

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Court of Appeal, Fifth Circuit
State of Louisiana
Gretna, Louisiana

December 11, 2002



Financial and Compliance Audit Division

***Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor***

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**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA**

Gretna, Louisiana

Special Purpose Financial Statements
and Independent Auditor's Reports
As of and for the Year Ended June 30, 2002

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 and New Orleans offices of the Legislative Auditor and at the office of the parish clerk of court.

December 11, 2002

**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA**

Special Purpose Financial Statements
and Independent Auditor's Reports
As of and for the Year Ended June 30, 2002

CONTENTS

	Statement	Page No.
Independent Auditor's Report on the Financial Statements		2
Special Purpose Financial Statements - All Appropriated and Non-Appropriated Funds:		
Balance Sheet (Legal Basis)	A	4
Statement of Revenues, Expenditures, and Changes in Fund Balances (Legal Basis)	B	5
Notes to the Financial Statements		6
	Exhibit	
Report on Compliance and on Internal Control Over Financial Reporting Based on an Audit of the Special Purpose Financial Statements Performed in Accordance With <i>Government Auditing Standards</i>	A	
	Appendix	
Management's Corrective Action Plan and Response to the Finding and Recommendation	A	



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November 25, 2002

Independent Auditor's Report
on the Financial Statements

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Gretna, Louisiana

We have audited the accompanying special purpose (legal basis) financial statements of the Court of Appeal, Fifth Circuit, a court within Louisiana state government, as of and for the year ended June 30, 2002, as listed in the foregoing table of contents. These financial statements are the responsibility of management of the Court of Appeal, Fifth Circuit. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As discussed in note 1-B to the financial statements, the accompanying special purpose financial statements of the Court of Appeal, Fifth Circuit present only the funds of the Court of Appeal, Fifth Circuit. As such, they present the appropriated and non-appropriated activity of the court that are part of the accounts and fund structure of the State of Louisiana. The appropriated fund reflects appropriated activity of the court that is part of the General Fund of the State of Louisiana. The non-appropriated fund is an individual fund of the State of Louisiana not subject to budgetary control. Furthermore, the special purpose financial statements have been prepared on a legal basis of accounting, the purpose of which is to reflect compliance with the annual appropriation act for the appropriated fund and the financial position of the non-appropriated fund. These procedures differ from accounting principles generally accepted in the United States of America as described in the notes to the financial statements. Accordingly, the accompanying special purpose financial statements are not intended to and do not present fairly the financial position and results of operations in conformity with accounting principles generally accepted in the United States of America.

LEGISLATIVE AUDITOR

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Audit Report, June 30, 2002

In our opinion, the accompanying special purpose financial statements present fairly, in all material respects, the balances within the appropriated and non-appropriated funds of the Court of Appeal, Fifth Circuit at June 30, 2002, and the transactions of such funds for the year then ended, on the basis of accounting described in note 1-D.

In accordance with *Government Auditing Standards*, we have also issued a report dated November 25, 2002, on our consideration of the Court of Appeal, Fifth Circuit's internal control over financial reporting and on our tests of its compliance with certain laws and regulations. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be read in conjunction with this report in considering the results of our audit.

This report is intended solely for the information and use of the Court of Appeal, Fifth Circuit 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,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

FWM:JR:RCL:dl

[SCCA02]

**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
ALL APPROPRIATED AND NON-APPROPRIATED FUNDS**

Balance Sheet (Legal Basis), June 30, 2002

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
ASSETS			
Cash and cash equivalents (note 1-E)	\$14,389	\$183,373	\$197,762
Receivables (note 2)	19,972	23,525	43,497
Interfund receivables		14,457	14,457
Prepaid items	22,292	2,978	25,270
	<u>56,653</u>	<u>224,333</u>	<u>280,986</u>
TOTAL ASSETS	<u>\$56,653</u>	<u>\$224,333</u>	<u>\$280,986</u>
LIABILITIES AND FUND EQUITY			
Liabilities:			
Accounts payable	\$19,904		\$19,904
Interfund payables	14,457		14,457
Total Liabilities	<u>34,361</u>	NONE	<u>34,361</u>
Fund Equity - fund balance - reserved (note 8)	22,292	\$224,333	246,625
	<u>56,653</u>	<u>\$224,333</u>	<u>280,986</u>
TOTAL LIABILITIES AND FUND EQUITY	<u>\$56,653</u>	<u>\$224,333</u>	<u>\$280,986</u>

The accompanying notes are an integral part of this statement.

