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STATE OF LOUISIANA
LEGISLATIVE AUDITOR

Department of Economic Development
Baton Rouge, Louisiana

June 11, 1997

Investigative Audit

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

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

Department of Economic Development

June 11, 1997

Investigative Audit
Office of the Legislative Auditor
State of Louisiana

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June 11, 1997

MR. KEVIN REILLY, SR., SECRETARY
DEPARTMENT OF ECONOMIC DEVELOPMENT
Baton Rouge, Louisiana

Transmitted herewith is our investigative report on the Department of Economic Development, Small Business Bonding Assistance Program (Program). Our examination was conducted in accordance with Title 24 of the Louisiana Revised Statutes and was performed to determine the propriety of certain transactions of the Program.

This report presents our finding and recommendation, as well as your response. Copies of this report have been delivered to The Honorable Doug Moreau, District Attorney for the Nineteenth Judicial District of Louisiana, and The Honorable L. J. Hymel, United States Attorney for the Middle District of Louisiana, and others as required by state law.

Respectfully submitted,

Daniel G. Kyle, CPA, CFE
Legislative Auditor

AFB/dl:ka:jl

[DED]

Executive Summary

Investigative Audit Report
Department of Economic Development

The following summarizes the finding and recommendation as well as management's response that resulted from this investigation. Detailed information relating to the finding and recommendation may be found at the page number indicated. Management's response may be found at Attachment I.

Actions of Former Employee and Contractor Cause the Department of Economic Development to Incur Losses of at Least $138,516 (Page 1)

Finding: Mr. Lonnie Seals, as director of the Department of Economic Development's (DED) Small Business Bonding Assistance Program, authorized bond guarantees for American Chemical Transportation, Inc. (American Chemical), and Shellco Freight, Inc. (Shellco), two companies owned and/or operated by Mr. Carl Wright. Mr. Wright used the bonds obtained through these guarantees to obtain lines of credit with several finance companies for the purchase of fuel. Thereafter, Mr. Wright withdrew cash totaling $247,157 from these lines of credit, even though, according to his employees, he had no trucks or contracts and did not purchase fuel for transport trucking. In addition, it appears that Mr. Seals personally accepted cash and services from Mr. Wright totaling at least $5,613. Both American Chemical and Shellco defaulted on their obligations, causing DED to pay the finance companies and bonding company $138,516.

Recommendation: The department should establish written policies and procedures to carry out the functions of the Small Business Bonding Assistance Program. Also, DED should establish written policies preventing employees from accepting any thing of value from any entity or individual attempting to conduct or conducting business with DED. We also recommend that the department establish procedures to prevent one employee from setting up a bond guarantee and the same employee making payments upon its default. Finally, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

Management's Response: The Louisiana Department of Economic Development first became aware of a problem with the management of the Small Business Bonding Assistance Program (SBBAP) in August 1996 when the Department was served with a lawsuit filed by the Gramercy Insurance Company. The Department immediately contacted the Office of the Legislative Auditor requesting an investigation of the matter. Mr. Lonnie Seals was placed on administrative leave pending the outcome of the investigation. Shortly thereafter, Mr. Seals terminated his employment with the Department.

At the time of the alleged misappropriation of funds, the structure of the program allowed one individual to administer the program in its entirety. In May 1996, prior to the time the Department became aware of these problems, the SBBAP was restructured through legislation that divided the functions of the program between the Division of Economically Disadvantaged Business Development (EDBD) and the Louisiana Economic Development Corporation (LEDC), two Departmental entities. LEDC has the authority and responsibility for guaranteeing other commercial loans and, therefore, has the experience and expertise for handling the bonding guarantees of the SBBAP. The current revised structure of the program would prevent the misappropriation that occurred in this case.

Currently, legislation is pending to restructure the program again placing both the technical and financial aspects of the program back within EDBD. EDBD is drafting procedures that will contain adequate safeguards to ensure that one individual is not responsible for running the program in its entirety.

The Department intends to pursue legal action to recover any and all funds that were allegedly misappropriated and will fully cooperate with any law enforcement and/or prosecution efforts.

