

LOUISIANA DEPARTMENT OF JUSTICE

STATE OF LOUISIANA

FINANCIAL AUDIT SERVICES

**Procedural Report
Issued August 30, 2023**

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Louisiana Legislative Auditor

Michael J. "Mike" Waguespack, CPA

Louisiana Department of Justice



August 2023

Audit Control # 80220077

Introduction

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

Results of Our Procedures

We evaluated the DOJ's operations and system of internal control through inquiry, observation, and review of its policies and procedures, including a review of the applicable laws and regulations. Based on the documentation of the DOJ's controls and our understanding of related laws and regulations, and the results of our analytical procedures, we performed procedures relating to the internal audit function, the Legal Support Fund, payroll and personnel, professional service contracts, the Going-Out-of-Business Escrow Fund, LaGov user access, and Livingston Building access.

Current-report Findings

Untimely Classification and Notification of Legal Support Fund Deposits

The DOJ did not have adequate controls in place to ensure that proceeds received were classified timely to the Legal Support Fund (the fund) within the state's accounting records or to ensure timely notification of deposits into the fund to the State Treasurer, the Joint Legislative Committee on the Budget (JLCB), and the Commissioner of Administration in accordance with Louisiana Revised Statute (R.S.) 49:259B(2). Failure to establish and implement policies and procedures related to the timely classification of deposits received results in inaccurate accounting records and noncompliance with laws and regulations.

In our test of four deposits into the fund during the period of July 1, 2020, through June 30, 2022, totaling \$41,913,948, three (75%) of these deposits were classified into the fund within the state's accounting system between 27 and 122 days after DOJ had knowledge of the deposit being received. In addition, notification of the

deposits into the fund to the State Treasurer, the JLCB, and the Commissioner of Administration in accordance with R.S. 49:259B(2) was not made timely for 100% of our sample items, occurring between 33 and 180 days after the DOJ first had knowledge of the deposit received.

Good internal controls should include a system of policies and procedures to ensure accurate and timely recording of transactions in the accounting records. Furthermore, R.S. 49:259B(2) mandates that “the attorney general shall notify the state treasurer, the Joint Legislative Committee on the Budget, and the commissioner of administration immediately upon receipt of any proceeds received as provided in Subsection A of this Section,” referring to proceeds received and deposited into the Legal Support Fund.

The DOJ has not established or implemented formal policies and procedures to consult with attorneys working on its cases to aid in the evaluation of deposits received to timely identify and classify deposits received into the Legal Support Fund within the state’s accounting records. The DOJ represented that it follows the Division of Administration, Office of Statewide Reporting and Accounting Policy (OSRAP) guidance contained in OSRAP Memorandum 21-26, which DOJ interprets as all unclassified deposits within the State’s accounting system should be classified prior to June 30th. Management represents that once the deposits are classified, the DOJ prepares the notification in accordance with R.S. 49:259B(2).

The DOJ should establish and implement a system of policies and procedures related to the timely identification and classification of deposits received into the Legal Support Fund. In addition, within these policies and procedures, the DOJ should specify procedures and timelines related to their consultations with attorneys aiding in the review of deposits received. Management provided a corrective action plan, but did not concur with the finding. Management explained that they based their determination on the difference in defining “timeliness” as it relates to classification and notification. Management referred to OSRAP Memorandum 21-26, which required the classification of funds by fiscal year-end, and explained that since notification is limited to funds that are classified to the DOJ Legal Support Fund, classification must have occurred for notification to occur. Management stated that complex litigation, multidistrict litigation, and litigation involving outside counsel complicates and delays final classification and noted that even if DOJ were to implement formal procedures to consult with involved attorneys in the evaluation of the deposits received, these procedures would not lead to “timely” classification. Management concurred that there was untimely notification for one of the deposits, but did not concur that the notification was untimely for 3 of the deposits (see Appendix A, pages 1 and 2).

