

LEGISLATIVE AUDIT COMMISSION



Review of
Workers' Compensation Commission
Two Years Ended June 30, 2013

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REVIEW: 4437
WORKERS' COMPENSATION COMMISSION
TWO YEARS ENDED JUNE 30, 2013

FINDINGS/RECOMMENDATIONS - 10

IMPLEMENTED - 4

ACCEPTED- 6

REPEATED RECOMMENDATIONS - 4

PRIOR AUDIT FINDINGS/RECOMMENDATIONS - 7

This review summarizes the report of the Illinois Workers' Compensation Commission filed with the Legislative Audit Commission on February 20, 2014 for the two years ended June 30, 2013 (compliance) and the year ended June 30, 2013 (financial). The auditors performed the audits in accordance with *Government Auditing Standards* and State law. The auditors stated that the financial statements present fairly, the financial position including its changes in financial position and cash flows of the Self-Insurers' Security Fund.

The Illinois Workers' Compensation Commission administers the Workers' Compensation Act and the Workers' Occupational Disease Act. The Self-Insurers' Advisory Board, established within the Commission, was created for the purpose of administering the Self-Insurers' Security Fund. The mission of the Commission is to resolve disputes that arise between injured workers and their employers regarding workers' compensation, and to assure financial protection to injured workers and their dependents at reasonable costs to employers and to provide employers timely resolution of cases. The Commission consists of ten members appointed by the Governor with the consent of the Senate. Of the ten members, three are representatives of employers and three are employees covered under the Act, and four are representative citizens not identified with either employers or employees. The Chairman is selected by the Governor from the group of persons not identified with employers or employees. The Chairman has general supervisory authority over all the Commission's personnel. Not more than six of the Commissioners shall come from the same political party.

The Act authorizes the Commission to function as a quasi-judicial body with the equivalent of court status in that its records, when properly represented, are accepted by regularly constituted courts as legal evidence; its decisions are final unless an appeal is made to the Courts. Public Act 97-18 which became effective on June 28, 2011 made several changes to the Workers' Comp Commission. All arbitrators were terminated effective July 1, 2011. New arbitrators were appointed by the Governor with the advice and consent of the Senate. Additionally, arbitrators must be licensed to practice law in Illinois and training requirements were expanded. At least three arbitrators must be assigned to each hearing site and cases must be randomly assigned. Arbitrators may not serve more than two years of any three-year term in any single county, other than in Cook. Other significant changes include changes in benefits that may be awarded to an injured employee, the establishment of

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Preferred Provider Programs of medical providers, no compensation for workplace accidents caused by the employee's use of alcohol or drugs, establishment of medical fee schedule, and establishment of utilization review of medical services.

Mitch Weisz served as Chairman of the Commission during most of the audit period, serving from March 2010 until March 2013. His term was marred by a scandal involving prison guard claims. Michael Latz was appointed Chairman effective March 25, 2013 until Ronald Rascia was appointed Acting Chairman effective December 2, 2014. Effective February 23, 2015, Ms. Joann Fratianni was appointed Chair. She began serving the Commission as an arbitrator in 1987, served as a commissioner from 1990-1993, then returned as an arbitrator after her term as a commissioner expired.

The total number of employees appears below.

	FY13	FY12	FY11
Administrative – General	83	86	88
Arbitrators	28	29	31
Court Reporters	23	24	27
Electronic Data Processing	8	9	9
Accident Reporting	-	1	1
Insurance Compliance	8	7	7
Administrative Exempt	3	3	3
Self-Insurers' Administration Fund	3	3	4
Self-Insurers' Security Fund	1	1	1
TOTAL	157	163	171
Commissioners	9	10	10

The Commissioners are paid from the Comptroller's State Officers' Salaries appropriation. Commissioners are paid about \$119,840, and the chairman earns about \$125,232.

Appendix A summarizes caseload activity of the Commission, along with an analysis of cases closed during FY13-FY11. The number of cases pending at year-end has remained steady at about 94,000.

Expenditures From Appropriations

Appendix B provides a summary of appropriations and expenditures for FY13 through FY11. The General Assembly appropriated a total of \$26,128,800 to the Commission for FY13. Total expenditures from appropriated funds in FY13 were \$23,820,729 compared to \$22,422,267 in FY12, which represents an increase of almost \$1.4 million, or 6.2%. Expenditures increased across almost all line items, most notably for retirement and group insurance. Lapse period spending was \$2.3 million, or 4.5%. Ordinarily, the Commission utilizes no GRF funds. However, during FY11, the State Treasurer borrowed funds from the Workers' Benefit Fund and later returned them to GRF which required the Commission to make benefit payments from GRF.

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Expenditures increased by \$12.1 million in the Self-Insurers' Security Fund in FY13 due to the return of the security deposits to a self-insured company after the company replaced the security deposit with a new escrow account.

