

Prince George's County, Maryland
Office of Audits and Investigations

Workers' Compensation Program

Performance Audit

June 2015



David H. Van Dyke
County Auditor

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June 2015

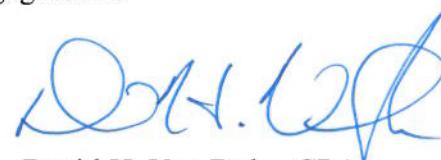
The County Council and County Executive
of Prince George's County, Maryland

We have conducted a performance audit of the Prince George's County

WORKERS' COMPENSATION PROGRAM

in accordance with the requirements of Article III, Section 313, of the Charter for Prince George's County, Maryland. Our report is submitted herewith.

We have discussed the contents of this report with appropriate personnel of the Chief Administrative Officer's office and the Office of Finance. We wish to express our sincere gratitude to them, as well as the risk management personnel of the various County Departments and surrounding jurisdictions of Montgomery County, Anne Arundel County, Howard County, and the City of Baltimore, for the cooperation and assistance extended to us during the course of this engagement.



David H. Van Dyke, CPA
County Auditor



Sylvia King
Auditor In Charge

Results In Brief

The Prince George's County (the "County") Workers' Compensation Program ("Workers' Comp" or the "Program") is administered by the Office of Finance, under the Risk Management Division, and is designed to provide an insurance program for the benefit of County employees in the event of a work-related accident or illness. The Office of Audits and Investigations ("A&I") conducted an audit of the internal controls around the Program as a result of the steady increase in the funds deficit since 2002. The Primary Government's Workers' Compensation Internal Service Fund's net deficit at June 30, 2013 was \$87.2 million¹, up from \$2.8 million in FY 2002, which represents an increase of approximately \$84 million in just over a decade.

While the County's risk management contributions increased by \$4.1 million during fiscal year 2013, expenditures also increased by \$14.3 million driven by an increase in claims expenses, which includes an \$11.5 million judgment against the County that was recorded as an expense. Our findings indicate that operating expenses are consistently higher than revenues, and insurance claims have almost doubled since 2002, which is also driving the deficit. County management will not only need to take immediate actions in order to reduce the growing fund deficit by increasing premium contributions, but will also need to aggressively reduce certain administrative costs in future fiscal years.

Unlike most other County programs or processes, Workers' Compensation impacts every agency/department, and employee in the County. Additionally, the various parties that could potentially be involved in any given workers' compensation case are extensive and varied, and include many key players that are outside the control of the County, such as the State's Workers' Compensation Commission ("WCC"), an injured employees legal Counsel, and their treating physician. While this is the first time that A&I has performed an audit of the Program, several of the issues noted during the course of the audit were previously identified by other parties such as the CountyStat team, the County's contracted external auditors, and County Risk Management. Management is actively in the process of addressing some of these issues.

Throughout this audit we identified several shortcomings in both the structure and operations of the workers' compensation program. These problems have led to a Program that does not appear to be adequately designed or effective in protecting the County's best interests, as it relates to the management and use of valuable fiscal and human resources.

The following major findings are addressed in our report:

- *Inefficient Program Structure* – The County's decentralized risk management structure is not only an inefficient use of County resources, but is also unlike any of the surrounding jurisdictions used to benchmark against, which are also self-insured.
- *Risk Management Committee Issues* – Various issues include the lack of supporting documentation, such as meeting minutes to support topics discussed and follow-up, whether meetings occurred, and which individuals were serving as Committee Officers for the audited period.

¹ FY 2013 Audited Annual (Notes to the Financial Statements page 46)

- *Management of the Workers' Compensation Internal Service Fund Long Term Deficit* – The County's workers' compensation fund deficit has increased by over \$84 million (FY 2013-audited) since 2002, and to date, no funds have been expended to reduce the deficit.
- *Management of the Workers' Compensation Fund* – Among other issues, a lack of adequate documentation of the process to calculate contribution amounts, no evidence of review or signoffs of calculated amounts, and the use of arbitrary amounts/percentages in calculating certain contribution figures.
- *Lack of Adequate Management of Claim Repeaters* – The lack of apparent effective measures in place to address the small number of employees, with multiple claims, who are responsible for filing a large number of claims in FY 2014 (as of September 2013), costing the County approximately \$3.53 million.
- *Lack of Adequate Monitoring of Vendor/Third-Party Providers* - The lack of adequate monitoring of vendor/third-party providers can contribute to risks associated with outsourcing such as exposing confidential data, and lack of adequate internal controls, which can prevent the detection of errors in a timely manner, and result in losses related to unnecessary payouts.
- *Policies, Procedures, Management and Monitoring* – There are either no policy and procedure documents, or policy/procedure documents which need to be updated for certain parts of the Program. This can affect the continuity of the Program in the event of unexpected staff/vendor turnover, and can contribute to an increase in Program risks such as, unsafe working conditions and monetary losses if accidents are not properly documented and a case goes to litigation.
- *Inadequate Workers' Compensation Antifraud Program in Place* – No formally established antifraud mechanism in place to prevent, detect, and/or report possible Program related fraud.

Other Opportunities for Improvement

Our report also includes other matters that relate to the continuing professional development of Program staff, Program training materials and the tracking of County available light duty assignments.

- *Continuing Professional Development/Training Materials* – Risk Management staff is not currently being afforded adequate Continuing Professional Development (“CPD”) opportunities to maintain their knowledge and skill levels in either risk management or safety. Additionally, safety materials currently in use are extremely old and outdated.
- *Use of Multiple Light Duty Tracking Databases* – Various County agencies/departments are operating multiple tracking databases for light duty assignments, which are not linked, and could be more effective if the databases were linked. Additionally, the Office of Human Resources and Management (“OHRM”) currently has a comprehensive database already designed to serve the County which is not being utilized.

Prior Issues Follow-up

Several of the issues noted during the course of the audit have been previously identified by the CountyStat team, the County's contracted external auditors, and County Risk Management personnel. As such, we performed follow-up on the status of remediation of these issues, and noted that both Risk Management and CountyStat are continuously monitoring some of the items noted. Remediation status is included as a part of this report at *Attachment A*.

Internal control activities are an important part of a program and ultimately an Agency's planning, implementing, and reviewing process. They are essential for effective and efficient operations and proper accountability of County resources. Hence, several recommendations for its improvement are made throughout this report.

INTRODUCTION AND BACKGROUND

WORKERS' COMPENSATION BACKGROUND

Workers' Compensation in Maryland is a no-fault system, meaning that injured employees need not prove the injury was someone else's fault in order to receive workers' compensation benefits for an on-the-job injury. Under this Program, injured employees receive benefits in connection with work-related injuries or occupational illness. Since the early 1900's, every State has had some form of protection for employees who are hurt while working. Negligence by the employer was often difficult, if not impossible to prove, and the legal process was very time consuming and expensive, with no benefits paid to injured workers during the process. As a result, the States passed workers' compensation laws, providing a statutory solution to the problem.

The State's Workers' Compensation insurance program was established by Maryland State law² in 1902, and is a program where all employers having one or more employees, full or part-time, are required to have for the protection of their employees. An employer or employee cannot waive provisions of the Workers' Compensation Law. Workers' Compensation Insurance is paid entirely by the employer, and no payroll deductions are taken out of individual employees' paychecks, and workers' compensation payments are not taxable to the employee as income.³

WORKERS' COMPENSATION COMMISSION ("WCC")

The WCC is the State Arbitration Board that ensures employees are given fair treatment in the event of a work-related accident or illness. For an injury to be considered compensable under workers' compensation, the injury must "arise out of and in the course of employment."

The Commission administers the Workers' Compensation Law and adjudicates claims for compensation arising under the law⁴. Reports of accidents are received and processed by the Commission which hears contested cases throughout the State. Claimants requiring rehabilitation are referred by the Commission to appropriate rehabilitation service providers.

Appointed by the Governor with Senate advice and consent, the Commission's ten members serve twelve-year terms and the Governor names the chair. Under Administration, work of the Commission is carried on by three offices: Finance; Information Technology; and Operations.

WORKERS' COMPENSATION IN PRINCE GEORGE' COUNTY

There are various ways in which an entity can structure its workers' compensation program. The following are the three main options:

² Labor and Employment §Title 9 – Workers' Compensation

³ www.wcc.state.md.us

⁴ Code Labor and Employment Article, secs. §9-301 through 9-316, and secs. 9-101 through 9-1201

- *Self-Insurance* - An entity can be self-insured and handle all of its workers' compensation costs and claims internally.
- *Outsource* - An entity can outsource its workers' compensation to a private insurer.
- *Insurance Pool* - An entity can also share risk by joining an insurance pool agreement with other municipalities.

Prince George's County has opted to self-insure itself. As such, the County assumes the financial risk for providing Workers' Compensation benefits to all of its employees. The County pays the cost of each claim "out of pocket" as they are incurred instead of paying a fixed premium to an insurance carrier or to a state-sponsored Workers' Compensation fund, and funding is primarily through participant contributions. Prince George's County Code Section 10-174 established the County's Risk Management Fund ("Fund") in 1983, which is a self-insured fund that provides for workers' compensation, comprehensive general liability, property loss, and automobile liability coverage. The County maintains various pooled risk management Internal Service Funds, comprised of the following members, to account for, and finance its uninsured losses: the Primary Government (excluding the Volunteer Fire Companies), together with the Board of Education, the Board of Trustees for the Prince George's Community College, and the Board of Trustees of the Prince George's County Memorial Library System.

The County has outsourced workers' compensation coverage to cover its Volunteer firefighters by purchasing insurance from a private insurer. Additionally, a former member of the pooled fund, the Hospital Commission of Prince George's County, still has open workers' compensation claims, for which the current fund members are liable.

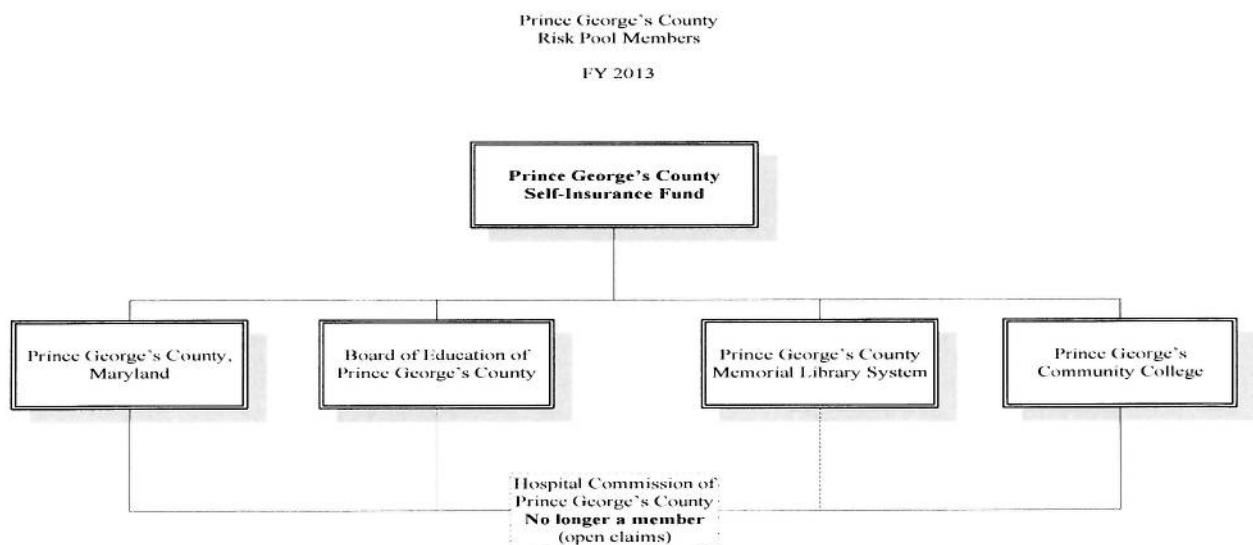


Illustration 1: Self-Insurance Risk Pool Members

As an approved self-insurer by the State of Maryland, the County is subject to provide coverage according to State mandatory limits of \$500,000 per injury. The County has a liability limit under the State Tort Claims Act of \$200,000 per person not to exceed \$500,000 per incident for all participants with the exception of the Board of Education, which retains immunity at \$100,000 per incident. These limits do not apply to claims brought under Federal jurisdiction. Excess liability coverage is provided by Travelers at the \$1 through \$5 million levels for the Community College and the Library. There were no losses in excess of insurance coverage in the last three fiscal years. Insurance coverage at June 30, 2013 is

consistent with the prior year. Participants of the risk management pools normally make contributions based upon prior experience with evaluations conducted annually by an actuary. In fiscal year 2013, the Primary Government made contributions amounting to \$63.1 million. The actuarially computed claims liability has been discounted at a rate of 5 percent, based on the pool's investment yield rate and current economic conditions.⁵

GOVERNANCE OF THE PRINCE GEORGE' COUNTY RISK MANAGEMENT FUND

The Risk Management Committee (the "Committee"), which is comprised of members from all of the funds participants, is responsible for managing the County's Risk Management fund.

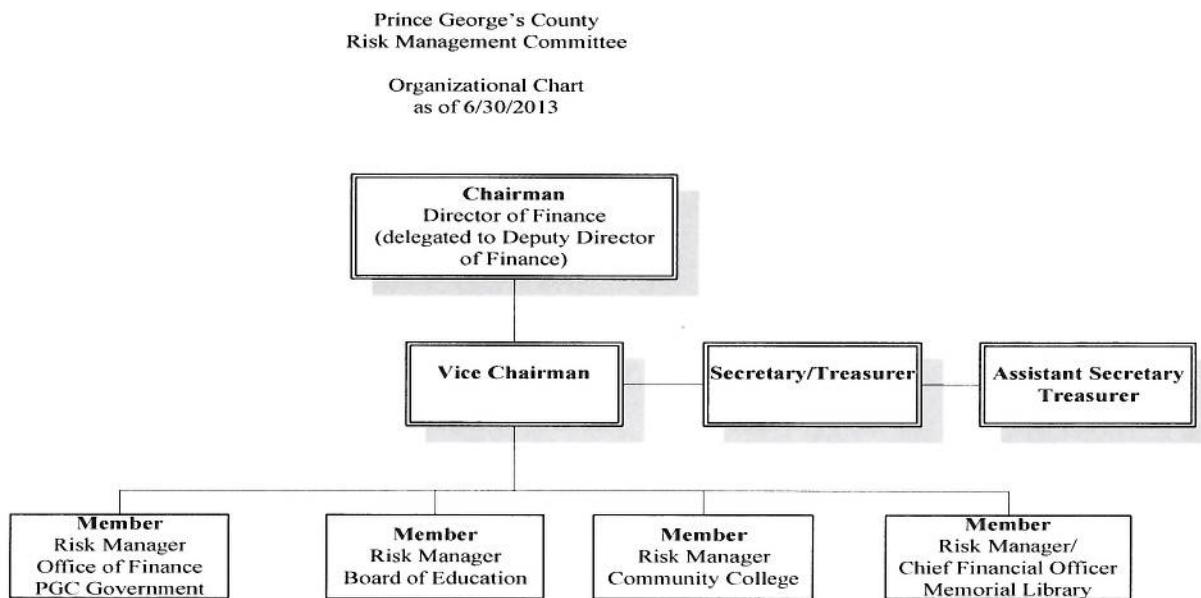


Illustration 2: Risk Management Committee Organizational Structure

County Risk Management Office Structure

The County has a decentralized risk management structure where there is a main risk management function under the Office of Finance, as well as risk management in the various County agencies/departments, each with their own resources, processes and tools. The staff of the Risk Management Division of the Office of Finance administers the County's comprehensive self-insurance program, on behalf of all County agencies/departments, and each agency has a liaison with the Office of Finance team, known as a Department Risk Coordinator ("DRC"). Our audit focused primarily on the following two areas within the Risk Management Division: Claims Management and Safety. Additionally, we reviewed several of the high risk agencies/departments regarding their risk management structure, and the organization charts are depicted in **Appendices A and B** attached. Illustration 3 below depicts the current organization structure of the Office of Finance's Risk Management Division:

⁵ FY 2013 Audited Comprehensive Annual Financial Report (CAFR), page 63

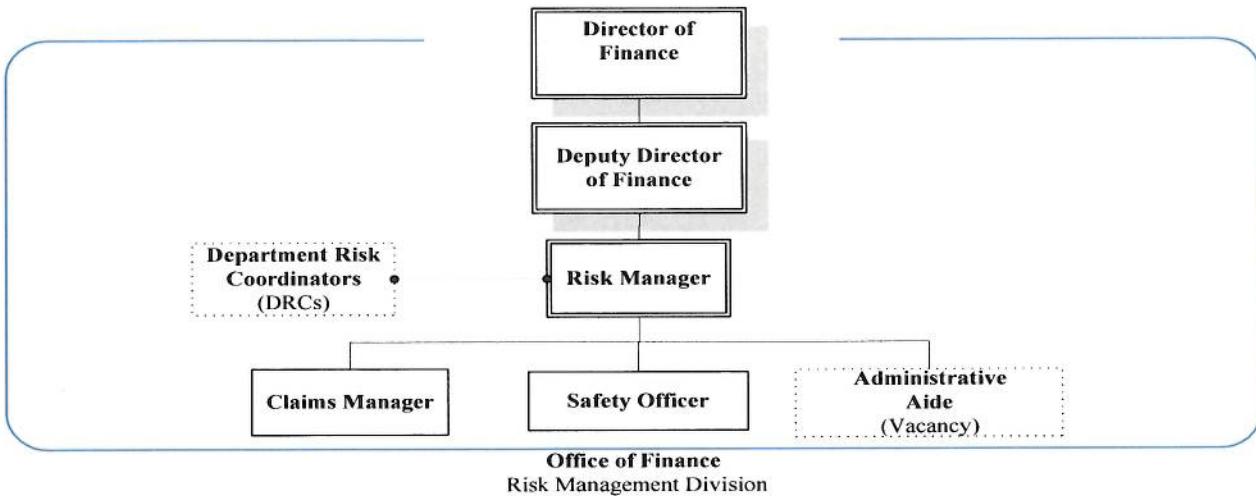


Illustration 3: County Risk Management - Office of Finance Structure

Claims Management and Safety

The Office of Finance (the “Office”) is the primary agency responsible for managing the County’s workers’ compensation program by administering a comprehensive self-insurance program designed to minimize the County’s exposure to risks in the areas of workers’ compensation, professional, general and automobile liability, fire and casualty losses. The Office of Finance’s Risk Management Division manages the Internal Service Fund used to pay valid workers’ compensation claims. In order to reduce the financial effects of claims made against the County, the Office works collaboratively with individual agencies/departments, and various third-party vendors including the County Executive’s CountyStat program, the Office of Human Resources Management (“OHRM”), the Office of Law, and the contracted Third-Party Administrator (“TPA”), CorVel. The Office seeks to review all claims and train employees on avoiding safety risks. The following are the areas covered by the Division related to Risk Management and Safety Training:

- Risk Management and Safety Officers/Coordinators
- OSHA Training Requirements
- Intranet Video Training
- Safety Video Lending Library
- Steps to Take After a Major Loss
- Reporting Claims
- Forms

In order to minimize the County’s risk, one of the Division’s objectives is to reduce the risk management reserve payments to claimants. As part of this effort, the Office has increased the number of training sessions (class and internet) to help spread claim awareness among the County workforce and will seek management accountability to support loss control and claims reduction by using real time claims data and in-house training.

