

STATE OF CONNECTICUT



*AUDITORS' REPORT
WORKERS' COMPENSATION COMMISSION
FOR THE FISCAL YEARS ENDED JUNE 30, 2010 AND 2011*

AUDITORS OF PUBLIC ACCOUNTS

JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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AUDITORS OF PUBLIC ACCOUNTS

State Capitol
210 Capitol Avenue
Hartford, Connecticut 06106-1559

JOHN C. GERAGOSIAN

ROBERT M. WARD

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AUDITORS' REPORT WORKERS' COMPENSATION COMMISSION FOR THE FISCAL YEARS ENDED JUNE 30, 2010 and 2011

We have made an examination of the financial records of the Workers' Compensation Commission for the fiscal years ended June 30, 2010 and 2011. Financial statement presentation and auditing are done on a statewide single audit basis to include all state agencies, including the Workers' Compensation Commission. This examination has been limited to assessing the Workers' Compensation Commission's compliance with certain provisions of financial related laws, regulations, contracts, and grants, and evaluating the commission's internal control policies and procedures established to ensure such compliance. This report on our examination consists of the Comments, Recommendations and Certification that follow.

COMMENTS

FOREWORD:

The Workers' Compensation Commission (WCC) 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 governor's pleasure. The chairman shall have previously served as a workers' compensation commissioner in Connecticut for at least one year.

The workers' compensation commissioners, as of June 30, 2011, 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
Nancy E. Salerno
Charles F. Senich
David W. Schoolcraft
Clifton E. Thompson
Michelle D. Truglia
Amado J. Vargas
Ernie R. Walker

John A. Mastropietro was appointed as chairman effective October 18, 1999, and currently serves in that capacity. Donald H. Doyle, Jr. also served as a 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 the 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 the following related programs and services:

Education Services:

Information is provided about the workers' compensation system through a website, a toll-free telephone information service, publications, educational conferences and seminars. Also, speakers are made available to various groups on a wide variety of workers' compensation-related topics.

Rehabilitation Services:

Vocational rehabilitation services are provided to eligible injured workers based on their needs. Services may include: evaluation, aptitude, vocational counseling, job seeking skills training, on-the-job training and/or formal training. Services are also made available to employers to help them retain their injured worker. Options available to employers include site consultations for recommendations for accommodating the injured employee, financial incentives to train injured workers for new positions with the employer and underwriting a portion of the cost of providing formal classroom training to the injured worker.

The passage of Public Act 11-44, effective July 1, 2011, mandated that the Department of Rehabilitation Services is responsible for providing these services.

Safety and Health Services:

The commission assists employers with implementation of the workers' compensation regulations regarding the establishment and administration of safety and health committees at work sites.

Statistical Division:

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

Licensing:

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

Fraud:

The state operates a Workers' Compensation Fraud Unit within the Office of the Chief State's Attorney. This unit 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.

SIGNIFICANT LEGISLATION:

Public Act 10-179 authorized the transfer of \$4,000,000 from the Workers' Compensation Administration Fund to the General Fund for the fiscal year ending June 30, 2011.

Effective July 1, 2011, Public Act 11-44 changed the responsibility for providing rehabilitation programs for employees suffering compensable injuries from the Workers' Compensation Commission to the newly created Department of Rehabilitation Services.

RÉSUMÉ OF OPERATIONS:

Workers' Compensation Administration Fund:

Funding and Assessments:

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.

Receipts:

Receipts totaled \$30,395,157 and \$14,613,177 for the fiscal years ended June 30, 2010 and 2011, respectively. The receipts included assessments of \$30,315,007 and \$14,482,687 collected by the State Treasurer and \$16,445 and \$12,990 collected by the commission. As noted above, assessments and collection of the assessments are the responsibilities of the State Treasurer and are subject to examination and comment as part of our audit of the Office of the State Treasurer. Receipts collected by the commission were primarily for photocopying fees and refunds of expenditures.

