

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Environmental Quality
State of Louisiana
Baton Rouge, Louisiana

August 13, 2003



Financial and Compliance Audit Division

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DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana

Procedural Report
Dated June 25, 2003

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

August 13, 2003



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June 25, 2003

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF LOUISIANA
Baton Rouge, Louisiana

As required by Louisiana Revised Statute 24:513, we conducted certain procedures at the Department of Environmental Quality. Our procedures included (1) a review of the department's internal control; (2) tests of financial transactions for the years ended June 30, 2003, and June 30, 2002; (3) tests of adherence to applicable laws, regulations, policies, and procedures governing financial activities for the years ended June 30, 2003, and June 30, 2002; and (4) a review of compliance with prior report recommendations. Our procedures were more limited than would be necessary to give an opinion on internal control and on compliance with laws, regulations, policies, and procedures governing financial activities.

Specifically, we interviewed management and other department personnel and evaluated selected documents, files, reports, systems, procedures, and policies as we considered necessary. After analyzing the data, we developed recommendations for improvement. We then discussed our findings and recommendations with appropriate management personnel before submitting this written report.

The Annual Fiscal Reports of the Department of Environmental Quality were not audited or reviewed by us, and, accordingly, we do not express an opinion on these reports. The department's accounts are an integral part of the State of Louisiana's financial statements, upon which the Louisiana Legislative Auditor expresses opinions.

In our prior report dated April 10, 2001, we reported a finding relating to subrecipient reports not being monitored. Management has resolved this finding.

Based on the application of the procedures referred to previously, all significant findings are included in this report for management's consideration.

Inadequate Control Over Revenue

The Department of Environmental Quality (DEQ) did not exercise adequate internal control over revenue transactions. An adequate system of control would provide procedures to ensure that all revenues to which the department is entitled are billed and collected as well as ensuring that receipts are deposited timely. Article 7, Section 9 of the Louisiana Constitution of 1974 and Louisiana Revised Statute (R.S.) 49:308 require all money collected by the department to be deposited immediately in the state treasury.

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A review of revenue transactions disclosed the following:

- DEQ's billing and collection procedures are inefficient and do not ensure accurate billing and collection of fees. A performance audit of the department dated March 1, 2002, disclosed that the department had not collected approximately \$10.8 million in various past due fees for the period of 1992 to December 2001. Efforts by the department to resolve these accounts reduced this figure by approximately \$2 million. However, the progress in resolving these accounts was more than offset by an increase of approximately \$3.5 million in past due accounts for the period of December 2001 to December 2002. Of this increase, approximately \$1.8 million (51%) is attributable to the Air Quality Division.
- DEQ is not adequately collecting all of the penalties that it assesses. Two hundred twenty penalties totaling \$12,070,109 were assessed between July 1, 1998, and December 31, 2002, but only \$3,484,034 (28.9%) of these penalties were collected by February 2003. Of the remaining amount, \$1,512,713 (12.5%) was either rescinded or reduced by settlement agreements, and an additional \$5,821,745 (48.2%) is pending in the appeals process, or the penalized company is in bankruptcy. The remaining \$1,251,617 (10.4%) is enforceable but uncollected although periods of time ranging between 2 months and 4.5 years have passed since the penalties were assessed.
- Five of 16 (31%) transactions tested for timeliness of deposit were not deposited within 24 hours of receipt. These items were deposited from 2 to 32 days after receipt. The lag to deposit for one additional item could not be determined because the date of receipt was not indicated in the supporting documentation.

Statutes authorizing many of the routine fees collected by DEQ include provisions for late fees to be assessed when the invoices are not paid by their due date. However, the billing software used by the department does not automatically assess and bill late fees and no alternative manual procedures exist to ensure that late fees are assessed, billed, and collected in all cases. These conditions occurred because DEQ has not placed sufficient emphasis on collection of all amounts owed and the timely deposit of revenue. As a result, the department is not collecting all funds to which it is entitled and the state is losing interest earnings because of the untimely deposit of revenue.

Management should design and implement procedures that will ensure that all revenue to which the department is entitled, including late fees and penalties, are assessed, billed, and promptly deposited. Collection of all amounts owed should be vigorously pursued. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, pages 1-3).

