

# STATE OF CONNECTICUT



*AUDITORS' REPORT  
WORKERS' COMPENSATION COMMISSION  
FOR THE FISCAL YEARS ENDED JUNE 30, 2014 and 2015*

**AUDITORS OF PUBLIC ACCOUNTS**  
JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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# STATE OF CONNECTICUT



## AUDITORS OF PUBLIC ACCOUNTS

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July 7, 2016

### **AUDITORS' REPORT WORKERS' COMPENSATION COMMISSION FOR THE FISCAL YEARS ENDED JUNE 30, 2014 and 2015**

We have audited certain operations of the Workers' Compensation Commission (WCC) in fulfillment of our duties under Section 2-90 of the Connecticut General Statutes. The scope of our audit included, but was not necessarily limited to, the fiscal years ended June 30, 2014 and 2015. The objectives of our audit were to:

1. Evaluate the commission's internal controls over significant management and financial functions;
2. Evaluate the commission's compliance with policies and procedures internal to the department or those promulgated by other state agencies, as well as certain legal provisions; and
3. Evaluate the economy and efficiency of certain management practices and operations, including certain financial transactions.

Our methodology included reviewing written policies and procedures, financial records, minutes of meetings, and other pertinent documents; interviewing various personnel of the department, as well as certain external parties; and testing selected transactions. We obtained an understanding of internal controls that we deemed significant within the context of the audit objectives and assessed whether such controls have been properly designed and placed in operation. We tested certain of those controls to obtain evidence regarding the effectiveness of their design and operation. We also obtained an understanding of legal provisions that are significant within the context of the audit objectives, and we assessed the risk that illegal acts, including fraud, and violations of contracts, grant agreements, or other legal provisions could occur. Based on that risk assessment, we designed and performed procedures to provide reasonable assurance of detecting instances of noncompliance significant to those provisions.

We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides such a basis.

The accompanying *Résumé of Operations* is presented for informational purposes. This information was obtained from the commission's management and was not subjected to the procedures applied to our audit of the department.

For the areas audited, we identified (1) deficiencies in internal controls; (2) no apparent noncompliance with legal provisions; and (3) need for improvement in management practices and procedures that we deemed to be reportable. The State Auditors' Findings and Recommendations in the accompanying report presents any findings arising from our audit of the Workers' Compensation Commission.

## COMMENTS

### FOREWORD

The Workers' Compensation Commission operates generally under the provisions contained in Title 31, Chapter 568 of the General Statutes. The commission is responsible for administering the workers' compensation laws of the State of Connecticut with the ultimate goal of ensuring that workers injured on the job receive prompt payment of lost work time benefits and attendant medical expenses.

### Workers' Compensation Commissioners

Section 31-276 of the General Statutes establishes a Workers' Compensation Commission. The commission consists of sixteen workers' compensation commissioners, including one who serves as chairman. Commissioners are nominated by the Governor and appointed by the General Assembly for five-year terms. The Governor selects one of the sixteen commissioners to serve as chairman of the commission at the pleasure of the Governor. The workers' compensation commissioners, as of June 30, 2015, were as follows:

John A. Mastropietro, Chairman  
Scott A. Barton  
Randy L. Cohen  
Stephen B. Delaney  
Daniel E. Dilzer  
Christine L. Engel  
Jack R. Goldberg  
Jodi Murray Gregg

Peter C. Mlynarczyk  
Stephen Morelli  
Thomas J. Mullins  
Nancy E. Salerno  
Charles F. Senich  
David W. Schoolcraft  
Michelle D. Truglia  
Ernie R. Walker

John A. Mastropietro was appointed as chairman effective October 18, 1999, and continues to serve in that capacity. Amado J. Vargas also served as commissioner during the audited period.

### **Organization Structure**

The chairman of the commission has responsibility for administering the workers' compensation system and adopting the policies, rules and procedures necessary to implement workers' compensation law. An advisory board, established under the provisions of Section 31-280a, advises the chairman on matters concerning policy for, and operation of, the commission.

The chairman designates workers' compensation districts throughout the state and assigns compensation commissioners to those districts according to claim volume. Commissioners are responsible for holding hearings, mediating and arbitrating disputes and enforcing agreements and awards. Administrative functions of the districts are performed by professional staff assigned to those districts. There are eight districts in addition to the chairman's office.

