

LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting April 20, 2009

A meeting of the Legislative Audit Advisory Council was held on Monday, April 20, 2009, in House Committee Room 2 of the State Capitol Building in Baton Rouge, Louisiana.

CALL TO ORDER AND ROLL CALL

Representative Noble Ellington called the meeting to order at 2:00 p.m. A quorum was present with the following members in attendance:

Members Present

Representative Noble Ellington, Chairman
Representative Charles Kleckley
Representative Anthony Ligi
Representative Cedric Richmond
Senator Nick Gautreaux
Senator Ed Murray, Vice Chairman
Senator Ben Nevers
Senator Willie Mount
Senator John Smith

Members Absent

Representative Neil Abramson

APPROVAL OF MINUTES

Copies of the minutes for the meeting of March 17, 2009, were previously emailed to Council members for review. A motion was made by Senator Murray that the minutes for March 17, 2009, be approved and with no objections, the motion passed.

HB 1 AND 2 EXTENSION REQUESTS

Mr. Daryl Purpera, First Assistant Legislative Auditor, stated that each one of the entities on list #1 (Attachment A) requesting their first extensions for non-emergency extensions for purposes of funding HB1 and HB2 has been reviewed by the Legislative Auditor staff and recommends that these be approved. Senator Smith moved that these extensions be approved and with no objections, the motion carried.

Mr. Purpera said that the additional non-emergency extension requests (top of Attachment B) are from the entities that have come for a second extension. Traditionally the entities are invited to come before the council to explain the reason for the second extension. The six Housing Authorities on the list require a schedule in their audit reports and the information must be derived from the Department of Housing and Urban Development. HUD has been unable to provide that information, so these entities have been unable to submit these reports. The Legislative Auditor agrees that they are unable to submit their reports and requests the council to allow these six an extension without having to appear before the council. Senator Murray moved that the six Housing Authorities – Bossier City, Homer, Kenner, Natchitoches, Parks, Ville Platte - be allowed to have an extension without having to appear and with no objections the motion passed. Mr. Purpera stated the other entities requesting a second extension have been invited to speak before the council.

Community Support Programs, Inc.

Susan Bray with the Community Support Programs, Inc. said that they are requesting their second extension. She stated that the exit interview has been scheduled for Friday, and expected to forward their audit report to the Legislative Auditor by the following Monday. Senator Smith moved to grant the second extension for the Community Support Programs, Inc. and with no objections, the motion passed.

Village of Saline

Joy Irwin, Director of Advisory Services, said the new mayor of the Village of Saline had difficulty securing the accounting records. He managed to finally get the records, and they are requesting extensions for 2007 and 2008 audit reports because he is working very diligently to get both audit reports in.

Ms. Renia Cheatwood with the Village of Saline explained they had requested the records by numerous certified letters from the prior Mayor which were not responded to. The District Attorney then had to request the records from the previous Mayor, who finally put 10 boxes on her front porch for them to pick up. They have a bookkeeper going through it all because not sure if given all records, and know they did not receive copies of bank statements. Representative Ligi moved to grant extensions for 2007 and 2008 for the Village of Saline and with no objections, the motion passed.

Plaquemines Parish School Board

Joyce Guidry Green, with the Plaquemines Parish School Board explained that their finance department never completely recovered from Katrina, and experienced immense employee turn over. She is the third finance director since Katrina and of the pre-Katrina staff only three employees remain. They are learning and behind and asking for an extension until the end of April. Senator Murray moved to grant the extension and with no objections, the motion passed.

Representative Ellington stated the Treme Community Education Program, Inc. representative was on the way, so they would return to that entity when he arrived.

Vernon Parish Council on Aging

Mike Elliot, the auditor for the Vernon Parish Council on Aging was present as well as the Executive Director to request an extension to June 2, 2009, to complete the audit. He explained that the bookkeeper for the Council on Aging had surgery in late 2008, then her services switched to an outside CPA for OEA purposes thereafter. He was unable during tax season to complete getting all the data to him. They expect to receive the data and complete the audit by June 2nd. Mr. Art Matte is the outside CPA that now does the books for the Council on Aging.

Senator Smith moves that the extension be granted to June 2, 2009, for the Vernon Parish Council on Aging and with no objections, the motion passed.

ACT 36 EXTENSION REQUESTS

Mr. Purpera explained that Emergency Extension Requests is the final list for approval (Attachment B) and the Legislative Auditor recommends approval of these. The Legislative Auditor does not have the authority to grant the disaster related first extension requests and these require the council's approval for their extensions. Mr. Purpera said that both entities: Greystone Community Development District and Terrebonne Parish Sheriff have been invited to the meeting. Senator Murray moved for the granting of extensions for all on the Act 36 Emergency list, and with no objections, the motion passed.

OFFICE LEASE

Mr. Theriot explained that they had tried to find one location for moving his entire office to, but could not find sufficient space in any state buildings. They found approximately 10,000 square feet in the Galvez Building which they have agreed with Facility Planning to sign a lease. The reason for presenting this to the Council is that no rent has been charged in the state building where his offices are currently housed. The Galvez Building is owned by Office of State Building so they will have to pay approximately \$ 300,000 for rent per year for the office space until such time the Legislature and Facility Planning finds a permanent place to house the entire LLA operation. This will alleviate some of the over crowdedness and still allow efficient operations. They will incur approximately \$ 200,000 in one time costs for equipment, IT equipment, and phone system.

Representative Ellington asked if Mr. Theriot anticipated paying rent once they find a place to fit all of his office. Mr. Theriot said they had previously estimated about \$ 1.5 million to house the entire LLA office, but this would be a fraction costing about \$ 20 per square foot. They would be renting only 10,000 square feet rather than 50,000 square feet which can only fit the performance and training divisions, and cost around \$ 270,000 per year for all costs including parking. Senator Murray made a motion approving the move of part of the LLA staff to the Galvez Building and the motion passed with no objections.

HB 1 AND 2 EXTENSION REQUESTS

Treme Community Education Program, Inc.

Mr. Norman Smith, Director of Treme Community Education Program said they have had some unusual circumstances that required them to request an extension to provide their audit within the next 90 days. Mr. Smith said their accountant had become very ill requiring time in the hospital, and at the end of the fiscal year she also had to relocate to Baton Rouge for a job. She was volunteering on weekends to help them get the audits together. Her husband recently became

terminally ill and she has asked for more time to get the audit together. He said he was not competent enough to do it him self, therefore he was requesting 90 days to get the audits together. Senator Murray moved that the council grant the 90 day extension request and with no objections, that motion passed.

ENERGY EFFICIENCY CONTRACTS

Mr. Purpera said that at the previous meeting the Council requested some information which they have provided in a list of those energy efficiency contracts aware of including local and state entities. Noted on the spreadsheet is whether the audit reports have been issued and if they indicate an issue with the energy efficiency contracts.

Senator Mount asked what happens now. Mr. Purpera pointed out the given excerpts of three findings in audit reports for universities. The LSU finding is an example of the finding where the contract provided for \$ 3.4 million in savings: \$ 2.6 million is measurable savings and roughly \$ 800,000 is operational savings. In the contract they mutually agreed to the \$ 800,000 and that part of the contract is in question. The law requires that all of the savings be guaranteed and no portion of the savings can be stipulated. The Attorney General has opined that stipulated is not appropriate - if it is stipulated in the contract it still must be guaranteed, must be measurable and some methodology to determine whether the savings were realized. Mr. Theriot continued that in answer to Senator Mount's question, reviewing LSU's response, it states that they basically agree with the finding and concur with the fact that the contract does not meet the law. The LSU system's response states they are fully investigating this matter and will do an extensive review of each contract and they are preparing for litigation to remedy the situation and nullifying agreements forcing amendments to the agreements, recovering from breach of the agreements. Mr. Purpera said there are a lot of contracts out there and the only contract ruled to be null and void is Iberville Parish School Board. But the remainder of the contracts has similar language, and it will be up to the entities themselves to begin to take some action.

Senator Mount asked what if they do not, then who is responsible. Mr. Purpera said from the auditor's perspective they are the fact finders and report it, but cannot force the change. Senator Mount asked who can force the change, asking if it needs to go to Joint Budget. Mr. Theriot said it may be a combination of things where some of the entities have reported on the findings, some have addressed prospectively, not retroactively. The retroactive part would be difficult in the event that they have bonds outstanding, because in order to go back and retroactively apply it, if the application of the retroactive part takes place and reduces the revenue stream in any way to the detriment of the bond holders then another problem is created. He clarified that he was not saying it to be impossible to be rectified, but will require more effort and time to do so. Some people thought that if they paid off the loan then they were finished with the contract. There are two separate issues - one is the funding of the contract and the other is the implementation and operation of the contract. His office tries to explain to them that if they pay off the contract that does not mean they are free from it, because this is an exemption to the public bid law. Therefore they must follow the terms of the contract until it expires, not when the loan is paid off. Mr. Theriot said the question is who would be the enforcer and other than possibly Joint Budget or the courts or even the district attorneys in those respective locals, he was not sure who would be charged with going out and forcing that to happen. When they have findings in audit reports, his office reports that to the respective district attorneys.

Senator Mount asked how many district attorneys have investigated, and if there was or could be implemented a reporting process for them to report back to the Auditor to in turn report back to the Council so they would know that it has been investigated. She remarked that she appreciated Mr. Theriot's comments but said they are just going around and around, and to simplify the issue this is taxpayer dollars. She asked if there was a disconnect within the process that needed to be rectified and if so- what is it, who does it and how do they do it. Right now with 27 local agencies and 9 state agencies listed, she could not even imagine the costs.

Mr. Purpera said their intention has been to monitor this situation and make recommendations in each of the audit reports that the entity themselves must realize the contract is not what it should be and make changes to their contracts, then they will continue to follow up with what modifications the entities have made if any. In future audits if they have not made modifications they will see those findings reoccur, so there is some monitoring but again the auditor does not have the enforcement authority. Senator Mount said that is once a year, so meanwhile the meter is ticking and even though it is included in the audit, and a letter is sent, but in the SLU response it stated no one looked at it since 2005.

Mr. Theriot said they could get the individual entities with their respective authority having oversight over them and if any action has been taken, provide the council that report. Possibly at some point the council could request the entities come here and provide some information since they have the duty of looking at compliance.

Senator Mount asked if she were to call her district attorney if that was something that will be automatically assigned and processed, unless there is some timeline, possibly 30 days to notify the council of their plan. She said since it is not currently required, what would be the district attorneys' plan of action of how to go about this and some timeline. She expressed that as an advisory committee it is their responsibility to continue to dog this issue to make sure folks realize this is an extremely important and significant issue as it relates to the local entities as well as the state agencies. She asked what could the council and the Legislative Auditor, as well as the administration do to manage this differently under the current law.

Mr. Theriot said they can do an inquiry of those agencies to determine what they are doing to seek compliance with those particular entities which are out of compliance in terms of their findings. Senator Mount asked what penalty would be to the entities that have not taken action, since she was not aware of any law that provides a response. Mr. Theriot said he was not aware of any, and these past 24 or 36 months it has been one issue after another, although some have attempted to address this issue.

