Report Highlights

Quality Jobs Program

March 2004

Louisiana Legislative Auditor

The Department of Economic Development's (DED) Business Incentives Division primarily administers the Quality Jobs Program. The Department of Revenue (LDR) and the Department of Labor also play roles in administering the program. The program is designed to encourage businesses to locate or expand existing operations in Louisiana. Its purpose is to create quality jobs and promote economic development by focusing on *Louisiana: Vision 2020* existing and emerging business clusters.

Audit Results

Management Controls for the Quality Jobs Program

- DED lacks sufficient management controls to ensure that:
  - It consistently collects and verifies all required information from program participants.
  - It thoroughly reviews and analyzes payroll data to ensure accurate tax rebate amounts.
- DED staff stated that the above deficiencies could be attributed to its processes being manual and not as efficient as possible. Also, the accuracy of information received from employers is not as good as it could be.
- LDR pays interest on tax rebates under certain conditions, which may not have been the legislature's intent when the program was created.

Reliability of Data Reported

- Quality Jobs Program data reported in DED's 2001-2002 Annual Report are based on estimated future values and therefore not reliable.
- The annual costs of the Quality Jobs Program reported in LDR's 2001-2002 Tax Exemption Budget are considerably lower than the true cost of the program. LDR staff said that the data are not reliable because of a mistake in reporting methodology.

Are the management controls for the Quality Jobs Program adequate to ensure that DED awards and administers contracts in accordance with state law and program rules?

WHAT WE FOUND

Verification of Employer Information

- ◈ DED does not always verify all information collected from employers or that all required information has been submitted.
- ◈ While in most cases DED collected the necessary information, we found control weaknesses in verifying the details. As a result, DED can not ensure that all participating employers are eligible for program benefits.
- ◈ DED attributed deficiencies to its processes being manual and not as efficient as they could be. Also, the accuracy of information received from employers is not as good as it could be.

RECOMMENDATIONS

- ✓ DED should implement a second level of review of an employer's application and annual certification before it is enrolled in the program and/or approved for a tax rebate.
- ✓ DED should consider allocating additional resources to the Quality Jobs Program to streamline or automate some of its review processes. Since 2002, program rules have become more complex, and the number of applications has increased. DED could develop a database that checks for certain parameters before approving applications and/or tax rebates.
- ✓ Once tax rebates are paid, DED should request documentation from LDR to ensure that the tax rebates paid to employers match the amount that DED approved.

Review and Analysis of Payroll Data

- ◈ Some employers participating in the Quality Jobs Program submitted payroll reports that were incomplete and/or inaccurate.
- ◈ From a sample of 10 employer files, half included employee data that were not consistent with Quality Jobs Program requirements. Thus, some employers may have received over $280,000 in tax rebates between fiscal years 1997 and 2003 to which they were not entitled.
- ◈ DED does not require employers to use a standard reporting format.

RECOMMENDATIONS

- ✓ DED should review the audit team's work, and when appropriate, notify the employers of any errors. DED and LDR should then work together to recoup any Quality Jobs Program tax rebate overpayments.
- ✓ DED should develop a standard electronic reporting format listing relevant criteria and require all employers to organize and submit their payroll this way.

Interest Payments

- ◈ Between fiscal years 1998 and 2002, the state paid over $150,000 in interest on Quality Jobs Program rebates, which may not have been the legislature's intent.
- ◈ Although state law allows interest to be paid on tax overpayments and the purpose of the program is to induce the location and expansion of businesses in Louisiana, we question whether participants should also be entitled to receive interest on these incentives.

MATTER FOR LEGISLATIVE CONSIDERATION

- ✓ The legislature should consider clarifying whether it intended for interest to be earned on Quality Jobs Program rebates or any other tax incentives by amending R.S. 51:2457(A) (4). The amendment should clearly state whether LDR should treat economic development incentive rebates as overpayments and pay interest on them as allowed by R.S. 47:120.3, 47:617, and 47:287.657(A).

Are the data reported for the Quality Jobs Program for fiscal year 2002 by DED and LDR reliable?

WHAT WE FOUND

Identifying Data Reported and Reporting Procedures

- Both DED and LDR report externally on the Quality Jobs Program. However, most of the Quality Jobs Program data reported by DED and LDR are not reliable and may be misleading.
- DED's 2001-2002 Annual Report contained data based on estimated/non-verifiable future values that employers submit on their applications. As a result, program data reported does not present a complete and accurate assessment of the Quality Jobs Program's performance.
- The annual costs of the Quality Jobs Program that LDR's 2001-2002 Tax Exemption Budget reported are considerably lower than the true cost of the program because of an error in LDR's methodology.

Comparison of Reported Costs of the Quality Jobs Program

Year	LDR Tax Exemption Budget	DED Employer Files
2000	$16,370	$3,844,032
2001	$118,229	$5,479,091
2002	$530,403	$6,016,299
Totals	**$665,002**	**$15,339,422**
	Fiscal year basis.	Calendar year basis.

Source: Prepared by legislative auditor's staff using information taken from LDR's Tax Exemption Budget and information provided by DED.

RECOMMENDATIONS

- ✓ DED should include the word "Estimated," and include a note indicating that values in its Annual Report are based on 10-year estimates. Alternatively, DED staff could review existing employer files (i.e., employers starting the program in 1997 and after) and report actual Quality Jobs Program performance data each year (i.e., how many permanent jobs have actually been created for that year, et cetera).
- ✓ LDR should develop and implement a methodology that accurately captures and reports actual annual Quality Jobs tax rebates.

