthorized or reallocated. The audit recommended ASD enhance fiscal management and advisory services provided to SPWD to help improve agency functions and carry out its responsibilities more effectively.

Nonconforming accounting practices increased the risk of fraud and management override of controls, increased the risk of financial state-misstatements, and lead to inaccurate program and financial accounting records. Review of ASD project and accounting records revealed pervasive, nonconforming accounting practices that depart from accounting standards and federal and state requirements. Most concerning were multiple instances of management override of controls that led to unnecessary bonding costs incurred to the state, misstated vendor payment records, and CIP project spending in violation of statute. The audit recommended ASD ensure accounting practices conform to accounting standards and federal and state requirements to reduce risks to the state. In summary, improving the precision of bond spending forecasts will benefit Nevada up to $6.8 million annually while enhanced fiscal management and advisory services could have saved the state $2 million in the current biennium.

Governor Sisolak stated sending back millions to the federal government is unacceptable and he does not understand issuing more bonds than needed and paying interest on the money.

Laura Freed, Director of the Department of Administration, stated it was simple neglect, staff turnover, and lack of training successors. Since she took over at the department and Mr. Tuma took over at ASD there is a renewed focus on correcting these things. They now have staffing for CIP accounting and ASD staff has reached out to Treasurer's Office along with SPWD to better understand their bond processes and the evaluation of the spending of each tranche of bond funding that is issued by the Board of Finance.

Governor Sisolak stated if the estimates are coming over too high for the amount of bonds needed to sell, they need to know that because he does not want to see excess bonding that is not needed. It is not under the Treasurer's jurisdiction.

Treasurer Conine stated his office is responsible for bond issuance but not estimates. During the last bond issuance there was a request from SPWD for $88 million that was questioned and cut down to $58 million. He noted his office has been tracking over-bonding for some time. The spread between what the state pays for the bonds and what the state is able to invest at continues to widen. If the estimates are higher than the spend consistently there is a problem with the estimates. Administrator Tuma reported hearing the message loud and clear and working with their CIP team to add additional staff to track the numbers to ensure getting as close as possible to the projected spend.

Treasurer Conine commented that at the Board of Finance meeting they track projected versus actual spend and will continue to do that, as well as highlighting they will report a little more aggressively in the future and continue to push back.

Ms. Dulong questioned if accounting practices conformed to standards.

Governor Sisolak stated there is no evidence or misuse of funds, simply that more money was borrowed than needed, hence having to pay interest on it, as well as some money supposed to be spent was not, therefore it was sent back.

Director Freed stated over the last couple years ASD has had a lot of staff turnover, so a lot of staff were at a level trying to pick up from predecessors who may not have kept good records. They are currently trying to rebuild policies and procedures and the training processes so knowledge gaps do not occur again.

Administrator Tuma acknowledged current full staffing on the CIP team. The longest-term member has only been there eight or nine months and the key is making sure trainings are in place and cross-training occurs.

B. Office of the Governor – Department of Public Safety/Division of Parole and Probation, Probation Cost Sharing (DIA 20-09)

Jeff Landerfelt, Executive Branch Audit Manager, reported that this audit is a continuation from the first audit of the Department of Public Safety (DPS)/Division of Parole and Probation (NPP) that was presented at the February 26, 2020 EBAC meeting. It is addressed to the Office of the Governor because after discussion with the division, DIA agreed the audit recommendation was an overarching policy decision that would impact not just executive branch agencies but would also require support at the county level and potentially the judicial branch as well. For that reason, this audit report is provided for the Governor's consideration and further guidance with the understanding that ultimate success in the legislature would likely depend on coordinated cross-jurisdictional support. The audit objective was to improve services for offenders under the supervision of NPP. The audit made one recommendation to develop a cost-sharing formula with counties for supervision of probationers. The state bears the full fiscal burden of probationers' supervision costs, removing any incentive for counties to share responsibility for the success of offenders from their jurisdictions. Developing a cost-sharing formula could reduce the state's general fund appropriation to NPP by $515,000 to $6.4 million annually, potentially reduce the probation or revocation rate and associated costs to counties, and equitably share supervision of probationers with counties. The probationer population has, on average, increased 2.4% per calendar year. The supervision budget has increased, on average, $2.6 million annually or 8.7%. Since the 2011 legislative session, counties have been statutorily required to reimburse NPP for most presentence investigation costs but do not share probationers' supervision costs. The legislature's intent, as expressed in the cost-share requirement for PSI costs, could also be applied to probationer supervision costs. Individualized community supervision is a best practice that can be enhanced through local participation. Conditions of probationers are ordered by District Court Judges that generally conform to county borders. Shared responsibility ensures local communities are vested in the success of probationers. Other states, Arizona, Nebraska, and Colorado, share costs with counties. Community supervision programs and services could benefit from a cost-sharing formula. Unsuccessful community supervision efforts have a fiscal impact on counties which incur incarceration costs for probationers awaiting revocation hearings. Modest reductions in probation revocations derived from engaged interests at the county level would result in savings to the counties.

