

DEPARTMENT OF TRANSPORTATION  
AND DEVELOPMENT  
STATE OF LOUISIANA



MANAGEMENT LETTER  
ISSUED MARCH 16, 2011

**LEGISLATIVE AUDITOR  
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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.

This document is produced by the Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. Five copies of this public document were produced at an approximate cost of \$18.95. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. This report is available on the Legislative Auditor's Web site at [www.la.la.gov](http://www.la.la.gov). When contacting the office, you may refer to Agency ID No. 3366 or Report ID No. 80100048 for additional information.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Wayne "Skip" Irwin, Administration Manager, at 225-339-3800.

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Our procedures at the Department of Transportation and Development (DOTD) for the period July 1, 2009, through June 30, 2010, disclosed the following:

- For the fourth consecutive year, DOTD did not submit an accurate annual fiscal report (AFR) to the Division of Administration, Office of Statewide Reporting and Accounting Policy (OSRAP). The AFR contained significant errors.
- DOTD overbilled the Federal Highway Administration (FHWA) for incidental and indirect costs totaling \$1,817,861 related to the Highway Planning and Construction program (CFDA 20.205). Questioned costs totaled \$15,312.
- DOTD submitted \$604,735 in ineligible costs to the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) for reimbursement under the Disaster Grants - Public Assistance (PA) program (CFDA 97.036). In addition, DOTD incorrectly recorded \$516,057 as Federal Emergency Management Agency (FEMA) interagency transfers (IAT) that were not FEMA-related transfers. Questioned costs totaled \$3,163.
- In a review of 18 ARRA-funded highway projects reported on the Federal Section 1512 report for the quarter ending March 31, 2010, we identified errors resulting in a \$10,110,677 net overstatement of Total Federal ARRA Expenditures on FederalReporting.gov.
- DOTD did not adequately and consistently identify and report subrecipients of the Highway Planning and Construction Cluster (Highway Planning and Construction Program, CFDA 20.205 and Recreational Trails Program, CFDA 20.219). Also, DOTD failed to properly identify federal award information to subrecipients at the time of the award.
- DOTD did not conduct necessary interviews to test for contractor compliance with Davis-Bacon Act requirements and did not include the required clause in contracts funded with Highway Planning and Construction Cluster (CFDA 20.205) ARRA funds to override the general exemptions to the Davis-Bacon Act requirements.
- Of eight construction projects tested with contract time extensions, three (38%) did not have the required FHWA approval. Each of the three projects had two change orders that extended the contract time.
- The findings identified in the prior year report on DOTD, dated May 6, 2010, relating to untimely collection of utility relocation assistance funds and inadequate controls over reporting subrecipient activity have been resolved by management.
- Other than the findings noted previously, no other significant control deficiencies or noncompliance were identified in our procedures on capital outlay revenue and receivables, capital outlay expenditures and payables, deferred revenue,

contingent liabilities, cooperative endeavors, and critical information systems that would require reporting under *Government Auditing Standards*.

- Other than the findings noted previously, no significant control deficiencies or noncompliance that would require reporting under Office of Management and Budget (OMB) Circular A-133 were identified for the following federal programs for fiscal year ended June 30, 2010:
  - Highway Planning and Construction Cluster (CFDA 20.205 and 20.219)
  - Disaster Grants - Public Assistance (CFDA 97.036)

This report is a public report and has been distributed to state officials. We appreciate DOTD's assistance in the successful completion of our work.

### **Mission**

The mission of DOTD is to deliver transportation and public works systems that enhance quality of life and facilitate economic growth.

### **Goals**

- Continually improve the performance of DOTD
- Deliver cost-effective products, projects, and services in a timely manner
- Enhance the safety and well-being of our citizens, visitors, and staff
- Improve customer service and public confidence
- Effectively develop and manage our human resources
- Efficiently manage DOTD's financial resources



LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

February 21, 2011

**DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT**  
**STATE OF LOUISIANA**  
Baton Rouge, Louisiana

As required by Louisiana Revised Statute 24:513 and as a part of our audit of the State of Louisiana's financial statements for the fiscal year ended June 30, 2010, we conducted certain procedures at the Department of Transportation and Development (DOTD) for the period from July 1, 2009, through June 30, 2010.

- Our auditors obtained and documented an understanding of the DOTD operations and system of internal controls, including internal controls over major federal award programs administered by DOTD, through inquiry, observation, and review of its policies and procedures including a review of the related laws and regulations applicable to the department.
- Our auditors performed analytical procedures consisting of a comparison of the most current and prior year financial activity using DOTD's annual fiscal reports and/or system-generated reports and obtained explanations from DOTD management of any significant variances.
- Our auditors reviewed the status of the findings identified in the prior year engagement. In our prior audit report on DOTD, dated May 6, 2010, we reported findings relating to inadequate preparation of the annual fiscal report, untimely collection of utility relocation assistance funds, and inadequate controls over reporting subrecipient activity. The prior year findings related to untimely collection of utility relocation assistance funds and inadequate controls over reporting subrecipient activity have been resolved by management.
- Our auditors considered internal control over financial reporting; examined evidence supporting DOTD's capital outlay revenue and receivables, incidental and indirect revenue and receivables, capital outlay expenditures and payables, deferred revenue, contingent liabilities, and cooperative endeavors; and tested its compliance with laws and regulations that could have a direct and material effect on the State of Louisiana's financial statements, as part of our audit of the state's Comprehensive Annual Financial Report for the fiscal year ended June 30, 2010, in accordance with *Government Auditing Standards*.

- Our auditors performed internal control and compliance testing in accordance with Office of Management and Budget (OMB) Circular A-133 on the following federal programs for the fiscal year ended June 30, 2010, as part of the Single Audit for the State of Louisiana:
  - Highway Planning and Construction Cluster (CFDA 20.205 and 20.219)
  - Disaster Grants - Public Assistance (CFDA 97.036)

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

Based on the application of the procedures referred to previously, the prior year finding related to inadequate preparation of the annual fiscal report has been repeated in this report. The prior year findings related to untimely collection of utility relocation assistance funds and inadequate controls over reporting subrecipient activity have been resolved by management. Other than the findings noted below, we found no significant control deficiencies, noncompliance, or errors relating to our analytical procedures or our other audit procedures, including our procedures on federal programs, that should be communicated to management.

The following significant findings are included in this report for management's consideration.

### **Inadequate Preparation of the Annual Fiscal Report**

For the fourth consecutive year, DOTD did not submit an accurate Annual Fiscal Report (AFR) to the Division of Administration, Office of Statewide Reporting and Accounting Policy (OSRAP). Louisiana Revised Statute 39:79 authorizes the commissioner of administration to establish the format of each agency's AFR and requires a signed affidavit that the AFR presents fairly the financial position of the agency. Good internal control over financial reporting should include (1) adequate procedures to record, process, and transmit financial data needed to prepare an accurate and complete AFR; (2) adequate training and supervision of staff; and (3) a review of the AFR so that any preparation errors can be detected and corrected before submitting the AFR to OSRAP for inclusion in the state's Comprehensive Annual Financial Report (CAFR).