Background and Methodology

Gramercy Insurance Company filed a lawsuit against the Department of Economic Development, Small Business Bonding Assistance Program claiming a loss of $45,000. As a result of this lawsuit, Mr. Kevin Reilly, Sr., Secretary of the Department, requested that the Office of the Legislative Auditor perform an investigative audit of the events surrounding the lawsuit.

Our procedures consisted of (1) interviewing certain DED employees and contractors; (2) examining certain documents and DED policies; (3) making inquiries and observations to the extent we considered necessary to achieve our purpose; and (4) reviewing applicable Louisiana and federal laws.

The result of our investigation is the finding and recommendation presented herein.

Finding and Recommendation

ACTIONS OF FORMER EMPLOYEE AND CONTRACTOR CAUSE THE DEPARTMENT OF ECONOMIC DEVELOPMENT TO INCUR LOSSES OF AT LEAST $138,516

Mr. Lonnie Seals, as director of the Department of Economic Development's (DED) Small Business Bonding Assistance Program, authorized bond guarantees for American Chemical Transportation, Inc. (American Chemical), and Shellco Freight, Inc. (Shellco), two companies owned and/or operated by Mr. Carl Wright. Mr. Wright used the bonds obtained through these guarantees to obtain lines of credit with several finance companies for the purchase of fuel. Thereafter, Mr. Wright withdrew cash totaling $247,157 from these lines of credit, even though, according to his employees, he had no trucks or contracts and did not purchase fuel for transport trucking. In addition, it appears that Mr. Seals personally accepted cash and services from Mr. Wright totaling at least $5,613. Both American Chemical and Shellco defaulted on their obligations, causing DED to pay the finance companies and bonding company $138,516.

The department operates a Small Business Bonding Assistance Program which assists minority and women owned businesses by guaranteeing necessary performance bonds issued by surety companies. Mr. Seals served as the executive director of this program until his resignation on October 23, 1996. Through this program, DED enters into agreements with surety companies to guarantee bonds issued by the surety to qualified contractors. (Qualified contractors are those contractors who are accredited by DED and who have had a bond application rejected by a surety for any reason other than nonperformance.) DED establishes trust accounts at banks into which DED deposits cash equal to the guarantee. The funds in the trusts accounts are to be used to reimburse the surety for any losses incurred as a result of default by the contractor.

The following six events have lead to DED incurring a loss of at least $138,516 and a lawsuit seeking recovery of $45,000:

1. Mr. Seals failed to follow the requirements of the Small Business Bonding Assistance Program by authorizing the bond guarantees and obligating DED to the surety even though American Chemical and Shellco were not qualified as accredited contractors nor could we find any evidence that they had been rejected on previous bond applications; and had no previous business record, did not own any transport trucks, had no contracts to provide transportation services, and had no other apparent means to generate income or meet their obligations.

2. Mr. Wright obtained $247,157 through lines of credit obtained with these bond guarantees. Though the purpose of the lines of credit were to purchase fuel, all of these funds were obtained in cash and we found no evidence that fuel for transport trucks was purchased.

3. It appears that Mr. Seals violated the trust agreement by using $51,253 from the trust accounts to pay debts owed by American Chemical.

4. Mr. Wright and Ms. Michelle Bennett, at the suggestion of Mr. Seals, established a second company, Shellco, to obtain another bond guarantee from DED and enable Mr. Wright to establish additional lines of credit.

5. Mr. Seals may have accepted payments and services from Mr. Wright totaling at least $5,613.

6. Both American Chemical and Shellco defaulted on their obligations, thereby costing DED $138,516 and subjecting the state to a lawsuit of $45,000.

Mr. Seals Failed to Follow the Requirements of the Small Business Bonding Assistance Program

The Program requirements provide that DED may guarantee bonds for qualified contractors who have made application for a bond to a surety company but failed to obtain the bond for reasons other than nonperformance. In this situation, the surety company may apply to DED to have the bond guaranteed by the Small Business Bonding Assistance Program. Qualified contractors are those contractors that have been accredited by the Louisiana Contractor Accreditation Institute. The Program requirements further provide that the director, Mr. Lonnie Seals, ensure that the bond is needed by the contractor, the contract is within the contractor's capabilities to perform, and the contractor has not been previously denied a bond because of nonperformance.

