

August 28, 2008

Audit Number 08118

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Risk Management Can Reduce Enterprise Costs and Improve Statewide Performance Through Enhanced Coordination

SUMMARY

The Division of Risk Management (Division) is responsible for ensuring state agencies are provided with coverage for risks associated with various property and casualty liabilities to include those associated with workers' compensation, general and auto liability, and violations of federal civil rights. In FY 2006-07, the Division expended \$171.4 million to provide these coverages.

In FY 2006-07, the Division paid \$95.6 million in workers' compensation benefits and \$10.1 million for contracted expenses. We found that the Division was frequently using unverified wage information to calculate benefit payments. To improve the cost effectiveness of the state's workers' compensation program, we recommend the Division be authorized to retrieve wage information from People First to calculate indemnity payment amounts for injured workers. We also recommend that Section 284.50, *F.S.*, be amended to require state agencies to develop return to work programs for injured workers that meet minimum standards as established by the Division. Effective return to work programs can serve to reduce the number of lost production days resulting from accidents.

In FY 2006-07, the Division paid \$21.8 million in settlements for other casualty liability claims related to general and auto liability, and violations of federal civil rights. An additional \$14.4 million was paid for

contracted services to process these claims. We found that while only 31% of these claims were litigated, they accounted for 78% of total claim costs. To improve the cost effectiveness of these coverages, the Division should strive to identify claims prior to entering litigation. We determined that the Division may be able to increase the percentage of employment discrimination claims that are settled prior to litigation and reduce overall claim costs by approximately \$500,000 per year by obtaining notification of employment discrimination claims prior to filing of a lawsuit.

The Division insures over 17,300 buildings with an insured valuation of \$11.9 billion. To help reduce the cost of commercial insurance and ensure that all state-owned property is adequately covered, we recommend that State Fire Marshal property information be shared with the Division and that a uniform methodology be used to calculate the insured value of each state-owned building.

State agencies have primary responsibility for establishing loss prevention programs and some responsibility for controlling claim costs. To improve state agency performance, we recommend that the Division be provided authority to monitor state agency compliance with associated statutory requirements. We also recommend that the Division adopt agency level performance measures and consider using these measures to calculate state agency premium assessments.

BACKGROUND

The mission of the Department of Financial Services is to safeguard the people of Florida and the state's assets through financial accountability, education, advocacy, fire safety and enforcement. The Division of Risk Management contributes to the Department's mission by providing cost effective property and casualty risk coverage to state agencies.

Covered risks include damage to state property, injuries to state employees, and incidents that result in liability including alleged negligent or improper acts of state employees, as well as violations of employee federal civil rights.¹ State agencies receiving this coverage include all of Florida's executive and cabinet agencies, and universities in the State University System.

With the exception of property insurance, the state is self-insured for each of these coverages. For property insurance, the state is self-insured for the first \$2 million in damages for each occurrence. The Division purchases commercial insurance to cover damages exceeding \$2 million and up to \$200 million.² In FY 2006-07, the Division expenditures totaled \$171.4 million, which were funded through the State Risk Management Trust Fund. This trust fund receives its funding from premiums paid by state agencies and from designated appropriations.

As shown in Exhibit 1, in FY 2006-07, the Division expended \$141.9 million in casualty liability claim payments and contracted expenses to manage these claims.

Payments to claimants totaling \$117.5 million also included costs incurred by claimants for legal services. Expenses for contracted services to help process these claims totaled \$24.4 million; \$19.4 million (80%) of this amount was expended by the Division for contracted legal counsel.

All of these expenses were paid through the Loss Payment Revolving Fund, which is periodically replenished from the State Risk Management Trust Fund.³ Agency assessments serve as the revenue source for the State Risk Management Trust Fund.

¹ As specified in [Section 284.30, F.S.](#), federal civil rights actions include those made under 42 U.S. Code 1983 or similar federal statutes. In addition, the Division provides coverage for court-awarded attorney's fees and costs in other proceedings where the state is not a prevailing party.

² The Division provides property coverage and pays claims for damages incurred by state-owned buildings and contents as a result of covered perils. Covered perils include fire, lightning, explosion, windstorm or hail, smoke, aircraft or vehicles, riot, civil commotion, sinkhole collapse and flood. In addition, coverage for loss of rental income can be provided when such coverage is required by the terms of any bonding or revenue certificates or resolution.

³ Large settlement payments associated with federal civil rights claims are sometimes paid directly from the State Risk Management Trust Fund.

EXHIBIT 1:

In Fiscal Year 2006-07, the Division Expended Nearly \$142 Million to Insure the State for Covered Casualty Liabilities

Coverage	Claimant Payments	Contracted Expenses	Total Cost
Workers' compensation	\$95,631,181	\$10,050,061	\$105,681,242
General and automobile liability	\$10,383,200	\$6,734,612	\$17,117,812
Employment discrimination	\$1,711,122	\$3,928,755	\$5,639,877
Federal civil rights	\$9,728,681	\$3,735,713	\$13,464,395
Total	\$117,454,183	\$24,449,141	\$141,903,326

Claimant payment amounts do not include cost recoveries for prior claim payments, which total \$19,241,060 in FY 2006-07. Contracted expenses to operate the Division's Claim Administration System, \$278,662, are not included.
Source: Division of Risk Management

Property liability, Division operating costs, and workers' compensation assessments by the Division of Workers' Compensation are paid directly from the State Risk Management Trust Fund. To satisfy its property liability obligations, the Division paid \$8.0 million to commercial insurance companies and made claim payments totaling \$8.4 million. The Division expended \$6.4 million for salaries, benefits and related operating expenses for its 102 authorized employees. These expenses included costs associated with resources dedicated to loss prevention programs and for contracted expenses to operate the Division's claims administration system (STARS). In addition, the Division paid the Division of Workers' Compensation's quarterly assessments totaling \$6.7 million in FY 2006-07.

As shown in Exhibit 2, invoices for associated casualty liability claim processing are submitted either electronically or in hard copy. These invoices are then routed to the assigned claims specialist for review and approval. Approved invoices are assigned appropriate transaction and claim identifier information,

and then entered in STARS for payment. Prior to being mailed to the vendor/provider, printed checks are verified for accuracy. Payment information is transferred via vouchers to FLAIR. These vouchers provide aggregated revolving fund payment amounts and identify the nature of the expense through assignment of a FLAIR object code.

