New Jersey State Legislature
Office of Legislative Services
Office of the State Auditor

Department of the Treasury
Division of Property Management and Construction

July 1, 2003 to August 31, 2005

Richard L. Fair
State Auditor
The Honorable Richard J. Codey
Acting Governor of New Jersey

The Honorable Richard J. Codey
President of the Senate

The Honorable Albio Sires
Speaker of the General Assembly

Mr. Albert Porroni
Executive Director
Office of Legislative Services

Enclosed is our report on the audit of the Department of the Treasury, Division of Property Management and Construction for the period of July 1, 2003 to August 31, 2005. If you would like a personal briefing, please call me at (609) 292-3700.

Richard L. Fair
State Auditor
January 12, 2006
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Department of the Treasury
Division of Property Management and Construction

Scope

We have completed an audit of the Department of the Treasury, Division of Property Management and Construction (DPMC) for the period July 1, 2003 to August 31, 2005. Our audit included the property management, lease procurement and lease escalation portions of the division.

Objectives

The objective of this audit was to verify compliance with selected internal policies and procedures of the DPMC including the management of state-owned properties leased to employees and other individuals, the controls over and reasonableness of lease escalations, and the procurement process to acquire leased space. We also tested for resolution of findings related to our prior report dated July 24, 2000.

This audit was conducted pursuant to the State Auditor's responsibilities as set forth in Article VII, Section 1, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

Methodology

Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the State Comptroller, and policies of the agency. Provisions that we considered significant were documented and compliance with those requirements was verified by interview, observation, and through our samples of agency records. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the program and the internal controls. In addition, we researched other states and the federal government for best practices in lease procurement.
A nonstatistical sampling approach was used. Our samples were designed to provide conclusions about the reasonableness and timeliness of lease escalation payments, reasonableness of the rents charged for state-owned properties, the efficiency of lease procurement procedures, and compliance with selected policies and procedures. Sample populations were sorted and agency records were judgmentally selected for testing.

To ascertain the status of significant findings included in our prior report, we identified corrective action, if any, taken by the agency and walked through the system to determine if the corrective action was effective.

**Conclusions**

We found the division has complied with selected internal policies and procedures including the management of state-owned properties leased to employees and other individuals, the controls over and reasonableness of lease escalations, and the procurement process to acquire leased space. In making this determination we found certain internal control weaknesses and inefficiencies meriting management’s attention. We also found the division has not fully complied with the issues noted in our prior report involving space utilization and month-to-month leases. These issues have been restated in our current report.
Timeliness of Lease Procurement

Acquisition of new leased space for state operations is broken into three phases. In the initial planning phase, the Property Management unit receives a Space Planning Request which is reviewed and forwarded to OMB for budgetary approval. The negotiation phase begins when a scope of work is forwarded to the Contract Administration section whose functions include procurement through an advertised bid process and negotiation with prospective landlords. The final phase involves submission to the State Leasing and Space Utilization Committee for approval. The division estimates that acquiring lease space using these three phases should take from nine to ten months. In the event that there is an immediate space need there is an emergency procedure that permits division personnel to bypass the bid process and contact prospective landlords directly.

Our review of the advertised bid process revealed that the actual amount of time from initial assessment of space needs to final approval exceeded two years. This extended time frame could adversely impact property availability, undermine the competitive bidding process, and affect final negotiated lease rates. In addition, protracted lease negotiations may force the division to seek property as an “emergency” procurement where the bidding process is bypassed. A review of 43 advertised leases revealed that the planning phase averaged over one year. The division’s timeline estimates that this portion of the process should take less than two months, which is comparable with the state of Maryland which was recognized by the federal government’s General Services Administration for best practices in real property management.
**Recommendation**

The division should evaluate the current procurement process giving consideration to those best practice procedures obtained from other governmental entities in an effort to achieve timely acquisitions of lease space.

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**Noncompliance with Prior Audit Issues**

The previous audit report covering the period July 1, 1998 to April 14, 2000 contained three significant issues which we included in this current engagement for compliance testing. While we noted the division made progress towards complying with all the issues, there were elements which were not addressed as noted below.

**Space Utilization**

The prior report cited noncompliance with NJAC 17:11-3.1, which stated that state agencies are required to report the capacity and utilization of all space owned, leased, and subleased. There had been no reporting format available for agencies to use to comply with this requirement. There is still no format for agencies to use to report this information. Therefore DPMC has insufficient information to identify underutilized properties.

