

Report Highlights

Louisiana Department of the Treasury Unclaimed Property Program April 2004

Louisiana Legislative Auditor

Unclaimed property consists of any fund or intangible property held or owing in the ordinary course of a holder's business that has remained unclaimed for a certain number of years. State law requires holders to report unclaimed property to the treasury each year. More than \$300 million in unclaimed property has been remitted to the state since the program began in 1972. More than \$90 million has been returned to persons identified as the rightful owners.



The Unclaimed Property Division within the Department of the Treasury is funded through collections of unclaimed property. The division can spend up to 7% of collections to administer the program. Collections that are in excess of yearly refunds and administrative costs are spent by the state on general operations.

Audit Results

- ◆ The division has not ensured that all holders report all unclaimed property.
- ◆ The division has not regularly conducted audits of in-state holders; reviewed holder reports for accuracy, completeness, and timeliness; or ensured that information from hard copy holder reports is correctly input onto the unclaimed property database.
- ◆ Management has not stipulated what constitutes acceptable documentation to verify claimants' identities. We found many cases where the division paid claims even though the documentation submitted to prove the claimants' identities was inadequate, illegible, questionable, or expired.
- ◆ Management has not limited access to the unclaimed property database; therefore, unauthorized changes could be made to it, which could result in erroneous or fraudulent claims payments.
- ◆ Nearly \$18 million of unclaimed property in the division's possession is not included on its database or Web site.
- ◆ Incurring large expenditures in the future could adversely impact the financial structure of the division. The state may have to use unbudgeted general fund dollars to pay these expenditures.
- ◆ We estimated that the treasurer will pay between \$153,000 and \$276,000 in excess interest to claimants of interest-bearing unclaimed property over the next 10 years.
- ◆ The division does not sell unclaimed securities; therefore, the state does not have access to approximately \$23 million in proceeds. The state does, however, have use of the dividends earned on the securities.
- ◆ We estimated that the division could have collected over \$13.7 million in interest and penalties over the past three fiscal years from holders who filed delinquent reports of unclaimed property. This amount could help fund the division's needs for which Treasury officials say they have insufficient resources, assuming legislative appropriation of the funds.

Has the Unclaimed Property Division Ensured That All Holders of Unclaimed Property Report All Property to the Treasurer?

What We Found

- The division does not conduct audits of current and potential in-state holders and cannot determine whether all unclaimed property has been reported by all holders.
- Division employees do not always review holder reports for accuracy, completeness, and timeliness and often enter incorrect owner and property information onto the unclaimed property database.
 - ◆ Twenty-five of 88 holder reports we reviewed, or 28.4%, had at least one inputting error. The value of these errors totaled \$38,566.
- Manually entering holder reports requires additional staff hours. It took the following amounts of time to enter data:
 - ◆ **2001:** 161.4 days, or 5 months
 - ◆ **2002:** 102.5 days, or 4 months
 - ◆ **2003:** 73.7 days, or 2 months
- The division has unnecessarily restricted its existing employee resources by scheduling numerous activities around the annual holder report filing deadline.

Recommendations

- ✓ The division should either reallocate current resources or find new resources to conduct audits of potential in-state holders.
- ✓ The division director should develop and implement a formal written policy requiring employees to review holder reports for accuracy, completeness, and timeliness.
- ✓ The division director should revise the yearly schedule of events and separate the two busiest events of the year (holder report deadline and advertising).
- ✓ If the legislature does not amend R.S. 9:159, the division should expand its reach in its efforts to encourage holders to report electronically.

Matters for Legislative Consideration

- ✓ The legislature should consider amending:
 - ◆ R.S. 9:161(A) to require the division to advertise properties six months before the following year's holder reporting deadline; and
 - ◆ R.S. 9:159 to require holders to report electronically to the division. An exception could be made for holders who do not have electronic capabilities.

Has the Unclaimed Property Division Ensured That Owners of Unclaimed Property Are Accurately Identified and Refunded Within the Mandated Timeframe?

What We Found

- Division management has not limited division employees' and the database contractor's access to the unclaimed property database or monitored changes these individuals make to the database.
- Management has not stipulated what constitutes acceptable documentation for proving the identities of claimants of unclaimed property.
 - ◆ We found that 52 of 96 (54.2%) claims we reviewed had been paid even though documentation submitted by the claimants to prove the claimants' identities was illegible, questionable, not notarized as required, incomplete, or expired.
- The division has not promptly remitted property belonging to owners in other states to those states.
 - ◆ A total of \$3.9 million of property in the division's database at the end of fiscal year 2002 belonged to individuals in other states. A total of \$823,000 of this property was interest-bearing.
- Nearly \$18 million of unclaimed property is not on the unclaimed property database or Web site.
 - ◆ Property remitted to the division between 1972 and 1986 has not been input into the database; instead, it is kept in hard copy format at the division office.
 - ◆ People who search the division's Web site and use the phone bank may not be able to locate this property.
- The unclaimed property Web site is not as flexible as it could be, which limits users' ability to conduct productive searches for property.
- We found 211 properties totaling over \$50,000 that belong to entities such as hospitals, schools, and cities that are easy to locate but that had not been returned.

Recommendations

- ✓ The division director should develop and implement formal written policies that:

- ◆ Limit employee and contractor access to critical areas in the database, require supervisory reviews of activity in the database, and require periodic job rotation for division employees;
 - ◆ Stipulate what constitutes acceptable documentation for verifying the identities of claimants;
 - ◆ Formalize the requirement that claims of \$250 and above be notarized;
 - ◆ Stipulate time periods for remitting reciprocal property to other states and require property belonging to owners in other states to be remitted to those states before the annual holder reporting deadline;
 - ◆ Require employees to check the hard copy files when callers provide sufficient identifying information until all property is input into the database; and
 - ◆ Require employees to periodically search for and return property belonging to entities whose names are easily recognizable and can be easily located.
- ✓ Management should continually train employees who handle claims processing on what constitutes appropriate proof of identity, and employees should remain alert for obvious or questionable documentation submitted as proof of identity.
 - ✓ The director should ensure that information contained in the old hard copy holder reports is entered onto the database as soon as possible.
 - ✓ The director should see that the search instructions for the division's Web site provide more explicit directions and that a notice is posted on the Web site stating that most property reported by holders from 1972 through 1986 is not included.
 - ✓ The division should work with the Web page designer to create a more flexible search engine.

Matter for Legislative Consideration

- ✓ The legislature should consider amending R.S. 9:163 to stipulate that the department either shall not pay interest on reciprocal property at all or shall not pay interest on reciprocal property in cases where the state of last known address does not pay interest.

What Financial Issues Could Impact the Unclaimed Property Division?

What We Found

- Each year the state spends total unclaimed property collections less claims paid on general operations. If the division experienced a large influx of claims or incurred large expenditures, the state may have to use unbudgeted general fund dollars to pay those expenditures.
- The division generally pays more interest than necessary to claimants on interest-bearing property.
 - ◆ The division applies a default rate of 5% when holders do not report actual interest rates earned on property when it was held by the holders.
 - ◆ We estimated that the division will pay from \$153,000 to \$276,000 more interest than necessary over the next 10 years.
- The division does not have a policy for holding or selling securities in its possession. According to state law, the division may sell securities after three years.
 - ◆ Because the state does not sell securities, it will not realize approximately \$23 million in proceeds from securities on hand at the end of fiscal year 2003 or \$3.2 million per year in proceeds from future sales.
 - ◆ The state does, however, have use of the dividends earned on the securities. In fiscal year 2003, the division collected \$1.7 million in dividends.
- The division has not assessed interest and penalties on holders for reporting unclaimed property after the statutory deadline, as provided for in state law, and has recently implemented an amnesty program to forgive past interest and penalties (even though it has never charged interest and penalties).
 - ◆ We reviewed 8,791 holder reports and found that 55.6% were delinquent. We estimated that over \$13.7 million in interest and penalties could have been collected for these late reports.
 - ◆ Charging interest and penalties could provide resources to conduct tasks where resources are currently limited, subject to legislative appropriation.

Recommendations

- ✓ The division should analyze whether 7% of total gross collections is sufficient to meet the division’s administrative needs.
- ✓ If the legislature does not amend R.S. 9:163, the division director should develop and implement a formal written policy that requires employees to apply the lesser of 5% or the actual interest rate for interest bearing property.
- ✓ If the legislature does not amend R.S. 9:164(C), the division should conduct a formal risk assessment regarding the sale of securities.
- ✓ The division should conduct a formal assessment to determine whether it would be more beneficial to assess, rather than not assess, interest and penalties for delinquent holder reports.

Matters for Legislative Consideration

- ✓ The legislature should consider amending:
 - ◆ R.S. 9:165(B) to allow external auditor fees to be paid either out of gross collections or interest and penalties collected;
 - ◆ R.S. 9:163 to require the treasurer to pay the lesser of 5% or the actual interest rates earned on interest-bearing property; and
 - ◆ R.S. 9:164(C) to clarify its intent regarding the sale of securities.

Louisiana Legislative Auditor

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STATE OF LOUISIANA

Department of the Treasury
Unclaimed Property Program
Baton Rouge, Louisiana

April 2004



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April 7, 2004

The Honorable Donald E. Hines, M.D.
President of the Senate
The 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 Louisiana Unclaimed Property Program administered by the Department of the Treasury. This audit was conducted under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended.

This performance audit report contains our findings, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

Sincerely,

Grover C. Austin, CPA
First Assistant Legislative Auditor

GCA/dl

[TREASURY04]



Legislative Auditor

Department of the Treasury Unclaimed Property Program Executive Summary

The Unclaimed Property Division within the Department of the Treasury administers the Louisiana Uniform Unclaimed Property Act. The division serves as custodian of funds and intangible property that have remained unclaimed for a specified number of years. The results of our performance audit are as follows:

Identifying Holders and Property *(See pages 9 through 17 of the report.)*

The division has not ensured that all holders report all unclaimed property. The division has not regularly conducted audits of in-state holders; reviewed holder reports for accuracy, completeness, and timeliness before entering data from them onto the unclaimed property database; or ensured that information from hard copy holder reports is correctly input onto the database.

Identifying Property Owners *(See pages 19 through 34 of the report.)*

The division has not ensured that all owners of unclaimed property are correctly identified before refunding property to them. Management has not limited access to the unclaimed property database; therefore, unauthorized changes could be made, which could result in erroneous or fraudulent claims payments. In addition:

- Management has not stipulated what constitutes acceptable documentation to verify identities of claimants. We found many cases where the division paid claims although documentation to prove the claimants' identities was inadequate, illegible, questionable, or expired.
- At the end of fiscal year 2002, the division had over \$3.9 million in property belonging to owners in other states that should have been remitted to those states.
- Nearly \$18 million of unclaimed property in the division's possession is not included on its database or Web site and therefore cannot be researched by potential owners using the Internet or phone bank.
- Property belonging to towns, cities, schools, and large hospitals, which are easy to identify and locate, remains in the division's possession because division employees have not contacted the entities to initiate the claims process.

Financial Issues *(See pages 35 through 44 of the report.)*

Large future claims, audit fees, and other expenditures could adversely impact the financial structure of the division. The state may have to use unbudgeted general fund dollars to pay excess expenditures. In addition:

- The division pays excessive interest to claimants on interest-bearing property. We estimated that the division will pay from \$153,000 to \$276,000 in excess interest over the next 10 years.
- The division does not sell unclaimed securities; therefore, the state does not have access to approximately \$23 million in proceeds. The state does, however, have use of dividends earned on the securities being held.
- The division has not collected interest and penalties from holders who file delinquent reports of unclaimed property, as is allowed by state law. We estimated that the division could have collected over \$13.7 million over the past three fiscal years. This amount could help fund many of the division's needs for which Treasury officials say they have no resources, assuming legislative appropriation.

Introduction

Audit Initiation and Objectives

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. Louisiana Revised Statute (R.S.) 24:522 establishes the Louisiana Performance Audit Program, which requires that a performance audit be conducted in each executive branch department within a seven-year period. In accordance with this requirement, the Office of the Legislative Auditor developed a plan that scheduled an audit of the Department of the Treasury to begin in fiscal year 2003. The scheduling of this audit was approved by the Legislative Audit Advisory Council on February 27, 2002. We focused the audit on the Unclaimed Property Program.

Our audit objectives were to answer the following questions:

- I. Has the Unclaimed Property Division ensured that all holders of unclaimed property report all property to the Treasurer?**
- II. Has the Unclaimed Property Division ensured that owners of unclaimed property are accurately identified and refunded within the mandated timeframe?**
- III. What financial issues could impact the Unclaimed Property Division?**

Appendix A contains our audit scope and methodology.

History of Unclaimed Property Program

The first Louisiana unclaimed property law was enacted in 1972 and was modeled after the 1966 national Uniform Unclaimed Property Act. The national act was most recently updated and reenacted in 1995. During the 1997 Regular Legislative Session, the Louisiana Legislature adopted the Louisiana Uniform Unclaimed Property Act. It is based on the 1995 national act, which was designed to promote uniformity among all states. The state's unclaimed property act can be found in Title 9, sections 151 through 181. Currently, all unclaimed property is administered using this law. During the First Extraordinary Session of 2000, Act 135 moved the administration of the unclaimed property program from the Department of Revenue to the Department of the Treasury.

Unclaimed property is not unique to Louisiana. All 50 states and the District of Columbia have unclaimed property laws. Unclaimed property consists of any funds or intangible property held or owing in the ordinary course of a holder's business that have remained unclaimed for a certain number of years. See Appendix C for the lengths of time after which different types of property are considered abandoned. The majority of these laws are patterned after the Uniform Unclaimed Property Act.

As of the end of fiscal year 2003, more than \$308 million of unclaimed property had been remitted to the state since program inception in 1972. The division had refunded more than \$91 million to persons and entities identified as rightful owners. For the past three fiscal years, administrative costs of the division amounted to \$979,374; \$1,273,113; and \$1,814,866, respectively. According to the First Assistant State Treasurer, the increase in administrative costs is a result of increased fees paid to auditors who have located unclaimed property in other states for Louisiana residents.

Services and Customers

The Unclaimed Property Division collects, holds, and distributes abandoned intangible property. Examples of common holders from which the division collects unclaimed property each year include banks, insurance companies, and companies with large payrolls. However, any business in Louisiana could have unclaimed property on hand.

State law [R.S. 9:159(D)] requires holders of unclaimed property to report all such property in their possession to the Treasury before November 1 of each year. The reports should include all unclaimed property in the holders' possession for the prior state fiscal year. For example, a holder report due before November 1, 2003, should contain all property that has been determined to have been abandoned between July 1, 2002, and June 30, 2003. Having holders of unclaimed property report to the Treasury enables owners of unclaimed property to search only one place for their property.

Unclaimed property could belong to any individual who has lived in or done business in Louisiana. It could also belong to any entity that has done business in Louisiana. Owners of unclaimed property can search for their property on the Department of the Treasury's Web site, by phone, in person at the Unclaimed Property Division's office, or at any of the mall shows and community outreach programs sponsored by the division each year. Potential owners who claim property must provide appropriate identifying documentation to receive the property. (See Exhibit 3 on page 5 for the Unclaimed Property Division's collection and claims process.)

If property claimed by an owner was interest bearing at the time it was remitted to the state by a holder, the Treasury is required by law (R.S. 9:163) to continue to pay interest for a maximum of 10 years in the amount of 5% or any lesser rate the property earned while in the possession of the holder. If a property owner has a last known address in another state, the division will advertise that address in its annual advertisement of unclaimed properties. If the property is not claimed, it is to be remitted to the unclaimed property office in the state of the owners' last known address.

Legal Authority

Both the Louisiana and the national unclaimed property acts include provisions for the delivery of unclaimed property, notice of publication of unclaimed property, interest and penalties for not delivering property, payment of claims, use of reciprocal agreements, and

payment of interest to claimants. The Louisiana act however takes these provisions and makes them applicable to the State of Louisiana. Exhibit 1 shows key provisions of the 1997 Louisiana Uniform Unclaimed Property Act that pertain to our audit.

Exhibit 1
Summary of Key Provisions From
1997 Louisiana Uniform Unclaimed Property Act

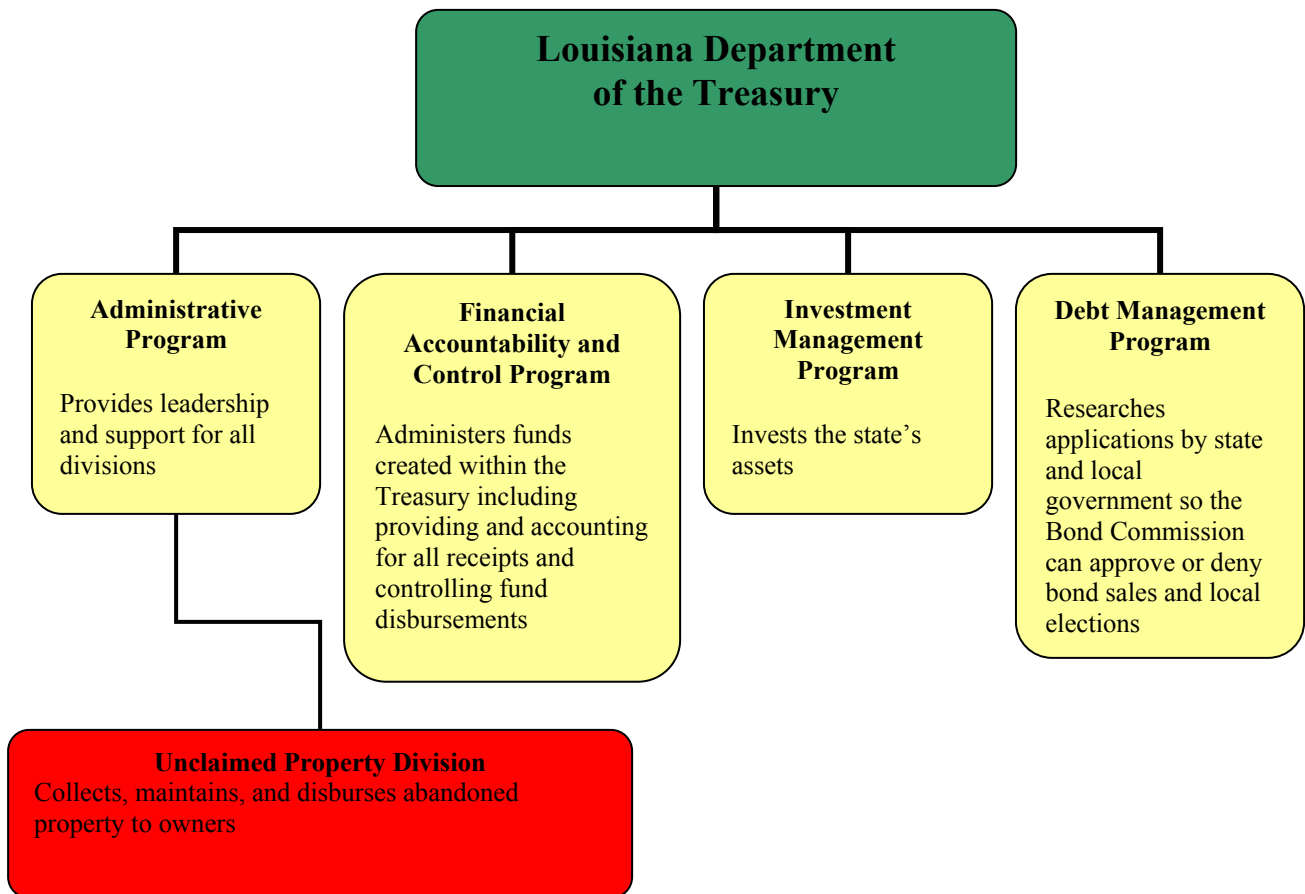
Title/Section	Key Provisions
R.S. 9:154	Provides that property is presumed abandoned if it is unclaimed during the timeframes set forth in Appendix C
R.S. 9:156	Provides rules for when the state takes custody of property
R.S. 9:159	Requires holders' reports of abandoned property
R.S. 9:160	Requires payment or delivery of abandoned property
R.S. 9:161	Requires a notice of publication of lists of abandoned property
R.S. 9:162	Provides for custody of unclaimed property by the state, recovery by holders, and defense of holders
R.S. 9:163	Requires DOT to pay property owners a rate of 5% interest per year or any lesser rate the property is earning at the time the property is transferred to the owners for a maximum of 10 years
R.S. 9:165	Provides for the deposit of property collections into the Bond Security and Redemption Trust Fund and the minimum amount of \$500,000 to be held in a separate trust fund to pay claims
R.S. 9:166	Allows other states to claim property in Louisiana's possession
R.S. 9:167	Provides for the handling of claims and the timeframe in which those claims must be paid
R.S. 9:171	Provides that there is no limitation on the length of time the state will hold owners' property
R.S. 9:172(B)	Allows the division to require a person who has not filed a report to file a verified report. The division may also at reasonable times and upon reasonable notice examine the records of any person to determine whether the person has complied with the laws. The division may examine the records of an agent of a business association that is the holder of property presumed abandoned.
R.S. 9:175	Allows the division to enter into agreements with other states to exchange information relating to abandoned property or its existence
R.S. 9:176	Requires holders who fail to report, pay, or deliver property within the prescribed time to pay interest at a rate determined in R.S. 13:4202 and penalties of up to \$5,000 to the unclaimed property administrator

Source: Prepared by legislative auditor's staff using information from Louisiana Uniform Unclaimed Property Act.

Organization

The Unclaimed Property Division is located in the Administrative Program of the Department of the Treasury. The Administrative Program is one of four programs within the department. Exhibit 2 shows the placement of the division within the Department of the Treasury.