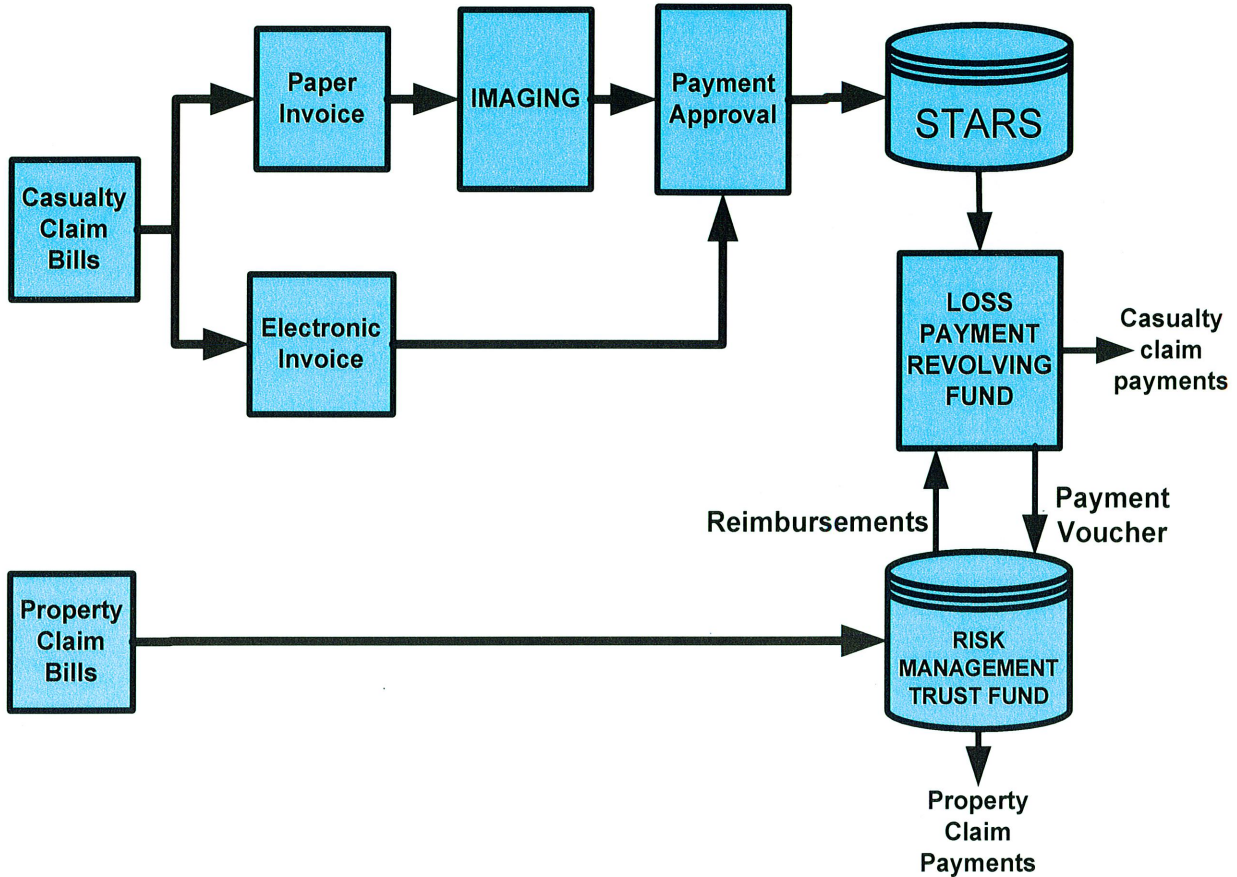
The Division of Accounting and Auditing performed an audit of the Risk Management Trust Fund. The objectives of their audit were to determine the extent to which the Division's systems of internal controls provide reasonable assurance that the following management objectives are achieved:

- Compliance with Section 216.271, F.S. and Chapter 69I-23, Florida Administrative Code (F.A.C)
- Completeness of receipts
- Validity of disbursements
- Safeguarding of Division assets

This audit identified four findings. A description of these findings is provided in Appendix A.

EXHIBIT 2:

The Division Pays All Casualty Claim Benefits and Associated Contract Expenses From the Loss Payment Revolving Fund



The Division is authorized to have designated payments paid directly from the State Risk Management Trust Fund.
Source: Division of Risk Management and OIG Analysis

Workers' Compensation

The Division of Risk Management is responsible for administering workers' compensation coverage for all state employees.⁴ Florida's workers' compensation program is self-insured, with funding for claim payments and associated operating expenses provided through premium assessments to participating state agencies. The program provides state employees injured in job-related accidents payment for medical expenses, compensation and rehabilitation.

The Division contracts with vendors to provide workers' compensation managed care services. The objectives of this managed care system are to ensure the quick and efficient delivery of disability and medical benefits, and to facilitate the employee's return to gainful employment. The vendor is responsible for providing medical services through a network of health care service providers.⁵ The Division also contracts for field investigative and surveillance services to help detect and prevent instances of workers' compensation fraud and for legal services when an injured worker obtains representation by an attorney. In addition, the Division contracts for a claims accounting system that is used to allocate

employee benefit and vendor payments to individual claims.

Under the current managed care contract, new claim information is reported to the managed care vendor, who is responsible for completing the initial injury reports and submitting them to the Division. New claim data is submitted by the vendor in an electronic format to the Division for entry into the claims accounting system. The vendor is also responsible for coordinating medical treatment and processing medical bills. The Division is responsible for determining compensability of claims, eligibility for indemnity benefits and calculating the benefit amount, if appropriate. Medical bills are required to be paid within 45 days of receipt. Indemnity benefit payments are required to be made within 14 days after employee notification.⁶

Exhibit 3 shows that in FY 2006-07, the Division paid \$105.7 million in workers' compensation benefits and related expenses. Nearly \$95.6 million of this amount was attributable to three major categories of workers' compensation benefits that are provided to employees who sustain a job-related injury or illness. These categories are:

- medical benefits,
- indemnity benefits for lost wages and permanent impairment, and
- death benefits, which include a cash benefit plus funeral expense benefits.

Exhibit 3 also shows that the Division paid \$10.1 million for contracted services in FY 2006-07. Nearly \$6.3 million (62%) of these costs was for defense attorney fees and expenses.⁷ Other contracted expenses included costs for use of the claims accounting system and claims investigation services. The Division

⁴ Employee is defined to include senior management, select exempt, career service, and OPS employees. It also includes volunteers and certain "statutory employees." An example of a "statutory employee" is found in [Section 39.407, \(4\)\(b\) 2, F.S.](#), relating to juveniles. It states, "Whenever a child volunteers to participate in any work program under the provisions of this Chapter or volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, such child shall be considered an employee of the state."

⁵ Since January 1, 1997, the Division has contracted with vendors to provide managed care services. The contracted vendor for claims with a date of accident from January 1, 1997, through December 31, 2002, is Humana. Humana is responsible for providing necessary medical services for three years following the date of injury and continuing case management for the duration of the claim. Beginning with dates of accident on January 1, 2003, the provider is CorVel. Under the current contract, CorVel is responsible for providing medical case management for a period of three years, plus up to three additional years under the contract renewal provision.

⁶ If the first seven days of disability are nonconsecutive or delayed, then the first installment of compensation is due on the 6th day following the 8th day of disability.

⁷ Plaintiff attorney fees and expenses are not included in this total. Plaintiff attorney fees and expenses that were court-ordered to be paid by the Division were included in claimant benefit payments.

also had \$19.2 million in receipts from recoveries of prior claim payments, which included \$15.3 million from the Special Disability Trust Fund.⁸

EXHIBIT 3:

In Fiscal Year 2006-07, the Division Paid \$105.7 Million in Workers' Compensation Benefits and Related Expenses

<i>Expense Type</i>	<i>Amount</i>
Medical Benefits	\$59,695,018
Indemnity Benefits	\$35,590,600
Death Benefits	\$345,563
Total benefit payments	\$95,631,181
Defense Attorney ¹	\$6,280,311
Other Contract Expenses	\$3,564,268
Other Legal	\$205,481
Total claim processing expenses	\$10,050,061
Total	\$105,681,242

¹Plaintiff attorney fees and expenses are not included in this total. Plaintiff attorney fees and expenses that were court-ordered to be paid by the Division were included in total benefit payments.

Source: Division of Risk Management

Wage information to calculate workers' compensation indemnity benefits should be retrieved through People First.

State employees, volunteers and other statutorily mandated persons are authorized workers' compensation indemnity benefits when they are unable to perform required duties and responsibilities due to an injury sustained in the course of their employment. These benefits must be paid within 14 days after the employer is notified of the employee's injury.⁹ Employees are eligible for indemnity benefits for lost wages totaling two-thirds of their average weekly wage for the previous 13 weeks at the time of the accident indemnity benefits.

⁸ The Special Disability Trust Fund is administered by the Division of Workers' Compensation. The Fund reimburses insurance carriers and self insured employers for benefits they must pay because a preexisting permanent impairment has merged with a subsequent injury. The major source of revenue for the Fund is assessed payments from insurance carriers and self insured entities.

⁹ As specified in [Section 440.20 \(2\)\(a\), F.S.](#)

To determine the average weekly wage, agencies are required to provide the Division with 13-week wage information. When 13-week wage information is not provided by the state agency, the Division uses initial wage information provided when the employee is first injured.¹⁰ When the Division is unable to verify this initial wage information with agency provided 13-week wage information, there are no assurances that the benefits payment calculations are accurate.

In addition, when agency wage information is provided after indemnity payments are due, the Division must recalculate the payment amount and adjust subsequent indemnity payments to reflect any over or under payments. When inaccurate calculations result in an underpayment, the Division is required to reimburse the injured employee. However, when the inaccurate calculation results in an overpayment, the Division has no legal recourse to recoup the amount of the overpayment after expiration of the employees' eligibility for medical and indemnity payments.

