

A Performance Audit of the

# School and Institutional Trust Lands Administration

Improving Controls, Accountability, and  
Proactive Management

Office of the Legislative  
Auditor General

Report to the UTAH LEGISLATURE





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August 20, 2024

TO: THE UTAH STATE LEGISLATURE

Transmitted herewith is our report:

“A Performance Audit of the School and Institutional Trust Lands Administration:  
Improving Controls, Accountability, and Proactive Management” [Report #2024-13].

An audit summary is found at the front of the report. The scope and objectives of the audit are included in the audit summary. In addition, each chapter has a corresponding chapter summary found at its beginning.

This audit was requested by Representative Steven Lund and Senator David Hinkins.

**Utah Code** 36-12-15.3(2) requires the Office of the Legislative Auditor General to designate an audited entity’s chief executive officer (CEO). Therefore, the designated CEOs for the School and Institutional Trust Lands Administration are Board Chair Warren Peterson and Executive Director Michelle McConkie. They have both been notified that they must comply with the audit response and reporting requirements as outlined in this section of **Utah Code**.

We will be happy to meet with appropriate legislative committees, individual legislators, and other state officials to discuss any item contained in the report in order to facilitate the implementation of the recommendations.

Sincerely,

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Auditor General

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## PERFORMANCE AUDIT

### AUDIT REQUEST

The Legislative Audit Subcommittee requested this audit to review the operational and fiscal management of the School and Institutional Trust Lands Administration (SITLA). This included a review of revenue generating activities and inquiry into the flow of money throughout the Trust Lands System to ensure SITLA is in operational compliance with *Utah Code* and is acting in the beneficiaries' best interests.

### BACKGROUND

The federal government designated Utah specific parcels of land that were to be managed to generate revenue in support of specific beneficiaries, including schools. The Legislature delegated the implementation of its trustee duties to SITLA in 1994. Since then, SITLA reports generating over \$1.6 billion for the beneficiaries through real estate transactions and leasing of its renewable and non-renewable natural resources.

## SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION



### KEY FINDINGS

- ✓ It Appears That SITLA Accepted Property in Salt Lake County without Fully Quantifying Its Risks
- ✓ 1.2 Limited Review of Staff Decisions Contributes to Instances of Inadequate or Unfollowed Policies
- ✓ 2.1 The SITLA Board of Trustees Can Improve Accountability of Its Decision Making
- ✓ 3.1 SITLA Can Take Steps Toward a More Proactive and Comprehensive Land Management Model
- ✓ 3.2 SITLA Should Improve Its Understanding of the Value of the Land It Manages



### RECOMMENDATIONS

- ✓ 1.1 SITLA should create and implement a policy for items to consider before accepting donations similar to the North Temple Landfill development.
- ✓ 1.3 SITLA should improve its current processes, and implement those improvements, to ensure the necessary steps outlined in *Administrative Rules* for transactions are complete.
- ✓ 2.1 SITLA's Board of Trustees should keep subcommittee meeting minutes and adopt a policy to ensure all issues discussed in subcommittee are raised before the full board.
- ✓ 3.1 SITLA should estimate and track values for the land in its portfolio on a reasonable regular basis it establishes to facilitate analysis of its land values over time.
- ✓ 3.2 SITLA should use land value estimates and characterizations to perform an opportunity cost analysis of its parcels and maximize the value of underperforming parcels.

Summary continues on back >>



### REPORT SUMMARY

#### *SITLA Needs a Formal, Documented Approach for How It Handles Risks to Its Operations*

SITLA’s approach to managing risks does not conform to best practices, leaving them incomplete, less effective than they could be, and potentially costing SITLA revenue.

For example, SITLA accepted a parcel in Salt Lake County without fully quantifying the level of liability that SITLA and other stakeholders would have on the parcel.

#### *The SITLA Board of Trustees Can Improve Accountability of Its Decision Making*

Many SITLA Board of Trustees discussions for major transactions take place in private

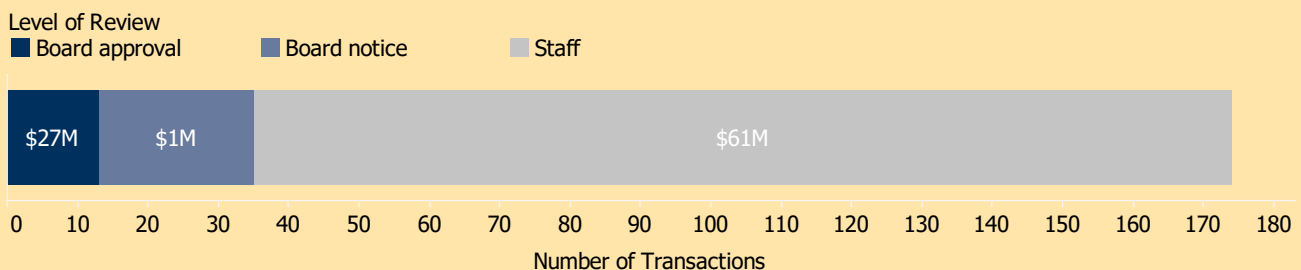
subcommittee meetings prior to official public board meetings. While *Utah Code* and *Administrative Rules* allow this practice, it diminishes outside accountability on the discussions and creates potential risk to trust assets.

#### *SITLA Can Take Steps Toward a More Proactive and Comprehensive Land Management Model*

SITLA often identifies and reviews land tracts for potential revenue generation only after an external party expresses interest. This contrasts with the private real estate model where a considerable effort goes into planning and characterizing real estate holdings to ensure they are maximizing revenue. By adopting certain proactive practices, SITLA can manage trust lands more effectively.

### *The SITLA Board Mainly Reviews Higher Value Transactions, Leaving Many Smaller Transactions with Only a Staff Review, Showing a Need for Stronger Controls*

From 2013 to 2023, about 80 percent of surface group sales, worth \$61 million, did not require board approval or notice. This does not include other surface group transactions that are also not reviewed by the board. Without board review, *Administrative Rules* are an important control on these transactions. Variance among staff members on how they fulfill steps in *Administrative Rules* led to some instances of noncompliance with those rules. Therefore, we recommend that SITLA improve its current processes to ensure that steps outlined in *Administrative Rules* for its transactions are completed before finalizing a transaction.





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# Introduction

## The Trust Land Model Is Created through the Utah Constitution and *Utah Code*

Upon statehood, the federal government granted Utah specific parcels of land throughout the state that were to be managed to generate revenue in support of specific beneficiaries, including schools. The Utah Constitution and *Utah Code* have provided additional meaning and interpretation to the guidance in the Utah Enabling Act<sup>1</sup> regarding these trust lands.

Utah’s Constitution built on the Enabling Act, specifying that the state has fiduciary responsibilities as the trustee to manage trust lands and the revenue generated from selling and leasing them for the support of the trust beneficiaries. The Constitution also established the Permanent School Fund, where the revenue is invested and then disbursed to beneficiaries. *Utah Code* clarified fiduciary duties, specifying a need for undivided loyalty to the trust beneficiaries:

### *Utah Code 53C-1-102(2)*

*“The trust principles...impose fiduciary duties upon the state, including a duty of undivided loyalty to, and a strict requirement to administer the trust corpus for the exclusive benefit of, the trust beneficiaries.*

*As trustee, the state shall manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose inconsistent with the best interests of the trust beneficiaries...*

*The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state.”*

As written, this section of *Utah Code* makes it clear that trust lands are distinct from other state lands and should be managed exclusively for these beneficiaries:

- Public Schools
- Schools for the Deaf and Blind
- Miners Hospital
- Utah State Hospital
- Juvenile Justice Services
- The Reservoirs Trust
- University of Utah
- Utah State University
- Public Buildings
- University of Utah, College of Mines and Earth Sciences
- Colleges of Education

<sup>1</sup> This act allowed the people of Utah to form a constitution and government and join the Union.



The Legislature has delegated implementation of its trustee duties to the School and Institutional Trust Lands Administration (SITLA)<sup>2</sup>, but retains its trust authority and responsibility. This report focuses on the management of these trust lands by SITLA. Addressing questions about the flow of money through the trust system, it also provides recommendations to enhance land management, accountability, and controls to improve returns to the beneficiaries. Other entities in the trust system include the School and Institutional Trust Funds Office (SITFO) and the Land Trusts Protection and Advocacy Office (LTPAO). SITLA sends the revenue generated through land management to SITFO, where it is invested into permanent funds for each beneficiary, the interest from which is disbursed to the beneficiaries (\$107 million in Fiscal Year 2023). LTPAO acts as a representative for the beneficiaries and is supposed to monitor the operations of the trust system to ensure that the trust lands are managed in the best interest of the beneficiaries. LTPAO's and SITFO's efforts are discussed in *A Performance Audit of Trust System Entities* [Report #2024-12].

## **SITLA Was Created to Improve Land Management and Independently Promote Trust Principles**

Before SITLA's creation, a legislative advisory board reported that "Utah's trust lands have produced less per acre than trust lands in surrounding states." The Legislature set up a nonpartisan task force in 1991 and 1992 to study options for trust lands management. Following the task force's work, the Legislature passed H.B. 416 in 1993. This bill created a nonpartisan advisory board to propose legislation for "the best structure, management scheme, and operational policies for management of the trust lands," helping the state meet its trustee obligations over trust lands.

In 1994, H.B. 250 created SITLA, incorporating all recommendations of the advisory board. H.B. 250 also mandated undivided loyalty to the beneficiaries, which precludes the state from administering the trust corpus for purposes other than the benefit of the beneficiaries.

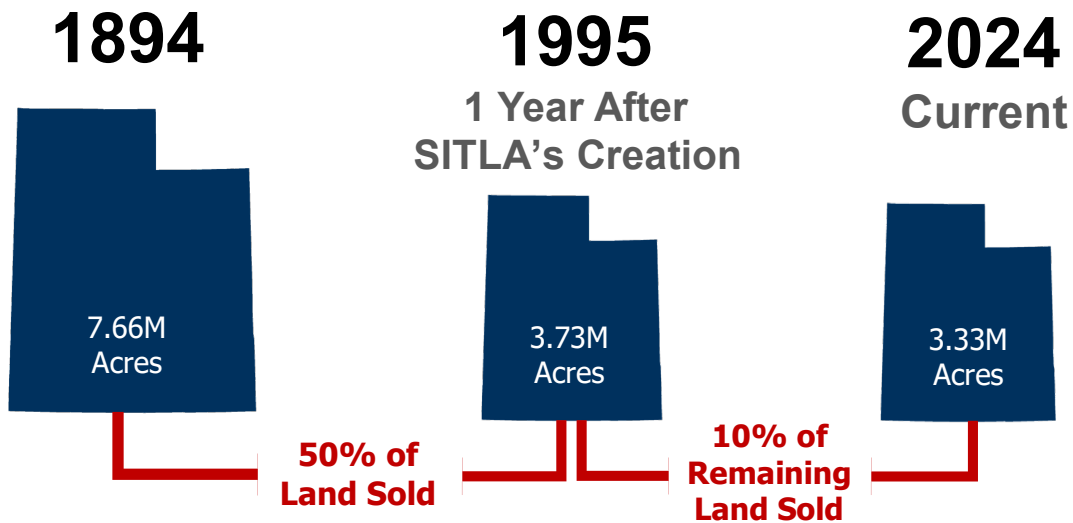
Since its creation, SITLA reports generating over \$1.6 billion for the beneficiaries. At this time, SITLA's revenue per acre is comparable to that of Arizona, Wyoming, and Idaho's trust land programs. As shown in Figure 1.1, SITLA accomplished this by selling only around 10 percent of the remaining trust lands.

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<sup>2</sup> *Utah Code* 53C-1-102(3): "This title shall be liberally construed to enable the Board of Trustees, the director, and the administration to faithfully fulfill the state's obligations to the trust beneficiaries."



**Figure 1.1 To Date, over Four Million Acres of Trust Lands Have Been Sold Off.** The majority of that was done before SITLA’s creation as SITLA has sold approximately 400,000 acres since it was created 30 years ago.\*



Source: Auditor generated.

\*Of their trust lands, Nevada has sold 99%, Oregon 77%, Utah 57%, New Mexico 33%, Idaho 32%, Wyoming 19%, and Arizona 16%.

In comparison, the figure shows that the first century of trust lands management saw the sale of about 50 percent of trust lands (about 3.73 million acres). Other revenue has come from leases, permits, and other uses that do not require the sale of trust lands. When SITLA was created, the permanent fund consisted of \$50 million and has since grown to \$3.2 billion.

