

LEGISLATIVE AUDITOR

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
Background Information (Concluded)

Our limited procedures consisted of the following:

1. Reviewing applicable departmental policies, procedures, rules, and regulations relating to:
 - Investigating and reporting damages to roads and bridges caused by marine and vehicular collision.
 - Recording and tracking costs related to repairs to roads and bridges for damages caused by marine and vehicular collision.
 - Collecting amounts due from responsible parties for the costs related to these repairs.
2. Examining selected records reporting damages and selected records of receivables that were written off.
3. Examining selected legal files relating to the actions taken to collect for damages.
4. Interviewing certain department personnel.
5. Reviewing applicable Louisiana Revised Statutes.
6. Making inquiries to the extent we considered necessary to achieve our objective.

Our procedures also included an assessment of the likelihood of irregularities and illegal acts, and any such matters that came to our attention are presented in our findings and recommendations.

LEGISLATIVE AUDITOR

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
Background Information (Continued)

EXHIBIT II

ANALYSIS OF ACCOUNTS RECEIVABLE
FOR REIMBURSABLE DAMAGES

<u>Period</u>	<u>Current Reimbursable Damages</u>	<u>Amount To Be Collected</u>	<u>Amount Collected</u>	<u>Amount Written Off</u>	<u>Accounts Receivable Balance</u>	<u>Percent Collected To Total</u>
Beginning balance					\$3,254,330	
7/1/91-6/30/92	\$498,513	\$3,752,843	\$206,508	\$172,897	3,373,438	6%
7/1/92-6/30/93	3,622,859	6,996,297	92,443	3,111,606	3,792,248	1%
7/1/93-6/30/94	3,660,705	7,452,953	150,748	399,507	6,902,698	2%
7/1/94-6/30/95	2,161,833	9,064,530	306,522	2,847,147	5,910,861	3%
Totals	<u>\$9,943,910</u>		<u>\$756,221</u>	<u>\$6,531,157</u>		

Objective

The objective of our audit was to review the procedures of DOTD relating to the overall effort to effectively record, track, and collect amounts due to the department as a result of damages to state property.

Audit Scope and Methodology

Our audit was performed in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, applicable to a financial related audit. The audit covered the period from July 1, 1991, through December 31, 1995. We selected a sample of damage reports submitted by the districts during the period of July 1, 1991, through December 31, 1994. We traced the activity of the sample reports through December 31, 1995, to provide sufficient time to show any trends in the collections activity. In addition, we selected a sample of 15 of 111 journal vouchers that recorded accounts receivable written off. These journal vouchers were selected from the period July 1, 1991, through December 31, 1995.

