

DEPARTMENT OF ECONOMIC DEVELOPMENT -  
DISCRETIONARY INCENTIVE PROGRAMS



PERFORMANCE AUDIT  
ISSUED FEBRUARY 23, 2011

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LOUISIANA LEGISLATIVE AUDITOR  
DARYL G. PURPERA, CPA, CFE

February 23, 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 performance audit of three discretionary incentive programs of the Louisiana Department of Economic Development (LED). We also examined whether LED has resolved findings and implemented recommendations contained in five prior performance audit reports.

The report contains our findings, conclusions, and recommendations. Appendix A contains LED's response to this report. 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 LED for their assistance during this audit.

Sincerely,

A handwritten signature in blue ink that reads "Daryl G. Purpera".

Daryl G. Purpera, CPA, CFE  
Legislative Auditor

DGP/dl

DED 2011

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# Office of Legislative Auditor

Daryl G. Purpera, CPA, CFE, Legislative Auditor



## Department of Economic Development - Discretionary Incentive Programs

February 2011

Audit Control # 40100007

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### Objectives and Overall Results

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This report provides the results of our performance audit of three discretionary incentive programs of the Louisiana Department of Economic Development (LED):

- Economic Development Award Program (EDAP)/Economic Development Loan Program (EDLOP)
- Mega-Project Development Fund (Mega Fund)
- Rapid Response Fund (RRF)

The objectives and overall results of our audit are summarized below.

**Objective 1:** Did LED follow law, regulations, and policies and procedures to evaluate economic development proposals before awarding money/incentives?

**Results:** Based on the information provided to us, LED met statutory, the Louisiana Administrative Code (LAC), and its own policy and procedural requirements for evaluating economic development proposals for EDAP/EDLOP, Mega Fund, and RRF programs before awarding incentives. However, we did not have unfettered access to LED's documents and records for these programs as required by state law. This negatively impacted the effectiveness and efficiency of our work.

**Objective 2:** Did LED adequately monitor award recipients?

**Results:** LED adequately monitored 36 (84%) of 43 projects and did not confirm contract deliverables using progress and employment reports for seven (16%) of 43 projects.

**Objective 3:** Do LED's evaluation processes align with economic development best practices?

**Results:** LED's practices aligned with the best practices criteria we collected. Of the 13 criteria we identified for evaluating economic development proposals, LED met 12 of them.

**Objective 4:** Has LED resolved issues presented in findings and implemented LLA recommendations issued since 2003?

**Results:** There were 24 findings and 32 recommendations contained in five prior performance audit reports. Exhibit 1 summarizes LED’s resolution of findings and implementation of recommendations. LED fully and partially addressed approximately 92% of our findings and 91% of our recommendations.

Exhibit 1 Performance Audit Division Reports Status of Findings and Recommendations		
	Findings	Recommendations
Fully Resolved/ Implemented	18 (75%)	23 (71.9%)
Partially Resolved/ Implemented	4 (16.7%)	6 (18.8%)
Not Resolved/ Implemented	2 (8.3%)	3 (9.4%)
<b>Total</b>	<b>24 (100%)</b>	<b>32 (100%)</b>
<p><b>Note:</b> Five findings and six recommendations were no longer applicable or we could not determine if they had been resolved without doing additional work, so there were a total of 29 findings and 38 recommendations in the five prior reports.</p> <p><b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.</p>		

**Audit Initiation, Scope, and Methodology**

We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. The legislative auditor scheduled a performance audit of LED, in accordance with state law.

In April 2010, our office issued a performance audit that reviewed whether LED evaluated the effectiveness of incentive programs. This current audit focused on whether LED awarded incentives in accordance with all relevant requirements. Specifically, our focus was to determine whether LED followed state statutes, the Louisiana Administrative Code (LAC), and LED’s policies and procedures in evaluating economic development proposals for EDAP/ EDLOP, the Mega Fund, and RRF before awarding incentives. We reviewed LED’s practices for monitoring projects that receive incentives. We also focused on whether LED’s evaluation processes align with economic development “best practices.” Our audit covered the time period from fiscal year 2008 to August 2010. In addition, we examined whether LED had resolved findings and implemented recommendations contained in five prior performance audit reports. These reports date back to 2004 (see page 11).

We conducted this performance audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our

audit objectives. To answer the objectives, we reviewed internal controls relevant to the audit objectives and conducted the following procedures:

- Conducted background research and a risk assessment, including reviewing laws, budgetary and other information related to LED
- Developed data collection instruments using statutes, regulations, LED policies and procedures as criteria to evaluate LED processes
- Interviewed LED officials regarding their approval processes for the Mega Fund, RRF, EDAP/EDLOP and other programs and reviewed files and documents to observe how the approval processes are conducted
- Reviewed files and documents to review and evaluate how LED monitors projects that receive incentives
- Listened to Joint Legislative Committee on the Budget (JLCB) hearings to observe the information provided by LED officials, the information requested by committee members, and the decision-making process regarding Mega Fund and RRF
- Reviewed minutes of meetings of the Louisiana Economic Development Corporation (LEDC) to observe the information provided by LED officials, the information requested by LEDC members, and their decision-making process regarding EDAP/EDLOP projects
- Gathered criteria on best practices for evaluating economic development projects from the National Conference of State Legislators (NCSL) (a report titled *Taking the Measure of State Economic Development*) and the National State Auditors Association (NSAA) (a report titled *Best Practices in Carrying Out State Economic Development Efforts*)
- Identified all findings and recommendations from five previous reports and met with LED officials to obtain documentation as to whether findings were resolved and recommendations were implemented

Appendix A contains LED's full response to this report.