### **SITLA’s Governance Structure Includes a Board of Trustees and Three Major Office Divisions**

*Utah Code* stipulates that SITLA will be governed by a seven-member Board of Trustees (board). The governor selects six of the seven members from a nomination list and appoints one other member who is not required to be on the nomination list. After the Senate confirms these board members, the board, with the consent of the governor, selects the SITLA director. The board also establishes policies for the management of the agency. Statute requires that these policies uphold the fiduciary duties that the state has delegated to SITLA, including managing the lands for both short and long-term beneficiary interests.

The board meets regularly throughout the year in public board meetings and in subcommittee meetings for SITLA’s different business groups. These business groups constitute SITLA’s main revenue-generating activities and are as follows:



- Energy and Minerals Group: manages the mineral resources and renewable energy assets of the trust, which include the leasing of oil and gas, mineral extraction, and energy production.
- Real Estate Planning and Development Group: places developable lands into structured development transactions (e.g. residential and commercial) primarily through land planning and entitlement.
- Surface Group: oversees the remaining land for special-use leases (e.g., industrial, agricultural, telecommunications), grazing, easements, maintains and rehabilitates land, and sells trust land as needed.

Through their work in both subcommittees and full board meetings, the board members review some of SITLA’s transactions and are kept up to date on other projects. For example, before certain transactions are brought before the full board, board members attend subcommittee meetings to provide their expertise.

SITLA’s board and its functions are not unique, but board structure does vary across peer states. We compared the boards of several state trust land entities and found some variance as Figure 1.2 depicts.

**Figure 1.2 Trust Land Board Structures Vary from State to State.** There is no consensus on the most effective board structure.

State	Elected Officials on Board	Beneficiaries on Board	Industry Members on Board	Members(s) Appointed by Governor
Utah	✗	✗	✓	✓
Arizona	✗	✗	✓	✓
Colorado	✗	✗	✓	✓
Idaho	✓	✗	✗	✗
New Mexico	✗	✓	✓	✗
Oregon	✓	✗	✗	✗
Wyoming	✓	✓	✗	✗

*Source: Auditor generated.*

The boards we looked at included beneficiaries, industry experts, elected officials, and governor appointees, but none of these groups appeared on every board in our sample. In our discussions with other states and the National Association of State Trust Lands, it became apparent that comparing the different board structures is difficult due to different performance measures and assets. Based on this information, we offer no recommendations related to SITLA’s board structure.

**BACKGROUND**

Both *Utah Code* and *Administrative Rules* grant SITLA significant discretion over its operations and decision-making regarding details of contracts. Limited review over this discretion has contributed to instances of noncompliance with policy, showing that controls need to be strengthened in some ways, including improved processes for handling risks to the organization.

**FINDING 1.1**  
**SITLA Needs a Formal,  
Documented Approach for  
How It Handles Risks to Its  
Operations****RECOMMENDATION 1.1**

The School and Institutional Trust Lands Administration should create and implement a policy for items to consider before accepting a land donation, based off its experience with the North Temple Landfill.

**RECOMMENDATION 1.2**

The School and Institutional Trust Lands Administration should formalize its risk assessment procedures by implementing and demonstrating improvement through the Enterprise Risk Management framework.

**FINDING 1.2**  
**Limited Review of Staff  
Decisions Contributes to  
Instances of Inadequate or  
Unfollowed Policies****RECOMMENDATION 1.3**

The School and Institutional Trust Lands Administration should improve its current processes, and demonstrate the implementation of those improvements, to ensure the necessary steps outlined in *Administrative Rules* for each transaction type are complete before finalizing a transaction.

**RECOMMENDATION 1.4**

The School and Institutional Trust Lands Administration should revise *Administrative Rules* for certain leases to ensure that the criteria for setting fair market value for lease rates are clear and consistent with *Utah Code*.

**FINDING 1.3**  
**Controls Over SITLA's  
Financial Operations Could Be  
Improved****RECOMMENDATION 1.5**

The School and Institutional Trust Lands Administration's Board of Trustees should consider, implement, and demonstrate improvement of options for monitoring the School and Institutional Trust Lands Administration's internal controls.

**FINDING 1.4**  
**There Were No Identified Instances Where Trust Fund  
Revenue Was Allocated to the Wrong Beneficiary****NO RECOMMENDATION****CONCLUSION**

The SITLA board reviews SITLA's larger transactions, but many smaller transactions are completed with only a staff review. Given the instances of noncompliance that we found, we recommend that SITLA strengthen its processes to ensure that all necessary steps leading up to a transaction are completed.







# Chapter 1

## SITLA Has Great Flexibility in Decision-Making, Controls Over Policy and Operations Should Be Stronger

### 1.1 SITLA Needs a Formal, Documented Approach for How It Handles Risks to Its Operations

SITLA's approach to managing risks does not conform to best practices, leaving them incomplete, less effective than they could be, and potentially costing SITLA revenue. For example, SITLA accepted a parcel in Salt Lake County without fully clarifying the level of liability that SITLA and other stakeholders would have on the parcel.<sup>3</sup> It also did not get its own appraisal on the full property until after it was accepted. We believe that such information would be beneficial to know before accepting a donation, and formalized processes would help SITLA do so. SITLA should implement the Enterprise Risk Management Framework in its operations to improve how it handles risks to the organization.

#### **It Appears That SITLA Accepted Property in Salt Lake County without Fully Quantifying Its Risks, Delaying Revenue Generation**

SITLA's lack of formal controls over donations and operational flexibility led it, in part, to accept a parcel of land that has had major financial and environmental risks.<sup>4</sup> In 2017, SITLA acquired approximately 770 acres of land near the Salt Lake International Airport known as the North Temple Landfill development within the Northwest Quadrant. The land had formerly been the site of the Salt Lake City municipal landfill.

**Before Accepting the Parcel, SITLA Did Not Fully Clarify the Levels of Its Liability or Verify Its Appraised Value:** Aside from providing some estimates, SITLA did not fully contemplate the environmental liability to itself associated with owning this property when it indemnified the previous land owner from its portion of liability.<sup>5</sup> Through some characterization of the property prior to its purchase, and through SITLA's due diligence, landfill materials and contaminants have been found on the property that present some liability and

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<sup>3</sup> We note SITLA's effort, prior to the donation, to evaluate liable parties and analyze returns. However, these efforts were limited and more robust processes to mitigate risks are needed.

<sup>4</sup> We acknowledge there was potential for this parcel to generate revenue for the trust land beneficiaries, which played a role in SITLA accepting the parcel despite the accompanying risks.

<sup>5</sup> SITLA signed indemnification and insured the prior owner for "not less than" \$2 million.



will require remediation. Total estimated remediation costs for this contamination range between \$100 million and \$150 million, and it was reported to us that liability for this parcel also rests with Salt Lake City for the North Temple Landfill. However, we found that negotiations between the parties did not produce agreement and achieved limited clarification of the level of liability

each party assumes on this parcel.



**SITLA did not perform its first appraisal on this full parcel until 2023, nearly six years after owning the property.**

Additionally, SITLA did not perform its first appraisal on this full parcel until 2023, nearly six years into owning the property.<sup>6</sup> We recognize this was a complex transaction and in reviewing documentation, there were some delays to the process outside of SITLA’s control.

**Delays and a Changing Plan Slowed Progress, Costing SITLA Some Revenue.**

Delays within and outside SITLA’s control may have cost the entity opportunity to maximize revenue for the trust beneficiaries. Estimates for what SITLA believes it could get from the sale of this property, net of cleanup costs and contractual obligations, range drastically (between \$70 million and \$170 million) based on different uses of the land and deal structures. SITLA structured the contract with its remediation partner to prevent them from full profit sharing if SITLA sold the property as a bulk sale within the first four years. This suggests some miscalculation where SITLA was open to maximizing revenues by selling this parcel early in its ownership, but delays negated some of these benefits. Due to these delays, a vacillating plan, and through contracts with outside parties, that return to the trust beneficiaries has been diminished. For example, SITLA’s remediation partner is now contractually entitled to 25 percent of revenue.<sup>7</sup>



**Improved processes could help ensure that revenue is maximized on similar deals.**

**SITLA Should Create Processes to Follow for Future**

**Donations.** Speaking to some of the delays as a symptom of incomplete processes, SITLA’s donation policy did not provide guidance on how to manage this unique property. Indeed, there was major board-level hesitation to accepting this property initially and no formalized systematic process in place to mitigate this risk. We acknowledge policy may never be able to capture the nuances of all diverse property types and situations. Additionally, SITLA told us that the entity does not often receive donated property and does not often work with the complexities of landfill remediation. However, SITLA can mitigate some

<sup>6</sup> Until 2023, SITLA relied on the previous landowner’s appraisal for the full property.

<sup>7</sup> Pursuant to the donation’s contractual terms, SITLA must “share equally” any revenue over \$75 million leading SITLA to pass on to others \$0.63 for every \$1.00 beyond \$75 million.



risk by addressing the lack of formalized processes in accepting similar donations.

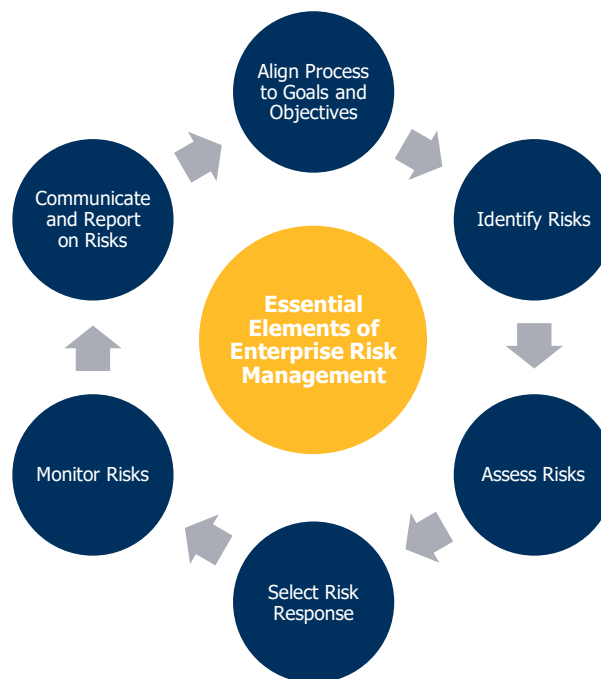
### RECOMMENDATION 1.1

The School and Institutional Trust Lands Administration should create and implement a policy for items to consider before accepting a land donation, based off its experience with the North Temple Landfill development.

## SITLA Updates Its Risk Assessment Yearly, but Should Improve Its Process to Mitigate Those Risks

For about five years, SITLA has updated a risk assessment document on a yearly basis, identifying the internal and external risks to the organization. While SITLA identifies its risks, we found that other essential elements of risk management are either insufficient or absent. This likely contributed to issues relating to the North Temple Landfill property, which carried significant risks, had an uncertain level of liability, and a plan with factors outside of SITLA's core area of expertise, not appearing in any of the risk assessments we reviewed. The elements SITLA should incorporate include assessing the risk, choosing how to respond to the risk, and monitoring the risk, and are shown in the graphic on this page. SITLA does some of this in discussions among management; however, it does not have a formal risk mitigation plan.

Monitoring and reporting on risks becomes difficult without a formal plan, hindering management's ability to assess the effectiveness of the chosen risk response and make adjustments if needed. SITLA's approach does not have a formal risk response selection, and none of the about 40 identified risks from 2020 have been eliminated. Without choosing a risk response and monitoring it, it is unclear what the desired outcome for each risk should be and whether the risk can be removed from the list. Thus, the risks to the SITLA largely remain the same and the list only grows as more are added to it and none are addressed.



Source: Auditor generated from the Government Accountability Office.



Using best practices,<sup>8</sup> SITLA would benefit from assessing their risks and choosing a risk response. Assessment includes identifying the likelihood and the impact of each risk to SITLA, which in turn should inform their risk response. This would help SITLA prioritize its risks, monitor them, and make meaningful progress in mitigating them and updating their risk assessment to focus on the most pertinent risks.

Furthermore, we were told that only one person updates the risk assessment, which provides a limited perspective on SITLA's risks. In contrast, best practices suggest that various people work to identify organizational risks. SITLA can enhance its ability to handle risks to the organization by implementing the Enterprise Risk Management framework depicted on the previous page.

#### RECOMMENDATION 1.2

The School and Institutional Trust Lands Administration should formalize its risk assessment procedures by implementing and demonstrating improvement through the Enterprise Risk Management framework.

