

LOUISIANA DEPARTMENT OF REVENUE

STATE OF LOUISIANA



FINANCIAL AUDIT SERVICES
MANAGEMENT LETTER
ISSUED APRIL 13, 2022

**LOUISIANA LEGISLATIVE AUDITOR
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FIRST ASSISTANT LEGISLATIVE AUDITOR
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Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA

Louisiana Department of Revenue



April 2022

Audit Control # 80210053

Introduction

As a part of our audit of the State of Louisiana’s Annual Comprehensive Financial Report and our work related to the Single Audit of the State of Louisiana (Single Audit) for the fiscal year ended June 30, 2021, we performed procedures at the Louisiana Department of Revenue (LDR) to provide assurances on financial information that was significant to the state’s Annual Comprehensive Financial Report; evaluate the effectiveness of LDR’s internal controls over financial reporting and compliance; and determine whether LDR complied with applicable laws and regulations. In addition, we determined whether management has taken actions to correct the finding reported in the prior year.

Results of Our Procedures

Follow-up on Prior-year Finding

Our auditors reviewed the status of the prior-year finding reported in the LDR management letter dated February 3, 2021. The prior-year finding related to Noncompliance with Tax Incentive Reporting to the State Legislature has not been resolved and is addressed again in this letter.

Current-year Findings

Noncompliance with Tax Incentive and Exemption Reporting to the State Legislature and the Governor

For the second consecutive year, LDR failed to submit a comprehensive return on investment (ROI) analysis to the State Legislature for all tax incentives for which the revenue loss was one million dollars or more in fiscal year 2019, as required by state law. This ROI analysis was due to the State Legislature on April 1, 2020, and as of February 7, 2022, had not been completed for submission to the Legislature. LDR also failed to submit the annual tax exemption budget (TEB) for 2020-2021 to the Governor and the State Legislature by March 1, 2021.

Failure to timely submit the comprehensive ROI and TEB analysis to the Governor, as applicable, and the State Legislature may prevent the Governor and the State Legislature from having an accurate measurement of the impact of each tax incentive on Louisiana.

Louisiana Revised Statute (R.S.) 47:1517.1(B)(5) requires that LDR, beginning in 2020, perform a comprehensive ROI analysis for all tax incentives for which the revenue loss was one million dollars or more in the previous fiscal year. The ROI analysis is required to be performed by LDR regardless of whether LDR or another state agency administers the tax incentive. LDR's reporting of these results shall include a ranking of tax incentives by ROI and shall be due April 1st of every even-numbered year to the State Legislature for consideration in the following odd-numbered year legislative session.

R.S. 47:1517 (A) & (B) requires LDR to prepare and submit to the Governor and the State Legislature an annual tax exemption budget no later than March 1st of each year. As part of the TEB, LDR reports for each tax exemption the revenue loss caused by the exemption for the three preceding years, as well as the estimated revenue loss for the current fiscal year and the following year, and the estimated cost to administer the program for the same five-year period.

In the prior year, LDR stated its interpretation of R.S. 47:1517.1(B)(5) was that the provisions required LDR to start an analysis in calendar year 2020, but the April 1 deadline established in R.S. 47:1517.1(B) was not applicable to subsection (B)(5). In addition, LDR planned to use fiscal year 2020 data for its analysis since this information was not expected to be considered until the 2021 Regular Legislative Session. Subsequently, LDR has noted a loss of qualified personnel and the absence of an economist available to analyze the economic impact of the related tax incentives. In addition, LDR cited demands on agency personnel related to legislative requests and immediate implementation requirements for new tax reform bills as reasons the TEB was not submitted timely. LDR issued Volume I, excluding tax exemptions by parish and North American Industry Classification System sector, on July 14, 2021, and Volume II on November 5, 2021.

LDR should prepare and submit a comprehensive ROI analysis to the State Legislature by April 1st of each even-numbered year for all tax incentives for which the revenue loss was one million dollars or more in the prior fiscal year as required by state law. In addition, LDR should prepare and submit to the Governor and the State Legislature an annual tax exemption budget no later than March 1st of each year as required by state law. Management indicated concurrence with the finding and provided a corrective action plan (see Appendix A, pages 1-3).