An audit conducted by the Division of Workers' Compensation found that the Division frequently uses employee-provided wage information to calculate indemnity payments. As shown in Exhibit 4, the audit found that agency wage information was not provided for 31 of the 118 files. For 23 of the claims, agency wage information was received only after the initial claim payment was issued. Thus, the Division had to use unverified wage information to calculate 54 of 118 claims.

¹⁰As provided in the 'First Report of Injury or Illness, [Form DFS-F2- DWCI](#).

EXHIBIT 4:

Division Often Relies on Unverified Wage Information to Calculate Indemnity Benefits

<i>Status of Agency Wage Information</i>	<i>Number of Claims</i>
Requested from Agency	118
Not provided by Agency	31
Provided after 1 st payment due	23
Not used to calculate 1 st payment	54

Source: Division of Workers' Compensation

Recommendation 1: To help ensure accurate and timely wage information is used when calculating workers' compensation indemnity payments and reduce agency and Division workload, we recommend that selected Division staff be provided access to wage information from People First rather than requesting this information from agencies.

Accessing wage information from People First will help ensure that the Division has accurate and timely wage information to use in their calculation of indemnity benefits. Use of People First to access this information will also serve to reduce the number of instances where indemnity payments will need to be recalculated by the Division.

The number of lost production days due to workers' compensation claims has been increasing.

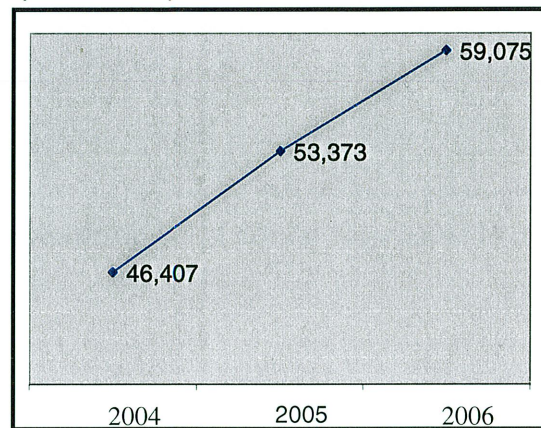
The Division provides wage loss compensation and payments for medical treatment to state employees who are injured in the performance of their duties. In 2006, the Division processed 1,334 workers' compensation benefit claims for accidents that resulted in 59,075 lost days of work, an average of nearly nine weeks per accident with lost work time. The Division paid injured workers nearly \$4.7 million in indemnity payments for these lost production days. In addition to these direct accident costs, the state incurred additional indirect costs associated with claim processing, work productivity losses, replacement worker costs, training, and management/supervisor time spent due to the absence of the employee.¹¹

¹¹ As reported in the Agency Severity Report for FY

As shown in Exhibit 5, the number of lost production days associated with workers' compensation claims increased by 12,668 days from 46,407 days in 2004 to 59,075 days in 2006; an increase of 27%. This increase is attributable to a higher number of claims and increases in the average number of lost production days for these claims.¹²

EXHIBIT 5:

The Number of Lost Work Days Due to Workers' Compensation Claims Increased by 12,668 Days from 2004 through 2006



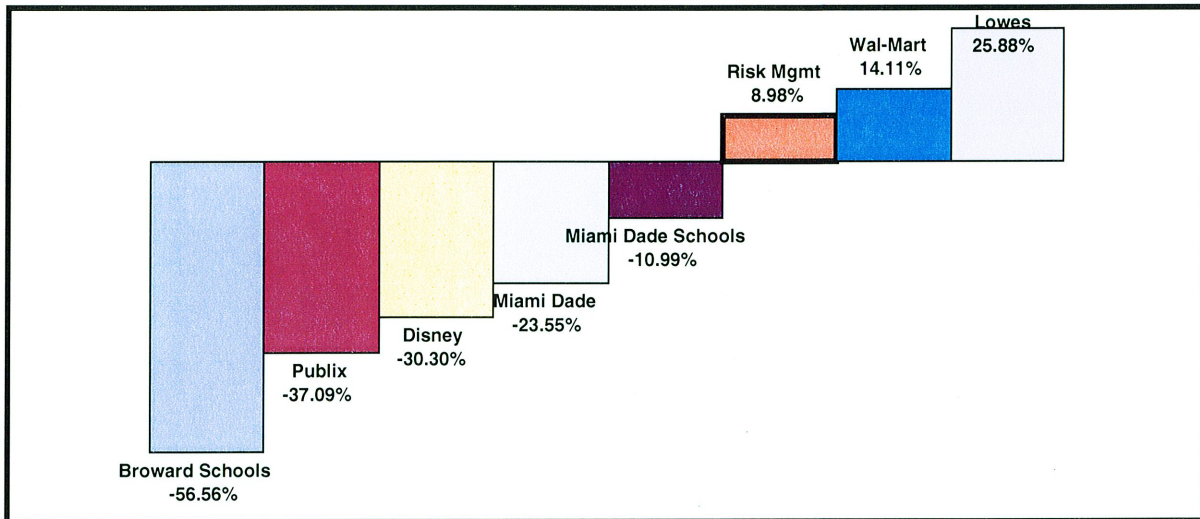
Source: Division of Risk Management

2006-07. This report identifies workers' compensation lost time claims. Lost time cases are defined in [Rule 69L-3.002 \(19\), F.A.C.](#), as a work-related injury or illness, which has caused the employee to be disabled for more than seven calendar days or for which indemnity benefits have been paid. Lost time cases shall also include compensable volunteer workers to whom no indemnity benefits will be paid, but who have been disabled for more than seven calendar days from work; compensable death cases for which there are no known or confirmed dependents; and injuries which result in the disability of more than seven calendar days for which the employer is continuing to pay full salary in lieu of compensation for any portion thereof. The seven calendar days of disability do not have to be consecutive, but are cumulative and can occur over a period of time.

¹² During this period, the number of people covered under the Division's workers' compensation program increased by 4.98% from 193,058 in FY 2004-05 to 202,656 in FY 2006-07.

EXHIBIT 6:

The Division Processed Nearly 9% More Workers' Compensation Claims With Seven or More Lost Work Days in FY 2006-07 Than in FY 2003-04



Lost time claims include claims where no temporary total payment or temporary partial payment is paid to the employee, but the employee is paid impairment benefits when he/she reaches maximum medical improvement.

Source: Division of Workers' Compensation

As shown in Exhibit 6 above, during the four-year period from FY 2003-04 through FY 2006-07, the number of lost time claims processed by the Division increased from 1,348 in FY 2003-04 to 1,469 in FY 2006-07, which represents an increase of nearly 9%. During this same period, other comparable entities showed mixed results.¹³ In addition to the quality of each entity's loss prevention programs, other factors such as changes in the number of covered employees may have contributed to the resulting change in the number of lost time claims reported by each of these entities.

A significant opportunity exists to reduce the state's workers' compensation costs by improving the process to return injured employees to the workforce. This Return to

Work (RTW) process includes determinations of whether an injured employee stays at work despite a medical condition or whether, when and how a worker returns to work during or after recovery.

Research indicates that well-managed RTW programs can reduce the number of lost work days by 25-50%, with a corresponding reduction in associated costs. In addition, effective RTW processes can have a considerable impact on the overall health and well-being of patients, their families, employers, and communities by determining whether people stay engaged in or withdraw from their work.

Florida law authorizes agencies to return employees to work who are entitled to workers' compensation benefits to perform such duties as the employee is capable of performing, even if there is not an established position in which the employee can be placed.¹⁴ However, state agencies are not required to have these processes in place that help ensure workers return to work as soon as their medical condition permits.

¹³ This selection includes the five largest (excluding the State of Florida) self-insured workers' compensation programs based on 2006 net premiums: 1. Miami Dade Public Schools (\$63,053,724); 2. Wal-Mart Stores (\$61,215,477); 3. Miami Dade County (\$57,225,727); 4. Broward County School Board (\$40,574,046); 5. Lowes (\$25,066,343). In addition, two other companies with high deductible premiums, Disney and Publix Supermarkets were selected because of the large number of employees that are covered under their workers' compensation plans.

¹⁴ As specified in [Section 216.251\(2\)\(b\)\(2\), F.S.](#)

A survey conducted by the Division in April 2006 found that only seven of the 45 agencies reported having a RTW policy to return employees receiving workers' benefits to work. Without RTW policies to govern how employees are returned to employment after a work-related injury, the Division has no assurances that state agencies are effectively managing these work-related accidents.