**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
ALL APPROPRIATED AND NON-APPROPRIATED FUNDS**

**Statement of Revenues, Expenditures,
and Changes in Fund Balances (Legal Basis)
For the Year Ended June 30, 2002**

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON- APPROPRIATED FUND - FEE ACCOUNT	TOTAL (MEMORANDUM ONLY)
REVENUES			
Filing fees		\$282,172	\$282,172
Use of money and property - interest earnings	\$2,209	6,897	9,106
Total revenues	<u>2,209</u>	<u>289,069</u>	<u>291,278</u>
EXPENDITURES			
Appropriated expenditures:			
Personal services	2,858,060	128,311	2,986,371
Professional services	43,025	5,675	48,700
Travel and conventions	48,546	5,577	54,123
Operating supplies and services	357,646	13,191	370,837
Capital outlay	229,841		229,841
Association dues		1,988	1,988
Non-appropriated expenditures -			
Judges' Supplemental Compensation Fund		9,145	9,145
Total expenditures	<u>3,537,118</u>	<u>163,887</u>	<u>3,701,005</u>
EXCESS (Deficiency) OF REVENUES OVER EXPENDITURES	<u>(3,534,909)</u>	<u>125,182</u>	<u>(3,409,727)</u>
OTHER FINANCING SOURCES (Uses)			
Operating transfers in	99,083		99,083
Operating transfers out		(99,083)	(99,083)
Transfers from Supreme Court	3,425,486		3,425,486
Total other financing sources (uses)	<u>3,524,569</u>	<u>(99,083)</u>	<u>3,425,486</u>
EXCESS (Deficiency) OF REVENUES AND OTHER SOURCES OVER EXPENDITURES AND OTHER USES	<u>(10,340)</u>	<u>26,099</u>	<u>15,759</u>
FUND BALANCES AT BEGINNING OF YEAR	<u>32,632</u>	<u>198,234</u>	<u>230,866</u>
FUND BALANCES AT END OF YEAR	<u>\$22,292</u>	<u>\$224,333</u>	<u>\$246,625</u>

The accompanying notes are an integral part of this statement.

**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA**

Notes to the Financial Statements
As of and for the Year Ended June 30, 2002

INTRODUCTION

The Court of Appeal, Fifth Circuit is a part of the State of Louisiana reporting entity, within the judicial branch of government. The court is provided for in Article V, Sections 8 through 13 of the Louisiana Constitution of 1974 and Sections 311 through 392 of Title 13 of the Louisiana Revised Statutes of 1950. The court's operations are funded through an annual lapsing appropriation made by the Louisiana Legislature and from self-generated revenues authorized by Louisiana Revised Statute (R.S.) 13:352. In addition to the fees mandated by R.S. 13:352 relative to appeals, applications for writs, motions filed on unlodged appeals and answers to appeals, the court, in compliance with Act 63 of the 1985 Session of the Louisiana Legislature and in conformity with the Judges' Supplemental Compensation Fund, charges an additional fee of \$16. The total amount collected in connection with the Judges' Supplemental Compensation Fund is remitted to the Judicial Administrator's Office of the Supreme Court of Louisiana.

The Court of Appeal, Fifth Circuit has appellate jurisdiction as authorized under Article V, Section 5 of the Louisiana Constitution, which encompasses the parishes of Jefferson, St. Charles, St. James, and St. John the Baptist. The Court of Appeal, Fifth Circuit has supervisory jurisdiction, subject to the general supervisory jurisdiction of the Supreme Court of Louisiana, over all lower courts in all cases in which an appeal would extend to the court of appeal. The Fifth Circuit is domiciled in Gretna, Louisiana, and has eight judges and 52 other employees.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. BASIS OF PRESENTATION

The Governmental Accounting Standards Board (GASB) promulgates generally accepted accounting principles and reporting standards for state and local governments. These principles are found in the Codification of Governmental Accounting and Financial Reporting Standards, published by the GASB. However, the accompanying financial statements have been prepared on a legal basis, which differs from accounting principles generally accepted in the United States of America as explained in the following notes.

B. REPORTING ENTITY

GASB Codification Section 2100 has defined the governmental reporting entity to be the State of Louisiana. The court is considered within the State of Louisiana reporting entity because the state exercises oversight responsibility and has accountability for fiscal matters as follows: (1) the state has control and exercises authority over budget matters; (2) state appropriations provide the largest percentage of total revenues; and

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Continued)

(3) the court primarily serves state residents. The accompanying financial statements present information only as to the transactions of the court.

