

**ADMINISTRATIVE SERVICES
DEPARTMENT
RISK MANAGEMENT DIVISION**

**AUDIT OF
WORKERS' COMPENSATION PROGRAM**

November 2001

Prepared by:
Internal Audit Division
Clerk of the Circuit Court

November 19, 2001

The Honorable Dick Van Der Weide,
Chairman
The Board of County Commissioners
Seminole County, Florida
1101 East First Street
Sanford, FL 32771

Dear Mr. Chairman:

I am very pleased to present you with the attached audit of the county's Workers' Compensation Program.

Management's responses have been incorporated into the final report. Based on those responses, management is responding to the conditions noted in the report, and the planned corrective actions are noted in the report.

I would like to thank the men and women of the Risk Management Division for their cooperation and assistance throughout the course of this audit. I especially would like to acknowledge the help of Ms. Linda Eiland. The assistance is deeply appreciated.

With warmest personal regards, I am

Most cordially,

Maryanne Morse
Clerk of the Circuit Court
Seminole County

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**Seminole County
Administrative Services Department
Risk Management Division**

Audit of Workers' Compensation Program

The Internal Audit Division of the Office of the Clerk of the Circuit Court has completed an audit of the Risk Management Division of the Seminole County Administrative Services Department. Linda Eiland, manager of the Risk Management Program, requested the audit.

PURPOSE

The purpose of the audit is to determine if the administrative controls over the workers' compensation program are adequate and operating in compliance with applicable laws, regulations and other Seminole County policies and procedures.

BACKGROUND

The Risk Management Division employs a full time staff of four and operates on an annual budget of \$5,562,303.00. The division is responsible for managing a comprehensive self-insurance program to protect the county from financial losses and to provide the county with a safe work environment. This division also is responsible for managing the activities of third party administrator Gallagher Bassett (TPA) regarding all insurance claims filed against the Board of County Commissioners, the sheriff, tax collector, property appraiser, clerk of the circuit court and supervisor of elections.

The self-insurance program began in 1976 and includes coverage for all losses relating to insurance claims filed against the county. The self-insurance program currently covers workers' compensations claims with the County's retention being \$125,000.00 per claim, and an excess policy that covers the balance of claim up to the State of Florida's statutory limit.

The results of the audit are included in the report that follows:

SCOPE

The scope of this audit included a review of business practices relating to the workers' compensation program. We examined transactions and documentation for the period January 1998 to February 2001.

As a major part of this audit, Internal Audit reviewed the third party administrator's controls and procedures over the payment and documentation of workers' compensation claims.

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The audit included:

- Review of procedures for filing Notice of Injury forms with the TPA;
- Review of disbursements from the self-insurance fund to ensure that charges are supported;
- Review of contracts associated with workers' compensation coverage;
- Review of payroll reports to the State of Florida;
- Review of federal laws and regulations, Florida Statutes and Administrative Code, and applicable county ordinances and procedures;
- Review of third party documentation for open and closed claims;
- Interviews with county personnel; and,
- Any other procedures considered necessary under the circumstances.

The audit was performed by Bill Carroll and Gail Joubran.

OVERALL EVALUATION

It is our opinion that Seminole County Administrative Services Department is committed to providing an effective risk management program. In addition, third party administrator Gallagher Basset is operating in compliance with the terms and conditions of the contract. However, administrative controls over the program need strengthening and the reporting function needs improvement.

- The county does not maintain a policy and procedures manual for the Risk Management Program;
- Seminole County Administrative Code Section 45.4 (Risk Management Settlement Procedures) is outdated; and,
- Workers' compensation information reported to the State of Florida is overstated.

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FINDING NO. 1

The County does not maintain a policy and procedures manual for the Risk Management Program.

The county has not published a comprehensive manual that defines the county's policies and procedures for the risk management program. The manager of this department has started the process by drafting written procedures for her department. She provided Internal Audit with several documents outlining procedures followed by her staff. These procedures, as well as related procedures from other county divisions, should be included as part of a procedure manual and any amendments thereto need to be incorporated into a formalized manual.

Internal Audit reviewed the procedures used in the calculation of payment to employees for work time lost. Documentation supporting the calculations was so informal that we could only verify the payouts by having county staff walk us through each payout.

By publishing a policies and procedures manual, the Department of Administrative Services, County Finance, the Department of Human Resources, and third party administrators would be formalizing their business processes. Furthermore, written policies, procedures, and instructions prevent misunderstandings, omissions and/or overlapping of important functions, and other situations which might result in weakened internal controls. They also can provide a standard for performance and are useful in training new employees.

Recommendation

We suggest that management review, update, and complete a policies and procedures manual for the Risk Management Program. The manual should be approved (in writing) by:

- County manager; and
- Director of administrative services.

Management Response

As documented in the Audit Report, the Risk Management Division has written internal operating procedures, which are utilized by employees of the Risk Management Division. Division operating procedures are intended to serve as a guideline for the division's day-to-day operations. State Statute governs the handling of Workers' Compensation claims. We will formalize Risk Management Procedures and forward to the County Manager for signature.