## Overview of LED

LED, through its offices and officers, is responsible for fostering the growth of industry and other commercial enterprises in Louisiana that contribute to the improvement of the economy of the state, according to Louisiana Revised Statute (R.S.) 36:101 *et seq.* LED is comprised of two offices. The appropriations and staffing for these offices for fiscal year 2011 are summarized in Exhibit 2.

<b>Exhibit 2 LED Expenditures and Staffing Fiscal Year 2011</b>		
<b>Office/Program</b>	<b>Appropriations</b>	<b>Staffing</b>
<b>Office of the Secretary</b>	\$13,375,462	42
<b>Office of Business Development:</b>		
Business Development Program	49,394,581	71
Business Incentive Program	3,298,730	15
Subtotal: Office of Business Development	52,693,311	86
<b>Total</b>	<b>\$66,068,773</b>	<b>128</b>
<b>Source:</b> Prepared by legislative auditor's staff using Act 11 of the 2010 Regular Legislative Session.		

**Business Incentive Programs Administered by LED.** LED's incentive programs typically fall into two categories: discretionary and non-discretionary. A non-discretionary incentive is one that a business receives as long as it meets statutorily imposed criteria. A discretionary incentive is awarded with some exercise of judgment by LED. For these incentives, LED typically obtains information about the project, performs pre-contract return on investment (ROI) analyses and uses its discretion to determine whether to award money and how much to award. Our audit focused on three discretionary incentive programs:

- Mega Project Development Fund (Mega Fund)
- Rapid Response Fund (RRF)
- Economic Development Award Program (EDAP)/Economic Development Loan Program (EDLOP)

The Mega Fund is a special fund created to fund large scale economic development projects to secure the creation or retention of jobs. The RRF is also a special fund created within the state treasury for the immediate funding of economic development projects that may be necessary to secure the creation or retention of jobs. Funding requires the approval of the governor and the secretary of LED.

EDAP's purpose is to finance publicly owned infrastructure for business development projects that require state assistance. EDLOP is a program that provides loans for site and/or infrastructure improvements for projects. EDLOP's purpose is to assist in financing privately owned property and improvements, which will promote economic development.

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**Objective 1: Did LED follow law, regulations, and policies and procedures to evaluate economic development proposals before awarding money/incentives?**

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Based on the information provided to us, LED met statutory, the LAC, and its own policy and procedural requirements for evaluating economic development proposals for EDAP/EDLOP, Mega Fund, and RRF programs before awarding incentives. However, we did not have unfettered access to LED's documents and records for these programs as required by state law. This negatively impacted the effectiveness and efficiency of our work. These issues are summarized below.

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**Restricted access to information affected the overall effectiveness and efficiency of our audit work**

R.S. 24:513(I) states that the legislative auditor's authority to audit extends to all documents, records, and files, whether confidential or otherwise. However, throughout the audit, LED resisted fulfilling some of our document requests and never gave us complete, unfettered access to all documentation. For example, LED reviewed files for all three programs before allowing us to see them. For RRF and Mega Fund files, LED would not provide some of its internal analyses used in decision-making processes concerning whether to offer awards to specific businesses. We held two meetings with the LED secretary and sent two letters from the legislative auditor requesting that we have unfettered access to records. However, LED cited workload issues and legal concerns in not wanting to provide us with documents.

While LED never gave us unfettered access to its records, LED eventually provided us with specific documents in response to our specific questions on each objective. However, this practice of not providing all documents upon request limited the effectiveness of our audit. For example, problems with programs may exist at LED that we were not able to identify because of lack of access to information in files. Also, we cannot know to what extent documentation furnished us may have been compromised or is incomplete. In addition, these access problems also affected the efficiency of our work as the audit took longer than planned. A summary of the overall results of our work for each program is described in the next section.

**Recommendation 1:** According to state law (R.S. 24:513), LED should furnish all documents and files requested by the legislative auditor. LED officials should work to ensure that LED provides requested information in a timely manner when requested by the legislative auditor.

**Summary of Management's Response:** LED stated that the auditor was provided all pertinent LED documents and that LED worked to ensure that the files were available timely.

**LED followed law, regulations, policies and procedures to evaluate proposals before awarding incentives**

Based on the documentation furnished to us, we determined that LED met statutory, the LAC, and its own policy and procedural requirements for evaluating economic development proposals for EDAP/EDLOP, Mega Fund, and RRF before awarding incentives. Results from each program are summarized below.

