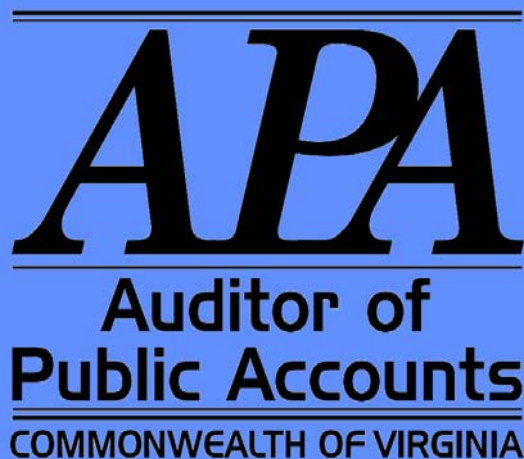


VIRGINIA WORKERS' COMPENSATION COMMISSION

**REPORT ON AUDIT
FOR THE YEARS ENDED
JUNE 30, 2006 AND JUNE 30, 2007**



AUDIT SUMMARY

Our audit of the Virginia Workers' Compensation Commission found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System,
- matters involving internal control and its operations necessary to bring to management's attention; and
- instances of noncompliance with applicable laws and regulations or other matters that are required to be reported.

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AUDIT FINDINGS AND RECOMMENDATIONS

Ensure Compliance with the Commonwealth's Security Standard

The Virginia Workers' Compensation Commission (Workers' Compensation) is not complying with the Commonwealth's Security Standard, which places its systems and information at risk. We recommend Workers' Compensation improve the following information security areas in order to comply with the Commonwealth's security standard and to mitigate their risk:

- Security Awareness Training Program;
- Business Impact Analysis;
- Risk Assessment;
- Business Continuity Plan;
- Disaster Recovery Plan
- Information Security Policies and Procedures

Inadequate IT Systems Security Policies put Workers' Compensation and its critical IT systems and data at risk for loss of availability, integrity, and confidentiality. We recommend that management establish the policies and procedures and allocate the time and resources necessary to support the improvement and implementation of their IT Systems Security Policies according to these recommendations.

Properly Complete Employment Eligibility Verification Forms

Workers' Compensation is not properly completing Employment Eligibility Verification forms (I-9) in accordance with guidance issued by the US Citizenship and Immigration Services of the US Department of Homeland Security in its Handbook for Employers (M-274). This guidance requires the employee to complete, sign, and date Section 1 of the I-9 form on or before the first day of employment. Additionally, the employer or designated representative must complete, sign, and date Section 2 of the I-9 form within three days of employment to show that they verified the employee's identity and employment eligibility at the point of hiring.

In our sample of eight I-9 forms completed during fiscal years 2006 and 2007, we noted the following non-compliance:

- One was not reviewed by the employer;
- Two did not document employee's attestation regarding citizenship;
- One did not have the date employee completed Section 1;
- Three were not completed by the first day of employment;
- One did not have the date the employer completed their review;
- Three did not have documentation of the first day of employment; and
- Five did not properly list the documents used to verify the employee's identity and employment eligibility.

We found that the errors were due to a lack of proper training and agency specific policy and procedures regarding the I-9 process. Therefore, we recommend that Workers' Compensation review the I-9 process, develop procedures, train the appropriate staff on the requirements of completing I-9 forms, and develop a process for continuously reviewing the I-9 process to ensure compliance with federal regulations. The federal government has increased its enforcement efforts to ensure that all new employees are legally entitled to work in the United States, which makes having a good I-9 process in place more important than ever before.

AGENCY HIGHLIGHTS

The Virginia Workers' Compensation Commission (Workers' Compensation) administers the Virginia Workers' Compensation Act and its related funds. Three commissioners appointed by the General Assembly head the agency. Eighteen deputy commissioners hold evidentiary hearings throughout the Commonwealth to determine rights and liabilities of parties under the Act. Workers' Compensation consists of five departments: Judicial, Claims, Controller's Office, Information Systems, and Human Resources and has 208 full-time employees.

Workers' Compensation uses the following funds to perform its responsibilities, which relate to service areas created and governed by specific statutes:

The **Administrative Fund** pays the salaries, benefits, and other administrative expenses of Workers' Compensation. Funding comes from a workers' compensation tax assessed on both self-insured employers and insurance companies for insured employers with a maximum rate of 2.5 percent. Self-insured employers pay the tax based on a premium figure derived from their payrolls while insurance companies pay a tax on all workers' compensation insurance premiums they receive from insured employers. Workers' Compensation sets this tax rate annually. The rates for fiscal years 2006 and 2007 were .90 percent and 1.16 percent, respectively.

