DEPARTMENT OF INSURANCE
STATE OF LOUISIANA

FINANCIAL STATEMENT AUDIT
FOR THE YEAR ENDED JUNE 30, 2008
ISSUED OCTOBER 7, 2009

LEGISLATIVE AUDITOR
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POST OFFICE BOX 94397
BATON ROUGE, LOUISIANA 70804-9397

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LOUISIANA LEGISLATIVE AUDITOR
STEVE J. THERIOT, CPA

September 17, 2009

Independent Auditor's Report
on the Financial Statements

THE HONORABLE JAMES J. DONELON,
COMMISSIONER OF INSURANCE
DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
Baton Rouge, Louisiana

We were authorized to audit the accompanying special purpose (legal basis) financial statements of the Department of Insurance, a department within Louisiana state government, as of and for the year ended June 30, 2008, as listed in the table of contents. These financial statements are the responsibility of management of the Department of Insurance.

As described in note 1-B to the financial statements, the accompanying special purpose financial statements present only the funds of the Department of Insurance. As such, they present the appropriated and non-appropriated activity of the department that are part of the accounts and fund structure of the State of Louisiana. The appropriated fund reflects appropriated activity of the department that is part of the General Fund of the State of Louisiana. The non-appropriated funds are individual funds of the State of Louisiana not subject to budgetary control. The financial statements do not purport to, and do not, present fairly the financial position of the State of Louisiana as of June 30, 2008, the changes in its financial position, or cash flows, where applicable, for the year then ended, in conformity with accounting principles generally accepted in the United States of America. Furthermore, as described in the notes to the financial statements, the special purpose financial statements have been prepared on a legal basis of accounting, the purpose of which is to reflect compliance with the annual appropriation act for the appropriated fund and the financial position of the non-appropriated funds. These practices differ from accounting principles generally accepted in the United States of America. The effects on the financial statements of the variances between legal basis accounting practices and accounting principles generally accepted in the United States of America, although not reasonably determinable, are presumed to be material.

As discussed in Exhibit A, findings were reported in a Compliance Audit Division report issued November 5, 2008, and a Performance Audit Division report issued May 13, 2009, by the Legislative Auditor, regarding the Louisiana Citizens Property Insurance Corporation and the Louisiana Citizens Property Insurance Corporation 2008 Rate-Filing, respectively. These reports describe possible noncompliance with state laws and regulations. Exhibit A also includes, in part, findings regarding rate setting practices by the department and untimely access to records.

For the second consecutive audit, the Legislative Auditor has attempted to examine and review the books, records, instruments, documents, files, films, tapes, and other forms of recordation, including e-mails maintained by the Department of Insurance. The department sought judicial relief from the auditor's request for unfettered access. On August 7, 2009, the Nineteenth Judicial District Court ruled that the Department of Insurance's lawsuit against the Legislative Auditor was dismissed. Subsequent to that ruling, full access has been provided to the auditor by the Department of Insurance. However, because the audit was substantially complete at the time of the judgment, those records were not available during the audit. Because the Legislative Auditor was not afforded complete, unfettered access to the Department of Insurance's records in a timely manner, he has been limited in his ability to accumulate audit evidence. Given this lack of transparency by the Department of Insurance, this audit is limited in its scope. The auditor may have formed different conclusions and additional conclusions had he been allowed to audit in accordance with governmental auditing standards in a timely manner. The significance of the findings described in Exhibit A, and our inability to perform alternative procedures, constitutes a limitation on the scope of our audit.

The agency funds in the special purpose financial statements include 28 insurance companies and nine subsidiaries or affiliated entities in the Office of Receivership for which the Department of Insurance has fiduciary responsibility. Because of the nature of these insurance companies and their subsidiaries and affiliates and the reasons they are in liquidation or rehabilitation, some of the assets and their valuation may not be known to the department. The ultimate value of these assets cannot presently be determined. Consequently, the actual liquidation value of the assets may differ from the amounts reported by the department. Accordingly, the agency funds on Statement A and Schedules 1 and 2 contain only information that is known to the Department of Insurance as of June 30, 2008.

Because we were not able to obtain complete access to audit evidence in a timely manner and were unable to apply other auditing procedures to ensure completeness, and were unable to determine the ultimate value of the agency funds' assets, the scope of our work was not sufficient to enable us to express, and we do not express, an opinion on these financial statements.

During August and September of 2005, the State of Louisiana suffered considerable damage from two major hurricanes, Katrina and Rita, resulting in the President of the United States declaring Louisiana a major disaster area. Because of the severity of these two separate events and the resulting losses sustained, it is unknown exactly what economic impact recovery efforts will have on state and local governmental operations in Louisiana. While the Department of Insurance did not directly suffer any major damage from these two hurricanes, the long-term effects of these events directly on the department cannot be determined at this time.

In accordance with *Government Auditing Standards*, we have also issued our report dated September 17, 2009, on our consideration of the Department of Insurance's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Our audit was conducted for the purpose of attempting to form an opinion on the accompanying special purpose financial statements of the Department of Insurance taken as a whole. The accompanying supplemental information schedules, identified in the Table of Contents, are presented for the purpose of additional analysis and are not a required part of the special purpose financial statements. The supplemental information schedules have been subjected to the auditing procedures applied in the audit of the special purpose financial statements. For reasons previously stated in the fourth, fifth, and sixth paragraphs, we do not express an opinion on the special purpose financial statements. Similarly, we do not express an opinion on the supplemental information schedules.

Respectfully submitted,

Steve J. Theriot, CPA
Legislative Auditor

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Statement A

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
ALL APPROPRIATED AND NON-APPROPRIATED FUNDS

Balance Sheet (Legal Basis), June 30, 2008

	APPROPRIATED FUND - GENERAL APPROPRIATION	NON-APPROPRIATED FUNDS: MAJOR STATE REVENUES AND INCOME NOT AVAILABLE	NON-APPROPRIATED FUNDS: AGENCY FUNDS	TOTAL (MEMORANDUM ONLY)
ASSETS				
Cash and cash equivalents (note 2)	$12,167,483		$1,716,682	$13,884,165
Investments (note 3)			63,705,249	63,705,249
Receivables (note 4)	598,493	$61,522,013	13,822,860	75,943,366
Prepaid items	44,453		605,372	649,825
Other			17,826	17,826
TOTAL ASSETS	$12,810,429	$61,522,013	$79,867,989	$154,200,431
LIABILITIES AND FUND EQUITY				
Liabilities:				
Accounts payable	$1,103,490		$105,594	$1,209,084
Payroll payable	795,211			795,211
Refunds payable	143,921			143,921
Advance from state treasury (note 8)	35,001			35,001
Major state revenues and income not available due to state treasury		$61,522,013		61,522,013
Due to state treasury (note 11)	11,483,564			11,483,564
Amounts held in custody for others			79,762,395	79,762,395
Total Liabilities	13,561,187	61,522,013	79,867,989	154,951,189
Fund Equity:				
Fund balance - reserved (note 10)	44,453			44,453
Fund balance - unreserved - undesignated (deficit) (note 9)	(795,211)			(795,211)
Total Fund Balance	(750,758)	NONE	NONE	(750,758)
TOTAL LIABILITIES AND FUND EQUITY	$12,810,429	$61,522,013	$79,867,989	$154,200,431

The accompanying notes are an integral part of this statement.