DOTD's AFR for the fiscal year ended June 30, 2010, contained the following significant errors requiring adjustments as follows:

- Total infrastructure (note H, Capital Outlay) was overstated by \$2,979,680, net of depreciation totaling \$516,276, as a result of the following errors:
  - Prior period adjustments were understated by \$29,785,376, net of depreciation totaling \$2,223,249 and retirements were understated by \$37,132,875, net of depreciation totaling \$2,652,125. The

majority of this error occurred because DOTD incorrectly presented roads transferred to local governments during the fiscal year as prior period adjustments instead of current year retirements.

- Additions were understated by \$4,367,819, net of depreciation totaling \$87,399.
- Operating grants and contributions and capital grants and contributions (note H, Operating) were understated by \$12,256,175 and \$2,490,561, respectively.
- The modified accrual receivable for Transportation Trust Fund (TTF) federal funds was overstated by \$11,503,826 on Schedule 14.

Although some improvement was noted from the prior year, management of DOTD should provide additional training for its accounting staff in both OSRAP's and the Governmental Accounting Standards Board's reporting requirements and should continue to strengthen the AFR review process to ensure that its AFR is accurately presented. In addition, the errors relating to operating and capital grants and contributions and the error in the modified accrual receivables could have been detected by reconciling those amounts to the revenue and receivables reported on Schedule 1 of the AFR.

Failure to establish adequate internal controls over financial reporting, to include the proper supervision of employees who prepare the AFR and an adequate supervisory review of the AFR, increases the risk of material misstatements in the financial statements, whether caused by error or fraud, that may remain undetected. In addition, an incomplete or inaccurate AFR may cause misstatements in the state's CAFR or delay the CAFR's issuance.

Management of DOTD should continue to improve the compilation process to ensure that all personnel are adequately trained and that its AFR is adequately reviewed before its submission to OSRAP. Management concurred in part with the finding and recommendation and outlined a plan of corrective action. Management noted that transferred and abandoned roads were reported consistently with prior years and the net effect of the overstated receivables on total TTF revenue was zero. Management also disagreed that DOTD staff is not adequately trained or that there is an inadequate system of review (see Appendix A, pages 1-3).

**Additional Comments:** Although management's response indicates the transferred and abandoned roads were reported consistently with prior years and the net overstatement was only .02% of net infrastructure, the amount of current year transferred and abandoned roads resulted in a material overstatement of prior period adjustments and a material understatement of retirements in DOTD's AFR. Management's response indicates that the modified and full accrual TTF revenues on Schedule 14 were accurately reported and indicates that since the misstatement of receivables had no net effect on revenues, it should be considered insignificant. We disagree and believe that an \$11.5

million overstatement of receivables is significant even if the net effect to revenues is zero. We maintain that improvement of internal controls such as training and additional review over the AFR compilation process is necessary to prevent and detect these types of errors.

### **Inadequate Controls Over Incidental and Indirect Cost Billings**

DOTD overbilled the Federal Highway Administration (FHWA) for incidental and indirect costs totaling \$1,817,861 relating to the Highway Planning and Construction program (CFDA 20.205). Incidental and indirect costs are subject to the provisions of OMB Circular A-87 “Cost Principles for State, Local, and Indian Tribal Governments.” Title 49 of the Code of Federal Regulations (CFR) Section 18.20(b)(2) provides that grantees and subgrantees must maintain records that adequately identify the source and application of funds provided for financially assisted activities. Good internal controls require that adequate procedures be developed and implemented to ensure only allowable costs are included in requests for reimbursement and all transactions are properly supported.

Incidental billings include costs arising from DOTD activities at the district or section level on federally funded highway construction projects. These costs are generally payroll charges directly related to the highway projects and allocated to the various federal programs. DOTD overbilled FHWA \$1,802,549 for incidental costs, which include funding from the American Recovery and Reinvestment Act (ARRA). As of December 16, 2010, only \$737 had not been reimbursed to FHWA based on documentation provided by DOTD.

Indirect billings include distributed overhead costs such as utilities and payroll that are indirectly related to federally funded highway construction projects and are derived from progress billings. DOTD is required by FHWA to exclude certain pass-through appropriation codes from its indirect cost billings. DOTD failed to exclude six of these appropriation codes. However, only one of the appropriation codes had billings charged to it resulting in DOTD overbilling FHWA \$15,312. According to FHWA, the overbilled costs should have been credited back to the affected projects. As of December 16, 2010, DOTD had not reimbursed FHWA for the overdraw and are, therefore, questioned costs.

The indirect cost overbilling was caused by DOTD’s failure to properly update the billing system for all appropriation codes required to be excluded by FHWA. The incidental cost overbilling was caused by a DOTD employee adding a new payroll additive record in the billing system rather than modifying the existing record for the fiscal year 2010 approved rate. The program code in the billing system was set to only read the existing record when billing for incidental costs.

DOTD should ensure when program codes and records are modified, the changes are logged and reviewed by another employee with knowledge of the program before any request for funds are submitted to FHWA. In addition, DOTD should ensure all

unallowed appropriation codes are excluded from indirect cost billings. Finally, DOTD should ensure the full amount overbilled is reimbursed timely to FHWA to avoid potential interest charges. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, pages 4-5).

**Inadequate Controls Over the Disaster Grants -  
Public Assistance Program (CFDA 97.036)**

DOTD submitted \$604,735 in ineligible costs to the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) for reimbursement under the Disaster Grants - Public Assistance (PA) program (CFDA 97.036). In addition, DOTD incorrectly recorded \$516,057 as FEMA interagency transfers (IAT) that were not FEMA-related transfers. Title 44 of the Code of Federal Regulations (CFR) Section 13.20(b)(5) provides that applicable OMB cost principles, agency program regulations, and the terms of the grant and subgrant agreements should be followed in determining the reasonableness, allowability, and allocability of costs. The *Public Assistance Applicant Handbook* (FEMA P-323) notes that the state cannot provide funds for costs that are outside the scope of work approved by FEMA. Project worksheets (PW) are used to document the location, damage description and dimensions, scope of work, and cost estimate for a project and is the basis for the grant. Title 44 CFR 13.20(b)(2) states, in part, grantees and subgrantees must maintain records which adequately identify the source and application of funds provided for financially assisted activities. Good internal controls require that adequate procedures be developed and implemented to ensure that only allowable costs are included in requests for reimbursement and that revenues are recorded properly in the accounting system.

For three of 12 (25%) reimbursement requests tested, DOTD submitted ineligible costs totaling \$604,735 that were subsequently disallowed by GOHSEP.