In response to your comment regarding the documentation supporting the calculations for work time lost being informal, this division uses a standard form to document calculations for lost time payments. However, we will review any

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suggestions you have for streamlining the form.

FINDING NO. 2

Seminole County Administrative Code Section 45.4 (Risk Management Settlement Procedures) is outdated.

Internal Audit requested from county staff a copy of the county ordinances, board resolutions and/or administrative orders that defined the responsibilities for the Risk Management Program. The program manager informed Internal Audit that the only executive order on record was Seminole County Administrative Code Section 45.4, approved by the BCC on February 23, 1993. The order, however, is no longer applicable due to the changes in the law regarding privacy of information.

Administrative Code Section 45.4(C)(8)(b) states:

“The county shall advertise notice of proposed settlements of claims against the county when the settlement amount exceeds ONE HUNDRED THOUSAND AND NO/100 DOLLARS (\$100,000.00) or the person, committee or board authorized to settle the suit determines that the settlement is of critical public concern.”

However, the county has not published settlements for the last several years as a result of Florida Statute Section 69.081. Florida Statute Section 69.081, “The Sunshine in Litigation Act”, specifically exempts municipalities and counties from publishing settlements which require the expenditures of public funds.

Additionally, pursuant to Florida Statute Section 440.125, an injured employee’s medical records and medical reports are to “be confidential and exempt from the public records law.” Therefore, in light of these two sections, the settlement procedures of Seminole County Administrative Code Section 45.4 need revision to reflect current law. Furthermore, the order is not comprehensive enough to define:

- Who represents the county on the risk management committee;
- Who on the risk management committee has voting rights;
- Who on the committee serves in a non-voting consulting role;
- What issues have to come before the committee for a vote;
- What issues can be resolved by the third party administrator;
- What issues can be resolved by the director of administrative services; and,
- What issues can be resolved by the county manager.

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Recommendation

Amend Seminole County Administrative Code Section 45.4 to reflect Florida Statutes Sections 69.081 and 440.125. Also, define the responsibilities of the Risk Management Committee, the county manager, and the Administrative Services Department.

Management's Response

The Risk Management Division is aware that the settlement procedures are out of date and is working with the County Attorney's office to make the appropriate updates.

FINDING NO. 3*Payroll reports submitted to the state of Florida are overstated.*

Per Chapter 38F-5.111 of the Florida Administrative Code "...each self-insurer shall submit payroll reports to determine the proper assessment to be paid as its proportionate share of the expense administration".

Accordingly, we reviewed the reporting process used by Risk Management to prepare the state Form SI-5 Payroll Report. We also reviewed the payroll report used to pay the annual self-insured workers' compensation premium based on payroll classifications (NCCI codes), and found that salaries reported to the Department of Labor and Employment Security were overstated; resulting in an overpayment of the assessment paid to the State of Florida for the year ending September 30, 2001. The assessment is for the period October 1, 2000 through September 30, 2001 and is billed in advance. Any over/under payment is determined in the next assessment period and an adjustment is reflected in subsequent advance assessment calculations.

The advance assessment for the year ending September 30, 2001 was calculated using overstated salaries, resulting in the County overpaying the State of Florida by approximately \$9,173.00.

- Payroll reported for "Executive Officers" should be limited to a maximum of \$1,500.00/week or \$78,000.00 per year. The amounts reported for executive salaries were overstated by the following: Code 8810 is overstated by \$55,079.00. This amount reflects the excess County Manager and Supervisor of Elections salaries. Code 7720 (County Sheriff salary) is overstated by \$39,580.00.

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- In addition, total payrolls reported on the SI-5 Payroll Report should have included two-thirds instead of 100 percent of overtime pay, per the Self-Insurance Section of the Florida Department of Labor and Employment.

Overtime pay reported to the state for the year ending September 30, 2000 was therefore overstated by \$1,498,785.00.

Recommendation

1. File an amended Payroll Report (SI –5) and request a refund based on the overstated executive and overtime salaries; and
2. File an amended payroll report with Arthur J. Gallagher to reflect these same adjustments.

Management Response

We appreciate this matter being brought to our attention and are taking steps to correct the situation. An amended SI-5 report was sent to the State of Florida on June 13, 2001 with a request for a refund of overpayment.

The State of Florida sends an instructional letter and form each year outlining what is to be reported for workers' compensation payroll. At no time did their instructions include information regarding exclusion of 1/3 of overtime.

In turn, Risk Management forwards a copy of the State's instructional letter and form to each Constitutional Officer and the County's Payroll Department requesting each entity complete the form as instructed. The Property Appraiser, Clerk of Circuit Court and Tax Collector limited Executive salaries. The Sheriff and County Payroll for BCC did not.

In the future Risk Management will clarify with each Constitutional Officer and County Payroll what is, and is not, to be included in the calculations.

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