

LOUISIANA SUPREME COURT

STATE OF LOUISIANA

FINANCIAL AUDIT SERVICES

Management Letter
Issued September 20, 2023

**LOUISIANA LEGISLATIVE AUDITOR
1600 NORTH THIRD STREET
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BATON ROUGE, LOUISIANA 70804-9397**

LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK, CPA

FIRST ASSISTANT LEGISLATIVE AUDITOR
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Louisiana Legislative Auditor

Michael J. "Mike" Waguespack, CPA



Louisiana Supreme Court

September 2023

Audit Control # 80230012

Introduction

As a part of our work related to the Single Audit of the State of Louisiana (Single Audit) for the fiscal year ended June 30, 2022, we performed procedures at the Louisiana Supreme Court (Court) to evaluate the effectiveness of the Court's internal controls over the Temporary Assistance for Needy Families federal program and to determine whether the Court complied with applicable laws and regulations. We also performed procedures for the period July 1, 2021, through June 30, 2023, to evaluate certain internal controls the Court uses to ensure accurate financial reporting, compliance with applicable laws and regulations, and accountability over public funds. In addition, we determined whether management has taken actions to correct the findings reported in the prior report.

Results of Our Procedures

Follow-up on Prior-report Findings

Our auditors reviewed the status of the prior-report findings reported in the Court's procedural report dated November 3, 2021. We determined that management has resolved the prior-report findings related to Lack of Controls over Movable Property and Weaknesses in Controls over Payroll Taxes.

Current-report Findings

Noncompliance with Administrative Expense Requirements for the Judges' Supplemental Compensation Fund

Administrative expenses for the Judges' Supplemental Compensation Fund (JSCF) are being paid with state general funds appropriated for the operations of the Court's Office of the Judicial Administrator instead of with the proceeds in the JSCF as required by state law. This results in noncompliance with state law and may be an improper use of state general funds.

R.S. 13:10.3 imposes a nonrefundable fee for every civil filing in the office of each clerk of city, parish, juvenile, family, district, appellate, and supreme court, and

requires each clerk of court to remit all costs so collected to the State Treasurer monthly on or before the tenth day of each calendar month; provides that the Judicial Administrator is responsible for the distribution of the proceeds of the fund; provides that the JSCF shall be used solely and exclusively for salary supplements to judges and commissioners, for related costs of state or municipal retirement funds, and for necessary and associated administrative expenses; and provides that after making provisions for necessary and associated administrative expenses, the JSCF Board shall authorize the Judicial Administrator to distribute the proceeds from the fund monthly for the supplemental compensation to the judges and commissioners and for the associated retirement contributions.

The Judicial Administrator did not ensure that costs incurred for administering the JSCF were reimbursed from the JSCF. In addition, the JSCF Board did not ensure that provisions for the monthly administrative expenses were made before authorizing the Judicial Administrator to distribute the remaining proceeds of the JSCF in accordance with state law. The Court estimated the administrative costs incurred by the Judicial Administrator to be approximately \$51,000 during fiscal year 2023.

This occurred because the JSCF Board believes that it is acceptable to fund the administrative costs with general fund appropriations rather than from the JSCF.

The Judicial Administrator and/or the JSCF Board should seek clarification from the state legislature as to the intent of the law in regard to payment of the JSCF's administrative expenses. Until intent is clarified, the JSCF Board should reimburse the Judicial Administrator for the costs of administering the JSCF and should make provisions for administrative expenses before the monthly payment of supplemental compensation to the judges and commissioners and payment of the associated retirement contributions are made by the Judicial Administrator. Management provided two separate responses to the finding, one from the Chief Justice, which indicated concurrence with the finding and recommendation; however, the remaining Justices indicated non-concurrence and stated that, "The Judicial Administrator will provide any needed information to any legislator who might wish to clarify the need for reimbursement described in R.S. 13:10.3," (see Appendix A, pages 1-4).

Noncompliance with Fee Remittance Requirements for the Judges' Supplemental Compensation Fund

Civil filing fees collected by each clerk of court that are required by state law to be remitted to the Louisiana State Treasurer (State Treasurer) for deposit into the JSCF are instead being remitted to the Court's Office of the Judicial Administrator, resulting in noncompliance with state law.

R.S. 13:10.3(C) imposes a nonrefundable fee for every civil filing in the office of each clerk of city, parish, juvenile, family, district, appellate, and supreme court, and requires each clerk of court to remit all costs so collected to the State Treasurer monthly on or before the tenth day of each calendar month. In February 1988, the State Treasurer notified the JSCF Board that the Judicial Administrator agreed to have

each court remit their fees along with their remittance forms directly to the Judicial Administrator. In March 1988, the JSCF Board directed the clerks of court to continue making remittance checks for the civil fees collected payable to the State Treasurer, but beginning with the April 1988 collections, remit the checks and forms directly to the Judicial Administrator instead of to the State Treasurer. The Judicial Administrator and the State Treasurer entered into a Memorandum of Understanding in April 2018 to formalize this practice, but they did not seek legislative changes to align the law with current practice.

