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

<u>DIRECTOR OF FINANCIAL AND COMPLIANCE AUDIT</u>

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checked, reported, or adjusted. Failure to follow these policies and procedures causes errors in the PIMS, which results in erroneous information being provided to management for purposes of restocking and usage of sign shop inventories. Shortages in the PIMS could cause delays in the repairs, replacement, and installation of signs.

Management of the department should enforce departmental policies and procedures by having the audit and evaluation section randomly check the districts for adherence to the department's policies and procedures relating to sign shop inventories. In a letter dated December 6, 1996, management concurred with our finding but inferred that several documents were not used in the determination of error.

Additional Comments: Although management inferred in its response that we did not include certain aspects of records and inventories on trucks, we did use all available documents and truck records to determine that the PIMS and physical count agreed. These results are noted in our finding. In addition, counts and reconciliations performed by DOTD's Audit and Evaluation section substantiates our conclusions.

Underbilling of Incidental Billings

The Department of Transportation and Development (DOTD) underbilled the Federal Highway Administration (FHWA) for September 1995 incidental charges relating to the Highway Planning and Construction Program (CFDA 20.205). Incidental charges are administrative overhead cost that are determined by applying percentages (additive rates) to the various costs of particular federal projects. The procedures employed to monitor the input of the additive rates into the computer did not allow for the timely discovery and correction of an input error. Good internal controls would allow for the timely discovery and correction of errors.

Those projects that had incidental construction engineering costs, material and testing construction costs, and design material testing costs were affected by the error in the additive rates applied. The rates for these additives are recalculated monthly by the department's General Accounting and given to Data Processing for input into the computer system so that a federal billing can be generated. For the month of September 1995, the additive rates were furnished by General Accounting; however, Data Processing input the wrong rates resulting in a billing of $25,990. The correct billing amount could not be determined because the backup tapes for the September 1995 transactions were erased and reused; however, based on information that was available, the amount calculated as additives for September 1995 could be as much as $153,554. This results in an underbilling of as much as $127,564.

The department should establish and implement procedures that ensure Data Processing uses the correct additive rates when entering them into the computer. In addition, database backup tapes should be retained for longer periods of time so that information is available to correct errors if necessary. In a letter dated September 5, 1996, Mr. Frank M. Denton, Secretary, concurred with our finding and recommendation and outlined procedures the department is implementing to improve controls.

Failure to Obtain Approval for Professional Service Contract

The Department of Transportation and Development (DOTD) engaged and paid for a professional service contract in the amount of $49,500 although the contract was disapproved by the Office of Contractual Review (OCR). In addition, the contract was not included in the original budget request for the fiscal year ended June 30, 1996, nor did the department obtain specific approval of the legislature for the contract. LSA-R.S. 39:1502 states that no contract is valid unless OCR gives written approval. LSA-R.S. 39:32(C)2 states that no contract for professional, personal, or consulting services can be entered into unless the contract was submitted in the department's budget request, but does provide that a contract can be engaged after the time of the budget request by obtaining specific approval of the legislature.

The purpose of the contract previously cited was to review old projects and prepare final vouchers. By closing old, completed projects, the state was able to bill and be reimbursed for costs it had absorbed and was able to allow the reallocation of previously committed funds for new projects. The work performed under the contract would make this an administrative professional service contract, which requires approval from OCR. DOTD submitted the contract for OCR's approval; however, OCR disapproved the contract because DOTD did not include the contract in the budget request nor did DOTD obtain approval by the legislature for the contract. In addition, OCR stated that DOTD has a section, the Federal Aid Unit, which is responsible for the tasks covered by the contract.

Management of DOTD should not engage in contracts that are disapproved by OCR. DOTD should include in its budget request all professional services that are contemplated and should obtain OCR's approval for administrative contracts before engaging in these contracts. In addition, management should ensure that services requested by a professional service contract are not a duty of an existing section of the department. In a written response dated December 5, 1996, management of the department concurred with our recommendation and stated that it has obtained budget approval for the contract that is currently in effect.

