EVALUATION OF OPERATIONS AND FUNDING HEALTH EDUCATION AUTHORITY OF LOUISIANA

STATE OF LOUISIANA

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

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Evaluation of Operations and Funding
Health Education Authority of Louisiana

January 2017

Audit Control # 80160050

Introduction

The Health Education Authority of Louisiana (HEAL) is a quasi-public agency created in 1968 by Louisiana Revised Statute 17:3051 within the Louisiana Department of Health[1] (LDH) (formerly the Louisiana Department of Health and Hospitals) to promote medical and health education activities in Louisiana. **The purpose of this report was to evaluate HEAL operations, including the sources and uses of HEAL funding.**

HEAL carries out its mission with the following:

- HEAL Board: 13-member Board of Trustees (Board) that authorizes and oversees HEAL activity.
- HEAL Staff: executive director and two staff associates who are responsible for carrying out the policies and directives of the Board and for operating and administering the functions of the authority.

Mission:

To promote medical and/or health education activities in Louisiana and assist primary institutions in obtaining tax-free bonds to construct, renovate, or enhance their facilities.

During the 2016 Regular Legislative Session, HEAL's enabling legislation was amended by Act 577 (Act), which became effective August 1, 2016. Per the Act, HEAL was transferred from LDH to the Department of Education and placed under the Board of Regents to operate under its own authority. The Act also expanded HEAL's primary service area from a 10-mile radius in New Orleans and Shreveport to include communities where graduate medical education is offered, changed the composition of HEAL's Board, and expanded HEAL's bonding authority from $400 million to $800 million.

With the increased autonomy and bonding authority HEAL received this past legislative session, it is imperative that HEAL operate in an efficient, effective, and responsible manner. In conducting this evaluation, we identified weaknesses in HEAL operations and provided the Board with recommendations to strengthen its oversight of HEAL staff and activities going forward. Overall, we found:

[1]The Department of Health and Hospitals was renamed during 2016 Regular Legislative Session to the Louisiana Department of Health.

- HEAL has not funded a construction project since 2004. HEAL financed nine construction projects totaling $253.4 million over 35 years, from its creation in 1968 through 2004.

- HEAL's expenses have increased by 153% from fiscal year 2012 through fiscal year 2016, while HEAL's revenue remained relatively consistent from fiscal years 2012 through 2015, with a 3% increase. Revenue increased by 27% in fiscal year 2016 due to the refinancing of outstanding bonds, not the issuance of new bonds. HEAL financial activities resulted in deficit spending for the past three years, with deficits totaling approximately $14,000 in fiscal year 2014, $125,000 in fiscal year 2015, and $31,000 in fiscal year 2016. In addition, at the end of the 2016 fiscal year, HEAL owed more than $191,000 in accounts payable with approximately $130,000 owed to LDH and $61,000 owed to other vendors. While HEAL has experienced deficit spending and increasing accounts payable balances, it also reported an unrestricted net position of approximately $1.6 million for the fiscal year ending June 30, 2016.

- HEAL staff executed contracts that circumvented state purchasing oversight controls and violated state purchasing regulations. The executive director signed contracts and contract extensions without the required approval of the LDH undersecretary and obligated LDH and the state without proper authority.

- The HEAL Board was dormant for seven years, with unfilled positions and no meetings from 2004 to 2011. From 2011 to 2015, the Board held only eight meetings, with other meetings scheduled but canceled because of a failure to meet a quorum. By Board rule, certain Board committees were created to facilitate Board business during the absence of full Board meetings.

- HEAL was not compliant with state regulations for travel mileage reimbursements, required ethics training, or required reporting to the Division of Administration.

- HEAL participated in proposed legislation that would expand its service area, double its total bonding authority, and allow autonomy in its operations without a transition plan for effective and efficient ongoing operations. When the Act passed and became effective on August 1, 2016, HEAL had no transition plan in place and found itself with no email services and no way to pay its employees or its bills.

See Appendix A for the HEAL Board's response, Appendix B for our scope and methodology, and Appendix C for details regarding the composition of HEAL's Board of Trustees.

Objective: To evaluate HEAL operations and the sources and uses of HEAL funding.

We conducted procedures **to evaluate HEAL operations, including the sources and uses of HEAL funding.** Our results are described below, along with recommendations to help the Board strengthen its oversight of HEAL staff and activities.

HEAL has not funded a construction project since 2004. HEAL financed nine construction projects over 35 years, from its creation in 1968 through 2004.

HEAL bonds can be utilized to assist in constructing, renovating, or enhancing facilities within a 10-mile radius of the medical complex area in New Orleans and the LSU Health Sciences Center in Shreveport. HEAL bonds may be utilized by state and local government agencies, nonprofit organizations, and other groups working in health care, health education, or the biological sciences.

Since HEAL's creation in 1968, nine construction projects have been funded with HEAL bonds, as noted in Exhibit 1.

Exhibit 1 – History of Heal Construction Financing Projects

Date	Project Name	Amount Financed
1973	Construction of the HEAL Parking Garage	$3,300,000
1975	Construction of the Tulane University Medical Center Hospital	37,500,000
1976	Expansion project at Ochsner Medical Center	56,200,000
1985	Expansion project at Tulane University Medical Center Hospital	31,300,000
1995	Improvement and expansion project for Poydras Home nursing facility	5,500,000
1996	Construction of Lambeth House retirement community	47,400,000
1998	Expansion of Lambeth House retirement community	57,800,000
1998	Expansion of the HEAL parking garage	9,400,000
2004	Acquisition of land and construction of new lodging facility, administrative building, and parking facilities for American Cancer Society's Hope Lodge	5,000,000
Total		**$253,400,000**