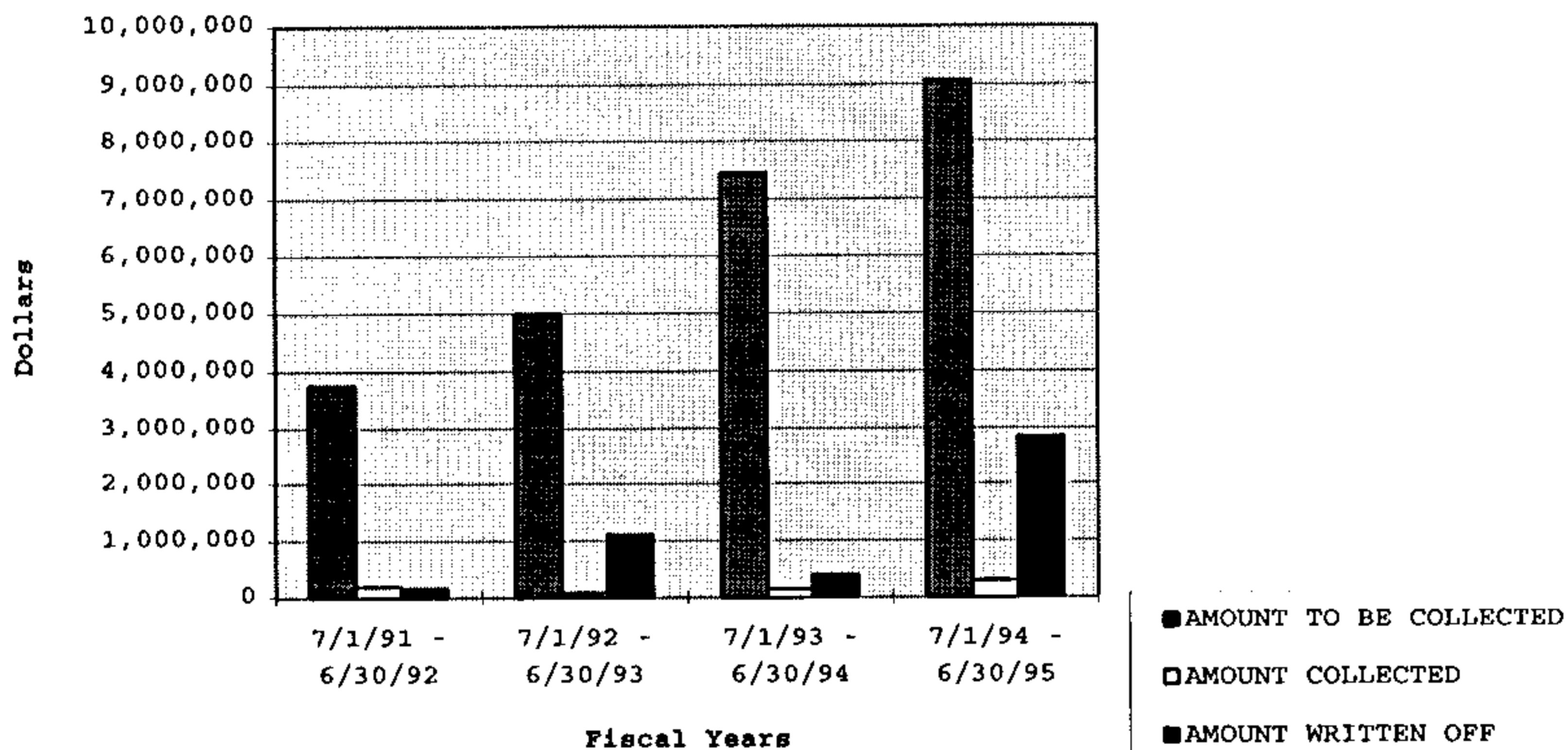
LEGISLATIVE AUDITOR

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
Background Information (Continued)

- The department's collections efforts have not exceeded 6 percent of total amounts to be collected in any one year since 1992.
- Except for the fiscal year ended June 30, 1992, the department wrote off more cost than it collected each year.
- In fiscal year 1993, the department wrote off in excess of \$3 million, which accounted for 86 percent of all reimbursable damages for that year. In addition, for fiscal year 1995, there were write-offs in excess of \$2 million or 132 percent of that year's reimbursable damages.

EXHIBIT I

ACCOUNTS RECEIVABLE FOR REIMBURSABLE DAMAGES
COMPARISON OF RECEIVABLES TO AMOUNTS COLLECTED
AND WRITTEN OFF BY YEAR



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STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Transportation
and Development
State of Louisiana
Baton Rouge, Louisiana

Financial Related Audit
Dated September 6, 1996



Financial and Compliance Audit Division

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

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Daniel G. Kyle, Ph.D., CPA, CFE

DIRECTOR OF FINANCIAL AND COMPLIANCE AUDIT

Albert J. Robinson, Jr., CPA

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

Financial Related Audit
Dated September 6, 1996

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

October 9, 1996

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

**Financial Related Audit and
Independent Auditor's Report
Dated September 6, 1996**

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

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (504) 339-3800
FACSIMILE: (504) 339-3870

September 6, 1996

Independent Auditor's Report

**MR. FRANK DENTON, SECRETARY
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana**

We have performed a financial related audit of the accounts receivable for reimbursable damages at the Department of Transportation and Development (DOTD). The objective of our audit was to review the procedures of the Department of Transportation and Development relating to the overall effort to effectively record, track, and collect amounts due to the department as a result of damages to state property.