Governor Sisolak stated his appreciation for pursuing this audit as savings to the state and counties could be substantial.

C. Department of Administration, State Public Works Division, Building and Grounds – Long-Term Office Space Planning Mechanism (DIA 20-10)

Jeff Landerfelt, Executive Branch Audit Manager, reported this audit complements the leasing services audit presented in February but focuses on SPWD's long-term office space planning mechanism. Sixty-seven percent of executive branch office space is leased and has been at that level for several decades. The level of commercially leased office space is the result of a default position rather than a deliberative process. Developing a long-term office space planning mechanism to optimize the balance between owned and leased office space will ensure the residual benefits of ownership accrue to the state rather than commercial lessors, about 30% of which are out-of-state investors. To that end, five recommendations were made.

First, the audit recommends SPWD propose legislation to implement and maintain a long-term, statewide office space needs assessment which will establish the necessary authority to coordinate a process that compiles, analyzes, summarizes, and prioritizes information about long-term office space needs. Other states adopted statutory provisions to regularly monitor and report long-term facility needs either through the budget process or independently through an established Board of Commission. Statutory provisions in surveyed states were intended to address information gaps like Nevada's that were needed to improve cost control and efficiency over management of state building facilities, allow state leadership to understand investment decision within a relevant context, and identify the most cost-effective alternatives.

Second, the audit recommends the proposed legislation require agencies to biennially submit updated long-term facility needs. A long-term facility needs plan is not possible without an ongoing commitment from agencies to push base information into a process that compiles, analyzes, and reports results to decision makers. Surveyed states require agencies to provide regular updates as the basis for preparing long-term statewide facility needs plans that ensure continuity despite agency turnover.

Third, the audit recommends identifying economical consolidation opportunities to improve efficiencies and reduce reliance on leases for office space needs. Long-term needs of agencies must be considered together in order to identify compatible missions with geographic suitability as was done in the 2015 Capital Complex and Bradley Government Campus Development Study that identified long-term savings in excess of $100 million at 30 years with an estimated residual buildings value of $54 million.

Fourth, the audit recommends developing a lease versus own model to estimate the cost of long-term options. Developing a lease versus own model to estimate the cost of long-term options will identify potential savings to the state to pursue when prioritizing capital projects. Surveyed states have lease versus own models readily available as a tool to perform preliminary cost analysis of long-term lease purchase options. These models identify investment opportunities and inform leasing terms.

Fifth, the audit recommends incorporating analysis of long-term, statewide office space needs into the Capital Improvement Plan reporting structure to provide executive branch officers and legislators needed context and supporting analysis as they contemplate CIP projects and consider lease versus own decisions with a long-term view. Other state's long-term statewide facility needs plans include reporting mechanisms with summary and supporting analysis through the capital project approval process.

Treasurer Conine stated his appreciation to the audit committee for bringing this forward as they went through an office move earlier this year and to say that the process was less than scientific would be an understatement. He stated he feels there is ample money out there and there are a lot of tools not being used.

D. Department of Administration, Purchasing Division – MSAs/Direct Client Services (DIA 20-11)

Craig Stevenson, Executive Branch Auditor, reported the direct client services procurement process is inefficient and lacks independent oversight because soliciting and vetting providers is performed solely by the Purchasing Division. Additionally, the BOE contract approval process is inefficient and untimely due to limitations on the Clerk of the BOE's contract approval threshold. The audit focused on two objectives, increasing the efficiency of the direct client services procurement process and enhancing the effectiveness of the Clerk of the BOE's contract approval process. For the first objective, the audit made two recommendations: delegate authority for procuring direct client services; and establish a compliance review program for agencies that have delegated authority. Increasing the efficiency of the procurement process will ensure compliance with purchasing statutes and regulations and result in staff time savings of approximately $63,000 annually.