The **Uninsured Employer's Fund** provides benefits to injured workers of employers who failed to secure adequate workers' compensation liability coverage. Funding comes from a workers' compensation tax assessed on self-insured employers and insurance companies for insured employers. The maximum statutory tax assessment rate is .25 percent and Workers' Compensation sets the actual tax rate annually. The rates for fiscal years 2006 and 2007 were .15 percent and .20 percent, respectively. Each year Worker's Compensation processes approximately 300 claims through this fund.

The **Crime Victim Compensation Fund** pays unreimbursed expenses of victims who suffer personal, physical, or emotional injury or death because of a crime, or to qualified survivors of a victim. Funding comes from fines assessed and collected by State courts, restitution, and a federal Victim of Crime Act Grant. Workers' Compensation administers the fund. The Director of the Fund manages the daily operations, while the Workers' Compensation Commissioners act as a governing board. The fund receives approximately 2,000 new claims and 600 supplemental claims per year. On July 1, 2007, the maximum per claim amount reimbursable by the Fund went from \$15,000 per victim to \$25,000.

The **Second Injury Fund** provides compensation for disability, medical treatment, and vocational rehabilitative services to employees who have suffered a previous loss from an industrial accident. Funding comes from a .25 percent workers' compensation tax assessed on self-insured employers and insurance companies for insured employers. Because the fund has adequate resources, Workers' Compensation has not assessed the tax since 1995. This tax, if assessed, would be in addition to the tax imposed for the administration of the Workers' Compensation. The total of the fund may not exceed \$250,000 during a given fiscal year or the Workers' Compensation must suspend the tax until the balance is below \$125,000.

In addition to the funds mentioned above, Workers' Compensation also adjudicates the **Virginia Birth-Related Neurological Injury Fund** by hearing cases from individuals seeking benefits from the fund and making the final eligibility determination. A separate board operates and manages the fund to provide benefits to babies born in the Commonwealth with birth-related neurological injuries. Fund support comes solely through annual fees collected from doctors and hospitals that operate in the Commonwealth. Board members of the fund, appointed by the Governor, usually make the determination of the award amount and the fund manager issues the check. The Code of Virginia requires the State Corporation Commission to complete periodic actuarial reports that assess the viability of the fund.

FINANCIAL HIGHLIGHTS

Over half of Workers' Compensation's costs support processing, examining, and making rulings on claims from injured or ill workers. During calendar year 2006, Workers' Compensation handled over 160,379 reported on-the-job accidents, referred 10,251 cases for adjudication, and determined compensation awards on 20,767 claims. Workers' Compensation also provides judicial review for contested claims and issues written decisions at each level of adjudication.

In total, Workers' Compensation spent approximately \$24.3 million during fiscal year 2007, and \$23.4 million during fiscal year 2006. About 54 percent of these expenses represent payroll and benefits of employees, 27 percent represent payments for individual claims, and 13 percent support contractual services for items such as legal and auditing services and postage. The remaining six percent includes other operating expenses such as continuous charges, equipment, and supplies.

Workers' Compensation administers the following two service areas.

- **Employment Assistance Services** determines eligibility, makes payments, and evaluates workers' compensation.
- **Financial Assistance for Supplemental Assistance Services** (formerly Temporary Income Supplement Services) provides efforts to compensate eligible individuals who have suffered as the result of a crime.

The table below details the funding sources and actual expenses of Workers' Compensation by service area. The Agency Highlights section, above, describes the three main funds. Federal trust funding came from the Victim of Crime Act Grant.