On March 3, 1994, Mr. Carl Wright incorporated American Chemical. During August 1994, Mr. Seals agreed to guarantee bonds issued by the surety company, Gramercy Insurance Company (Gramercy), on behalf of American Chemical. DED placed $60,000 into a trust account at Hibernia National Bank for the benefit of Gramercy.

On October 11, 1994, Shellco was incorporated by Ms. Michelle Bennett, a friend of Mr. Wright. In December 1994, Mr. Seals agreed to guarantee bonds issued by Gramercy on behalf of Shellco. DED placed $80,000 into a trust account at Hibernia for the benefit of Gramercy.

Neither American Chemical nor Shellco were accredited nor could we find any evidence that they previously failed to obtain bonds for which they had applied. Though Mr. Seals was required to ensure compliance with the program's requirements, Mr. Seals informed us he never saw a truck that American Chemical or Shellco owned or leased, though once, Mr. Wright showed him a truck like the ones the company would be using. In addition, we found no evidence that either American Chemical or Shellco had a contract to perform transport trucking services.

Mr. Wright Obtained $247,157 in Cash to Purchase Fuel Though It Appears No Fuel for Transport Trucking Was Purchased

After the bond guarantees and trust accounts were established by DED, Gramercy issued bonds to several fuel vendors and credit companies. These bonds enabled American Chemical and Shellco to obtain lines of credit with the fuel vendors and credit companies. The stated purpose of these lines of credit was to facilitate the purchase of fuel, on credit, throughout the United States, by employees of American Chemical and Shellco.

From August 26, 1994, to March 8, 1995, Mr. Wright wrote checks on the lines of credit totaling $247,157. These checks were made payable to American Chemical employees and/or Mr. Wright. We found no evidence that American Chemical or Shellco ever conducted any trucking business or purchased fuel.

Fuel Vendor/Credit Company	Date Checks Were Cashed	Amount Drawn on Line of Credit
Texaco (#1)	8/26/94 - 9/13/94	$9,364
ComData (#1)	8/29/94 - 9/9/94	22,775
EFS National Bank	10/6/94 - 10/21/94	18,978
ComData (#2)	11/10/94 - 12/12/94	105,643
Texaco (#2)	1/13/95 - 1/26/95	32,954
T-Chek	2/3/95 - 2/8/95	13,933
EDS Fleet Services	2/9/95 - 3/8/95	43,510
Total		$247,157

The majority of these withdrawals were made with checks written to Mr. Charles Moore and Mr. Robert Wells, former American Chemical employees. Mr. Moore and Mr. Wells stated that none of the withdrawals from the lines of credit were used to purchase fuel. Mr. Moore and Mr. Wells both stated that Mr. Wright paid them to take the checks to the bank, cash the checks, and return the cash to Mr. Wright. Mr. Moore and Mr. Wells also stated that to their knowledge neither American Chemical nor Shellco owned or leased any transport trucks and never had any contracts to haul freight. According to Mr. Moore, his primary function as an employee of American Chemical was to run personal errands, including cashing checks and returning the cash to Mr. Wright. In addition, both Mr. Moore and Mr. Wells stated that, while employed by American Chemical, they helped clear, build fences, and perform other improvements on land owned by Mr. Wright's family.

It Appears That Mr. Seals Violated the Trust Agreement

American Chemical and Shellco failed to repay these debts and, as a result, the various fuel vendors and credit companies filed claims against the bonds issued by Gramercy.