Delegating authority for procuring direct client services to DHHS and DETR, the two agencies that used direct client service providers in 2019, will eliminate Purchasing staff time required to solicit providers and process the associated contracts. Prior to 2018, Purchasing did not solicit direct client service providers and the Budget Division did not review the contracts for BOE approval. A change in the direct client services procurement process resulted in increased costs to the Purchasing and Budget divisions. The change in process required Purchasing to solicit and qualify providers at a cost of approximately $71,000 in fiscal year 2019. The Purchasing Administrator may delegate procurement authority to agencies if it is in the best interest of the state. Delegating authority is consistent with the provisions of NRS 333 and does not conflict with the rules of competitive bidding. Nine states surveyed allow their chief procurement officer to delegate authority to state agencies.

The audit also recommends Purchasing establish a compliance review program for agencies delegated procurement authority for direct client services. Establishing a review program will ensure compliance with provider vetting requirements, statutes, and regulations. Purchasing currently solicits then vets providers for medical or professional licensure, state business licensure, and insurance requirements. Delegating authority to DHHS and DETR will permit these agencies to solicit and vet providers and will allow Purchasing to provide oversight of the procurement process. Purchasing can provide this necessary oversight by establishing a compliance review program. States surveyed that delegate procurement authority have compliance review programs to ensure agencies follow statutes, regulations, and guidelines set by their chief procurement official. Arizona has a performance review program that may be an optimal option for Nevada because Arizona and Nevada have similar procurement processes, organizational structures, and internal control requirements.

Arizona's performance review program focuses on agency vetting and compliance, with procurement statutes and regulations, the same attributes the audit recommends transferring back to agencies. Purchasing can use Arizona's model to establish a compliance review program for Nevada agencies. This will ensure independent oversight of agencies that are delegated direct client service procurement authority.

For the second objective, the audit recommends Purchasing enhance the effectiveness of the Clerk of the BOE's contract approval process by seeking a BDR to allow the Clerk to approve contracts for services valued up to $100,000. Increasing the Clerk of the BOE's contract approval threshold will enhance the efficiency of BOE meetings by reducing the number of contracts that must be reviewed by BOE members by an estimated 20%. The Clerk of the BOE approves contracts for services valued at less than $50,000 pursuant to NRS 333. Contracts valued at $50,000 or more require formal approval at a BOE meeting, requiring agencies to wait several weeks for contract approval. The Clerk of the BOE's approval threshold is out of line with contracting practices in Nevada's urban counties where the contract approval limit is $100,000. Purchasing can enhance the effectiveness of the BOE's contract approval process by seeking a BDR to allow the Clerk of the BOE to approve contracts for services up to $100,000. Increased approval authority will increase BOE efficiency and allow a timelier state contracting process.

Governor Sisolak expressed his support for increasing the Clerk of the BOE's contract approval authority to $100,000 as it is long overdue and will give agencies more flexibility and timeliness in state contracting.

E. Governor's Finance Office – Statewide Cell Phone/Mobile Device Use

Ashwini Prasad, Executive Branch Auditor, reported the Department of Administration requested DIA examine the taxability of phone cell stipends. IRS and Office of the Attorney General guidance indicate cell phone stipends are nontaxable and nonreportable. The State Administrative Manual states a stipend is taxable income and reportable on the employee's W2 wage and tax statement. The audit recommends revising SAM to reflect federal guidelines on cell phone stipends.

DIA broadened the scope of the initial request to include review of state cell phone use and policy. A lack of a standard statewide policy on state-issued cell phones and other mobile devices has led to inconsistent treatment among agencies and higher cell phone costs to the state. Additionally, because SAM does not correctly reflect federal guidelines on the taxability of cell phone stipends, it has limited agency's ability to offer lower-cost stipends to employees using their personal phones for state business. Consequently, agencies provide state-issued cell phones at a higher cost to the state rather than offer lower-cost stipends to employees.