The Judicial Administrator and/or the JSCF Board should seek legislative changes to this statute to align it with the current practice of the clerks of court remitting the civil fees to the Judicial Administrator instead of to the State Treasurer as currently required. Management's response indicates non-concurrence with the finding that the current arrangement does not comply with the law, but stated that, "the Judicial Administrator will provide any needed information to any legislator who might wish to revise the procedure described in R.S. 13:10.3," (see Appendix A, page 5).

Weakness in Controls over Travel Reimbursements

The Court did not ensure that travel reimbursements to judges for lodging expenses were in accordance with the Court's general administrative rules, resulting in overpayments to judges totaling \$1,828.

Two (7%) of 29 travel reimbursement transactions included overpayments of lodging expenses totaling \$1,828 to two judges. Court personnel erroneously reimbursed one judge more than the maximum daily rate for attending the Louisiana Judicial College/Louisiana State Bar Association Joint Summer School and Annual Meeting, and erroneously reimbursed one judge for an additional day of lodging expense. The Court's internal controls did not detect the overpayments. The Court recovered the overpayments after we notified them of the errors.

The Court's general administrative rules state that reimbursement or payment from any public funds for a judge's lodging while attending a meeting shall be limited to the special group rate charged at the hotel of the meeting site, and reimbursement or payment from any public funds for lodging expenses shall be limited to expenses incurred during the official days, including the closing day, that the meeting is held, plus one day of lodging for early arrival. On an annual basis, the Supreme Court shall set the reimbursable rate for lodging for both the Louisiana Judicial College/Louisiana State Bar Association Joint Summer School and Annual Meeting. Such rate shall be promulgated as a maximum daily rate, with an aggregate limit based on the number of days of lodging permitted. Under no circumstance shall a judge receive a daily lodging reimbursement in excess of the daily rate set by the Supreme Court.

These overpayments occurred because of errors made by Court personnel when the reimbursement requests were processed.

Court management should ensure that travel reimbursement requests and supporting documentation are adequately reviewed before funds are disbursed to ensure payments are accurate, for allowable expenses, and in accordance with applicable rules. Management's response indicated concurrence with the noted exceptions and outlined a plan of corrective action (see Appendix A, page 6).

Federal Compliance - Single Audit of the State of Louisiana

As a part of the Single Audit for the year ended June 30, 2022, we performed internal control and compliance testing as required by Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) on the Court's major federal program, Temporary Assistance for Needy Families (Assistance Listing 93.558).

Those tests included evaluating the effectiveness of the Court's internal controls designed to prevent or detect material noncompliance with program requirements and tests to determine whether the Court complied with applicable program requirements. Based on the results of these Single Audit procedures, we did not report any findings.

Other Procedures

In addition to the Single Audit procedures noted above, we performed certain procedures that included obtaining, documenting, and reviewing the Court's internal control and compliance with related laws and regulations over the Judges' Supplemental Compensation Fund, travel reimbursements, payroll, and movable property. Based on the results of these procedures, we reported findings related to Noncompliance with Administrative Expense Requirements for the Judges' Supplemental Compensation Fund, Noncompliance with Fee Remittance Requirements for the Judges' Supplemental Compensation Fund, and Weakness in Controls over Travel Reimbursements, as described previously.

Trend Analysis

We compared the most current and prior-year financial activity using the Court's Annual Fiscal Reports and/or system-generated reports and obtained explanations from the Court's management for any significant variances.

The recommendations in this letter represent, in our judgment, those most likely to bring about beneficial improvements to the operations of the Court. The nature of the recommendations, their implementation costs, and their potential impact on the operations of the Court should be considered in reaching decisions on courses of

action. The findings related to the Court's compliance with applicable laws and regulations should be addressed immediately by management.

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

Respectfully submitted,



Michael J. "Mike" Waguespack, CPA
Legislative Auditor

CJH:CRV:BQD:ch

LASC 2023

APPENDIX A: MANAGEMENT'S RESPONSES



Supreme Court
STATE OF LOUISIANA

JOHN L. WEIMER
CHIEF JUSTICE

400 Royal Street
NEW ORLEANS, LA 70130-8102

TELEPHONE (504) 310-2390
FAX (504) 310-2399

August 31, 2023

Michael J. "Mike" Waguespack, CPA
Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804-9397

Re: Response to Finding re-"Noncompliance with Administrative Expense Requirements for the Judges' Supplemental Compensation Fund"

Dear Mr. Waguespack,

My colleagues have responded to the findings of your office relative to administrative expenses. I feel obligated to address one point.

