

LEGISLATIVE AUDIT COMMISSION



Review of
Department of Insurance
Two Years Ended June 30, 2018

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**REVIEW: 4498
DEPARTMENT OF INSURANCE
TWO YEARS ENDED JUNE 30, 2018**

**FINDINGS/RECOMMENDATIONS - 11
IMPLEMENTED - 6
ACCEPTED & PARTIALLY IMPLEMENTED - 4
UNDER STUDY - 1**

REPEATED RECOMMENDATIONS - 3

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 5

This review summarizes the auditors' report on the Department of Insurance for the two years ended June 30, 2018, filed with the Legislative Audit Commission on April 18, 2019. The auditors performed a compliance examination in accordance with *Government Auditing Standards* and State law.

The Department of Insurance was re-established on June 1, 2009 by Executive Order 2009-04. The Department was previously a part of the Department of Financial and Professional Regulation. The mission of the Department is to protect consumers by providing assistance and information, efficiently regulating the insurance industry's market behavior and financial solvency, and fostering a competitive insurance marketplace. The Department carries out this mission through effective administration and enforcement of the Illinois Insurance Code, the Illinois Pension Code, and related laws and regulations. The Department has 14 Divisions as follows:

- Office of Legal Affairs
- Legislative Affairs
- Internal Audit
- Finance
- Procurement and Administration
- Human Resources
- Property and Casualty
- Life and Annuities
- Health Products
- Financial/Corporate Regulatory
 - Financial Regulation Section
 - Actuarial Services Section
 - Financial Examinations Section
 - Corporate Regulations Section
 - Public Pension Section
- Information Technology
- Consumer Education and Protection
- Get Covered Illinois

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- Investigation
 - Workers' Comp Fraud Section
 - Producer Regulatory Section
 - Licensing/Education and Testing Section

The Department has three associated organizations as follows:

- The Office of the Special Deputy (OSD) assists the Director in carrying out the statutory responsibilities of conservator, rehabilitator, or liquidator of insurance companies declared insolvent or otherwise impaired from managing their own affairs.
- The Comprehensive Health Insurance Plan (CHIP) offers health insurance to a limited number of Illinois residents who can afford, but cannot find adequate health insurance coverage in the private market because of their medical or physical condition.
- The National Association of Insurance Commissioners (NAIC) is a central organization of nationwide chief insurance regulatory officials who strengthen and improve State regulation through the formulation of common goals and uniform policies.

Anne Melissa Dowling served as Acting Director of the Department from June 2015 through January 2017. Jennifer Hammer served as Director from January 2017 to December 12, 2018. Karin Zosel served as Acting Director from December 13, 2018 to January 25, 2019. Kevin Fry served as Acting Director from January 26, 2019 to March 10, 2019. The current Director is Robert Muriel who began serving as Acting Director on March 11, 2019. Mr. Muriel is a lawyer with more than 20 years' experience representing small businesses and professionals. His core practice is civil and commercial litigation, including insurance coverage and bad faith claims, financial fraud claims, legal malpractice cases, and consumer class action cases. Previously Mr. Muriel served as a commissioner on the Illinois Racing Board.

The average number of employees for the fiscal years ended June 30 was as follows:

Division/Unit Based on Funding Source	2018	2017	2016
Workers' Comp Commission Operations	5	6	3
Public Pension Regulatory	10	8	9
Affordable Care Act Operation	2	2	9
Insurance Producer Administration	120	133	120
Insurance Financial Regulation	106	108	108
Total	243	257	249

Appendix A indicates some of the service efforts by Consumer Market Activities and the Financial/Corporate Regulatory Division.

Expenditures From Appropriations

Appendix B summarizes the appropriations and expenditures by the Department. The General Assembly appropriated a total of \$49.5 million to the Department of Insurance in FY18 compared to about \$50.6 million in FY17, a decrease of \$1.1 million, or 2.2%. The Department received appropriations from four funds in FY18: the Insurance Financial Regulation Fund, the Insurance Producers' Administration Fund, the Public Pension Regulation Trust Fund, and the Illinois Workers' Compensation Commission Operation Fund.

Total expenditures from appropriations decreased from \$36.9 million in FY17 to \$36 million in FY18, a decrease of \$900,000, or 2.4%. Total expenditures, including expenditures from non-appropriated funds, decreased from almost \$45 million in FY17 to \$39.7 million in FY18, or 11.8%, as a result of the expiration of the Health Insurance Rate Review Grant Cycle II and Cooperative Agreement of the Affordable Care Act's Health Insurance Exchange federal grants within FY18. Similarly, the Department saw a \$7.7 million decrease from FY16 to FY17 as a result of the expiration of the Affordable Care Act Consumer Assistance Program and the Illinois Health Insurance Exchange Project.

Public Act 100-021 authorized the Department to pay its unpaid FY16 and FY17 costs using either the Department's FY17 or FY18 appropriations for non-payroll expenditures. The Department did not use either of its FY17 or FY18 appropriations to pay its FY16 or FY17 costs. Other key highlights include:

- In FY18, lapse period expenditures from both appropriated and non-appropriated funds totaled \$1.3 million, or 3.3% of total expenditures.
- In FY17, lapse period expenditures from both appropriated and non-appropriated funds totaled \$1.9 million, or 4.3% of total expenditures.
- During FY17, the Department incurred \$994 in Prompt Payment Interest for two invoices from two vendors.
- During FY17, the Department and its vendors did not participate in alternative financing involving the Illinois Finance Authority, the Vendor Payment Program (VPP), or the Vendor Support Initiative (VSI).

During FY16, the Department operated without enacted appropriations until PA99-0524 was signed into law on June 30, 2016. During the Impasse, the Circuit Court of St. Clair County in *AFSCME Council 31 v. Munger* ordered the Comptroller to draw and issue warrants for wages of State employees at their normal rates of pay. As a result, the Department's court ordered payroll payments were merged into the enacted appropriations for the Illinois Workers' Compensation Commission Operation Fund, the Public Pension Regulation Trust Fund, the Insurance Producer Administration Fund, and the Insurance Financial Regulation Fund. Further, the Department incurred non-payroll obligations within the same aforementioned funds, which the Department was unable to pay until the passage of PA 99-0524.