**EDAP/EDLOP.** We audited 19 EDAP/ EDLOP files from fiscal year 2008 to fiscal year 2010 and found one incidence of noncompliance. Exhibit 3 contains a summary of the criteria we used and whether LED met the criteria.

<b>Exhibit 3 EDAP/EDLOP Programs Criteria and Results</b>	
Criteria	Did LED Meet Criteria?
<b>Does the application include</b>	
Evidence of how many jobs will be created or retained?	Yes
Information about the capital investment for the project?	Yes
A business plan with a company history and overview?	Yes
Financial statements?	Yes
A detailed description of the project?	Yes
Pro-forma financial statements for 3 years into the future?	Yes (18 of 19)
<b>LED is required to</b>	
Verify EDAP awards are for appropriate projects, and the project will benefit a public entity or a political subdivision of the state.	Yes
Verify that the company is solvent, has not filed for bankruptcy, and does not owe any back taxes.	Yes
Perform an economic cost-benefit analysis.	Yes
Consider the unemployment rate for parish where project located.	Yes
<b>LED must execute a contract with the award recipient that</b>	
Includes the terms and conditions of the award.	Yes
Includes performance objectives and requirements that the recipient must meet.	Yes
Includes “clawback” provisions in the event that the recipient does not meet its obligations to the state.	Yes
<b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.	

As this chart shows, 18 of the 19 files met all criteria; one of the 19 met all but one criteria. This file was missing pro-forma financial statements. LED’s internal checklist for EDAP contracts requires that pro-forma financial statements be obtained from an applicant.

**Mega Fund.** State law (R.S. 51:2365) establishes the requirements for a company to be eligible to receive incentives from the Mega Fund. LED has also established its own policies and procedures for evaluating projects before incentives are awarded. Because of the sensitive nature of LED’s process for evaluating projects, we agreed not to publish these policies.

We audited all six Mega Fund projects funded since 2007 (the year Mega Fund was created) and determined that all were eligible for incentives, pursuant to R.S. 51:2365. In addition, LED followed its policies and procedures for evaluating the quality of potential projects and conducting economic impact analyses. LED also executed a contract with each company detailing its obligations to the state and obtained the approval of the governor and the JLCB, as required by law.

**RRF.** We audited 18 RRF projects from fiscal year 2008 to fiscal year 2010 and compared these files to RRF program requirements in statute and guidelines in the LAC. LAC 13:V.201 describes two methods by which Rapid Response funding can be awarded. The governor and LED can invite companies to submit an application, or the governor and LED can award incentives without application “under such circumstances they, in their discretion, determine to be appropriate.” We used the guidelines for the application process described in the LAC as the basis for our evaluation. Exhibit 4 shows these guidelines outlined in the LAC for the RRF and whether LED met these.

<b>Exhibit 4 Rapid Response Fund Program Guidelines and Results</b>	
<b>Guidelines</b>	<b>Did LED Meet Guidelines?</b>
<b>LED should</b>	
Verify that the applicant is an eligible business.	Yes
Verify that the company is solvent, has not filed for bankruptcy, and does not owe any back taxes.	Yes
Perform an economic cost-benefit analysis.	Yes (17 of 18)
Obtain the approval of the governor.	Yes
<b>LED must execute a contract with the award recipient that</b>	
Includes the terms and conditions of the award.	Yes
Includes performance objectives and requirements that the recipient must meet.	Yes
Includes “clawback” provisions in the event that the recipient does not meet its obligations to the state.	Yes
<b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.	

Of the 18 files we reviewed, LED ensured that 17 projects met all of these guidelines. However, one file did not have an economic cost-benefit analysis. Without this analysis, LED could not be certain that economic benefits from the project were expected to exceed the cost to the state. LED presently conducts cost-benefit analyses for RRF projects, but this project with the exception was approved under a prior administration.

**Objective 2: Did LED adequately monitor award recipients?**

Overall, LED monitored award recipients to ensure they were meeting their contractual obligations to the state. LED adequately monitored 36 (84%) of 43 projects and did not meet all monitoring requirements for seven (16%) of 43 projects. Exhibit 5 summarizes the findings relating to LED’s monitoring process.

<b>Exhibit 5 Analysis of LED Monitoring Activities</b>		
<b>Incentive Award</b>	<b>Monitoring Requirements</b>	<b>Results</b>
EDAP/EDLOP	LAC 13:III.115.E (EDAP) and III.145.E. (EDLOP) require that companies submit progress reports describing the progress toward performance objectives in the award agreement (including progress toward job creation and/or retention).	<ul style="list-style-type: none"> <li>• Two of 19 projects did not have progress reports.</li> <li>• One of 19 did not have progress and payroll reports.</li> <li>• One project had not met job creation requirements and monitor was unaware of this.</li> </ul>
RRF	Contracts require creation and/or retention of a certain number of jobs over a certain period of time.	<ul style="list-style-type: none"> <li>• Three of 18 projects did not have progress reports.</li> </ul>
Mega Fund	Contracts require creation and/or retention of a certain number of jobs over a certain period of time.	<ul style="list-style-type: none"> <li>• All six Mega Fund projects were properly monitored.</li> </ul>

