

# STATE OF NEVADA

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## Performance Audit

Department of Business and Industry  
Office of the Nevada Attorney for Injured Workers

2020



Legislative Auditor  
Carson City, Nevada

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# Audit Highlights



Highlights of performance audit report on the Office of the Nevada Attorney for Injured Workers issued on January 14, 2021.

Legislative Auditor report # LA22-01.

## Background

The Office of the Nevada Attorney for Injured Workers (NAIW) was established in 1977 within the Department of Business and Industry. NAIW represents injured workers in litigation for workers' compensation benefits by providing free legal representation and access to workers' compensation information to help ensure an injured worker has an equal opportunity to a fair judgment.

In the event an injured worker has their workers' compensation claim denied by an insurer or employer, they can appeal the denial to a Hearing Officer of the Department of Administration. If the Hearing Officer upholds the denial, the injured worker can further appeal to an Appeals Officer and request representation from NAIW. The Appeals Officer will appoint the case to NAIW who can represent the worker in front of an Appeals Officer, District Court Judge, or Supreme Court Judge.

For fiscal year 2020, NAIW had 32 authorized full-time positions with office locations in Carson City and Las Vegas.

## Purpose of Audit

The purpose of this audit was to determine whether NAIW had adequate controls over information systems, performance measures, sensitive information, and case management timeliness. The scope of the audit focused on NAIW's activities for the 18-month period, July 2018 to December 2019.

## Audit Recommendations

This audit report contains seven recommendations to improve administrative controls over information systems, performance measures, and safeguarding of sensitive information.

NAIW accepted the seven recommendations.

## Recommendation Status

NAIW's 60-day plan for corrective action is due on April 9, 2021. In addition, the 6-month report on the status of audit recommendations is due on October 9, 2021.

# Office of the Nevada Attorney for Injured Workers

## Department of Business and Industry

### Summary

The Office of the Nevada Attorney for Injured Workers (NAIW) can improve its oversight of certain activities. Specifically, information systems administration needs additional monitoring to ensure the continuation of critical services. Additionally, NAIW reported unreliable performance measures to decision makers and could improve by emphasizing outcome based performance measures. Finally, the security of personally identifiable information was not adequate.

Case management administration was adequate in ensuring the timeliness of cases although NAIW experienced delays in receiving crucial evidence and information from third parties. Specifically, case processes were generally timely including NAIW sending and requesting necessary documents in a prompt manner. However, the need for evidence from third parties delayed some hearings. Injured workers can experience financial and mental stress while fighting for workers' compensation benefits so timely resolution of cases is important.

### Key Findings

Controls over information systems administration were deficient. Specifically:

- NAIW was not timely in renewing its service level agreement for information technology (IT) services which resulted in NAIW having no guarantee that their data was being properly backed up. The most recent agreement with NAIW's IT vendor expired in June 2019 and had not been renewed until April 2020. (page 4)
- User accounts that provide access to critical systems have not been periodically reviewed, which increases the risk of unauthorized access to sensitive data. In addition, unnecessary user accounts were not always disabled or removed in a timely manner. (page 5)
- Continuation of critical services was not ensured. Specifically, NAIW does not verify the adequacy of server backups and has not requested backup testing results from their IT vendor in the past. In addition, NAIW does not have a written IT contingency plan. Furthermore, background checks were not conducted on NAIW's IT service vendor's employees which helps lower the risk of harm or disruption to a system. (page 6)
- NAIW was not aware of its responsibility to ensure the IT vendor's employees completed required annual security awareness training. Without completing such training, NAIW has less assurance that data and systems are adequately protected. (page 7)

The accuracy of performance measures reported in the Governor's Executive Budget could not be substantiated. NAIW did not retain appropriate supporting documentation on four fiscal year 2018 measures. Our review of supporting documentation regarding the remaining four measures found: supporting documents did not show how NAIW calculated three of the measures; supporting documents did not always agree to amounts reported; there was no evidence of review by management for any measure tested; and extensive manual work was required by staff to calculate two reported measures. Additionally, NAIW does not have comprehensive policies or procedures for performance measures. (page 7)

Measures used in the State's budgeting process can be revised to incorporate outcome based performance measures. The fiscal year 2018 measures NAIW reported provide workload and timeliness statistics. Outcome based measures were not emphasized but are recommended as they better demonstrate an agency's impact on citizens of Nevada. (page 9)

NAIW does not adequately secure personally identifiable information during nonbusiness hours. Individuals who are authorized to enter NAIW's offices, such as the non-state employed janitorial crews, have access to clients' personal information including Social Security numbers and medical records in unsecured file cabinets. (page 10)

NAIW was timely in sending and requesting necessary case management documents. These documents include welcome packages to commence work on a case, claim files that contain facts of each case prior to NAIW's appointment, and case closure letters which notify clients of their right to appeal further to the District Court. (page 13)

The need for evidence and information from third-party sources delayed some cases. NAIW does not have control over the timeliness of receiving claim files, medical records, doctors' opinions, and independent medical evaluations. We found that waiting for this evidence and information contributed to delayed hearings. (page 14)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Department of Business and Industry, Office of the Nevada Attorney for Injured Workers. This audit was conducted pursuant to 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.