Our audit was performed in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States, applicable to a financial related audit. Our limited procedures consisted of (1) examining selected records reporting damages and selected receivables that were written off; (2) interviewing certain department personnel; (3) reviewing applicable Louisiana Revised Statutes; (4) reviewing applicable departmental policies, procedures, rules, and regulations; and (5) making inquiries to the extent we considered necessary to achieve our purpose. Our procedures included an assessment of the likelihood of irregularities and illegal acts, and any such matters that came to our attention are presented in our findings and recommendations.

These limited procedures are substantially less in scope than an audit of financial statements in accordance with government auditing standards, the purpose of which is to provide assurance on the entity's presented financial statements, assess the entity's internal control structure, and assess the entity's compliance with laws and regulations that could materially impact its financial statements. Had we performed such an audit or had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

Based upon the application of the procedures referred to previously, the accompanying findings and recommendations represent those conditions that we feel warrant attention by the appropriate parties. Some findings and recommendations presented in this report were not within the initial scope of our examination, but are items that came to our attention during the examination. Management's responses to the findings and recommendations presented in this report are included in Attachment I.

LEGISLATIVE AUDITOR

MR. FRANK DENTON, SECRETARY
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
September 6, 1996

This report is intended for the information and use of management of the Department of Transportation and Development and should only be used by those who fully understand the limited purpose of the procedures performed. Under state law, this report is a public document and has been distributed to appropriate public officials as required by Louisiana Revised Statute 24:516.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

DL:JR:dl

[DOTDR&B]

LEGISLATIVE AUDITOR

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

BACKGROUND INFORMATION

Creation and Duties

The Louisiana Department of Transportation and Development (DOTD) was created in accordance with Title 36, Chapter 11 of the Louisiana Revised Statutes of 1950 as a part of the executive branch of government of the State of Louisiana. The department is charged with developing and implementing programs to assure adequate, safe, and efficient transportation and public works services within the State of Louisiana. The department develops, implements, and administers various programs and projects that impact the state's highways, airports, waterways, and mass transit systems. These programs and projects include not only the design and construction phases, but also provide for the maintenance and repair of the state's transportation facilities. In addition, the department is active in flood control and drainage projects throughout the state, promotes and regulates the development of offshore deepwater oil-port facilities, and provides protection of the structural integrity and public investment of highways by regulating the size and weight of vehicles using the system. These functions and operations are funded with state and federal funds, and accordingly, the department assumes the responsibility of administering all of these functions and operations in accordance with state and federal laws. The department maintains its headquarters in Baton Rouge, along with nine district offices throughout the state and has approximately 5,600 employees.

Background

When a marine or vehicular accident occurs and damages are caused to state roads or bridges, DOTD has the responsibility to recover the costs of damages from the responsible parties. DOTD has developed certain procedures that describe how information is to be gathered to assist in the identification of responsible parties and the collection of reimbursements for these damages. Based on information gathered during our annual financial and compliance audit of DOTD, we decided to perform an examination of reimbursable damages to determine if the department's procedures are sufficient to capture and collect all of the state's cost when damage occurs to state roads and bridges. As presented in Exhibits I and II, a comparison of reimbursable damages, amounts collected and amounts written off reveals the following:

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

FINDINGS AND RECOMMENDATIONS

Findings and recommendations of our financial related audit of the accounts receivable for reimbursable damages follows.