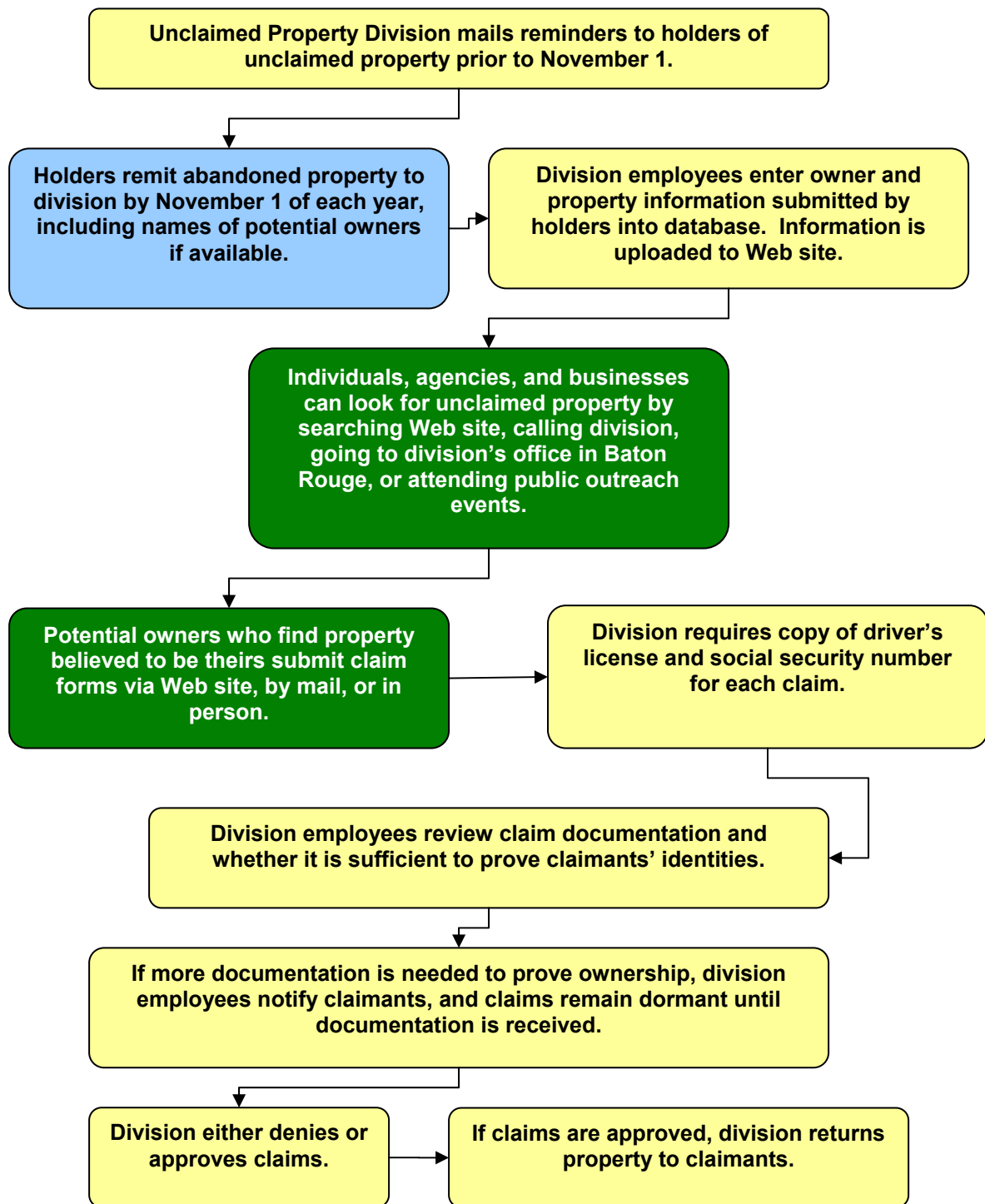
**Exhibit 2
Department of the Treasury
Organizational Structure**



Source: Prepared by legislative auditor’s staff using information obtained from Department of the Treasury.

Exhibit 3 on the following page shows when reports are filed and unclaimed property is remitted to the division as well as how property is returned to owners by division employees.

Exhibit 3
Unclaimed Property Division's Collection and Claims Process



Source: Prepared by legislative auditor's staff using information obtained from Department of the Treasury.

Funding and Staffing

The Unclaimed Property Division is funded through collections of unclaimed property. R.S. 9:165(B) allows the division to spend up to 7% of its collections to fund administration of the program. Because the division does not sell unclaimed securities, securities are not included in collections for the purpose of calculating the 7% maximum. Exhibit 4 shows the collections, expenditures, and expenditures as a percent of collections for fiscal years 2001 through 2003. The exhibit shows that the division has not exceeded the 7% maximum amount allowed for funding its operations.

Exhibit 4
Unclaimed Property Collections and Expenditures
Fiscal Years 2001 Through 2003

Fiscal Year	Collections (Excluding Securities)	Division Expenditures	Expenditures as Percent of Collections
2001	\$31,144,099	\$979,374	3.14%
2002	\$28,576,483	\$1,273,113	4.46%
2003	\$27,647,019	\$1,814,866	6.56%
Source: Prepared by legislative auditor's staff using information obtained from Department of the Treasury.			

Even though the division uses a maximum of 7% of collections (excluding securities) to fund the administration of the program, the division returns 100% of each identified owner's property once it is formally claimed. A Department of Treasury official said that it is possible to return all property claimed by rightful owners because yearly collections have historically exceeded disbursements and should continue to do so in the future. Collections that are in excess of yearly refunds and administrative costs are spent by the state on general operations.

A large portion of the expenditures for operating the Unclaimed Property Division is for salaries, benefits, and other compensation. In fiscal year 2003, approximately 36.9% of the division's total expenditures were for salaries and related expenditures. The division employed nine full-time employees and 15 part-time employees during fiscal year 2003. Exhibit 5 on the following page shows the distribution of full-time and part-time employees compared to the other programs within the Department of the Treasury.

Exhibit 5
Department of the Treasury
Full-time and Part-time Employees
As of April 29, 2003

Division or Program	Full-Time Employees		Part-Time Employees	
	Number	Percent of Total	Number	Percent of Total
Unclaimed Property Division	9	17.3%	15	60.0%
Administrative Program (excluding Unclaimed Property)	13	25.1%	4	16.0%
Financial Accountability and Control Program	19	36.5%	2	8.0%
Investment Management Program	5	9.6%	2	8.0%
Debt Management Program	6	11.5%	2	8.0%
TOTAL	52	100.0%	25	100.0%
Source: Prepared by legislative auditor's staff using information obtained from Department of the Treasury.				

Identifying Holders and Unclaimed Property

Has the Unclaimed Property Division Ensured That All Holders of Unclaimed Property Report All Property to the Treasurer?

The Unclaimed Property Division has not ensured that all holders of unclaimed property report all unclaimed property in their possession to the Treasurer as required by law. The division has not regularly conducted audits of in-state holders or the property they include in or omit from their reports to the division. Audits could help identify in-state holders and detect deficiencies in in-state holder reports of unclaimed property. In addition, the division has no controls in place to ensure that division employees:

- **Review holder reports of unclaimed property for accuracy, completeness, and timeliness.** In several cases, we found errors in the information that holders had reported. We also found that holder reports were often submitted after the October 31 annual filing deadline.
- **Correctly input information from holder reports into the unclaimed property database.** We found numerous errors in owner and property information on the database that division employees had made when entering the data from hard copy holder reports.

Audits of Financial Institutions and Other Entities Could Help Identify In-state Holders and Ensure That They Report to the Treasurer

The division uses its database and a listing of in-state businesses, financial institutions, and other entities to identify in-state holders of unclaimed property. The division has no way of ensuring that holders who report unclaimed property include complete and accurate information on the property and its owners. The division's procedures are similar to those of two other states (Nevada and Oklahoma) we surveyed that have populations and unclaimed property collections similar to Louisiana's. However, unlike those states, the division has not regularly conducted audits of current and potential in-state holders. Yearly collections of unclaimed property have been on an upward trend for the last 10 fiscal years. Auditing in-state holders on a regular basis would help ensure that all in-state holders report all property in their possession, which could further increase collections.

Three of the five (60%) states we surveyed (Nevada, Oklahoma, and Oregon) said that they employ internal staff auditors to conduct desk audits of potential in-state holders. (See Appendix D for survey results.) The audits help verify that all in-state holders have reported to the unclaimed property office and that they have reported all property presumed to be unclaimed. All five states indicated that audits should be conducted to ensure that all holders report unclaimed property.

In contrast, in Louisiana, the unclaimed property database flags holders who have previously submitted unclaimed property to the division. Each year, the system performs a sweep of those holder names that are active entities and generates letters reminding them that the October 31 statutory deadline for submitting unclaimed property reports is approaching.

The division also reviews listings of possible holders it receives from the following sources:

- **Office of Financial Institutions** - This office generates a listing of banks, credit unions, savings banks, thrifts, and check cashing entities in the state.
- **Department of Insurance** - This department provides a listing of insurance companies operating in the state.
- **Department of Labor** - This department creates a listing of companies with large payrolls.
- **Baton Rouge Business Report** - The business report prepares a listing of the top “large/great” businesses in Baton Rouge.

Division employees cross-reference the holders found on these lists with the holders included on the unclaimed property database. If a holder’s name is found on one of the lists but not on the database, the employees add the entity to the mailing list so that it will receive a notice of the impending October 31 reporting deadline. In fiscal year 2002, division staff mailed approximately 12,000 letters informing in-state holders that unclaimed property needed to be reported before November 1, 2002. The division received approximately 3,000 reports of unclaimed property. The division does not have a means of identifying small companies in the state that have never submitted unclaimed property reports and would not be found on the listings described above.

Department of the Treasury officials agreed that conducting audits of current and potential holders would be beneficial. They also said that they have special contracts with specific attorneys for oil and gas properties. However, they said that the division does not have the money or staff to conduct audits of other Louisiana entities. The division does plan to begin contracting with external in-state auditors in 2004 to begin auditing businesses, financial institutions, and other entities to determine if they are complying with unclaimed property laws.

Recommendation 1: The Unclaimed Property Division should either reallocate current resources or find new resources to conduct audits of potential in-state holders of unclaimed property using the lists provided by external sources and the unclaimed property reports submitted by holders. The focus of the audits should be on determining if all holders report all unclaimed property in their possession, as required by law, and whether the information they report is complete and accurate.

Summary of DOT Response: The department partially agrees with this recommendation. The department began the in-state audit process several years ago and has had a contract with the Revenue Recovery Group since August of 2003 and expects field examinations to begin this quarter. Another contract began in 2001 for audits to examine oil and gas producers for the underreporting of mineral royalties due Louisiana residents. The department also uses holder education seminars and publications to inform holders of their obligations and has added new holders to its list by comparing the unclaimed property database to all companies listed on the New York Stock Exchange and using an online business directory service.

Legislative Auditor's Additional Comments: As of the date of this report, no in-state audits have been conducted by the division or external audit firms of non-oil and gas in-state holders.

Division Employees Should Review Holder Reports for Accuracy, Completeness, and Timeliness Before Entering Information Into Database

Division employees do not always review holder reports for accuracy and completeness before entering information from them into the unclaimed property database. The division does not require employees to review holder reports in detail and contact holders about discrepancies. In addition, employees do not check holder reports to ensure that they were submitted by the statutory deadline. The lack of attention paid to holder reports is due largely to the division's scheduling of events, which causes holder reports and claims to be submitted close together and employees to work with unnecessary pressure. As a result, errors in property and owner information occur in the database. This situation can result in owners not being able to locate their property and erroneous claims being paid.

We reviewed 88 hard copy holder reports and found errors, inconsistencies, and omissions in many of the reports. For example, in one report, the holder reported property of an owner who was located in another state. The holder correctly reported the owner's city and zip code but incorrectly reported Louisiana as the state of residence when it should have been Colorado. Although the zip code reported by the holder was not a Louisiana zip code, division employees did not check with the holder about the discrepancy and, instead, input the incorrect state of residence into the database. In several other cases, holders reported multiple properties for single owners, but only listed social security numbers for the first owners listed. Because more than one person can have the same first and last name, division employees should have verified that the remaining property belonged to the same owners before entering the information onto the database.

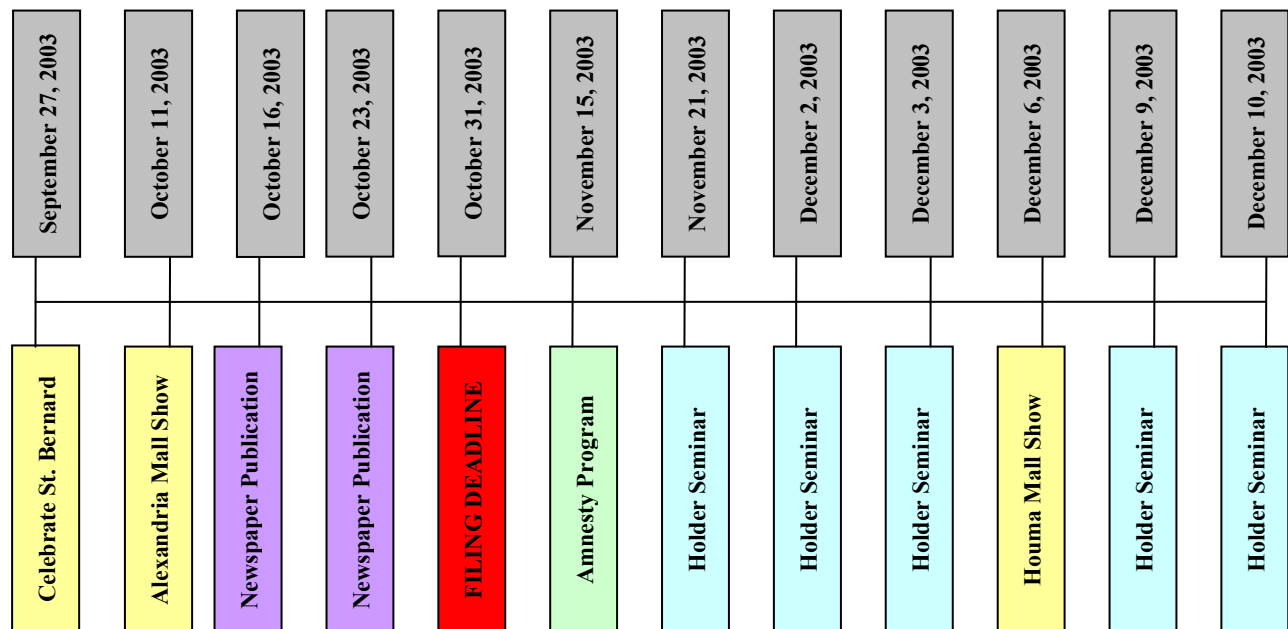
In addition, we found that holders often did not submit their reports to the division on time. R.S. 9:159(D) requires holders to submit all property reports that cover the previous state fiscal year before November 1 of each year. In a review of 8,791 holder reports that were submitted in fiscal years 2001 through 2003, we found that 4,892 reports (55.6%) were submitted after the statutory deadline.

We discussed the need for employees to review holder reports for accuracy, completeness, and timeliness with Department of the Treasury officials. They said that when the unclaimed property program was at the Department of Revenue, they had more employees to handle data entry and other functions. After the program was transferred to the Department of the Treasury, they were not allocated as many employees or resources. Therefore, they said, the division must do more work with fewer employees.

However, we found that the division has restricted its existing resources by scheduling various events around the holder report filing deadline, which is one of the busiest times of the year for the office. The division has scheduled community outreach seminars, mall shows, and advertisements of unclaimed property around the October 31 deadline. According to division officials, these events are expected to increase the number of claims and holder reports received by the division. Scheduling the events when a statutory deadline is not in effect would result in a more efficient use of staff time.

To illustrate, in 2003, the division scheduled numerous activities and events around the report filing deadline. R.S. 9:161(A) requires the division to advertise unclaimed property by November 30 of the year following the year in which the property has been paid or delivered. To comply with this law, the division ran lists of names in Louisiana newspapers on October 16, 2003, and October 23, 2003. Division employees told us that they split the advertising schedule into two phases to spread out the number of inquiries that would result from the publications. However, both publishing dates were only a few weeks before the reporting deadline. Thus, splitting the schedule did little to relieve the staff's overall workload. Exhibit 6 shows the timeline for the schedule of events concentrated around the filing deadline.

**Exhibit 6
Timeline Surrounding Reporting Deadline**



Source: Prepared by legislative auditor's staff using Unclaimed Property Division's scheduling of events information.

As the timeline shows, the division concentrated many important events around the holder report filing deadline. The increase in holder reports and claims filed resulting from the events coupled with the division's recently implemented amnesty program, which is discussed on pages 42 through 43, served to increase the division's work load. The increased workload, in turn, further complicated the problems the division already has with timely, complete, and accurate entry of information from hard copy holder reports into the unclaimed property database.

Recommendation 2: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring employees to review all holder reports in detail for accuracy, completeness, and timeliness and to contact holders or conduct alternative corrective action when they discover obvious errors or omissions. Division supervisors should continually monitor the staff to make sure that the policy is followed.

Summary of DOT Response: The department partially agrees with this recommendation. There has continuously been a working employee procedure manual in place that specifically addressed checks and balances and how employees must verify each other's work (see UCP Policy II-B).

Legislative Auditor's Additional Comments: We requested a policies and procedures manual at the beginning of and throughout the audit process. We were provided with an incomplete employee procedures desk manual and a draft policy manual on March 1, 2004, at a meeting held to discuss the report draft. UCP Policy II-B in the draft manual does not address completeness or timeliness of report entry.

Recommendation 3: The director of the Unclaimed Property Division should revise the yearly schedule of events and separate the two busiest events of the year (holder report deadline and advertising). By splitting these events, the division will have more time to focus on tasks and functions such as auditing, researching delinquent holder reports, and data entry.

Summary of DOT Response: The department partially agrees with this recommendation. The department may implement this recommendation or a variation of it; however, a lack of staff time or inability to focus on priorities has never been cited as a reason to alter the schedule.

Matter for Legislative Consideration 1: The legislature should consider amending R.S. 9:161(A) to require the Unclaimed Property Division to advertise properties six months before the following year's holder reporting deadline instead of by November 30 of the year following the year in which property was paid or delivered.

Stronger Controls Would Reduce Database Inputting Errors and Save Time

The unclaimed property database contains numerous errors in property and owner information. The errors are the result of inputting errors made by division employees who manually enter information onto the database from hard copy reports received from holders.

Information input from 28.4% of the holder reports we reviewed contained at least one error. Because the database contains critical information used to pay claims, it needs to be accurate so that potential owners can locate their property correctly and efficiently. In addition, errors cause division employees to spend extra time locating property and processing claims.

We initially reviewed data input from 12 hard copy holder reports for fiscal years 2001 through 2003. Division employees made at least one inputting error for five of the 12 reports (42%). One of the errors occurred because a division employee entered an incorrect name for a property, resulting in the wrong owner being listed on the database for this property.

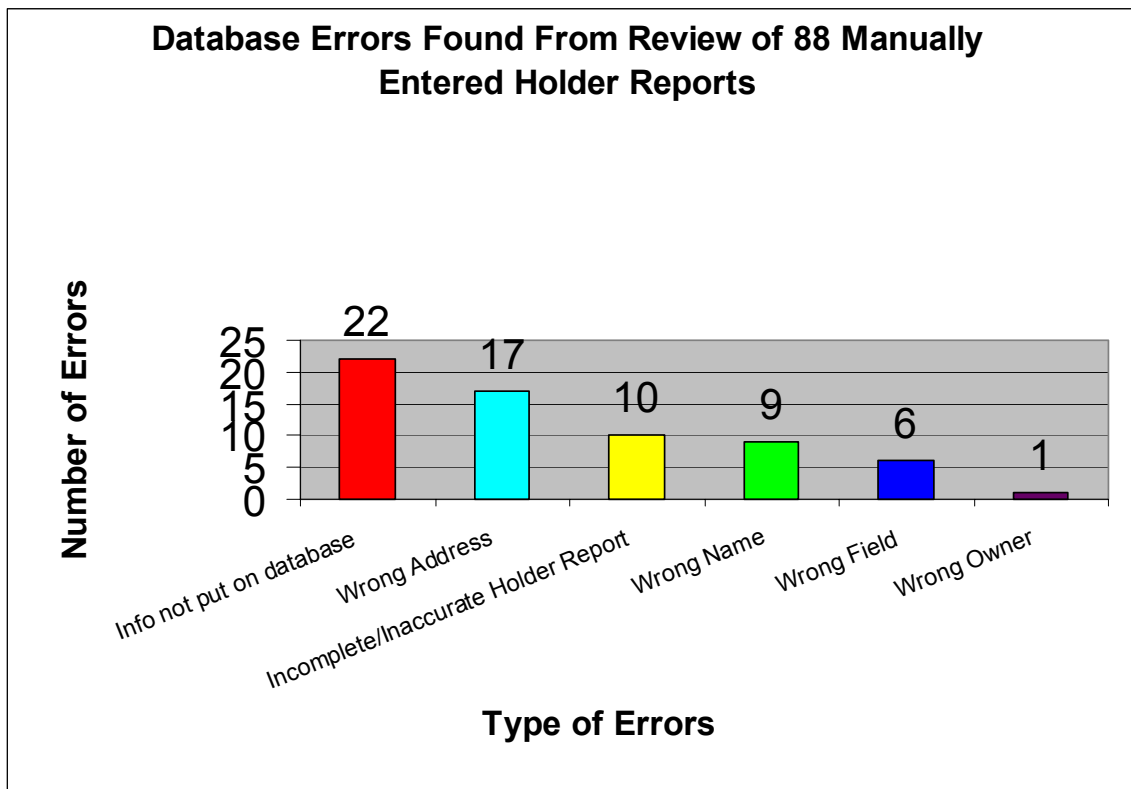
Because of the high number of errors identified in our initial review, we expanded our review to an additional 88 hard copy holder reports filed in fiscal year 2003. In this review, division employees had made at least one inputting error for 25 of the reports (28.4%). The number of errors per report ranged from one to eight. The total value of the associated property was \$38,566. The types of errors consisted of the following:

- ❑ **Critical information not entered:** Holders reported certain identifying information such as social security numbers or beneficiaries, but division employees did not enter the information onto the database. For example, in one case, a holder reported several properties for one owner with the owner's social security number listed for each property, but division employees only input the social security for one property instead of all of the properties.
- ❑ **Wrong street address, city, state, or zip code entered:** We found several cases where holders had listed the addresses of property owners in their reports, but division employees had either transposed street numbers or entered the incorrect city, state, or zip code on the database. For example, an employee entered a property as belonging to an owner in Lakewood, Louisiana, when it should have been Lakewood, Colorado.
- ❑ **Wrong name entered, misspelled name entered, or first name entered last:** In these cases, holders reported the names of property owners, but division employees entered different names, misspelled the names, or entered the first names as the last names. To illustrate, employees might have entered a name as Doe Jane instead of Jane Doe.
- ❑ **Incomplete or inaccurate information from holder reports entered:** In some cases, holders reported incomplete or inaccurate information, but division employees did not contact the holders to fix the errors. Instead, they entered the inaccurate or incomplete information onto the database. One example was where a holder reported a social security number for a property owner, but it contained too few numbers.
- ❑ **Data entered into wrong field:** Holders reported certain identifying information, such as owner names or social security numbers, but division employees entered the information into the wrong fields on the database. For instance, in one case, employees input a zip code in the field for social security/federal employer identification numbers.