Cash Receipts

Appendix C summarizes the Department's cash receipts during FY16-18. Total cash receipts were \$539.1 million in FY18, \$544.9 million in FY17, and \$526.8 million in FY16. Some of the significant changes in receipts were as follows:

- \$6.6 million decrease in FY18 and \$10.2 million decrease in FY17 due to the expiration of parts of the Affordable Care Act; and,
- \$17.2 million decrease in FY18 and \$16.0 million increase in FY17 due to acceleration of collections in FY17 prompted by a prior year audit finding regarding delinquency in billing and collecting the Financial Regulation Fee.

Property and Equipment

Appendix D contains a summary of the Department of Insurance's property and equipment for the two-year period under review. The Department's property balance decreased from \$2.1 million as of July 1, 2016 to approximately \$498,000 as of June 30, 2018. These balances consist of equipment and capital lease equipment.

Security Deposit Fund

The Security Deposit Fund is a fiduciary fund created by the Insurance Code. The Code requires companies domiciled in the State to make and maintain, with the Director of the Department, a deposit of securities having a fair market value of specified amounts for the protection of all creditors, policyholders, and policy obligations of the company. In FY17, the beginning balance of the Fund was \$1.06 billion and at the end of FY18, the balance was \$899 million.

Accountants' Findings and Recommendations

Condensed below are the eleven findings and recommendations presented in the audit report. Three recommendations repeated from the prior audit. The following recommendations are classified on the basis of information provided by the Department of Insurance via email and received October 11, 2019.

Under Study

- 6. Procure and implement a system utilizing advanced analytics or seek legislative remedy. (Repeated-2012)**

Finding: The Department of Insurance's (Department) Workers' Compensation Fraud Unit (WCFU) did not procure and implement a system utilizing advanced analytics inclusive of predictive modeling, data mining, social network analysis, and scoring algorithms for the

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detection and prevention of fraud, waste, and abuse during the examination period as required by the Worker's Compensation Act (Act). The system was to be implemented by January 1, 2012.

Department management stated the Department does not collect the type of claims and medical data necessary to perform data mining or predictive modeling required by the Act. Additionally, this type of modeling would be costly and demand significant resources to implement. Thus, Department management considers legislative remedy of the statute to be the best course of action.

Response: Accepted. The Department notes the compliance challenges caused by the General Assembly's failure to provide for the necessary appropriation. Despite the fact that this has always been an unfunded mandate, the Department has made extensive efforts to comply. The Department subsequently testified before the Legislative Audit Commission with regards to the predictive modeling and advanced analytics and the challenges to acquire the data needed to perform the analysis.

Updated Response: Under Study. The Department has made extensive efforts to comply in the past, including the following actions:

- Issuing a Request for Information (RFI) in early March 2012 for the purpose of gathering information about a system using advanced analytics including predictive modeling, data mining, social network analysis and scoring algorithms. Responses were not helpful to the Department in procuring such a system.
- A 2015 analysis led the Department to conclude it did not have the necessary data to develop and utilize the data analytics system required by the Act.
- Met with IDES in 2016 in a further attempt to comply, which revealed that strict confidentiality laws prevented the possibility of obtaining needed information, continuing to prevent any forward movement.
- Consulted with NAIC regarding similar systems in other states but found that this is not being done elsewhere.

Additional roadblocks include the need to identify a funding source for this system.

The Workers' Compensation Fraud Unit recommended the repeal of Section 25.5 (e5), which contains the system requirement, in their 2016 Annual Report. The Department believes that this is the best course of action and intends to continue discussions with the Governor's Office and legislators to discuss remedies and options.

Accepted or Implemented

- 1. Perform the pension fund examinations every three years as required by the Code or continue to seek a legislative change. (Repeated-2012)**

Finding: The Department's Public Pension Division did not perform required examinations of police and firefighters pension funds once every three years beginning in 2004 as required by the Illinois Pension Code (Code).

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Accepted or Implemented - continued

As of June 30, 2018, there were 656 police and firefighters pension funds which were required to be examined once every three years. As a result of testing, auditors noted the following:

- Two pension funds have been examined three times since 2004.
- 230 (35%) pension funds have been examined on two occasions since 2004.
- 383 (58%) pension funds have been examined on one occasion since 2004.
- 36 (5%) pension funds were currently under examination as of the end of the audit period. Seventeen of the 36 pension fund examinations currently under examination at the end of the audit period were the funds' initial examination. Formed between 2008 and 2012, these 17 pension funds did not have 1 or 2 examinations conducted by the Department in the 6-10 years since the date of their formation. The remaining 18 pension funds were in the process of their second examination and one pension fund on its third examination since 2004. As a result, in the 14 years since 2004, the Department did not complete three examinations for each of the 19 funds.
- One pension fund has not been examined. The pension fund was formed in 2011. As a result, in the 7 years since 2011, the Department did not complete two examinations for the fund.

Department management indicated the noncompliance with the three audit cycle requirements of the Code was due to the Public Pension Division operating with inadequate staff levels, which would require significant additional appropriations that are unlikely to be granted in the near future. As a result, the Department will be seeking legislative relief from the three year requirement to shift the examinations to a risk-based process, requiring an examination of each pension fund every five years.

Response: Accepted. The Department is pursuing legislation to amend the Illinois Pension Code to shift to a risk-based audit approach requiring an audit of each pension fund every five years. Further, the Department's Pension Division has taken steps to properly train all Audit Group employees on the requirements of the applicable section of the Illinois Pension Code. Additionally, the Department has hired three employees, procured two vendor contracts, and is utilizing the \$1,000,000 Pension Lump Sum appropriation to address these issues. The Department has also taken steps to implement electronic audit workpaper software that will increase productivity of the Audit Group and streamline the audit process.