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STATE OF LOUISIANA**

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**Insufficient Controls Over Waste Tire Fee
Collections and Disbursements**

DEQ has not instituted sufficient controls to ensure that all fees assessed for the disposal of waste tires are submitted timely to the department and that receivables are accurately reported on the department's annual financial report. In addition, controls are insufficient to prevent expenditures for disposal of tires for which no fees have been collected. R.S. 30:2418 requires new tire dealers to assess a fee on each new tire sold to pay for the proper disposal of that tire when it is eventually replaced. An adequate system of control would provide procedures to ensure that collection of all fees due the department are promptly pursued, that all expenditures of funds are authorized and necessary, and that the annual financial report is accurately prepared. During our review of the collection of waste tire fees, the following conditions were noted:

- DEQ does not have procedures to follow up immediately on dealers who are delinquent in their remittances. Fees collected by the tire dealers are due to DEQ by the twentieth of the month following collection. DEQ only prints a list of delinquent dealers approximately once a year. The list generated after the close of the 2002 fiscal year listed 360 dealers who were delinquent for periods ranging from one to 12 months for a total of 1,168 delinquent reports.
- DEQ should have estimated the amount of revenue it expected to recover from delinquent tire dealers as a receivable for financial reporting. However, no estimate of receivables from delinquent fees was provided to the Office of Statewide Reporting and Accounting Policy (OSRAP). OSRAP requires DEQ to provide information on accounts receivable on the full accrual basis in its annual financial report.
- During the period under audit, there was a significant recall of defective tires by Firestone, Inc., and Ford Motor Company, Inc. Based on information supplied by Firestone, Ford, a Louisiana tire processor, and an individual associated with the Louisiana Tire Dealers Association, DEQ estimates that it expended approximately \$200,000 to process recalled tires for which no fee had ever been collected. The cost of disposal of the tires should have been borne by the private company issuing the recall and not DEQ.

These conditions occurred because DEQ has not placed sufficient emphasis on the collection of delinquent fees and because of the difficulty in estimating the amount of revenue that will ultimately be collected from this source. In addition, the department has not considered ways to prevent unnecessary expenditures for recall tire disposal that should be borne by the company recalling the tires. Failure to promptly pursue delinquent receivables increases the risk that those receivables will ultimately be uncollectable. Failure to properly accrue receivables from the delinquent amounts may

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cause inaccuracies in the state's financial statements. Paying unnecessary processing fees for recalled tires depletes the resources of the state.

Management of DEQ should institute procedures to ensure that all receivables for delinquent waste tire fees are promptly pursued, that the receivables are accurately reported in its annual financial statements, and that no expenditures are made for recalled tires. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, page 4).

Additional Comment: Emergency rules were adopted on January 10, 2003, which clarified that collections can be made on all recalled and adjustment tires unless tire dealers can prove the tires were returned directly to the manufacturer.

Inadequate Control Over Movable Property

DEQ did not reconcile movable property acquisitions in the accounting records to additions in the Louisiana Property Assistance Agency (LPAA) records. In addition, four persons who either no longer worked for DEQ or no longer had a business need possessed valid IDs to make changes in the LPAA system. Adequate internal control should include steps to ensure completeness of the movable property records by reconciling purchases to additions in the LPAA records. In addition, steps should be taken to remove access rights to the LPAA system immediately when employees leave the agency or no longer have a valid need for such access. We also noted that it takes DEQ an unusually long time to complete the physical inventory of property. The physical inventory certified in May 2002 was prepared from an LPAA listing of assets as of September 2001. Because a seven-month period of time elapsed between the initiation and completion of the inventory, many additions and deletions to the LPAA records probably occurred during this period. Therefore, the amount of certified property will not be an accurate representation of the property actually owned.

These conditions occurred because DEQ did not place proper emphasis on ensuring the completeness of the movable property records and the timeliness of the annual physical inventory. In addition, management was not aware that IDs granting access to LPAA continued to remain active after employees left those positions. Failure to ensure the completeness of the movable property inventory listing could cause misstatements in the financial statements of the State of Louisiana. Failure to revoke the access rights of employees who no longer have a business need for those rights increases the risk that agency records may be inappropriately altered and the errors would not be detected in a timely manner.

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Management should institute procedures to ensure the completeness of the LPAA records by reconciling purchases to additions in the LPAA system and should ensure that the annual physical inventory is completed in a reasonable period of time. In addition, IDs of the four individuals with inappropriate access to the LPAA system should be revoked and procedures should be established to ensure that access rights of employees who no longer have a valid need are promptly removed. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, pages 5-6).