This report includes seven recommendations to improve administrative controls over information systems, performance measures, and safeguarding of sensitive information. We are available to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other state officials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel Crossman".

Daniel L. Crossman, CPA  
Legislative Auditor

November 16, 2020  
Carson City, Nevada

# Office of the Nevada Attorney for Injured Workers

## Table of Contents

- Introduction ..... 1
  - Background..... 1
  - Scope and Objective ..... 2
- Administrative Controls Need Strengthening..... 4
  - Information Systems Administration Needs Improved Oversight ..... 4
  - Controls Over Performance Measures Are Deficient..... 7
  - Personally Identifiable Information Should Be Better Secured..... 10
- Case Management Administration Is Adequate ..... 13
- Appendices
  - A. Audit Methodology..... 15
  - B. Response From the Office of the Nevada Attorney for Injured Workers..... 19

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# Introduction

## Background

The Office of the Nevada Attorney for Injured Workers (NAIW) was established in 1977 within the Department of Business and Industry. NAIW represents injured workers in litigation for workers' compensation benefits. Under the Nevada Industrial Insurance Act, injured workers are granted the right to prompt and fair judgments of their workers' compensation claims. NAIW provides free legal representation and access to workers' compensation information to help ensure an injured worker has an equal opportunity to a fair judgment.

The workers' compensation litigation system in Nevada has informal and formal hearings. In the event an injured worker has their workers' compensation claim denied by an insurer or employer, they can appeal the denial in an informal hearing. Informal hearings take place in front of a Hearing Officer of the State's Department of Administration's Hearings Division. If the Hearing Officer upholds the claim denial, the worker has the right to appeal further. Formal hearings are held in front of an Appeals Officer of the Hearings Division, District Court Judge, or Supreme Court Judge. When first filing with an Appeals Officer, the worker has the right to request NAIW's representation. The Appeals Officer will appoint the case to NAIW who can represent the worker in the various formal hearings.

In fiscal year 2019, NAIW closed 1,046 cases for 742 injured workers. Of the cases closed, 97% were in front of an Appeals Officer while the remaining 3% were in the District and Supreme Courts. NAIW won 45%, lost 29%, and the remaining 26% of cases were other dispositions, which includes case dismissals and withdrawals.

## Staffing and Budget

Assessments are levied on insurers and employers which are collected and administered by the Division of Industrial Relations.

Funds are then transferred to NAIW to cover salaries and operating expenses. In fiscal year 2020, NAIW received approximately \$3.79 million in funds. Exhibit 1 summarizes NAIW's expenditures for fiscal year 2020.

**NAIW Expenditures** **Exhibit 1**  
**Fiscal Year 2020**

<b>Description</b>	<b>Amount</b>	<b>Percent of Total</b>
Personnel Services	\$3,099,114	82%
Operating	383,627	10%
Cost Allocation and Transfers <sup>(1)</sup>	174,879	4%
Information Services	105,320	3%
Other <sup>(2)</sup>	26,814	1%
<b>Total</b>	<b>\$3,789,754</b>	<b>100%</b>

Source: State accounting system.

<sup>(1)</sup> Cost allocation and transfers to the Department of Business and Industry.

<sup>(2)</sup> Other includes travel, equipment, training, and legal education.

NAIW had 32 full-time positions authorized for fiscal year 2020. As of June 2020, 30 positions were filled, 14 of which were attorneys while the rest were support staff consisting of research assistants and administrative personnel. NAIW has two office locations, one in Las Vegas and one in Carson City. Management is located in the Carson City office.

**Scope and  
Objective**

The scope of our audit focused on NAIW's activities for the 18-month period July 2018 to December 2019. Our audit objective was to:

- Determine whether NAIW had adequate controls over information systems, performance measures, sensitive information, and case management timeliness.

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 Nevada Revised Statutes (NRS) 218G.010 to 218G.350. 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.

# Administrative Controls Need Strengthening

The Office of the Nevada Attorney for Injured Workers (NAIW) can improve its oversight of certain activities. Specifically, information systems administration needs additional monitoring to ensure the continuation of critical services. Additionally, NAIW reported unreliable performance measures to decision makers and could improve by emphasizing outcome based performance measures. Finally, the security of personally identifiable information was not adequate.