To achieve this objective the office has listed the following strategies:

- Strategy 2.1.1: Partner with the Office of the County Executive and the Office of Management and Budget to ensure the quarterly review of risk management reserves and to identify potential policy changes.
- Strategy 2.1.2: Identify loss exposures and develop loss prevention guidelines.
- Strategy 2.1.3: Resume regular review meetings with Deputy Chief Administrative Officers and public safety department heads in order to red flag risk management issues and take the appropriate corrective actions.⁶

Performance Measures -

Measure Name	FY 2011 Actual	FY 2012 Actual	FY 2013 Actual	FY 2014 Estimated	FY 2015 Projected
Resources (input)					
Number of adjusters	23	23	16	17	17
Number of safety trainers	1	1	1	1	1
Workload, Demand and Production (output)					
Number of new risk management claims processed	2,642	2,112	2,316	2,156	2,100
Number of risk management claims closed	3,523	2,874	3,305	3,085	3,000
Number of employee safety training classes conducted	65	30	59	75	75
Number of web-based training sessions	32	19	18	50	50
Number of claims settled through the Office of Law	1,736	1,587	1,319	1,350	1,400
Efficiency					
Average number of claims received per adjuster	114.9	91.8	144.8	126.8	123.5
Quality					
Percent of claims settled within a 24-hour period	6%	9%	1%	1%	5%
Impact (outcome)					
Risk management reserve payments to claimants (in millions)	\$33.7	\$33.7	\$27.6	\$30.0	\$29.0

Illustration 4: Highlights 2013 performance measures for the Risk Management Office (Source: FY 2015 County Proposed Budget)

The overwhelming percentage of the County budget is for salaries and wages to deliver services to the citizens of Prince George's County. The direct and indirect budget impact caused by accidents affects the ability of the County to fulfill its obligations. With this premise, the control of personal injury accidents demands particular emphasis.⁷ Workers' Compensation costs are budgeted into each agency/department's annual appropriation via the fringe rate benefit. In order to develop fringe assumptions for the budget, the Office of Management and Budget ("OMB") utilizes prior year's components of actual fringe benefits expenditures and its percentage relationship to compensation as the starting point in determining a composite budgeted fringe benefit rate for each agency. OMB also reviews and adjusts agency budgeted fringe benefit rates based on year-to-date actual fringe data, historical trend, and actuarial projections to account for potential changes for individual components, such as an increase in health benefit costs, retiree health and pensions. Unlike actual expenditures which provide a fringe breakdown, budgeted fringe rates reflect the aggregate total of projected fringe costs as a percentage of compensation; the budget does not show a breakdown of the different components of fringe benefits.

⁶ FY 2014 Proposed Operating Budget, page 35-36

⁷ Adm. Proc. 165 (Section 2)

External Parties

As mentioned earlier, part of the complexity of the workers' compensation program is driven by the number of external parties which are involved in the process. The following is a list of some of the external parties which may affect a worker's compensation claim filed by an injured County employee:

- Maryland State Legislature - creates laws governing state's workers' compensation;
- The Maryland Workers' Compensation Commission ("WCC" or the Commission) - processes and adjudicates claims;
- Workers' compensation attorneys - represents injured workers; and,
- Claimants Attending Physician - attends to the injured employee.

Additionally, the County has contracted with a Third-Party Administrator ("TPA"), CorVel Corporation ("CorVel")⁸ to administer its workers' compensation claims, and provide the County with third-party property and casualty administration services. The following is a list of some of the internal or contracted parties which may affect a worker's compensation claim filed by an injured County employee:

- Injured employees Agency/Department Risk Management divisions;
- The County's Department of Finance, Risk Management Division;
- The County's Office of Law – represents the County during hearings before the Maryland WCC and reviews settlements in all workers' compensation cases prior to making offers to a claimant or claimant attorney;
- The County's Office of Human Resources and Management ("OHRM");
- The County's Medical Review Officer ("MRO");
- The County's Medical Advisory Board ("MAB");
- The County's Disability Review Board;
- AON Risk Services Inc. - provides insurance brokerage services (such as actuarial services);
- Insurance Buyers' Council ("IBC") – provides consulting services to the Risk Management Pool and has historical knowledge and familiarity of the Risk Management Pool and its members;
- Independent Medical Evaluators ("IME");
- CorVel - the County's Third-Party Administrator ("TPA") and its various third-party vendors providing services such as diagnostic testing, transportation and translation, for e.g.:
 - Medical Managed Care Services;
 - Surveillance – adjusters will recommend the use of external investigation as the need arises on a per claim basis; and,
 - CorCare RX – prescription program;
- Concentra - a national health care company, performs tests for blood borne pathogens; and,
- Burn Center at Washington Hospital Center ("BCWHC") – assess all burn injuries (Fire &EMS).

⁸ RFP No. S09-062 Claims Administration Services, dated November 19, 2009 and subsequent 5 addendums; CorVel Technical and Cost Proposal dated March 8, 2010, and Two-Party Agreement, dated June 29, 2010.

Financial Structure of the Workers' Compensation Program

To fund the Program, a third-party actuary provides analysis of the current Internal Service Fund and makes recommendations for funding levels by each of the funds four participants. The County places these monies into an Internal Service Fund, specifically for payment of workers' compensation claims and future liabilities. This approach is known as a self-insured program, a concept that is covered in greater detail later in this section. Both the Program and the Internal Service Fund are administered by the Risk Management Division of the Office of Finance on behalf of all fund participants.

Monies in the Internal Service Fund are used to disburse payments related to general and administrative expenses including State worker's compensation tax, insurance claims, and premiums. This separation distinguishes monies used for indemnity and medical claim payments from monies used to administer the Program. The Risk Management Division contracts with another external third-party vendor or Third-Party Administrator ("TPA"), CorVel, for support with claim review, fee schedules, and account billing.

Workers' Compensation Claim Process

When an injury occurs or when an employee becomes aware of an injury, both the Maryland Workers' Compensation Commission and the County stipulate the timeframe for when an employee should report the injury. Generally, for an accidental injury, the supervisor is notified within 24 hours and the employee takes disability leave. The Supervisor completes the First Report of Injury and notifies the Department Risk Coordinator ("DRC"). The DRC files a claim with CorVel, the County's TPA, and CorVel investigates the claim and files with the State's Workers' Compensation Commission ("WCC"). If awarded, CorVel will issue payment of benefit on behalf of the County. Workers' compensation benefits are tax-free, and benefits are payable as long as a physician certifies the condition or disability continues. If the injured employee contests the payments being offered by the County, then they may file a complaint with the State WCC. CorVel prepares packages which are sent to the Office of Law for use in representing the County at WCC hearings. One (1) Office of Law attorney handles workers' compensation hearings with the WCC that average between 105 and 136 a month. Additionally, we reviewed many of the high risk agencies/departments regarding their risk management processes, and as an example, one of the County's more proficient Risk Management and Safety Department's is depicted in the process flow for the Fire/EMS Department in **Appendix C** attached.

Workers' Compensation Claim Process

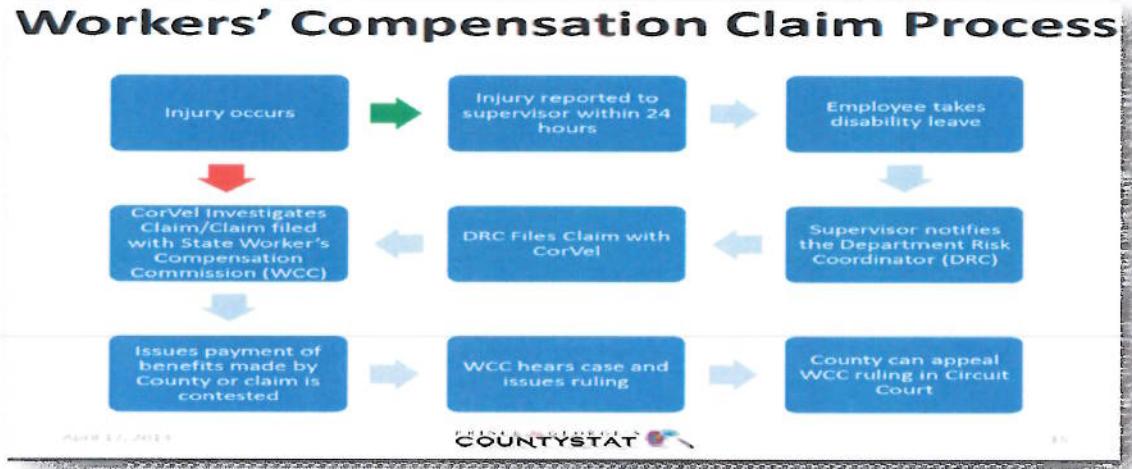


Illustration 5: Worker's Compensation Claims Process (Source: CountyStat)

Disability Leave Program

An employee who is temporarily disabled, resulting from an injury or illness sustained directly in the performance of their work, is entitled to disability leave.⁹ In addition to the State of Maryland requirements (base rate of 66 2/3rds percent of the injured employee's salary), nearly all employees covered by the self-insurance fund, receive a supplemental amount that will bring their total compensation to an amount equal to their full weekly salary. This supplemental benefit is referred to as disability leave. Personnel law states that an employee who is temporarily disabled in the performance of the employee's work shall be entitled to receive *full salary* for the period of the temporary disability without charge against the employee's annual or sick leave, subject to certain conditions. This supplemental disability leave is not to exceed one hundred and eighty (180) calendar days or such other amount established in the Salary Plan (labor agreements may carry different maximum amounts) for any one injury, including recurrences of the same injury. With the exception of the Fire/EMS Department, the approval of disability leave is made by the Office of Human Resources Management.

Disability Leave Program

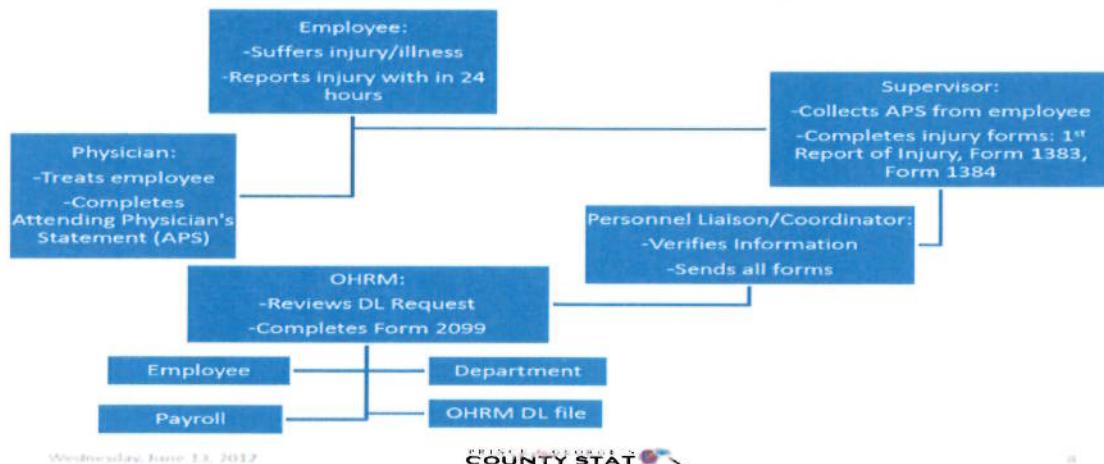


Illustration 6: Disability Leave Program (Source: CountyStat)

Upon receipt of the claim by CorVel, the claim is assigned to a nurse and a claims supervisor. The nurse contacts the claimant, and the Supervisor assigns the claim to a Claims Specialist. The Claims Specialist begins working the case by contacting the claimant, the reporting Supervisor, and the Medical Provider to confirm the details of the claim. The Claims Specialist develops and implements action plans. The CorVel Supervisor reviews claim progress every 30, 60, and 90 days.

⁹ Personnel Law 16-224 and Personnel Procedure 284

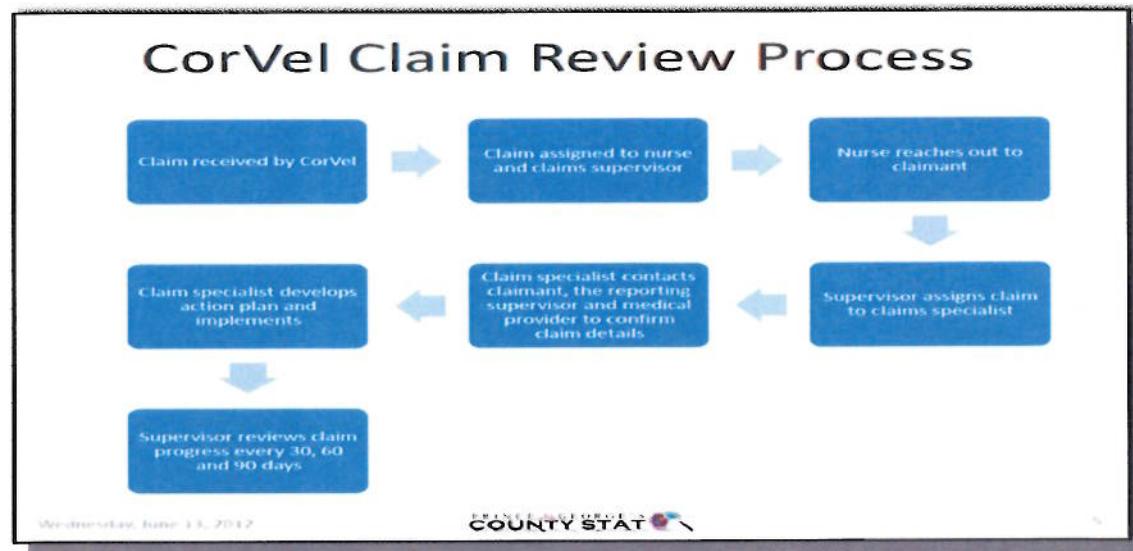


Illustration 7: CorVel Claim Review Process (Source: CountyStat)

TRENDS IN WORKERS' COMPENSATION

In general, workers' compensation claims tend to be more prevalent among professions with greater inherent risk. For municipalities and counties in particular, the majority of workers' compensation claims are filed by public safety personnel from the Police, Fire/EMS, Sheriff, and Correction Departments. As the figure below demonstrates, 83% percent of all claims filed in 2013 by County employees were filed by Public Safety personnel.

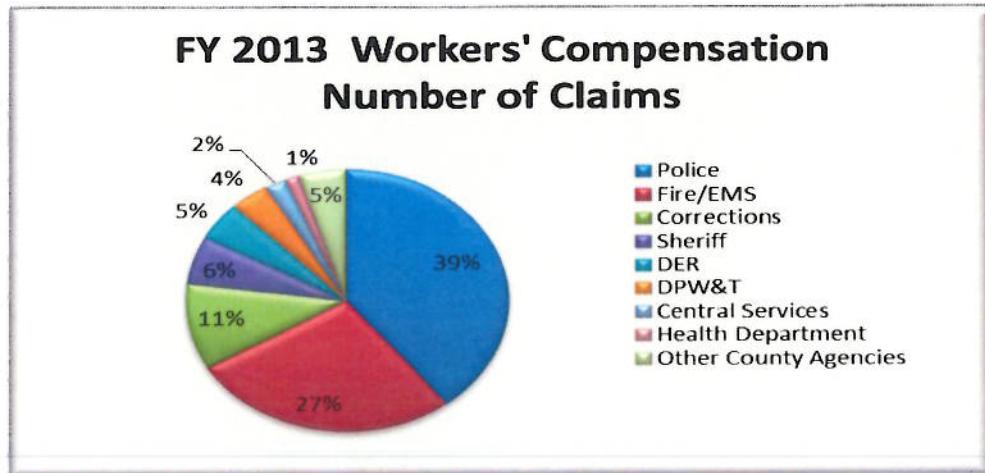


Illustration 8: County FY 2013 Workers' Compensation Claims (Auditor Generated)

Notably, Public Safety encounters the most number of claims, followed by Public Works, and has the most costs associated with workers' compensation by a significant margin. Illustration 9 below shows costs incurred by workers' compensation in FY 2013 by department/agencies.

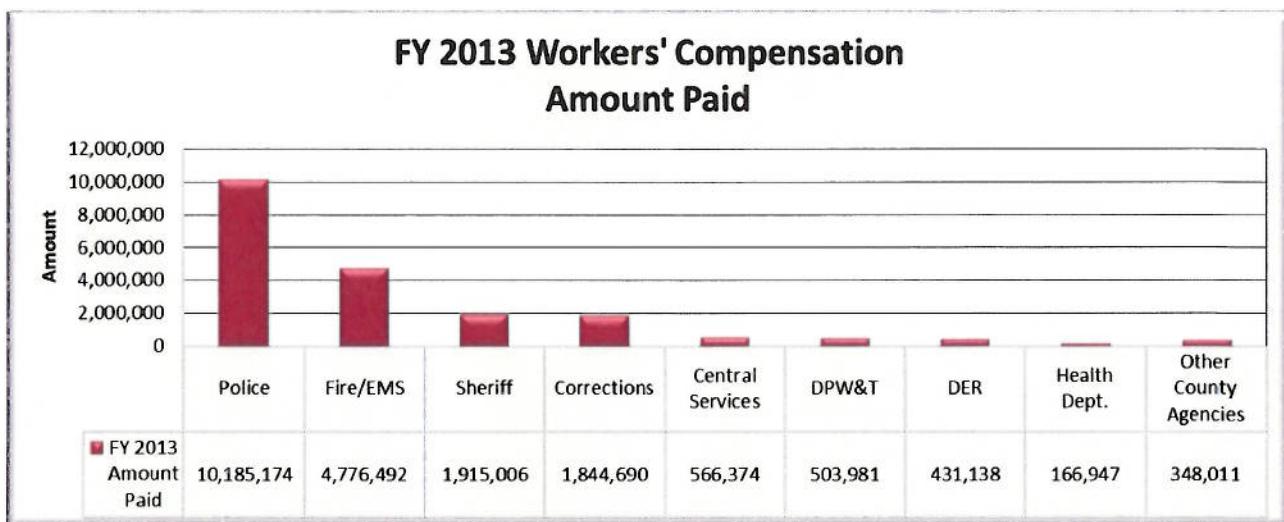


Illustration 9: FY 2013 Workers' Compensation Amount Paid (Source: CountyStat)

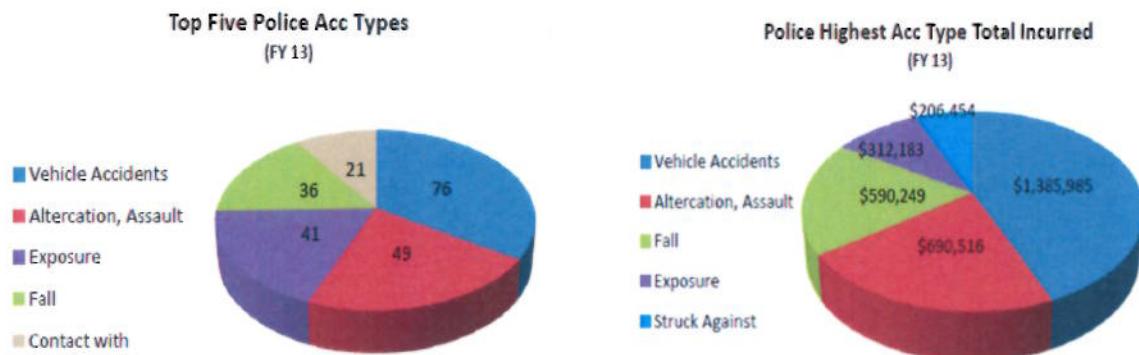


Illustration 10: Accident Type & Cost – Police Department (FY 2013) (Source: CountyStat)

Additionally, we reviewed CountyStat reports related to the origination of Police Department workers' compensation claims and its cost for FY 2013, and noted that vehicle accidents have been the top claim type, and cost driver for the Police Department for the fiscal years 2011 – 2013. Vehicle accidents averaged nearly 30 percent more claims per year than any other claim type, costing the County over \$5 million for the same 3 year period, with \$1.4 million incurred in FY 2013.

Some External Challenges Related to the Workers' Compensation Program

Local governments in Maryland, including Prince George's County, are concerned about workers' compensation costs, with increases attributed to a variety of factors, including a higher ceiling on payouts, changes in state law that favor public safety workers, and some instances of fraud. Handling cases for injured workers is big business for attorneys who specialize in the field, with nearly \$400 million in payouts ordered by the state Workers' Compensation Commission last year. The State law allows payouts for medical bills, lost wages, and permanent disabilities that can stretch for years. Additionally, lawyers typically get as much as a 20 percent cut of their clients' awards. Over an 18 month period, the largest workers' compensation practice in Maryland, made more than \$5 million representing workers, mainly police and firefighters in Prince George's County.¹⁰ County Management, as a self-insurer, with a large and growing deficit, is therefore faced with the challenges presented by the very nature of this system, which are outside the scope of their control.