- ❑ **Wrong owner name entered:** We also found cases where holders reported property for certain owners, but division employees assigned the property to other individuals who were listed on the same holder report. For example, in one holder report, two properties were reported for two different people, both with the same first, middle, and last name. Each individual was identified with a different social security number and a different home address. However, a division employee entered only one social security number and one address onto the database for both names. Therefore, the database shows one person as the owner of both properties instead of two distinct owners.

Exhibit 7 shows a more detailed breakdown of the database errors found in our review of the 88 hard copy holder reports.

Exhibit 7



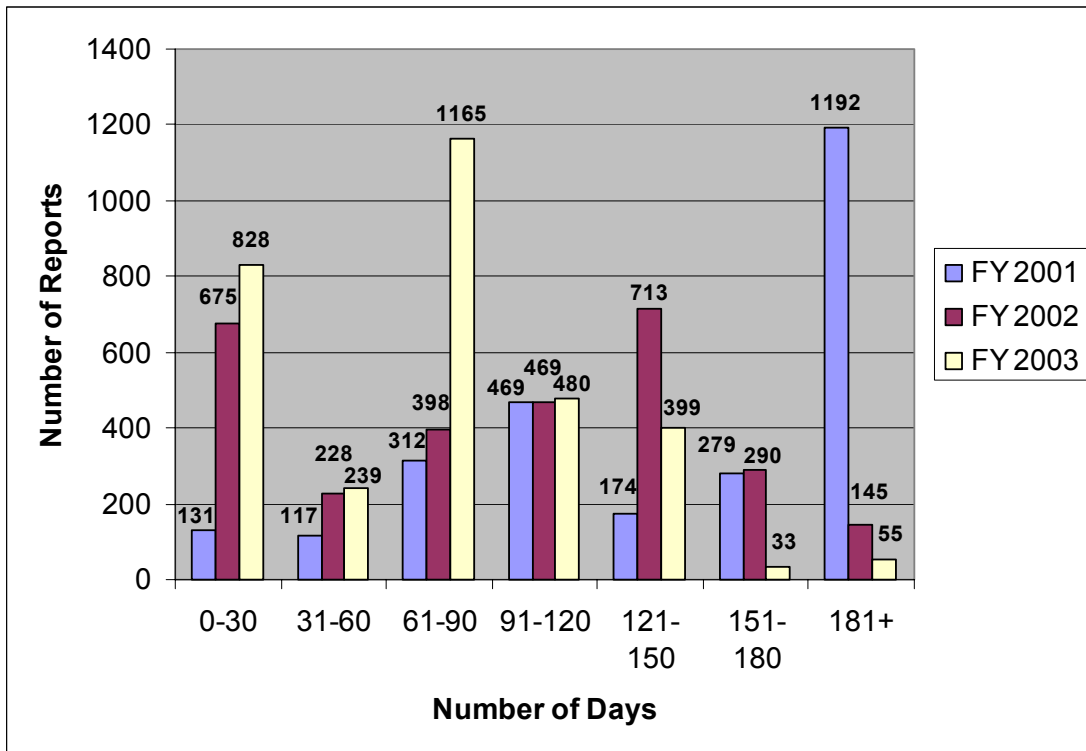
Source: Prepared by legislative auditor’s staff using hard copy holder reports maintained in Unclaimed Property Division’s office.

In addition to the risk of errors, manual entry of owner and property data requires additional staff hours to key the information into the database. We reviewed the amount of time it took employees to enter information onto the database and clear holder reports by reviewing the cleared dates in the database. The cleared date is the date on which property can be uploaded onto the database and then to the Web site. We found the following for fiscal years 2001 through 2003:

- **Fiscal Year 2001:** The average time to complete an entry was 161.4 days, or just over 5 months. Only one report was keyed and cleared on the same day.
- **Fiscal Year 2002:** The average time to complete an entry was 102.5 days, or just over 4 months. Only three reports were keyed and cleared on the same day.
- **Fiscal Year 2003:** The average time to complete an entry was 73.7 days, or just over 2 months. Only four reports were keyed and cleared on the same day.

Although our analysis shows that the division has improved its processing time since fiscal year 2001, it also indicates that there is still a problem with processing holder reports in a timely manner. Further results of our work are shown graphically in Exhibit 8.

Exhibit 8
Average Number of Days to Enter Data From Holder Reports Into Database
Fiscal Years 2001 Through 2003



Source: Prepared by legislative auditor’s staff using physical holder reports maintained in Unclaimed Property Division’s office.

The division does not require holders to submit unclaimed property reports electronically. Therefore, holders can submit lengthy reports containing numerous properties that must then be keyed onto the database by division employees. As our work shows, data entered manually often contains significant errors. Manually entering data also consumes numerous staff hours. These two problems can adversely affect potential owners' ability to locate their property. We discussed the possibility of requiring all holder reports to be submitted electronically with Department of the Treasury officials. They said that businesses would view such a requirement as an additional tax. They also said that a better approach is to encourage electronic reporting rather than requiring it. However, based on our review, more electronic reporting would reduce errors on the unclaimed property database.

Matter for Legislative Consideration 2: The legislature should consider amending R.S. 9:159 to require holders to report electronically each year to the Unclaimed Property Division. An exception could be made for holders who do not have electronic capabilities.

Recommendation 4: If the legislature does not amend the existing law as stated in the Matter for Legislative Consideration 2, the Unclaimed Property Division should expand its reach in its efforts to encourage holders to report electronically. The division could disseminate this information through annual mailings, holder seminars, community outreach events, and other means.

Summary of DOT Response: The department partially agrees with this recommendation. The division has been encouraging holders to report electronically for eight years through annual mailings, holder seminars, and other means. However, it is not reasonable to require electronic submission for all holders because the state has a large number of small businesses.

Legislative Auditor's Additional Comments: The recommendation states that the division should expand its current reach of disseminating information to holders about electronic reporting, not to require all holders to report electronically.

Identifying Property Owners

Has the Unclaimed Property Division Ensured That Owners of Unclaimed Property Are Accurately Identified and Refunded Within the Mandated Timeframe?

The Unclaimed Property Division has not always ensured that owners of unclaimed property are correctly identified and that their property is returned to them within the statutorily mandated timeframe. Although most claims we reviewed were approved and paid on time, we identified the following internal control weaknesses:

- **Management has not limited employees' access to the unclaimed property database or monitored changes employees make to information on the database.** Employees can make changes to information on the database without approval, which could result in errors in database information and erroneous or fraudulent claims being filed and paid.
- **Management has not stipulated what constitutes acceptable documentation for proving the identities of claimants of property.** The lack of controls in this area results in a risk that the division could knowingly or unknowingly pay fraudulent claims.
- **Property belonging to owners in other states has not been processed timely.** At the end of fiscal year 2002, the division was holding over \$3.9 million in unclaimed property that should have been remitted to other states through reciprocal agreements.
- **Nearly \$18 million of unclaimed property in the division's possession is not included on its database or Web site.** Therefore, people who search the Web site for unclaimed property that may be theirs cannot view all property in the division's possession and may not be able to claim property that is rightfully theirs.
- **The search capabilities of the Web site are not as flexible as they could be.** Thus, potential claimants may have difficulty locating property that belongs to them.
- **The database and Web site contain unclaimed property for entities such as cities, towns, schools, and large hospitals that are easy to locate.** The division has not, however, contacted those entities to advise them to claim their property.

These control deficiencies weaken management's ability to safeguard program resources and meet the primary objective of the division, which is to return unclaimed property to its rightful owners.

Division Employees Approved and Paid Most Claims We Reviewed Within Statutorily Mandated Timeframes

R.S. 9:167(B) requires the division to approve or deny claims and give written notice of its decision to claimants within 90 days after claims are filed. R.S. 9:167(C) requires the division to pay claims within 30 days of being approved. In a review of 96 claims paid in fiscal years 2001 through 2003, we found only four cases (4.2%) where the division did not notify claimants of its decision within 90 days and only one case (1.0%) where the division did not pay a claim within 30 days of being approved. For the sample we reviewed, the division did a good job of processing the claims in a timely manner.

Unlimited Employee Access to Database Creates Risk of Errors and Fraud

Most division employees, including student workers and temporary employees, have the ability to add, modify, and delete critical information on the unclaimed property database. The level of access the employees have to the database is more than is needed to fulfill their daily job requirements. In addition, supervisors are unaware of which employees have access to the database and what changes these employees can make to property and owner information on the database. Proper internal controls dictate that access to critical database applications should be limited to certain employees and that changes made by employees should be approved by their supervisors. Without controls in this area, errors or fraudulent activity could occur and go undetected by management.

According to data in the Integrated Statewide Information System, as of October 1, 2003, the division employed 24 employees. All 24 of these employees, including the receptionist, phone bank operators, and temporary/part-time positions, such as student workers, have access to sensitive owner and property information in the database. They also have the ability to make modifications to the information. This means that all in-house employees can modify property owner names, owner addresses, the dates property was remitted, and the dollar values of property on the database.

The division does not require supervisors to review the activity of employees in the database. In addition, management does not inform employees that their actions in the database will be monitored. The database has a monitoring function that can be accessed by certain officials, but the division director said that they do not use it because they do not have time.

Another control weakness we identified is that employees of the contractor that designed the database have access to all areas of the database. The division provides access to the contractor through a user account that can be accessed using a Virtual Private Network (VPN). Through the VPN, the contractor's employees can make modifications to critical records, such as names and addresses, on the database. No one from the division reviews or monitors the changes made by these individuals. Thus, erroneous or fraudulent changes they may make could go undetected.

Although we did not find any cases of errors or fraud in our review of claims paid by the division, our review was small and does not eliminate the possibility that errors or fraud could occur. Fraudulent activity by employees has occurred in at least one other state unclaimed property program. An audit conducted by the California State Controller's Office found that its unclaimed property program paid a \$58,667 claim to two student workers who conspired to modify owner names in the database and had accomplices fraudulently claim the property. Appropriate management controls would limit employees' access to the database. They would also provide for supervisory reviews to curtail the possibility that erroneous or fraudulent changes such as those found in California are made.

We discussed database security and oversight with Department of the Treasury officials. They agreed that these are important issues that need attention, but said that their current resources are not sufficient to cover all of their administrative needs. However, management is responsible for establishing and maintaining effective internal controls to help ensure that resources are safeguarded and that program objectives are met. Therefore, it is important for the division to find ways to either address these concerns with allotted resources or find additional resources.

Recommendation 5: The director of the Unclaimed Property Division should develop and implement a formal written policy that limits access to critical areas of the unclaimed property database to only those employees who have a demonstrated need to view, add, modify, or delete data in those areas to fulfill their job requirements. The policy should also require periodic job rotation for division employees.

Summary of DOT Response: The department partially agrees with this recommendation. Past practices have been sufficient to protect the system. However, the division is in the process of reviewing all security access to the database. Each system functional area will be assigned to a database Role that contains access rights to specific areas of the system. Users will be only linked to those Roles necessary for their duties, and job rotation will be considered.

Recommendation 6: The director of the Unclaimed Property Division should develop and implement a formal written policy that requires the director and other supervisors to routinely review and approve changes made on the database by other division employees. Their reviews should ensure that unauthorized access to critical information on the database has not occurred and that unauthorized or inappropriate changes to database information have not been made.

Summary of DOT Response: The department agrees with this recommendation. The department's vendor is in the process of implementing database trigger-based auditing of key information in the system.

Recommendation 7: The director of the Unclaimed Property Division should work with the contractor who designed and now manages the database to implement computer controls that prevent access by unauthorized contract employees.

Summary of DOT Response: The department disagrees with this recommendation. Adequate controls are already in place. The contractor has agreed to limit access to the database to named individuals within the company. Passwords to the system will only be provided to authorized employees, and should an employee leave the company, the department will be requested to immediately change the access password.

Legislative Auditor's Additional Comments: At the report conference on March 1, department officials agreed that database security is a critical issue that needs further attention. We are pleased to see that since that meeting, the contractor has agreed to limit access of its employees to the database.

Recommendation 8: The director of the Unclaimed Property Division should develop and implement a formal written policy that limits the contractors' access to the database to an as needed basis at the VPN point of entry. The director should also have a risk assessment conducted on the database system to determine the value of the system and costs of control and remediation versus the cost of potential losses.

Summary of DOT Response: The department agrees with this recommendation. The department will conduct a risk assessment to determine if a policy is needed.

Legislative Auditor's Additional Comments: As a point of clarification, the recommendation is for the division to implement a policy *and* to conduct a risk assessment.

Division Needs Stronger Procedures for Verifying Claimants' Identities

The division lacks strong internal controls to prevent erroneous or fraudulent claims from being paid. The division has accepted documentation of questionable quality to determine whether claimants are the true owners of property. The division is like other states we surveyed in that it uses the general rule of thumb that it should obtain enough information to be convinced that the persons attempting to claim property are the owners or heirs who are listed in the holder reports. However, it has become increasingly easy to create false identity documents using computer scanners, copiers, computer software, and internet Web sites that provide instructions on how to make false documents. Therefore, it is important for the division to have controls in place to ensure that identity documents submitted by claimants are authentic. Because the division's controls in this area are weak, it creates a risk that employees could knowingly or unknowingly pay fraudulent claims based on inadequate identifying documentation.

When we requested them during the audit, the division director could not provide us with any policies or procedures on how division employees are to verify claimants' identities. However, instructions for filing claims that appear on the unclaimed property Web site request claimants to include with each claim form a copy of their drivers' license or other form of picture identification plus proof of a social security number. In some cases, copies of other forms of identification, such as check stubs showing the owners' addresses, are also needed to validate certain claims.

In our review of 96 claims paid in fiscal years 2001 through 2003, division employees did not consistently review the identity documents claimants had submitted to determine whether the claimant's identities were legitimate. For instance, copies of identifying documents were approved even though they were illegible, were of poor quality, were unsigned, and/or were expired. The types of problems we identified are explained below and illustrated in Exhibit 9 on the following page.

- **Illegible and/or questionable documentation:** We noted copies of social security cards and drivers' licenses that were torn, thereby disfiguring or eliminating certain identifying information. We noted several dark copies of drivers' licenses in which the claimants' pictures and/or the names of the states issuing the licenses could not be seen. Other documents were smudged or blurred so that critical information, such as names and social security numbers, could not be read. In addition, several copies of social security cards were not signed. In another case, the city of Chicago was misspelled on a copy of an Illinois driver's license, which should have appeared suspicious to division employees who approved the claim. In all of these cases, division employees should have required better proof of identity.
- **Claims over \$250 not notarized:** The instructions on the claim forms require that claims of \$250 and above must be notarized before they will be accepted. In several cases, we found that the claim processors did not enforce this requirement.
- **Incomplete documentation:** In some cases, no documents were included to verify the claimants' identities. For instance, in some cases, no copies of social security cards or drivers' licenses were on file. These claims should not have been paid without proof of the claimants' identities.
- **Expired documentation:** Several copies of drivers' licenses had expired before the claims were submitted. In these cases, the division should probably have required current licenses.

Exhibit 9
Problems With Identity Documents and Value of Claims With Problems
Fiscal Years 2001 Through 2003

Fiscal Year	Number of Claims Reviewed	Number and (Percent) Without Problems	Number and (Percent) With Illegible and Questionable Documentation	Number and (Percent) Over \$250 Not Notarized	Number and (Percent) With Incomplete Documentation	Number and (Percent) With Expired Documentation	Number, Percent, and Value of Claims With Problems
2001	31	14 (45.1%)	5 (16.1%)	N/A ¹	6 (19.4%)	6 (19.4%)	17 (54.9%) \$17,488
2002	31	18 (58.1%)	6 (19.4%)	3 (9.7%)	2 (6.4%)	2 (6.4%)	13 (41.9%) \$27,001
2003	34	12 (35.3%)	3* (5.9%)	2* (5.9%)	14 (41.1%)	4 (11.8%)	22 (64.7%) \$11,445
Total	96	44 (45.8%)	13 (13.5%)	5 (5.3%)	22 (22.9%)	12 (12.5%)	52 (54.2%) \$55,934
¹ The notarization policy was implemented in July of 2001. Therefore, claims filed in fiscal year 2001 were not subject to the policy. We reviewed only fiscal 2002 and 2003 records for compliance with this policy.							
*One claim in fiscal year 2003 had two problems. It is only counted as one error in the last column.							
Note: According to the director of the Unclaimed Property Division, the total number of claims paid in fiscal year 2001 was 14,997; the total number of claims paid in fiscal year 2002 was 17,804; and the total number of claims paid in fiscal year 2003 was 20,617.							
Source: Prepared by legislative auditor's staff using unclaimed property claim files.							

As can be seen from Exhibit 9, the division's procedures for verifying claimants' identities are not as stringent as they could be and have improved little despite the increased need for stronger controls to mitigate the problem of identity theft. In all cases in the exhibit, the identities of the claimants were not proven by the documentation they submitted to the division. However, the division accepted the documentation as proof of identity and paid the claims. Strong internal controls in the form of policies and procedures for identity verification are critical for helping to ensure that errors and frauds do not occur in the claims process.

In fiscal year 2003, the division implemented an informal policy requiring verification of social security information for all claims of \$1,000 or more. For each of these claims, division employees must conduct internet-based research on the claimants using social security numbers provided by the claimants or holders. Based on our review, the division has not followed this policy consistently and cannot provide adequate documentation of the searches.

According to *State Legislatures*, a publication of the National Conference of State Legislatures, nearly 10 million Americans had their identity stolen in the last year, making it the fastest growing white-collar crime. Identity theft involves using an individual's personal information such as the person's social security number or name without permission to commit fraud or other crimes. In 2003, the Federal Trade Commission ranked Louisiana 37th in the country for identity theft victims. According to the Department of the Treasury's Web site, the department is increasing consumer information to aid citizens in avoiding identity theft because it has become an increasing concern. The department would do well to see that identity verification procedures are strengthened in the Unclaimed Property Division, as well, as a part of its efforts to combat identity theft.

We discussed with Department of the Treasury officials the need for more stringent identity verification procedures. They indicated that they understand the importance of verifying claimants' identities. They also indicated a willingness to address our concerns with the resources they have available.

Recommendation 9: The director of the Unclaimed Property Division should develop and implement a formal written policy stipulating what constitutes acceptable documentation for verifying the identities of claimants. The policy should set a designated dollar amount above which more stringent proof of identity is required. In addition, the policy should include the following provisions:

- Critical and sensitive information such as names, addresses, and social security numbers of claimants must be complete, legible, and correctly spelled on the identifying documents.
- Copies of identifying documents must be clear and easy to read.
- Copies of identifying documents must be legal, valid, and current (e.g., social security cards must be signed; drivers' licenses must be current except in cases such as verification of a past address; names must be spelled correctly and updated to reflect any changes brought about by marriage, divorce, etc.).

Summary of DOT Response: The department partially agrees with this recommendation. The division has always worked from written procedures that are already in place to verify claims (see UCP Policy III-A). The division has always requested that claim documentation be complete, legible, and correctly spelled. The department disagrees with the recommendation to require current drivers' licenses as proof of claims because expired licenses may be used to prove ownership at a prior address of other appropriate circumstances.

Legislative Auditor's Additional Comments: Based on our review of the draft policy manual, UCP Policy III-A does not require legible documentation, does not address the types of documentation necessary to complete a claim, and does not set a designated dollar amount above which more stringent proof of identity should be required.

Recommendation 10: The director of the Unclaimed Property Division should put into writing the informal policy requiring all claims of \$250 and above to be notarized. Supervisors should ensure, through routine monitoring, that division employees comply with the policy.

Summary of DOT Response: The department partially agrees with this recommendation. The division has a policy (see UCP III-A) stating that all claims totaling \$250 or more must include a notarized claim form. This requirement may be waived at the discretion of management.