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STATE OF LOUISIANA

Quality Jobs Program
Baton Rouge, Louisiana

March 2004

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March 24, 2004

Honorable Donald E. Hines,
President of the Senate
Honorable Joe R. Salter,
Speaker of the House of Representatives

Dear Senator Hines and Representative Salter:

This report provides the results of our performance audit of the Quality Jobs Program administered by the Departments of Economic Development, Revenue, and Labor. This audit was conducted under the provisions of Louisiana Revised Statute 51:935.1, as amended.

This performance audit report contains our findings, conclusions, and recommendations. It also includes a matter for legislative consideration. I hope this report will benefit you in your legislative decision-making process.

Sincerely,

Grover C. Austin, CPA
First Assistant Legislative Auditor

GCA/dl

[QJP04]

Legislative Auditor

Quality Jobs Program

Executive Summary

The Louisiana Department of Economic Development's (DED) Business Incentives Division administers the Quality Jobs Program. The program is designed to encourage businesses to locate or expand existing operations in Louisiana. Its purpose is to create quality jobs and promote economic development by focusing on *Louisiana: Vision 2020* existing and emerging business clusters. After DED determines the amount of incentive to which an employer is entitled, the Louisiana Department of Revenue (LDR) processes the payment. The results of this performance audit of the Quality Jobs Program are as follows:

Management Controls for the Quality Jobs Program *(See pages 5 through 11 of the report.)*

- The department lacks sufficient management controls to ensure that:
  - ➢ All required information from program participants is consistently collected and verified.
  - ➢ Payroll data are thoroughly reviewed and analyzed to ensure accurate tax rebate amounts.
- Department staff stated that the above deficiencies could be attributed to its processes being manual and not as efficient as they could be. Also, the accuracy of information received from employers is not as good as it could be.
- The LDR pays interest on tax rebates under certain conditions, which may not have been the intention of the legislature when the program was created.

Reliability of Data Reported *(See pages 13 through 15 of the report.)*

- Quality Jobs Program data reported in DED's 2001-2002 Annual Report are based on estimated future values and are therefore not reliable.
- The annual costs of the Quality Jobs Program reported in LDR's 2001-2002 Tax Exemption Budget are considerably lower than the true cost of the program. LDR staff stated that the data are not reliable because of a mistake in reporting methodology.

Introduction

Audit Initiation and Objectives

Louisiana Revised Statute (R.S.) 51:935.1 requires the legislative auditor to conduct annual performance audits designed to evaluate the management controls, accuracy, and reliability of the reported information on at least three economic development programs. At its July 30, 2003 meeting, the Legislative Audit Advisory Council approved economic development program audits as part of our plan for fiscal year 2004.

This performance audit is of the Quality Jobs Program, which is primarily administered by the Department of Economic Development (DED). The Departments of Revenue and Labor also play roles in administering the program. Our audit objectives were as follows:

1. Are the management controls for the Quality Jobs Program adequate to ensure that DED awards and administers these contracts in accordance with state law and program rules?

2. Are the data reported for the Quality Jobs Program for fiscal year 2002 by DED and the Louisiana Department of Revenue (LDR) reliable?

Appendix A contains a summary of our audit scope and methodology.

Overview of the Quality Jobs Program

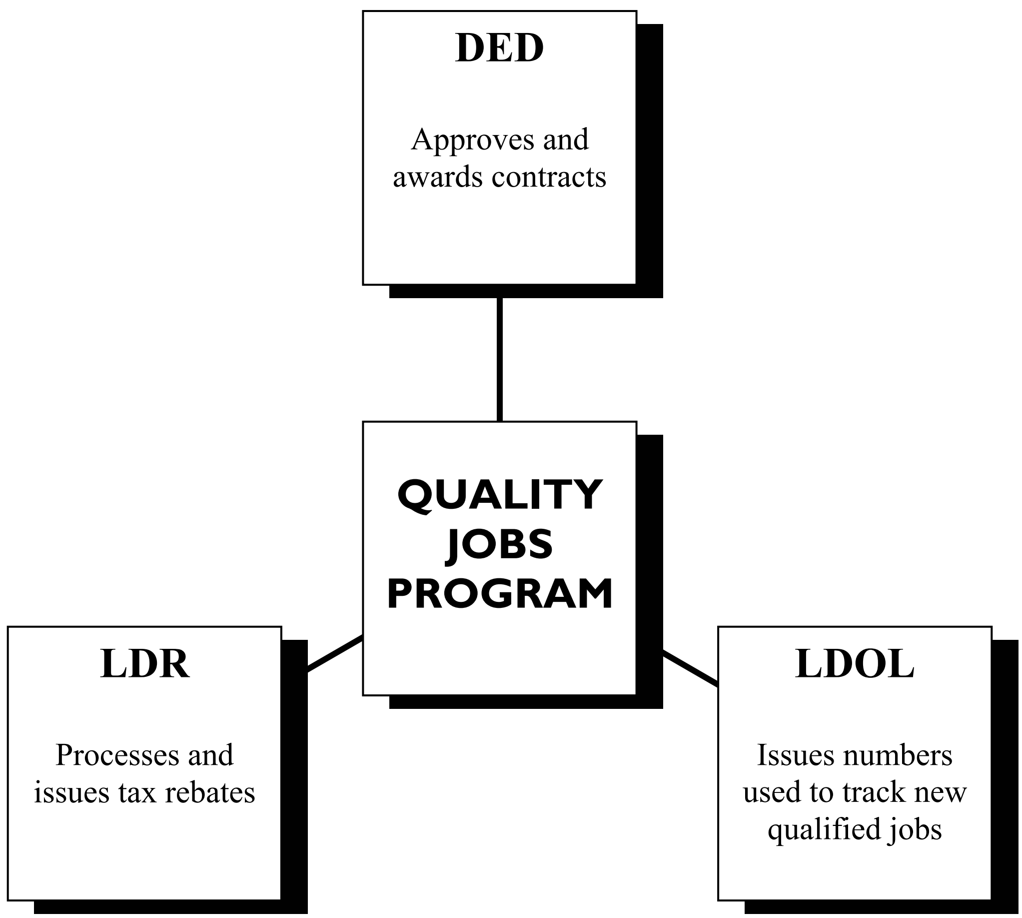
Purpose and Structure. The Quality Jobs Program is one of several incentive programs designed to encourage businesses to locate or expand existing operations in Louisiana. Its primary purpose is to create quality jobs and to promote economic development by focusing on *Louisiana: Vision 2020* existing and emerging business clusters. The Quality Jobs Program provides employers with benefits (referred to as "tax rebates") that include an income and/or corporate franchise tax credit, or a cash payment, if the company complies with the requirements of the program. The annual tax rebate is equal to the benefit rate (5% to 6%) multiplied by the gross payroll of the new direct jobs. An employer enjoys the tax benefits for a five-year period and can then re-apply for a second five-year period. LDR issued the first Quality Jobs tax rebate in 1997.

