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State Auditor

An Audit Report on

Performance Measures at the Office of Injured Employee Counsel

May 2013

Report No. 13-035



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Overall Conclusion

The Office of Injured Employee Counsel (Office) reported reliable results for all six key performance measures tested for fiscal year 2012. A result is considered reliable if it is certified or certified with qualification.

The following two key performance measures were certified for fiscal year 2012:

- Percentage of Injured Employees Reached About Their Rights and Responsibilities in the Workers' Compensation System.
- Number of Injured Employees Reached About Their Rights and Responsibilities.

Four key performance measures were certified with qualification for fiscal year 2012. While the Office accurately reported the results for the performance measures, the Office should improve controls to ensure continued accuracy of the following performance measures:

- Number of Benefit Review Conferences with Ombudsman Assistance.
- Number of Contested Case Hearings with Ombudsman Assistance.
- Number of Injured Employees Prepared for an Appeal by an Ombudsman.
- Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System.

Table 1 on the next page summarizes the certification results for the six key performance measures tested.

Background Information

The mission of the Office of Injured Employee Counsel (Office) is to assist, educate, and advocate on behalf of the injured employees of Texas. Specifically, the Office:

- Provides dispute assistance through the Office's Ombudsman Program.
- Educates and provides general assistance to injured employees regarding the workers' compensation system.
- Identifies issues that increase the burdens or create problems for injured employees and addresses those issues in the legislative and rulemaking processes.

The Office's total appropriations were \$7,769,542 for fiscal year 2012.

Sources: The Office's Web site and the General Appropriations Act (82nd Legislature).

Table 1

Office of Injured Employee Counsel (Agency No. 448)				
Related Objective or Strategy, Classification	Description of Performance Measure	Fiscal Year	Results Reported in the Automated Budget and Evaluation System of Texas (ABEST)	Certification Results ^a
A.1.1, Output	Number of Benefit Review Conferences with Ombudsman Assistance	2012	7,226	Certified with Qualification
A.1.1, Output	Number of Contested Case Hearings with Ombudsman Assistance	2012	2,907	Certified with Qualification
A.1.1, Output	Number of Injured Employees Prepared for an Appeal by an Ombudsman	2012	1,039	Certified with Qualification
B, Outcome	Percentage of Injured Employees Reached About Their Rights and Responsibilities in the Workers' Compensation System	2012	94.90%	Certified
B.1.1, Output	Number of Injured Employees Reached About Their Rights and Responsibilities	2012	182,794	Certified
B.1.1, Efficiencies	Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System	2012	18.58	Certified with Qualification

^a Auditors perform several steps in the certification process for performance measures, including determining the correct results based on data or other information provided by the audited agency. Based on the results of that process, performance measures are designated as either "certified," "certified with qualification," "inaccurate," or "factors prevented certification." Specifically:

- A performance measure is **certified** if reported performance is accurate within 5 percent of actual performance and if it appears that controls to ensure accuracy are in place for collecting and reporting performance data.
- A performance measure is **certified with qualification** when reported performance appears accurate but the controls over data collection and reporting are not adequate to ensure continued accuracy. A performance measure is also certified with qualification when controls are strong but source documentation is unavailable for testing. A performance measure is also certified with qualification if an agency's calculation of performance deviated from the performance measure definition but caused less than a 5 percent difference between the number reported to ABEST and the correct performance measure result.
- A performance measure is **inaccurate** when the actual performance is not within 5 percent of reported performance, or when there is more than a 5 percent error rate in the sample of documentation tested. A performance measure is also inaccurate if an agency's calculation deviated from the performance measure definition and caused more than a 5 percent difference between the number reported to ABEST and the correct performance measure result.
- A **factors prevented certification** designation is used if documentation is unavailable and controls are not adequate to ensure accuracy. This designation also will be used when there is a deviation from the performance measure definition and auditors cannot determine the correct performance measure result.

Summary of Management's Response

The Office concurred with the audit findings and recommendations in this report. The Office's detailed management responses are presented immediately following each set of recommendations in the Detailed Results section of this report.