¹⁰ Comp Pinkbook - An analysis of workers' compensation records by nonpracticing lawyer Byron B. Warnken.

Objectives, Scope, & Methodology

Objectives

The objectives of the performance audit were to review the internal controls and processes around the County's Workers' Compensation Program, and determine possible reasons for the increase in the deficit of the fund from approximately \$2 million in FY 2002 to over \$87 million in FY 2013.

Scope and Limitations

The scope of the audit coverage was from July 1, 2012, to June 30, 2013 for the testing of certain data. Periods outside of this time-frame were used to demonstrate trends, updated data, or when data was not specifically available for the audit period.

Although the Risk Management Fund has the following participants: County Government (excluding the Volunteer Fire Companies), the Board of Education, the Community College, and the Memorial Library System, only the data and operations of selected County Government entities were considered for the purposes of this review.

Coverage for the County's Volunteer Fire Companies is through a third-party insurance company, American International Group, Inc. ("AIG"). As such, all Volunteer Fire Companies' data is maintained by AIG for injuries occurring after 7/1/07. Injuries occurring before 7/1/07 were handled by Injured Workers' Insurance Fund ("IWIF"), now known as Chesapeake Employers' Insurance Co. For the purposes of this review, and because the Volunteer Fire Companies are not covered under the County's self-insurance fund, this group was also excluded from our review.

Additionally, the operations of the Maryland Workers' Compensation Commission, a State agency, as it relates to the Program, were not reviewed as part of this audit. Also, the Office of Audits and Investigations did not consult with an actuary for the purposes of conducting this review.

Methodology

Through inquiry, observation, and other substantive testing, including testing of source documentation, we performed the following to achieve our audit objectives:

- A review of the County's Risk Management organizational structure.
- A review of the Labor and Employment Article, Title 9, Annotated Code of Maryland (Chapter 8, Acts of 1991), the Rules and Regulations of the Workers' Compensation Commission, and the various Risk Management Departments as they relate to Workers' Compensation.
- A review of the Request for Proposal ("RFP") No.S09-062, Claims Administration Services, issued November 19, 2009, related to securing the services of a Third-Party Administrator ("TPA"). We also reviewed the relevant contracting documents for the TPA vendor, CorVel, which included the Technical Proposal response to the RFP, the Two-Party Agreement between the County and CorVel dated June 29, 2010, and subsequent contract extensions.

- A review of policy and procedure manuals for the County, various agencies/departments within the County, and the County's TPA, CorVel.
- A review of financial statement disclosures, related revenue and expenditures, and calculation worksheets, as it relates to Workers' Compensation.
- A review of claim files reports generated by Risk Management, and/or CorVel (TPA).
- Interviews with key stakeholders in the County's Workers' Compensation process to gain an understanding of the Program, such as Department Risk Coordinators ("DRCs"), claim managers, OHRM personnel, Office of Law personnel, and the TPA provider.
- Interview of select individuals across various similar jurisdictions involved in workers' compensation programs for the purposes of benchmarking.
- A review of RFP No.S09-054, Insurance Broker Services, issued January 12, 2009, related to the solicitation to manage the insurance brokerage requirements and provision of consulting services for the County's Risk Management Fund. We also reviewed the Technical Proposal response to the RFP, and the Two-Party Agreement between the County and the selected vendor AON dated June 12, 2009, and subsequent contract extensions.
- Follow-up on the status of remediation for issues identified by various means such as the CountyStat team, the external auditors, and County Risk Management personnel.
- Other auditing procedures as deemed necessary.
- Created a narrative, various Program related departmental organization charts (**Appendix A & B**), flowcharted a high level overview of the Fire/EMS Departments Risk Management Program (**Appendix C**), and flowcharted a high level overview of the County's Disability Program (**Appendix D**).

We determined the data used in this review were sufficiently reliable and believe the evidence obtained provides a reasonable basis for our findings. We did not examine the records of vendors, contractors, consultants, or other governmental agencies beyond the extent of the documentation obtained and filed by the Risk Management Division and other departments, as part of their records.

Management's Responsibility for Internal Control

Internal control is a process, affected by people at every level of the organization, designed to provide reasonable assurance that the following objectives are being achieved¹¹:

- Effectiveness and efficiency of operations;
- Reliability of financial reporting; and,
- Compliance with applicable laws and regulations.

Management is responsible for establishing and maintaining an environment that sets a positive and supportive attitude towards internal control. When the importance of internal control is communicated to employees, particularly through management's own actions and beliefs, the process is more likely to function effectively.

A strong internal control environment is essential in minimizing operational risks and improving accountability which further helps an agency to achieve its mission.

We noted the following strengths in relation to the internal controls surrounding the Workers' Compensation Program that we reviewed within the Office of Finance:

- Many aspects of this very complex program have written policies and procedures in place.
- Based on a review of Service Provider reports, the Third-Party Administrator ("TPA") has many IT administrative and user access controls in place to manage claims and limit access to claim files, which appears to be operating effectively as determined by the TPA's auditors.
- The effectiveness of monitoring high risk program areas is proving to be crucial in managing this program. This is made possible by the co-operation of various resources available, such as the County Executive's CountyStat team, the Office of Risk Management, and the various agency/department risk management offices.

We also observed internal control weaknesses surrounding the workers' compensation program that require management's attention. The following sections detail the items noted during our review.

¹¹ Internal Control – Integrated Framework published by the Committee of Sponsoring Organizations of the Treadway Commission, Copyright 1994

Inefficient Program Structure

A review of the County's Risk Management organizational structure indicates that the County has a highly de-centralized structure. This structure allows for the fragmentation, overlap, inefficiencies, and duplication in services and resources in the area of risk management and specifically in the workers' compensation program and activities. We noted the following during our review:

- While the Risk Management Division of the Office of Finance only has a staff of three (3), and one (1) vacancy, the County also has several fully staffed Risk Management Offices, as well as various part-time Department Risk Coordinators (DRCs), who are expected to perform risk management tasks within the various agencies/departments such as the Police Department, Fire/EMS Department, and the Department of Corrections. County Government has a total of 26 staff members who serve in the capacity of DRC or points of contact within a department/agency as of January 2014.



Illustration 12.1: Current Decentralized Risk Management Structure

- The decentralized structure of the County's risk management process has led to the various departments each expending valuable resources both in terms of personnel time and tools to perform the same functions. For example, each of the various departments audited has had to staff their program, and develop separate databases to manage the workers' compensation claims.
- We noted that the current decentralized structure has contributed to a program where the DRCs did not always have the necessary training and/or expertise to adequately perform their duties. For example, the Risk Management staff at the Police Department, one of the highest risk areas for workers' compensation, is often times staffed with sworn personnel who are prone to rotation or promotion in the course of their normal duties, and who often times do not necessarily possess the skills or qualifications to perform the functions needed.
- Having uniformed personnel perform risk management and claims processing duties removes those individuals from performing the specialized duties for which they were trained, which is, to enforce the law and protect the public. Additionally, the County may be overpaying uniformed officers to perform jobs for which civilian employees could be responsible.

- We noted that the attendance and participation of DRCs in the Office of Finance Risk Management training events is optional, and the decentralized structure makes the DRCs attendance and performance in the area of risk management difficult to manage and assess.
- We noted that for some DRCs, risk management/workers' compensation only constitutes a small portion of their overall job responsibilities, making it difficult to provide the types of services that are needed to adequately manage the program in their respective agency/department.
- We noted that the current structure has created the appearance of a conflict of interest in that there are several individuals who are either heading their agency/department risk management function, or are employed by the division to manage workers' compensation claims, who themselves have "open" and sometimes "multiple" workers' compensation claims. One DRC has a spouse who also has multiple claims with the agency/department. In total, both of these individuals have made 16 workers' compensation claims against the County dating back to 1995, have incurred \$373,312 in charges, and were paid \$298,920 as of 9/25/2014. Further analysis of the injuries for this individual and their spouse shows that they both filed claims against the County for the same type of injury on the same date in 2014.

The federal Office of Management and Budget ("OMB") Circular No. A-11, and Government Accountability Office report (GAO-10-394) states that:

"efficiency measures tend to be most useful for similar, repeated practices. Efficiency measures are not appropriate for every program, project, or goal but every agency, program, and goal-focused effort should continually search for practices to accomplish more with the same resources or the same value with fewer resources after effective actions have been identified."

A benchmark of best practices with surrounding jurisdictions indicate that Prince George's County is the only County in the immediate area which has adopted this decentralized structure of Risk Management. According to the Institute of Internal Auditors, conflict of interest for auditors, which can be carried over to other professions, and activities is defined as follows:

"a conflict of interest is a situation in which an individual, who is in a position of trust, has a competing professional or personal interest. Such competing interests can make it difficult to fulfill his or her duties impartially. A conflict of interest exists even if no unethical or improper act results. A conflict of interest can create an appearance of impropriety that can undermine confidence in the individual, and the activity. A conflict of interest could impair an individual's ability to perform his or her duties and responsibilities objectively."

The current decentralized structure of the County's Risk Management Program has evolved over time out of necessity to manage the risks that have arisen in each of the respective agencies/departments.

Having several Risk Management Divisions, operating separately and independent of each other, has contributed to the inefficient use of County resources, which are being used to perform essentially the same services, and represents an increase in overall cost and duplication of efforts. The current structure of the Program is costly in terms of both personnel and resources, such as equipment, supplies, space, etc. In the case of the Police Department's Risk Management Division, where there is a high turnover rate of department personnel, this comes at a higher cost to the County, as training has to be provided more frequently to new DRCs. Although there is some communication between the DRCs, the main Risk

Management office has little control over the operations and processes of the individual agencies/departments as it relates to this critical program.

In terms of cost, the County may be paying more to have uniformed officers fill the role of risk management and workers' compensation claims processors than it would if the roles were filled by qualified civilian employees. There is also a comparative advantage to civilian employees filling support roles within Public Safety Departments. For example, sworn Police Officers are the only personnel who can provide traditional law enforcement work, so when they are assigned elsewhere there is no substitute. It is likely that appropriate civilian employees could provide similar quality and service as sworn personnel, for example, risk management or processing of workers' compensation claims.

The lack of consistency between each department/agency processes leads to inefficiencies and ineffectiveness. As a result of some of the departments/agencies not being equipped with enough resources necessary to adequately manage the Program, or by not having adequately trained staff, employees as the customers, may be exposed to inadequate services, and long wait times, which can lead to them becoming frustrated with the process, and more inclined to seek outside legal counsel. This in turn may cost the County more in the long run.

Having personnel in charge of the risk management function responsible for the handling of workers' compensation claims, for which these same individuals and/or a close relative has open claims, creates a risk that professional judgment or actions regarding their primary interest may be unduly influenced by a secondary interest.

1a) We recommend that County Administration consider whether this structure is feasible and conduct an assessment of potential unnecessary overlap between its risk management functions and those of the various other County Government agencies/departments with this same functionality, to ensure that a sound business decision is made on how to most cost-effectively provide Risk Management and ultimately Workers' Compensation functionality to County workers. If the County should continue the current structure, then a review should be performed to determine the potential personnel cost saving options within the Public Safety Departments regarding administration of both the Risk Management and Workers' Compensation Program, specifically the practice of using uniformed instead of civilian personnel to staff these functions.

1b) We recommend that the County Administration consider instituting a more centralized risk management structure by consolidating all County Risk Management functions across the County solely under its control. This new structure could provide major benefits which could serve to:

- Improve program standardization;
- Improve the reporting for upper management;
- Provide the necessary resources to adequately manage the large volume of County claims and program related third parties;
- Improve professionalism of program managers and DRCs;
- Increase the ability to rotate resources to different areas in the case of changes in demand across County agencies/departments;
- Provide consistency of work;
- Allow for stability over the operations of the Division, which in turn may help control costs; and,

- Eliminate the high exposure risk of having Risk Managers who are prone to work-related injuries, who may not be qualified to perform the functions, who have open claims, and who are frequently rotated in and out of these positions.



Illustration 12.2: Proposed Centralized Risk Management Structure

1c) We recommend that County Administration maintain some aspects of the decentralized risk management structure such as having DRCs who are dedicated to each agency/department with the ability to become an expert in the particular agency/department.

Risk Management Committee (the “Committee”) Issues

During the course of our audit we noted the following issues with the Risk Management Committee:

- 1) **Meeting Minutes:** We requested the meeting minutes for the Committee meetings held for the period July 1, 2012 – June 30, 2013. We noted that no official meeting minutes were being maintained by the Committee Secretary/Treasurer. As such, we were unable to verify the performance of various Officer duties such as whether the Chairman or the Vice Chairman called and conducted all Committee meetings, or what business the Committee conducted.
- 2) **Committee Officers:** There was no documentation available to support two of the four Committee Officers. While the Committee Policies and Procedures indicated that the Chairman and Secretary/Treasurer would perpetually be the Director of Finance, there is no documentation to support who held the positions of Vice Chairman and Assistant Secretary/Treasurer, or when they had been elected for the period audited.
- 3) **Failure to perform duties of the Chairman and Secretary/Treasurer.** Through inquiry, we determined that the Director of Finance, who is the perpetual Chairman and Secretary/Treasurer of the Committee according to the Committee Policy and Procedures document, does not attend the Committee meetings, and furthermore, we were unable to determine whether the duties of Chairman/Secretary Treasurer had been delegated, and if so, when this occurred.
- 4) **Committee Bylaws and Policies and Procedures.** It appears as though the Committee Bylaws and Policies and Procedures are written in such a way that they are confusing, which may result in inadequate segregation of duties, and are not being followed. For example:

- i. The Policies and Procedures state that: "The perpetual Chairman and Secretary/Treasurer of the Committee shall be the Director of Finance." The Bylaws state that: "The Secretary/Treasurer (who may be one and the same person as the Vice Chairman). Thus the Chairman, who is also the Secretary/Treasurer, could also be the Vice Chairman.
- ii. The Policies and Procedures state that: "An actuarial study of the Fund shall be performed once every three (3) years." However, the actuarial study has been performed every year for the past three years at a cost of \$75,000 instead of \$25,000, costing the County \$50,000.

5) **Notice of Meetings:** We noted that notice of the meetings were not provided by the perpetual Chairman of the Committee for the January and April 2013 meetings, and we were not able to determine whether or not notice was provided ten (10) working days prior to the meeting date as stated in the Bylaws.

6) **Meeting Frequency:** We requested and received invites and/or agendas for 3 of the 4 quarterly meetings in FY 2013. There was no evidence that the meeting for June/July 2012 occurred, and we were unable to verify whether the meeting was cancelled or postponed, and if so, for what reason and to what future date.

The Risk Management Committee Bylaws, dated December 14, 1988, governing the County's Risk Management Program and therefore the County's workers' compensation program states that:

(2) Governance

A simple majority of the voting members of the Committee shall constitute a quorum and shall be required to decide all issues submitted to the Committee.

(3) Officers

"The Committee shall have the following officers, who need not be designated representatives of the voting member, to be elected annually and serve until a successor is duly elected and qualified: Chairman; Vice Chairman; Secretary/Treasurer; and Assistant Secretary Treasurer.

- A. *The Chairman shall call and conduct all meetings of the Committee.*
- B. *The Vice Chairman shall perform the duties of the Chairman in the Chairman's absence, and such other duties as may be delegated by the Chairman.*
- C. *The Secretary/Treasurer (who may be one and the same person as the Vice Chairman), shall have the following duties:*
 - 1. *Take, prepare, and retain minutes of all meetings of the Committee.*
 - 2. *Collect, invest, and disburse all monies from the Fund including payment of administrative costs and related expenses of claims adjusting, consultant fees, legal fees, actuarial fees, insurance premiums, and all other appropriate expenditures.*
 - 3. *Provide an annual audit of the Fund to the Committee and an annual budget to the County Executive, County Council, and each member.*

(4) Meetings

- A. *The Committee shall meet quarterly, or more frequently as required to conduct the business of the Fund.*
- B. *Notice of Meetings shall be given as follows:*

By the Chairman in written form to each entity representative at least ten (10) working days prior to the meeting date. The Agenda and related materials are to be furnished in advance. Nothing in this section shall preclude the Chairman from calling an emergency meeting as a situation may require."

The Risk Management Committee Policy and Procedures, amended June 10, 1996 states that:

1. *The Committee shall consist of one voting representative for each member organization, who shall be appointed by the head of the organization.*
2. *A quorum shall be necessary to conduct all ordinary business of the Committee. A quorum shall consist of three of the four voting representatives.*
 - a. *A simple majority vote of the quorum shall be required to decide all ordinary vote issues.*
4. *The perpetual Chairman and Secretary/Treasurer of the Committee shall be the County Director of Finance. It shall be his duty to:*
 - a. *Call and conduct all meetings of the Committee.*
 - b. *Take, prepare, and retain minutes of all meetings of the Committee.*
 - c. *Collect, invest, disburse all monies from the Fund including payment of administrative costs, and related expenses of claims adjusting, consultant fees, legal fees, actuarial fees, insurance premiums, and all other appropriate expenditures.*
 - d. *Provide an annual audit of the Fund to the Committee and an annual budget to the County Executive, County Council, and each member.*

Meeting minutes offer valuable documentation that can provide useful information because:

- **They provide structure.** Even though there is no standardized format for meeting minutes, it is important that a reasonable effort be made to report the facts of the meeting. Minutes should sufficiently describe how members arrived at reasonable decisions. The minutes should also include the name of the committee, the date and time of the meeting, who called it to order, and who attended. If there's a quorum, they should also note all motions made, any conflicts of interest, if any members abstained from voting, when the meeting ended, and who developed the minutes. Meeting minutes must then be approved at the next meeting by the leadership team.
- **They drive action.** Good meeting minutes help drive a plan of action for the leadership team and employees. They clarify how, when, why, and by whom decisions were made. They map out a plan for the action items, which helps get the work done, and they later provide valuable information to those team members who aren't able to attend the meeting.
- **They act as a measuring stick.** Minutes record meeting decisions, which makes them a useful review document when it comes time to measure progress. They also act as an accountability tool because they make it clear whose duty it was to perform which action.
- **They offer legal protection.** Minutes are important details that can't be ignored to keep the program in line with state laws. Minutes represent the actions of the Committee and County leadership, and are considered legal documents by auditors, and the courts. Legal experts will maintain that if an action isn't in the minutes, it didn't happen.

In the publication on Standards for Internal Controls (GAO/AIMD-00-21.3.1) (11/99) the Government Accountability Office (“GAO”) states that:

“Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud.”

The Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) internal control framework defines segregation of duties as a monitoring activity and states that:

“Duties of individuals are divided so that individual personnel serve as a check on each other. This is also a deterrent to employee fraud since it inhibits the ability of an individual to conceal his or her activities.”

The Members of the Risk Management Committee have failed to maintain adequate documentation to support the activities of the Committee, to support the requirements of the Committee’s bylaws and policies and procedures.

Meeting minutes offer valuable documentation that can provide useful information. The absence of Committee meeting minutes made it difficult to determine:

- a. Who the voting representative was for each of the group’s members for the period being audited.
- b. Who attended the meetings.
- c. What business was conducted by the Committee.
- d. What decisions were/were not made by the Committee.

By making the Chairman and the Secretary/Treasurer the same individual, this structure makes it difficult for the Chairman to focus on the business of the meeting, and offers a lack of segregation of duties.

2a) We recommend that the Committee Chairman seek to maintain official meeting minutes going forward. In situations of critical importance, and where the record is important, detailed minutes should be taken. When this isn’t the case, minutes can be simple lists of decisions made and actions that need to be taken (with the responsible person identified). The minutes should be as short as possible, as long as they highlight all key information. Finally, it is always preferable for the minutes taker to disseminate the minutes within 24 hours of the end of the meeting or at the next meeting, and obtain the approval of the minutes by the Committee members.

2b) We recommend that the Committee members review and revise both the bylaws and policies and procedures as needed to provide clarity, better guidance, and an accurate reflection of the changes in practices and procedures.