On October 18, 1994, ComData, a company that provided credit to American Chemical, filed a claim for $22,775 against the bonds issued by Gramercy. On November 9, 1994, Gramercy sent a letter to ComData stating that American Chemical made arrangements with a bank to borrow enough money to pay its debts. Also on November 9, 1994, Mr. Seals, in possible violation of the trust agreement, instructed Hibernia to wire payments to both ComData and EFS, another provider of credit, from the trust account to clear the outstanding balances on these two lines of credit. (The trust agreement provided that Hibernia should only make payments from the account to the surety, Gramercy.) The total of these payments was $41,853.

Mr. Tom West, former program director of Gramercy, stated that his company was not aware that these payments were made from the trust account at Hibernia. According to Mr. West, Mr. Wright told him that these payments would be made from a loan with another bank. Mr. West stated that Gramercy never authorized these payments to be made from the trust account.

On January 10, 1995, Mr. Seals instructed Hibernia to pay Texaco $9,400 to clear American Chemical's outstanding balance on the Texaco line of credit.

Mr. Seals stated that it was his idea to have Hibernia pay the fuel and credit companies for American Chemical. Mr. Seals further stated that the trust agreement was set aside and basically ignored when he authorized the payments to be made to the fuel vendors on behalf of American Chemical. We did not find any agreement, statute, legislation, executive order, or any other documentation which provided Mr. Seals the authority to ignore the trust agreement between DED and Hibernia.

DED records from another bond guarantee indicate that Mr. Seals was asked on another occasion to make a payment on a claim directly to a vendor thus bypassing the surety company. However, in a letter dated April 14, 1994, Mr. Seals stated that the bond guarantee agreement with the surety did not allow a payment to be made in this manner. We note that this agreement is worded the same as DED's agreements with Gramercy for American Chemical and Shellco.

Mr. Wright Established Shellco Freight to Obtain Additional Lines of Credit

Mr. Seals stated that, after establishing lines of credit for American Chemical, Mr. Wright expressed an interest in obtaining a new bond and additional lines of credit. Mr. Seals added that he knew Gramercy would not write any additional bonds for American Chemical, so he suggested that Mr. Wright set up a new company. Mr. Seals stated that he thought the new company could increase Mr. Wright's net worth by getting new money, and, therefore, Mr. Wright could save American Chemical and repay its debts.

On October 11, 1994, Ms. Michelle Bennett, a friend of Mr. Wright, incorporated Shellco. According to Ms. Bennett, Shellco was actually Mr. Wright's company. Ms. Bennett stated that Mr. Wright told her that he needed a woman's face and a new name to get an additional bond guarantee from the state. Ms. Bennett also stated that Shellco never had any trucks, contracts, or employees.

According to Ms. Bennett, she, Mr. Wright, Mr. Seals, and Mr. Wells, went to the underwriter's office in New Orleans to apply for the bond with Gramercy. Mr. Wright and Mr. Seals first met with the underwriter, Mr. A. J. Pilet, having her wait approximately 20 minutes before entering his office to sign paperwork.

Mr. Pilet informed us that he believed that Shellco was Ms. Bennett's company and that Mr. Wright was only providing assistance. Mr. Seals stated that they told Mr. Pilet that Ms. Bennett owned Shellco and Mr. Wright was just helping her get into the trucking business.

Mr. Wright confirmed that Shellco was actually his company and Ms. Bennett was not involved with any activities other than setting up the company.

Mr. Seals May Have Accepted Payments and Services from Mr. Wright Totaling at Least $5,613

Mr. Seals stated that, during late 1994, he received a loan of $500 from Mr. Wright. Mr. Seals also stated that he has not repaid this loan. In addition, Mr. Seals stated that Mr. Wright paid for some repairs to his car. In records obtained from American Chemical, we found invoices totaling $2,513 for repairs to Mr. Seals' car. In addition, we found a ledger book, which appears to include day-by-day listings of cash payments to various individuals. Three of these listings include the name "Lonnie Seals" for a total of $1,000. Another document found appears to list various payments made including $5,000 to Ms. Wanda James, a former DED employee, and $2,100 to Mr. Seals. Ms. James confirmed that she received a $6,340 loan from Mr. Wright and provided documentation indicating that she repaid Mr. Wright. The documentation examined indicates payments and services to Mr. Seals between August 23, 1994, and December 8, 1994. Mr. Seals denied receiving anything more than the $500 cash and the car repairs.