Inconsistent Application of Procedures

The individual districts of the Department of Transportation and Development (DOTD) did not consistently comply with departmental procedures relating to the reporting of damages caused by marine and vehicular collision. The DOTD Maintenance Manual describes departmental procedures on reporting such damages and provides for the methods to repair those damages. We tested 184 accident files for which damages were caused to roads and bridges. These files included 55 Proposed Work Data forms (Form 582), 87 damage claims, and 42 cases that were written off by the legal and accounting sections, for the period July 1, 1991, through December 31, 1995. Of the 184 accident files tested, 64 (35 percent) were not handled in accordance with departmental procedures including the following:

1. The District Administrators of six of the department's nine districts did not notify the owners or operators of vessels involved in accidents causing damage to state property. Chapter 9, section 15, part E, and section 16, part A (4) of the DOTD Maintenance Manual require the District Administrator to immediately notify the owners or operators of the vessel involved in an accident, so that the owners or operators may have an opportunity to survey the damages before repairs are made.
2. Of the 184 accident files tested, 19 files had project numbers that were requested and issued to the districts by the department's Project Control before the Chief Maintenance and Operations Engineer reviewed and approved the project request. Chapter 9, sections 15 and 16 of the DOTD Maintenance Manual require that Form 582 be routed through the Chief Maintenance and Operations Engineer and then to the Chief Engineer before a project number can be issued by the Contracts Management Section.
3. District personnel did not notify the department's legal section of bridge damages resulting from marine collisions within two months after the date of the accident. Chapter 9, sections 15 and 16 of the DOTD Maintenance Manual require that immediate action be taken in all cases of bridge damage by marine collision and that all damages with estimates over \$200 in value be received by the Legal

LEGISLATIVE AUDITOR

DEPARTMENT OF TRANSPORTATION
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Baton Rouge, Louisiana
Findings and Recommendations (Continued)

Section within two months from the date of the accident. Of the 184 accident files tested, 26 accident reports were not submitted by the individual districts to the Legal Section within the two months provided, and two accident reports totaling \$11,326, were transmitted to the Legal Section after the one-year prescription period had expired.

4. We examined 17 accident files involving damages totaling \$511,291 for which the responsible party was not identified. The District Administrators did not perform any investigative procedures to determine the identity of these unknown assailants responsible for the damages by requesting information from law enforcement or other regulatory agencies. The DOTD Maintenance Manual does not contain any procedures regarding the investigation of accidents involving unknown assailants. Without such procedures, the department may not be able to recover damages associated with these accidents.

Because the districts did not provide proper notifications of all accidents involving damages, the ability of the department to collect damages was impeded, and the department expended a total of \$522,617 out of its budget for damages to roads and bridges without obtaining reimbursement.

To assure the maximum recovery of reimbursable funds, the department should implement the following:

1. District personnel should follow all instructions described in the DOTD Maintenance Manual.
2. The DOTD Maintenance Manual should be revised to include specific discovery procedures regarding damages caused by unknown assailants.
3. District personnel should promptly investigate all accidents involving damages and promptly notify the Legal Section.
4. District managers should set up agreements with law enforcement agencies, the coast guard, et cetera, to promptly notify the districts so that district personnel can timely investigate all accidents involving damages to roads and bridges.

Management of the department concurred with the findings and recommendations. See management's response in Attachment I.

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DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
Findings and Recommendations (Continued)

Failure to Record and Track Cost

The individual districts of DOTD did not adequately record and track costs incurred in repairing damages to roads and bridges when the repairs were performed by DOTD personnel.

The DOTD Business Services and Procedures Manual describes departmental procedures on Management and Financial Reporting relating to receivables due from damages to roads and bridges. In Chapter 11 of the Business Services Manual and in Chapters 6 and 7 of the Fiscal Manual, the procedures address the proper methods to complete the Daily Work Reports so that the complete cost data will be entered in the accounting system. The Daily Work Report identifies the work performed, work location, project numbers, employee hours, equipment used, materials used, and the work accomplished.