Legislative Auditor's Additional Comments: The division should implement the draft policy and see that claims over \$250 are notarized before they are accepted.

Recommendation 11: Management of the Unclaimed Property Division should continually train employees who handle claim processing on what constitutes appropriate proof of identity. Once employees have been trained in this area, they should remain alert for obvious or questionable documentation submitted as proof of identity.

Summary of DOT Response: The department partially agrees with this recommendation. Employees are continually trained and reminded on claim documentation. In addition, we double-check suspicious claims using a variety of fraud-detection tools.

Legislative Auditor's Additional Comments: Of 96 claims we reviewed, we found only two cases where there was documentation in the files showing that the claims were researched using fraud-detection tools.

Division Should Remit Property Belonging to Owners in Other States More Timely

As of the end of fiscal year 2002,¹ the division was holding over \$3.9 million in unclaimed property that should have been remitted to other states and the District of Columbia (hereafter referred to as other states) through reciprocal agreements. According to the division director, Louisiana has reciprocal agreements with every other state in the nation. The agreements require Louisiana to remit property to the states of the owners' last known addresses. However, the division does not have a schedule for remitting reciprocal property to other states. As a result, the property is not remitted to other states promptly, which can cause delays in owners being able to locate and claim their property. Delays in locating and claiming the properties can also cause Louisiana to pay more interest than necessary on interest-bearing reciprocal property.

¹ We did not include fiscal year 2003 data in our analysis because we assumed that property collected in 2003 would not have had time to be advertised and returned.

Of the over \$3.9 million that had not been remitted to other states, more than \$823,000 was interest-bearing property, as shown in Exhibit 10. Because the division does not remit reciprocal property to other states promptly, excessive interest can accrue on those properties that are interest bearing. Also, some other states do not pay interest to owners of abandoned property at all. Of the five states we surveyed, three (60%) said that they do not pay interest to owners. The division will therefore pay interest to these states even though the states will not continue to accrue interest on the property after it is collected from Louisiana.

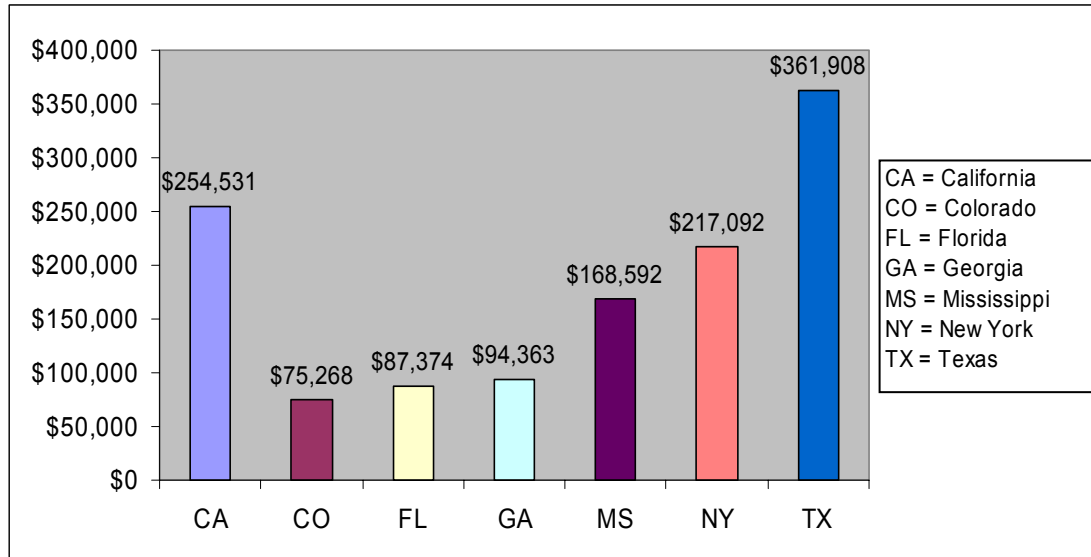
Exhibit 10
Property Owed to Other States
As of June 30, 2002

Number of Individual Properties	Value of Properties	Amount of Property Earning 5% Interest
35,509	\$3,911,094	\$823,227
Source: Created by legislative auditor's staff using information obtained from unclaimed property database.		

The division director said that the program advertises property in Louisiana before remitting it to the other states so that claimants have more than one opportunity to claim the property. Property deemed unclaimed by holders during fiscal year 2002 should have been remitted to the division before November 1, 2002. The division could have advertised this property in early 2003 and then returned it to the appropriate states if it was not claimed after the advertisements ran. However, we found that nearly a year often transpires from the time the division collects reciprocal property to the time it advertises the property to the public. In reality, the division may hold other states' property for several years.

According to a division official, Louisiana sometimes holds other states' property for several years before remitting it to the appropriate other states, which creates a large backlog of property on the database that does not belong to Louisiana residents. To provide an example of this backlog, we extracted from the database all properties over \$75,000 that were collected prior to fiscal year 2001 and belonged to owners in other states. We chose this time period based on the assumption that property collected prior to fiscal year 2001 would have had ample time to be advertised and remitted to other states. Seven states (California, Colorado, Florida, Georgia, Mississippi, New York, and Texas) fell into this category. Exhibit 11 shows these seven states and the dollar amounts of the related property in Louisiana's custody. The amount owed to these states was \$1,259,129. The amount owed to all remaining states was \$935,407. In total, the division had \$2,194,536 in property belonging to owners in other states that was collected prior to fiscal year 2001.

Exhibit 11
States With Properties Totaling at Least \$75,000 in Louisiana's Custody
From Collections Prior to Fiscal Year 2001



Source: Created by legislative auditor's staff using information obtained from unclaimed property database.

We discussed reciprocal agreements with Department of the Treasury officials. The director of the Unclaimed Property Division said that they usually reciprocate once a year, but that they have fallen behind because of a lack of resources. He also stated that they are trying to get caught up, but he instructs division employees to process claims as a priority before handling reciprocal agreements.

Recommendation 12: The director of the Unclaimed Property Division should develop and implement a formal written policy on reciprocal agreements that stipulates time periods for remitting reciprocal property to other states. The policy should also reflect any changes made to the law dealing with interest payments (see Matter for Legislative Consideration 3 on the following page). Division supervisors should monitor employees to make sure that employees follow the policy.

Summary of DOT Response: The department disagrees with this recommendation. We have a written policy in place dealing with reciprocal agreements (see UCP Policy II-G). The division is working on getting the reciprocal process up to date. Also, we dispute the amount of interest bearing property the auditors claim is transferable on reciprocal reports.

Legislative Auditor's Additional Comments: Draft UCP Policy II-G does not mention reciprocal reports. The amount of interest-bearing property cited in the report (\$823,227) is based on all property on the division's database as of June 30, 2002. To arrive at this figure, we extracted from the database all properties owing to owners in other states with interest rates above 0.00 and totaled their values.

Recommendation 13: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring all property belonging to owners in other states to be remitted to those states before the statutory holder reporting deadline.

Summary of DOT Response: The department disagrees with this recommendation. The administrator needs to have flexibility in scheduling the workload of the division. All efforts will be made to ensure the timely transfer of reciprocal property within the timeframe stated in UCP Policy II-G.

Legislative Auditor's Additional Comments: Draft Policy II-G does not mention reciprocal agreements and does not provide a timeframe for the transfer of reciprocal property.

Matter for Legislative Consideration 3: The legislature should consider amending R.S. 9:163 to stipulate that the Unclaimed Property Division either shall not pay interest on reciprocal property at all or that the division shall not pay interest on reciprocal property in cases where the state of last known address does not pay interest.

Almost \$18 Million of Unclaimed Property Is Excluded From Database and Web Site

Almost \$18 million in unclaimed property reported between 1972 and 1986 is in the Unclaimed Property Division's possession but has not been recorded on its database. The omission of data from the database occurred because the division did not input information from hard copies of old holder reports when the division converted to a computer system. Instead, the division has only input property received from 1986 through the present. In contrast, three other states (Nevada, Oklahoma, and Tennessee) we surveyed, which use the same database system as Louisiana, have transferred all files to their databases. The other two states (Oregon and Wisconsin) we surveyed have transferred all files dating back to 1970. Information from the database is uploaded daily to the Unclaimed Property Web site, which potential owners increasingly use to search for property. Thus, it is important for the database to contain complete information. If property has not been input onto the database, owners may not be able to locate and claim their property.

According to unclaimed property officials, the \$18 million is approximately two-thirds of a current fiscal year's collections of unclaimed property. The division maintains hard copy records of this property at its office in downtown Baton Rouge. However, it has not placed a priority on converting old hard copy files into electronic format. The division director stated that instead of using the hard copy files, most potential claimants use the Web site or call the phone bank to search for property, as opposed to walk-in searches. The division has begun to manually input the old properties onto the database, but at the time we conducted our fieldwork, little of the task had been completed.



Unclaimed Property employees at a mall show without hard copy files.

Division employees sometimes travel to mall shows and do radio show appearances to help potential claimants locate property. The employees do not take the hard copy files with them on these outings. Therefore, if potential claimants inquire about property submitted before 1986 at any of these events, the employees cannot provide them with information on that property. Furthermore, potential claimants who call the phone bank are not always instructed that property reported between 1972 and 1986 is not in the database, and phone bank employees do not regularly check the hard copy files.

Department of the Treasury officials attributed the backlog of holder reports that have not been entered onto the database to a lack of resources. However, they acknowledged the importance of including all property and owner information on the database. They further stated that they are working to complete this task, but that they can only work on it when time allows.

Recommendation 14: The director of the Unclaimed Property Division should ensure that information contained in the old hard copy holder reports is entered onto the database as soon as possible in order to expedite reuniting claimants with their property.

Summary of DOT Response: The department partially agrees with this recommendation. The division aims to have the input of information from old hard copy reports completed by December 31. Twelve percent of the reports have already been entered.

Recommendation 15: Until all property is entered onto the database, the division director should develop and implement a formal written policy requiring employees who answer phone inquiries to check the hard copy files in all cases when the caller provides sufficient identifying information.

Summary of DOT Response: The department disagrees with this recommendation. The division does not need a policy in view of the short time period needed to completely enter old holder reports into the database. It has always been the mission of the division to assist owners in reclaiming what rightfully belongs to them. We have always adequately assisted, and will continue to assist, any person with evidence suggesting the possible existence of unclaimed property reported to this office prior to 1986.

Legislative Auditor's Additional Comments: To better assist potential claimants, a policy should be developed and implemented to cover the time period between the present and the completion of the data entry of old holder reports. During the report conference, department officials said that they could not research cases where

evidence is not provided because their resources are limited but that they could research cases in which the potential claimants provided evidence of older property.

Unclaimed Property Web Site Needs Improvement

The unclaimed property Web site is not flexible enough for potential owners to easily locate property that may belong to them. The Web site contains minimal instructions for users on how to search for property. The search system is also poorly indexed and cannot compensate for multiple spellings of names. As a result, property and owner information is not always easily found on the Web site, meaning that some owners may not be able to locate and claim their property.

The Web site instructions do not inform users of possible problems, including the fact that property received from 1972 through 1986 cannot be found on the Web site. The instructions also do not inform searchers of the possibility that property could be located under an alternative name spelling, resulting possible data entry errors, or that a new search using multiple spellings of a name may need to be made. In addition, the search engine cannot compensate for multiple spellings entered into the search fields. To illustrate, we conducted a search for property with the last name “O’Conner” using three different variations of its spelling: O’Conner, OConner, and OConnor. These slightly different searches resulted in very different unique results, as shown in Exhibit 12.

Exhibit 12

Results From Entering Various Spellings of Name on Unclaimed Property Web Site

Spelling Entered	Number of Unique Results
O’Conner	4
OConner	30
OConnor	103

Source: Created by legislative auditor’s staff using information from unclaimed property Web site.

Another problem we identified is that if users enter too much information while conducting searches, the Web site might not produce any results. For instance, if a user enters a name and city of residence, but the person’s property was reported by the holder without city or address information, the Web site might not produce any results. To illustrate, we entered the name of an owner along with the city of residence. The Web site produced no results. However, when we entered only the individual’s name, the Web site produced three properties. Since the user instructions do not explain this peculiarity, potential claimants may not realize that they should not enter extra information in their searches.

The lack of flexibility in the Web site could prove to be a growing problem among users who are Internet savvy and familiar with more flexible search engines. The limitations of the search function on the Web site mean that legitimate owners of property may not be able to locate and claim their property. Department of the Treasury officials agreed that the Web site should be easy for users to search.

Recommendation 16: The director of the Unclaimed Property Division should see that the search instructions for the unclaimed property Web site are updated to provide more explicit directions that will help users successfully search for property.

Summary of DOT Response: The department agrees with this recommendation. The department will have the Web site designer to update any instructions on the Web site that may be necessary.

Recommendation 17: The director of the Unclaimed Property Division should see that a notice is posted on the Web site stating that most property reported by holders from 1972 through 1986 is not included on the Web site and that individuals may inquire about such property by phone or mail.

Summary of DOT Response: The department disagrees with this recommendation. A notice is not necessary because property from 1972 through 1986 is negligible and will be put into the database shortly.

Legislative Auditor's Additional Comments: The mission of the department does not exclude owners whose property was reported prior to 1986.

Recommendation 18: The Unclaimed Property Division should work with the Web page designer to create a more flexible search engine that will eliminate the limitations noted in this finding.

Summary of DOT Response: The department disagrees with this recommendation. The division has a system in place to address Web site concerns. Every effort is made to keep name data as standardized as possible.

Legislative Auditor's Additional Comments: It should be noted that the problem extends beyond name spellings.

Division Could Locate Certain Property Owners Quicker

Many properties are listed on the unclaimed property database with owners such as cities, towns, schools, and large hospitals. Entities such as these are easy to locate, but division employees have not taken steps to locate them. It is the responsibility of the program to hold unclaimed property and proactively search for its owner. However, the division does not require

employees to regularly search the database for these properties, locate the owners, and contact them to make arrangements to return the property. As a result, the properties are not returned to their owners as quickly as they could be.

During a limited search of the unclaimed property Web site, we found numerous properties whose owners' names are easily recognizable and easy to locate. We conducted our search by entering terms such "town of," "city of," "parish of," "LSU," "Louisiana State University," and "Southern University". From the total names that the search produced, we eliminated those of small businesses and individuals. We also eliminated properties that were remitted to the division during calendar year 2003. This process produced 211 names of public and private entities that had been listed on the unclaimed property database for extended periods of time. The total dollar value of the properties belonging to these entities was over \$50,000. These entities are easy to locate through telephone directories or Internet searches. Exhibit 13 provides a breakdown of these 211 properties. Appendix E contains a further breakdown showing 87 of the 211 properties that are valued over \$100 each.

Exhibit 13
Number and Value of 211 Properties With Easy-to-Locate Owners

Search Words Entered	Number of Properties Resulting From Search	Dollar Value of Properties Resulting From Search
Town of	7	\$ 1,301
City of	35	\$ 3,080
Parish of	127	\$33,744
LSU	28	\$ 9,614
Southern University	14	\$ 2,554
Total	211	\$50,294
Source: Created by legislative auditor's staff using information from unclaimed property database and Web site.		

As previously stated, the division advertises unclaimed property it has on hand once a year. Typically, the advertisements include entities such as the ones discussed in this finding. If division employees routinely reviewed the database for easily recognizable entities and then contacted the entities to return their property to them, the division would not need to include that property in its advertisements.

The First Assistant State Treasurer said that division employees actively try to locate easily recognizable entities, but that they do not have a policy for conducting this work. The division director said that the staff's first priority is to handle claims. If the scheduling of events were restructured, as discussed on pages 12 through 13, it may enable employees to work on locating these entities as well as paying claims.

Recommendation 19: The director of the Unclaimed Property Division should develop and implement a formal, written policy that requires employees to periodically search for and return property belonging to entities whose names are easily recognizable and can be easily located using telephone directories, the Internet, or other means before advertising the entities' names in its annual advertisement. Special emphasis should be placed on property with large dollar values and property belonging to other governmental entities.

Summary of DOT Response: The department partially agrees with this recommendation. The recommended process is already in practice but a written policy is unnecessary. The division makes every effort to locate rightful owners and has found that it is more cost effective to advertise the program and have the public contact us. Also, 21% of the owners reported in the audit were multiple owner accounts where there was at least one additional owner associated with the owner listed. Also, 19% of the owners reported have been contacted, and 74% of the remaining records have only been entered into the computer system within the last two years. However, claim forms have been gathered for the list of entities in the audit report and will be sent.

Legislative Auditor's Additional Comments: Based on the high number of easily locatable entities we discovered in the limited search we conducted, we contend that a policy is needed and should be implemented.

Financial Issues

What Financial Issues Could Impact the Unclaimed Property Division?

Future claims payments and other large expenditures such as external auditing fees could adversely impact the financial structure of the Unclaimed Property Division. Each year the state spends total unclaimed property collections less claims paid on operations. This method of budgeting and spending is similar to some other states. However, if the division experienced a large influx of claims or incurred large expenditures for external auditing services or other purposes, the state may have to use unbudgeted general fund dollars to pay those expenditures.

The treasurer generally pays more interest than necessary to claimants on interest-bearing property. Although R.S. 9:163 says that the treasurer shall pay interest at a rate of 5% a year or any lesser rate the property earned while in the possession of the holder, the treasurer has paid 5% on most interest-bearing property regardless of actual rates on the properties. We estimated that over the next 10 years, the treasurer will pay anywhere from approximately \$153,000 to \$276,000 more than necessary on interest-bearing property collected in fiscal years 2001 through 2003.

The division does not liquidate securities in its possession as allowed by state law. Other states we surveyed do sell securities remitted to them by holders. Unless the legislature changes the law to require the sale of securities, the division should conduct a risk assessment and formulate a policy on whether to sell or hold securities.

The division has not collected interest and penalties, as provided for in state law, from holders who are delinquent in filing their annual reports of unclaimed property. Department of the Treasury officials said that the law allows them the flexibility to waive these amounts and that time constraints and a lack of resources prevent them from determining which holder reports are delinquent. They also said that the current practice of not assessing interest and penalties has led to an increase in holder reporting. We estimated that for the past three fiscal years, the division could have collected over \$13.7 million in interest and penalties. These funds could have been used to help cover administrative costs and correct deficiencies noted in this audit subject to legislative appropriation.

Claims Payments and Fees for External Auditors Can Absorb Large Portion of Division's Budget

The state budgets and spends a maximum of 7% of total collections on administration of the Unclaimed Property Division. R.S. 9:165(A) requires only \$500,000 to be placed in a separate trust fund to pay claims. The Revenue Estimating Conference recognizes the next year's anticipated collections, less the 7% administrative budget, less claims paid as revenue each year, and the state budgets and spends those funds on operating expenses. This method of budgeting anticipates that collections will always exceed disbursements made to pay claims and

operating expenses. However, if the division were to experience a large influx of claims or incur other large expenditures, such as fees for external auditors, the state may have to use unbudgeted general fund dollars to pay those expenses, which could result in financial stress on the state budget.

R.S. 9:165(B) allows the Treasurer to deduct up to 7% of the total gross collections during any fiscal year for the costs of administering the program. The legislature must appropriate the amount used for administering the program. According to the First Assistant State Treasurer, the division has never received the full 7% of collections to run the program.

Louisiana is similar to other states in the way it uses total annual unclaimed property collections less claims paid to fund state general fund operations. We surveyed five other states that are similar to Louisiana in population and annual unclaimed property collections. (See Appendix D for survey results.) Three (60%) states (Nevada, Oklahoma and Tennessee) said that they use collections less claims paid for general fund operations. The other two (40%) states (Oregon and Wisconsin) said that they deposit collections into dedicated school trust funds. Oregon said that it funds its unclaimed property program through interest earned on the trust fund. Wisconsin said that it funds the program through unclaimed property collections.

Each year the Louisiana Unclaimed Property Division collects more unclaimed property than it returns to claimants. The division has collected over \$206 million of unclaimed property from holders during the last 10 fiscal years. During this same time period, the division refunded almost \$76 million to claimants. The difference (over \$130 million) was transferred to the state General Fund to pay for state operations, including the administration of the division. Exhibit 14 shows this data by year.

Exhibit 14
Unclaimed Property Collections, Refunds, and Amounts Sent to State General Fund
Fiscal Years 1994 Through 2003

Year	Collections of Unclaimed Property	Refunds Made to Claimants	Amounts Sent to State General Fund for Operations*
1994	\$13,404,394	\$5,769,137	\$7,635,257
1995	12,752,333	4,436,906	8,315,426
1996	15,724,994	3,511,251	12,213,744
1997	17,166,032	6,726,712	10,439,320
1998	17,823,972	7,178,408	10,645,564
1999	20,931,727	7,482,240	13,449,487
2000	21,233,994	7,901,450	13,332,544
2001	31,144,099	8,777,624	22,366,475
2002	28,576,484	11,272,212	17,304,272
2003	27,647,020	12,889,983	14,757,037
Total	\$206,405,049	\$75,945,923	\$130,459,126

*State operations include administrative expenses of Unclaimed Property Division.

Source: Prepared by legislative auditor's staff using data provided by Unclaimed Property Division.

The division projects that it has approximately \$55 million in claims to pay from past collections. Because of the way the state budgets and spends collections less claims paid on general fund operations, the state may have to pay the \$55 million and other expenditures from future collections. If future collections do not exceed the amount of claims paid plus fees paid to external auditors, administrative expenses, and other expenses, the state will have to allocate other funds to pay these expenses.

