

LOUISIANA SALES AND USE TAX COMMISSION FOR
REMOTE SELLERS

STATE OF LOUISIANA



FINANCIAL AUDIT SERVICES
PROCEDURAL REPORT
ISSUED SEPTEMBER 7, 2022

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK, CPA

FIRST ASSISTANT LEGISLATIVE AUDITOR
ERNEST F. SUMMERVILLE, JR., CPA

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Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



Louisiana Sales and Use Tax Commission for Remote Sellers

September 2022

Audit Control # 80210118

Introduction

The primary purpose of our procedures at the Louisiana Sales and Use Tax Commission for Remote Sellers (Commission) was to evaluate certain controls the Commission uses to ensure accurate financial reporting, compliance with applicable laws and regulations, and accountability over public funds.

The Commission was created within the Louisiana Department of Revenue (LDR) by Louisiana Revised Statute (R.S.) 47:339-340. The Commission’s purpose is to be the sole collector of sales and use tax from remote sellers for the State and all political subdivisions within the State.

Results of Our Procedures

We evaluated the Commission’s operations and system of internal control through inquiry, observation, and review of its policies and procedures, including a review of the applicable laws and regulations. Based on the documentation of the Commission’s controls and our understanding of related laws and regulations, we performed procedures relating to the Commission’s revenue collection and distribution of sales and use taxes from remote sellers, bank reconciliations, operating expenditures, contracts, meetings and minutes, ethics, budget, sexual harassment, and written policies and procedures.

Current-report Findings

Inadequate Assurance over Service Organization Internal Controls

The Commission contracted with a service organization for critical functions without obtaining adequate assurance on the service organization’s internal controls over these critical functions. This service organization provides an e-filing and pay portal, an administrative system of record, maintenance services, hosting infrastructure, and operational support. The Commission uses the portal and system for the filing, collection, and administration of sales and use tax of remote sellers for state and local governments.

According to its contract, the Commission may require an independent third-party assurance review report to support that the service organization’s internal controls over these functions are

operating effectively. The contract specifies that a Statement on Standards for Attestation Engagements (SSAE) 18, Type 2 report on the service organization's internal controls may be a principal form of assurance. However, the Commission did not properly evaluate the need for this report. Inadequate assurance limits the Commission's ability to monitor the service organization's performance and increases the risk of inappropriately changed or lost data and inaccurate or fraudulent financial transactions.

The Commission should enforce significant contract terms to require the necessary third-party assurance review report on the operation of the service organization's internal controls. Management did not concur with this finding (see Appendix A, page 1).

Additional Comments: Management's response stated that it dispensed with this optional assurance review report in consideration of a statutory set deadline, significant resources and experience of involved personnel, and avoidance of interruption to the taxpayers served by the Commission. Additionally, management stated that it worked with the service organization to test the system of records and its integrated controls to validate the Commission's requirements.

Although these factors may have been present during the implementation, the service organization continues to exercise primary control over the system under limited oversight. Without an independent third-party assurance report, the Commission has no verifiable basis for asserting that the service organization continually maintains adequate controls to protect the Commission's data and correctly process its transactions.

Inadequate Controls over Bank Reconciliations

The Commission did not complete monthly bank reconciliations for its three bank accounts during fiscal year 2021. For one account, the Commission did identify variances between the deposits per the bank statement and the Commission's monthly collection report, generated by its e-file system; however, these variances were not researched and resolved timely, resulting in undetected errors.

The subsequent research of variances between the bank deposits and the Commission's collections report identified a \$1,556,697 liability at year-end, mainly from sales and use taxes inadvertently paid by a dealer and owed to LDR, or from overpayments due back to the remote seller. This occurred because the Commission has not prioritized implementing an effective bank reconciliation process.

Good internal controls require a monthly reconciliation of bank balances to the accounting records in a timely manner. Also, reconciling items should be researched, resolved, and documented by management.

The Commission should establish policies and procedures to require timely, accurate preparation of monthly bank reconciliations that include evidence of preparation and timely review by a member of management, or a Commission member, who does not handle cash, post ledgers, or issue checks. Commission policy should also require collection variances and outstanding items

to be researched, documented, and resolved in a timely manner. Management concurred in part with the finding and provided a correction action plan (see Appendix A, page 2).

Additional Comments: Management's response stated that bank accounts were reconciled for fiscal year 2021 and monthly variances were researched; however, there were no bank reconciliations provided to the auditor when requested from management. When provided the bank reconciliations that were prepared by the contractor, the reconciliations for August 2020 through January 2021 were not completed until June 2021, February 2021 through May 2021 were not completed until July 2021, and June 2021 was not completed until August 2021, and the reconciliations provided did not have evidence of management review. In addition, although management had researched the monthly variances, there was not adequate, timely research and resolution of all variances as of June 30, 2021.