The accompanying financial statements represent activity of the court within the judicial branch of state government and, therefore, are a part of the fund structure of the State of Louisiana and its basic financial statements. Annually, the State of Louisiana issues basic financial statements, which are audited by the Louisiana Legislative Auditor.

C. FUND ACCOUNTING

The Court of Appeal, Fifth Circuit uses fund accounting, along appropriation lines, to reflect its compliance with provisions of the annual appropriation act and to reflect the financial position and results of operations of its non-appropriated funds. This differs from the fund accounting of accounting principles generally accepted in the United States of America where the intent is to measure the financial position and results of operations of the governmental reporting entity as a whole. Therefore, the funds within the accompanying financial statements have been divided between appropriated and non-appropriated funds and not by the conventional fund types of accounting principles generally accepted in the United States of America.

The funds do not include any noncurrent assets or liabilities. Noncurrent assets, fixed assets, and long-term liabilities are reflected in the State of Louisiana's basic financial statements.

The funds presented in the special purpose financial statements are described as follows:

General Appropriation Fund

The General Appropriation Fund provides for the general administrative expenditures of the court.

Non-Appropriated Fund - Fee Account

The Fee Account is used to account for filing fees and other revenues received by the court as provided by R.S. 13:352. Expenditures incurred in excess of the amount appropriated by the legislature (General Appropriation Fund) are funded from this account.

D. BASIS OF ACCOUNTING

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. The funds in the accompanying financial statements measure the resources provided by the legislature to fund current-year expenditures and the use of those resources by the court.

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Continued)

Basis of accounting refers to when revenues and expenditures are recognized and reported in the financial statements, regardless of the measurement focus applied. The accompanying financial statements reflect revenues and expenditures in accordance with applicable statutory provisions and regulations of the Judicial Budgetary Control Board.

Under the foregoing legal provisions, the court uses the following practices in recognizing revenues and expenditures:

Revenues

Self-generated revenues, including interest income on demand deposits and certificates of deposit, are recorded when earned.

Expenditures

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. Furthermore, any expenditure of a long-term nature for which funds have not been appropriated during the current year is not recognized in the accompanying financial statements.

Other Financing Sources (Uses)

Transfers between funds that are not expected to be repaid are accounted for as other financing sources (uses) in the year the court is authorized to receive or make the transfers. In addition, transfers from the Supreme Court are included on the financial statements as other financing sources. The transfer from the Supreme Court is the portion of the Court of Appeal, Fifth Circuit's state General Fund appropriation, which is recognized in the amount appropriated, to the extent withdrawn from the state treasury.

E. CASH AND CASH EQUIVALENTS

As reflected on Statement A, cash and cash equivalents (\$197,762) include petty cash (\$124), demand deposits (\$97,638), and certificates of deposit (\$100,000). Under state law, the Court of Appeal, Fifth Circuit may deposit funds with a fiscal agent bank selected and designated by the Interim Emergency Board. Furthermore, the court may invest in time certificates of deposit in state banks organized under the laws of Louisiana, national banks having their principal office in the State of Louisiana, in savings accounts or shares of savings and loan associations and savings banks and in share accounts and share certificate accounts of federally or state chartered credit unions.

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Continued)

The Court of Appeal, Fifth Circuit has deposits in bank accounts totaling \$197,638 at June 30, 2002. Deposits in bank accounts are stated at cost, which approximates market. Under state law, these deposits must be secured by federal deposit insurance or the pledge of securities owned by the fiscal agent bank. The market value of the pledged securities plus the federal deposit insurance must at all times equal the amount on deposit with the fiscal agent. These pledged securities are held in the name of the pledging fiscal agent bank in a holding or custodial bank in the form of safekeeping receipts held in the court's name. The deposits at June 30, 2002, are secured as follows:

	<u>Cash</u>	<u>Certificates of Deposit</u>	<u>Other</u>	<u>Total</u>
Deposits in Bank Accounts per Balance Sheet	<u>\$97,638</u>	<u>\$100,000</u>	<u>NONE</u>	<u>\$197,638</u>
Collected Bank Balances:				
a. Insured (FDIC) or collateralized with securities held by the court or its agent in the court's name (Category 1)	\$100,000	\$100,000		\$200,000
b. Collateralized with securities held by pledging financial institution's trust department or agent in the court's name (Category 2)				NONE
c. Uncollateralized, including any securities held for the entity but not in the court's name (Category 3)	<u>110,176</u>			<u>110,176</u>
Total Bank Balances	<u>\$210,176</u>	<u>\$100,000</u>	<u>NONE</u>	<u>\$310,176</u>

F. PREPAID ITEMS

The court establishes prepaid expenditures for membership dues, insurance, and maintenance agreements. Payments made for such items that will benefit periods beyond June 30, 2002, are recorded as prepaid items.