Mr. Charles Moore stated that he was instructed by Mr. Wright to deliver a small white envelope containing $500 cash to Mr. Seals. According to Mr. Moore, as instructed by Mr. Wright, he slid this envelope under Mr. Seals' office door at DED. Mr. Moore stated that he made numerous trips with Mr. Wright to Mr. Seals' office and apartment to deliver small white envelopes which Mr. Wright said contained paperwork. Mr. Wells also stated that he frequently delivered paperwork to Mr. Seals in sealed envelopes. It should be noted that after the initial bond guarantee was entered into between DED and Gramercy, there was no required paperwork to be submitted by Mr. Wright to DED. In addition, we found no records at the DED office which would have originated from Mr. Wright. Mr. Moore also stated that Mr. Seals made numerous visits to the American Chemical office.

American Chemical and Shellco Defaulted on Their Obligations Thereby Costing DED $138,516 and Subjecting the State to Additional Lawsuits

DED entered two guarantee agreements on behalf of American Chemical and Shellco, one for $60,000 and one for $80,000. In turn, Gramercy issued bonds totaling $140,000 to various finance companies for the purchase of fuel. From August 26, 1994, to March 8, 1995, Mr. Wright had his employees write and cash checks on the lines of credit totaling $247,157. Mr. Wright has not paid any of this amount. Mr. Seals used $51,253 of the DED funds held in the Hibernia trust accounts to pay off a portion of this debt. The fuel vendors and credit companies each filed claims against Gramercy, Gramercy paid their claims, and DED used the remaining funds in the trust accounts to reimburse Gramercy for a portion of their loss as follows:

Fuel Vendor/Credit Company	Claim Amount	Amount Paid by Gramercy	Amount Paid to Vendors or Gramercy by DED
ComData	$22,875		$22,875
EFS Bank	18,978		18,978
Texaco	9,400		9,400
T-Chek	13,933	$13,933	13,933
EDS	40,183	40,183	40,183
Texaco	32,954	32,954	33,147
ComData	45,000	45,000	
Total			$138,516

Because DED has not reimbursed Gramercy for bonds issued to ComData as required by the guarantee agreement, Gramercy has filed suit against DED in the amount of $45,000. Mr. Seals stated that he did not pay the claim to Gramercy because the trust account with Hibernia did not have enough money to cover the payment. We note that this was due to Mr. Seals paying vendors directly from the trust account.

Though Mr. Wright confirmed on December 14, 1996, that Shellco was his company, he has refused to answer any more questions. Furthermore, we have been unable to contact Mr. Wright since that date.

Based on the information gathered during our examination, it appears that Mr. Wright obtained cash from the lines of credit that were backed by the bond guarantees issued by DED, with no intent or ability to repay the funds. In addition, Mr. Seals ignored the trust agreement between DED and Hibernia by using funds from the trust account to directly pay debts owed by American Chemical. Also, though Mr. Seals knew that American Chemical had no trucks and was having problems paying its debts, he suggested that Mr. Wright establish a second company under a new name to receive additional money from lines of credit backed by bonds guaranteed by DED. It appears that, in return, Mr. Seals received cash and services from Mr. Wright totaling at least $5,613. Mr. Wright, through American Chemical and Shellco, defaulted on the bonds causing DED to pay finance companies and the bonding company $138,516. In addition, because Mr. Seals did not comply with the trust agreement, DED is now being sued by Gramercy for an additional $45,000.

These actions indicate possible violations of the following:

- R.S. 14:26, "Criminal Conspiracy"
- R.S. 14:67, "Theft"
- R.S. 14:68, "Unauthorized Use of a Movable"

- R.S. 14:134, "Malfeasance in Office"
- R.S. 42:1461(A), "Obligation Not to Misappropriate"
- 18 U.S.C. 666, "Theft Concerning Programs Receiving Federal Funds"

The department should establish written policies and procedures to carry out the functions of the Small Business Bonding Assistance Program. Also, DED should establish written policies prohibiting employees from accepting any thing of value from any entity or individual attempting to conduct or conducting business with DED. We also recommend that the department establish procedures to prevent one employee from setting up a bond guarantee and the same employee making payments upon its default. Finally, we recommend that the District Attorney for the Nineteenth Judicial District of Louisiana and the United States Attorney for the Middle District of Louisiana review this information and take appropriate legal action, to include seeking restitution.