Analysis of Budget and Actual Expenses

| | <u>Original Budget</u> | <u>2007 Final Budget</u> | <u>Actual Expenses</u> | <u>Original Budget</u> | <u>2006 Final Budget</u> | <u>Actual Expenses</u> |
|-----------------------------------|----------------------------|----------------------------------|----------------------------|----------------------------|----------------------------------|----------------------------|
| Employment assistance services: | | | | | | |
| Administrative fund | \$16,848,803 | \$17,769,154 | \$17,034,535 | \$14,200,314 | \$16,545,692 | \$16,431,251 |
| Uninsured employers' fund | <u>2,850,000</u> | <u>3,400,000</u> | <u>3,221,846</u> | <u>2,250,000</u> | <u>3,600,000</u> | <u>3,113,339</u> |
| Total | <u>19,698,803</u> | <u>21,169,154</u> | <u>20,256,381</u> | <u>16,450,314</u> | <u>20,145,692</u> | <u>19,544,590</u> |
| Financial assistance for | | | | | | |
| Supplemental assistance services: | | | | | | |
| Crime injuries compensation fund | 3,886,889 | 3,886,889 | 3,205,239 | 3,074,446 | 3,097,517 | 2,460,045 |
| Federal trust | <u>1,200,000</u> | <u>1,200,000</u> | <u>871,000</u> | <u>800,000</u> | <u>1,369,000</u> | <u>1,369,000</u> |
| Total | <u>5,086,889</u> | <u>5,086,889</u> | <u>4,076,239</u> | <u>3,874,446</u> | <u>4,466,517</u> | <u>3,829,045</u> |
| Grand total | <u>\$24,785,692</u> | <u>\$26,256,043</u> | <u>\$24,332,620</u> | <u>\$20,324,760</u> | <u>\$24,612,209</u> | <u>\$23,373,635</u> |

Source: Commonwealth Accounting and Reporting System



Commonwealth of Virginia

Walter J. Kucharski, Auditor

**Auditor of Public Accounts
P.O. Box 1295
Richmond, Virginia 23218**

April 9, 2008

The Honorable Timothy M. Kaine
Governor of Virginia
State Capital
Richmond, Virginia

The Honorable Thomas K. Norment, Jr.
Chairman, Joint Legislative Audit
and Review Commission
General Assembly Building
Richmond, Virginia

We have audited the financial records and operations of the **Virginia Workers' Compensation Commission** (Workers' Compensation) for the years ended June 30, 2006, and June 30, 2007. 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions on the Commonwealth Accounting and Reporting System, review the adequacy of Workers' Compensation's internal controls, and test compliance with applicable laws and regulations.

Audit Scope and Methodology

Workers' Compensation's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered materiality and control risk in determining the nature and extent of our audit

procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

- Revenues
- Payroll and other expenses
- I-9 Compliance
- System access
- Network security

We performed audit tests to determine whether Workers' Compensation's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection of documents, personnel and payroll files, vouchers, deposit certificates, and contracts, and observation of Workers' Compensation's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that Workers' Compensation properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System. Workers' Compensation records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted certain matters involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. These matters are described in the section entitled "Audit Findings and Recommendations."

Exit Conference and Report Distribution

We discussed this report with management on April 15, 2008. Management's response has been included at the end of this report.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS



COMMONWEALTH of VIRGINIA
Workers' Compensation Commission

VIRGINIA R. DIAMOND, Chairman
WILLIAM L. DUDLEY, JR., Commissioner

1000 DMV Drive
Richmond, Virginia 23220

JAMES J. SZABLEWICZ
Chief Deputy Commissioner

IRIS C. PEACE, Clerk

April 23, 2008

Mr. Walter J. Kucharski
Auditor of Public Accounts
101 North 14th Street
Richmond, Virginia 23219

RE: Audit of Fiscal Years 2006 and 2007

Please find below the Virginia Workers' Compensation Commission's responses to the Audit Recommendations.

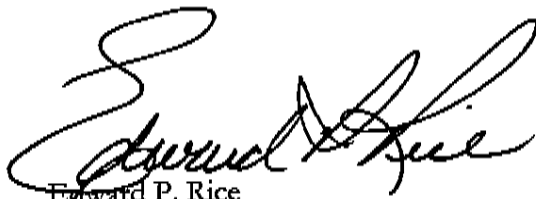
Ensure Compliance with the Commonwealth's Security Standard

The Commission will incorporate the security requirements into its Technology Alignment Program under the direction of the program's director. Scheduled completion of the program's objectives is set for December 2009.

Properly Complete Employment Eligibility Verification Forms

The Commission's Human Resource Director will direct a full review of all current employee files to ensure the presence of a fully-completed I-9 form by June 30, 2008 and ensure that HR staff is fully familiar with the requirements and guidance of the Handbook for Employers issued by the US Citizenship and Immigration Services of the US Department of Homeland Security.

The Virginia Workers' Compensation Commission appreciates the service provided by the Auditor of Public Accounts in its audit.



Edward P. Rice
Comptroller

AGENCY OFFICIALS

VIRGINIA WORKERS' COMPENSATION COMMISSION

COMMISSIONERS

Virginia R. Diamond, Chairman

William L. Dudley, Jr.

Lawrence D. Tarr