### 1.2 Limited Review of Staff Decisions Contributes to Instances of Inadequate or Unfollowed Policies

We found that SITLA staff have significant discretion in how they fulfill *Administrative Rules*. This discretion, accompanied by limited review of those decisions, contributes to instances of noncompliance with *Administrative Rules*. While rare in the transactions we reviewed, these instances have impacted SITLA's client relationships and raised questions about whether certain managed parcels have been put to their highest and best use. While efforts have been made to reduce noncompliance, our recommendation for SITLA is to enhance its review process by establishing and implementing formal procedures. These procedures would ensure that all the steps preceding sales, leases, and other transactions are fully carried out.

#### Utah Code and Administrative Rules Grant SITLA Broad Operational Discretion, but Do Not Provide a Similar Level of Control

The School and Institutional Trust Lands Management Act states: "This title shall be *liberally construed* [emphasis added] to enable the Board of Trustees, the director, and the administration to faithfully fulfill the state's obligations to the

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<sup>8</sup> The Government Accountability Office's *Enterprise Risk Management Report* (GAO-17-63, December 2016) can provide SITLA details on implementing the framework.



trust beneficiaries.”<sup>9</sup> This grants SITLA great authority and flexibility over how it fulfills its statutory responsibility to manage trust lands prudently and profitably for the beneficiaries. Accordingly, SITLA has also outlined similar flexibility in its *Administrative Rules*.

SITLA’s *Administrative Rules* (R850) set general parameters, or checklists, that should be followed for each of its transactions before they are finalized. The aim is to consider different potential uses for the parcel and expose it to interested parties, so that the beneficiaries can benefit as much as possible. Within these parameters, SITLA staff have discretion over the details of contracts. Figure 1.1 highlights several examples.

**Figure 1.1 SITLA Administrative Rules Provide Staff Significant Discretion over Contractual Details.** Such discretion allows staff to tailor contracts to the market or other unique circumstances, creating risk for noncompliance or decisions that do not meet organizational objectives.

Administrative Rules	Staff Discretion
R850-140-400(5): The purchase, sale or exchange of land in connection with a development transaction shall be supported by either an appraisal or a detailed internal analysis of value.	Staff have flexibility to utilize new appraisals or other relevant market data, including older appraisals if deemed sufficient, to support development transactions.
R850-80-300: In determining the fair market value of a parcel, the agency <b>may</b> consider: (a) an appraisal; (b) a market analysis...; and/or (c) other information that the agency considers relevant.	We were told, and data corroborated, that it is common practice for SITLA to charge a premium on land sales that don't go to auction. This section allows such decisions to be made and provides no guidance on what should be considered when determining the premium.
For various lease types, SITLA “ <b>may</b> issue leases competitively, non-competitively or enter into other business arrangements (OBAs) with qualified owners for...development” of a resource.	While competitive and non-competitive leases have guidelines to follow, OBAs have minimal to no guidance in rules other than needing to be approved by the board. In some cases, OBAs are specifically exempt from rule guiding lease rates, lease determination procedures, lease provisions, and financial guaranties. SITLA explained that OBAs have become a preferred method for mineral leasing so it can work with operators to negotiate deal terms tailored to specific transactions, including development benchmarks and geologic data sharing requirements and prevent lessees from tying up SITLA leases without work commitments. However, SITLA has not studied whether they are better than the more formal competitive and non-competitive leases.
R850-100-500(1): The agency <b>may</b> develop land management, tenure adjustment, and access plans for selected geographical regions of the state.	Discussed in more detail in Chapter 3, this allows SITLA to not have land management plans, which can hinder them from adequately planning for the future.
While considering the best interest of the beneficiary, <i>Administrative Rules</i> have various instances where SITLA can make decisions based on its sole discretion or “taking into account any factor and circumstances deemed relevant.”	Such language allows SITLA to respond to market conditions and unique circumstances of a given transaction, but without sufficient review, it creates risk for noncompliance or decisions that do not meet organizational objectives .

*Source: Auditor generated.*

<sup>9</sup> *Utah Code* 53C-1-102(3)



As we stated, *Utah Code* allows this type of discretion. Other state trust land entities have different levels of discretion. SITLA staff told us how they use discretion to tailor transactions to unique circumstances related to a parcel. For example, SITLA decided to do a negotiated sale instead of a public auction for a plot of land because it was encapsulated in a farmer’s irrigation pivot. Using the negotiated sale method allowed SITLA to negotiate directly with the farmer after the parcel had been advertised, increasing the chance that the farmer’s pivot would not be disrupted. Thus, it appears that SITLA’s discretion can be beneficial, but the controls over this discretion could be strengthened to mitigate instances of noncompliance.

**Several Examples Show How Controls over Policies Could Be Bolstered**

Our review of selected land transactions for compliance with SITLA’s policies and procedures identified limited instances of noncompliance. We reviewed concerning transactions that were brought to our attention and also found concerns in transactions we selected to review. What stood out most is that SITLA does not have a standardized process to ensure that the necessary steps leading up to a transaction, outlined in *Administrative Rules*, are accomplished.

**A Grazing Permittee Was Not Given Notice of Permit Cancellation:** We were informed of an instance where SITLA did not follow its 30-day notice policy to notify a grazing permittee that their permit was going to be cancelled. The permittee discovered the cancellation after finding a fence around the permitted property, while attempting to graze their livestock a few months after the new contract was finalized. This reduced the size of the permittee’s grazing land by about 550 acres, complicating the permittee’s grazing plans this year. SITLA has



**Formal processes should ensure that cancellation notices on grazing permits are provided to permittees.**

since worked to correct the issue and reimburse the permittee. It is appropriate for SITLA to cancel grazing permits and rights-of-entry permits if a higher and better use for the property arises; however, SITLA should create a formal process to ensure that permittees are provided adequate cancellation notice.



**SITLA’s discretion can help deals be structured to unique circumstances but should be accompanied with stronger controls.**

**Required Advertising Was Not Done on a Transaction:** We found one transaction executed in 2012 (143 acres sold for about \$430,000) where SITLA decided to forego the advertising requirement to solicit competing offers. In this case, the land was being sold as a buffer to a high-end development on an



adjacent property and staff wanted to protect the long-term integrity of that project. While this may have been reasonable, *Administrative Rules* do not allow exceptions to this advertising requirement. Furthermore, without advertising the parcel, it is unknown whether there could have been a higher and better use for it. SITLA could consider whether its *Administrative Rules* should allow advertising to be foregone under certain circumstances.

**Special Use Lease Agreement without Required Reporting Clauses:** In another instance, we found a contract that did not contain the required reporting of technical and financial data on 674 acres of trust land.<sup>10</sup> Such reporting requirements are part of SITLA's efforts to ensure responsible surface land management. Without them, it decreases the accountability SITLA has over the land and is possible for the lessee to not maximize the use of the land per the conditions of the contract.

**Trespassing Is an Ongoing Concern:** We also learned of an instance when SITLA discovered a private citizen who had been farming a portion of SITLA land adjacent to their own land for about 20 years. SITLA informed us that similar trespassing has likely occurred on trust lands for over a hundred years and it encounters a few instances each year. Although the sum is relatively small compared to SITLA's other revenue-generating activities, these missed opportunities for revenue generation lack a clear management plan.

### **More Formalized Processes Can Mitigate Instances of Noncompliance**

As the examples show, SITLA has various types of transactions that it enters into, each with processes outlined in *Administrative Rules*. When we asked what the controls are to ensure transactions are compliant with *Administrative Rules*, SITLA told us that there are board reviews, management reviews, *Administrative Rules*, and other internal procedures. As dictated by *Administrative Rules*, the board only reviews the larger transactions that SITLA is considering.<sup>11</sup> For the surface group, this meant that only 35 of 174 sales since 2013 required a board review (either the board



**While the board reviews some transactions, many are reviewed only by staff, showing the need for stronger controls.**

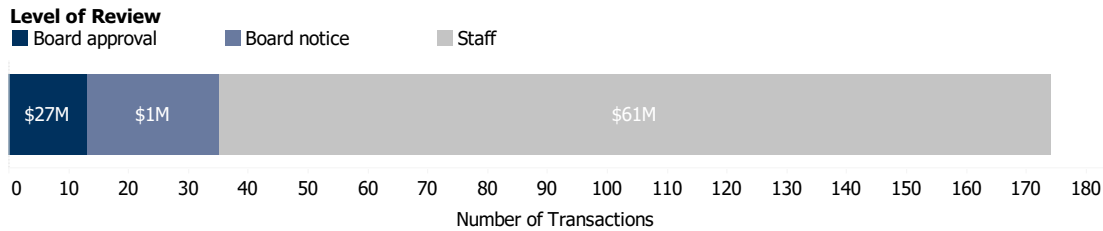
<sup>10</sup> SITLA *Administrative Rules* R850-30-600(3)

<sup>11</sup> For the Surface Group, the board receives notice of all negotiated sales and must approve negotiated sales with a fair market value greater than \$250,000 or exceeding 320 acres. For the Development Group, the board reviews transactions that commit more than \$5 million and any transaction that is a joint ventures or OBA. *Administrative Rules* do not dictate that the board must review auctions for any of these groups.



had to approve the sale or was given notice of it), as shown in Figure 1.2.

**Figure 1.2 From 2013 to 2023, about 80% of Surface Group Sales, Worth \$61 Million, Did Not Require Board Approval or Notice.** The focus of board reviews is on higher value sales, which misses out on many smaller sales that add up to a large value.



*Source: Auditor generated from SITLA transaction data.*

This figure does not include other surface group transactions like grazing permits, easements, and timber sales that also do not receive board review. In other words, there are many smaller transactions that SITLA staff conduct which do not require a board review. This shows the importance of *Administrative Rules* and internal policies as controls for transactions that the board does not review. In these instances, it appears that variance among staff members in how to fulfill the steps outlined in *Administrative Rules* contributes to steps being missed.

SITLA is aware that some steps that are outlined in *Administrative Rules* and internal policies can fall through the cracks. In response to that, the surface group and development group have developed checklists for certain transactions and SITLA's internal business system also has checklists that can be followed for transactions. However, these checklists do not address each step in *Administrative Rules*, and the use of the business system checklists was inconsistent. Given the importance of these policies as a control mechanism for many transactions, SITLA should develop a way to ensure that they are followed for each transaction. This could be done by further developing the checklists SITLA has already created or aligning the business system checklist fully with *Administrative Rules* and requiring its use.

### RECOMMENDATION 1.3

The School and Institutional Trust Lands Administration should improve its current processes, and demonstrate the implementation of those improvements, to ensure the necessary steps outlined in *Administrative Rules* for each transaction type are complete before finalizing a transaction.





## Administrative Rules Governing the Establishment of Certain Lease Rates Are Unclear, and Could Result in Less Than Fair Market Value

*Utah Code*<sup>12</sup> requires that SITLA receive fair market value for its land, a mandate that is reiterated in SITLA's *Administrative Rules*. However, *Administrative Rules* for Special Use Lease Agreements and Renewable Energy Leases Agreements are unclear. These *Administrative Rules* should be clarified to assure that the agency received fair market value for the lease of trust lands. SITLA reports that these types of leases generated about \$7.3 million in Fiscal Year 2023 (5% of SITLA's total revenue).

*Administrative Rules* state that the agency may base lease rates on a value other than the market value of the fee title to the subject property if the director determines that it is in the best interest of the beneficiaries and the agency has the right to terminate the lease before the end of its term. SITLA explained that the market value of the fee title to the subject property is separate and distinct from the market value of the leasehold (lease rate) that is being granted. The lease rate can be informed using various criteria outlined in *Administrative Rules*.

One of the criteria that may be used to inform the market value of the lease rate is to consider the market value of the fee title to the subject property (i.e. the appraised value as if it were being sold) and multiply it by an agency-determined interest rate. In some cases, SITLA runs this calculation and determines that if the lease rate were based solely upon this criteria that it would exceed the rate that has been negotiated with a prospective lessee. *Administrative Rules* allow for such negotiations for specific lease rate between a willing lessee and lessor after reasonable exposure in a competitive market, with the director's approval. SITLA explained the intent of the *Administrative Rules* is to prevent the issuance of long-term leases without an exit clause in these cases so that they can be terminated early if a better opportunity presents itself.



**As written, *Administrative Rules* for some leases could be misinterpreted for the receiving of less than fair market value.**

These sections of *Administrative Rules* are unclear as written and run the risk of being misinterpreted, potentially resulting in SITLA receiving less than fair market value for the lease of trust lands. SITLA should clarify the distinction between the market value of the leasehold and the market value of the subject property in *Administrative Rules* and ensure that they are in alignment with *Utah Code*.

<sup>12</sup> 53C-1-204(b)(iii): Policies established by SITLA's board shall "require the return of not less than fair market value for the use, sale, or exchange of school and institutional trust assets..."