G. LONG-TERM OBLIGATIONS

The court is by statute not allowed to incur bonded indebtedness and, therefore, no recognition within the accompanying financial statements is necessary. Furthermore, any long-term obligations of the court arising from lease commitments, judgments, compensated absences, or any other sources are not recognized in the accompanying special purpose financial statements.

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Continued)

H. BUDGET PRACTICES

The general appropriation made for the operations of the court is an annual lapsing appropriation. Amounts not expended or encumbered should be returned to the state General Fund on or before September 1, 2002.

The court has no encumbrances outstanding at June 30, 2002. The accompanying financial statements do not present a budgetary comparison because the appropriated fund is budgeted in lump sum and the non-appropriated fund is not subject to budgetary control. As provided by Act 668 of 2001, the Judicial Budgetary Control Board approved an original appropriation of \$3,425,486. The appropriation act also appropriates to the court any interest that it earns. There were no budget amendments.

I. JUDGES' SALARIES

The salaries of the judges are paid directly by the Supreme Court of Louisiana with warrants drawn on the state treasury and are not included in the expenditures of the accompanying financial statements.

J. LEAVE BENEFITS

Law clerks and secretaries employed by a particular judge are employees of that judge. As such, they are subject to the leave benefit guidelines set forth by that particular judge. The clerk of court and central staff director are subject to the guidelines of the chief judge.

Employees for the clerk of court's office and the central staff employees earn and accumulate annual and sick leave at various rates, depending on their years of service. The amount of annual and sick leave that may be accumulated by each employee is unlimited. Upon termination, employees are compensated for up to 300 hours of unused annual leave at the employee's current hourly rate of pay. Payment of monetary compensation for sick leave upon termination is not permitted.

The cost of leave privileges, computed in accordance with GASB Codification Section C60, is recognized as a current-year expenditure when leave is actually taken. The cost of leave privileges applicable to general government operation not requiring current resources is disclosed in note 7.

K. TOTAL COLUMNS ON STATEMENTS

The total columns on the statements are captioned Memorandum Only (overview) to indicate that they are presented only to facilitate financial analysis. Data in these columns do not present financial position or results of operations. Neither are such data comparable to a consolidation.

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Continued)

2. RECEIVABLES

The following is a summary of receivables at June 30, 2002:

	Appropriated Fund - General Appropriation	Non- Appropriated Fund - Fee Account	Total
Due from the Supreme Court	\$14,563		\$14,563
Due from travel reimbursements	5,409		5,409
Filing fees		\$23,000	23,000
Copy fees		525	525
	<u>\$19,972</u>	<u>\$23,525</u>	<u>\$43,497</u>
Total	<u>\$19,972</u>	<u>\$23,525</u>	<u>\$43,497</u>

3. PENSION PLANS

Substantially all employees of the court are members of the Louisiana Clerks Retirement and Relief Fund (LCRRF) and the Louisiana State Employees Retirement System (LASERS). The LCRRF and LASERS are statewide cost-sharing, multiple-employer plans administered by separate boards of trustees. Both plans provide retirement, disability, and survivor's benefits to plan members and beneficiaries. Generally, permanent employees are eligible to participate in the retirement systems, with employee benefits vesting after 10 years of service. The systems issue annual publicly available financial reports that include financial statements and required supplementary information for the systems. The reports may be obtained by writing to the Louisiana Clerks Retirement and Relief Fund, 11745 Bricksome Avenue, Suite B1, Baton Rouge, Louisiana 70816, or by calling (225) 293-1162 and/or the Louisiana State Employees Retirement System, Post Office Box 44213, Baton Rouge, Louisiana 70804, or by calling (225) 922-0600. Benefits granted by LASERS are guaranteed by the State of Louisiana by provisions of the Louisiana Constitution of 1974.

The contribution requirements of plan members and the court are established and may be amended by the state legislature. The legislature annually sets the required employer contribution rate equal to the actuarially required employer contribution as set forth in R.S. 11:102. Employees contribute 8.25% (LCRRF) and 7.5% (LASERS) of covered salaries. The state is required to contribute 10% of covered salaries to LCRRF and 13% of covered salaries to LASERS. The court's employer contributions to LCRRF for the years ended June 30, 2002, 2001, and 2000 were \$63,481, \$49,852, and \$37,326, respectively, and to LASERS for the years ended June 30, 2002, 2001, and 2000, were \$198,621, \$209,939, and \$184,555, respectively, equal to the required contribution for each year for each retirement system.