Weaknesses in Controls over the Gentax System

LDR did not maintain an adequate Continuity of Operations Plan (COOP) and granted inappropriate access to the Gentax system, which is used for the collection, retention, and processing of tax return information and related transactions for individuals and businesses.

The following issues were noted:

- The COOP lacked current vendor contact information for the Gentax system, included outdated agency contacts, and lacked testing or review since October 2019. In addition, LDR did not properly distribute appendices to all key personnel. These weaknesses occurred because management did not emphasize proper communication of the plan and delayed necessary updates. Failure to maintain an adequate COOP could result in inadequate contractor maintenance, misunderstood

roles and responsibilities, and an ineffective plan for restoring critical data and operations during a disaster.

- LDR improperly granted access to add, edit, and approve refunds to one student employee and to Office of Technology Services (OTS) personnel in the Information Technology (IT) Assistant Director, IT Production Support, and IT Application Director positions. The granting of inappropriate access to the student occurred because the requesting supervisor was not aware of all functions included in the requested level of access. The granting of inappropriate access to OTS personnel occurred because LDR provided access for temporary support purposes but did not remove it when no longer necessary. Failure to properly restrict user access to Gentax could result in the issuance of improper or fraudulent refunds. We did not note any instances of unauthorized access.

Our evaluation was based on best implementation practices as defined by *Control Objectives for Information and Related Technology*, a framework developed by the Information Systems Audit and Control Association.

LDR should establish an adequate COOP by updating its vendor and agency contact information, documenting its testing and review, and distributing its appendices. Additionally, LDR should implement controls to ensure appropriate user access by performing complete and accurate user access reviews for both LDR and OTS employees and removing unnecessary access after system upgrades. Management indicated concurrence with the finding and provided a corrective action plan (see Appendix A, pages 4-6).

Annual Comprehensive Financial Report – State of Louisiana

As a part of our audit of the Annual Comprehensive Financial Report for the year ended June 30, 2021, we considered internal control over financial reporting and examined evidence supporting certain account balances and classes of transactions as follows:

Revenues - Corporate Income and Franchise tax, Individual Income tax, Sales tax, Severance tax, and Gasoline and Special Fuels tax

Receivables - Modified Accrual Receivables on the revenues listed above and Full Accrual Receivables in the aggregate

Note Disclosures - Refunds Payable and Tax Abatement Programs

Based on the results of these procedures, we reported a finding related to Weaknesses in Controls over the Gentax System, as described previously. In addition, the account balances and classes of transactions tested, as adjusted, were materially correct.

Federal Compliance - Single Audit of the State of Louisiana

As a part of the Single Audit for the year ended June 30, 2021, we performed internal control and compliance testing as required by Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) on LDR's major federal program, the Coronavirus Relief Fund (Assistance Listing 21.019).

Those tests included evaluating the effectiveness of LDR's internal controls designed to prevent or detect material noncompliance with program requirements and tests to determine whether LDR complied with applicable program requirements.

Other Procedures

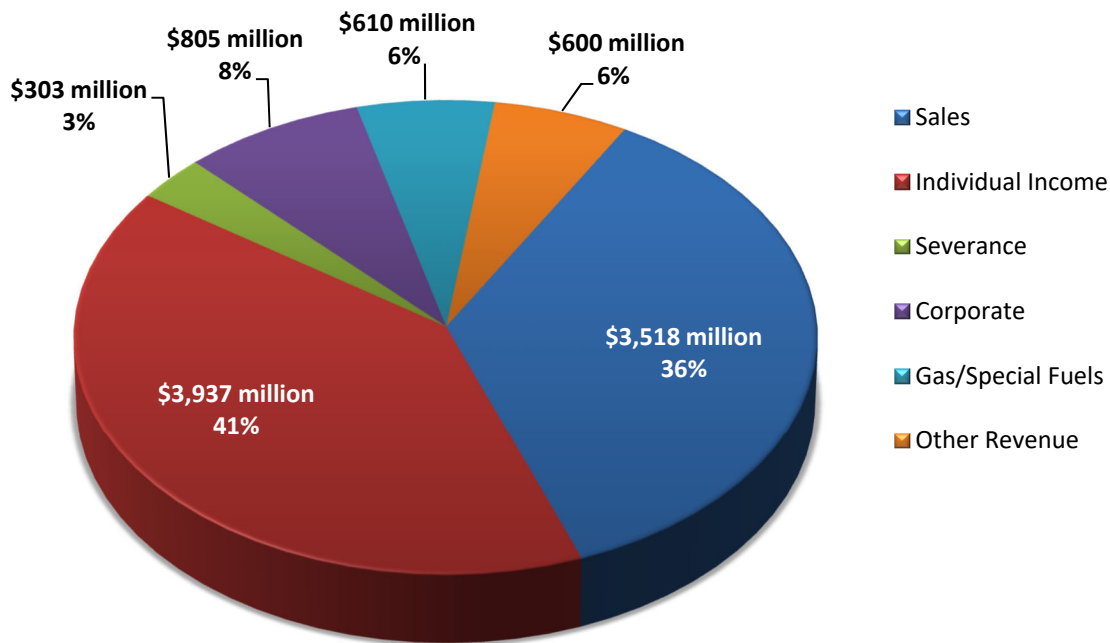
In addition to the Annual Comprehensive Financial Report and Single Audit procedures noted above, we performed certain procedures that included obtaining, documenting, and reviewing LDR's internal control and compliance with related laws and regulations over the return on investment analysis on certain tax incentives and the annual tax exemption budget.