- DOTD submitted \$3,515 of ineligible expenditures for reimbursement on PW2711. The ineligible costs were for expenditures incurred before the eligible work period defined by the PW. These costs were initially paid by GOHSEP, resulting in a \$3,163 overpayment (\$3,515 x 90% federal participation) to DOTD, which we consider questioned costs. These costs were subsequently disallowed by GOHSEP and a credit memo issued to reduce future payments on this PW; however, as of December 10, 2010, the funds have not been returned.
- DOTD submitted \$26,460 of ineligible expenditures for reimbursement on PW195. The ineligible costs were for expenditures that were not included in the scope of the work according to the approved PW. Because these expenditures were disallowed by GOHSEP before reimbursement, no overpayment or questioned costs occurred because of DOTD's error.

- DOTD submitted \$574,760 of ineligible expenditures for reimbursement on PW148. The ineligible costs were for \$184,860 in expenditures that were not included in the scope of the work according to the approved PW and for a \$389,900 cost item overrun, where there were no more available funds for a particular cost line item. Because these expenditures were disallowed by GOHSEP before reimbursement, no overpayment or questioned costs occurred.

Revenues received from other state agencies are recorded as IAT; however, specific FEMA grant revenues received from GOHSEP are required to be recorded as IAT-FEMA to properly track the FEMA grant activity. During the current year, six non-FEMA transactions totaling \$516,057 were incorrectly recorded as IAT-FEMA revenues.

Ineligible costs were submitted to GOHSEP for reimbursement in anticipation of these costs being allowed in the future through subsequent reversions of the PWs; however, adequate internal controls should ensure that reversions of the PWs are approved before submitting additional requests for reimbursement. In addition, DOTD did not have adequate internal controls in place to prevent or detect the incorrect coding of interagency transfers.

Failure to establish adequate internal controls that allow DOTD to identify ineligible costs before requesting reimbursement could result in overpayments by GOHSEP, noncompliance with applicable federal regulations, and future disallowed costs. In addition, failure to establish adequate internal controls that allow DOTD to adequately track revenue could result in misstatements in its financial statements and noncompliance with applicable federal regulations. DOTD should establish policies and procedures to ensure only eligible costs are submitted for reimbursement. When ineligible costs are incurred, DOTD should timely request reversions of PWs to facilitate future reimbursement of these costs. DOTD should also establish procedures to adequately identify and properly record transfers from state agencies. Management concurred in part with the finding and outlined a plan of corrective action. Although management agrees that ineligible expenditures on PW2711 and PW195 were submitted for reimbursement, it claims the issue as to whether the costs are eligible still remains and is still working with GOHSEP/FEMA to resolve (see Appendix A, pages 6-7).

**Additional Comments:** The fact that GOHSEP may allow the costs in the future does not change the fact that reimbursement requests were submitted for costs incurred before the eligible work period and for work outside the scope of work outlined in the PW. DOTD should have obtained approval from GOHSEP before submitting these requests for reimbursement.

## **Inadequate Controls Over American Recovery and Reinvestment Act (ARRA) Reporting Requirements**

DOTD does not have adequate controls over ARRA, Section 1512 reporting for the Highway Planning and Construction Program (CFDA 20.205).

In a review of 18 ARRA-funded highway projects reported on the 1512 report for the quarter ending March 31, 2010, we identified the following deficiencies:

- Expenditures reported on FederalReporting.gov did not include incidental and indirect costs.
- Two projects contained duplicated expenditures for subawards.
- Expenditures reported on FederalReporting.gov were based on construction and engineering estimates rather than actual disbursements.

These deficiencies resulted in a \$10,110,677 net overstatement of Total Federal ARRA Expenditures on FederalReporting.gov.

Section 1512 of the ARRA of 2009 requires each recipient that received ARRA funds from a federal agency to submit quarterly reports to the federal awarding agency containing (1) the total amount of recovery funds received from that agency; (2) the amount of recovery funds received that were expended or obligated to projects or activities; (3) a detailed list of all projects or activities for which recovery funds were expended or obligated; and (4) detailed information on any subcontracts or subgrants awarded by the recipient. To facilitate reporting of this information, a nationwide data collection system was created at [www.FederalReporting.gov](http://www.FederalReporting.gov). According to the OMB Implementing Guidance for the Reports on Use of Funds Pursuant to the ARRA of 2009 (M-09-21) issued in June 22, 2009, federal agencies may issue clarifying guidance to funding recipients, but it must be in accordance with OMB guidance. The OMB Recipient Reporting Data Model V3.0 (Supplement 2) provides a data dictionary describing the required data elements for recipient reporting. This guidance, effective for the quarter ended December 31, 2009, defines the data element "Total Federal Amount of ARRA Expenditure" as the amount of recovery funds received that were expended on projects or activities. For reports prepared on a cash basis, expenditures are the sum of cash disbursements for direct charges, the amount of indirect expense charged, and payments made to subcontractors and subawardees.

DOTD is required to report monthly to the FHWA using the federal Recovery Act Data System (RADS). The monthly reporting information can be extracted from RADS and uploaded to FederalReporting.gov for the Section 1512 reporting. According to DOTD, the version of RADS used for the March 31, 2010, reporting period did not contain a field for incidental and indirect expenses. In addition, DOTD reported subaward expenses in both the Payments and Subpayments Table of RADS, which resulted in double counting expenses on the Section 1512 reports. Finally, DOTD chose to use construction and

engineering estimates rather than actual disbursements because its personnel thought that the estimates more accurately reflected the status of the projects.

According to OMB guidance M-09-21, noncompliance with the reporting requirement is considered a violation of the award agreement. The federal awarding agency may use any remedial action necessary to ensure compliance, including withholding funds, termination, or suspension and debarment, as appropriate. DOTD should establish policies and procedures to ensure compliance with Section 1512 ARRA reporting requirements. Management should also establish data quality reviews to ensure the accuracy of the Section 1512 reports. Management concurred in part with the finding and provided a plan of corrective action. While management agrees that expenditures reported on FederalReporting.gov do not include incidental and indirect costs and that some projects contain duplicate expenditures for subawards, DOTD maintains the errors are due to problems with RADS and guidance provided by FHWA. Also, management does not agree that expenditures should be reported at FederalReporting.gov using actual disbursements from its accounting system rather than estimates from Site Manager (see Appendix A, pages 8-13).

**Additional Comments:** Although DOTD maintains that the errors with unreported incidental and indirect costs and duplicate expenditures for subawards were due to problems with RADS and guidance provided by FHWA, DOTD was not aware that incidental and indirect costs should be included in the reporting nor was it aware of the duplicate reporting of expenditures until our audit procedures were performed. DOTD should have data quality reviews in place to ensure the accuracy of information in FederalReporting.gov. DOTD should have contacted FHWA if further guidance was needed on properly reporting incidental and indirect costs and expenditures for subawards.