As revised by the legislature in 2002, the program also allows employers to obtain a state sales tax rebate on certain purchases of machinery and equipment or materials used in construction. An employer may also obtain a refund of local sales tax if the local governmental entity agrees. According to DED files that we reviewed, no employers have yet received a sales tax rebate.

The Department of Labor (LDOL) issues a second Unemployment Insurance (UI) number to existing employers who are admitted to the Quality Jobs Program. The second UI number is used to track employees in the new jobs that qualify for Quality Jobs Program benefits. Exhibit 1 depicts the three departments' roles in the Quality Jobs Program. The Quality Jobs Program sunsets on January 1, 2005.

Exhibit 1

Department Roles in the Quality Jobs Program



Source: Prepared by legislative auditor's staff.

Funding and Staffing. DED's Resource Services Program - Business Incentives Division administers the Quality Jobs Program. The legislature appropriated approximately $18.5 million to the DED Resource Services Program and authorized 20 positions for fiscal year 2004. Most of the $18.5 million is for other financial assistance programs that the Louisiana Economic Development Corporation administers and for Workforce Development and Training. Approximately $1.2 million is appropriated for program operations. None of the $18.5 million funds Quality Jobs Program benefits. These benefits are paid from income and franchise taxes. A separate breakdown of expenditures for the Quality Jobs Program is not included in the executive budget or Appropriations bill. One person (the program administrator) works on the Quality Jobs Program.

Program Costs. Between 1997 and 2003, the Quality Jobs Program has grown considerably. DED has approved $18,376,258 in tax rebates during this time period.

After an employer's tax year ends, it files an Affidavit of Annual Certification with DED in which it requests its tax rebate. DED reviews this filing and then informs the employer of the amount of Quality Jobs tax rebate it is eligible to receive for that year. The figures shown in Exhibit 2 represent the amounts eligible to be rebated to employers for each calendar year. After the end of an employer's tax year for which it earned a tax rebate, there are typically time lags associated with an employer filing its rebate request with DED, filing its tax return with LDR, and with LDR's processing of the tax rebate request. Thus, the figures in Exhibit 2 do not reflect the amount of tax rebate payments actually made from the state's general fund in a particular calendar year, only the amounts approved to be paid. Of the active companies enrolled in the Quality Jobs Program, only one had applied for a 2003 tax rebate at the time we conducted this audit. Therefore, the actual cost for 2003 will be higher than shown below after all 2003 rebates are processed.

Exhibit 2

Amounts Eligible to Be Rebated to Employers by Calendar Year

Calendar Year	Eligible Tax Rebate Amount
1997	$52,173
1998	$597,547
1999	$1,852,508
2000	$3,844,032
2001	$5,479,091
2002	$6,016,299
2003 *	$534,608
Total	**$18,376,258**

* Partial year
Source: Prepared by legislative auditor's staff using information provided by DED and LDR.

Appendix B contains specific requirements for enrollment and entitlement to Quality Jobs Program benefits.

Management Controls for the Quality Jobs Program

Are the management controls for the Quality Jobs Program adequate to ensure that the Department of Economic Development awards and administers contracts in accordance with state law and program rules?

DED's management controls for the Quality Jobs Program do not always ensure that contracts are awarded and administered in accordance with state law. R.S. 51:2452-2462 provide specific terms and conditions that companies must meet to be eligible for program participation and benefits. We found instances where employers did not submit necessary documentation. We also found instances where employers claimed credits on ineligible employees and, as a result, calculated their tax rebate for new jobs incorrectly. DED claimed that a manual and tedious review process is the reason it may not have thoroughly reviewed and analyzed all data submitted by employers to ensure program eligibility and tax rebate accuracy. As a result, we found over $280,000 in Quality Jobs tax rebates may have been paid to a sample of employers for ineligible employees.

