

# LEGISLATIVE AUDIT ADVISORY COUNCIL

## Minutes of Meeting January 23, 2014

A meeting of the Legislative Audit Advisory Council (Council) was held on Thursday, January 23, 2014, in House Committee Room 1 of the State Capitol.

### CALL TO ORDER AND ROLL CALL

Representative Greene called the meeting to order at 1:12 p.m. and a quorum was present with the following members in attendance:

#### Members Present

Representative Hunter V. Greene, Chairman  
Senator Edwin R. Murray, Vice Chairman  
Senator Ben W. Nevers  
Senator Mike Walsworth  
Representative Cameron Henry  
Representative Dalton Honore´  
Representative Clay Schexnayder  
Representative Ledricka J. Thierry

#### Members Absent

Senator Robert Adley  
Senator John R. Smith

Senator Murray explained that the leadership of this joint committee moves to the Senate and made a motion to appoint Senator Walsworth as chairman of the committee and Representative Greene as vice chairman. With no objection, the motion was approved.

### APPROVAL OF MINUTES

Senator Murray made a motion to approve the minutes for the December 19, 2013, meeting and with no objection, the motion was approved.

### EXTENSION REQUESTS

Ms. Joy Irwin, Director of Local Government Services for the Louisiana Legislative Auditor (LLA), presented the nonemergency extension requests for 90 days or less. All were recommended for approval by the LLA except the Washington Parish Sheriff. Senator Walsworth moved to approve all extensions on the nonemergency extension requests for 90 days or less list except for Washington Parish Sheriff, and with no objection, the motion was approved.

Ms. Irwin provided the LLA's criteria for approving extension requests to be presented to the Council: 1) the entity must engage their auditor timely, and 2) the last two out of three audit reports have been submitted timely. Washington Parish Sheriff did not meet that criteria, so Mr. Purpera invited the sheriff to come before the Council to present their request and answer any questions.

Mr. Randy Seal, Washington Parish Sheriff, and Mr. Mike Burris, Chief Financial Officer, explained the reasons for their extension request and assured the Council that they will not be late on their audit again. Sheriff Seal said he began his term on July 1, 2012, and was very familiar with audits because he was previously the assessor for 18 years and never had issues with audits during that time. Mr. Burris said he received the draft audit from LaPorte CPA firm the night before and expects it to be complete the following week.

Senator Nevers complimented Sheriff Seal for his work and made the motion to approve the extension request to March 31, 2014. Legislative Auditor Daryl Purpera pointed out that the sheriff's office is several months behind on posting transactions and needs to get current. Mr. Burris discussed their progress and assurance of future timeliness. Senator Walsworth asked if any objection to Senator Nevers's motion to approve the Washington Parish Sheriff's extension request, and with no objection, the motion was approved.

Ms. Irwin presented the nonemergency extension request greater than 90 days from the Cenla Community Action Inc. This entity had already been granted a 90 day extension to December 31, 2013, but is now requesting an extension until January 31, 2014. Ms. Joan A. Lee, Executive Director for Cenla Community Action, provided the reasons for the delay including loss of key accounting personnel and funding problems. She assured the Council that the audit will be ready by January 31, 2014. Senator Murray moved to grant the nonemergency extension to Cenla Community Action and with no objection, the extension was granted.

## EXECUTIVE DEPARTMENT

Mr. Purpera explained his primary concern is the potential risk to the State of Louisiana if the federal government asks for repayment of disallowed costs. Ms. Beth Davis, LLA Assistant Director of Financial Audit Services, presented the management letter on the Executive Department for the fiscal year ended June 30, 2013, which was issued on December 18, 2013. She reviewed the prior year findings and the current year findings:

1. Inadequate Grant Recovery of Homeowners Assistance Program Awards
2. Inadequate Recovery of Small Rental Property Program Loans
3. Inaccurate Annual Fiscal Reports
4. Hazard Mitigation Grant Program (HMGP) Awards Identified for Grant Recovery

The recommendations in the management letter represent those most likely to bring about beneficial improvements to the operations of the Executive Department.

Mr. Purpera stated that there are substantial dollars in each of the programs and that all the findings included issues with "evidence of compliance". The rules and regulations require that "evidence of compliance" exists and individuals are required to submit it; otherwise, the state must try to recoup the funds. The longer the delay to recover funds, the harder it will be to collect.