Summary of Information Technology Review

The Office's information technology (IT) resources and data are administered by the Department of Insurance. Auditors assessed the IT controls over the Department of Insurance's information systems and the automated processes used for the Office's performance measure data. Auditors evaluated general IT controls, including logical access controls, program change management, and physical security processes. Auditors also reviewed application controls, including input, process, and output controls. In addition, auditors reviewed data provided for completeness and interviewed personnel knowledgeable about the systems used for the Office's performance measure calculations.

Auditors determined that the data in the information systems used for the Office's performance measure calculations was sufficiently reliable for the purposes of this audit for all six performance measures audited. However, auditors identified some control weaknesses over the Department of Insurance's information technology resources that could increase the risk that the Office could report inaccurate performance measure results in the future. Auditors identified weaknesses in access and password controls over key IT systems.

Summary of Objectives, Scope, and Methodology

The objectives of the audit were to determine whether the Office:

- Is accurately reporting its performance measures to ABEST.
- Has adequate controls in place over the collection, calculation, and reporting of its performance measures.

The audit scope included six of the key performance measures the Office reported for fiscal year 2012. Auditors reviewed the controls over submission of the data used in reporting the performance measures and traced performance measure information to the original source documents when possible.

The audit methodology consisted of auditing reported results for accuracy and adherence to performance measure definitions, evaluating controls over the Office's performance measure calculation processes and related information systems, and testing of original source documentation. Auditors also assessed the reliability of the data used to report performance measures.

Auditors also communicated one less significant issue related to the Office's performance measure methodologies and controls over its information technology separately to Office management in writing.

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Detailed Results

Chapter 1

The Office Should Improve Controls Related to Performance Measures Tested

The Office of Injured Employee Counsel (Office) reported reliable results for all six key performance measures tested for fiscal year 2012. A result is considered reliable if it is certified or certified with qualification.

The following two key performance measures were certified for fiscal year 2012:

- Percentage of Injured Employees Reached About Their Rights and Responsibilities in the Workers' Compensation System.
- Number of Injured Employees Reached About Their Rights and Responsibilities.

The following four key performance measures were certified with qualification for fiscal year 2012:

- Number of Benefit Review Conferences with Ombudsman Assistance.
- Number of Contested Case Hearings with Ombudsman Assistance.
- Number of Injured Employees Prepared for an Appeal by an Ombudsman.
- Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System.

While the Office accurately reported the results for those four performance measures, auditors identified some areas of internal controls that should be improved to help ensure the continued accuracy of the reported results. Specifically:

- **Supporting Documentation.** The performance measure definitions for the Number of Contested Case Hearings with Ombudsman Assistance and the Number of Injured Employees Prepared for an Appeal by an Ombudsman include the requirement for injured employees who are unrepresented to be counted in those performance measures. However, the Office did not always obtain required signatures on the OMB-02 form acknowledging the roles and responsibilities of the Office and the injured employee before the Office assisted the employee. The Office also did not always retain the signed form. Specifically:

- ♦ Six (13 percent) of 46 forms tested for the Number of Contested Case Hearings with Ombudsman Assistance were not signed before the Office assisted an injured employee.
- ♦ Five (11 percent) of 46 forms tested for Number of Injured Employees Prepared for an Appeal by an Ombudsman were not signed before the Office assisted an injured employee. The Office also could not provide one of those five forms.
- **Performance Measure Methodology.** The performance measure methodology for Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System is mathematically inaccurate in the Automated Budget and Evaluation System of Texas (ABEST). The ABEST methodology indicates that the numerator of the performance measure calculation should be the number of notices mailed and the denominator should be the number of days from injury to when a notice was mailed. The correct methodology is the inverse of that, so that the numerator is the number of days from injury to when a notice was mailed and the denominator is the number of notices mailed. However, the Office did not use the mathematically inaccurate methodology in ABEST; the methodology the Office used more closely matches the intent of the performance measure title.

In addition, for all six performance measures audited, auditors reviewed the documented policies and procedures in place that govern the collection, calculation, and reporting of the performance measures audited. While the Office's policies and procedures were generally appropriate, the Office should address certain weaknesses to help ensure the continued accuracy of reported performance measure results. Specifically:

- The Department of Insurance aids the Office in collecting and calculating performance measures for the Office. It cooperates with Office employees who sign off on approved technical methodologies, which include the ABEST performance measure definitions and the detailed calculations, to help ensure that the performance measures are collected and calculated using approved methodologies. While the Office has documented policies for the processes it performs, it should improve documentation of the processes that the Department of Insurance performs.
- The Office's documented policies listed the password needed to edit the Office's performance measures spreadsheet, which it uses to enter performance measure results into ABEST. Having the password documented in the policies and procedures limits the effectiveness of the password as a control against unauthorized changes.