The recommendation of your office is imminently correct based on the statutory language of La. R.S. 13:10.3(A) and (D),¹ relevant legislative history, custom in operation of the Judges' Supplemental Compensation Fund (JSCF) from its inception and for decades later, and is consistent with how the Supreme Court administers the Court Management Information Systems (CMIS), which has the same language

¹ La. R.S. 13:10.3(A) and (D) provide, in pertinent part:

A. The Judges' Supplemental Compensation Fund, hereinafter referred to as "the fund", is hereby created. The proceeds from the fund shall be used solely and exclusively for salary supplements to judges and commissioners, for related costs of state or municipal retirement funds, and for necessary and associated administrative expenses.


D. After making provisions for necessary and associated administrative expenses, the board shall authorize the judicial administrator to set aside and transmit monthly an amount to provide the additional employer's retirement contribution due by the state on the supplemental compensation to the State Employees' Retirement System on behalf of the judges who are members of the system. The board, through the judicial administrator, shall then distribute the proceeds from the fund monthly

....

regarding “necessary and associated administrative expenses” as the JSCF statute. Only by ensuring administrative costs are paid can the dual purpose of the JSCF—to provide a pay increase to judges with a fund that is self-sufficient and self-sustaining and does not cost the taxpayer anything at all—be realized. The prudent advice of your office is a fiscally conservative approach that favors the public fisc and is supported by the law.²

Therefore, the JSCF Board, a legislatively created body, should pay and the Supreme Court should accept reimbursement for “necessary and associated administrative expenses,” as stated in your recommendation.

Sincerely,


John L. Weimer
Chief Justice

² The fact that the legislation introduced in the 2023 Regular Session of the Louisiana Legislature (H.B. 839 by Representative Zeringue) failed to be voted out of committee is irrelevant regarding legislative intent. We know this because the legislature, itself, has said so. See La. R.S. 24:177(D) (“A bill introduced but which does not become law is not competent evidence of legislative intent. Any action by the legislature other than enactment of law or adoption of a resolution ... shall not constitute a confession as to the meaning of the law extant.”). House Bill 839 was pulled by its author even before a call for votes by the committee members was made. Section 117(D) clearly indicates that even failed legislation is not indicative of the legislature’s intent.

Regardless, H.B. 839 of 2023 was, effectively, a “belt and suspender approach” to what was already statutorily clear, as found by your office. Louisiana R.S. 13:10.3(A) and (D), which clearly indicate “necessary and associated administrative expenses” are due and owing by the JSCF, has been the law in Louisiana since 1985. The suggestion to seek legislative clarification is directed to the JSCF. Until then, the administrative expenses should be paid as indicated.



Supreme Court
STATE OF LOUISIANA
New Orleans

JUSTICES

WILLIAM J. CRAIN	First District
SCOTT J. CRICHTON	Second District
JAMES T. GENOVESE	Third District
JAY B. MCCALLUM	Fourth District
JEFFERSON D. HUGHES III	Fifth District
PIPER D. GRIFFIN	Seventh District

VERONICA O. KOCLANES
CLERK OF COURT

400 Royal St., Suite 4200
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August 31, 2023

Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack,

As requested by your office, the Louisiana Supreme Court (Court) provides the following official response to the reportable audit finding.

Finding: Noncompliance with Administrative Expense Requirements for the Judges' Supplemental Compensation Fund

The Judicial Administrator takes direction from the Supreme Court. At the time R.S. 13:10.3 was enacted, the accounting department reported directly to the Judicial Administrator. Presently, the accounting department does not report directly to the Judicial Administrator. The Judicial Administrator's statutory obligations relative to Judges' Supplemental Compensation Fund (JSCF) are administered by employees of both the Judicial Administrator's office and the accounting department. We will not revisit that which has already been thoroughly considered regarding administrative expenses, including legislation introduced in the 2023 Regular Session of the Louisiana Legislature, which failed to get voted out of committee. However, the Louisiana Supreme Court and the Legislative Auditor disagree on the meaning of "necessary and associated administrative expenses" in La. R.S. 13:10.3(A) & (D) and whether the work performed by court employees is part of the court's overhead (and hence is neither quantifiable nor reimbursable), or whether an obligation exists to quantify and reimburse the employees' work done on behalf of the JSCF and its Board.