**Source:** Prepared by legislative auditor’s staff using the LAC and information provided by LED.

These results indicate that LED did not always have processes in place to ensure that 16% of the projects we reviewed were properly monitored or did not follow its processes. Without proper and consistent monitoring, LED may not know when to act upon clawback provisions in its contracts to recover state funds. Clawbacks are provisions in the contract that require the company to pay back some or all of the incentive money awarded if the company does not meet its contractual obligations. Clawbacks are designed to safeguard the state’s investment in the project by ensuring only projects that provide economic benefits are funded. In addition, some incentives are funded over a period of years, and the award recipient must meet contractual obligations throughout the term of the agreement to continue receiving incentive funding.

According to an LED official, LED created a Director of Contract Performance position in December 2009. This director is responsible for managing the semiannual reporting of Mega Fund and Rapid Response contracts so that both LED and the public understand how the projects are performing. In addition, the director manages coordination with all contract monitors to ensure all projects are being monitored, and contractually agreed-upon reports and documentation are received and placed in the file as required.

**Recommendation 2:** LED should ensure all projects are monitored as required by program rules established by statute, the LAC, LED's policies and procedures, and contracts.

**Summary of Management's Response:** LED agrees with this recommendation and stated that they have placed a greater emphasis on performance monitoring and reporting with the creation of a Director of Contract Performance.

**Objective 3: Do LED's evaluation processes align with economic development best practices?**

LED is using 12 of 13 best practices criteria related to evaluating economic development proposals. To determine how LED's decision-making processes compare to other states, we researched national best practices. We found best practices from a National Conference of State Legislatures (NCSL) report (which was a survey of states) and a National State Auditors Association (NSAA) report. Using this research, we compiled a list of 13 best practices criteria to compare with LED's practices (see Appendix B). Although LED's practices are mostly aligned with these best practices, we identified the following practice that LED could consider implementing.

- **LED could ensure that it has a systematic, objective, and independent monitoring process to ensure companies receiving assistance complied with all requirements of the contract.** According to the NSAA report, states should develop and follow systematic, objective, and independent processes for determining whether a company receiving assistance complied with all requirements of the contract. However, as noted in Objective 2, LED did not monitor some of its projects as required.

**Objective 4: Has LED resolved issues presented in findings and implemented LLA recommendations issued since 2003?**

We reviewed five performance audit reports involving LED to determine if LED had resolved the findings and implemented recommendations contained in the reports issued beginning in 2004. Those five reports focused on the following programs or functions in LED:

- Motion Picture Tax Credits program
- Business Recovery Grant and Loan program
- Economic Development Award Program (EDAP)
- Economic Recovery Post Hurricanes Katrina and Rita
- Financial Assistance Programs

There were 24 findings and 32 recommendations contained in five performance audit reports. Exhibit 6 summarizes LED's resolution of findings and implementation of recommendations. LED fully and partially addressed approximately 92% of our findings and 91% of our recommendations.

<b>Exhibit 6</b>		
<b>Performance Audit Division Reports</b>		
<b>Status of Findings and Recommendations</b>		
	<b>Findings</b>	<b>Recommendations</b>
<b>Fully Resolved/Implemented</b>	<b>18 (75%)</b>	<b>23 (71.9%)</b>
<b>Partially Resolved/Implemented</b>	<b>4 (16.7%)</b>	<b>6 (18.8%)</b>
<b>Not Resolved/Implemented</b>	<b>2 (8.3%)</b>	<b>3 (9.4%)</b>
<b>Total</b>	<b>24 (100%)</b>	<b>32 (100%)</b>
<p><b>Note:</b> Five findings and six recommendations were no longer applicable or we could not determine if they had been resolved without doing additional work, so there were a total of 29 findings and 38 recommendations in the five prior reports.</p>		
<p><b>Source:</b> Prepared by legislative auditor's staff using information provided by LED.</p>		

Appendix C contains more information concerning these reports and discusses the extent to which LED resolved prior findings and implemented prior recommendations.

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**APPENDIX A: MANAGEMENT'S RESPONSE**



January 21, 2011

Mr. Daryl G. Purpera, CPA, CFE  
Legislative Auditor  
Louisiana Legislative Auditor  
1600 North Third Street  
Post Office Box 94397  
Baton Rouge, Louisiana 70804-9397

Dear Mr. Purpera:

We generally agree with the high-level findings presented in the performance audit of the Louisiana Department of Economic Development (LED) regarding three incentive programs, including the Economic Development Award (EDAP) and Loan (EDLOP) Programs, Mega-Project Development Fund (Mega Fund), and Rapid Response Fund.

The performance audit indicates that "LED met statutory, the LAC [Louisiana Administration Code], and its own policy and procedural requirements for evaluating economic development proposals" for the above programs prior to providing incentives. We agree with this assessment. LED works diligently to consistently manage incentive programs in a manner that aligns with statute, regulations, and its internal policies and procedures.