Additional comments:

For audit purposes, timely classification of deposits is evaluated based on when the State Treasurer notifies DOJ the funds were deposited. OSRAP Memorandum 21-26 provided a specific deadline for the fiscal year ended June 30, 2021, regarding when deposits were required to be classified and also included a reminder that the Unclassified Deposit Summary report should be reviewed monthly to ensure the timely classification of deposits. We do not concur with management’s interpretation

of OSRAP Memorandum 21-26 to allow until year-end to classify deposits, regardless of when received. Furthermore, as noted above, good internal controls should include a system of policies and procedures to ensure accurate and timely recording of transactions in the accounting records.

Failure to Remit Going-Out-of-Business Escrow Fund Deposits to Unclaimed Property

The DOJ did not remit deposits held within the Going-Out-of-Business (GOB) Escrow Fund for more than one year to the Unclaimed Property division of the State Treasury in accordance with R.S. 51:51E and 51:51G. As of June 30, 2022, there were \$65,167 of deposits within the GOB Escrow Fund that were held within the fund for more than one year, and as such, should have been remitted to Unclaimed Property. Failure to remit deposits held within the GOB Escrow Fund for more than a year to the Unclaimed Property division of the State Treasury places the DOJ in noncompliance with R.S. 51:51E and 51:51G. In addition, failure to remit deposits as required may result in an overstatement of the GOB Escrow Fund balance within DOJ's annual fiscal reports.

R.S. 51:51E states that, "upon failure of the licensee to return the license or an affidavit in lieu of such return within three hundred sixty-five calendar days from the expiration of the license, the deposit shall revert to the Unclaimed Property Division of the Department of the Treasury in the name of licensee and the consumer protection section of the Department of Justice." Furthermore, R.S. 51:51G mandates that "any deposit remaining in the consumer protection section which was received more than three hundred sixty-five calendar days prior to July 1, 2018, shall revert to the unclaimed property division of the Department of the Treasury in the name of the licensee and the consumer protection section."

Though the DOJ has policies and procedures in place related to the GOB Escrow Fund, deposits within the fund were not being reviewed on a regular basis to determine if any should be remitted to Unclaimed Property. In addition, the DOJ represented that they remitted some deposits to Unclaimed Property on June 6, 2023 (after June 30, 2022, and after the date of our inquiries to DOJ regarding the remittance of deposits to Unclaimed Property) totaling \$16,667. The DOJ further represented that for older deposits, including those unidentifiable deposits held prior to fiscal year 2010 totaling \$12,125 which are a part of the \$65,167 balance noted above, the DOJ is in the process of performing research to identify the minimum criteria necessary to remit the funds to the Unclaimed Property division, such as the identity of the business owner and GOB sale promoter, as well as the business' Employer Identification Number, and recognizes that the continued holding of these deposits is not in accordance with R.S. 51:51.

The DOJ should revise its policies and procedures related to the review of deposits within the GOB Escrow fund to ensure that deposits held for longer than one year are remitted to Unclaimed Property. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, page 1).

Internal Audit Function

We performed certain procedures that included obtaining, documenting, and reviewing internal controls and compliance with related laws and regulations over the internal audit function. Based on the results of these procedures performed, we found no issues or weaknesses that were required to be reported.

Legal Support Fund

The DOJ Legal Support Fund was established by R.S. 49:259 to use proceeds recovered by the Attorney General on behalf of the state from court judgments, settlements, fine, fees, forfeitures, and penalties and from the recovery or award of attorney fees for the purposes of defraying legal costs incurred, including costs of expert witnesses and contract legal counsel to represent the state. All deposits made into the Legal Support Fund require notification to the State Treasurer, the JLCB, and the Commissioner of Administration in accordance with R.S. 49:259B(2).