Source: HEAL's website at http://heal.la.gov/

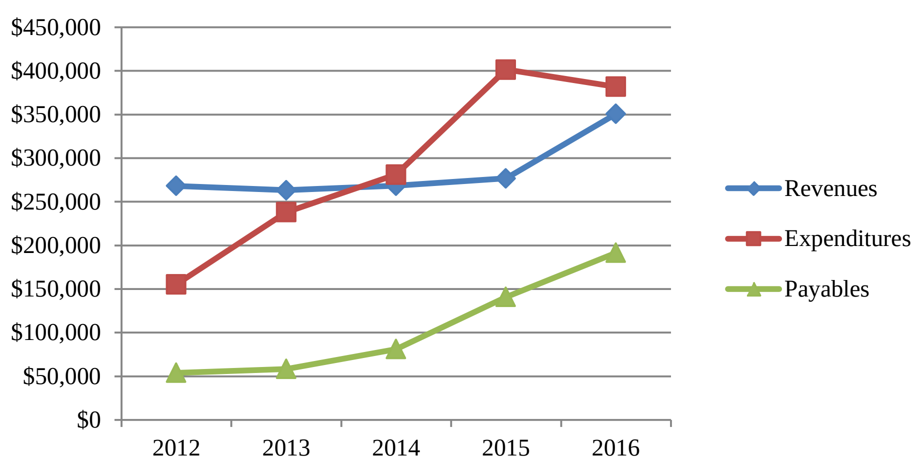
In 2015, HEAL issued revenue refunding bonds totaling $6.6 million. **Prior to these refunding bonds, HEAL's most recent bond issuance occurred 11 years prior, in 2004.** Other quasi-public financing authorities are involved in financing for health-related projects in the state. For example, the Louisiana Public Facilities Authority, as outlined in its 2015 Annual Report, has supported more than 656 projects and programs since 1974 and issued more than $25 billion in bonds. Of that amount, $8.3 billion was in support of health care in Louisiana.

During the House of Representatives Health and Welfare committee meeting on May 24, 2016, the HEAL executive director testified that HEAL had completed a YMCA project last year, but that statement was inaccurate. In July 2015, the State Bond Commission conditionally approved the issuance of $6 million in revenue refunding bonds to provide for the acquisition and construction of the Greater New Orleans YMCA's flagship location. However, as of the date of this report, these bonds have not been issued because the YMCA is still searching for a location for its new facility. **As a result, HEAL has funded no construction projects since 2004.**

HEAL's expenses have increased by 153% from fiscal years 2012 through 2016, while HEAL's revenue remained relatively consistent from fiscal years 2012 through 2015, with a 3% increase. Revenue increased by 27% in fiscal year 2016 due to refinancing of outstanding bonds. HEAL financial activities resulted in deficit spending for fiscal years 2014, 2015, and 2016.

We analyzed HEAL's financial activity for fiscal years 2012 through 2016.[2] As shown in Exhibit 2 below, expenses have increased significantly, and revenues have remained relatively consistent, with the exception of 2016 revenue that included an additional $72,518 resulting from bond refinancing.

Exhibit 2 - HEAL Revenues and Expenses



Source: HEAL's Audited Financial Statements

[2]Amounts included in the report are from HEAL's audited financial statements for fiscal years 2012 through 2016. Some amounts included for fiscal year 2015 were restated due to audit adjustments made during the fiscal year 2016 audit that affected the prior-year activity.

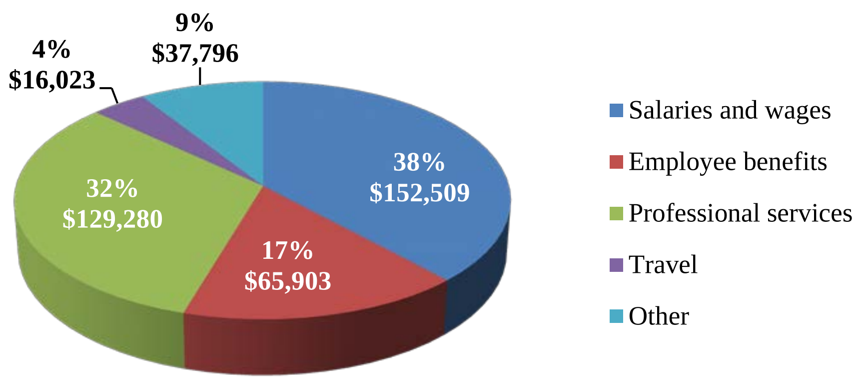
The activity illustrated in the previous chart has resulted in a shift from a surplus of revenues over expenses of approximately $117,000 in fiscal year 2012 to deficits of approximately $14,000 in fiscal year 2014, $125,000 in fiscal year 2015, and $31,000 in fiscal year 2016. In addition, payable amounts owed at year-end have increased 255%, from $53,886 in fiscal year 2012 to $191,532 in fiscal year 2016. In our review of HEAL Board minutes, we noted topics including an update or review of Board financial statements and budgets, but **we noted no discussion regarding disclosure to the Board of the deficit spending, whether or not the spending was part of a strategic plan, or how the deficit spending was to be mitigated in the future.**

While HEAL has experienced deficit spending for the past three years, its 2016 audited financial statements showed Unrestricted Net Position of $1,653,432.

EXPENSES

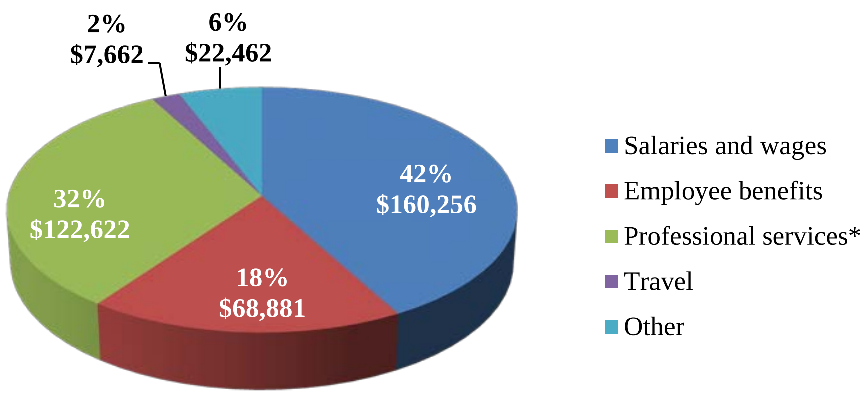
HEAL's total expenses have increased from approximately $151,000 in fiscal year 2012 to approximately $382,000 in fiscal year 2016. Exhibits 3 and 4 categorize HEAL expenses during fiscal years 2015 and 2016, which consisted of: salaries and wages, employee benefits, professional services, travel and training, and other (including office expenses, capital outlay, dues and subscriptions, communications, and equipment rental expenses).