Consistent Verification of Employer Information Could Improve Program Compliance

DED staff does not always verify all information collected from employers or that all required information has been submitted. DED officials say that this deficiency can be attributed to its processes being manual and not as efficient as they could be. Also, the quality and accuracy of information received from employers are not as good as they could be. A thorough review and analysis of all required data submitted by employers will help ensure that all participating employers are eligible for program benefits.

DED is required to collect and verify certain information from employers to ensure that they qualify for participation in the Quality Jobs Program, according to state law and DED's program rules. While in most cases DED collected the necessary information, we found weaknesses in verifying the details. As a result, DED did not always ensure that all participating employers are eligible for program benefits. We also found that the Louisiana Department of Revenue (LDR) may not always obtain verification from DED concerning the amount of tax rebate to which an employer was entitled.

DED's program rules and state law require employers to meet certain qualifications to enroll and remain in the program. For initial enrollment, employers must submit an advance notification, application, and all supporting documentation necessary to meet program qualifications, such as proof of health insurance plans for new employees. Employers must also submit an Affidavit of Annual Certification to DED after their tax year ends to certify their eligibility for the program and request a tax rebate. The certification includes supporting documentation such as the number of new employees, average hours worked per week, wages paid, and proof of health insurance paid by the company.

Ineffective Management Controls. In some cases, DED did not review and verify all information submitted by employers. We reviewed all 35 active employer files as of October 20, 2003, and found that 12 of the files (34%) contained at least one discrepancy. The types of discrepancies were as follows:

- Three employer files contained no copy of the health insurance plan or proof of adequate health insurance on the application and/or annual certifications as required.

- One employer did not pay the full amount of its application fee. After we notified DED, staff requested the balance due from the employer and have received it.

- Two employers did not submit proof of the average hours their employees worked per week.

- One employer qualified for the program because 75% of its sales were to out-of-state customers. However, we found no evidence in this employer's file concerning its sales or the location of its customers.

- Two employers did not submit copies of their second ES-4 forms (filed with the Department of Labor), which is what DED staff use to track the number of old and new jobs reported by employers.

Verification of Tax Rebate Amounts With LDR. Of the 12 employer files with discrepancies, four, for at least one year, contained no evidence of contact from LDR to DED to verify the tax rebate amount that LDR would pay. R.S. 51:2457 (4) requires DED to forward approved tax rebate amounts to LDR for payment. LDR then sends DED a letter to sign certifying that the approved tax rebates are correct before issuing the rebate. Although most employer files contained these letters, four files did not for at least one year.[1] A DED official stated that LDR does not send DED this letter until the employer requests the rebate on its tax return. The official also stated that, in some cases, DED may not have filed copies of the letters. Until DED documents all letters verifying tax rebate amounts that LDR should pay, DED can not ensure that the tax rebate amounts it approves match the amounts paid.

Effective Management Controls. We did find instances where DED's management controls were effective. DED collected advance notifications and applications from all the employers, and, with one exception, made certain that all application fees were received from applicants. For the Affidavits of Annual Certification, we found several instances where the program administrator requested

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[1] Because of time lags for processing rebates as mentioned on page 3, we did not include 2002 and 2003 data in this finding.

additional information and/or disapproved or rescinded a tax rebate because of inadequate/incomplete information submitted by employers. Twenty-three of the 35 files we reviewed (66%) contained all required information.

Recommendation 1: DED should have the program administrator's supervisor, or other qualified personnel, review an employer's application and annual certification before the employer is enrolled in the program and/or approved for a tax rebate. A second level of review of these documents should help to ensure that only qualified employers are admitted to the Quality Jobs Program and receive tax rebates.

Management's Response: The Department's management partially agrees with this recommendation. The Department agrees that another level of review may help in correcting errors on applications, but notes that R.S. 51:2460 provides penalties if false or fraudulent information is provided in the application for a rebate. (See Appendix C for the Department's full response.)

Recommendation 2: DED should consider allocating additional resources to the Quality Jobs Program to streamline or automate some of their review processes. Since 2002, the program rules have become more complex, and the number of applications has increased. DED could develop a database that checks for certain parameters before approving applications and/or tax rebates.

Management's Response: The Department's management partially agrees with this recommendation and indicates that its resources are allocated to operate the programs for which it is responsible. The Department stated that it is in the process of automating the application process that should result in a better review of the applications. (See Appendix C for the Department's full response.)

Recommendation 3: Once tax rebates are paid, for DED's internal information, DED should request documentation from LDR to ensure that the tax rebates paid to employers match the amount that DED approved.

Management's Response: The Department's management agrees with this recommendation. (See Appendix C for the Department's full response.)

Thorough Review and Analysis of Payroll Data Would Help Ensure Accurate Rebate Amounts

We found that some employers participating in the Quality Jobs Program submitted payroll reports that were incomplete and/or inaccurate. According to a DED official, payroll reports are not always reviewed thoroughly because the department lacks efficient processes to conduct a careful review of the spreadsheets. Also, employers only submit hard copies of payroll spreadsheets to DED, which makes the review more cumbersome than if electronic payroll spreadsheets were submitted. Furthermore, DED does not require employers to use a standard reporting format.

State law authorizes DED to approve tax rebates to employers annually after the employer has filed an application for rebate at the end of the employer's tax year. DED determines whether the employer is eligible for a tax rebate, and if so, the amount of the rebate. Once DED gives its authorization, LDR processes and issues the tax rebate.