Recommendation 2: The Division may be able to significantly reduce Enterprise workers' compensation claim costs by ensuring that state agencies implement effective RTW programs that promote on-the-job recovery. To assist the Division, we recommend that Section 284.50, *F.S.*, be amended to require agencies to develop RTW programs that meet effective standards as specified by the Division. We also recommend that these standards for state agency RTW programs should be developed by the Division in conjunction with the Interagency Advisory Council on Loss Prevention Programs, and promulgated via an administrative rule.

Casualty Liability

The Division is also responsible for processing claims filed against state agencies for general and automobile liability, and for federal civil rights claims, including employment discrimination. The Division is statutorily required to provide these coverages to all state agencies and approximately 195,000 covered persons.

General and Automobile Liability: This self-insurance coverage includes premises and operations, personal injury, and professional liability. The coverage pays for bodily injury, property damage, or death resulting from a negligent act committed by a covered person in the performance of their employment or duties.

State employees may not be held personally liable if they were acting within the course and scope of their position. In addition, automobile liability coverage pays for property damage to state-owned automobiles used by sworn law

enforcement officers during approved off-duty use. Liability is limited to \$100,000 per person's claim and \$200,000 per incident or occurrence.¹⁵ Claimants are required to notify the state agency and Division of their claim within 3 years of the occurrence and a lawsuit may not be filed until 180 days after notice or the claim is denied.

Upon receipt by the Bureau, liability claims for these coverages are investigated to determine the facts of the incident, and to assess the potential for damages and legal liability. These investigations are primarily conducted by Division staff. However, the Division also utilizes state agencies and private contractors to perform some required services. Once investigated, these claims may be settled by the Division or litigated. Legal services to defend litigated claims are provided by the Florida Attorney General's office, contract laws firms, or state agency attorneys. In FY 2006-07, the Division paid \$12.4 million to close 2,096 general and auto liability claims.

Federal Civil Rights: This coverage includes federal civil rights actions filed under 42 U.S. Code 1983 and employment discrimination claims. Federal civil rights claims filed under 42 U.S. Code 1983 assert a right to compensation for damages and attorney fees that result from a deprivation of constitutional rights, such as due process, freedom of speech, and illegal search and seizure. These claims must name state employees in their individual capacity. However, the Division will pay for claim awards unless the state employee is found to have acted intentionally. There are no monetary limits on federal civil rights claims. In FY 2006, the Division paid \$10.0 million to close 273 federal civil rights cases.

Employment discrimination claims assert a right to compensation for damages and attorney fees sustained by claimants (state employees or job applicants) due to unlawful employment related discrimination. There are several federal

¹⁵ As specified in [Section 768.28, F.S.](#), any portion of a judgment that exceeds these limits may be paid in part or in whole only by further act of the Legislature.

and state laws utilized for these claims with different protected categories of persons, some of which also specify monetary caps.¹⁶

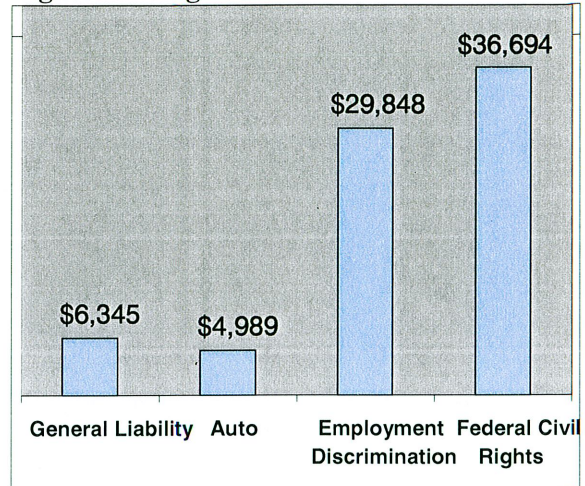
Charges of employment discrimination may be filed with the Florida Commission on Human Relations (FCHR) or the U.S. Equal Employment Opportunity Commission (EEOC). The FCHR and EEOC then work to investigate each filed complaint and to determine if there is reasonable cause to believe that a discriminatory practice has occurred.

Once these charges are filed, claimants must allow FCHR or EEOC 180 days to make a determination of reasonable cause or no cause before a lawsuit can be initiated. For complaints where no determination is made or there is a finding of cause, the case is closed and the complainant may file a lawsuit on his or her own behalf. If a determination is made that discrimination has occurred, the employer and the charging party will be informed. The FCHR/EEOC will then work with the employer to develop a remedy for the discrimination. The EEOC may also bring suit in federal court if it is unable to obtain a successful settlement with the employer.

In FY 2006-07, the Division paid \$3.8 million to close 128 employment discrimination claims. As shown in Exhibit 7, federal civil rights claims have the highest average cost. 42 U.S. Code 1983 claims payments averaged \$36,694 while employment discrimination claims averaged payments of \$29,848. In contrast, general and auto liability claims averaged \$8,345 and \$4,989 respectively.

¹⁶ Categories of protected persons include race, religion, sex, color, national origin, age, handicap, and marital status. Applicable federal and state laws include: Title VII, Federal Civil Rights Act, as amended in 1991, has a \$300K cap on compensatory damages/no cap on attorney fees, Florida Civil Rights Acts of 1992 (Chapter 760, F.S.), which has a \$100,000 cap on compensatory damages and attorney fees per incident or occurrence, and the Florida Whistle-blower's Act ([Section 112.3187, F.S.](#)), which has no cap on equitable relief or attorney fees.

**EXHIBIT 7:
Federal Civil Rights Claims Have the
Highest Average Cost**

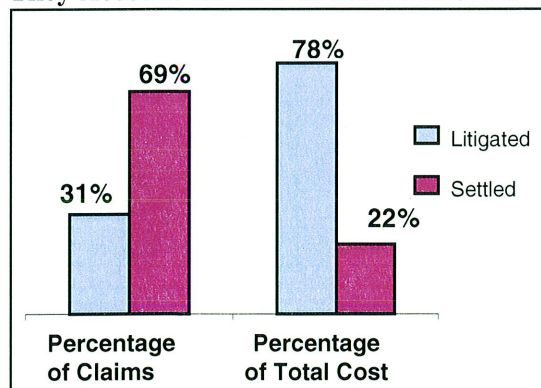


Source: Division of Risk Management

**Liability and federal civil rights claims that
enter into litigation result in much higher
claim cost.**

As shown in Exhibit 8, while litigated claims comprised only 31% of the claims, they accounted for 78% of the total incurred cost. In FY 2006-07, the Division closed 2,497 general and auto liability and federal civil rights claims. Of these claims, 774 or 31% were litigated, with the remaining 1,723 claims settled by the Division prior to claimant filing a lawsuit. A total of \$26.2 million was expended with \$20.5 million or 78% applied to litigated claims.

**EXHIBIT 8:
While Only 31% of Claims Are Litigated,
They Account for 78% of the Total Costs**



Source: Division of Risk Management

Recommendation 3: To reduce the state's costs to resolve liability and civil rights claims, the Division should strive to reduce the number of claims that are litigated. As shown in Exhibit 9, the percentage of claims that are litigated is much higher for federal civil rights and employment discrimination than for general and automotive liability claims. In FY 2006-07, of the 128 employment discrimination claims closed in FY 2006-07, only 11 or 9% were settled without litigation, while only 12 of the 261 federal civil rights claims were settled without litigation in FY 2006-07. Conversely, the Division was able to settle 81% of the 2,096 general and automobile liability claims that the Division closed in FY 2006-07.