Updated Response: Accepted and Partially Implemented. The Department is working to seek legislative relief. There has been an initial meeting with legislators to consider possible solutions. We are continuing to work on this endeavor. With no changes to statute, the Department would need to add 12 examiners and 3 support staff to their present staff. This would require an increase in appropriations of \$2,100,000 to accomplish as well as an increase in revenues to sustain. Additionally, the Department plans to conduct an internal

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audit to ensure that examinations are being performed as efficiently and effectively as possible.

2. Comply with the statutory requirements of the Illinois Insurance Code and the Health Maintenance Organization Act.

Finding: The Department did not maintain adequate controls over the timeliness of approving and denying insurance and Health Maintenance Organization (HMO) company policy forms. Specifically, auditors noted the following:

- Seventeen of 40 (43%) life, accident, and health policy forms filed by insurer companies were not approved or disapproved by the Department within the required 60-day time period after the form's submission. The Department approved the policy forms between 8 to 432 days late.
- Ten of 18 (56%) HMO group contracts, evidence of coverage, endorsement, rider, bylaw or other policy forms were not approved or disapproved by the Department within the required 60-day time period after the form's submission. The Department approved the policy forms between 1 to 113 days late.

Department management stated the filings were not approved within the 60-day statutory timeline due to various circumstances that arise that may warrant the Department to request additional documentation from the insurers or may require actuarial review. The Department believes these circumstances are beyond the Department's control, and while the Code provides a possible extension of a filing review by 30 days, the Department does not formally extend the review of filings to any specific time period as the review and approval of company filings continues in the same manner regardless of the number of days involved.

Updated Response: Accepted and Partially Implemented. The Department agrees that it is important to approve product filings as expeditiously as possible for efficient marketplace regulation but also maintains that a thorough review is of the utmost importance to ensure total compliance with Illinois law before product filings are available to Illinois consumers.

Currently, the statute requires approval or rejection within 60 days and allows for a 30-day extension if approved by the Director within the original 60 days. The Department notes that most filings are approved or rejected within the 60 to 90-day period allowed. Variables affecting the approval process timeline such as additional documentation requests and actuarial review may be necessary and time consuming. An additional actuary has been obtained to help in this area.

The Department is also considering possible legislative changes to remedy the issue that will allow additional time for the process while avoiding the rejection of filings based largely

on the inability to meet the timeline, particularly in cases where there is good cooperation and dialogue with the insurance company. This view is also supported by the industry. The

Accepted or Implemented - continued

Department envisions changes that would not deem a filing complete until all questions have been adequately answered. At that point the tolling of days in the approval or denial process would begin. The Department intends to continue discussions with the Governor's Office and legislators to discuss remedies and options.

3. Comply with the Illinois Procurement Code regarding the maximum level of stocking requirements for the supply of postage.

Finding: The Department did not comply with the Illinois Procurement Code regarding the maximum stocking level of postage inventory allowed.

During testing, auditors noted the Department had approximately 1.5 years of postage inventory based on average usage over the examination period on hand at June 30, 2018. Auditors noted the following postage transactions during the examination period:

Fiscal Year 2017		Fiscal Year 2018	
Beginning Balance:	\$ 3,935	Beginning Balance:	\$ 111,319
Purchases:	150,000	Purchases:	0
Usage:	(42,616)	Usage:	(44,466)
Ending Balance:	<u>\$ 111,319</u>	Ending Balance:	<u>\$ 66,853</u>

Response: Accepted. The Department notes that the additional postage was purchased to allow the Department to continue mailings to conduct daily business, such as responding to consumer and company inquiries and mailing of invoices/billings, critical to the Department's operations. Resulting from the budget impasse and the possibility of that impasse continuing, the Department felt it in their best interest to purchase this additional postage. The Department sends hundreds of dollars' worth of certified mail daily, associated with summons' and other statutory requirements. Much of this postage was utilized. Department funding is comprised solely of Dedicated, Other State monies. No General Revenue appropriated monies are utilized by the Department. The purchase was made due to the fear of lack of appropriation, again due to the potential continuation of the budget impasse.

Updated Response: Implemented. Due to the State budget impasse, the Department purchased additional postage because, at the time, it was considered in the best interest of the citizens of Illinois. With no idea if or when the impasse would end, the decision was made with awareness that the ability to use the mail to conduct the daily business of the Department, including statutory requirements, was crucial to the overall operation. The Department has since been able to transition some mailing functions to the use of electronic billing and correspondence. Moving forward, an excess purchase will not occur again.

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- 4. The Department's Director should appoint a chief internal auditor and ensure a full-time program of internal auditing is in place and functioning at the Department.**

If another agency is to be relied upon to supplement internal audit functions at the Department, obtain written approval of the Governor for these services and ensure such services are provided in accordance with the Act's requirements.

Implement policies and procedures to track internal audit costs, maintain documentation which adequately documents the costs of the Department's internal audit function, and ensure other agencies providing services to the Department are only reimbursed for allowable costs.

Finally, do not grant another agency the authority to process payroll against the Department's appropriations unnecessarily or without implementing and documenting proper controls.

Finding: The Department failed to adhere to provisions in the Fiscal Control and Internal Auditing Act which requires each designated State agency to maintain a full-time program of internal auditing. The Act also states "[a]gencies which do not have full-time internal audit programs may have internal audits performed by the Department of Central Management Services" (30 ILCS 10/2001 (b)).

The Act was originally a Legislative Audit Commission initiative designed to address deficiencies noted in a May 1988 management audit of Illinois' State Programs of Internal Auditing. The audit report's conclusions and recommendations and the legislation that became the Act demonstrated an understanding that agencies which are not required to have their own full-time program of internal auditing could obtain internal auditing assistance from an agency such as the Department of Central Management Services (CMS). In other words, each designated State agency must have a full-time program of internal auditing and each State agency that is not so designated is not required to have a full-time program of internal auditing, but may receive internal audit services from CMS.