Cash Receipts

Appendix C summarizes the total deposits remitted to the Comptroller by the Commission which totaled \$24,506,646 in FY13. The majority of receipts is in the Rate Adjustment Fund.

Cash receipts in the Rate Adjustment Fund were low in FY12 because the Commission did not charge assessment to employers in FY12 as the fund at the beginning of FY12 had more than \$16 million fund balance. In FY13, cash receipts from statutory assessments increased since the Commission issued two assessments during the fiscal year, one at half-rate and one at full rate.

Property and Equipment

Appendix D summarizes the property and equipment for which the Commission was accountable during the period under review. The balance was \$2,756,239 on June 30, 2011 and \$2,837,808 on June 30, 2012, an increase of \$81,569, or 2.9%. The primary cause of the increase was purchase of EDP equipment.

Locally Held and Nonappropriated Funds

The following is a summary of the Commission's locally held and nonappropriated funds.

Transcript Deposit Fund

This Fund provides for the reimbursement of costs incurred by the Commission to process transcripts of case proceedings.

Rate Adjustment Fund

The Rate Adjustment Fund provides annual adjustments to compensation payments awarded for death benefits and permanent total disability. The Fund is financed by assessments of insurance carriers and self-insured employers on their past payments of disability compensation.

Second Injury Fund

The Second Injury Fund provides compensation payments to employees who incurred the loss of or the permanent and complete loss or use of one member (hand, arm, leg, or eye)

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and then suffered the loss of or the permanent and complete loss or use of another member. The fund is financed through assessments on self-insured employers and insurance carriers based on their past payment of disability compensation.

Self-Insurers' Security Fund

The Self-Insurers' Security Fund provides compensation to employees of insolvent self-insured employers for any type of injury or occupational disease and all claims for related administrative fees, operating costs of the Board, attorney fees and other costs reasonably incurred by the Board. The Commission may, upon the direction of the Self-Insurers' Advisory Board, from time to time assess each of the private self-insurers a pro rata share of the funding reasonably necessary to carry out its activities.

Self-Insurers' Administration Fund

The Self-Insurers' Administration Fund provides funds for the salaries and benefits of the Self-Insurers' Advisory Board employees and the operating costs of the Board. The Fund is financed by non-refundable application fees in the amount of \$500 received from each private self-insurer applying for self-insurance or renewal of self-insurance privilege.

Operations Fund

The funding mechanism of the Fund, which provides for the operation of the Commission, was changed in FY06. Employers pay a 1.01% surcharge on Workers' Comp Insurance premiums while self-insured employers pay an assessment of 0.0075% of payroll.

Injured Workers' Benefit Fund

The Fund was created in FY06, and started to pay out benefit claims in FY08 for injured workers of uninsured employers. The Fund is financed through penalty assessments on employers for violation of the Workers' Compensation Act.

Status of Previous Audit

Auditors conducted follow up on the status of recommendations contained in the Management Audit of the Illinois Workers' Compensation Program as It Applies to State Employees. The Audit was released in April 2012 and contained 10 recommendations. The Workers' Comp Commission had implemented three recommendations concerning arbitrator evaluations, conflict of interest policies, and fraud referral policies; however, seven recommendations concerning workers' compensation data, application for adjustment, call list accuracy, Commission cases involving State employees, timely award decisions, award guidelines, and review board meetings were not yet implemented as of June 30, 2013.

Accountants' Findings and Recommendations

Condensed below are the ten findings and recommendations presented in the audit report. Four recommendations repeat from previous audits. The following recommendations are classified on the basis of updated responses provided by email on February 24, 2015 by Mark Kimmet, Chief Internal Auditor, Illinois Workers' Compensation Commission.

Accepted or Implemented

1. Implement a comprehensive preparation and/or review procedures to ensure that the financial statements, including disclosures, are complete and accurate.

Finding: The Illinois Workers' Compensation Commission – Self Insurer's Security Fund (SISF) did not have adequate controls over financial reporting to allow management and employees to prevent or detect errors or misstatement in the financial reporting process and ensure proper reporting in accordance with generally accepted accounting principles (GAAP). Auditors noted the following:

- Excess insurance receivables totaling \$124,039 were not recorded.
- Liabilities for unpaid claims reported in the GAAP forms submitted to the Office of the Comptroller were the balance as of March 31, 2013 and not as of June 30, 2013. As a result, the liabilities for unpaid claims were understated by \$524,902.
- Letters of credit totaling \$200,000 of a private self-insurer that was drawn down without SISF assuming the obligations to pay and administer its workers' claims were recognized as revenue instead of a liability.

Commission officials stated these issues were due to staffing shortages in the Fiscal Department. Only one person prepared the GAAP packages for all funds.

Updated Response: Implemented. **Corrective Action:**

1. The CFO and Accountant were diligent in meeting financial statement deadlines and ensuring reporting was complete and accurate. This was not a repeat finding for FY 2014.
2. The CFO implemented procedures to ensure independent review of journal entries starting for Q2 FY2015 reporting.