We tested 184 accident files of damages to roads and bridges, which included 55 Proposed Work Data forms (Form 582), 87 damage claims, and 42 cases that were written off by the Legal and Accounting sections, for the period July 1, 1991, through December 31, 1995. Our test of the department's procedures disclosed the following:

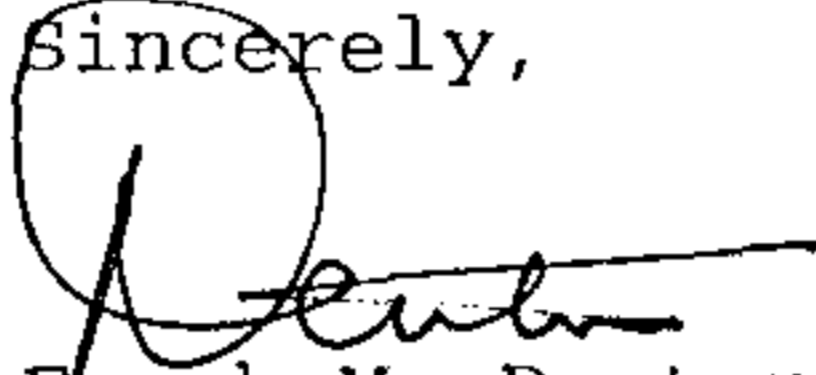
1. Of the 184 accident files tested, 25 had no costs recorded in the department's accounting system. We could not readily determine payroll, equipment, and material charges. The Daily Work Reports did not identify daily activities to a project number. The maintenance crews charged project costs to a control unit only and not to the assigned project number. The control unit is a particular segment of a state or federal route and could encompass many projects. The project number represents a specific job on a state or federal route. The accounting section cannot extract any reimbursable cost for proper billing without the maintenance crews recording charges against the specific project numbers.
2. The general accounting section has no means to identify and record both reimbursable costs and receivables due from minor damages, which is defined as less than \$6,000, to DOTD roads and bridges. In 87 of the files tested, the maintenance crews did not properly code the Daily Work Reports in accordance with the fiscal manual. In all cases involving minor damages, the department cannot track reimbursable cost without proper coding. The repair costs for minor damages are charged to and paid by the district's operating budgets with no opportunity for reimbursement.

Dr. Daniel G. Kyle
June 20, 1996
Page 2

4. With regard to bridge damage resulting from marine operations, the Department is in the process of establishing a retainer contract with a marine surveyor, who can be called upon immediately following a marine collision to properly record and estimate current damages.

If I can be of further assistance, please contact me or Mr. William H. Temple, (504) 379-1502.

Sincerely,



Frank M. Denton
Secretary

FMD:jd



Legislative Auditor

Executive Summary

Financial and Compliance Audit Division
Financial Related Audit

Department of Transportation and Development
State of Louisiana
Accounts Receivable for Reimbursable Damages

The following represents a summary of the findings that resulted from our financial related audit of the Department of Transportation and Development's (DOTD) accounts receivable for reimbursable damages. Detailed information relating to the findings are contained in the findings and recommendations section of the report.

- The individual districts of DOTD did not consistently comply with departmental procedures relating to reporting damages caused by marine and vehicular collision.
- The individual districts of DOTD did not adequately record and track costs incurred in repairing damages to roads and bridges when the repairs were performed by DOTD personnel.
- The Legal Section of DOTD did not comply with the provisions of the Legal Section's Operations Manual relating to the collection of damages to roads and bridges.

Daniel G. Kyle, Ph.D., CPA, CFE, Legislative Auditor
Phone No. (504) 339-3800



STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
P. O. Box 94245
Baton Rouge, Louisiana 70804-9245



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

(504) 379-1200

FRANK M. DENTON
SECRETARY

July 31, 1996

Dr. Daniel G. Kyle, CPA
Legislative Auditor
Office of the Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Dr. Kyle:

In reference to the finding concerning the Department's inadequately documented and monitored claims for damages to roads and bridges, the following is offered. Your recommendations are generally appropriate, except as to cases handled by the Department of Justice.