R.S. 51:2457 and DED's program rules provide specific requirements for tax rebate eligibility and state that an employer must provide evidence to DED that it met these requirements. Some of these requirements include evidence that those employees holding new direct jobs:

(1) were domiciled in the state of Louisiana;

(2) were not on the payroll prior to the employer entering the Quality Jobs Program;

(3) were not previously on the payroll of the employer's parent entity, subsidiary, or affiliate; and

(4) were not previously on the payroll of the business whose physical plant and employees were substantially the same as those of the employer.

Without thorough review and analysis of employer payroll records, DED cannot ensure that data submitted by employers are accurate and complete. From a sample of 10 employer files, we found that five of them included employee data that was not consistent with Quality Jobs Program requirements. As a result, these five employers may have received $280,140 in tax rebates between fiscal years 1997 and 2003 to which they were not entitled.

We calculated the tax rebate amount by summing the gross payroll of "new job" employees, and excluded any employees that were ineligible, according to state law or program rules. Exhibit 3 on the following page compares our rebate calculations to the rebate amounts found in the employer files at DED. Because R.S. 51:935.1 precludes us from directly auditing employers in the program, we can not definitively state the amount by which tax rebates were overpaid. A brief explanation of the potential rebate overpayments follows the exhibit.

Exhibit 3

Comparison of DED Rebate Calculations to Legislative Auditor Calculations

Sample Employer	Number of Rebate Years	DED Rebate Calculation	Legislative Auditor Rebate Calculation	Potential Rebate Overpayment
1	4	$250,255	$236,174	$14,081
2	3	$120,326	$92,424	$27,902
3	5	$467,338	$463,671	$3,667
4	1	$534,608	$305,147	$229,461
5	6	$425,169	$420,140	$5,029
TOTALS		**$1,797,696**	**$1,517,556**	**$280,140**

Source: Prepared by legislative auditor's staff using information provided by DED.

- **Employer 1.** We found three employees who were hired before the contract started in 1999. Therefore, their salaries should not have been included in gross payroll.

- **Employer 2.** Initially, this employer submitted to DED a list of all current (pre-program) positions that included one Controller, one President and one Vice-President of Finance. However, in 2000, 2001, and 2002, the employer reported new hires in these same three positions as new jobs created. The new employees were merely filling pre-existing jobs and should not have been included in the payroll/rebate calculations.

- **Employer 3.** This employer included out-of-state employees (one in 1998, four in 1999, and two in 2000) in its gross payroll calculation. Only the wages of employees domiciled in Louisiana are eligible for tax rebates.

- **Employer 4.** We found approximately 232 employees hired in either 1997, 1998, or 1999; however, the Quality Jobs contract did not start until 2000. Therefore, these employees should not have been included in the employer's gross payroll rebate calculations.

- **Employer 5.** The employer submitted a list of employees hired before the contract began in 1997. However, in 2002, the employer's payroll listed three of these employees as new hires. Therefore, their salaries should not have been included in gross payroll.

In addition to the five employers shown in Exhibit 3, we also found that for 2001 and 2002, another employer's file included several questionable transactions. For example, we found that the employer's payroll included employees hired prior to 2001. Although the contract began in 1998, we did not find these employees on prior year records. Therefore, we could not verify actual hire dates for these employees nor state which, if any, of these employees should have been included in the employer's gross payroll rebate calculations. DED's initial review did not question these transactions or the employer before approving the 2001 tax rebate of $1,204,598.

We discussed these findings with DED's program administrator, and he will investigate further with these employers.

Recommendation 4: DED should review our findings, and when appropriate, notify the companies of any errors. DED and LDR should then work together to recoup any Quality Jobs Program tax rebate overpayments.

Management's Response: The Department's management partially agrees with this recommendation and indicates that the Revised Statutes provide for repayment if errors have been made in the application process and overpayments have been made by the Department of Revenue. (See Appendix C for the Department's full response.)

Recommendation 5: DED should develop a standard electronic reporting format (e.g., Excel spreadsheet) listing relevant criteria and require all employers to organize and submit their payroll data this way. This standardization would promote consistency of the employers' reporting and make DED's review easier and quicker.

Management's Response: The Department's management agrees with this recommendation. (See Appendix C for the Department's full response.)

Interest Payments on Quality Jobs Tax Rebates May Not Be Intended

Between fiscal years 1998 and 2002, the state paid over $150,000 in interest on Quality Jobs rebates. The purpose of the Quality Jobs Program is to offer a tax incentive to induce the location or expansion of businesses in Louisiana. However, we question whether participants should also be entitled to receive interest on these incentives.

In reviewing data obtained from LDR, we found that the department calculated and added interest to some Quality Jobs rebates. The interest payments occurred because LDR did not issue the businesses their rebates in a timely manner. LDR treats Quality Jobs rebates in the same manner as tax overpayments. State law allows interest to be paid on tax overpayments. An LDR staff member stated that an approximate 12-month delay can occur between the time a business files its tax return where it claims its Quality Jobs tax rebate and the time that LDR processes it. The interest paid to employers will increase in the future as LDR processes and issues past due tax refunds (rebates) to employers.

Exhibit 4 lists the amounts of interest (by year) that LDR has paid on Quality Jobs rebates for fiscal years 1998 through 2002.

Exhibit 4

Interest Payments Made to Quality Jobs Program Employers

Fiscal Year	Interest Amounts
1998	$17,584
1999	$36,535
2000	$61,609
2001	$21,611
2002	$13,016
Total	**$150,355**

Source: Prepared by legislative auditor's staff using information provided by LDR.