Management of the Workers’ Compensation Internal Service Fund Long Term Deficit

A review of the County’s FY 2013 audited Comprehensive Annual Financial Report (“CAFR”) indicates that the Primary Government’s Workers’ Compensation Internal Service Fund’s (“ISF”) net deficit at

June 30, 2014 was approximately \$84.7 million. See chart below for a presentation of the operating revenues, expenses and fund balance for the period FY 2002-FY 2014:

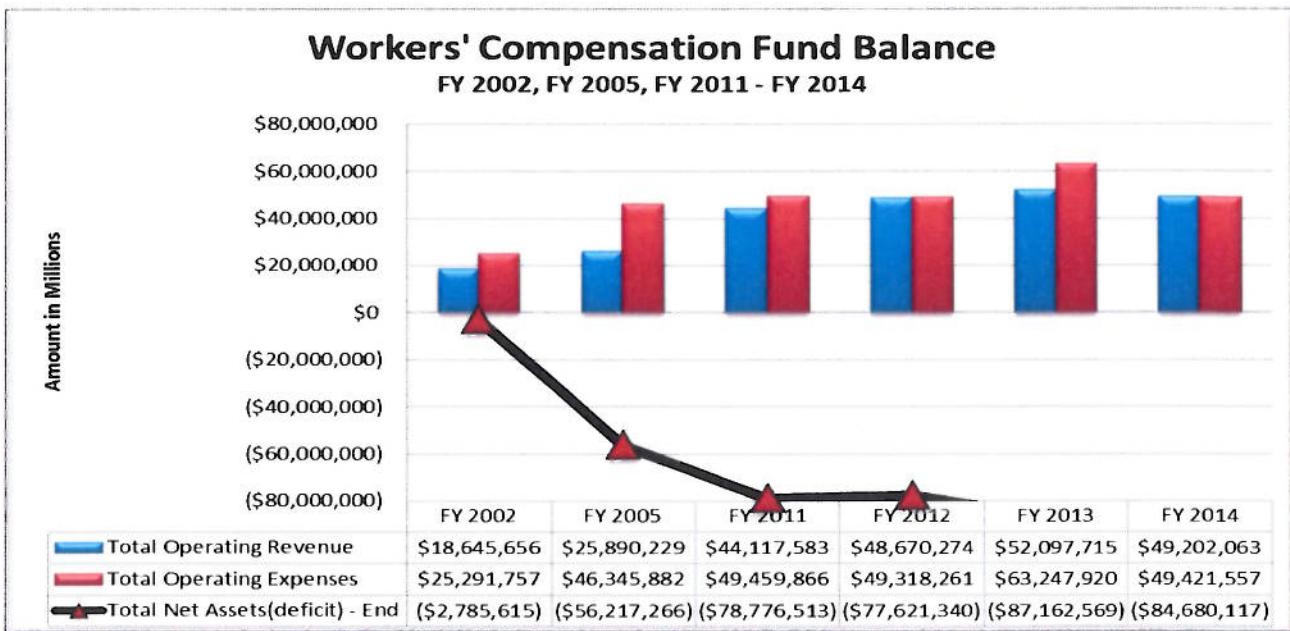


Illustration 13: Workers' Compensation Fund Balance (Auditor Generated using data from CAFR)

Analysis of the data reported in the County's CAFR for FY 2002- FY 2014 indicates the following:

- As of FY 2013, there is sufficient funding to cover the **current** liabilities due.
- The overall net deficit, which includes future potential liabilities, has grown from nearly \$3 million in FY 2002 to over \$84 million in FY 2014.
- Between FY 2002 and FY 2014, operating expenses in every single year have been higher than operating revenues (contributions and investment returns).
- Insurance claims were the lowest in FY 2003 at nearly \$23 million and the highest in FY 2013 at nearly \$57 million.
- Overall between FY 2002 and FY 2014 the dollar value of insurance claims have more than doubled.

Furthermore, a review of the budgeted and actual contributions made towards the potential fund deficit, which includes contingent liabilities (that is, potential obligations or claims to be paid that may be incurred depending on the outcome of a future event), indicate that there appears to be a lack of adequate long-term planning and funding. This requires cooperation between the various branches of County government to reduce the deficit noted in the Workers' Compensation ISF, and to ensure that the expenses of the program will be met.

The Maryland Workers' Compensation Act, as outlined in the Labor and Employment Article, Title 9, Annotated Code of Maryland requires that all employers having one or more employees, full or part-time, are required to have Workers' Compensation insurance for the benefit of their employees. An employer or employee cannot waive provisions of the Workers' Compensation Law, and the cost of workers' compensation insurance itself is borne entirely by the employer (or Prince Georges County). The County

is self-insured as it relates to Workers' Compensation, and is therefore liable to pay the cost of each claim 'out of pocket' as they are incurred.

Additionally, Annotated Code of Maryland, section 14.09.13.03 03 Revocation of Self-Insured Status states that:

"B. Deterioration in the financial strength of the self-insurer, which may affect the ability of the self-insurer to pay current and future claims when due, may result in modification or revocation of self-insurance privileges."

As stewards of the fund used to manage the Program, Program Management have a fundamental responsibility for ensuring that revenues (contributions) are adequate, used efficiently and effectively, and expenses are adequately managed.

County Administrative Procedure 165, Section G.1.1, page 5 states that *"Directors shall hold each manager, bureau chief, and supervisor responsible for the preventable personal injuries, vehicular accidents, property damage, and other losses incurred by the County as a result of actions of their subordinates. An excessive number of accidents may indicate that management policies or procedures need review, or that a supervisor may have become "too expensive" to maintain in his present position due to inadequate loss control techniques and supervision."*

Section 2j, page 7 states that *"Each supervisor will be held accountable for an explanation of the preventable personal injuries and accidents, damage, to property and materials by subordinate employees."*

Section 2k, page 7 states that *"Each supervisor will include an employee's safety record in the basic criteria of the annual evaluation process. Employees who cause accidents to themselves and/or others demonstrate specific performance deficiencies that should be identified and corrected."*

Best practices in other jurisdictions have the 100% salary of an injured employee tied to the use of the jurisdictions recommended Medical Service Provider.

In FY 2013, expenditures have continued to increase by \$14.3 million driven by an increase in claims expenses, including an \$11.5 million judgment against the County that was recorded as an expense.

While the Office of Management and Budget (OMB) has budgeted funds towards reducing the fund deficit in the past three (3) fiscal years, no actual funds were contributed to the reduction in the deficit, due to changes in priorities.

Certain County policies and collective bargaining agreements may be contributing to providing employees with a greater benefit than what is allowed under the law, thus increasing the costs to the County. The State of Maryland requirements for salary is a base rate of 66 2/3rds percent of the injured employee's salary, however, nearly all employees covered by the self-insurance fund, receive a supplemental amount that will bring their total compensation to an amount equal to their full weekly salary or a 100% benefit.

Because the County has a self-insured plan to cover workers' compensation, it has assumed the financial risk of paying for claims and associated administration costs, and bears the legal burden to pay for all

expenses incurred. As a result of the high number of claims and payouts the County has seen in the past 10 years, and because fund expenses exceed the contributions being made to the fund, this has caused the workers' compensation ISF to become insolvent. In order for the County to continue to pay expenses related to the Program, funds from other County sources may have to be used, thus affecting the overall cash flow of the County.

Additionally, by the inability of fund managers and management to effectively control and manage the expenses related to the Program, the County is putting itself at risk of possibly having its credit rating downgraded. Continual losses may also adversely affect the County's ability to remain self-insured according to State statute, thus potentially increasing its insurance costs, and the ability to obtain reasonable, cost-effective insurance, should they have to seek the services of a fully insured plan.

3a) We recommend that the County Administration seek to develop a feasible and realistic plan to restore solvency to the fund in the long run and to reduce the long term deficit. Consideration should be made as to whether there should be an increase in premium contributions by fund participants, in addition to reducing certain administrative costs in future fiscal years. Furthermore, in order for any deficit reduction plan to be effective, both branches of County government will need to commit to ensuring that funds budgeted for the purposes of reducing the deficit are actually approved and used to support this initiative.

3b) We recommend that the County Administration review its administrative expenses related to the ISF and consider where these costs could be contained. For example, consideration should be given as to whether the annual actuarial studies are necessary at an annual cost of \$25,000 per year. It may be just as feasible to have the study performed once every 2 or 3 years, as recommended in the Risk Management Committee policies and procedures.

3c) We recommend that the County Administration seek to obtain a Claims Auditing Service which could help the County recover claim expenses that would have otherwise been lost. In addition, the service provider could also help to provide valuable recommendations on preventing future errors that increase medical costs. Alternatively, the County should consider whether it should invest in a Claims Auditing tool that would automatically perform this function and may be more cost effective in the long run.

3d) We recommend that the County Administration consider whether the benefits offered to injured employees are excessive and in need of review and adjustment. If the County continues to provide the 100% benefit, which provides little incentive for an employee to return to work as soon as possible, then they should consider having this benefit tied to a stipulation, such as employees will only get 100% of their salary if they use a County contracted Medical Service Provider. This change could result in possibly faster and better medical services, which may help employees to return to work faster, thus decreasing expenses.

3e) We recommend that the Office of Finance engage in sound Risk Management practices in order to reduce future losses. This can be done by continuing to work with County Stat and CorVel, the County's Third-Party Administrator ("TPA"), to make a concerted effort to review the County's loss history, identify trends and common loss drivers, and then work with each of the agencies/departments to create a concrete plan to eliminate such risks and prevent such types of accidents from occurring in the future.

3f) We recommend that the Office of Finance consider engaging professional experts who can review existing safety programs and training materials, along with orientation and training protocols to see where improvements can be made to help maximize loss control. In addition, they should seek to work with the experts to make sure the workplace is MOSH/OSHA compliant, and conduct mock MOSH/OSHA surveys to discover any potential MOSH/OSHA violations.

3g) We recommend that the County Administration continue to make safety a top priority, and seek to set the tone at the top for changes and compliance. Senior Management should seek to consider stricter enforcement of current policy such as ensuring that employee's safety records are included in their performance evaluations.

3h) We recommend that the Fund Managers consider whether they should conduct a feasibility study to determine whether it is still cost-effective for the County to remain self-insured for workers' compensation, given the number of employees, the risks involved, and previous claims history, etc. Additionally, consideration should also be given as to whether expanding the number of participants in the current pool could help the Program's fiscal outlook. For example, in addition to similar participants to the County in its self-insurance program, Montgomery County, Maryland also has some of the following participants in their pool: Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery County Revenue Authority, Housing Opportunities Commission of Montgomery County, City of Rockville, City of Gaithersburg, and the City of Takoma Park.

Management of the Workers' Compensation Fund (the "Fund")

During the review of the process used to determine the amount that each of the fund participants should contribute as "premiums" on an annual basis we noted the following issues:

- 1) The process used to generate the numbers ultimately provided to each of the fund participants is not adequately documented.
- 2) The loss data used by the actuarial sub-contractor to determine premium contribution amounts is provided by the County. The County neither audits nor provides an independent verification on the accuracy of this data. As such, although the actuary reviews the data for reasonableness and consistency, they rely exclusively on the County to provide accurate data to base their projections.
- 3) Although the actuarial evaluations provide estimates for the Hospital Commission of Prince George's County, a former member of the fund for expenses payable from the Fund, no premium contributions appear to have been made on behalf of this former fund participant to cover its expenses in the estimated thirty (30) years since leaving the fund. This participant has incurred approximately \$1.4 million in claims expenses since 2002. Additionally, using an average amount for the past 13 years of \$105,131, approximately \$3.2 million in claim expenses has been incurred by this former member in 30 years.
- 4) Various percentages and amounts used in the calculation of the contribution amounts to workers' compensation and other risk management fund types, such as general liability, automobile and

property insurance appear to be arbitrary, with no apparent basis for their selection and continued use. For example:

- a. The Administrative Expenses for workers' compensation is calculated by adding 5% to the prior fiscal year's administrative expenses instead of using the actuarial number. There is no documentation or reason to support the use of Risk Management's methodology instead of the actuaries, or why 5% was selected as the continuous mark-up percentage year over year;
- b. Although outside the scope of our engagement, it should be noted that other insurance coverage under the Risk Management Fund, such as "crime insurance" and "property insurance" are split between the fund participants as follows: County (40%), BOE (40%), Community College (10%), and Memorial Library (10%). There is no documentation to support the reason for this percentage split; and,
- c. Both the County and the Board of Education ("BOE") pay an amount of \$125,000 each year for "Environmental Charges," with no apparent basis for this amount being charged.

- 5) The individual performing the calculations did not appear to have been adequately trained in the performance of the control. For example, the preparer was uncertain as to what expenses were covered under the actuaries Administrative Expenses versus what expenses are covered under the prior years' Administrative Expenses provided by the Finance Accountant, and whether there was any redundancy in the two numbers. Staff initially indicated that both numbers were combined and used to determine contribution amounts. However, this methodology was subsequently corrected by staff.
- 6) There is no evidence to support that the premium contribution calculations being billed to the fund participants is being reviewed by Management for accuracy.
- 7) Using the same methodology as Risk Management Staff, the auditors performed a recalculation of the FY 2013 contribution amounts for the County and compared it to the calculations made by the Office of Finance. We noted the following differences:
 - a. Risk Management appears to be billing the County for Volunteer Firefighters Workers' Compensation Insurance, Crime Insurance, and Property Insurance at the premium amount paid during the prior fiscal year instead of the current year premiums.
 - b. The final contribution memorandum prepared for the County did not agree to the supporting spreadsheet used to calculate the actual amount, and appeared to be only what was budgeted and not what should actually be paid.
 - c. The final contribution memorandum did not include prior year deficits for the County.

The General Accountability Office (GAO) in its publication Standards for Internal Control in the Federal Government (November 1999) recommends the following:

"Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained."

It is good business practice to ensure that invoices are properly reviewed and analyzed, and that amounts billed to the fund participants are accurate. The individual who signs off on an invoice is ultimately held accountable for the transaction. The GAO states that *“Accountability is established by having the signature or initial be traceable to the individual providing the approval, whether manual or electronic.”*

As stewards of the Program funds that are both billed and expensed by the Program, Program Managers have a fundamental responsibility for ensuring that contributions and expenses are accurately calculated, recorded, and accounted for.

In the publication on Standards for Internal Controls (GAO/AIMD-00-21.3.1) (11/99) the GAO states that:

“Key duties and responsibilities need to be divided or segregated among different people to reduce the risk of error or fraud. This should include separating the responsibilities for authorizing transactions, processing and recording them, reviewing the transactions, and handling any related assets. No one individual should control all key aspects of a transaction or event.”

Staffing constraints, inadequate training and supervisory review, coupled with the lack of adequate Program documentation such as policies and procedures, and supporting documentation to support the performance of the control have all contributed to the issues noted above.

Without written procedures, the continuity of an activity may be threatened if there is unexpected staff/vendor turnover and the introduction of new employees to an unfamiliar activity. The lack of written procedures may also result in Program activities, such as the calculation of participant fund contributions, being carried out inconsistently year over year by staff. Written procedures may protect the County from unplanned interruptions in that activity. Further, it establishes proper procedural guidelines to abide by, which lends to the integrity of the process and serves to reduce risks such as errors in calculations, which could result in improper payments by fund participants, who could either be underpaying or overpaying. Written procedures serve to reinforce management’s objectives for the activity and to ensure that these objectives are consistently considered.

4a) We recommend that Program Management seek to develop policies and procedures around the performance of the participants contribution calculation, reevaluate and document assumptions and their basis, such as 5% markups used for administrative expenses.

4b) We recommend that Program Management ensure that current fund participants are contributing sufficient funds to cover the expenditures incurred by former fund member beneficiaries or seek to make a lump sum settlement with these beneficiaries to get the expenses off of the Fund’s books.

4c) We recommend that Program Management seek to have the loss data provided to the actuarial subcontractor to determine premium contributions, to be audited or independently verified either annually or periodically to ensure accuracy.

4d) We recommend that Program Management provide the necessary training to ensure that staff is adequately equipped to perform the critical Program activity of determination of participant contributions.

4e) We recommend that Program Management seek to implement supervisory review of the performance of the calculation of contribution amounts to ensure accuracy in the calculations. Additionally, all supporting documentation used in the calculation of the contribution amounts for each billing cycle, should be retained and signed off by Management for audit purposes.

Lack of Adequate Management of Claim Repeaters

A small percentage of "accident repeaters" have a large share of injuries. The Office of Audits and Investigations ("A&I") examined data available which shows those claimants who have at least five (5) prior claims that have filed a new claim in FY 2014 as of 9/25/2013, and noted the following:

- ❖ 42 employees were responsible for filing 400 claims.
- ❖ Of the approximately \$4.31 million costs incurred by these 42 individuals, approximately \$3.53 million had been paid as of September 2013.
- ❖ Each of these 42 employees had between 6 and 25 separate workers' compensation claims.
- ❖ 18 of the 42 employees incurred costs which were greater than \$100,000.
- ❖ 14 of the 42 employees had been paid amounts greater than \$100,000, with at least (8) being paid between \$164,000 and \$253,000 each.
- ❖ The 42 claim repeaters analyzed were clustered as follows by department/agency:
 - Fire/EMS (20)
 - Police (11)
 - Sheriff, Corrections, and DPW&T (4)
 - Multiple agencies/departments (7) - The same employee filed claims while working for two or more different County agencies/departments.

Best practices in managing the occurrence of injuries on the job and ensuring that employees don't have repeat injuries all stem from making safety a priority since the "the cheapest claim is the one that never happens," and ensuring that all employees are involved in the safety effort.

Under an agreement with the U.S. Department of Labor's Occupational Safety and Health Act of 1970 ("OSHA")¹², the Maryland Occupational Safety and Health ("MOSH") promotes occupational safety and health in workplaces across Maryland. In addition to adopting many of the federal standards for General Industry (29 CFR 1910), Construction (29 CFR 1926), and Agriculture (29 CFR 1928), MOSH has supplemented the OSHA standards with several requirements unique to Maryland. OSHA requires all private-sector employers to furnish a safe workplace, free of recognized hazards, to their employees, and requires employers and employees to comply with occupational safety and health standards adopted by OSHA (for the main duty clause of OSHA, see 29 U.S.C. § 654).

MOSH works to improve the safety and health of Maryland's working men and women by setting and enforcing standards; providing training, outreach, and education; establishing partnerships; and encouraging continual process improvement in workplace safety and health. MOSH, with the assistance of the MOSH Advisory Board, develops and proposes rules and regulations designed to prevent accidents and occupational diseases in every occupation or place of employment in Maryland.

¹² https://www.osha.gov/OSHA_FAQs.html

Accident repetition has multiple causes, and there are many types of "accident repeaters." As such it is difficult to identify any specific cause. Patterns of repeated claims may reveal problems with the work, the employee, training, management, supervision and/or equipment. Accidents and injuries are the end result of unsafe behaviors stemming from a host of reasons such as physical limitations, stresses, and/or inadequate training, which in turn create unsafe working conditions.

Additionally, the County is limited when it comes to the interventions that managers can effectively employ, and many have given up in frustration, since a response of dismissing employees who have repeat accidents (or even screening them out of the hiring process) is not always a valid option, due to legal, contractual or other reasons.

County safety professionals and managers have long been frustrated with "accident repeaters." Even with an otherwise strong safety record, it seems as if a small percentage of employees account for a disproportionate share of injuries. Each claim event represents pain, suffering, lost productivity, and a cost in dollars, and time. More often than not, frequency leads to severity.

An experienced employee's absence from work due to any injury or illness affects the overall operation as the team is short one person. It can disrupt schedules, lessen the teams' efficiency, reduce production levels, increase response times, and increase costs. The injured worker, other workers, and even the entire County, are affected by the "indirect costs" incurred when an employee is out on a time loss injury.

The County's budget must absorb the costs. Indirect costs to the department, County, and ultimately the taxpayers are the expenses related to replacing and training a new employee during the injured worker's recovery time, reduced productivity of the team, overtime to make up for lost productivity, and possible project delays. In the case of serious incidents, these increases may affect the County's operating budget for years.