Non-State Entity Projects

The Department of Transportation and Development (DOTD) violated Louisiana law by using Transportation Trust Fund (TTF) monies to pay for the administrative costs of non-state entity projects. Furthermore, DOTD does not track the administrative time and cost of these non-state entity projects. Non-state entity projects include projects such as drainage improvement, pumps, sewers, water towers, airport hangers, et cetera, for governmental agencies that are not a part of the executive branch of government, such as drainage districts, municipalities, airport authorities, et cetera. The Louisiana State Constitution [Article 7, Section 27(B)] specifies that TTF monies are to be used exclusively for the costs associated with the construction and maintenance of roads and bridges of the state and federal highway systems. In addition, it states that the monies in the trust fund are allocated to ports, airports, flood control, parish transportation, and state highway construction are to be appropriated annually by the legislature only pursuant to programs established by law which establish a system of priorities.

The non-state entity projects do not go through any evaluation of need as required for those projects funded with TTF money and initiated by DOTD. The projects are appropriated in a legislative act, acquire the funding from the state Bond Commission through General Obligation Bonds, and receive the funding through a letter of credit or the actual sale of bonds. The administrative costs, such as researching the project and preparing all the necessary documents to submit to the state Bond Commission, are paid through DOTD's regular payroll, which is funded with TTF money. In Opinion No. 95-300, the Attorney General opined that TTF monies may not be used to fund the salaries of DOTD employees who administer non-state entity projects.

Currently, the department does not have a method to track the administrative costs of those non-state entity projects nor does the department have a plan to recover administrative costs incurred before the 1997 fiscal year. At June 30, 1996, the department has approximately 95 active non-state entity projects with an appropriated amount of $91,234,310. Because of the large number of projects involved, a considerable amount of time is spent administering these projects.

The department should develop a method for tracking administrative costs associated with non-state entity projects, cease using TTF monies to fund these administrative costs, and seek other means of financing these costs. In a written response dated November 25, 1996, management of the department stated that the department did not voluntarily use TTF monies to finance administrative costs of non-state entity projects and that tracking the administrative costs for these projects would not be feasible because of the large number of projects (approximately 4,000). In addition, legislation was passed (Act 1096 of 1995) at the recommendation of the department, which allows

6 percent of each line item to be used for costs of administering such projects. The department has also recommended that the Division of Administration resume administration of non-state projects.

Additional Comments: The department states that a review of the facts makes it obvious that the department did not voluntarily use TTF monies to fund the administrative costs of non-state entity construction projects. However, the department did violate the Louisiana State Constitution by using TTF monies in this manner. Attorney General Opinion No. 95-300, dated November 21, 1995, was written to General Jude Patin, former secretary of the department. There have been at least four non-state entity projects begun since November of 1995.

Management also states that it is not feasible to track and recover these costs. Our review indicates that the department performs engineering and legal services on non-state entity proposed projects before their acceptance by the Bond Commission and the establishing of a project number. Therefore, the hours for these services are not properly charged, tracked, and recovered. Since the department already has a system to track and bill project costs, tracking the costs associated with these projects would not significantly increase costs to the department. The department estimates that it would collect less than $90,000 this year; however, Act 1096 of 1995 allows the department to recover up to 6 percent of bond proceeds on these projects. At this rate, the department could recover up to $1.55 million for projects appropriated this year. As of November 7, 1996, the department collected $44,478 on these projects.

The contention by management that there are some 4,000 of these non-state entity projects is not correct. As previously stated, there are approximately 95 of these projects at June 30, 1996.

Use of Transportation Trust Funds for Government Lobbyist

The Department of Transportation and Development (DOTD) used Transportation Trust Fund (TTF) monies to pay a government consultant for services as a lobbyist. Some of the services rendered by the consultant are costs that cannot be paid with TTF monies. The Louisiana State Constitution Article 7, Section 27(B) states that the monies in the TTF must be used exclusively for the costs associated with the construction and maintenance of roads and bridges of the state and federal highway systems. Costs billed to the department by the consultant included services related to meetings on welfare reform, intergovernmental affairs -- Housing and Urban Development (HUD), and Medicaid/Medicare programs. In addition, all of the services provided by the consultant are a duplication of services that should be provided by the congressional delegation of the state.

The department entered into a professional service contract with Richard "Dick" Egle for a 5 month period (June 1, 1996, through October 31, 1996). The contract states that the consultant would provide professional services for the administrative interface and liaison with the U.S. Department of Transportation and its several constituents and other federal agencies. In addition, the contract states that the consultant shall perform other matters of official business for the Secretary of DOTD and the Office of the Governor of Louisiana including the Commissioner of Administration, as he may be directed. Through October 29, 1996, the department paid $39,053 to the consultant under this contract. The use of TTF monies for these unallowable costs results in a violation of Louisiana law and prevents the use of these monies for the purposes intended by law.