In contrast, *Administrative Rules* for establishing the fair market value of surface group sale parcels are clear. We reviewed all of SITLA’s land sales for its surface group dating back to 2013 and did not find a single case where SITLA received less than fair market value on those sales. Additionally, the Office of the State Auditor samples surface and development land sales each year to check whether they were sold for fair market value. Their tests for Fiscal Years 2021 to 2023 did not identify any instances where less than fair market value was received on those sampled transactions.



**Reviews from our office and the Office of the State Auditor have not identified any land sales that went for less than fair market value.**

**RECOMMENDATION 1.4**

The School and Institutional Trust Lands Administration should revise the *Administrative Rules* for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for setting lease rates are clear and consistent with *Utah Code* pertaining to the receipt of no less than fair market value for the lease of trust lands.

### 1.3 Controls over SITLA’s Financial Operations Could Be Improved

Similar to its operational controls, SITLA’s financial controls should also be improved. SITLA’s internal control memo states that both the Division of Finance and the Office of the State Auditor audit SITLA and play a role in monitoring SITLA’s internal controls. Monitoring from the Division of Finance has not been happening due to resource constraints and changing programs. This has left a gap in SITLA’s controls that the board was not aware of.

SITLA’s board is ultimately responsible for ensuring that the agency is managed according to law, including having sound internal controls. The board was unaware that some of SITLA’s internal controls were incomplete. SITLA’s internal control memo states that they ensure proper internal controls by



**Discontinuation of some Division of Finance programs have left SITLA’s internal control monitoring limited.**

following the Division of Finance’s Internal Control Program. This program requires agencies to establish the five elements of internal control: 1) the control environment, 2) risk assessment, 3) control activities, 4) information and communication, and 5) monitoring. Section 1.1 of this chapter addressed



shortcomings in SITLA's risk assessment; SITLA's chosen activities for monitoring internal controls have also been limited.

SITLA identifies the Division of Finance's Internal Control Questionnaires and quarterly audits as a key part of establishing the monitoring element of internal control. However, we found that neither of these monitoring activities has been happening for at least a year. The Internal Control Questionnaires have not been used since Fiscal Year 2022, as they were suspended and are being redeveloped. And the quarterly audits have not happened since Quarter Three (January to March) of Fiscal Year 2023 due to resource constraints at the Division of Finance. Thus, SITLA's internal controls are not being monitored by a separate entity, as SITLA's internal control memo indicates.

In October 2023, SITLA provided its board with a memo stating that these monitoring activities were occurring, despite both elements being inactive. The last quarterly audit covered the fiscal quarter ending in March (six months prior), and the last Internal Control Questionnaire had been over a year prior. As such, the board was unaware that this outside monitoring of controls was not occurring. The board should have been informed of this lack of monitoring.



**SITLA's board may have been unaware that these monitoring elements were not in place.**

The board should ensure that adequate monitoring of internal controls is occurring. SITLA has an internal audit group, but it mainly focuses on external assurance audits of their lessees to make sure they are complying with the lease terms. The board could strengthen this group's responsibility for monitoring internal controls or implement another effective strategy to ensure that internal controls are being monitored.

#### RECOMMENDATION 1.5

The School and Institutional Trust Lands Administration's Board of Trustees should consider, implement, and demonstrate improvement of options for monitoring the School and Institutional Trust Lands Administration's internal controls.



## **1.4 There Were No Identified Instances where Trust Fund Revenue Was Allocated to the Wrong Beneficiary**

We worked with the Office of the State Auditor (OSA) to review tests of whether revenue generated from trust lands is allocated to the correct beneficiary. OSA audits SITLA every year as part of the State's Annual Comprehensive Financial Report; however, no independent audit is required by statute. To test whether beneficiaries are receiving the correct allocation from royalties, OSA looks at total revenue to be allocated for each revenue source code from year to year. The allocations to the beneficiaries are usually the same percentage of the total amount from year to year. If there is a difference between the two allocations that exceeds \$3,300,000 and 10 percent, then OSA investigates it. We reviewed OSA's findings and documentation and found that no allocation difference exceeded both thresholds in the years we reviewed (Fiscal Year 2021 through Fiscal Year 2023).

Additionally, OSA tests whether land sale revenue is credited to the correct beneficiary. To accomplish this, they select a yearly sample of sales, link each sale to a beneficiary, and then follow the transaction in the State's financial database (FINET) to verify its association with the correct beneficiary. Our review of OSA's documentation did not identify instances where land sale revenue was allocated to incorrect beneficiaries in the three years we reviewed.



## BACKGROUND

Many of SITLA's major decisions are deliberated during board subcommittee meetings. The final decision is not made until a full board meeting, but substantive discussion happens in meetings that are not recorded, and therefore not reviewable by outside parties. While we observed robust discussion in these subcommittee meetings, we could not review historic meetings because there is no record of them. Additionally, the full board often relied on subcommittee recommendations, in conjunction with staff recommendations, without further discussion.

### **FINDING 2.1** **SITLA Board of Trustees** **Can Improve Accountability** **of Its Decision Making**

#### **RECOMMENDATION 2.1**

The School and Institutional Trust Lands Administration's Board of Trustees should keep subcommittee meeting minutes and adopt a policy that ensures all issues discussed in subcommittee meetings are raised again during the full public board meeting.

#### **RECOMMENDATION 2.2**

The School and Institutional Trust Lands Administration's Board of Trustees should consider recording subcommittee meetings for future accountability review by government auditors.

### **FINDING 2.2** **Better Performance** **Measurement Will Improve** **SITLA Accountability**

#### **RECOMMENDATION 2.3**

The School and Institutional Trust Lands Administration should improve its strategic plan by ensuring that every objective and goal has at least one well-developed strategy and one quantifiable performance measure associated with it.

### **FINDING 2.3** **SITLA Should Produce Its** **Own Annual Report to** **Improve Transparency and** **Accountability**

#### **RECOMMENDATION 2.4**

The Legislature should consider requiring the School and Institutional Trust Lands Administration to produce its own annual report.



## CONCLUSION

SITLA should adopt a policy that ensures all issues discussed in subcommittee meetings are raised again during the full public board meeting and consider recording subcommittee meetings for future reviews by government auditors. SITLA's accountability can further be improved by strengthening its strategic plan. By identifying strategies and performance measure for their goals and objectives, SITLA can show how it is making progress toward achieving its strategic plan.





## Chapter 2

# SITLA Can Improve Accountability through Better Performance Tracking and Reporting

### 2.1 The SITLA Board of Trustees Can Improve Accountability of Its Decision Making

We found that most SITLA Board of Trustees (board) discussions for major transactions take place in private subcommittee meetings attended by SITLA staff and beneficiary representatives prior to official public board meetings. Because these meetings do not qualify as closed meetings under Utah’s Open and Public Meetings Act, SITLA is not required to record the meetings or publicly document them on meeting agendas. While statute and *Administrative Rule* allow this practice, it diminishes outside accountability on the decisions and creates potential risk to trust assets. This is because the full board does not discuss some of these issues, and without that discussion on record, full board meeting oversight is limited. Therefore, we recommend that SITLA consider implementing more transparency mechanisms in the administration of these subcommittee meetings.



**Many of SITLA’s discussions for major transactions are made without a public accountability mechanism in place, increasing risk to trust assets.**

#### **Strong Accountability Reduces Risk to SITLA’s Significant Trust Assets**

*Utah’s Open and Public Meetings Act* (OPMA) declares that state agencies exist to aid in the conduct of the people’s business, and that it is the intent of the Legislature that they take their actions openly and conduct their deliberations openly. If the full SITLA board heard all deliberations and discussed decisions openly, then transparency would be accomplished. However, the board sometimes relies on the expertise of the subcommittees’ recommendations rather than discussing transactions further in public. Accordingly, many of SITLA’s major decisions are deliberated in unrecorded subcommittee meetings. These discussions and recommendations made prior to the board’s final decision cannot be held accountable by any review body and have diminished transparency.

The United States Government Accountability Office (GAO) explains that the first element of accountability is information transmission:



**US Government Accountability Office:**

*“Accountability requires a number of basic elements: First, the transmission of information regarding the actions and decisions of the person or organization being held accountable.”*

Without this clear transmission of information in board meetings, SITLA’s extensive trust assets could be at higher risk for fraud and abuse. For example, in the meetings we observed, subcommittee board members discussed or made recommendations for:

- Weighing competing offers for a \$1.5 million development parcel
- Weighing competing offers for an oil and gas lease with bonus payments of \$650,000, in addition to royalties and other revenues
- Determining whether to sell or hold a \$2.3 million retail frontage parcel
- Leasing lands for uranium mining



**SITLA should consider more transparency in the administration of these subcommittee meetings.**

We believe decisions of this nature and magnitude expose these trust assets to potential risk. Therefore, we suggest that SITLA should increase transparency in the administration of subcommittee meetings. This can be achieved by keeping subcommittee meeting minutes and adopting a board policy that ensures all issues discussed in subcommittee meetings are raised

again during the full public board meeting. We also suggest the board consider recording meetings for future accountability review by government auditors.

**SITLA Board and Staff Are Engaged in Productive Decision Making, Much of Which Takes Place in Private Subcommittee Meetings**

Each of SITLA’s three management groups hosts regular board subcommittee meetings to discuss management decisions that may require board approval. SITLA staff present current opportunities and internal analysis of issues for the board members, beneficiary representatives, and SITLA management to discuss. In our observation of six board subcommittee meetings, we found that board members, beneficiary representatives, and staff are actively engaged in robust discussions to determine the best decisions for SITLA and the beneficiaries. However, there are no minutes or recordings of these subcommittee meetings, reducing transparency. This also prevented us from reviewing historical subcommittee meetings to see if such discussion has always occurred.



**SITLA’s subcommittee meetings do not meet OPMA’s criteria for a formal meeting.**





SITLA's subcommittee meetings do not meet OPMA's criteria for a formal meeting. This is because subcommittee meetings do not have a quorum present, and their recommendations will eventually be incorporated into public board memos and brought to the public meeting for staff presentations. Based on discussions in the subcommittee meetings, transaction opportunities are either,

- Presented to the board publicly for formal approval
- Sent back to staff for additional research or negotiation
- Screened from rising to the board for formal approval

For example, we observed when multiple offers are made for the same piece of land, the subcommittee decides which offer should be brought to the board for final approval, rather than contrasting all potential offers publicly.

Board members only attend meetings where they can offer their relevant expertise to guide decision making. This allows some board members to dive deeper into the details of a complex decision while also saving time for other board members with less applicable expertise. Some board members and staff emphasized the importance of protecting some details discussed in these meetings from the public, such as private industry knowledge and property appraisals.



**Board members attend subcommittee meetings where they can offer industry expertise on potential offers.**

When decisions reach the public board meeting for final approval, other board members often rely on recommendations made in the subcommittee meetings to determine their vote. We observed that discussion of action items in public meetings are less robust than those made in subcommittee meetings.

#### RECOMMENDATION 2.1

The School and Institutional Trust Lands Administration's Board of Trustees should keep subcommittee meeting minutes and adopt a policy that ensures all issues discussed in subcommittee meetings are raised again during the full public board meeting.

#### RECOMMENDATION 2.2

The School and Institutional Trust Lands Administration's Board of Trustees should consider recording subcommittee meetings for future accountability review by government auditors.



## 2.2 Better Performance Measurement Will Improve SITLA Accountability



**Clear performance measures are important as SITLA and other state trust land managers lack easily comparable benchmarks for evaluating their success in land management.**

We found that SITLA's strategic plan lacks important elements that help agencies plan their actions and measure progress, which can hinder SITLA's effectiveness and make its performance difficult to track. While financial investment managers use market indices to benchmark investment performance, SITLA and other state trust land managers lack easily comparable benchmarks for evaluating their success in land management.

Therefore, it is important for SITLA to have

additional well-developed success metrics in place to demonstrate and track agency performance. SITLA developed and implemented a strategic plan for the first time in 2023, which highlighted key growth areas and objectives for the agency. However, we recommend SITLA further develop its strategic plan to ensure the organization is moving in the right direction. Currently, many of its high-level goals and objectives do not have quantifiable performance measures tied to them, limiting SITLA's ability to demonstrate progress.