On a personal level, injuries often restrict the employee's recreational activities, harm relationships, create other emotional distress such as depression, and can strain the financial stability of their family.

5a) We recommend that the County Administration require Managers to employ traditional forms of management, if they are not doing so already, such as screening, discipline and/or counseling. These can range from:

- i. Solving the problem in advance by implementing screening procedures to prevent the hire of individuals who may be prone to having repeat accidents. A systematic employee selection process can do much to help the County hire effective employees who are capable of doing an outstanding job. Likewise, regular performance appraisal meetings, open communications, well designed pay systems, and good supervision all contribute to promoting good work.
- ii. With already existing repeaters, using a methodical approach to address the issue and applying some form of discipline by:
 - o Identifying the root causes of accidents. Learning from repeated claims may help protect all employees.
 - o Focusing on critical behaviors that prevent the accidents from recurring. Incident only reports capture data that may be predictive of future injury.
 - o Sharing responsibility for accidents across all levels of the organization/department: the manager, supervisor, and employee. Supervisors should be held accountable for

failing to enforce policy if it has been shown that policy was violated and hence an accident occurred.

- Offer constructive alternatives to addressing the issues by providing continuous support and feedback to the employee and the supervisor. This ensures that discipline is not used without also offering help. This can be in the form of safety reminders, counseling, and other efforts.
- Applying progressive discipline, in which the degree of punishment increases with repeat infractions.
- Conducting surprise safety checks and issuance of fines for non-compliance, based on the severity of the infraction, to ensure workers follow procedure.

iii. Also with existing repeaters, providing counseling intervention is key to preventing future accidents by trying to determine why an employee is having so many accidents. Some employees are unsuited for the job they are doing, and the sooner a change is made, the better.

5b) We recommend that County Administration require all levels of Management to make safety a top priority by:

- i. Educating employees by talking about safety, conducting regular safety audits, and encouraging suggestions from employees for improving safety. Educate employees on how everyone benefits by preventing mishaps and disruption in their life.
- ii. Setting a goal to eliminate repeat accidents. Ensure all employees, not just those involved in an accident, understand the causes of prior accidents and the steps they need to take to avoid a repeat.
- iii. Training employees as if their lives depended on it, because they do. Employee's safety on the job depends on their skills, knowledge, awareness, and judgment. Training strengthens and develops all these safety essentials.
- iv. Reinforcing safe behavior by getting out there among employees regularly, and praising those who are working safely. Talk to those who are taking risks, and redirect them into following safe procedures. Consider retraining those whose performance indicates a lack of requisite safety skills or knowledge.

Lack of Adequate Monitoring of Vendor/Third-Party Providers

The Prince George's County Workers' Compensation Program is self-insured, which means that the County has assumed the financial risk of paying for claims and associated administration costs. In order to meet its obligations as a self-insurer, the County has hired various contractors to assist management in their efforts. These contractors have also sub-contracted various portions of their contracts with the County to other third parties to assist them. During the course of the audit, we determined that Program Management does not have adequate staffing, training, controls, policies and oversight procedures in place to monitor these various vendors and their respective third parties.

We noted the use of the following key vendors and their respective third-party vendors related to the workers' compensation program:

- 1) **CorVel Enterprise Corporation (“CorVel”)**, at an annual fee of (\$2.41 million + \$38/Medical Bill Review/PPO) – Third-Party Administrator (“TPA”) providing claims administration services of the workers’ compensation program to the County. Subcontractors include:
 - ❖ Independent Medical Examinations and Diagnostic Services:
 - Subcontractor 1: EVOnational
 - Subcontractor 2: Expert Medical Opinions (EMO)
 - Subcontractor 3: Med-Eval
 - Subcontractor 4: Universal Medical Examinations (UME)
 - Subcontractor 5: One Call
 - ❖ Surveillance:
 - Subcontractor 1: Titan
 - Subcontractor 2: Detect, Inc.
 - Subcontractor 3: Comprehensive Investigations
 - Subcontractor 4: Montgomery Investigators
 - Subcontractor 5: TNT Surveillance
 - ❖ Medical Managed Care Services:
 - Subcontractor 1: First Rehabilitation Resources
 - Subcontractor 2: Restore Rehabilitation
 - ❖ Structured Settlements:
 - Subcontractor 1: Galaher Settlements
 - ❖ Appraisers:
 - Subcontractor 1: Chesapeake Auto Appraisers
 - Subcontractor 2: Elizabeth Cooney Insurance Services
 - ❖ Transportation:
 - Subcontractor 1: Transcend
- 2) **AON Risk Services, Inc. (“AON”)**, at an annual fee of (\$25,000) – Provides various Insurance Brokerage Services as needed (such as actuarial). Sub-contractors include:
 - ❖ Sub-contractor 1: MFL Consulting
 - ❖ Sub-contractor 2: Grady, Wright & Associates, Inc.
- 3) **Insurance Buyers Council (“IBC”)**, at an annual fee of (\$33,372) – Provides expertise and knowledge to the Risk Management Pool members.

SSAE 16, also called Statement on Standards for Attestation Engagements 16, is a regulation created by the Auditing Standards Board (ASB) of the American Institute of Certified Public Accountants (AICPA) for redefining and updating how service companies report on compliance controls. We noted that while the Office of Finance Risk Management staff was in possession of the SSAE 16 Type II Reports and/or Service Organization Control (SOC1) Reports tested, the staff did not appear to perform an adequate review of the reports, and it appears as though the reports were primarily obtained for the purposes of providing to the external auditors.

We reviewed a sample of SSAE 16 Type II reports and noted that the vendor’s auditor opinion of the controls as reported in CorVel’s SSAE 16 Report have a key dependency on the user or County controls and states the following *“The description indicates that certain control objectives specified in the description can be achieved only if complementary user entity controls contemplated in the design of CorVel’s controls are suitably designed and operating effectively, along with related controls at the*

service organization (the County). We have not evaluated the suitability of the design and operating effectiveness of such complementary user entity controls."

We also noted that the CorVel reports had two (2) instances of control exceptions as follows:

- ❖ FY 2012 SSAE 16 Report Control Objective 8 – Claims Application – Payment Processing Control policies and procedures provide reasonable assurance that transactions are processed and checks for payments are produced completely, accurately, and timely. For 1 of 60 transactions tested, noted that the payment was processed 231 days after receipt of the invoice. No other relevant exceptions noted.
- ❖ FY 2013 SOC II Report Control Objective 1 – Logical Access 3 of 20 terminated employees tested were not removed from active directory within 3 business days. The 3 were removed 8, 13, and 140 business days after termination. No other relevant exceptions noted.

The “User Control Considerations” section of the SSAE 16/SOC II reports describes some of the controls that CorVel believes should be in operation at the County to complement the controls in place at CorVel. User auditors should determine whether user entities have established controls to ensure that:

- ❖ Physical and logical access to CorVel’s systems by customer users is restricted to authorized individuals.
- ❖ Appropriate users review output reports for completeness and accuracy.
- ❖ Output from CorVel is routinely reconciled to relevant control totals.
- ❖ Processes are in place to ensure security of data transmissions.
- ❖ Users notify CorVel of any changes in personnel responsibilities that impact access to CareMC or other user information.

During the course of our audit, we inquired of program personnel on the existence of the user controls, and noted that although some of the controls may have been performed, the documentation to support the performance of the controls was not being maintained. We did not test whether these controls were in place and/or operating effectively, and relied on the external auditor findings. We noted that the County’s external auditors, CliftonLarsonAllen had the following related finding in 2013-002 “CorVel Claims Reconciliation” which indicated that:

- ❖ “There is no reconciliation performed by management between CorVel Claims Summary and the detail claim reports to ensure that the paid claims are supported by the underlying detail claim reports.”

We confirmed that the finding still stands, and remediation has not occurred because of the continued shortages in staffing, and management has accepted the risk.

GAO Standards for Internal Controls in the Federal Government – November 1999 states that:

“Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations.”

Good business practices stipulate that the Senior Management is ultimately responsible for managing activities conducted through third-party relationships, and identifying and controlling the risks arising from such relationships, to the same extent as if the activity were handled within the County. The use of third-party relationships does not relinquish responsibility of Management. County officials are expected to have a clearly defined system of risk management controls built into the management system that governs the County's compliance operations, including controls over activities conducted by affiliates and third-party vendors. The more significant the third-party program, the more important it is that the County conduct regular periodic reviews of the adequacy of its oversight and controls over third-party relationships.

In order for the limited Office of Finance Risk Management staff to effectively manage the self-insurance of its workers' compensation program, it has had to secure the services of various outside vendors with the necessary skills and expertise for certain claims administration functions such as a comprehensive claims management system and portal, medical management strategies like Smart Triage reporting, Nurse Advocacy 24/7, and a pharmacy program. In the interest of efficiency and in order to provide the best possible services to County employees, contracted vendors have had to outsource various key aspects of the Program to other third parties who are essentially subject matter experts in the areas needed in order to fulfill its contractual obligations. Areas outsourced include third-party administration to investigate and process claims, and actuarial services.

The County has been unable to perform certain user controls around the use of its third parties due to the limited resources. In instances where the controls were being performed, documentation was not being maintained to support the performance of the control.

Also, it appears as though existing staff did not have the necessary training which would allow them to perform an adequate review of the reports.

The following are some of the potential outsourcing risks:

- Risk of exposing confidential data: By outsourcing the management of the County workers' compensation claims, it involves a risk of exposing confidential employee information to a third-party. For example, there may be risk of data leakage of employee's Personally Identifiable Information ("PII") such as names, addresses, and social security numbers. Additionally, employees medical data is also maintained by the Third-Party Provider and are subject to privacy requirements under Health Insurance Portability and Accountability Act of 1996 ("HIPPA").
- Failure to adequately review the operations of third parties could result in failure to detect errors in a timely manner, if at all, which could result in unnecessary payouts representing a loss to the County.

6a) We recommend that Program Management adopt appropriate controls, policies, procedures, and oversight to mitigate outsourcing risks effectively.

6b) We recommend that Program Managers ensure that they receive the training necessary to review the various third-party provider reports that are available to user organizations.

6c) We recommend that Program Managers seek to obtain information, perform and document a thorough review of vendors and their third-party providers, and take the necessary steps to ensure that adequate controls and monitoring procedures are in place for the type of service being outsourced. Information that can be used to rely on controls includes (but is not limited to):

- Obtaining and reviewing Standards for Attestation Engagements No. 16 Type II (SSAE 16) auditor's reports (if possible) to gain comfort over the existence and effectiveness of adequate internal controls and ensure that user controls are in place and are being followed.
- Obtaining and reviewing other auditor's reports, such as Service Organization Control ("SOC"), commonly known as SOC 2 Report - Reporting on Controls at a Service Organization relevant to Security, Availability, Processing Integrity, Confidentiality, or Privacy.
- Ensure adequate business continuity and contingency plans are in existence at third-party facilities (such as CorVels' processing center) to avoid possible disruptions in service to claimants, and loss of important data in the event of a disaster.

Policies, Procedures, Management and Monitoring Issues

During the audit of the County's workers' compensation program, which is a sub-set of the larger County Risk Management Program, we reviewed various policies and procedures documents and noted that County Administration and Program Management have previously identified many of the issues we noted. While there are several policies and procedures which impact the Program, such as Administrative Procedure 165 ("Adm. Proc.") – County Risk Management Program; and 284 – Administration of Employee Leave (esp. Disability Leave and Leave Without Pay (LWOP), our primary focus was Adm. Proc. 165. The following are some specific issues noted:

- i. In June 2012, the CountyStat group identified the need for internal policies requiring agencies to investigate workers' compensation injury claims to be reviewed and strengthened, and an effort was made to revive the workgroup to review and update internal policies. Follow-up on the status of the workgroup indicates that there have been delays with the process which have caused the timelines for the review of the primary Program policies to shift (please see **Attachment A** for details of this related prior finding by the CountyStat group).
- ii. In a review of the County's Risk Management Program Adm. Proc. 165, which covers the County's workers' compensation program (March 10, 1982), we noted numerous issues and non-compliance, all of which are not covered in this report because this policy is currently under review. We have outlined a selection of some of the significant issues noted:
 - a. Various aspects of the Adm. Proc. are not in existence, and therefore cannot be followed. Where there may be compliance, there is no supporting documentation to serve as evidence, and compliance is not being adequately assessed and/or monitored. Some issues noted include:
 - i. Not all Departments have a senior merit system employee serving as an active Safety Officer, most notably, is the absence of a dedicated Safety Officer at the Department of Public Works and Transportation ("DPW&T"), one of the County's higher risk agencies/departments.

- ii. Review of risk management activities is not being addressed during staff meetings for all County agencies/departments, and there is no documentation to support that it is.
- iii. There is a lack of development and quarterly submission to the Chief Administrative Officer (“CAO”) of loss control plans, both long and short range, which defines problems; sets goals; selects strategies; and identifies projected savings.
- iv. Managers, bureau chiefs, and supervisors are not being held responsible, and are not being accountable to the CAO for preventable personal injuries, vehicular accidents, property damage, and other losses incurred by the County as a result of the actions of their subordinates.
- v. Safety meetings are not being conducted monthly with subordinate supervisors to review accidents; analyze causes; and promote free discussion of safety problems and solutions.
- vi. Supervisors are not including employee’s safety records in the basic criteria of the annual evaluation process.
- vii. Employees are not being recognized for their contributions to safe work operations.
- viii. Regularly scheduled inspections of operations, work place, and equipment are not being conducted and copies of self-inspection sheets are not being forwarded to the Pension and Risk Management group.
- ix. There is a lack of maintenance of recordkeeping and processing in accordance with County procedures such as loss control reports.
- x. Processing of the Employer’s First Report of Injury and reporting to the Pension and Risk Management group within seventy-two (72) hours of an accident. We noted several instances when notification of an accident (that was not an occupational injury) was made weeks and even months after the injury date.
- xi. Non-existence of various Committees, or documentation to support meetings of (1) the Executive Risk Management Team, chaired by the CAO (or designee), department heads and the Pension and Risk Management Division; (2) Departmental Safety Committee, chaired by the Department Head (Departmental Safety Officer), Division/Bureau Chairs.

b. The document is over 30 years old and outdated, as such the scope of the document incorrectly includes the Prince George’s Hospital Commission, which has not been a fund member for decades, and references to the group responsible for the Program is the Pension and Risk Management Division instead of the Risk Management Division, which is no longer a part of the Division.

iii. Department level Risk Management Procedures are either non-existent, not approved or are not updated, for example:

- a. While the Police Department provided two documents, the Risk Management Division Standard Operating Procedures (Revised February 2011), and the Risk Management Procedures, neither document appeared to have been approved by the Commander, Risk Management Division, the Deputy Chief, Bureau of Administration, or the Chief of Police. Furthermore, Division personnel noted that

one of the documents was compiled, as information was learned, because there was no training for the job or documentation to assist with the performance of the job.

The General Accountability Office (“GAO”) in its publication Standards for Internal Control in the Federal Government (November 1999) recommends the following:

“Internal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination. The documentation should appear in management directives, administrative policies, or operating manuals and may be in paper or electronic form. All documentation and records should be properly managed and maintained.”

Adm. Proc.165, documents the criteria for how the County Risk Management Program should be operated, and while this document does not include all of the criteria, the following are excerpts that relate to some of the findings noted above:

Section G. Responsibilities, states that:

1. Department Directors

“Therefore, directors shall:

- c. Appoint a senior merit system employee to be the active Safety Officer and serve as contact person for the Pension and Risk Management Division.*
- g. Develop a departmental loss control plan which defines problems; sets goals; selects strategies; and identifies projected savings. This should include both long and short range plans with updates of progress submitted quarterly to the Chief Administrative Officer. NOTE: This entails identifying the problem and a dollar reduction goal for the plan.*
- l. Hold each manager, bureau chief, and supervisor responsible for the preventable personal injuries, vehicular accidents, property damage and other losses incurred by the County as a result of the actions of their subordinates....*
- m. Be accountable to the Chief Administrative Officer for vehicle losses, property damage and lost productive work days due to accidents.*

2. Assistant Directors, Bureau Chiefs, Supervisory Personnel

Assistant Directors, Bureau Chiefs and/or other Supervisors shall be fully responsible and accountable to their department head for compliance with the provisions of the Risk Management Program within their area of responsibility. Each Assistant Director, Bureau Chief and/or Supervisor shall insure that:

- f. Safety meetings are conducted monthly with subordinate supervisor to review accidents; analyze causes; and promote free discussion of safety problems and solutions....*
- j. Each supervisor will be held accountable for an explanation of the preventable personal injuries and accidents, damage to property and materials by subordinate employees.*
- k. Each supervisor will include an employees' safety record in the basic criteria of the annual evaluation process. Employees who cause accidents to themselves and/or others demonstrate specific performance deficiencies that should be identified and corrected.*

3. Line Supervisors/Foremen/Team Leaders

Supervisors whose job descriptions include direct supervision for operations shall retain full responsibility for the safe actions of their assigned personnel and the safe operations of machines and equipment within their operating area. Each line supervisor shall:

- g. Recognize employees for their contributions to safe work operation, including active participation on safety committees, offering suggestions, and continuing genuine concern for loss control within the scope of their job positions.*
- i. Conduct regularly scheduled inspections of their operations, work place, and equipment. A copy of the self-inspection work sheet shall be forwarded to Pension and Risk Management.*

4. Employees

Employees are required, as a condition of employment, to exercise due care in the course of their work to prevent injuries to themselves, and their fellow employees; to conserve materials; and to prevent abuse of equipment. Each employee shall:

- g. Be aware that their individual safety record will be an element of the annual evaluation and/or promotion process.*

5. Pension and Risk Management Division

Pension and Risk Management shall conduct an aggressive program for risk and insurance management. Specific functions shall include:

- b. Evaluating compliance with the Risk Management Program by department and sub-activity. This evaluation will be accomplished by inspection of facilities and operations and the tabulation of departmental loss statistics. Results will be forwarded to the department with a copy to the Chief Administrative Officer.*
- e. Monitor accident records, identify trends, and appraise management of situations which call for strong corrective measures.*
- f. Insure that accident and injury reports are timely and contain unbiased investigations and facts.*
- g. Maintain close supervision of disability leave in accordance with the Personnel Law.*
- l. Maintain record keeping and processing in accordance with procedures set forth by County, State and Federal regulations for the following:*
 - (1) Worker's Compensation Claims*
 - (2) Inspection and Investigation Reports*
 - (3) Loss Control Reports*
 - (4) Injury Summary Reports*
 - (5) Disability Leave*

Chapter 4. Management Participation – Committees

The establishment of a series of interrelated safety committees within the framework of the County government is a measurement of management's intent, interest, and support for a program of risk management and accident reduction.

A primary function of the committee system is to facilitate exchange of ideas between management and employees and to clarify policies relative to hazards, problem areas, and loss prevention promotion. Safety committees shall be established at the following levels with stated functions:

A. Executive Risk Management Team

1. *Chaired by the Chief Administrative Officer (or designated representative).*
2. *Consist of department heads deemed essential to specific agenda items.*
3. *Review loss experience by departments, cost analysis figures, departmental problems at the policy level, progress of the Risk Management Program, coordinate and establish top level policies and procedures for upgrading the program with consideration for the impact on departmental and County operations, and other related executive concerns.*
4. *Committee to meet when called – minutes to be taken by the Pension and Risk Management Division.*

B. Departmental Safety Committee

1. *Chaired by the Department Head or Departmental Safety Officer.*
2. *Consist of Division/Bureau Chiefs whose supervision involves operation of motor vehicles or hazardous operations.*
3. *Meetings to be held periodically and may be in conjunction with regular departmental staff meetings.*
4. *Function of committee parallel that of Executive Risk Management Team with primary objective focused on internal solutions to safety problems and active support of Executive Risk Management Team decisions. Specifically the work of the Committee is to:*
 - a. *Review departmental accident records and evaluate progress of departmental loss prevention efforts.*
 - b. *Submit to the Executive Risk Management Team those departmental items and problems which require attention from top management. Submissions will include alternate solution and financial impact statements.*
 - c. *Review safety suggestions submitted by employees for consideration for implementation.*
 - d. *Copy of minutes shall be forwarded to Pension and Risk Management.*

5. Division/Bureau Safety Committee

1. *Chaired by division/bureau chief (or designated representative).*
2. *Consist of line supervisors whose assignment involves hazardous operations or motor vehicles.*

3. *Regular meetings to be held monthly to allow transmitting problems and solutions to Departmental Safety Meeting for their prompt action. Minutes shall be kept and a copy forwarded to Pension and Risk Management.*
4. *Function to have same objectives as those of the Departmental Safety Committee. Emphasis will be the resolution of safety related problems at the line level within departmental guidelines. If resolution cannot be reached or administration support is required, the situation shall be referred to the Departmental Safety Meeting.*

D. Union Participation

Departments which must comply with negotiated contracts shall retain the authority to invite input from union representatives in the area of employee safety. It is the philosophy of this plan that the COMBINED EFFORT of labor and management is ESSENTIAL to EFFECTIVELY support the Risk Management Program.