DOTD references the definition of federal awards expended from OMB Circular A-133, section 205 in its response as support for why estimates are reported rather than actual disbursements. This is inconsistent with its application of OMB Circular A-133, section 205 in reporting on the Schedule of Expenditures of Federal Awards (SEFA). DOTD uses the accounting system to report actual cash disbursements on the SEFA. In addition, as previously mentioned, the OMB Recipient Data Model V3.0 (Supplement 2) specifically provides that total ARRA expenditures for cash basis reports is the sum of cash disbursements for direct charges, the amount of indirect expense charged, and payments made to subcontractors and subawardees. We believe that reporting estimates that have not been subjected to all internal controls to ensure completeness, accuracy, and allowability is misleading and in violation of the ARRA reporting requirements. DOTD should seek additional clarification from FHWA, if needed.

### **Inadequate Controls Over Subrecipient Monitoring**

DOTD has not established effective internal controls to adequately and consistently identify and report subrecipients of the Highway Planning and Construction Cluster (Highway Planning and Construction Program, CFDA 20.205 and Recreational Trails Program, CFDA 20.219). Also, DOTD failed to properly identify federal award information to subrecipients at the time of the award.

OMB Circular A-133 Subpart D, Section 400(d) requires a pass-through entity to identify federal awards made by informing each subrecipient of the CFDA title and number, award name and number, award year, and name of the federal agency. A pass-through entity is also responsible for advising subrecipients of requirements imposed on them and monitoring the activities of subrecipients as necessary to ensure the federal awards are used for authorized purposes. In addition, the Division of Administration, OSRAP requires state agencies to prepare an AFR, including the reporting of certain disbursements of federal funds to subrecipients on the Schedule of Non-State Sub-Recipients of Major Federal Programs (Schedule 8-4) or Schedule of State Entity Sub-Recipients of Federal Programs (Schedule 8-5). Good internal controls require adequate procedures to properly identify subrecipients to ensure pass-through entity responsibilities are met and to ensure accurate reporting of subrecipient activity.

Our review of subrecipient monitoring activities found the following deficiencies:

- Controls over identifying and reporting subrecipient activity are decentralized with no consistent criteria being used to identify subrecipients. We noted two contracts with local entities that outlined similar roles and responsibilities for both DOTD and the local entity; however, DOTD identified one as a subrecipient and the other as a vendor.
- In a review of nine subrecipient contracts and/or other awarding documents for proper award identification, none included the CFDA title or name.
- Two subrecipients for the Safe Routes to Schools Program, a part of the Highway Planning and Construction Program, were not reported on the Schedule 8-4 or Schedule 8-5 of the AFR. Fiscal year 2010 expenditures for these subrecipients totaled \$10,447.

DOTD district and section personnel are responsible for identifying and monitoring subrecipients and are required to provide the DOTD Financial Services Division with a listing of all known subrecipients for proper reporting in the AFR. The decentralization of DOTD and lack of understanding by district and section employees has led to inconsistent subrecipient identification. Also, the individuals responsible for providing contracts and other awarding documentation to subrecipients were unaware of federal regulations requiring CFDA title and number, award name and number, award year, and name of federal agency to be provided to the subrecipient.

Failure to establish adequate internal controls to ensure the identification of subrecipients increases the risk that DOTD will not report all subrecipients and, in turn, submit an inaccurate AFR. Also, DOTD may not comply with federal regulations for properly identifying and monitoring subrecipients. Failure to supply subrecipients with the federal award information results in DOTD's noncompliance with OMB Circular A-133 pass-through entity responsibilities.

DOTD management should provide its personnel with detailed training to appropriately identify, monitor, and accurately report all subrecipients in the department's AFR as required by OSRAP and OMB Circular A-133. Management should also strengthen its policies and procedures to ensure that subrecipients' awarding documents include all required federal award information. Management concurred with the finding and provided a corrective action plan (see Appendix A, pages 12-13).

### **Inadequate Controls Over Davis-Bacon Act (Including ARRA)**

DOTD did not conduct necessary interviews to test for contractor compliance with Davis-Bacon Act requirements and did not include the required clause in contracts funded with Highway Planning and Construction Cluster (CFDA 20.205) ARRA funds to override the general exemptions to the Davis-Bacon Act requirements.

The Davis-Bacon Act (Title 40 of the United States Code, Section 3141-3144) provides that laborers and mechanics on federally funded construction projects should be paid, at a minimum, the prevailing wage rate established by the Secretary of the U.S. Department of Labor for the location of the project. To ensure compliance with Davis-Bacon Act requirements, DOTD's *Labor Compliance Manual* requires a minimum of two employee interviews each month for each federally funded project. Section 1606 of ARRA incorporates the Davis-Bacon Act requirements into ARRA funded projects and further Implementing Guidance issued by the FHWA requires that to comply with Section 1606, "Contracting agencies must include...a contract provision that overrides the general applicability provisions in Form FHWA-1273 (Required Contract Provisions Federal-Aid Construction Contracts), Sections IV & V." Sections IV & V provide certain exemptions from paying the predetermined minimum wage and submitting payroll records, including federal-aid construction contracts below \$2,000, and any projects located on roadways classified as local roads or rural minor collectors.

Our testing disclosed the following deficiencies:

- DOTD failed to conduct all required monthly interviews to ensure employees were paid the amounts reported in the contractor payrolls. In the month selected for testing, three of the five projects had no interviews conducted and another project only had one interview conducted.
- DOTD did not include the clause required by FHWA to override exemptions in Form FHWA-1273, Sections IV & V for ARRA funded projects. We reviewed four contracts relating to five ARRA projects. None of the contracts contained the required overriding clause because management was not initially aware of the requirement.
  - FHWA conducted a contract review in December 2009 and informed DOTD the contracts were missing the overriding clause. DOTD added a clause to override the exemptions to Section IV for contracts written after December 2009; however, because of a misunderstanding, DOTD still did not include a clause to override Section V of the FHWA-1273 form.

Failure to conduct the monthly interviews and ensure contracts contain the FHWA required override clauses increases the risk of noncompliance with Davis-Bacon Act requirements and could result in questioned costs.

Management should enforce its policy and strictly adhere to the interview guidelines in the *Labor Compliance Manual* as well as communicate the importance of this requirement to the DOTD employees responsible for conducting the interviews. In addition, DOTD should ensure compliance with all ARRA requirements, including the Implementing Guidance issued by FHWA. Management concurred in part with the finding and recommendation and outlined a plan of corrective action. Management does not concur with the portion of the finding citing DOTD for not including the FHWA overriding clause required for ARRA projects. DOTD management indicated in its response that it was their opinion this portion of the ARRA Implementing Guidance was “negated” by the minimum wage rate tables included in the ARRA contracts (see Appendix A, pages 14-16).

**Additional Comments:** The previously referenced ARRA Implementing Guidance required that ARRA contracts include clauses to override certain general applicability provisions of the Davis-Bacon Act. Although DOTD management indicated in its response that it was their opinion that the clauses were not necessary, we believe that the correspondence with FHWA in December 2009 further supports our position that the referenced clauses were required for inclusion in the ARRA contracts.

**Inadequate Controls Over Contract Time Extensions**

DOTD did not obtain the required approval of the FHWA for contract time extensions on construction projects funded with Highway Planning and Construction (CFDA 20.205) grant funds, as required by federal regulations. Title 23 of CFR Section 635.121 requires the state transportation department to obtain FHWA approval of contract time extensions.

