

DEPARTMENT OF AGRICULTURE AND FORESTRY
STATE OF LOUISIANA



FINANCIAL AUDIT SERVICES
PROCEDURAL REPORT
ISSUED AUGUST 4, 2021

**LOUISIANA LEGISLATIVE AUDITOR
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ERNEST F. SUMMERVILLE, JR., CPA

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Louisiana Legislative Auditor

Michael J. “Mike” Waguespack, CPA



Department of Agriculture and Forestry

August 2021

Audit Control # 80210035

Introduction

The primary purpose of our procedures at the Louisiana Department of Agriculture and Forestry (LDAF) was to evaluate certain controls LDAF uses to ensure accurate financial reporting, compliance with applicable laws and regulations, and accountability over public funds.

Results of Our Procedures

We evaluated LDAF’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 LDAF’s controls and our understanding of related laws and regulations, and the results of our analytical procedures, we performed procedures on selected controls and transactions relating to self-generated revenues, statutory dedications, state purchasing card expenditures, Fueltrac card expenditures, lease expenditures, payroll expenditures, information technology related expenditures, and LaGov user access.

Current-report Finding

Noncompliance and Control Weakness over the Forestry Productivity Program

LDAF made Forestry Productivity Program (FPP) payments totaling \$3,686,026 to landowners during the period July 1, 2019, through July 31, 2020, of which \$553,041 (15%) violated the provisions of Louisiana Revised Statute (R.S.) 3:4412(C) that were in effect at the time. Our review of 21 payments to landowners disclosed the following:

- Seven payments totaling \$91,441, of which \$30,480 exceeded \$10,000 and were based on a 75% state cost share rate, which violated the revised statute that stipulates a maximum allowable amount of \$10,000 and a cost share rate of 50%. In addition, our procedures disclosed that for each of these payments LDAF split payment amounts in expenditure data to reflect that no one landowner was paid more than \$10,000 during a fiscal year. Based on discussions with LDAF personnel, it was LDAF’s practice during fiscal year 2020 to split payments by using two application numbers to avoid the \$10,000 per landowner limitation in the FPP system.

- Fourteen payments totaling \$58,825, that were less than \$10,000 were reimbursed by LDAF at a 75% cost share, which violated the cost share rate of 50% allowed by R.S. 3:4412(C), resulting in overpayments of \$19,605.

As a result of the exceptions identified above, we compiled a report of all payments made to landowners during the period July 1, 2019, through July 31, 2020. We identified additional payments to landowners, in excess of \$10,000, totaling \$502,956 violated the provisions of the revised statute. If landowners had been paid no more than the maximum allowed \$10,000 per fiscal year, and if the payments were based on a maximum cost share rate of 50%, potentially more eligible landowners could have received assistance before the funds were exhausted.

In 1997, the Legislature enacted R.S. 3:4410, *et seq.* to create the FPP. The purpose of the FPP is to (1) insure a sustainable supply of timber and forest products; (2) aid in the economic well-being of the State; (3) enhance the aesthetics of the State; (4) provide suitable wildlife habitats; (5) aid in air purification; (6) conserve topsoil; and (7) enhance water quality. In order to encourage and foster these policies, LDAF may enter into cooperative agreements with landowners to encourage the reforestation of the state's forest lands. Funding for FPP is provided through a statutorily-dedicated fund derived from the productivity tax on the timber harvested. Once the fund is exhausted, no more landowners can receive assistance under the FPP.

Prior to August 1, 2020, R.S. 3:4412(C) stated: "The commissioner shall determine the extent of the state's involvement in each cooperative agreement which shall not exceed fifty percent of the cost of the cooperative agreement or a total value of assistance of ten thousand dollars to any one landowner during a fiscal year." Effective August 1, 2020, Act 81 of the 2020 Regular Session amended this law as follows: "The commissioner shall promulgate rules and regulations in accordance with the administrative Procedure Act to establish the extent of the state's involvement in each cooperative agreement with a land owner during a fiscal year."

LDAF is responsible for codifying the rules of the FPP within the Louisiana Administrative Code (LAC), and those rules should be consistent with the applicable revised statutes. The LAC, which was last updated in November 2016, allows for a maximum payment of \$15,000 to a landowner during a fiscal year and established cost share rates at 50%. LDAF's internal written policy on the FPP Program in effect since October 2019 allowed for payments of up to \$15,000 to eligible landowners in each fiscal year and a 75% cost share rate. Therefore, both the LAC and the LDAF internal policy were inconsistent with R.S. 3:4412(C).