While offering employees a stipend for personal use of their cell phone may be the best option for the state based on cost, personal cell phones used for state business may be subject to public records requests. The audit made two recommendations.

First, develop a statewide cell phone mobile device use policy to eliminate variability in mobile device policies among agencies and provide criteria for eligibility requirements for the state-issued mobile devices or stipends for employee-owned mobile devices. DIA reviewed 11 agencies' policies and only four of the 11 agencies had comprehensive mobile device use policies. The remainder had limited information within their policies.

Second, determine the best mobile device use option and assess if usage supports mobile device expenditures to help reduce state cell phone costs. This assessment could potentially benefit the state between $25,000 - $43,000 annually. Every state agency would benefit by reconciling usage data provided by the cell phone providers on at least a quarterly basis to determine if the employee's usage meets established criteria and supports the expenditures for state-issued cell phones or stipend payments.

In addition to not having a consistent mobile device policy among agencies, cell phone service costs also vary for state-issued phones depending on service plans. Agencies paid a range of rates per line for various service combinations at an average of $59 per month. The state's current stipends based on DIA's sample are between $30 - $39. Most agencies do not offer stipends to their employees but rather provide state-issued cell phones that result in higher costs to the state. Moreover, personal cell phones used for state business may be subject to public records requests.

Governor Sisolak concurred with the importance and timeliness of SAM being revised to mirror IRS regulations, stating it is incumbent upon the state or Legislature to come up with a standard policy for cell phones as it is not an issue unique to the state and that everybody is grappling with handling of cell phones and stipends and reimbursement. The Governor noted a standard policy would be extremely helpful.

Ms. Dulong questioned if the state bids for cell phone service statewide rather than each agency on their own. Ms. Prasad responded that the audit found agencies using the master service agreements and providers that are with the state.

Governor Sisolak stated that certain carriers are effective in certain areas and not as effective in other areas and people do not like them because of too many dropped calls or not enough bars.

Controller Byrne commented that in addition to cell phones, a lot of employees are using personal laptops and computers at home, and that the majority in her office are telecommuting.

6. Revision of the Annual Audit Plan Pursuant to NRS 353A.038 (For Action)

Warren Lowman, Administrator, reported submission of a request to update the audit plan relating to the Department of Corrections' fiscal processes. Mr. Lowman then requested approval of the Executive Branch Audit Committee to proceed with the requested audit of NDOC with the goal to report back to the Committee in January 2021.

Governor Sisolak noted that under NRS 353A it is the responsibility of the Division of Internal Audits in consultation with the GFO Director to prepare a plan for auditing executive branch agencies each year. He also noted the statutory requirement to present the plan to the EBAC for review and approval, including ensuring internal accounting administrative controls and financial management of the agencies.

The Governor stated the following reasons for the audit: The Nevada Department of Corrections is an agency whose effective and successful operation is critical for the safety of the public, its staff, and the inmates within its control. It is a unique agency responsible for housing, meals, healthcare, and safety of inmates along with internal programs designed to support and prepare inmates for return to society. The agency also has critical, important staff, including correctional officers that must be present around the clock.

Many aspects of the operation of NDOC have been audited over the years. In audits specific to fiscal financial operations, it is important to ensure that an up to date fiscal operation is supporting its critical operations. During these difficult times facing both a health crisis and a fiscal crisis, it is more important than ever that we ensure agencies are managing their budgets in a responsible and efficient manner. Governor Sisolak requested a motion to approve the Annual Audit Plan Pursuant to NRS 353A.038.

A motion was made for approval. Ms. Dulong requested the audit for State Public Works Division – Fiscal Processes be moved up. After discussion, the motion was restated to approve the NDOC audit along with moving up the SPWD audit.

Motion: Adopt the Annual Audit Plan Pursuant to NRS 353A.038
By: Treasurer Conine
Vote: Passed unanimously

7. Committee Members' Comments

There were no additional Committee Member comments.

8. Public Comment

There were no additional Public comments

9. Adjournment

Governor Sisolak thanked everyone and said he would accept a motion to adjourn.

Motion: Adjourn the July 6, 2020 EBAC Meeting
By: Controller Byrne
Vote: Passed unanimously