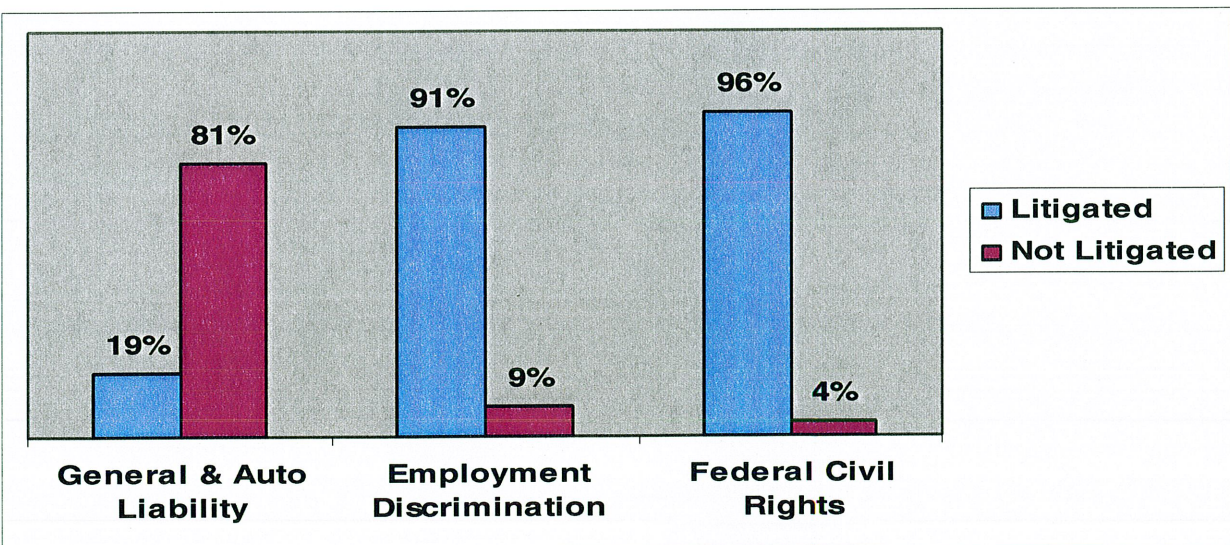
The Division reported that they were not able to settle a higher percentage of employment discrimination and federal civil rights claims because in most instances, they were not made aware of these claims until after a lawsuit had been filed because employees are not required to notify the Division prior to filing of a lawsuit.

The Division can increase the percentage of employment discrimination claims that are settled prior to litigation and reduce overall claim costs by approximately \$500,000 per year by obtaining notification of charges of employment discrimination prior to filing the lawsuit.

Specifically, the Division should work with FCHR and state agencies to identify charges of discrimination that have been filed with FCHR and/or EEOC that are likely to result in a lawsuit against the state. Identification of these claims prior to the lawsuit will provide the Division an opportunity to make its own determination of potential liability to the state and, when appropriate, take steps to settle prior to litigation.

EXHIBIT 9:

Most Employment Discrimination and Federal Civil Rights Claim Determinations Are Made After a Lawsuit is Filed



Source: Division of Risk Management

In FY 2006-07, there were 160 employment discrimination claims filed with either the FCHR or EEOC. Of these 160 claims, the Division reported that 63 claims (40%) resulted in a lawsuit and were transferred to the Division for processing.

If the Division had been notified sooner after these claims were filed with FCHR, they may have been able to settle many of these claims prior to initiation of a lawsuit, at a significantly reduced cost to the state. For example, if the Division would have settled the same percentage of these claims prior to initiation as it currently achieves with liability claims (81%) total claims costs for employment discrimination cases would have been reduced by \$520,535.¹⁷

Property

The Division is responsible for insuring all state-owned buildings and state-owned contents against damage from fire, lightning, sinkholes, and other hazards. The Division also conducts inspections for properties with insured values in excess of \$15 million.¹⁸ Information from these inspections is used in the purchase of insurance for these properties. In addition, the Division processes all filed claims for losses.

Under the current insurance schema, state-owned property is self-insured for any occurrence with damages of less than \$2 million. For occurrences with total damages exceeding \$2 million, the Division has purchased commercial insurance that covers total claim costs up to \$200 million per occurrence.¹⁹ All

claim costs above the \$200 million threshold are the responsibility of the state.

The current annual cost for this commercial insurance is \$8.0 million.²⁰ In FY 2007-08, state agencies were assessed premiums of \$13.7 million by the Division for insurance on all identified state-owned and rental properties.²¹ This assessment includes a \$5 million deductible provision that represents the estimated cost for the self-insured portion of the coverage. In FY 2006-07, the Division processed 66 property claims and made claim payments of \$867,861.

The Division insures 21,134 properties with a Total Insured Valuation (TIV) of \$16.5 billion.²² Nearly \$11.9 billion of the TIV for these properties is attributable to the building valuation, with the remaining \$4.6 billion attributable to the valuation of the state-owned contents of these buildings. Of the 21,134 insured properties, 3,832 are leased properties that are insured only for the value of the state-owned contents, which has an insured value of \$1.0 billion.

Use of State Fire Marshal property inspection data may result in reduced insurance premiums and lower Division operating costs.

Insurance companies use a variety of information to determine the premiums for property insurance. In addition to the property valuation, insurers will consider additional information on the building's construction, occupancy, protective systems and exposure to hazards (COPE) when calculating the property insurance premium rates.²³ The Division currently utilizes Division staff to collect and provide this information to insurance companies

¹⁷ To estimate the reduction in costs to process employment discrimination claims we calculated the difference in estimated costs using the current process and estimated cost under the proposed process to be \$516,440 (\$2,027,592-\$1,511,152). Under the current process, the Division would have litigated 63 claims at a total cost of \$2,027,592 (63x\$32,184). Under the proposed process the Division would have processed 150 of the 160 claims that FCHR had not closed within 90 days. Of these 150 claims, 28 claims (19%) would have been litigated at a total cost of \$901,152 (28x\$32,184) and the remaining 122 claims settled without litigation at a total cost of \$610,000 (122x\$5000) for a total cost of \$1,511,152.

¹⁸ As of December 2007, the Division was insuring 192 properties with a Total Insured Value (TIV) of greater than \$15 million.

¹⁹ For losses associated with wind damage, the state is self-

insured for damages of less than \$40 million.

²⁰ These costs include associated taxes and assessments, as well as an insurance broker's fee of \$325,000.

²¹ Premiums are based on insured values, exposure to loss and actual loss history.

²² In addition, the Division provides coverage for losses in rental income when required by the terms of any bonding or revenue certificates. As of December 27, 2007, the insured value for rental income losses was \$213 million.

²³ Standard COPE data includes: property description, address, class of construction, year of construction, square feet of space, number of stories, average story height, wall construction, roof construction, heating system, cooling system, fire alarm, sprinklers, and entry alarms.

for state buildings with insured values greater than \$15 million.

Recommendation 4: The Division can lower the cost of property insurance by providing commercial insurers with property-specific information for all state-owned buildings. Commercial insurers use COPE information to determine their overall risk. The impact of having COPE information for all state-owned buildings on the state's cost of property insurance is dependent on market conditions. However, when COPE data is not provided, insurers automatically use worst case scenarios when calculating their risk of loss, which generally results in higher insurance premium rates.

The Division of State Fire Marshal is required to periodically inspect each state-owned building.²⁴ These inspections are conducted by certified fire inspectors and include testing of the building's fire protection systems as well as identification of building-specific COPE information that is used by insurance companies in their insurance rate calculations.²⁵ This building-specific COPE data is stored in a database maintained by the State Fire Marshal.

Recommendation 5: To ensure that all state-owned buildings are both insured and inspected, we recommend the Division coordinate with the State Fire Marshal to develop a consolidated database of state-owned property information relevant to both functions. In addition to lowering property insurance premium costs, use of State Fire Marshal data may allow the Division to redeploy existing resources now used for COPE data collection to meet the expanded requirements of its loss prevention program.

²⁴ As specified in [Section 633.085, F.S.](#), state-owned buildings designated as high hazard must be inspected annually. [Rule 69A-3.011, F.A.C.](#), further specifies that inspections of state-owned buildings that are not designated as high hazard are to be conducted annually if permitted by available resources, but at least once every two years, as determined by the Division of State Fire Marshal.

²⁵ State Fire Marshal inspections do not currently include the requirement to collect building flood zone information, which is also used by commercial insurance companies to calculate property insurance premiums.

State-owned property valuations lack adequate controls.

State agencies are responsible for providing the Division with information on properties requiring insurance. In addition to building identifier information, state agencies provide the Department with its assessment of the amount of required insurance for state-owned buildings and contents.

Building value assessments are required to be based on the depreciated replacement cost of the building; however, the Division reported state agencies use various methodologies to value state-owned buildings. Consequently, the Division cannot be assured state agencies are providing accurate valuations or the Division is paying the appropriate amount for the property insurance it buys from commercial insurers.