Mr. Pat Forbes, Executive Director of the Office of Community Development (OCD) who is responsible for the Hazardous Assistance Program and the Small Rental Program, provided a handout related to the findings in the management letter. Even though it was a repeat finding on the Homeowner Assistance Program, OCD believed it to be premature to begin recovery processes until every feasible means of getting people back into their homes and properties out of blighted condition had been made. He said they received approval from the U.S. Department of Housing and Urban Development (HUD) in July 2013 to provide additional assistance to homeowners who may be in noncompliance or owe money to the program. Mr. Forbes provided a handout outlining their steps for the Road Home's compliance process, recovery process, and status of the Small Rental Property Program. He said his office is performing according to the due diligence expected by HUD and fully expects not to have to pay back any funds for Homeowner's Assistance Programs.

Senator Murray commented that many of his constituents who received letters from OCD responded with the appropriate documentation, but continue to receive the noncompliant letters. Mr. Forbes said the file may still be incomplete and that one of the primary responsibilities of his office is to protect the state from the feds recapturing funds because of incomplete files.

Senator Walsworth asked if lawyers will go into the communities to recover funds. Mr. Forbes responded that the lawyers are selected by the Attorney General's office. Senator Walsworth asked if there is drop dead date. Mr. Forbes said in March they will start a large round of recovery efforts, but already has ongoing recovery efforts for people that they know are noncompliant and owe money back.

Mr. Craig Taffaro, HMGP Director, showed a powerpoint presentation of its recovery strategies as the agency endeavors to be good stewards of federal dollars and protect the state from any recoupment. The program internally places people in a recovery status simply to identify something more has to be done to complete the file not necessarily because that person has done anything wrong. Even though the programs are different because of the funding source for HMGP is FEMA versus HUD on the CDGB side, but the same rule applies for documentation completion. The HMGP recovery strategies include applicant intervention, project alignment/completion, payment plans, and agency referrals.

Mr. Taffaro stated that FEMA is holding money to make sure that the program is on a compliant basis, so there are some safeguards and not get too far in expending dollars. This is the largest hazard mitigation grant program in FEMA history, and FEMA wants to claim a victory of a successful program so they continue in dialogue regarding documentation as they go through the close-out process.

Senator Nevers stated there is no guarantee that the federal government will not ask for a refund of FEMA or HUD funds. Mr. Forbes said he agrees, and until his agency gets the grants closed out they cannot offer any guarantees, but he does have HUD's concurrence that the OCD's recovery processes are in line with HUD's required due diligence and will continue to execute those.

Mr. Purpera stressed that the federal government requires his office to audit these programs in accordance with the written federal regulations. He appreciates HUD's patience with the program but that does not eliminate the auditor's responsibility to point out the evidence of noncompliance. Senator Walsworth said he agrees that the documentation is required.

## LOUISIANA SEAFOOD PROMOTION AND MARKETING BOARD

Mr. Tom Cole, Director of Financial Audit Services, said this audit work was performed at the request of the Lieutenant Governor as a result of recent legislation that moved the Louisiana Seafood Promotion and Marketing Board (Board) from the Louisiana Department of Wildlife and Fisheries (LDWF) to the Department of Culture, Recreation and Tourism (CRT). The request was to look at the internal controls of procurement and

disbursements, review the travel reimbursements for compliance with state travel regulations, and determine the cash balances as of June 30, 2013.

Ms. Beth Davis said that a Memorandum of Understanding (MOU) was executed by BP Exploration and Production (BP), the LDWF and the Office of the Lieutenant Governor to design and implement programs to mitigate the negative effects on Louisiana's tourism and seafood industries as a result of the Deepwater Horizon oil rig explosion on April 20, 2010. Through the MOU, BP agreed to provide \$30 million to LDWF Foundation to fund the "Seafood Marketing Program". The MOU specified that the fund should be directed to the Board to develop, implement and administer the Seafood Marketing Program and would be subject to review and approval by the LDWF. Act 228 of the 2013 Regular Session transferred the administrative functions of the Board from LDWF to the CRT effective July 1, 2013. Ms. Davis went over the three objectives of the report and the subsequent findings and recommendations to CRT.

In reference to the findings, Mr. Robert Barham, Secretary of LDWF, said this was the reason he had gone to the legislature because of the problems with the Board. In the wisdom of the legislators they have addressed the issue, and he believed that Lieutenant Governor Dardenne will do an outstanding job.

Mr. Randy Davis, Deputy Secretary of CRT, said Mr. Dardenne did not seek out the control of the Board, but was given it as the result of legislation. They then asked for the authority to oversee the activities of the Board, which they have been given, resulting in less autonomy for the Board. Now the Board must follow all the policies and procedures of CRT, and CRT moved the Board's operations to Baton Rouge. Prior to receiving the BP funds, the Board mostly did seafood shows and small events promoting the industry, but its functionality changed dramatically when it received the \$30 million from BP. Mr. Davis outlined the cost savings and benefits now that the Board is under CRT. They are reviewing all bills from vendors and withholding payments if any incomplete documentation, potential overcharges, or improper travel exists. He said that there may be some recoupment from vendors as a result of their review efforts.