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Continued)

4. POSTEMPLOYMENT HEALTH CARE AND LIFE INSURANCE BENEFITS

The court provides certain continuing health care and life insurance benefits for its retired employees. Substantially all of the court's employees become eligible for these benefits if they reach normal retirement age while working for the court. These benefits for retirees and similar benefits for active employees are provided through an insurance company whose monthly premiums are paid jointly by the employee and the court. The court recognized the cost of providing these benefits (court's portion of premiums) as an expenditure when paid during the year, which totaled \$154,233 for the year ended June 30, 2002. The court's cost of providing retiree health care and life insurance benefits are recognized as expenditures when the monthly premiums are paid. For the year ended June 30, 2002, the cost of retiree benefits for 13 retirees totaled \$38,411, which was paid with state appropriated funds.

5. JUDGMENTS, CLAIMS, AND SIMILAR CONTINGENCIES

Obligations and losses arising from judgments, claims, and similar contingencies are paid through the state's self-insurance fund or the state General Fund and are not reflected in the accompanying special purpose financial statements. The self-insurance fund is operated by the Office of Risk Management, the state agency responsible for the state's self-insurance program.

6. LEASE OBLIGATIONS

The court has no capital lease agreements for the fiscal year ended June 30, 2002.

Operating leases are all leases that do not meet the criteria of a capital lease. The annual rental payments for noncancellable operating leases during the next five fiscal years are presented in the following schedule:

<u>Nature of lease</u>	<u>Fiscal Year</u>				
	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>
Equipment	<u>\$26,670</u>	<u>\$18,987</u>	<u>NONE</u>	<u>NONE</u>	<u>NONE</u>

Lease agreements have non-appropriation exculpatory clauses that allow lease cancellation if the legislature does not make an appropriation for its continuation during any future fiscal period. Total operating lease expenditures for fiscal year 2001-2002 amounted to \$28,001.

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Notes to the Financial Statements (Concluded)

7. COMPENSATED ABSENCES

The liability for unused leave payable at June 30, 2002, computed in accordance with the Codification of Governmental Accounting and Financial Reporting Standards Section C60.105, is estimated at \$96,611. The leave payable is not recorded in the accompanying financial statements.

8. RESERVED FUND BALANCES

The Appropriated Fund - General Appropriation has a reserved fund balance totaling \$22,292. These funds are for prepaid expenditures for the 2002-03 fiscal year.

The Non-Appropriated Fund - Fee Account has a reserved fund balance totaling \$224,333 that is reserved for continuing operations and may be retained and used to defray expenditures of the court as prescribed by R.S. 13:352.

9. DEFERRED COMPENSATION PLAN

Certain employees of the court participate in the Louisiana Deferred Compensation Plan adopted under the provisions of Internal Revenue Code Section 457. Complete disclosures relating to this statewide plan are available in the financial statements of the State of Louisiana.

10. SUPPLEMENTAL INSURANCES

Certain employees of the court have authorized payroll deductions for supplemental insurances through Colonial Life & Accident Insurance Company. These deductions are pre-taxable and are handled through the guidelines of the Flexible Benefits Plan under Section 125 of the Internal Revenue Code.

OTHER REPORT REQUIRED BY
GOVERNMENT AUDITING STANDARDS

The following pages contain a report on compliance with laws and regulations and on internal control over financial reporting as required by *Government Auditing Standards*, issued by the Comptroller General of the United States. This report is based solely on the audit of the financial statements and includes, where appropriate, any reportable conditions and/or material weaknesses in internal control or compliance matters that would be material to the presented financial statements.



DANIEL G. KYLE, PH.D., CPA, CFE
LEGISLATIVE AUDITOR

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November 25, 2002

Report on Compliance and on Internal Control Over Financial
Reporting Based on an Audit of the Special Purpose Financial Statements
Performed in Accordance With *Government Auditing Standards*

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
Gretna, Louisiana

We have audited the special purpose (legal basis) financial statements of the Court of Appeal, Fifth Circuit, a court within Louisiana state government, as of and for the year ended June 30, 2002, and have issued our report thereon dated November 25, 2002. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the Court of Appeal, Fifth Circuit's special purpose financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported herein under *Government Auditing Standards*.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Court of Appeal, Fifth Circuit's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the special purpose financial statements and not to provide assurance on the internal control over financial reporting. However, we noted a certain matter described on the following page involving the internal control over financial reporting and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the Court of Appeal, Fifth Circuit's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statements.