Exhibit 3 - Expenses for Fiscal Year 2015
Total Expenses: $401,511



Source: HEAL's Audited Financial Statements as of June 30, 2015

Exhibit 4 - Expenses for Fiscal Year 2016
Total Expenses: $381,883



*In Professional services, legal expenses totaled $65,195 (53%)

Source: HEAL's Audited Financial Statements as of June 30, 2016

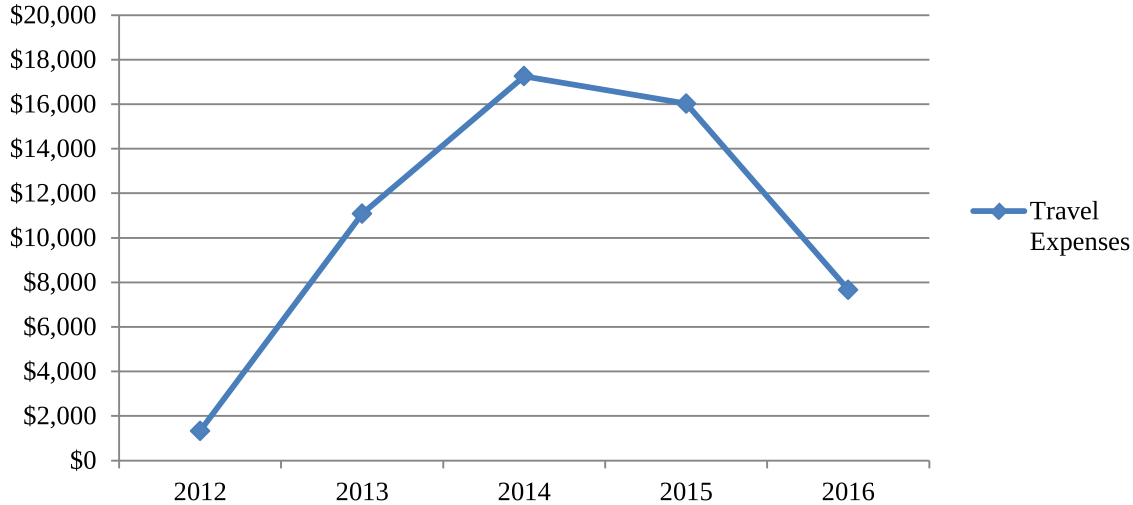
Salaries and Benefits. HEAL's largest expense, salaries and related benefits, has increased by 68% from fiscal year 2012 to fiscal year 2016. This increase was partially due to adding a third HEAL employee during fiscal year 2016. The executive director hired this employee without seeking approval from the Board. Salaries and benefits increased from $136,210 in fiscal year 2012 to $229,137 in fiscal year 2016, an increase of $92,927. HEAL currently employs an executive director, an administrative assistant, and an administrative program specialist.

During our procedures, we noted that the executive director has received salary performance increases of 7.6% in 2014, 4% and a subsequent 2% increase in 2015, and a 3% increase in 2016. In contrast, LDH employees did not receive performance increases during fiscal years 2014 and 2016.

Professional Services. HEAL had no professional services expenses in fiscal year 2012 but began reporting this category of expenses in fiscal year 2013. Since then, **professional services expenses in total have increased by 266%**, from $33,500 in fiscal year 2013 to $122,622 in fiscal year 2016. HEAL contracts for consulting services, legal services, and accounting services. Some of the additional expense for fiscal year 2016 was payment for legal services for a lawsuit regarding the lease-operating agreement with the operator of the HEAL parking garage.

Travel and training costs. Annual travel and training costs increased 476% from fiscal year 2012 to fiscal year 2016. HEAL travel and training expenses are comprised of travel to in-state and out-of-state conferences and meetings. The majority of these expenses were incurred by HEAL's executive director. Travel and training peaked at $17,251 in 2014 but dropped to $7,662 in 2016 while we were conducting our evaluation. Exhibit 5 displays the travel and training expenses.

Exhibit 5 - Travel Expenses



Source: HEAL's Financial Statements

The executive director attended 14 out-of-state conferences in the last four years, including trips to Minneapolis and Pensacola Beach in fiscal year 2013; Philadelphia, Baltimore, Atlanta, San Antonio, and Washington, D.C. in fiscal year 2014; Big Sky (MT), Alexandria (VA), Phoenix, Madison (WI), and Indianapolis in fiscal year 2015; and Seattle and St. Louis in fiscal year 2016.

Per discussion with two HEAL Board members, the HEAL executive director and staff lacked the knowledge and expertise to fulfill HEAL's purpose of funding construction and improvement projects. The Board wanted the executive director to receive additional training and certifications, as well as network nationally, in hopes of making HEAL productive again.

Other Expenses. Other HEAL expenses include office operating expenses, membership dues, communications expenses, equipment rentals, and depreciation expense. **Other operating expenses have increased by 66%, from approximately $13,000 in fiscal year 2012 to approximately $38,000 in fiscal year 2015 and $22,000 in fiscal year 2016.**

ACCOUNTS PAYABLE

As noted above, HEAL's reported accounts payable have consistently increased over the past five fiscal years (see Exhibit 6).

Exhibit 6
Accounts Payable by Fiscal Year (FY)

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Accounts Payable	$53,866	$58,332	$81,130	$124,141	$191,532

Source: HEAL's Audits Fiscal years 2012-2016

Exhibit 7 provides a detailed breakdown of the accounts payable amounts outstanding at June 30, 2016.