Mr. Bill Cody, General Counsel for Gregory C. Rigamer & Associates, Inc. (GCR), stated that they have been working with Mr. Davis to get subcontractors to provide needed documentation to determine if any recoupment is justified. Senator Nevers asked about the cancellation of GCR's contract because of the failure to provide appropriate documentation. Mr. Cody answered that he had discussed the MOU and PPM 49 with the LDWF Secretary's office. At that time, the Executive Director of the Board responded that there were two exemptions: a case by case basis exemption granted by Secretary Barham since 2009, and a blanket special promotions exemption where PPM 49 could be followed but not every time. Now GCR's subcontractors must provide that justification and documentation to Deputy Secretary Davis.

Secretary Nevers asked why GCR did not comply with the recommendations made by Secretary Barham. Mr. Cody responded that according to their contract they reported to the Executive Director of the Seafood Board, and everything was subject to the Board's ultimate authority and approval. He believes the auditor is saying that despite the existence of exemptions, there still has to be justifications and documentation provided, and realizes that was not always followed, but it will be followed now or the subcontractors will have money withheld. Mr. Cody said the Board vigorously defended its independent authority. He pointed out the flowchart in the report that shows the multilevel process in place for approvals by the Board and the Secretary of LDWF, and stated no payments were made without those approvals. He agreed that additional documentation was sometimes needed, and subcontractors will have to provide that documentation now.

Senator Nevers asked if the Lieutenant Governor's office has begun the full compliance review of all contract payments. Mr. Davis answered the review has basically been done and provided several examples of the results of their reviews.

Vice Chairman Green asked if there are any rules adopted by the Board as required by law. Mr. Cody answered that the Board has a set of bylaws revised in 2011. GCR had created a website that contains every invoice, task order, financial report, bylaws and campaign activity reports because one issue when GCR started was the perception that the Board was not operating openly and transparently. So the Board and GCR made a point to be transparent.

Secretary Barham said that when the Board was operating on \$300,000 per year generated by licenses, all the money went through his department. The Board was required to operate like the rest of his department by state protocols, open meetings law, etc. But, when \$30 million came along it went to the LDWF Foundation, which is not in the department, so it complicated the transactions. The money went from BP to the Foundation. So, the Board took the position that LDWF was only functionary for them and the Board was created independently of LDWF. Looking back at how the Board was originally created it was different from every other entity he has ever seen. The Board took the position that they could do whatever they wanted with the money from BP and LDWF was supposed to just pay the checks that they ordered, which compelled Secretary Barham to go to the legislature because his position became untenable.

Representative Greene asked who runs the Board now. Mr. Davis answered that the Board is under the control of the Lieutenant Governor and with the new legislation, the Lt. Governor has the oversight for the activities of the Board. The Lt. Governor has told the Board that he values their opinions, but expenditures require his ultimate approval. Mr. Davis said that some of the Board's policies and procedures are being

reviewed and are now moot because CRT's policies are enforced and will give better controls. The Board's bylaws were not properly adopted, so those must be revisited and then voted on again and properly promulgated.

Representative Greene said under Title 56 there is a provision passed in 2013 by the legislature that the Board shall adopt rules and bylaws on the first meeting of the year and shall be submitted no later than 30 days after adoption to the House Commerce Committee and the Senate Commerce Committee for approval. The rules and bylaws shall not go into effect until approved by the committees. Mr. Davis said they are behind schedule, but at the next Board meeting in February they will approve those rules and procedures, and then bring them before the appropriate committees. The Board has had numerous meetings as they go through the transition process because the CRT did not start having control over the activities until August.

Representative Honore' asked how the Board was chosen. Mr. Davis answered that under the old legislation the members were appointed by the Governor, and some were designated members based on various industries, but now the authority rests with the Lt. Governor to make those 13 appointments.

Representative Henry asked who placed the money with the Board members who were appointed by the Governor. Secretary Barham said BP chose to deposit the money and have it expended at the direction of the Board. Mr. Davis added that the Board's actions were subject to the provisions of the BP MOU.

## **UNIVERSITY OF LOUISIANA AT LAFAYETTE**

Mr. Cole stated that this management letter on the University of Louisiana at Lafayette (ULL) was a part of the audit of the University of Louisiana System for 2013. Mr. Ernie Summerville, Assistant Director of Financial Audit Services, presented the four findings from their review of controls and policies and procedures:

1. Untimely Deposits of Revenue Collection;
2. Untimely Reporting of Student Enrollment Status;
3. Misappropriation of Assets at New Iberia Research Center;
4. Misappropriation of Property Not Reported Timely.