Matter for Legislative Consideration: The legislature may wish to clarify whether it intended for interest to be earned on Quality Jobs rebates or any other tax incentives by amending R.S. 51:2457(A)(4). The amendment should clearly state whether LDR should treat economic development incentive rebates as overpayments and pay interest on them as allowed by R.S. 47:120.3, 47:617 and 47:287.657(A).

Reliability of Data Reported

Are the data reported for the Quality Jobs Program for fiscal year 2002 by DED and Department of Revenue reliable?

Both DED and LDR report externally on the Quality Jobs Program. However, most of the Quality Jobs Program data reported by DED and LDR are not reliable and may be misleading. We found program data reported in two places:

1. DED's Annual Report

2. LDR's Annual Tax Exemption Budget

DED reported data based on estimated/non-verifiable future values that employers submit on their applications. As a result, program data reported does not present a complete and accurate assessment of the Quality Jobs Program's performance. In addition, the annual costs that LDR reports are considerably lower than the true cost of the program because of an error in LDR's methodology.

Clearly Identifying Data Reported and Strengthening Reporting Procedures Is Needed to Improve Reliability

DED 2001-2002 Annual Report. Exhibit 5 below illustrates the program data DED reported in its 2001-2002 Annual Report.

Exhibit 5

DED 2001-2002 Annual Report: Quality Jobs Data

Fiscal Year	2001	2002
Projects	11	3
Permanent Jobs	5,037	1,355
Construction Jobs	618	260
Capital Investment	$85,377,810	$30,200,000
Tax Relief	$2,513,360	$810,300

Source: Prepared by legislative auditor's staff using information taken from DED's 2001-2002 Annual Report.

The values reported for "Projects" accurately represent the number of employers admitted into the Quality Jobs Program in fiscal years 2001 and 2002. However, the remaining data are not reliable because the values are based on estimates made by employers on their applications to DED for up to 10 years into the future. The values represent results that employers anticipate based on future projections. It is impossible for DED to verify that these values are reliable because the projects are typically in the initial stage when the employer applies to the Quality Jobs Program.

We estimated "Tax Relief" to be $16,861,736 for fiscal year 2002 according to the Quality Jobs Program database and new employer applications. However, only $810,300 was reported in the Annual Report (4.6% of the value found in the database). A DED official stated that this discrepancy was due to a data entry error.

LDR Annual Tax Exemption Budget. The values reported in LDR's Annual Tax Exemption Budget for fiscal years 2000, 2001, and 2002 are not reliable. The amounts from LDR's Tax Exemption Budget (shown in Exhibit 6 below) reports what the Quality Jobs Program has cost the state in tax rebates and sales tax refunds.

An LDR official informed us that the values reported in the Tax Exemption Budget were not reliable and that the cost of the program was considerably higher than LDR had reported because of a mistake in the department's methodology. According to this official, LDR's methodology has been to take the new contracts DED entered into in each fiscal year, add up the tax rebates just for those new contracts in that fiscal year, and report that amount in the Tax Exemption Budget. Tax rebates for employers admitted prior to a particular fiscal year have been left out. Therefore, LDR is only reporting estimates for employers that are enrolling in the program each fiscal year as the cost of the program.

Furthermore, using DED's employer files, we estimated annual cost for the program based on rebates approved by DED, which were much higher than the values LDR reported.

Exhibit 6

Comparison of Reported Costs of the Quality Jobs Program

Year	LDR Tax Exemption Budget	DED Employer Files
2000	$16,370	$3,844,032
2001	$118,229	$5,479,091
2002	$530,403	$6,016,299
Totals	**$665,002**	**$15,339,422**
	Fiscal year basis.	Calendar year basis.

Source: Prepared by legislative auditor's staff using information taken from LDR's Tax Exemption Budget and information provided by DED.

Recommendation 6: Because values included in its Annual Report are based on new employers' estimates, with the exception of "Projects," DED should include the word "Estimated" (i.e., "Estimated Permanent Jobs"), and include a note that indicates that values listed in the report are based on 10-year estimates. As an alternative, DED staff could review existing employer files (i.e., employers starting the program in 1997 and after) and compile data to report actual Quality

Jobs Program performance data for each year (i.e., how many permanent jobs have actually been created for that year, et cetera).

Management's Response: The Department's management agrees with this recommendation. (See Appendix C for the Department's full response.)

Recommendation 7: LDR should develop and implement a methodology that accurately captures and reports the actual annual Quality Jobs tax rebates.

Management's Response: The department's management agrees with this recommendation and indicates that it has implemented a methodology to accumulate data to ensure that the Quality Jobs statistics are accurately reported in the future. (See Appendix D for the Department's full response.)

Appendix A

Audit Scope and Methodology

Appendix A

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. All performance audits are conducted in accordance with generally accepted government auditing standards as promulgated by the Comptroller General of the United States. Preliminary work on this audit began in August 2003.

Scope

R.S. 51:935.1 directs the legislative auditor to conduct performance audits annually to evaluate the management controls, accuracy, and reliability of at least three economic development programs. This audit focused on the Quality Jobs Program's management controls beginning in 1996 (with the first applicants) and continuing through fiscal year 2003. We also assessed the accuracy and reliability of performance data reported by DED and LDR for the program for fiscal year 2002.