### **SITLA Should Strengthen Its Strategic Plan to Improve Effectiveness and Accountability**

Strategic plans promote effective work and facilitate performance measurement. They are the starting point and basic underpinning for a system of goal setting and performance measurement throughout government. SITLA's strategic plan includes almost fifty individual objectives that are subdivided into four overarching goals:

- Asset Management
- Invest in The Team
- Stakeholder Outreach
- Business Systems and Technologies

We commend and support SITLA for developing its strategic plan and tracking progress toward many of its goals. However, we believe SITLA can enhance its existing plan by more fully implementing strategies and performance measures, which will improve its effectiveness and accountability. For example, the Department of Transportation (UDOT) has a goal of reducing road fatalities. This is tied to measuring the number of fatalities per 100,000 vehicle-miles of travel on state highways. UDOT plans to reduce that number, in part, by tracking the



number of hours to clear designated commuter corridors and reducing potholes. By utilizing these specific, measurable metrics, UDOT can demonstrate progress toward the goal. For some of their goals, SITLA is missing these measures, as shown in the following table:

What is the organization?	Does SITLA have it?
 <b>VISION</b> What we aspire to: motivates and inspires change from “here” to “there.”	YES
 <b>MISSION</b> What we do and how we do it: identifies our reason for being and how we serve.	YES
 <b>CORE VALUES</b> Enduring, non-negotiable principles that we are truly committed: provides a purpose-driven foundation to guide our attitudes and behaviors.	YES
<b>What does the organization want to accomplish?</b>	
 <b>GOALS</b> Long-term outcomes that lead to the fulfillment of the vision: aligns efforts towards a worthy end.	YES
<b>How does the organization achieve its goals?</b>	
 <b>OBJECTIVES</b> A mid-range target that connects high-level goals and tactical strategies: highlights focus areas to assist in prioritizing resources to achieve the goal.	YES
 <b>STRATEGIES</b> Short-term tactics to implement our goals: provides a plan of action.	INCOMPLETE
 <b>PERFORMANCE MEASURES</b> Quantifiable representation of a result or goal: coordinates strategy resources, responsibilities, and timeline.	INCOMPLETE
 <b>ANNUAL WORK PLAN</b> Map for strategic plan: outlines strategies to be accomplished, budget and resources needed, timeline, and champions for the strategy.	YES

Source: Auditor generated from the [LAG Best Practice Handbook](#) and The Governor’s Office of Planning and Budget.



The table lists eight key elements of a strategic plan. Despite having all eight elements of a strategic plan, SITLA's current plan lacks complete strategies and performance measures for many individual objectives. Strategic planning best practices suggest that strategies should be connected to specific objectives and describe how the agency will achieve that objective.



**SITLA should connect strategies and performance measures to specific objectives.**

Moreover, strategies should be specific, measurable, attainable, relevant, and time-bound. Presently, SITLA only has strategies for its prioritized objectives, and many of SITLA's current strategies lack sufficient detail. For example, SITLA's only current strategy for "determining methods for disposing of or otherwise generating increased revenue from under-producing lands" is to "work on solutions for monetizing large land blocks and underproducing assets." That strategy is vague and not measurable and could be developed further. SITLA should provide additional details to current strategies and ensure there is at least one strategy for every objective.

Performance measures drive an organization toward its objectives and goals. A good performance measure evaluates the desired outcomes of the agency, how effectively the agency produces those outcomes, and how well everyone contributes to those outcomes. After a strategic plan outlines individual goals



**Performance measures play a vital role in driving an organization towards its goals and objectives.**

and objectives, outcome measures should be created and tied to those so progress can be measured.

Without such measures, progress can be hard to identify. This happened at Ogden-Hinckley Airport. It listed goals and objectives to lead it to its vision of fostering general aviation, commercial service growth, and aeronautical business opportunities.

However, it did not have performance measures. General aviation continued to be a contentious issue among airport stakeholders, and no aeronautical business opportunities were finalized.

SITLA has listed many performance measures for its objectives, but they are not all measurable and it is unclear which measures are tied to which objectives. For example, they listed "identify lands suitable for recreational use leases and market to appropriate entities" as a success metric for asset management. Additionally, there are not clear performance measures for SITLA's overarching goals. To maximize effectiveness, SITLA should attach a quantifiable performance measure to each objective and goal in its strategic plan. Failure to



do so may result in missed goals and mission, as seen with Ogden-Hinckley Airport.

### RECOMMENDATION 2.3

The School and Institutional Trust Lands Administration should improve its strategic plan by ensuring that every objective and goal has at least one well-developed strategy and one quantifiable performance measure associated with it.

## 2.3 SITLA Should Produce Its Own Annual Report to Improve Transparency and Accountability

We found that the Land Trusts Protection and Advocacy Office (LTPAO) produces SITLA's annual report. As a result, some data in LTPAO-produced reports are inconsistent with SITLA's internal data. In 2019, SITLA and LTPAO management agreed to make a joint trust system report because LTPAO has a statutory reporting mandate, while SITLA currently does not. However, best practices indicate agencies should produce their own annual reports. We recommend the Legislature require SITLA to produce its own annual report.

Our 2006 audit of SITLA identified the need for SITLA to develop and produce annual reports. Since that time, SITLA produced its own annual reports until 2019. Starting in 2019, however, an agreement was made between SITLA and LTPAO where LTPAO would take responsibility of producing an annual report for the trust system. Although LTPAO is required in statute to report certain trust system information to various entities, LTPAO is independent of SITLA, and therefore should not work and report on SITLA's behalf.

A joint report conflates the independent missions of the two entities. LTPAO is designed to serve as an oversight entity for SITLA. Therefore, producing SITLA's annual report creates the impression that LTPAO is supporting SITLA, rather than reviewing SITLA. Additionally, we found that annual reports produced by LTPAO had some expense data inconsistent with SITLA's internal data. For example, the Fiscal Year 2019 report did not include SITLA's capital and stewardship line items in its reported operating expenses. We believe SITLA should produce its own report to address these issues.



**SITLA and LTPAO have distinctly different missions, and therefore should not share an annual report.**



The School and Institutional Trust Funds Office (SITFO), and many other Utah agencies are required in statute to produce their own annual reports. Given the size and nature of SITLA's operations, it is prudent that it does so as well.

**RECOMMENDATION 2.4**

The Legislature should consider requiring the School and Institutional Trust Lands Administration to produce its own annual report.



### BACKGROUND

SITLA often manages its land reactively but is working toward stronger asset management. This contrasts with the private real estate business model where considerable effort goes into planning and characterizing assets to ensure they are maximizing revenue. Without proactive land management, SITLA may not be maximizing revenue on trust lands and making informed opportunity cost decisions.

#### FINDING 3.1

**SITLA Can Take Steps Toward a More Proactive and Comprehensive Land Management Model**

**NO RECOMMENDATION**

#### FINDING 3.2

**SITLA Should Improve Its Understanding of the Value of the Land It Manages**

#### RECOMMENDATION 3.1

The School and Institutional Trust Lands Administration should estimate and track values for the land in its portfolio on a reasonable regular basis it establishes to facilitate analysis of its land values over time.

#### RECOMMENDATION 3.2

The School and Institutional Trust Lands Administration should use land value estimates and characterizations to perform an opportunity cost analysis of its parcels and maximize the value of underperforming parcels.

#### FINDING 3.3

**SITLA's Surface Group Can Improve Its Existing Block Management Plans**

#### RECOMMENDATION 3.3

The School and Institutional Trust Lands Administration should update the asset management plans for its fifty-eight large land blocks on a regular basis.

#### FINDING 3.4

**SITLA Should Continue Pursuing the Development of a New Land Business Management System**

#### RECOMMENDATION 3.4

The School and Institutional Trust Lands Administration should establish and implement a timeline for the completion of its new land business management system in order to support its efforts toward more proactive land management.



### CONCLUSION

SITLA can improve its land management by tracking the value of its land over time. This will allow SITLA to track the performance of its portfolio and identify whether certain parcels of land warrant an adjusted land management strategy. Improving the land business management system can help with such proactive efforts.







## Chapter 3

# SITLA Can Improve Effectiveness by Using Additional Best Practices in Asset Management

### 3.1 SITLA Can Take Steps Toward a More Proactive and Comprehensive Land Management Model

We found that SITLA often identifies and reviews land tracts for potential revenue generation only after an external party expresses interest. This contrasts with the private real estate business model, where a considerable effort goes into planning and characterizing real estate holdings to ensure they are maximizing revenue. SITLA is not alone in its primarily reactive approach—we found that



**The private real estate business model uses research and planning to optimize revenue for each property.**

most trust managers in other states also operate by reacting to markets through applicant demand. However, by adopting a proactive approach to land management and creating a comprehensive strategic plan, we believe SITLA can increase trust system revenue and effectively manage its state assets. This will ensure progress towards stronger land management practices.

#### SITLA Evaluates Land for Revenue Generation after Private Parties Express Interest

With reactive or passive management, trust managers respond to proposals from private interests to lease or purchase tracts of trust lands. For example, SITLA most commonly evaluates land for sale or revenue generation only after a private party expresses interest in purchasing or leasing the land. This triggers SITLA's three management groups to evaluate the land tract for revenue potential and decide whether SITLA should hold, sell, or lease the land.

Private interest sparked a recent land review, and the energy and minerals group identified this land to have potential mineral resources. As a result, SITLA chose not to sell this piece of land. While it appears the correct decision was reached, SITLA had not characterized this parcel as one intended for future mineral development until this point. SITLA management indicated that this model of land evaluation is typical for all three of their management groups.

Importantly, one SITLA manager explained this approach accounts for supply and demand—if SITLA releases and markets all their developable land, they could saturate the market and reduce land prices. Likewise, energy and mineral



plays may become more or less viable as commodity prices change, or new technologies shift demand for resources. SITLA's energy and minerals group is currently addressing part of this issue by integrating geologic data into a single map overlay so it can more quickly identify resource potential on SITLA lands. While SITLA has legitimate reasons for its reactive land management approach and is trying to be more proactive, it has yet to develop a comprehensive method to characterize and value its land assets.



**SITLA lacks a comprehensive approach for characterizing and valuing its lands.**

### **SITLA Is Already Working Toward Stronger Asset Management**

While SITLA does not have an approach for characterizing and valuing its land assets, it does have a strategic plan. SITLA lists asset management as its number one goal in its 2023 strategic plan and includes sixteen asset management objectives within that goal, including:

- Completing an asset inventory of land characteristics
- Updating its mineral library with classifications and tying information into GIS
- Establishing a regular schedule to review and list lands designated for development
- Analyzing revenue potential for large land blocks
- Determining methods for disposing of or generating revenue from under-producing lands

Section 2.2 of Chapter 2 highlights the shortcomings of SITLA's strategic plan, which include the absence of strategies and clear performance measures for achieving and tracking progress toward these goals. However, we support and commend SITLA management for recognizing and beginning to address areas where they can improve.



**Asset management incorporates the economic assessment of trade-offs among alternative investment options.**

Asset management<sup>13</sup> is the process of guiding the use, disposal, and acquisition of assets to make the most of revenue potential and to manage the related risks and costs over the life of those assets. It incorporates the economic assessment of trade-offs among alternative investment options to help make cost-effective investment decisions, which can increase SITLA's net revenue. However, the unique nature of state trust

lands makes some aspects of asset management difficult or less relevant for SITLA to implement. The most important actions for SITLA to focus on are outlined in the following sections of this chapter.

### **3.2 SITLA Should Improve Its Understanding of the Value of the Land It Manages**

We found that SITLA does not estimate the value of land in its portfolio. Consequently, SITLA cannot benchmark and track its land portfolio's financial performance and does not have a method to identify underperforming land tracts to determine if different management strategies are needed. SITLA management believes that determining the total value of its land is difficult to accomplish in an accurate manner given the diversity and scattered nature of the land and the effort to estimate its value outweighs its usefulness. Nevertheless, the Chartered Financial Analyst Institute's globally recognized standards for calculating and presenting investment performance, require land valuations to be conducted. Such valuations may not be full appraisals, but they should allow SITLA to track changes in land value over time. Without these valuations, SITLA cannot easily identify assets that would potentially appreciate faster in the School and Institutional Trust Fund Office's (SITFO) investment fund, potentially limiting trust system revenue. We recommend SITLA estimate values for land tracts in its portfolio on a reasonable regular basis. We also recommend that SITLA use these land value estimates and characterizations to track



**SITLA does not have a process for identifying land assets that would appreciate faster in the SITFO investment fund, limiting revenue generation.**

<sup>13</sup> Private Sector Asset Management Practices: (1) site-based management, accounting, budgeting, and operations, (2) relevant and regularly updated databases on physical, operational, and financial characteristics of properties, (3) annual reviews and reporting, (4) private market benchmarks, including market value of all alienable properties, (5) financial tools and performance standards used in the real estate market, (6) introduction of effective competition to leasing, sales, and sourcing of services and materials, (7) culling of smaller properties through sale to improve portfolio management efficiency.



appreciation so SITLA can weigh the opportunity cost of alternative management strategies, such as investment in SITFO's investment fund.