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Statement B

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
GENERAL APPROPRIATION FUND

Statement of Revenues, Expenditures, and Changes in Fund Balance (Legal Basis)
For the Year Ended June 30, 2008

REVENUES	
Appropriated by legislature - state General Fund by fees and self-generated revenues	$39,263,332
Federal funds (note 1-I)	313,455
Total revenues	39,576,787
EXPENDITURES	
Administration/fiscal	10,587,627
Market compliance	47,685,014
Total expenditures	58,272,641
EXCESS OF EXPENDITURES OVER REVENUES	(18,695,854)
OTHER APPROPRIATED FINANCING SOURCES (Uses)	
Transfers in (note 11)	30,102,074
Transfers out (note 11)	(11,496,243)
Total other financing sources (uses)	18,605,831
EXCESS OF EXPENDITURES AND OTHER USES OVER REVENUES AND OTHER SOURCES	(90,023)
FUND BALANCE (Deficit) AT BEGINNING OF YEAR	(660,735)
FUND BALANCE (Deficit) AT END OF YEAR	($750,758)

The accompanying notes are an integral part of this statement.

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Statement C

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
GENERAL APPROPRIATION FUND

Statement of Revenues, Expenditures, and Unexpended Appropriation - Budget Comparison of Current-Year Appropriation - Budget (Legal Basis) and Actual
For the Year Ended June 30, 2008

	BUDGET	ACTUAL	VARIANCE FAVORABLE (UNFAVORABLE)
REVENUES			
Appropriated by legislature - state General Fund by fees and self-generated revenues	$28,939,639	$27,811,782	($1,127,857)
Federal funds	313,455	313,455	
Statutory dedication	1,202,417	1,057,381	(145,036)
Insure Louisiana Incentive Program	29,000,000	29,000,000	
Total appropriated revenues	59,455,511	58,182,618	(1,272,893)
EXPENDITURES			
Appropriated for:			
Administration/fiscal	10,926,823	10,552,484	374,339
Market compliance	48,528,688	47,630,134	898,554
Total appropriated expenditures	59,455,511	58,182,618	1,272,893
UNEXPENDED APPROPRIATION - CURRENT YEAR	NONE	NONE	NONE

The accompanying notes are an integral part of this statement.

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INTRODUCTION

The Louisiana Department of Insurance was created in accordance with Title 36, Chapter 17 of the Louisiana Revised Statutes of 1950, as part of the executive branch of government. The department is required to adequately supervise and regulate insurance companies transacting business in the state to ensure competitive and available insurance that responsibly serves the insurance needs of Louisiana residents. The department is operated under the direction of the commissioner of insurance who represents the public interest in the administration of the department and is responsible to the legislature and the public. The commissioner of insurance administers all parts of Title 22 of the Louisiana Revised Statutes (Insurance Code). The department is comprised of two programs and has 330 full- and part-time employees as of June 30, 2008.

Although the Department of Insurance has fiduciary responsibility over the Office of Receivership, the department has had no jurisdiction over this office since October 5, 1995. The Office of Receivership has operated under the control and administration of the Nineteenth Judicial District pursuant to an order signed by Judge A. Foster Sanders.

1. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. BASIS OF PRESENTATION

The Governmental Accounting Standards Board (GASB) promulgates accounting principles generally accepted in the United States of America and reporting standards for state and local governments. These principles are found in the *Codification of Governmental Accounting and Financial Reporting Standards* published by the GASB. However, the accompanying financial statements have been prepared on a legal basis, which differs from the accounting principles generally accepted in the United States of America as explained in the following notes.

B. REPORTING ENTITY

GASB Codification Section 2100 has defined the governmental reporting entity to be the State of Louisiana. The accompanying special purpose financial statements represent activity of only the Department of Insurance, a department of state government and, therefore, are a part of the funds of the State of Louisiana and its basic financial statements. Annually, the State of Louisiana issues basic financial statements that are audited by the Louisiana Legislative Auditor.

C. FUND ACCOUNTING

The department uses fund accounting, along appropriation lines, to reflect its compliance with provisions of the annual appropriation act and to reflect the financial position of its non-appropriated funds. This differs from the fund accounting of accounting principles generally accepted in the United States of America where the intent is to measure the financial position and results of operation of the governmental reporting entity as a whole. Therefore, the funds within the accompanying financial statements have been divided between appropriated and non-appropriated funds and not by the conventional fund types of accounting principles generally accepted in the United States of America.

The funds, except for the agency funds, do not include any noncurrent assets or liabilities. Noncurrent assets, capital assets, long-term liabilities, pension disclosures, and other postemployment benefits balances and disclosures are reflected in the State of Louisiana's basic financial statements.

The funds presented in the special purpose financial statements are described as follows:

APPROPRIATED FUND

General Appropriation Fund

The General Appropriation Fund is the general operating fund of the Department of Insurance. It administers and accounts for the legislative appropriation provided to fund the general administrative expenditures of the department and those expenditures not funded through other specific legislative appropriations or revenues.

NON-APPROPRIATED FUNDS

Major State Revenues and Income Not Available

The department collects major state revenues that are remitted to the state treasury for deposit to statutorily dedicated funds. In addition, the department collects funds specifically identified by the Division of Administration, Office of Planning and Budget, as income not available that are remitted to the state treasury. These amounts are not available to the department for expenditure and, therefore, are not included on Statement B but are detailed on Schedule 3.

Agency Funds

The agency funds include the accounts for funds received from certain insurance companies and their subsidiaries and affiliates placed in rehabilitation or liquidation under the supervision of the court, as provided by Louisiana Revised Statutes (R.S.) 22:2001-2044. Disbursements from the fund are made by order of the court. These funds represent cash, cash equivalents, and investments, which primarily consist of investments in mutual funds, mortgage and promissory notes receivable, and real estate held for resale. Accounts receivable include current and noncurrent receivables.

The non-appropriated funds are custodial in nature (assets equal liabilities) and do not involve measurement of results of operations.

D. BASIS OF ACCOUNTING

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. The funds in the accompanying financial statements measure the resources provided by the legislature to fund current-year expenditures and the use of those resources by the department. This differs from accounting principles generally accepted in the United States of America in which the measurement focus would be to measure the flow of current resources.

Basis of accounting refers to when revenues and expenditures are recognized and reported in the financial statements, regardless of the measurement focus applied. The accompanying financial statements reflect revenues and expenditures in accordance with applicable statutory provisions and regulations of the Division of Administration, Office of Statewide Reporting and Accounting Policy.

Under the foregoing legal provisions, the department uses the following practices in recognizing revenues and expenditures:

Revenues

The state General Fund fees and self-generated revenues, federal funds, and non-appropriated revenues are recognized when earned, to the extent that they will be collected within 45 days of the close of the fiscal year.

Expenditures

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred, except that obligations of employees' vested annual and sick leave are recognized as expenditures when paid. Furthermore, any expenditures of a long-term nature for which funds have not been appropriated during the current year are not recognized in the accompanying financial statements.

Other Appropriated Financing Sources and Uses

Transfers made to or received from the state treasury or any other agency are recognized in the year the transfers are authorized, in accordance with provisions of the Division of Administration, Office of Statewide Reporting and Accounting Policy.