Additional Information for Consideration

The DEQ Audit Services Section issued an internal audit report dated June 3, 2003, on the operations of the Baton Rouge location of Tire Distribution Systems (TDS), a tire company that has seven facilities in Louisiana. The audit noted that the number of waste tires being transported by the Baton Rouge location to Environmental Industries Recycling (EIR), a tire recycling company, was higher than any of the other TDS facilities. The audit determined that EIR over billed the waste tire fund \$268,781 for tires sent to EIR by Baton Rouge TDS in 2002. Subsequent addendums to the internal audit reported that EIR over billed the waste tire fund \$305,943 in 2001 and \$240,802 in 2000. As a result of these overbillings, DEQ overpaid EIR a total of \$815,526 over a three-year period.

DEQ subsequently withheld payments to EIR in efforts to recoup the previously overpaid amounts. EIR sued DEQ for the payments it contends it is owed and received a temporary restraining order prohibiting DEQ from using these funds to pay other processors. EIR's request resulted, in part, from the fact that the Waste Tire Fund, which is used to deposit related fees collected by DEQ and to pay all related expenses of the waste tire program, is rapidly depleting. The waste tire fund balance has decreased from \$5,878,000 in 2000 to \$211,000 in 2003. On June 26, 2003, DEQ was ordered by the court to place funds in escrow until the case is settled. DEQ was found in contempt of court on July 18, 2003, for not following the court order to place those funds in escrow. DEQ has since complied with the order and placed funds in escrow to cover amounts billed by EIR for April, May, and June of 2003.

In addition, a separate report on the Motor Fuels Underground Storage Tank Trust Fund, which is a part of DEQ, containing compliance findings relating to overbilling by a response action contractor and late fees not uniformly assessed was issued on June 4, 2003. Management's responses are also included in that report. Copies of that report are available for public inspection at the Baton Rouge office of the Legislative Auditor and can also be found on the Internet at www.la.state.la.us/f&c.shtml.

The recommendations in this report represent, in our judgment, those most likely to bring about beneficial improvements to the operations of the department. The varying nature of the recommendations, their implementation costs, and their potential impact on the operations of the department should be considered in reaching decisions on courses of action. Findings relating to the department's compliance with applicable laws and regulations should be addressed immediately by management.

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This report is intended solely for the information and use of the department and its management and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Grover C. Austin". The signature is fluid and cursive, with a large, stylized initial "G".

Grover C. Austin, CPA
First Assistant Legislative Auditor

VWW:MWB:PEP:ss

[DEQ03]

Appendix A

Management's Corrective Action Plans and Responses to the Findings and Recommendations



State of Louisiana

Department of Environmental Quality



M. J. "MIKE" FOSTER, JR.
GOVERNOR

L. HALL BOHLINGER
SECRETARY

June 9, 2003

Mr. Grover Austin, CPA
First Assistant Legislative Auditor
Office of Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

RE: Inadequate Controls Over Revenue

Dear Mr. Austin:

The Department of Environmental Quality concurs with the finding that there are not adequate controls over billing and collection of fees and penalties by this department.

ACCURATE BILLING & COLLECTION OF FEES

This department recognized that these problems existed, and in 1999, began to address these issues by consolidating billing personnel located within each program throughout the department into Management and Finance. This reorganization allowed us to coordinate and begin to uniformly assess invoices. The department also hired an additional person dedicated to addressing outstanding accounts. The department began intensive efforts at reconciliation of these outstanding accounts receivables, and in the first year, reconciled over \$2.9 million. As identified in this audit, an additional \$2 million has been reconciled during the next year. This reconciliation has generated payments to the department, as well as identified inaccurate billings made by the department. It should also be noted that during the audited ten-year time frame billing years 1992 - 2001, LDEQ had a collection rate of approximately 97%, a collection rate that still exist today, including the additional billing year 2002 accounts receivable.



The department has recognized that part of its identified outstanding accounts receivable balance is due to inaccurate data, caused in part by transitioning our legacy databases into a new consolidated billing system. The department is continuing its efforts in data cleanup, which will ultimately reduce the number of inaccurate billings, and better identified a true accounts receivable balance.

DEQ initiated and implemented a new tracking system designed to document information on the facilities regulated by the department. Included in this system is an invoice and billing system designed to create invoices, track payments, and assess proper late fees. This system is in the final stages of implementation, and should be fully implemented in the next 12 months. Also, the department will continue to ensure that proper training and current standard operating procedures are in place for employees to accurately enter, track, and process information into the system.