## **Information Systems Administration Needs Improved Oversight**

Controls over information systems administration were deficient. For instance, NAIW operated for months without a service level agreement for information technology (IT) services. Furthermore, NAIW does not monitor user accounts or verify whether backup processes are functioning properly. Stronger controls can ensure the continuation of mission critical services if IT resources become inaccessible, security vulnerabilities are minimized, and sensitive data is properly protected.

Although NAIW's information systems are the responsibility of the Department of Business and Industry, the Department has not been involved on a day-to-day basis. Additionally, NAIW does not have any dedicated IT staff of its own. As a result, IT services, such as server and desktop maintenance, have been contracted to an IT service vendor for the past decade.

### **Service Level Agreement Was Not Renewed Timely**

NAIW was not timely in renewing its service level agreement for IT services. The most recent agreement with NAIW's IT vendor expired in June 2019 and was not renewed until April 2020, or a period of about 9 months. The IT vendor continued to provide services during this 9-month period without payment. Service



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level agreements outline an organization's needs and expectations from service providers.

The National Institute of Standards and Technology recommends having an agreement in place with IT service providers. Not having an agreement puts an agency at risk as responsibilities, levels of service, and cost are not formally outlined. For example, NAIW had no guarantee their data was being properly backed up by the vendor.

### **User Accounts Were Not Monitored**

NAIW has not been reviewing user accounts related to its information systems creating potential security vulnerabilities. User accounts provide access to NAIW's critical systems such as the case management database. State security standards require periodic reviews of user accounts. Additionally, account access rights need to be reviewed when employees are terminated or reassigned. The IT vendor maintains an active listing of accounts; however, NAIW did not review users or access rights. In addition, user accounts were not always disabled or removed in a timely manner.

We obtained a list of users as of February 2020 and found two active accounts for former employees. Accounts were not disabled and removed due to a breakdown in communications between NAIW and the vendor. In addition, we found an active generic administrative account for an outside agency. This account gave administrative access to NAIW's servers and was left active to allow for technical assistance if needed. However, the account did not need to be active as NAIW's IT vendor has been responsible for this type of services for the past decade. The account was disabled after we brought its existence to NAIW's attention.

Ultimately, agencies that retain data are responsible for who has access to system information. State of Nevada information security standards require user accounts to be reviewed at least quarterly. Foregoing these periodic reviews increases the risk of unauthorized access to an agency's systems, including sensitive data.

### **Continuation of Critical Services Is Not Ensured**

NAIW does not comply with state security standards as they do not verify the adequacy of server backups and have not requested testing results in the past. State standards place responsibility on agencies to verify the adequacy of server backups, testing of the backups at least semiannually, and documentation of the testing. If a third-party administers backup testing, results should be provided to agency management for review.

The IT vendor maintains NAIW's servers and tests server backups on an informal basis. However, test results of the backups have not been requested by NAIW. By not reviewing the adequacy of backups or reviewing backup test results, there is less assurance that mission critical data can be recovered when needed.

In addition, NAIW does not have a written IT contingency plan. A plan should contain sufficient information and instructions to enable the timely recovery of data. Furthermore, staff should be trained to execute the plan. Since servers are maintained by a vendor and there is no plan for NAIW staff to follow, NAIW cannot guarantee that services and operations will continue in a timely manner if IT functions are compromised.

State security standards require agencies to develop, maintain, and annually update IT contingency plans. In addition, state standards require agencies to test IT contingency plans to provide assurance that services and operations can continue if resources are inaccessible.

### **Background Checks on Contractors Were Not Conducted**

Background checks were not conducted on NAIW's IT vendor's employees. Checking the background of those accessing IT systems helps lower the risk of harm or disruption to a system.

NAIW was not aware of the state security standard that became effective in February 2017, which requires background checks for positions deemed sensitive. Employees of IT service vendors are considered sensitive positions within this standard. The Department of Business and Industry is responsible for providing guidance to its agencies regarding these types of activities.

However, NAIW did not receive instruction for background checks, which went undone as a result.

### **Contractors Did Not Complete Security Awareness Training**

NAIW was not aware of its responsibility to ensure employees of its IT vendor completed required annual security awareness training. We confirmed that employees of the vendor have never taken the training while contracted with NAIW. The purpose of this training is to help ensure the State's information is protected from unauthorized access, manipulation, modification, or destruction.

State security standards require all state employees, consultants, and contractors to undergo this training on an annual basis to reinforce their roles in protecting the State's information. In addition, training requirements help contractors stay current on security threats. Without completing such training, NAIW has less assurance that data and systems are adequately protected.