In 2003, by Executive Order (2003-10) the Governor transferred the internal auditors from the various State agencies and consolidated them into the Illinois Office of Internal Audit at CMS. In 2009, the General Assembly unanimously rejected this consolidation of internal audit authority in CMS and directed that the internal auditors and their functions be returned to their respective designated State agencies (P.A. 96-795, effective July 1, 2010).

On January 15, 2018, the Department entered into an agreement with CMS' Bureau of Internal Audit to provide the Department with internal auditing services. As of the end of fieldwork (February 11, 2019), CMS' Chief Internal Auditor was acting as Chief Internal Auditor for eight State agencies (CMS, Agriculture, Corrections, Financial and Professional Regulation, Human Rights, Insurance, Labor, and Illinois Finance Authority), each of which is a designated State agency under the Act required to have a Chief Internal Auditor appointed by the agency head and to maintain a full-time program of internal auditing.

Accepted or Implemented - continued

During testing, auditors noted the following:

- The Department's Director has not appointed an individual to fill the Department's chief internal auditor position. This position was vacated on May 31, 2017, 395 days prior to the end of the examination period on June 30, 2018. The Act (30 ILCS 10/2002(a)) requires the Director to appoint a chief internal auditor.

Department officials indicated the exception noted above was due to the Department being unable to attract qualified candidates for the position of Chief Internal Auditor.

- The Department and CMS did not obtain the Governor's approval for CMS to provide professional internal auditing services to the Department. The Code (20 ILCS 405/405-293(a)) states that CMS "is responsible for providing professional services for or on behalf of State agencies for all functions transferred to the Department by Executive Order No. 2003-10. . ." Since the part of Executive Order 2003-10 related to internal audit was reversed by P.A. 96-795 this portion of the Section is not applicable in the circumstances. The Section goes on to state that CMS may "with the approval of the Governor, provide additional services to or on behalf of State agencies." "Additional services" is not defined and no approval for CMS to provide internal auditing services specifically to the Department, a designated State agency under the Act, was obtained from the Governor.
- While testing the Expenses and Support Cost section of the intergovernmental agreement between the Department and CMS, the auditors requested the Department provide sufficient and appropriate audit evidence related to costs of the Department's internal audit function from January 15, 2018, through the end of the examination period on June 30, 2018. The documentation was to substantiate (1) the authorization of CMS to use the Department's appropriation for processing payroll as allowed for under the intergovernmental agreement, and (2) that CMS only charged the Department for payroll services of CMS internal auditors who provided internal audit functions to the Department. The Department was unable to provide the documentation requested. Specifically, the auditors noted the following internal control deficiencies:
 - It does not appear the Department is monitoring the current costs of its internal audit function. As a result, auditors were unable to audit the cost of the Department's internal audit function to ensure the Department is accurately reimbursing CMS payroll costs as stipulated by the intergovernmental agreement.
 - The Department granted CMS authorization through its intergovernmental agreement to charge the Department's appropriations for payroll costs

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associated with CMS' rendering of professional internal audit services to the Department; however, as indicated by the Department in its response to the auditors' requests, it is not the Department's nor CMS' intent to process any vouchers against the Department's appropriations. As a result, the auditors believe there is a significant internal control risk with potentially delegating a State's appropriation authority unnecessarily.

The Act (30 ILCS 10/3001)) requires the Department to establish and maintain a system, or systems, of internal fiscal and administrative controls, to provide assurance that: (1) resources are utilized efficiently, effectively, and in compliance with applicable law; (2) obligations and costs are in compliance with applicable law; and (3) funds, property, and other assets and resources are safeguarded against waste, loss, unauthorized use, and misappropriation.

Department officials indicated they disagree with the exception noted above.

Failure to establish a full-time internal audit program in accordance with the requirements of the Act – where the chief internal auditor develops a deep understanding of the Department's functions and processes, oversees, and performs audits of the Department's major systems of internal accounting and administrative controls on a periodic basis, and oversees and reviews major new and modifications to information systems prior to implementation – weakens the Department's ability to assess its overall internal control environment and represents noncompliance with State law. Further, the establishment of the Department's internal audit function by interagency agreement hinders the operational autonomy intended by the General Assembly for internal auditors. Department management cannot terminate an appointed chief internal auditor prior to the conclusion of their term without cause and a hearing before the Executive Ethics Commission, but management can terminate the interagency agreement with CMS at any time for any reason. Failure to obtain the approval of the Governor for expanding the professional services provided to the Department by CMS limits governmental oversight and represents noncompliance with the Code. Failure to adequately track internal audit costs and be able to provide the auditors with adequate cost support related to the Department's internal audit function results in the auditors being unable to determine the Department's compliance with the Act. Finally, granting CMS authorization to expend the Department's payroll appropriations weakens the Department's overall internal control environment and represents noncompliance with State law.

Response: Accepted. The Department notes the following information:

- For the Chief Internal Auditor appointment, the Department will work with the Department of Central Management Services to develop a responsive, effective, and sustainable long-term solution.
- The Department will work with the Department of Central Management Services to obtain written approval from the Governor's Office to supplement internal audit functions.

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- The Department is working with the Department of Central Management Services to track the costs associated with the audit services and should have a plan to review the costs for reimbursement of federal monies.
- The Department will work with the Department of Central Management Services to revise the intergovernmental agreement to remove the portion on processing payroll.

Auditor Comment: *The Department indicates it will work with CMS to revise the intergovernmental agreement under which CMS' Chief Internal Auditor acts as the Chief Internal Auditor for the Department, as well as for numerous other agencies through other intergovernmental agreements. The auditors do not believe this arrangement meets the requirements of the Fiscal Control and Internal Auditing Act and, as a result, the Office of the Auditor General requested a formal, written opinion from the Attorney General's Office on the matter.*

Updated Response: Accepted and Partially Implemented. The Department has worked with its Legal Division and Human Resources personnel to update the position description in its effort to ensure the Department obtains qualified candidates. The Department is currently in the process of posting the position of Chief Internal Auditor in keeping with the recent Attorney General opinion. In the past, the Department has posted the position but at that time, did not find quality candidates. The Department has used CMS Bureau of Internal Audit to complete audits in their audit plan but understands the need to hire its own internal auditor.