E. BUDGET PRACTICES

The appropriations made for the general operations of the department are annual lapsing appropriations and are recorded in the General Appropriation Fund. Revenues and expenditures for budget purposes are recognized on the same basis of accounting as described in note 1-D, except that included in revenues on Statement C are transfers in relating to statutory dedications. In addition, salaries and related benefits are recognized when paid on Statement C. The revenues and expenditures shown on Statement B are reconciled with the respective amounts shown on Statement C as follows:

Statement B revenues	$39,576,787
Add - transfer in (statutory dedications)	30,102,074
Less - transfer out (return of appropriation)	(11,496,243)
Statement C revenues	$58,182,618
Statement B expenditures	$58,272,641
Add - prepaid expenditures (net)	5,768
Less - payroll payable (net)	(95,791)
Statement C expenditures	$58,182,618

The department is prohibited by statute from over-expending the program levels established in the budget. Budget revisions are granted by the Joint Legislative Committee on the Budget. Interim emergency appropriations may be granted by the Interim Emergency Board. The budget information included in the financial statements includes the original appropriations plus subsequent amendments as follows:

Original approved budget	$31,229,978
Amendments:	
Fees and self-generated revenues	(738,290)
Statutory dedications	28,963,823
Total	$59,455,511

The non-appropriated funds are not subject to budgetary control.

F. CASH AND CASH EQUIVALENTS

Cash and cash equivalents include cash on hand, demand deposits, certificates of deposit, and cash in state treasury. Under state law, the department may deposit funds within a fiscal agent bank organized under the laws of the State of Louisiana, the laws of any other state in the Union, or the laws of the United States. Furthermore, the department may invest in time certificates of deposit of state banks organized under the laws of the State of Louisiana, national banks having their principal offices in Louisiana, in savings accounts or shares of savings and loan associations and savings banks, and in share accounts and share certificate accounts of federally or state-chartered credit unions.

G. INVESTMENTS

R.S. 22:2015 authorizes the commissioner of insurance to invest monies held in any rehabilitation, liquidation, conservation, dissolution, and administrative supervision proceeding. Authorized investments include investments in or loans on United States or state general government obligations; bonds or notes secured by a mortgage or trust deed issued, assumed, guaranteed, or insured by the United States or an agency of the United States; conventional first mortgage loans capable of being securitized into guaranteed Federal National Mortgage Association mortgage-backed securities; bonds issued by the Inter-American Development Bank or the African Development Bank; and first mortgage loans guaranteed by the administrator of veteran affairs.

H. PREPAID ITEMS

The department establishes prepaid expenditures for postage. Payments made for such items that will benefit periods beyond June 30, 2008, are recorded as prepaid items.

I. OPERATING AND CAPITAL GRANTS

Operating grants represent the total amount of the grant revenue for the year that are restricted by the grantor for operating purposes or that may be used for either capital or operating purposes at the discretion of the grantee. Capital grants represent the total amount of the revenues for the year from grants restricted by the grantor for the acquisition, construction, or renovation of capital assets.

For fiscal year ended June 30, 2008, the total operating grants and contributions were $313,455. The department had no capital grants and contributions.

J. LONG-TERM OBLIGATIONS

The department is by statute not allowed to incur bonded indebtedness and, therefore, no recognition within the accompanying financial statements is necessary. Furthermore, any long-term obligations of the department arising from lease commitments, judgments, compensated absences, or from any other source are not recognized in the accompanying financial statements.

K. COMPENSATED ABSENCES

Employees earn and accumulate annual and sick leave at various rates, depending on their years of service, without limitation on the balance that can be accumulated. Upon termination, employees or their heirs are compensated for up to 300 hours of unused annual leave at the employee's hourly rate of pay at the time of termination but are not compensated for unused sick leave. Upon retirement, unused annual leave in excess of 300 hours plus unused sick leave are used to compute retirement benefits. The liability for unused annual and sick leave is not accrued (reflected) in the accompanying financial statements.

Certain employees of the department are eligible to earn compensatory time, as defined by the Department of State Civil Service and the Fair Labor Standards Act. These employees can earn and accumulate one hour or one and one-half hour for each hour of overtime worked, depending on their position and rate of pay. Generally, the employees are allowed to carry up to 360 hours of accrued compensatory leave from one fiscal year to another. Accumulated compensatory leave is not accrued (reflected) in the accompanying financial statements.

L. TOTAL COLUMN ON BALANCE SHEET

The total column on the balance sheet is captioned "Total (Memorandum Only)" to indicate that it is presented only to facilitate financial analysis. Data in this column does not present financial position in conformity with accounting principles generally accepted in the United States of America. Neither is such data comparable to a consolidation.

2. CASH AND CASH EQUIVALENTS

Cash and cash equivalents (book balances) are composed of the following:

Petty cash on hand	$300
Demand deposits	1,698,508
Certificates of deposit	52,875
Cash on deposit with the state treasury	12,132,482
Total	$13,884,165

These deposits are stated at cost, which approximates market value. Under state law, these deposits (or resulting bank balances) must be secured by federal deposit insurance or the pledge of securities owned by the fiscal agent bank. The market value of the pledged securities plus the federal deposit insurance must at all times equal the amount on deposit with the fiscal agent. The department has deposit balances (collected bank balances) of $2,273,814 at June 30, 2008, for which the department has control. These deposits are fully secured from risk by federal deposit insurance and pledged securities.

Cash balances held and controlled by the state treasurer are secured from risk by the state treasurer through separate custodial agreements, and the risk disclosures required by accounting principles generally accepted in the United States of America are included within the state's basic financial statements. The following is a summary of cash in the state treasury:

Means of finance	$11,211,610
Operating account	920,872
Total	$12,132,482

3. INVESTMENTS

At June 30, 2008, the Office of Receivership, for which the Department of Insurance has fiduciary responsibility, has investments totaling $63,705,249. All of these investments are from companies in rehabilitation, liquidation, conservation, et cetera, as reported in Schedule 1, and are valued at current market value. A summary of the investments follows:

	Percentage of Investments	Credit Quality Rating*	Fair Value	Investment Maturities in Years: Less Than 1	1-5	6-10	Greater Than 10
Type of Investment:							
Repurchase agreements[1]	0.15%		$94,246	$94,246			
Corporate bonds[2]	0.05%		32,250		$32,250		
Money market mutual funds	94.20%	Aaa	60,010,464	60,010,464			
Fixed assets[3]	0.03%		20,665				
Real estate[3]	2.53%		1,605,785				
Collateral loans[2]	0.01%		9,053	9,053			
Notes/mortgages receivable[2]	3.03%		1,932,786	1,082,744	18,054		$831,987
Total investments	100.00%		$63,705,249	$61,196,507	$50,304	NONE	$831,987

* Credit quality ratings obtained from Moody's Investors Service.
[1] The investments and underlying securities are not rated by Moody's Investors Service; however, the underlying securities are implicitly guaranteed by the U.S. government.
[2] The investment is not rated by Moody's Investors Service.
[3] Credit quality ratings are not required for these investments, which do not have specified maturities.

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. State law limits the investments by type as described in note 1-G. The department does not have policies to further limit credit risk.

Custodial credit risk is the risk that, in the event of the failure of the counterparty, the department will not be able to recover the value of its investments or collateral securities that are in the possession of an outside party. Concentration of credit risk is the risk of loss attributed to the magnitude of an entity's investment in a single issuer. The investments are not exposed to custodial credit risk or concentration of credit risk.

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. State law does not address interest rate risk, and the department does not have policies to limit this risk. Pursuant to a court order of the Nineteenth Judicial District, the Office of Receivership is not allowed to invest or reinvest the funds of companies in receivership for a length of time in excess of six months without prior court approval. This requirement reduces the department's exposure to interest rate risk. None of the investments are considered highly sensitive to changes in interest rates.