Fees paid to external auditors who locate property in other states that belongs to Louisiana residents can be a sizeable expense for the division. The fees range from 12.0% to 12.5% of the total amount of property the auditors collect and remit to the division. The division is required to pay the fees out of its appropriated budget each year. To illustrate the strain on the division's financial resources these fees can create, in 2003 an audit service reported cash dividends and common stock valued at \$6,053,394 in other states that belonged to Louisiana residents. According to the division director, the invoice from the auditor was for 12.5% of the total value of the property, or \$756,674. This fee from a single audit represented 93.4% of the total amount of external auditor fees budgeted for the entire fiscal year and 37.0% of the division's entire budget for the fiscal year.

As previously noted, the financial structure of the Unclaimed Property Division is not unique among states. However, our illustration shows that it could cause budget problems for the state. Because of this risk, it may be appropriate to restructure the way the state budgets and spends unclaimed property collections.

Recommendation 20: The Department of the Treasury should analyze whether 7% of total gross collections during any fiscal year is sufficient to meet the administrative needs of the division and pay for external auditing fees. If the amount is insufficient, Treasury officials should approach the legislature with a request to amend R.S. 9:165(B) to increase the statutory amount.

Summary of DOT Response: The department agrees with this recommendation. House Bill No. 648 addresses this issue and has been introduced in the 2004 Regular Legislative Session.

Matter for Legislative Consideration 4: The legislature should consider amending R.S. 9:165(B) to allow external auditor fees to be paid either out of gross collections or interest and penalties collected for delinquent holder reports (see pages 42 through 44 for discussion of interest and penalties) instead of out of the 7% of total gross collections, which currently funds the administrative costs of the division.

Division Pays More Interest to Claimants Than Necessary

The treasurer pays claimants 5% interest on most interest-bearing property it returns to them. However, R.S. 9:163 says that the treasurer shall pay interest at a rate of 5% a year or any lesser rate the property earned while in the possession of the holder. According to the division director, few holders report the interest rates that properties were earning at the time they were

remitted to the division. As a result, as properties are refunded to claimants, the treasurer often pays them more interest than is necessary. We estimated that the treasurer will pay approximately \$153,000 to \$276,000 more than necessary in interest for interest-bearing properties collected in fiscal years 2001 through 2003.

Recent rates on interest-bearing checking, savings, and Christmas club accounts have been well below 5%. In addition, according to the Department of the Treasury's chief investment officer, the Treasury earned less than 5% during fiscal years 2002 and 2003 on its investments. Thus, applying a standard 5% interest rate generally does not reflect the market.

In addition, three of the five (60%) states we surveyed (Nevada, Oklahoma, and Oregon) said that they do not pay interest on unclaimed property. Officials we talked to in these states indicated that having the states pay interest to claimants was not appropriate since it was not the states that caused the property to be abandoned. The remaining two (40%) states (Tennessee and Wisconsin) said that they do pay interest to claimants on interest-bearing property, but they do not assume that only certain properties are interest-bearing, as does Louisiana. Rather, they require holders to indicate which properties are interest-bearing and they call the holders to obtain the correct interest rates if the holders do not report them.

We reviewed division records showing collections of interest-bearing property during fiscal years 2001 through 2003. We limited our review to interest-bearing checking, savings, and Christmas club accounts, which amounted to 6,890 properties. We found that only 74 of these properties, or 1.1%, were reported with specific interest rates by the holders. The remaining 6,816 properties did not have holder-reported interest rates, and division employees entered them onto the unclaimed property database at the default rate of 5%.

We also estimated the amount of excess interest the treasurer will pay over the next 10 years on this property using various assumptions for market interest rates. We used the division's projections of the percentages of collections that will be refunded over the next 10 years to complete our analysis. We compared the 5% standard interest rate to five different assumed market rates, which we chose after researching past rates for Baton Rouge and the nation. Our analysis shows that the treasurer will pay anywhere from approximately \$153,000 to \$276,000 more than necessary in interest over the next 10 years on collections for the last three fiscal years. These figures would be much larger if we had based our analysis on collections for the past 10 years instead of only the past 3 years. The results of our analysis are shown in Exhibit 15. The exhibit shows the dollar amounts of interest calculated assuming various market rates and a graphical presentation of our results for each year of collections. The exhibit also shows that significantly less money would be paid to claimants if market interest rates were applied instead of a standard rate of 5%.

Exhibit 15
Estimated Overpayment of Interest Over Next 10 Years
for Property Collected in Fiscal Years 2001 Through 2003

Assumed Interest Rates	Projected Annual Interest Payments	Estimated Overpayment using Default Rate (5%)	Approximate Overpayment % using Default Rate (5%)
0.5%	\$ 30,643	\$275,794	90%
1.0%	\$ 61,288	\$245,151	80%
1.5%	\$ 91,931	\$214,507	70%
2.0%	\$122,575	\$183,863	60%
2.5%	\$153,219	\$153,219	50%
5.0% (Default)	\$306,438	N/A	N/A

Source: Created by legislative auditor's staff using information from unclaimed property database and assumed interest rates.

Matter for Legislative Consideration 5: The legislature should consider amending R.S. 9:163 to require the treasurer to pay *the lesser of* 5% or the actual rate earned on interest-bearing property. The amendment would eliminate the ambiguity in the current wording of the law.

Recommendation 21: If the legislature does not amend R.S. 9:163 as stated in Matter for Legislative Consideration 5, the director of the Unclaimed Property Division should develop and implement a formal written policy that requires division employees to apply *the lesser of* 5% or the actual interest rate earned for interest-bearing property remitted to the division. The director should also instruct holders, through some means (e.g., Web site instructions), that they must report actual interest rates earned for each interest-bearing property they report to the division. He should also instruct division employees to contact holders who do not report the actual rates to obtain the rates from the holders.

Summary of DOT Response: The department disagrees with this recommendation. Current practices are sufficient, and a formal written policy is not necessary or authorized by law. Our interpretation of the law is that 5% is to be paid when the property is interest-bearing, and no evidence or record of "any lesser interest rate the property earned while in the possession of the holder" is available. We know of no legal authority to pay current market interest rates as recommended.

Division May Need Policy Governing Sale of Securities

The division does not sell securities three years after they are remitted by holders as allowed by R.S. 9:164(C). In contrast, all five states we surveyed said that they do liquidate securities remitted to them by holders. Department of the Treasury officials said that a reason for not selling the securities is that by holding them, the state has use of the dividends earned on them. They also said that selling the securities could limit claimants' potential earnings and could create a potential tort liability. On the other hand, because the division does not sell the securities, the state does not have access to approximately \$23 million that could be realized from the sale of those securities on hand at the end of fiscal year 2003. In addition, the state will not realize approximately \$3.2 million per year in proceeds from future sales. Another issue is that division employees must continually track all securities held and update the division's records on them, which is a drain on the division's limited resources. If the legislature does not amend the law to require that securities be sold, the division may benefit from developing a policy that governs the sale of securities.

One (20%) of the five states we surveyed (Oregon) said that it liquidates securities after six months. Three (60%) states (Nevada, Oklahoma, and Tennessee) said that they liquidate securities after one year; one (20%) state (Wisconsin) said that it liquidates securities after three years. None of the states said that they have had or anticipate having any liability from selling the securities.

At the end of fiscal year 2003, the division had collected approximately \$1.7 million in dividends that had not been paid to claimants. If the state does not sell the securities, it can use these dividends for general operations until they are claimed by claimants. If the state sells the securities, it will not have the use of these dividends.

An argument for selling the securities, however, is that the proceeds from the sales would provide additional revenue for the state and the division. At the end of fiscal year 2003, the division had approximately \$33 million of securities in its possession. Approximately \$23 million of this amount had been in the division's possession for at least three years and could therefore be liquidated under R.S. 9:164(C). Exhibit 16 shows the cumulative value of securities held for fiscal years 1995 through 2003. The exhibit also shows the increase in the cumulative value of securities held each year. As can be seen from the exhibit, the average annual amount of the increase is over \$3.2 million. The \$3.2 million is an estimate of the amount of securities that could be sold each year after being held for three years.

Exhibit 16
Cumulative Value and Annual Increase in Cumulative Value of Securities Held
Fiscal Years 1995 Through 2003

Fiscal Year	Cumulative Value of Securities Held	Annual Increase in Cumulative Value of Securities Held
1995	\$ 7,269,000	N/A
1996	9,823,892	\$ 2,554,892
1997	12,987,923	3,164,031
1998	15,590,000	2,602,077
1999	21,704,000	6,114,000
2000	23,436,000	1,732,000
2001	26,094,066	2,658,066
2002	31,271,970	5,177,904
2003	33,342,636	2,070,666
		Average = \$3,259,205
Source: Created by legislative auditor's staff using audited figures of unclaimed property security values.		

Another benefit of selling securities is that it could result in a more efficient use of staff resources. According to the division director, two full-time employees and two part-time student workers track and update all activity, such as stock splits and dividend payments, on all securities that are remitted to the division and input into its database. If the division sold the securities after holding them for three years, the employees would only have to track each security for three years. The decrease in time required to track the securities would allow the employees to concentrate more on other important activities, such as conducting audits of holders, ensuring accurate entry of property and owner information onto the database, locating property owners, and processing claims.

Department of the Treasury officials said that, although they have not sold securities in the past, they have considered the possibility. The division has been consistent in its actions by not liquidating any securities. However, it has not conducted any type of formal risk assessment on the potential benefits of selling versus holding securities, and it has not implemented a policy for employees to follow in regard to the large value of unclaimed securities on hand.

Matter for Legislative Consideration 6: The legislature should consider amending R.S. 9:164(C) to clarify its intent regarding the sale of securities. If the legislature intends for the division to sell securities, it should amend the language in the statute to require, rather than allow, their sale and include a provision to protect the state from potential lawsuits resulting from the sales.

Recommendation 22: If the legislature does not amend R.S. 9:164(C) to require the sale of securities as discussed in Matter for Legislative Consideration 6, the division should conduct a formal risk assessment regarding the sale of securities. At a minimum, the risk assessment should include the potential benefits to the state from the sale of securities as opposed to the benefits of using dividends earned on securities held, the staff time that must be dedicated to

tracking securities that are held, and the potential risks of tort liability. Based on the results of the assessment, the director should then develop and implement a formal written policy governing the sale of securities.

Summary of DOT Response: The department partially agrees with this recommendation. The department believes that it is and has been pursuing the correct and best practices with respect to securities. However, consideration will be duly given to the auditor's recommendation of a risk assessment. In the event the assessment is undertaken and justifies changing current practices, the changes will be set forth in written policy if appropriate.

Legislative Auditor's Additional Comments: A risk assessment would enable the division to draw a valid conclusion on whether its current practices are correct and appropriate. A risk assessment would also determine the potential benefit to the state of selling versus not selling securities.

Division Does Not Assess Interest and Penalties on Delinquent Holders

R.S. 9:176 requires that interest and penalties be assessed on holders who report unclaimed property after the statutory deadline. However, the division has never assessed interest and penalties. In fact, the division recently implemented an amnesty program to forgive past interest and penalties on properties that have never been reported. According to Department of the Treasury officials, the law allows them the flexibility to choose not to assess interest and penalties. They also said that assessing interest and penalties could deter holders from reporting in the future. As a result, holders have been allowed to report late in violation of state law without consequence, and the division has not taken advantage of a source of financial resources, which Treasury officials say are much needed.

The First Assistant Treasurer said that the unclaimed property program was not created to be a money generating program, but rather a program to return unclaimed property to Louisiana residents. Therefore, he said, charging interest and penalties could hinder the growth of the program because fewer holders may report unclaimed property if they know they may be assessed interest and penalties for reporting late. R.S. 9:176(A) and (B) require holders of unclaimed property to report to the Treasury before November 1 of each year, and those who are in violation are required to be assessed interest and penalties. However, R.S. 9:176(E) allows the division to waive in whole or in part interest and penalties if the holder acted in good faith and without negligence. Treasury officials stated that R.S. 9:176(E) affords them the flexibility to waive interest and penalties for *all* holders. They also said that because they have not levied interest and penalties against delinquent holders in the past, the program has done well.

The amnesty program that the division recently implemented ran from November 15, 2003, through December 31, 2003. It covered all property that should have been reported since the inception of the unclaimed property program in 1972. Businesses that turned unclaimed

property over to the state during the amnesty period avoided the interest and penalties associated with reporting after the submission deadline. The intent of the program was to get all Louisiana businesses to report unclaimed property in their possession. However, the notion of providing amnesty ignored the fact that the division has never charged interest and penalties in the first place.

To illustrate the financial impact that assessing interest and penalties could have on the program, we estimated that if the division had enforced the statutory provisions for assessing interest and penalties over the last three fiscal years, it could have collected over \$13.7 million for 4,892 delinquent holder reports. This amount would be significantly larger if we had extended our analysis beyond three years. We based our analysis on information about the fields in the database provided by the division director and on R.S. 13:4202 and R.S. 9:176. The following rates of judicial interest are stipulated in R.S. 13:4202:

- **January 1, 2000, through December 31, 2000:** 7.285%
- **January 1, 2001, through December 31, 2001:** 8.241%
- **January 1, 2002, and thereafter:** 3.25% plus the discount rate of interest of 1.25% established by the Federal Reserve Bank in January 2002 (translates to a rate of 4.5%).

R.S. 9:176 (A) and (B) provide that a holder who fails to report, pay, or deliver property within the prescribed time period (i.e., before November 1) is required to pay, in addition to interest, a civil penalty of \$200 for each day the report, payment, or delivery is withheld, or the duty is not performed, up to the maximum of \$5,000. Exhibit 17 shows the estimated interest and penalty amounts that the division could have collected for the time period covered by our analysis.²

Exhibit 17
Interest and Penalties That Could Have Been Collected From Holders
Fiscal Years 2001 Through 2003

Fiscal Year	Value of Property Reported Late	Interest	Penalties	Total Interest and Penalties
2001	\$19,929,654	\$261,588	\$5,206,800	\$5,468,388
2002	\$13,503,982	\$99,164	\$3,964,200	\$4,063,364
2003	\$10,802,133	\$68,817	\$4,157,800	\$4,226,617
Total	\$45,655,948	\$429,569	\$13,328,800	\$13,758,369
Source: Prepared by legislative auditor's staff based on provisions in state law and dates holder reports were received.				

² Calculations are the best estimate we could derive based on information in the database. We used the "received date" in the "Report" database to determine the dates holder reports were received, and then extracted those reports received after the filing deadline. We used these dates based on the director's statements that they were the dates holder reports were received by the division. Subsequently, he informed us that the dates in the field may not be totally reliable. However, they are the best dates available on the database to calculate the estimate.

According to Department of the Treasury officials, the division may decide to assess interest and penalties in the future. However, they said that they are not sure when this might occur. They also said that even if they wanted to collect interest and penalties, they do not have the money or resources to dedicate to reviewing holder reports to see if they were delinquent because returning property to owners is their first priority. In this audit, we identified several tasks and functions that the division said it does not have enough resources to handle. Charging interest and penalties, as allowed by state law, could provide the necessary resources, subject to legislative appropriation, to conduct these tasks and functions, including conducting audits of holders; reviewing holder reports for accuracy, completeness, and timeliness; reviewing property and owner information that is entered onto the database to ensure that it is accurate; and correcting other deficiencies noted in this audit. Charging interest and penalties may also deter holders from reporting unclaimed property to the division after the statutory deadline. The division would benefit from analyzing whether applying the interest and penalty provisions allowed in state law would provide an overall benefit for the program.

Recommendation 23: The Unclaimed Property Division should conduct a formal assessment to determine whether it would be more beneficial to assess, rather than not assess, interest and penalties for delinquent holder reports, as allowed by state law. The assessment should take into account the various operating needs of the division, including the need to implement various internal controls noted in this audit.

Summary of DOT Response: The department partially agrees with this recommendation. The division is of the opinion that its decisions and practices to waive penalties and interest have led to a most successful program. The division's focus is on returning money to citizens rather than penalizing Louisiana businesses (i.e., holders). The amount of interest and penalties listed in the audit report is inaccurate and misleading. The recent amnesty program and holder education seminars were done to inform holders that interest and penalties on late reports could be implemented. Nevertheless, a formal assessment will be considered.

Legislative Auditor's Additional Comments: The calculations of interest and penalties presented in the report are based on information in the unclaimed property database as of October 1, 2003, information about the database fields supplied to us by the division director, and state laws that dictate judicial interest rates and penalty amounts. The director later told us that the "received date" in the database may not be reliable. However, the point remains that state law requires the assessment of interest and penalties on delinquent holder reports and says that the program administrator may waive the assessment "if the holder acted in good faith and without negligence." The administrator cannot know whether each holder acted in good faith and without negligence unless it examines each case on an individual basis, which it has not done. Instead, the program administrator has applied a blanket waiver on all delinquent holder reports since program inception.

Appendix A

Audit Scope and Methodology

Appendix A: Audit Scope and Methodology

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. We followed the applicable generally accepted government auditing standards as promulgated by the Comptroller General of the United States. We focused our work on the Department of the Treasury's Unclaimed Property Program, which is administered by the Unclaimed Property Division. Preliminary work on this audit began in April 2003.

Scope

This audit focused on management and oversight activities of the Unclaimed Property Division. The audit covers fiscal years 2001 through 2003. In some cases, we expanded our scope to show trends in and to obtain information vital to evaluating certain activities. Specifically, we addressed the following questions:

- I. Has the Unclaimed Property Division ensured that all holders of unclaimed property report all property to the Treasury?**
- II. Has the Unclaimed Property Division ensured that owners of unclaimed property are accurately identified and refunded within the mandated timeframe?**
- III. What financial issues could impact the Unclaimed Property Division?**

Methodology

- I. Has the Unclaimed Property Division ensured that all holders of unclaimed property report all property to the Treasury?**
 - A. To determine if the division has ensured that all holders have reported all unclaimed property to the division, we:**
 - Reviewed relevant provisions of the state constitution and revised statutes
 - Interviewed division staff on their practices for identifying in-state holders of unclaimed property
 - Interviewed division staff on their practices for identifying potential and small in-state companies
 - Observed division employees input information from holder reports onto the unclaimed property database

- Reviewed a sample of hard copy holder reports for accuracy, completeness, and timeliness
- Surveyed five other states (Nevada, Oklahoma, Oregon, Tennessee, and Wisconsin) with populations and unclaimed property collections similar to Louisiana's on their procedures for identifying holders of unclaimed property

B. To determine if division employees reviewed holder reports of abandoned property for accuracy, completeness, and timeliness, and whether they input data from hard copy holder reports onto the unclaimed property database correctly, we:

- Interviewed division staff about their practices for processing holder reports
- Observed division employees input information from holder reports onto database and submit reports to other employees for review
- Compared owner and property information from a sample of hard copy holder reports submitted in fiscal years 2001 through 2003 to corresponding information on the database to determine if any errors had been made when the data was input
- Reviewed the division's scheduling of events and compared it to the statutory deadline for filing holder reports to ascertain whether it resulted in an efficient allocation of staff resources

C. To determine how promptly division employees entered data from hard copy holder reports onto the unclaimed property database, we:

- Conducted a computer analysis of the cleared dates on the database to calculate the number of days it took, on average, for employees to complete an entry of data from hard copy holders report filed in fiscal years 2001, 2002, and 2003

II. Has the Unclaimed Property Division ensured that owners of unclaimed property are accurately identified and refunded within the mandated timeframe?

A. To determine if the division approved and paid claims by the statutory deadlines, we:

- Reviewed the statutory provisions governing the deadlines for approving and paying claims
- Interviewed the division director for information on how the claims process works and when the claim "clock" starts and restarts
- Judgmentally selected a sample of 96 claims paid during fiscal years 2001 through 2003 and for each claim documented the date it was received, the date the division requested additional identifying documentation (if any), the date the division received the additional documentation (if applicable), and the date the division paid the claim

and calculated the length of time from claim initiation to the date of payment.