## **Controls Over Performance Measures Are Deficient**

Controls over calculating, documenting, and reviewing performance measures are deficient. This resulted in unreliable figures being reported in the State's budgeting process. Specifically, NAIW has not always maintained supporting documentation and has not established comprehensive policies and procedures for measures reported. Finally, NAIW does not emphasize outcome based performance measures. These types of measures better reflect an agency's accomplishments and impact on the citizens of Nevada.

### **Performance Measure Reliability Is Inconsistent**

The accuracy of performance measures reported in the Governor's Executive Budget could not be substantiated. NAIW has not always maintained supporting documentation or established comprehensive policies and procedures for the reported measures as required by state guidelines. Exhibit 2 summarizes our testing of the eight measures reported for fiscal year 2018.

## NAIW Performance Measures Fiscal Year 2018

## Exhibit 2

Description	Targeted Results	Reported Results	Supporting Documents Retained? (Y/N)	Calculation of Measure Retained? (Y/N)	Supporting Documents Agree to Reported Amount? (Y/N)	Evidence of Management Review Documented? (Y/N)
Percent of Appeals Resolved Successfully	50.00%	45.98%	Y	N	N	N
Number of Inquiries for Information or Assistance	2,400	2,481	Y	N	N	N
Number of Appeals Assigned to NAIW	1,100	1,082	Y	N	Y	N
Percent of Vendor Invoices Paid within 30 Days	92.31%	91.30%	Y	Y	N	N
Informational Inquiries Answered by 5:00 p.m. the Following Business Day	91.67%	97.98%	N	-	-	-
Percent of Appeals Assigned to NAIW by Appeals Officers	22.00%	22.04%	N	-	-	-
Percent of Client Complaints Responded by 5:00 p.m. the Next Business Day	83.33%	100.00%	N	-	-	-
Percent of NAIW Personnel Inquiries Responded to Within 5 Days	95.00%	99.00%	N	-	-	-

Source: Governor's Executive Budgets (2017–2019 and 2019–2021) and auditor analysis of NAIW records.

NAIW did not retain supporting documentation for four measures so amounts could not be verified. Our review of supporting documentation regarding the remaining four measures found the following:

- Supporting documents did not show how NAIW calculated three of the measures. For example, documents did not show how NAIW calculated the percent of appeals resolved successfully, the number of inquiries for information or assistance, or the number of appeals assigned to NAIW.
- Supporting documents did not agree to three reported measures. For instance, supporting information showed 498 inquiries were processed by NAIW; however, NAIW reported 2,481.
- There was no evidence of review by management for any of the measures tested.

In addition, extensive manual work was required by staff to calculate two reported measures. For example, staff had to

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manually review over 1,000 cases to determine case conclusions and review over 600 invoices for the calculation of invoices paid within 30 days.

Nevada's State Administrative Manual states that for performance measures to be reliable, agencies need to develop written procedures on how the measures are computed. This includes formulas and sources of data. In addition, staff needs to be assigned to review the measures to ensure procedures are followed and records must be retained for 3 fiscal years. Per the State's Budget Building Manual, supporting documentation needs to be complete and detailed enough that anyone can recreate a measure's value as it appears in the Executive Budget.

While NAIW does have basic guidelines and informal procedures, the information contained in these documents is incomplete and deviates from requirements. Specifically, both the guidelines and procedures only address three of the eight measures reported in the Executive Budget. In addition, the documents do not address the following components required by the State Administrative Manual. First, there are no directions on how to calculate each measure. Second, there is nothing outlining who is responsible for reviewing the measures or that the review be documented. Lastly, retention of supporting documentation is not addressed.

Comprehensive policies and procedures help ensure the reliability of performance measures. Reliable measures help agencies communicate program results and can assist decision makers when determining funding requests.

### **Performance Measure Usefulness Can Be Improved**

Measures used in the State's budgeting process can be revised to emphasize outcome based performance measures. The fiscal year 2018 measures NAIW reported provide workload and timeliness statistics. Outcome based measures were not emphasized. Per the State's Budget Building Manual, outcome measures are recommended as they better demonstrate an agency's impact on the citizens of Nevada, including how effective the agency is in providing services to the state.

NAIW tracks two management metrics internally that may be considered to be outcome based. The first represents the estimated value awarded to injured workers that are represented by NAIW. The second represents the amount an injured worker saves by using NAIW's free representation compared to hiring private counsel. However, NAIW has not established controls to ensure the accuracy of these metrics so ultimately, NAIW does not publish them as performance measures.