Dr. E. Joseph Savoie, ULL President, said they concur with the findings and have taken appropriate actions to address all of the findings. He said they may have a difference of opinion on timely reporting of misappropriations because many of these events were discovered through the annual inventory process, but must investigate missing items. After their university police investigation is concluded and determined it to be theft, then they report the misappropriations. He suggested a committee give some direction on the interpretation of the law. They have been reporting the same way for several years and only received a finding for the current year, so he was not sure if the interpretation has changed. He said ULL will play by the rules whatever they are, but just needs to know what they are.

Mr. Jerry Luke LeBlanc, ULL Vice President of Administration and Finance, said the issue in the statute is when the department head has actual knowledge, and the interpretation of the law is to allow the police department to determine if it is a loss or theft. A theft is clearly a misappropriation which immediately triggers the response letter to the appropriate authorities and to the legislative auditor. They have discussed it with the auditors and the LLA general counsel has opined the issue, but the statute may warrant revisiting to provide some clarity as to whether to report the suspicion of misappropriation. Mr. LeBlanc said they will abide by the standards. ULL has increased their audit staff with well-seasoned audit experience.

Mr. Purpera agreed that the law states actual knowledge of a misappropriation, and his office and the District Attorney's office would like to see the notification earlier to allow them to respond quickly before evidence of any misappropriation is gone.

## **BATON ROUGE COMMUNITY COLLEGE**

Mr. Cole stated that the audit of the Baton Rouge Community College (BRCC) was done as part of the annual audit of the Louisiana Community and Technical College System (LCTCS). Ms. Davis presented an overview of the management letter on BRCC for fiscal year ended June 30, 2013, issued on December 26, 2013. She briefed the Council on their findings: 1.) Inadequate Controls over Faculty Payments and Recoupments; and 2) Lack of Controls over Payroll. BRCC's management responses were included in the report showing their actions to prevent reoccurrences of these findings.

Senator Walsworth asked if the state has a plan for employee repayment of overpayments or if each college has its own policy. Ms. Davis said that the LCTCS system office is also involved in the recoupment arrangements with the employees. Representative Honore' asked the number of employee repaying overpayments to BRCC. Ms. Davis answered that a total of 77 employees have started repaying either in full or entered into an installment arrangement, and 18 employees have not made any repayment yet.

Dr. Andrea Miller, Chancellor of BRCC, pointed out that the overpayment issue was self-reported to the auditor. So far 39 of the 93 employees have been paid in full, and 46 are in recoupment and only 8 have been referred to the legal counsel. Three of the eight are no longer employed by BRCC. These errors occurred



during an update in the Banner software, and the five employees in Human Resources (HR) and payroll responsible for ensuring this would not happen are no longer with BRCC.

Senator Walsworth asked how long it took to pay the two employees who had been underpaid and what is the school's policy for recoupment. Ms. Helen Harris, Vice Chancellor of Finance, said the two employees were paid in December after they verified the exact amount underpaid. BRCC's policy is based on the state's policy, but received special permission to allow up to two years for faculty to repay the overpayments.

Representative Honore' asked how this payroll error was discovered. Ms. Harris explained that it was later reported that some employees had gone to HR to report abnormalities with their paycheck, and it was explained away. When the reports showed the huge difference in salaries, then BRCC investigated further. Chancellor Miller said Ms. Harris caught the errors and notified the auditors. These were manual errors when transitioning to the payroll module and not enough staff to look further into the issue but the current HR staff has assured her that it will never happen again. Basically the payroll problem was that some staff received a nine month salary rate when they were supposed to be paid over a 12 month period.

Representative Greene asked if BRCC has corrected all the FICA and benefits issues. Ms. Harris said the deductions were corrected in subsequent pay periods, and only three previous employees are in collections. Representative Greene asked if any problems with insurance or disability coverage. Ms. Harris said their benefits were maintained and only paid the appropriate portions for employer contributions. She explained quality checking was not done on the employees' records regarding the pay position codes for withholdings. Chancellor Miller has now moved the payroll function under their Finance Department instead of under HR.

**OTHER BUSINESS**

Mr. Purpera addressed the Council's requests for information from the Department of Revenue and the Department of Education at the December 19, 2013, meeting. His office has been communicating with both departments and since they were not prepared to provide their responses in time for this meeting, they will be invited for the next meeting.

**ADJOURNMENT**

Senator Murray made the motion to adjourn and with no objection, the meeting adjourned at 3:14 p.m.

\*\*\*\*\*

APPROVED BY:

  
\_\_\_\_\_  
SENATOR MIKE WALSWORTH  
CHAIRMAN

  
\_\_\_\_\_  
DARYL G. PURPERA  
SECRETARY

2/21/14  
\_\_\_\_\_  
DATE