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We have completed an audit of the Division of Industrial Relations. This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions. The results of our audit, including findings, conclusions, recommendations, and the Division's response, are presented in this report.

We wish to express our appreciation to the management and staff of the Division of Industrial Relations for their assistance during the audit.

Respectfully presented,

A handwritten signature in black ink, appearing to read "Paul V. Townsend".

Paul V. Townsend, CPA
Legislative Auditor

October 4, 2005
Carson City, Nevada

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

AUDIT REPORT

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EXECUTIVE SUMMARY

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF INDUSTRIAL RELATIONS

Background

The Division of Industrial Relations (DIR) promotes the health and safety of Nevada employees and ensures that injured employees receive all workers' compensation benefits to which they are entitled. DIR enforces safety and health standards promulgated under the Nevada Occupational Safety and Health Act; assists employers in identifying and correcting unsafe working conditions; and inspects and provides safety training for all operating mine properties within the State. DIR also regulates workers' compensation programs and assures compliance with the coverage provisions required by the Nevada Industrial Insurance Act.

DIR is comprised of the Administrator's Office, Division Counsel, and five sections. DIR is primarily funded by assessments to insurance companies. DIR also receives federal grants and revenues from fees, fines, and penalties. In fiscal year 2004, DIR had a total of 202 authorized full-time equivalent positions and operating expenditures of approximately \$15.4 million.

Purpose

The purpose of this audit was to evaluate the Division of Industrial Relations' financial and administrative activities, including whether activities were carried out in accordance with applicable state laws, regulations, and policies. This audit focused on the Division's financial and administrative activities during fiscal year 2004.

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DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF INDUSTRIAL RELATIONS

Results in Brief

The Division of Industrial Relations (DIR) could strengthen its controls over workers' compensation programs and accounts receivable. DIR did not always take timely action to penalize uninsured employers or collect accounts receivable. In addition, better management information would assist DIR with using its risk-based approach for conducting workplace inspections. Improvements in monitoring regulated entities would provide additional assurance that laws are enforced and the public is adequately protected.

Principal Findings

- DIR did not always assess premium penalties to uninsured employers in a timely manner. We reviewed a judgmental sample of 25 premium penalties and found 19 took greater than 350 days from when DIR was notified of an uninsured employer until a penalty was assessed. In fiscal year 2004, DIR assessed about 600 premium penalties for a total of \$1.85 million. When penalties are not assessed timely, there is an increased risk the penalty will not be collected. In addition, there is less incentive for employers to maintain insurance at all times, increasing the risk of future uninsured claims. (page 9)
- DIR did not always provide timely notification of its decisions regarding subsequent injury claims. We reviewed a judgmental sample of 25 claims and identified 6 instances when DIR did not notify the applicable party within the required time period. The six untimely determinations were an average of 28 days late. The primary purpose of the three

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DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF INDUSTRIAL RELATIONS

subsequent injury funds is to encourage employers to hire workers who have suffered a permanent physical impairment. When the applicable party is not notified within the 90-day limit, there is less incentive for employers to hire workers with prior injuries. (page 11)

- The Workers' Compensation Section did not always comply with statutory timeframes for resolving complaints. For example, the Workers' Compensation Section failed to issue timely determinations in 12 of the 20 complaints we tested. These 12 determinations ranged from 4 to 107 days past their statutory timeframes. Untimely determinations can result in complainants waiting too long to receive benefits to which they are entitled. (page 13)
- DIR does not have an effective process to ensure timely submittal of accounts receivable to the Controller's Office for outside collection. DIR has procedures for sending demand letters and submitting receivables to the Controller. However, these procedures were not always followed. For example, collection efforts for 14 of 15 fines and penalties we reviewed did not comply with timelines established in DIR procedures. When collection efforts are not timely, there is an increased risk accounts receivable will not be collected. (page 14)
- Accounts receivable balances reported to the Controller's Office on June 30, 2004, were inaccurate. For example, accounts receivable balances did not include over \$1.67 million in premium penalties receivable. Further, the Division's accounts receivable include many delinquent accounts which may be uncollectible. NRS 353C.120 requires each agency to submit to the State Controller periodic reports of the debts owed to the agency. (page 15)

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- The asbestos inspection process should include additional steps to provide reasonable assurance that all contractors are properly licensed and inspected. We obtained a list of asbestos contractors licensed with the Nevada State Contractors' Board and compared it to the DIR list of licensed contractors. We identified 18 asbestos contractors on the Contractors' Board list that were not licensed by DIR. As a result, there is an increased risk some contractors performing asbestos abatement are not licensed and inspected by DIR as required. Further, we reviewed 15 contractors licensed by DIR that performed asbestos abatement during fiscal year 2004. Three did not receive annual inspections as required by state law. (page 17)
- DIR uses a risk-based approach for scheduling workplace safety and health inspections. However, DIR does not track certain information that would assist management in optimizing a risk-based approach. The need for a risk-based approach is significant because the Occupational Safety and Health Administration Section (OSHA) has a staff of 36 inspectors to cover more than 52,000 companies and numerous construction jobs in Nevada. High-risk industries include: construction, certain types of manufacturing companies, and hotels and casinos with 100 or more employees. Identifying all large construction projects and tracking the percentage inspected would assist OSHA in determining if the number of inspections is providing adequate coverage. In addition, compiling data showing the time period between inspections for hotels and casinos would assist management in maximizing a risk-based approach. (page 18)
- Controls over some administrative functions need to be strengthened. First, DIR does not have sound record keeping practices in place to provide adequate safeguarding of fixed assets. We selected 28 assets on DIR inventory lists and found 7 were not properly

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recorded. We observed an additional 15 assets and found 8 could not be traced to the applicable inventory list. In addition, controls over large deposits need to be strengthened. One employee deposits all assessment payments without any security assistance, even though we noted one deposit of \$2 million. Finally, DIR did not comply with personnel requirements for timely employee evaluations and development of work performance standards. For 11 of 20 employees tested, there was no evidence that all required evaluations were performed. Further, for 5 of 20 employees tested, there was no evidence to confirm work performance standards had been developed. (page 21)

Recommendations

This audit report contains 15 recommendations to improve the Division of Industrial Relations' financial and administrative activities. These recommendations include policies, procedures, and other controls to help ensure timely action for workers' compensation programs and adequate monitoring of accounts receivable. We also made recommendations to strengthen the processes for safety inspections and improve controls over some administrative functions. (page 41)

Agency Response

The Division, in its response to our report, accepted all 15 recommendations. (page 30)

Introduction

Background

The Division of Industrial Relations (DIR) promotes the health and safety of Nevada employees and ensures that injured employees receive all workers' compensation benefits to which they are entitled. DIR enforces safety and health standards promulgated under the Nevada Occupational Safety and Health Act; assists employers in identifying and correcting unsafe working conditions; and inspects and provides safety training for all operating mine properties within the State. DIR also regulates workers' compensation programs and assures compliance with the coverage provisions required by the Nevada Industrial Insurance Act.

DIR is comprised of the Administrator's Office, Division Counsel, and five sections. Listed below is a brief description of each section and its responsibilities.