The Compensation Review Board (CRB) within the commission is authorized by Section 31-280b of the General Statutes. The CRB is responsible for reviewing appeals of decisions made by commissioners. The CRB consists of the chairman of the commission, who serves as chief of the CRB, and two compensation commissioners selected by the chairman to serve a term of one year.

### **Programs and Services**

In addition to its quasi-judicial duties, the commission provides programs and services related to education, safety and health, statistics, licensing, and the investigation of fraud.

Education Services provides information about the workers' compensation system through a website, a toll-free telephone information service, publications, educational conferences and seminars.

Safety and Health Services assists employers with implementation of the workers' compensation regulations and establishing and administering safety and health committees at work sites.

The Statistical Division measures and monitors the commission's caseload and performance and researches insurance coverage and injury and claims data.

Licensing grants the right to operate an approved medical care plan (sometimes called a preferred provider organization or PPO) to qualified employers in the state to provide medical treatment for employee work-related injuries and illnesses, and also reviews and approves applications for self-insurance plans in which employers self-insure their workers' compensation liabilities, rather than through purchasing coverage from commercial insurance carriers.

The Fraud Unit, within the Office of the Chief State's Attorney, investigates complaints of all parties alleged to be engaging in any form of workers' compensation fraud. The cost of the unit is borne by the commission.

The Department of Labor, under its Occupational Health Clinics appropriation, provides grants to the commission to operate its Occupational Disease Surveillance System in accordance with Sections 31-396 to 31-403 of the General Statutes.

The Department of Rehabilitation Services provides a range of services to individuals with disabilities who need assistance in maintaining or achieving their full potential for self-direction, self-reliance and independent living. The Workers' Compensation Administration Fund provides funding to support services provided to injured workers.

## **RÉSUMÉ OF OPERATIONS**

### **Workers' Compensation Administration Fund**

The administrative expenses of the commission are financed by annual assessments made against companies writing workers' compensation insurance and self-insured employers in Connecticut. Section 31-344a of the General Statutes established the Workers' Compensation Administration Fund. The fund was established to separately account for the funding and costs of administering the Workers' Compensation Act.

The chairman annually determines a budget for the operating costs of the commission. The budget is finalized through the state's budgetary and legislative processes. Amounts in the fund can only be expended in accordance with appropriations approved by the General Assembly. The chairman, in consultation with the State Treasurer, determines the assessment rate needed to fund the commission's operating costs. Section 31-345 of the General Statutes directs the State Treasurer to assess and collect from insurers and employers amounts sufficient to meet such costs. The collections are deposited in the Workers' Compensation Administration Fund.

Excess funds remaining at the close of each fiscal year as the result of budget surpluses accrue to the fund. One-half of the prior year's expenses remain in the fund with the balance returned to insurers and employers via a reduced assessment in the following fiscal year.

### **Revenue and Receipts**

Receipts for the WCC fund totaled \$23,606,548 and \$23,778,363 for the fiscal years ended June 30, 2014 and 2015, respectively. The receipts included assessments of \$23,558,078 and \$23,709,314, respectively, and \$10,121 and \$24,858, respectively, collected by the commission. Assessments and collection of the assessments are the responsibilities of the State Treasurer and are subject to examination as part of our audit of the Office of the State Treasurer. Other receipts collected by the commission were primarily for photocopying fees and refunds of expenditures.

**Expenditures**

Expenditures for the WCC fund totaled \$17,861,459 and \$18,900,501 for the fiscal years ended June 30, 2014 and 2015, respectively. In addition, disbursements of \$3,263,710 and \$3,495,806 for the fiscal years ended June 30, 2014 and 2015, respectively, were made by the Department of Labor, the Division of Criminal Justice, and the Department of Rehabilitation Services from appropriations made directly to those state agencies. Expenditures made by the Workers' Compensation Commission for the two fiscal years examined and the prior fiscal year are summarized below:

<b>WCC Fund Expenditures by Account</b>	<b><u>Fiscal Year Ended June 30,</u></b>		
	<b><u>2013</u></b>	<b><u>2014</u></b>	<b><u>2015</u></b>
Personal Services & Employee Benefits	\$14,453,073	\$15,620,015	\$16,305,681
Premises and Property Expenses	1,390,940	1,392,518	1,664,913
Purchases & Contracted Services	306,461	343,174	282,226
Other Charges	716,918	225,103	244,904
Information Technology	182,307	205,449	137,237
Capital Outlays	12,141	27,766	125,609
OSC Adjusting Entries	-0-	(167,037)	65,038
Purchased Commodities	43,845	198,678	61,141
Motor Vehicle Costs	15,768	15,792	13,752
<b>Total Fund Expenditures</b>	<b><u>\$17,121,453</u></b>	<b><u>\$17,861,458</u></b>	<b><u>\$18,900,501</u></b>

Total WCC expenditures increased by \$740,005 and \$1,039,042 during the fiscal years ended June 30, 2014 and 2015, respectively. The increase during the fiscal year ended June 30, 2014 was due mostly to increases in personal services and employee benefits, as well as increases in purchased commodities. Purchased commodities increased in FY 2014 due to an agency computer refresh in 2014 and the timing of subscription payments for an online legal database service. The increase during the fiscal year ended June 30, 2015 was due primarily to increases in personal services and employee benefits, as well as increases in premises and property expenses, capital outlays, and OSC adjusting entries. Capital outlays increased in FY 2015 due to purchases and upgrades of the new phone system and backup and recovery servers to support the WCC computer application system. Premises and property expenses increased in FY 2015 due to a change in how rental payments were processed. In FY 2015, rental payments for two of the districts were processed under the Premises and Property Expenses account. In previous years, they were part of the Agency Indirect Overhead account.

**Fund Balance**

The fund balance of the Workers' Compensation Administration Fund totaled \$12,742,699 and \$13,282,177 as of June 30, 2014 and 2015, respectively. The increase in the fund balance of \$539,478 during the fiscal year ended June 30, 2015 was attributable to the ability of the WCC to retain 50 percent of prior year expenditures in accordance with Section 31-345 subsection (b)(3) of the General Statutes. Any amount exceeding 50 percent of the prior year's expenditures are

used to reduce the subsequent year's assessment. Considering the methodology, it appears this fund balance will continue to grow.

### **Federal and Other Restricted Accounts Fund**

Federal and Other Restricted Accounts Fund receipts totaled \$270,469 and \$102,547 for the fiscal years ended June 30, 2014 and 2015, respectively. Of this amount, \$102,489 and \$102,547 were received from the Department of Labor for the fiscal years ended June 30, 2014 and 2015, respectively. The grants were made from the Department of Labor's Occupational Health Clinics appropriation. The commission used these funds to operate its Occupational Disease Surveillance System in accordance with Sections 31-396 to 31-403 of the General Statutes. The commission receives and coordinates data from occupational health clinics, auxiliary occupational health clinics, and other databases and medical sources concerning occupational illnesses and injuries at various sites and related to various occupations. The commission uses this data to educate unions, employers, and individual workers on the use of the surveillance system. The commission expended the total amount of the grants received in each of the fiscal years. An additional \$167,980 in revenue was recorded in the fiscal year ended June 30, 2014 for the WCC symposium in October 2013. Expenditures for the Federal and Other Restricted Accounts Fund totaled \$300,670 and \$102,547 for the fiscal years ended June 30, 2014 and 2015. The increased expenditures in fiscal year ended June 30, 2014 are due to the WCC symposium held in October 2013.

## STATE AUDITORS' FINDINGS AND RECOMMENDATIONS

Our audit identified the following reportable conditions.

### **Contract for Case Conversion Project:**

*Criteria:* State contracts should be negotiated by employees with contracting expertise and should avoid requiring payments before services are provided. Generally, the Department of Administrative Services (DAS) and its Bureau of Enterprise Systems and Technology (BEST) have the ability to authorize information technology contracts and negotiate more detailed statements of work (SOW). Such contracts and SOW should have appropriate due diligence performed prior to execution.