Methodology

Determining the effectiveness of DED's management controls for the Quality Jobs Program. To gain an understanding of how this program operates, we reviewed applicable state laws, program rules, and DED files and had discussions with DED and LDR program officials. We developed data collection instruments (DCIs) that were used to evaluate whether DED collected and verified all required employer information. Because program legal requirements changed considerably in mid-2002, we developed DCIs for the time period 1996 through mid-2002, and then for the time period after mid-2002. We reviewed all 35 active employer files as of October 20, 2003, and used the data collected to determine whether an employer met the requirements to enter the program and to receive Quality Jobs tax rebates. In making this assessment, we considered the following factors:

- Whether the department collected all necessary information from employers as required by state law and program rules
- Whether the department verified that information submitted by employers complied with state law and program rules

To determine whether the department calculated rebates correctly, we took a sample of 10 employers and reviewed their annual requests for tax rebates. We reviewed the employers' payroll records and other documentation. We re-calculated the tax incentive and noted the differences with the amounts originally taken by the employers. We discussed our findings with department officials.

Determining the reliability of performance data reported for the Quality Jobs Program. We reviewed the program performance data reported in DED's 2001-2002 Annual Report and LDR's 2002 Annual Tax Exemption Budget, consulted with department staff, and asked for supporting documentation to determine if DED and LDR reported reliable data. We used the data found in DED's Quality Jobs database and in its files, and documentation furnished to us by LDR, to determine whether the performance data were reliable.

We used data furnished to us by both DED and LDR to compile estimates of the tax rebate amounts employers were entitled to receive for each calendar year beginning in 1997.

Appendix B

Requirements for Enrollment and Entitlement to Quality Jobs Program Benefits

Appendix B: Requirements for Enrollment and Entitlement to Quality Jobs Program Benefits

The Quality Jobs Program has certain legal requirements that employers must meet to participate in the program. These requirements are listed in R.S. 51:2452-2462 as well as in DED's administrative rules for the program. The main requirements are described below.

Job Creation. According to R.S. 51:2455, to qualify to receive benefits, employers who applied to the program prior to May 1, 2002, must accomplish the following by the end of the third year of the contract:

- Create $1 million in annual gross payroll for new jobs
- Have at least 80% of qualifying employees work an average of 25 hours or more per week

An employer applying after May 1, 2002, must accomplish the following by the end of the third year of the contract:

- Create at least five new jobs and $500,000 in annual payroll if the company has 50 or more employees
- Create at least five new jobs and $250,000 in annual payroll if the company has fewer than 50 employees
- Have at least 70% of qualifying employees working an average of 35 or more hours per week in new jobs
- If a call center, have at least 70% of qualifying employees working an average of 30 or more hours per week in new jobs

Tax Benefit Rate. An employer's tax benefit is calculated by multiplying the annual gross wages for new jobs by the benefit rate. For employers who applied to the program prior to May 1, 2002, the maximum benefit rate is 5%. For employers applying after May 1, 2002, the benefit rate is 5% for new jobs that pay at least 1 ¾ times the federal minimum wage (currently $9.01). For new jobs that pay at least 2 ¼ times the federal minimum wage (currently $11.59), the benefit rate is 6% if one of the following is met:

1. The new jobs are located in a distressed region as designated by DED.
2. The new jobs are with an employer categorized in a traditional or seed cluster.

Industry Classification. According to R.S. 51:2453(1)(b), employers seeking to participate in the Quality Jobs Program must qualify under an appropriate industry classification such as one of the *Vision 2020* clusters (biotechnology and biomedical; micro-manufacturing; software, auto regulation, Internet, and telecommunications technologies; environmental technology; food technologies; and materials). Employers in the following types of industries can also qualify for a contract:

- Manufacturer, as defined by specific NAICS (North American Industry Classification System) codes
- Oil and gas field services business and meet specific business conditions
- Must have, or will have within 1 year, at least 75% of its total sales to out-of-state customers or buyers
- Must have, or will have within 1 year, at least 50% of its total sales to out-of-state customers or buyers, and meet additional criteria
- An NBA team that relocates to Louisiana prior to November 1, 2003

Health Insurance. According to R.S. 51:2453(1)(a)(i), employers must also pay a portion of health insurance for employees in new direct jobs. For contracts entered into on or after May 1, 2002, the employer shall provide each employee with the choice of health insurance coverage under one of the following:

1. The employer must pay not less than 85% of the total premiums for health insurance coverage for full-time employees who choose to participate and must offer health insurance coverage for dependents. However, the employer is not required to pay any of the premium for the employee's dependent coverage.
2. The employer must pay not less than 50% of the total premium for health insurance coverage for full-time employees who choose to participate and their dependents.

Appendix C

Department of Economic Development's Response

State of Louisiana

DEPARTMENT OF ECONOMIC DEVELOPMENT

Kathleen Babineaux Blanco
Governor

Don J. Hutchinson
Secretary

March 10, 2004

Mr. Grover C. Austin, CPA
First Assistant Legislative Auditor
P. O. Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Austin:

First let me thank you for the professionalism exhibited by your staff during the recent programmatic audit of Quality Jobs incentive program. Enclosed are our responses to the findings and recommendations of your audit staff as well as the checklist you provided.

One of the guiding principals during the reorganization of the LA Department of Economic Development is that LED must be accountable to the public and lawmakers. To that end, we are openly embracing the results and recommendations made in your audit report. My staff will work to implement the necessary procedures and controls to ensure a sense of confidence in our ability to effectively manage all of the incentive programs administered by this agency.

As we reviewed the audit results and prepared the enclosed responses we recognized the value of having an independent set of eyes review our systems. If you have any questions on the responses please contact Mr. Mike Williams, Director of Business Resource Services at 342-5360.