Expenditures:

Expenditures totaled \$19,672,144 and \$19,178,180 for the fiscal years ended June 30, 2010 and 2011, respectively, and included disbursements of \$1,139,628 and \$1,185,482 made by the Department of Labor and the Division of Criminal Justice from appropriations made directly to those state entities. Expenditures made by the Workers' Compensation Commission for the two fiscal years examined and the prior fiscal year are summarized below:

	<u>2008-2009</u>	<u>2009-2010</u>	<u>2010-2011</u>
Personal Services	\$ 9,647,083	\$ 8,412,335	\$ 8,657,752
Contractual Services	2,765,652	2,420,282	2,268,460
Commodities	316,114	125,803	158,705
Sundry Charges:			
Training Costs, Non-Employee	1,911,588	1,258,977	1,380,732
Employee Fringe Benefit Costs	5,502,791	5,414,755	4,345,958
Indirect Overhead	1,107,242	895,579	1,181,091
Other Sundry Charges	2,352	0	0
Fixed Assets and Equipment	<u>0</u>	<u>4,785</u>	<u>0</u>
 Total Expenditures	 <u>\$21,252,822</u>	 <u>\$18,532,516</u>	 <u>\$17,992,698</u>

Total commission expenditures decreased by \$3,260,124 from the fiscal year ended June 30, 2009, which was mainly attributable to decreases in personal services expenditures and related fringe benefit costs due to retirements late in fiscal year 2009 and decreased expenditures for contractual services and training.

Fund Balance:

The balances of the Workers' Compensation Administration Fund were \$17,590,535 as of June 30, 2010 and \$9,043,526 as of June 30, 2011, compared to \$6,867,522 as of June 30, 2009. The decrease in the fund balance of \$8,547,009 was mainly attributable to the transfer of \$4,000,000 from the fund to the General Fund authorized by Public Act 10-179. The \$4,000,000 transfer was factored into the fiscal year 2012 annual assessment calculation.

Federal and Other Restricted Accounts Fund:

Federal and Other Restricted Accounts Fund receipts consisted of grants received from the Department of Labor and totaled \$97,532 for both fiscal years ended June 30, 2010 and 2011. 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.

CONDITION OF RECORDS

Our audit identified the following reportable conditions.

Annual Assessment Calculation:

Background: Section 31-344a of the General Statutes establishes the Workers' Compensation Administration Fund. Amounts in the fund may be expended only pursuant to appropriation by the General Assembly. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fund to the next fiscal year.

The expenses of the Workers' Compensation Commission are financed by annual assessments made against companies writing workers' compensation insurance and self-insured employers in Connecticut. The WCC calculates the annual assessment based on information such as the prior year's fund balance and expenditure amounts, the current year's approved budget and the total paid losses of insurers.

Section 13 subsection (b) of Public Act 10-179 transferred \$4 million from the Workers' Compensation Fund to the General Fund for the fiscal year ending June 30, 2011.

Criteria: Section 31-345, subsection (b)(2), of the General Statutes states that the chairman of the Workers' Compensation Commission shall annually, on or after July first of each fiscal year, determine an amount sufficient in the chairman's judgment to meet the expenses of the commission. The Treasurer shall assess upon and collect from each employer the proportion of such expenses. Such assessment shall not exceed four percent of total compensation and payments made by insurance carriers and self-insurers and such assessments and expenses shall not exceed the budget estimates submitted in accordance with subsection (c) of section 31-280.

Section 31-280, subsection (c), requires that the chairman of the WCC submit an annual budget of expenditures to the Comptroller that shall include all direct and indirect costs incurred by the WCC for the succeeding fiscal year. In addition, the chairman shall include a statement showing the expenses of administering the WCC in his annual report to the Governor.

Condition: Our review of the commission's annual assessment calculation for fiscal year 2012 found that the WCC included the \$4 million transferred in accordance with Public Act 10-179. However, a fund balance transfer of that nature would not normally be regarded as a direct or indirect operating expense of the WCC. As a result, the calculated assessments exceeded the operating expense budget estimate provided for in Section 31-280.

The \$4 million amount was not included in the statement of expenses in the annual report to the Governor.