Management of the department should restrict the expenditure of TTF monies to only those purposes intended by state law. In a letter dated December 5, 1996, Mr. Frank Denton, Secretary, stated that "We have reviewed your findings concerning the professional service contract for lobbying services with Mr. Egle and concur funding for such contracts should be accomplished by Office of the Governor. The contract has been terminated and the Trust Fund will be reimbursed."

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

This report is intended for the information and use of the department and its management. By provisions of state law, this report is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

Daniel G. Kyle

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Legislative Auditor

DGK:JR:dl
[DOTD]

STATE OF LOUISIANA LEGISLATIVE AUDITOR

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

January 3, 1997

Financial and Compliance Audit Division

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

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

Management Letter
Dated December 2, 1996

January 3, 1997

projects shall be considered interfund borrowing and shall be returned to the credit of the account not later than June 30, 2010. LSA-R.S. 47:820.4 sets the duration for the TIMED program to the year 2005; therefore, there is an inconsistency between the term for repayment of the loan and the life of the TIMED program. However, Attorney General Opinion 92-136 indicates that it is the responsibility of the department to plan the repayment of the loan, and the opinion indicates that the department should consider pursuing legislation that would allow the repayment of the borrowed funds so that the projects in the TIMED program can be funded. Failure of the department to plan repayment of funds borrowed from the TIMED program jeopardizes the funding of the projects associated with the program.

Management of the department should pursue a plan to pay back the borrowed funds and should seek legislative action to allow for the completion of the projects listed in the TIMED program. Management of the department stated in writing that the department has previously recommended legislation to increase project amounts to match current estimates, extend the program until such time as all projects are completed, and forgive remaining debt. In addition, management considers the matching of federal funds in the amount of $100.3 million as repayment on a portion of the loan. The department plans to work with the Division of Administration to submit legislation in the 1997 regular session to address the issues relating to the TIMED program.

Additional Comments: Although management of the department considers federal matching expenditures on the TIMED projects as partial reimbursement of the loan, officials of the Treasurer of the State of Louisiana have represented to us that nothing has been paid on the loan, and DOTD has not advised the Treasurer of the State of Louisiana to credit the TIMED fund with federal funds.

Sign Shop Inventory

The Department of Transportation and Development (DOTD) does not enforce its procedures relating to the receiving and issuing of sign shop inventories. Chapter 6, part C(7) (Inventory Control Procedures) of the department's Business Services and Procedures manual states that the sign shop clerks are responsible for checking the purchase inventory management system (PIMS) reports against the inventory balances on hand. Any differences must be reported to the business manager and inventory records adjusted appropriately. Sign shop clerks for the department are not checking the weekly inventory runs to the inventory balances on hand.

We examined 344 items from the sign shop inventories of districts 05 and 61. Of the items tested, 101 items (30 percent) had a shortage and 51 items (15 percent) had an overage between the actual count and the PIMS, indicating that the PIMS is not being

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LEGISLATIVE AUDITOR

December 2, 1996

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

As part of our audit of the State of Louisiana's financial statements for the year ended June 30, 1996, we conducted certain procedures at the Department of Transportation and Development. Our procedures included (1) a review of the department's internal control structure; (2) tests of financial transactions; (3) tests of adherence to applicable laws, regulations, policies, and procedures governing financial activities; and (4) a review of compliance with prior year report recommendations.

The June 30, 1996, Annual Fiscal Report of the Department of Transportation and Development was not audited or reviewed by us, and, accordingly, we do not express an opinion or any other form of assurance on that report. The department's accounts are an integral part of the financial statements of the State of Louisiana, upon which the Louisiana Legislative Auditor expresses an opinion.

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

In our prior management letter dated December 20, 1995, we reported findings relating to ineligible costs for federal reimbursement, the repayment of the loan from the TIMED program, and the sign shop inventory procedures. Except for the repayment of the loan from the TIMED program, which is addressed in this report, the remaining findings have been resolved by management. Based upon the application of the procedures referred to previously, all significant findings are included in this report for management's consideration.

Repayment of Loan

For the second consecutive year the Department of Transportation and Development (DOTD) does not have a plan to repay $160 million borrowed by the Transportation Trust Fund (TTF) from the Transportation Infrastructure Model for Economic Development (TIMED) program. Louisiana Revised Statutes (LSA-R.S.) 47:820.2 states that appropriations made for TTF projects and for purposes other than the TIMED