In addition to the Division and the State Fire Marshal, the Division of Accounting and Auditing maintains a database of state-owned building information to ensure the accuracy of statewide financial statements. This database is maintained in FLAIR and includes information on the acquisition cost, acquisition date, and current value of each state-owned building.

Recommendation 6: We recommend that a uniform methodology be used by the Division to determine the appropriate insured value for each property. This could be accomplished by using information from the State Fire Marshal and FLAIR databases. Information from each of these databases could be used to calculate an insured value for each state-owned building through utilization of a commercially available application. Computation of insured valuations for each state-owned building by the Division would help ensure that building valuations are uniformly calculated with valid information, while relieving state agencies of the time and effort associated with this responsibility.

Loss Prevention

State agencies have primary responsibility for establishing loss prevention programs and some responsibility for controlling claim costs. Agencies are responsible for establishing safety programs designed to prevent injuries and losses. They also are responsible for helping injured employees return to work as soon as possible, thus minimizing costs for salary reimbursement and reducing the likelihood of long-term disability.

Agencies are also responsible for developing loss control initiatives, such as grievance procedures and employee training programs. In addition, when they contract with third party providers to provide state-supported services, agencies are responsible for ensuring that contractual terms protect the state from lawsuits arising from alleged contractor negligence.

The Division provides services to assist state agencies in managing risk.

Each agency is required to designate a safety coordinator who is responsible for agency loss prevention programs designed to prevent injuries and reduce liability relating to discriminatory practices. Agency safety coordinators are specifically accountable for conducting facility inspections, investigating job-related employee accidents, and conducting employee loss prevention training.²⁶

The Division has four employees with full-time responsibility to assist state agencies with their loss prevention programs. In FY 2006-07, the Division provided state agencies with 1,907 hours of training and consultation services designed to improve agency loss prevention programs and ensure safety coordinators can effectively perform their duties. In addition, the Division provides agencies with 'Target Referral' services, which are intended to identify incidents that demonstrate areas with a high risk for future accidents or claims involving the State of Florida.²⁷

Loss prevention services are also provided through the state's Interagency Advisory Council on Loss Prevention (IAC). The IAC is chaired by a Division representative and composed of the safety coordinators from each state agency, as well as, a representative from the Department's Division of State Fire Marshal.

The IAC meets quarterly to discuss safety problems, find solutions to problems, and assist in the implementation of the solutions. In addition, the IAC manages the Safety Awareness Campaign that includes annual recognition of agencies with effective loss prevention programs. The IAC is also required to produce an annual report of actions taken to prevent job-related employee accidents and suggestions for loss prevention program improvements.

The number of days missed due to work-related accidents can be reduced.

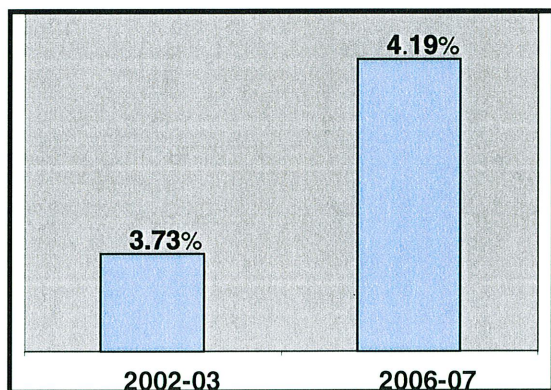
As shown in Exhibit 10, state employees experienced 13,548 accidents that resulted in a workers' compensation claim being reported to the Division in FY 2006-07. Of these reported claims, 8,487 (4.19% of the workforce) received benefit payments. This represents an increase of 12.3% from FY 2002-03 when 8,185 (3.73% of the workforce) received workers' compensation benefit payments.

²⁶ As specified in [Section 284.50, F.S.](#)

²⁷ The main considerations for selection of a claim for referral to an agency are frequency (multiple incidents from a single unsafe situation or multiple Workers' Compensation claims by one employee or work unit) and

severity (any claim with an estimated cost over a specified threshold amount for that type of claim) and any death, paralysis, or loss of body parts of an individual involved in the claim.

EXHIBIT 10:
The Percentage of Covered Persons Who Received Workers' Compensation Benefits Increased by 12.3% From 3.73% in FY 2002-03 to 4.19% in FY 2006-07



Source: Division of Risk Management

Recommendation 7: To ensure that the program produces cost-effective risk management systems, the efforts of the Division and state agencies must be coordinated. Effective program coordination requires that the Division work with each agency to establish systems that control for unique risk factors. Achievement of program objectives also requires that both state agencies and the Division be accountable for program results. To help ensure that the state's risk management program achieves its intended objectives, the Division should have the authority to monitor agency-unique risk management systems and to evaluate effectiveness in achieving desired system outcomes.

To improve the effectiveness and accountability of state agency loss prevention programs, the Division has developed a new administrative rule to replace the Department's existing administrative rule on agency loss prevention programs. The proposed rule requires state agencies to develop and implement a comprehensive safety program. These safety programs would require agencies to establish a safety committee that would include representatives from all areas of the agency. The safety committee would be responsible for ensuring completion of required buildings and equipment inspections, employee training, and risk assessments. This draft rule would also

authorize the Division to evaluate each agency's safety program and require agency responses to reported findings and recommendations.

We recommend prior to adoption of this rule, the Division work with the IAC to ensure that each of the proposed agency requirements serve to cost-effectively improve program performance. While the proposed rule will strengthen the Division's ability to manage state agency risk management programs, additional consultation with state agencies through the IAC will help ensure that each of the proposed state agency requirements will achieve the intended objectives. Working with the IAC to develop a new administrative rule on loss prevention will also assist the Division in identifying the required cost for both the Division and state agencies to implement all of the associated requirements.

Agency premium assessments provide little incentive for state agencies.

All claim payments and associated operating expenses are paid through the State Risk Management Trust Fund. Each year, the Revenue Estimating Conference provides the Governor's Office and Legislature with its projected funding requirements for each coverage type. These projected funding requirements are then allocated among each participating agency and incorporated into the Governor's recommended budget and the General Appropriation Act.

Agency premiums are based on each agency's risk exposure and experience. The risk exposure portion of the premium is based upon each agency's allocation of covered positions. The experience portion of the premium is based on each agency's claim payments associated with incidents occurring during the previous three fiscal years.²⁸ Agencies are invoiced for these assessments the following year, after enactment of the General Appropriations Act. For example, agency workers' compensation premium assessments for FY 2008-09 uses claim payment information for accidents occurring from July 1, 2003, through June 30, 2006.

²⁸ For FCR claims, payment data is collected for incidents occurring during the previous 10 years.

This method of determining and assessing the agency's premiums to pay claims and associated claim processing activities provides little incentive for agencies to contribute to achievement of program's objectives. The current methodology to compute agency premium assessments does not factor in agency performance during the previous year. Also, because agency exposure is based on the number of covered positions, changes in agency performance would have no impact on this premium assessment factor. In addition, since experience data is based on incidents occurring over several years, agencies would need to have sustained improvements in performance to realize a significant reduction in their premium assessment.

Recommendation 8: To help ensure that agency safety programs and other related risk management systems are achieving intended objectives, we recommend that the Division adopt agency-specific outcome measures and use these measures to develop a new methodology to calculate premium assessments. State agency-specific measures can be used to evaluate the contribution of each state agency towards achievement of desired outcomes for each of the property and casualty liabilities covered by the program. Appendix B provides a listing of suggested state agency outcome measures that the Division may consider adopting. Use of agency-specific performance measures to calculate premiums would also serve as a tool to determine the financial impact of an agency's contribution toward achievement of program objectives.

Efforts to develop a new premium assessment methodology should include participation by the IAC. IAC participation would allow state agencies to contribute to the development process and thus help ensure that the resulting premium amounts accurately reflect agency performance.

