

HOUSE BILL 1, SECTION 18.B.(1) COMPLIANCE
STATE OF LOUISIANA



INFORMATIONAL REPORT
ISSUED JULY 13, 2011

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

July 13, 2011

The Honorable Joel T. Chaisson, II,
President of the Senate
The Honorable Jim Tucker,
Speaker of the House of Representatives

Dear Senator Chaisson and Representative Tucker:

This report provides the results of our informational report on compliance with House Bill 1, Section 18.B.(1) of the 2010 Regular Legislative Session. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of the various departments and agencies for their assistance.

Sincerely,

A handwritten signature in blue ink that reads "Daryl G. Purpera". The signature is written in a cursive style.

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/dl

HB1 2011

Office of Legislative Auditor

Daryl G. Purpera, CPA, CFE, Legislative Auditor



House Bill 1, Section 18.B.(1) Compliance

July 13, 2011

Audit Control # 80110114

Executive Summary

Based on additional responsibilities assigned to the Louisiana Legislative Auditor (LLA) in House Bill 1 (HB1), Section 18.B.(1) of the 2010 Regular Legislative Session, we performed compliance procedures at various state agencies and determined the following:

- A preliminary analysis of 14 state entities and four university systems in early September 2010 revealed that only three state entities had policies and procedures designed to specifically address Section 18.B.(1) provisions, as applicable. The results of our preliminary analysis were reported to the Legislative Audit Advisory Council on September 16, 2010. During follow-up with those agencies that initially responded “no,” we found that those agencies either have policies and procedures in place to ensure substantial compliance with the provisions of Section 18.B.(1) of HB1 or represented that they did not have any transfers of appropriated funds.
- Based on our analysis, we concluded the provisions of Section 18.B.(1) of HB1 are substantially included in existing major federal program requirements for transfers of federal funds.
- Based on our analysis, we concluded the provisions of Section 18.B.(1) of HB1 are substantially included in existing policies, procedures, and contractual provisions for transfers of state funds.
- On-going analyses of 54 other state entities during regularly scheduled audits revealed that nine state entities had policies and procedures that substantially comply with Section 18.B.(1) provisions. The remaining 45 state entities represented that they did not transfer funds to public or quasi-public entities that are not budget units of the state.
- Only four transferring agencies submitted the required Section 18.B.(1) report to the LLA by the due date of May 1, 2011. An additional four reports were received between May 1, 2011, and June 30, 2011.

This report is a public report and has been distributed to state officials.

Background

During the 2010 Regular Legislative Session, the Legislature added new language to the General Appropriations Act, House Bill 1 (HB1), that placed additional responsibilities on the Louisiana Legislative Auditor's Office (LLA). Section 18.B.(1) of HB1 includes a requirement that the Legislative Auditor's Office approve the budgets of those entities that are not budget units of the state but receive appropriations through HB1:

No funds appropriated in this Act shall be transferred to a public or quasi-public agency or entity which is not a budget unit of the state unless the intended recipient of those funds submits, for approval, a comprehensive budget to the legislative auditor and the transferring agency showing all anticipated uses of the appropriation, an estimate of the duration of the project, and a plan showing specific goals and objectives for the use of such funds, including measures of performance. In addition, and prior to making such expenditure, the transferring agency shall require each recipient to agree in writing to provide written reports to the transferring agency at least every six months concerning the use of the funds and the specific goals and objectives for the use of the funds. In the event the transferring agency determines that the recipient failed to use the funds set forth in its budget within the estimated duration of the project or failed to reasonably achieve its specific goals and objectives for the use of the funds, the transferring agency shall demand that any unexpended funds be returned to the state treasury unless approval to retain the funds is obtained from the division of administration and the Joint Legislative Committee on the Budget.

In addition, Section 18.B.(1) imposes a new reporting requirement for transferring agencies:

The transferring agency shall forward to the legislative auditor, the division of administration, and the Joint Legislative Committee on the Budget a report showing specific data regarding compliance with this Section and collection of any unexpended funds. This report shall be submitted no later than May 1, 2011.