Attachment I
Legal Provisions

Legal Provisions

The following legal provisions are referred to in the finding and recommendation section of this report:

R.S. 14:26 provides that criminal conspiracy is the agreement or combination of two or more persons for the specific purpose of committing any crime; provided that an agreement or combination to commit a crime shall not amount to a criminal conspiracy unless, in addition to such agreement or combination, one or more of such parties does an act in furtherance of the object of the agreement or combination.

R.S. 14:67 provides that theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking, or by means of fraudulent conduct, practices, or representations.

R.S. 14:68 provides that unauthorized use of a movable is the intentional taking or use of a movable which belongs to another, either without the other's consent, or by means of fraudulent conduct, practices, or representations, but without any intention to deprive the other of the movable permanently.

R.S. 14:134 provides, in part, that malfeasance in office is committed when any public officer or public employee shall (1) intentionally refuse or fail to perform any duty lawfully required of him, as such officer or employee; (2) intentionally perform any such duty in an unlawful manner; or (3) knowingly permit any other public officer or public employee, under his authority, to intentionally refuse or fail to perform any duty lawfully required of him, or to perform any such duty in an unlawful manner.

R.S. 42:1461(A) provides that officials, whether elected or appointed, by the act of accepting such office assume a personal obligation not to misappropriate, misapply, convert, misuse, or otherwise wrongfully take any funds, property or other thing of value belonging to the public entity in which they hold office.

18 U.S.C. 666 provides, in part, that theft concerning programs receiving federal funds occurs when an agent of an organization, state, local, or Indian tribal government or any agency thereof embezzles, steals, obtains by fraud, or otherwise intentionally misapplies property that is valued at $5,000 or more and is owned by or under control of such organization, state, or agency when the organization, state, or agency receives in any one year period, benefits in excess of $10,000 under a federal program involving a grant contract, or other form of federal assistance.

Attachment II
Management's Response

State of Louisiana
DEPARTMENT OF ECONOMIC DEVELOPMENT

M.J. "Mike" Foster, Jr.
Governor

Kevin P. Reilly
Secretary

June 10, 1997

Dr. Daniel G. Kyle, Legislative Auditor
Office of the Legislative Auditor
Baton Rouge, LA

Dear ~~Dr. Kyle~~: Dan;

This letter is in response to the Investigative Audit Report of the Department of Economic Development (Department) following the Small Business Bonding Assistance Program (Program).

Actions by the Department of Economic Development

The Louisiana Department of Economic Development first became aware of a problem with the management of the Small Business Bonding Assistance Program in late August of 1996 when the Department was served with a lawsuit filed by the Gramercy Insurance Company. Gramercy Insurance Company, in its lawsuit, claimed a loss of $45,000 as a result of the failure of the Program to make payment on a bond guarantee. After receiving notice of the lawsuit, the Department became aware that the procedures for making payment upon default of a bond guarantee had not been properly observed for the bond guarantees for two companies of Mr. Carl Wright.

The Department immediately contacted the Office of the Legislative Auditor requesting an investigation of the matter. Mr. Lonnie Seals, Executive Director of the Program, was immediately placed on administrative leave pending the outcome of the investigation. Shortly thereafter, Mr. Seals terminated his employment with the Department.

Procedural Issues

At the time of the alleged misappropriation of funds by Mr. Seals, the structure of the Program allowed one individual to administer the Program in its entirety. Mr. Seals was responsible for setting up an accreditation process, determining which businesses were eligible for bonding assistance and authorizing payment upon default of a bond. This was the structure of the Program as investigated by the Office of the Legislative Auditor.