The performance audit also indicates that "overall...LED monitored [incentive] award recipients to ensure they were meeting their contractual obligations to the state." We agree with this assessment. LED has historically monitored company performance against incentive commitments. Additionally, over a year ago, we refocused an existing position to create a Director of Contract Performance to augment performance monitoring and reporting on projects involving the incentives covered in this audit.

Finally, the performance audit indicates that "LED's practices [for managing the above incentive programs] aligned with the best practices criteria we collected." We agree with this assessment. LED routinely evaluates its practices against practices of other states to identify potential opportunities for improvements and to help ensure that the department's incentive programs are effectively managed.

Responses to each of the performance audit's specific recommendations are included below:

**LLA Recommendation 1:** Per state law (R.S. 24:513), LED should furnish all documents and files requested by the Legislative Auditor. LED officials should work to ensure that LED provides requested information in a timely manner when requested by the legislative auditor.

**LED Response:** LED agrees that it should provide requested information, including documents and files, in a timely manner when requested by the legislative auditor in accordance with state

law, including R.S. 24:513, constitutional separation of powers, and lawful privileges, as recognized in *Kyle v. Louisiana Public Service Commission*, 2003-0584 (La. App. 1 Cir. 4/2/04), 878 So.2d 650 (“the commission’s counsel explained that the records could not be released until they could be reviewed to determine whether or not they contained privileged communications. This action taken by the commission’s counsel was reasonable, and probably required, in the performance of her duties. . . . “Our review of the cases leaves no doubt that the LPSC has the right to assert both the attorney-client and the deliberative process privileges to prevent access to its records.”).

LED acted per state law in providing requested information to the legislative auditor for this audit, and made it a priority to provide information to the legislative auditor as quickly as possible. Specifically, LED worked diligently to provide the legislative auditor with files on over 40 EDAP/EDLOP, Mega Fund, and Rapid Response projects identified as part of the audit. In total, LED estimates that it provided the legislative auditor more than 100 files associated the projects. It is worth noting that approvals for each of the incentive programs covered by this performance audit follow processes that provide a significant level of checks and balances, and oversight. For projects involving EDAP/EDLOP awards, the Louisiana Economic Development Corporation, an independent public body consisting of eleven board members representing a variety of constituencies across the state, reviews applications in public meetings prior to awards being made to companies. For projects involving the Mega Fund, the Joint Legislative Committee on the Budget (JLCB) reviews in a public meeting each Cooperative Endeavor Agreement (CEA), including the incentive amount and detailed company performance obligations, prior to awards being made to companies. For projects involving Rapid Response Funds, both Governor and LED Secretary approvals are required prior to projects receiving funding. Each year, the legislature reviews and approves funds for the Rapid Response Fund. Additionally, discretionary incentives associated with projects, including details concerning the dollar amount of the awards and the companies receiving the awards, are made public through LED press releases.

In summary, the legislative auditor had access to all pertinent LED documents and a detailed body of publicly available information for the projects included in its audit. LED worked to ensure that the files were made available to the audit team in a timely manner.

**LLA Recommendation 2:** LED should ensure that all projects are monitored as required by program rules established by statute, the LAC, LED’s policies and procedures, and contracts.

**LED Response:** LED agrees that it should ensure that all projects are monitored as required by program rules established by statute, the LAC, LED’s policies and procedures, and contracts. As noted in this performance audit, LED does monitor award recipients to ensure they are meeting their contractual obligations to the state. Additionally, as noted in this performance audit, LED began placing an increased emphasis on incentive contract performance monitoring and reporting in 2009. In 2009, The Public Affairs Research Council (PAR) issued a study analyzing the Mega Fund and the Rapid Response Fund. Specifically, PAR recommended expanding the information provided in the reports to the legislature to include economic impact and performance information that enables the public to compare what was promised to what was delivered for each project funded by the Mega Fund and the Rapid Response Fund. LED agreed with PAR’s recommendation to provide more comprehensive reports to the legislature and the public regarding the company and project performance information. In order to help

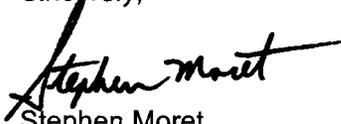
place a greater emphasis on accomplishing this and other performance monitoring/reporting goals, a Director of Contract Performance position was created in December 2009 from an existing LED position. The Director of Contract Performance is responsible for managing the semi-annual reporting of Mega and Rapid Response contracts so that both LED and the public understand how the projects are performing. The Mega and Rapid Response reports were initially posted on LED's website in August 2010. In addition, the Director of Contract Performance manages coordination with LED contract monitors to ensure all projects involving EDAP/EDLOP, Mega Fund, and Rapid Response Fund incentives are monitored, and that contractually agreed upon reports and documentation are received and placed in the file as required.

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In summary, we generally agree with the high-level findings presented in the performance audit of the Louisiana Department of Economic Development (LED) regarding three incentive programs, including EDAP/EDLOP, Mega Fund, and Rapid Response Fund. LED strives to follow the statute, regulations, policies and procedures for these programs; works diligently to monitor company performance against contractual commitments for these programs; and routinely assesses and aligns its practices against those of top performing states.