Of eight construction projects tested with contract time extensions, three (38%) did not have the required FHWA approval. Each of the three projects had two change orders that extended the contract time.

DOTD's internal controls were not effective to ensure change orders for contract time extensions were submitted to FHWA for approval. DOTD's project management system has a field to indicate whether FHWA approval is required on that project. For one of the three exceptions noted, that field was not properly marked in the project management system. Although the other two projects were appropriately marked for FHWA approval, DOTD did not obtain FHWA approval when completing the change order.

Failure to obtain the required FHWA approval could result in reduced federal participation, increased costs to the state, and noncompliance with federal regulations. DOTD should strengthen its controls and properly train its staff to ensure that the required FHWA approvals on contract time extensions are obtained before completing change orders extending contract time. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, pages 17-18).

The recommendations in this letter represent, in our judgment, those most likely to bring about beneficial improvements to the operations of DOTD. The 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. The findings relating to DOTD's compliance with applicable laws and regulations should be addressed immediately by management.

This letter is intended for the information and use of DOTD and its management, others within the entity, and the Louisiana Legislature 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 letter is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Daryl G. Purpera".

Daryl G. Purpera, CPA, CFE  
Legislative Auditor

LLC:RR:BQD:THC:dl

DOTD 2010

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





BOBBY JINDAL  
GOVERNOR

STATE OF LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

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SHERRI H. LEBAS, P.E.  
SECRETARY

January 19, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
P. O. Box 94397  
Baton Rouge, LA 70804

RE: Department of Transportation and Development  
Audit Finding  
Inadequate Preparation of Annual Fiscal Report  
Legislative Auditor Letter dated 12-8-10

Dear Mr. Purpera:

The Department is in receipt of your single audit finding titled "Inadequate Preparation of Annual Fiscal Report". I appreciate the opportunity to respond to the finding and also to have my response letter included as an attachment in the final report.

**We partially agree with the portion of the finding regarding the overstatement of the net Infrastructure balance.**

The overstatement of \$2,979,680 is .02% of the \$13,255,480,844 balance of net Infrastructure reported at 6/30/10. The transferred and abandoned roads were reported consistently with prior years. As there has been no comprehensive system to record and maintain a comprehensive listing of total infrastructure assets, the compilation process is totally manual. The state's new LaGov financial system was implemented on November 15, 2010. Manual processes will be automated and the errors noted will be reduced.

**We agree with the portion of the finding regarding the understatements of Operating/Capital Grants & Contributions.**

These errors occurred due to the omission of the PY Cash Carry Forward. The Operating portion was significant when compared to expenditures for the period. AFR compilation procedures have been modified to mitigate this type of error for future periods.

**We disagree with the portion of the finding regarding the total modified and full accrual TTF**

**revenue per Schedule 14.**

The total modified and full accrual TTF revenue per Schedule 14 was accurately reported at \$601,311,494. Due to timing differences between the DOTD legacy financial systems and ISIS, a receivable was recorded. The net effect is "0" and should be considered insignificant to the bottom-line. In future periods, attention to the timing will be considered to eliminate future reclassification adjustments.

**We disagree with the portion of the finding regarding the assessment that staff has not been adequately trained and that there is not an adequate system of review for the department's AFR.**

Compilation procedures are designed to compile and report on materially accurate financial statements, and while it is our goal to achieve perfection in reporting, an audit is performed to attest to fairly presented and materially accurate statements. It is our assertion that we have reasonable internal controls that are designed to facilitate an accurate preparation and that our controls are established at a reasonable level.

Personnel have and continue to receive continuing education. The department recognizes the need to have professional accountants and strives to afford them with the opportunity to stay abreast of the requirements of governmental accounting. In the past year, eight new employees have been hired in the Financial Services Section of which all are degreed Accountants and four are CPAs.

For the past three years, DOTD Financial Services has engaged the assistance of contract CPAs to assist staff with the preparation and review of the AFRs. Additionally, the development and implementation of a "mini" AFR was used in the preparation of the FY10 AFR which was used to gather input from districts and sections electronically, instead of manually as in the past. This process and the augmentation of staff with contract CPAs has proved beneficial and we have achieved improvements in the compilation and review of the department's AFRs.

**Corrective Action Plan**

Responsible Party – Beverly Hodges, Financial Services Administrator

Corrective Action – The refinement of the district mini-AFR will facilitate the compilation of district data necessary to accurately complete the Department's AFR. The newly implemented state LaGov financial system will further enhance the timely and accurate compilation for FY 11.

Daryl G. Purpera  
January 19, 2011  
Page 3 of 3

Thank you for the opportunity to respond to this audit finding and to have this Management Response letter included in the final audit report. Please feel free to contact me or Michael Bridges, Undersecretary, should you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Sherri H. LeBas". The signature is fluid and cursive, with the first name "Sherri" being the most prominent.

Sherri H. LeBas, P.E.  
Secretary

cc:

Mr. Ricky Rodriguez, CPA, LLA  
Ms. Beverly Hodges, DOTD Financial Services Administrator  
Mr. Michael Bridges, P.E., DOTD Undersecretary  
Mr. John Lyon, DOTD External Audit Director



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January 19, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
P. O. Box 94397  
Baton Rouge, LA 70804

RE: Department of Transportation and Development  
Audit Finding  
Inadequate Controls over Incidental and Indirect Cost Billings  
Legislative Auditor Letter dated 1-10-11

Dear Mr. Purpera:

The Department is in receipt of your audit findings titled "Inadequate Controls over Incidental and Indirect Cost Billings". I appreciate the opportunity to respond to the finding and also to have my response letter included as an attachment in the final report.

The Department agrees with the finding. Due to the manual nature of billing process in the legacy systems in use at the time of both overbillings, it was susceptible to human error and sufficient controls did not exist to prevent such overbillings noted in the finding. On November 15, 2010, DOTD's old legacy billing system was completely replaced with the new LaGov financial system which has inherent controls built-in. The payroll additive rate no longer exists and therefore, the incidental billing will not be susceptible to manual modification or update by end users. Likewise, the VDF tables in the legacy system have been replaced and it is no longer necessary to manually "exclude" appropriations from the indirect cost billing.

#### Corrective Action Plan

**Responsible Party – Beverly Hodges, Financial Services Administrator**

Corrective Action – Through the implementation of the LaGov ERP system, the former legacy systems have been replaced and manual billing processes eliminated. Most of the overbilling occurred on projects that are closed. There is no means to return funds against a closed project. The department will seek guidance from FHWA to facilitate the return of overdraw funds against the closed projects.

Daryl G. Purpera  
January 19, 2011  
Page 2 of 2

Thank you for the opportunity to respond to this single audit finding and to have this Management Response letter included in the final audit report. Please feel free to contact me or Michael Bridges, Undersecretary, should you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sherri H. LeBas".