5. Comply with the statutory requirements of the Illinois Insurance Code regarding assessment of penalties and interest. Further, seek the lost revenues owed to the State.

Finding: The Department failed to assess penalties and interest to insurance companies who did not timely pay annual financial regulation fees or timely file required tax statements in accordance with the Illinois Insurance Code. Specifically, the auditors noted the following:

- Three of 40 (8%) foreign or alien companies tested paid their annual financial regulation fees after the June 30, 2017 due date, between 7 to 59 days late. The Department failed to assess penalties for these late payments, which were estimated to equal \$13,982.
- For 5 of 40 (13%) surplus line producer semi-annual tax statements tested, the Department failed to issue penalty and interest invoices for the late filing of the tax statements, totaling \$37,398. These tax statements related to the 08/01/16 filing period.
- For 7 of 40 (18%) surplus line producer semi-annual tax statements tested, auditors noted the Department did not correctly assess penalties for the late filing of the tax statements, totaling \$2,041. These tax statements related to the 08/01/16 and

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02/01/17 filing periods.

Department management stated the exceptions noted were due to staff members having competing priorities with other job duties as the calculation for assessing the penalties and interest was a manual process.

Response: Accepted. The Department notes the following information:

- The Department agrees with the finding. The incidences cited in the finding were for FY17. The automated penalty feature was inserted into the Accounting Management System (AMS) ahead of the FY18 collection. Now, when a Company pays a Financial Regulation Fee after the fixed due date of 6/30/XX, a penalty is automatically assessed. This finding has been solved prospectively.
- The Department agrees with the finding. The incidences cited in the finding were for FY17. The automated penalty feature was inserted into the Accounting Management System (AMS) ahead of the FY18 collection. Now, when a Producer files a Surplus Lines tax statement after the fixed due date of 2/1/XX or 8/1/XX, a failure to file penalty is automatically assessed. For the Producers who never submit a tax statement, the Department generates an exception report to identify the non-filers and files for them to generate the penalty once the maximum penalty has been reached. This finding has been solved prospectively.
- The Department agrees with the finding. The incidences cited in the finding were for FY17. The automated penalty feature was inserted into the Accounting Management System (AMS) ahead of the FY18 collection. Now, when a Producer files a Surplus Lines tax statement after the fixed due date of 2/1/XX or 8/1/XX, a failure to file penalty is automatically assessed. For the Producers who never submit a tax statement, the Department generates an exception report to identify the non-filers and files for them to generate the penalty once the maximum penalty has been reached. This finding has been solved prospectively.

Updated Response: Implemented. As indicated in the Department Response to the Finding, all incidences cited were for FY17. An automated penalty feature was built in to the Accounting Management System (AMS) ahead of the FY18 collection. A Financial Regulation Fee paid after the fixed due date is automatically assessed a penalty. A Producer Surplus Lines tax statement filed after the due date is automatically assessed a failure to file penalty. Producers that never submit a tax statement are identified and will

have one filed for them by the Department once the maximum penalty has been reached. The automated penalty feature in AMS was tested for accuracy and determined to be sufficient by the Department as well as the external auditors.

7. **Strengthen controls over reporting to ensure required reports are performed, and completed timely and accurately. (Repeated-2014)**

Accepted or Implemented - continued

Finding: The Department did not accurately file statutorily required reports or did not file timely. During testing, auditors noted the following exceptions:

- The Department reported information on its FY16 and FY17 Agency Workforce Reports (Report) which did not agree to the Reports' supporting documentation. Discrepancies were noted in 5 of 16 (31%) employee category groups within the 2016 Report and for 12 of the 16 (75%) employee category groups within the 2017 Report.

Department management stated the errors in the Agency Workforce Reports were due to the individual responsible for the report vacating the position leaving completion of the report to other Department staff who were not familiar with the process and report completion.

- The Department did not perform the reconciliations of the monthly Agency Contract Report (SC14 Report) and the monthly Obligation Activity Report (SC15 Report) for both FY17 and FY18. Subsequently, the Department provided quarterly reconciliations (including for lapse period) for both Fiscal Years 2017 and 2018. During testing, auditors noted two of six SC14 and SC15 quarterly reports tested had unreconciled differences of \$99,498 which had not been identified by the Department.

Department management indicated the original omission of the SC14 and SC15 obligation reconciliations being performed was due to employee oversight when the Administrative and Regulatory Shared Services Center at the Department of Revenue was disbanded. Errors in the quarterly reconciliation was due to employee error.

- The Department's Agency Report of State Property (Form C-15) for the fourth quarter of FY18 reported a deletion of \$16,577 with a fully depreciated historical value of \$0 on the Department's property listing. This resulted in an overstatement of deletions and understatement in total property value by \$16,577 in the year ending Form C-15.

Department management stated the error noted in the Form C-15 was due to employee error.

- The Department incorrectly reported the amount of fees on the Agency Fee Imposition Report for FY17. One of 14 fees reported did not agree with Department's records. The effect of the difference resulted in the Department overstating reported fees for FY17 by \$1,304,617. Auditors also noted 2 of 6 fund numbers on the Agency Fee Imposition Report for both FY17 and FY18 did not agree with the Office of the Comptroller's Monthly Revenue Status Report (SB-04).

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Department management stated the discrepancies noted in the Agency Fee Imposition Report were due to oversight.

Response: Accepted. The Department notes the following:

2018-007 Agency Workforce Report

The Department agrees with the finding. The Department has put in place a better process to complete the agency workforce reports. Additionally, while there was a high percentage of discrepancies many were off by 1 or 2 employees.

2018-007 Contract Report/Obligation Activity Report

The Department agrees with the finding. Unreconciled differences within the Department's SC14 and SC15 quarterly reports were identified and the reconciliations were adjusted accordingly.