Senator Mount stated that the auditor was only aware of only what the entities have communicated based on their willingness to do so. She asked if it would be appropriate within the summary of the audit to state the entities are required to respond in 30 days with their plan of action –for them to get their hands around the issue and their course of action to correct it.

Mr. Theriot said as a legislative body they may include in his letter to the entities what might be additionally needed if the statutes do not contain anything, to help them get them into compliance. He offered to do some inquiries on that to determine what was needed. Representative Ellington asked Jerry Jones to come enlighten them on the state part and tell them how he envisioned the legislation that was passed the previous year to effect where they are.

Jerry Jones, Director of Facility Planning and Control, said he would try to explain where they are and part of the difficulties for some of these non-state entities, and the status of the state entities. Many of these contracts were entered into in good faith amongst two parties - the Energy Service Companies (ESCOs) and the agencies, and subsequent to those negotiations on those contracts the Attorney General ruled that stipulated savings were not allowed. The stipulated savings had to be proven and monitored through the process. He explained that part of the problem with correcting it after many the contracts have been in place for some time was that the entities did not go through the effort of capturing statistics to prove those savings. Usually the capturing of the statistics would have been on the agency side, not on the ESCO side.

Mr. Jones gave this example of what might be a stipulated savings – suppose you had a school board with very inefficient lighting systems in the schools and that is easily a low hanging fruit for an energy performance contract to replace lights with energy efficiency lights and better illumination which is a good thing and saves money. That school board may have had two employees, and all they did was go around all their schools and replace light bulbs for eight hours a day, five days a week. One of the stipulated savings is they may have negotiated in the contract the ESCO will replace the light fixtures and the light bulbs before they burn out to maintain the high energy efficiency of the fixtures, so therefore you do not need those employees any more. The school board may then agree to not need them because they are not doing that task anymore, and it is a savings that they are going to realize. The problem is in order to realize the savings of those two people changing those light bulbs they would have to fire those people, but instead the school system reassigned the employees to the grass cutting crew. So they do not realize the savings, but they actually get it through the contract but cannot prove it because cannot compare the previous salary to after the contract, because the people have been reassigned to another job. The school system may not at that point capture those stipulated savings that they agreed to as part of the contract. While both parties agree, they cannot prove it by statistics or by report because the salaries are still being paid because instead of being for changing light bulbs, now it is for cutting grass. It is not a demonstrable savings because cannot show it, and the responsibility is on the school system at that point to prove that they had those savings. The ESCO cannot say that they should have fired those employees, and would not know for certain if they had been fired. They are at a quandary now to go back after the fact, possibly eight to nine years after the fact, to prove those savings to the extent that the Attorney General now wants.

Senator Mount asked if the entities cannot go back and prove those savings, and they have another 10 years remaining on the contract, will that school board be out of compliance with the law because they should prospectively be justifying why they spend so much on these very large contracts. Mr. Jones said in answer to your question they are in technical violation of the Attorney General opinion, and as Mr. Purpera said only one contract has been ruled null and void at this point. He believes many are going back to try and renegotiate the terms of those contracts to see if they can get rid of the stipulated savings. There are contracts where there is enough energy savings documented in the contract that they did not need the stipulated savings in the first place, those should be easy to just take them out. There may be contracts that are so close that they will not be able to remove the stipulated savings and they will not be able to prove them that would stand up to

audit scrutiny. The school board can show that in their explanations the reassignment of employees in duties, but that is not something an auditor can add up and say it balances, so that has been a lot of the problem. The other side is the ESCOs really cannot force the entities to give them statistics that either the entities do not have or do not want to do a lot of effort to prove it. So we are in a quandary and frankly in my opinion I think we need to figure out a way to start from here and go forward rather than try to go back, because they are never going to be able to go back to make those contracts right.

Senator Mount said her point is that this is not happening and we have not been able to resolve it. The auditor has sent a letter citing the problem, yet we have no requirement for that local entity to come back and explain their plan for correcting the contracts. Again, it is our fiduciary responsibility to make sure that these folks are stretching that dollar as best they can, so if they have been notified in writing, which is a public document, yet there is no requirement for that local entity to respond in a specified timeframe with their plan. If we do not face it and talk about this and try to solve this, then we have done nothing as far as remedying the issue that we need to rectify.

Mr. Jones said he believes the question is what stick will compel them to comply which currently the only stick at this point is they will continue to have an audit finding. He did not know what incentive in audit findings compel people to fix their problems, other than they continue to have audit findings concerning these contracts. Mr. Purpera said typically when the auditors receive audit findings in CPA audits, they will review those findings and if they are material they will send letters from this council asking for more detailed response. The entities give one response to the CPA in their audit report, and we ask for a more detailed response and for a plan of how responding to the findings. Mr. Purpera said they can take these energy efficiency contract issue findings and send letters requesting a detailed plan, and monitor the responses and do status updates, then possibly see what the entities are doing. If they are making no headway, at say 60 or 90 days, the chairman could invite them to this committee to answer those questions as to what they are going to do.

Mr. Jones said he thinks part of the problem the entities have is that they do not know what to do at this point - after the fact how to prove those savings. He thinks their hands are up in the air because a lot of people have called him asking what to do. He tells them to go back and try to recreate those records that they did not keep to try to prove their point and he also suggests that they put as much as they can on the record as to how they agreed to the stipulated savings in the first place. He is not sure they can provide the statistics to prove their point because it will be very difficult.

Senator Mount asked Mr. Jones if the basic profile of energy efficiency contracts is fairly similar, just on the local entity basis. Mr. Jones confirmed so. Senator Mount said then would it not be fairly simple for the legislative auditor to say generally, not specifically, these are the things the entities need to look for - these are possible ways that they could rectify this.

Mr. Purpera said if that is the wish of the council they can put a team together to begin to come up with some possible advisory services for that perspective, to help them understand what costs they need to be capturing, and the documentation they would need to do that. Senator Mount said based on what Mr. Jones is saying, if he is getting calls from local entities asking what to do, this should be a feasible response

Mr. Jones said since it is probably not possible to get everything exactly as they would like in terms of these older contracts because of a lack of statistics, his recommendation would be to come up with the minimum that this council would accept as a recommendation from the auditor. Then give the entities specific guidelines of the minimum they must do this to make these contracts okay, and then therefore revise the contracts - either to document the stipulated savings or modify the contract to remove it altogether. He suggested this would get some results, by giving entities some guidance to what you expect, understanding it will have to be less than you would typically look for in an audit - because otherwise they would just create something, and you really want it to be as accurate as possible.

Representative Ellington asked if the public bid law clearly states that there could be no stipulated savings. Mr. Jones said it was an Attorney General's opinion after these existing contracts were in place, because the law was pretty much silent on the issue until the AG opinion. In his opinion everyone negotiated assuming that stipulated savings were allowed as long as both parties equally agreed to them.

Senator Mount asked if the contractor is mandated to make the reports on an annual basis. Mr. Jones said yes, but on all of these existing contracts they did not report on the stipulated savings, because basically both sides were agreeing to the savings. The problem is they did not capture statistics to prove that point. Senator Mount said the local entity must be pushed to conform or to assist in saving tax dollars for the remainder of their contracts, that is our goal, and certainly they want to likewise. A missing link has to be filled. She asked the auditor to come up with something

for their next meeting, or send it to the council beforehand showing what he suggests be sent to the local entity.

Mr. Purpera said they can work on a format of a letter to send to the entities advising them of the finding in their audit report, and that the Legislative Audit Advisory Council would like them to submit a plan with time deadlines of how they are going to rectify the situation. They can begin to monitor the responses, and perhaps also as Mr. Jones mentioned, they can put together some minimum advice for the entities on how to do documentation.

Senator Mount said to define what they need to be looking for in this area because it is obvious that our local folks are well intended, but that they do not have the product knowledge or the basis from which to determine necessary actions to help save them money in the short and long term. Mr. Jones said the criteria may be different for what happened in the past and what the expectation is in those same contracts in the future. Senator Mount said truly in the past is a lesson and learning tool for all of us, particularly those involved in the contract, of actions and outcomes. Senator Mount asked if once the auditor initiates an audit letter and requests a response that it is appropriate to put possibly a 30 day window for the entities to respond back.

Mr. Purpera said as a standard practice they review audit reports from the 3,500 or so entities, of those that have material egregious findings, they send them a letter asking what the entities will do to correct the issues. They usually allow the entities 30 days to reply. However, if no reply is received with a sufficient fix to the situation, a couple of options are: one of the LLA advisory teams visits and helps them through the issue; or a meeting is scheduled at the office so that it heightens the issue and shows them that the auditor and this council is serious about getting these findings corrected. Many times findings are repeated for one to three years, so there is definite interest in getting those corrected. Representative Ellington suggested in the first letter to include some guidance as to how the entities can make changes, to aid them to responding.

Jenifer Schaye, General Counsel for the Legislative Auditor, said that the law states the enforcer to really be the Attorney General because this is an exception to the public bid law and by law only the attorney general (AG) or the district attorney (DA) can enforce the public bid law. The AG can ask the DA to take this over but he still has primary jurisdiction.

Senator Mount asked if when Ms. Schaye referenced enforcer she meant the legal contract as to the validity and if in fact the local government is not in compliance with the law. Ms. Schaye said she has met with many people along with Joy Irwin and most people are well intentioned and they just need more assistance. Ms. Schaye suggests involving the AG which would be beneficial to the council in subsequent discussions. Ms. Schaye said that the AG representatives have been present various times when meeting with state and local entities, and they have been very helpful in explaining the issues as to the past and current law.

Senator Mount suggested at the next LAAC meeting to focus on just this particular issue and invite someone from the division. Chairman Ellington said he thought that if the auditor sent out the letter and offering some suggestions as to how to handle it, allowing the entities a certain period of time to respond. If they do not respond then the council will invite the AG to attend a Council meeting. Senator Mount said she would like to go on record as suggesting that the council should in fact have the Division of Administration and the Attorney General's office at the next meeting so they can be involved in discussing with our committee because she sees it as their responsibility.

Representative Ligi asked Ms. Schaye if the Inspector General's jurisdiction covers this. Ms. Schaye said they are focused on the executive branch of government by statutory mandate and most of these energy efficiency contracts have all been local entities where the Inspector General would not be involved, and there are some executive branch agencies who also have these energy efficiency contracts but at this point we are really talking about the public bid law and it's enforcement and it is non-enforcement rather than about fraud.

Representative Ligi asked what the subject of the contract for Jefferson Parish Council was regarding. Mr. Theriot said in general the Parish Council had a contract with transformer unit power plant at the main office complex, plus the hospital uses energy efficiency contracts. He was not sure about the school board, but from the council's perspective there was one major one they did at the either west or east bank, but remember when they did the contract it was after New Orleans had done one. Representative Ligi asked if the contracts were still in effect. Mr. Theriot said those were long term contracts, possibly 20 years, and not sure how they paid for it, but many at the outset teamed up with an agency for a lease purchase. They took the revenue stream and went out in the market place and bonded that out, which is why he earlier stated depending on how the entities may have paid for this, to go back and retroactively try to change those contracts may affect those bond issues. Especially if in restructuring them, the revenue stream that was pledged that they sold off gets impaired, this can cause a problem. Representative Ligi asked if they have heard back from Jefferson Parish in response to the audit. Ms. Irwin said they actually met with several of the representatives of the parish in May 2008, and according to her notes one of the employees for the

parish was in the process of looking at that contract and trying to draft an amendment to the contract. Ms. Irwin said they do not have a recent update, but can provide one.

