

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF LOUISIANA

FINANCIAL AUDIT SERVICES

Procedural Report
Issued December 20, 2024

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

LEGISLATIVE AUDITOR
MICHAEL J. "MIKE" WAGUESPACK, CPA

FIRST ASSISTANT LEGISLATIVE AUDITOR
BETH Q. DAVIS, CPA

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report is available for public inspection at the Baton Rouge office of the Louisiana Legislative Auditor and online at www.la.la.gov. When contacting the office, you may refer to Agency ID No. 8777 or Report ID No. 80240039 for additional information.

This document is produced by the Louisiana Legislative Auditor, State of Louisiana, Post Office Box 94397, Baton Rouge, Louisiana 70804-9397 in accordance with Louisiana Revised Statute 24:513. One copy of this public document was produced at an approximate cost of \$0.35. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Jenifer Schaye, General Counsel, at 225-339-3800.

Louisiana Legislative Auditor

Michael J. "Mike" Waguespack, CPA



Department of Environmental Quality

December 2024

Audit Control # 80240039

Introduction

The primary purpose of our procedures at the Department of Environmental Quality (DEQ) was to evaluate certain controls DEQ uses to ensure accurate financial reporting, compliance with applicable laws and regulations, and accountability over public funds. In addition, we determined whether management has taken action to correct the finding reported in the prior report.

Results of Our Procedures

We evaluated DEQ'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 DEQ's controls and our understanding of related laws and regulations, and the results of our analytical procedures, we performed procedures relating to the air quality and water resources annual fees and permits; penalties and settlements; internal audit; Motor Fuels delivery fee audits; LaGov user access; and payroll and personnel.

Follow-up on Prior-report Finding

We reviewed the status of the prior-report finding in DEQ's procedural report dated January 18, 2023. The prior-report finding related to Ineffective Internal Audit Function has not been resolved and is addressed again in this report.

Current-report Findings

Ineffective Internal Audit Function

For the third consecutive engagement, DEQ did not have an effective internal audit function and did not fully adhere to the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing (IIA Standards), increasing the risk that DEQ's internal control processes will not be effective or

efficient. Although DEQ maintains an internal audit section (Audit Services) consisting of one internal auditor, the Internal Auditor represented that his resources were dedicated to various projects as requested by management, rather than the projects outlined in the annual internal audit plans developed based on Audit Services' risk assessments. The following deficiencies were noted:

- DEQ Audit Services issued three internal audit reports from July 2022 through June 2024, although the 2022, 2023, and 2024 annual audit plans identified a total of 13 risk areas.
- DEQ Audit Services does not have a Quality Assurance and Improvement Program and has not completed an annual internal assessment as required by IIA Standards.

An agency with an appropriation level of \$30 million or more is required by Louisiana Revised Statute (R.S.) 36:8.2 to have an internal audit function and to annually certify to the department Secretary that the internal audit function conforms to the IIA Standards. Considering DEQ was appropriated \$146 million for fiscal year 2023 and \$154 million for fiscal year 2024, an effective internal audit function is important to ensure that DEQ's assets are safeguarded and management's policies and procedures are uniformly applied.

Management should ensure that internal audit activities are performed in accordance with IIA Standards and contribute to the effectiveness and efficiency of DEQ operations, including internal control processes. Management concurred with the finding and outlined a plan of corrective action (see Appendix A, page 1).

Management's Additional Comments: On December 11, 2024, DEQ management represented it has developed an Internal Audit Division by doubling the internal audit resource capacity for the department. For greater oversight, DEQ established an Audit Director position, and the new Audit Director began work on December 9, 2024. In addition, DEQ is currently working to hire an audit manager that will support and report to the audit director in efforts to adequately address the ineffectiveness of prior years and position DEQ for future effectiveness by ensuring that proper controls are in place.

Inadequate Controls over the Monitoring of Hazardous Waste Penalty Collections

DEQ did not have adequate controls to monitor the collection of penalties and settlements for the Hazardous Waste Site Cleanup Fund, which may result in uncollected or untimely collection of revenues. In a review of 25 penalty and settlement agreement collections made between July 1, 2022 and May 31, 2024, we found 3 (12%) with deficiencies:

- For one expedited penalty, DEQ did not provide evidence that it followed-up with the respondent until one year after the initial correspondence. The respondent received the expedited penalty

agreement on February 14, 2022, however DEQ's consequence letter was dated February 28, 2023, which was received by the respondent on March 6, 2023.