LEGISLATIVE AUDITOR

COURT OF APPEAL, FIFTH CIRCUIT STATE OF LOUISIANA

Compliance and Internal Control Report

November 25, 2002

Page 2

No Formal Disaster Recovery Plan

The Court of Appeal, Fifth Circuit has not formally implemented and tested a disaster recovery/contingency plan, including provisions for an offsite disaster recovery facility, to provide for the timely restoration of critical entity operations in the event that normal data processing facilities were unavailable for an extended period of time. A formal comprehensive disaster recovery/contingency plan should exist that would allow for the continuation of critical court operations should normal data processing facilities be unavailable for an extended time. Provisions of the plan should be tested periodically, and updated when necessary, to ensure a timely and orderly return to regular operations.

The Court of Appeal, Fifth Circuit's management has not taken adequate steps to ensure that a comprehensive disaster recovery/contingency plan, including provisions for an offsite disaster recovery facility, has been established and tested. Although the Court of Appeal, Fifth Circuit has addressed issues related to hurricane procedures, current policies and procedures do not include a comprehensive plan related to disaster recovery. Failure to develop and test a comprehensive disaster recovery plan increases the risk that in the event of a disaster, there will be an untimely or excessive delay in processing critical data and that critical data may be lost.

The Court of Appeal, Fifth Circuit should commit adequate resources to developing a comprehensive disaster recovery/contingency plan that would provide for the timely resumption of critical entity operations following a disaster. Management should focus on locating a backup site that will allow the Court of Appeal, Fifth Circuit to re-establish its critical operations within an acceptable time frame should a disaster occur. After establishing the plan, management should test the plan periodically, and update it as necessary, to ensure that it continues to meet the court's needs. Management of the court concurred with the finding and recommendation and outlined a plan of corrective action (see Appendix A).

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we believe that the reportable condition described above is not a material weakness.

LEGISLATIVE AUDITOR

**COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA**

Compliance and Internal Control Report

November 25, 2002

Page 3

This report is intended solely for the information and use of the Court of Appeal, Fifth Circuit 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 "Daniel G. Kyle". The signature is fluid and cursive, with the first name "Daniel" being the most prominent.

Daniel G. Kyle, CPA, CFE
Legislative Auditor

FWM:JR:RCL:dl

[SCCA02]

Appendix A

Management's Corrective Action Plan and Response to the Finding and Recommendation



EDWARD A. DUFRESNE, JR.
CHIEF JUDGE

SOL GOTHARD
JAMES L. CANNELLA
THOMAS F. DALEY
MARION F. EDWARDS
SUSAN M. CHEHARDY
CLARENCE E. MCMANUS
WALTER J. ROTHSCHILD

JUDGES

Court of Appeal

FIFTH CIRCUIT
STATE OF LOUISIANA

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November 27, 2002

PETER J. FITZGERALD, JR.
CLERK OF COURT

GENEVIEVE L. VERRETTE
CHIEF DEPUTY CLERK

GLYN RAE WAGUESPACK
FIRST DEPUTY CLERK

JERROLD B. PETERSON
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Daniel G. Kyle, PH.D, CPA, CFE
Office of the Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, LA 70804-9397

In re: Audit Finding – FYE 6/30/02

Dear Dr. Kyle:

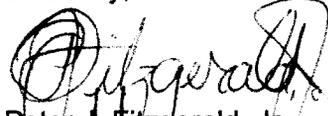
In connection with the current annual audit finding presented to this court by your office, please accept this as our court's response.

The management of the Court of Appeal, Fifth Circuit understands and concurs in the finding as presented and explained to us. In an effort to address and comply with the finding, we intend to thoroughly review our current operational guidelines in an effort to make an assessment of our needs in the area of disaster recovery. With guidance provided by your staff, it is this court's intention to develop, implement and maintain a comprehensive Disaster Recovery/Contingency Plan for this facility and its judges and employees.

With regard to a backup site for protection of critical data in the event of a major disaster, this court is currently reviewing several available options that we feel will comply with the finding. This may be an area of the finding that we are in a position to address in short order.

We will, of course, comply with the recommendations of your staff in order to expeditiously and adequately address any deficiencies noted within the framework of our court's operation.

Sincerely,



Peter J. Fitzgerald, Jr.
Clerk of Court