- Workers' Compensation Section (WCS): regulates Nevada's workers' compensation programs to ensure that injured workers receive timely and accurate delivery of wage loss compensation, physical impairment compensation, medical compensation, and rehabilitation benefits. WCS is also responsible for the regulation of self-insured employers, associations of public and private self-insured employers, private workers' compensation carriers, third-party administrators, managed care organizations, and health care providers. WCS enforces the statutory requirement that all employers with one or more employees maintain a policy of workers' compensation insurance. WCS is divided into four units – Compliance/Audit Unit; Employer Compliance Unit; Medical Unit; and Education, Research and Analysis Unit. WCS has offices in Carson City and Henderson.
- Occupational Safety and Health Administration Section (OSHA): enforces occupational safety and health standards. OSHA helps to ensure safe and healthful working environments for employees by conducting workplace inspections and investigations. OSHA staff investigate employee safety and health complaints, employee discrimination complaints, and industrial accidents. The mechanical unit performs boiler, elevator, escalator, and pressure vessel inspections. OSHA has offices in Henderson and Reno.

- Mine Safety and Training Section (MSAT): provides mine inspection, technical assistance, consultation, and safety training. MSAT helps protect Nevada's miners and prevent mine accidents and occupational illnesses. MSAT has offices in Carson City, Henderson, Elko, Winnemucca, and Tonopah.
- Safety Consultation and Training Section (SCATS): promotes and assists employers and employees in their efforts to reduce and eliminate workplace hazards by providing a variety of consultation and training services such as on-site safety and health consultation surveys, on- and off-site formal classroom training sessions, and other informational and educational services. SCATS has offices in Henderson and Reno.
- Administrative Services Unit (ASU): provides support services and technical assistance to the Division in the areas of accounting, budgeting, accounts payable, purchasing, inventory, payroll, personnel, and information systems. ASU has an office in Carson City.

DIR also includes: 1) an Advisory Council that conducts studies and makes recommendations to the Administrator concerning the organization and administration of the Division; 2) the Occupational Safety and Health Review Board that provides administrative review for appeals of contested citations issued by the Division; 3) the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers, and 4) the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers.

DIR has four operating budget accounts and is primarily funded by assessments to insurance companies. DIR also receives federal grants and revenues from fees, fines, and penalties. In fiscal year 2004, DIR had a total of 202 authorized full-time equivalent positions and operating expenditures of about \$15.4 million. DIR also administers six non-operating budget accounts. These include accounts for assessments, subsequent injury, and uninsured employer claims.

Exhibit 1 shows fiscal year 2004 funding sources, expenditures, and staffing for DIR's four operating budget accounts.

**Funding Sources, Expenditures, and Staffing
Workers' Compensation and Safety Fund
Fiscal Year 2004**

	Industrial Relations ⁽¹⁾	Industrial Safety	Mine Safety and Training	Safety Consultation and Training	Totals
Funding Sources:					
Appropriations ⁽²⁾	\$6,071,427	\$4,837,764	\$ 900,794	\$1,333,519	\$13,143,504
Federal Grants	--	951,956	224,223	786,190	1,962,369
Fees, Fines, & Other	-- ⁽³⁾	260,681	8,585	--	269,266
Total Funding	\$6,071,427	\$6,050,401	\$1,133,602	\$2,119,709	\$15,375,139
Expenditures:					
Personnel	\$4,822,768	\$5,016,215	\$ 894,440	\$1,762,353	\$12,495,776
Other	1,248,659	1,034,186	239,162	357,356	2,879,363
Total Expenditures	\$6,071,427	\$6,050,401	\$1,133,602	\$2,119,709	\$15,375,139
Authorized Full-Time Equivalent Positions	81	80	14	27	202

Source: State accounting records.

⁽¹⁾ This budget account includes the Workers' Compensation Section, Administrative Services Unit, and Division Counsel.

⁽²⁾ Source of appropriations is assessments to insurance companies. Appropriations are shown net of reversions.

⁽³⁾ Fines and penalties assessed by the Workers' Compensation Section are recorded in the non-operating budget accounts for uninsured employer claims and workers' compensation and safety.

Scope and Objective

This audit is part of the ongoing program of the Legislative Auditor as authorized by the Legislative Commission, and was made pursuant to the provisions of NRS 218.737 to 218.893. The Legislative Auditor conducts audits as part of the Legislature's oversight responsibility for public programs. The purpose of legislative audits is to improve state government by providing the Legislature, state officials, and Nevada citizens with independent and reliable information about the operations of state agencies, programs, activities, and functions.

This audit included a review of the Division's financial and administrative activities for the fiscal year ended June 30, 2004. The objective of our audit was to evaluate the Division's financial and administrative activities, including whether activities were carried out in accordance with applicable state laws, regulations, and policies.

Findings and Recommendations

The Division of Industrial Relations (DIR) could strengthen its controls over workers' compensation programs and accounts receivable. DIR did not always take timely action to penalize uninsured employers or collect accounts receivable. In addition, better management information would assist DIR with using its risk-based approach for conducting workplace inspections. Improvements in monitoring regulated entities would provide additional assurance that laws are enforced and the public is adequately protected.

Oversight of Workers' Compensation Programs Can Be Strengthened

Better oversight of workers' compensation programs is needed to ensure timely action for penalizing uninsured employers, reviewing subsequent injury claims, and resolving complaints. Improvements are needed to ensure entities comply with requirements intended to protect the public, and injured workers receive benefits to which they are entitled.

Uninsured Employers Were Not Penalized Timely

DIR did not always assess premium penalties to uninsured employers in a timely manner. We reviewed a judgmental sample of 25 premium penalties and found 19 took greater than 350 days from when DIR was notified of an uninsured employer until a penalty was assessed.

The Workers' Compensation Section enforces the statutory requirement that all employers with one or more employees maintain a policy of workers' compensation insurance. When DIR confirms a lapse in coverage or cancellation of workers' compensation insurance, it assesses a premium penalty. In fiscal year 2004, DIR assessed approximately 600 premium penalties for a total of \$1.85 million. Per NRS 616D.200, DIR charges the employer an amount equal to the premium that would have been owed to a private carrier. The premium amount is based on the time period without coverage and the company's payroll.

The premium penalty process can be broken into three components.

- (1) Information is received that an employer may not have a current workers' compensation policy. The employer's name is assigned to an enforcement investigator. It is common for the information to include employers who have changed insurers. The investigator is responsible for confirming if there was or was not a lapse in coverage.
- (2) If a lapse is confirmed, the case is turned over to a premium auditor. The premium auditor requests payroll information, and contacts the Attorney General's Office (AG) inquiring whether the AG is going to prosecute. If the AG prosecutes, DIR cannot impose an administrative fine. If the AG does not prosecute, DIR can impose a fine. The fine is in addition to the premium penalty. Once requested information is received, the premium auditor calculates the penalty and fine amounts.
- (3) Once the penalty and fine amounts have been determined, letters are sent informing the employer of the amount due and his right to appeal.

Exhibit 2 provides a further breakdown of the timeline for the 25 premium penalties we tested.

Exhibit 2

**Timeline for Premium Penalties
Assessed in Fiscal Year 2004**

	From Notification of Lapse to Assigned to Premium Auditor		From Date Assigned to Premium Auditor to Assessing Penalty	From Notification of Lapse to Assessing Penalty
0-29 days	5	0-299 days	9	6
30-59 days	7	300-599 days	10	9
≥ 60 days	13	≥ 600 days	6	10
Totals	25		25	25

Source: Auditor review of DIR records.

Our review of these 25 premium penalties found:

- Twenty instances when it took more than 30 days from when DIR was notified of a potential lapse until the lapse was confirmed and the case was assigned to a premium auditor.

- Sixteen instances when it took more than 300 days from when the case was assigned to a premium auditor until a penalty was assessed.
- Two instances when the penalty was assessed more than 2 years after receipt of payroll records needed to calculate the penalty amount.