### **SITLA Has Not Prioritized Efforts to Value Its Land Portfolio**

SITLA management has not prioritized estimating the value of land in its portfolio. By valuing and tracking the value of its assets, SITLA will be able to weigh the opportunity cost of holding its assets against alternative management strategies. SITLA's internal strategic plan lists identifying underperforming assets as an objective. However, SITLA has not yet developed a plan or procedure to accomplish this objective.

SITLA management told us they attempted a total portfolio land valuation several years ago but found that it was hard to develop given the diversity and scattered nature of its land. They claimed that the costs of appraising every land tract exceeded the utility of this information. Furthermore, by extrapolating values and accounting for all variables necessary, the data would not be accurate or useful, and values would be quickly outdated.

We question SITLA management's belief that estimating the value of their land is too expensive. In 2019, the Utah Legislative Commission on Federalism commissioned a study that successfully estimated values for large amounts of rural land<sup>14</sup>.

We also question SITLA management's belief that knowing the value of their land is not useful. We acknowledge that professionally appraising each land tract to determine its fair-market value would be cost prohibitive and the values would become outdated. However, SITLA's purpose for valuing and characterizing its land is to track changes in value through time to systematically make opportunity cost decisions and measure performance. Therefore, values only need to be modeled using a consistent methodology, and do not necessarily need to reflect a traditional fair-market value appraisal. This will help inform SITLA's decision-making on whether certain parcels of land are increasing at a greater or slower rate than they would in the SITFO investment fund or through another management strategy. Additionally, SITLA listed completing an asset inventory of land characteristics as its first objective in its



**SITLA should value its land to track changes through time, make opportunity cost decisions, and measure performance.**

<sup>14</sup> The Utah Legislative Commission on Federalism hired a consulting group that estimated the value of all federal land in the state – roughly 65 percent of Utah's land – for \$300,000. Meanwhile, SITLA accounts for 6 percent of Utah's land.



strategic plan. We believe that SITLA can then use this asset inventory of land characteristics to develop its land valuation model.

### **SITLA Cannot Track Portfolio Performance without Knowing the Value of Its Land**

SITLA manages a massive amount of state assets but has not characterized or valued those assets. As discussed in Section 2.2 of Chapter 2, SITLA has not yet developed robust measures for tracking performance.

A United States Government Accountability Office (GAO) report titled “Federal Real Property Asset Management”, identified six key characteristics of an asset management framework. One key characteristic, “maximizing an asset portfolio’s value,” emphasized the importance of identifying the value of an agency’s assets. The GAO says:

#### **US Government Accountability Office:**

*“Organizations should develop an asset management policy to identify the value of their assets to achieve their mission and strategic objectives, and invest in those assets in such as a way as to derive the greatest value from them.”*

Additionally, the Chartered Financial Analyst Institute developed the Global Investment Performance Standards for Asset Owners (GIPS), which are the recognized standard for calculating and presenting investment performance around the world. Objectives of the GIPS standards include promoting investor interests, instilling investor confidence, and ensuring accurate and consistent data. GIPS standards require a real estate valuation to be conducted at least once every three years. GIPS standards say:

#### **Global Investment Performance Standards for Asset Owners:**

*“Real estate investments that are directly owned by the asset owner must have an external valuation at least once every 12 months unless the oversight body stipulates otherwise, in which case real estate investments must have an external valuation at least once every 36 months or per oversight body instructions if the oversight body requires external valuations more frequently than every 36 months.”*

Like SITLA, SITFO has the same responsibility of maximizing revenue to beneficiaries. SITFO’s annual reports summarize its asset allocations, the fair market values of its assets, and an investment maturity table. SITLA should apply the same level of rigor to its vast land portfolio in order to accurately assess its assets and determine the value of its land, allowing for measurable performance, tracking, and accountability.



### RECOMMENDATION 3.1

The School and Institutional Trust Lands Administration should estimate and track values for the land in its portfolio on a reasonable regular basis it establishes to facilitate analysis of its land values over time.

## SITLA Should Consider Opportunity Cost when Making Asset Management Decisions

Opportunity cost is the income foregone by not using a resource or asset in its next best alternative. SITLA does not pay property tax on its land. Therefore, SITLA can hold land in its portfolio for almost no cost. SITFO has asserted a 7.5 percent hurdle rate, which means that SITLA needs to understand the characteristics and value of its land to ensure it is getting the best rate of return through either holding the land or investing in the SITFO fund. However, if SITLA does not know the value or characteristics of its land and is not tracking its change through time, it has no systematic way to identify land that is underperforming. Therefore, it cannot perform this opportunity cost calculation. As a result, the trust system may not be maximizing revenue generation across its portfolio.

A 2019 report on State Trust Lands by Headwaters Economics explains that states should assess whether trust assets will generate more income if they are sold and transferred to the investment fund, or if they will generate more revenue through renewable sources, such as grazing or timber. They say:

### Headwaters Economics:

*“By not pursuing (or even assessing the potential of) different revenue models, states may be returning less than maximum revenue and value to beneficiaries.”*

In addition to this report, we found other states that consider opportunity cost and track trust land appreciation. For example:

- The 2024 Asset Management Plan for School Lands in Oregon outlines land evaluation criteria. The initial step involves calculating opportunity cost, which aids in deciding whether to retain the property or allocate the proceeds to the school fund.
- Beginning in 2014, Colorado developed a portfolio valuation model it used to measure and track the performance of its trust assets. It estimated resource values for its land, minerals, and commercial real estate. By performing this analysis, it was able to estimate and track its land



appreciation for the purpose of portfolio management. Importantly, it estimated an average annual appreciation of its trust assets between 2015 and 2019 to be 4.3 percent, considerably less than SITFO's 7.5 percent hurdle rate. SITLA may be missing opportunities to generate more revenue.

SITLA's strategic plan lists "determine methods for disposing of or otherwise generating increased revenue from under-producing lands" as one of its asset management objectives but does not yet have a strategy to accomplish this. By valuing and characterizing its land, SITLA can use this information to highlight underperforming properties automatically based on opportunity cost calculations, so corrective action can be taken, and revenue generation can be optimized.

#### RECOMMENDATION 3.2

The School and Institutional Trust Lands Administration should use land value estimates and characterizations to perform an opportunity cost analysis of its parcels and maximize the value of underperforming parcels.

### 3.3 SITLA's Surface Group Can Improve Its Existing Block Management Plans

We found that SITLA's surface group does not have up-to-date asset management plans for all fifty-eight of its large land blocks. SITLA broadly defines its blocks as consolidated tracts of land, 5,000 acres or greater. Plans for these blocks were last developed between 2006 and 2013 and were made for fifty-three of the fifty-eight blocks. Since the retirement of SITLA's block planner in 2013, SITLA has chosen to discontinue this planning effort. As a result, SITLA's



**Land planning can help improve proactive asset management.**

largest properties lack up-to-date management information, and SITLA does not have a plan, strategy, or financial analysis for managing these large state assets, inhibiting proactive management and potentially limiting revenue generation.

SITLA's outdated plans provide property summaries but lack financial operating information. Robust asset plans include an annual budget and financial plan for each property. Regularly comparing and analyzing the actual and planned performance of the asset is crucial. It allows for measuring the property's performance and addressing any poor performance.



SITLA’s development group tracks the financial performance of individual land tracts through its major projects report. It also specializes in taking an active role in managing the land by researching, master planning, and strategically positioning the land for its best and highest-value use. The development group hires consultants to research the best uses of the land based on land characteristics and regional market conditions. Since the retirement of SITLA’s block planner in 2013, SITLA’s surface group has not continued this planning effort. SITLA’s surface group should adopt a similar approach as the development group does for managing its large land blocks and tracking its financial performance. Doing so will ensure they are managed for their best use and their financial performance can more easily be tracked.



**SITLA’s development group researches, master plans for, and strategically positions its land for its best use.**

**RECOMMENDATION 3.3**

The School and Institutional Trust Lands Administration should update the asset management plans for its fifty-eight large land blocks on a regular basis.

**3.4 SITLA Should Continue Pursuing the Development of a New Land Business Management System**

We found that SITLA’s land business management system (LMBS) has limited capacity to produce key management information. Private real estate managers use technology to perform complex data analyses with ease. However, SITLA has been unable to use these tools on its massive portfolio, which hinders its ability to make proactive management decisions and maximize revenue. Until 2021, SITLA had not prioritized upgrading LMBS, but now has developed two strategic documents and is planning a request-for-proposal for a developer to create its new system. We recommend SITLA develop and implement a timeline for the completion of its new business system and include tools to track the value of individual land tracts.



**SITLA’s business management system is outdated, hindering effective land management.**

**SITLA’s Current Business Management System Fails to Meet Existing Needs**

SITLA and the Department of Technology Services (DTS) identified many issues with LMBS in their report, including:

- Excessive staff time needed to complete basic tasks
- Staff addressing issues reactively and with workarounds





- Issues with the quality and completeness of data

Additionally, we found that LMBS was unable to easily produce key management information, such as revenue for individual land tracts, historic sales data, and book values for land tracts. DTS said that the core problem is that:

**Department of Technology Services:**

*“SITLA has relied on external sources of truth to provide data to its beneficiaries. Due to these external factors, excess time is spent on data research and validation. As a result, there is a significant amount of technical debt and SITLA has created both manual processes and other technical modules to continue to satisfy the emerging needs. With the effort to quickly process contracts, analyze data from reports, run audits, and/or extract historical data, the backlog of tasks continues to increase. While working reactively, SITLA may not be addressing all opportunities to generate the maximum revenue for their beneficiaries.”*

Between Fiscal Year 2022 and Fiscal Year 2024, SITLA was given \$4.5 million for LMBS upgrades. So far, \$700,000 has been used to hire consultants who helped create a prioritized list of SITLA's operational needs. However, SITLA does not yet have a timeline for its completion.

**RECOMMENDATION 3.4**

The School and Institutional Trust Lands Administration should establish and implement a timeline for the completion of its new land business management system in order to support its efforts toward more proactive land management.

**SITLA’s New Business Management System Should Incorporate Tools for Proactive Asset Management**

SITLA prioritized functional requirements for its new system in its specification document as essential, high, and low. Presently, property valuation analysis, market research for valuation projections, and land value projections to help SITLA be more proactive are all listed as low priority goals. As discussed previously in Section 3.2 of this chapter, we believe SITLA should estimate and track values for the land in its portfolio.

Additionally, best practices in asset management call for site-based management, which requires identifying and tracking revenues and expenses of individual properties. SITLA’s development group has prioritized revenue and expense reports as essential, and project-based reporting as high in the specification document. It also currently use a project reporting tool, which summarizes key



financial information for their major projects. However, we believe these tools should be available for all SITLA lands, not just development properties, so performance can be evaluated, and revenue can be optimized.



# Complete List of Audit Recommendations





## Complete List of Audit Recommendations

This report made the following thirteen recommendations. The numbering convention assigned to each recommendation consists of its chapter followed by a period and recommendation number within that chapter.

### Recommendation 1.1

We recommend that the School and Institutional Trust Lands Administration create and implement a policy for items to consider before accepting a land donation, based off its experience with the North Temple Landfill development.

### Recommendation 1.2

We recommend that the School and Institutional Trust Lands Administration formalize its risk assessment procedures by implementing and demonstrating improvement through the Enterprise Risk Management framework.

### Recommendation 1.3

We recommend that the School and Institutional Trust Lands Administration improve its current processes, and demonstrate the implementation of those improvements, to ensure that the necessary steps outlined in *Administrative Rules* for each transaction type are complete before finalizing a transaction.

### Recommendation 1.4

We recommend that the School and Institutional Trust Lands Administration revise the *Administrative Rules* for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for setting lease rates are clear and consistent with **Utah Code** pertaining to the receipt of no less than fair market value for the lease of trust lands.

### Recommendation 1.5

We recommend that the School and Institutional Trust Lands Administration's Board of Trustees consider, implement, and demonstrate improvement of options for monitoring the School and Institutional Trust Lands Administration's internal controls.

### Recommendation 2.1

We recommend that the School and Institutional Trust Lands Administration's Board of Trustees keep subcommittee meeting minutes and adopt a policy that ensures all issues discussed in subcommittee meetings are raised again during the full public board meeting.

### Recommendation 2.2

We recommend that the School and Institutional Trust Lands Administration's Board of Trustees consider recording subcommittee meetings for future accountability review by government auditors.

### Recommendation 2.3

We recommend that the School and Institutional Trust Lands Administration improve its strategic plan by ensuring that every objective and goal has at least one well-developed strategy and one quantifiable performance measure associated with it.



### **Recommendation 2.4**

We recommend that the Legislature consider requiring the School and Institutional Trust Lands Administration to produce its own annual report.