2. Strengthen internal controls and procedures over the Rate Adjustment Fund (RAF) program to prevent, detect, and correct misstatements or noncompliance on a timely basis. Also, establish and implement formal policies and procedures on the administration of the Rate Adjustment Fund. (Repeated-2007)

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Accepted or Implemented – continued

Finding: The Commission had major internal control weaknesses over its Rate Adjustment Fund (RAF) program.

The Rate Adjustment Fund was created in 1975 to provide annual cost of living adjustments (COLA) to persons who had received awards for permanent total disabilities or to the survivors of fatally injured workers. These awards are usually paid over many years to eligible recipients and are funded by assessments on employers.

In previous years, the Commission discovered payment discrepancy problems and conducted a review of all its RAF cases. At the end of FY13, the Commission recorded a liability of \$2.9 million for unpaid back claims.

Auditors noted the following internal control deficiencies.

- The Commission did not have adequate control on benefit payments as follows:
 - Twenty of 37 case files selected for testing could not be located by the Commission.
 - Six of 17 case files tested have no copies of arbitrator's decision on file.
 - Sixteen of 17 new cases tested had no evidence that a review was performed to ensure accuracy of data entry input into the database.
 - One of 17 case files tested had a different weekly benefit amount entered in the database and the mainframe docket system compared to the actual amount indicated in the arbitrator's written decision. As a result, an overpayment of benefit payments totaling \$1,241 was made in Fiscal Year 2013.
 - One of 17 case files tested was settled with a lump sum payment on February 15, 2013 but the Commission continued to pay monthly benefits until June 2013, resulting in an overpayment of \$765.
- The Commission lacked internal controls for terminating RAF benefit payments as follows:
 - Six of 37 case files selected for testing could not be located by the Commission.
 - Twenty six of 31 case files tested have no Termination of RAF Benefit form or other documents to support the nature and effective date of termination.

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- There were no formal procedures to timely detect disqualification of beneficiaries to receive RAF benefit payments.
- The Commission developed draft policies and procedures to track cases appealed to the Circuit Court. However, auditor testing indicated that the procedures were not followed. In addition, there were no procedures established and observed to track cases appealed to Appellate or Supreme Court. As such, some RAF appealed cases may not have been paid when final decisions from these Courts were made.

Commission officials stated the issues identified were due to lack of policies and procedures for the RAF program.

Updated Response: Accepted and partially implemented. **Corrective Action:**

1. In August 2013 the Commission began monthly comparisons of beneficiaries to the social security death database on a monthly basis, allowing timely termination of recipients disqualified by death.
2. Comprehensive RAF procedures were co-developed by the Fiscal and Legal Departments and officially approved by the Acting Chairman on 12/31/14.
3. In FY 2014-2015 the Legal Department undertook a project to review, update, or create hard copy files for all RAF recipients.
4. In FY 2015 the Fiscal and Legal Departments developed a new system for tracking active RAF cases which automatically creates some electronic documents needed for the RAF payment process. In addition, the Fiscal Department is scanning other critical documents for RAF recipients. The end result of the electronic and scanned in copies will be a document repository that includes decisions, approval letters, signed affidavits, and other supporting documentation (e.g., death certificates, check copies, marriage certificates, and course transcripts) for all 1,375 RAF recipients.
5. The Fiscal Department created a list of RAF liabilities by beneficiary as of June 30, 2014 based on a search of potential RAF recipients; an internal audit completed in November 2014 concluded the list presented fairly potential RAF liabilities owed to the named individuals as of that date. The Fiscal Department continues the process of identifying all RAF liabilities as part of its project to scan in all critical documents to the RAF database.

Completion Schedule:

The document repository, which will include electronic copies of all critical documents, is expected to be completed in June 2015.

3. **Strengthen controls to ensure that receipts and refunds are deposited timely, collection dates are documented, and appropriate transmittal forms are used. Also, accurately file the fee imposition report and provide adequate oversight so that locally held funds and receivables are properly reported quarterly to the Office of the Comptroller. Finally, assess the adequacy of the allowance set up for uncollectible accounts. (Repeated-2011)**

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Accepted or Implemented – continued

Finding: The Commission did not have adequate controls over processing and reporting its revenue, refunds, and receivables. During testing of receipts and refunds, auditors noted the following:

- 9 of 40 receipts tested and 2 of 5 refunds tested were not deposited one to five days late.
 - 17 of 40 receipts and 3 of 5 refunds tested did not have information of when the checks were received.
 - In 2 of 5 current year refunds tested, the Commission did not use the appropriate transmittal form when refunds were submitted to the Office of the Comptroller.
- The Report of Receipts and Disbursements for Locally Held Funds (Form C-17) for the first and second quarters of Fiscal Year 2012 were not filed with the Office of the Comptroller.
 - Quarterly Summary of Accounts Receivable – Accounts Receivable Activity (C-97) and the Quarterly Summary of Accounts Receivable – Aging of Total Gross Receivables (C-98) for the first quarter of Fiscal Year 2012 were not filed with the Office of the Comptroller.
 - The FY13 Agency Fee Imposition Report did not include receipts for the Injured Workers' Benefit Fund.
 - The Commission did not adequately provide allowance for estimated uncollectible accounts. The Injured Workers' Benefit Fund's accounts receivables include delinquent accounts (i.e. more than 180 days old) totaling \$101,820 and no allowance for estimated uncollectible accounts was provided.