As noted in the finding, the Legislative Auditor suggests that the "Judicial Administrator and/or the JSCF Board should seek clarification from the State legislature as to the intent of the law in regard to payment of the JSCF's administrative expenses." The Judicial Administrator will provide any needed information to any legislator who might wish to clarify the need for reimbursement described in R.S. 13:10.3. Again, an Act that would have changed the meaning to conform to the interpretation of the Legislative Auditor failed to be voted out of committee.


The finding by the Legislative Auditor also suggests that “[u]ntil intent is clarified, the JSCF Board should reimburse the Judicial Administrator for the costs of administering the JSCF and should make provisions for administrative expenses before the monthly payment of supplemental compensation” Pursuant to R.S. 13:10.3, the JSCF Board is a separate and distinct entity from the Supreme Court; it is the JSCF Board that is statutorily-charged with how proceeds are collected and disbursed. As a courtesy, however, the Court has transmitted the Legislative Auditor’s findings and the Supreme Court’s official response to the JSCF Board. Notably, the Louisiana Supreme Court has advised the JSCF Board that no reimbursements are due to the Court.

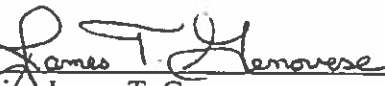
Sincerely,


Justice Jefferson D. Hughes, III


Justice William J. Crain


Justice Scott J. Crichton


Justice Jay B. McCallum


Justice James T. Genovese


Justice Piger D. Griffin



Supreme Court
STATE OF LOUISIANA
New Orleans

CHIEF JUSTICE
JOHN L. WEIMER
SIXTH DISTRICT
JUSTICES
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JAMES T. GENOVESE
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FIRST DISTRICT
SECOND DISTRICT
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Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack,

As requested by your office, the Louisiana Supreme Court (Court) provides the following official response to the reportable audit finding.

Finding: Noncompliance with Fee Remittance Requirements for the Judges' Supplemental Compensation Fund

Decades ago, the procedure described by R.S. 13:10.3 for handling fee remittance was modified with the consent of the State Treasurer. More recently, the State Treasurer and the Judicial Administrator formalized this agreement in a Memorandum of Understanding. Notably, the Legislative Auditor's report finds no fault or inaccuracy with the modified procedure. Indeed, the procedure was modified to prevent faults or inaccuracies in handling fee remittances. As the custom and practice of remitting checks to the Judicial Administrator – who in turn deposits them into the Treasury – complies with the statutory requirement that receipts be deposited into the Treasury, as acknowledged by the State Treasurer, there was no duty to seek legislative changes to the applicable statute. However, the Judicial Administrator will provide any needed information to any legislator who might wish to revise the procedure described in R.S. 13:10.3.

Sincerely,

Chief Justice John L. Weimer

Justice Will Crain

Justice Jefferson D. Hughes

Justice Jay B. McCallum

Justice Scott J. Crichton

Justice Piper D. Griffin

Justice James T. Genovese



Supreme Court
STATE OF LOUISIANA
New Orleans

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August 31, 2023

Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack,

As requested by your office, the Louisiana Supreme Court (Court) provides the following official response to the reportable audit finding.

Finding: Weakness in Controls over Travel Reimbursements

Two (7%) of twenty-nine travel reimbursement transactions reviewed resulted in the overpayment of lodging expenses totaling \$1,828. The percentage overpayment compared to the dollar amount sampled is 1.8% (\$1,828 / \$101,459). Due to staff turnover, the position that performs secondary travel reimbursement reviews was vacant. Currently, this position is filled and is reviewing travel reimbursements prior to disbursing funds. The corrective action plan of having a second review of travel reimbursements by the Accounting Supervisor is the responsibility of Bryan Wolff and was implemented April 1, 2023. Management feels this corrective action plan resolves this immaterial issue.

Sincerely,

Chief Justice John L. Weimer

Justice Will Crain

Justice Jefferson D. Hughes

Justice Jay B. McCallum

Justice Scott J. Crichton

Justice Piper D. Griffin

Justice James T. Genovese

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Louisiana Supreme Court (Court) for the period from July 1, 2021, through June 30, 2023, to evaluate relevant systems of internal control in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our procedures, summarized below, are a part of our work related to the Single Audit of the State of Louisiana (Single Audit) for the year ended June 30, 2022.

- We evaluated the Court'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 Court.
- We performed procedures on the Temporary Assistance for Needy Families (Assistance Listing 93.558) federal program for the year ended June 30, 2022, as a part of the 2022 Single Audit.
- We compared the most current and prior-year financial activity using the Court's Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from the Court's management for significant variances.

In addition, we performed procedures on the Judges' Supplemental Compensation Fund, travel reimbursements, payroll, and movable property. The scope of these procedures was significantly less than an audit conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

The purpose of this report is solely to describe the scope of our work at the Court and not to provide an opinion on the effectiveness of the Court'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 purposes.

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