Reconciliation of the Agency Contract Reports and the Obligation Activity Reports for FY 2017 and 2018 have been completed. The Fiscal Office will continue to perform these reconciliations moving forward. The original omission of the SC14 and SC15 obligation reconciliations being performed was due to oversight when the Administrative and Regulatory Shared Services Center at the Department of Revenue was disbanded. CMS Internal Audit brought this to our attention during the course of their normal internal audit. The Department has since implemented a plan to comply with this finding.

2018-07 State Property Report

The Department agrees with the finding. This appears to be an isolated incident in relation to Departmental inventory system reporting. We fully expect this issue to be rectified within the normal course of business over the coming fiscal year.

2018-07 Fee Imposition Report

The Department agrees with the finding. The Department inadvertently reported the amount collected in Cost Containment fees rather than the amount transferred to the Illinois Financial Regulation Fund. The deficiency is noted and will be corrected going forward.

Updated Response: Implemented.

- Agency Workforce Report. The Department was without EEO and HR managers at the time the report was due to be filed and, as a result, the report was completed by less experienced staff unfamiliar with the process. Subsequently, the Acting HR Manager, who also held the Ethics/EEO roles, prepared the reports with additional Departmental review, and HR staff became familiar with the process. As of October 1, 2019, the Acting HR Manager / EEO has resigned from DOI; a new HR manager will begin on November 1, 2019. In the meantime, DOI's Legal Division will work with HR to assist with preparation of the Agency Workforce Report.

Accepted or Implemented – continued

- Agency Contract Report and Obligation Activity Report. The Department has a process moving forward utilizing the agency GAAP accountant to reconcile the reports monthly and submit to the Assistant CFO for review. Presently all reports are up to date and reconciliations are performed monthly as required.
- Agency Report of State Property (C-15). The inaccuracy was due to an isolated employee error. A new property control manager began with the Department in June of 2019 and was thoroughly trained in the completion of the C-15 upon his arrival.
- Agency Fee Imposition Report. Agency oversight was identified as the cause of the discrepancies noted. The Department has reviewed the issue and will ensure that the amounts reported accurately tie to the summary of Taxes and Fees.

8. Evaluate procedures for monitoring performance evaluations to ensure performance appraisals are completed timely.

Finding: The Department did not perform employee performance evaluations in a timely manner. Specifically, auditors noted the following exceptions during testing of 35 performance evaluations for 24 Departmental employees:

- Eleven performance evaluations for the period tested were not completed. Four performance evaluations pertained to FY17 and seven performance evaluations pertained to FY18.
- Nine performance evaluations for the employees tested were not completed timely by the Board. The employee evaluations were completed between 20 and 295 days late.

Department management stated the non-performance and untimely completion of performance evaluations were due to turnover in supervisory positions and competing priorities throughout the Department in FY17 and FY18.

Updated Response: Accepted and Partially Implemented. The Department developed corrective actions and has followed through with the following measures:

- Drafted and clearly communicated a policy on evaluations with a due date of 60 days after the conclusion of the evaluation period to agency leadership and supervisors when providing notification of upcoming or untimely evaluations.
- Advised all members of the senior leadership team to include an objective in their own evaluations to have all employee evaluations completed and done timely.
- Provided training open to all supervisors on how to properly complete and conduct performance evaluations.
- Completed an audit of the electronic database and hard copy files, updated evaluation periods for all current employees, modified reports, and provided notice to all Deputy Directors of outstanding evaluations.

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- Modified internal HR processes for logging, filing, tracking, and notifying supervisors of due dates.

9. Monitor obsolete and transferable equipment items and report them to the Department of Central Management Services to ensure compliance with the Code and the SAMS Manual.

Finding: The Department did not adequately monitor and track surplus equipment items during the examination period. Specifically, auditors noted the following exceptions:

- Three equipment items (a copier, a film scanner, and a map generator), which were considered no longer in use by the Department prior to the date of the auditors' listing-to-floor testing, had not been sent to the Department of Central Management Services. These items totaled \$38,709.
- One equipment item (a check validator), which was considered no longer in use by the Department prior to the date of floor-to-listing testing, had not been sent to the Department of Central Management Services. The item totaled \$1,215.

In addition to the items noted during physical testing of equipment, auditors noted the Department did not have an overall process in place for the monitoring or tracking of obsolete and transferable equipment items.

Department management stated the intention to report possession of currently unused, transferable items to the Department of Central Management Services was present, but the efficiency in terms of logistics costs related to the movement of such few items was taken into consideration.

Updated Response: Implemented. The four items that were noted have been sent to CMS surplus. Moving forward the Department policy has been updated. Items that are not being used will be transferred to surplus.

10. Strengthen controls over the monitoring of grant agreement requirements to ensure the requirements are adhered to.

Finding: The Department did not fully comply with provisions of the federal grant agreements under its purview during the examination period.

The Department entered into three grant agreements with the United States' Department of Health and Human Services Centers for Medicare and Medicaid Services during the examination period. During FY17 and FY18, the Department expended \$322,053 and \$199,484, respectively, under the terms of these grant agreements.

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Accepted or Implemented - continued

During testing, auditors noted the following:

- For the Health Insurance Enforcement and Consumer Protections Grant Program, the annual Federal Financial Report (FFR) for the FFY16 project was submitted on October 29, 2018 (272 days late). In addition, two pamphlets published by the Department during FY18 did not include the required disclosure and disclaimer.

Department management stated the delay in the submission of the annual FFR was due to the online FFR form or module in the GrantSolutions system never being available to the Department and the missing required disclosure and disclaimer on the publications were due to oversight.

- For the Affordable Care Act Grants to States for Health Insurance Premium Review Program, the two FY17 quarterly progress reports were submitted 16 and 23 days late. Further, the Department did not submit the annual FFR for the reporting period ending September 30, 2016 to the federal government. Finally, the final FFR for the reporting period ending September 30, 2017 was submitted by the Department 46 days late.

Department management stated the delay and/or non-submission of the quarterly progress reports and FFR reports were due to staffing issues.