Sincerely,

Don J. Hutchinson

Don J. Hutchinson
Secretary
Department of Economic Development

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AN EQUAL OPPORTUNITY EMPLOYER

Quality Jobs Incentive Program Audit Responses

To the Legislative Auditors Performance Audit Recommendations for this Program

Recommendation 1:

Partially concur. Revised Statute 51:2455 (F) states that the Department of Economic Development shall determine if the applicant is qualified to receive rebates authorized in this Chapter. While another level of review of the application may help in correcting any errors made in the application, Revised Statute 51:2460 provides for penalties if false or fraudulent information is provided in the application for a rebate. We will provide for a supervisory review prior to submission to the Commerce and Industry Board for final review.

Recommendation 2:

Partially concur. Our resources are allocated to operate the programs for which we are responsible. We are in the process of automating the application process with a database and other features so that all applications are presented in the same format which will enable us to provide a better review of the application.

Recommendation 3:

We concur. The rebate application amount may not agree with the rebate amount paid to the employers because Economic Development does not know when Department of Revenue approves an application if the company owes income taxes, franchise taxes, or unemployment taxes due to the Department of Labor. However, the Department of Economic will work with the Department of Revenue to develop a reconciliation process so that program effectiveness can be determined.

Recommendation 4:

Partially concur. The Revised Statutes provide for repayment if errors had been made in the application process and overpayments made by the Department of Revenue.

Recommendation 5:

We concur. We are automating the application process with a database and other features so that all applications are presented in the same format which will enable us to provide a better review of the application.

Recommendation 6:

We concur and will include the word "estimated" in future reports and also include a note that the estimates are for a span of 10 years.

Recommendation 7:

This recommendation is to be addressed by Department of Revenue.

Appendix D

Department of Revenue's Response

LDR
Louisiana Department of Revenue

Mr. Grover C. Austin
First Assistant Legislative Auditor
Office of Legislative Auditor
State Of Louisiana
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

RE: Legislative Auditor's Performance Audit on the Department of Economic Development's Quality Jobs Program – LDR's Response

Mr. Austin:

Basically, we agree with the information stated in the "draft" version of the report referred to above as it relates to data provided by the Louisiana Department of Revenue. Regrettably, as you stated in your report, the information reported in our Tax Exemption Budget Report is inaccurate with respect to the cost to the state for the Quality Jobs Program.

However, I submit to you that the Department has implemented a methodology that allows for the accurate accumulation of data to insure that the quality jobs credit statistics are accurately reported in the future. The new process is basic in that it requires that we maintain a database of taxpayers with outstanding quality jobs contracts. Our Legacy Computer System is then queried to determine if those particular taxpayers offset any portion of their current tax liability with the jobs credit and if any portion of the credit claimed was rebated. Because of the limitations inherent in our Legacy Computer System, this is a manual process for our personnel. However, we believe this is the best method to compile and report accurate information about this program.

The process outlined in the preceding paragraph was used to compile the data submitted to you in my letter dated November 26, 2003. We recommend that the information in this letter be used to establish the "Reported Costs of the Quality Jobs Program" referred to in your draft report. Comparing these figures to those provided by the Department of Economic Development will render a meaningful analysis.

Thanks for allowing us the opportunity to respond. Please contact me if you have any questions.

Sincerely,

Clarence J. Lymon
Assistant Secretary – Group III

c: Cynthia Bridges

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Appendix E

Glossary

Appendix E: Glossary

Benefit Rate: The percentage rate by which an employer's gross payroll for new direct jobs is multiplied to determine the amount of Quality Jobs tax rebate. The benefit rate is either 5% or 6%, depending on the hourly wage rate.

ES-4 Form: A new employer must file an application with the Louisiana Department of Labor (LDOL) to obtain an Unemployment Insurance (UI) number. Using its UI number, for unemployment insurance purposes, the employer files quarterly reports with LDOL (ES-4s) that list its employees. An existing employer that expands its work force and is admitted into the Quality Jobs Program must obtain from LDOL a second UI number. The second UI number is used to track employees in the new direct jobs that will be created, so the employer must quarterly file a second ES-4 with LDOL that lists employees in the new direct jobs. DED uses both ES-4s to track the number of old and new jobs reported by employers in the Quality Jobs Program.

New Direct Job: A job that did not exist in Louisiana prior to the employer entering into a Quality Jobs contract with the Board of Commerce and Industry. Also, it must be filled by an individual who is domiciled in Louisiana and was not previously on the employer's Louisiana payroll.

Tax Rebate (also referred to as Benefit): An employer that has entered into a contract with the Board of Commerce and Industry may receive an annual rebate in an amount that equals the benefit rate multiplied by the gross payroll of new direct jobs. The rebate is to be paid from the Louisiana Department of Revenue's (LDR) collections of income taxes or corporation franchise taxes. Before paying this rebate, the LDR may offset the rebate amount against any other tax liability owed by the employer, according to R.S. 47:1622. Therefore, many of the employers in the Quality Jobs Program use part, or all, of the rebate amount as a credit against their income and/or corporation franchise tax liability.

Traditional and Seed Clusters: Clusters are networks of compatible or competitive inter-related businesses working together to strengthen the industry market. The following *Vision 2020* industries qualify for the Quality Jobs Program:

1. Advanced Materials
2. Agriculture, Forest and Food Technology
3. Durable Goods (Marine, Automotive, Aviation)
4. Entertainment
5. Information Technology
6. Biotechnology and Biomedical
7. Logistics and Transportation
8. Oil, Gas and Energy
9. Petrochemical and Environmental Technology

See Appendix B for specific industry classification requirements.