- For one expedited penalty, DEQ did not collect all scheduled penalty payments by the due date established in the executed expedited penalty agreement. The remaining balance due totaling \$705 was scheduled to be provided to DEQ by April 1, 2024; however, the remaining penalty was not collected, as of June 30, 2024, and no evidence was provided to show collection efforts were made between these dates. After auditors brought this to management's attention, management represented that they contacted the respondent in September 2024 and the payment has since been made.
- For one settlement agreement, DEQ did not collect all scheduled penalty payments by the due date established in the agreement. The remaining balance due totaling \$6,500 was required to be provided to DEQ by September 2022; however, the remaining penalty has not been collected, as of June 30, 2024, and no evidence was provided to show collection efforts were made between these dates.

The Louisiana Administrative Code Title 33, Part I, Chapter 8, requires respondents to pay the assessed penalty amount within 30 days of receipt of the expedited penalty agreement or the expedited penalty agreement may be withdrawn. At its discretion, DEQ may offer a scheduled payment plan to the respondent. DEQ's internal policy states that if an expedited penalty is not received within 60 days after the respondent receives notice of the expedited penalty, a "consequence letter" may be sent or formal penalty proceedings will be initiated. Settlement agreements include the terms by which the respondent is required to make timely payment.

DEQ did not establish effective internal controls to ensure that all penalties and settlements were paid timely or necessary additional procedures were performed to ensure collection efforts were made.

Management should ensure that internal policies over the monitoring of enforcement activities for delinquent penalties and settlements are followed. Management did not concur with the finding, but it stated that the department has implemented or plans to implement corrective actions to bolster controls and mitigate future uncollected or untimely collected settlements, expedited penalties, and penalties (see Appendix A, page 3).

Air Quality and Water Resources Annual Fees and Permits

DEQ's largest source of funding is from deposits into the Environmental Trust Dedicated Fund Account, which includes fees collected for air quality, water resources, ground water protection, radiation, hazardous waste, solid waste, lab

certifications, underground storage tanks, and other miscellaneous fees. We obtained an understanding of DEQ's controls over the collection of fees for air quality and water resources and examined 30 deposits for the period July 1, 2022 through March 25, 2024. Based on the results of our procedures, DEQ had adequate controls in place to ensure that these collections were properly authorized and administered in accordance with state law, adequately supported, and accurately recorded in the financial records.

Penalties and Settlements

DEQ's Office of Environmental Compliance, Enforcement Division issues fines and penalties as a result of the failure to comply with the Environmental Quality Act or other environmental regulations. Funds recovered through judgments, settlements, and assessments of civil or criminal penalties from potentially responsible parties are paid into the State Treasury and designated for the Hazardous Waste Site Cleanup Fund Account. We obtained an understanding of DEQ's controls over collecting these funds and examined 25 penalties and settlements issued by DEQ during the period July 1, 2022 through May 31, 2024. Based on the results of our procedures and as noted in the Current-report Findings section, DEQ did not have adequate controls to ensure the timely collection of penalties assessed and settlement payments due.

Internal Audit

R.S. 36:8.2 requires agencies with appropriations exceeding \$30 million to establish an internal audit function that adheres to the IIA Standards. We performed procedures to review DEQ's internal audit activities during fiscal years 2023 and 2024 for compliance with the relevant statute. Based on the results of our procedures and as noted in the Current-report Findings section, for the third consecutive engagement DEQ did not have an effective internal audit function and did not fully adhere to IIA Standards.

Motor Fuels Delivery Fee Audits

DEQ imposes a fee on the first sale or delivery of a motor fuel upon withdrawal from bulk storage of the fuel in accordance with R.S. 30:2195.3. DEQ's Audit Services performs distributor audits to determine if fees should be collected and when applicable, to ensure the accuracy of the fee remitted by the distributor. We obtained an understanding of DEQ's controls over performing these audits and examined 4 distributor audits during the period July 1, 2022 through March 26, 2024. Based on the results of our procedures, DEQ had adequate controls in place to ensure that distributors remitted the correct fee amount and to ensure sufficient documentation was reviewed and retained to support DEQ audit conclusions.

