

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Louisiana Public Facilities Authority
State of Louisiana
Baton Rouge, Louisiana

May 14, 2003



Financial and Compliance Audit Division

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Albert J. Robinson, Jr., CPA

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LOUISIANA PUBLIC FACILITIES AUTHORITY
STATE OF LOUISIANA
Baton Rouge, Louisiana

Letter Report
Dated May 8, 2003

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 has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

May 14, 2003



OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-9397

1600 NORTH THIRD STREET
POST OFFICE BOX 94397
TELEPHONE: (225) 339-3800
FACSIMILE: (225) 339-3870

May 8, 2003

The Honorable Emile "Peppi" Bruneau
Louisiana House of Representatives
P.O. Box 94062
Baton Rouge, LA 70804-9062

Dear Representative Bruneau:

We have addressed certain concerns relating to the Louisiana Public Facilities Authority (LPFA) that were included in your December 18, 2002, letter to Legislative Auditor Dan Kyle. Management of LPFA was receptive to our inquiries and suggestions and was cordial in discussing the concerns with my staff. Each issue from your letter is briefly addressed in the following paragraphs.

Performance Indicators

- We did not find any legal requirement for LPFA to include performance indicators in its budget. Louisiana Revised Statute 9:2346(C) requires LPFA to submit its budget to the Joint Legislative Committee on the Budget but does not require inclusion of performance measures. Several statutes in Title 39 require performance indicators for executive branch agencies and budget units thereof, which are included in the General Appropriation Act or Ancillary Appropriation Act. It appears that current law would need to be amended to require LPFA to include performance indicators in its budgetary presentation. LPFA may agree to include performance indicators in its budgetary presentation if the Joint Legislative Committee on the Budget makes such a request.
- We have attached a Public Affairs Division Performance Report from LPFA for 2002. While this report is associated with the Public Affairs Division, the format and content might serve as a genesis for establishing performance indicators for LPFA.

Operations Funded 63% by Student Loan Programs

- We reviewed the governing statutes and could not find any restrictions prohibiting LPFA from earning fees from the student loan program. LPFA has presented information that indicates the fees earned are about the same or lower than other similar programs. The Performance Division of the Legislative Auditor's Office conducted a review of the student loan program and issued its report in March 2000. That report did not address any significant issues relating to the student loan program. A copy of that report is available on our Web site at <http://www.la.state.la.us/perform/lpfa.pdf>

Written Contracts for Professional Services

- We could not find any legal requirement for LPFA to enter into written agreements for professional services; although within government we have always considered this to be a good business practice. Within the Executive Branch, the Office of Contractual Review establishes procurement practices for professional, personal, and consulting services. LPFA professional service agreements are not governed by the procedures of the Office of Contractual Review.
- In discussing this concern with LPFA management, it did acknowledge a need for written agreements. I have attached a narrative that identifies various LPFA contracts as well as a brief summary of each agreement. It appears that LPFA now has signed engagement letters for applicable professional service contracts. LPFA has provided us with much more detail on various professional service agreements that we can share with you if necessary.

Dues Paid to Lobbying Entities

- Legal counsel for the Legislative Auditor has issued an opinion (attached) that states LPFA is prohibited from using public funds to support or oppose candidates, political organizations, or propositions. The opinion provides that dues paid by LPFA to organizations that may use monies for such purposes may constitute a violation of state law. For LPFA to continue membership in certain organizations, LPFA dues must be separated from monies of the organizations used to lobby for or against candidates, political organizations, or propositions. Management of LPFA has received the opinion and does plan to respond. Regardless, we will ensure that the certified public accounting firm that conducts LPFA's next financial statement audit is made aware of this compliance issue.

I hope these comments address the concerns presented in your December 18, 2002, letter. If you need any additional response, please contact me or Mr. Robbie Robinson of my staff. We can both be reached at (225) 339-3839.

Sincerely,

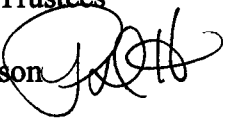


Grover C. Austin, CPA
First Assistant Legislative Auditor

GCA:AJR:ss

Attachments

MEMORANDUM

To: LPFA Board of Trustees
From: Pam D. Hutchinson 
Re: Public Affairs Division Performance Report for the Year of 2002
Date: February 10, 2003

Attached for your review is the **LPFA Public Affairs Division Performance Report for the Year of 2002**. It shows the categories that we have been successful in marketing the LPFA programs and services. It also shows areas needing improvement. Please let me know if you have any questions, comments or suggestions.

Thanks.