Commission officials stated due to limited staff at the Fiscal Department, no full time staff is dedicated to process checks received. Further, during the first part of FY12, there was a turnover of the Chief Financial Officer (CFO) position and a period of time when this position was filled by an interim CFO. Due to staff shortage, lack of training, and staff turnover, not all quarterly reports were filed at the start of the audit period. The incorrect form used in transmitting current year refunds to the Office of the Comptroller and the failure to include the Injured Workers' Benefit Fund on the FY13 Agency Fee Imposition Report were due to oversight. The inadequate allowance for estimated uncollectible accounts provided was due to oversight because of staffing issue.

Response: Accepted. During the audit period, the Commission strengthened its deposit controls based on Internal Audit review. The Commission developed a new system for depositing checks that required four people to "touch" each check as it is processed. With

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the improved controls, the check processing time increased, resulting in noncompliance with the 24/48 hour deposit requirement set forth in the State Officers and Employees Money Disposition Act, as summarized in the Finding. The Commission sought and was granted an exception to this requirement by the Office of the Comptroller and State Treasurer. The exception applies starting October 14, 2013.

In addition, the Commission implemented an electronic deposit system in order to facilitate the deposit of checks received in all Commission remote locations. This reduces incidents where checks may be lost in the mail and also increases the timeliness of deposits.

Updated Response: Implemented. **Corrective Action:**

1. The Commission sought and was granted an exception to the 24/48 hour deposit requirement by the Office of the Comptroller and State Treasurer beginning 10/14/13.
2. The Commission implemented an electronic deposit system in order to facilitate the deposit of checks received in all Commission remote locations.

4. Comply with the Illinois Administrative Code and complete performance evaluations for all employees as required. Design monitoring procedures to ensure that performance evaluations are completed timely. (Repeated-2005)

Finding: The Commission did not perform an annual employee performance evaluation on a timely basis. During testing of 40 employee files for performance evaluations, auditors noted the following:

- One employee did not have performance evaluations for FY12 or FY13.
- Two employees did not have performance evaluations from their supervisors for FY12.
- Ten employees did not receive their performance evaluations timely for FY12 and FY13. Performance evaluations for these employees were completed 23 to 123 days late.

Commission officials stated performance evaluations were not performed or not timely performed due to inadequate monitoring of the completion of employee performance evaluations.

Updated Response: Accepted. **Corrective Action:**

1. The Human Resources Department (HR) assigned individuals in its department to follow up directly with supervisors who have outstanding employee evaluations beyond their due dates.
2. HR will work with the IT Department to create a system that will send automatic email notices of upcoming evaluation deadlines to supervisors and also send emails to them and the HR when deadlines are missed.
3. HR will develop manual tracking procedures pending the IT solution.

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Accepted or Implemented – continued

Completion Schedule:

1. Manual procedures will be written by end of March 2015.
2. The schedule for developing and implementing an IT solution will be determined by the LAC meeting on March 24, 2015.

5. Adhere to the Illinois Administrative Code and SAMS requirements and improve control over property and equipment. (Repeated-2003)

Finding: The Commission did not maintain adequate control over State property. During testing, auditors noted the following:

- In FY13 the Commission developed a database for monitoring and managing its property and equipment. The Commission conducted a physical count of its property and equipment between August 2012 and April 2013 and used the result of the physical count to build property information into the database. However, the property information in the database was not reconciled with the excel file maintained to account for assets reported to the Office of the Comptroller through the quarterly C-15 reports. The following issues were noted upon comparison of the excel file and property listing generated by the database:
 - The total amount of property items in the database was short by \$529,286 compared to the excel file.
 - There were 1,237 property items totaling \$270,726 recorded in the database that could not be traced to the excel file.
 - There were 1,067 property items totaling \$896,243 recorded in the excel file but not in the database.
- Two of 39 equipment items physically inspected could not be traced to the property listing from the database.
- The database property listing did not include inventory details.
- The Commission did not submit its annual Certification of Inventory to the Department of Central Management Services for Fiscal Year 2013.

Commission officials stated these issues were caused by lack of adequate procedures and communication concerning proper recordkeeping of State property.

Response: Accepted. Over the last 18 months, the Commission has overhauled its inventory tracking system after many prior years of inadequate and incomplete attempts at reconciling actual Commission inventory. This effort included merging together numerous data files, developing new procedures, performing a new physical inventory, reconciling with

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the Commission's General Ledger, and the Department of Central Management Services inventory lists.