4. RECEIVABLES

The following table presents the adjustments necessary to convert the modified accrual basis accounts receivable, as shown in Statement A and the schedules, to full accrual basis accounts receivable as required by the Office of Statewide Reporting and Accounting Policy. The $13,822,860 in agency fund receivables presented in Statement A and Schedule 1 is reported on a full accrual basis. Because of the nature of the insurance companies in liquidation or rehabilitation, as disclosed in note 1-C, agency fund receivables are reported net of uncollectibles.

	Accounts Receivable - Modified Accrual Basis	Full Accrual Adjustment Gross	Full Accrual Adjustment Uncollectible	Full Accrual Adjustment Net	Accounts Receivable - Full Accrual Basis
Appropriated Revenues:					
Fees and self-generated	$35,503	$237,387	($222,917)	$14,470	$49,973
Statutory dedicated funds	452,193				452,193
Federal funds	110,797				110,797
Total appropriated revenues	$598,493	$237,387	($222,917)	$14,470	$612,963
Non-Appropriated Revenues:					
Major state revenues	$61,521,516	$17,628,044	($108,084)	$17,519,960	$79,041,476
Income not available	497				497
Total non-appropriated revenues	$61,522,013	$17,628,044	($108,084)	$17,519,960	$79,041,973

5. JUDGMENTS, CLAIMS, AND SIMILAR CONTINGENCIES

Obligations and losses arising from judgments, claims, and similar contingencies are paid through the state's self-insurance fund or by General Fund appropriation and are not reflected in the accompanying financial statements. The self-insurance fund is operated by the Office of Risk Management, the state agency responsible for the state's self-insurance program.

6. COMPENSATED ABSENCES

The liability for unused leave payable at June 30, 2008, computed in accordance with the *Codification of Governmental Accounting and Financial Reporting Standards* Section C60, is estimated to be $1,310,783 for unused annual leave and $552 for accrued compensatory leave. The leave payable is not accrued (reflected) in the accompanying financial statements.

7. LEASE AND RENTAL COMMITMENTS

The department has no capital leases but does have operating leases for office space. The annual rental payments for future fiscal years are as follows:

Fiscal Year	Office Space
2009	$58,808
2010	7,761
Total	$66,569

All lease agreements have non-appropriation exculpatory clauses that allow for lease cancellation if the Louisiana Legislature does not make an appropriation for their continuation during any future fiscal period. Total operating lease expenditures for fiscal year 2007-2008 amounted to $157,688 for office space and equipment.

8. ADVANCE FROM STATE TREASURY

The department received an advance from the state treasury for imprest fund operations totaling $35,001, as authorized by the commissioner of administration in accordance with Title 39 of the Louisiana Revised Statutes. The advance, as reflected in Statement A, represents a liability.

9. FUND BALANCE - UNRESERVED - UNDESIGNATED (DEFICIT)

The General Appropriation Fund had an unreserved - undesignated fund deficit of $795,211 for the year ended June 30, 2008. The deficit was the result of the recognition of accrued salaries and related benefits as required by the Office of the Governor, Division of Administration, and the fact that revenues to fund those accruals are appropriated in the subsequent year. The deficit will be resolved by paying for salaries and related benefits from fiscal year 2009 funds appropriated to pay those obligations of the 2007-2008 fiscal year.

10. FUND BALANCE - RESERVED

The amount of $44,453, shown as reserved fund balance on Statement A, represents prepaid expenditures for the 2008-2009 fiscal year.

11. OTHER APPROPRIATED FINANCING SOURCES AND USES

As shown on Statement B, in accordance with provisions of the Division of Administration, Office of Statewide Reporting and Accounting Policy, other appropriated financing sources (transfers in) totaled $30,102,074 while uses (transfers out) totaled $11,496,243 for the year ended June 30, 2008. The transfers in consist of statutory dedicated funds used for current year operations and for the Insure Louisiana Incentive Program. The transfers out consist of $11,451,550 in self-generated funds collected but not spent, which are due to the State Treasurer’s Office at June 30, 2008, and $44,693 in statutory dedicated funds that were made available to the department by the State Treasurer’s Office but were not spent by the department by June 30, 2008. Transfers out totaling $11,483,564 were sent after June 30, 2008.

12. DEFERRED COMPENSATION PLAN

Certain employees of the department participate in the Louisiana Public Employees Deferred Compensation Plan adopted under the provisions of Internal Revenue Code Section 457. Complete disclosures relating to the Plan are included in the separately issued audit report for the Plan, available from the Louisiana Legislative Auditor's Web site at www.lla.la.gov.

13. RELATED PARTY TRANSACTIONS

Related party transactions, as defined by Financial Accounting Standards Board Statement Number 57, occur in the normal course of business between the 28 insurance companies and their nine subsidiaries or affiliates for which the department has fiduciary responsibility. Also, transactions to pay the administrative costs, settlements, et cetera, of these insurance estates all flow through the Office of Receivership bank account. These transactions are included in the additions and deletions reported on Schedule 1.

14. INSURANCE PREMIUM TAX SUSPENSE FUND

The insurance premium tax refund liability of $10,056,385 at August 14, 2008, was classified to the Insurance Premium Tax Suspense Fund. All premium taxes and annual filing fees received from companies are initially coded into the suspense account until they are reclassified monthly from the suspense account to the applicable revenue account. Any refunds of premium taxes are made from the suspense account. This amount is not recorded in the department's financial statements.

15. SUBSEQUENT EVENTS

The department sought judicial relief from the auditor's request for unfettered access. On August 7, 2009, the Nineteenth Judicial District Court ruled that the department's lawsuit against the Legislative Auditor was dismissed. In compliance with the judgment of the District Court ruling in the *Louisiana Department of Insurance Through James J. Donelon, Commissioner of Insurance vs. Steve J. Theriot, CPA, Legislative Auditor* case, the department notified the Legislative Auditor on August 10, 2009, that access to all records and electronic data will be made available to the Louisiana Legislative Auditor.

Act 226 of the 2009 Regular Session abolished the Insure Louisiana Incentive Program Fund and authorizes and directs the treasurer to transfer any unexpended, unencumbered monies in the fund to the state General Fund. A total of $75,587,322 was transferred to the state General Fund on July 2, 2009.

SCHEDULE OF CHANGES IN ASSETS AND LIABILITIES - NON-APPROPRIATED FUNDS - AGENCY FUNDS

Changes in assets and liabilities for the agency funds for the year ended June 30, 2008, presented on Schedule 1, include 28 insurance companies and nine subsidiaries or affiliated entities that are custodial in nature and are administered in-house by the Office of Receivership.

SCHEDULE OF ENDING BALANCES - NON-APPROPRIATED FUND - AGENCY FUNDS

The balances of assets for the agency funds including balances by individual insurance companies and their subsidiaries and affiliates are presented on Schedule 2.

SCHEDULE OF NON-APPROPRIATED REVENUES - MAJOR STATE REVENUES AND INCOME NOT AVAILABLE

Schedule 3 reflects major state revenues and income not available collected by the department during the year that were not available to the department for expenditure.

SCHEDULE OF PER DIEM PAID INSURANCE RATING COMMISSION MEMBERS

The per diem paid to the Louisiana Insurance Rating Commission members is presented on Schedule 4, as required by House Concurrent Resolution No. 54 of the 1979 Session of the Louisiana Legislature. In accordance with R.S. 22:1401, each member is paid $50 for each day devoted to work of the commission.