On July 30, 2010, the LLA sent letters to state entities, including colleges/universities, notifying them of the requirements in Section 18.B.(1). LLA interpreted these provisions as applying to all transfers of appropriated funds (including federal funds) to all public or quasi-public entities and those that are not a budget unit of the state, including nonprofits. This would include all transfers and payments made in a subrecipient relationship, but not those made in a vendor relationship.

Because the LLA did not want to impede the ability of agencies to provide funding for necessary services, each individual budget was not approved by LLA. To fulfill the "for approval" legal requirement, the LLA relied on each agency to ensure that the comprehensive budgets were submitted to the appropriate agency officials by the intended recipients and that the appropriate approvals were given by the agency officials. Each agency was required to have adequate internal control procedures to comply with the requirements of Section 18.B.(1) of HB1, including procedures for the collection, review, and approval of budgets and performance criteria

from recipients. Further, as part of the periodic audits of state agencies, the LLA reviewed agency controls and a sample of budgets approved by the transferring agencies to ensure that agency policies, procedures, and practices were adequate and were followed.

Preliminary Analysis of Policies and Procedures

LLA performed a **preliminary analysis** of 14 state entities and four university systems in early September 2010 by interviewing agency personnel and reviewing written policies, procedures, and practices of the transferring agencies. Based on the results of our review, only three agencies had policies and procedures to specifically address the requirements of Section 18.B.(1) of HB1. Eight entities represented that the provisions of Section 18.B.(1) of HB1 were not applicable to them because they do not transfer funds to public or quasi-public entities that are not budget units of the state. Seven entities represented that they did not have policies and procedures to specifically address the requirements of Section 18.B.(1) of HB1 at that time.

State Entity	Entity has policies/ procedures to specifically address all requirements of HB1, Section 18.B.(1)?		
	Yes	No	N/A
		*	
Department of Agriculture and Forestry			X
Department of Children and Family Services		X	
Department of Education		X	
Department of Health and Hospitals		X	
Department of Military Affairs			X
Department of Natural Resources	X		
Department of Revenue			X
Department of Transportation and Development		X	
Division of Administration	X		
Louisiana Community and Technical College System		X	
Louisiana Stadium and Exposition District			X
Louisiana State University - System		X	
Louisiana Workforce Commission		X	
Office of Student Financial Assistance			X
Recovery School District			X
Southern University			X
State Treasurer's Office	X		
University of Louisiana System			X

* The results of our preliminary analysis were reported to the Legislative Audit Advisory Council on September 16, 2010. During follow-up with those agencies that initially responded "No" above, we found that those agencies either have policies and procedures in place to ensure substantial compliance with the provisions of Section 18.B.(1) of HB1 or represented that they did not have any transfers of appropriated funds.

Analysis of Federal Programs

During our preliminary analysis, several entities expressed their opinions that the provisions of Section 18.B.(1) were already encompassed in the subrecipient monitoring rules and regulations governing major federal programs. The federal Office of Management and Budget Circular A-133, Subpart D, section 400(d), paragraph (3) requires the pass-through entity (HB1 transferring agency) to monitor the activities of subrecipients (HB1 recipient) “as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.” Paragraph (7) further requires “each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.”

The wording of this section of the federal Circular encompasses the intent of HB1 requirements for a comprehensive budget, estimate of project duration, specific goals and objectives, measures of performance, and access to records by both the auditors and transferring agency. State matching funds are subject to the same Circular requirements. Although the Circular does not impose a specific requirement for written reports every six months, major federal programs administered by the state are generally on a cost reimbursement basis and subrecipients must provide supporting documentation that satisfies federal requirements before receiving reimbursement. Also, many of the programs contain reporting requirements that are more frequent than every six months.

LLA performed a limited analysis of federal programs at the following eight large transferring agencies:

- Department of Children and Family Services
- Department of Education
- Department of Transportation and Development
- Louisiana Workforce Commission
- Governor’s Office of Homeland Security and Emergency Preparedness
- Department of Health and Hospitals
- Office of Public Health
- Division of Administration

Based on our analysis, we concluded that the provisions of Section 18.B.(1) of HB1 are substantially encompassed in existing major federal program requirements. These federal programs are audited by the LLA as part of the annual Single Audit for the State of Louisiana, and the fiscal year 2010 report is available on the LLA Web site at www.lla.la.gov under the “Reports and Data” link.