Based on the results of these procedures, we reported a finding related to Noncompliance with Tax Incentive and Exemption Reporting to the State Legislature and the Governor, as described previously.

Trend Analysis

We compared the most current and prior-year financial activity using LDR's Annual Fiscal Reports and/or system-generated reports, and obtained explanations from LDR's management for any significant variances. We also prepared an analysis of 2021 tax revenue collections, which totaled approximately \$9.8 billion. The majority of revenues collected by LDR, 77% of total tax revenues, are generated by the collection of Individual Income tax and Sales tax.

Fiscal Year 2021 Tax Revenue Collections



Source: Fiscal Year 2021 Department of Revenue Annual Fiscal Report, as adjusted.

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

Under Louisiana Revised Statute 24:513, this letter is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

Michael J. "Mike" Waguespack, CPA
Legislative Auditor

LRL:EBT:BQD:EFS:aa

LDR2021

APPENDIX A: MANAGEMENT'S RESPONSES

State of Louisiana
Department of Revenue

JOHN BEL EDWARDS
Governor



KEVIN J. RICHARD, CPA
Secretary

March 4, 2022

Via Email Only, to: EThornton@lla.la.gov

Mr. Michael J. "Mike" Waguespack CPA
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Re: Louisiana Department of Revenue's (LDR) Response
LLA's Audit of Tax Incentive & Exemption Reporting

Dear Mr. Waguespack:

In a letter dated February 10, 2022, the office of the Louisiana Legislative Auditor (LLA) notified LDR of the results of your office's audit of LDR's tax incentive and exemption reporting. LDR reviewed the information and provides its response below.

| Noncompliance with Tax Incentive and Exemption Reporting | |
|--|--|
| Description | For the second consecutive year, the Louisiana Department of Revenue (LDR) failed to submit a comprehensive return on investment (ROI) analysis to the State Legislature for all tax incentives for which the revenue loss was one million or more in fiscal year 2019, as required by state law. This ROI analysis was due to the State Legislature April 1, 2020, and as of February 7, 2022, has not been completed for submission to the Legislature. LDR also failed to submit the annual tax exemption budget (TEB) for 2020-2021 by March 1, 2021, to the Governor and the State Legislature. |
| LLA's Recommendation | LDR should prepare and submit a comprehensive ROI analysis to the State Legislature by April 1st of each even-numbered year for all tax incentives for which the revenue loss was one million or more in the prior fiscal year as required by state law. In addition, LDR should prepare and submit to the Governor and the State Legislature an annual tax exemption budget no later than March 1st of each year as required by state law. |

In LDR's January 14, 2021 letter to the LLA (page 3, paragraph 2), it shared, "[t]hrough LDR's efforts have been impacted and/or hindered by the loss of qualified personnel, the search to replace personnel, the identification and procurement of proper software to aid an economist in performing the analysis, and COVID-19, LDR remains committed and on track to provide the Legislature with the statutorily required information prior to the start of the 2021 Legislative Session." Additionally, when Act 87 of the 2018 Regular Session ("Act 87") mandated a new biennial reporting requirement for the return on investment ("ROI Report") of each tax incentive with a revenue loss of \$1M or more, its fiscal note recognized significant resources were needed by sharing,