UNAUDITED

Schedule 1

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
NON-APPROPRIATED FUNDS - AGENCY FUNDS

Schedule of Changes in Assets and Liabilities
For the Year Ended June 30, 2008

	BALANCE JULY 1, 2007	ADDITIONS	DELETIONS	BALANCE JUNE 30, 2008
ASSETS				
Cash and cash equivalents	$2,149,652	$18,103,061	$18,536,031	$1,716,682
Investments	67,858,546	7,722,632	11,875,929	63,705,249
Accounts receivable	16,365,600	4,328,545	6,871,285	13,822,860
Prepaid expenses	615,806	3,000	13,434	605,372
Other	17,826			17,826
TOTAL ASSETS	$87,007,430	$30,157,238	$37,296,679	$79,867,989
LIABILITIES				
Accounts payable	$183,986	$105,594	$183,986	$105,594
Amounts held in custody for others	86,823,444	30,051,644	37,112,693	79,762,395
TOTAL LIABILITIES	$87,007,430	$30,157,238	$37,296,679	$79,867,989

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Schedule 2

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
NON-APPROPRIATED FUNDS - AGENCY FUNDS

Schedule of Ending Balances
For the Year Ended June 30, 2008

Insurance Trust Funds	
Acadian Financial Group, Incorporated	$6,976
Acadian Life Insurance Company	1,718,529
Amcare Health Plans of Louisiana	7,525,583
American Funding Services, Incorporated	1,070,096
Amwest Surety Insurance Company	13,486
ANA Insurance Group	3,633,818
Automotive Casualty Insurance Company	53,444
Automotive Financial Services	1,338,420
Benton Life Insurance Company, Incorporated	158,185
Blooming Insurance Company	965
Car Insurance Company	4,077,105
Cascade Insurance Company	13,187
Colonial Lloyd's	183,366
Far West Insurance Company	16,442
First Columbia Life Insurance Company	10,053
Gulf Coast Casualty	386,935
Gulf Coast Holding Company	423,081
Gulf National Insurance Services, Incorporated	96,922
Independence Life	71,555
Lloyd's Assurance	12,791,005
Louisiana Receivership Office Fiduciary Trust Account	803,512
Midwest Life Insurance Company	8,907,858
National Affiliated Investors Life	14,484
North American Indemnity Company	227,616
Patterson Insurance Company	11,537,224
Physicians National Risk Retention Group	3,664,502
Premier General Agency	164,633
Public Investors Life Insurance Company	931,389
Savant Insurance Company	918,490
Savings Life Insurance Company	5,439
Superior Life Insurance Company	3,249

(Continued)

Schedule 2

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
NON-APPROPRIATED FUNDS - AGENCY FUNDS
Schedule of Ending Balances, June 30, 2008

Insurance Trust Funds (Cont.)	
The Oath for Louisiana, Incorporated	$7,116,219
United Agents Insurance Company of Louisiana	5,218,794
United States General Agency	6,765,427
Total Insurance Trust Funds	$79,867,989

(Concluded)

Schedule 3

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
MAJOR STATE REVENUES AND INCOME NOT AVAILABLE

Schedule of Non-Appropriated Revenues
For the Year Ended June 30, 2008

NON-APPROPRIATED REVENUE FUND SOURCE	CASH RECEIPTS THROUGH JUNE 30, 2008	ACCOUNTS RECEIVABLE JUNE 30, 2008	TOTAL REVENUES
Income not available	$266,216	$497	$266,713
Major state revenues:			
Taxes	261,566,759	60,925,784	322,492,543
Statutory dedicated - Health Insurance Portability Act (HIPAA)	314	595,732	596,046
Statutory dedicated - Insurance Fraud Assessment Act	3,586,429		3,586,429
Statutory dedicated - Louisiana Automobile Theft and Insurance Fraud Prevention Authority (LATIFPA)	10,000		10,000
Assessments - Municipal Fire and Police Civil Service	1,819,013		1,819,013
Retirement insurance proceeds	50,932,347		50,932,347
Subtotal - major state revenues	317,914,862	61,521,516	379,436,378
Total non-appropriated revenues	$318,181,078	$61,522,013	$379,703,091

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Schedule 4

DEPARTMENT OF INSURANCE
STATE OF LOUISIANA

Schedule of Per Diem Paid Insurance
Rating Commission Members
For the Year Ended June 30, 2008

	AMOUNT
G. Barry Busada	$400
Christine Hollman	100
Jabari Ragas	900
Steven Ruiz	1,300
Total	$2,700

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OTHER REPORT REQUIRED BY

GOVERNMENT AUDITING STANDARDS

The following pages contain our report on internal control over financial reporting and on compliance with laws, regulations, and other matters as required by *Government Auditing Standards*, issued by the Comptroller General of the United States. This report is based on the audit of the financial statements and includes, where appropriate, any significant deficiencies and/or material weaknesses in internal control or compliance and other matters that would be material to the presented financial statements.

LOUISIANA LEGISLATIVE AUDITOR
STEVE J. THERIOT, CPA

September 17, 2009

Report on Internal Control Over Financial Reporting
and on Compliance and Other Matters Based on an
Audit of the Financial Statements

THE HONORABLE JAMES J. DONELON,
COMMISSIONER OF INSURANCE
DEPARTMENT OF INSURANCE
STATE OF LOUISIANA
Baton Rouge, Louisiana

We were authorized to audit the special purpose (legal basis) financial statements of the Department of Insurance, as of and for the year ended June 30, 2008, and have issued our report thereon dated September 17, 2009. Our report was modified to include an emphasis of a matter regarding the impact of hurricanes Katrina and Rita. Our audit was to have been conducted in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. However, because the Legislative Auditor was not afforded complete access to the records of the department in a timely manner and was unable to determine the ultimate value of certain agency funds' assets, we were limited in our ability to accumulate audit evidence, and we were not able to apply the foregoing standards and, therefore, were not able to express an opinion on the aforementioned financial statements.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Department of Insurance's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the department's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the department's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However, as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the legal basis of accounting as described in our Independent Auditor's Report on the Financial Statements dated September 17, 2009, such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control. We consider the following deficiencies to be significant deficiencies in internal control over financial reporting.

Untimely Access to Records

For the second consecutive audit, the Department of Insurance (DOI) did not provide the Legislative Auditor with complete, unfettered access to its electronic data in a timely manner. In addition, the Legislative Auditor was denied access to review the department's fraud investigation work papers, reports, and other supporting documentation for specific cases, as well as full viewing of employee sick leave forms. DOI sought judicial relief from the auditor's request for unfettered access. On August 7, 2009, the Nineteenth Judicial District Court ruled that the DOI's lawsuit against the Legislative Auditor was dismissed. Subsequent to that ruling, full access has been provided to the auditor by DOI. However, because the audit was substantially complete at the time of the judgment, those records were not available during the audit.