We thank you and your team for your professionalism in working with our department over the last 10 months on this performance audit.

Sincerely,



Stephen Moret  
Secretary

## APPENDIX B: Best Practices Criteria

Overview of Best Practices Criteria				
	Best Practices Criteria	EDAP	Mega Fund	RRF
<b>Planning Stage</b>				
1	Did LED develop clear and measurable goals and/or objectives for the program?	Yes	Yes	Yes
2	Did LED conduct either an economic impact or a cost-benefit analysis to determine the potential impact of an economic development project?	Yes	Yes	Yes
<b>Qualifying Criteria for an Applicant Seeking Assistance</b>				
3	Did LED review the financial strength and business record of an applicant?	Yes	Yes	Yes
4	Did LED review the applicant's business plan?	Yes	Yes	Yes
5	Did LED determine the potential for the proposed project and determine if it meets the identified needs of the surrounding community where it will be located?	Yes	Yes	Yes
<b>Prioritizing Economic Development Proposals</b>				
6	Did LED review the cost of the proposed project?	Yes	Yes	Yes
7	Did LED review the number of jobs that will be created, retained, or increased by the proposed project?	Yes	Yes	Yes
8	Did LED review the nature and amount of capital investment or contributions to the state economy or a local authority that will result from the proposed project?	Yes	Yes	Yes
9	Did LED determine if the project will receive assistance for funding from other sources other than assistance provided by LED?	Yes	Yes	Yes
10	Did LED review the specific time schedule for project completion?	Yes	Yes	Yes
<b>Finalizing Project Selection and Monitoring</b>				
11	Did LED ensure that LED, the applicant for funds, and any other involved parties signed the contract or cooperative endeavor agreement (CEA)?	Yes	Yes	Yes
12	Did LED ensure that the contract agreement include monitoring and clawback provisions?	Yes	Yes	Yes
13	Did LED develop and follow systematic, objective, and independent processes for determining whether a company receiving assistance complied with all requirements of the contract (Monitoring Tool)?	Partial	Yes	Partial
<b>Source:</b> Prepared by legislative auditor's staff using criteria obtained from the NCSL and NSAA and information provided by LED.				

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## APPENDIX C: Status of Findings and Recommendations

We reviewed five performance audit reports involving LED issued since 2003 to determine if LED had resolved the findings and implemented recommendations contained in the reports. This appendix contains more information concerning these reports and discusses the extent to which LED resolved prior findings and implemented prior recommendations.

### **Motion Picture Tax Credits Program (2007 report): LED resolved two of three findings and implemented six of seven recommendations.**

The primary purpose of the Motion Picture Tax Credits Program is to encourage development in Louisiana of a strong capital and infrastructure base for motion picture film, videotape and television program productions to achieve an independent industry. The focus of this audit was to determine the amount of tax credits granted by the Governor's Office of Film and Television Development (GOFTD), previously within the LED, and the amount of credits that had been used by taxpayers. The audit included the Department of Revenue (LDR) and also reviewed GOFTD's and LDR's oversight of the granting and usage of tax credits. Exhibit 1 summarizes LED's resolution of the findings and implementation of recommendations.

<b>Exhibit 1</b>		
<b>Motion Picture Tax Credit Program Report (2007)</b>		
<b>Status of 3 Findings and 7 Recommendations</b>		
	<b>Findings</b>	<b>Recommendations</b>
<b>Fully Resolved/Implemented</b>	<b>2 (66.7%)</b>	<b>6 (85.7%)</b>
<b>Partially Resolved/Implemented</b>	<b>1 (33.3%)</b>	<b>1 (14.3%)</b>
<b>Total</b>	<b>3 (100%)</b>	<b>7 (100%)</b>
<b>Source:</b> Prepared by legislative auditor's staff using information provided by LED.		

**LED fully addressed two of the three findings and implemented six of the seven recommendations.** The only finding and recommendation LED partially addressed involved obtaining and verifying the correct base investment amounts from expenditure reports for all movie productions certified since July 1, 2002. The base investment is the actual investment made and expended in Louisiana by a state-certified production as production-related costs.

LED did implement base investment verification procedures beginning in January 2006, as required by Act 456 of the 2005 Regular Session. However, LED did not apply these procedures retroactively for productions certified since July 1, 2002. As a result, LED could not determine if the correct amount of tax credits were given for productions certified from July 1, 2002 through 2005.

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**Business Recovery Grant and Loan Program-First Round Grant Awards (2007 report): LED resolved all four findings and implemented five of six recommendations.**

The Business Recovery Grant and Loan Program (BRGLP) was one of several disaster recovery economic development programs funded through Supplemental Community Development Block Grant (CDBG) funds. The purpose of the program was to assist small business owners affected by hurricanes Katrina and Rita. The audit focused on whether LED had established sufficient guidelines and controls over the program and whether grant recipients who received disbursements were eligible to receive a grant. Exhibit 2 summarizes LED's resolution of the findings and implementation of recommendations.