**Sherri H. LeBas, P.E.**  
**Secretary**

cc:

Mr. Ricky Rodriguez, CPA, LLA  
Ms. Beverly Hodges, DOTD Financial Services Administrator  
Mr. Michael Bridges, P.E., DOTD Undersecretary  
Mr. John Lyon, DOTD External Audit Director



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SHERRI H. LEBAS, P.E.  
SECRETARY

January 19, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
P. O. Box 94397  
Baton Rouge, LA 70804

RE: Department of Transportation and Development  
Single Audit Finding  
Inadequate Controls over Disaster Grants – Public Assistance Programs (CFDA 97.036)  
Legislative Auditor Letter dated 12-20-10

Dear Mr. Purpera:

The Department is in receipt of your single audit finding titled "Inadequate Controls over Disaster Grants – Public Assistance Programs (CFDA 97.036)". I appreciate the opportunity to respond to the finding and also to have my response letter included as an attachment in the final report.

**We partially agree with the portion of the finding regarding the submission of \$3,515 of ineligible expenditures for reimbursement on PW2711 ineligible costs that were subsequently disallowed by GOSEP.**

This statement is accurate. However, the issue as to whether the costs in question are eligible still remains. These costs will be addressed and requested at the final inspection of this PW with GOHSEP.

**We partially agree with the portion of the finding regarding the submission of \$26,460 of ineligible expenditures for reimbursement on PW195.**

This statement is accurate. However, the issue as to whether the costs in question are eligible still remains. DOTD is currently working with GOHSEP/FEMA to resolve this issue.

**We agree with the portion of the finding regarding the submission of \$574,760 of ineligible expenditures for reimbursement on PW 148.**

This statement is accurate. April 5, 2010 DOTD submitted a request for a PW version to make these costs eligible for reimbursement.

Daryl G. Purpera  
January 19, 2011  
Page 2 of 2

**We agree with the finding regarding the non-FEMA IAT revenues were misclassified during FY10.**

The former legacy accounting system general ledger account was misnamed. In comparison to the State system of record (ISIS) a broader classification would have been sufficient. The classification should have simply reflected "Interagency Transfer" which would have provided the proper accounting and classification of various IAT revenues. Detail for reporting purposes would have been derived through easytrieve reports and account analysis. On November 15, 2010, the LaGOV ERP financial system went live and includes the appropriate general ledger accounts coupled with an accounts receivable module to allow for sufficient detail in the classification of all revenue by agency.

**Corrective Action Plan – Revenue Classification**

Responsible Party – Beverly Hodges, Financial Services Administrator

Corrective Action – The LaGOV ERP system chart of accounts contains sufficient detail with the inherent module integration to allow the proper classification of all revenue. In addition, supplemental staff training on the proper classification and reporting of revenue has been delivered. The LaGOV financial system requires all input to be approved thus providing a documented review process for all revenue classification which occurs at an Accountant Manager level.

Thank you for the opportunity to respond to this single audit finding and to have this Management Response letter included in the final audit report. Please feel free to contact me or Michael Bridges, Undersecretary, should you have any questions.

Sincerely,



Sherri H. LeBas, P.E.  
Secretary

cc:

Mr. Ricky Rodriguez, CPA, LLA  
Ms. Beverly Hodges, DOTD Financial Services Administrator  
Mr. Michael Bridges, P.E., DOTD Undersecretary  
Mr. John Lyon, DOTD External Audit Director



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SHERRI H. LEBAS, P.E.  
SECRETARY

January 18, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
P. O. Box 94397  
Baton Rouge, LA 70804

RE: Department of Transportation and Development  
Single Audit Finding  
Inadequate Controls over ARRA Reporting  
Inadequate Controls over Sub Recipient Monitoring  
Legislative Auditor Letter dated 1-12-11

Dear Mr. Purpera:

The Department is in receipt of your single audit findings titled "Inadequate Controls ARRA Reporting and Inadequate Controls over Sub Recipient Monitoring". I appreciate the opportunity to respond to the finding and also to have my response letter included as an attachment in the final report.

**Inadequate Controls Over ARRA Reporting Requirements**

The finding identifies the following deficiencies:

1. Expenditures reported on FederalReporting.gov did not include incidental and indirect costs.
2. Two projects contained duplicated expenditures for sub-awards.
3. Expenditures reported on FederalReporting.gov were based on construction and engineering estimates rather than actual disbursements.

The Department of Transportation and Development (DOTD) response to each deficiency is provided below.

1. DOTD concurs in part with the finding that expenditures reported on FederalReporting.gov do not include incidental & indirect costs. It appears that OMB reports submitted by DOTD are in compliance with guidance provided by the Federal Highway Administration (FHWA) which is the reviewing agency for DOTD. However, the guidance provided by FHWA appears to conflict with the Office of Management and Budget (OMB) Data Definitions.

Projects funded through the ARRA program are required to submit monthly reports online in the Recovery Act Database System (RADS). This database consists of multiple tables containing information specific to ARRA projects and/or contracts. In order to improve accuracy and consistency in OMB 1512 Quarterly reporting, data can be extracted from RADS in the appropriate format to upload directly to federalreporting.gov. This extract was provided by FHWA and is built into the RADS program.

In March and April of 2010, FHWA presented several instructional webinars concerning OMB reporting, and how information required in OMB reports relates to information reported in RADS. In these webinars, expenditures on the OMB report were shown to be equal to the sum of the Payments Disbursed and Vendor Payments data fields. These values are obtained from the RADS Payments Table and Sub-Payments Table. The previously mentioned values concern payments made to vendors, and do not include Incidental Costs or Indirect Costs which DOTD may have incurred on the project.

In order to perform quality control of OMB reports, FHWA created a 1512 data verification table. The verification table reinforces the expenditure calculations by requiring expenditures to be within \$1,000.00 of payments. Since Incidental and IDC costs are not included on either the RADS Payments or Sub-Payments tables, the information is not included in the RADS OMB Extract. It is possible to manually override the expenditure information on the OMB reports, however doing so would create an error on the FHWA verification table. If this error was created, FHWA would be required to mark our reports as incorrect. Since FHWA is the reviewing agency for DOTD, compliance with their guidance was deemed appropriate.

On December 8, 2010 FHWA released RADS version 3.0 and issued new RADS Guidance. This new guidance provides a field on the Quarterly Status table titled "Non-Awarded Payments". This field will allow DOTD to report incidental and indirect costs on the quarterly 1512 report and be in compliance with both FHWA and OMB guidance.

The person in charge of corrective action on this item is:

Brian Kendrick  
ARRA Program Manager  
Email: [Brian.Kendrick@la.gov](mailto:Brian.Kendrick@la.gov)  
Phone: (225) 379-1197

Mr. Kendrick will ensure the Incidental Expenditures and Indirect Costs discussed above are reported quarterly on the RADS Quarterly Status Table, and ensure that the data is properly extracted from the RADS table for the OMB report.