Appendix A:

Division of Accounting and Auditing: State Risk Management Trust Fund Audit

FINDING NUMBER	1
FINDING	An unreasonable reconciling item was present in the State Risk Management Revolving Fund (SRMRF) monthly bank reconciliations.
CRITERIA	Reconciling items should be properly explained and traced to supporting documentation.
CONDITION	During our review of the bank reconciliations, we found a reconciling item in the amount of \$76,371.14. This item was not properly explained nor could be traced to supporting documentation. This item has been present on the monthly bank reconciliations since approximately 2004.
CAUSE	The Division of Risk Management (DRM) has been unable to properly explain and trace this reconciling item to supporting documentation. The current reconciler inherited the bank reconciliation duty in 2004, and since then has been unable to explain and trace the item from the previous reconciler's work papers.
EFFECT	This reconciling item results in an overstatement of the SRMRF's Bank Book Balance.
RECOMMENDATION	We recommended that the DRM consult with the Bureau of Financial Support Services to resolve the \$76,371.14 reconciling item.
FINDING NUMBER	2
FINDING	The interest earned in the State Treasury's Special Purpose Investment Account for the SRMRF, was not transferred monthly to the State Risk Management Trust Fund (SRMTF).
CRITERIA	Pursuant to Section 69I-23.004(11), Florida Administrative Code (F.A.C.), interest earned in a revolving fund must be transferred to the source fund in the State Treasury within thirty days of receipt.
CONDITION	During our review of the SRMRF, we noted that the DRM transferred the interest earning to the source fund (SRMTF) quarterly instead of monthly.
CAUSE	The DRM does not transfer their interest earnings on a monthly basis.
EFFECT	Transferring the interest earnings quarterly to the SRMTF may cause the SRMRF to exceed their authorized amount of \$4 million.
RECOMMENDATION	We recommend that the DRM begin transferring their SRMRF interest earnings to their source fund (SRMTF) on a monthly basis, in accordance

with Section 69I-23.004(11), F.A.C.

FINDING NUMBER	3
FINDING	The DRM, Bureau of Property, Financial and Risk Services (BPFRS) sometimes paid claims that were not properly evidenced (i.e., settlement agreements, evidence of approval, etc.).
CRITERIA	It is general good practice for payment requests to be properly evidenced before they are processed.
CONDITION	During our review, we noted instances in which requests for payments were not properly evidenced. Particularly with settlement claims, the settlement agreement was not always present. Payments were made with a letter or email from the claimant's attorney, requesting the payment. In addition, we noted BPFRS did not verify the approval of the request for payments received from the BSEWC.
CAUSE	The BPFRS was not consistent in the evidence required with a request for payment from the BSLC and the BSEWC.
EFFECT	Lack of properly evidenced requests for payments may cause an erroneous payment to be made.
RECOMMENDATION	We recommend that the BPFRS require that proper evidence be provided by the BSLC and BSEWC to support the validity of a request for payment. Additionally, we recommend that the BPFRS consult with the BSEWC to verify the maximum authority for each Workers' Compensation claims adjuster.
FINDING NUMBER	4
FINDING	The payee on the issued payments did not always agree with the payee on the supporting documentation.
CRITERIA	The payee on the issued payment should agree with the supporting documentation (vendor invoice, settlement agreement, etc.)
CONDITION	During our review, we noted instances in which settlement payments did not agree with the payee on the settlement agreement. In most of these cases, the settlement agreement instructed the payment be made to the claimant and the actual payment was made to the claimant and the claimant's attorney or only the attorney.
CAUSE	The BPFRS is sometimes using the payee provided by BSLC and BSEWC on the request for payment and not validating it with the supporting documentation.
EFFECT	A check may be made payable to a party not intended to benefit from the claim proceeds.

RECOMMENDATION

We recommend that the BPFERS consult with the BSLC and BSEWC to ensure that requests for payments agree with the supporting documentation.

OTHER ITEMS

During our review we made the following observations:

- On the bank reconciliations and the revolving fund reconciliations to the approved amount, we could not determine the preparer/approver and the dates prepared and approved. The information was not evidenced on the face of the reconciliations. We recommend that the preparer and approver and the dates prepared and approved be evidenced in some way.
- During one of our interviews with DRM staff, it was mentioned that the pay codes in the Claims Administration System (CAS) are not clearly defined; the scope of our review did not include an analysis of the CAS pay codes. This may cause problems with taxable and non-taxable pay codes. For example, if claim proceeds are taxable to the claimant, but the adjuster selected a non-taxable pay code, it will cause improper 1099 reporting to the Federal Government. Currently a workgroup is working towards defining the pay codes and eliminating obsolete pay codes. This activity will allow for a crosswalk between the CAS pay codes and FLAIR object code. We recommend that DRM continue to work towards clearly defining the CAS pay codes and cross walk the pay codes between CAS and FLAIR object codes.
- Pursuant to Section 69I-23.004(5), F.A.C., revolving fund transaction codes shall be used, unless exempted by the Bureau of Accounting. It appears that DRM has been exempted from using RF transaction codes. The exact date of the exemption or rationale for the exemption cannot be determined. The exemption predeceases BPFERS staff, therefore the only rationale they have, is for example, a TR 52 – Unencumbered Revolving Fund Disbursement, can not be used because of the volume of their reimbursements and they believe the check number field must be populated. We verified in the FLAIR Procedures Manual, and the check number field is an optional field. Therefore, we believe using a TR52 will accomplish the same outcome as the currently used TR51 – Unencumbered Disbursement. To take advantage the FLAIR RF functionality, we recommend that DRM in conjunction with the Bureau of Accounting, revisit the use of RF FLAIR transaction codes.
- During our review, we noted a potential risk associated with the payment processing function and the SRMRF reimbursement (TR51) function being processed by the same payment processing rotation team members. We recommend that the SRMRF reimbursement function be completed by an area separate from the payment processing function.
- During our review of the disbursement transactions, we noted there was an inconsistency between the review of payment requests received from the BSEWC and the BSLC. The BPFERS relies on the BSEWC to properly approve requests for payments before they are sent to the BPFERS for processing. Therefore, we could not determine if Workers' Compensation-type payments were properly authorized. For payment request received from the BSLC, the levels of approval are validated. To do so, the BPFERS maintains a current BSLC "Employees Authorized to Approve Payments/Settlement Checks" sheet. The sheet includes the adjuster name, title, maximum authority, initial and signature.

We recommend that BPFERS create a validation sheet similar to BSLC's sheet and validate the BSEWC payment requests for proper approval.

Based on our review, the SRMRF is necessary to process payments on a timely basis. Provisions under Chapter 440, Florida Statutes, provide a timeline for workers' compensation-related payments. Some of these due dates could be as early as 14 days after an employer is notified of an injury and bi-weekly, thereafter. Additionally, special payment request are processed everyday (up to 175 per day). Special payments are payments that require immediate (same day, 24 hours, etc.) processing pursuant to a court order or settlement agreement.

Appendix B:

Recommendation 9: Division and State Agency Performance Measures

The following recommended objectives and associated performance measures are designed to provide additional information to determine whether the Division, along with participating state agencies is fulfilling its mission.

Objective: Prevent human loss and suffering and protect assets through loss prevention programs.

Division measures

- Number of claims worked by type of coverage by fiscal year (FY)
- Number of State Fire Marshal violations identified during inspections of state-owned property
- Risk services training and consultation as measured by the number of training units

Agency measures

Workers' compensation:

- Number of accidents reported using the DWC-1
- Number of accidents resulting in a lost-time claim

General and auto liability:

- Number of claims worked

Federal civil rights/Employment discrimination:

- Number of claims filed with FCHR and/or EEOC

Property:

- Number of State Fire Marshal violations identified during inspections of state-owned property

Objective: Reduce cost of losses when they occur.

Division measures

Workers' compensation

- Percentage of inaccurate benefit payments by FY
- Average lost production days per 100 employees (FTE)
- Ratio of operating expenses to total claim costs for claims closed by FY
- Number of workers' compensation claims litigated
- Number of workers' compensation claims requiring some payment per 100 FTE employees

General and auto liability

- Ratio of operating expenses to total claim costs for claims closed by FY
- Average cost per closed claim by FY

Federal civil rights/Employment discrimination

- Ratio of operating expenses to total claim costs for claims closed by FY
- Average Cost/claim closed by FY

Property

- Ratio of commercial insurance premium cost to total insured value
- Average cost of property claims
- Number of state property loss/damage claims worked

Agency measures

Workers' compensation

- Average number of lost production days per 100 employees (FTEs)

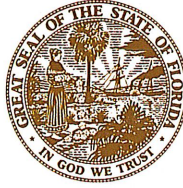
General and Auto liability

- Percentage of investigations received within specified timeframes

Federal civil rights/Employment discrimination

- Number of employment discrimination claims filed in FY
- Percentage of employment discrimination claims filed in FY that resulted in a lawsuit.

