



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary

April 6, 2020

Senator Robert Cowles, Co-Chair
Representative Samantha Kerkman, Co-Chair
Joint Legislative Audit Committee
22 East Mifflin Street, Suite 500
Madison, WI 53703

Dear Senator Cowles and Representative Kerkman:

The Department of Administration (“DOA”) submits this report to the Joint Legislative Audit Committee to update it on DOA’s actions to date in response to the Legislative Audit Bureau’s (“LAB”) audit of DOA’s oversight of state-owned residential properties (“Audit Report”). Attached for your reference is the Audit Report. The remainder of this response will: 1) enumerate the Audit Report’s recommendations; 2) restate DOA’s proposed plans for addressing them as provided in DOA’s response to the Audit Report; and 3) advise the Committee what steps DOA has taken to date to implement such plans.

1. LAB’s Recommendation: ensure that state agencies provide confirmation that the CPI rent adjustments are implemented

DOA’s Response: DOA is required by statute to fix rental rates for state-owned housing rental units based on fair market appraisals conducted every ten years, and then adjust those rental rates every two years based on changes in the consumer price index (“CPI”). DOA has been sending letters every two years to state agencies advising them of the applicable CPI adjustments. DOA is also required by statute to establish a system of rental policies and periodically review those policies for possible changes. In order to address this specific recommendation, DOA intends to include in its comprehensive review of its existing system of rental policies potential changes directing agencies to verify implementation of CPI-based rent adjustments.

DOA’s actions to date: DOA has formed a State Housing Audit Workgroup (“Workgroup”) consisting of representatives from DOA, the University of Wisconsin-System, and the Department of Natural Resources, which meets regularly to discuss and coordinate implementation of each respective agencies’ plans to address the findings in the Audit Report. This Workgroup has put together a subcommittee of members responsible for reviewing the existing system of rental policies to develop recommendations for proposed changes to implement LAB’s recommendations. The subcommittee will develop a draft revised policy, which DOA will submit to the Joint Committee on Finance for review and approval as required under Wis. Stats. § 16.004(8)(am). DOA intends to include in this revised draft a policy requiring agencies to verify implementation of CPI-based rent adjustments.

2. LAB’s Recommendation: work with agencies to reassess whether to retain state-owned residential properties, including recommending to SBC whether any properties should be sold, razed, or used for other purposes

DOA's Response: DOA is required by statute to include in its system of rental policies a procedure for review of the need to retain state-owned housing units and possible disposition of such units. DOA has existing procedures in place for state agencies to biennially report underutilized real property in accordance with section 13.48(14)(d) of the Wisconsin Statutes, which DOA then uses to evaluate whether such properties should be considered for disposition pursuant to section 16.848 of the Wisconsin Statutes. To the extent that agencies with state-owned residential properties consider such properties to be underutilized, such properties would be included in their biennial reports. In order to address this recommendation, DOA intends to include in its comprehensive review of its existing system of rental policies consideration of whether to include specific reference to the biennial underutilized real property report and/or whether a separate reporting mechanism should apply for state-owned housing units.

DOA's actions to date: In order to get an accurate inventory of state-owned housing rentals DOA sent out a correspondence to all state agencies directing them to provide detailed information about any such assets in their portfolio. DOA is compiling responses from the various agencies and is processing the information to get an accurate sense of which assets are currently in use as rental housing, which assets are not currently in use but will likely be used in the future, which assets are not currently used but could be used for other state purposes in the future, and which assets are good candidates for disposition as underutilized assets under Wis. Stats. § 13.48(14)(d). Once DOA has completed its review it will consult with the agencies who own the assets to discuss future use or disposition of such assets.

Furthermore, as indicated above, the Workgroup is actively reviewing the existing system of rental policies and intends to incorporate into its draft revisions a policy requiring agencies to annually provide updated information on their asset inventory.

3. Improve administration by complying with statutes by periodically reviewing and formally revising applicable policies

DOA's Response: DOA is required by statute to periodically review its system of rental policies for state-owned housing for possible changes. DOA's existing policy has not been revised since 1975. In order to address this recommendation DOA intends to conduct a comprehensive review of its policy and submit proposed changes to the joint committee on finance as required by statute.

DOA's actions to date: As indicated above, the Working Group is actively reviewing the existing policy and will present proposed revisions to the Joint Committee on Finance for review and approval as required under Wis. Stats. § 16.004(8)(am).