In addition to not emphasizing outcome based measures, one of NAIW's reported measures may not be relevant to its operations. Specifically, NAIW's reported measure showing the percentage of personnel inquiries responded to within 5 days may not be relevant. The timely manner in which NAIW employees' human resource inquiries are responded to by management is not directly related to NAIW's mission or goals in providing legal services and workers' compensation information.

Measures reported by NAIW should demonstrate the agency's performance. Given that the agency's primary service is providing free legal representation to injured workers, emphasizing outcome based measures showing how effective the agency is can truly reflect its efforts. By reporting outcome based measures, decision makers will have more information to evaluate the value of the agency's services.

## **Personally Identifiable Information Should Be Better Secured**

NAIW does not adequately secure personally identifiable information. Access to clients' personal information, including Social Security numbers and medical records can lead to identity theft and financial losses. Because information remains unsecured, individuals who are authorized to enter NAIW's offices, such as the non-state employed janitorial crews, may access unsecured personal information.

Personal information can be found in physical case files. The files are located in unsecured file cabinets, which NAIW staff do not lock during nonbusiness hours. Individuals with authorized access to the offices, such as the janitorial crews, have access to clients' personal information during these hours. Occurrences were described by NAIW's management where office entrances

were not properly secured during nonbusiness hours after being cleaned by the janitorial crews, which could additionally allow unauthorized individuals access. In addition, the Department of Business and Industry confirmed that NAIW should have required background checks on janitorial crews.

Nevada Revised Statutes requires agencies that maintain personal information to have reasonable security measures to protect records from unlawful access, removal, loss, and misuse. Personal information must also be maintained in a confidential manner when included in a recorded document submitted to a governmental agency.

### **Recommendations**

1. Ensure service level agreements with information technology vendors are executed in a timely manner.
2. Develop policies and procedures to ensure:
  - a. User accounts are reviewed quarterly and disabled and removed in a timely manner upon employee termination or reassignment.
  - b. Server backup testing and backup adequacy are evaluated and documented.
3. Develop a written information technology contingency plan and ensure it is updated on an annual basis.
4. Coordinate with the Department of Business and Industry to ensure independent contractors in sensitive information technology positions receive background checks and annual security awareness training.
5. Develop comprehensive policies and procedures including the methodology used to calculate performance measures, retention of supporting documents, and assignment of supervisory review duties to ensure measures are accurate and reliable.
6. Identify and report outcome based performance measures and develop controls to ensure their accuracy.

7. Secure clients' personally identifiable information from unauthorized access.



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# Case Management Administration Is Adequate

Case management administration was adequate in ensuring the timeliness of cases although NAIW experienced delays in receiving crucial evidence and information from third parties. Specifically, case processes were generally timely including NAIW sending and requesting necessary documents in a prompt manner. However, the need for evidence and information from third parties delayed some hearings. Injured workers can experience financial and mental stress while fighting for workers' compensation benefits so timely resolution of cases is important.

## **Case Processes Are Generally Timely**

We tested 35 cases that were closed in fiscal year 2019 and determined NAIW was timely in sending and requesting necessary documents. These documents include welcome packages, claim files, and case closure letters. Our testing revealed the following:

- NAIW sent welcome packages timely to clients and opposing counsel an average of 4 days after NAIW was appointed the case. These packages include documents necessary to commence work on a case such as introduction letters, representation agreements, and medical authorization forms.
- NAIW requested claim files timely, an average of 4 days after appointment. Files contain facts of each case prior to NAIW being appointed. Claim files are considered essential and are provided by insurers or the injured worker's employer.

- NAIW was generally timely in sending case closure letters to clients which notify them of their right to appeal further to the District Court. Of the 35 cases tested, NAIW lost 9. For a majority of those 9 cases, NAIW sent closure letters an average of 7 days after an Appeals Officer rendered their decision, which complied with NAIW's internal policy of 10 days. However, in one instance the closure letter was sent 39 days after the decision, which was 9 days after the deadline to further file an appeal to the District Court.

### **Third Parties Influenced the Timeliness of Cases**

The need for evidence and information from third-party sources delayed some cases. NAIW does not have control over the timeliness of receiving claim files, medical records, doctors' opinions, and independent medical evaluations. Of 35 cases tested, 7 (20%) claim files were provided by insurers or employers after the 30-day deadline set by state law. We found that waiting for evidence and information such as the claim files, medical records, doctors' opinions, and independent medical evaluations contributed to delayed hearings.

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# Appendix A

## Audit Methodology

To gain an understanding of the Office of the Nevada Attorney for Injured Workers (NAIW), we interviewed staff, reviewed statutes, regulations, and policies and procedures significant to NAIW's operations. We also reviewed financial information, prior audit reports, budgets, legislative committee minutes, and other information describing NAIW's activities. Furthermore, we documented and assessed NAIW's internal controls and administrative procedures related to information systems, performance measures, security of sensitive information, and case management timeliness.