The above finding, based on activity between January 1, 1992, and December 31, 1994, with adjustment to agree to the dates that were reviewed (through December 31, 1995), cannot represent an assessment of the Department's current performance and practice. Current work is efficient and thorough, with great attention to detail and documentation. There is concern the finding cites the Department for failure to comply with the provisions of a manual that did not exist until late 1994. Since that time, the Department has adhered to procedures outlined in the manual. We are not aware of any non-compliance.

With regard to the cases handled by the Department of Justice, your revised finding suggests the Department delegates files for collection to outside agencies, such as the Department of Justice. This is incorrect. During 1989, and for several years thereafter, the Department of Justice insisted upon prosecuting all collection cases on behalf of this Department under the 1988 legislation contained in R.S. 49:257. In response, that Secretary directed the Legal Section to release all pending cases to the Department of Justice.

LEGISLATIVE AUDITOR

**DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA**
Baton Rouge, Louisiana
Findings and Recommendations (Continued)

Because the maintenance crews did not properly code direct costs to the Daily Work Reports, DOTD's Accounting and Legal sections cannot identify actual cost on each individual project. Therefore, the responsible parties are not billed for all damage related costs.

The department's management should enforce the policies and procedures described in the department's Fiscal Manual and the Business Services and Procedures Manual. Management should also emphasize that all costs should be properly coded and charged to the entire project number. Management of the department concurred with the findings and recommendations. See management's response in Attachment I.

Inadequate Documentation and Monitoring of Claims

The Legal Section at DOTD did not comply with the provisions of the Legal Section Operations Manual relating to the collection of damages to roads and bridges. This manual provides for a general outline of the responsibilities of the Legal Section in the collection of damages to roads and bridges reported by the districts. We sampled 46 accident files from the Legal Section that had activity between July 1, 1991, and December 31, 1995, and determined the following deficiencies existed:

- Based on the procedures in Section IV, B, 1, b of the Legal Section Operations Manual, the Legal Section is responsible for gathering the necessary information and properly monitoring the claims and lawsuits relative to collecting the costs of damages to roads and bridges from responsible parties. The clerical staff, with attorney supervision, is to establish a complete file after receiving the information from the districts. Based on our observations, the clerical staff and supervising attorneys did not adequately establish and maintain the files.
- For three cases, the districts sent transmittal letters to the General Counsel with the name of the responsible party and description of the accident, but the Legal Section did not establish files. The costs relating to these three cases totaled \$190,106.
- Four cases, involving \$40,253 in damages, prescribed when there was no activity for five years. Louisiana law, Civil Code, Article 2315--Liability for Acts Causing Damages, provides that the department has one year from the date of the accident to file a lawsuit or the case then prescribes. The law also requires that some type of activity must occur within the



STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
P. O. Box 94245
Baton Rouge, Louisiana 70804-9245
(504) 379-1200



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

June 20, 1996

FRANK M. DENTON
SECRETARY

Dr. Daniel G. Kyle, CPA
Legislative Auditor
Office of the Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

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Dear Dr. Kyle:

A review of the Legislative Auditor's findings on the districts' failure to consistently apply the procedures of the maintenance manual, and adequately record and track costs of repairing road and bridge damage indicates that comprehensive refresher training in procedure is needed by district staffs. During the past 10 years, there has been a significant turnover of District Administrators and Maintenance Engineers, and many have not thoroughly familiarized themselves with the long established procedures relating to this issue.

We concur with the findings, and DOTD will take the following actions to ensure that these deficiencies are corrected:

1. Since implementation of the WORD (Work Order) sub-system of the maintenance management system in 1986, the Department has tracked all maintenance work by work order number. This is equivalent to a maintenance project number, and enables one to account for all damages, including those less than \$6,000, but it must be retrieved from the Maintenance Operations System (MOPS). However, the full capabilities of this system are not being utilized, due to turnover and the need for refresher training.