Exhibit 7
Accounts Payable Detail for Fiscal year 2016

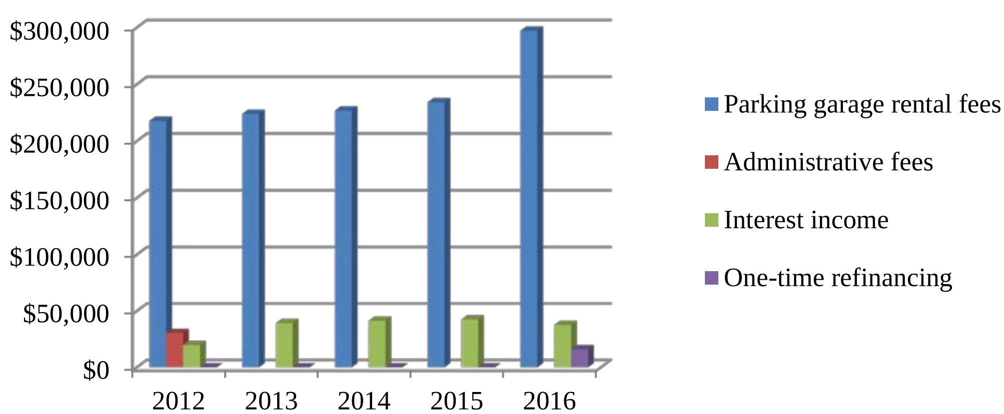
Vendor	Accounts Payable Amount
Louisiana Department of Health (LDH)	
Accrued salaries and related benefits	$75,056
Outstanding invoice #5	54,977
Total LDH	130,033
SSA Consultants	54,427
Kinney, Ellinghausen, Richard & DeShazo	7,072
Total Accounts Payable	**$191,532**

Source: HEAL's General Ledger Detail, as Audited, for Fiscal Year 2016

REVENUES

HEAL self-generated funding supports the operations and activities of the entity. HEAL does not receive state appropriations and utilizes three income sources to fund operations: (1) parking garage rental fees, (2) administrative fees, and (3) interest income. HEAL revenue remained consistent from fiscal years 2012 through 2015, with a 3% increase. In fiscal year 2016, HEAL received $72,518 in revenue related to the refinancing of outstanding bonds, not the issuance of new bonds. With this additional revenue in fiscal year 2016, HEAL revenue increased by 27%. However, even with this additional revenue, HEAL overspent its revenue in fiscal year 2016 by approximately $31,000 and had outstanding accounts payable totaling more than $191,000 at the end of fiscal year 2016. Exhibit 8 details the sources of HEAL's annual revenues for fiscal years 2012 through 2016.

Exhibit 8 - HEAL Revenue



Source: HEAL's Audited Financial Statements fiscal years 2012-2016

Parking Garage Rental Fees. HEAL constructed a multilevel parking garage in 1973 on land leased from the State of Louisiana. HEAL entered into an agreement with a parking garage operator to manage the parking garage. Based on this agreement, HEAL receives annual rental payments. The minimum lease payments increase by 3% each year. In addition, the agreement allows for HEAL to receive additional payments based on the annual gross receipts of the garage. During fiscal years 2012 through 2016, these parking garage rental fees have been HEAL's primary source of revenue. Rental payments received totaled $234,195 and $240,706 for fiscal years 2015 and 2016, respectively.

With no ongoing construction financing projects, these parking garage fees are the primary source of routine operating revenue. However, for fiscal year 2016, this revenue source barely covers the salaries and related benefits expense noted above of $229,137, leaving little revenue to cover professional services and other operating expenses.

The current HEAL Board filed suit on December 10, 2013, to declare the lease illegal and void from its inception on the grounds that the lease violated the Louisiana Public Lease Law and Article 7, Section 14 of the Louisiana Constitution, which prohibits public agencies from donating public property. The lawsuit is currently ongoing. See page 14 for an update on the lawsuit as of December 22, 2016.

Administrative Fees. HEAL receives compensation for its services and general expenses related to the issuance of bonds. The administrative fee amount is included within the financing agreements for HEAL issued bonds. The annual payments are required until the bonds are fully repaid or defeased; however, HEAL has the authority to waive or reduce the required payment. HEAL has not received revenue in the form of administrative fees since 2012.

Interest Income. In addition to parking garage rental and administrative fees, HEAL also receives revenue in the form of interest income. Per HEAL policies, all HEAL reserves in excess of normal operating needs are deposited into certificates of deposit. HEAL certificates of deposit currently earn various interest rates ranging between 2%-2.5% annually. Interest income totaled $42,499 and $37,464 for fiscal years 2015 and 2016, respectively.

HEAL management executed contracts that circumvented state purchasing oversight controls and violated state purchasing regulations.

During our review of professional services expenses, we identified contracts signed only by the HEAL executive director and not approved by LDH's undersecretary, which **circumvented state purchasing oversight controls and violated state purchasing regulations.** During the time period of our review, HEAL was statutorily under the oversight of the LDH undersecretary. While HEAL was authorized to determine the necessity of contracting for professional services, the undersecretary of LDH's Office of Management and Finance had the sole authority to solicit for bids and execute such contracts. The results of our review of those contracts are as follows:

Consulting Contract to Facilitate Strategic Planning. During fiscal year 2015, HEAL attempted to amend a consulting contract with SSA Consultants (SSA) to extend the original contract terms from a one-year contract totaling $19,500 to a three-year contract totaling $172,000. LDH did not approve this contract amendment, as the dollar amount of the contract required that the agency follow a competitive Request for Proposals process. Subsequently, HEAL created a new contract with the same consulting agency for a three-year term totaling $172,000. The state Office of Contractual Review (OCR) did not approve this contract because it was classified as a professional services contract rather than a consulting contract. **Despite not receiving approval from LDH and OCR, HEAL's executive director executed the contract as an LDH contract, with his signature only, and without the required competitive bid.** Documentation provided to us by LDH showed that the department notified the executive director each time the contract was denied that the contract was for consulting services that exceeded $50,000, and thus required a competitive award process. As of June 30, 2016, a total of $50,671 has been paid on this contract. In addition, as of June 30, 2016, there was an additional $54,427 of outstanding invoices owed to the consultant for work performed through fiscal year 2016.

Because HEAL was not compliant with state requirements regarding the execution of the contract, the Commissioner of Administration has the option to either ratify and affirm the contract if it is in the best interests of the State or terminate the contract and compensate the consultants for actual expenses incurred for services performed prior to termination. Once we brought this issue to the attention of the HEAL Board and SSA, SSA informed us that they would no longer perform services under this contract or any other business with HEAL.