LPFA PUBLIC AFFAIRS DIVISION PERFORMANCE
REPORT FOR THE YEAR OF 2002

Total

(w/assistance of Bermudez & Associates and Adrienne Bowser)

LPFA 2001 Annual Report	1
Printed	2,500
Mailed to Constituents	1,700
Used for marketing LPFA programs and services	800
LPFA Newsletters (March and December)	2
Printed (per newsletter*)	2,500*
Mailed to business, industry and professionals	1,700*
Used for marketing LPFA programs and services	800*
LPFA Media Advisories	2
Television stations receiving advisories	22
Radio stations receiving advisories	16
LPFA News/Press Releases	39
LPFA Bond Issues	10
LPFA Bond Bank Program	16
LPFA (Lela) Student Loan Program	13
• Television stations receiving news/press releases	22
• Radio stations receiving news/press releases	16
• Newspaper publications receiving news/press releases	139
LPFA Bond Bank Program - Projects Funded	17
Total Dollars Funded	\$717,500
News/press releases	16
Legislators receiving releases (district notification)	59
LPFA Rural Development Program - Projects Funded	3
Total Dollars Funded	\$787,000
News/press releases	0
Legislators receiving releases (district notification)	0
LPFA Sponsorships	10

Legislative Caucus Luncheons (resources for legislative districts presentations)	3
LPFA Exhibit Table Displays – Conferences	2
LPFA Legislative Fact Sheets (by district/by legislator)	144
LPFA Correspondence (originated correspondence)	10
LPFA Services and Program Notification Mail Outs to:	
Mayors	350
Legislators	144
Congressional Delegation	9
Teachers Reached w/Lela posters, handouts, Brochures via LFT public relations division	20,000
LPFA Marketing Materials/Strategy Planning Meetings	10
Meeting w/State Legislators	9
Legislative Committee Meeting Testimonies	1
Meeting w/Constituents or Potential Constituents	17
Special Events Attended Representing Authority (includes legislative functions)	23
Conferences/Seminars/Workshops/Board Meetings Attended	16
Presentations Promoting LPFA Programs and Services	6
Advisory Board Appointments Representing the Authority	2
Special Projects (LPFA and Legislative)	3
Outreach Initiatives:	16
Professional	9
Community	7
Professional/Personal Awards and Accomplishments	4

Louisiana Public Facilities Authority
Review of Contracts/Engagement Letters

The following is a summary of Stacey's meeting and review of documentation relating to the Louisiana Public Facilities Authority (LPFA). Based on the information noted below, all of LPFA explanations seem reasonable and are an effort to address Rep. Bruneau's concerns. If you have any questions or would like to perform additional test work, please let me know.

SUMMARY

I met with Tricia Dubroc and Jim Parks of LPFA on March 17, 2003. They had prepared a packet of information regarding their use of professional services (Attachment A). They presented me with a copy of the package and discussed its contents with me. Using the Legislative Fiscal Office's (LFO) analysis of their professional service providers (Attachment B), they prepared a written explanation of each provider with which LFO stated that they did not have a written contract. The following is a summary of their explanations.

Brezeale, Sachse & Wilson

LPFA did not previously have an engagement letter with this firm. On March 13, 2003, they executed an engagement letter.

Olsten Staffing

LPFA does not see a need for a contract. The services provided are short-term, temporary, and generally clerical. The firm provides LPFA with an itemized statement of the services provided. LPFA has not used temporary services since 2001.

Gregory A. Pletsch & Associates

This is the law firm for Bank One, which is the trustee for the student loan program. Because of this fact, LPFA is occasionally required to use them for documents associated with the student loan program. Since the services are provided in conjunction with the trustee arrangement, LPFA did not see a need for an engagement letter. In addition to that work, LPFA used this firm to prepare some tax returns for subsidiary corporations of LPFA. They did not have an engagement letter for the tax work. On March 12, 2003, LPFA executed an engagement letter with the firm.

Carver, Darden, Koretzky, et al

LPFA has not used this firm since 2001 and does not plan to use them in the future. Therefore, they have no engagement letter with the firm.

Jacob S. Capraro

LPFA executed an engagement letter on January 1, 2003.

Lotus Capital Management LLC

LPFA had an engagement letter for work performed in 2000. This firm has provided no services since 2000.

Dean Blakely & Moskowitz

LPFA has an engagement letter with this firm.

Foley & Lardner

LPFA has an engagement letter with this firm.

Synergy

This company has provides graphic services, which are legally personal services not professional services. LPFA does not execute contracts or engagement letters with this company. The company is used occasionally for specific projects. LPFA obtains written price quotations for each project and authorizes the work in writing.

Explore Interactive

LPFA has a written contract for computer services with this firm. The contract is on a standard form provided by the firm.

DiStefano & Associates

This firm occasionally provides workshops and seminars for LPFA. They do not have a contract or engagement letter with the firm. LPFA states that they obtain firm commitments on the fees prior to services being rendered and they receive detailed invoices afterwards.

IO (formerly Design Services, Inc.)