Most of the damages in this range are not recoverable, because it is impossible to identify the guilty party unless he volunteers this information (single vehicle accidents when vehicle is drivable: usually minor sign knock-down, guardrail damage, fender system damage, etc.). Accident reports are not available from law enforcement agencies in the majority of these cases.

2. The Training Section will develop and conduct a short course (perhaps 1/2 day) in the proper procedures for documenting and recovering damage reimbursement. Representatives from the Legal Section, the districts, and the Headquarters Maintenance Division shall attend.

3. The districts have been further instructed to develop and implement a plan for better communication with local and State law enforcement agencies for reporting damages. These plans will be reviewed and approved by the Director of Construction and Maintenance.

Attachment I

Management's Responses

LEGISLATIVE AUDITOR

DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
Findings and Recommendations (Concluded)

The department provided us with a listing of cases and the amounts collected. However, the listing did not provide project numbers and did not associate the cases to project numbers. Without project numbers, we were unable to identify the costs involved. Consequently, we were unable to verify the percentages asserted by the department's response. In addition, the Legal Section uses an estimated amount rather than actual cost to determine its collection rate. By underestimating the collectability of a claim, the collection rate is exaggerated.

LEGISLATIVE AUDITOR

**DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA**
Baton Rouge, Louisiana
Findings and Recommendations (Continued)

1. Total cost of the repair
2. All collections
3. The reason for a write-off or compromise
4. The approval for a write-off or compromise by upper management
5. The analysis or a description of the process used to decide if the claim was too small or too expensive to pursue
6. Documentation relating to any action taken relating to the file
7. A completed closure memo signed by the attorney working the case and an approving supervisor for all closed files

See management's response in Attachment I.

Additional Comments: The response by the department implies that we did not review any activity occurring after December 31, 1994, regarding the collections of receivables due from damages to roads and bridges. However, as described in the Audit Scope and Methodology section of this report, we examined 33 cases initiated from Form 582 during our sampling period of July 1, 1991, through December 31, 1994, which continued to have activity after December 31, 1994. Of these 33 cases, 19 cases were collected or written off since the issuance of the Legal Section Operations Manual dated September 1, 1994, but did not include a closure memo as indicated by the manual. Before September 1, 1994, the Legal Section did not have a procedures manual. The lack of written procedures at that time is, in itself, a weakness in controls. The remaining 14 cases are pending. In addition, we reviewed the activity of 28 files written off on December 14, 1994. Six of these cases had closure memos and the remaining 22 did not.

The department's response also implies that by transferring its cases to attorneys in the Justice Department and the Office of Risk Management, it is no longer responsible for monitoring the progress of these cases. Sections 9.15(I) and 9.16(B)(1) of the department's Maintenance Manual require the districts to report damages to bridges to the General Counsel. Releasing cases involving the collection of damages to roads and bridges to other state entities does not relieve the department from monitoring the progress of these cases. Our review disclosed that those cases released to the Justice Department for collection were released to the law firm of Smith and Upton of which Mr. Richard M. Upton was a former employee of the department. Furthermore, 19 of these cases, initiated before 1990, are currently pending.

LEGISLATIVE AUDITOR

DEPARTMENT OF TRANSPORTATION
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STATE OF LOUISIANA
Baton Rouge, Louisiana
Findings and Recommendations (Continued)

for \$50,580 by the Office of the Attorney General. We found no evidence that any other payment was made to the department.

- For one case sent to the Office of Risk Management, the Legal Section's computerized monitoring system shows that the department collected \$8,480, while the records in the Legal Section's file indicates that the department paid the responsible party \$8,480. We cannot conclude as to what actually occurred based on the records of the department.

Section IV, B, 1, b of the manual indicates that the attorney evaluates a claim for feasibility of enforcement. If the attorney believes that there is a reasonable chance to recover the amount of the damages, a lawsuit follows. If the claim is considered too small or the expense of a lawsuit is too expensive for the amount to be reimbursed, it is closed after 30 days by the Legal Section. The manual also contains an example of a closure memo and infers that this document should be included in all files that are closed. We observed the following in relation to closed files reviewed by us:

- None of the files that were written off contained an analysis or description as to how the Legal Section determined when cases were too small or too expensive to pursue.
- Twenty-nine of the closed files did not contain a closure memo.