DIR should take appropriate, consistent, and timely action to penalize employers without insurance. When penalties are not assessed timely, there is an increased risk the penalty will not be collected. In addition, there is less incentive for employers to maintain insurance at all times, increasing the risk of future uninsured claims. An increase in the number of uninsured claims may result in an increase in assessments to insurers, which will be passed on as an increase in premiums.

One reason penalty assessments may not always be timely is that policies and procedures for premium penalties are incomplete. For example, we noted the procedures:

- Do not include any guidance for what should occur prior to referring the case to a premium auditor. Timelines have not been established for the assigned investigator to confirm a lapse in coverage.
- Do not address time limits for sending follow-up letters to the AG and the payroll records request.
- Do not include a time limit for assessing the premium penalty.
- Do not address the creation and review of status reports on a regular basis. This would provide management with a control for assessing the status of pending premium penalties and the overall caseload.

Monitoring of Subsequent Injury Claims Needs Improvement

DIR did not always provide timely notification of its decisions regarding subsequent injury claims. We reviewed a judgmental sample of 25 claims and identified 6 instances when DIR did not notify the applicable Board or private insurance carrier within the required time period. The six untimely determinations were an average of 28 days late. When the Administrator or Board does not notify the applicable party within the 90-day limit, there is less incentive for employers to hire workers with prior injuries.

The primary purpose of the three subsequent injury funds is to encourage employers to hire workers who have suffered a permanent physical impairment. Employers are reluctant to hire a previously injured employee if they feel they would be responsible for the full cost of future injuries that are at least partially due to prior injuries.

There are three subsequent injury funds, each with slightly different notification requirements.

- Subsequent Injury Fund for Self-Insured Employers - NRS 616B.548 created the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. Nevada Administrative Code (NAC) 616B.7704 requires the Administrator to submit to the Board his recommendation for acceptance or denial of a claim within 45 days of receiving the claim. NRS 616B.557 requires the Board to notify the employer of its decision within 90 days after the claim is received.
- Subsequent Injury Fund for Associations of Self-Insured Employers - NRS 616B.569 created the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers. NAC 616B.7777 requires the Administrator to submit to the Board his recommendation for acceptance or denial within 30 days of receiving the claim. NRS 616B.578(6) requires the Board to notify the Association of its decision within 90 days after the claim is received.
- Subsequent Injury Fund for Private Carriers - Per NRS 616B.584, the DIR Administrator is responsible for administering this account (there is not a board for this fund). NRS 616B.587 requires the Administrator to notify the private carrier of his decision within 90 days after the claim is received.

When DIR does not make a timely recommendation to the applicable Board, there is an increased risk the Board will not meet statutory requirements. For example, four of the six exceptions required notification to a Board. In all four instances when DIR did not notify the Board timely, the Board did not comply with the 90-day requirement.

DIR does not have a tracking system in place to monitor timely notification of its decisions for all claims submitted. Further, there is no supervisory review to ensure compliance with time requirements.

Process for Complaints Does Not Ensure Timely Resolution

The Workers' Compensation Section (WCS) did not always comply with statutory timeframes for resolving complaints. For example, WCS failed to issue timely determinations in 12 of the 20 complaints we tested. These 12 determinations ranged from 4 to 107 days past their statutory timeframes. Untimely determinations can result in complainants waiting too long to receive benefits to which they are entitled.

NRS 616D.130 requires WCS to render a determination within 30 or 90 days, depending on the type of complaint. Complaints with a 30-day limit encompass a wide range of issues, including complaints against insurers or third-party administrators for untimely payments, failure to provide requested documents, or refusal to authorize requested medical treatment. For 7 of 10 complaints, WCS took more than 30 days from receiving the complaint until making a determination. Determinations for these seven complaints were an average of 57 days past the 30-day limit. DIR's procedures do not provide guidance on meeting the 30-day requirement.

Complaints with a 90-day limit generally stem from failure to comply with a ruling or written settlement agreement. For 5 of the 10 complaints with a 90-day limit, WCS did not comply with the time requirement. Determinations for these five complaints were an average of 26 days past the 90-day limit.

The Workers' Compensation Section has not developed a monitoring process that provides reasonable assurance complaints are processed timely. In addition, procedures are outdated and conflict with statutory requirements. For example, we noted NRS 616D.130 was amended in 2003 to allow 90 days instead of 150 days for a determination on certain complaints. DIR's procedures have not been revised to reflect this change, and still allow 150 days for DIR to render a decision.

Recommendations

1. Revise policies and procedures to help ensure premium penalties are assessed timely. Procedures should establish timeframes for performing each step of the process and management reports for tracking the status of pending premium penalties.

2. Establish a monitoring process to help ensure notification of decisions to accept or deny subsequent injury claims are within the timeframe allowed in state laws and regulations.
3. Improve the monitoring process for complaints to help ensure all workers' compensation complaints are processed within the timeframe allowed in state laws and regulations.
4. Update policies and procedures for workers' compensation complaints.

Accounts Receivable Need Additional Monitoring

Additional monitoring of accounts receivable is needed to minimize the risk accounts will not be collected. We found collection efforts were not timely, the status of all accounts receivable was not tracked, and amounts reported were inaccurate.

Collection Efforts Were Not Timely

DIR does not have an effective process to ensure timely submittal of accounts receivable to the Controller's Office for outside collection. When collection efforts are not timely, there is an increased risk accounts receivable will not be collected. Further, when accounts receivable are not collected from fined or uninsured entities, there is less incentive for all entities to comply.

DIR has made improvements to the accounts receivable process since it started to utilize the collection agency agreement that was established with the Controller's Office. However, further improvement is warranted. For example, we reviewed collection efforts for 25 premium penalties assessed in fiscal year 2004 totaling \$133,720. Of this amount, \$40,589 had been collected. This is 30.35% of the total assessed. Our review also found:

- For 13 of 25 premium penalties, no payments have been received.
- For 14 of 17 instances when a demand letter was necessary, the demand letter was not sent timely.
- For 2 of 11 instances when referral to the Controller for outside collection was applicable, no referral was made, and for 8 penalties, the referral was not timely.

DIR has procedures for sending demand letters and submitting receivables to the Controller for outside collection. However, these procedures were not always followed. For example, we reviewed collection efforts for an additional 15 fines and penalties and found 14 did not comply with timelines established in DIR procedures. These procedures require submittal to the Controller for collection if no response to the demand letter is received by the due date. There was one instance when an account was not submitted to the Controller until 85 days after the deadline established in the demand letter.

DIR has accounts receivable from various fines, penalties, and uninsured claim reimbursements. As of June 30, 2004, DIR reported \$8.6 million in accounts receivable, with 94% (about \$8.1 million) greater than 60 days past due. The Administrator has stressed the need for internal collection efforts to be timely and unpaid receivables to be submitted rapidly to the Controller for outside collection.

DIR does not document or monitor the status of all accounts receivable. For example, management could not provide a comprehensive accounts receivable list. The Controller's Office requires an accounts receivable record to be maintained for each customer. This record should facilitate tracking the amounts billed, collected and outstanding on customer accounts, and should be updated and reviewed by management at least monthly. A comprehensive list should track the length of time each account is past due and document if there is pending litigation or other factors that would delay submittal to the Controller for collection. When each account is not monitored, there is an increased risk the Division may lose collection opportunities.