The Office should use the *Guide to Performance Measure Management* (State Auditor's Office Report No. 12-333, March 2012) as a resource for improving its policies and procedures for performance measure reporting.

Recommendations

The Office should:

- Ensure that all OMB-02 forms are signed before it provides services to an injured employee and retain those forms in compliance with the State's record retention schedule.
- Coordinate with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to change the method of calculation for Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System so that it is mathematically accurate.
- Work with the Department of Insurance to improve the documentation of procedures related to the Office's performance measures.

Management's Response

The Office of Injured Employee Counsel (OIEC) concurs with the audit findings.

- *Ensure that all OMB-02 forms are signed before services are provided to an injured employee, and retain them in compliance with the State's record retention schedule.*

OIEC scheduled additional training as a reminder to staff to ensure that all OMB-02 forms are signed prior to a Benefit Review Conference, retained in compliance with the State's record retention schedule, and processed in compliance with agency procedures and the agency's MOU with the Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC). Specifically, trainings will be held during the next training teleconference on May 14, 2013 for Ombudsmen, and at the annual conference in June 2013 for all agency staff.

OIEC is grateful that the audit identified the need to retrain staff on the importance of obtaining an OMB-02 before assisting at a proceeding. The OMB-02 is only one of the controls to help ensure the accuracy of data reported for the performance measures relating to assistance at a proceeding. For example, the DWC-150 form is the first form filed with TDI-DWC when an injured employee retains, or is no longer represented by, an attorney. OIEC researches and relies on this information, which is available in the

computer system, to ensure that an injured employee whom OIEC assists at a proceeding is not already represented on the same disputed issue.

- *Coordinate with the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy to change the method of calculation section for Average Number of Days from the Date of Injury to Date an Injured Employee Is Sent Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System so that it is mathematically accurate.*

OIEC notified the Legislative Budget Board and the Governor's Office of Budget, Planning, and Policy of the need to change the method of calculation section of the definition for the measure Average Number of Days from the Date of Injury to Date an Injured Employee Is Sent Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System on May 6, 2013 and is awaiting a response.

Additionally, this measure will not continue in the next biennium.

- *Work with the Department of Insurance to improve the documentation of procedures related to Office performance measures.*

In April 2013, OIEC removed the information about the password from its policy in order to help ensure the continued accuracy of reported performance measure results.

Additionally, OIEC forwarded a copy of its documented procedures to TDI-DWC to use to improve the documentation of the processes that TDI completes regarding the reporting of OIEC's performance measures. OIEC will continue to work with TDI to fulfill this recommendation.

Person Responsible for Implementing the Change: Deputy Public Counsel/Chief of Staff

Completion Date: June 14, 2013.

The Office Should Improve Certain Controls Over Its Information Systems

Data in the two information systems used for the Office's performance measure calculations was sufficiently reliable for all six performance measures audited. However, auditors identified certain control weaknesses over the Department of Insurance's information technology resources that should be addressed to increase security and future reliability of the data.

The Office's information technology resources and data are maintained by the Department of Insurance under memorandums of understanding signed in 2007 and 2011. The Department of Information Resources hosts systems and the Department of Insurance manages them.

The servers storing the Office's performance measure data are housed at the Department of Information Resources' Austin and San Angelo data centers. The Department of Information Resources provides reasonable assurance that physical access to computer equipment is appropriately controlled. The Austin and San Angelo data centers also provide adequate protection against fire and temperature damage.

While the Department of Insurance has detailed security policies and procedures to govern non-administrative access rights, physical security, and password settings, it does not have detailed policies and procedures governing administrative access to the various systems at the agency that the Office uses for performance measure calculations. Those systems are discussed in more detail below.