Our audit included a review of NAIW's internal controls significant to our audit objective. Internal control is a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. Internal control comprises the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity. The scope of our work on controls related to information systems, performance measures, security of sensitive information, and case management timeliness included the following:

- Design and implementation of control activities through policy (Control Activities);
- Performance of monitoring activities (Monitoring); and
- Identification, analysis, and response to risks (Risk Assessment).

Deficiencies and related recommendations to strengthen NAIW's internal control systems are discussed in the body of this report.

The design, implementation, and ongoing compliance with internal controls is the responsibility of agency management.

To determine the strength of NAIW's controls over information systems administration, we examined NAIW's relationship with their contracted information technology (IT) service vendor. We verified if a current service level agreement or IT contingency plan was in place. Furthermore, we determined whether background checks were conducted on the IT service vendor's employees, whether vendor employees completed annual security awareness training, and if data backups were occurring. Finally, we reviewed the user population to determine if only current employees had authorized and appropriate access to NAIW's sensitive data and systems.

Our testing of performance measures and case management timeliness included data obtained from NAIW's case management database. To assess its accuracy, we randomly selected 10 cases from the database and verified information back to the original documentation in physical case files. Our population consisted of 282 fiscal year 2019 cases from the Carson City location. To assess the completeness of the database, we judgmentally selected 10 physical case files and verified corresponding information in the database. We found the database to be sufficiently reliable.

To determine the reliability of performance measures used in the State's budgeting process, we reviewed the most current measures reported in the 2019–2021 Executive Budget. We obtained supporting documentation to determine if underlying records existed and requested written policies and procedures showing how each measure was calculated. We then recalculated the measures to verify the mathematical accuracy of the amounts reported. To evaluate performance measure effectiveness, we compared the measures in the Executive Budget to the State's Budget Building Manual, as published by the Governor's Finance Office, to determine if the measures showed NAIW's impact on Nevada. We also compared the reported measures to NAIW's most recent strategic plan.

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To analyze sensitive information physically stored at NAIW's offices, we observed the security of personally identifiable information. In addition, we reviewed the physical contents of case files and discussed security with agency personnel from both office locations.

To obtain a better understanding of NAIW's case management, we discussed with staff the key areas and issues affecting the case process. Out of a population of 1,046 Carson City and Las Vegas cases closed in fiscal year 2019, we selected a random sample of 35 cases and determined the timeliness of key case processes. We ran an additional analysis on cases with delayed hearings to determine the length of time attributable to each delay. Lastly, we judgmentally selected 18 cases that took a high, average, and low amount of time to close and verified underlying factors affecting timeliness.

We used nonstatistical audit sampling for our audit work, which was the most appropriate and cost-effective method for concluding on our audit objective. Based on our professional judgement, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that nonstatistical sampling provided sufficient, appropriate audit evidence to support the conclusions in our report. We did not project exceptions to the population, because our sample included both random and judgmentally selected items.

Our audit work was conducted from September 2019 to May 2020. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Administrator of the Office of the Nevada Attorney for Injured Workers. On October 27, 2020, we met with agency officials to discuss the results of the audit and requested a

written response to the preliminary report. That response is contained in Appendix B, which begins on page 19.

Contributors to this report included:

Yuriy Ikovlev, CPA, MBA  
Deputy Legislative Auditor

Sandra McGuirk, CPA  
Audit Supervisor

Shannon Riedel, CPA  
Chief Deputy Legislative Auditor

# Appendix B

## Response from the Office of the Nevada Attorney for Injured Workers

STEVE SISOLAK  
Governor

STATE OF NEVADA

TERRY REYNOLDS  
Director



EVAN BEAVERS  
Nevada Attorney for  
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November 5, 2020

DANIEL L CROSSMAN CPA  
LEGISLATIVE AUDITOR  
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401 S CARSON ST  
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Dear Mr. Crossman:

Enclosed please find the response for the Nevada Attorney for Injured Workers to the performance audit report you provided in your letter of October 28, 2020. I am also enclosing the completed checklist for the recommendations contained in the audit report.

I thank you for the attention you and your staff have given to the review of this agency's systems and practices. I believe positive change will result from your efforts.

Sincerely,  
NEVADA ATTORNEY FOR INJURED WORKERS

Evan Beavers, Esq.