Amounts Reported Were Inaccurate

The accounts receivable balances reported to the Controller's Office on June 30, 2004, were inaccurate. For example, accounts receivable balances did not include over \$1.67 million in premium penalties receivable. Also, some Workers' Compensation Section administrative fines and OSHA fines and penalties were reported twice. As a result, the public, the Controller, and DIR management received unreliable information. NRS 353C.120 requires each agency to submit to the State Controller periodic reports of the debts owed to the agency.

Exhibit 3 shows a breakdown of accounts receivable reported to the State Controller as of June 30, 2004, by type, amount, and percentage of total.

Exhibit 3

**Accounts Receivable
as of June 30, 2004**

Type of Receivable	Amount	Percentage of Total
WCS Fines & Penalties	\$1,600,743	18.50%
OSHA Fines & Penalties	499,733	5.78%
Uninsured Claims	6,550,257	75.72%
Totals	\$8,650,733	100.00%

Source: DIR records, unadjusted.

DIR uses several systems to account for and report accounts receivable. Only one of these systems is capable of electronically producing a report showing the ages of the receivables, such as 30, 60, or 90 days past due. As a result, staff has to manually compute and compile aged receivables for many accounts. Accounts receivable procedures do not provide adequate direction to ensure consistent treatment and reporting of accounts receivable throughout the various systems and in the compilation process. Accounting policies and procedures issued by the Controller's Office require agencies to maintain an aged receivables schedule that allows the agency to identify overdue balances.

Further, the Division's accounts receivable include many delinquent accounts which may be uncollectible. About 75% of the amount reported is from uninsured claims. The nature of these accounts often necessitates submittal to legal staff for review. Legal staff indicated that many accounts are inactive and have been relegated to storage and should be written off. Therefore, accounts receivable may include uncollectible accounts. If so, information may have been provided that does not reflect a balance due that is collectible.

When the status of all accounts under legal review is not communicated timely, management cannot determine if outside collection efforts are needed or the account should be written off. For example, there is \$1.4 million in accounts that the Administrative Services Unit (ASU) has forwarded to Division Counsel. ASU has been waiting between 2 and 12 months for a response on these accounts. Standards for

Internal Control recommend that information be communicated to management and others within an agency that need it within a timeframe that enables them to carry out their responsibilities.

Pursuant to NRS 232.600, the Advisory Council may write off debt if 3 years have elapsed since the debt was incurred and it is impossible or impractical to collect. Therefore, accounts more than 3 years past due should be reviewed for possible submittal to the Council for write-off.

Recommendations

5. Implement a monitoring process to help ensure timely collection efforts for accounts receivable. The process should include steps to ensure that collection efforts start promptly and are applied consistently.
6. Develop procedures to help ensure consistent reporting of aged accounts receivable throughout the various accounting systems and accurate reporting to the Controller and management.
7. Document and monitor the status of all accounts receivable in a form and timeframe that enables management to evaluate the collectibility of delinquent accounts and take appropriate action.

Monitoring of Inspections Could Be Improved

The Occupational Safety and Health Administration Section (OSHA) could improve its monitoring of inspections for asbestos contractors and workplace safety. Further, OSHA does not have an accurate database for tracking inspections of elevators, boilers, and escalators. Improvements to these inspection processes would help ensure workers and the public are adequately protected.

Process Does Not Ensure All Asbestos Inspections Are Performed

The asbestos inspection process should include additional steps to provide reasonable assurance that all contractors are properly licensed and inspected. NRS

618.790 prohibits a person from engaging in a project for the control of asbestos unless he holds a valid license issued by DIR. Further, NRS 618.830 requires DIR to inspect annually at least one project for the control of asbestos conducted by each licensed contractor.

We obtained a list of asbestos contractors licensed with the Nevada State Contractors' Board and compared it to the DIR list of licensed contractors. We identified 18 asbestos contractors on the Contractors' Board list that were not licensed by DIR. As a result, there is an increased risk some contractors performing asbestos abatement are not licensed and inspected by DIR as required.

Obtaining a Contractors' Board license indicates the contractors are, at a minimum, contemplating asbestos removal projects. These 18 contractors represent a potentially large percentage of additional licensees when compared to the DIR list of 37 licensed contractors. DIR relies solely on asbestos contractors to apply for the required license. DIR has not pursued alternative methods for identifying contractors who might intentionally or unintentionally violate the state's licensing requirements.

In addition, DIR lacks an effective process to coordinate the scheduling and tracking of asbestos contractor inspections. We reviewed 15 contractors licensed by DIR that performed asbestos abatement during fiscal year 2004. Three did not receive annual inspections as required by state law.

Certain companies conduct abatement projects that cross jurisdictional lines between the southern and northern parts of the State. Our prior audit discussed the need for coordination between the southern and northern offices in this situation.

We found two instances when inspections conducted by the northern office were not noted on the inspection planning documents used by the southern office. As a result, certain contractors can be inspected multiple times while others are not inspected at all. Although we recognize that some contractors may warrant inspections of multiple projects, the Division should coordinate inspections to prevent unintentional duplication of efforts.

Certain Management Information Would Improve Risk-Based Approach

DIR uses a risk-based approach for scheduling OSHA workplace safety and health inspections. However, DIR does not track certain information that would assist

management in optimizing a risk-based approach. DIR is required to provide for safety inspections by NRS 618.350(3). The need for a risk-based approach is significant because OSHA has a staff of 36 inspectors to cover more than 52,000 companies and numerous construction jobs in Nevada.

High-risk industries have been identified as: construction, certain types of manufacturing companies, and hotels and casinos with 100 or more employees. Exhibit 4 shows the number of workplace safety and health inspections as reported by OSHA for each of the high-risk industries and all other industries during fiscal year 2004.

Exhibit 4

**Workplace Safety and Health Inspections
Fiscal Year 2004**

Industry	Inspections Conducted	Percentage of Total Inspections
Construction	1,830	59.6%
Manufacturing	325	10.6%
Hotel/Casino	205	6.7%
Other	710	23.1%
Totals	3,070	100.0%

Source: DIR records.

Process for Identifying All Large Construction Jobs Could Be Improved

The current process does not ensure all large construction jobs are considered for inspections. With numerous construction jobs in Nevada, OSHA is challenged with placing resources where they are needed most for this high-risk industry. In its 1999-2004 strategic plan, OSHA stated it will continue to target large construction projects as defined by NAC 618.494.

NAC 618.494 defines a construction project as a project with a total cost of \$10 million or more; a new building or structure which is 50,000 square feet or more; or a new building or structure which is more than 60 feet above the ground or more than 48 feet below ground level. Further, NAC 618.505 requires the general contractor or owner of a construction project, before commencing construction, to give written notice to the Chief of OSHA describing the height, square footage, type, total cost, and location of the project.

OSHA receives a trade publication that lists upcoming construction sites, with cost and size estimates. OSHA identifies potential projects and sends letters to the responsible party, requesting they return an attached notification form. The responses are used to create a list of projects to be considered for comprehensive inspections. However, OSHA does not follow-up with non-responders. As a result, OSHA does not know if all large construction jobs are considered for inspection. Management indicated they will begin to follow up with non-responders.

Identifying all large construction projects as defined in NAC 618.494, and tracking the percentage inspected would assist OSHA in determining if the number of project inspections is providing adequate coverage. For instance, OSHA reported a total of 1,830 construction inspections in fiscal year 2004. This includes all construction related inspections, large and small worksites. If this number included a high percentage of the large construction projects, then coverage may not need to be increased. However, if the percentage of large construction projects inspected is low, an increase in inspections could help to reduce injuries.