As a result of this process, the Commission is making major adjustments to its current inventory. It appears that the property discrepancy in the Finding was caused by the failure of prior Commission administrations to remove items from its inventory. The Commission's inventory was not updated for disposals and transfers for over forty years. A preliminary review by Internal Audit reveals that a majority of the items in the discrepancy are obsolete computer equipment.

Updated Response: Accepted and partially implemented. **Corrective Action:**

1. Write-down of inventory values was reflected in the FY 2014 GAAP package and was reported to CMS in the inventory certification letter dated 7/31/14. Internal Audit noted in an email dated 12/13/13 that its review found that 92% of the difference between items on the inventory list and a physical count could be explained by obsolete equipment. The vast majority of this concerned computer equipment more than 10 years old.
2. The database property list replaced the Excel list as the official list of inventory items for FYE 2014 and it included the two items that the auditors could not find on the property listing during their audit.
3. The Commission submitted its annual Certification of Inventory to the Department of Central Management Services for FY2014.
4. The Commission will update its property list with additional criteria for FY2014 and FY2015 purchases. However, the Commission cannot track all criteria listed in the administrative code. Part of this is due to a systems limitation which is planned to be corrected by FYE 2015. Historical purchasing dates and supporting documents are not available for all assets, particularly older assets.

Implementation Schedule:

Updating database property list with additional criteria for FY2014 & 2015 purchases will occur by fiscal year end 2015.

6. **Comply with the statutory requirement to provide Department of Insurance (DOI) the amounts collected and paid by insurance companies to the Rate Adjustment Fund (RAF) and Second Injury Fund (SIF) or seek a legislative amendment to the statutory requirement.**

Also, establish and implement policies and procedures to collect RAF and SIF assessments. Include penalty provision for nonpayment in policy and procedures as required by law.

Finding: The Commission did not furnish to the Department of Insurance (DOI) the list of amounts collected and paid into the Rate Adjustment Fund (RAF) and Second Injury Fund (SIF) by insurance companies on behalf of their insured employers on an annual basis. Instead,

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Accepted or Implemented – continued

the Commission provides DOI with a list of all indemnity payments which is the basis of RAF and SIF assessments to be paid by the employers.

In addition, the Commission did not establish policies and procedures to properly and timely collect RAF and SIF assessments, and to give reasonable notice and conduct hearings for employers who have failed to pay the required assessments knowingly and willfully or have failed to pay within the prescribed period. The Commission maintains a list of employers who failed to pay the RAF and SIF assessments for different periods.

During FY12, SIF issued two assessments while RAF did not issue any assessments. In FY13, both SIF and RAF issued two assessments. The Commission sent reminder letters to each noncompliant employer. No reminder letters were sent for all the other referenced assessments. In some instances, the Commission called and/or emailed noncompliant employers to pursue collection.

The Commission officials stated the lists of indemnity payments of RAF and SIF were provided to DOI instead of the actual payments made by each insurance company to avoid a needless mathematical computation by the DOI in verifying the accuracy of indemnity payments reported by insurance companies. In addition, no procedures are established and implemented to pursue collections for nonpayment of assessments due to an inconsistency in the Act relating to the party responsible for payment of the assessment and means by which the Commission is able to verify payments. There is a question as to whether the non-filers could be pursued in such a legal action by the Commission because the Act imposes the responsibility to pay the assessments to employers, while the method by which the payment is collected and verified is through insurers licensed to write workers' compensation insurance in Illinois.

Updated Response: Accepted and partially implemented. **Corrective Action:**

1. The Commission re-submitted reports to DOI for FY2013 in compliance with the statutory requirement. Subsequent reports were also submitted reports in this format.
2. The Commission established policies and procedures to collect RAF and SIF assessments, which are addressed in the RAF Procedures Manual, section 3.8.1, which was formally approved by the Acting Chairman on 12/31/14.
3. Updating procedures to include penalty provisions is pending review of JCAR requirements. Penalty provisions were not a factor in FY2014 since nonpayment was not an issue.

Implementation Schedule:

Adding penalty provisions to the procedures is pending review of JCAR requirements.

7. **Strengthen controls to ensure invoices are properly reviewed, vouchers and supporting documents are maintained, and timely approved for payment.**

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Finding: The Commission did not maintain adequate controls over voucher payment processing. During examination of 263 voucher payments, auditors noted the following:

- Twenty-six vouchers have no evidence that invoices were reviewed by appropriate receiving officer to indicate the goods were received or services were rendered or and the date of invoice receipt.
- Fourteen vouchers totaling \$118,916 were approved for payment 5 to 49 days late.
- Eight vouchers and their supporting documents could not be located by the Commission; hence, propriety of expenditures could not be verified.

Commission officials stated the exceptions were due to understaffing and staff turnover at all levels in the Commission's Fiscal Department over the course of the audit period.