Lack of Written Policies and Procedures

The Commission does not have written policies and procedures for its primary financial and business functions, currently consisting of budgeting, contracting, and sales and use tax collections, including reconciling bank deposits for collections to the general ledger. This has occurred because the Commission has not prioritized developing these written policies and procedures.

Good internal controls require written policies and procedures to be in place and communicated to staff and commission members, where applicable, to guide them in their job duties, reduce errors and omissions, and ensure compliance with laws and regulations. Having written policies and procedures also becomes critical when job duties must transition to new staff and commission members as resignations occur and/or terms expire.

The Commission should ensure written policies and procedures are developed for all financial and business functions to ensure consistency executing its processes. Management concurred with the finding and provided a plan of corrective action (see Appendix A, page 3).

Revenue Collection and Distribution – Sales and Use Taxes from Remote Sellers

The Commission's revenue collections consist of sales and use taxes from remote sellers, and R.S. 47:340(E)(2) requires the Commission to distribute those collections to the appropriate state or local collector. We agreed the revenue reported in the annual fiscal report to the bank statement deposits and to the Commission's collection system reports, and reviewed the controls in place to ensure the proper state and local tax rates were being utilized in the tax collection system. We also agreed system distribution reports to bank statement payments and reviewed the controls in place to ensure that collections were distributed in the correct amounts to each collector. However, weaknesses noted relating to bank reconciliations and service organization controls negatively impact the effectiveness of any additional controls over revenue collections and distributions (see "Inadequate Assurance over Service Organization Internal Controls" and "Inadequate Controls over Bank Reconciliations" in the Current-report Findings section).

Bank Reconciliations

The Commission maintains an operating account and two other bank accounts. The cash balance at June 30, 2021 per the Commission's Annual Fiscal Report was \$37,417,979. We performed procedures related to the Commission's bank reconciliation process. During our review, we noted that the Commission did not reconcile bank balances to the accounting records and did not timely research and resolve variances between the deposits per the bank statements and the e-file system's monthly collections report (see "Inadequate Controls over Bank Reconciliations" in the Current-report Findings section).

Operating Expenditures

The Commission entered into a Memorandum of Understanding with LDR to allow LDR to pay expenditures for the benefit of the Commission as the Commission incurred costs and expenses for its operations before any collections were received. Reimbursements to LDR began in November 2020. We obtained an understanding of the Commission's controls over the time and attendance function and reviewed selected employee time statements and leave records. We also reviewed selected non-payroll reimbursements for proper approval and reviewed supporting documentation for the amounts reimbursed to LDR. Based on the results of our procedures, the Commission had adequate controls in place to ensure timely review and approval of employee time statements and leave requests, employees were paid the amounts authorized, and leave taken was accounted for properly. In addition, based on our procedures, non-payroll reimbursements to LDR were properly approved and made in the correct amounts.

Contracts

During the fiscal year, the Commission entered into four contracts for information technology, accounting, and legal services. We ensured that all contracts were properly approved and executed. All contract related expenditures, totaling \$517,431, were related to one contract for the development and implementation of the tax collections software. All payments were adequately supported and adhered to contract terms and conditions. However, the provider of the information technology services is a service organization of the Commission and the Commission did not require the service organization to provide independent assurances over its internal controls (see "Inadequate Assurance over Service Organization Internal Controls" in the Current-report Findings section).

Meetings and Minutes

We reviewed the Commission minutes for the period July 1, 2020, through June 30 2021, and noted that the Commission met as directed by the Chairman in accordance with R.S. 47:340. The Commission's meetings included financial discussions of operations, including budget-to-actual comparisons.

We accessed the Commission's online information included in the Division of Administration's boards and commissions database and determined that the Commission submitted commission meeting notices and minutes for all meetings during the fiscal period.

Ethics

We evaluated evidence to determine if required ethics training was completed by the Commission's members and employees. We determined Commission members and employees completed the required annual ethics training.

Budget

The Commission annually adopts a budget by majority vote of its commission members. We confirmed the adoption of the Commission's budgets for fiscal year 2021 and evaluated variances between budgeted amounts and actual revenues and expenditures for reasonableness. For fiscal year 2021, actual revenues exceeded budget by 11% and actual expenditures were less than budgeted by 24%. Per the Commission, these variances were due to higher than anticipated collections and lower than expected cost related to information technology system development and delays in hiring personnel.

Sexual Harassment

We performed procedures to determine if the Commission's sexual harassment policies and procedures address all requirements of R.S 42:342-344 and that the policy and complaint procedure was posted on the Commission's website or premises. We also observed evidence that the Commission's employees and commission members completed the required training during the calendar year and that the Commission's sexual harassment report was properly completed.

Written Policies and Procedures

We performed procedures to determine if the Commission had written policies and procedures to address its primary financial and business functions, currently consisting of budgeting, contracting, and sales and use tax collections. We determined that the Commission does not have written policies and procedures for these functions (see "Lack of Written Policies and Procedures" in the Current-report Findings section).