This company provides graphic services for specific projects. LPFA obtains written price quotations for each project and authorizes the work in writing.

At the conclusion of the meeting, Tricia and Jim asked when we expected to conclude our work on LPFA. I explained to them that, among other things, we had a request for a legal opinion pending. They stated that they were pleased that we were getting a legal opinion on the organizations to which they belong. Tricia stated that if there is any question about the memberships that they thought that it was best for an independent party to render a legal opinion. Tricia and Jim asked if we would issue a written report or letter to Rep. Bruneau and if they would receive a copy. I told them that I would check with management and let them know if they could expect a copy of a written report/letter.



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TELEPHONE: (225) 339-3800
FACSIMILE: (225) 339-3870

April 14, 2003

Mr. Albert J. "Robbie" Robinson, Jr.
Assistant Legislative Auditor and Director
Of Financial and Compliance Audit Division
Office of Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804

Re: Opinion #03-A-4005
Louisiana Public Facilities Authority

Dear Mr. Robinson:

You have requested an opinion regarding the Louisiana Public Facilities Authority (LPFA). You asked "Is the LPFA violating any laws by being a dues-paying member of organizations that engage in lobbying?"

To answer your question, we reviewed the law, the Attorney General opinions, background information furnished by you in the opinion request including the list of organizations that LPFA pays membership dues, our previous Opinion No. 02-A-4002 rendered to your Division on Political Activity dated January 7, 2003, and the letter from Representative Emile "Peppi" Bruneaux to Dr. Kyle dated December 24, 2002.

The LPFA is a public entity as stated in the Supreme Court case *Louisiana Public Facilities Authority v. Murphy J. "Mike" Foster, Jr., in his official capacity as Governor of Louisiana*, 795 So.2d 288 (La. 9/18/2001). Therefore, the monies expended by LPFA are public funds. As stated in our prior Opinion No. 02-A-4022, the Louisiana Constitution in Article 11, Section 4 restricts the use of public funds:

No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated to a candidate or political organization. This provision shall not prohibit the use of public funds for dissemination of factual information relative to a proposition appearing on an election ballot.

Mr. Albert J. "Robbie" Robinson, Jr.
April 14, 2003
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In addition, the enabling legislation R.S. 18:1465(A) follows Article 11, Section 4 and states:

No public funds shall be used to urge any elector to vote for or against any candidate or proposition, or be appropriated to a candidate or political organization. This provision shall not prohibit the use of public funds for dissemination of factual information relative to a proposition appearing on an election ballot.

The LPFA pays memberships dues to a variety of organizations. None of those organizations are obvious partisan groups as the Democratic Leadership Conference and the College Republicans, as discussed in Attorney General Opinion Nos. 96-421 and 92-591. The Attorney General said expenditures from public funds to these organizations would violate Article 11, Section 4 of the Constitution. However, some of the organizations to which LPFA pays membership dues endorse political candidates and/or propositions on a regular basis. Two organizations of note are the Greater Baton Rouge Chamber of Commerce and the Council for a Better Louisiana.

The LPFA has stated that membership in these organizations allows them to network with the groups for economic development opportunities. A possible solution is for LPFA to request that their dues to organizations involved in lobbying and endorsements be separated from these prohibited activities. If this separation cannot occur, the prohibition of the Constitution and Legislation seem to mandate withdrawal of membership. The LPFA is compelled to abide by this prohibition. R.S. 18:1465 (B) states:

Whoever violates any provision of this Section shall be fined not more than five hundred dollars or be imprisoned for not more than six month, or both. On a second offense or any succeeding offense, the penalty shall be a fine of not more than one thousand dollars or imprisonment for not more than one year, or both.

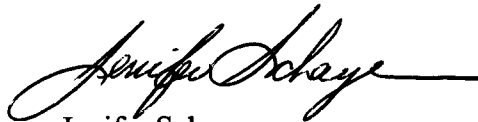
This penalty provision cannot be ignored.

In summary, the Constitution and the laws of our State prohibit using public funds to support or oppose candidates, political organizations or propositions. Therefore, the dues paid by the LPFA to organizations that may use those monies for such purposes may constitute a violation of the law. The dues paid to these organizations by the LPFA, and any other public body, must be separated from other monies of the organizations used to lobby for or against candidates, political organizations or propositions.

Mr. Albert J. "Robbie" Robinson, Jr.
April 14, 2003
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I trust this opinion addresses your issue.

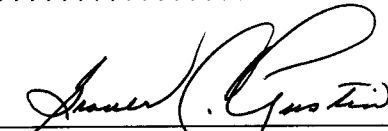
Sincerely,



Jenifer Schaye
General Counsel

JS/PPJ/pm

Reviewed and Approved:



Grover C. Austin, CPA
First Assistant Legislative Auditor

Date: 4-17-03