B. To ascertain whether security concerns exists in regard to access to the unclaimed property database, we:

- Questioned division management on whether policies and procedures that restrict unnecessary access to the database have been developed and implemented
- Obtained from the division's information technology technical support division a listing of division employees and their access rights to the unclaimed property database and assessed security risks
- Interviewed division supervisors on whether they monitor employee access privileges and changes made by employees to information in the database
- Reviewed job requirements of division staff and ascertained whether the level of access they have to the database is necessary to fulfill their job requirements
- Observed division employees as they entered property and owner information from hard copy holder reports onto the database
- Observed division employees as they approved claims submitted by potential owners
- Reviewed print screen documentation of system controls over the claim approval process
- Obtained from the information technology technical support division information on the access rights of the contractor who created the unclaimed property database and assessed security risks

C. To assess how division employees verify claimants' identities, we:

- Requested written policies and procedures for approving claims filed by potential owners
- Interviewed division staff on how they process claims and review identifying documentation submitted by claimants
- Judgmentally selected a sample of 96 claims paid in fiscal years 2001 through 2003, reviewed all identifying documentation that the claimants had submitted with the claims, and documented all cases of illegible, questionable, incomplete, and expired documentation that division employees had accepted as proof of identity and calculated the total dollar value of these claims

- D. To determine how timely the division has remitted property belonging to owners in other states, we:**
- Extracted from the unclaimed property database all property belonging to owners in states other than Louisiana as of the end of fiscal year 2002 and documented the total number of properties and total dollar value of the properties, as well as the portion of the dollar value that represents interest-bearing property
 - Using data through fiscal year 2001, extracted and identified owners in other states with property totaling \$75,000 or more that is being held by Louisiana
- E. To ascertain the amount of property not included on the unclaimed property database and Web site, we:**
- Interviewed division staff to determine what property and owner information has been entered onto the database and Web site and what information has not been entered
 - Observed hard copy reports of old unclaimed property records that have not been entered onto the database at the Unclaimed Property Division office in Baton Rouge
 - Observed division employees researching potential owner information at a public outreach event using pre-loaded laptop computers and noted that they could not access property that had been reported as abandoned between 1972 and 1986
 - Surveyed five states (Nevada, Oklahoma, Oregon, Tennessee, and Wisconsin) with populations and unclaimed property collections similar to Louisiana's on whether they have entered all unclaimed property data onto their databases and Web sites
- F. To assess how easy it is to search the unclaimed property Web site, we:**
- Reviewed and analyzed the search instructions listed on the Web site
 - Input multiple spellings of the same last name on the Web site and analyzed the search results
 - Input owner information on the Web site from information contained in a sample of holder reports and analyzed the results of the search
- G. To determine whether the division attempted to locate easily recognizable owners of unclaimed property, we:**
- Entered into the Web site terms such as "city of," "town of," "parish of," and "LSU" to identify easily recognizable property owners; eliminated small business owners and individuals and property reported in fiscal year 2003 from the search; and identified the total dollar value of property belonging to these owners

- Extracted easily identifiable owners with \$100 or more in unclaimed property and tabulated the results

III. What financial issues could impact the Unclaimed Property Division?

A. To identify expenditures that could impact the Unclaimed Property Division, we:

- Reviewed statutory provisions on how the Unclaimed Property Division is funded
- Interviewed Department of the Treasury staff to determine the process used to collect, refund, and account for unclaimed property transactions
- Analyzed collections and claim payments since the inception of the program
- Reviewed past financial audit reports and interviewed the manager in charge of the financial audit of the Department of the Treasury
- Interviewed Department of the Treasury officials about large expenditures that could impact the division
- Reviewed contracts the division has with external auditors who locate unclaimed property in other states that belongs to Louisiana residents

B. To determine the amount of interest paid to claimants compared to what market rates would pay for the same property, we:

- Interviewed division officials to determine how the division collects and categorizes interest-bearing accounts
- Observed division employees as they processed interest-bearing claims
- Extracted from the unclaimed property database the amounts and types of interest bearing property collected by the division in fiscal years 2001 through 2003
- Obtained the percentage of unclaimed property that is expected to be returned to property owners over the next 10 years from the Financial and Compliance Audit Division of the Legislative Auditor's Office
- Compared interest that would have been paid to claimants if various market rates had been used to that paid using the 5% rate that the division automatically pays to claimants on interest-bearing property
- Compared the division's practices for paying interest to five other states (Nevada, Oklahoma, Oregon, Tennessee, and Wisconsin) that have similar populations and unclaimed property collections
- Based on collections and the estimated refund percentage, compared the amount of interest that is estimated to be paid at the division's rate of 5% to that calculated at a range of market rates

- C. To ascertain how the division deals with unclaimed securities, we:**
- Reviewed relevant statutes regarding the collection and disbursement of securities
 - Obtained the amount of dividends collected by the division on securities in its possession at the end of fiscal year 2003
 - Obtained the estimated value of securities held at the end of fiscal year 2003 from the Financial and Compliance Audit Division of the Legislative Auditor's Office
 - Compared the division's informal policy of retaining possession of securities instead of selling them to five states (Nevada, Oklahoma, Oregon, Tennessee, and Wisconsin) that have similar populations and unclaimed property collections
 - Interviewed Department of the Treasury officials on their views of retaining possession of securities versus selling them
- D. To determine if the division has assessed interest and penalties, as allowed by state law, against holders who report unclaimed property after the established due date, we:**
- Reviewed statutory provisions on assessing delinquent holders for interest and penalties and discussed provisions with the Department of Treasury's general counsel
 - Reviewed the unclaimed property database for the dates that holder reports were submitted in fiscal years 2001 through 2003 and compared these dates to the statutorily mandated annual due date to determine how many of the reports were delinquent; then, using the judicial rates of interest and penalty amounts stipulated in state law, calculated the amount of interest and penalties that the division could have assessed for these delinquent reports
 - Interviewed Department of the Treasury officials about their views on assessing interest and penalties and the recently implemented amnesty program.

Appendix B

Summary of Matters for Legislative Consideration and Recommendations

Appendix B: Summary of Matters for Legislative Consideration and Recommendations

Matters for Legislative Consideration

Matter for Legislative Consideration 1: The legislature should consider amending R.S. 9:161(A) to require the Unclaimed Property Division to advertise properties six months before the following year's holder reporting deadline instead of by November 30 of the year following the year in which property was paid or delivered.

Matter for Legislative Consideration 2: The legislature should consider amending R.S. 9:159 to require holders to report electronically each year to the Unclaimed Property Division. An exception could be made for holders who do not have electronic capabilities.

Matter for Legislative Consideration 3: The legislature should consider amending R.S. 9:163 to stipulate that the Unclaimed Property Division either shall not pay interest on reciprocal property at all or that the division shall not pay interest on reciprocal property in cases where the state of last known address does not pay interest.

Matter for Legislative Consideration 4: The legislature should consider amending R.S. 9:165(B) to allow external auditor fees to be paid either out of gross collections or interest and penalties collected for delinquent holder reports instead of out of the 7% of total gross collections, which currently funds the administrative costs of the division.

Matter for Legislative Consideration 5: The legislature should consider amending R.S. 9:163 to require the division to pay *the lesser of 5% or the actual interest rate earned on interest-bearing property*. The amendment would eliminate the ambiguity in the current wording of the law.

Matter for Legislative Consideration 6: The legislature should consider amending R.S. 9:164(C) to clarify its intent regarding the sale of securities. If the legislature intends for the division to sell securities, it should amend the language in the statute to require, rather than allow, their sale and include a provision to protect the state from potential lawsuits resulting from the sales.

Recommendations

Recommendation 1: The Unclaimed Property Division should reallocate current resources or find new resources to conduct audits of potential in-state holders of unclaimed property using the lists provided by external sources and the unclaimed property report submitted by holders. The focus of the audits should be on determining if all holders have reported all unclaimed property in their possession, as required by law, and whether the information they reported is complete and accurate.

Recommendation 2: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring employees to review all holder reports in detail for accuracy, completeness, and timeliness and to contact holders or conduct alternative corrective action when they discover obvious errors or omissions. Division supervisors should continually monitor the staff to make sure that the policy is followed.

Recommendation 3: The director of the Unclaimed Property Division should revise the yearly schedule of events and separate the two busiest events of the year (holder report deadline and advertising). By splitting these events, the division should have more time to focus on tasks and functions such as auditing, researching delinquent holder reports, and data entry.

Recommendation 4: If the legislature does not amend the existing law as stated in Matter for Legislative Consideration 3, the Unclaimed Property Program should expand its reach in its efforts to encourage holders to report electronically. The program could disseminate this information through annual mailings, holder seminars, community outreach events, and other means.

Recommendation 5: The director of the Unclaimed Property Program should develop and implement a formal written policy that limits access to critical areas of the unclaimed property database to only those employees who have a demonstrated need to view, add, modify, or delete data in those areas to fulfill their job requirements. The policy should also require periodic job rotation for division employees.

Recommendation 6: The director of the Unclaimed Property program should develop and implement a formal written policy that requires the director and other supervisors to routinely review and approve changes made in the database by other employees. Their reviews should ensure that unauthorized access to critical information on the database has not occurred and that unauthorized or inappropriate changes to database information have not been made.

Recommendation 7: The director of the Unclaimed Property Division should work with the contractor who designed and now manages the database to implement computer controls that prevent access by unauthorized contract employees.

Recommendation 8: The director of the Unclaimed Property Division should develop and implement a formal written policy that limits the contractors access to the database to an as needed basis at the VPN point of entry. The director should also have a risk assessment conducted on the database system to determine the value of the system and costs of control and remediation versus the cost of potential losses.

Recommendation 9: The director of the Unclaimed Property Division should develop and implement a formal, written policy stipulating what constitutes acceptable types of identifying documentation for verifying the identity of claimants. The policy should set a designated dollar amount above which more stringent proof of identity is required. In addition, the policy should include the following provisions:

- Critical and sensitive information such as names, addresses, and social security numbers of claimants should be complete, legible, and correctly spelled on documentation.
- Copies of the identifying documents must be clear and easy to read.
- Copies of identifying documents must be legal, valid and current (e.g., social security cards must be signed; drivers' licenses must be current, except in cases such as verification of a past address; names must be spelled correctly; and names must be updated to reflect any changes brought about by marriage, divorce, etc.)

Recommendation 10: The Unclaimed Property Division should put into writing the informal policy requiring all claims of \$250 and above to be notarized. Supervisors should ensure, through routine monitoring, that division employees comply with the policy.

Recommendation 11: Management of the Unclaimed Property Division should continually train employees who handle claim processing on what constitutes appropriate proof of identity. Once employees have been trained in this area, they should remain alert for obvious or questionable documentation submitted as proof of identity.

Recommendation 12: The director of the Unclaimed Property Division develop and implement a formal written policy on reciprocal agreements that stipulates time periods for remitting reciprocal property to other states. The policy should also reflect any changes made to the law dealing with interest payments (see Matter for Legislative Consideration 3). Division supervisors should monitor employees to make sure that employees follow the policy.

Recommendation 13: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring that all property belonging to owners in other states be remitted to those states before the statutory holder reporting deadline.

Recommendation 14: The director of the Unclaimed Property program should ensure that information contained in the old hard copy holder reports is entered into the database as soon as possible in order to expedite reuniting claimants with their property.

Recommendation 15: Until all property has been entered into the Unclaimed Property database, the director should develop and implement a formal written policy requiring all employees who answer phone inquiries to check the hard copy files in all cases when the caller provides sufficient identifying information.

Recommendation 16: The director of the Unclaimed Property Division should see that search instructions for the unclaimed property Web Site are updated to provide more explicit search directions that will help users successfully search for property.

Recommendation 17: The director of the Unclaimed Property Division should see that a notice is posted on the Web site stating that most property reported by holders from 1972

through 1986 cannot be found on the Web site and that individuals may inquire about such property either by phone or mail.

Recommendation 18: The Unclaimed Property Division should work with the Webpage designer to create a more flexible search engine that will eliminate the limitations noted in this finding.

Recommendation 19: The director of the Unclaimed Property Division should develop and implement a formal written policy that requires employees to periodically search for and return property belonging to entities whose names are easily recognizable and can be easily located using telephone directories, the Internet, or other means before advertising the entities' names in its annual advertisement. Special emphasis should be placed on property with large dollar values and property belonging to other governmental entities.

Recommendation 20: The Department of the Treasury should analyze whether 7% of total gross collections during any fiscal year is sufficient to meet the administrative needs of the division and pay for external auditing fees. If the amount is insufficient, Treasury officials should approach the legislature with a request to amend R.S. 9:165(B) to increase the statutory amount.

Recommendation 21: If the legislature does not repeal R.S. 9:163 as stated in Matter for Legislative Consideration 5, the division should develop and implement a formal written policy that requires the division to apply *the lesser of 5% or the actual interest rate earned* for interest-bearing property remitted to the division. The director should also instruct holders, through some means (e.g., Web site instructions), that they must report market interest rates for each interest-bearing property they report to the division. He should also instruct division employees to contact holders who do not report the market rates to obtain the appropriate rates from the holders.

Recommendation 22: If the legislature does not amend R.S. 9:164(C) to require the sale of securities as discussed in Matter for Legislative Consideration 6, the division should conduct a formal risk assessment regarding the sale of securities. At a minimum, the risk assessment should include the potential benefit to the state from the sale of securities as opposed to the benefits of using dividends earned on securities held, the staff time that must be dedicated to tracking securities that are held, and the potential risks of tort liability. Based on results of the assessment, the director should then develop and implement a formal written policy governing the sale of securities.

Recommendation 23: The Unclaimed Property Division should conduct a formal assessment to determine whether it would be more beneficial to assess, rather than not assess, interest and penalties for delinquent holder reports, as allowed by state law. The assessment should take into account the various operating needs of the division, including the need to implement various internal controls noted in this audit.

Appendix C

Timeframes for Presumption of Abandonment

Appendix C: Timeframe for Presumption of Abandonment

Type of Property	Length of Time for Presumption of Abandonment
Travelers checks	15 years after issuance
Money orders	7 years after issuance
Stocks or other interests in business associations	5 years after the earlier of the date of an unrepresented instrument issued to pay interest or a dividend or other cash distribution, or the date of issue of an undelivered stock certificate issued as a stock dividend, split, or other distribution
Demand, savings or matured time deposits	5 years after the earlier of its maturity or the date of the last indication by the owner of interest in property
Money or credits owed to customers as a result of retail business transactions	3 years after the obligation accrued
Gift certificates	3 years after December 31 of the year in which the certificate was sold
Amounts owed by insurers on life or endowment insurance policies or annuity contracts that have matured or terminated	3 years after the obligation to pay arose or, in the case of a policy or contract payable upon proof of death, three years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based
Property distributable by business associations in the course of dissolution	1 year after the property becomes distributable
Property received by a court as proceeds of a class action and not distributed to members of the class	1 year after the distribution date
Property held by a court, state or other governmental subdivision or agency, public corporation, or other public authority	1 year after the property becomes distributable, except as provided in R.S. 15:86.1 (bail bonds)
Wages or other compensation for personal services	1 year after the compensation or refund becomes payable
Deposits or refunds owed to subscribers by utilities	1 year after the deposit or refund becomes payable
Property in individual retirement accounts or other accounts or plans that is qualified for tax deferral under U.S. income tax laws	3 years after the earliest of the date of the distribution or attempted distribution of the property, the date of the required distribution as stated in the plan or trust agreement governing the plan, or the date, if determinable by the holder, specified in the income tax laws by which distribution of the property must begin in order to avoid a tax penalty.
Mineral proceeds	2 years after the property is payable or distributable
All other property	5 years after the obligation to pay or distribute the property arises
Source: Generated by legislative auditor's staff using R.S. 9:154	

Appendix D

Results of Survey of Other States

Appendix D: Results of Survey of Other States

Questions	Louisiana	Nevada	Oklahoma	Oregon	Tennessee	Wisconsin
Number of Employees?	9 FT/15 PT	8 FT	17 FT/7 PT	10 FT/2 PT/ 2 paid by other	10 FT/some PT	4 FT
Do you audit holders?	No	Yes	Yes	Yes	No	No
Do you use of out-of-state auditing consultants?	Yes	Yes	Yes	Yes	Yes	Yes
Do you fine delinquent holders?	No	Yes	Not currently	Not currently	Yes	Yes
Do you conduct proactive searches for owners?	Limited	Limited	Limited	Yes	Yes	Yes
How long will you hold unclaimed property?	Indefinitely	Indefinitely	Indefinitely	Indefinitely unless escheat property	Indefinitely	Indefinitely
Where are collections held?	Over \$500K in General Fund	Trust Fund	General Fund	Common School Fund	General Fund	Daily Account
Where do collections ultimately end up?	General Fund	General Fund	General Fund	Common School Fund	General Fund	School Trust Fund
How is your division funded?	Maximum of 7% of collections	Trust Fund and General Fund	Appropriations and Collections	Interest from Common School Fund	Appropriations and Collections	Collections
Do you refund 100% of claimants' property?	Yes	Yes	Yes	Yes	Yes	Yes
Do you pay interest to owners?	Yes	No	No	No	Yes	Yes
If you sell securities, how long do you hold them before selling?	Do not sell	After 1 year	After 1 year	After 6 months	After 1 year	After 3 years
Are all records on your database?	1986-present	Yes	Yes	1970-present	Yes	1970-present

Note: We surveyed these five states because they have populations and unclaimed property collections similar to Louisiana's.

Source: Compiled by legislative auditor's staff from survey results.

Appendix E

Easily Locatable Entities With Unclaimed Property Valued at \$100 or More

Note: The names of entities included in this appendix are verbatim as they appear on the unclaimed property database and Web site.

Appendix E: Easily Locatable Entities With Unclaimed Property Valued at \$100 or More

Count	Name of Entity as Listed on Web site	Value of Property	Date Property Received by Division
1	16th Judicial Court St. Martin Parish	\$4,000.00	8/28/2001
2	Acadia Parish Clerk of Court	\$100.74	11/8/2002
3	Ascension Parish School Board	\$110.75	11/26/1986
4	Assumption Parish LA	\$450.83	7/26/2002
5	Bossier Parish Assocmi	\$622.48	2/6/1987
6	Caddo Parish Clerk of Court	\$525.00	11/1/2001
7	Caddo Parish Police Jury	\$603.99	11/2/2001
8	Caddo Parish School Board	\$296.00	2/8/2001
9	Caddo Parish School Board	\$600.00	5/30/2002
10	City of Baton Rouge Purchasing	\$193.37	11/26/1986
11	City of Lafayette	\$187.10	10/25/2002
12	City of NO Emergency Med &	\$355.00	11/14/2000
13	City of Shreveport	\$426.25	11/8/2002
14	Claiborne Parish School	\$346.77	11/5/2001
15	Dept of Surgery LSUMC	\$387.00	12/31/1986
16	Desoto - Parish of	\$220.00	11/5/2001
17	Desoto Parish Policy Jury	\$160.00	11/6/2001
18	East Baton Rouge Parish School System or	\$151.92	10/31/1997
19	EBR Parish School Board	\$177.27	11/26/1986
20	EBR Parish School Board	\$210.42	10/31/2000
21	Evangeline Parish So	\$102.00	9/17/2002
22	Fla Parishes Juv Det Ctr	\$106.07	11/2/2001
23	Frist Parish Court Clerk	\$400.00	11/3/1999
24	Jackson Parish Hosp	\$254.40	11/1/2000
25	Jeff Parish Sch Cr Union	\$256.00	11/1/1999
26	Jefferson Parish	\$504.00	5/30/2002
27	Jefferson Parish	\$1,505.90	11/16/2000
28	Jefferson Parish Clerk of Court	\$100.00	10/8/1999
29	Jefferson Parish Purchasing Dept	\$234.00	11/1/2000
30	Jefferson Parish School B	\$131.99	1/31/2001
31	Lafayette Parish School Board	\$258.78	5/14/1973
32	Lafayette Parish School Board	\$250.00	11/1/2002
33	Lasea St. Landry Parish Schools	\$375.00	11/6/2002
34	Louisiana State University	\$1,992.05	11/6/2002
35	LSU	\$500.00	12/1/1999
36	LSU	\$200.00	12/1/1999
37	LSU	\$500.00	12/1/1999

Count	Name of Entity as Listed on Web site	Value of Property	Date Property Received by Division
38	LSU	\$250.00	12/1/1999
39	LSU	\$250.00	12/1/1999
40	LSU	\$200.00	12/1/1999
41	LSU	\$500.00	12/1/1999
42	LSU	\$200.00	12/1/1997
43	LSU	\$500.00	12/1/1999
44	LSU A&M College	\$205.00	10/25/2002
45	LSU Department of OB-GYN	\$500.00	10/30/2002
46	LSU MED TR	\$410.00	11/7/2002
47	LSU Medical Center Board	\$304.60	11/6/2002
48	LSU Medical Center Clinic	\$600.00	11/8/2002
49	LSU School of Dentistry	\$634.20	10/31/2002
50	LSU School of Medicine, American Society of Tropical Medicine	\$105.00	6/30/1993
51	LSU School of Medicine, Emergency Medical Fund	\$200.00	11/7/2001
52	LSU Shreveport	\$112.00	11/17/2000
53	LSUS	\$140.00	11/16/1998
54	LSUSM School of Nursing	\$249.50	11/10/1999
55	Natch Parish Hosp	\$240.00	11/6/2002
56	Orleans Parish	\$160.00	11/5/2001
57	Orleans Parish Dist Attny Off Escrow Acc	\$444.12	12/10/1998
58	Orleans Parish School Board	\$0.30	10/30/2002
59	Ouachita Parish Schools	\$100.00	10/31/2002
60	Quachita Parish School Board	\$294.15	11/3/2000
61	Rapides Parish Police Jury	\$114.00	5/14/1986
62	Rapides Parish School Board	\$142.15	1/29/1973
63	Rapides Parish School Board	\$548.15	5/14/1973
64	Sabine Parish Sheriffs Depart	\$150.00	11/1/2002
65	Southern University	\$200.00	10/25/2002
66	Southern University	\$300.00	11/4/2002
67	Southern University	\$394.73	10/24/2002
68	Southern University	\$143.06	10/29/1999
69	Southern University Sys	\$217.57	10/29/2002
70	Southern University Sys	\$153.99	10/29/2002
71	Southern University Sys	\$298.27	10/29/2002
72	Southern University Sys	\$353.93	10/29/2002
73	Southern University Sys	\$166.17	10/29/2002
74	Southern University Sys	\$158.38	10/29/2002
75	St. Charles Parish	\$1,500.00	11/1/2000
76	St. Charles Parish School Board	\$152.10	10/29/2002
77	St. Charles Parish School Board	\$149.50	10/29/2002
78	St. James Parish School	\$580.00	11/26/1986

Count	Name of Entity as Listed on Web site	Value of Property	Date Property Received by Division
79	St. Tammany Parish Hosp	\$206.67	10/26/1999
80	St. Tammany Parish Hosp	\$230.80	10/21/2002
81	St. Tammany Parish Hospital	\$8,300.88	11/2/2000
82	St. Tammany Parish Hospital	\$1,490.83	11/8/2000
83	St. Tammany Parish Hospital	\$1,265.60	11/8/2000
84	St. Tammany Parish Hospital	\$248.16	11/8/2000
85	St. Tammany Parish Hospital &	\$551.91	1/11/2000
86	Town of Gonzales	\$301.00	11/26/1986
87	Town of New Roads	\$904.76	4/30/1987

Appendix F

Department of the Treasury's Response



TREASURER OF THE STATE OF LOUISIANA

JOHN NEELY KENNEDY
TREASURER

April 5, 2004

POST OFFICE BOX 44154
BATON ROUGE 70804
TELEPHONE (225) 342-0010
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Mr. Grover C. Austin, CPA
Acting Legislative Auditor
Office of Legislative Auditor
P. O. Box 94397
Baton Rouge, LA 70804

Dear Mr. Austin:

The Treasury has reviewed the revised draft of your performance audit report on the Unclaimed Property Program hereinafter referred to in this letter as the "program." I want to thank your staff for completing their audit in the most professional and courteous way.