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

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA
Legislative Auditor

LRL:EBT:BQD:EFS:aa

RSCS2021

APPENDIX A: MANAGEMENT'S RESPONSES



SALES AND USE TAX COMMISSION
FOR REMOTE SELLERS

August 12, 2022

Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack,

The Louisiana Sales and Use Tax Commission for Remote Sellers is in receipt of the finding titled "Inadequate Assurance over Service Organization Internal Controls."

The Commission disagrees with this finding. The Commission acknowledges that it did not require an independent third-party assurance review report to support that the service organization's internal controls over these functions are operating effectively. This business decision to dispense with this optional assurance review report was made in consideration of a statutory set deadline, significant resources of personnel and their experience in tax administration, and to ensure no interruption to the taxpayers served by the Commission. Through the combined efforts of state and local government representatives and Commission staff, extraordinary time was invested in testing the system of records and its integrated controls. The testing validated the Commission's requirements, including the submission, processing and posting of returns, payments and financial activity within the system of record.

The Commission, through its members serving in their fiduciary roles to the agency, reserves the right to exercise optional contractual provisions and seek an independent third-party assurance review report in the future. This business decision will be considered in an open meeting with the benefit of public comment.

If you have any additional questions or seek an update of the status of the 2022 assurance review report, please contact me at 225.219.7051 or renee.roberie@la.gov.

Sincerely,

Renée Ellender Roberie
Executive Director
Louisiana Sales and Use Tax Commission for Remote Sellers

P.O. Box 2068 Baton Rouge, LA 70821
225-342-2156
laremotesellerscommission@la.gov



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August 12, 2022

Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
P.O. Box 94397
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack,

The Louisiana Sales and Use Tax Commission for Remote Sellers is in receipt of the finding titled "Inadequate Controls over Bank Reconciliations."

The Commission concurs in part with this finding. Through the use of an external consultant, the Commission's bank accounts were reconciled via Quickbooks for fiscal year 2021. We also researched variances on a monthly basis between the bank deposits and the Commission's collections and distributions.

We are currently in the process of filling an accountant position so that we have the expertise in-house to perform bank reconciliations. In the meantime, one of the Commission members has been volunteering her time assisting with establishing a more formal bank reconciliation process. The Commission is in the process of renewing its financial services contract to continue the supply of additional accounting support.

If you have any additional questions or seek an update of the bank reconciliation process, please contact me at 225.219.7051 or renee.roberie@la.gov.

Sincerely,

Renée Ellender Roberie
Executive Director
Louisiana Sales and Use Tax Commission for Remote Sellers

P.O. Box 2068 Baton Rouge, LA 70821
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Dear Mr. Waguespack,

The Louisiana Sales and Use Tax Commission for Remote Sellers is in receipt of the finding titled "Lack of Written Policies and Procedures."

The Commission concurs with this finding. As required by LA R.S. 47:339 *et seq.* the Commission commenced collecting sales and use tax from remote sellers on behalf of state and local taxing authorities on July 1, 2020. The Commission has been operating with only three employees since that time and has experienced a tremendous growth in collections and accounts that the limited staff must manage and prioritize over other non-essential functions. To that end, the representatives have provided close scrutiny of the Commission's operations and tax collection responsibilities. The Commission expects to hire additional staff but in today's environment that has proven challenging. The Commission is discussing outsourcing the development of the critical policies and procedures needed, however, that will be determined at a Commission meeting in the future.

If you have any additional questions or seek an update of the status of the development of written policies and procedures, please contact me at 225.219.7051 or renee.roberie@la.gov.

Sincerely,

Renée Ellender Roberie
Executive Director
Louisiana Sales and Use Tax Commission for Remote Sellers

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laremotesellerscommission@la.gov

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Sales and Use Tax Commission for Remote Sellers (Commission) for the period from July 1, 2020, through June 30, 2021. Our objective was to evaluate certain controls the Commission uses to ensure accurate financial reporting, compliance with applicable laws and regulations, and accountability over public funds. The scope of our procedures, which is summarized below, was significantly less than an audit conducted in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. We did not audit or review the Commission's Annual Fiscal Report, and accordingly, we do not express an opinion on that report. The Commission's accounts are an integral part of the state of Louisiana's financial statements, upon which the Louisiana Legislative Auditor expresses opinions.

- We evaluated the Commission's operations and system of internal controls through inquiry, observation, and review of its policies and procedures, including a review of the laws and regulations applicable to the Commission.
- Based on the documentation of the Commission's controls and our understanding of related laws and regulations, we performed procedures relating to the revenue collection and distribution of sales and use taxes from remote sellers, bank reconciliations, operating expenditures, contracts, meetings and minutes, ethics, budget, sexual harassment, and written policies and procedures.

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