

VIRGINIA WORKERS' COMPENSATION COMMISSION

**REPORT ON AUDIT
FOR THE YEARS ENDED
JUNE 30, 2008 AND JUNE 30, 2009**

APA
**Auditor of
Public Accounts**
COMMONWEALTH OF VIRGINIA

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,
- one matter 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

Although the Virginia Workers' Compensation Commission (Workers' Compensation) is actively making progress on the creation and implementation of policies and procedures, they do not comply with the Commonwealth's Security Standard. This places the Commission's systems and the information they contain at risk. We recommend that the Commissioners along with the Information Security Officer (ISO) 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;
- Update Information Security Policies and Procedures

The Commissioners have the responsibility to ensure that Workers' Compensation has an adequate information security program to protect its systems and data. Although the Commissioners may delegate the development of information security program to the ISO, they must ensure its adequacy and effectiveness.

It is the ISO's duty to make certain that the security plan always meets current Commonwealth IT standards. Inadequate IT Systems Security Policies put Workers' Compensation and its critical IT systems and data at risk for loss of availability, integrity, and confidentiality. The ISO along with the Commissioners should 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.

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 program 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 2008 and 2009 were 1.34 percent and 1.84 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 2008 and 2009 were .1 percent and .25 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, and none of the financial activities of this separate board are part of the accounting records of Workers' Compensation.

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 obtain 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 2008, Workers' Compensation handled over 165,840 reported on-the-job accidents, referred 10,060 cases for adjudication, and determined compensation awards on 20,116 claims. From January 2009 through August 2009, Workers' Compensation handled over 104,000 reported on-the-job accidents, referred 6,399 cases for adjudication, and determined compensation awards on 13,620 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 \$35.5 million during fiscal year 2009, and \$29.6 million during fiscal year 2008. Approximately 46 percent of these expenses represent payroll and fringe benefits, which increased \$900,000 from 2008 to 2009 due to the employment of 16 new individuals in 2009 in accordance with the Appropriation Act. Twenty-four percent represent individual claims payments, which also increased \$900,000 in 2009. Contractual services also accounts for 23 percent of these expenses that includes items such as legal and auditing services related to increased Uninsured Employer's Fund claims as well as expenses for the implementation of the agency's Technology Alignment Plan, which saw a \$3.8 million increase 2009. The remaining seven percent includes other operating expenses such as continuous charges, equipment, and supplies.

Workers' Compensation administers the following two program 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 budget and actual expenses of Workers' Compensation by program.

	2009			2008		
	Original Budget	Final Budget	Actual Expenses	Original Budget	Final Budget	Actual Expenses
Employment assistance services	\$26,772,131	\$29,977,231	\$28,673,277	\$20,027,292	\$25,480,521	\$24,987,503
Financial assistance for supplemental assistance services	<u>5,145,575</u>	<u>7,980,575</u>	<u>6,866,500</u>	<u>5,086,889</u>	<u>5,259,389</u>	<u>4,643,151</u>
Grand total	<u>\$31,917,706</u>	<u>\$37,957,806</u>	<u>\$35,539,777</u>	<u>\$25,114,181</u>	<u>\$30,739,910</u>	<u>\$29,630,654</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**

November 17, 2009

The Honorable Timothy M. Kaine
Governor of Virginia

The Honorable M. Kirkland Cox
Chairman, Joint Legislative Audit
and Review Commission

We have audited the financial records and operations of the **Virginia Workers' Compensation Commission** (Workers' Compensation) for the years ended June 30, 2008 and June 30, 2009. We conducted this performance audit in accordance with generally accepted government auditing standards. 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 in the Commonwealth Accounting and Reporting System, review the adequacy of Workers' Compensation's internal controls, test compliance with applicable laws and regulations, and review corrective actions of audit findings from prior year reports.

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 significance and 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
Contractual service expenses
Payroll and other expenses
Small purchase charge card
System access
Network security
I-9 Compliance

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, records, 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 the Workers' Compensation Commission 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."

Workers' Compensation has taken adequate corrective action with respect to audit findings reported in the prior year that are not repeated in this letter.

Exit Conference and Report Distribution

We discussed this report with management on November 17, 2009. 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



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

COMMONWEALTH of VIRGINIA
Workers' Compensation Commission
1000 DMV Drive
Richmond, Virginia 23220-2036

JAMES J. SZABLEWICZ
Chief Deputy Commissioner
IRIS C. PEACE, Clerk

November 19, 2009

Mr. Walter J. Kucharski
Auditor of Public Accounts
P. O. Box 1295
Richmond, VA 23218

Dear Mr. Kucharski:

The Virginia Workers' Compensation Commission (Commission) appreciates your staff's effort to review the Commission's financial records and information technology operations for fiscal years 2008 and 2009. The Commission is in agreement with audit report and its finding.

As stated in your audit report, the Virginia Workers Compensation Commission has been actively making progress on the creation and implementation of its Information Security Program. Thus far, the Commission developed a security awareness training program, conducted a business impact analysis of our operations, information security policies and procedures are in development and preparations have begun to conduct a risk assessment of our operations and information systems. We submitted a timeline to the Virginia Information Technologies Agency that fully implements continuity of operations and disaster recovery plans by mid-year 2010.

Thank you for this opportunity to review and comment on the draft audit report.

Sincerely,

A handwritten signature in cursive script that reads "Edward P. Rice".

Edward P. Rice
Comptroller

VIRGINIA WORKERS' COMPENSATION COMMISSION

COMMISSIONERS

William L. Dudley, Jr., Chairman

Virginia R. Diamond

Roger L. Williams