Corrective action has already been taken for the 2010 fourth quarter OMB report. Incidental and Indirect Expenditures through September 30, 2010 were included in this report. However, due to complications with the recent conversion to the ERP software system, Incidental and Indirect Expenditures from October 1, 2010 through December 31, 2010 have not been included at this time. If this data can be obtained before the OMB reports are finalized on January 28, 2011, the data will be updated. If the data is not obtained before January 28, 2011, we anticipate the data to be accurately reported for the first quarter of the 2011 OMB report.

2. DOTD concurs in part with the legislative auditor's finding that some projects contain duplicated expenditures for sub-awards. The expenditures are duplicated; however this was due to errors in the OMB Data extract provided by FHWA to extract data from the Recovery Act Database System (RADS). The explanation for this error is shown below.

FHWA provides a data extract from RADS to facilitate OMB reporting. This extract pulls payment information that has been uploaded to RADS and is supposed to format the data for the OMB report. FHWA has indicated via OMB reporting webinars that payments on Sub-Award contracts can be reported using either of the following methods:

- a. Payments to contractors on Sub-Award projects are reported on both the Payments Table and the Sub-Payments Table.
- b. Payments to contractors on Sub-Award projects are not reported on Payments Table, but are reported on the Sub-Payments Table.

An error in the RADS extract occurs on Sub-Award projects when vendor payments are recorded according to scenario A. The expenditure amount calculated by the RADS extract provided by FHWA indicates the ARRA Expenditures are twice what the actual vendor payments are. This triggers an error on the FHWA review matrix and on FederalReporting.gov indicating that expenditures are not equal to payments.

An error in the RADS extract also occurs on Sub-Award projects when vendor payments are recorded according to scenario B. The ARRA expenditures show the amount equal to the payment amount, but the vendor payment field appears as zero. This also triggers an error on the FHWA review matrix and FederalReporting.gov indicating that expenditures are not equal to payments.

On October 28, 2010 corrective action was taken by sending an email to FHWA notifying them of the error. No response was provided by FHWA instructing DOTD on how to handle the error. It was decided by DOTD to report all Sub-Award projects according to scenario B, to ensure that reporting on Sub-Award projects is consistent. Until a response is provided by FHWA, sub-award expenditures will continue to be reported

according to scenario B. Should FHWA provide new guidance on this issue, DOTD would comply with the new guidance accordingly.

3. This section is in response to the legislative auditor's statement that expenditures reported on FederalReporting.gov should be obtained from DAJR rather than Site Manager and ECTS. The DOTD does not concur with this finding. The basis for determining the amount of federal awards expended as shown in OMB Circular A-133 Section 205 is provided below:

Determining Federal awards expended: The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to sub recipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

The Louisiana Revised Statutes section 251.5 states:

**Payments Under Contract**

- a. The department shall promptly pay all obligations arising under public contracts within thirty days of the date the obligations become due and payable under the contract. All progressive stage payments and final payments shall be paid when they, respectively, become due and payable under the contract.

For a construction contract the due and payable clause is Specification 109.5 of the 2006 Contract Specifications, which states:

The engineer will make the first progress estimate within 2 months from the date indicated to begin work in the Notice to Proceed. The Department will determine the progress estimate date. Each successive progress estimate will be made on this same date of each month thereafter until completion of the contract.

Consequently, once the estimate date is established for each month on the contract, the estimate is issued in site manager with items of work that were completed that month (quantity, amount and dollar payment). It is from that date under the contract the liability comes due. Each day in site manager the PE (coded by the inspector) enters the

work and the daily diaries. The estimate is automatically issued on the estimate date. Consequently there is no lag time for approval or review for a construction contract.

A consultant contract operates in a different manner. The due and payable clause in the Payment Provision of Consultant Contracts states:

Payments to the Consultant for services rendered shall be made monthly based on a certified invoice directly proportional to the percentage of completed work as shown. The monthly invoice, reflecting the amount and value of work accomplished to the date of such submission less five percent for retainage, shall be submitted directly to the Project Manager. The original and five copies of the invoice shall be submitted to the Project Manager. The invoice must be signed, and dated, as covered under the "Contract Identification" section of this Contract, by a principal member of the Consultant's firm. Upon receipt and approval of each invoice, DOTD shall pay the amount shown to be due and payable within 30 days.

Under this payment clause the consultant will submit monthly invoices for progress payments during the contract. The project manager has to approve those invoices. The due date is the date the Project Manager approves the invoices. It should be noted that the Project Manager should not unreasonably withhold approval when the invoices are issued, but DOTD has more leeway with the due date on consultant contracts compared to construction contracts.

The Statutes and Contract Provisions stated above indicate that the Department becomes contractually obligated to pay the contractor within thirty days of the estimate being posted to Site Manager. The Department also becomes contractually obligated to pay consultants within 30 days of invoice approval. Consultant invoices are not entered into ECTS until the Project Manager approves the invoice. The determination of when an award is expended should be based on when the activity related to the award occurs. The activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts. The expenditure information reported in both Site Manager and ECTS meets these expenditure requirements. Therefore, DOTD believes the expenditure information reported on FederalReporting.gov is in compliance. No corrective action will be taken by DOTD unless directed otherwise.

#### **Inadequate Controls over Sub recipient Monitoring**

The Department agrees with this finding. The data collection is only as complete as what is submitted by the various districts/sections. To that end the Department, implemented for the compilation of the FY10 AFR, a comprehensive district mini-AFR to replace the various and numerous memorandum that previously collected this data. District/Section training was also

delivered to facilitate the development of complete and accurate reporting.

**Corrective Action Plan**

**Responsible Party – Beverly Hodges, Financial Services Administrator**

Correction Action - As we move forward, updates for the AFR portal and supplemental training for sections and districts will be delivered. In addition, Financial Services staff will provide guidance and instruction on the required information that should be included on award documents to the awarding section/district. Additionally, Financial Services' staff are in the process of meeting with the program managers for our sub recipient programs. The Department's Quality and Continuous Improvement Program Section is facilitating the discussions. We are working with the Auditor's Office to clarify program requirements and the Program Managers are working to incorporate the necessary verbiage into existing and new contracts. Program Managers who have not had portal training are being identified and will be provided training prior to FY2011 AFR data collection.

Thank you for the opportunity to respond to this single audit finding and to have this Management Response letter included in the final audit report. Please feel free to contact me or Michael Bridges, Undersecretary, should you have any questions.

Sincerely,



**Sherri H. LeBas, P.E.**  
**Secretary**

cc:

Mr. Ricky Rodriguez, CPA, LLA  
Mr. Brian Kendrick, P.E. DOTD Project Manager  
Ms. Beverly Hodges, DOTD Financial Services Administrator  
Mr. Michael Bridges, P.E., DOTD Undersecretary  
Mr. John Lyon, DOTD External Audit Director



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SHERRI H. LEBAS, P.E.  
SECRETARY

January 19, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
P. O. Box 94397  
Baton Rouge, LA 70804

RE: Department of Transportation and Development  
Single Audit Finding  
Inadequate Controls over Davis-Bacon Act (including ARRA)  
Legislative Auditor Letter dated 12-15-10

Dear Mr. Purpera:

The Department is in receipt of your single audit finding titled "Inadequate Controls over Davis-Bacon Act (Including ARRA)". I appreciate the opportunity to respond to the finding and also to have my response letter included as an attachment in the final report.