*Condition:* WCC, through DAS and its Bureau of Enterprise Systems and Technology (BEST), agreed to a SOW with a vendor on August 26, 2015, to convert an existing PowerBuilder/Sybase system to a modern .net and SQL server system to facilitate an online case information system. The SOW was for \$3,650,000 and required a 20 percent payment, or \$700,000, before any work was performed. After the payment was made, the vendor required the state to provide test cases and other work that appeared to have been negotiated in the contract price. The vendor requested additional amounts, yet there were questions about whether certain deliverables were met. DAS placed the project on hold as of December 1, 2015. DAS subsequently cancelled the SOW and efforts to resolve the matter now involve the Office of the Attorney General, who indicated that as of June 17, 2016, the efforts are ongoing. We were informed that the early payment clause in the SOW language should have been considered a “red flag” during the negotiation stage.

After the cancellation of this SOW, DAS informed WCC of an existing system that WCC may utilize to update its case management system. The system has been tested and is currently used by other state agencies. It is unclear why this option was not presented to WCC earlier.

*Cause:* There is a lack of communication between BEST employees within the DAS central office and those assigned to WCC. There was an established statewide system that WCC may have been able to use for its case management system. DAS approved the requisition for this SOW, despite being the agency responsible to be aware of the other option. Information technology employees were authorized to negotiate a SOW for \$3,650,000 of services without oversight by employees with contracting expertise at DAS. The vendor selection process appeared flawed as proper due diligence, including contacting references, was not considered or

documented fully, and high ratings were given for warranty and named professionals when neither was fully provided.

*Effect:* The computer conversion process was delayed and the state has \$700,000 less cash available. There is less assurance that decisions made by BEST on behalf of WCC were in the best interests of the state.

*Recommendation:* The Department of Administrative Services and its Bureau of Enterprise Systems and Technology, on behalf of the Workers' Compensation Commission, should ensure that employees negotiating contracts and statements of work have the appropriate level of contracting expertise to perform due diligence and ensure that contract terms are in the best interest of the state. (See Recommendation 1.)

*Agency Response:* "The Workers' Compensation Commission agrees that any negotiation with a vendor, whether it involves a contract or SOW, should involve oversight by individuals who are trained in contracting. However, the WCC does not agree that the SOW evaluation process conducted by the agency was flawed. The WCC SOW evaluation process was based on the current DAS RFP evaluation process, where scoring categories and weights are decided on independently and prior to the opening of the vendor responses. This process resulted in the most qualified vendor being selected. All references that met the requirements specified in the SOW were contacted, low scores for warranty were given to vendors that specified warranties less than what they were contractually obligated to supply, and while no vendor completely complied with the named professional section, the highest score was given to the vendor that supplied the most valuable information. While the process could have been better documented, the evaluation team believes that in the final analysis the vendor determination would have remained the same. The Agency followed proper procedure in generating the purchase order for the project. Utilizing a statewide contract, a CORE-10, with the SOW attached, was generated and received the required approval from the Comptroller for a purchase order over \$1 million, and three levels of approval from DAS/BEST. The payment schedule was detailed in the SOW."

*Auditors' Concluding Comment:* We could not confirm that the most qualified vendor was selected or that the final determination would have remained the same considering the questions that arose regarding the evaluation of the vendors.

### **Backup Server Location**

- Criteria:* Sound business practices suggest organizations have a sufficient disaster recovery plan with a functional offsite location to enable the organization to resume operations as quickly as possible following a disaster.
- Condition:* The WCC backup server was located in the same room as the main server as of June 5, 2015.
- Cause:* The state’s data center moved in the summer of 2015, and the Department of Administrative Services Bureau of Enterprise Systems and Technology (DAS-BEST), was not able to provide technical support for the backup server because of its outdated technology. The backup server was moved to the location of the original server to facilitate maintenance issues. It was anticipated that WCC would be upgrading its Workers’ Compensation System, and the new server would be located in the DAS-BEST data center.
- Effect:* In the event of a disaster, the location may limit WCC’s ability to resume critical operations.
- Recommendation:* The Workers’ Compensation Commission, working with the Department of Administrative Services Bureau of Enterprise Systems and Technology, should relocate its backup server to an offsite location to improve controls for disaster recovery. (See Recommendation 2.)
- Agency Response:* “The Agency agrees with this finding. Prior to June 5, 2015, the date of the State data center’s move, the backup server was housed in East Hartford. The backup server was brought to the central office in anticipation of the purchase of new servers to facilitate the upgrade of the WCS system. Arrangements have been made to place the server off site at the Department of Insurance.”