LDAF should ensure that the LAC and its written internal policy for the FPP is consistent with the provisions of the revised statutes and that LDAF complies with all laws applicable to FPP. Management did not concur with the finding and asserted that during the time period of July 1, 2019, through July 31, 2020, no individual cooperative agreement was paid in excess of \$10,000 in accordance with the statute and the law did not prohibit a landowner and the state from entering into more than one cooperative agreement. Management noted that LDAF did not split payments to avoid the \$10,000 per landowner limitation and asserted that during this time period no application was rejected due to insufficient funding (See Appendix A).

Additional Comments: LDAF interprets the pre-August 1, 2020, language of R.S. 3:4412(C) as providing that "more than one cooperative agreement is permitted per landowner, but no more than

the cap is allowed in payment” [for each agreement]. This interpretation omits the entire second clause in the statute (that is, the phrase “a total value of assistance of ten thousand dollars to any one landowner during a fiscal year.”) Any interpretation that makes words of the statute meaningless is contrary to the rules of statutory interpretation and, therefore, is legally erroneous. Also, in interviews conducted during the engagement, LDAF personnel acknowledged that applications were reimbursed on a first come, first served basis and that once the FPP appropriated amount was exhausted in fiscal year 2020, the department rejected subsequent applications received and refunded these applicants.

Self-generated Revenues

For fiscal year 2020, approximately 6% of LDAF’s revenue consisted of self-generated revenues from license fees, permit fees, certifications, etc. We performed a test of self-generated revenues for the period July 1, 2019, through December 31, 2020, to ensure fees collected were in accordance with LDAF’s fee schedule, adequately supported, and accurately recorded. Based on the results of our procedures, LDAF had adequate controls in place to ensure that revenue collections were properly collected and recorded in the accounting system.

Statutory Dedications

We performed procedures on the Structural Pest Control Commission Fund, the Pesticide Fund, the Forestry Productivity Fund, the Feed and Fertilizer Fund, and the Horticulture and Quarantine Fund for fiscal years 2020 and 2021, to determine if the fees charged were in accordance with established fees and that expenditures for the program were in accordance with applicable revised statutes. Except as noted for the Forestry Productivity Fund in the Current-report Finding section, LDAF had adequate controls in place over these statutory dedications to ensure that fees collected and program expenditures were in accordance with program requirements.

State Purchasing Card Expenditures

LDAF participates in the state of Louisiana’s LaCarte purchasing card program for general office supplies and administrative expenditures. We obtained an understanding of LDAF’s controls over access to and use of these cards.

We analyzed LaCarte card transaction listings for the period July 1, 2019, through March 15, 2021, and reviewed transactions that exceeded established purchasing limits including increased emergency limits related to the COVID pandemic. Based on the results of our procedures, LDAF had adequate controls to ensure that purchases were approved and made for proper business purposes; sufficient documentation was maintained to support purchases; and purchases were properly reconciled to invoices and receipts.

Fueltrac Card Expenditures

LDAF participates in the state of Louisiana's Fueltrac Card program and uses fuel cards to make gas and auto maintenance and repair purchases. We obtained an understanding of LDAF's policies and procedures relating to the posting of fuel card expenditures to the accounting system for the two-year period ending June 30, 2021. Based on these procedures, we found that LDAF has adequate controls over fuel card expenditures to ensure accurate posting in the accounting system.

Lease Expenditures

On July 1, 2019, LDAF entered into a lease agreement with the Louisiana Agricultural Finance Authority (LAFA) for the lease of various properties for office space and warehouses totaling \$2,302,802 annually with a lease term of five years. The lease agreement states that LDAF shall maintain the properties and make all necessary repairs at its own expense and that such maintenance costs shall be credited toward the rental payments made to LAFA. We obtained an understanding of the lease agreement and analyzed LDAF's maintenance expenditures used to offset lease payments during fiscal year 2020. Based on the results of the procedures, the maintenance expenditures used to offset lease payments were reasonable and LDAF complied with the lease requirements.

Payroll Expenditures

Salaries and related benefits comprise approximately 64% of LDAF's expenditures in fiscal year 2020. We obtained an understanding of LDAF's controls over the time and attendance function and performed tests to review if payroll was certified and approved, as well as if employees were paid the amounts authorized. Based on the results of our procedures LDAF had adequate controls in place to ensure timely review and approval of employee time statements and leave requests, and employees were paid the amounts authorized.

Information Technology Expenditures

Based on risks identified, we tested a sample of 10 information technology expenditures from July 1, 2019, through March 15, 2021, to determine whether transactions were properly authorized, supported, and in compliance with applicable procurement laws and regulations. Based on the results of our procedures, LDAF had adequate controls in place over information technology expenditures.