The bill adds an additional analytical requirement on the Dept of Revenue to perform a comprehensive return on investment analysis for all tax incentives with a revenue loss of

at least \$1 million in the previous fiscal year. The Dept indicates that there are at least 30 credits and rebates meeting the bill's dollar size threshold. Return on investment analysis can be complex and time consuming, and the bill calls for a "comprehensive" analysis, implying the inclusion of cost effects and even macro-economic effects. ***Substantial time of any existing personnel could be required to complete these analyses, warranting additional personnel to avoid foregoing other activities.*** [...] The existing report is being required every two years, but this additional analysis on all relevant incentives may have to be carried out within the year prior to reporting. ***Such a workflow would likely require additional resources in those alternating years. However, it is unlikely that the required expertise could be brought on only in alternate years...***

Emphasis added.

In short, Act 87's fiscal note and LDR's January 14, 2021 response to the LLA clearly shows a crucial prerequisite to completing the statutorily mandated analysis needed for the ROI Report is the requirement of additional resources (personnel).

LDR sought the required resource(s) (an economist, but preferably an economist team) to perform the complex analysis required for the ROI Report but lost several potential economists to the employee driven post COVID-19 market. Additionally, pandemic and natural disaster related tax relief measures and programs (including statutory and administrative extensions) required the use of LDR's existing personnel resources and delayed the compilation of key tax data needed to prepare the analysis required of the aforementioned report (as well as the additional exemption information required by Act 67 of the 2018 Regular Session). Additionally, prior to the 2021 Regular Session, LDR devoted its resources and focus to providing responses to tax reform calculations, tax incentive changes (such as limiting the utilization of nearly every incentive to 50%), and 144 fiscal note requests because these items were needed to ensure the Governor and Legislature would be prepared to handle the state's business during its upcoming legislative session. Unfortunately, the resource shift needed to complete those items also delayed the publication of the 2020-2021 Tax Exemption Budget (TEB) until after the 2021 Regular Session (even though the TEB and the data within its two volumes and 600+ pages was utilized in the preparation of the fiscal notes and other ad hoc legislative requests prior to the 2021 Regular Session).

In summary, LDR's resources were significantly strained by two (2) previous years of extraordinary circumstances and the unforeseen impacts those circumstances created, i.e. rendering LDR unable to meet the deadlines outlined for the ROI Report and TEB (tax incentive and tax exemption reporting). But, as LDR continues to work through the challenges and impacts presented by these extraordinary circumstances, it takes note of the LLA's report and will:

- Increase its recruiting efforts for qualified and knowledgeable employees that can perform the duties necessary to timely complete the tax incentive and tax exemption reports.
- Identify other resources necessary to ensure its reporting responsibilities are timely met.
- Identify improvements to workflows and processes to reduce the manual preparation time of each report.
- Identify mechanisms to increase and/or augment its current staffing levels.

Letter to: Mike Waguespack, CPA
Re: LDR Response-Tax Incentive & Exemption Reporting
March 4, 2022
Page 3 of 3

- Consider offering feedback to the Legislature to ensure the frequency and timing of future reports can be met without fail.
- Prepare and timely submit the tax incentive report and the TEB going forward.

More importantly, in addition to the aforementioned steps LDR will take, the TEB (volumes 1 and 2) and the ROI Report will be published on or by March 15, 2022. Once published, these reports will be available to the public and your office for review on LDR's website (hard copies will be available in limited quantities only to limit printing costs).

In closing, LDR believes its proposed actions will resolve any current issues related to these findings and also prevent further substantially similar issues from developing in the future. Should you have any questions or require additional information, please feel free to contact me.