Failure to follow procedures and controls, as described in the Legal Section Operations Manual, has caused poor record keeping and monitoring of reimbursable claims. It has also resulted in low collections of damages from responsible parties.

To achieve the maximum recovery of reimbursable funds, the Legal Section should:

- Set up files on cases when the information is received from the districts. In addition, when information is not received from the districts, the Legal Section should pursue all cases set up as receivables by the Contracts Management and the Financial Services sections.
- Establish a cross-referencing scheme from the project number to the name and/or legal claim number.
- Monitor all cases, including those that may be contracted out or relinquished to other state agencies.
- Document the following in their files:

LEGISLATIVE AUDITOR

**DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT
STATE OF LOUISIANA
Baton Rouge, Louisiana
Findings and Recommendations (Continued)**

next five years or the case prescribes and costs cannot be recovered. These cases were not monitored nor pursued by the department.

- One case prescribed in the Legal Section although the necessary information to file a lawsuit was available in the file. The Legal Section did not file a lawsuit and costs relating to this case were \$46,100.
- One case was settled before the final costs were incurred. The Legal Section negotiated and accepted a \$3,000 payment for damages before the repairs were completed or final costs were determined. The total estimated repair cost was \$17,871.
- We could not access files in the Legal Section using a project number. The vendor's name or legal claim number is the approach to its filing system. However, the department uses the project number to cross-reference all activities of a job. The Legal Section does not use the project number as a means of retrieving information from the files. Therefore, it is not consistent with the standardized practices of the department.
- One file was open and active in the Legal Section; however, the Legal Section communicated to the Financial Services Section that the file was closed and could be written off. Because of poor record keeping by the Legal Section, an open file was written off.

The Legal Section delegates some of the collections to outside agencies and collection attorneys. Section III, B, 3 of the manual requires that the Legal Section maintain a "skeleton file." The manual also requires that case evaluations, anticipated work to be performed, and case reviews be forwarded to the Legal Section quarterly. Of the files reviewed relating to outside agencies, the following deficiencies were noted:

- Nine cases, totaling \$225,397 in damages, were sent to the Office of the Attorney General to be collected by that office. The Legal Section had no records to indicate that a monitoring process had occurred once the cases were turned over to the Attorney General. The Legal Section did not have a "skeleton file" of these cases nor did it have quarterly reports required by the manual.
- One case in which compromises were made by the Attorney General's Office, as legal representative for the department, did not agree to the financial records. We could identify from the financial records a payment of \$40,955 on the repair cost of \$118,029. However, the legal files indicate that the settlement was made

Dr. Daniel G. Kyle
July 31, 1996
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The Justice Department handles cases at its sole discretion; the Legal Section of this Department has no authority over the Justice Department. The Department of Justice confers directly with our Maintenance Division to gather evidence, and directly with our Chief Maintenance Engineer for concurrence in settlement proposals. It deals directly with our Financial Services Section on payments received. The Department's Legal Section is not involved. The same applies to the Office of Risk Management on tort claims against the Department it has handled.

We delegate certain cases to contract attorneys with special knowledge or expertise. We maintain files, monitor each phase, and provide assistance as needed. When assigned to contract attorneys by DOTD, we retain responsibility.

A review of the 903 files placed for collection during the audit period from 1992 through 1994 shows receipt of full payment on 74% of claims. Of the remaining 26%, 15% were declared legally uncollectible or too small to justify costs of legal proceedings. The remaining 11% are in active litigation.

As stated, we generally concur with recommendations made. Most are already in place, and are part of the manual that was developed. Your comments and recommendations are welcomed.

Sincerely,



Frank M. Denton
Secretary