<b>Exhibit 2</b>		
<b>Business Recovery Grant and Loan Program Report (2007)</b>		
<b>Status of 4 Findings and 6 Recommendations</b>		
	<b>Findings</b>	<b>Recommendations</b>
<b>Fully Resolved/Implemented</b>	<b>4 (100%)</b>	<b>5 (83.3%)</b>
<b>Partially Resolved/Partially Implemented and Cannot Determine</b>	<b>0 (0%)</b>	<b>1 (16.7%)</b>
<b>Total</b>	<b>4 (100%)</b>	<b>6 (100%)</b>
<b>Source:</b> Prepared by legislative auditor's staff using information provided by LED.		

**LED resolved all four findings and fully implemented five of six recommendations.** LED partially implemented one recommendation, and we could not determine if it implemented the rest of the recommendation. The report recommended that for future grant rounds, LED should adhere to the developed program guidelines and procedures, and if LED decided to revise any of the guidelines or procedures, the agency should follow a formal notification of change process to program administrators. LED did develop a process and form to apply a formal change to guidelines. However, we could not determine if LED adhered to policies, procedures, and the formal change process without performing additional audit work so we could not determine whether LED implemented this recommendation.

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**Economic Development Award Program (2004 report): LED resolved seven of eight findings and implemented six of eight recommendations.**

EDAP's purpose is to finance publicly owned infrastructure for business development projects that require state assistance. The focus of the EDAP audit was to determine if management controls for EDAP were adequate to ensure that LED's administration of the program was in accordance with state law and program rules. The audit also tested the reliability of performance data for EDAP for fiscal years 2002, 2003, and the first quarter of 2004. Exhibit 3 summarizes LED's resolution of the findings and implementation of recommendations.

<b>Exhibit 3</b>		
<b>Economic Development Award Program Report (2004)</b>		
<b>Status of 8 Findings and 8 Recommendations</b>		
	<b>Findings</b>	<b>Recommendations</b>
<b>Fully Resolved/Implemented</b>	<b>7 (85.7%)</b>	<b>6 (75 %)</b>
<b>Partially Resolved/Implemented</b>	<b>1 (14.3%)</b>	<b>2 (25 %)</b>
<b>Total</b>	<b>8 (100%)</b>	<b>8 (100%)</b>
<b>Source:</b> Prepared by legislative auditor's staff using information provided by LED.		

**LED resolved seven of the eight findings.** The finding partially resolved stated that LED officials reported program performance data largely based on company estimates contained in EDAP contracts. As a result, reported program data reflected only anticipated outcomes rather than a complete and accurate assessment of an EDAP project's true performance. Although LED continues to use numbers from contracts to compile values for certain performance indicators, LED uses the word "Anticipated" in reporting the values. Therefore, this finding has been partially resolved.

**LED partially implemented our recommendation to include the word "Estimated" or "Anticipated" for some of its performance indicators.** LED does use the word "Anticipated" for certain performance indicators in LaPAS, but does not use "Anticipated" for performance indicators contained in its Annual Report. Also, LED has not implemented the other two parts of this recommendation, which were:

- Include a note that indicates that values of certain performance indicators are based on contractual obligations to be fulfilled at later dates.
- As an alternative, implement a system to require periodic reporting by EDAP recipients of certain data, such as *New Jobs* and/or *New Payroll*, and use this reporting to compile more reliable data.

**LED partially implemented a second recommendation.** The 2004 EDAP audit recommended that the Louisiana Economic Development Corporation (LEDC) board (which approves EDAP/EDLOP projects) require an EDAP administrator to submit a statement that an EDAP project application meets all program requirements. This statement would ensure that LED received all required documentation before LEDC approves an application. We determined that LED partially addressed this recommendation by collecting required information for an EDAP project. However, there is no requirement that an EDAP administrator inform the LEDC board that all required documentation for a project has been received.

**Economic Recovery Post Hurricanes Katrina and Rita (2006 report): LED resolved all three findings and implemented all four recommendations.**

The audit reviewed the progress LED made toward economic recovery since the disasters for the period of August 29, 2005, through March 31, 2006. The audit focused on LED’s efforts because the agency had a critical role in helping to rebuild the state’s workforce and economy. The governor designated LED as the official agency to connect Louisiana businesses with the resources they needed to recover and to foster growth across all industries. Exhibit 4 summarizes LED’s resolution of the findings and implementation of recommendations.

<b>Exhibit 4 Economic Recovery Post Hurricanes Katrina and Rita (2006) Status of 3 Findings and 4 Recommendations</b>		
	<b>Findings</b>	<b>Recommendations</b>
<b>Fully Resolved/Implemented</b>	<b>3 (100%)</b>	<b>4 (100 %)</b>
<b>Not Resolved/Implemented</b>	<b>0 (0%)</b>	<b>0 (0 %)</b>
<b>Total</b>	<b>3 (100%)</b>	<b>4 (100%)</b>
<b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.		