Senator Murray asked why the entities are still paying if the contracts are not valid. Ms. Irwin said their experience with Iberville Parish School Board, the one contract that has been determined by the courts to be null, was where the controversy began. When they had looked at their particular contract the very same question arose, and the school board did decide to stop paying on that contract because of the LLA's and the AG's determination that it was not in compliance with the law, which began the litigation in Iberville. Now why the other parishes and school boards have not discontinued paying, she did not have the answer to that.

Senator Murray said maybe in the letter the Auditor is sending out, the council should advise them to not make payments. He said that he has read through several opinions from the LSU system, where they concur that the contracts are not truly guaranteed required by Louisiana law so that means they do not believe the contracts are valid, so if the contracts are not valid why would they continue to make payments.

Mr. Jones said sometimes all the payments are made up front and these entities sell bonds and basically it is the savings guarantee securitizing those bonds. Senator Murray asked about those making payments. Mr. Jones said usually those payments are for ongoing maintenance, if they did not sell bonds, they may have a maintenance component as part of the contract and that might be something that can be reviewed. Senator Murray said some entities due to financing arrangements were required to be approved by the bond commission. Mr. Jones said anyone that sold bonds must go through the bond commission. Senator Murray asked if the issue of not complying with the law had been discovered when the bond commission considered these. Mr. Jones said it was not known at that time.

Representative Kleckley asked Mr. Jones from his knowledge and experience when the ESCOs enter into these contracts, what kind of investments do they make in whether it is a school system or police jury buildings or state buildings. He also asked if the ESCOs just sign the contract and receive a large windfall and then agree to monitor it, basically how does the process work and to give an example.

Mr. Jones said generally the way it works, a Request for Proposal (RFP) is issued for a state entity requesting proposals for energy savings in certain facilities, and can be one or several at one time. Then the ESCOs respond to the RFP by basically saying who they are, what they do, the strength of their company and what they propose to do for the entity. At that point the entity will choose the ESCO that looks the best to do business with. Then the ESCOs will go in and do energy audits of the facilities and then come back with a specific proposal of what they are going to do. Many times the entities besides wanting to save money on energy costs, also wants to get enough savings in the energy performance contract to pay for additional equipment or adding on to buildings.

Representative Kleckley asked if the investment for a school system with several schools could be to request a computer system to monitor the chillers at each school. Mr. Jones said it could be an energy management system with a computer system, it could be replacing lights, or energy hall windows, any number of things that they can come in and propose to upgrade the facility and in return for all of this work for a set amount of money. But the ESCO guarantees the entity that the savings achieved from all of this work is going to be greater than the amount of money spent for having this work performed.

Representative Kleckley said that some of the entities sold bonds and these companies agree that the savings realized whether monitoring chillers or replacing some equipment will retire that debt based off the savings. Mr. Jones said that is correct, but it is just words on a piece of paper until they back it up, and he assumes the auditor is looking for that backup to make sure they are delivering on an annual basis what they promised. That is the monitoring protocols that have to be incorporated in part of the contracts to ensure that they are achieving the savings. The stipulated savings for basically agreed upon savings which are agreed by both parties and previously incorporated as part of the contract.

Representative Kleckley asked who monitors the contracts. Mr. Jones said it is the entities responsibility to monitor, and it is the ESCOs responsibility to report on those savings on an annual basis. The monitoring is an agreement as part of the contract stating what the protocols are and exactly when they will get the reports and what they will report on, and they have to file that with the public entity who is a party of the contract as stipulated in the terms of the contract. Representative Kleckley asked if in the terms of the contract should be that the contractor be responsible to report all the savings at the end of the year. Mr. Jones said the responsibility is on both sides, for instance the school board would need to provide the utility bills to the ESCO to enter it into a database so it can be reported back and calculated as savings on an annual basis in terms of BTU's per hour or whatever they agreed upon as the measurement.

Representative Kleckley asked Mr. Jones' opinion on how the contracts work for him and what his experience has been. Mr. Jones said he thinks it is important on these energy efficiency contracts and for the state entities there is a high level of sophistication now built into the statutes because his office of Facility Planning and Control has to be specifically involved and engaged every step of the process. He pointed out that it is important that when negotiating the contracts both parties have as equally technically qualified people so that everybody understands what they are buying and what the end gain is going to be and what they will get in return. Mr. Jones said that these people need the technical personnel with them when they are negotiating like any other contract. Representative Kleckley asked if they should have a third party. Mr. Jones said that his office uses a third party and he believed the statute passed last year requiring that these non-state entities also get a third party independent consultant to assist them in negotiating the contracts. Mr. Jones said the Legislative Auditor has to rule on the independence of that third party for the state to ensure that they are not playing footsies behind the scenes.

Representative Kleckley asked the Chairman if they could randomly invite some of the local agencies to speak at a meeting. He would really like to have the CFO of the Calcasieu Parish School Board and maybe their attorney attend a meeting and get their thoughts on the issue because he remembered years ago it was a big issue. Chairman Ellington said they would be glad to do that.

Mr. Jones said that there has been legislation every year for nearly the past 10 years dealing with energy efficiency contracts. He commented that in a perfect world they would not do these contracts, but the reality is there are great capital needs across this state that will not be met at the local or state level without these. He said he would hate to see the contracts be abolished all together because this is a way for especially local school systems that are strapped for cash to be able to finance some capital improvements that they could not otherwise. They just need to make sure that they do it right, because while it is not an ideal thing, it is a good thing. It enables people to get some things done that otherwise could not get done, and enables illumination to be improved.

Senator Mount said the key words are "strapped for cash" and that is why they have had this conversation because they need to do it right. She asked the Chairman if they can determine when they will have their next meeting and when our folks are going to come back and give us some good information. Chairman Ellington said they will certainly set another meeting, but there is nothing needing approval for today. Also changing the agenda they are going to discuss Crescent City Connection next and if anyone is present for the Recovery School District (RSD), they will discuss it after their audit is complete. Mr. Purpera said that RSD's financial audit is being completed currently and also beginning to do a compliance audit on the specific issues regarding Recovery School District. That audit is in the planning stages and at least 30 to 60 days out.

CRESCENT CITY CONNECTION DIVISION PERFORMANCE AUDIT

Assistant Legislative Auditor and Director of Performance Audit David Greer said in the packets are three documents: a summary of the performance audit, the performance audit itself, and the financial audit. He said the start of this audit came from House Resolution 13 of 2008 requesting the auditor to do a performance audit of the Crescent City Connection Division (CCCD). They began the audit and developed specific objectives based upon input from legislative members, the Department of Transportation Development (DOTD) and from management at CCCD as well. The major results of the audit are that the expenditures from the operations, debt services and capital outlay have exceeded the total revenue for the past five years. That entity has eaten into the fund balance by \$ 25 million over this time frame, so the funding for the operations, debt service and capital outlay has not been sufficient to meet the needs of the entity. The next issue is related to statutory duties of CCCD. In statute they have to develop a plan to do certain capital improvements which they have in fact developed that plan. There is also in statute a requirement that covers the make up of the board and the meetings they hold. They have not met those requirements but they have complied with developing the list, although they have not funded the list or completed the items on the list. CCCD has not complied with getting the board members together and having the meetings required.

Mr. Greer continued that the next issue is the operations of CCCD have been separate and apart from DOTD. The oversight has not really been there from DOTD, but he thinks they are making improvements in this area. Mr. Greer did not see that the contracts contained all the elements necessary, and that there was not proper oversight and approval from DOTD on those contracts. One of the issues regarding ferry maintenance that was raised as the auditors started looking was if they were maintaining the ferries that are operated by CCCD and basically cannot say. Mr. Greer said they did not see tracking of everything necessary in relation to ferry maintenance. Finally, they reviewed if the ferries were operating correctly and actually they exceeded their performance goals in running the ferry routes. That is the summary of the report, but there is a great deal of detailed information in the report, and representatives from DOTD are here to answer questions.

Representative Ligi thanked Mr. Greer for his work and said they did a good job on the report, unfortunately after the loss of \$ 25 million, but better late than never. He wanted to commend Representative Connick who forced the issue on CCCD and hopefully we can get things running correctly. Representative Ligi said the question where do we go from here.

Bill Ankner, Secretary of Louisiana Department of Transportation and Development, thanked them for inviting him to the meeting and thanked the Legislative Auditor and his staff for working with them and the development of this audit. He said that he is not sure he would agree that they lost \$ 25 million, the issue is not that they lost it, they can explain in nauseating detail where they spent it, the question is whether or not they were exceeding what their budgeting capabilities were. That is obviously the situation and their revenue stream was not keeping up with costs and they have taken and are taking considerable actions with respect to addressing that. For example, in the post Katrina environment the insurance for the bridge that was required by the bond covenants in pre-Katrina was \$ 1 million for \$ 700 million worth of coverage. In the post Katrina environment it costs \$ 4 million to buy \$ 100 million worth of insurance. So they had those kind of significant increases in costs of doing business and at the same time the revenue streams were shrinking. In the case of the insurance, as one reads the bonds covenants, remember the insurance is there primarily to cover the bond holders and they had a little more than \$ 10 million in bonds outstanding and basically they would be paying \$ 12 million to cover for insurance that would be for \$ 10 million in bonds. They are in the process of working with Risk Management and others who do not have to keep insurance on the grounds that the bond covenants say that the insurance is needed if reasonable. They are arguing at this point that the cost and the actions are not reasonable.

Mr. Ankner said that he has run a number of authorities and been on the boards of other authorities and there is a tendency to believe what bond covenants are telling you, that you must have insurance therefore people have a tendency to have the insurance. The financial crisis has prompted himself and others to ask if there is any way to not have to keep the insurance coverage because it makes no sense to be paying that amount of money. He still has not received all of the right answers needed, and Risk Management is working with them but not sure if their engineers will agree. Representative Ligi asked that they continue working to save the \$ 4 million because of how important in these days to save money in the state's budget situation. Mr. Ankner said the steps they have taken are to budget and balance for this fiscal year. The department's overall budget is a breakeven budget with the assumption of saving that \$ 4 million.

Mr. Ankner said that after Katrina Risk Management did send out a solicitation, and no insurance companies were interested in covering the bridge - despite the fact that this bridge has withstood multiple hurricanes and had hits to its fender system and the only major problem has been a broken street lamp from the hurricanes. So Risk Management then went out to speak to individual insurers and finally found someone that would be willing to do it, and this is all on the assumption that insurance is needed as per the bond covenants. He could not remember the name of the particular insurer, but offered to provide that information.

Representative Ligi repeated that Mr. Ankner made the assumption that the insurance was required under the bond covenants. Mr. Ankner said that the bond covenants had it and after so many decades they just kept on following through and did not necessarily believe that they did not need it. Mr. Ankner said they probably would have continued to pursue that not for the financial problems and questions were asked by a new set of eyes.