PENALTIES

Reorganization also brought together all of the Enforcement personnel into one division, so that better controls could be provided over all Enforcement actions of the department. Since reorganization, department staff has been diligently working to address the problems identified by both DEQ and this audit and other audits in resolving the issues specifically identified in this audit finding.

The amounts and percentages of the penalties not collected as stated in the legislative audit report include monies not owed to DEQ for several legal reasons. Penalty assessments currently under appeal are not final enforcement actions and are not owed to DEQ until the appeal process has been completed. Also, assessments that have been rescinded due to an error in calculation or violation citation, and the differences between the cash component in finalized settlement agreements and the appealed penalty assessments associated with the settlement agreements are not owed to DEQ. Removing monies not owed to DEQ from the uncollected amount reveals a more accurate penalty collection rate of approximately 90% for all media. In addition, there are other cases, such as bankruptcies, that hinder our ability to collect 100% of all penalty assessments; regardless of how hard we try.

Mr. Grover Austin, CPA
Office of Legislative Auditor
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The Financial Services Division, Enforcement Division, and Permits Division Administrators will continue to work to address the issues identified in this audit with the resources that it has available. As noted to the auditors during this audit, a significant amount of work has already been done since reorganization to address these issues. The department will continue to aggressively pursue and resolve these outstanding issues, to ensure that proper controls over the revenue transactions of this department are in place.

Sincerely,

A handwritten signature in black ink, reading "Thomas C. Bickham III". The signature is written in a cursive style with a horizontal line underneath.

Thomas C. Bickham III
Undersecretary



State of Louisiana

Department of Environmental Quality



M. J. "MIKE" FOSTER, JR.
GOVERNOR

L. HALL BOHLINGER
SECRETARY

June 9, 2003

Mr. Grover Austin, CPA
First Assistant Legislative Auditor
Office of Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

RE: Insufficient Controls Over Waste Tire Fee Collections and Disbursements

Dear Mr. Austin:

The Department of Environmental Quality concurs that there are insufficient controls over Waste Tire Fee Collections and Disbursements. This department will begin quarterly review of reports that identify dealers who are delinquent in remittances of their fees and / or reports required monthly. We will produce reports and ensure staff does timely follow up on missing data and / or receipt of payments. These reports will also assist in making estimates in reporting to the Office of Statewide Reporting and Accounting Policy (OSRAP) any outstanding receivables on its annual financial report. The Accounting Manager responsible for Accounts Receivable will ensure this has been implemented. We will begin this process on June 30, 2003.

Sincerely,

Thomas C. Bickham III
Undersecretary



State of Louisiana

Department of Environmental Quality



M. J. "MIKE" FOSTER, JR.
GOVERNOR

L. HALL BOHLINGER
SECRETARY

May 7, 2003

Mr. Grover Austin, CPA
First Assistant Legislative Auditor
Office of Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Austin:

RE: Inadequate Control Over Movable Property

The Department of Environmental Quality concurs with the finding regarding inadequate control over movable property. The Undersecretary has emphasis on correcting all aspects of this finding. Specific comments and responses are offered in the following correspondence for each aspect of the finding.

DEQ did not reconcile movable property in accounting system –

Response: LDEQ concurs with the finding. While individual purchases are entered into the property system using the purchase orders and reconciled using monthly LPAA reports, the total agency Acquisition Tracking Report is not being used to reconcile purchases in the property system.

Corrective Action Plan: The Administrative Director in the General Services Section is now required by the position SOP to ensure that the requests for the Acquisition Tracking Report are filed and to ensure that monthly reconciliation takes place. The SOP for the Agency Property Coordinator now requires that this position conduct the reconciliation. The SOPs for these positions were amended on April 21, 2003. LDEQ is now in the process of reconciling the purchases for 2002 using the Acquisition Tracking Report and will now use this report to reconcile future trackable purchases in the property accounting system on a monthly basis. The procedure will begin upon the issuance of the next monthly Acquisition Tracking Report.

Access to property system –

Response: LDEQ concurs with the finding.

Corrective Action Plan: Upon verbal notification by the auditor, the referenced access was revoked for individuals no longer at DEQ. The SOP for the General Services

Mr. Austin
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Administrative Director and the Agency Property Coordinator now include responsibility for adding/subtracting access authority as appropriate.

The department will continue to monitor the control over movable property as expressed in your letter to ensure adequate control and accountability.

Sincerely,

A handwritten signature in black ink, reading "Thomas C. Bickham III". The signature is written in a cursive style with a long, sweeping underline.

Thomas C. Bickham III
Undersecretary