COMPASS System

Auditors reviewed controls over the COMPASS system, which, according to the Department of Insurance, is its legacy mainframe system originally purchased in 1991 to manage workers' compensation claims. The controls reviewed in COMPASS were significant to three of the six performance measures audited:

- Number of Benefit Review Conferences with Ombudsman Assistance.
- Number of Contested Case Hearings with Ombudsman Assistance.
- Number of Injured Employees Prepared for an Appeal by an Ombudsman.

Auditors identified several control weaknesses in COMPASS that could increase the risk that the Office could report inaccurate performance measure results in the future. Specifically:

- Access Management. Auditors identified some areas in which the Office should improve access management controls. Specifically, auditors identified users' access that had not been modified or terminated in a timely manner. Auditors identified user accounts for individuals whose employment had been terminated in both the COMPASS application and the COMPASS server. Failure to adequately monitor user access rights and disable the access of users whose job duties no longer require access increases the susceptibility of data to unauthorized access and changes.
- Password Settings. Some recommended password controls are not in place for the COMPASS application.
- Segregation of Duties. The Department of Insurance did not ensure that access to its performance measure data was appropriately limited. Specifically, in COMPASS, the system that is used to track the Office's contested case hearings, 720 of 756 active user accounts had access to update data in that system. That level of access should be limited to staff who have a business need for that access to decrease the risk of data being inappropriately altered.

TxComp System

Auditors also reviewed the controls over TxComp, a Web-based system designed to replace COMPASS's functionality. According to the Department of Insurance, development of TxComp began in 1998 and the Office began using the E-Claims module, which aids in the intake and monitoring of claims, in 2005. The controls reviewed in TxComp were significant to three of the six performance measures audited:

- Percentage of Injured Employees Reached About Their Rights and Responsibilities in the Workers' Compensation System.
- Number of Injured Employees Reached About Their Rights and Responsibilities.
- Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System.

Most of the controls over TxComp were adequate. However, the Office should ensure that access management is strengthened. Specifically:

- Auditors identified users' access that had not been modified or terminated in a timely manner. Auditors also identified user accounts for individuals whose employment had been terminated in the TxComp application. Failure to adequately monitor user access rights and disable the access of users whose job duties no longer require access increases the susceptibility of data to unauthorized access and changes.

- Auditors identified programmers who had access to production data in TxComp. Programmers who have access to production data can circumvent controls and could compromise data if their access is not properly monitored.
- Some recommended password controls were not in place for direct database access.

To minimize security risks, auditors communicated details about the identified information technology weaknesses separately to Office management.

Recommendations

The Office should work with the Department of Insurance to improve controls over the information systems that provide data for the Office's performance measures. Specifically, the Office should ensure that:

- Access to systems is terminated in a timely manner for individuals who no longer require access to systems.
- Access is assigned in a manner that provides for segregation of duties.
- Proper password and account lockout rules are implemented.
- Access to modify data is granted only to users who have a business need for that level of access.

Management's Response

The Office of Injured Employee Counsel (OIEC) concurs with the audit findings.

OIEC will continue to work with TDI to improve information system controls relating to OIEC's performance measures.

Person Responsible for Implementing the Change:

- *Deputy Public Counsel/Chief of Staff
Office of Injured Employee Counsel; and*
- *Director
Information Technology Services
Texas Department of Insurance*

Completion Date: August 31, 2013.

Appendix

Appendix

Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to determine whether the Office of Injured Employee Counsel (Office):

- Is accurately reporting its performance measures to the Automated Budget and Evaluation System of Texas (ABEST).
- Has adequate controls in place over the collection, calculation, and reporting of its performance measures.

Scope

The audit scope included six key performance measures that the Office reported for fiscal year 2012 (September 1, 2011, through August 31, 2012):

- Number of Benefit Review Conferences with Ombudsman Assistance (Output).
- Number of Contested Case Hearings with Ombudsman Assistance (Output).
- Number of Injured Employees Prepared for an Appeal by an Ombudsman (Output).
- Percentage of Injured Employees Reached About Their Rights and Responsibilities in the Workers' Compensation System (Outcome).
- Number of Injured Employees Reached About Their Rights and Responsibilities (Output).
- Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System (Efficiencies).

Methodology

The audit methodology consisted of auditing reported results for accuracy and adherence to performance measure definitions, evaluating controls over performance measure calculation processes, testing documentation, and assessing the reliability of the data obtained from the Office's information systems that support the performance measure data.