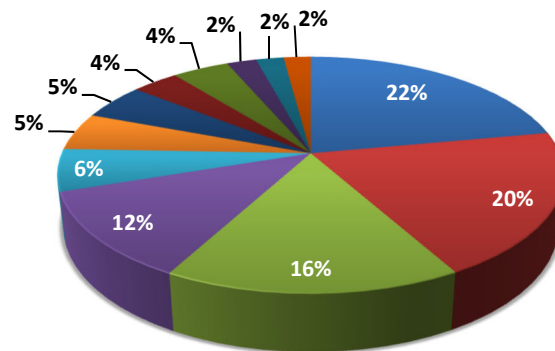
LaGov User Access

LDAF converted to the LaGov System for financial reporting on July 1, 2020. We performed procedures to determine whether access to LaGov was restricted to business-need only and adequately segregated. We also performed procedures to determine whether access was removed timely for terminated employees. Based on the results of our procedures, LDAF had adequate controls in place to ensure access was properly restricted and segregated. In addition, LDAF had adequate controls in place to ensure terminated employees' access was removed in a timely manner.

Trend Analysis

We compared the most current and prior-year financial activity using LDAF's Annual Fiscal Reports and/or system-generated reports and obtained explanations from LDAF's management for any significant variances. We also prepared an analysis of the department's revenues by type and expenditures by category. As shown in Exhibit 1, the majority of LDAF's funding in fiscal year 2021 was provided by interagency transfers, which were primarily from the Governor's Office of Homeland Security and Emergency Preparedness for reimbursement of LDAF's expenditures during the hurricanes in 2020. As shown in Exhibit 2, salaries and related benefits were the most significant expenditures in fiscal year 2021.

Exhibit 1
Fiscal Year 2021 Revenues*
Total - \$100,462,415

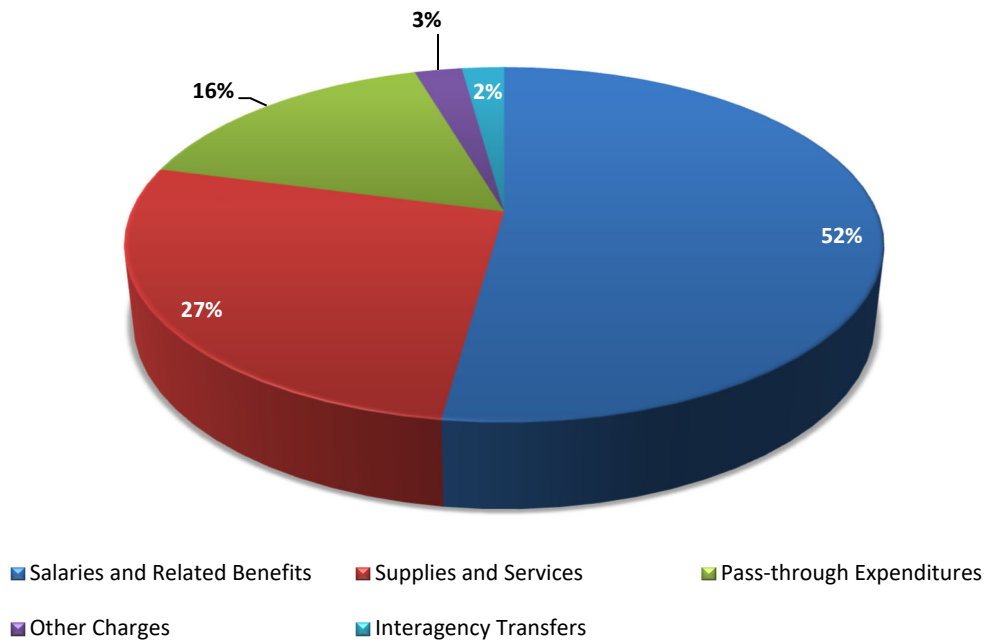


- | | | |
|---|----------------------------|------------------------------------|
| ■ Interagency Transfers | ■ State General Fund | ■ Federal Revenues |
| ■ La. Agricultural Finance Authority Fund | ■ Pesticide Fund | ■ Self-Generated Revenues |
| ■ Forestry Productivity Fund | ■ Petroleum Products Fund | ■ Other |
| ■ Weights & Measures Fund | ■ Feed and Fertilizer Fund | ■ Horticulture and Quarantine Fund |

*As of June 30, 2021

Source: Business Objects Financial Reports

Exhibit 2
Fiscal Year 2021 Expenditures*
Total - \$103,714,036



*As of June 30, 2021

Source: Business Objects Financial Reports

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

AM:ETM:RR:EFS:aa

LDAF2021

APPENDIX A: MANAGEMENT'S RESPONSE



LOUISIANA DEPARTMENT OF AGRICULTURE & FORESTRY
MIKE STRAIN DVM
COMMISSIONER



July 22, 2021

Mr. Michael J. "Mike" Waguespack, CPA
Legislative Auditor
1600 North Third Street
Post Office Box 94397
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**Management
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Fax: 925-6012

**Soil & Water
Conservation**
Suite 7000
(225) 922-1269
Fax: 922-2577

Dear Mr. Waguespack:

The Louisiana Department of Agriculture and Forestry (LDAF) is in receipt of the reportable audit findings pursuant to your letter dated July 7, 2021. LDAF does not concur with the finding regarding the Forestry Productivity Program (FPP) payments to landowners in excess of \$10,000. We do agree with the recommendation, which was enacted August 01, 2020.