Government Auditing Standards describe that restrictions on the scope of an audit, whether imposed by the client or by circumstances, including the inability of the auditor to obtain sufficient, appropriate audit evidence, may require the auditor to qualify his opinion or to disclaim an opinion. Louisiana audit law, Revised Statute (R.S.) 24:513, states, in part, that ". . . the legislative auditor shall have authority to compile financial statements and to examine, audit, or review the books and accounts of the state treasurer, all public boards, commissions, agencies, departments, political subdivisions of the state, public officials and employees, public retirement systems enumerated in R.S. 11:173(A), municipalities, and all other public or quasi public agencies or bodies, hereinafter collectively referred to as the 'auditee.' The scope of the examinations may include financial accountability, legal compliance and evaluations of the economy, efficiency, and effectiveness of the auditee's programs or any combination of the foregoing. In addition to the authority granted above, the legislative auditor shall have access to and be permitted to examine all papers, books, accounts, records, files, instruments, documents, films, tapes, and any other forms of recordation of all auditees, including but not limited to computers and recording devices, and all software and hardware which hold data, is part of the technical processes leading up to the retention of data, or is part of the security system. . . ."

During the fiscal year 2008 audit entrance conference held on October 30, 2008, the Commissioner of Insurance indicated that management's position on providing complete, unfettered access to DOI's electronic data had not changed from the prior year. In a letter dated March 11, 2009, the Legislative Auditor again requested documentation that included copies of e-mails, backup tapes, and DOI fraud investigation work papers, reports, and supporting documentation from DOI to provide evidence in the audit of DOI's records. On March 23, 2009, DOI responded to the request and noted that it would be inappropriate to release copies of e-mails or backup tapes subsequent to those covered by the litigation against the Legislative Auditor until a final ruling in that litigation. In addition, although DOI provided fraud investigation logs in redacted form, the Legislative Auditor was denied access to review the fraud investigation work papers, reports, and other supporting documentation for specific cases. Unfettered access was not provided until the court's judgment was received in August 2009.

Because the Legislative Auditor was not able to obtain complete, unfettered access to audit evidence in a timely manner and because we were unable to apply other auditing procedures to ensure completeness of the DOI records affecting the audit, the scope of our work is not sufficient to enable us to express an opinion on the fair presentation of the financial statements.

DOI should provide the Legislative Auditor complete, timely, unfettered access to its electronic data, including the ability to extract and/or copy e-mails, and access to other records including, but not limited to, fraud investigation work papers and employee sick leave forms in the future. Management concurred in part with the finding (see Appendix A, page 1).

Ineffective Internal Audit Function

For the second consecutive audit, DOI did not have an effective internal audit function. The internal audit function should provide management with assurances that assets of the department are properly safeguarded; internal controls, including information technology controls, are established and operating in accordance with applicable laws and regulations; and procedures are sufficient to prevent or detect errors and/or fraud in a timely manner.

The number and scope of audits were not sufficient to constitute an effective internal audit function. Of the four proposed scheduled audits and special projects for fiscal year 2008, only two audits were issued in fiscal year 2008. Of the two audits issued, only one audit, which regarded office supplies and mailroom procedures, related to fiscal year 2008. Considering the department's reported assets over $150 million and reported revenues over $400 million, an effective internal audit function is needed to ensure that the department's assets are safeguarded and management's policies and procedures are uniformly applied.

Management has expressed concern over the lack of definitive guidance for evaluating the adequacy of the internal audit function and staffing. Determining the right staff size for the internal audit division requires an analysis of existing conditions. Annually, the internal auditor, in conjunction with management, should consider the following:

- Major departmental risks based on its experience and outside influences

- The value of the planned audit projects versus the costs

- All the tools available to auditors; i.e., computer-assisted audit techniques for analyzing data

- Existing comprehensive guidance and training available from the Institute of Internal Auditors

- Existing guidance from the internal audit industry to help determine adequate audit staff size, which would be balanced by budgetary constraints

The department should take the necessary steps to ensure that it has an adequate internal audit function and procedures to address identified risk areas, help safeguard assets, and ensure management's policies and procedures are followed. Management concurred in part with the finding and emphasized other compensating controls within the department (see Appendix A, pages 2-4).

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we believe that the significant deficiency, Untimely Access to Records, described above is a material weakness.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Department of Insurance's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed the following instances of noncompliance that are required to be reported under *Government Auditing Standards*.

Improper Basis for Residential Rate Filing

The Louisiana Citizens Property Insurance Corporation (Citizens) 2007 residential rate filing (excluding wind and hail-only coverage), which was submitted to the Louisiana Insurance Rating Commission (LIRC) in November 2007, was based on improperly adjusted data. The market survey was the same data that was improperly adjusted by DOI when establishing the 2006 residential rate filing. Also, in response to Act 420 of the 2007 Regular Session [R.S. 22:2303(D)(1)], Citizens was required to remove the 10% rate in excess of the rates charged among the 10 insurers with the greatest total direct written premium in each parish for that line of business that was authorized in the preceding year, and R.S. 40:1730:27(A) named the parishes affected. On November 26, 2007, the LIRC approved a statewide net rate level reduction of 2.1% for residential policies in the parishes affected by R.S. 40:1730:27(A) based on recommendation by DOI.

For the 2006 rate filing period, R.S. 22:2303(A)(1) stated, in part, that Citizens' rates " . . . shall be actuarially justified . . . and . . . shall exceed by at least ten percent the rates charged among the ten insurers with the greatest total direct written premium in each parish for that line of business in the preceding year; except that with respect to mobile home coverage, the average rates of the plans shall exceed by at least ten percent the rates charged among the five insurers with the greatest total written premium for mobile homeowners' policies in each parish in the preceding year." The statute further stated that ". . . the rates charged in a particular parish shall exceed by at least ten percent the rates of any insurer that has a minimum of three percent of the total premium for the parish."

During DOI's review and analysis of Citizens' residential rate filing in 2006, DOI noted possible errors in market survey rates submitted by private insurers. Rather than re-surveying insurers and correcting the possible errors, DOI elected to remove the highest survey rate in each parish for each line of coverage. DOI then compared 110% of the second-highest survey rate in each parish to the actuarially justified rate and selected the larger of the two rates for its rate calculation, resulting in Citizens' rates being more competitive with private insurers. Citizens, as the insurer of last resort, is legislatively mandated to charge more for higher risk insureds rather than compete with private industry.

In 2006, DOI took responsibility for requesting, collecting, and summarizing market data surveys and then submitting that information to Citizens. As part of its collection responsibilities, DOI corresponded extensively with private insurance companies regarding the accuracy of the data. As part of its review responsibilities, DOI reviewed the market survey data that it had previously collected and provided to Citizens. Finally, acting in an advisory capacity, DOI discussed alternatives with Citizens after known and potential errors were discovered in the data that DOI had reviewed. These facts demonstrate that DOI was actively involved with Citizens and its rate setting process, including the determination of the final rates that were approved by the LIRC.

DOI's rate setting suggestions during review in 2006 resulted in an amended rate filing in January 2007 that was not in compliance with state regulations. Since the November 2007 residential rate filing was based on the same data and that data was not corrected, the 2007 residential rate filing also resulted in lower, more competitive rates and is not in compliance with state regulations.

The lower rates paid by Citizens' policyholders increase the risk that higher future assessments may be levied against all privately insured residents of the state. In addition, the lower rates increased the risk that Citizens will have insufficient funds to cover the capital losses of its insureds who live in high risk areas of the state.

DOI should assist Citizens in setting proper rates and should confine its suggested rate or market corrections and adjustments to known errors to ensure compliance with applicable laws. Management did not concur with the finding (see Appendix A, pages 5-6).