Time Period Between Hotel/Casino Inspections Not Tracked

OSHA does not compile data showing the time period between inspections for high-risk hotels and casinos. This information would also assist management in maximizing a risk-based approach. For example, we tested 10 hotels and casinos and found 1 had a period of more than 7 years between inspections. Further, we found evidence of only one inspection for three casinos during the past 10 years. Monitoring the time between inspections for all high-risk hotels and casinos could help OSHA meet its goal to reduce injuries and illnesses.

Mechanical Object Database Contains Errors

DIR's database for tracking inspections of mechanical objects contains errors. Mechanical objects primarily include elevators, boilers, and escalators. We reviewed the accuracy of the database for 60 objects and found 11 with data errors. For 7 of the 11 errors, the scheduled date for the next inspection was incorrect. For example, there was one instance when the next scheduled inspection was 1 year after the correct date. Data errors increase the risk that scheduled inspections are based on inaccurate

information which may result in delinquent or unnecessary inspections, and inefficient use of resources.

DIR is responsible for inspecting all elevators, boilers, and escalators in the State. Considering the large number of objects to inspect (17,870) and the relatively small number of inspectors (20), DIR has a good process for performing and monitoring these types of inspections. Agency records indicate that 99.8% of these objects were inspected within 60 days of the due date.

Although most objects were inspected timely, management and others need information in a form and timeframe that assists them in performing their duties efficiently. Staff efficiency would be improved if the database had the capability to automatically enter the next inspection date or perform edit checks to prevent most incorrect dates from being entered. The current database does not prevent the entry of incorrect dates.

Recommendations

8. Implement a process to provide reasonable assurance that all companies performing asbestos removal are properly licensed and inspected.
9. Coordinate statewide scheduling and tracking of asbestos contractor inspections.
10. Analyze additional management information to improve the risk-based approach for scheduling construction, and hotel and casino inspections.
11. Consider upgrading the mechanical object database to minimize data entry errors.

Weak Controls Over Some Administrative Functions

Controls over some administrative functions need to be strengthened. Weaknesses were noted in areas related to record keeping for fixed assets, safeguarding large deposits, and complying with all requirements for personnel and the Advisory Council.

Poor Record Keeping Practices for Fixed Assets

DIR does not have sound record keeping practices in place to provide adequate safeguarding of fixed assets. As a result, there is an increased risk that theft, loss, or abuse could go undetected.

We selected 28 assets on DIR inventory lists and found 7 were not properly recorded. Three of the assets did not have State Purchasing asset tags attached, two had been disposed but were listed as current, and two had different tag numbers than listed on the inventory report. We observed an additional 15 assets and found 8 could not be traced to the applicable inventory list. We also noted seven additional assets did not have tags. Accurate property records are important for maintaining accountability and preventing loss or theft.

Further, we found 7 of 10 inventory reports did not have signatures of the person performing the inventory and of the reviewer. Without these signatures, the records are incomplete and insufficient to demonstrate physical counts were performed pursuant to NRS 333.220(4).

NRS 333.220 requires the Chief of the Purchasing Division to establish a process for identifying and tracking the state's personal property. This process requires all agencies to conduct an annual physical inventory of their personal property and report the disposition of property to the Purchasing Division. Further, the state asset tag numbers are key information within the state's inventory system. Attaching asset identification tags is important to effectively identify and locate assets. Assets that do not have identification tags attached are at a greater risk of being lost or misappropriated.

Safeguarding of Large Deposits Could Be Improved

DIR needs to strengthen controls over large deposits. One employee in Carson City deposits all assessment payments without any security assistance. Controls in this area are important because \$37.8 million in assessments were deposited in fiscal year 2004. We noted one deposit of \$2 million. Although these deposits consist primarily of checks, there is still a risk of loss due to the significant amount.

Assets should be adequately safeguarded at all times and control activities for safeguarding deposits should be based on the risk of loss. Therefore, greater security

should be in place when the amount of deposit is significant. Deposit procedures for Carson City do not address adequate security for large amounts taken to the bank.

Personnel Requirements Were Not Always Met

DIR did not comply with personnel requirements for timely employee evaluations and development of work performance standards. We judgmentally selected 20 employees from the state's human resource database. For 11 of the 20 employees, there was no evidence that all required evaluations were performed. Of the 11 employees without timely evaluations, there was no evidence of any evaluation for 3 employees, and 1 employee has not had an evaluation since March 1999. Further, for 5 of 20 employees tested, there was no evidence to confirm work performance standards have been developed.

NRS 284.340 sets forth requirements for evaluations of probationary and permanent employees. Further, NRS 284.335 requires agencies to establish standards of work performance for each class of positions. Each appointing authority shall provide each of its employees with a copy of the standards for his position.

Policies and procedures for personnel administration are incomplete. For example, they do not address timely employee evaluations and developing work performance standards for all positions. Further, DIR does not have an effective monitoring system in place to ensure these personnel requirements are met by all sections and all locations.

Without employee evaluations and work performance standards, employee morale and performance may be lower. In addition, employees may not know what is expected of them, and deficiencies in performance may not be corrected timely.

Advisory Council Did Not Meet as Required

The Advisory Council did not meet as required by state law. NRS 232.580 requires the Council to meet at least twice annually. However, the Council did not meet between May 2003 and November 2004, a time period of 18 months. As a result, the Council was not able to fulfill its role set forth in state law.

The Council consists of seven members appointed by the Governor. Pursuant to NRS 232.600, the Council has three major responsibilities:

1. The Council shall act in an advisory capacity to the Administrator and may conduct studies or investigations concerning the organization and administration of the Division and make recommendations based on the results of such studies or investigations.
2. The Council shall review on a quarterly basis the records of oral complaints compiled by the Division. Upon completing its review, the Council shall submit any comments or recommendations regarding the complaints or the records to the Administrator.
3. The Council, by the affirmative vote of a majority of its members, may remove from the records of the Division the name of a debtor and the amount of any debt owed by him. The Division shall establish a master file containing the information removed from its official records pursuant to this subsection.

As noted above, NRS 232.600 requires the Council to review on a quarterly basis the records of oral complaints. Further, NRS 618.336 requires the Division to maintain a record of all oral complaints and submit the record quarterly to the Council for review and comment. Management stated the complaint records are normally presented at each meeting. If the Council meets biannually, DIR and the Council cannot comply with the quarterly requirements set forth in NRS 618.336 and NRS 232.600.

Recommendations

12. Revise procedures to help ensure accurate records for fixed assets.
13. Revise procedures to improve security over large deposits.
14. Revise policies and procedures for personnel administration to help ensure compliance with NRS 284.340 and NRS 284.335.
15. Schedule Advisory Council meetings to ensure compliance with NRS 232.580. Also, consider quarterly Council meetings or request legislation to resolve the inconsistency between biannual Council meetings and quarterly complaint requirements.

Appendices

Appendix A Audit Methodology

To gain an understanding of the Division of Industrial Relations (DIR), we interviewed agency staff and reviewed statutes, regulations, and policies and procedures significant to DIR's operations. In addition, we reviewed the agency's financial information, budgets, minutes of various legislative committees, and other information describing the activities of DIR. We documented and assessed DIR's internal controls for subsequent injury funds, complaints, accounts receivable, receipts, asbestos contractor inspections, scheduling of workplace safety inspections, fixed assets, personnel, and performance measures.

To evaluate the process for assessing premium penalties to employers with a lapse in coverage, we judgmentally selected 25 premium penalties assessed during fiscal year 2004. We selected at least 10 premium penalties assessed in southern Nevada and 10 in northern Nevada, and distributed throughout the fiscal year. For each premium penalty selected, we documented key dates in the process and performed analytical review of the timeline for imposing fines.