EBB/nls  
cc: Terry Reynolds, Dept. of Business & Industry  
Budd Milazzo, Dept. of Business & Industry

Website: <http://www.naiw.nv.gov>  
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OFFICE OF THE NEVADA ATTORNEY FOR INJURED WORKERS  
Administrator's Response to Performance Audit

**ADMINISTRATIVE CONTROLS NEED STRENGTHENING**

***Information Systems Administration Needs Improved Oversight***

1. Service Level Agreement Was Not Renewed Timely

As accurately noted in the audit report, NAIW was out of contract with its IT vendor for a period of ten months from June of 2019 until April of 2020. This failure to maintain a critical contract was truly an aberration in the administration of the agency, and not an accurate reflection of contract administration in general.

NAIW has been in a contractual relationship with JFG for a period of ten years. JFG was first contracted to evaluate the agency's system and later contracted to provide hardware and software maintenance. During that period the agency has entered into approximately twelve contracts with JFG that were completed and expired on the primary term or were amended and extended in a continuing fashion. The JFG contract at issue in the audit report was the renewal of the agency's contract for that vendor to continue with providing maintenance of the agency's IT hardware and software and troubleshoot issues that arise for users of the system.

The contract at issue was an extension of an expiring five-year maintenance contract. During the life of that contract the agency's requirements had matured to the point that the scope of the contract needed review as did the need for cyber security insurance coverage. These issues required review and approval by a number of persons within the agency and the department, as well as the vendor. A number of drafts of the contract were circulated before all persons concerned were able to approve the terms. This process took many months whereas approval for similar contracts in the past took only weeks.

During the period the agency and the vendor were out of contract, the agency's requests for service were kept to a minimum. Still, issues arose that only the vendor could resolve resulting in charges against the agency. After the contract was extended in April of 2020, these invoices were approved for payment and the vendor was promptly paid.

2. User Accounts Were Not Monitored

NAIW has information system user accounts for each of its 32 employees. When an employee leaves the agency the office manager contacts the IT vendor to disable the employees access to the agency's servers at the end of the last business day of the employment, if not sooner. The office manager also contacts EITS to disconnect the employee's access to voice mail at that time. However, the employee's user accounts are not disabled right away. Outside parties may attempt direct contact with the employee through Outlook or telephone voice mail so for a



period of approximately 30 days the office manager can monitor those points of contact to ensure a client or another caller is not waiting for a response to a call or email that arrived after the employee left.

In the audit report it is noted that NAIW failed to disable two user accounts after employees left the agency. In both cases the employees left at the time the agency was transitioning between office managers and the administrator failed to ensure there was follow-up to disabling those accounts.

The administrator was not aware of the generic administrative account noted in the audit report. To the administrator's knowledge, that account has never been used.

The agency does not have written policies in place for reviewing user accounts on a quarterly basis or assigning responsibility and timelines for disabling user accounts that are not intended to be accessible.

3. Continuation of Critical Services is Not Ensured

The audit report notes that NAIW is not in compliance with State standards in that the administrator does not verify the adequacy of server backup practices and does not require and review the results from the testing of the backup system.

The agency relies on its IT vendor to maintain the server backup system and the administrator has relied on the vendor performing that task without verifying that the system works as intended and that the testing is accurate. While the agency does have a backup system that maintains data securely and would allow for prompt data recovery in the event of a catastrophic loss in either office, the agency does not have in place a written policy for testing and verifying the results of testing on a regular basis. Accordingly, there has been no training of agency staff for the implementation of a backup plan, if necessary.

4. Background Checks on Contractors Were Not Conducted

The audit report notes that NAIW has not required background checks on its IT vendors with access to the agency's systems. Despite the fact that state security standards have required such checks since February 2017, the vendors have not been required to undergo those investigations and prove their qualifications.

5. Contractors Did Not Complete Security Awareness Training

The audit report notes that state security standards require all IT vendors undergo security awareness training on an annual basis. NAIW has used the same IT vendor for many years but has not required security awareness training of the vendor's employees.

**Controls Over Performance Measures Are Deficient**

1. Performance Measure Reliability is Inconsistent

All of the data upon which NAIW's performance measures are based comes from the agency's case management system. The data in that system is input continually throughout each day by each employee of the agency. The manner by which that data is gathered has been passed down informally over the years at the office manager position, but the agency has not maintained a written manual by which others could easily recreate the results. The results can only be verified by retracing those steps, and the process is labor intensive. The administrator receives revised measures monthly but has relied on the results of the office manager without verifying those results.

2. Performance Measure Usefulness Can Be Improved

NAIW's primary mission is to provide legal representation to injured workers. The value of the agency's efforts, however, are so speculative as to be unreliable. Generally, what the constituent receives if the agency is successful in the representation is future medical treatment and future compensation benefits. The future compensation benefits may be calculable but the value of future medical treatment is not. If NAIW is successful for getting a claim accepted for a particular body part, the cost of that medical treatment is not certain given current health care pricing. Also, once a claim is accepted the injured workers has lifetime reopening benefits for future treatment, making measuring the value of the "win" very speculative.