LaGov User Access

We performed procedures to determine whether access to LaGov was restricted to business-need only and properly assigned to ensure adequate segregation of duties. We also performed procedures to determine whether access was removed timely for terminated employees. Based on the results of our procedures, DEQ had adequate controls in place to ensure access was properly restricted and assigned to ensure adequate segregation of duties. In addition, DEQ had adequate controls in place to ensure terminated employees' access was removed in a timely manner.

Payroll and Personnel

Salaries and related benefits comprised approximately 57% and 63% of DEQ's expenditures in fiscal years 2023 and 2024 (as of February 29, 2024), respectively. We obtained an understanding of DEQ's controls over the time and attendance function and reviewed 22 selected employee time statements and processed between July 1, 2023, and February 4, 2024. In addition, we obtained an understanding of DEQ's controls over processing personnel changes and reviewed 22 selected personnel changes processed between July 1, 2023, and February 16, 2024, to determine if the changes were made in accordance with DEQ policy and were properly approved. Based on the results of our procedures, DEQ had adequate controls in place to ensure timely review and approval of employee time statements, and to ensure that personnel changes were in accordance with State Civil Service rules.

Trend Analysis

We compared the most current and prior-year financial activity using DEQ's Annual Fiscal Reports and/or system-generated reports and obtained explanations from DEQ'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

RJD:MK:BH:BQD:aa

DEQ2024

APPENDIX A: MANAGEMENT'S RESPONSES



STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICE OF THE SECRETARY

December 20, 2024

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

Dear Mr. Waguespack:

This letter serves as the Louisiana Department of Environmental Quality's (LDEQ) response to the consecutive "Ineffective Internal Audit Function" findings.

As the leader of this agency, I take matters brought to the LDEQ by the Louisiana Legislative Auditor (LLA) very seriously. LDEQ is the leading state agency for comprehensive environmental protection, promoting and protecting Louisiana's health, safety, and welfare. With over 700 employees and a \$150 million budget, I fully understand that by law LDEQ must have an internal audit function.

I have received your July 2024 request for management's response (Request), which identified an ineffective internal audit for FY 2024. The Request also identified the failure of prior leadership to address deficiencies found in prior audits. As shown in the Request, this agency is required to implement corrective action plans. However, the Quality Assurance and Improvement Program (QAIP) due in 2021 was never submitted. These types of failures will not occur under my leadership. I assure you that LDEQ is committed to addressing each issue raised by the LLA, and will implement measures to avoid this in the future. The internal audit function is vital to LDEQ and ensures the proper use of taxpayer funds. LDEQ will proactively address the concerns outlined in this report to ensure compliance is obtained.

However, LDEQ does specifically take issue with the following statement in the LLA report found on page 2:

"Although DEQ maintains an internal audit section (Audit Services) consisting of one internal auditor, the [LDEQ] Internal Auditor represented that his resources were dedicated to various projects as requested by management, rather than the projects outlined in the annual internal audit plans developed based on Audit Services' risk assessments."

The LDEQ individual referenced here was responsible for the ineffectiveness found in this audit and LDEQ maintains that his supervisor should have been consulted regarding the validity and voracity of his statement about work assigned to him by management. In short, the internal auditor could be biased in his response to the LLA.

The previous internal auditor is no longer employed with the agency as of July 21, 2024. LDEQ understands its obligations and will adhere to those requirements during the entire tenure of this administration. LDEQ will undertake the following corrective actions:

1. LDEQ will hire an internal audit director and an internal auditor, both with technical audit expertise and leadership capabilities.
 - a. The internal audit team will collaborate with other state agencies to recommend and implement appropriate best practices.
2. The audit team will assess our agency's past five years of audit functions.
3. The audit team will identify projects representing high risk of financial or programmatic issues. These may include, but are not limited to, the following:
 - a. Travel approvals and/or reimbursements
 - b. Enforcement processing
 - c. Contract monitoring
 - d. LaCarte (p-card) oversight
4. Within three months of the audit team's hire, they will report on the efforts completed to implement a QAIP.
5. The audit team will implement an internal assessment, as required by IIA Standards, on or before December 31, 2025.
6. The audit team will develop and adhere to a timeline for annual internal assessments.
7. LDEQ will provide a comprehensive corrective action plan to LLA on or before June 1, 2025.

The contact information for the audit team will be provided to the LLA following their hire. Based on our current understanding of these deficiencies, implementing an effective internal audit function is anticipated on or before June 30, 2026. This date is subject to adjustment by the internal audit team and LDEQ executive staff.