To determine if DIR provided timely notification as required for subsequent injury claims, we selected 20 accepted claims and 5 denied claims submitted during fiscal year 2004. Selection of accepted claims was based on at least five disbursements from each of the three subsequent injury budget accounts. For each selection, we verified timely correspondence with the applicable board or private carrier. Further, we verified required forms were submitted and staff followed policies and procedures for mathematical accuracy and proper approval.

We selected 20 Workers' Compensation Section (WCS) complaints and 20 Occupational Safety and Health Administration (OSHA) complaints to evaluate the monitoring of complaints. Selection was based on a broad representation of complaints received throughout the State during fiscal year 2004. For each complaint, we

documented key dates to verify compliance with applicable statutes, policies, and procedures.

To evaluate the monitoring of accounts receivable and internal collection efforts, we selected 15 accounts receivable listed in the receivable report on June 30, 2004. Selection was based on accounts more than 60 days past due with five accounts from each of the three categories. This includes WCS fines and penalties, OSHA fines, and reimbursements to the uninsured fund. Further, we selected accounts receivable from 25 premium penalties. For each account receivable, we documented a timeline showing key dates to verify collection efforts were timely and complied with agency procedures. In addition, we reviewed supporting documents to verify the accuracy of the year-end receivable report.

To evaluate the completeness of DIR's list of asbestos contractors, we obtained a list of asbestos contractors licensed by the Nevada State Contractors' Board. We compared this list to DIR's list and documented any differences. To evaluate the process for monitoring asbestos contractor inspections, we selected 15 contractors from DIR's asbestos project log. For each contractor selected, we reviewed the inspection report to verify contractors performing asbestos removal were inspected annually as required. We also reviewed southern and northern Nevada inspection schedules to determine if statewide coordination occurred for inspections of contractors performing asbestos removal throughout the State.

We selected 30 inspections for high-risk industries to evaluate the process for scheduling workplace safety inspections. Selection was based on 10 manufacturing companies, 10 hotels and casinos with 100 or more employees, and 10 construction jobs initially estimated to meet the criteria for a construction project. Selection was also based on companies and projects located throughout the State. For manufacturing companies, and hotels and casinos, we reviewed the two most recent inspection reports to document the time period between inspections. For construction projects, we reviewed the inspection report to verify an inspection was performed. Further, we documented incidence rate reports for the most recent 3-year period and compared actual results to goals stated in OSHA's strategic plan.

To evaluate the mechanical object database, we selected 60 objects. Selection was based on elevators, boilers, and escalators located throughout the State. For each selection, we reviewed inspection reports to verify data in the reports agreed with the database.

To evaluate compliance with laws for fixed assets, we selected 10 location codes. Selection was based on at least one location code for each section and locations throughout the State. For each selection, we reviewed inventory reports to verify an annual inventory was performed and properly reviewed. Further, we selected 28 assets from inventory lists for Carson City, Reno, and Henderson. Selection was based on at least four assets for each section. For each selection, we verified physical existence of the asset and confirmed the attached tag number agreed with DIR records. We also observed an additional 15 assets and determined if they were properly recorded in DIR inventory reports.

To evaluate the processing of revenues, we selected 40 payments. Selection was based on payments recorded in fiscal year 2004, with at least five payments for asbestos fees, OSHA fines, WCS fines, premium penalties, assessments, and uninsured fund reimbursements. For each selection, we reviewed the receipt, revenue log, and deposit slip to verify payments were properly deposited and recorded. We also reviewed the safeguarding of large deposits in Carson City.

We selected 20 employees from the evaluation past due report to evaluate compliance with laws for personnel. Selection was based on at least three employees from each of DIR's five sections. For each selection, we reviewed personnel files to verify all required employee evaluations were performed timely and work performance standards were developed.

To determine if the Advisory Council met as required, we reviewed minutes and we also requested DIR management confirm that the Council did not meet between May 2003 and November 2004.

Our audit work was conducted from October 2004 to April 2005 in accordance with generally accepted government auditing standards.

In accordance with NRS 218.821, we furnished a copy of our preliminary report to the Director of the Department of Business and Industry and the Administrator of the

Division of Industrial Relations. On September 22, 2005, we met with agency officials to discuss the result of our audit and requested a written response to the preliminary report. That response is contained in Appendix C which begins on page 30.

Contributors to this report included:

Dennis Klenczar, CPA
Deputy Legislative Auditor

Jane Bailey
Audit Supervisor

Gary Kulikowski, CPA
Deputy Legislative Auditor

Stephen M. Wood, CPA
Chief Deputy Legislative Auditor

Appendix B

Prior Audit Recommendations

Our prior audit of the Division of Industrial Relations contained nine recommendations. Three of the nine were within the scope of the current audit. As part of our audit, we assessed the implementation of the three recommendations and found none were fully implemented. These recommendations relate to coordinating inspections of asbestos contractors, preparing timely employee evaluations, and developing work performance standards for each position. We have modified and repeated these recommendations in this audit report.

Appendix C

Response From the Division of Industrial Relations

KENNY C. GUINN
Governor

STATE OF NEVADA

ROGER BREMNER
Administrator

SYDNEY H. WICKLIFFE, C.P.A.
Director



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DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS
OFFICE OF THE ADMINISTRATOR
400 W. King Street, Suite 400
Carson City, Nevada 89703

3 October 2005

Paul V. Townsend, CPA
Legislative Auditor
Legislative Counsel Bureau
Legislative Building
401 S. Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Townsend:

Your letter of September 6, 2005 requested the Division of Industrial Relations (DIR) submit a written statement of explanation to your preliminary audit report on the Division of Industrial Relations.

In accordance with the due date outlined in your transmittal letter, the following are the Division's responses to the provided audit recommendations.

Recommendation 1: Revise policies and procedures to help ensure premium penalties are assessed timely. Procedures should establish timeframes for performing each step of the process and management reports for tracking the status of pending premium penalties.

Response: The Division concurs with this recommendation. The Workers' Compensation Section (WCS) will review the procedures and timelines associated with issuance of premium penalties from initial investigation of lapse in coverage through issuance of the premium penalty and administrative fine. We will revise as necessary the contents of DIR Policy, Procedure and Guidelines concerning premium penalties. WCS will additionally liaison with the Attorney General's Office (AG) to determine reasonable turnaround times on prosecutions decisions.

Upon completion of policy and procedures review we will develop a suite of reports keyed to time sensitive requirements, including follow-up correspondence.

L 61A

Recommendation 2: Establish a monitoring process to help ensure notification of decisions to accept or deny subsequent injury claims are within the timeframe allowed in state laws and regulations.

Response: The Division concurs with this recommendation. WCS has reviewed the applicable statutes and regulations to verify appropriate timelines for approval/denial of subsequent injury claims. We will make necessary corrections to existing DIR Policy, Procedures and Guidelines. We will additionally develop a tracking ability and procedures to ensure appropriate supervision for timely submission of decisions/recommendations.

Recommendation 3: Improve the monitoring process for complaints to help ensure all workers' compensation complaints are processed within the timeframe allowed in state laws and regulations.

Response: The Division concurs with this recommendation. WCS will review applicable statutes and regulations to determine timelines for completion of responses to complaints. We will solidify one standard procedure that encompasses the requirements set forth in NRS 616D.130 and NRS 616D.140. In conjunction with reporting requirements for the Insurance Commissioner and new Legislative requirement for an annual report (A.B. 58), WCS is implementing a new database and tracking procedures for all segments of the complaint process from receipt to final disposition of decision, subsequent appeals and any associated fines. This database will be tailored to provide reports for monitoring timeliness of responses to received complaints.