Effect: Insurers appear to have been assessed at a higher rate than the amount that would be considered to be sufficient to meet budgeted operating expenses. However, the rate did not exceed the statutory four percent maximum.

Cause: The WCC was not aware of legislative intent for that amount to be recouped through subsequent assessments. In order to ensure that the commission had sufficient funds available to meet its cash flow needs, the funds were incorporated into the calculation of the annual assessment rate. Guidance was sought from the Office of Policy and Management, which approved including the amount in the assessment.

Recommendation: Absent a clear legislative intent to recoup such amounts, the commission should not include funds transferred out of the Workers' Compensation Administration Fund as operating expenses when calculating the annual assessment rate. (See Recommendation 1.)

Agency Response: "The agency disagrees with this recommendation by the Auditors of Public Accounts. It is the WCC's fiduciary responsibility to account for all funds received and all funds disbursed from the Workers' Compensation Fund. The \$4 million withdrawal from the WC Administration Fund has no corresponding asset (receivable) set up as there is no reasonable expectation of recovering this money. The \$4 million is not a return of capital to the businesses from whom the money was received. Therefore, according to the guidelines of the American Institute of Certified Public Accountants (AICPA), the appropriate designation is to classify it as an expense to the agency. In order to maintain adequate funds in our account to meet our operational needs as defined by statute, the removal of \$4 million must be included in our annual assessment."

Auditors' Concluding

Comments: Accounting guidance for governmental entities is promulgated by the Governmental Accounting Standards Board (GASB), rather than the AICPA. GASB Statement Number 34 indicates that inter-fund transfers should be classified as non-operating expenditures. The budget process referred to in Section 31-280 is designed to recoup operating costs.

Non-Reporting of the Misuse of State Resources:

Criteria: Section 4-33a of the General Statutes requires state agencies to promptly notify the Auditors of Public Accounts and the Comptroller of any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds or breakdowns in the safekeeping of any other resources.

- Condition:* The Workers' Compensation Commission became aware that an employee used the state email system for personal use through a complaint made to the Governor's Office, which was received from the Office of Labor Relations. WCC appropriately investigated and took disciplinary action against the employee. However, the commission did not report this occurrence to the Auditors of Public Accounts or the Comptroller.
- Effect:* The commission was not in compliance with Section 4-33a of the General Statutes.
- Cause:* WCC was not aware that these types of instances were required to be reported.
- Recommendation:* The Workers' Compensation Commission should promptly notify the Auditors of Public Accounts and the State Comptroller of all instances of the misuse of state resources in compliance with Section 4-33a of the General Statutes. (See Recommendation 2.)
- Agency Response:* "The commission agrees with the auditors' recommendation. The agency was unaware of the requirement that the Auditors of Public Accounts be notified in what was viewed as an internal situation which was promptly investigated and appropriate disciplinary action was taken, in consultation with the Office of Labor Relations. In the future, the Human Resources Director will immediately notify the Auditors of Public Accounts upon notification of suspected misuse of state resources."

Ethics – Training & Acknowledgements:

- Criteria:* Workers' Compensation Commission administrative procedures require employees to complete the online ethics training program provided by the Office of State Ethics. Successful completion of a test at the end of the program provides a certificate that is filed in the employee's personnel file.
- Former Governor Rell's Executive Order No. 1 requires that each new state employee sign a statement acknowledging receipt of the state ethics laws and regulations and agree to comply with those laws and regulations.
- Condition:* We reviewed five employees who were hired during our audited period and found that all five individuals did not complete the online ethics training program. In addition, for two of the employees, WCC did not have signed statements on file acknowledging their receipt of state ethics laws and regulations.
- Effect:* The commission has less assurance that new employees understand and agree to comply with the state's code of ethics.