LDAF asserts that during the time period of July 1, 2019 through July 31, 2020, no individual cooperative agreement was paid in excess of \$10,000 in accordance with LRS 3:4412. However, the law did not prohibit a landowner and the state from entering into more than one cooperative agreement. LAC Title 7, Part XXXIX, §1307(B) states "... any one landowner participating in this program shall be limited to a **total value** not to exceed \$15,000 during a fiscal year." Not one landowner received a value more than the allowable limit. LDAF also ensured that two or more cooperative agreements did not cover the same acre of land. The law in question, LRS 3:4412(C), reads (emphasis added):

"The commissioner shall determine the extent of the state's involvement in each cooperative agreement which shall not exceed fifty percent of the cost of the cooperative agreement or a total value of assistance of ten thousand dollars to any one landowner during a fiscal year."

The emphasized language in the statute uses the word "or" and not "and." This makes it clear that there are two limiting factors included in the statute for each cooperative agreement and they are to be considered individually, not together. The LDAF Legal

Division offered written guidance which the Office of Forestry relied upon to conduct the program. Please see attached.

LDAF did not “split payments ... to avoid the \$10,000 per landowner limitation.” Rather, we put procedures in place in order to comply with the law by making one payment per agreement, and some landowners had more than one agreement on different acres as allowed by law. When implementing these procedures, the department recognized the law could be misinterpreted. Therefore, the department had the language clarified during the 2020 legislative session.

Please understand that members of the timber industry pay the FPP assessment. They are the ones who received these payouts in question. During the period July 1, 2019 through July 31, 2020, no application was rejected due to insufficient funding.

Our Deputy Undersecretary, Kevin Finley, serves as the lead on this matter. If you have any questions or concerns, please contact Mr. Finley by email at kfinley@ldaf.state.la.us or by telephone at (225) 952-8089.

Sincerely,

A handwritten signature in blue ink that reads "Dane Morgan / kcf". The signature is written in a cursive style.

Dane Morgan, Assistant Commissioner
Office of Management and Finance



Wade Dubea <wdubea@ldaf.state.la.us>

R.S. 3:4412

1 message

Tabitha Irvin <tgray@ldaf.state.la.us>
To: "Dubea, Wade" <WDubea@ldaf.state.la.us>

Thu, Jan 30, 2020 at 10:01 AM

Per our conversation,

§4412. Assistance through cooperative agreements

C. The commissioner shall determine the extent of the state's involvement in each cooperative agreement which shall not exceed fifty percent of the cost of the cooperative agreement or a total value of assistance of ten thousand dollars to any one landowner during a fiscal year.

In my opinion, this law states that more than one cooperative agreement is permitted per landowner, but no more than the cap is allowed in payment per rule.

See below how I broke down the law.

§4412. Assistance through cooperative agreements

C. The commissioner shall determine the extent of the state's involvement in each cooperative agreement during a fiscal year.

- 1. It shall not exceed fifty percent of the cost of the cooperative agreement; or
- 2. total value of assistance of ten thousand dollars to any one landowner

If you have any other questions, please let me know.

Tabitha Irvin, Esq.
Louisiana Department of Agriculture & Forestry
Executive Counsel
Director, Medical Marijuana Program
Legislative Team
Ethics Liaison
5825 Florida Blvd., Suite 200
Baton Rouge, LA 70806
(225) 922-1244 (ofc)
(225) 923-4821 (fax)

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the LDAF for the period from July 1, 2019, through June 30, 2021. Our objective was to evaluate certain controls LDAF 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 LDAF's Annual Fiscal Reports, and accordingly, we do not express an opinion on those reports. The LDAF's accounts are an integral part of the state of Louisiana's financial statements, upon which the Louisiana Legislative Auditor expresses opinions.

- We evaluated LDAF'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 LDAF.
- Based on the documentation of LDAF's controls and our understanding of related laws and regulations, and results of our analytical procedures, we performed procedures on selected controls and transactions relating to self-generated revenues, statutory dedications, state purchasing card expenditures, Fueltrac card expenditures, lease expenditures, payroll expenditures, information technology related expenditures, and LaGov user access.
- We compared the most current and prior-year financial activity using LDAF's Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from LDAF's management for any significant variances that could potentially indicate areas of risk.

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