We obtained an understanding of the laws and regulations that govern the types of proceeds that should comprise the Legal Support Fund. We selected a sample of inflows recorded in the Legal Support fund and examined supporting documents to determine if the inflows were adequately supported, classified timely, properly recorded to the fund, and notifications were provided timely, in accordance with applicable laws. Based on the results of our procedures, the DOJ did not have adequate controls in place to ensure that proceeds received were classified timely to the Legal Support Fund, or to ensure timely notification to the State Treasurer, the JLCB, and the Commissioner of Administration of deposits within the fund in accordance with R.S. 49:159B(2), as noted in the Current-report Findings section.

Payroll and Personnel

Salaries and related benefits comprised approximately 71% and 77% of the DOJ's expenditures in fiscal years 2021 and 2022, respectively. We obtained an understanding of the DOJ's controls over pay changes and its time and attendance function. We performed analytical procedures to identify changes in employees' salaries between fiscal years ending June 30, 2020, 2021, and 2022 and reviewed for reasonableness. We reviewed reports for the fiscal years ending June 30, 2021, and 2022 and determined that employees are certifying and supervisors are approving time and attendance records. We also examined a sample of 30 employees' pay rate authorization, time records, and leave statements during this period. Based on the results of our procedures, the DOJ had adequate controls in place to ensure employees were paid at the authorized rate and to ensure review and approval of employee time statements and leave requests.

Professional Service Contracts

The DOJ expended approximately \$9.6 million and \$5.7 million in fiscal years 2021 and 2022, respectively, for professional services, the majority of which consisted of contracts for legal services. We obtained an understanding of controls over professional service contracts and examined contracts for compliance with state law.

For selected contracts in effect during the two-year period ending June 30, 2022, we performed procedures to determine whether payments were adequately supported, approved, and in compliance with contract terms. In addition, we determined whether the selected contracts were in accordance with the Louisiana Procurement Code. Based on the results of our procedures, no exceptions were identified.

Going-Out-of-Business Escrow Fund

The DOJ's Administrative and Public Protection Divisions administer the provisions of R.S. 51:42 through R.S. 51:53, related to the conducting of going-out-of-business (GOB) sales. In accordance with R.S. 51:47(D), in order to conduct a GOB sale, applicants for licensure must remit a deposit to the DOJ's Public Protection Division in an amount that is the greater of either \$500 or 1% of the wholesale cost of the inventory to be sold at such sale, not to exceed \$5,000. These deposits are held within the GOB Escrow Fund within the Louisiana State Treasury, and upon completion of the GOB sale, deposits are eligible to be returned to applicants. Under R.S. 51:51(E), deposits held within the fund for more than 365 days (one calendar year) from the expiration of the license are remitted to the Unclaimed Property Division of the Department of the Treasury. The balance in the GOB Escrow Fund at June 30, 2021, and June 30, 2022, was \$79,329 and \$78,097, respectively.

We performed procedures in order to gain an understanding of the applicable laws and regulations related to the administration of GOB sales, as well as the policies and procedures in place at the DOJ related to the receipt of deposits into the GOB Escrow Fund, and the return of deposits to businesses or Unclaimed Property after the conclusion of GOB sales. Based on the results of our procedures, the DOJ did not remit deposits held within the GOB Escrow fund for more than one year to the Unclaimed Property division of the State Treasury in accordance with R.S. 51:51E and 51:51G, as noted in the Current-report Findings section.

LaGov User Access

The DOJ utilizes the LaGov System for financial reporting. We performed procedures to determine whether access to LaGov was reasonable based on job duties and access changes were consistent with changes in activity, such as hire date, position changes, and promotions/demotions. We also performed procedures to determine whether access was removed timely for terminated employees. Based on the results of our

procedures, access was reasonable and terminated employees' access was removed in a timely manner.

Livingston Building Access

Access to the DOJ's main offices within the Livingston Building in Baton Rouge is granted to employees through their employee badges. Upon separation of employment from the DOJ, employee badges are returned, and deactivation of the badges are subsequently requested from the Office of State Buildings (OSB). After deactivation, badges are returned to the OSB to prevent unauthorized use.

We performed procedures to determine whether or not the badges of a sample of 13 separated employees during our engagement period were returned to the DOJ upon employee separation, preventing unauthorized access. Based upon the results of our procedures, the DOJ is properly collecting the badges of separated employees for deactivation by and subsequent return to the OSB.