**Financial Assistance Programs (2004 report): LED resolved two of 11 findings and implemented two of 13 recommendations.**

Financial Assistance Programs (FAP) are incentive programs designed to encourage businesses to retain, expand, or start operations in Louisiana. The focus of the audit was to determine if management controls for FAP were adequate to ensure that LED’s administration of the program was in accordance with state law and program rules. The audit also tested the reliability of FAP performance data for fiscal years 2002, 2003, and the first two quarters of 2004. The 2004 audit reviewed four financial assistance programs administered by LED and LEDC:

- Small Business Loans
- Venture Capital Co-Investment
- Venture Capital Matching Grant
- Matching Grant

Exhibit 5 summarizes LED’s resolution of the findings and implementation of recommendations.

<b>Exhibit 5</b> <b>Financial Assistance Programs Report (2004)</b> <b>Status of 11 Findings and 13 Recommendations</b>		
	<b>Findings</b>	<b>Recommendations</b>
<b>Fully Resolved/Implemented</b>	<b>2 (18.2%)</b>	<b>2 (15.4%)</b>
<b>Partially Resolved/Implemented</b>	<b>2 (18.2%)</b>	<b>2 (15.4%)</b>
<b>Not Resolved/Implemented</b>	<b>2 (18.2%)</b>	<b>3 (23.1%)</b>
<b>Cannot Determine and/or Non-Applicable</b>	<b>5 (45.4%)</b>	<b>6 (46.1%)</b>
<b>Total</b>	<b>11 (100%)</b>	<b>13 (100%)</b>
<b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.		

**LED partially resolved two findings and partially implemented two recommendations.** Exhibit 6 provides a summary of the two findings LED partially resolved, and the two recommendations it partially implemented.

<b>Exhibit 6</b> <b>Venture Capital Match and Co-Investment Programs</b> <b>Findings Partially Resolved and Recommendations Partially Implemented</b>
<p><b>Finding:</b> According to each financial assistance program's rules, program participants must provide specific information periodically to LEDC throughout the life of the contract. In the 2004 report, for the Venture Capital Match and Co-Investment programs, we found LED had some deficiencies. As a result, LEDC may not be able to effectively monitor program compliance and progress, and accurately value investments.</p> <p><b>Recommendation:</b> LEDC should ensure that it receives all required documentation for the life of an approved project so that management can effectively monitor program compliance and progress and can accurately value investments.</p>
<p><b>Status of Finding and Recommendation:</b> We determined that LED only partially resolved this finding and partially implemented this recommendation. We reviewed 17 Venture Capital Match and Co-Investment program files. Overall, only 11 of the 17 (64.7%) files contained recent monitoring documents.</p>
<p><b>Finding:</b> If LEDC realizes a positive return on its investments, it will be creating an indirect benefit to the state. We found no evidence that investments in venture capital programs have indirectly benefited the state.</p> <p><b>Recommendation:</b> LEDC should maintain its current interest in the venture capital funds until the investments mature, in year six, and at that time evaluate whether or not it should hold or sell its interest in the venture capital funds.</p>
<p><b>Status of Finding and Recommendation:</b> We determined that LED partially resolved this finding and partially implemented this recommendation by maintaining investments in venture capital funds. LED management responded that they should stay in the venture capital funds until maturity, which is usually 10-12 years from the initial investment, not 6 years.</p>
<p><b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.</p>

**LED did not resolve two findings nor implement three recommendations.** Exhibit 7 provides a summary of two findings LED did not resolve, and three recommendations it did not implement.

<b>Exhibit 7</b> <b>Venture Capital Program and Performance Indicator</b> <b>Findings Not Resolved and Recommendations Not Implemented</b>
<p><b>Finding:</b> LEDC program rules for the Venture Capital program do not require jobs to be created or retained even though state law provides that financial assistance programs shall be used as a means of providing high levels of employment and income growth to the state.</p> <p><b>Recommendation:</b> LEDC should consider adopting program rules for the Venture Capital programs that mirror state law to ensure it provides high levels of employment and income growth to the state.</p> <p><b>Recommendation:</b> LEDC should require, as a condition of its investment, venture capital funds to invest their funds in Louisiana companies.</p>
<p><b>Status of Finding and Recommendations:</b> Neither this finding nor the two recommendations have been resolved or implemented. LED management disagreed with the second recommendation in 2004 and still disagrees with it.</p>
<p><b>Finding:</b> For a performance indicator in LaPAS, LED aggregates data for four programs within Financial Assistance.</p> <p><b>Recommendation:</b> LED should disaggregate its performance data by program to more clearly show the effectiveness and use of its various economic development programs.</p>
<p><b>Status of Finding and Recommendation:</b> LED has neither resolved this finding nor implemented the recommendation because LED management disagrees with them.</p>
<p><b>Source:</b> Prepared by legislative auditor’s staff using information provided by LED.</p>

**For five findings and six recommendations, we either could not determine if LED resolved the finding without performing additional audit work, or the finding/recommendation was no longer applicable.** These findings and recommendations concerned the small business loan program, venture capital investments, performance indicators, and the matching grant program (this program was abolished in 2007).