GAO Standards for Internal Controls in the Federal Government – November 1999 states that:

"Internal control should generally be designed to assure that ongoing monitoring occurs in the course of normal operations."

Failure to comply with many of the requirements stipulated in the existing policies and procedures stem from a lack of resources to adequately perform all the necessary oversight that is required of a strong and robust risk management program. For example, the Safety Officer position was cut in critical areas such as DPW&T during Reductions in Force a few years back.

Furthermore, it does not appear as though Senior Management has made risk management a top priority and this, coupled with staffing constraints and the lack of adequate resources, have contributed to many of the deficiencies and non-compliance noted.

Increases in accidents, injuries, and financial costs are some of the greatest risks of not having a strong and robust Risk Management Program that is being effectively managed. The County has seen a drastic increase in the past ten years in all of these areas, which if left unchecked, will continue to get worse.

By not having the necessary Safety Officers in key areas such as DPW&T, the County may not be able to receive valuable federal grant funds for areas such as Transportation.

Without written procedures, the continuity of an activity may be threatened if there is unexpected staff/vendor turnover and the introduction of new employees to an unfamiliar activity. The lack of written procedures may also result in Program activities, such as accident investigation, being carried out inconsistently by different staff. Written procedures may protect the County from unplanned interruptions in that activity. Further, it establishes proper procedural guidelines to abide by, which lends to the integrity of the process, and serves to reduce risks such as putting a stop to an unsafe working condition, which can ultimately cause the loss of life. Leaving out relevant information when documenting an accident could cause the County substantial monetary losses later on, if the case goes to litigation. Finally, written procedures serve to reinforce management's objectives for the activity and to ensure that these objectives are consistently considered.

7a) We recommend that the County Administration seek to ensure that Risk Management, which includes workers' compensation, be afforded top priority in the interest of saving lives, preventing injuries, and avoiding the depletion of financial resources. Senior Management is responsible for establishing and operating the risk management framework on behalf of all County employees and citizens, and to ensure the effectiveness of the Program. While having good program policies and procedures in place is the first step to building a strong and robust Risk Management Program, the mechanisms must be in place to ensure compliance, which must be actively monitored, and there must be consequences for non-compliance. While there are many aspects of the workers' compensation program which are outside the control of County Management and employees once an injury occurs, effective risk management starts with a commitment to health and safety from those who operate and manage the County and its limited resources.

Since an effective program needs the involvement and cooperation of all employees, Management needs to set the tone at the top and establish a culture of "safety." If Senior Management can show workers that they are serious about health and safety, then they are more likely to follow the lead. In order to demonstrate commitment, Senior Management must:

- Get involved in health and safety issues;
- Invest the time and money in health and safety; and,
- Ensure that health and safety responsibilities are clearly understood and followed.

7b) We recommend that the County Administration require Program Managers to continue to develop/update written procedures for all activities related to the Program, and implement periodic quality control reviews to ensure staff and/or vendor compliance with developed procedures. Additionally, the Office of Finance should work together with each individual agency/department on creating a plan to maintain any new protocol or procedures, and perform follow-up visits to make sure the agencies/departments are following through on the risk management recommendations.

Inadequate Workers' Compensation Antifraud Program in Place

During the course of the audit we noted that while it is possible that a workers' compensation case may be flagged by County or Third-Party Administrator ("TPA") personnel for possible fraud detection, neither Risk Management nor the TPA appeared to have a formally established workers' compensation "antifraud program" to adequately prevent, detect, and respond to acts of fraud or misconduct. Specifically, we noted that controls related to the following aspects of the program are non-existent:

- **Prevention** – controls designed to reduce the risk of fraud and misconduct from occurring in the first place, such as workers' compensation fraud and misconduct risk assessments, and policies to prevent worker's compensation fraud/misconduct.
- **Detection** – controls designed to discover workers' compensation fraud and misconduct when it occurs such as hotlines and/or whistleblower mechanisms or proactive forensic data analysis.
 - We also noted that although a hotline exists in the Office of Audits and Investigations and the Office of Ethics and Accountability ("OEA") to anonymously report

- suspected fraud, waste and abuse, including suspected abuses of workers' compensation, Risk Management staff was not aware of the hotlines.
- We noted that while the TPA vendor's claims management system, CareMC has a red flag analytic tab to assist the adjuster to identify certain fraud indicators that may indicate a fraudulent claim, it is unclear how frequently this feature is used. We were unable to obtain details from the TPA.
- **Response** - controls designed to take corrective action and remedy the harm caused by worker's compensation fraud, and misconduct such as internal investigation protocols, fraud response plan, and remedial action protocols.

Maryland Code Criminal Law Title 9 – Crimes Against Public Administration. Subtitle 1 – Perjury Section. § 9-101. Perjury states that:

- (a) *Prohibited.- A person may not willfully and falsely make an oath or affirmation as to a material fact:*
 - (1) *if the false swearing is perjury at common law;*
 - (2) *in an affidavit required by any state, federal, or local law;*
 - (3) *in an affidavit made to induce a court or officer to pass an account or claim;*
 - (4) *in an affidavit required by any state, federal, or local government or governmental official with legal authority to require the issuance of an affidavit; or*
 - (5) *in an affidavit or affirmation made under the Maryland Rules.*
- (b) *Penalty.- A person who violates this section is guilty of the misdemeanor of perjury and on conviction is subject to imprisonment not exceeding 10 years.*
- (c) *Contradictory statements.-*
 - (1) *If a person makes an oath or affirmation to two contradictory statements, each of which, if false, is prohibited by subsection (a) of this section, it is sufficient to allege, and for conviction to prove, that one of the statements is willfully false without specifying which one.*
 - (2) *If the two contradictory statements made in violation of paragraph (1) of this subsection are made in different counties, the violation may be prosecuted in either county.*

Article – Labor and Employment §9-310.2¹³: states that:

- (a) *In any administrative action before the Commission, if it is established by a preponderance of the evidence that a person knowingly affected or knowingly attempted to affect the payment of compensation, fees, or expenses under this title by means of a fraudulent representation, the Commission shall refer the case on the person to the Insurance Fraud Division in the Maryland Insurance Administration.*
- (b) *In its annual report under § 9-312 of this subtitle, the Commission shall report the number of cases referred to the Insurance Fraud Division in the Maryland Insurance Administration under this section.*

The Institute of Internal Auditors' ("IIA") Implementation Standard 2120.A2 states that the:

¹³ <http://mgaleg.maryland.gov>

“The internal audit activity must evaluate the potential for the occurrence of fraud and how the organization manages fraud risk”

Best practices in the area of fraud recommend that entities understand fraud and misconduct risks that can undermine their business objectives, and seek to actively reduce their exposure to liability, and litigation in order to achieve the highest levels of business integrity through sound governance, internal control, and integrity.

The lack of adequate resources within the County’s Risk Management group has contributed to the County’s inability to develop a strong and robust anti-fraud program to prevent, detect or adequately respond to workers’ compensation fraud.

While a fraud “red flag” feature may be available for review by the TPA, there is little or no incentive for the TPA to incorporate this review as a routine part of their processes since the vendor’s contract is on a “fixed price” basis, and these types of reviews can be costly, and use up valuable resources.

Certain County policies and collective bargaining agreements may be contributing to providing an incentive for employees to claim a workers’ compensation injury, and increases the likelihood that fraud will occur. For example an employee is receiving better monetary benefits, or 100% of their salary, for being home on workers’ compensation disability (where 2/3rds of the benefit is not taxable) than being at work for 40 hours a week (where all of the income is taxable).

Without a well-functioning antifraud program, and effective adequate controls in place, there is little that can be done to reduce fraud and misconduct. Without a consistent monitoring mechanism in place, employees could potentially abuse the system resulting in additional costs to the County. The County is ultimately “picking up the tab,” passing the cost onto each of the fund participants and ultimately the taxpayers.

Fraudulent workers’ compensation claims is an easy target in the State of Maryland since workers’ compensation insurance is a no-fault system, and injured employees do not need to prove an injury was someone else’s fault in order to receive workers’ compensation benefits for an on-the-job injury. In addition to medical expenses being covered for injured employees, some injured workers are entitled to recover a portion of lost wages resulting from injury. Workers’ compensation insurance fraud occurs in both simple and complex schemes that often require difficult and lengthy investigations. Employees may exaggerate or even fabricate injuries. At the other end of the spectrum, doctors and lawyers, entice, pay, and conspire with others to defraud the system by creating false or exaggerated claims, over treating, and over prescribing harmful and addictive drugs. Without adequate policies and procedures in place to formalize the steps to review claims for possible fraud, it is likely that the process will not be performed consistently, and many instances of “intentionally misrepresenting” claims may remain undetected. Other risks relate to the existence of dishonest medical clinics (also called medical mills) and lawyers, who often team up to scam workers’ compensation insurance. These are well-organized entities which can steal millions of dollars a year. These are some of the possible effects of doctors and lawyers scams which can exist in workers’ compensation cases:

- **Inflating injuries.** Clinics may inflate the seriousness of real injuries to workers, and then bill the County for costly and worthless treatments and tests. A given treatment may be more expensive than needed, or clinics may order more treatments than necessary.
- **Phantom injuries.** Clinics may bill the County for treatment of injuries that never happened.

- **Bogus lawsuits.** Lawyers working with dishonest clinics encourage uninjured workers to seek useless treatment for scams. The lawyers may then threaten to sue unless the County settles the phony claim quickly. They gamble that the County will decide it's cheaper to settle than face an expensive lawsuit involving a jury that may be sympathetic to a worker.
- **Illegal kickbacks.** Dishonest clinics and lawyers hire recruiters (also called runners) to bring workers into the scams. The runners receive illegal kickbacks for referring patients to the lawyers or clinics. Sometimes the workers are part of the swindle, and sometimes they don't realize a swindle is taking place.
- **Fake clinics.** Some clinics are bogus and have no licensed doctors. The office also has little useful medical equipment, and gives almost no helpful or needed treatment. The clinic is merely a staging ground for bogus workers' compensation claims.

8a) We recommend that the County Administration consider the creation of a special internal investigation team to identify and monitor employees who may be "intentionally misrepresenting" claims or routinely working in an unsafe manner.

Alternatively, County Risk Management should consider leveraging existing County resources to improve its detection controls by notifying individuals via their website and through Department Risk Coordinators (DRCs) that the County has existing mechanisms in place for individuals with knowledge of fraudulent activity to anonymously report Fraud, Waste & Abuse allegations by:

- Use of the services of the newly created "Office of Ethics and Accountability" which receives and investigates complaints of alleged abuse, fraud and deficiencies in County Government via its hotline at: 1-855-224-0736 and on the web at: www.reportlineweb.com/pincegeorgesethics .
- Use of the A&I resources of having employees:
 - ❖ Fill out a Fraud, Waste or Abuse Reporting Form (PDF)
 - ❖ Send allegations via e-mail to Fraud_Waste_Rptg@co.pg.md.us
 - ❖ Send a fax to Fraud, Waste and Abuse at 301-780-2097
 - ❖ Write to: Fraud, Waste and Abuse, Office of Audits and Investigations, 14741 Governor Oden Bowie Drive, Room 1177, Upper Marlboro, MD 20772

8b) We recommend that Risk Management consider either investing in a claims-fraud detection software such as ISO's NetMap for Claims™ data-analysis and visualization software for identifying and combating fraud. This tool can provide valuable analytics by sifting through vast amounts of data to "sniff out" hidden connections among claims that share common characteristics, such as names, Social Security numbers and vehicle identification numbers. If the TPA already has access to this tool, then the County should consider whether they should obtain the results of analytics from the TPA, and use this information to build its workers' compensation anti-fraud program.

8c) We recommend that Risk Management begin to perform certain essential steps to prevent and/or detect the intentional misrepresentation of worker's compensation claims which can lead to fraud associated with the Program. For example, by flagging and closely monitoring employees with multiple indemnity workers' compensation claims, the County will not only be able to identify and help employees with unsafe records become safety conscious, but also possibly detect fraudulent claims.

8d) We recommend that Risk Management closely review the current contract terms with the worker's compensation TPA, and consider whether having a fixed price contract remains in the best interests of the County. Changes, if any, should be incorporated into the upcoming selection process for a TPA vendor.

8e) We recommend that the County Administration and Risk Management should seek to proactively review policies and procedures which contribute to employees having greater benefits for being off work than if they were actually at work. This could potentially "provide incentives" for employees to abuse the Program. For example, in addition to the workers' compensation benefits an employee is entitled to under State laws (2/3rds of average weekly wage which is not taxable), nearly all employees covered by the County's self-insurance fund, receive a supplemental payment¹⁴ (in the form of disability leave), that will bring an employees' total compensation to an amount equal to the full salary (or 100%) for the period of the temporary disability without charge against the employee's annual or sick leave (subject to certain conditions). Other surrounding jurisdictions have successfully made it a requirement that an employee can only receive the full 100% benefit if they use a County recommended doctor/clinic to seek treatment, which can serve to reduce the number of false claims by doctors/clinics, and possibly serve to have employees return to work sooner.

Other Opportunities for Improvement

In addition to the previously identified issues, as part of the review of the Workers' Compensation Program, which is a part of the County's overall Risk Management Program, we noted the following areas for improvement, which, if addressed, could further improve the efficiency and/or effectiveness of how the County manages risk including workers' compensation.

Continuing Professional Development/Training Materials

We noted that Risk Management staff was not being afforded adequate Continuing Professional Development (CPD) or Continuing Professional Education (CPE) opportunities in the area of Risk Management & Safety, as a means by which staff can maintain their knowledge and skills related to both of these critical areas of program management. The following was noted:

- Risk Management Staff, which includes Safety staff, has not been afforded adequate outside training and/or opportunities to attend national program related training/conferences for several years.
- Membership opportunities provided to national Public Risk Associations such as The Risk and Insurance Management Society ("RIMS"), and the Public Risk Management Association ("PRIMA"), have been discontinued for several years.
- Subscriptions to relevant and useful Risk Management materials such as publications have been discontinued for several years.
- In-house training tools such as Safety Tapes are old and outdated, for example, current safety tapes are over 20 years old. *[Issue identified to Senior Management by Risk Manager on October 23, 2014].*

¹⁴ Provided for through collective bargaining agreements, and legislation for general schedule employees.

The County has a general duty to ensure the health, safety and welfare of its employees, customers, contractors and anyone else who may be affected by its activities. As such it is imperative that the County ensure that it is following best practices for Continuing Professional Development/Education by providing the means by which individuals maintain their knowledge and skills related to the critical functions of Risk Management and Safety/Health. Many professions, such as Risk Management and Safety define CPD/CPE as a structured approach to learning to help ensure competence to practice, and gaining knowledge, skills and practical experience. CPD/CPE can involve any relevant learning activity, whether formal and structured or informal and self-directed. CPD/CPE for Risk Managers and Safety Officers serves to maintain and enhance professional proficiency in an environment of increasingly complex work and accelerating change, and therefore Risk Managers and Safety Officers must be ready to meet today's challenges.

It is the County's legal duty to protect the health and safety of its employees. The Maryland Occupational Safety and Health Act of 1973 ("MOSHA") provides job safety and health protection for workers through the promotion of safe and healthful working conditions throughout the State. Penalties for not adequately following the Law include the following:

"The Act provides for mandatory civil penalties against employers of up to \$7,000 for each serious violation and for optional penalties of up to \$7,000 for each non serious violation. Civil penalties of up to \$7,000 per day may be proposed for failure to correct violations within the proposed time period. Also, any employer who willfully or repeatedly violates the Act maybe assessed civil penalties of up to \$70,000 for each such violation. Criminal penalties are also provided for in the Act. Any willful violation resulting in death of an employee, upon conviction, is punishable by a fine of not more than \$10,000 or by imprisonment for not more than six months, or by both. Conviction of an employer after a first conviction doubles these maximum penalties.

Adequate training in the form of continuing professional development of the individuals tasked with the protection of the health and safety of employees is imperative, and will not only serve to equip the trainer, but those who are being trained, and may prevent any possible violations of MOSHA.

The lack of funding has been the primary reason contributing to the lack of continuing training and/or availability of adequate/current training materials available to County Risk Management and Safety personnel.

The result of a lack of adequate CPD/CPE is that the County has a team of professionals who are not continually improving and refining their knowledge and skills in the areas of Risk Management and Safety. The lack of current and relevant training puts the County at a disadvantage when confronted with the risks they are tasked with managing, which leads to ever increasing financial costs, which the County has seen in the past decade, and ultimately, potential injuries and loss of life.

Furthermore, putting employees, citizens and others at risk by not having properly trained personnel, or current/adequate tools available in the Safety and Health area can amount to both civil and criminal offenses, with the potential for substantial fines for the County, and fines and/or imprisonment for individual directors and employees.

9a) We recommend that the County Administration consider prioritizing the County's various needs for CPD/CPE, and consider the cost/benefit of not having this critical group of employees provided with the

best possible tools available to them. Insurance, health and safety are all very highly regulated areas, and the approach to ensuring that they are adequately managed must be rigorous. Adequate training and materials will serve to ensure that program staff are able to accomplish their duties in the most efficient and effective manner, using current tools and techniques which will in turn serve to reduce the overall costs to the County.

Use of Multiple Light Duty Databases

During the audit it has come to our attention that while a County-wide system to track light duty assignments has been developed by the Office of Human Resources and Management (“OHRM”), the tool has not been deployed to date. Additionally, various agencies such as the Police Department and the Department of Public Works & Transportation (“DPW&T”) maintain separate databases for light duty assignments within their respective agencies.

The federal Office of Management and Budget (“OMB”) Circular No. A-11, and Government Accountability Office report (GAO-10-394) states that:

“efficiency measures tend to be most useful for similar, repeated practices. Efficiency measures are not appropriate for every program, project, or goal but every agency, program, and goal-focused effort should continually search for practices to accomplish more with the same resources or the same value with fewer resources after effective actions have been identified.”

Best practices in workers’ compensation management have shown that having a comprehensive early return to work program has proven to be highly effective in containing and reducing the costs of workers’ compensation. Early returns to work programs are designed to facilitate the earliest possible return of injured workers to the workplace, to perform meaningful, productive work, within their physical capabilities.

Each County light-duty program operates separately and independent of each other, and although OHRM has developed a County wide tool, it has not yet been deployed.

Having several different systems which do not share information is not an efficient or effective use of County resources such as staff, equipment, supplies, space, etc. There is an increase in cost and duplication of efforts.

10a) We recommend that the County Administration seek to provide an official Directive as soon as possible for County agencies to begin the utilization of the comprehensive light-duty database developed by OHRM. The database should be used to serve as a Return-to-Work Pool for the County-wide collection of modified and/or alternate duty jobs provided by County agencies/departments to the County’s Risk Management Department, that will provide an additional resource for employees that have been medically cleared to return to light duty work following an accepted workers’ compensation claim. The Directive should be thorough and specific, and should outline areas such as Eligibility and Light Duty Work Assignments. Assignments can be set up in such a way that the employee is primarily placed within their own agency/department, and if no such alternate/modified duty assignments are available within the employees’ agency/department, the affected employee can then be included in a County-wide

Return-To-Work Pool where they can be assigned to work outside their department in a position for which they are physically cleared given their specific restrictions, or as directed by the County's Risk Manager. Other areas that the Directive should cover include: duration and temporary nature, remuneration, status changes and updates.