- For the Affordable Care Act Consumer Assistance Program, the Department did not timely submit all of the quarterly data reports, the quarterly progress reports, and the final progress report. The Department submitted the final FFR for the project period ending August 23, 2016 on June 12, 2017 (201 days late).

Department management stated the delay and/or non-submission of the quarterly data/progress reports and the final FFR report were due to the transition in the grant management team during the last months of the project.

Updated Response: Implemented. Although staffing remains an issue, the Department has implemented procedures to rectify this finding. There is now an extensive operating narrative involving federal grant fund management, inclusive of requirements, timelines and due dates. Additionally, responsibilities managed by previous employees have been reassigned and include fiscal review prior to submission to the Federal Government. As well, the Department has assigned a staff member the responsibility of providing progress reports concerning the agency's progress in meeting the goals as defined within the grant award agreements to other staff involved to help meet required timelines. Reports are being submitted on a timely basis and in accordance with federal requirements.

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11. Strengthen controls over voucher processing to ensure compliance with State regulations and Department travel procedures. Ensure all contracts over the threshold amounts are filed with the Comptroller.

Finding: The Department did not maintain adequate controls over its voucher processing. During voucher testing, auditors noted the following:

- For four of 40 vouchers tested, totaling \$1,182,678, the related Contract Obligation Documents (CODs) were not prepared. Copies of the signed contracts were also not submitted to the Illinois Office of the Comptroller.
- Two of 40 vouchers tested, totaling \$27,609, were not approved within 30 days after the receipt of a proper bill. The vouchers were approved one and seven days late.
- For one of 25 travel vouchers tested, totaling \$1,559, an out-of-state travel was requested 38 days before the commencement of travel instead of 60 days as required by Department policy.

Department management stated the issues noted were due to employee oversight.

Updated Response: Implemented. Narratives have been developed and are in place containing procedures specific to the processing and payment of travel requests/reimbursement, payment of vouchers and the contract obligation process. Staff are in place and trained in all methods and procedures associated with the areas mentioned in this finding. The Department would like to note that there are instances during the normal course of business when payment of vouchers can be delayed. Additionally, there may be isolated last-minute travel requests moving forward. At times, this is unavoidable. The procurement area is now fully staffed, which will eliminate issues with the contract filing and contract obligation process. Staff turnover, and for a lengthy time, no staff at all, in addition to new systems utilized for processing obligations and contracts, BidBuy and SAP, were all contributing factors to these audit findings.

Emergency Purchases

The Illinois Procurement Code (30 ILCS 500/) states, "It is declared to be the policy of the State that the principles of competitive bidding and economical procurement practices shall be applicable to all purchases and contracts..." The law also recognizes that there will be emergency situations when it will be impossible to conduct bidding. It provides a general exemption when there exists a threat to public health or public safety, or when immediate expenditure is necessary for repairs to State property in order to protect against further loss of or damage to State Property, to prevent or minimize serious disruption in critical State services that affect health, safety, or collection of substantial State revenues, or to ensure the integrity of State records; provided, however that the term of the emergency purchase shall not exceed 90 days. A contract may be extended beyond 90 days if the chief procurement officer determines additional time is necessary and that the contract scope and

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duration are limited to the emergency. Prior to the execution of the extension, the chief procurement officer must hold a public hearing and provide written justification for all emergency contracts. Members of the public may present testimony.

Notice of all emergency procurement shall be provided to the Procurement Policy Board and published in the online electronic Bulletin no later than 5 calendar days after the contract is awarded. Notice of intent to extend an emergency contract shall be provided to the Procurement Policy Board and published in the online electronic Bulletin at least 14 calendar days before the public hearing.

A chief procurement officer making such emergency purchases is required to file affidavits or statements with the Procurement Policy Board and the Auditor General setting forth the amount expended (or an estimate of the total cost), the name of the contractor involved, and the conditions and circumstances requiring the emergency purchase. The Code also allows for quick purchases. The Legislative Audit Commission receives quarterly reports of all emergency purchases from the Office of the Auditor General. The Legislative Audit Commission is directed to review the purchases and to comment on abuses of the exemption.

The Department filed no emergency purchase affidavits/statements in FY18 or FY17.

Headquarters Designations

The State Finance Act requires all State agencies to make semiannual headquarters reports to the Legislative Audit Commission. Each State agency is required to file reports of all of its officers and employees for whom official headquarters have been designated at any location other than that at which their official duties require them to spend the largest part of their working time.

The Department indicated in July 2018 that the official headquarters for 50 employees had been designated at a location other than that at which their official duties required them to spend the largest part of their working time.

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DEPARTMENT OF INSURANCE
TWO YEARS ENDED JUNE 30, 2018

APPENDIX A

Annual Statistics

	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>
<u>Consumer Market Activities</u>			
Number of life, accident, & health (LA&H) and property & casualty (P&C) consumer complaints closed	9,785	13,111	13,688
Number of new/renewal licenses processed by Producer Licensing Section	107,266	111,273	118,575
Percentage of new license applications processed electronically, within one working day	100%	100%	100%
Percentage of renewal license applications processed electronically, within one working day	100%	100%	100%
<u>Financial/Corporate Regulatory Division</u>			
LA&H & P&C financial exams started	59	84	77
LA&H, P&C, & HMO annual financial statements reviewed	349	349	340
LA&H, P&C, & HMO quarterly financial statements reviewed	933	909	763
Pension fund annual statements reviewed	1,018	960	1,052
Ten year rolling average of LA&H companies in receivership	1%	1%	1%
Ten year rolling average of P&C companies in receivership	1.5%	1.5%	1.5%
Ten year rolling average HMOs in receivership	0%	0%	0%