Legal Services. An amendment to one of the legal services contracts with Kinney, Ellinghausen, Richard & DeShazo, extending the contract to a term of four years, was not approved by the LDH undersecretary, the Attorney General, or the Joint Legislative Committee on the Budget (JLCB) as required. Contracts for legal services, and subsequent amendments, require the approval of the Attorney General; however, no such approval was obtained on this amendment. Contracts of more than three years but no more than five years require approval of the JLCB; however, no such approval was obtained. **Again, the executive director signed this contract extension but did not obtain the approval and required signature authority of the LDH undersecretary, obligating LDH and the state without proper authority.** Once we brought this issue to the HEAL Board's attention, HEAL revised the contract amendment to involve only an extension of the dollar amount, an increase from $65,000 to $150,000, but not the length of the original contract. The revised amendment was subsequently approved by the Attorney General and the LDH undersecretary as required.

Accounting Services. A contract extension for accounting services with Luther Speight & Company to perform bookkeeping and provide interim financial statements was not approved by the LDH undersecretary or the JLCB. **Again, the executive director signed this contract extension but did not obtain the approval and required signature authority of the LDH undersecretary, obligating LDH and the state without proper authority. Also, this contract was for a term of four years and was not approved by JLCB as required.** Once we brought this issue to the HEAL Board's attention, HEAL amended the contract to include a term of one year and subsequently obtained approval from the LDH undersecretary as required.

Lobbying Services. One contract with Southern Strategy Group, identified as a social services contract, did not meet the definition of a social services contract. By law, social services contracts promote the general welfare of the citizens of Louisiana and include, but are not limited to, contracts for rehabilitation services, health-related counseling, drug and alcohol training and treatment, etc. This contract was for the purpose of governmental relations and legislative planning services. The contract was not approved by the LDH undersecretary. By law, state entities cannot expend funds to lobby the Legislature or local government authorities. **Again, the executive director signed this contract but did not obtain the required approval and signature authority of the LDH undersecretary, obligating LDH and the state without proper authority.** Once we brought this issue to the HEAL Board's attention, the Board canceled the contract.

However, it appears HEAL did use services for lobbying, possibly in violation of state law. During several committee meetings of the 2016 Regular Legislative Session, an employee of Southern Strategy Group provided testimony regarding Senate Bill 230 (Act 577). The employee indicated that he was a representative of HEAL's legal counsel, Kinney Ellinghausen. In addition, a search of the Louisiana Board of Ethics website revealed that a member of one of HEAL's legal firms, Jones Walker, LLP, is currently registered as a lobbyist for HEAL. As noted above, state entities cannot expend funds for lobbying.

The HEAL Board was dormant for seven years, with unfilled positions and no meetings from 2004 to 2011. From 2011 to 2015, the HEAL Board held only eight meetings, with other meetings scheduled but canceled because of a failure to meet a quorum. By Board rule, certain Board committees were created to facilitate Board business during the absence of full Board meetings.

Prior to 2011, the HEAL Board's last public meeting was held on November 5, 2004. The next Board meeting did not occur until February 23, 2011, indicating the Board was dormant for a seven-year period. From 2011 through 2013, HEAL only conducted four regular Board meetings, with others scheduled but canceled due to lack of a quorum, as follows:

- 2011: One meeting was held. The other scheduled meeting was cancelled due to lack of quorum.

- 2012: Two meetings were held. The other two scheduled meetings were cancelled due to lack of quorum.

- 2013: One meeting was held. The other scheduled meeting was cancelled due to lack of quorum.

The Board adopted new bylaws in March 2014, requiring the Board to hold regular meetings four times per year and that the meetings be held quarterly. However, the Board did not meet according to the new bylaws as follows:

- 2014: Two meetings were held. The other two scheduled meetings were cancelled due to lack of quorum.
- 2015: Two meetings were held. The other scheduled meeting was cancelled due to lack of quorum and the remaining required meeting for that year was not scheduled.

During 2016, the Board has held meetings in the first and second quarters as required.

By Board rule, certain Board committees were created to facilitate Board business in the absence of regular Board meetings. The following Board committee meetings were held during our time period under review:

- Bond Issuance Committee – one meeting held in 2015
- Executive Committee – four meetings held in 2014, two held in 2015
- Performance Evaluation Committee – one meeting held in 2014, one held on 2015
- Bylaws Committee – two meetings held in 2014
- Legislative Committee – two meetings held in 2015

HEAL was not compliant with state regulations for travel mileage reimbursements, required ethics training, and required reporting to the Division of Administration (DOA).

HEAL did not ensure that all activity followed state laws and regulations. The executive director is responsible for identifying the laws and regulations that the authority is required to follow and establishing policies and procedures and internal controls to ensure compliance with state laws and regulations. The Board should consider and approve the policies and procedures developed and provide adequate supervision over the executive director to ensure HEAL's compliance. **In addition to the contract noncompliance outlined previously, our review noted the following instances where HEAL did not comply with state regulations:**

State Travel Reimbursements. During our review of supporting documentation, we identified 58 dates where the executive director requested reimbursement for mileage within his official domicile of New Orleans. The mileage reimbursement requests ranged from one to 29 miles. According to state travel regulations, employees may not be reimbursed for travel within their domicile unless they have obtained an authorization for routine travel as a regular and necessary part of the employee's duties. We reviewed the executive director's annual travel authorization forms and approved reimbursement forms. However, we did not note any specific mention of authorization for travel within domicile. The executive director was paid $215.73 in violation of state travel regulations.

Ethics Training. A search of the Louisiana Board of Ethics website revealed that only one of the 12 Board members completed the required annual ethics training during calendar year 2015. By law, each public servant is required to receive at least one hour of education and training on the Code of Governmental Ethics during each year of his public employment or term of office, as the case may be. Although the ethics board website contains a disclaimer that the online search does not constitute the official record of the Louisiana Board of Ethics, HEAL could not provide documentation to dispute the results of our search. Once we brought this issue to the HEAL Board's attention, the current Board members have now obtained the required ethics training for the 2016 calendar year.