Updated Response: Accepted and partially implemented. Corrective Action:

1. The majority of vouchers without evidence of proper approval (20 out of 26 vouchers, i.e. 77%) concerned benefit payments. In addition all 8 of the vouchers and their supporting documents that could not be located concerned benefit payments. Problems concerning benefit payments were addressed in the following ways:
 - a. In FY 2014 dedicated resources were assigned to ensure RAF files existed and had documentation to support all RAF payments. The Legal Department reviewed, updated and created hard copy files as needed, completing the review by November 2014.
 - b. Beginning in January 2015 all RAF payments have been explicitly approved by the Legal Department, whether part of the regular monthly batch or special one-time payments.
 - c. The Fiscal Department began scanning critical documents for all RAF recipients into the RAF database repository in January 2015 and expects to complete this task in March 2015 with file review completed by June 2015. This will provide electronic support if the paper documents are misplaced.
2. The other 6 vouchers (23%) concerned purchases of service or goods. These are being addressed in the following ways:
 - a. An additional signature was required on the voucher indicating that the item was both authorized to be purchased and actually received starting in February 2015.
 - b. A three-way match process of invoice, PO, and receiver will be implemented in FY 2016.
3. Most items listed as late payments were items where the Fiscal Department sought backup information/clarification from the vendor prior to payment. Documentation of follow-up requests was improved in FY 2014 and FY 2015.

Completion Schedule:

1. The project to scan in all critical documents and complete the RAF document repository will be completed by June 2015.
2. Three-way match process will begin in FY2016.

Accepted or Implemented – continued

8. Establish and implement formal policy and procedures to timely detect an event to terminate benefit payments.

Finding: The Commission did not have adequate controls to ensure that benefit payments are discontinued upon death of the beneficiary.

During testing of 37 case files of beneficiaries whose benefit payments from the Self-Insurers' Security Fund (SISF), Second Injury Fund (SIF), and Rate Adjustment Fund (RAF) were terminated during the FY13 and FY12, auditors noted 4 beneficiaries continued to receive payments subsequent to death.

Commission officials stated the issues identified were due to lack of formal policies and procedures for the SISF, SIF, and RAF programs.

Response: Accepted. In September 2013, the Commission began comparing its list of beneficiaries to an eligibility database on a monthly basis, allowing it to determine on a timely basis which beneficiaries have been disqualified due to death.

Updated Response: Implemented. **Corrective Action:**

1. Comprehensive RAF procedures were co-developed by the Fiscal and Legal Departments and officially approved by the Acting Chairman on 12/31/14. Sections 2.6 and 2.7 list reasons for suspension or termination of benefits.
2. In August and September 2013 the Commission began monthly comparisons of beneficiaries to the Illinois Department of Public Health database on a monthly basis, allowing timely termination of recipients disqualified by death. This includes beneficiaries of RAF in August 2013 and beneficiaries of SIF and SISF in September 2013.
3. Legal will determine which recipients are maxing out on dollars or age during the annual affidavit process. The Legal Department will set up a "tickler file" to ensure appropriate individuals are notified of recipients who will max out during the following fiscal year so their payments are terminated timely. This procedure will be added to the RAF Procedures Manual.

Completion Schedule:

1. Manual procedures to check for maxing out on dollars or age will be added to the RAF Procedures Manual in last quarter of FY 2015 and will be implemented for the FY 2016 affidavit cycle.

9. Perform a comprehensive risk assessment to identify all forms of confidential or personal information (including personal health information) and ensure adequate security controls, including adequate physical and logical access restrictions, have been established to safeguard data and resources. Also,

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- **Develop and implement a policy to promote compliance with HIPAA.**
- **Formally approve and implement an Identity Protection Policy as required in the Identity Protection Act.**

Finding: The Commission has weaknesses in the area of security and control of confidential information as noted:

- Failure to perform a comprehensive risk assessment of the Commission's computer resources.
- Failure to adequately secure case files containing confidential and sensitive information. Paper case files containing confidential and personal health information of claimants are stored in boxes placed in cubicles that are easily accessible.
- Failure to develop and implement a policy to promote compliance with the Health Information Portability and Accountability Act (HIPAA).
- Failure to observe the requirements in the Identity Protection Act. The Commission said it adopted the Department of Central Management Services' Identity Protection Policy; however, there was no evidence of a formal adoption or compliance with employee identification, training, or statement of purpose requirements.

Commission officials stated the above issues were due to limited IT staff. The Commission does not have a secured area within the premises to hold case files currently located in areas easily accessible. In addition, the Identity Protection Policy was not established due to competing priorities.