**We partially agree with the portion of the finding regarding the monthly interviews.**

A comprehensive evaluation of the EEO Monthly Interview Process was recently performed in all DOTD Districts by the Office of Operations. It indicated that the majority of the required interviews are being conducted. The evaluation did reveal some inconsistencies in the final storage location of the monthly interview documentation which may have affected the auditors sampling and results. The following storage locations of the interview documentation were noted:

- Some Project Engineers are submitting their interview documents with the Project Final Estimate.
- Some Project Engineers are not submitting their interview documents in with the Project Final Estimate and are retaining them in the project files at their office.
- Some Project Engineers are scanning and storing their interview documentation on the Department's Content Manager System.

The Department has taken and will take the following corrective actions:

- 1) During the recent Shade Tree Meetings held in each District with DOTD Engineers, Contractors and Consultants, Mr. Brian Buckel, Chief Construction Division Engineer, covered the requirements for the labor compliance interviews and the requirement to complete two interviews per month.
- 2) Mr. Brian Buckel, Chief Construction Division Engineer, will be revising EDSM No. III.1.1.9, Labor Compliance Reviews, to update and standardize the process of performing and documenting the monthly labor compliance interviews.
- 3) To reinforce the information provided by Brian Buckel at the Shade Tree Meetings an email was sent to each DOTD Construction Gang on December 20, 2010.
- 4) To reinforce the information provided by Brian Buckel at the Shade Tree Meetings an email was sent to each DOTD Construction Gang on December 20, 2010.

**The Department disagrees with the portion of the finding dealing with FHWA overriding clause in the ARRA projects.**

We have reviewed DOTD's compliance with Sections IV and V of Form FHWA-1273, provisions of the Davis-Bacon Act, and the reporting requirements of Public Law 111-5. We do not concur with the LLA's opinion that we failed to provide adequate controls over Davis Bacon Act provisions and offer the following in response:

Prior to issuing any DOTD ARRA funded contract, DOTD established that provisions of the Davis-Bacon Act would be completely adhered to without any exemptions and we included minimum wage rate tables by category in Section I of all DOTD ARRA contracts. Projects that were considered local or rural collectors were not exempt and minimum wage rate tables were provided.

On December 11, 2009, Carl Highsmith from FHWA requested DOTD to add a Davis-Bacon Act provision to our ARRA contracts. This provision was added to all subsequent ARRA contracts and Mr. Highsmith stated that this was a requirement per Section VI.F of the ARRA Implementing Guidance document. This provision was added verbatim even though it was considered redundant by our legal team. Prior contracts were not supplemented with the provision.

It is our opinion that no provision of the Davis-Bacon Act as required by Public Law 111-5 has been violated and that all DOTD ARRA contracts meet the Davis-Bacon Act minimum wage requirements and the reporting requirements of PL 111-5, no matter the ownership, size, or type of project. In addition, it is our opinion that Section VI.F of the ARRA Implementing Guidance document was negated once DOTD provided minimum wage rate tables in the contract documents. However, DOTD included the language which was provided and approved by the federal government in ARRA contracts subsequent to December, 2009 at the request of our federal sponsor.

Daryl G. Purpera  
January 19, 2011  
Page 3 of 3

Thank you for the opportunity to respond to this single audit finding and to have this Management Response letter included in the final audit report. Please feel free to contact me or Michael Bridges, Undersecretary, should you have any questions.

Sincerely,

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Sherri H. LeBas, P.E.  
Secretary

cc:

Mr. Ricky Rodriguez, CPA, LLA  
Mr. Brian Buckel, P.E., DOTD Construction Section Head  
Mr. Richard Savoie, P.E., DOTD Chief Engineer  
Mr. Rhett Desselle, P.E., DOTD Asst Secretary for Operations  
Mr. Michael Bridges, P.E., DOTD Undersecretary  
Mr. John Lyon, DOTD External Audit Director



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STATE OF LOUISIANA  
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SHERRI H. LEBAS, P.E.  
SECRETARY

January 19, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
P. O. Box 94397  
Baton Rouge, LA 70804

RE: Department of Transportation and Development  
Single Audit Finding  
Inadequate Controls over Contract Time Extensions  
Legislative Auditor Letter dated 12-16-10

Dear Mr. Purpera:

The Department is in receipt of your single audit finding titled "Inadequate Controls over Contract Time Extensions". I appreciate the opportunity to respond to the finding and also to have my response letter included as an attachment in the final report.

**The Department agrees with the finding.**

The Department uses a comprehensive client/server based construction management tool called AASHTOWare Trns·port SiteManager. This software tool provides for data entry, tracking, reporting, and analysis of contract data from contract award through finalization. The functions it provides are: contract administration including monitoring of the contract; recording of various project data; daily work reports; contract payments; change orders, material management; and laboratory inventory management.

The mistake that was made for the projects cited was a result of the DOTD Project Engineer incorrectly setting up the approval work flow in Site Manager. For all construction projects that have FHWA oversight, the local FHWA Area Engineer should be included in the approval work flow in Site Manager. Please note that the FHWA Area Engineer was familiar with the project and change orders as the DOTD Project Engineer and FHWA Area Engineer had discussed the change orders in monthly meetings. Subsequent to the Legislative audit, these cited change orders were approved by FHWA. Documentation can be provided upon request.

Daryl G. Purpera  
January 19, 2011  
Page 2 of 2

The DOTD Construction Section has already implemented a process of back checking projects loaded into Site Manager to ensure the fields are correctly marked. The change orders noted in the finding were entered before this process of back checking began.

The HQ Construction Section in recent meetings (November/December 2010) with the DOTD Project Engineers and DOTD Area Engineers has reinforced that FHWA approval is required on Category 1 and 2 Change Orders with FHWA oversight. The Construction Section will issue a Construction Memo this month that modifies the Change Order Category Worksheet to indicate FHWA approval on all Category 1 and 2 change orders with FHWA oversight. This extra check should catch those projects in which the Project Engineer accidentally left off the FHWA Area Engineer.

Thank you for the opportunity to respond to this single audit finding and to have this Management Response letter included in the final audit report. Please feel free to contact me or Michael Bridges, Undersecretary, should you have any questions.

Sincerely,



Sherri H. LeBas, P.E.  
Secretary

cc:

Mr. Ricky Rodriguez, CPA, LLA  
Mr. Brian Buckel, P.E., DOTD Construction Section Head  
Mr. Richard Savoie, P.E., DOTD Chief Engineer  
Mr. Rhett Desselle, P.E., DOTD Asst Secretary for Operations  
Mr. Michael Bridges, P.E., DOTD Undersecretary  
Mr. John Lyon, DOTD External Audit Director