Sincerely,



Kevin Richard
Secretary
Louisiana Department of Revenue

cc: Elizabeth Thornton, Audit Manager, Legislative Auditor's Office
Lisa Landaiche, Senior Financial Auditor, Legislative Auditor's Office
Mia Strong, Confidential Assistant to the Secretary, Louisiana Department of Revenue
Benjamin Clanton, Audit Manager, Internal Audit Division, Louisiana Department of Revenue
Danielle Clapinski, Director, Policy & Legislative Services Division, Louisiana Department of Revenue
Shone Pierre, General Counsel, Louisiana Department of Revenue
Laura Lapeze, Undersecretary, Louisiana Department of Revenue
Luke Morris, Deputy Secretary, Louisiana Department of Revenue

State of Louisiana
Department of Revenue

JOHN BEL EDWARDS
Governor



KEVIN J. RICHARD, CPA
Secretary

March 4, 2022

Via Email Only, to: EThornton@lla.la.gov

Mr. Michael J. "Mike" Waguespack CPA
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Re: Louisiana Department of Revenue's (LDR) Response to
LLA's Audit of Weaknesses in Controls over Gentax System

Dear Mr. Waguespack:

In a letter dated February 22, 2022, the office of the Louisiana Legislative Auditor (LLA) notified LDR of the results of your office's audit of the weaknesses in controls over the Gentax system. LDR reviewed the information and provides its responses below. For your convenience, these responses are presented in the order each issue was listed in the LLA's letter.

| 1. Inadequate Continuity of Operations Plan (COOP) | |
|--|---|
| Description | LDR's COOP lacked current vendor contact information for the Gentax system, included outdated agency contacts, and lacked testing or review since October 2019. |
| LLA's Recommendation | LDR should establish an adequate COOP by updating its vendor and agency contact information, documenting its testing and review, and distributing its appendices. |

As LDR shared in an October 10, 2021 letter to your office, it continuously reviews its COOP to determine if additional information is needed. During the pandemic in 2020, LDR's personnel had preliminary internal discussions regarding "pandemic lessons learned" and potential changes to the COOP. That work continued into 2021 with the distribution of a draft COOP document for review and comment to LDR's Directors and other executive level personnel. In summary, LDR's work on its COOP was in progress at the onset of and during the LLA's audit.

However, LDR recognizes its work and corresponding updates to the COOP were not complete at the onset of the LLA's audit. More importantly, LDR appreciates and agrees the items (current vendor contact information and updated agency contacts) requested by the LLA for inclusion in the COOP are important to ensure proper continuity and efficiency of LDR's operations if LDR were impacted by another natural disaster, pandemic, or other event. As a result, LDR directed its appropriate personnel to:

- Complete updates to the COOP by December 31, 2021.
- Distribute a copy of the updated COOP with the appendices included, to its directors and other executive personnel.
- Maintain at least 7 hard copies of the updated COOP in different areas of the agency as follows:

- Office of the Secretary
- Call Center
- Revenue Processing Center
- Audit Review & Appeals
- Human Resources Division
- Agency Compliance Division
- Policy Services Division
- Continue to update its agency contact list at least once a year using the methods discussed above.
- Review the COOP on an annual basis and distribute an updated document by the end of each calendar year.
- Review and test the critical/essential functions portion of the COOP with appropriate documentation on an annual (or more frequent) basis.

As of the date of this response, LDR has implemented the aforementioned commitments.

| 2. Improper Access to Specific Gentax (DELTA) Functions | |
|--|---|
| Description | The LDR improperly granted access to add, edit, and approve refunds to one student employee and to Office of Technology services (OTS) personnel in the Information Technology (IT) Assistant Director, IT Production Support, and IT Application Director positions. |
| LLA’s Recommendation | LDR should implement controls to ensure appropriate user access by performing complete and accurate user access reviews for both LDR and OTS employees and removing unnecessary access after system upgrades. |

The employee and the supervisor followed LDR’s policy and procedure memorandum (PPM) 17.04, “Authorization for Computer Access to Confidential Data and Changes to DELTA Security Profiles” (PPM 17.04), to request and approve a user profile (for the employee) in LDR’s Gentax system (DELTA). Once the request was approved by the supervisor and the DELTA user profile was created (which grants access to DELTA and defines the areas of DELTA that can be accessed), it was later determined the employee’s DELTA user profile could access a DELTA function (“unknown DELTA function”) that was not clearly defined as being included in the user profile requested by the employee and supervisor. Neither the employee nor supervisor knew access to the unknown DELTA function was granted. More importantly, the employee did not access the unknown DELTA function; so, no refunds were ever added, edited or approved by the employee. In short, granting access to the unknown DELTA function was unintended and no improper or fraudulent refunds were issued.