THE PRINCE GEORGE'S COUNTY GOVERNMENT OFFICE OF THE COUNTY EXECUTIVE

Rushern L. Baker, III
County Executive

MEMORANDUM

June 23, 2015

TO: David H. Van Dyke
County Auditor

FROM: *Nicholas A. Majett*
Nicholas A. Majett
Chief Administrative Officer

RE: Internal Audit Report - Workers' Compensation Program

Attached is the Office of Finance's response to the Office of Audits and Investigations' internal audit of the Workers' Compensation Program. If you have any questions relating to the responses or require additional information, please feel free to contact Steven B. Middleton, Risk Manager, Office of Finance, at 301-952-3563.

Thank you.

Attachment

cc: Thomas Himler, Deputy Chief Administrative Officer
Gail D. Francis, Director, Office of Finance
Terri Bacote-Charles, Director, Office of Management and Budget
Stephanye R. Maxwell, Director, Office of Human Resources Management
Stephen J. McGibbon, Deputy Director, Office of Finance
Sylvia King, Audit, Office of Audits and Investigations

Workers' Compensation Program Audit
June 2015
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PRINCE GEORGE'S COUNTY
Office of Finance's Response to Office of Audits and Investigations Internal Audit
Workers' Compensation Program

1) Inefficient Program Structure

 x Management concurs with the finding(s) but does not concur with the recommendation(s).

Comments:

1a) Assess efficiency of existing structure and potential cost savings:

- Risk Management's recommendation is to maintain the current decentralized structure. Staff augmentations are not feasible in this economic environment.
- The single support staff position in the Office of Finance Risk Management Program is currently vacant due to budget constraints.

1b) Centralize certain RM functions:

- While the County has several safety officers, only the Office of Finance Risk Management Safety Officer is OSHA certified.
- The Office recognizes that with the current decentralized structure, the Departmental Risk Coordinator (DRC) function within an agency (non-public safety) is only a secondary function and the DRC member is not always allotted the necessary authority and time to provide training or conduct safety inspections within their agency. Allowing the agencies/departments the ability to select their representative and mandate safety duties and time should be a part of their performance appraisal responsibility. This will help to facilitate safety awareness and reduce claim costs.
- Due to supervisory dynamics, Police and Fire have chosen to assign the DRC responsibilities to sworn personnel notwithstanding continuity issues.

2) Risk Management Committee Issues

 x Management concurs with the finding(s) and recommendation(s).

Comments:

2a) Maintain Official Meeting Minutes:

- The Office of Finance will maintain official meeting minutes during every scheduled Risk Management Committee meeting. Meeting agendas will continue to be provided to pool members and meeting dates are preplanned. Quarterly meetings are conducted as required.

- Committee minutes will reflect Committee Officers as: Chairman, Vice Chairman, and Secretary/Treasurer. In the absence of the Director of Finance, the Deputy Director will serve as Chairman. In the absence of both the Director and Deputy Director of Finance, the Risk Manager will serve as the Chairman. The Office of Finance will prepare the necessary documentation to formalize these delegations of authority.

2b) Revise Bylaws, Policies and Procedures:

- The Risk Management Committee will re-examine the Bylaws, and its Policy and Procedures to update any unclear or outdated language.

3) *Management of the Workers' Compensation Internal Service Fund Long-Term Deficit*

 x Management concurs with the finding (s) and recommendation (s).

Comments:

3a) Develop Plan to Resolve Fund Solvency:

- The budget deficit is well documented and has been an on-going issue of discussion for the Office of Finance, Office of Management and Budget (OMB), and the County Executive's Office. Risk Management staff will continue to discuss both short-term and long-term self-insurance fund deficit funding solutions with the Chief Administrative Officer's (CAO) office. As the report correctly noted, current claims have been satisfied; therefore, the Fund's current obligations have been fully provided for.

3b) Review Administrative Costs, e.g., actuarial reviews every 2 - 3 years:

- The report recommends conducting the annual actuarial claims study every three (3) years as a cost saving measure which is consistent with written policy. Due to the Risk Pool's large self-insurance claim program, conducting the study every 3 years will expose the fund to under-claim fund reserving; therefore, the Office will amend its written policy to reflect the actual practice-since 2003 of annual actuarial reviews and the recommendation of a prior independent audit firm. All major area jurisdictions in this region self-insure (Fairfax County, Montgomery County, and the City of Baltimore). They also conduct an annual claims actuarial study, consistent with their best practices.

3c) Claims Auditing Service/Tool:

- The report recommends the use of an independent audit tool to process and evaluate claims. The existing Third Party Administrator (TPA) for claims administration (Corvel), has a claims audit tool built within the existing claim software. The TPA's supervisors do not process claims but are focused on reviewing claim files for accuracy, including spot checks by the County's Claims Manager.
- The last independent claims audit was completed in 2003 at a cost of \$56,000. The Risk Pool Members (County, Board of Education, Library and College) are exploring the need to conduct a smaller independent audit.

- The Office has received a current proposal for FY 2016 to conduct a risk management claims audit for the risk pool.

3d) Reasonableness of Benefits:

- County employees under workers' compensation receive 66-2/3% of their salary per Maryland State Code. Only employees who file for disability leave under the Office of Human Resources Management (OHRM) can receive an on the job injury benefit of 100% of their salary. Since this full salary benefit is outside of the authority of the Risk Management section, we will continue to work with the County Executive's CountyStat team, as well as other County agencies/departments to address claim numbers/cost through safety training and loss prevention measures.
- Only the County's Disability Leave Program offers employee's 100% compensation benefits. OHRM is studying the use of a third- party medical provider for disability leave claims. OHRM is also in the process of securing the services of a County medical clinic that will become a requirement necessary for employees to obtain the 100% disability benefit.
- The report suggested the use of a medical provider to service injured employees as a way of cost savings and risk management agrees with this solution. Maryland Law, however, prohibits the employer from directing medical care. Employees currently select their own medical care provider which drives workers' compensation costs up.

3e) Adhere to Sound RM Practices:

- Risk Management is meeting with Senior Management and sharing loss data departmental-wide to ensure sound risk management practices to support loss reduction.

3f) External Review of Safety/Training Programs:

- In the past two (2) fiscal years, Risk Management has utilized the services of a third party safety expert (MFL Consulting) to support the County's Risk Management Section to make sure we address MOSH/OSHA loss prevention and safety training.
- Using a safety consultant with public safety experience helps to sell safety/loss reduction to a staff population with unique training skills and high risk exposures.

3g) Make Safety a Top Priority:

- Senior Management and front line supervisors must support and foster a safety culture within the County supported by Risk Management. CountyStat has been the tool to address safety/loss prevention, claim loss, and data/loss recommendations.

3h) Study Cost-Effectiveness of Continuing Self-Insurance Program:

- With regards to the auditors' recommendation that we revisit the County's decision to self-insure for workers compensation incidents, the County is currently self-insured due to changes in the hard municipal insurance market which still remains the condition. Risk Management supports a review of the self-insurance program to consolidate all risk pool functions under a single program as done in all other self-insured entities in the region.

4) Management of the Workers' Compensation Fund

Management concurs with the finding(s) and partially concurs with the recommendation(s).

Comments:

4a) Add Performance Component to Contribution Calculations:

- The Risk Pool Chair will address the calculations and other procedural issues around the pool contributions in an annual meeting of all fund members. The fund members have not been actively involved in the contribution calculations in the past. The fiscal year-end actuarial study provides the best forecast of the expected performance of the fund based on historical loss data.
- Regarding the two (2) active claims from the Prince George's County Hospital Commission managed by the fund and funded by the County - these claims are monitored by Risk Management and the County's TPA.

4b) Sufficient Contributions:

- The adequacy of budgeted contributions to the fund will need to be resolved at the Senior Leadership level, giving consideration to the fiscal environment and its impact on funding availability.

4c) Loss Data to Actuary:

- All loss data provided to the actuary is provided by the fund members' TPA and should be reviewed by all fund members.

4d) Training on Calculation of Participant Contributions:

- Risk Management staff will continue to work with Accounting to understand the fund contribution calculation. This will include a full review by all fund Risk Management staff and Accounting staff in an annual pre-actuarial meeting.
- Risk Management, Finance Accounting and the Risk Pool Members have the actuary available to review and explain the calculation process.

4e) Supervisory Review of Contribution Calculations:

- The County's Risk Management and Risk Pool Members will implement a supervisory review of all fund calculations.

5) Lack of Adequate Management of Claim Repeaters

 x Management concurs with the finding(s) and recommendation(s).

Comments:

General Comment:

- A special report is generated and provided to the Deputy Chief Administrative Officers (DCAOs) and Appointing Authorities showing employees with multiple claims/injury dates and type of injury throughout the County.

5a) Employ Traditional Management Techniques to Address Abusers:

- Although an employer cannot take action against an employee for filing a claim, we agree there should be disciplinary action for those injured who are not properly following safety protocols.

5b) Prioritize Safety:

- Risk Management can share loss data with DRCs, but the individual departments need to be held accountable. Risk Management can get safety information out among the employees and departments but it is most effective if the departments are taking pride in a safe work environment and are acknowledging those who are working safely, and progressively counseling those who are not. It is a shared responsibility.
- In the past two years, Risk Management has started MOSH/OSHA training directly to department's first line supervisors. It should be noted that for those employees who are willing to go to great lengths to exploit the Workers' Compensation system, some of these recommendations will not be effective.

6) Lack of Adequate Monitoring of Vendor/Third-Party Providers

 x Management concurs with the finding(s) and partially concurs with recommendation(s).

Comments:

6a) Mitigate Outsourcing Risks; 6b) Program Manager Training on Administrative Responsibilities; 6c) Enhance Monitoring of Prime and Subcontractors:

- Risk Management agrees with the recommendations and will begin reviewing SSAE 16 Type II and SOC Reports provided.
- Risk Management does obtain, and also generates, various reports, reviews claims, trends and assignments to monitor our vendors and sub-contractors' activities. The TPA does include Risk Management in the review of all third party vendors, which includes monitoring overall service, and whether cost is competitive. Outsourcing third party claim functions are done throughout the region. The County's Claims Manager conducts spot checks of records and expenses. Third party claim reviews have also occurred as requested.

7) Policies, Procedures, Management and Monitoring

 x Management concurs with the finding(s) and recommendation(s).

Comments:

7a) Impose Penalties for Non-Compliance:

- The Office of Finance/Risk Management and OHRM will continue to work with the CAO's Office through CountyStat to focus Senior Management's attention on a broader safety and loss prevention process for the County.

7b) Update/Develop Policies and Procedures:

- Updating old policy and procedures will also be a focus for both Risk Management and OHRM. Senior Management must take the lead to make safety and claim reduction an operational priority for the County.

8) Inadequate Workers' Compensation Antifraud Program in Place

 x Management concurs with the finding(s) and partially concurs with the recommendation(s).

General

- We disagree in part with the recommendations. Although there is no formal written policy for what to do when fraud is suspected; the Claims Manager as well as TPA adjusters continuously look for patterns of fraud and utilize surveillance services when needed.

8a) Internal Investigation Team:

- We generally concur with this recommendation. Although it may seem wise to create a special internal investigation team to identify and monitor employees who may be "intentionally misrepresenting" claims, in reality it is very difficult to successfully prove fraud.

8b) Claims-Fraud Detection Software:

- We concur that more advertisement is needed of current mechanisms in place for notification of suspected fraud. We do not agree that investment in new software is necessary as this is already being done through the TPA's system.

8c) Misrepresentation of Claims:

- Risk Management already works with the TPA in trying to identify fraudulent claims.

8d) Review TPA Contract Terms:

- We disagree with the implication that because the TPA's contract has a fixed price there is little or no incentive to incorporate the fraud review capabilities included in their system.
- We do not believe that there will be any additional benefit gained by the County by changing contract terms from a fixed price contract, as this will not increase our TPA's ability in detecting fraud, but may increase cost exposure to the County for these services.

8e) Examine Counterproductive Policies and Procedures:

- We agree that the use of policies concerning receipt of County benefits be used to help mitigate claim exposure. CorVel, Risk Management, the Office of Law, and OHRM's Disability Leave Manager work jointly to review claim files to identify which files require a greater scrutiny and/or surveillance. Also, the collective bargaining process needs to include loss data as a tool to support loss reduction in public safety.

Other Opportunities for Improvement

9) *Continuing Professional Development/Training Materials*

 x Management concurs with the finding(s) and recommendation(s).

Comments:

9a) Increase Training/Tools for RM Professionals:

- Cost constraints prohibit attendance at the primary National Risk Management Association Meetings or the National Safety Training Conferences. Staff is permitted to attend the State of Maryland Workers' Compensation Conference.
- Risk Management staff continues to seek updated risk and safety information through free newsletters and magazines.
- Safety staff has borrowed safety training media from other risk pool members and have been permitted to seek paid certification training in some limited capacity.
- Limited budgeted resources and input from Senior Management and OMB can only address long-term funding issues for continuing education and professional development in Risk Management.

10) Use of Multiple Light Duty Tracking Databases

 x Management concurs with the finding(s) and recommendation(s).

Comments:

10a) Official Directive Mandating Utilization of OHRM Light Duty Database:

- As mentioned in the report, the Light Duty Program is an operational function under OHRM. OHRM makes note that while the light duty assignments are currently made independently and internally, actual data does not substantiate that the current light duty assignment process has increased the County's disability leave numbers nor has it increased the County's employee return to work period. OHRM is currently advised when a department is unable to make a light duty assignment and when this occurs, which is rarely, OHRM assists in making alternative duty assignments.
- Per the overall Disability Leave/ Return to work Program issue, OHRM Administration should maintain the database as it is responsible for the County's Disability Leave/ Return to Work Program. The current database will only capture an employee who has been medically cleared for light duty, but who cannot be assigned to a temporary light duty position within his/her respective department/agency. In keeping with the current practice, the OHRM Risk Management Specialist should "oversee" and/ or assist with any duty assignments outside of an employee's respective department.
- OHRM is working with the County Executive's Office regarding utilization of the light duty program.

Auditor's Response to Management's Response

Notice of Findings and Recommendations #8) Inadequate Workers' Compensation Antifraud Program in Place

8c) Misrepresentation of Claims

- Risk Management already works with the TPA in trying to identify fraudulent claims.

8d) Review TPA Contract Terms

- We disagree with the implication that because the TPA's contract has a fixed price there is little or no incentive to incorporate the fraud review capabilities included in their system.
- We do not believe that there will be any additional benefit gained by the County by changing contract terms from a fixed price contract, as this will not increase our TPA's ability in detecting fraud, but may increase cost exposure to the County for these services.

Auditor's Response: The Third Party Administrator (TPA) CorVel, was non-responsive to multiple requests by the Auditors, both in writing and verbally, related to the TPA's process of handling suspected fraud. As such, the Auditors believe that the risk presented by the structure of the contract is a valid risk which the County should consider.

Remediation Status of Previously Identified Issues

As part of the review of the County's Workers' Compensation Program, we performed follow-up of previously identified issues to determine the status of remediation.

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
1A	Safety Records in Performance Evaluations	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	Recommendation 1A: Safety evaluations and accidents should be incorporated into an annual employee performance evaluations. 1Aa: Alternative Recommendation - Public safety should have Safety/Accident Reduction Performance Measures integrated with the Departmental Annual Performance Budget Review with a two (2) to five (5) year goal to reduce accident frequency/severity by 25%.	Office of Finance OHRM Office of Law	1A: Workers' Compensation Steering Committee does not recommend adding safety standards to the annual employee performance appraisal process, as formulating a series of fair, meaningful, and measurable objectives will be difficult to develop and uphold. 1Aa: This recommendation has not been implemented to date. Possibly police only.
1Ba	Departmental Safety/Accident Review	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the	1B: Each County Department must establish a Departmental Safety/Accident Review	Office of Finance	1B: Remediation has not occurred to date. An informal structure exists

Issue	Category	Date	Source	Finding	Recommendation/Response	Responsible Party	Status of Remediation
	Committee			exception of the Fire Department.	Committee (the "Committee") to review workers' compensation and general liability accidents on a routine basis. The principle role of the Committee is to assess whether: (i) a loss event was preventable and to outline a plan of action to prevent recurrences.	Chief Administrative Officer	in some agencies/departments such as the Fire/EMS Department and the Department of Corrections.
1Bb	Departmental Safety/Accident Review Committee	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	1Bb: The Department Head would submit a written report (at least quarterly) to the respective Deputy Chief Administrative Officer ("DCAO") on the results of the Committee's findings.	Office of Finance Individual Departments	1Bb: Remediation has not occurred to date.
1Bc	Departmental Safety/Accident Review Committee	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	1Bc: Departments will be required to expand (or develop) a written safety plan outlining how their Department Safety/Accident Review Committee will function.	Office of Finance Individual Departments	1Bc: Remediation has not occurred to date.
1Bd	Safety Training	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the	1Bd: Department Risk Coordinators (DRCs) have received routine safety	Office of Finance	1Bd: While training is available to DRCs by the County's Risk

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
				exception of the Fire Department.	training and instructions to support the internal safety committees.	Individual Departments	Management Office, issues noted are: 1) Attendance is not mandatory. 2) Training is generic in nature and not always relevant to the issues faced by specific agencies/department. 3) High turnover rate of DRCs especially in the Police Department, increases the cost to the County. 4) DRCs may not always be afforded the time or opportunity to use their training when they return to the Agency/Department due to competing responsibilities. Lack of support from Senior Management at the Agency/Department level.
1Be	Safety Plans	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	1Be: Each department would be required to submit safety plans to Finance/Risk Management for review and approval to help ensure quality as well as consistent and	Office of Finance Individual Departments	1Be: Remediation has not occurred to date.

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
1Ca	Data Analysis	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	1Ca: Finance/Risk Management will re-institute quarterly claim activity reports to the Chief Administrative Officer ("CAO") and each Deputy Chief Administrative Officer ("DCAO") to increase awareness and provide summary data.	Office of Finance	Completed - The Claims Manager in Risk Management provides this data to Senior Management.
					CountyStat also performed a detailed analysis of workers' compensation.		Individual agencies such as the Fire/EMS Department continuously track, report, and make changes based on analysis of their data.
1Cb	Data Analysis	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	1Cb: Departments currently receive information about open workers' compensation cases; this can be expanded to cover other areas and data. This information should also facilitate tracking progress on performance measures.	Office of Finance	Completed - The Claims Manager in Risk Management provides this data as needed.