Response: While there is still improvement to be made, the Commission significantly improved the security of confidential information since the previous audit period in FY 2010-2011. The Commission obtained approval of an updated records retention policy from the State Records Commission. The Commission was then able to destroy more than 96,000 pounds of outdated case management records (prior to 1988) at the Hollander Warehouse, allowing the Commission to move 1,000 boxes of case management boxes containing HIPAA-protected information from storage throughout the Commission to the Hollander warehouse. In addition, the Commission relocated filing cabinets with confidential information to a more secure area, discontinued use of social security numbers from Commission databases and forms, limited 24-hour access to the Commission's Chicago office, and implemented of a 24-hour waiting period to obtain information stored in the Commission's File Room to allow redaction of confidential information. The Commission made numerous changes to protect confidential data in the IT Department, including development of policies and procedures concerning portable computers, encrypting all laptop computers, and locking down Commission laptops to desks. Finally, in November 2011 the Commission developed a policy and procedure for files requested by the public and published it on the Commission website. This policy requires legal review of any information before it is provided to any person that is not a party to the case.

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Accepted or Implemented – concluded

On January 6, 2014 the Commission adopted an official Identity Protection Policy and sent a copy to the Chairman of the Social Security Number Protection Task Force of the Office of the Attorney General.

Updated Response: Accepted and partially implemented. **Corrective Actions:**

Limit Access to Paper Files:

1. The Commission moved documents to offsite storage during FY 2014 and 2015 so they would no longer be stored in the halls.
2. Four security doors were installed to prevent access to places where sensitive documents may be stored. They are in the process of being wired for card entry only.
3. The Commission started taking annual physicals of Commission cabinets in FY 2014.

Establish Policies to Protect Sensitive Documents:

4. The Commission adopted an official Identity Protection Policy and sent a copy to the Chairman of the Social Security Number Protection Task Force of the Office of the Attorney General on 1/6/14.
5. A HIPAA policy will be written before March 24, 2015.
6. HIPAA policy was presented during Arbitrator training in September 2014 and is expected to recur in spring 2015 Arbitrator training.
7. The Commission will develop a plan by the end of FY 2015 to train all employees on compliance with HIPAA and the Illinois Privacy Act.

Comprehensive Risk Assessment:

8. The Commission will hire an outside contractor to perform a comprehensive risk assessment.

Completion Schedule:

1. A HIPAA policy will be written before March 24, 2015.
2. Card readers for the security doors are expected to be set up by the end of March 2015.
3. A schedule for training the rest of Commission employees will be developed by the end of FY 2015.
4. The Commission expects to complete the comprehensive risk assessment in June 2015 (pending approval of funds).

10. Strengthen controls and provide adequate oversight to ensure timely collections of settlement amounts from noncompliant employers. Also, refer to the Illinois Attorney General accounts for collections as required by law.

Finding: The Commission did not ensure timely collections of settlement amounts and penalties from noncompliant employers. Auditors noted the following:

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- In 1 of 40 case file tested, a noncompliant employer is paying monthly installments of \$500 instead of two payments of \$5,000 as agreed in the settlement agreement. There were no correspondences maintained on file documenting the change in the payment terms.
- Three of 40 case files tested were not referred to the Illinois Attorney General for collection. An employer did not pay the balance of \$6,000 from the \$10,000 penalty. Another employer did not continue \$500 monthly payments on a balance of \$4,000 after December, 2011. The other employer did not continue \$1,000 monthly payments on a balance of \$35,000 after November, 2012.
- One of 40 case files tested was not referred to the Illinois Attorney General for prosecution. The employer did not sign the Commission's proposed settlement agreement and no corresponding payment was received by ICD. The Commission did not gather necessary documentation to allow for timely submission of documents to the Illinois Attorney General to set the case for a hearing and to request a penalty for the period of noncompliance.

Commission officials stated the ICD investigator did not document in writing when the settlement payment terms were changed upon request by the employer due to employer's inability to meet the \$5,000 payment. Further, the ICD was awaiting review of cases to be referred to the Illinois Attorney General for collection. ICD will institute new procedures that will alert the investigator to follow up when the employer is 30 days behind in scheduled payments.

Response: Accepted. One of the three companies that was not referred to collection to the Attorney General has since paid the \$6,000 balance due.

Updated Response: Implemented. **Corrective Action:** Insurance Compliance wrote collection procedures in April 2014 and began using them. These procedures include referring cases to the Illinois Attorney General for collection.

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 3 business 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 days before the public hearing.

A chief procurement officer making such emergency purchases is required to file an affidavit with the Procurement Policy Board and the Auditor General. The affidavit is to set forth the circumstance requiring the emergency purchase. 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.

During FY12-13 the Illinois Workers' Compensation Commission filed no affidavits for emergency purchases.

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 Workers' Compensation Commission filed a report in July 2013 stating that 11 of its officers and employees spent more than 50% of their time away from their official headquarters.