It has always been my philosophy to welcome a performance audit as an opportunity for improvement, and my comments below are respectfully offered in that demeanor. While we do not concur with all of your recommendations, we appreciated the opportunity to truly step back and examine our operations from an external perspective.

As Administrator of the program, I take pride in the service we provide to Louisiana citizens and businesses. I have always been pleased with how well run the program is – from excellent customer service to identity theft protection. I am most proud of the men and women who are in the trenches every day doing everything they can to return property to Louisiana citizens, businesses and agencies.

The exponential growth of our operations has far outweighed any increase in resources we can apply to the program. However, each year we set new records for unclaimed property collections, and most importantly, we have set records for returning property to its rightful owners. Since 1996, we have set records for unclaimed property collections for six out of eight years and have set records for unclaimed property refunds for seven out of eight years.

Your audit, however, helped us note everyday tasks where a lack of resources has generated the need for further internal controls, even though we have never – since the program's inception in 1972 – had one instance of fraudulent activity. In fact, the program is cited as one of the best in the United States. Treasury has steadfastly followed our legislative mandates and exercised our stipulated discretion resulting in a very successful program characterized by its unwavering integrity.

Below I will address each of your recommendations individually. While we concur with some of the recommendations, we must disagree with others. Sometimes, in our judgment, incorrect conclusions were drawn from unrelated or incomplete data. Consider, for example, that the core mission and legislative mandate of the unclaimed property program is to return property to the rightful owner. It is not to penalize businesses, large or small, and it is certainly not to generate revenues to be used for the operation of state government.

Mr. Grover C. Austin, CPA

April 5, 2004

Page 2

I point these out because one of your findings suggests we should perform a formal assessment on charging businesses penalties and interest. The Auditor cited \$13 million in potential fees and interest that we could have collected from holders. Our records indicate that approximately 33 percent of "late" reports cited in the audit are from contract auditor reports that are submitted year-round and another 33 percent are from governmental agencies. Some of the remaining amounts reflect reciprocal reports from other states, voluntary compliance reports, and holders reporting from outside of the state.

And contrary to the finding, these penalties would not have helped the program with its lack of resources. As is often the case with any self-funded state program, Unclaimed Property only receives money that is appropriated, never the full amount of self-generated funds that are allowed by the law.

On other recommendations, it seems that follow-up information provided to the Auditing staff (at their request) was apparently not considered. There were several recommendations dealing with policy development, even though we provided the Auditors with our newly developed policy manual. We take pride in the fact that we recognized the need for a policy manual on our own and completed it before the Auditors submitted their findings.

In conclusion, when reviewing our responses, please note we used the following definitions:


Agree – we concur with your recommendation and will take the requested action.

Partially Agree – we share your opinion and have always acted in the manner of your recommendation, or we have previously taken steps to act in the manner of your recommendation. We list the action to prove our shared opinion or any change that we will make to bring us more in line with your recommendation.

Disagree – we do not feel the conclusion you reached was correct, either because of misinterpreted data or because we are currently and sufficiently operating within the guidelines of the law.

Thank you again for your review of our program.

Sincerely,


John Kennedy
State Treasurer

JNK/js

**Office of the Legislative Auditor – Performance Audit Division
Recommendations Checklist**

Instructions to audited agency: Please check the appropriate box below for each recommendation. A summary of your response for each recommendation will be included in the body of the report. The entire text of your response will be included as an appendix to the audit report.

RECOMMENDATION(S)	PARTIALLY		
	AGREE	AGREE	DISAGREE
Recommendation 1: The Unclaimed Property Division should reallocate current resources or find new resources to conduct audits of potential in-state holders of unclaimed property using the lists provided by external sources and the unclaimed property report submitted by holders. The focus of the audits should be on determining if all holders have reported all unclaimed property in their possession, as required by law, and whether the information they reported is complete and accurate.		√	
Recommendation 2: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring employees to review all holder reports in detail for accuracy, completeness, and timeliness and to contact holders or conduct alternative corrective action when they discover obvious errors or omissions. Division supervisors should continually monitor the staff to make sure that the policy is followed.		√	
Recommendation 3: The director of the Unclaimed Property Division should revise the yearly schedule of events and separate the two busiest events of the year (holder report deadline and advertising). By splitting these events, the division should have more time to focus on tasks and functions such as auditing, researching delinquent holder reports, and data entry.		√	

RECOMMENDATION(S)	PARTIALLY		
	AGREE	AGREE	DISAGREE
<p>Matter for Legislative Consideration 1: The legislature should consider amending R.S. 9:161(A) to require the Unclaimed Property Division to advertise properties six months prior to the following year's November 1st holder reporting deadline instead of by November 30th of the year following the year in which property was paid or delivered.</p>			√
<p>Matter for Legislative Consideration 2: The legislature should consider amending R.S. 9:159 to require holders to report electronically each year to the Unclaimed Property Division. An exception could be made for holders who do not have electronic capabilities.</p>			√
<p>Recommendation 4: If the legislature does not amend the existing law as stated in Matter for Legislative Consideration 2, the Unclaimed Property Division should expand its reach in its efforts to encourage holders to report electronically. The division could disseminate this information through annual mailings, holder seminars, community outreach events, and other means.</p>		√	
<p>Recommendation 5: The director of the Unclaimed Property Program should develop and implement a formal written policy that limits access to critical areas of the unclaimed property database to only those employees who have a demonstrated need to view, add, modify, or delete data in those areas to fulfill their job requirements. The policy should also require periodic job rotation for division employees.</p>		√	
<p>Recommendation 6: The director of the Unclaimed Property program should develop and implement a formal written policy that requires the director and other supervisors to routinely review and approve changes made in the database by other employees. Their reviews should ensure that unauthorized access to critical information on the database has not occurred and that unauthorized or inappropriate changes to database information have not been made.</p>	√		

RECOMMENDATION(S)	AGREE	PARTIALLY AGREE	DISAGREE
RECOMMENDATION(S)	AGREE	PARTIALLY AGREE	DISAGREE
<p>Recommendation 7: The director of the Unclaimed Property Division should work with the contractor who designed and now manages the database to implement computer controls that prevent access by unauthorized contract employees.</p>			√
<p>Recommendation 8: The director of the Unclaimed Property Division should develop and implement a formal written policy that limits the contractor's access to the database to an as needed basis at the VPN point of entry. The director should also have a risk assessment on the database system to determine the value of the system and costs of control and remediation versus the cost of potential losses.</p>	√		
<p>Recommendation 9: The director of the Unclaimed Property Division should develop and implement a formal, written policy stipulating what constitutes acceptable types of identifying documentation for verifying the identity of claimants. The policy should set a designated dollar amount above which more stringent proof of identity is required. In addition, the policy should include the following provisions:</p> <ul style="list-style-type: none"> ○ Critical and sensitive information such as names, addresses, and social security numbers of claimants should be complete, legible, and correctly spelled on documentation. ○ Copies of the identifying documents must be clear and easy to read. ○ Copies of identifying documents must be legal, valid and current (e.g., social security cards must be signed; driver's licenses must be current; names must be spelled correctly, and names must be updated to reflect any changes brought about by marriage, divorce, etc.) 		√	

RECOMMENDATION(S)	PARTIALLY		
	AGREE	AGREE	DISAGREE
Recommendation 10: The Unclaimed Property Division should put into writing the informal policy requiring all claims of \$250 and above to be notarized. Supervisors should ensure, through routine monitoring, that division employees comply with the policy.		√	
Recommendation 11: Management of the Unclaimed Property Division should continually train employees who handle claim processing on what constitutes appropriate proof of identity. Once employees have been trained in this area, they should remain alert for obvious or questionable documentation submitted as proof of identity.		√	
Recommendation 12: The director of the Unclaimed Property Division develop and implement a formal written policy on reciprocal agreements that stipulates time periods for remitting reciprocal property to other states. The policy should also reflect any changes made to the law dealing with interest payments (see Matter for Legislative Consideration 3). Division supervisors should make sure that employees follow the policy.			√
Recommendation 13: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring that all property belonging to owners in other states be remitted to those states before the November 1 st holder reporting deadline.			√
Matter for Legislative Consideration 3: The legislature should consider amending R.S. 9:163 to stipulate that the Unclaimed Property Division either shall not pay interest on reciprocal property at all or that the division shall not pay interest on reciprocal property in cases where the state of last known address does not pay interest.			√
Recommendation 14: The director of the Unclaimed Property program should ensure that information contained in the old hard copy holder reports is entered into the database as soon as possible in order to expedite reuniting claimants with their property.		√	

RECOMMENDATION(S)	PARTIALLY		
	AGREE	AGREE	DISAGREE
Recommendation 15: Until all property has been entered into the Unclaimed Property database, the director should develop and implement a formal written policy requiring all employees who answer phone inquiries to check the hard copy files in all cases where the caller provides sufficient identifying information.			√
Recommendation 16: The director of the Unclaimed Property Division should see that search instructions for the unclaimed property Web Site are updated to provide more explicit search directions that will help users successfully search for property.	√		
Recommendation 17: The director of the Unclaimed Property Division should see that a notice is posted on the Web site stating that most property reported by holders from 1972 through 1986 cannot be found on the Web site and that individuals may inquire about such property either by phone or mail.			√
Recommendation 18: The Unclaimed Property Division should work with the Webpage designer to create a more flexible search engine that will eliminate the limitations noted in this finding.			√
Recommendation 19: The director of the Unclaimed Property Division should develop and implement a formal written policy that requires employees to periodically search for and return property belonging to entities whose names are easily recognizable and can be easily located using telephone directories, the Internet, or other means before advertising the entities' names in its annual advertisement. Special emphasis should be placed on property with large dollar values and property belonging to other governmental entities.		√	
Recommendation 20: The Department of the Treasury should analyze whether 7% of total gross collections during any fiscal year is sufficient to meet the administrative needs of the division and pay for external auditing fees. If the amount is insufficient, Treasury officials should approach the legislature with a request to amend R.S. 9:165(B) to increase the statutory amount.	√		

RECOMMENDATION(S)	PARTIALLY		
	AGREE	AGREE	DISAGREE
<p>Matter for Legislative Consideration 4: The legislature should consider amending R.S. 9:165(B) to allow external auditor fees to be paid either out of gross collections or interest and penalties collected for delinquent holder reports instead of out of the 7% of total gross collections, which currently funds the administrative costs of the division.</p>	√		
<p>Matter for Legislative Consideration 5: The legislature should consider amending R.S. 9:163 to require the division to pay <i>the lesser of 5%</i> or the current market interest rate on interest-bearing property. This amendment would eliminate the ambiguity in the current wording of the law.</p>		√	
<p>Recommendation 21: If the legislature does not repeal R.S. 9:163 as stated in Matter for Legislative Consideration 5, the division should develop and implement a formal written policy that requires the division to apply <i>the lesser of 5%</i> or the current market interest rate for interest-bearing property remitted to the division. The director should also instruct holders, through some means (e.g., Web site instructions), that they must report market interest rates for each interest-bearing property they report to the division. He should also instruct division employees to contact holders who do not report the market rates to obtain the appropriate rates from the holders.</p>			√
<p>Matter for Legislative Consideration 6: The legislature should consider amending R.S. 9:164(C) to clarify its intent regarding the sale of securities. If the legislature intends for the division to sell securities, it should amend the language in the statute to require, rather than allow, their sale and include a provision to protect the state from potential lawsuits resulting from the sales.</p>			√

RECOMMENDATION(S)	PARTIALLY		
	AGREE	AGREE	DISAGREE
<p>Recommendation 22: If the legislature does not amend R.S. 9:164(C) to require the sale of securities as discussed in Matter for Legislative Consideration 6, the division should conduct a formal risk assessment regarding the sale of securities. At a minimum, the risk assessment should include the potential benefit to the state from the sale of securities as opposed to the benefits of using dividends earned on securities held, the staff time that must be dedicated to tracking securities that are held, and the potential risks of tort liability. Based on results of the assessment, the director should then develop and implement a formal written policy governing the sale of securities.</p>		√	
<p>Recommendation 23: The Unclaimed Property Division should conduct a formal assessment to determine whether it would be more beneficial to assess, rather than not assess, interest and penalties for delinquent holder reports, as allowed by state law. The assessment should take into account the various operating needs of the division, including the need to implement various internal controls noted in this audit.</p>		√	

Responses to Recommendations from the Legislative Auditor for the UCP Division
April 5, 2004

Recommendation 1: The Unclaimed Property Division should reallocate current resources or find new resources to conduct audits of potential in-state holders of unclaimed property using the lists provided by external sources and the unclaimed property report submitted by holders. The focus of the audits should be on determining if all holders have reported all unclaimed property in their possession, as required by law, and whether the information they reported is complete and accurate.

RESPONSE 1: PARTIALLY AGREE

- **Contract in place to commence general auditing, and special auditing of oil and gas companies is ongoing.**
- **Holder education and publications being used to inform holders of their obligations.**
- **New collections record is being set for fiscal year 2003-2004.**
- **Formal, written policy in place (see UCP Policy V A).**

We partially agree with this recommendation because we began the in-state audit process several years ago. We have had a contract with the Revenue Recovery Group since August of 2003 for auditing services, and we expect field examinations to be underway this quarter. A contract with Hosie, Frost, Large and McArthur has been in place since February of 2001, and audits have been underway to examine oil and gas producers for the underreporting of mineral royalties due Louisiana residents.

We use holder education seminars and publications to inform holders of their obligations. We have also set a new collections record for this fiscal year (2003-2004) and have done so six out of eight years since 1996. As a result of our holder education efforts and the amnesty program that ended on December 31, 2003, the Treasury has exceeded the previous all-time single year record for unclaimed property collections by more than \$2 million and there are still three months left in this fiscal year.

We have added new holders to our list by comparing our database to all companies listed on the New York Stock Exchange. We have also added new holders using an online business directory service called "ReferenceUSA.com." In addition, other agencies perform cursory reviews for unclaimed property such as the Office of Financial Institutions, Department of Insurance and the Legislative Auditor's Office (state and local governmental agencies).

We will continue our efforts to educate holders and to conduct in-state audits. We would like to note, however, that our unclaimed property program has grown exponentially over the years, and our resources have not kept up with the volume.

Recommendation 2: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring employees to review all holder reports in detail for accuracy, completeness, and timeliness and to contact holders or conduct alternative corrective action when they discover obvious errors or omissions. Division supervisors should continually monitor the staff to make sure that the policy is followed.

RESPONSE 2: PARTIALLY AGREE

- **Division supervisors will monitor.**
- **Formal, written policy in place (see UCP Policy II B).**

We only partially agree with this recommendation for the reason that there continuously has been a working employee procedure manual in place for the Treasury's Unclaimed Property Division that specifically addresses checks and balances and how employees must verify each other's work. We have provided a copy of this section of the procedure manual to the Auditor's Office, and we have provided new instructions to keyers and verifiers. In addition, we have provided a copy of our policy manual (see UCP Policy II B) dealing with this issue to the Auditor's Office.

We agree that more work can be done in this area to take additional steps to ensure that internal policies and procedures that are already in place regarding checks and balances are more closely followed. Division supervisors will also monitor these procedures and will continue to monitor and review the data entry and verification process.

Recommendation 3: The director of the Unclaimed Property Division should revise the yearly schedule of events and separate the two busiest events of the year (holder reporting deadline and advertising). By splitting these events, the Division should have more time to focus on things such as auditing, researching delinquent holder reports and data entry.

RESPONSE 3: PARTIALLY AGREE

- **Annual publication and legislative lists may be rescheduled.**

We thank the Auditor's Office for their recommendation concerning the scheduling of unclaimed property events. This recommendation, or a variation of it, is something we have talked about in the past, and it may be implemented after additional consideration and discussion. However, in our past discussions, lack of staff time or inability to focus on priorities has never been cited as a reason to alter the schedule.

MATTER FOR LEGISLATIVE CONSIDERATION 1:

The legislature should consider amending R.S. 9:161(A) to require the Unclaimed Property Division to advertise properties six months prior to the following year's November 1st holder reporting deadline instead of by November 30th of the year following the year in which property was paid or delivered.

RESPONSE TO LEGISLATIVE CONSIDERATION 1: DISAGREE

- ❑ **Legislation not recommended by the Treasury.**
- ❑ **Louisiana statute coincides with unclaimed property Uniform Law.**
- ❑ **Administrator needs flexibility to determine what is best for state.**

This suggested legislative change is not recommended by the Treasury. The Louisiana provision in R.S. 9:161(A) was taken verbatim from the Uniform Unclaimed Property Act of 1995 and has worked well for us and most other states. The official comments to this provision of the National Conference of Commissioners on Uniform State Law are very informative as follows:

“This section sets forth the minimum requirements for advertisement. The Administrator may publish more frequently or extensively. The Act does not establish a specific time for the publication so that the Administrator can choose a time that will provide the best exposure and flexibility in scheduling the workload and personnel available.”

MATTER FOR LEGISLATIVE CONSIDERATION 2:

The legislature should consider amending R.S. 9:159 to require holders to report electronically each year to the Unclaimed Property Division. An exception could be made for holders who do not have electronic capabilities.

RESPONSE TO LEGISLATIVE CONSIDERATION 2: DISAGREE

- ❑ **Legislation not recommended by the Treasury.**
- ❑ **Majority of property already being reported electronically.**
- ❑ **Employers encouraged to file electronically since 1996.**

The Treasury does not recommend legislation because the majority of property received is already being reported electronically. We have been encouraging electronic filing since 1996 using our website and various correspondence to holders, and we will expand our efforts to encourage electronic submission of reports. The Unclaimed Property Division also offers a free “Holder Reporting System” software package that is available for downloading from the Internet or by mail in CD format. The Division also contacts any holder who files a large report on paper and works with the holder to obtain the information electronically.

Although the Uniform Unclaimed Property Act of 1995 does not require a holder to report electronically, our records indicate that 89.4 percent of holders reporting 100 records or more already do so.

Recommendation 4: If the legislature does not amend the existing law stated in Matter for Legislative Consideration 2, the Unclaimed Property Division should expand its reach in its efforts to encourage holders to report electronically. The Division could disseminate this information through annual mailings, holder seminars, community outreach events, and other means.

RESPONSE 4: PARTIALLY AGREE

- ❑ **Not reasonable to require electronic submission for all Louisiana holders.**

We must only partially agree with this recommendation, because as was pointed out to the Auditor's Office, we have been encouraging holders to report electronically for eight years. We already encourage holders to report electronically through annual mailings, holder seminars, community outreach events, and other means as the Auditor suggested.

We do want to note, however, that it is not reasonable to require electronic submission for all holders in Louisiana. This is especially true because the state has a large number of small businesses and "mom and pop shops."

Recommendation 5: The director of the Unclaimed Property Program should develop and implement a formal written policy that limits access to critical areas of the unclaimed property database to only those employees who have a demonstrated need to view, add, modify, or delete data in those areas to fulfill their job requirements. The policy should also require periodic job rotation for Division employees.

RESPONSE 5: PARTIALLY AGREE

- ❑ **Access will be further restricted.**
- ❑ **Periodic job rotation will be considered.**
- ❑ **Create new formal, written policy.**

Although our past practices have been sufficient to protect the unclaimed property database, we partially agree with the Auditor's recommendation. To that end, we are in the process of reviewing all security access to the unclaimed property database. Each system functional area will be assigned to a database Role that contains access rights to specific areas of the system. Users will be only linked to those Roles necessary for their duties. The System Security Officer (SSO) will maintain the rights assigned to the database Roles, and requests to change rights or users assigned to a specific role must be completed in writing to the SSO. Our target implementation date is April 30, 2004.

We will also develop a formal, written policy to include instructions on this. Periodic job rotation will be considered as resources permit.

Recommendation 6: The director of the Unclaimed Property Program should develop and implement a formal written policy that requires the director and other supervisors to routinely review and approve changes made to the database by other employees. Their reviews should ensure that unauthorized access to critical information on the database has not occurred and that unauthorized or inappropriate changes to database information have not been made.

RESPONSE 6: AGREE

- ❑ **User profiles have been changed so fewer employees have rights to change or modify data.**
- ❑ **Director and supervisors will monitor data changes.**
- ❑ **Create new formal, written policy.**

We agree with this recommendation, and our vendor is in the process of implementing database trigger-based auditing of key information in the unclaimed property system. Access to the audit tables will be limited to the Database Administrator (DBA) and other personnel charged with reviewing secure database information. Our target implementation date is June 1, 2004.

The Director and other supervisors will routinely monitor changes made to system data. We will immediately develop a formal, written policy and put it into place per your recommendation.

Recommendation 7: The director of the Unclaimed Property Division should work with the contractor who designed and now manages the database to implement computer controls that prevent access by unauthorized contract employees.

RESPONSE 7: DISAGREE

- ❑ **Controls are in place.**
- ❑ **Vendor employee access is restricted.**

We respectfully disagree with this recommendation because adequate controls are already in place. The vendor must request access to our system directly from the Information Technology Director. The owner and the programmer assigned to Louisiana are the only two contractor employees who can access our system through a scheduled virtual private network (VPN) connection using their User ID and password.