- Cause:* WCC did not have sufficient controls in place to ensure that all new employees acknowledge the receipt of the state code of ethics and complete the online ethics training program. The commission indicated that it fell behind on informing new employees about the training program.
- Recommendation:* 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 and complete the online ethics training program. (See Recommendation 3.)
- Agency Response:* "The commission agrees with the auditors' recommendation. The agency acknowledges that prospective employees should receive the Ethics information for state employees at the time of interview. In fact, this information was properly on file for three of the five hires. Therefore, it is likely that the information was provided but that the receipt forms were not properly filed. The Human Resources Department will remain diligent in the future to ensure that all information is properly maintained in the recruitment files. Also, the Human Resources Director has put a new policy into place that new hires will be provided with the ethics training as part of the new employee orientation process to ensure compliance with the ethics training requirement."

Medical Certificates:

- Criteria:* Section 5-247-11 of the state regulations requires that employees submit medical certificates signed by a licensed physician or other practitioner whose method of healing is recognized by the state in support of the use of five or more consecutive sick days.
- Condition:* A medical certificate was not on file for one of the three employees reviewed who charged more than five consecutive sick days.
- Effect:* There is increased potential for sick leave to be used inappropriately.
- Cause:* The employee transferred to another state agency and the certificate may have been misplaced.
- Recommendation:* The Workers' Compensation Commission should obtain medical certificates when appropriate in compliance with state regulations. (See Recommendation 4.)
- Agency Response:* "The commission agrees with the auditors' recommendation. The WCC regularly obtains medical certificates for employees who are out of work for five (5) or more consecutive working days. The medical certificate that was not found to be on file was for an employee of the former Workers' Rehabilitation Unit which has since been merged with the newly-created Department of Rehabilitative Services. The personnel files

of the affected employees were transferred to the new agency. We believe it is likely that this particular form was misfiled and unable to be located between the two different agencies. The Human Resources Division will continue to obtain medical certificates as appropriate and ensure they are included in the appropriate files.”

RECOMMENDATIONS

Status of Prior Audit Recommendations:

- The commission should implement procedures that ensure that annual property inventory reports reflect the cost of property in its custody at year end. Our current review found that WCC identifies and resolves discrepancies during its annual physical inventory. This recommendation has been implemented.
- The commission should perform its annual internal control self-evaluation and risk assessment in accordance with the internal control guide issued by the State Comptroller. This recommendation has been implemented.
- The commission should implement administrative controls that ensure that all new employees required to file statements of financial interest statements do so. This recommendation has been implemented.
- The commission should implement administrative controls that ensure all new employees complete the on-line ethics training program. Our current review found that WCC still does not have adequate controls in place to ensure that all new employees complete the training. We also noted that the commission did not have signed acknowledgments of the state code of ethics for all new employees. This recommendation will be repeated and expanded to include the lack of acknowledgements. (See Recommendation 3.)
- The commission should establish internal controls that ensure receipts are deposited in accordance with Section 4-32 of the Connecticut General Statutes, or alternatively, obtain approval from the Treasurer granting an exception to the depositing limitations. Our current review found that WCC implemented internal controls that greatly improved the timeliness of its deposits. Therefore, this recommendation is considered resolved.
- The commission should discontinue using the money as a change fund and deposit the money to the Workers Compensation Administration Fund. Our follow-up to this recommendation found that the commission deposited the money into the fund. This recommendation is resolved.
- The commission should update its disaster recovery plan to reflect its current operating systems and periodically test the plan to ensure its operational effectiveness. Our current review found that WCC has updated and tested its disaster recovery plan. This recommendation has been implemented.
- The commission should perform sufficient due diligence to determine whether a potential applicant for services is not gainfully employed prior to providing rehabilitation services to the applicant. We noted that the commission implemented procedures to reasonably determine whether a potential client was employed. Our current review did not reveal any instances in which clients were gainfully employed. This recommendation is resolved.

Current Audit Recommendations:

- 1. The Workers' Compensation Commission should not include funds transferred out of the Workers' Compensation Administration Fund to the General Fund as expenditures when calculating the annual assessment rate.**

Comment:

We noted that the commission included funds transferred out of the Worker's Compensation Administration Fund as expenditures as part of its annual assessment calculation.