Required Reporting to DOA. Per the DOA Boards and Commissions website as of February 19, 2016, HEAL had not submitted Board meeting minutes for three meetings held subsequent to March 11, 2014, the last meeting for which minutes had been posted at that time. Per Act 12 of 2009, HEAL is required to submit meeting minutes to the commissioner of administration as directed. DOA requires the submission of Board meeting minutes within 10 days after the minutes are adopted by the Board. We brought this issue to the HEAL Board's attention, and HEAL has now submitted minutes for the three meetings.

HEAL participated in proposed legislation that would expand its service area, double its total bonding authority, and allow autonomy in its operations, without a transition plan for effective and efficient ongoing operations.

During the 2016 Regular Legislative Session, the Legislature passed Act 577, which was effective August 1, 2016. The Act expanded HEAL's primary service area from a 10-mile radius of the New Orleans and Shreveport medical schools to include communities statewide where graduate medical education is offered. The Act also expanded HEAL's bonding authority from $400 million to $800 million and changed the makeup of the Board to include members from across the state. In addition, the Act transferred HEAL from LDH to the Department of Education and placed it under the Board of Regents to operate under its own authority.

Prior to August 1, 2016, LDH provided services to HEAL for human resources, payroll, and related benefits management; accounting and payment management services; contract administration services; and state email accounts and information technology support. When the Act became effective on August 1, 2016, LDH discontinued its support for HEAL. HEAL had no transition plan in place and found itself with no email services and no way to pay its employees or its bills. We asked for a transition plan that would address the changes outlined by the legislation, but none was provided. We reviewed the Board meeting minutes but found no discussion of a transition plan if legislation were passed. We were not provided a strategic plan that outlined the Board's long-range initiatives that were to be addressed by new legislation. We saw no evidence of any Board member's active participation in the legislation. While the executive director and a representative of Southern Strategy Group testified before legislative committees considering the bill, no Board member testified. We were provided no evidence that this legislation was a planned initiative by the Board that was discussed with transparency in open public meetings. The only mention of the legislation in the Board meeting minutes are listed below.

From the April 6, 2016, Board meeting minutes on page 5, *Committee Reports*:

> "Mr. Rudy Gomez presents legislation changes and issues with the bills by Representative Schroder and Senator Peterson."

From the September 11, 2015, Board meeting minutes on page 3, *Approval of HEAL's Legislation Proposal*:

> "Christie Slaughter and Rudy Gomez of SSA presents the proposed changes to HEAL's Legislation."

HEAL is now working to find solutions for its operations. On the first day of transition, HEAL had no email, no way to pay and process payroll, and no way to pay a vendor except for those that could be paid through the state purchasing card program, LaCarte. LDH, after urging from the DOA, processed one additional payroll for HEAL to ensure that the employees did not miss a paycheck. HEAL has since contacted entities, state and private, to arrange for operational services. Most of these services will be performed by private contractors, increasing HEAL's operating expenses while already in a position of deficit spending. Policies and procedures and internal controls were not developed prior to beginning these contracted services, increasing the risk of errors and/or noncompliance with state regulations.

HEAL's lease operating agreement with its parking garage operator was ruled a nullity in a summary judgement issued December 22, 2016.

Through civil action in the Civil District Court of Orleans Parish between HEAL and its garage operator, APCOA LaSalle Parking Company, LLC, HEAL's motion for summary judgement was granted, in part, on December 22, 2016, resulting in the lease-operating agreement ruled to be "an absolute nullity as a matter of law." This matter is now on appeal. The timeframe for this appeal is uncertain. HEAL cannot contract with another garage operator until the judgement is final and all appeals are exhausted.

Recommendations/Matter for Legislative Consideration

Recommendation 1: The Board should closely monitor the spending practices at HEAL to avoid deficit spending. If short-term deficit spending is part of a long-term strategic initiative, the Board should discuss this in open meetings explaining the strategic goals and note the discussion in the meeting minutes. These discussions should include how the deficit spending will be mitigated in the long term.

Recommendation 2: The Board should closely supervise and monitor all contracts to ensure HEAL authority is not exceeded, state purchasing controls are not circumvented, and state purchasing regulations are not violated.

Recommendation 3: The Board should abide by all adopted HEAL Board bylaws.

Recommendation 4: The Board should closely supervise and monitor all HEAL activity to ensure that HEAL operations meets all state requirements, including following state travel requirements, obtaining ethics training, and reporting to DOA.

Recommendation 5: The Board should ensure that any proposed legislation or major changes in HEAL operations are discussed and acted upon by the entire Board and documented in Board meeting minutes. The Board should ensure that transition plans are developed and documented to ensure effective and efficient change and include consideration of good fiscal policies and practices, including state compliance.

Matter for Legislative Consideration: The legislature may wish to consider revising state law to place HEAL back under the authority of a state entity until the Board has strengthened its oversight of HEAL staff and activities and addressed the operational issues and recommendations identified in this report.

Summary of Board's Response: The HEAL Board acknowledged the recommendations, provided additional information on the background and conditions surrounding the LLA's concerns, and described the corrective actions taken by HEAL. However, the Board does not believe it is necessary or prudent to place HEAL under the authority of a state entity (see Appendix A for the HEAL Board's full response).

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

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

CST:WG:EFS:aa
HEAL EVALUATION

APPENDIX A: BOARD'S RESPONSE

10 January 2017

Mr. Daryl Purpera
Louisiana Legislative Auditor
1600 North Third Street
Post Office Box 94397
Baton Rouge, Louisiana 70804

Dear Mr. Purpera:

Please find attached the Health Education Authority of Louisiana's (HEAL's) official response to your office's Informational Report on HEAL. The HEAL Board is grateful for the professionalism of the Louisiana Legislative Auditor (LLA) staff in preparing this report. The Board appreciates the open dialogue and information sharing that characterized this process.

HEAL recognizes the legitimate concern expressed by the LLA with regard to the items in the report. The Board acknowledges the recommendations, offers additional information that explains the background and conditions surrounding the LLA's concerns, and describes corrective actions taken by HEAL.

In particular, I draw your attention to the many responsible and diligent actions taken by the current HEAL Board to run HEAL with the utmost professionalism and effectiveness. HEAL believes that spending the self-generated funds of HEAL to fulfill the ultimate mission of HEAL —creating more jobs, wealth, and tax base for Louisiana—is in the best interest of the people of Louisiana. Comparing spending rates at HEAL now, when it is actively working to accomplish its mission, to spending rates at times when HEAL was not accomplishing its mission can be misleading if not placed in context. The attached document provides this context. The HEAL Board is grateful for the opportunity to provide this information.