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WORKERS' COMPENSATION COMMISSION
TWO YEARS ENDED JUNE 30, 2013**

APPENDIX A

Service Efforts & Accomplishments

	<u>FY13</u>	<u>FY12</u>	<u>FY11</u>
<u>Case Load Volume</u>			
Cases pending at beginning of year	94,418	93,906	92,495
New cases filed during year	43,224	46,689	50,381
Cases reinstated during year	<u>2,100</u>	<u>2,119</u>	<u>2,166</u>
Total cases to be processed	139,742	142,714	145,042
Deduct cases closed during year	<u>(45,750)</u>	<u>(48,296)</u>	<u>(51,136)</u>
CASES PENDING AT YEAR END	<u>93,992</u>	<u>94,418</u>	<u>93,906</u>
<u>Analysis of Cases Filed</u>			
Application for arbitration	37,173	40,596	42,883
Original applications for approval of settlement contracts	<u>6,051</u>	<u>6,093</u>	<u>7,498</u>
TOTAL NEW CASES FILED	<u>43,224</u>	<u>46,689</u>	<u>50,381</u>
<u>Analysis of Cases Closed</u>			
<u>By Arbitrators and Commissioners</u>			
Dismissed at review or arbitration	150	175	117
Dismissed by applicants	500	587	569
Dismissed for want of prosecution	4,300	4,422	4,930
By decisions of arbitrators/commissioners	2,400	2,178	2,196
By approval of settlement contracts and lump sum settlements	<u>38,400</u>	<u>40,934</u>	<u>43,324</u>
TOTAL CASES CLOSED	<u>45,750</u>	<u>48,296</u>	<u>51,136</u>

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WORKERS' COMPENSATION COMMISSION
TWO YEARS ENDED JUNE 30, 2013

APPENDIX B

Summary of Appropriations and Expenditures

	<u>FY13</u>	<u>FY12</u>	<u>FY11</u>
TOTAL APPROPRIATIONS	\$ 26,128,800	\$ 24,732,100	\$ 25,109,300
General Revenue Fund Expenditures	\$ -	-	\$ 822,600
Workers' Compensation Commission			
Operations Fund Expenditures:			
Personal services	\$ 11,780,543	\$ 11,591,656	\$ 11,196,957
Retirement, employees	4,448,217	3,907,881	3,123,832
Social security	865,779	843,058	818,327
Group Insurance	3,186,823	2,623,967	2,439,188
Contractual services	1,669,818	1,728,397	1,757,049
Travel	361,001	328,817	219,225
Commodities	80,468	73,981	48,408
Printing	34,756	33,884	36,366
Equipment	62,567	36,181	47,617
Telecommunications	148,880	147,155	158,917
Workers' compensation handbooks	1,400	8,459	3,302
Accident reporting system	56,956	141,697	113,564
Operations of the Insurance Compliance Division	1,096,894	814,996	698,996
Establishment of the Medical Fee Schedule	26,627	142,138	23,812
Total Appropriated Expenditures	\$ 23,820,729	\$ 22,422,267	\$ 21,508,160
<u>Summary of Non-Appropriated Funds</u>			
Injured Workers' Benefit Fund	1,294,855	1,211,727	1,693,950
Self-Insurers' Administration Fund	390,570	373,845	446,696
Second Injury Fund	1,114,694	1,282,546	1,248,712
Illinois Workers' Compensation Fund	9,209	-	-
Rate Adjustment Fund	11,223,830	10,698,301	11,187,097
Self-Insurers' Security Fund	13,765,840	2,610,652	2,075,795
Total Non-Appropriated Expenditures	\$ 27,798,998	\$ 16,177,071	\$ 16,652,250
Total Expenditures All Funds	\$ 51,619,727	\$ 38,599,338	\$ 38,160,410

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APPENDIX C

Cash Receipts

	<u>FY13</u>	<u>FY12</u>
General Revenue Fund	\$ -	\$ 3,822
Injured Workers' Benefit Fund	2,145,678	1,007,354
Self Insurers' Administration Fund	1,064,483	346,500
Second Injury Fund	1,833,301	1,022,044
Operations Fund	2,376,650	1,252,509
Rate Adjustment Fund	14,142,816	35,183
Self Insurers' Security Fund	2,943,718	2,820,257
TOTAL ALL FUNDS	<u>\$ 24,506,646</u>	<u>\$ 6,487,669</u>

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APPENDIX D

Summary of Property and Equipment

	FY13	FY12
Balance, July 1	\$ 2,756,239	2,702,175 *
Additions	62,906	36,518
Deletions and other adjustments	-	(1,052)
Net transfers and adjustments	18,663	18,598
Balance, June 30	\$ 2,837,808 *	2,756,239 *
 * Represented by:		
Office Furniture and Equipment	\$ 1,147,709	\$ 1,119,837
EDP Equipment	1,530,060	1,479,998
Equipment not Classified Elsewhere	160,039	156,404
	\$ 2,837,808	\$ 2,756,239

The above schedule has been derived from the property report submitted to the Office of the Comptroller. However, we were not able to reconcile to the property records due to certain errors noted in the Commission's property records.