In May 1996, prior to the time the Department became aware of the problem with the administration and management of the Program, the Small Business Bonding Assistance Program was restructured through legislation. Acts 1996, 1st Ex.Sess., No. 29, divided the functions of the Program between the Division of Economically Disadvantaged Business Development (EDBD) and the Louisiana

Economic Development Corporation (LEDC), two Departmental entities. Under the new legislation, EDBD became responsible for providing technical assistance and LEDC was responsible for providing financial assistance in the form of bond guarantees, to eligible businesses participating in the bonding program.

The technical assistance provided by EDBD includes assisting business through the accreditation process of the Louisiana Contractors Accreditation Institute. LEDC is charged with the responsibility of reviewing, evaluating, and analyzing requests for bonding assistance (La.R.S. 51:1753(8)). LEDC is comprised of a nine-member Board, thus under current law, the Board as a whole is responsible for determining the merits of a particular bonding assistance request.

In addition to its duties as providing bond guarantees, LEDC has long had the authority and responsibility for guaranteeing other commercial loans. In making these loan guarantees, LEDC has imposed numerous safeguards for handling of funds. No one individual has ever been responsible for issuing a guarantee and making payment upon its default. LEDC, therefore, has the experience and expertise for handling the bonding guarantees of the Small Business Bonding Assistance Program. The current revised structure of the Program implemented a division of authority and internal controls that would prevent the misappropriation that occurred in this case from happening again.

During the past year, however, LEDC has not received any requests for bonding assistance, and thus, has not had the opportunity to guarantee a bond under the Program.

Currently, legislation is pending to restructure the Program again. Under the proposed legislation, both the technical and financial aspects of the Program will be placed back within EDBD. The proposed legislation authorizes EDBD to establish by rule the procedures for analyzing and evaluating the process for determining which bonding assistance requests will be approved. Furthermore, EDBD is charged with reviewing and monitoring the evaluation and analysis process.

Although the bonding guarantee aspects of the Program have not yet been transferred to EDBD, EDBD is currently drafting procedures in anticipation of the restructuring. The proposed procedures will contain adequate safeguards to ensure that one individual is not responsible for running the program in its entirety. The Department and EDBD will work and consult with the Office of the Legislative Auditor to ensure that proper safeguards have been placed into the administration of the Program.

Under EDBD's proposal, a business will be eligible for bonding assistance only after the business has been certified as an economically disadvantaged business and has successfully completed the curriculum of the Louisiana Contractors Accreditation Institute. The Executive Director of EDBD, will issue certification that a business is economically disadvantaged. A Small Business Bonding Manager, hired by EDBD, will administer the Program, under the supervision of the Executive Director. The Small Business Bonding Manager will be responsible for administering programs for certification by the Louisiana Contractors Accreditation Institute.

The bonding guarantees will be administered by EDBD. Under the proposed procedure, the Small Business Bonding Manager will analyze the bond request applications and recommend to the Executive Director which businesses should be considered. If a bond guarantee is to be issued, EDBD will require a minimum of two signatures authorizing the guarantee. It is anticipated that the executive director of EDBD and the Secretary of the Department will be required to authorize a bonding guarantee. Multiple signatures will also be required in the event of a default and EDBD is called to honor its guarantee.

Written Departmental Policy

The Department established a written internal policy prohibiting all Departmental employees from accepting anything of economic value from any entity or individual conducting business with the Department. This written policy was established in the Spring of 1997.

Civil Actions Against Former Employee and Contractor

The Department of Economic Development intends to pursue legal action against any responsible party to recover any and all funds that were allegedly misappropriated under the Program.

Departmental Cooperation

The Department of Economic Development will fully cooperate with any and all law enforcement authorities and/or prosecutors in their efforts to prosecute any persons related to the misappropriation of funds of the Small Business Bonding Assistance Program.

The Department of Economic Development concurs with the findings in the Investigative Audit Report and wishes to thank the Office of the Legislative Auditor for bringing this matter to its final resolution.

Respectfully submitted:

Kevin P. Reilly, Sr.
Secretary