Recommendation 4: Update policies and procedures for workers' compensation complaints.

Response: The Division concurs with this recommendation. WCS will utilize the information garnered in the evaluation of the complaint process in response to Recommendation 3 to integrate the new database and any revised procedures in the appropriate DIR Policy, Procedures and Guidelines.

General discussion related to Recommendations 5 through 7:

The Audit Report correctly points out that the vast majority of our accounts receivable are uncollectible. They are generated by fines, premium penalties and workplace injury claims payments that are assessed against employers who have no workers' compensation insurance in force at the time of an investigation or compensable workplace injury. One account (loss) for example comprises approximately 12% of the total amount due as a receivable in Audit Exhibit 3. It now totals over 1 million dollars. This particular claim occurred in 2001. Payments continue to be paid to burn victims and medical providers. The employer was prosecuted by a District Attorney and ordered to pay monthly restitution to DIR. The amount of payment is less than \$700.00 per month. As a result this account remains active and continues to grow. The Controller's collection agency has the account, but chances of recovery are practically nonexistent. Another claim totaling approximately \$500,000.00 is included in the total presented in Exhibit 3. The employer, a small contractor, had no business license, contractor's license or workers' compensation insurance. He is now deceased. The amount has been written

off as uncollectible. Overall 23% of the total receivable amount cited in the audit is the result of four uninsured claims. Chances of restitution for these and many other similar accounts are extremely small.

The Audit Report also points out that the aging of accounts receivable has been inconsistent. The accounts receivable in Exhibit 3 are contained in four separate databases. Uninsured claims are aged electronically in our Peachtree system. Premium penalties and workers' compensation administrative fines are in separate databases, and both are aged manually. OSHA fines and penalties are also aged manually.

Because of the various levels of appeals available to employers, the time from fine assessments to final resolutions can be lengthy and labor intensive. One claim, for example, was not settled until the second and final settlement conference ordered by the Nevada Supreme Court. It resulted in the recovery of several hundred thousand dollars for the Uninsured Claim Fund from a nationally know company.

The DIR will continue to review and refine its collections and accounts receivable procedures. Internal discussions are now underway to determine how the various databases and systems can be unified to provide the necessary control and management in a more efficient manner.

Enclosure (1) **"Uninsured Employers Fines, Penalties and Claim Process"** provides a comprehensive overview of the difficulties associated with fines and penalties related to uninsured employers.

Recommendation 5: Implement a monitoring process to help ensure timely collection efforts for accounts receivable. The process should include steps to ensure that collections efforts start promptly and are applied consistently.

Response: The Division concurs with this recommendation. ASU will review applicable statutes and regulations to determine appropriate timeframes for entry as a receivable account. Thereafter, ASU and the DIR Legal Section will update procedures for (1) turning debts over to the designed collection agency, (2) monitoring and reporting the status of collection efforts internally and externally to the Controller's Office, and (3) pursuing appropriate legal remedies.

Recommendation 6: Develop procedures to help ensure consistent reporting of aged accounts receivable throughout the various accounting systems and accurate reporting to the Controller and management.

Response: The Division concurs with this recommendation. DIR will utilize the information garnered in the evaluation of the timeframes for recording an account as a receivable, and the procedures developed as a result of Recommendation 5, to ensure consistent reporting of aged accounts receivable. In the process, DIR will evaluate the various accounting systems currently in use and may, if appropriate, request budgetary authority to purchase or develop an integrated accounting system.

7: Document and monitor the status of all accounts receivable in a form and timeframe that enables management to evaluate the collectibility of delinquent accounts and take appropriate action.

Response: The Division concurs with this recommendation. See Response 5 & 6.

Recommendation 8: Implement a process to provide reasonable assurance that all companies performing asbestos removal are properly licensed and inspected.

Response: The Division concurs with this recommendation. The inconsistencies between Occupational Safety and Health (OSHA) listings for licensed asbestos contractors and the Nevada State Contractor's Board should be reconciled. OSHA has implemented Administrative Policy 05-123 to facilitate the correlation of these data sources and provide additional assurance of proper licensing and inspections.

Recommendation 9: Coordinate statewide scheduling of asbestos contractor inspections.

Response: The Division concurs with this recommendation. OSHA resources must respond to numerous priorities in meeting inspections requirements in all essential areas. Planning and coordination is indispensable in meeting these requirements. OSHA has implemented Administrative Policy 05-124 to ensure regional coordination, optimize inspections resources and designate responsibility for oversight.

Recommendation 10: Analyze additional management information to improve the risk-based approach for scheduling construction, and hotel and casino inspections.

Response: The Division concurs with this recommendation. OSHA continually reviews safety publications and programs to refine all of its inspection programs and maximize the effectiveness of existing resources. They have recently implemented four new Administrative Policies (05-118, 05-119, 06-126 & 06-127) that accomplish the above goals and meet the objective of this recommendation.

Recommendation 11: Consider upgrading the mechanical object database to minimize data entry errors.

Response: DIR concurs with this recommendation. Funds were authorized during the last legislative session to upgrade the Mechanical Database. This project is designated for FY 06-07. DIR's Computer Network Specialist is in the process of preparing Requests for Services in support of this project.

Recommendation 12: Revise procedures to help ensure accurate records for fixed assets.

Response: DIR concurs with this recommendation. Prior to the Audit, our internal controls called for tracking all items over \$150.00. This meant that there were over 3,000 items to be tracked. The State Administrative Manual, Section 1544.0 states: "Items valued at less than

\$1,000, with the exception of weapons and computers with licensed software, will not be carried on the statewide inventory. Agencies will be responsible for reporting items as described above regardless of acquisition method to the Purchasing Division.”

During our research, no other legislation, rules or regulations were discovered requiring the agency to track inventory at the lower amount established by a former Administrative Services Officer. Because the lower level of inventory tracking is causing an undue burden on all involved agency staff, the agency will revise its policy to match that specified in the State Administrative Manual.

Recommendation 13: Revise procedures to improve security over large deposits.

Response: DIR concurs with this recommendation. Furthermore, DIR has a primary concern for the safety and protection of its personnel. ASU will revise large deposit procedures, keyed to a designated amount of cash and/or total amount of the deposit, for improved security for both our personnel and the deposit.

Recommendation 14: Revise policies and procedures for personnel administration to help ensure compliance with NRS 284.340 and NRS 284.335

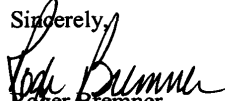
Response: DIR concurs with this recommendation. The Administrator and all Chief Administrative Officers fully support the concepts and requirements outlined in the cited statutes. ASU has reviewed existing policies and has developed a report that will inform the Section Chiefs of personnel action due dates. The Administrative Services Officer will monitor this report. Additionally, ASU will revise internal procedures to ensure that all requirements are met in a timely manner

Recommendation 15: Schedule Advisory Council meetings to ensure compliance with NRS 232.580. Also consider quarterly Council Meetings or request legislation to resolve the inconsistency between biannual Council meetings and quarterly complaint requirements.

Response: DIR concurs with this recommendation. Effective January 1, 2006 OSHA will forward the records of oral complaints to the advisory council, on a quarterly basis, for their review and comment. DIR will request legislation to modify NRS 232.580 in a manner which will allow quarterly meetings if required, but in no case permit less than one meeting per calendar year.