With the Office of Technology Services (OTS) personnel (“OTS employees”), DELTA access was granted so the OTS employees could ensure certain DELTA functions were properly implemented. Though DELTA access was not removed after the work was done, there is no record that any of the OTS employees accessed DELTA afterwards or that they added, edited, approved or issued any improper or fraudulent refunds.

Additionally, in both instances discussed above, when the inappropriate access was discovered it was immediately suspended by LDR. So, the potential for any improper or fraudulent refunds to be added, edited, approved or issued within DELTA no longer exists. However, LDR believes any failure to properly

restrict user access to DELTA (for any period of time) can impact the data integrity of the system and potentially lead to improper transactions and/or refunds. As a result, LDR will:

- Perform a periodic review of DELTA user profiles (LDR and OTS personnel) to ensure proper access has been granted.
- Ensure a specific review of DELTA user profiles (LDR and OTS personnel) is done prior to and after each upgrade of LDR's DELTA system.
- Direct its system vendor along with its Agency Compliance and Internal Audit divisions to:
 - Create a complete listing and description of the different DELTA user profiles.
 - Make the list and description of each type of DELTA user profile available with the DELTA Security Access Agreement.
 - Notify and/or train all LDR and OTS supervisors about the different types of DELTA user profiles.

In closing, LDR believes its proposed actions will resolve any current issues related to these findings and also prevent further substantially similar issues from developing in the future. Should you have any questions or require additional information, please feel free to contact me.

Sincerely,



Kevin Richard
Secretary
Louisiana Department of Revenue

cc: Elizabeth Thornton, Audit Manager, Legislative Auditor's Office
Lisa Landaiche, Senior Financial Auditor, Legislative Auditor's Office
Michelle, Chester, FAST Enterprises Project Manager, FAST Enterprises
Mia Strong, Confidential Assistant to the Secretary, Louisiana Department of Revenue
Benjamin Clanton, Audit Manager, Internal Audit Division, Louisiana Department of Revenue
Aileen Fang, Director, Agency Compliance Division, Louisiana Department of Revenue
Redmond Saunier, Director, Business Services Division, Louisiana Department of Revenue
Shone Pierre, General Counsel, Louisiana Department of Revenue
Laura Lapeze, Undersecretary, Louisiana Department of Revenue
Luke Morris, Deputy Secretary, Louisiana Department of Revenue

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Louisiana Department of Revenue (LDR) for the period from July 1, 2020, through June 30, 2021, to provide assurances on financial information significant to the State of Louisiana's Annual Comprehensive Financial Report, and to evaluate relevant systems of internal control in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our procedures, summarized below, were a part of the audit of the Annual Comprehensive Financial Report and our work related to the Single Audit of the State of Louisiana (Single Audit) for the year ended June 30, 2021.

- We evaluated LDR's operations and system of internal controls through inquiry, observation, and review of its policies and procedures, including a review of the laws and regulations applicable to LDR.
- Based on the documentation of LDR's controls and our understanding of related laws and regulations, we performed procedures to provide assurances on certain account balances and classes of transactions to support our opinions on the Annual Comprehensive Financial Report.
- We performed procedures on the Coronavirus Relief Fund (Assistance Listing 21.019) for the year ended June 30, 2021, as a part of the 2021 Single Audit.
- We compared the most current and prior-year financial activity using LDR's Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from LDR's management for significant variances.

In addition, we performed procedures on LDR's internal control and compliance with related laws and regulations relating to the return on investment analysis on certain tax incentives and the annual tax exemption budget. The scope of these procedures was significantly less than an audit conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

The purpose of this report is solely to describe the scope of our work at LDR, and not to provide an opinion on the effectiveness of LDR internal control over financial reporting or on compliance. Accordingly, this report is not intended to be, and should not be, used for any other purposes.

We did not audit or review LDR's Annual Fiscal Report, and accordingly, we do not express an opinion on that report. LDR's accounts are an integral part of the state of Louisiana's Annual Comprehensive Financial Report, upon which the Louisiana Legislative Auditor expresses opinions.