Auditors assessed the reliability of the data by (1) determining population completeness and reasonableness, (2) reviewing queries used to generate data related to the calculation of the performance measures, (3) interviewing Office and Department of Insurance employees and information technology administrators knowledgeable about the data and systems, and (4) reviewing source documentation for performance measure data when possible.

Auditors reviewed the reliability of data from two information technology systems: COMPASS and TxComp. Auditors determined that the data in those two systems were sufficiently reliable for the six performance measures tested for the purposes of this audit.

For three of the performance measures tested—Number of Benefit Review Conferences with Ombudsman Assistance, Number of Contested Case Hearings with Ombudsman Assistance, and Number of Injured Employees Prepared for an Appeal by an Ombudsman—auditors selected a non-statistical random sample of 46 items for each of the performance measures tested.

For three performance measures—Percentage of Injured Employees Reached About Their Rights and Responsibilities in the Workers' Compensation System, Number of Injured Employees Reached About Their Rights and Responsibilities, and Average Number of Days from the Date of Injury to the Date an Injured Employee Is Sent the Notice of Injured Employee Rights and Responsibilities in the Workers' Compensation System—auditors determined that risks to data reliability were higher and that a larger sample selection was required. As a result, auditors stratified by input type and selected a non-statistical random sample of 61 items for each of those three performance measures based on the percentage of cases for each of the input types.

Auditors used representative samples; therefore, the test results from those samples selected can be projected to the entire population. However, because auditors used non-statistical sampling methods, the precision of the projection cannot be calculated.

Information collected and reviewed included the following:

- Performance measure data in the Office's information systems and spreadsheets.
- Supporting documentation retained in hard-copy and system files.
- Information technology system reports, manuals, and programming code.
- Office policies and procedures.

Procedures and tests conducted included the following:

- Interviewing Office staff to gain an understanding of the processes the Office used to calculate performance measures.
- Interviewing information technology staff at the Office and the Department of Insurance to gain an understanding of the information systems the Office used to collect and calculate its performance measures.
- Evaluating the sufficiency of the Office's policies and procedures to determine whether they were adequate to help ensure the correct calculation of performance measures.
- Auditing performance measure calculations for accuracy and to determine whether the calculations were consistent with the methodology on which the Office; Legislative Budget Board; and the Governor's Office of Budget, Planning, and Policy agreed.
- Testing a sample of documentation to verify the accuracy of reported performance measures and the effectiveness of controls.
- Reviewing queries used to report and calculate performance measures.
- Performing logical access control testing.
- Assessing performance measure results in one of four categories: certified, certified with qualification, inaccurate, and factors prevented certification. For this audit, a result was considered reliable if it was certified or certified with qualification.

Criteria used included the following:

- *Guide to Performance Measure Management* (State Auditor's Office Report No. 12-333, March 2012).
- ABEST performance measure definitions.
- Title 1, Texas Administrative Code, Chapter 202 – Information Security Standards.
- Title 22, Texas Administrative Code, Chapter 276 – Office of Injured Employee Counsel.
- Title 28, Texas Administrative Code, Chapter 41 – Department of Insurance.
- Office policies and procedures.

Project Information

Audit fieldwork was conducted from February 2013 through April 2013. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The following members of the State Auditor's staff performed the audit:

- Karen Mullen, CGAP (Project Manager)
- Thomas Andrew Mahoney, CGAP (Assistant Project Manager)
- Cheryl Durkop
- Arnton W. Gray
- Mario Perez
- Michael Yokie, CISA
- J. Scott Killingsworth, CIA, CGAP, CGFM (Quality Control Reviewer)
- Verma L. Elliott, CPA, CIA, CGAP, MBA (Audit Manager)

Copies of this report have been distributed to the following:

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The Honorable David Dewhurst, Lieutenant Governor, Joint Chair

The Honorable Joe Straus III, Speaker of the House, Joint Chair

The Honorable Thomas “Tommy” Williams, Senate Finance Committee

The Honorable Jim Pitts, House Appropriations Committee

The Honorable Harvey Hilderbran, House Ways and Means Committee

Office of the Governor

The Honorable Rick Perry, Governor

Office of Injured Employee Counsel

Mr. Norman Darwin, Public Counsel



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