Mr. Ankner explained that when tolls were established for CCCD they were at a significantly higher level than they are currently. At the time that those tolls were established they had the situation of the list being developed and the belief was that if there were surplus revenue and there was projected to be surplus revenue, this list of capital projects that were defined in the law would indeed occur. The problem was in the same year the tolls were cut for those who were going to use electronic passes, which was a significant help to the community that were more frequently using it. As a result of that the revenue projections at that time, as well as currently were such that no one forecasted, that there would be sufficient revenues to continue to do those capital programs and consequently the oversight committee that met and worked on the establishment of those priorities felt that since there was no money, there was no reason for them to meet. Consequently, they failed to meet, not realizing they were violating the law. They thought they did what the law asked them to do - they met, prioritized and would meet again when money came in. It came to their attention that they were in violation of the law and at the beginning of last year reestablished membership and started holding meetings and have been doing so since then. Those meetings take a short period of time because there is still no money and running a deficient, so nothing to allocate. They could reprioritize the projects, but that would not do any good, so they basically have continued to work.

Mr. Ankner has asked individuals who have an interest in our community and in the Crescent City to unofficially be an ad hoc advisory group to himself and to the Crescent City. He meets with them as required by law and asks them for advice for what should be done with Crescent City. In addition to the audit that was done when Representative Connick started to raise these issues, the department went out and had three different audits being done. They had a forensic audit, and the

legislative audit did not find any issues of criminality from the activities of CCCD. They had their own performance audit with respect to CCCD, as well as an audit of the police regarding whether or not they needed to have the separate police force. They also looked at the possibility of whether they could hire or share, with the CCCD picking up cost, officers from the New Orleans police, Jefferson Parish police and state police as a way of having the coverage that is needed. When people are paying tolls they expect superior level of service from the police. None of the entities mentioned or others were interested in picking up the police actions even if they are being contracted for. The rest of the audit on the police came out to be very positive about them performing their duties that they are expected to do. He offered to provide any of the three audits to the council. Mr. Ankner said they responded to the legislative audit in a positive way in terms of the actions that were taken, and concurred that the department did not provide the proper oversight, to a large extent CCCD was viewed as a separate entity from the department and consequently allowed them to have a lot more latitude than any district to have. CCCD was also a different kind of entity for them. Most of the department has basically a landlord -they build something and maintain it, but not really operate it.

Representative Ligi asked if anyone in Mr. Ankner's department will be working with the CCCD division. Mr. Ankner said that Connie Sanwich would be the Secretary of Operations at CCCD. That is where that organization reported to before, there has been a change in leadership because Gordon Nelson served in the role prior to Mr. Ankner's administration. Mr. Ankner said the leadership at CCCD is no longer the same - both the Executive Director and the Deputy Director are both retired. Representative Ligi said that probably everything that was cited in this audit comes prior to Mr. Ankner and appreciate his heightened awareness of what needs to be done to correct those things. Representative Ligi asked Mr. Greer if they are still trying to obtain the missing contracts. Mr. Greer said they cannot 100% verify that there are missing contracts, but they do know that based on lists prepared by DOTD, by CCCD and things physically seen there were differences therefore cannot guarantee that what they have is everything.

Mr. Ankner said that DOTD had a different numbering system than CCCD. They had things like letter bids that were differently handled by the department and CCCD. They are comfortable in their assessment from the forensic audit that there has been no misuse of the funds. They are in complete agreement with the Legislative Auditor that they failed as the Department of Transportation to do their responsibility of oversight and making sure their policies and their processes were the same, so that they would not find themselves in this quandary of the Legislative Auditor guaranteeing that they saw every contract. It was mainly because of the different processes that were going on, now they are fortunate that the legislature and the Governor has been checking ERP, this new accounting electronic system that will be a major benefit for the DOTD. Many of the problems that they are seeing on the accounting side and the contract side of CCCD will be resolved once they have that system in place but they are not waiting for that. They have initiated policies and practices manually to comply with the legislative findings, so that if the legislative auditor does an audit again, they will find that this is done initially.

Representative Ligi said in the audit the section regarding contracts - content of the contracts, missing terms in them - did the CCCD division have legal counsel with them to ascertain whether everything necessary was included in them. Mr. Ankner said they have legal counsel but not necessarily required or requested for every contract and again the department has a contract section which should have been reviewing all of those. The contract section of the department has policies as a result of these exercises finding gaps in the policies and they had basically taken a *laissez faire* approach to the contracts of a subsidy. Mr. Ankner said he can assure the council that is no longer the case, but also had some disagreements and some of their conversations with legislative auditors about whether things were missing or not in terms of activities. But the overall analysis that they proved and the finding, the DOTD is in agreement with. Mr. Ankner admitted that they did not do their job, but they are doing it now.

Representative Ligi said he hopes that the *laissez faire* approach that Mr. Ankner mentioned did not apply to other contracts. Mr. Ankner said there are really two different mindsets from the department: the mindset that here are our responsibilities; and then they had CCCD which was a really different kind of animal for the department and they had been in existence prior as the Mississippi River Bridge Commission. CCCD brought over a lot of those practices and systems that were there and seemed to be working fine, so they just allowed CCCD to work on their own and work with them as putting together their element of the budget. It was really almost viewed as a unit and they just put it in, with very little oversight of the department at that time.

Representative Ligi questioned if basically the DOTD contract review unit was saying CCCD had their people looking at it, so they were not going to pay a lot of attention to it. Mr. Ankner admitted that was a failure on their part. Representative Ligi asked if the CCCD incurred legal expenses for an attorney. Mr. Ankner responded affirmatively. Representative Ligi asked if he knew how much cost was incurred for legal expenses for that period of time. Mr. Ankner said he can provide that for him. Representative Ligi asked if he knew who the legal counsel was over that period of time. Mr. Ankner said Mr. Kenneth Pickering was the counsel for CCCD. Representative

Ligi asked Mr. Pickering if he had reviewed the audit and what was the contractual process that was used. Mr. Pickering said the contractual view process as he appreciates it, he interviewed and did very little of the contract documentation, most of that, as the secretary had said, was put together between CCCD and the DOTD contractual staff which they have a large staff in Baton Rouge. Representative Ligi asked Mr. Pickering if he was involved in the contract review or was it DOTD. Mr. Pickering said he basically did not draw the contracts. Representative Ligi asked if he was called upon at any time to look at the contracts to see if they are in compliance with contract law applicable to their entity. Mr. Pickering said the great majority of the contracts were drafted by DOTD, not necessarily by the Crescent City Connection and the ones that he did has his name on the bottom and as far as he knows there are no problems with those.

Mr. Ankner said as pointed out to him in a section of the audit, it states that \$ 524,000 was paid to Mr. Pickering by Crescent City for a four year period. Representative Ligi asked Mr. Pickering what were his duties during that period of time. Mr. Pickering said he does many things for the Crescent City Connection including representing the policemen in all the problems that are forthright with the police department, including going to court, subpoenas, depositions on both sides, being counsel for them for about 25 years at the Crescent City Connection. Mr. Pickering said he has reviewed many of the things that they do on a regular basis. He has drafted legislation for the last 25 years in regard to CCCD. He oversees and acts as administrator and hearing officer for the violation system which there is a significant amount with 100,000 crosses per day. He got involved in many other things - answering questions in the case of the director and of the assistant director. Representative Ligi asked if he is currently counsel. Mr. Pickering said yes he is. Representative Ligi asked if he knows anything about the possibility of any missing contracts that the auditor was unable to review. Mr. Pickering said not to his knowledge.

Senator Gautreaux asked Mr. Ankner who was in charge of the contract review section that was responsible for not overseeing Crescent City Connection contracts. Mr. Ankner said the chief engineer was in charge. Senator Gautreaux asked if the chief engineer was employed prior to this going on. Mr. Ankner said yes. Senator Gautreaux asked who he works under and Mr. Ankner responded that the engineer is under his authority. Senator Gautreaux asked if the problems have been addressed and that person reprimanded for not overseeing this. Mr. Ankner said he has had a conversation with him and his subordinates and believe they have taken the appropriate corrective actions to make sure this does not happen again. Senator Gautreaux asked what appropriate and corrective action was taken. Mr. Ankner said one is their review of their contracts, the changing of the policies that had the gaps that allowed no consistency or less consistency than the way they do business at the department and how Crescent City was doing it. Senator Gautreaux asked for some of the policy changes. Mr. Ankner said one of the policy changes is how they number their contracts, and have specific identifying features, as well as some new identifying features so they can retrieve from the DOTD system specific contracts which is currently very labor intensive or difficult to do. Senator Gautreaux asked if that policy is throughout the department for all contracts. Mr. Ankner said the department had one numbering system and allowed a different system for CC because it came from a separate independent authority that had a great deal of its own processes in place and were allowed to continue with those. Senator Gautreaux asked if Mr. Ankner was aware of any missing contracts that would have caused him to change the policy. Mr. Ankner said no, in their judgment there were no missing contracts. Senator Gautreaux asked why change the numbering system if no missing contracts. Mr. Ankner said he wants to avoid that question being asked again in the future, so if they have a consistency in their policies and a way to keep better track of those contracts, the concern and the confusion that occurred with respect to the legislative auditor's findings will be taken care of, and secondly the legislative auditor was correct in pointing out that there was a dual process and not compatible and we concurred with that finding.

Senator Gautreaux asked Mr. Ankner to name any other entities other than the CCCD that have similar duties which he has oversight over. Mr. Ankner said the answer is CCCD should not have been an oversight issue, it is part of the DOTD but they were not treating as part of the DOTD. Senator Gautreaux asked if the Louisiana Offshore Oil Port (LOOP) is part of DOTD. Mr. Ankner said yes, LOOP is part of DOTD. Senator Gautreaux asked what other agencies may have the same problems needing to be audited. Senator Gautreaux said that Representative Connick pushed for this audit to be done and he had seen Mr. Ankner's comments to Representative Connick about a year ago and knows that there were no problems at one time, and not sure if he was aware of the problems at that time.

Mr. Ankner said the LOOP is one of them and it reports directly to himself as well as the Executive Director, but there are no state funds being used with respect to the LOOP. Senator Gautreaux said it would also be to make the determination based on the legislative auditor because we have had these conflicts whether or not agencies are state private or nonprofit, but if they are private nonprofit and receive money for a particular thing, they are subject for audit, and money may have been received through LOOP that is subject to audit. Mr. Ankner said he is not saying that LOOP should not be audited, but there have not been any state dollars given to LOOP. Mr. Ankner continued that the costs for LOOP have been paid for by the private sector, but there needs to be a place within the state government for that entity and it was housed in DOTD. Louisiana

Transportation Authority is part of the DOTD, of which he is the chairman of the board and that is the entity responsible at this moment for Louisiana 1 toll road going forward. Right now there are no other toll authorities and there are no public private partnerships that are engaged.