The agency has in the past calculated hours of attorney time spent on each case. These hours were then converted to a reasonable hourly rate if private counsel provided that legal service and the total was used to indicate how much the client saved by making use of NAIW's services. This value, however, is also speculative. Private counsel in the workers' compensation field represent claimant's on a contingency, not an hourly, basis.

NAIW is sensitive to the need to demonstrate the agency's performance and agrees that outcome based measures would be useful in that regard. The agency continues to develop measures that can be verifiable.

**Personally Identifiable Information Should Be Better Secured**

NAIW, in accordance with accepted rules for retention of client files, keeps files for seven years. The agency keeps files for three years in our offices and then the files are kept in safe keeping at State Archives for the remaining four years before the files are destroyed. While the files are kept in our offices, active files are located in file cabinets near the lawyers and secretaries working those cases and when the matter closes the files are kept in file cabinets in separate file storage rooms within the offices. The audit report notes that these

file cabinets in the office remain unlocked after hours and may therefore leave client personal information at risk.

Since this risk of exposure has been noted by the auditor, the agency has begun to source keys for each file cabinet so that the cabinets can be locked after hours and the contents kept safe.

#### **Recommendations**

1. *Ensure service level agreements with information technology vendors are executed in a timely manner.*  
**Response:** All effort will be made to ensure in the future that lead time for renewing contracts or negotiating new contracts will be sufficient to complete review and approval well in advance of deadlines.
2. *Develop policies and procedures to ensure:*
  - a. *User accounts are reviewed quarterly and disabled and removed in a timely manner upon employee termination or reassignment.*
  - b. *Server backup testing and backup adequacy are evaluated and documented.***Response:** Written policies and procedures will be developed to ensure clear responsibility for disabling access to the agency's phones and servers, and verification of such. Written policies and procedures will be developed to ensure timely server backup testing adequacy and documenting the results of testing.
3. *Develop a written information technology contingency plan and ensure it is updated on an annual basis.*  
**Response:** Working with the Department's IT staff and NAIW's IT vendor, a written IT contingency plan will be developed and implemented and scheduled for annual review by the agency administrator.
4. *Coordinate with the Department of Business and Industry to ensure independent contractors in sensitive information technology positions receive background checks and annual security awareness training.*  
**Response:** Department IT staff will be involved in developing a written plan ensuring NAIW's compliance with state policies for background checks and training requirements for any contractors having access to the agency's servers. The current vendor has completed both of these requirements.
5. *Develop comprehensive policies and procedures including the methodology used to calculate performance measures, retention of supporting documents, and assignment of supervisory review duties to ensure measures are accurate and reliable.*

**Response:** NAIW will develop written policies detailing the methods used for gathering data used in the agency's performance measures and the methods for calculating those statistics. Documentation for all performance measure reports will be kept in the records of the agency's office manager.

6. *Identify and report outcome based performance measures and develop controls to ensure their accuracy.*

**Response:** NAIW will continue to identify and report outcome based performance measures that can be verified objectively.

7. *Secure client's personally identifiable information from authorized access.*

**Response:** File cabinets containing active files will be secured at the close of business each day and those cabinets housing closed files not yet sent to archives will be locked at all times.

## The Office of the Nevada Attorney for Injured Workers' Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Ensure service level agreements with information technology vendors are executed in a timely manner .....	<u>X</u>	<u>          </u>
2. Develop policies and procedures to ensure:		
a. User accounts are reviewed quarterly and disabled and removed in a timely manner upon employee termination or reassignment.....	<u>X</u>	<u>          </u>
b. Server backup testing and backup adequacy are evaluated and documented .....	<u>X</u>	<u>          </u>
3. Develop a written information technology contingency plan and ensure it is updated on an annual basis.....	<u>X</u>	<u>          </u>
4. Coordinate with the Department of Business and Industry to ensure independent contractors in sensitive information technology positions receive background checks and annual security awareness training .....	<u>X</u>	<u>          </u>
5. Develop comprehensive policies and procedures including the methodology used to calculate performance measures, retention of supporting documents, and assignment of supervisory review duties to ensure measures are accurate and reliable.....	<u>X</u>	<u>          </u>
6. Identify and report outcome based performance measures and develop controls to ensure their accuracy.....	<u>X</u>	<u>          </u>
7. Secure clients' personally identifiable information from unauthorized access .....	<u>X</u>	<u>          </u>
TOTALS	<u>7</u>	<u>          </u>