Please contact me if I may be of further assistance.

Sincerely,

Kurt M. Weigle
Interim Chairman
Health Education Authority of Louisiana

cc: HEAL Board of Trustees
Mr. Jacob Johnson

Recommendation #1: The Board should closely monitor the spending practices at HEAL to avoid deficit spending. If short-term deficit spending is part of the long-term strategic initiatives, the Board should discuss this in open meetings explaining the strategic goals and note the discussion in the meeting minutes. These discussions should include how the deficit spending will be mitigated in the long-term.

HEAL acknowledges this recommendation and notes that the issues raised by the LLA result not from the lack of a strategic approach by the Board, rather, as the LLA notes, a failure to properly document the deliberations that gave rise to the strategy.

The deficit spending that occurred over a three-year period resulted from the Board's intent to accomplish these things:

1) Provide training for the Executive Director to increase his effectiveness at HEAL's core business, providing tax-exempt funding to worthy medical and health education projects in HEAL's service area;
2) Prepare strategic and promotional plans for HEAL in order increase the issuance of HEAL bonds on behalf of entities active in the fields of medicine and health education; and
3) Pursue legal action to nullify the 1998 Lease-Operating agreement between HEAL and APCOA LaSalle Parking Company due to the fact that this agreement is a prohibited donation under the Louisiana constitution.

Although not referenced directly in Board meeting minutes, the Board mindfully and strategically decided to invest a small portion of HEAL's roughly $1.6 million fund balance into staff and contracted services in order to advance the mission of HEAL.

The expected return on this investment was then and is today clear and convincing. Additional bond issues by HEAL would allow HEAL to achieve its mission of supporting medical and health education investment in Louisiana and in doing so to create jobs, wealth and an increased tax base. By fulfilling its mission, HEAL would earn additional revenue – tens or even hundreds of thousands of dollars each year. For instance, one such bond deal recently considered would produce twenty thousand dollars ($20,000) of new revenue.

The pursuit of legal action to rectify the prohibited donation of the HEAL parking garage is expected to produce an even greater financial return to HEAL, estimated at roughly five hundred thousand dollars ($500,000) of additional revenue annually as this asset is repatriated to HEAL in accordance with State law. **On 22 December 2016, Judge Christopher Bruno of Orleans Civil District Court issued his ruling in favor of HEAL.**

APCOA has sought an appeal. It is anticipated that HEAL will seek a substantial bond pending the appeal since every month that the lessee stays in the garage harms HEAL because they are paying under market rates which should be adjusted pending successful completion of the appeal. Counsel for HEAL has advised HEAL that it will seek an expedited appeal given the public nature of the continuing loss. Counsel has advised its opinion that this matter will be concluded no later than 18 months from January 1, 2017.

HEAL has received advice from parking operators and from the City of New Orleans agency that rents similar facilities that a fairly bid management contract for the HEAL Garage would increase HEAL's share of gross revenue from the roughly 25% of gross under the nullified lease to roughly 75% of gross revenue. This would increase HEAL's revenue from $240,000 in 2016 to roughly $750,000 annually upon affirmation of the trial court ruling by the appeals court.

In addition to the professional services noted above, the Board contracted for independent audits of revenue statements produced by APCOA LaSalle Parking Company, operator of the HEAL parking garage, and of HEAL itself, for the first time in the history of HEAL -- further evidence of the current HEAL Board's strong financial stewardship. As further evidence of the Board's commitment to strong financial management, the current Board adopted detailed and well-vetted Accounting Policies & Procedures in 2014, the most extensive set of financial policies in the history of HEAL.

With regard to the hiring of a third employee by the Executive Director before receiving Board authorization, the Board concurs with the LLA's finding and has since taken action requiring the Executive Director to eliminate the FY 2017 budget deficit created by the hiring of the third employee.

Additionally, the Board has issued a new directive requiring pre-approval of all employee travel.

Recommendation #2: The Board should closely supervise and monitor all contracts to ensure HEAL authority is not exceeded, state purchasing controls are not circumvented, and state purchasing regulations are not violated.

HEAL acknowledges this recommendation and has directed the Executive Director to comply without exception to state procurement rules. In addition, the Board issued a directive requiring greater Board scrutiny of all procurements, including the creation of a procurement committee composed of two Board members and the Executive Director to evaluate every proposed procurement and to guide the process from beginning to end.

Recommendation #3: The Board should abide by all adopted HEAL Board bylaws.

The HEAL Board acknowledges the recommendation, recognizes the need for regular meetings & consistent interaction with staff, and will continue its active involvement in improving HEAL's operations.

It should be noted that this LLA recommendation refers to a bylaw adopted by the current board in the interest of improving HEAL governance, that is, the requirement that the Board meet at least quarterly. This bylaw was adopted in 2014 because of this Board's commitment to proper oversight and policymaking at HEAL. While the Board is not satisfied with its inability to meet this new requirement, the creation of the bylaw is evidence of the Board's focus on good governance.

As the LLA itself notes, several scheduled Board meetings were canceled – many at the last minute – because of the difficulty in reaching a quorum. In 2010 and 2011 almost every seat on the HEAL Board turned over as the Governor made new appointments. From its earliest days, the "2011 Board" has committed itself to unleashing the full potential of HEAL. The Board recognizes the need for economic growth and sees HEAL as a vitally important partner to not-for-profit and for-profit entities in creating jobs, wealth and tax base for Louisiana. The current Board cannot speak to the years of 2004-2010 except to say that, once seated, the 2011 Board worked to activate HEAL to the best of its ability.

The 2011 Board inherited an organization whose records had been lost due to Katrina flooding and whose long-time executive director, Mr. Marshall Ryall's, had retired in October 2010. The Board immediately formed a Search Committee to hire an Executive Director. The Committee worked diligently, having to familiarize itself with State of Louisiana hiring and employment processes along with way, to seek and interview candidates. The Committee presented its recommended candidate, Mr. Jacob Johnson, at the October 2011 Board meeting, and Mr. Johnson was subsequently hired.