Senator Gautreaux asked if any other entities, and stated that he knows Mr. Ankner is concerned with transparency and doing what is right because they have had that talk over a bumpy ride. He stated that he believed it would be prudent on Mr. Ankner's part to request that the legislative auditor do these audits to make sure that he is not having the same problems in other agencies because if his chief engineer is not overseeing this area, possibly the same is happening elsewhere. Mr. Ankner said the responsibility for oversight of this entity was the Secretary for Operations, contracts are under the Chief Engineer, but the responsibility for managing CCCD was the Assistant Secretary for Operations and the Secretary for the Department of Transportation. He said Gordon Nelson is no longer Assistant Secretary, and Connie Sanwich has that position now. Senator Gautreaux inquired regarding CCCD that the tolls are going to expire from what he understands in 2010 or 2011, and asked what will happen to the bridge if DOTD takes it over. Mr. Ankner said in 2012 it ends, and it is the bridge and the ferry operation which is about \$ 20 million per year in ferry costs which are part of the increased costs. They are a significant player in terms of the cost of CCCD, on the operating side and what happens with the bridge it becomes part of the department's responsibilities, all reverts to DOTD. As for the ferries however, they will disappear because they connect one parish road from another parish road and they cannot use Transportation Trust Fund dollars for those purposes, so this is not something they are advocating - they are just laying out the situation as far as applies to them.

Mr. Greer said he believes the Secretary is legitimately attempting to make some corrections and he believes that one of the issues has been CCCD has really been operating very much on its own over the past several years and the Secretary is now making an effort to bring that into the department.

KATRINA COTTAGES PERFORMANCE AUDIT

Patrick Goldsmith, manager in the Performance Audit Division of the Legislative Auditor's office and Mr. Wil Jacobs representing the Louisiana Recovery Authority (LRA) came to discuss this audit. Mr. Goldsmith said that at the last LAAC meeting the Katrina Cottage Audit report was covered, and the different findings and the timeline for completing the cottages. One area of discussion was the environmental assessments (EAs) were causing a little of delay and they discussed how long it would take to get done. The estimate given by LRA at the last meeting was it would all be done by April 15th. The council asked that they return to this meeting with the progress. A timeline in the LLA's original audit report from January 16, 2009 included an updated timeline that LRA provided which goes into the updated information on the environmental approvals. The LRA provided an update on the progress they are making which shows of the 8 sites environmental assessments are finished on 4 of the sites, with the other 4 are still in progress.

Mr. Wil Jacobs said of the 4 sites, they have 3 environment assessments (EA) remaining. For Providence and NORA it is a single EA for infill properties in Orleans Parish which it is already completed but it will not be fully official until May 1st when the publication period for that EA is expired. The other outstanding was the Westwego site which was completed last week. The HANO-Fischer site which has some pieces of information needed to complete but that should be done in the beginning of May. In the meantime they are continuing to work on those sites and with the infill of Jefferson Parish site they are building modulars already so those are ongoing.

Representative Ellington asked if they are building off site so as the EAs are done the homes can just be moved in and set up. Mr. Jacobs said that is correct, and should be substantially done with the 500 by September unless something occurs. Representative Ellington remarked that they are making progress. Mr. Purpera said that as per the timeline it has been moved back a little bit, because the last completion date is September 30th and that is for the 500 units. Senator Murray said that at the last meeting they discussed requesting an extension, after a certain number of homes are under construction, and asked if there has been any further discussion about that. Mr. Jacobs said they have an extension prepared, but waiting until the two final bids come in on construction for sites to give them an idea of what they are facing- whether get on time and on budget. The concern is that if they meet the deadline they might go over the available budget, so at that point they will make the request for an extension if needed.

Representative Richmond asked for the status of the occupational plan. Mr. Jacobs said they have site selection criteria for each project as directed by the project partners that are in line with the program requirements. By mid-May their goal is to have a call center in process operational. Representative Richmond asked if they are fairly sure that they will have people ready to occupy them as soon as finished. Mr. Jacobs said the issue is they have to find occupants that are not only eligible but also have the ability to purchase them, because most are for purchase but they are doing the process, and feel they will be able to reach that. Representative Richmond asked what kind of outreach is happening. Mr. Jacobs said there is a finite population of households that are eligible

and they are going to contact every single one of them by batch and survey their interest and they can come in for a more extended conversation and survey to determine their eligibility and interest in owning a home.

Senator Gautreaux stated that the LRA hopes to build 500 homes by September and only has one built as of now. Mr. Jacobs said they are closer to six and many under construction. Senator Gautreaux asked if they ever requested to change from stick built to a system built models. Mr. Jacobs said they asked and were told no but they did not send a letter. Senator Gautreaux said he understood that system built is built to a higher wind speed model and more efficient than the stick built. Mr. Jacobs said that is possible, but that is not the program for which they were given the grant. Senator Gautreaux asked how many the program allows for system type built ones. Mr. Jacobs said 200 of the 500. Senator Gautreaux asked what if they are short on the 300, because the system built people could have those built in time there is no doubt about it. Mr. Jacobs said bidding the work out for 300 so that will be done, so not in a situation of shortage for the 300 stick built homes. Senator Gautreaux asked if they will be short of completion. Mr. Jacobs said once start they cannot half build a home. Senator Gautreaux asked if in four months they can have all the homes built. Mr. Jacobs said for example in Baton Rouge there are roughly 42 homes- five sets of eight and all of them have foundation, then one set is to the point where they are closed, then hardy plank is going on the units, the next set may have the frame, the next set just starting the frame. All done sequentially but they are not going to have the situation where no work is going on.

Senator Gautreaux asked if he could explain how the payment method has been worked out. Mr. Jacobs said they have worked out a method to get the money to the state so when invoices come in they can pay in a timely fashion. They use the same controls already in place but do not have to go back to D.C. to get funds when they have approved an invoice.

Senator Nevers asked Mr. Jacobs who will care for and insure the homes if not occupied by September 30th. Mr. Jacobs said when their local partners will be responsible when the properties are turned over to them. Senator Nevers asked if they considered if 500 homes are ready but not all occupied, who will pay for the care of the unoccupied homes. Senator Nevers said with 5 months to get all in place, where are they on assuring that all unoccupied homes are protected and insured. Mr. Jacobs said they have a cooperative endeavor under which it specifically states that the partner must have insurance and it is a requirement of the federal grant to have insurance on that property. Once the certificate of occupancy is in place the local partner is responsible for the insurance.

Mr. Goldsmith said one of the issues they had was all of the CEA's were not signed. Mr. Jacobs said they have just about all except two done. Senator Murray asked which two are not signed. Mr. Jacobs said HANO and Providence are not signed. Senator Murray asked if the one with HANO must be signed by HANO or the City of New Orleans. Mr. Jacobs said HANO must sign. Senator Murray asked if the ones for NORA are done and Mr. Jacobs said yes. Senator Murray asked if NORA must provide insurance and maintenance for the properties once they are completed until such time as someone occupies the home. Mr. Jacobs said that is correct. Senator Murray asked if NORA is given any funding to pay for that because from what he knows they do not have the money. Mr. Jacobs said the partners have to get the insurance and maintenance and they are allowed to use proceeds from the sales of the homes to pay for insurance and the LRA will make sure that when a home is sold that the whole insurance is paid up front and escrowed down for the year. There will not be a situation where there is no insurance. If some reason NORA or any other entity does not have the money for the insurance, they will have to figure out a way to get that insured, because by the grant they are required to have the homes insured at all times. Senator Murray asked Mr. Jacobs to get a list to himself and to Representative Richmond where the infill properties from NORA and HANO will be located.

ROAD HOME PROGRAM

John Morehead, Director of Recovery Assistance Division at LLA, gave a quick update on the transition at Office of Community Development (OCD). ICF's contract is set to expire on 6/11/09, staff reductions began on 3/27/09, so they are drawing down the contract now. The new contractors began work on 3/30/09 and take control of the system today and he has been told the cut over, as it is called, was successful. Three contractors are replacing ICF: HGI will handle the home owner program, ACS will handle the small rental program, and CGI will handle the IT services for both of those. There is a fourth company, Compass Group that will be a staff augmentation group to handle the Piggyback program which LLA is not really heavily involved in that program, and OCD can answer questions regarding that. Mr. Morehead gave the contract values to be: the homeowners program is about a \$ 30 million contract over the next three years; small rentals is \$ 37.5 million contract over the next 2 years; IT is \$ 40 million supported main contract for the next three with about \$ 11 million possible increase for other programs that may come about. The Piggyback program at the time that this was prepared the contract was still in negotiations and the amount is yet to be determined.

Representative Ellington requested an explanation of the \$ 40 million IT services contract. Mr. Morehead said the state has an entire computer system, the RoadToLA.org is part of it, but the system that OCD is using to manage all of those programs. The current contractor ICF is providing all of the IT services and the state found the contractor able to replace ICF, and brought them under contract so they will maintain. Representative Ellington asked if it is strictly a computer program that the state runs. Mr. Morehead said it was already purchased from Road Home dollars, so it is the computer system that the state uses to make sure everyone is getting the right amount of money, when they are receiving it, what their status is in the system, etc. - it is necessary for all of these programs to operate.

Senator Murray asked if the system was through ICF. Mr. Morehead said ICF built this system and the state already paid for it. Representative Ellington asked why \$ 40 million more. Mr. Morehead said the \$ 40 million is to bring in the expertise to operate the system and no one at the state right now can operate and maintain the database, also for the computer administrators, and for upgrades and all the maintaining, similar to what the state does with its own internal systems.

Mr. Purpera pointed out the updated Act 829 Report from OCD. One thing mentioned in the last meeting is there are certain things required by law and after reviewing the report and agree with substantially all the report but still asking for a tweak in the performance measures and OCD has agreed to provide those in the next report. Mr. Purpera said that Act 829 was specific to the contractor ICF so the contract transfers to the new contractors, these reports by law will not be required, but that may be something the council would want to look at. Representative Ellington said since the change to contractor HGI, the Act 829 only pertains to ICF, but it might be a little late if it will require legislation.

Senator Mount requested further explanation about the tweaking of the Act 829 Reporting, in performance measures. Mr. Goldsmith said one of the requirements in Act 829 is to report on the progress of the goals and achievements of the contractor and what OCD has done on page 2 has combined that with also showing the penalties and they mention metric 5, metric 4, metric 1 in relationship to the penalties but do not list the specific metrics. The auditor's office has asked the Division of Administration, Office of Community Development to list those metrics that it would serve both - it would show a code reader what the goals and objectives are and also show the penalties and they have agreed to include that in future reports.

NORTH ST. ANTOINE SERVICES, INC.

Mr. Purpera said North St. Antoine was brought to their attention June 30, 2007, as a nonprofit that has received funding in the past through Department of Social Services (DSS), through Department of Education and also through Schedule 20 on House Bill 1. The entity has received some \$ 2.7 million over the period of 2000 forward, and was formed to assist in the improvement of educational academics in the Lafayette area. The 6/30/2007 audit report was received by the legislative auditor by April 2, 2008, which was three months late. The June 30, 2008 report has not been received and no extension has been requested at this time. This entity received approximately \$ 300,000 from the state general fund for the fiscal 2008 year. Also in September 2008 the legislative auditor issued a compliance audit report which basically had three findings: 1. The executive director had hired his spouse which was a possible ethics violation. 2. The office space was being leased from the bookkeeper of the organization, an additional ethics violation. 3. Ford van purchased and done so without compliance with the bid law.