4. Improve administration by tracking rental properties and monitoring rental payment amounts state agencies charge employees

DOA's Response: In order to address this recommendation, DOA intends to request from the relevant state agencies an up-to-date inventory of state-owned housing and copies of current lease agreements. DOA further intends to include in its comprehensive review of its existing system of rental policies consideration of changes necessary for agencies to report rent payments to DOA and any changes in their inventory of state-owned housing.

DOA's actions to date: As indicated above, DOA has directed agencies to provide an up-to-date inventory of state-owned housing and copies of current lease agreements. In addition, the Working Group is actively reviewing the existing policy and will present proposed revisions to the Joint Committee on Finance for review and approval as required under Wis. Stats. § 16.004(8)(am). The proposed revisions will

require agencies to provide periodic updates to DOA on rental housing inventory as well as information regarding rent charged to each employee.

5. Improve administration by complying with statutes to conduct appraisals of all state-owned residential properties

DOA's Response: DOA is required by statute to conduct appraisals of state-owned housing units every ten years. DOA acknowledges that no such appraisals have been conducted since 1995. By statute DOA is required to conduct its next set of appraisals in 2022. In order to address this specific recommendation, DOA intends to contract with appraisers to conduct the necessary appraisals in 2022. In DOA's exit interview with LAB, we explained the practical and financial difficulties of conducting such appraisals now, given that we are required by statute to conduct them again in three years.

DOA's actions to date: DOA has revisited the applicable statute requiring it to conduct appraisals every ten years and has determined that it does not need to wait until 2022 to appraise the properties. The applicable statute requires DOA to obtain appraisals "[n]o later than July 1 of the 2nd year following each federal decennial census." The federal decennial census will be taken April 1 of this year. As such, the applicable statute authorizes DOA to conduct appraisals at any time between April 1, 2020 and July 2, 2022. Once DOA verifies the state-housing inventory it intends to contract with appraisers as soon as practicable to conduct the required appraisals.

6. Ensure the system of rental policies sets forth clearly defined responsibilities of DOA and state agencies

DOA's Response: As discussed above, DOA intends to conduct a comprehensive review of its policy and submit proposed changes to the joint committee on finance as required by statute. As part of that review, DOA intends to consider changes to more clearly define the responsibilities of DOA and state agencies.

DOA's actions to date: As discussed above, the Workgroup is comprised of representatives from DOA as well as UW-System and DNR, which are the two agencies with by far the largest inventories of state-owned housing assets. The Workgroup is actively reviewing the existing system of rental policies to develop proposed revisions for submittal to the Joint Committee on Finance for approval. The proposed revisions will include changes to more clearly define the responsibilities of DOA and state agencies.

7. Increase responsibility for monitoring lease agreements with state employees

DOA's Response: As discussed above, DOA intends to conduct a comprehensive review of its policy and submit proposed changes to the joint committee on finance as required by statute. As part of that review, DOA intends to consider changes to address this specific recommendation.

DOA's actions to date: As discussed above, DOA has directed state agencies to provide detailed information about their state-owned housing inventory, including existing lease agreements. DOA is working with UW-System and DNR to develop a standard lease template to be used by all state agencies for state-owned housing leases. The draft lease will be incorporated by reference into the proposed revised system of rental policies and submitted to the Joint Committee on Finance for review and approval.

8. Identify potential statutory changes as necessary regarding the frequency of appraisals

DOA's Response: DOA is required by statute to conduct appraisals of state-owned housing units every ten years. In order to address this recommendation DOA intends to review whether more frequent appraisals are appropriate. However, based on a preliminary analysis, DOA believes it is unlikely a statutory change is warranted, given the cost and administration required to conduct appraisals of such a large volume of properties. As part of its comprehensive review of the existing system of rental policies DOA will examine whether to recommend any other statutory changes.

DOA's actions to date: DOA has reviewed whether more frequent appraisals are appropriate and has concluded that appraisals conducted every ten years remains appropriate, and that as such, no statutory changes regarding frequency are warranted. Once DOA has fully implemented its plan to address LAB's recommendations it will continue to monitor whether the rental rates charged based on ten-year appraisals and biennial CPI adjustments as set forth by statute accurately reflects the fair market rental value of the properties. If the statutory methodology for determining rent does not track with market trends DOA will consider proposed statutory changes to either increase the frequency of appraisals or establish a different benchmark for biennial adjustments.