Noncompliance With Insure Louisiana Incentive Program Cooperative Endeavor Agreement

DOI awarded Insure Louisiana Incentive Program grants to five insurers and made payments totaling $29 million to these insurers before either party signed the cooperative endeavor agreements. The Insure Louisiana Incentive Program was designed to attract more property and casualty insurers to Louisiana by providing grants to companies that will write new homeowners and commercial property insurance policies. Louisiana Administrative Code (LAC), Title 37, Part XIII, Section 12335, relating to the Insure Louisiana Incentive Program, requires grantees to execute a cooperative endeavor agreement in the form prescribed by the commissioner subject to the approval of the Division of Administration's Office of Contractual Review. The cooperative endeavor agreements state, "Payments shall be made to the Contracting Party as soon as practical after the signing of this Cooperative Agreement by the Commissioner and the Contracting Party."

Insure Louisiana Incentive Program grants totaling $29 million were provided to five insurance companies in January 2008, while the cooperative endeavor agreements governing these grants were not signed by both parties until June and July 2008. Management expressed a desire to expedite the payments and the program. By issuing payments to insurers prior to possession of a signed cooperative endeavor agreement, DOI increases the risk of loss to the state as an insurer can not be legally required to comply with an agreement until it is signed by both contracting parties.

DOI should not make payments to insurers before the cooperative endeavor agreements governing the expenditure of those funds are signed. Management concurred in general with the finding, but noted that the awarding of grants in the program has ended (see Appendix A, page 7).

DOI's responses to the findings identified previously are attached in Appendix A. We did not audit the department's responses, and, accordingly, we express no opinion on them.

OTHER REPORTS

On November 5, 2008, a compliance audit report titled *Louisiana Citizens Property Insurance Corporation* was issued by the Louisiana Legislative Auditor. The report presents the results of procedures performed on all of the expenses incurred by Mr. Terry Lisotta, former executive director, from December 2003 through December 2006. The report disclosed findings relating to alleged expenses that were not incurred; personal expenses; expenses with no documented business purposes; duplicated expenses; and fictitious receipts to support expenses that may not have been incurred.

On May 13, 2009, a performance audit report titled *Louisiana Citizens Property Insurance Corporation 2008 Rate-Filing* was issued by the Louisiana Legislative Auditor. The report disclosed that Citizens' December 2008 rate-filing did not comply with all aspects of state law and Citizens cannot ensure that its December 2008 rate-filing was actuarially justified.

Those reports, including recommendations for improvement and management's responses, can be found at the Louisiana Legislative Auditor's Web site at www.lla.la.gov.

This report is intended solely for the information and use of the department and its management and the Louisiana Legislature and is not intended to be, and should not be, used by anyone other than these specified parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,

Steve J. Theriot, CPA
Legislative Auditor

CLP:BH:EFS:PEP:dl

DOI08

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Management's Corrective Action Plans and Responses to the Findings and Recommendations

LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

August 24, 2009

RECEIVED
LEGISLATIVE AUDITOR
2009 AUG 24 AM 11:56

HAND DELIVERY
The Honorable Steve J. Theriot, CPA
Legislative Auditor
State of Louisiana
1600 North Third Street
P. O. Box 94397
Baton Rouge, LA 70804

RE: Response to Legislative Auditor's reportable finding of Untimely Access to Records

Dear Mr. Theriot:

The Louisiana Department of Insurance (LDOI) appreciates the opportunity to respond to the Legislative Auditor's reportable audit finding of LDOI dated August 17, 2009.

LDOI accepts the Louisiana Legislative Auditor's (LLA) finding that the LDOI did not provide the legislative auditor with complete, unfettered access to DOI's electronic data and fraud investigation work papers in a timely manner. Further, the LDOI acknowledges that it did not initially permit full viewing of employee sick leave forms. The LDOI's withholding of non-financial records (employees' emails, employees' health conditions, fraud investigation work papers) conformed to the legal position that the LDOI maintained in litigation which was in progress during the audit. Since the district court ruled on August 7, 2009, the LDOI has expedited the availability of all requested documentation without exception.

The legislative auditor and his staff had full access to all financial records; therefore, the LDOI disagrees with the LLA's reluctance to render an unqualified opinion on the fair presentation of the financial statements.

In the future, the LDOI will comply with all requirements of LSA-R.S. 24:513 *et seq.* to facilitate the LLA's full scope financial and compliance audit of LDOI.

With best wishes and kindest personal regards, I remain

Very truly yours,

S. Denise Brignac
Chief Deputy Commissioner

SDB:dtd

SDBAUG2009.2693

P. O. Box 94214 • Baton Rouge, Louisiana 70804-9214
Phone (225) 342-5900 • Fax (225) 342-3078
http://www.ldi.state.la.us

LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

July 27, 2009

HAND DELIVER
The Honorable Steve J. Theriot, CPA
Legislative Auditor
State of Louisiana
1600 North Third Street
P. O. Box 94397
Baton Rouge, LA 70804

RE: Response to Legislative Auditor's reportable finding that the Department of Insurance has an Ineffective Internal Audit Function

Dear Mr. Theriot:

The Louisiana Department of Insurance (LDOI) appreciates the opportunity to respond to the Louisiana Legislative Auditor's (LLA) reportable audit finding regarding the LDOI dated July 13, 2009. While the LDOI concurs in part that an insufficient number of internal audits was conducted in FY2007-08 to be considered an effective internal audit function, the LDOI urges the LLA to consider that numerous internal checks and reconciliations take place in the LDOI's internal operations that safeguard the LDOI's assets and its collection of state revenue. Numerous audits by the LLA over past years attest to the LDOI's effectiveness in safeguarding funds.

By captioning this as a repeat finding, the LLA implies that its notice to LDOI to improve this function went unheeded. The prior finding of Ineffective Internal Audit Function for FY2006-07 was made on June 2, 2008, fewer than 30 days before the end of the fiscal year that is now subject to this audit finding. Back-to-back audits of consecutive fiscal years, as was done in this case, simply did not provide the necessary lead time (fewer than 30 days) for the LDOI to take corrective actions that would impact FY2007-08. Indeed, corrective action took place by November 2008 when a second position in the office of the Internal Auditor was created and filled, an action that would have ultimately had positive impact on the number and nature of future internal audits performed at the LDOI. However, significant cuts to the LDOI budget for FY2009-10 made retaining this second internal auditor position impossible, and, in accordance with State Department of Civil Service layoff avoidance guidelines, the probationary employee in this position was cut as we entered FY2009-10.

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The LLA can be assured that the LDOI places a high value on an effective internal audit function. It is indeed our goal to maintain proper safeguards over all assets entrusted to the LDOI's stewardship, including but not limited to LDOI's appropriated budget, inventory of movable property, the assets held in insurers' estates by the Office of Receivership, and over $400 million in revenue the LDOI collects annually on behalf of the State of Louisiana. All assets held for insurers in liquidation are supervised by the 19th Judicial District Court and are auditable by the LLA. All revenue collections follow policies and procedures that have been scrutinized to provide maximum security for the funds. In fact, these processes were subjected to the LLA's staff auditors' review during both the FY2006-07 and FY2007-08 audits, and resulted in only minor recommendations for adjustments in the reporting of these funds.

The LDOI accepts the guidance of the LLA on what the Internal Auditor should consider annually in conjunction with management. The LDOI assures the LLA that the Internal Auditor, the Commissioner and the Chief Deputy Commissioner annually confer on the major departmental risks that are planned to be the subject of internal audits during the coming fiscal year. The LDOI's Internal Auditor regularly receives guidance from the Institute of Internal Auditors through her membership in the association. LDOI's Internal Auditor is also an active member of Louisiana Council of State Audit Groups, which meets quarterly and provides peer support activities among internal auditors representing numerous state agencies. During FY2007-08, LDOI's Internal Auditor completed 31 hours of continuing education.