Mr. William Dauphine, Executive Director of North St. Antoine Services, Inc., said to address the first issue as to why the auditor shows their internal audit is late. They have been receiving yearly contracts from the state since 1999, with fiscal year 1999-2000 being the first year of operations. They have not had any significant problems until the past year. Once the Urban Affairs Office closed they started receiving direct appropriations and each year they were assigned different monitors. In 2007 they were monitored by the Department of Education and then switched to the Department of Treasury. Their problems then began because they received \$300,000 late in the fiscal year, in spite of providing all their information timely, and once they started operations they basically completed the contract.

Mr. Dauphine continued that some complaints were filed at that particular time and they had no application for additional funds or no funding, so basically they were no longer receiving any funds. Their last year of funding was the \$300,000 received and they completed the contract. He said they responded to the legislative auditor's report and basically that report sited us for violating the bid law. We purchased one van and the reason we purchased it was because in the past we leased the van. We ran this particular community youth program and went around picking up the kids, first get the 7th and 8th graders recommended by the school once they get suspended, primarily 7th graders being suspended from school required to stay out of school unsupervised without any assistance. We were having a lot of problems with the kids, and with our program we monitored the community, and monitored statistics, saw where we were having problems and tried to focus in on them. Often times we actually convinced other entities in the community to do something about it.

We always had limited resources, \$ 2.7 million in 10 years is not a lot of money, so we were basically trying to stretch our dollars and have the maximum amount of effect. We were the first ones to start after school tutorial programs in the whole state. Once we started doing that through Urban Affairs the rest of the programs looked at what we were doing and we were very proud of it and they sort of doing the same thing. Our biggest problem was convincing the teachers to stay after school even though we were going to pay them to stay they did not want to stay and tutor. Eventually we got over that hurdle and started these programs and we always monitored these programs, had measuring tools and followed strict guidelines from the Department of Education that helped us, and these programs worked.

Mr. Dauphine said they are late with their internal audit, and he has addressed the problem. The Board of Ethics investigated the possible ethics violation after the legislative audit was complete and they closed the file on it saying there was no ethics violation. They had a problem with the money and that is the only reason they are late providing the audit due, because they were very strictly sticking with their budget and when they needed amendments they always wrote their monitor and got their permission to avoid any problems to get the changes needed. Mr. Antoine said that the Department of Treasury never allowed them to make a change and there was a problem with the funds for the audit. He admitted that it was his fault for underestimating the cost and when they engaged the auditor they were short in the budget to cover the expense. They requested the Department of Treasury to allow them to amend our budget. They had started their community service program late, they had money left over and wanted to move the money to pay for the audit to put some money into some other areas that they were purchasing equipment for one school and wanted to give more funds from the excess. Mr. Dauphine said he never could get any kind of admission from these people and would not allow them to do anything. He was frozen and said he would commit to this audit only if had the money. He said he did not have any personal funds, these are funds from donors and the state grants so that was a little stalemate there. They received pressure from this office to have the audit done. When he saw the letter that the auditor had spoken to his auditor and he said they would just use the excess funds whether they get permission to amend the budget or not. So in February they turned over their books to the auditor and that morning he spoke with the auditor and was told he needs some invoices from his office. He spoke to his bookkeeper to get the documents to the auditor. The auditor said by April 28th he will have the audit done, so Mr. Dauphine officially requested a 30 day extension for their audit to be turned in.

Mr. Purpera said the primary issue is getting the audit report completed. Representative Ellington verified if Mr. Dauphine was requesting a 30 day extension. Mr. Purpera said he can request the extension through the internet and since their first extension it can be granted by the legislative auditor and then confirmed by this Council. Mr. Dauphine said he apologized for not following all the procedures, but they have reached the end of their program and they have no more funds to continue their program and had no pending appropriation before the legislature, so they did not see any urgency for it. Mr. Dauphine repeated that they have the funds, but just did not have the permission to use it, so he will just use the funds for the audit and return the excess to the state.

Representative Ellington said the purchase of the van by not going through the public bid law is an issue. Mr. Dauphine said that they had purchased equipment in the past, and the van cost a little over \$ 20,000, which the threshold is \$ 20,000 as per the law. They sent out letters soliciting bids from dealerships in the area, and he believed the way the law was written regarding fleet purchase, but they did not plan to purchase anymore. Mr. Dauphine said the van will be used for summer programs, including by another nonprofit organization that runs under-privileged youth programs in the summer.

Senator Gautreaux asked Mr. Dauphine if the funds were earmarked for a particular program that he could not use it and also asked which CPA was doing his audit now. Mr. Purpera said Darnell, Sykes. Mr. Dauphine said they had a budget submitted and approved with their contract, but in order to amend the budget the monitor gives them permission to send to the administrator. Senator Gautreaux asked if they have a counsel, or board members because they can amend the budget, but if there is a specific allocation from the state they can only spend that what the state allows. Mr. Dauphine said that is the problem, they are caught in limbo and never told. They received their money in December, and did it in January and submitted budget amendments and they never approved any of them. He said it was not much of money- only \$1,400 or \$1,500. Senator Gautreaux asked if the Treasurer's office has not approved the appropriation, then what was it allocated to. Mr. Dauphine said it was allocated to North St. Antoine Services. Senator Murray said he should submit an amendment to the budget to receive more money to do the audit.

Mr. Dauphine said since already in violation they were just going to have the audit done. Senator Gautreaux asked if they contacted their Representative or Senator to help them. Mr. Dauphine said their Representative was the one that attacked and accused them of all kinds of wrong doings - he was not the sponsor on the legislation. Senator Gautreaux said this is something you need to work through to possibly use those funds. Mr. Purpera said what he understood from Mr. Dauphine previously that he has funds remaining from his 2007 appropriation, but those funds were budgeted for certain things by his entity and he must move from one column to another.

Senator Gautreaux suggested to Mr. Dauphine to get his board together and do the amendments. Mr. Dauphine said it was their understanding that they had an executive order that said they had to submit their budget to the Department of Treasury with their contract form and have to follow their rules. Senator Gautreaux asked Mr. Purpera asked how this differs from the Council on Aging because they do not have to do that, so why would the treasurer say he has to change. Senator Gautreaux said he would like to see the amendment in HB 1 to see how broad a definition that was to begin with. Mr. Dauphine said in his opinion they could have done it anyway because it was a direct appropriation, that his board could have amended it. Senator Gautreaux asked if Mr. Purpera could give guidance to Mr. Dauphine so they will not be in violation because this needs to be completed. Senator Gautreaux asked if the LLA could give Mr. Dauphine a letter so they will not have any criminal wrongdoing regarding the \$1,400, which will cover the entity.

Mr. Purpera said they can look at the legality of the exact situation they are talking about to give him advice to how he can go about moving it or whether he can use it. Mr. Theriot said besides that it will depend on what the cooperative endeavor agreement says and the dollars were to be used and who has the approval process, but they can give Mr. Dauphine some guidance on that.

Representative Ellington summarized that Mr. Dauphine will request an extension online, and then assume Mr. Theriot will grant it, and it will come before the council at the next meeting for confirmation. Mr. Theriot said they will take a look at it and what causes the situation and it may be with the issues regarding NGO's and not sure knowing all the facts, but they will look at it. The NGO's because of the budgets may be some technicality on the approvals of the budgets.

Representative Rickey Hardy as it relates to North St. Antoine Services, Inc., he was the one that initiated the audit. However there are three sides to every story – his side, my side and the truth. Representative Hardy shared that he was a member of the Lafayette Parish School Board for 13 years, and at no time did the Lafayette Parish School Board recommend students that were suspended or expelled from school to North St. Antoine Services, Inc. Because of the fact the School Board had a CAPS program which was an alternative school and a lab school program for students. However, if any of the students would have gone to North St. Antoine Inc., they would not have been accredited for the time there. He asked the Council to request a list of the students and which schools they came from, because when he had requested the audit that was when North St. Antoine started passing out flyers in the community recruiting children after the fact. It was so obvious they were not doing what the intent of the money was appropriated for which was to tutor children. In addition to that there is proof of what he is saying because look at the measure, students within District 44 were still failing and schools are in academic decline. Representative Hardy commented that \$2.5 million was spent over a seven year period and with these results for the money, it is obvious something is wrong. He also asked Mr. Dauphine what was the measure of the students' progress for the money doled out by the legislative body.

Senator Gautreaux asked Representative Hardy if he would be willing to work with Mr. Dauphine and the Treasurer's office to get the money approved to get the audit so they can finally see what is going on. Representative Hardy said he had no problem doing that. Senator Gautreaux said he knows Representative Hardy takes on a lot of issues that are not popular, but goes head first against them and says what he has to. Senator Gautreaux requested Representative Hardy since it is his district and the appropriations came from a Representative and would be best to amend in the CEA to spend the \$ 1,400 to get the audit done. Representative Hardy said he has a fiduciary obligation to be a good steward of the taxpayer's money and does not believe the taxpayer's money was spent wisely and that was why he did what he did. Representative Ellington said between Mr. Dauphine, Representative Hardy and Mr. Purpera, they assume this will all get worked out.

SHREVEPORT HOME MORTGAGE AUTHORITY

Representative Ellington said they had decided at the last meeting that a subpoena would be issued to Mr. Charles M. Lester. Mr. Purpera said he had spoken with Mr. James Burnett, representing the Shreveport Home Mortgage Authority (SHMA), several times in the last few days. At that time neither the 12/31/07 nor the 12/31/08 audits have been given to the LLA. By not submitting their reports and being audited timely it causes the City of Shreveport some issues because it is a component unit of their financial statements. If the component unit has not been audited, the parent then has a problem getting an unqualified opinion on its own financial statements. Mr. Purpera said he spoke with Mr. Burnett on several occasions, and two meetings ago the council requested SHMA to come and then subpoenaed them to this meeting because looking for the resolution to having a completed audit on this entity. The letter from the Shreveport Home Mortgage Authority stated that they have begun some processes as a result of the efforts of this council and the legislative auditor's office. They have hired a local CPA to do the financial statements for the entity and they will have the city's auditor actually perform the audit. They have not given a deadline date or projected date that they will have the audits completed. Mr. Purpera spoke to Mr. Burnett the previous Friday and explained the subpoena stood and this council expected their attendance today.

Representative Ellington said Mr. Burnett called him several times on his cell phone, but he did not get either call on late Friday. He has not spoken to Mr. Burnett because of his trying to have the subpoena revoked. Representative Ellington said he did not feel that he should do that, because it is the committee's responsibility to issue the subpoena and he would not cancel the subpoena without consulting with them. Mr. Lester was subpoenaed to be here and is not here.

Ms. Julie Glass, Assistant City Attorney for the City of Shreveport, said that they are available to answer any questions and obviously the city wants the audit for the Shreveport Home Mortgage Authority to be done. The City of Shreveport is in full agreement with the legislative auditor that this audit needs to be done since it effects their financial statements. The City Attorney Terri Scott has been in discussions with Mr. Burnett, the attorney for the Home Mortgage Authority, and tried to encourage him to get it done and to appear, but there is only so much that they can do.