The Board continued to be hampered by vacant positions and turnover – clearly no fault of its own – during the next two years as additional members resigned and were eventually replaced, usually after many months of vacancy. During this time, five of the twelve (12) seated and thirteen (13) authorized Board positions were vacant at some point, yet the number of Board members necessary for a quorum remained eight (8), meaning that there were times when every appointed member was necessary to make a quorum.

The challenge in reaching a quorum was exacerbated by the fact that HEAL's board members did not all reside in Greater New Orleans. The Chair, in fact, was from greater Lafayette. This limited potential Board meeting days.

In response to the challenges of achieving a quorum, the Board responded by changing its Rules to allow the Executive Committee to transact the day-to-day business of HEAL and to seek ratification from the full Board at the earliest opportunity.

As noted by the LLA, the Chair also appointed several other committees, including a Bond Issuance Committee, Performance Evaluation Committee, Legislative Committee, and Bylaws Committee. These committees met between Board meetings to address HEAL business a total of 13 times in 2014 and 2015; six (6) of these were Executive Committee meetings.

Recommendation #4: The Board should closely supervise and monitor all HEAL activity to ensure that HEAL operations meets (sic) all state requirements, including following state travel requirements, obtaining ethics training, and reporting to DOA.

HEAL acknowledges this recommendation and will ensure that state travel requirements are adhered to, ethics training undertaken timely, and meeting minutes submitted timely to the Division of Administration. It should be noted that the failure of some Board members to complete ethics training during calendar year 2015 resulted from the belief that this training was to be completed before the deadline for submitting the Personal Financial Disclosure, that is, May 15, 2016, rather than during the calendar year. There is no evidence that Board members willfully disregarded the requirement.

Recommendation #5: The Board should ensure that any proposed legislation or major changes in HEAL operations are discussed and acted upon by the entire Board and documented in board meeting minutes. The Board should ensure that transition plans are developed and documented to ensure effective and *efficient change and include consideration of good fiscal policies and practices, including state compliance.*

HEAL acknowledges this finding and concurs. It should be noted that in addition to the references to the legislative matters cited by the LLA in this report, the HEAL Chair appointed a Legislative Committee to consider proposed changes to HEAL's enabling legislation. The creation of the Committee is consistent with the HEAL Board's delegation of important tasks to committees to ensure timely deliberation and action. As noted by the LLA, this Committee met twice in 2015.

HEAL currently is operating independently as envisioned by the legislature in Act 577 of 2016.

Matter for Legislative Consideration: The Legislature may wish to consider revising state law to place HEAL back under the authority of a state entity until the Board has strengthened its oversight of HEAL staff and activities, and addressed the operational issues and recommendations identified in this report.

The HEAL Board does not believe it is necessary or prudent to place HEAL under the authority of a state entity. As noted above, the Board has taken significant steps to strengthen oversight of staff and has to date addressed of the issues and recommendations in this report or is in the process of doing so.

APPENDIX B: SCOPE AND METHODOLOGY

We conducted procedures at the Health Education Authority of Louisiana (HEAL) to evaluate HEAL operations, including the sources and uses of HEAL funding. The scope of our procedures was significantly less than an audit conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

To achieve our objectives, we:

- Interviewed HEAL management and obtained information regarding HEAL's operations, financial and administrative activity, and Board meeting activity. Obtained copies of HEAL's financial statements for fiscal years 2012 through 2016.

- Communicated with the Interim Board Chairman and other members of the Board's Executive Committee to keep the Board informed of the project's progress and preliminary results.

- Obtained and analyzed information regarding HEAL's sources of funding, including copies of relevant lease agreements.

- Analyzed HEAL's fiscal year 2012 through 2016 expenditure transactions. Requested supporting documentation for all travel transactions during that time period and reviewed for compliance with state travel regulations. Reviewed available supporting documentation for other expenses, excluding salary and benefits, for that time period to determine if the expense appeared to have a necessary business purpose.

- Reviewed supporting documentation for all professional service expenses occurring during the time period noted above for compliance with relevant contracts. Reviewed all professional services contracts for compliance with state laws and regulations.

- Reviewed supporting documentation for the executive director's performance adjustments during fiscal years 2012 through 2016 to determine if they were properly authorized by the Board.

- Reviewed Board meeting activity for fiscal years 2011 through 2016 to determine the frequency of regular Board meetings. In addition, reviewed the Division of Administration (DOA) Boards and Commissions website to determine if HEAL was submitting Board meeting minutes to the DOA as required.

- Searched the Louisiana Board of Ethics website database to determine if HEAL Board members completed the required annual ethics training during calendar years 2015 and 2016.

APPENDIX C: HEAL BOARD OF TRUSTEES

The HEAL Board of Trustees is composed of 13 trustees who are appointed by and serve at the pleasure of the Governor, with the exception of the Mayor of the City of New Orleans' representative, who serves a six-year term. Each appointment by the Governor is confirmed by the Senate. Currently, the HEAL Board has only 11 members as the former chairman resigned during 2016. Prior to that, the Board consisted of only 12 members during 2014 and 2015.

The following table outlines the selection of trustees per enabling legislation:

Exhibit 1 – HEAL Board Composition

Appointed By	Listing Submitted to Appointer By	Number of Members
Governor	LSU Board of Supervisors (list of six names)	2
Governor	Tulane Educational Fund Board of Administrators (list of six names)	2
Governor	Charity Hospital of Louisiana at New Orleans Board of Administrators (list of six names)	2
Governor	Louisiana State Medical Society Executive Board (list of six names)	2
Governor	Statewide dental associations (list of six names)	1
Mayor of New Orleans	Various[3] (list of five names)	1
Governor	Selected from the state at large	3
Total		**13**
Source: LA R.S. 17:3053		

[3]The mayor of the city of New Orleans selects a trustee from a list of fives names, one each submitted by the Board of Administrators of the Tulane Educational Fund, the Charity Hospital of Louisiana at New Orleans Board of Administrators, the LSU Board of Supervisors, local dental association memberships (including Orleans Parish dentists), and the Orleans Parish Medical Society.