We appreciate the input from the LLA and will continue to improve all aspects of LDEQ operations. We look forward to your office's continued assistance in this effort.

Sincerely,



Aurelia S. Giacometto
Secretary



STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY

December 20, 2024

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

Dear Mr. Waguespack:

Please accept this document as the LDEQ Final Response to the LLA Finding on "Inadequate Controls over the Monitoring of Hazardous Waste Penalty Collections".

As the leader of this agency, I take matters brought to the Louisiana Department of Environmental Quality (LDEQ) by the Louisiana Legislative Auditor (LLA) very seriously. LDEQ is the leading state agency for comprehensive environmental protection, promoting and protecting Louisiana's health, safety, and welfare. With over 700 employees and a \$160 million budget, I fully understand the necessity of rigor in our penalty program.

LDEQ does not concur with the Finding for the following reasons:

- the voluntary nature of the expedited penalty program, the variables regarding signed agreements and withdrawal option
- discretionary nature of withdrawing the expedited penalty
- no prescribed timeframe for issuance of formal penalty

Regarding the three identified deficiencies, two of the three have been collected in full as of the date of this response. The third (\$4,700) is a settlement that should be paid in full within the next 120 days.

Specifically, The Final Legislative Audit Report contains the statement (page 2):

"For one expedited penalty, DEQ did not collect all scheduled penalty payments by the due date established in the executed expedited penalty agreement. The remaining balance due totaling \$705 was scheduled to be provided to DEQ by April 1, 2024; however, the remaining penalty was not collected, as of June 30, 2024, and no evidence was provided to show collection efforts were made between these dates. After auditors brought this to management's attention, management represented that they contacted the Respondent in September 2024 and the payment has since been made."

The payment was made in September 2024.

Michael J. Waguespack
December 20, 2024
Page 2

LDEQ strives to strike a regulatory balance and ensure its enforcement process is fair, deliberate, and appropriate. The expedited penalty program is a voluntary program. There is no receivable or payment due until the Respondent agrees to the penalty. The agreement drives this process when it is executed. There is not a prescribed timeframe for payment in the regulations.

LDEQ's Enforcement Division has found that providing flexibility where feasible often results in timely and complete compliance for noted deficiencies.

In an effort to resolve expedited penalty cases, the Enforcement Action Guidance Document states, "a consequence letter may be sent to the respondent if the agreement and payment are not received within 60 days".

Action Plans Going Forward

The Department has implemented or plans to implement corrective actions outlined below to bolster current controls and mitigate future uncollected or untimely collected settlements, expedited penalties, and penalties.

The Financial Services Division is developing a tracking system for settlements. Within the next 90 days, LDEQ will begin invoicing settlements once the amount is agreed upon and the documentation routing process begins.

Effective September 30, 2024, the Enforcement Division began routing agreed upon payment plans to Financial Services to allow for better tracking. When unpaid amounts are identified, the case will be referred to Legal Affairs to send a demand letter. For all paid actions, an automatic payment receipt will be generated and automatically uploaded into the Electronic Document Management System (EDMS).

The Legal Affairs Division is developing case management solutions that will simplify the tracking and reassignment of these matters. LDEQ is working toward solutions that will ensure the payment of settlement agreements, penalty assessments, and expedited penalties are tracked consistently and followed up on timely.

We continue to improve all aspects of LDEQ operations and look forward to your office's assistance in this effort.

Sincerely,



Aurelia S. Giacometto
Secretary

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Department of Environmental Quality (DEQ) for the period from July 1, 2022, through June 30, 2024. Our objective was to evaluate certain controls DEQ 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 DEQ Annual Fiscal Reports, and accordingly, we do not express an opinion on those reports. DEQ's accounts are an integral part of the state of Louisiana's financial statements, upon which the Louisiana Legislative Auditor expresses opinions.

- We evaluated DEQ'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 DEQ.
- Based on the documentation of DEQ's controls and our understanding of related laws and regulations, and results of our analytical procedures, we performed procedures relating to the air quality and water resources annual fees and permits; penalties and settlements; internal audit; Motor Fuels delivery fee audits; LaGov user access; and payroll and personnel.
- We compared the most current and prior-year financial activity using DEQ Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from DEQ 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 DEQ, and not to provide an opinion on the effectiveness of DEQ 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.