9. Consider how to establish base rental payment amounts for new properties and how to adjust amounts for factors that significantly affect the fair value of the property

DOA's Response: DOA is required by statute to fix rental rates for state-owned housing rental units based on fair market appraisals conducted every ten years, and then adjust those rental rates every two years based on changes in CPI. DOA is permitted by statute to reappraise the fair market value of a unit if it has been affected by a major renovation. In order to address the first part of this recommendation, DOA intends to include in its comprehensive review of its existing system of rental policies consideration of how to establish the fair market value of new housing units constructed or acquired in between the ten-year appraisals conducted on all housing units. With respect to the second part of this recommendation, DOA observes that section 16.004(8)(e)3. of the Wisconsin Statutes only permits two types of adjustments to rental rates in between the ten-year appraisals: 1) biennial adjustments based on CPI; and 2) adjustments based on reappraisals when a property has been affected by a major renovation. As part of its comprehensive review of the existing system of rental policies DOA will examine whether to recommend any statutory changes to address this limitation.

DOA's actions to date: As discussed above, the Workgroup is actively reviewing the existing system of rental policies to develop proposed revisions for submittal to the Joint Committee on Finance for approval. The proposed revisions will include a policy for determining the fair market value of new housing units constructed or acquired in between the ten-year appraisals conducted on all housing units. The Workgroup will also discuss whether to recommend any statutory changes to allow DOA the flexibility to re-appraise a property in between the decennial census when, in DOA's opinion, there have been significant changes in conditions affecting the property that are likely to impact its fair market value.

10. Work with state agencies to determine the tax implications, if any, that result from instances in which rental payment amounts charged to employees who opted to reside in state-owned properties were less than fair value

DOA's Response: IRS guidance establishes that employees who are offered employer-owned housing at below fair market value must report the difference in rent vs. fair market value as income, unless the employee is required to live in such housing as a condition of his/her employment. In order to address this specific recommendation, DOA intends to work with the relevant state agencies to determine which employees may currently be affected by such IRS guidance and the amount of rent they are paying to ensure they are properly reporting any income as part of their tax returns. DOA further intends to work

with such agencies in conducting its comprehensive review of its existing system of rental policies to determine: 1) what documentation agencies should provide to establish that an employee is required to live in state-owned housing as a condition of their employment; 2) whether agencies should be permitted to charge employees below market rent to employees who are not required to live in state-owned housing as a condition of their employment; and 3) if so, what the appropriate reporting mechanisms should be to ensure that such employee's W-2s accurately reflect their income.

DOA's actions to date: As discussed above, DOA is actively compiling information from all state agencies regarding their state-owned housing inventory, as well as what state employees currently occupy such housing. DOA's Division of Personnel Management ("DPM") is part of the Workgroup and has been working with their relevant counterparts at UW-System and DNR to develop proposed revisions to the existing system of rental policies, which will be submitted to the Joint Committee on Finance for approval.

11. Develop policies that specifically address how University of Wisconsin System Administration should determine rental payment amounts for employees who opt to reside in state-owned properties

DOA's Response: As stated above, as part of a comprehensive review of existing system of rental policies DOA intends to work with relevant agencies to determine whether employees should be permitted to pay below market rates when living in state-owned housing is not mandatory as a condition of their employment. If DOA and the agencies conclude that below market rents are appropriate, DOA will work with them to make proposed changes to its system of rental policies and submit them to the joint committee on finance for approval.

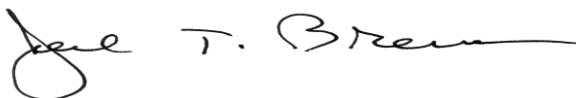
DOA's actions to date: The Workgroup is engaged in active discussions regarding revisions to the existing system of rental policies to address whether, and under what circumstances, certain employees may be charged below market rates, as well as what formulae to use to adjust the rate using fair market value as the baseline. Any proposed changes to the system of policies will be submitted to the Joint Committee on Finance for approval.

12. Report to the Joint Legislative Audit Committee ("JLAC") by April 10, 2020 on the status of efforts to implement LAB's recommendations

DOA's Response: DOA will submit a report to JLAC by April 10, 2020 updating the committee on the implementation actions set forth in this response.

DOA's actions to date: This correspondence constitutes DOA's compliance with this recommendation.

Sincerely,

A handwritten signature in black ink that reads "Joel T. Brennan". The signature is written in a cursive style with a large, looped initial "J".

Joel T. Brennan
Secretary