Trend Analysis

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

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

KPD:LMN:RJM:RR:BQD:aa

DOJ2022

APPENDIX A: MANAGEMENT'S RESPONSE



Jeff Landry
Attorney General

State of Louisiana
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE
70804-9005

August 7, 2023

Michael J. "Mike" Waguespack, CPA
Louisiana Legislative Auditor
1600 North 3rd Street
Baton Rouge, LA 70804-9397

Dear Mr. Waguespack:

Thank you for the opportunity to respond to the Louisiana Legislative Auditor's audit of the Louisiana Department of Justice. We appreciate the hard work and professionalism displayed by your team. Below you will find the official response to each engagement finding.

Failure to Remit Going-Out-of-Business Escrow Fund Deposits to Unclaimed Property

While the Louisiana Department of Justice concurs with the finding, the DOJ has transferred all funds to the State Treasury for funds prior to 2018 that are identifiable and EIN are available. While in the process of remitting remaining funds to the Unclaimed Property division, the Department will revise its policies and procedures for reviewing deposits within the GOB escrow fund to ensure compliance with La. R.S. 51:51.

Untimely Classification and Notification of Legal Support Fund Deposits

The Louisiana Department of Justice does not concur with the finding. We base our determination on the difference in defining "timeliness" as it relates to classification and notification. Office of Statewide Reporting and Accounting Policy's Memorandum 21-26 mandates classification by the fiscal year's end. Notification must be "immediately upon receipt" under La. R.S. 49:259(B)(2). Yet notification is limited to funds that are classified to the Department of Justice (DOJ) Legal Support Fund. For notification to occur, classification must have had occurred.

The Louisiana Department of Justice does not concur with the finding of untimely classification. Upon the Department's knowledge that the Treasury received a deposit that could potentially be classified into the DOJ Legal Support Fund, the Fiscal Section contacts potential attorneys who are privy to the litigation. Complex litigation, multidistrict litigation, and litigation involving outside counsel complicates and delays final classification. Even if the Department were to implement formal procedures to consult with involved attorneys would aid in the evaluation of deposits received, these procedures would not lead to "timely" classification. Based off the assumption that timely

classification is fewer than 27 days, the Department anticipates that a formal procedure with involved attorneys would still lead to “untimely” classification.

With this understanding in mind, the Louisiana Department of Justice does not concur with the finding of untimely notification. Again, for notification to occur, classification must have had occurred. Your review found that notification was untimely with all deposits. But notification occurred for three of the deposits within 6 days of classification. If the Department were to take the assumed period of timeliness as fewer than 27 days, notification would be timely. The Department concurs with the finding of untimely notification for the remaining tested deposit.

The Department will implement a formal procedure to consult with attorneys for classification of deposits into the Legal Support Fund. This procedure will be created, implemented, and ultimately under the Administrative Program Fiscal Division.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Landry", with a long horizontal flourish extending to the right.

Jeff Landry
Attorney General

EWC:MBG

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Louisiana Department of Justice (DOJ) for the period from July 1, 2020, through June 30, 2022. Our objective was to evaluate certain controls the DOJ 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 DOJ's Annual Fiscal Reports, and accordingly, we do not express an opinion on those reports. The DOJ's accounts are an integral part of the state of Louisiana's financial statements, upon which the Louisiana Legislative Auditor expresses opinions.

- We evaluated the DOJ'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 DOJ.
- Based on the documentation of the DOJ's controls and our understanding of related laws and regulations, and results of our analytical procedures, we performed procedures relating to the internal audit function, the Legal Support Fund, payroll and personnel, professional service contracts, the Going-Out-of-Business Escrow Fund, LaGov user access, and Livingston Building access.
- We compared the most current and prior-year financial activity using the DOJ's Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from the DOJ'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 the DOJ, and not to provide an opinion on the effectiveness of the DOJ'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.