We appreciate the opportunity to respond to the recommendations of your audit report. If you have any further information needs, please feel free to contact me.

Sincerely,



Roger Bremner

DDW

Enclosures (2)

cc: Sydney Wickliffe, Director
Department of Business and Industry

UNINSURED EMPLOYER FINES, PENALTIES AND CLAIMS PROCESS

OVERVIEW

All employers, with limited exceptions, are required to secure and maintain workers' compensation insurance in Nevada. NRS 616B.633. Employers who provide workers' compensation insurance are, generally, shielded from liability for the personal injuries of their employees. NRS 616A.020. In contrast, employees may sue employers who do not provide workers' compensation insurance. NRS 616C.636.

Uninsured employers are also subject to several sanctions including administrative fines, premium penalties and compensation paid to their injured workers. NRS 616D.120; 616D.200; NRS 616C.220. Uninsured employers may also be subject to a "stop work order" issued by the Administrator of the Division of Industrial Relations (Division) and criminal prosecution by the Attorney General. NRS 616D.110; 616D.600.

In total, the Division is, potentially, faced with a series of appealable issues and administrative hearings each time an employer fails to maintain workers' compensation insurance.

ADMINISTRATIVE FINES

The Division may impose an administrative fine as a sanction against an uninsured employer *only if* the Attorney General elects not to prosecute the employer. NRS 616D.120(5). Accordingly, there may be a delay between the time the Administrator learns that an employer is uninsured and the time that an administrative fine is levied. The imposition of an administrative fine is not a final order *if* it is appealed. Thus, administrative fines are not properly characterized as an account receivable pending the administrative appeal. NRS 616D.145.

While administrative appeals are, generally, more timely than civil appeals, uninsured employers fine appeals are often complicated by the imposition of other sanctions and their associated appeals. For example, an employer may allege it was improperly cancelled by its' insurance company, hence, it was insured. Given this position, the employer is likely to appeal the imposition of the premium penalty, the *assignment* of an uninsured claim, the *acceptance* of the uninsured claim and every determination of the Division's third-party administrator concerning payment of compensation to the injured employee. In most cases of this type, all of the appeals will be consolidated; this will, as a matter of course, extend the time for a final decision and delay collection efforts.

PREMIUM PENALTY

A premium penalty is based on the amount of the premiums that would otherwise have been owed to a insurer for the period of time the uninsured employer was doing business in Nevada, not to exceed 6 years. The penalty is calculated by reference to the manual rates adopted by the Commissioner of Insurance. NRS 616D.200. In order to calculate the correct manual rate, the Division must know the amount of the employers' payroll for the uninsured period. If the employer does not provide this information, the Division may base the premium penalty on a payroll estimate. In either case, the Division's determination is appealable to an administrative appeals officer. As with the administrative fines, the final administrative decision (the decision by the appeals officer) on a premium penalty can be protracted, thus, delaying the Division's collection efforts.

UNINSURED CLAIM ASSIGNMENT

The Division will *assign* a claim to the Uninsured Employers' Claim Account (UECA) if the Division has sufficient evidence to establish an employer-employee relationship between an injured worker and an uninsured employer. The *assignment* of the claim does not commence the payment of compensation to an injured worker; the payment of compensation flows from claim *acceptance* by the Division's third-party administrator. NRS 616C.220.

As stated above, uninsured assignment appeals are often consolidated with uninsured claim acceptance appeals. As a matter of course, the Division does not, generally, proceed with its' collection efforts until a final administrative decision is made.

UNINSURED CLAIM ACCEPTANCE

An employee of uninsured employer may receive compensation from the UECA. The Division administers the UECA and retains a third-party administrator to manage—and pay—the workers' compensation claim. The uninsured employer is liable for all payments of compensation, the third-party administrators' fees, interest and attorneys' fees. NRS 616C.220.

The Division's collection efforts of these amounts are, however, complicated by several factors. The first complicating factor, as stated above, is the administrative appeals process—a process that can be delayed by consolidation, discovery, etc. For example, in one disputed case an employee tripped over some boxes at work. The accident took place in August 2003. The employer was fined \$500.00; and, the claim was *assigned and accepted*. The employer has filed numerous appeals. At present, there is no final administrative decision, The UECA has been obligated to pay over \$100,000.00 in compensation on the claim.

Enclosure (1)

2

The delays and complications associated with collecting amounts paid on uninsured claims can also arise in cases where the employer is prosecuted by the Attorney General and the court orders restitution. In one extreme example, the uninsured claims costs are nearly \$900,000.00 and the administrative fines exceed \$125,000.00, yet the court-ordered restitution is about \$650.00 per month. In total, this case accounted for approximately 12% of the Division's account receivables as of the fiscal year ending June 30, 2004.

ACCOUNTS RECEIVABLE

The Division is reviewing its policies and procedures associated with accounts receivable, including how and when it designates an account "receivable." This review is appropriate given that uninsured claims costs increase over time and, the Division cannot, at the present time, treat these claims expenses as a "debt" which can be pursued pursuant to Chapter 353C.

Enclosure (1)

3

Division of Industrial Relations Response to Audit Recommendations

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
1	Revise policies and procedures to help ensure premium penalties are assessed timely. Procedures should establish timeframes for performing each step of the process and management reports for tracking the status of pending premium penalties	<u> X </u>	<u> </u>
2	Establish a monitoring process to help ensure notification of decisions to accept or deny subsequent injury claims are within the timeframe allowed in state laws and regulations	<u> X </u>	<u> </u>
3	Improve the monitoring process for complaints to help ensure all workers' compensation complaints are processed within the timeframe allowed in state laws and regulations	<u> X </u>	<u> </u>
4	Update policies and procedures for workers' compensation complaints	<u> X </u>	<u> </u>
5	Implement a monitoring process to help ensure timely collection efforts for accounts receivable. The process should include steps to ensure that collection efforts start promptly and are applied consistently	<u> X </u>	<u> </u>
6	Develop procedures to help ensure consistent reporting of aged accounts receivable throughout the various accounting systems and accurate reporting to the Controller and management	<u> X </u>	<u> </u>
7	Document and monitor the status of all accounts receivable in a form and timeframe that enables management to evaluate the collectibility of delinquent accounts and take appropriate action.....	<u> X </u>	<u> </u>
8	Implement a process to provide reasonable assurance that all companies performing asbestos removal are properly licensed and inspected	<u> X </u>	<u> </u>
9	Coordinate statewide scheduling and tracking of asbestos contractor inspections	<u> X </u>	<u> </u>
10	Analyze additional management information to improve the risk-based approach for scheduling construction, and hotel and casino inspections.....	<u> X </u>	<u> </u>

Division of Industrial Relations
Response to Audit Recommendations
(continued)

<u>Recommendation Number</u>		<u>Accepted</u>	<u>Rejected</u>
11	Consider upgrading the mechanical object database to minimize data entry errors	<u> X </u>	<u> </u>
12	Revise procedures to help ensure accurate records for fixed assets	<u> X </u>	<u> </u>
13	Revise procedures to improve security over large deposits.....	<u> X </u>	<u> </u>
14	Revise policies and procedures for personnel administration to help ensure compliance with NRS 284.340 and NRS 284.335	<u> X </u>	<u> </u>
15	Schedule Advisory Council meetings to ensure compliance with NRS 232.580. Also, consider quarterly Council meetings or request legislation to resolve the inconsistency between biannual Council meetings and quarterly complaint requirements.....	<u> X </u>	<u> </u>
TOTALS		<u> 15 </u>	<u> 0 </u>