The entire LDOI has upgraded to Office 2007, which has given the Internal Auditor the additional spreadsheet capacity of Excel 2007. While the LDOI's Internal Auditor investigated the purchase of software such as IDEA and ACL, she recommended against such an acquisition for her use based on the following factors: (1) the high cost, (2) the loss of audit time during the training period on the new software, (3) the dissimilarity among the internal LDOI units being audited, and (4) the versatility of Excel which provides audit analytics, random sampling tools and adequately handles even the largest data sets she accumulates during audits.

Due to budgetary constraints, the LDOI will not be adding to the staff of the Internal Auditor, nor are we so guided by existing law; however, we continue to dedicate resources to improving all procedures and processes that provide internal controls for the assets and revenue under our care. Despite the one-person shop for our Internal Auditor, the LLA can be assured that each deputy commissioner is charged with ensuring that LDOI's policies and procedures are followed within his or her division.

While the LDOI does not agree that this should be an audit finding, we acknowledge that additional output by our Internal Auditor during FY2006-07, FY2007-08 and FY2008-09 would have benefited the LDOI. We believe that our

Internal Auditor's work and other internal controls at the LDOI function well to safeguard the public resources in our stewardship. In the interest of improving those safeguards, LDOI's management will review the Internal Auditor's processes and take necessary steps to strengthen the number and/or scope of internal audits performed during the FY2009-2010. For further information regarding progress in this area, I request that you contact S. Denise Brignac, Chief Deputy Commissioner.

With best wishes and kindest personal regards, I remain

Very truly yours,

James J. Donelon
Commissioner of Insurance

JJD:dtd

JJDJUL2009.2661

LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

RECEIVED
LEGISLATIVE AUDITOR
2009 AUG 19 PM 4:12

August 19, 2009

HAND DELIVERY
The Honorable Steve J. Theriot, CPA
Legislative Auditor
State of Louisiana
1600 North Third Street
P. O. Box 94397
Baton Rouge, LA 70804

RE: Improper Basis for Residential Rate Filing

Dear Mr. Theriot:

The Louisiana Department of Insurance (LDOI) appreciates the opportunity to respond to the Legislative Auditor's reportable audit finding of LDOI dated August 6, 2009. LDOI disagrees with the Louisiana Legislative Auditor's (LLA) finding that the LDOI used an improper basis for its recommendations for the November 26, 2007, residential rate filing of Louisiana Citizens Property Insurance Corporation (Citizens). The LDOI is fully aware that the rate regulation of Citizens must be done in compliance with statutory guidelines to prevent the property insurer of last resort from becoming competitive with the voluntary market and firmly believes that was done in the November 2007 rate filing.

The LDOI maintains today, as it did in its response to the LLA's June 4, 2008 finding on adjustments to Citizens' November 2006 residential rate filing, that the LDOI acted appropriately and in accordance with state law. The basis of the 2008 finding is duplicated in the LLA's August 6, 2009 finding in that the LLA complains of adjustments the LDOI made to flawed market data by extrapolating known errors and applying them to remaining unaudited data. As I stated in my response to your FY2006-2007 finding, I believe the LDOI fulfilled its statutory role in the market survey, and the procedure followed was proper, lawful and in the best interest of Louisiana's citizens.

The Citizens' rate adjustment approved on November 26, 2007, by the Louisiana Insurance Rating Commission (LIRC), was required under Act 420 of the 2007 Regular Session. This new law was passed with the stated legislative intent of "offering immediate (rate) relief to those stuck with Citizens' Insurance...." (Rep. Rick Farrar, motion to pass HB 528 by substitute, May 22, 2007). The legislature passed Act 420 of the 2007 Regular Session despite arguments that removal of the 10 percent rate upcharge requirement would make Citizens more competitive in the market and further discourage voluntary insurers from expanding their writings in the affected parishes. This new law had been signed by Governor Kathleen Blanco on July 10, 2007, and became effective August 15, 2007. The subsequent rate relief to the Citizens policyholders in the affected parishes was expedited in accordance with the wishes of the legislature.

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At the time the LDOI gave an opinion on Citizens' rate filing of November 2007 to bring Citizens rates into compliance with Act 420, the LDOI could not have anticipated that eight months later the LLA would opine that the market survey on which the rates were based was flawed. The LDOI believed in 2006 that it followed reasonable, proper and lawful procedures regarding the market survey data, and that belief continued in 2007.

The LLA is correct in noting that inadequate rates paid by Citizens' policyholders increase the risk of future assessments on all privately insured citizens in the state by increasing the risk that Citizens will have inadequate funds to pay the losses of another major catastrophic event. The LDOI believes the rates approved for Citizens in November 2007 were adequate and properly based; to the extent the rates became more competitive with the private market, they did so under the direction of the legislature for parishes where storm affected property owners had difficulty finding voluntary insurers. The LLA has my assurance that the LDOI recognizes Citizens' role in the market place as an insurer of last resort and that all actions performed by the LDOI regarding Citizens rates remain cognizant of that and our obligations to follow the law.

We believe that the LDOI followed the law in both the January 2007 and November 2007 rate filings by Citizens.

With best wishes and kindest personal regards, I remain

Very truly yours,

James J. Donelon
Commissioner of Insurance

JJD:dtd

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LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

July 27, 2009

2009 JUL 27 AM 9:15
RECEIVED

HAND DELIVER
The Honorable Steve J. Theriot, CPA
Legislative Auditor
State of Louisiana
1600 North Third Street
P. O. Box 94397
Baton Rouge, LA 70804

RE: Response to Legislative Auditor's reportable finding that the Department of Insurance was in Noncompliance with Insure Louisiana Incentive Program Cooperative Endeavor Agreement

Dear Mr. Theriot:

The Louisiana Department of Insurance (LDOI) appreciates the opportunity to respond to the Louisiana Legislative Auditor's reportable audit finding regarding the LDOI dated July 13, 2009. The LDOI concurs in the finding that the DOI should not make payments to insurers before the cooperative endeavor agreements governing the expenditure of those funds are signed. The LDOI acknowledges that the LDOI was not in compliance with the language of the cooperative endeavor agreement which stated, "Payments shall be made to the Contracting Party as soon as practical after the signing of the Cooperative Endeavor Agreement by the Commissioner and the Contracting Party."

The LDOI seeks clarification that this mandatory language of the Cooperative Endeavor Agreement (CEA) was written into the contract template *after* the first round of awards had already been made and *in anticipation of future* awards. Language of the CEA as signed by the grant recipients clearly states: "This Cooperative Agreement became effective on January 11, 2008"; therefore, the grantees fully acknowledged that the terms and conditions of the CEA applied to the funds presented on January 11, 2008.

Given that the Insure Louisiana Incentive Program has ended with regard to the awarding of grants and that all grant recipients will be held accountable for all requirements of the program from January 11, 2008 forward, no corrective action is necessary. However, the LDOI will incorporate this guidance in any future opportunities to award grants through a cooperative endeavor process.

With best wishes and kindest personal regards, I remain

Very truly yours,

James J. Donelon

James J. Donelon
Commissioner of Insurance

JJD:dtd

JJDJUL2009.2660

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