**Month-to-Month Leases**

Month-to-month leases generally represent expired term leases. The prior audit identified 155 month-to-month leases of which 82 existed for five years or longer. These types of leases increase the potential for eviction and unanticipated rate increases. Currently the total number of month-to-month leases has dropped to 102. We compared the list of month-to-month leases with the prior audit and noted 67 were still in a month-to-month status for more than five years.
**Recommendation**

We repeat our prior recommendations that DPMC develop a usable format for agencies to report and track space utilization and review the status of month-to-month leases to ensure they are justified to remain in that status.

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January 5, 2006

Thomas R. Meseroll  
Assistant State Auditor  
125 South Warren Street  
Trenton, New Jersey 08625

Re: Audit Report – Division of Property Management and Construction

Dear Mr. Meseroll:

I am in receipt of the above referenced Audit Report dated December 16, 2005. I am delighted that your focus on three substantial disciplines within my organization uncovered only a few items in need of improvement. Please know that the Division will make every effort to comply with this report. For the record, however, I would like to comment on the three main issues contained in the report:

Timeliness of Lease Procurement (specifically the planning phase): The report questions the length of time that it takes the DPMC to secure a lease, suggesting generally that it should be less. The Treasurer’s Office has also raised concerns about the amount of time it takes to execute a lease. We are currently reviewing the process to determine ways to shorten it. The report refers to another State as an example of a shorter lease procurement time. We will certainly explore the processes of other jurisdictions to gain a better understanding. One important factor to evaluate, however, is whether those States have a statutory advertisement and competition requirement for all leases, and whether there is a requirement that all leases proposed by the executive branch be approved by an executive-legislative committee in a scheduled open public meeting. These requirements add months to the process.

The report specifically questions the length of time to plan an initiative. We agree that the planning effort needs to be shortened. It is a fact, however, that the DPMC often deals with moving targets as agencies redefine their space needs as policies shift. Planning in this type of uncertain environment negatively impacts the critical decisions required to accurately plan a leasing action. There has also been a large increase in the volume of lease initiatives over the last few years, particularly in the cases of DYFS and MVC, while DPMC staffing levels have remained constant. Based on this audit, we will reexamine our procedures to find ways to shorten the process and invite specific statutory and regulatory changes that would help us achieve that goal.
Space Utilization: The DPMC acknowledges that all previous attempts to engage the agencies to accurately provide this information have failed. Since the DPMC does not have the manpower to conduct a physical walk through in over 330 owned and leased facilities, we were counting on the departments to provide us this information. In an attempt to address the problem without the help of the occupying agencies, the DPMC has funded a project by the Office of Treasury Technology to accurately track all people by location through the payroll system. By the first quarter of 2006, this system will be in effect. Though not perfect, it will allow for headcount (based on payroll checks delivered) in all of our buildings. This number, cross-referenced against the full occupancy totals that the DPMC has, will give us a fairly good idea of underutilized properties.

Month-to-Month Leases: The DPMC will continue to reduce its portfolio of month-to-month leases. Our ability to do so depends in large measure on policy driven initiatives not within the DPMC’s control and client agencies’ development and implementation of their long range plans. Uncertainty about lay-offs, ERI’s, reorganizations, etc. can make it hard for agencies to plan their space needs relative to personnel, geography and agency functional need. Month-to-month leases provide the flexibility to move out on short notice pending the receipt of a long range plan. Even now, the larger client agencies including DYFS, MVC and Labor continue to reinvent themselves, change their geographic and personnel plans, form partnerships with local government organizations and respond to policy directives. As soon as we receive these agency plans, we work to transact long-term leases through the statutory and regulatory process and, in fact, many of the month-to-month leases identified in the audit report have been the subject of recently approved term leases presented to the State Leasing and Space Utilization Committee, further decreasing the number of month-to-month leases.

Thank you for the opportunity to respond to the audit report. Please accept my comments above as an honest reaction to the items uncovered. I agree with the substance of the report but I do request the inclusion of these comments in the final report. It was a pleasure to work with your organization throughout this process.

Sincerely,

[Signature]

Edmund F. Jenkins
Director

C:  John E. McCormac, State Treasurer
    Caroline Ehrlich, Treasury Chief of Staff
    Robert L. Smartt, Deputy State Treasurer