### **Recommendation 3.1**

We recommend that the School and Institutional Trust Lands Administration estimate and track values for the land in its portfolio on a reasonable regular basis it establishes to facilitate analysis of its land values over time.

### **Recommendation 3.2**

We recommend that the School and Institutional Trust Lands Administration use land value estimates and characterizations to perform an opportunity cost analysis of its parcels and maximize the value of underperforming parcels.

### **Recommendation 3.3**

We recommend that the School and Institutional Trust Lands Administration update the asset management plans for its fifty-eight large land blocks on a regular basis.

### **Recommendation 3.4**

We recommend that the School and Institutional Trust Lands Administration establish and implement a timeline for the completion of its new land business management system in order to support its efforts toward more proactive land management.



# Agency Response







SUPPORTING UTAH SCHOOLS AND INSTITUTIONS

Michelle E. McConkie  
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August 12, 2024

Kade R. Minchey, CIA, CFE, Auditor General  
Office of the Legislative Auditor General  
Utah State Capitol Complex  
Rebecca Lockhart House Building, Suite W315  
PO Box 145315  
Salt Lake City, UT 84114-5315

Dear Mr. Minchey,

Thank you for the opportunity to respond to the recommendations in *A Performance Audit of the School and Institutional Trust Lands Administration, Improving Controls, Accountability, and Proactive Management (Report No. 2024-13)*. We appreciate the professionalism of the audit staff and their willingness to collaborate and communicate with our team throughout the process.

We take our mission to manage Utah's trust lands in the most prudent and profitable manner possible for the financial support of the trust beneficiaries very seriously. The funds generated from trust lands have profound effects on the lives of Utah's schoolchildren, teachers, college students, disabled miners, those struggling with mental health challenges, and many others. We are consistently looking for ways to improve our efforts and value the insight and assistance we've gained from this audit.

SITLA concurs with the recommendations in the audit report and believes that the implementation of the recommendations will help us more effectively administer Utah's trust lands. Our response and plan of action regarding each of audit recommendations follows.

Yours sincerely,

A handwritten signature in blue ink that reads "Warren H. Peterson".

Warren H. Peterson  
Board of Trustees

A handwritten signature in blue ink that reads "Michelle E. McConkie".

Michelle E. McConkie  
Executive Director

## Chapter 1

**Recommendation 1.1:** We recommend that the School and Institutional Trust Lands Administration create and implement a policy for items to consider before accepting a land donation, based off its experience with the North Temple Landfill Development.

**Agency Response:** SITLA concurs with this recommendation.

**What:** SITLA will expand upon the donation checklist it created in 2016 and will implement a robust, updated policy and accompanying procedures outlining methods for receiving land donations.

**How:** SITLA will create a donation working group of internal staff members, board members, beneficiary representatives, agency counsel, and possibly outside charitable contribution legal counsel that will examine current practices for donations and refine them into an updated donation checklist and an updated policy that outline best practices for receiving donations. This updated policy will seek to identify issues to assess and will, at minimum, include the following:

- Procedures for obtaining external estimates of value.
- Procedures for reviewing the risks associated with any proposed donation.
- Procedures for review of any legal questions surrounding the donation as it pertains to IRS estate and charity law.
- Procedures for identifying the appropriate Trust system beneficiary should one not be specified by the grantor of the property.
- A checklist to be used to track each step in the approval process, including board action, and any processes to be completed after board action.

**When:** SITLA will form a donation working group and identify any external consultants necessary within six months. The agency will seek to have an updated policy and any needed rule changes in place within one year.

**Documentation:** SITLA will document the implementation of this recommendation by adopting an updated formal agency policy and/or rule.

**Responsible Staff Member:** Kyle Pasley, Managing Director - Real Estate Development, kylepasley@utah.gov, 801-538-5176

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**Recommendation 1.2:** We recommend that the School and Institutional Trust Lands Administration formalize its risk assessment procedures by implementing and demonstrating improvement through the Enterprise Risk Management Framework.

**Agency Response:** SITLA concurs with this recommendation.

What: SITLA will establish a Risk Management working group that will create and annually review a Risk Management Plan for the agency that incorporates elements of the Enterprise Risk Management Framework. The working group will also review and ensure compliance with the Risk Management Plan.

How: SITLA will establish a Risk Management working group comprised of senior level staff members that work with members of the SITLA Board of Trustees and other members of the SITLA team to:

- Identify major risks to the agency.
- Prioritize these risks.
- Determine risks that could be avoided and identify actions to minimize such risks.
- Create mitigation plans for risks that cannot be avoided.
- Work with various team members in the agency to implement the mitigation plans.
- Ensure all staff are trained annually on risks and established mitigation plans.
- Meet quarterly to review identified risks and the effectiveness of plans established and actions taken.
- As necessary, but at least annually, update the identified risks, priorities, and mitigation plans.

When: SITLA will establish a Risk Management working group by September 30, 2024. This working group will identify major risks to the agency, prioritize risks and determine risks that can be avoided by December 31, 2024. SITLA will complete the creation of mitigation plans by March 31, 2025. Full implementation of mitigation plans and training of staff will be completed by June 30, 2025. After full implementation, SITLA will review risks and the effectiveness of mitigation plans quarterly. The identified risks, priorities, and mitigation plans will be updated within the first quarter of each fiscal year.

Documentation: SITLA will document its implementation of this recommendation by adopting a formal agency Risk Management Plan as well as accompanying risk mitigation plans.

Responsible Staff Member: Scott Bartlett, Managing Director - Operations,  
[scottbartlett@utah.gov](mailto:scottbartlett@utah.gov), 801-538-5166

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**Recommendation 1.3:** We recommend that the School and Institutional Trust Lands Administration improve its current processes, and demonstrate the implementation of those improvements, to ensure that the necessary steps outlined in *Administrative Rules* for each transaction type are complete before finalizing a transaction.

**Agency Response:** SITLA concurs with this recommendation.

What: SITLA will establish a formal agency policy for documenting review and approval procedures for the various transaction types to assure compliance with Administrative Rules.

How:

- Complete a review of Administrative Rules for each transaction type and identify each required processing step.
- Identify and document any gaps or deficiencies in current transaction checklists and processing procedures.
- Revise and update checklists and procedures as necessary and implement into workflows.
- Clearly define workflows for management review and approval of transactions.
- Incorporate workflows into an agency policy document.
- Ensure all staff are properly trained on transaction processing policy, procedures, and workflows.

When: SITLA will complete the initial review of Administrative Rules and identification of deficiencies in current processes by February 28, 2025. Full implementation of the recommendation through the development of revised checklists and workflows and adoption of formal agency policy will be completed by September 1, 2025.

Documentation: SITLA will document implementation of the recommendation through the adoption of a formal agency policy.

Responsible Staff Member: Chris Fausett, Managing Director - Surface Resources, [chrisfausett@utah.gov](mailto:chrisfausett@utah.gov), 801-538-5139

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**Recommendation 1.4:** We recommend that the School and Institutional Trust Lands Administration revise the *Administrative Rules* for Special Use Lease Agreements and Renewable Energy Lease Agreements to ensure that the criteria for setting lease rates are clear and consistent with **Utah Code** pertaining to the receipt of no less than fair market value for the lease of trust lands.

**Agency Response:** SITLA concurs with this recommendation.

What: SITLA will work with the Board of Trustees and the Utah Office of Administrative Rules to clarify and revise the Administrative Rules regarding setting lease rates for Special Use Lease Agreements and Renewable Energy Lease Agreements.

How:

- Establish a working group comprised of agency management, legal team representatives, and selected lease managers to draft revised rule language.
- Present revised rule language to the Board of Trustees for review and Board action.
- Submit proposed rule revisions to the Utah Office of Administrative Rules for review, publishing, and public comment.

- Codify rule in the Utah Administrative Code.

When: SITLA will draft revised rule language and submit it to the Board of Trustees for review and approval by February 28, 2025. SITLA anticipates that full implementation of the recommendation with codification of the rule into the Utah Administrative Code will be complete by September 1, 2025.

Documentation: SITLA will document implementation of this recommendation by codifying the revised Administrative Rule into the Utah Administrative Code.

Responsible Staff Member: Chris Fausett, Managing Director - Surface Resources, [chrisfausett@utah.gov](mailto:chrisfausett@utah.gov), 801-538-5139

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**Recommendation 1.5:** We recommend that the School and Institutional Trust Lands Administration's Board of Trustees consider, implement, and demonstrate improvement of options for monitoring the School and Institutional Trust Lands Administration's internal controls.

**Agency Response:** SITLA concurs with this recommendation.

What: Monitoring of SITLA's financial operations by the Division of Finance under their Internal Control System is no longer occurring due to recent resource constraints within the Division of Finance. SITLA hopes that these resource and funding constraints will be remedied and that Division of Finance review can ultimately resume. In the meantime, SITLA will work with its Board of Trustees to establish alternate controls to ensure adequate internal monitoring is taking place, including determining whether a member of SITLA's audit team should have responsibility for internal audits.

How: SITLA will work with its Board of Trustees to ensure adequate internal monitoring is taking place in lieu of the Division of Finance's Internal Control System, which is no longer auditing SITLA quarterly due to resource constraints within the Division of Finance. Internal controls to consider may include establishing a member of SITLA's audit team as an internal auditor. SITLA's internal audit group currently consists of three staff members. This team performs 10-20 audits of companies doing business with SITLA per year depending on the size and complexity of the companies being audited to ensure appropriate payments are being made to the agency. This small group, since it was expanded to three members, has brought in approximately \$2 million per year in revenue that would have otherwise not been realized. The addition of a third auditor a few years ago has greatly increased revenue from audits and has much more than paid for itself. SITLA would suggest adding another position to ensure these internal controls are in place instead of pulling this small but efficient team from their current revenue-producing work. If additional staff is needed, SITLA will include a supplemental request in its FY 2025 budget and will hire the new staff member upon budget approval by the Utah Legislature. Interim controls will also be established.

When: The Risk Management working group discussed in SITLA's response to Recommendation 1.2 will work with the Board of Trustees to determine appropriate internal control measures. SITLA will make initial recommendations to the Board of Trustees by September 30, 2024. If this recommendation includes hiring additional staff and is approved by the Board, SITLA will add a supplemental request to its budget for FY 2025. If the Legislature approves this request as part of SITLA's FY 2025 budget, then SITLA will hire this additional staff member prior to June 30, 2025. The Risk Management working group will also establish interim control measures in conjunction with the Board of Trustees and other relevant staff, prior to December 31, 2024.

Documentation: Supplemental budget request to hire an additional staff member to implement internal control measures. Written documentation of internal control measures to be implemented both in the short term and long term.

Responsible Staff Member: Scott Bartlett, Managing Director - Operations, [scottbartlett@utah.gov](mailto:scottbartlett@utah.gov), 801-538-5166

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**Recommendation 2.1:** We recommend that the School and Institutional Trust Lands Administration's Board of Trustees keep subcommittee meeting minutes and adopt a policy that ensures all issues discussed in subcommittee meetings are raised again during the full public board meeting.

**Agency Response:** SITLA concurs with this recommendation.

What: The SITLA Board of Trustee will adopt a policy concerning subcommittee meetings which requires the keeping of written minutes to aid future government auditors in performing reviews. The policy will also establish procedures to help ensure that all material issues, including significant refinements to a proposal, discussed in subcommittee meetings are raised again in the later public board meeting at which action is taken on a matter.

SITLA has attempted to achieve the right balance in its use of board subcommittees and is grateful for the outside perspective and recommendations the audit has provided. SITLA recognizes that more formal safeguards regarding these issues are needed. SITLA instituted the practice of using subcommittees in approximately 2007 following a prior legislative audit recommending greater board involvement in matters, particularly relating to real estate development projects, which SITLA concurred with. The use of subcommittees, however, although not uncommon, does carry risks. SITLA has attempted to address these risks through periodic training sessions of the SITLA board, subcommittee members, and key staff. These sessions have stressed that the purpose of the subcommittees is for vetting and refining matters to ensure they are ready for presentation to the full board at later public meetings, and have also highlighted the risk of not sufficiently summarizing for the full board preliminary issues

discussed in subcommittees. SITLA staff have also attempted to include within the public memos associated with board meetings references to significant issues raised in the subcommittees. The audit has revealed that more formal procedures and safeguards are needed to ensure that these issues are addressed with greater consistency. The audit recommendations made will be an effective means of improving performance on a monthly basis.

**How:** SITLA will create a board subcommittee procedures working group comprised of the SITLA Board of Trustees Chair and Vice Chair, as well as staff members and beneficiary representatives who frequently participate in subcommittee meetings. This working group will analyze risks associated with the use of board subcommittees including those disclosed via the audit. This group will analyze potential elements of a board policy concerning subcommittee meetings, including at a minimum a requirement for keeping written minutes. The group will also analyze how best to identify and track material issues raised during the subcommittee meetings to help ensure they are raised again in the later full board meeting at which action is taken.