- 2. The Worker's Compensation Commission should promptly notify the Auditors of Public Accounts and the State Comptroller of all instances of the misuse of state resources in compliance with Section 4-33a of the General Statutes.**

Comment:

The commission did not notify the Auditors of Public Accounts and State Comptroller when it became aware of a situation involving the misuse of state resources.

- 3. 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 and complete the on-line ethics training program.**

Comment:

We found that signed acknowledgments of the state code of ethics were not on file for all new employees. We also noted that new employees had not completed the on-line ethics training program.

- 4. The Workers' Compensation Commission should obtain medical certificates when appropriate in compliance with state regulations.**

Comment:

The commission did not have a medical certificate on file to support an employee's use of more than five consecutive sick days.

INDEPENDENT AUDITORS' CERTIFICATION

As required by Section 2-90 of the General Statutes, we have audited the books and accounts of the Workers' Compensation Commission for the fiscal years ended June 30, 2010 and 2011. This audit was primarily limited to performing tests of the commission's compliance with certain provisions of laws, regulations, contracts and grant agreements and to understanding and evaluating the effectiveness of the commission's internal control policies and procedures for ensuring that (1) the provisions of certain laws, regulations, contracts and grant agreements applicable to the commission are complied with, (2) the financial transactions of the commission are properly initiated, authorized, recorded, processed, and reported on consistent with management's direction, and (3) the assets of the commission are safeguarded against loss or unauthorized use. The financial statement audits of the Workers' Compensation Commission for the fiscal years ended June 30, 2010 and 2011, are included as a part of our Statewide Single Audits of the State of Connecticut for those fiscal years.

We conducted our audit 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. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the Workers' Compensation Commission complied in all material or significant respects with the provisions of certain laws, regulations, contracts and grant agreements, and to obtain a sufficient understanding of the internal controls to plan the audit and determine the nature, timing and extent of tests to be performed during the conduct of the audit.

Internal Control over Financial Operations, Safeguarding of Assets and Compliance:

Management of the Workers' Compensation Commission is responsible for establishing and maintaining effective internal control over financial operations, safeguarding of assets, and compliance with the requirements of laws, regulations, contracts, and grants. In planning and performing our audit, we considered the Workers' Compensation Commission's internal control over its financial operations, safeguarding of assets, and compliance with requirements as a basis for designing our auditing procedures for the purpose of evaluating the commission's financial operations, safeguarding of assets, and compliance with certain provisions of laws, regulations, contracts and grant agreements, but not for the purpose of expressing an opinion on the effectiveness of the commission's internal control over those control objectives. Accordingly, we do not express an opinion on the effectiveness of the Workers' Compensation Commission's internal control over those control objectives.

A deficiency in internal control 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 and correct on a timely basis, unauthorized, illegal or irregular transactions, or breakdowns in the safekeeping of any asset or resource. *A material weakness* is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that noncompliance which could result in significant unauthorized, illegal, irregular or unsafe transactions and/or material noncompliance with certain provisions of laws, regulations, contracts, and grant agreements that would be material in relation to the Workers' Compensation Commission's financial operations will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control over financial operations, safeguarding of assets, and compliance with requirements was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial operations, safeguarding of assets, and compliance with requirements that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over the Workers' Compensation Commission's financial operations, safeguarding of assets, or compliance with requirements that we consider to be material weaknesses, as defined above.

Compliance and Other Matters:

As part of obtaining reasonable assurance about whether the Workers' Compensation Commission complied with laws, regulations, contracts and grant agreements, noncompliance with which could result in significant unauthorized, illegal, irregular or unsafe transactions or could have a direct and material effect on the results of the commission's financial operations, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements. 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 no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

The Workers' Compensation Commission's responses to the findings identified in our audit are described in the accompanying Condition of Records section of this report. We did not audit the Workers' Compensation Commission's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of commission management, the Governor, the State Comptroller, the Appropriations Committee of the General Assembly and the Legislative Committee on Program Review and Investigations. However, this report is a matter of public record and its distribution is not limited.

CONCLUSION

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



Jill A. Schiavo
Associate Auditor

Approved:



John C. Geragosian
Auditor of Public Accounts



Robert M. Ward
Auditor of Public Accounts