Appendix C: Division Response



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

MEMORANDUM

TO: Bob Clift, Inspector General
FROM: R.J. Castellanos
DATE: July 21, 2008
RE: Division of Risk Management Response to
Office Inspector General Audit Recommendations

The following information responds to the recommendations contained in your recent audit report:

Recommendation 1:

We agree with this recommendation and have contacted the Bureau of State Payroll within the Department of Financial Services (DFS) to obtain access to their information, which is the source of the salary information used by People First. The Bureau of State Payroll information will be used for the wage calculations on claims that we have not received the completed Thirteen Week Wage Statement (Form DFS-F2-DWC-1a) prior to the indemnity due date. The employing agencies and universities are required by administrative rule to submit the completed Form DFS-F2-DWC-1a to Risk Management. Please note that the Bureau of State Payroll data does not include employee wage information for the universities, the legislature or PRIDE Industries, Inc.

Recommendation 2:

We agree with this recommendation and will submit a legislative proposal to the Chief Financial Officer for her approval for inclusion in the DFS legislative requests for the upcoming session.

Recommendation 3:

We agree with this recommendation and will send notification to the state agencies asking them to notify our program of all Florida Commission on Human Relations (FCHR) and Equal Employment Opportunity Commission (EEOC) filings that are likely to result in a lawsuit.

This notification will be developed and sent within the next two months, after a determination as to the best management process that can be implemented to achieve optimum results for both notifying the agencies, and using their information to effectuate appropriate settlements prior to litigation. We do not agree specifically as to the amount claimed in the audit report that could result as cost savings, because tort claims and employment discrimination claims are very different and not subject to easy comparison, but agree that cost savings in some amount should result because of enhanced claims administration.

Recommendation 4:

We agree with this recommendation and will provide any property specific information available from the State Fire Marshal's office to our commercial insurers. However, in order to utilize the information available from the State Fire Marshal's office, we must be able to correlate their information with our records, which will require that the buildings in our respective databases have a common building number or location code. (Please refer to the comments in Recommendation 5 regarding location identifiers.) Meanwhile, we will expand the property information provided to our commercial insurers to include properties with a total insured value of \$5 million or more as opposed to the current information being provided for buildings with a total insured value of \$15 million or more. This expansion will allow us to provide property information for approximately 62% of our total insured values.

Recommendation 5:

We agree with this recommendation and will determine if management for the State Fire Marshal program is willing to develop a consolidated data base of state owned property relevant to both our functions and the duties of the Fire Marshal. It may ultimately be determined that a single information systems vendor for both programs will be necessary to achieve a consolidated data base, and major issues such as sharing of development costs will need to be addressed. Additionally, we believe that this consolidated database of state owned property should use property location identifiers consistent with the requirements of the federal Department of Homeland Security's National Incident Management System (the U.S. National Grid system), and that legislation be proposed to require that all state agencies use the U.S. National Grid System to identify the location of their buildings. This will ensure that property-related information can be exchanged between state agencies even if they have separate databases, and will allow for a better transfer of property information between state agencies and the federal government when needed.

Recommendation 6:

We disagree with this recommendation. We do not feel is feasible, beneficial or appropriate to have the Department of Financial Services determine building values for other state agencies' property.

With about 21,000 buildings being insured through the program, it would be impossible for the property section staff to individually value each building. Most buildings must be manually evaluated due to the program's statutorily required actual cash value methodology and customized coverage requirements. It would not be feasible to implement technology that could automatically calculate accurate values for each building based on inputted data. Therefore, many additional staff would be needed for the property section to perform this function.

The calculation of values using only raw data collected by DFS programs and Tallahassee DFS staff to determine values will lead to exclusion of information related to an agency's knowledge about the building they occupy, and other specific "local" factors that may be important in determining accurate building value.

From a risk management standpoint, the actual owners or custodians and tenants of state buildings should be responsible for determining the appropriate insured value of those buildings, since they are in the best position to do so. The agencies now use different methodologies, but that is because there are different commercially sold programs available to determine property values, and agencies are free to pick the program they deem best for these purposes – otherwise DFS or another state authority would need to mandate which program agencies must purchase. Even with such commercially available programs the user must account for actual cash value and the customized coverage requirements so using a commercial valuation tool does not allow for automatic value calculation. The agencies can hire qualified property appraisers to perform this function for their buildings with higher values, and should be doing so, as the cost is not unreasonable for this service and would provide the best protection against severe building

undervaluation problems in the event of catastrophic loss. Regardless of who conducts the appraisal, the agencies should ensure that building valuations comply with the specific coverage requirements of our Certificate of Property Coverage, Form DFS-DO-852 in order to avoid over-valuing their property.

While the division does not agree with this recommendation, it does agree that our program can be enhanced by implementing better methods to monitor building valuations and identify those that appear to be too low or too high for further analysis. But ultimately, the function of building valuation for insurance coverage purposes needs to remain with the agencies that own or occupy those buildings and would receive the insurance proceeds if they are damaged. Otherwise, you not only create a disincentive for agencies to exercise responsibility in obtaining the appropriate insurance coverage but you shift that responsibility to DFS, resulting in our department having potential liability for negligence if it is claimed that DFS valued a damaged building too low. This would put DFS at risk of having to pay large liability claims to settle allegations by other agencies that we valued their buildings improperly.

Recommendation 7:

We agree with this recommendation and have contacted the Interagency Advisory Council (IAC) chairman to have the IAC review the proposed rule.

Recommendation 8:

We agree with this recommendation and will develop a new methodology for premium assessment calculation to provide an enhanced incentive for state agencies to improve current loss performance, by including outcome measures which better factor in recent agency performance during the prior fiscal year.

Appendix A:

Finding 1:

We have consulted with the Bureau of Financial Support Services to resolve the reconciling item as recommended.

Finding 2:

We have begun transferring interest earnings from our revolving fund on a monthly basis as recommended.

Finding 3:

We require that proper evidence of requests for payment be provided from our adjusters before a payment is issued. It is useful to note that due to time constraints, settlement agreement copies are not always available to process payments in a timely manner, so letters or e-mails from attorneys are sometimes used as documentation for payments. However, when this occurs the claim adjuster files a copy of the settlement agreement in the claim file and verifies that the payment amount per the settlement agreement matches the amount requested for payment on the letter or e-mail from the attorney.

Finding 4:

In many cases, settlement checks are made jointly payable to the claimant and the claimant's attorney or only the attorney. This is a common practice done to ensure that the attorney can properly distribute the settlement proceeds between the attorney and claimant.

Thank you for your thoughtful and beneficial analysis of our business processes.

DISTRIBUTION AND ATTESTATION

Information Distribution:

This report is distributed electronically with all attachments to:

Jim Cassady, Chief of Staff
Donna O'Neal, Deputy Chief Financial Officer
R.J. Castellanos, Director, Division of Risk Management

The Department of Financial Services' mission is to safeguard the people of Florida and the State's assets through financial accountability, education and advocacy, fire safety, and enforcement.

The Department's vision is to be known as the most ethical, professional and proactive state agency in Florida.

The mission of the Office of Inspector General is to promote integrity, accountability and process improvement in the Department.

The Office of Inspector General's vision is to be a key and indispensable player of the Department's team; championed by our customers, benchmarked by our counterparts, and dedicated to quality in our products and services.

This audit was conducted pursuant to Section 20.055, Florida Statutes, in accordance with applicable Principles and Standards for Offices of Inspectors General as published by the Association of Inspectors General and International Standards for the Professional Practice of Internal Auditing as published by the Institute of Internal Auditors, Inc. This audit was conducted by Chuck Hefren, Audit Director, supervised by Robert Clift, Inspector General, and assisted by Trent Kilpatrick and Patricia Lee. Please address inquiries regarding this report to the DFS Office of Inspector General at (850) 413-3112.