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
ID	Repeat Offenders	6/13/2012	County Stat	Risk Management is not accounted for in annual employee performance evaluations, with the exception of the Fire Department.	<p>Recommendation 1D: Repeat claim filers should be put through additional safety training.</p> <p>1D: If an employee is injured more than once within a three-year period, or five times during their career, the cause of these accidents/injuries should be reviewed by the department's internal safety committee to determine if there were any similarities between the accidents/injuries, flagged for possible fraud, assessed for possible disciplinary action etc.</p>	<p>Office of Finance Individual Departments</p>	<p>Issue 1D: Not yet implemented because of the need to describe and recommend a threshold and process for flagging and training employees who repeatedly file claims.[4/17/2014]</p>

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
2A	Policies and Procedures	6/13/2012	County Stat	Internal Policies requiring agencies to investigate workers' compensation injury claims should be reviewed and strengthened.	<p>Recommendation 2A: Supervisors and Department Risk Coordinators (DRCs) should investigate injury claims as soon as they are notified.</p> <p>Revised Recommendation 2A (4/17/2014): Revive and lead the workgroup to review and update internal policies concerning the investigation and documentation of injury claims.</p>	<p>Office of Finance</p> <p>Individual Departments</p>	<p>Remediation completed as follows:</p> <p>The workgroup has been revived and the first meeting was held Friday July 13, 2012 at 9:00am, RMS.</p> <p>Group plans to hold monthly meetings</p> <p>Workgroup Members: Risk Manager/Finance (Co-Chair); Risk Management Specialist/OHCRM, (Co-Chair); Claims Manager/Finance (Member); Associate County Attorney, Office of Law (Member)</p> <p>Rotating members to include: Safety Coordinator; Public Safety DRC members; IBC- Risk Management Consultant, and AON-Insurance Broker/Loss Prevention Specialist.</p>

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
2Ba	Policies and Procedures	6/13/2012	County Stat	Internal Policies requiring agencies to investigate workers' compensation injury claims should be reviewed and strengthened.	2Ba: Determine the Core Administrative Procedures to be updated by the workgroup.	Individual Departments	2Ba: Remediation Completed. <ul style="list-style-type: none">o 165- County Risk Management Programo 284- Administration of Employee Leave (esp., Disability Leave and LWOP)o Other- Risk Management Policies and Procedures
2Bb	Policies and Procedures	6/13/2012	County Stat	Internal Policies requiring agencies to investigate workers' compensation injury claims should be reviewed and strengthened.	2Bb: Determine the timeline for a report of the following: a) recommendations to update all applicable administrative procedures related to workers' compensation and disability leave, including revisions to the County's policies and laws regarding eligibility and benefits.	Office of Human Resources & Management ("OHRM") Office of Law	2Bb: Remediation partially complete. The following was the initial calendar, however delays were experienced as a result of an injury of one of the groups Co-chairs. First drafts have been made (items 1&2), items 3-5 are still pending. Initial Plan: 1) Review existing

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
							polices- may include visiting local jurisdictions (7/2012 to 11/2012) 2) Initial draft procedures to Steering Committee (12/2012 to 03/2013) 3) Send preliminary draft to departments for comment (04/2013 to 05/2013) 4) Final draft to Chief Administrative Officer (05/2013 to 06/2013) 5) Issue executed procedures to departments (07/2013)
2Bc	Policies and Procedures	6/13/2012	County Stat	Internal Policies requiring agencies to investigate workers' compensation injury claims should be reviewed and strengthened.	Recommendation 2Bc: Clear documentation procedures should be drafted by the Office of Human Resources & Management (OHRM) and the Office of Law (OOL) and given to the supervisor and the DRCs. This will help protect the County if the claim award is appealed to the Workers Compensation Commission (WCC).	OHRM Office of Law	2Bc: Not yet implemented.

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
3	Light Duty	6/13/2012	County Stat	The availability of light-duty assignments across all government agencies is unknown and is not coordinated.	Recommendation 3A: OHRM should create and manage a government wide light-duty assignment roster all departments can access, so those with great need may benefit from light-duty personnel in another agency.	OHRM Office of Information Technology ("OIT") Chief Administrative Officer ("CAO")	Partially remediated. OHRM/OIT have developed the database. However, OHRM is awaiting further directive to implement and use.

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
4	Data Tracking System	12/13/2013	County Stat	Establish a data tracking system to identify preventable automobile accidents within the department. Once established, data should be shared with the Risk Management Division of the Office of Finance on a monthly basis.		PGPD	Completed.
5	Data Tracking System	12/13/2013	County Stat	Establish a data tracking system to identify claims submitted by officers while on secondary employment. Once established, data should be shared with the Risk Management Division of the Office of Finance on a monthly basis.		PGPD	Completed.
6	Personnel Screening	12/13/2013	County Stat	Review health records review process and training procedures and develop a plan to reduce workers' compensation claims from new recruits in the police academy.		PGPD	Completed.

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
7	Policies and Procedures	12/13/2013	County Stat	Develop a detailed list of procedures and policies governing the settlement of cases before the Maryland Workers' Compensation Commission.		Office of Law Office of Finance	Issue has been tabled. Each case is different and therefore the solution is not feasible. Giving the TPA authority to make decisions on cases instead of having the cases litigated. Less litigation reduces the workload of the Office of Law and reduce County expenditures.
8	CorVel Claims	6/30/2012 6/30/2013	External Auditor	There is no reconciliation performed by management between the CorVel Claims Summary and the detail claim reports to ensure that the paid claims are supported by the underlying detail claim reports.	Management adopt a formalized policy to establish an acceptable timeframe for the completion and review of the reconciliations to ensure that claims are properly reconciled to ensure that the County has underlying supporting claims information for all claims that are paid by CorVel.	Office of Finance	Management has accepted the risk. Due to staff shortages the Office of Finance's Risk Management Division will continue to spot check payment reports to confirm payments are supported. Payments are randomly selected and verified primarily by using the CorVel CareMC system, or by requesting supporting documentation from the CorVel adjuster. The

Issue	Category	Date	Source	Finding	Recommendation/ Response	Responsible Party	Status of Remediation
							detailed payment on the report is checked and initiated when the supporting documentation has been confirmed. The reports are kept for up to a year before being discarded.
9	WCC & State Legislature	10/23/2014	Risk Mgmt	The Maryland Workers' Compensation Commission and State Legislature have historically been very proactive for public safety employees and costly to public safety employers.	<ul style="list-style-type: none"> o Support of Executive leadership and senior management to instill importance of employee involvement in safety awareness & training beyond first line supervisors. o Continuance of County Stat to review agency progress and claim loss data. o Accountability by Departmental Risk Coordinators for some safety/loss prevention activities within their agency as a performance measure. o Expand funding for safety training to acquire new on-line training tools (current safety tapes are over 20 years old). 	Senior Management	In process or not yet implemented.

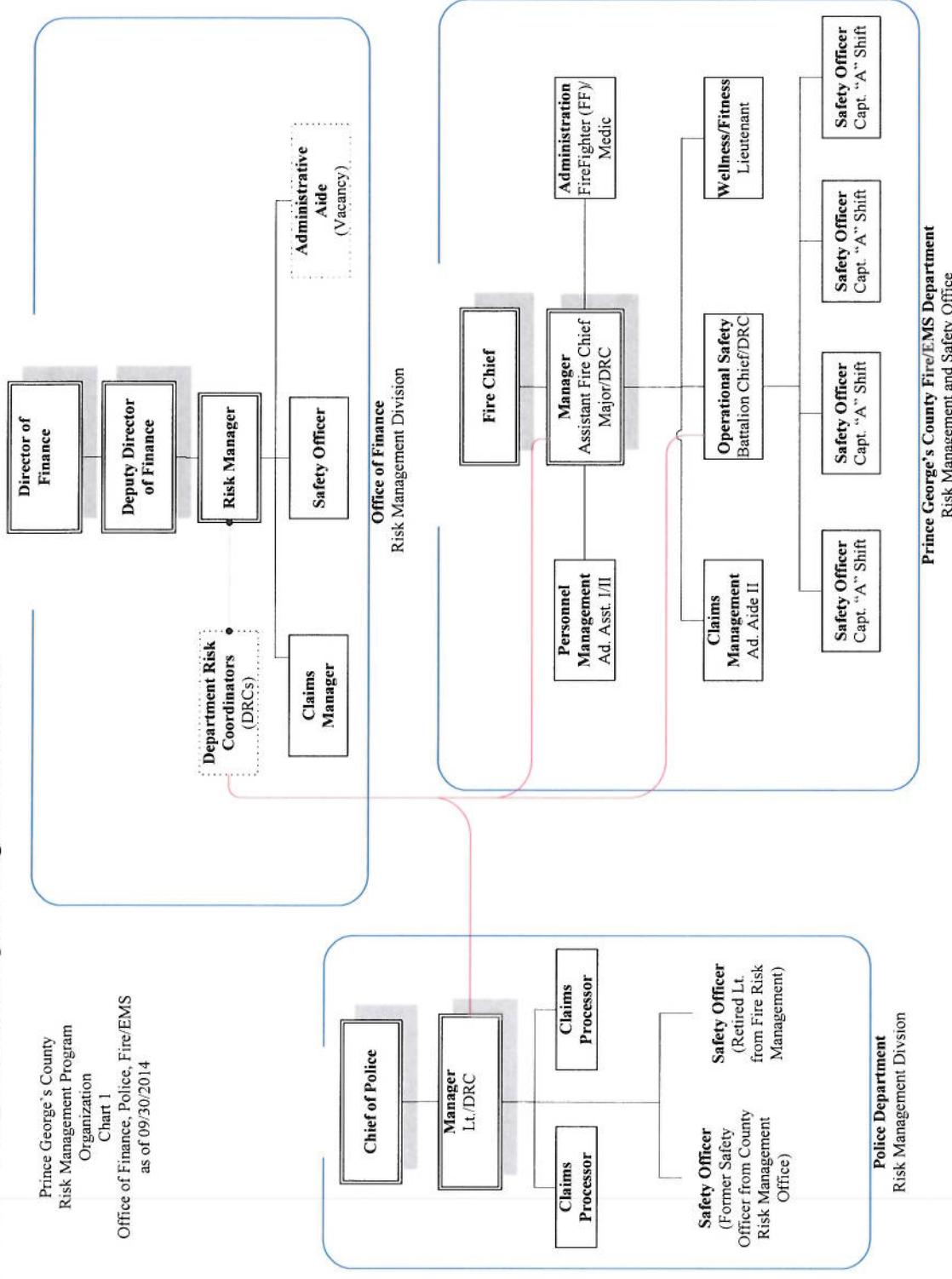
Issue	Category	Date	Source	Finding	Recommendation/Response	Responsible Party	Status of Remediation
					<ul style="list-style-type: none">o Hold agencies fiscally accountable for all at fault claim losses.		
10	Laws & Regulations	10/23/2014	Risk Mgmt	Current and retired public safety employees' covered presumptions include heart disease, cancer, hypertension, lung disease, etc.		Risk Management	
11	Attorney Representation	10/23/2014	Risk Mgmt	Attorneys represent 75% to 80% of public safety employees: <ul style="list-style-type: none">o This drives costs upward.o One Office of Law attorney handles workers' compensation hearings with the Commission that average between 105 and 136 a month.	<ul style="list-style-type: none">o Hiring of a second Office of Law attorney to address workers' compensation hearing case load.	Office of Law Office of Finance	Not yet implemented.
12	Risk Management Fund & Staffing	10/23/2014	Risk Mgmt	The Risk Management Program historically has been underfunded and under-staffed with rising claim cost/case load. <ul style="list-style-type: none">o Fund deficit as of June 2013 was \$87MM.o Unaudited fund deficit as of June 2014 is \$88.2MM.	<ul style="list-style-type: none">o Appropriation of \$5M each fiscal year to reduce Risk Management Fund deficit.o Hiring of additional Risk Management staff to address safety training, contract insurance management and claims oversight.	Office of Management and Budget Office of Finance	Not yet implemented. \$0 have been expended year-to-date to reduce the deficit.

Attachment B
List of Titles and Terms

Term	Definition
A&I	Office of Audits and Investigations
AICPA	American Institute of Certified Public Accountants
AON	AON Risk Services, Inc.
ASB	Auditing Standards Board
BOE	Board of Education
BCWHC	Burn Center at Washington Hospital Center
CAFR	Comprehensive Annual Financial Report
CAO	Chief Administrative Officer
CorVel	CorVel Enterprise Corporation
COSO	The Committee of Sponsoring Organizations of the Treadway Commission
CPD	Continuing Professional Development
CPE	Continuing Professional Education
DCAO	Deputy Chief Administrative Officer
DPW&T	Department of Public Works and Transportation
DRC	Department Risk Coordinator
EMO	Expert Medical Opinions
EMS	Emergency Medical Services
GAO	Government Accountability Office
HIPPA	Health Insurance Portability and Accountability Act of 1996
IBC	Insurance Buyers Council
IIA	Institute of Internal Auditors
IME	Independent Medical Evaluators
ISF	Internal Service Fund
LWOP	Leave Without Pay
MAB	Medical Advisory Board

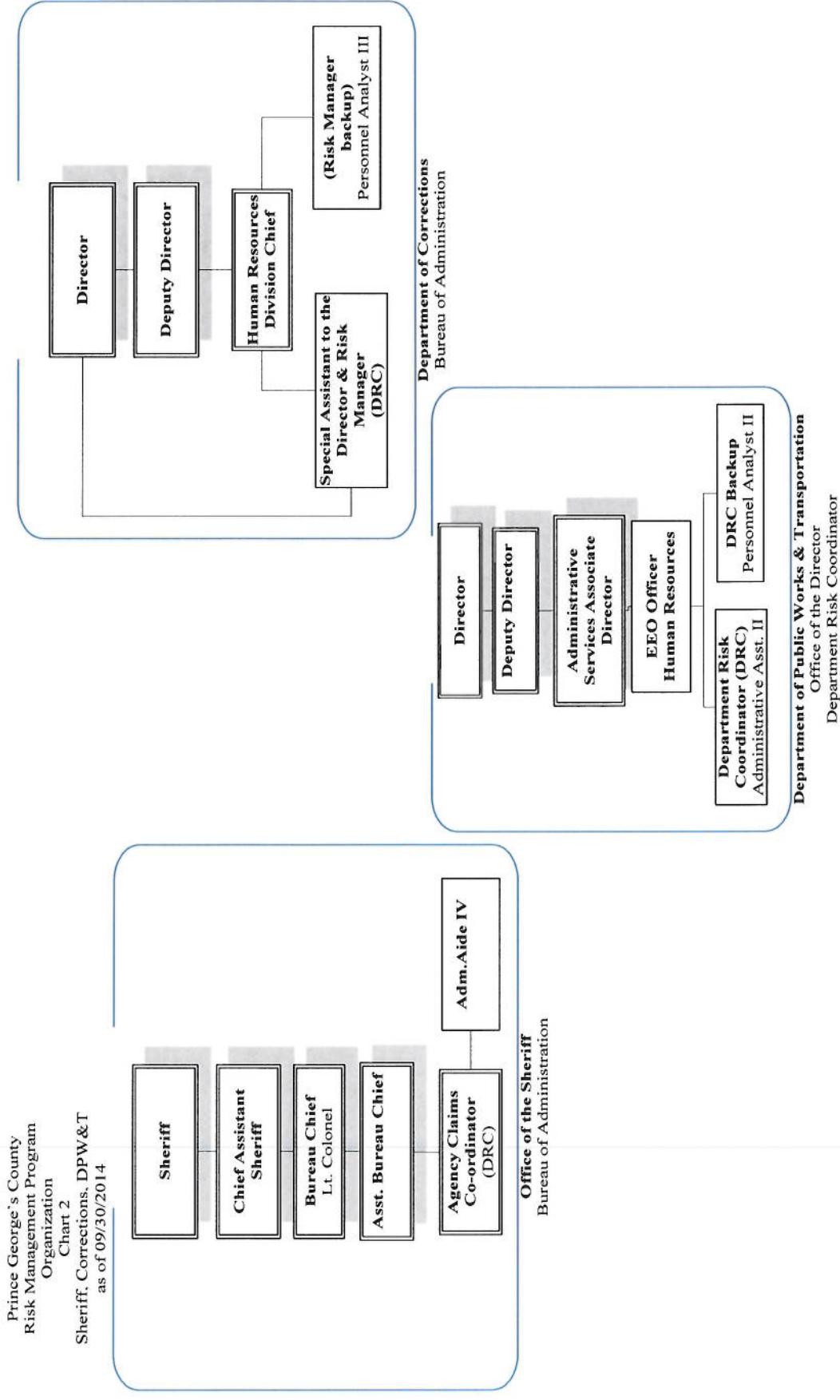
Term	Definition
MM	Million
M-NCPPC	Maryland-National Capital Park and Planning Commission
MOSH	Maryland Occupational Safety and Health
MRO	Medical Review Officer
OEA	Office of Ethics and Accountability
OHRM	Office of Human Resources Management
OIT	Office of Information Technology
OMB	Office of Management and Budget
OOL	Office of Law
OSHA	Occupational Safety and Health Administration
PGPD	Prince George's Police Department
PII	Personally Identifiable Information
PPA	Past Performance Appraisals
PRIMA	Public Risk Management Association
RIMS	Risk and Insurance Management Society
SOC	Service Organization Control
SSAE	Statement on Standards for Attestation Engagements 16
TPA	Third-Party Administrator
UME	Universal Medical Examinations
WCC	Workers Compensation Commission
YTD	Year to Date
§	Law Section

Appendix A – Workers’ Compensation Program Organization Chart

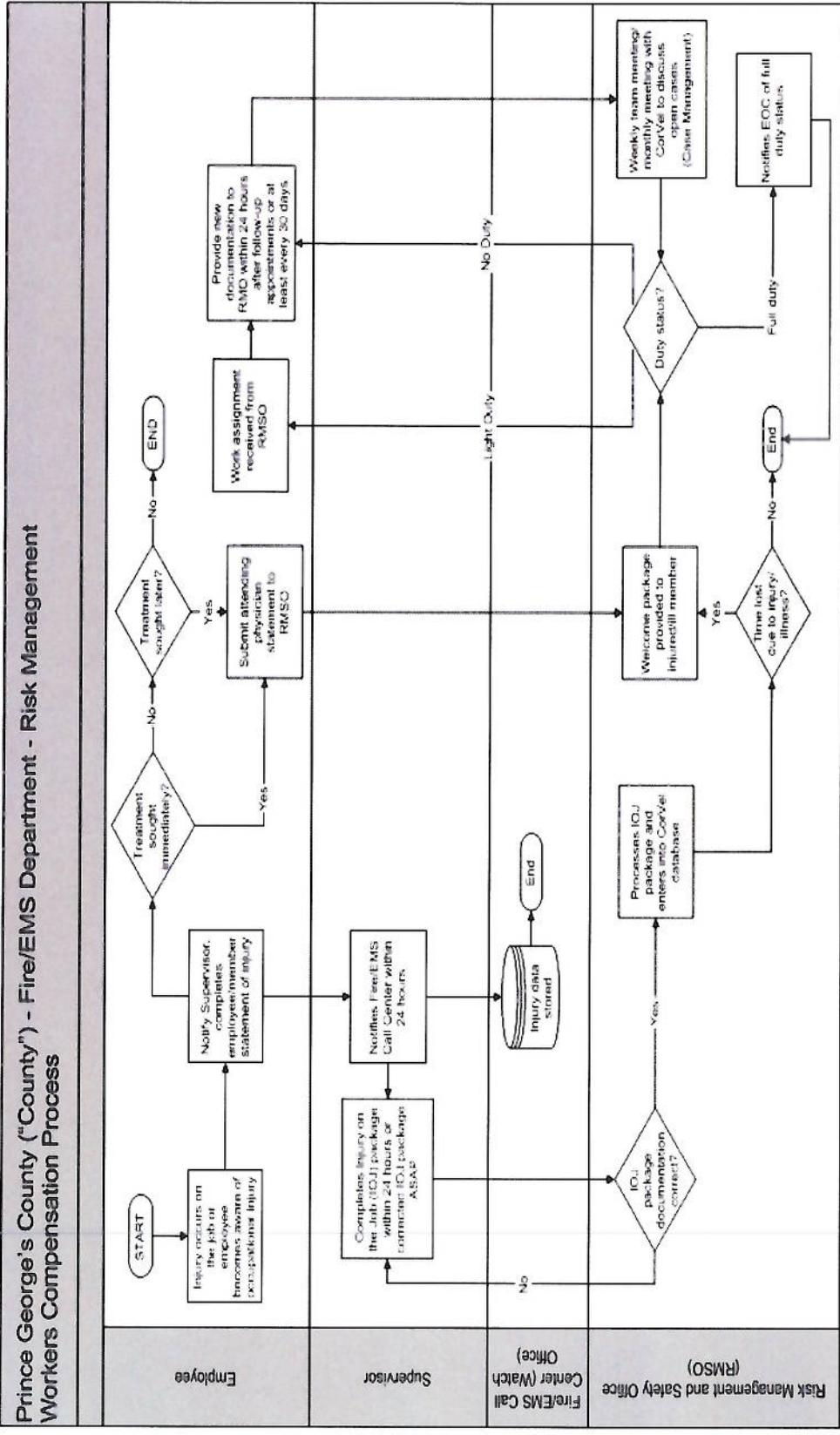


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Appendix B – Workers' Compensation Program Organization Chart 2



Appendix C – Fire/EMS Department Workers’ Compensation Process Overview



Appendix D – Office of Human Resources and Management (OHRM) Disability Leave Process (Includes Workers' Compensation)