The Wagers Database Management Company runs databases for 30 state unclaimed property programs including Louisiana's. There are certain corrections to our database that only Wagers can make and then only with Treasury's IT control and granting of

access. There are however, review mechanisms already in place for submissions to our unclaimed property database.

In addition, the contractor has agreed to limit access to the Department's database to named individuals within the Wagers & Associates company. Passwords to the system will only be provided to authorized employees, and should an employee leave Wagers & Associates, the Department will be requested to immediately change the access password or passwords.

Recommendation 8: The director of the Unclaimed Property Division should develop and implement a formal written policy that limits the contractor's access to the database to an as needed basis at the VPN point of entry. The director should also have a risk assessment on the database system to determine the value of the system and costs of control and remediation versus the cost of potential losses.

RESPONSE 8: AGREE

- **Risk assessment will be performed.**

Although we consider our controls to be sufficient, we agree that your recommendations have merit. We will perform a risk assessment per your recommendation and use its results to decide if we should develop a formal written policy. Security of our system is of the utmost importance.

Wagers & Associates will contact the Department and ask that the VPN account be enabled before each session, and disabled at the end of the session. Wagers & Associates will also promptly notify the Department after each access to the unclaimed property database, and report the scope of the work completed during the database session. In addition, the contractor has agreed to limit access to the Department's database to named individuals within the Wagers & Associates company.

Recommendation 9: The director of the Unclaimed Property Division should develop and implement a formal written policy stipulating what constitutes acceptable types of identifying documentation for verifying the identity of claimants. The policy should set a designated dollar amount above which more stringent proof of identity is required. In addition, the policy should include the following provisions:

- Critical and sensitive information such as names, addresses, and social security numbers of claimants should be complete, legible, and correctly spelled on documentation.
- Copies of the identifying documents must be clear and easy to read.
- Copies of identifying documents must be legal, valid, and current (e.g., social security cards must be signed; driver's licenses must be current, names must be spelled correctly, and names must be updated to reflect any changes brought about by marriage, divorce, etc.).

RESPONSE 9: PARTIALLY AGREE

- The Division's procedure manual has always required complete, legible copies from claimants.**
- Supervisors will continue to monitor and review.**
- Formal, written policy in place (see UCP Policy III A).**

We partially agree with this recommendation because the Unclaimed Property Division has always worked off of written procedures that are already in place to verify claims, and a copy of these procedures was provided to the Auditor's Office.

The Division has always requested that claim documentation be complete, legible and correctly spelled. The Auditor's Office makes a good observation about compliance with the policy to verify claims, however, and supervisors will monitor this to ensure a proper job is done.

In addition to this, the Division has developed a comprehensive policy manual (see UCP Policy III A that has been forwarded to Auditor's Office) more fully addressing these matters. Additionally, we must disagree with the specific recommendation in reference to *current* driver's licenses as proof of claims. Expired licenses may properly be used to prove ownership at a prior address or for other appropriate circumstances and are sometimes the only ID a claimant may have.

Recommendation 10: The Unclaimed Property Division should put into writing the informal policy requiring all claims of \$250 and above to be notarized. Supervisors should ensure, through routine monitoring, that Division employees comply with the policy.

RESPONSE 10: PARTIALLY AGREE

- Director and Supervisors will monitor compliance.**
- Existing policy requires all claim forms \$250 or above are to be notarized.**
- Formal, written policy in place (see UCP Policy III A).**

We partially agree with this recommendation in principle; the Unclaimed Property Division already has a written policy (see UCP Policy III A that has been forwarded to the Auditor's Office) that claims of \$250 or more must be notarized. This policy was distributed to all UCP employees on October 14, 2003. Division supervisors will continue to monitor compliance with this policy to ensure all claims are notarized. Our new written policies more fully address this matter.

Recommendation 11: Management of the Unclaimed Property Division should continually train employees who handle claim processing on what constitutes appropriate

proof of identity. Once employees have been trained in this area, they should remain alert for obvious or questionable documentation submitted as proof of identity.

RESPONSE 11: PARTIALLY AGREE

- Employees are continually trained.**
- Workshops on identity fraud are being held with Bank One and Public Safety.**
- Formal, written policy in place (see UCP Policy III D).**

We partially agree with this recommendation; however, our employees have been and are continually being trained and reminded on claim documentation. Bank One has performed a workshop for our employees on identity fraud/theft and we are working with Public Safety for additional training on fraudulent claims involving driver's licenses as documentation (we even have identity theft information from Hibernia and other sources on our website).

In addition, we double-check suspicious claims using a variety of fraud-detection tools including the Lexis-Nexis database, Public Records Research, Accurint and Reference USA. Supervisors are instructed to ensure compliance with our written policy (see UCP Policy III D that has been forwarded to the Auditor's Office) regarding employees remaining alert to identity fraud.

Recommendation 12: The director of the Unclaimed Property Division should develop and implement a formal written policy related to reciprocal agreements that stipulates time periods for remitting reciprocal property to other states. The policy should also reflect any changes made to the law dealing with interest payments (see Matter for Legislative Consideration 3). Division supervisors should make sure that employees follow the policy.

RESPONSE 12: DISAGREE

- All reciprocal reports are being brought up to date.**
- Formal, written policy in place (see UCP Policy II G).**

We respectfully disagree with this recommendation because we have a written policy already in place dealing with this issue (see UCP Policy II G that has been forwarded to the Auditor's Office). We have been working on getting the reciprocal report process up-to-date so that all out-of-state property will be transmitted to the state of last known address within 12 months after the receipt of property from the holder.

In addition, the Treasury's numbers dispute the amount of interest-bearing property the Legislative Auditor's Office claims is transferable on reciprocal reports. In the last three

reciprocal report deliveries, less than 2 percent of the total dollar amounts of the accounts transferred to other states were flagged as interest-bearing accounts.

The majority of reciprocal property transferred to other states is not interest bearing. The most common types of interest-bearing property are savings accounts and certain utility deposits. Very few citizens open savings accounts using an out-of-state address. Also, utility companies normally use the service address, which is typically an in-state address. Therefore, the amount of interest paid on reciprocal reports is not material. However, the Division will continue to make every effort to transfer reciprocal property to the appropriate state within the timeframe stated in the written policy.

Recommendation 13: The director of the Unclaimed Property Division should develop and implement a formal written policy requiring that all property belonging to owners in other states be remitted to those states before the November 1st holder-reporting deadline.

RESPONSE 13: DISAGREE

- ❑ See Response 12 above.
- ❑ Workload flexibility must be maintained.
- ❑ Efforts will be made to transfer reciprocal policy in a timely manner.
- ❑ Formal, written policy in place (see UCP Policy II G).

We respectfully disagree with this recommendation because the Administrator needs to have flexibility in scheduling the workload of the Division. All efforts will be made in the future to ensure the timely transfer of reciprocal property to the appropriate state within the timeframe stated in the policy (see UCP Policy II G that has been forwarded to the Auditor's Office). See Response 12 above.

MATTER FOR LEGISLATIVE CONSIDERATION 3:

The legislature should consider amending R.S. 9:163 to stipulate that the Unclaimed Property Division either shall not pay interest on reciprocal property at all or that the Division shall not pay interest on reciprocal property in cases where the state of last known address does not pay interest.

RESPONSE TO LEGISLATIVE CONSIDERATION 3: DISAGREE

- ❑ Recommendations could lead to litigation and possible liability.

The Division respectfully disagrees with these recommendations for they, in our opinion, may lead to litigation and possible liability.

Recommendation 14: The director of the Unclaimed Property Division should ensure that information contained in the old hard copy holder reports is entered into the database as soon as possible in order to expedite reuniting claimants with their property.

RESPONSE 14: PARTIALLY AGREE

- ❑ **This project began in July of 2003 and will be completed by December 31, 2004.**
- ❑ **Approximately 12 percent of old holder reports already entered on computer database.**
- ❑ **Old holder reports represent a small percentage of total collections – less than 5 percent.**

We only partially agree with this recommendation because these older reports, dated prior to 1986, account for less than 5 percent of total collections to date. A substantial portion of these are properties reported in the aggregate, situations where the owner is unknown, or there is insufficient information to make a refund. Thus, the amount of actual claimable property represented in our old holder reports is significantly less compared to our current holder reports and claims received in connection with properties reported in them.

Additionally, 12 percent of these old reports have already been entered into our database. When new reports come in, however, it is our best management decision that these should be keyed in first because of limited resources and because there is a higher probability that they will be claimed. Most of our older records, by virtue of age, most likely will never be claimed. However, we will continue to work on entering all old hard copy reports onto our database as soon as possible and expect to complete this project by December 31, 2004.

Recommendation 15: Until all property has been entered into the unclaimed property database, the director should develop and implement a formal written policy requiring all employees who answer phone inquiries to check the hard copy files in all cases where the caller provides sufficient identifying information.

RESPONSE 15: DISAGREE

- ❑ **Properties will be completely entered into database in a short period of time.**
- ❑ **The Unclaimed Property Division has always assisted the public to the best of its abilities.**

We respectfully disagree with this recommendation because our current practices are sufficient and do not warrant a new formal written policy in view of the remaining short

time period needed to completely enter old holder reports. We expect all old holder reports to be completely entered into our database by December 31, 2004.

It has always been the mission of this Division to assist owners in reclaiming what rightfully belongs to them. We have always adequately assisted, and will continue to assist, any person with evidence suggesting the possible existence of unclaimed property reported to this office prior to 1986.

Recommendation 16: The director of the Unclaimed Property Division should see that search instructions for the unclaimed property website are updated to provide more explicit search directions that will help users successfully search for property.

RESPONSE 16: AGREE

- **Unclaimed Property website is subject to constant improvement.**

We agree with this recommendation and thank the Auditor's Office for their recommendation. We will get our website designer to update any instructions on our website that may be necessary.

Recommendation 17: The director of the Unclaimed Property Division should see that a notice is posted on the website stating that most property reported by holders from 1972 – 1986 cannot be found on the website and that individuals should inquire about such property either by phone or mail.

RESPONSE 17: DISAGREE

- **Applicable to a very small number of people.**
- **Gives false hope to citizens hoping to find money.**
- **All data from old reports will be computerized by December 31, 2004.**

We respectfully disagree with this recommendation. A notice on our website is not necessary because the percentage of persons searching our website who actually have unclaimed money reported to this office prior to 1986 is negligible, and we will have all of these records computerized in a short time period. Ninety-five percent of all unclaimed property in Louisiana is located on our computerized database and website. We receive more than 79,000 calls a year, but as stated before in our comment on Recommendation 15, we have always assisted a person who has come forward with evidence suggesting the possible existence of unclaimed property reported to this office prior to 1986.

In our opinion implementation of the Auditor's recommendation might lead many people to believe they may have money prior to 1986 when in fact they do not. If a person finds

evidence of a pre-1986 account such as a savings passbook or an uncashed check, we will assist them as always when they contact our office.

Recommendation 18: The Unclaimed Property Division should work with the website designer to create a more flexible search engine that will eliminate the limitations noted in this finding.

RESPONSE 18: DISAGREE

- **No limitations currently exist.**
- **More flexibility usually results in too much information.**

We appreciate the Auditor's recommendation, but we respectfully disagree because we do have a system in place to address this concern. We believe the "limitations" noted in this finding are not limitations but are actually different names of individuals.

The Unclaimed Property Division periodically searches our database for last names with an apostrophe or space and makes appropriate corrections. Data entry operators have always been instructed to ignore the apostrophe or space in a last name so it will alphabetize correctly.

Every effort is made to keep our name data as standardized as possible. However, it is more difficult to control name format when holders report electronically. We have internal controls for keystroke errors or misspellings, but holders may not be as careful when submitting electronic reports. We do, however, regularly review holder reports and double-check for errors.

A professional computer software company specializing in web and search engine architecture designed our website. The website first searches the database in a very broad, "non-exact" manner. Because this initial broad search can be performed using very little input such as a portion of a person's name, the results are sometimes so voluminous that additional refinements to the search criteria must be made. Once these broad search results are returned, the user has the option of performing an advanced search using more narrow search criteria. We will, however, consider adding additional search tips to our website as the Auditor's Office suggested.

Recommendation 19: The director of the Unclaimed Property Division should develop and implement a formal, written policy that requires employees to periodically search for and return property belonging to entities whose names are easily recognizable and can be easily located using telephone directories, the Internet, or other means before advertising the entities' names in its annual advertisement. Special emphasis should be placed on property with large dollar values and property belonging to other governmental entities.

RESPONSE 19: PARTIALLY AGREE

- The recommended process is already in practice.**
- The Division has always performed “location work” as time permitted.**
- Resources and current workload flexibility limit location work.**

We partially agree with this recommendation because the recommended process is already in practice, but we feel a written policy is unnecessary. The Division makes every effort to locate rightful owners of unclaimed property and has found that it is more cost effective to advertise the Unclaimed Property program and have the public contact us. We do, however, routinely check to see if well-known agencies or individuals have unclaimed money. Some names may be associated with joint owners and be more difficult to refund. We regularly contact “well-known owners” or bring public awareness to the fact that organizations can also have unclaimed property. Many of these agencies do not claim their money, even when they know they have it, or have been informed that they have it.

The Division makes numerous outreach efforts to locate owners including cities, towns, parishes, universities and colleges, state agencies, hospitals, doctors, attorneys, clerks of court, assessors, judges, schools, school boards, churches, state legislators, governors, U.S. Senators, U.S. Representatives, sheriffs, and police juries. See table below for a list of claims previously paid:

United Methodist Conference
Louisiana Tech University
University of Louisiana at Lafayette
Medical Society (list of doctors in the state)
District Attorneys
Sheriffs
LMA
Police Jury
LAMP (local governments, etc.)
Clerks of Court
Assessors
Tulane University
School Boards
Louisiana Charities (United Way, American Red Cross, Volunteers of America)
\$86,991.04 total to various towns
\$574,778.79 total to various cities
\$6,219.11 total to various parishes
\$125,518.83 to LSU
\$61,715.18 to Southern University

In addition, every year prior to updating the "finder list" located in books in our lobby, the Division actively searches and mails notices to all new names not previously on the finder list with a value of \$500.00 or more. Many state agencies will show up on the list, however money refunded to another state agency can be an effort in futility. The funds due a state agency have been reported and are already in the General Fund. Then the money is transferred to a state agency where it is deposited back into the General Fund. The state agency is unable to use any of these funds because they are classified as "income not available." Under this scenario, no additional funds have been made available for state agency use.

An analysis was done of the 91 records identified as "easily locatable entities" on Appendix E of the audit report. Approximately 21 percent of these records were multiple owner accounts where there was at least one additional owner associated with the owner listed. Therefore, the property may or may not belong to the easily locatable entity. The Unclaimed Property Division has previously contacted approximately 19 percent of the entities on this list. Furthermore, 74 percent of the remaining records have only been entered into our computer system within the last two years.

However, claim forms have been gathered for the list of entities that are owed money in the Auditor's report and will be sent. We cannot guarantee that these groups will claim their money but contact is still being made. It is up to these organizations to claim their money once they are notified.

Recommendation 20: The Department of the Treasury should analyze whether 7 percent of total gross collections during any fiscal year is sufficient to meet the administrative needs of the Division and pay for external auditing fees. If the amount is insufficient, Treasury officials should approach the legislature with a request to amend R.S. 9:165(B) to increase the statutory amount.

RESPONSE 20: AGREE

- Legislation pending.

House Bill No. 648 by Rep. Alario addressing this issue has been introduced in the 2004 Regular Legislative Session at our request.

MATTER FOR LEGISLATIVE CONSIDERATION 4:

The legislature should consider amending R.S. 9:165(B) to allow external auditor fees to be paid either out of gross collections or interest and penalties collected for delinquent holder reports instead of out of the 7 percent of total gross collections, which currently funds the administrative costs of the Division.

RESPONSE TO LEGISLATIVE CONSIDERATION 4: AGREE

- Legislation pending.

House Bill No. 648 by Rep. Alario addressing this issue has been introduced in the 2004 Regular Legislative Session at our request.

MATTER FOR LEGISLATIVE CONSIDERATION 5:

The legislature should consider amending R.S. 9:163 to require the Division to pay the lesser of 5 percent or the current market interest rate on interest-bearing property. This amendment would eliminate the ambiguity in the current wording of the law.

RESPONSE TO LEGISLATIVE CONSIDERATION 5: PARTIALLY AGREE

- Current language may be construed to be ambiguous.**
- Fixed rate is easier to administer.**

We partially agree with this recommendation because the language in the law may reasonably be construed to be ambiguous. However, we would prefer any change to the rate of interest payable on interest-bearing property to be at a fixed rate to ease the burden of administering an interest rate that periodically changes.

Recommendation 21: If the legislature does not repeal R.S. 9:163 as stated in Matter for Legislative Consideration 5, the Division should develop and implement a formal written policy that requires the Division to apply the lesser of 5 percent or the current market interest rate for interest-bearing property remitted to the Division. The director should also instruct holders through some means (e.g., website instructions, etc.) that they must report current market interest rates for each property. He should also instruct Division employees to contact holders who do not report the market rates to obtain the appropriate rates from the holders.

RESPONSE 21: DISAGREE

- Recommendation not authorized under current applicable law.**
- All reasonable efforts have been and are being made to obtain interest rates from reporting holders.**

We respectfully disagree with this recommendation because current practices, including in our opinion all reasonable efforts to obtain applicable interest rates from holders, are sufficient and the formal written policy suggested is not necessary or authorized by law.

It is our interpretation of existing law that 5 percent is to be paid when the property is interest bearing, and no evidence or record of "any lesser interest rate the property earned while in the possession of the holder" is available. We know of no legal authority to pay "current market interest rate" on such properties as suggested.

MATTER FOR LEGISLATIVE CONSIDERATION 6:

The legislature should consider amending R.S. 9:164(C) to clarify its intent regarding the sale of securities. If the legislature intends for the Division to sell securities, it should amend the language in the statute to require, rather than allow, their sale and include a provision to protect the state from potential lawsuits resulting from the sales.

RESPONSE TO LEGISLATIVE CONSIDERATION 6: DISAGREE

- **May not be in the best interest of the state or the owner.**

We respectfully disagree with this recommendation because, in our opinion, requiring the liquidation of securities at certain times -- rather than giving the Treasury the option to liquidate, as is the case now -- could be detrimental and not in the best interest of the state, its citizens and more importantly, the rightful owners of the unclaimed property.

We can sell stocks after three years, but we have made a decision not to do this, because historically they are worth more after a period of time. We also prefer to maintain stock in this form, because citizens can collect the dividends when they claim their money. Liquidating securities would lock in the value at a set amount, and no additional dividends would be received by the owner or the state.

Recommendation 22: If the legislature does not amend R.S. 9:164(C) to require the sale of securities as discussed in Matter for Legislative Consideration 6, the Division should conduct a formal risk assessment regarding the sale of securities. At a minimum, the risk assessment should include the potential benefit to the state from the sale of securities as opposed to the benefit of using dividends earned on securities held, the staff time that must be dedicated to tracking securities that are held, and the potential risks of tort liability. Based on results of the assessment, the director should then develop and implement a formal written policy governing the sale of securities.

RESPONSE 22: PARTIALLY AGREE

- **Formal risk assessment will be considered.**

We partially agree with this recommendation because we believe we are and have been pursuing the correct and best practices with respect to these matters. However, consideration will be duly given to the Auditor's recommendation of a risk assessment. In the event the assessment is undertaken and justifies changing current practices, the changes will be set forth in written policy if appropriate.

Recommendation 23: The Unclaimed Property Division should conduct a formal assessment to determine whether it would be more beneficial to assess, rather than not assess, interest and penalties for delinquent holder reports, as allowed by state law. This assessment should take into account the various operating needs of the Division, including the need to implement various internal controls noted in this audit.

RESPONSE 23: PARTIALLY AGREE

□ Formal assessment will be considered.

We only partially agree with this recommendation because we are of the opinion that the decisions and practices made by the Division in the past on these matters have been correct and have led to a most successful program. However, we recognize the observation by the Auditor's Office concerning penalties and interest.

Under R.S. 9:176 (E), the Unclaimed Property Division has the discretion to waive in whole or in part interest and penalties if the holder acted in good faith and without negligence. In our view, the proper exercise of this discretion is essential to a successful response to our program, and we have been making such a proper exercise of this legislatively mandated discretion. Our focus has been, in properly exercising this discretion, on returning money to citizens, not on penalizing Louisiana businesses.

As previously mentioned in our introduction to this audit response, the amount of interest and penalties listed in your report is inaccurate and misleading. Our records indicate that approximately 33 percent of the "late" reports cited in the audit are from contract auditor reports that are submitted year-round and another 33 percent are from governmental agencies. Some of the remaining amounts reflect reciprocal reports from other states, voluntary compliance reports, and holders reporting from outside of the state.

It would be very difficult and expensive to enforce unclaimed property reporting by holders located outside the state's boundaries for those who do not voluntarily choose to do so. If out-of-state holders are penalized for filing late reports, there is a good probability they would simply not file any future reports with Louisiana. Voluntary compliance and ease of reporting are two key ingredients for record-breaking unclaimed property collections.

Moreover, the Treasury's recent amnesty program and holder education seminars were done specifically to advise holders that the Department could begin implementing interest and penalties on late reports. Nevertheless, a formal assessment will be considered as to future practices concerning this matter, as suggested by the Auditor's Office.

In conclusion, we submit that our record collections for this fiscal year (2003-2004) in the amount of \$33.2 million, which broke our previous year-end record of \$31.1 million by more than \$2 million, are the best evidence of our decisions and practices as to these matters to-date.