**When:** SITLA will establish the board subcommittee procedures working group by October 15, 2024. The working group will meet at least monthly and will develop a draft proposed board policy as described above for circulation and comment within SITLA, the Board of Trustees, and beneficiary representatives, by December 31, 2024. Based upon the feedback received, the working group will finalize a draft policy to propose to the full Board of Trustees by February 28, 2025, with a target date for formal adoption of the policy, including any further refinements the board may request, as soon after February 28, 2025 as possible but no later than May 30, 2025.

**Documentation:** The board will adopt a formal, numbered policy document that will be available to the staff, beneficiaries, and the public. Pursuant to the policy, SITLA will then maintain written meeting minutes in connection with the individual subcommittee meetings. The minutes and audio recordings of the meetings of the full board will also reflect that material issues discussed in the subcommittee meetings are identified at the full board meetings, pursuant to a process that the policy will identify.

**Responsible Staff Member:** Michael Johnson, Chief Legal Counsel, [mjohnson@utah.gov](mailto:mjohnson@utah.gov), 801-538-5180.

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**Recommendation 2.2:** We recommend that the School and Institutional Trust Lands Administration's Board of Trustees consider recording subcommittee meetings for future accountability reviews by government auditors.

**Agency Response:** SITLA concurs with this recommendation.

**What:** The board subcommittee procedures working group referenced in the discussion of Recommendation 2.1, above, will consider the practice of recording subcommittee meetings for

future accountability reviews by government auditors. Any action taken as a result of this analysis will be included in the board policy referenced in section 2.1. Consistent with our discussions with the audit team, the policy will be designed to prevent public disclosure of information protected under GRAMA or that would be detrimental to trust beneficiaries.

**How:** SITLA will create a board subcommittee procedures working group comprised of the SITLA Board of Trustees Chair and Vice Chair, as well as staff members and beneficiary representatives who frequently participate in subcommittee meetings. In addition to the issues discussed in section 2.1 above, this working group will also consider the practice of recording board subcommittee meetings to aid future reviews by government auditors.

**When:** SITLA will establish the board subcommittee procedures working group by October 15, 2024. The analysis and ultimate action taken regarding audio recordings of subcommittee meetings will follow the same timeline, with the same May 30, 2025 ultimate deadline, set forth in section 2.1, above.

**Documentation:** The board will adopt a formal, numbered policy document that will be available to the staff, beneficiaries, and the public. If the policy includes a provision regarding the recording of subcommittee meetings, then the audio recordings themselves will represent a record of compliance with that practice.

**Responsible Staff Member:** Michael Johnson, Chief Legal Counsel, [mjohnson@utah.gov](mailto:mjohnson@utah.gov), 801-538-5180.

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**Recommendation 2.3:** We recommend that the School and Institutional Trust Lands Administration improve its strategic plan by ensuring that every objective and goal has at least one well-developed strategy and one quantifiable performance measure associated with it.

**Agency Response:** SITLA concurs with this recommendation.

**What:** SITLA will complete a comprehensive review of its strategic plan. The agency will focus on developing at least one detailed strategy and one associated quantifiable performance measure for each objective.

**How:**

- Review current strategic plan with agency management team.
  - Reassess priorities of plan goals and objectives based on audit recommendations.
  - Identify deficiencies in current plan where strategies and performance measures need improvement.
- Revise plan as need to resolve identified deficiencies.
- Review plan with Board of Trustees and incorporate recommendations as needed.



- Review plan with agency staff and incorporate recommendations as needed.
- Publish revised plan, submit the Governor's Office of Planning and Budget.

When: The SITLA management team will reassess priorities and identify deficiencies in the strategic plan by February 28, 2025. SITLA will implement this recommendation by publishing a revised plan by September 1, 2025.

Documentation: SITLA will document the implementation of this recommendation by publishing a revised strategic plan.

Responsible Staff Member: Scott Bartlett, Managing Director - Operations, [scottbartlett@utah.gov](mailto:scottbartlett@utah.gov), 801-538-5166

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**Recommendation 2.4:** We recommend that the Legislature consider requiring the School and Institutional Trust Lands Administration to produce its own annual report.

**Agency Response:** SITLA concurs with the recommendation.

What: SITLA will resume production of its own annual report independent of other trust system entities. Several years ago SITLA combined its annual report efforts with those of other trust system entities which were analyzing many of the same revenue figures and other data, but the audit has revealed reasons to return to the prior practice. The agency will defer to the Legislature's judgment regarding the need to adopt legislation requiring the production of this report. SITLA will provide needed information and support materials to legislative staff and legislators if statutory changes regarding this matter are being considered.

How:

- At the conclusion of each fiscal year, SITLA will generate detailed revenue and expense reports.
- Detailed revenue and expense data specific to SITLA's operations will be incorporated into an annual report.
- The annual report will be published on the agency's public website.

When: SITLA will resume publishing its own annual report beginning with the FY2025 report.

Documentation: SITLA will document the implementation of this recommendation by producing and publishing an independent annual report.

Responsible Staff Member: Marla Kennedy, Director of Communications and Governmental Affairs, [marlakennedy@utah.gov](mailto:marlakennedy@utah.gov), 801-538-5102

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**Recommendation 3.1:** We recommend that the School and Institutional Trust Lands Administration estimate and track values for the land in its portfolio on a reasonable regular basis it establishes to facilitate analysis of its land values over time.

**Agency Response:** SITLA concurs with the recommendation. To be most effective, values must be tracked and estimated based on the highest and best use for each parcel of land within the agency's portfolio. To determine that use SITLA needs to expand on its existing work cataloging land characteristics to evaluate which uses should be applied to each parcel in question, and then delineate the most appropriate valuation method available.

**What:** SITLA will identify those parcels not already producing revenue production and seek to complete characterization followed by valuation by either appraisal, market opinion or other methods. Given that each parcel of SITLA-managed land is held for the benefit of one or more of 12 different beneficiaries, the valuation process will need to delineate the value for each different beneficiary and for the portfolio as a whole. It is anticipated that this process will value, characterize, and update parcels on a five-year rotating basis. As part of this effort SITLA will identify how to approach the issues of mineral valuation and special use valuations, each of which presents unique challenges. Meaningfully estimating the contributory value of the mineral estate to the overall value of a parcel is often possible only after mineral production has occurred. The valuation effort may assign values to mineral lands when they have reached that stage, and at a minimum, will identify and designate other lands known to have mineral potential which has not yet been sufficiently defined to apply certain valuation methods.

**How:** SITLA will form a land characterization/valuation working group to determine the best process for setting these procedures.

- This process will likely require the use of one or more outside consultants.
- The agency will likely need to add staff to oversee this process and make it an ongoing regular part of the agency function.

**When:** SITLA will form the land characterization/valuation working group by December 31, 2024. The working group will consider potential land characterization and valuation strategies, along with additional budget and staffing needs, and present preliminary recommendations to agency management by March 31, 2025. The agency will finalize its strategy and present it to the Board of Trustees by September 1, 2025. Implementation of the strategy will begin in FY2026. It is anticipated that the valuation process will be completed on a rolling five-year basis after implementation.

**Documentation:** A summary of valuation findings will be presented to the SITLA Board of Trustees and beneficiaries in an annual report.

**Responsible Staff Member:** Michelle McConkie, Executive Director, meastmconkie@utah.gov, 801-538-5101

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**Recommendation 3.2:** We recommend that the School and Institutional Trust Lands Administration use land value estimates and characterizations to perform an opportunity cost analysis of its parcels and maximize the value of underperforming parcels.

**Agency Response:** SITLA concurs with this recommendation.

**What:** The land characterization/valuation working group referenced in the discussion of Recommendation 3.1 above will consider criteria for the identification of under-performing assets as the characterization and valuation model referenced above is developed. Once identified, agency business groups will utilize the characterization and valuation data to determine business plans and revenue strategies for the identified assets.

**How:** SITLA will create a land characterization/valuation working group. Along with the issues discussed in Recommendation 3.1 above, this working group will also consider criteria for the identification of under-performing assets. Summary information concerning these assets will be included in an annual report to the Board of Trustees and beneficiaries.

**When:** SITLA will form the land characterization/valuation working group by December 31, 2024. The working group will consider criteria for the identification of under-performing assets and include them in a preliminary report to agency management by March 31, 2025. The agency will finalize its strategy and present it to the Board of Trustees within one year. Implementation of the strategy will begin in FY2026. It is anticipated that the analysis of under-performing assets will be completed on a rolling 5-year basis after implementation.

**Documentation:** Summary information concerning the analysis of under-performing assets will be presented to the SITLA Board of Trustees and beneficiaries in an annual report.

**Responsible Staff Member:** Michelle McConkie, Executive Director, [meastmconkie@utah.gov](mailto:meastmconkie@utah.gov), 801-538-5101

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**Recommendation 3.3:** We recommend that the School and Institutional Trust Lands Administration update the asset management plans for its fifty-eight large land blocks on a regular basis.

**Agency Response:** SITLA concurs with this recommendation.

**What:** SITLA will develop updated block asset management plans for its large land blocks that are part of a holistic land planning and characterization effort for the lands it manages. To be effective and useful, the block asset management plans need to be integrated with the holistic land planning and characterization strategy contemplated by this chapter of the audit report.

The plans will need to be constructed so that they are dynamic, easily accessible, and updated regularly. The agency will utilize tools such as GIS and integration with the new land management business system to enhance the effectiveness of these plans.

The agency will likely need additional staffing and/or funding resources to fully implement this and other recommendations in Chapter 3 of the audit report. SITLA had a full-time block planning coordinator on staff during 2006-2013 whose primary responsibility was the preparation of the block assessment reports. When that staff member retired in 2013, the agency management in place at the time decided to eliminate the position. The asset management plans contemplated by the audit recommendation are significantly more detailed and robust than those that were developed between 2006-2013 and will require the use of either external planning consultants or additional internal staff resources.

How:

- SITLA will establish an internal working group to consider various needs, strategies, and formats for the updated asset management plans. The internal working group will meet on a consistent basis to develop recommendations.
- The internal working group will recommend a planning strategy, including any required needs for additional resources, to agency management.
- SITLA will present any additional resource needs to the Board of Trustees and the Legislature for their consideration.
- SITLA will implement the planning strategy adopted by agency management with specific staff assignments, goals, and benchmarks for completion.
- SITLA will prioritize blocks for planning based on an initial assessment of their short, medium, and long-term revenue potential. Those with the greatest short-term revenue potential will be prioritized first.

When: This planning process is anticipated to be a multi-year effort. The initial block assessment reports were developed over a seven-year period with one full-time employee working exclusively on them. SITLA will establish an internal working group, identify any additional resource needs, and adopt a planning strategy within six months. Once the strategy is implemented and resources are in place, we anticipate it will take approximately five years to complete the planning process for all 58 blocks.

Documentation: Implementation of the recommendation will be documented through the production of new asset management plans.

Responsible Staff Member: Chris Fausett, Managing Director - Surface Resources,  
[chrisfausett@utah.gov](mailto:chrisfausett@utah.gov), 801-538-5139

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**Recommendation 3.4:** We recommend that the School and Institutional Trust Lands Administration establish and implement a timeline for the completion of its new land business management system in order to support its efforts toward more proactive land management.

**Agency Response:** SITLA concurs with this recommendation.

**What:** SITLA will implement the upgraded document management portion of the new land business management system, including migration of current data and training of staff. SITLA will also establish a detailed timeline for completion of the new land management business system and will implement appropriate steps to ensure the timeline is achieved.

**How:** SITLA has established a timeline for implementation of the upgraded document management portion of the new land management business system. SITLA will continue to actively work with its consultant as well as outside vendors on this piece of the system and will also establish a detailed timeline and implementation plan for completion of the entire system.

**When:** SITLA will choose a vendor and enter into a contract for the upgraded document management portion of the new system by December 31, 2024. Migration of data from the old system will be ongoing but will be completed by September 1, 2025. Staff will be trained on the new document management portion of the system during the third quarter of FY 2025. SITLA will identify a timeline for completion of the entire land management business system by December 31, 2024. An RFP or RFQ for the entire new land management business system will be issued by June 30, 2025.

**Documentation:** Contract with vendor for document management portion of the new system. Training materials for staff on the document management portion of the new system. Written timeline for completion of the entire land management business system. RFP or RFQ for new land management business system.

**Responsible Staff Member:** Scott Bartlett, Managing Director - Operations,  
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