Senator Nevers said he believed because the council issued a subpoena they need to be careful for setting the right precedence here. He feels they need to enforce this subpoena with whatever forces are available to use through law enforcement, assuming that means picking him up and taking him to jail, and that is what needs to be done. If the council does not, then any future subpoenas will be responded to same as this one - being ignored. Representative Ellington said he agrees.

Mr. Purpera said this entity has a substantial responsibility with assets over \$ 16 million of outstanding liabilities including \$ 12 million in bonds, so there is activity. Mr. Burnett informed Mr. Purpera that the board had not met in about 3 years and this board is appointed by the City Council. Ms. Glass said the mayor appoints the members and they are confirmed by the City Council. Representative Ellington asked if this was a new board under the new mayor, or same as under previous administration. Rick Seaton, Assistant Chief Administrator Officer for the City of Shreveport, said the current members of this authority were appointed by the previous mayor and are continuing to serve under expired appointments. Mayor Glover has not reappointed any of the board members.

Senator Nevers asked what their legal course of action would be. Ms. Schaye said in the statutes, R.S. 24:554 which list the council's powers which is the same power as any committee of the Legislative body. She said also pursuant to R.S. 24:555 the council can hold Mr. Lester and Mr. Burnett. She further explained that Mr. Lester actually received the subpoena but in care of James Burnett, the Attorney and the council can hold them in contempt. By issuing an order of contempt now from the legislature or they can go into court and seek an order of contempt from the 19th Judicial District. She believes either of those alternatives is the council's and has rarely been used by the legislature but there has been some precedence for that. Ms. Schaye said she knows they have used an order from the legislative body in the early 90's when an order of the Senate Committee because someone refused to testify to a Senate body.

Senator Nevers said he would move that they take the action that was quoted first, the letter of contempt. Ms. Schaye said they would draft it as a Contempt Citation by this body and then the statute says that the council can chose what it believes to be the appropriate penalty, which might be to come to the meeting again. Senator Nevers said it might resolve our budget problems. Ms. Schaye said another choice is R.S. 24:554B which states that if the council determines a body to be in noncompliance, it can report that to the Joint Legislative Committee on the Budget (JLCB) and to the appropriate oversight committee of that body. She believes in this case it would be JLCB which would obviously have budget repercussions. Senator Nevers said he would naturally want to work with the City of Shreveport to bring resolution to this, so while they may issue a contempt order to SHMA since they are refusing to come to this meeting. Senator Nevers stated he would like the Mayor of Shreveport to be made aware that they want to work with him and bring resolution to this serious problem.

Mr. Seaton said that Mayor Glover would like to see this authority perform its duties and they are in agreement with the council. Representative Ellington asked Ms. Schaye to prepare the necessary documents. Senator Nevers made the motion for the Order of Contempt to be made to Mr. Charles Lester. Senator Murray said he wanted to verify that no one gave Mr. Lester any reason to believe that he did not have to be here today. Representative Ellington said no.

Mr. Theriot said every time they spoke to Mr. Burnett they made it clear that the subpoena could not be cancelled because it was a committee subpoena. Mr. Theriot said there are outstanding whole loans belonging to SHMA which makes them either an asset or an arrearage to the City of Shreveport assuming it to be the beneficiary to the Authority. It is definitely encumbered upon them not only from the standpoint of getting the audit reports but also to make sure the authority is being attended. Mr. Theriot continued that he understands there to be a number of entities who are servicing these whole loans for them, but does not know if anybody is watching the loans and what could happen to them, so they are not collateralized out as he appreciates it. They are whole loans and that is more for the point why they need to have their audit reports done and an active board watching the oversight for this activity.

Senator Gautreaux asked the method of service of the subpoena. Ms. Schaye said it was sent by certified mail and also by email and confirmed that Mr. Burnett, attorney for Mr. Lester, received by both methods. Mr. Purpera said he had spoken with Mr. Burnett on several occasions and then again on April 16, and he wrote him one more time that the Legislative subpoena sent to his attention requiring the appearance of Mr. Charles Lester, Jr. remained in effect. Senator Gautreaux stated the council tries to be consistent and remembers when several judges did not come after being subpoenaed about a year ago, and they allowed the judges one other opportunity and do not believe they showed up. Mr. Theriot said this is the second time SHMA has been notified. Ms. Schaye said she wants to make clear that the order will be that they have not complied with an order of the council so therefore subject to a contempt hearing of this council. She would state in the order as per the statute that they did not comply with the subpoena which is an order, and therefore they have due process that they are ordered to appear before the council for a contempt hearing.

Representative Richmond asked once they have the contempt hearing, what amount of latitude is given the Council if they decide this person is in contempt. Ms. Schaye said she will need to research that because it has been so rarely used. Representative Richmond asked if it allows jail time. Ms. Schaye said it does.

Representative Ellington said the council has a motion that they send a contempt letter to Mr. Charles M. Lester, Jr., and asked if any objections, and with none the motion passed. He asked Ms. Schaye to handle the letter. Representative Ellington told Ms. Glass that they appreciate them coming to the meeting and to give the mayor their regards.

OTHER BUSINESS

Mr. Theriot stated that his performance audit division was doing some work on the Pilgrims Pride situation and that Senator Murray had asked at the last meeting for the auditor to write the Secretary of the Department of Economic Development for additional information in this regards. Mr. Theriot did receive a letter back and the Secretary of DED responded that while they had ongoing negotiations it is confidential and would be more than happy to provide the information at the conclusion of the negotiations. Mr. Theriot said they are not able to obtain information to the actual deal at this point in his role as fiscal advisor. Although DED provided the auditor with information regarding the industrial property tax exemption that was granted, Mr. Theriot said they have not received any other information pertaining to the contract.

Senator Murray thanked the auditor for making the request, and believes this to be important for the auditor. He questioned going down this road because the commissioner of insurance said he does not have to give the auditor anything, because now the Secretary of DED will not give anything because he thinks it is confidential. Senator Murray stated that the council needs to do something with this, at the very least at the next meeting make a strong invitation to Mr. Stephen Moret to appear himself so he can answer questions.

Representative Ellington said he would not argue on that, but he believed that the legislature passed legislation that if any ongoing discussions regarding bringing industry or keeping it in Louisiana that DED did not have to share that information. Ms. Schaye said R.S. 24:513I states that the auditor takes it with the same level of confidentiality that is imposed upon the agency. The auditor has said to the Office of Financial Institutions for instance, because all kinds of confidential information from banks is given to the auditors that must kept confidential, as she knows in this situation with DED because she has consulted with the auditors who made the initial request and they communicated that to the attorney for the DED. Ms. Schaye said they pointed out to the attorney R.S. 24:513I which specifies they would keep all records confidential.

Representative Ellington asked if that meant the auditor could not tell the Council. Ms. Schaye said it means the exact records themselves could not be shared with the council, but they can do an audit report based upon those records which of course would be available to them. Representative Ellington asked if that would be something that would not be open to the public. Mr. Theriot said in the end that once those negotiations are concluded and they in turn want to have approval from the legislature, at least he would have had the opportunity to provide the Council with information regarding it, because at that point it would not be confidential any longer because confidentiality only exists during the course of the negotiations. Ms. Schaye said for a limited period of time does the confidentiality exist for those records while in negotiations.

Representative Ellington said as he appreciates it negotiations are still ongoing. Mr. Theriot said according the letter he received dated April 14 from Secretary Moret the negotiations are not complete. Representative Ellington said he is not saying that they should not get the information if in fact there is nothing to keep them from it, but he recalls since he has been in the legislature that there has been a number of times that DED had ongoing negotiations and even to the point that they did not know the name of the company and could not find out.

Senator Murray stated how important this is because he learned reading the newspaper last week that there is some discussion about Mr. Benson buying an office building in downtown New Orleans and the state becoming a tenant. He had not heard that any place else and our auditor should look into that. He said as the legislature, they are entitled to know information and if everyone is going to say they cannot give information because it is confidential, when the auditor has provisions that he can look at it and determine if anything can be told to the council. But for them to not give up any information, they need to try to put this in check as soon as possible.

Ms. Schaye said to make a legal point because it is confusing with auditees that the record not being subject to R.S. 24:513 says the auditor has full access to those records at any time subject to the limitation that if it is during a period that those records are confidential -like negotiations- the auditor will have to keep those records confidential. After that period of negotiations, when those records no longer have that confidential seal then those can be shared with not only this committee but the entire public, but there is a difference between the auditor's request and a public records request. The auditor did not make a public records request, he made a request to review records as the state auditor fiscal advisor to the legislature and that would be the same for the Benson issue. Mr. Theriot said whatever statutory provision that there is to protect access to records themselves with any particular agency, it transfers to the auditors aside from the already work paper confidentiality that is kept in check. Mr. Theriot said if there is a specific nuance that is in the statutes that says certain records are not public, they are proprietary or whatever they might be on the discussions under that particular agency, once his office receives it, the documents fall under the same protection aside from his own statutory protection.

Representative Richmond shared he has the same concern and in Mr. Moret's letter he states the deal is not concluded in those exact terms, but in the minds of the public at least what he saw was a press conference announcing a deal or understanding. Representative Richmond said he believed Secretary Moret should be at the meeting to say it is not completed and explain why he went forward to indicate that they had struck a deal to save 1,300 jobs. He said he was not criticizing the validity of the deal or casting judgment one way or the other, but asks for consistency - transparency goes both ways. The legislature talked about transparency and accomplished much in the legislature to make sure that they are transparent. That transparency has to go to the fourth floor. Representative Richmond asked Mr. Theriot however they formally request documents, either by subpoena or letter, and he is comfortable with the letter if sent to Secretary Moret citing this statute that gives the auditor the authority to receive the documents and the responsibility of protecting the privilege going along with the documents for both of those - for Dominion Towers and Orleans Parish, and the poultry plant. Representative Richmond said he would like to request that Secretary Moret appear before them, but if he does not appear then they issue a subpoena.

Representative Richmond inquired regarding an arrangement for the Saints to buy the Dominion Towers and for the state to lease it, asking if they could just lease property without soliciting bids at whatever price they wanted. Ms. Schaye said it depends on who is doing it - if it is the Executive Branch and being done under Title 39, then there are certain rules and statutes and also some rules that they follow for leases. She was not sure which branch of government will be leasing it and not sure if the article stated that. Representative Richmond said he assumes the departments that were previously housed in the state building which were Vital Records and some other offices. He questioned if it is a 20 year lease from the state which is guaranteed money for this dollar amount, but if they are trying to save money and there is another office building with a cheaper price. Ms. Schaye said there are RFP provisions in Title 39 if those are the agencies moving in.

Representative Ellington asked Senator Murray if he would like the auditor to send the letter. Mr. Theriot said they will make sure for the next meeting Secretary Moret has an invitation to attend. Senator Murray said if Mr. Theriot receives the same response from the Governor's office or somebody else with respect to the Saint's issue, he would like them to be given the letter as well to come before the Council to be prepared to answer questions and explain things. Mr. Theriot asked if that was done through LSED. Senator Murray said they do not know, but assumed it may be LSED. Mr. Theriot said they can make the request for both.