### **Administrative Purposes Only Relationship with the Department of Labor**

- Criteria:* Public Act 77-614, Section 481, codified as Section 31-276a of the General Statutes states “The workers’ compensation commissioners and the Workers’ Compensation Commission are transferred to the Labor Department for administrative purposes only” as defined within Section 4-38f of the General Statutes.
- Condition:* The Workers’ Compensation Commission is not operating within the Labor Department for administrative purposes only as defined in Section 4-38f of the General Statutes.
- Cause:* Unknown.

*Effect:* Legislative intent may not have been realized.

*Recommendation:* The Workers' Compensation Commission should document the cost effectiveness and any non-cost impediments to utilizing the "administrative purposes only" relationship to justify why it is not using it and seek a legislative change, if appropriate. (See Recommendation 3.)

*Agency Response:* "The provision outlined came into existence in 1977. No one presently at the Commission was employed here in 1977 and present Commission administrators are unaware of its intended purpose or intent except to observe that it has not affected the operation of the Commission in the 39 years it has existed. Subsequently, the Legislature in 1991 and 1993 revised C.G.S. Sec. 31-280 which totally reformed the structure and government operation of the Commission, and it is pursuant to those changes that the Commission has been operating since."

## RECOMMENDATIONS

### *Status of Prior Audit Recommendations:*

- The Workers' Compensation Commission should not include funds transferred out of the Workers' Compensation Administration Fund as operating expenses when calculating the annual assessment rate without clear legislative authority to recoup such amounts and should strengthen internal controls over the calculation. There were no fund transfers to recoup during our current audit testing, therefore, this recommendation is not repeated.
- The Workers' Compensation Commission should ensure that regular performance appraisals are performed on all of its employees. This recommendation was implemented.
- The Workers' Compensation Commission should strengthen controls to ensure that all new employees acknowledge the receipt of and agree to comply with the state Code of Ethics prior to commencement of state service and all employees complete an annual ethics training program. This recommendation was implemented.
- The Workers' Compensation Commission should strengthen internal controls over payroll and personnel. This recommendation was implemented.

### *Current Audit Recommendations:*

- 1. The Department of Administrative Services and its Bureau of Enterprise Systems and Technology, on behalf of the Workers' Compensation Commission, should ensure that employees negotiating contracts and statements of work have the appropriate level of contracting expertise to perform due diligence and ensure that contract terms are in the best interest of the state.**

#### Comment:

WCC, through DAS and its Bureau of Enterprise Systems and Technology (BEST), agreed to a SOW with a vendor to convert an existing PowerBuilder/Sybase system to a modern .net and SQL server system to facilitate an online case information system. The SOW was for \$3,650,000 and required a 20 percent payment, or \$700,000, before any work was performed. After the payment was made, the vendor required the state to provide test cases and other work that appeared to have been negotiated in the contract price. The vendor requested additional amounts without meeting certain deliverables and DAS placed the project on hold. DAS subsequently cancelled the SOW and will attempt to resolve the matter. DAS informed WCC after the cancellation of this SOW of an existing system that WCC may utilize to update its case management system. The system has been tested and is currently being used by other state agencies. It is unclear why this option was not presented to WCC earlier.

- 2. The Workers' Compensation Commission, working with the Department of Administrative Services Bureau of Enterprise Systems and Technology, should relocate its backup server to an offsite location to improve controls for disaster recovery.**

Comment:

The WCC backup server was located in the same room as the main server as of June 5, 2015.

- 3. The Workers' Compensation Commission should document the cost effectiveness and any other non-cost impediments to utilizing the "administrative purposes only" relationship to justify why they are not using it and seek a legislative change, if appropriate.**

Comment:

The Workers' Compensation Commission is not operating within the Labor Department for administrative purposes only as defined in Section 4-38f of the General Statutes.

**CONCLUSION**

We wish to express our appreciation for the courtesies and cooperation extended to our representatives by the personnel of the Workers' Compensation Commission during the course of our examination.

*Maura F. Pardo*

Maura F. Pardo  
Principal Auditor

Approved:



John C. Geragosian  
Auditor of Public Accounts



Robert M. Ward  
Auditor of Public Accounts