Analysis of State Funds

LLA performed a review of contracts relating to transfers of state funds at the following agencies:

- State Treasurer’s Office
- Louisiana State University
- Executive Department
- Department of Natural Resources
- Department of Education

Based on our analysis, we concluded that the provisions of Section 18.B.(1) of HB1 are substantially encompassed in existing policies, procedures, and contractual provisions at each agency.

On-Going Analysis of Policies and Procedures

Following our initial presentation to the Legislative Audit Advisory Council on September 16, 2010, the LLA continued to interview agency personnel and review policies and procedures during our audits to determine whether agencies “substantially comply” with the provisions of Section 18.B.(1) of HB1. The results of our reviews are as follows:

State Entity	Entity has policies/ procedures that substantially comply with HB1, Sec 18.B.(1).		
	Yes	No	N/A
Nicholls State University			X
Grambling State University			X
McNeese State University			X
Southeastern Louisiana University			X
University of Louisiana - Monroe			X
University of Louisiana - Lafayette			X
Louisiana State University - Shreveport			X
University of New Orleans	X		
Baton Rouge Community College			X
Elaine P. Nunez Community College			X
Delgado Community College			X
Bossier Parish Community College			X
Louisiana Delta Community College	X		
River Parishes Community College			X
Sowela Regional Technical and Community College			X

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State Entity	Entity has policies/ procedures that substantially comply with HB1, Sec 18.B.(1).		
	Yes	No	N/A
South Central Louisiana Technical College			X
Central Louisiana Technical College			X
Northwest Louisiana Technical College	X		
Acadiana Technical College			X
Capital Area Technical College			X
Board of Regents			X
Board of Elementary and Secondary Education			X
Louisiana School for Math, Science, and the Arts			X
Louisiana Special Education Center			X
Louisiana School for the Deaf and Visually Impaired			X
LSU Healthcare Services Division			X
LSU Health Sciences Center - New Orleans	X		
LSU Health Sciences Center - Shreveport			X
Medical Center of Louisiana at New Orleans	X		
Southeast Louisiana State Hospital			X
W.O. Moss Hospital			X
Earl K. Long Medical Center			X
Supreme Court			X
1 st Circuit Court of Appeal			X
2 nd Circuit Court of Appeal			X
3 rd Circuit Court of Appeal			X
4 th Circuit Court of Appeal			X
5 th Circuit Court of Appeal			X
Office of Group Benefits			X
Office of Risk Management			X
Office of Telecommunications Management			X
Office of Elderly Affairs	X		
Office of Corrections Services			X
Office of Juvenile Justice	X		
Department of Environmental Quality	X		
Department of Insurance			X
Department of Public Safety	X		
Crescent City Connection Division			X
North Lake Supports and Services Center			X
New Orleans Center for Creative Arts			X
John Hainkel Home and Rehabilitation Center			X
Department of Civil Service			X
Municipal Fire and Police Civil Service			X
Board of Tax Appeals			X

Those agencies that are listed as “N/A” above have represented that they do not transfer funds to public or quasi-public entities that are not budget units of the state.

Our review was for the limited purpose of evaluating controls and was not expanded to include testing of individual agreements for compliance with HB1. Although policies and procedures were not always formalized into a written policy, we found that all entities examined either have policies and procedures in place to ensure substantial compliance with the provisions of Section 18.B.(1) of HB1 or represented that they did not have transfers of appropriated funds.

Reporting Requirements

Although HB1 requires each transferring agency to submit “a report showing specific data regarding compliance with this Section and collection of any unexpended funds,” LLA received only four reports by the required May 1, 2011, submission date (State Treasurer’s Office, Louisiana State University, Department of Education, and Board of Elementary and Secondary Education). An additional four reports were received between May 1, 2011, and June 30, 2011, (Department of Environmental Quality, Division of Administration - Office of Finance and Support Services, Louisiana State Racing Commission, and Louisiana Public Defender Board).

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