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APPENDIX B

Summary of Appropriations and Expenditures

<u>Appropriations</u>	<u>FY18</u>	<u>FY17</u>	<u>FY16</u>
	<u>\$ 49,522,100</u>	<u>\$ 50,593,000</u>	<u>\$ 50,720,200</u>
<u>Workers' Comp Commission Operations Fund</u>	<u>\$ 694,432</u>	<u>\$ 751,066</u>	<u>\$ 682,560</u>
Public Pension Regulation Trust Fund			
Personal services	559,493	608,192	663,390
Retirement, employer contribution	265,093	271,173	302,665
Social security	40,453	44,620	48,785
Group insurance	145,833	195,716	221,663
Contractual services	11,292	10,722	2,737
Travel	4,288	1,640	8,621
Commodities	-	-	48
Equipment	340	620	-
Lump sums and other purposes	375,159	332,352	374,008
Total Fund Expenditures	<u>1,401,951</u>	<u>1,465,035</u>	<u>1,621,917</u>
Insurance Producer Administration Fund			
Personal services	6,745,257	8,013,264	8,306,221
Retirement, employer contribution	3,192,327	3,559,425	3,784,919
Social security	490,302	585,444	604,569
Group insurance	1,930,412	2,414,676	2,472,894
Contractual services	994,078	1,374,896	1,117,825
Travel	23,665	24,384	17,919
Commodities	7,102	5,004	2,313
Printing	12,541	1,885	3,624
Equipment	15,963	868	27,704
Electronic data processing	2,053,915	335,147	165,703
Telecommunications	119,166	130,549	139,496
Operation of automotive equipment	754	1,099	518
Lump sums and other purposes - Shared svcs center	-	10,466	366,700
Lump sums and other purposes - Get Covered IL	664,322	369,968	27,886
Lump sums and other purposes - Operational costs & expenses	269,440	236,234	272,685
Refunds	40,106	41,749	6,800
Total Fund Expenditures	<u>16,559,350</u>	<u>17,105,058</u>	<u>17,317,776</u>
Insurance Financial Regulation Fund			
Personal services	8,330,998	8,952,420	9,445,057
Retirement - employer contribution	3,950,733	4,003,160	4,318,830
Social security	607,058	653,936	689,414
Group insurance	1,928,408	2,289,555	2,565,482
Contractual services	1,309,914	1,278,814	1,130,211
Travel	30,398	27,995	33,118

Appendix B - continued

	<u>FY18</u>	<u>FY17</u>	<u>FY16</u>
Commodities	5,370	3,446	1,337
Printing	1,589	6,268	-
Equipment	12,311	8,598	29,223
Electronic data processing	849,263	199,561	59,066
Telecommunications	113,559	122,967	169,801
Operation of Automotive equipment	1,952	-	437
Lump sums and other purposes - Operational costs & expenses	201,072	9,590	3,459
Refunds	11,499	32,200	40,359
Total Fund Expenditures	<u>17,354,124</u>	<u>17,588,510</u>	<u>18,485,794</u>
Total Expenditures- All Appropriated Funds	<u>\$ 36,009,857</u>	<u>\$ 36,909,669</u>	<u>\$ 38,108,047</u>
 <u>Non-Appropriated Funds</u>			
Insurance Premium Tax Refund Fund	2,709,082	2,622,720	2,301,688
Department of Insurance Federal Trust Fund	456,790	5,386,666	13,109,721
Group Workers' Comp Pool Insolvency Fund	<u>565,458</u>	<u>61,375</u>	<u>16,050</u>
Total Expenditures - Non-Appropriated Funds	<u>\$ 3,731,330</u>	<u>\$ 8,070,761</u>	<u>\$ 15,427,459</u>
Total Expenditures-All Appropriated & Non-Appropriated Funds	<u>\$ 39,741,187</u>	<u>\$ 44,980,430</u>	<u>\$ 53,535,506</u>

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APPENDIX C

Cash Receipts

<u>Receipts by Fund</u>	<u>FY18</u>	<u>FY17</u>	<u>FY16</u>
General Revenue Fund	421,851,577	401,355,666	394,025,523
Fire Prevention Fund	28,380,838	28,019,866	27,577,766
Insurance Premium Tax Refund Fund	2,649,000	2,713,000	2,417,000
Protest Fund	6,214	5,760	-
Illinois Workers' Compensation Commission Operations Fund	27,494,282	28,553,992	27,814,505
Public Pension Regulation Trust Fund	2,116,210	2,058,838	2,017,060
Federal Trust Fund	236,416	6,858,653	17,103,209
Group Workers' Comp Pool Insolvency Fund	121,785	120,744	114,033
Insurance Producers' Administration Fund	33,433,183	35,165,924	31,857,558
Insurance Financial Regulation Fund	22,868,752	40,045,866	23,946,078
Total	<u>\$ 539,158,257</u>	<u>\$ 544,898,309</u>	<u>\$ 526,872,732</u>

Receipts by Category

Privilege Insurance Tax	185,052,090	176,941,082	175,629,371
Retaliatory Tax	173,905,157	165,803,198	163,597,436
Surplus line Tax	52,203,932	49,101,559	50,049,566
Independent procurement tax	12,801,969	12,228,989	7,101,207
Industrial Commission Operations Fund surcharges	27,494,282	28,553,992	27,814,505
Insurance producer licenses and fees	30,249,312	29,103,325	28,780,011
Regulatory insurance licenses and fees	22,750,384	39,999,708	23,777,463
Pensions filing fee/prior year refund	2,116,434	2,058,838	2,047,955
Insurance performance examination fees	574,707	663,936	885,289
Protest fees	6,214	5,760	-
Fire Marshal tax	28,106,953	27,704,498	27,466,850
Federal government grant	236,416	6,858,653	17,103,209
Surety bonds	121,785	120,744	114,033
Fines, penalties, interest	2,999,903	5,254,351	1,856,081
Miscellaneous	538,719	499,676	649,756
	<u>\$ 539,158,257</u>	<u>\$ 544,898,309</u>	<u>\$ 526,872,732</u>

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APPENDIX D

Summary of Property and Equipment

	<u>FY18</u>	<u>FY17</u>
Beginning Balance, July 1	\$ 2,059,028	\$ 2,141,726
Additions	38,833	26,151
Deletions	(1,327,222)	(37,617)
Net Transfers	(272,980)	(71,232)
Ending Balance, June 30	\$ 497,659	\$ 2,059,028

\$ 1,561,369