Representative Richmond asked if the time frame for the next meeting will be somewhere in the beginning of session. He continued that if over a month before the next meeting he would like to give the auditor the authority that if he receives a letter denying him the documents that he requests, to take his next step of subpoenaing the documents so that by the time they return to committee they will have something. Representative Richmond said he wanted to give the auditor that authority in case they are told they do not deserve it. Representative Ellington said they will discuss the scheduling of the next meeting before leaving.

LITIGATION UPDATE

Mr. Theriot said the last item on the agenda is the Litigation Update and primarily two things. For the litigation regarding whether PIAL was public or private - the First Circuit Court of Appeal ruled

the Thursday before Easter that they are a public body. The attorney for PIAL called and told Mr. Theriot that he would come after his Easter holiday to visit with him, but that Friday was the last day he could file an appeal with the First Circuit to protect his rights for his clients. However, the attorney still wanted to move forward with the issue of seeing what needed to be done to become public. Mr. Theriot understood the attorney's concern regarding the former employees, whether they belonged to the retirement systems and what implications all of that had as they moved forward. Those are some issues to be addressed. The First Circuit was a 3 to 0 vote, and how that plays out they will see if the attorney pursues it, but again, they did get a favorable ruling in that situation.

Mr. Theriot said that on May 18th they are going to the 19th JDC with the Department of Insurance (DOI). LLA's counsel has filed some exceptions that will be addressed with regards to the DOI litigation outstanding. They have addressed some issues regarding DOI with a number of firms who have been concerned because the department has put on its website some information stating that if the auditor's office receives any proprietary information that it will be released once the audit is complete - which is far from the truth. Mr. Theriot said they have had to deal with that issue from various companies who have some valid concerns reading that from the appropriate regulatory body. Mr. Theriot mentioned again that if in fact the Department of Insurance has specific legislation enacted that protects the proprietary information that when the auditor receives it, it is the same case with him, he cannot release it either not only from his own standing as the auditor, but there are specific things that are deemed to be unattainable even by subpoena, which follows through to him. He said they are dealing with those issues, having conversations with the companies to clarify what is out there in the public. At the end of March, DOI put on their website about proprietary information that LLA receives might be released upon the completion of the audit. Mr. Theriot assured the council if they should hear anything about this, it was not from the fact that they have released anything. He was not even aware of it until one of the companies called to tell his office it was in the public domain.

Senator Nevers said he wanted to verify that the PIAL group was the one that spent hours before this group testifying that they are not a public agency and they did not have to handle their business in a manner that was public. Mr. Theriot said yes, same group. Senator Nevers said he wanted to congratulate them. Ms. Schaye said they had able representation from the Department of Justice and she believes Ms. Uma Subramanian from the Attorney General's office would agree that the Performance Audit from the auditor's office that laid out their issues with PIAL and how they came to protest the audit. Ms. Schaye said Ms. Subramanian used that audit to then tract it in a legal manner and she did a fine job of arguing the Motion for Summary Judgment. When that was denied they presented all the briefs and Representative Richmond had asked her to request an expedited hearing, which they did and actually the First Circuit granted it. They did not have an oral hearing, but pretty quickly got back with the auditor with this judgment.

Senator Nevers said he would like to commend Mr. Theriot's office and all those involved, and to continue to try to see that the public is well represented and receives the information that is due. He stated this to be a huge victory for the people in Louisiana. Ms. Schaye said she agrees and as Mr. Theriot said the vote was 3 to 0 and not sure what the First Circuit would do.

Representative Ligi asked Ms. Schaye what was the basis of those exceptions filed in the lawsuit with DOI. Ms. Schaye said the exceptions were Declinatory Exceptions for Lack of Subject Matter Jurisdiction, Mootness, and Preemptory Exception of No Cause of Action, and No Right of Action, and Dilatory Exceptions of Vagueness. Primarily it is because the lawsuit that they filed was based upon an audit they already released and also that they said they were denied a due process right before the audit was released. Ms. Schaye said the Supreme Court has said that no state agency has a due process right and those are the exceptions. The judge could obviously give them time to amend their pleadings, and they have not done that, therefore the hearing is set.

Representative Ellington discussed with the council the date for the next council meeting at the convenience of everyone and the public. Ms. Schaye pointed out if the contempt hearing would be heard at the next meeting, will need at least 10 days from the day they receive the order. Senator Murray said they would review the House and Senate schedules and get back with the legislative auditor. Mr. Theriot said whatever is convenient for the council because the first couple of weeks of session will be strained, so any time they are ready to meet.

Representative Richmond asked if this was the correct interpretation of the Audit Advisory meeting right before the previous court date: Commissioner Donelon was present and they were discussing whether it was privileged or not and it seemed as though they should not go forward and continue the lawsuit because Mr. Theriot and Commission Donelon were working and trying to cooperate and figure something out. Mr. Theriot said they have so many meetings including the latest one before the Joint Committee on Insurance where dealing with similar issues when Mr. Donelon's lawyers approached him. Mr. Theriot told his lawyers as he had told them in the past, and even today - he is willing and open to work to get the information so they can complete their job. Mr. Theriot said the reissuing of the suit came about primarily because of the statute about the funding requirement that took place.

Representative Richmond located and read the letter on the DOI website encouraging companies to take whatever action that they deem appropriate by April 15th. He said this just does not seem like a person who was at the table saying that he was willing to try to work it out and let the courts decide, so he was glad that they decided to go ahead. Representative Richmond said it appears that he is doing everything he can to protect himself.

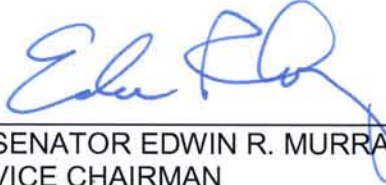
Mr. Theriot stated that Mr. Donelon had initially said whatever decision the court would give, he would abide by, and then later said he would abide by it but also reserve his right to appeal. Mr. Theriot reflected that Mr. Donelon also previously said that if the court would rule that he would provide the documents but would still go the appeal route.

Mr. Theriot said when Representative Ellington and Senator Murray notifies him with a time for the next meeting, he will get in touch with everyone in terms of the next meeting date and try to arrange those entities as discussed to be present for that meeting. Representative Ellington said they will do that.

ADJOURNMENT

There being no further business, a motion was made by Senator Murray that the meeting adjourn at 6:10 p.m. The motion passed without objection.

APPROVED BY:



SENATOR EDWIN R. MURRAY
VICE CHAIRMAN



STEVE J. THERIOT
SECRETARY



DATE

Attachment A

**First Extension Requests
Louisiana Revised Statute 39:72.1 (Non-Emergency)**

Agencies requesting extensions for the first time under Louisiana Revised Statute 39:72.1. This law allows an entity to request an extension of time in which to submit its report. Per the procedures approved the Legislative Audit Advisory Council, we request that LAAC confirm our approval of these extension requests

Agency ID	Agency Name	Fiscal Year End	Report Due Date	Extension Date Requested	Received Report
2107	Crowley City Court	08/31/08	02/28/09	03/31/09	x
8697	Erath Volunteer Fire Department	12/31/08	03/31/09	04/30/09	
4011	Housing Authority of Bogalusa	09/30/08	03/31/09	06/30/09	
4024	Housing Authority of Crowley	09/30/08	03/31/09	06/30/09	
4038	Housing Authority of Grambling	09/30/08	03/31/09	06/30/09	
4050	Housing Authority of Jonesboro	09/30/08	03/31/09	06/30/09	
4059	Housing Authority of Leesville	09/30/08	03/31/09	06/30/09	
4062	Housing Authority of Mansfield	09/30/08	03/31/09	06/30/09	
4080	Housing Authority of Oil City	09/30/08	03/31/09	06/30/09	
4097	Housing Authority of St. Charles Parish	09/30/08	03/31/09	06/30/09	
4099	Housing Authority of St. John the Baptist Parish	09/30/08	03/31/09	06/30/09	
4109	Housing Authority of White Castle	09/30/08	03/31/09	06/30/09	
4110	Housing Authority of Winnfield	09/30/08	03/31/09	06/30/09	
4112	Housing Authority of Youngsville	09/30/08	03/31/09	06/30/09	
2519	Lafayette Consolidated Government	10/31/08	04/30/09	07/31/09	
1570	Lafourche Parish Hospital Service District # 2	09/30/08	03/31/09	05/15/09	
10057	Pointe Coupee Better Access Community Health	08/31/08	02/28/09	05/31/09	
5194	Resources For Independent Living, Inc.	09/30/08	03/31/09	05/31/09	
9550	St. Mary Parish Fire Protection District No. 11	09/30/08	03/31/09	05/29/09	
8972	St. Mary Parish Joint Sewerage Commission Wards 5 and 8	09/30/08	03/31/09	05/29/09	

Attachment B

**Additional Extension Requests
Louisiana Revised Statute 39:72.1 (Non-emergency)**

Agencies requesting additional extensions for their reports under the provisions of Louisiana Revised Statute 39:72.1 (non-emergency extensions). Per the provisions of Louisiana Revised Statute 39:72.1.C., LAAC must approve additional extension requests.

Agency ID	Agency Name	Fiscal Year End	Report Due Date	Original Extension Date Requested	Extension Date Requested
5287	Community Support Programs, Inc.	6/30/2008	12/31/2008	3/31/2009	6/30/2009
4013	Housing Authority of Bossier City	6/30/2008	12/31/2008	3/31/2009	6/30/2009
4043	Housing Authority of Homer	6/30/2008	12/31/2008	3/31/2009	6/30/2009
4052	Housing Authority of Kenner	6/30/2008	12/31/2008	3/31/2009	6/3/2009
8187	Housing Authority of Natchitoches Parish	6/30/2008	12/31/2008	3/31/2009	6/30/2009
4082	Housing Authority of Parks	6/30/2008	12/31/2008	3/31/2009	6/30/2009
4104	Housing Authority of Ville Platte	6/30/2008	12/31/2008	3/31/2009	6/30/2009
2651	Plaquemines Parish School Board	6/30/2008	12/31/2008	3/31/2009	4/30/2009
5951	Treme Community Education Program, Inc.	6/30/2008	12/31/2008	3/31/2009	6/30/2009
1139	Vernon Parish Council on Aging	6/30/2008	12/31/2008	3/31/2009	6/2/2009
2438	Village of Saline	6/30/2008	12/31/2008	3/31/2009	5/15/2009

Act 36: Additional extension requests--Emergency Provisions of Louisiana Revised Statute 24:513 (A) (5) (a) (ii)

Agencies requesting additional extensions for their reports under the provisions of Louisiana Revised Statute 24:513 (A) (5) (a) (ii) (emergency extensions). This law allows an entity that is prevented by a gubernatorially declared disaster or emergency from submitting its report by the statutory due date to request an extension of time in which to submit its report. Per the provisions of Louisiana Revised Statute 39:72.1.C., LAAC must approve additional extension requests.

Agency ID	Agency Name	Fiscal Year End	Report Due Date	Original Extension Date Requested	Extension Date Requested
7455	Greystone Community Development District	6/30/2008	12/31/2008	3/31/2009	6/15/2009
3120	Terrebonne Parish Sheriff	6/30/2008	12/31/2008	3/31/2009	6/30/2009