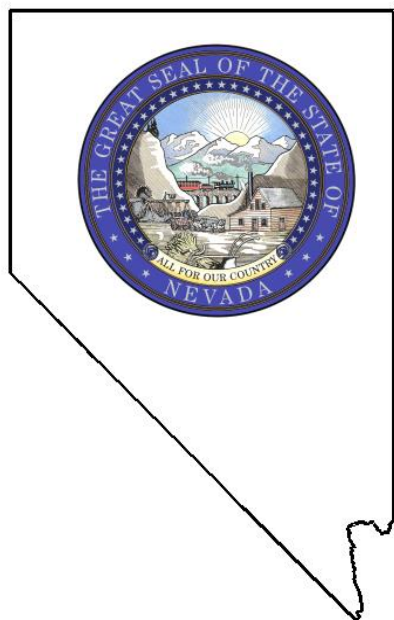


STATE OF NEVADA

Performance Audit

Department of Administration
Hearings Division

2017



Legislative Auditor
Carson City, Nevada

Audit Highlights



Highlights of performance audit report on the Hearings Division issued on January 17, 2018. Legislative Auditor report # LA18-09.

Background

The mission of the Hearings Division is to provide fair and independent dispute resolution hearings in a timely and cost-efficient manner while providing due process to all parties. The Division is committed to providing fair and impartial hearings in accordance with the highest standards of ethics, professionalism, efficiency, and accountability.

The Division is responsible for conducting all hearings in disputed workers compensation cases, Victims of Crime Program appeals, state bid award disputes, and Department of Education disciplinary disputes. In addition, the Division conducts hearings via inter-agency agreements with several state agencies.

As of November 2016, all 45 of the Division's authorized full-time equivalent positions were filled. The Division is primarily funded through transfers from the Fund for Workers Compensation and Safety Administration by the Department of Business and Industry's Division of Industrial Relations. Expenditures for fiscal year 2016 totaled almost \$4.6 million.

Purpose of Audit

The purpose of this audit was to determine if the Division has: (1) adequate controls to protect personally identifiable information and sensitive health information; and (2) adequate controls related to performance measures, accounts receivable and revenue tracking, and employee performance evaluations. The scope of our audit focused on activities in certain areas from fiscal year 2014 through 2016.

Audit Recommendations

This audit report contains two recommendations to improve the protection of sensitive information and seven recommendations to improve controls over performance measures, accounts receivable and revenue tracking, and employee evaluations.

The Hearings Division accepted the nine recommendations.

Recommendation Status

The Hearings Division's 60-day plan for corrective action is due on April 12, 2018. In addition, the six-month report on the status of audit recommendations is due on October 12, 2018.

Hearings Division

Department of Administration

Summary

The Division's controls related to the protection of personally identifiable information and sensitive health information need improvement. The Division collects Social Security numbers unnecessarily from applicants for workers compensation employer representative licensure and maintains that information on its hearings management system. Additionally, the Division has not worked with the Department of Administration's Enterprise Information Technology Services (EITS) to review the security of its server.

The Division's controls related to certain financial and administrative practices need strengthening. Specifically, the Division's policies and procedures for performance measures, including data collection, calculation, and supervisory review, are too vague. In addition, there is currently no process to ensure hearings conducted under agreements with some agencies are properly billed and collected. The Division's controls do not ensure that revenues are sufficiently reviewed and reconciled to the state's accounting system. Finally, the Division did not evaluate employee performance as required by state law.

Key Findings

The Division collects and maintains nonessential personal information in hardcopy format, including Social Security numbers. Furthermore, the Division stored unencrypted Social Security information of 435 workers compensation employer representative licensees on its hearings information management system. This information is accessible to six Division employees who do not need the information to carry out their assigned duties. (page 4)

The Division has not adequately protected information in its hearings case management information system. This information is critical for the Division to meet its mission to provide hearings in a timely and cost-efficient manner. The Division uses its own server for its hearings management system. Although EITS set up and installed the server, Division staff stated the security settings for the server have not been reviewed by EITS. A security review of the Division's server will help reduce the risk of a third-party security breach. (page 5)

Due to the Division's lack of supporting records, we could not determine the accuracy of its three performance measures. Furthermore, the Division's policies and procedures are not sufficient and are not followed. In addition, descriptions of the measures in the Executive Budget are not clear or accurate. The Division can provide better information to decision makers by improving its performance measures. (page 6)

The Division does not have an adequate process to ensure it bills and collects amounts due for conducting hearings for state agencies. We found problems with 13 of 50 (26%) of the cases tested: 9 cases were not billed and 4 cases totaling \$995 were billed but not collected. These problems occurred because the Division does not have adequate policies and procedures to help ensure all appropriate services are billed and collected. (page 10)

The Division's revenue collection practices need improvement. For example, the Division did not deposit revenue timely. Staff deposited 19 of 29 receipts tested an average of 4 days late. Also, management did not reconcile check logs with the state's accounting system on a monthly basis to verify all receipts were deposited and recorded correctly. In addition, the Division does not have procedures regarding revenue collection for the workers compensation representative licensing process, which has led to different practices between the Las Vegas and the Carson City offices. (page 11)

The Division did not evaluate employees' performance as required by state law. We examined 32 employee records for evidence of required probationary period evaluations and for evidence of required annual evaluations. In fiscal years 2015 to 2016 there were 69 employee evaluations due, but 56 evaluations were not conducted by the Division. Also, 7 of the 13 evaluations conducted were past due by more than 30 days. Without the required evaluations, management does not have documentation to ensure that promoted employees are fulfilling their new duties satisfactorily, to terminate employees who are not performing adequately, or to acknowledge those employees whose performance exceeds standards. (page 12)

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This report contains the findings, conclusions, and recommendations from our performance audit of the Department of Administration, Hearings Division. 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 two recommendations to improve the protection of sensitive information and seven recommendations to improve controls over performance measures, accounts receivable and revenue tracking, and employee evaluations. 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 "Rocky Cooper".

Rocky Cooper, CPA
Legislative Auditor

September 14, 2017
Carson City, Nevada

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Introduction

Background

The Hearings Division (Division) was established in 1979 within the Department of Administration. The mission of the Division is to provide fair and independent dispute resolution hearings in a timely and cost-efficient manner while providing due process to all parties. The Division is committed to providing fair and impartial hearings in accordance with the highest standards of ethics, professionalism, efficiency, and accountability.

The Division is responsible for conducting all hearings in disputed workers compensation cases, Victims of Crime Program appeals, state bid award disputes, and Department of Education disciplinary disputes. In addition, the Division conducts hearings via inter-agency agreements with several state agencies.

The Division performs two levels of administrative hearings. The first level Hearing Officer proceeding is an informal hearing intended to resolve disputed cases quickly, without significant legal formalities. All hearings are held within 30 days from the date a request for a hearing is filed. The second level proceeding before an Appeals Officer is conducted in a more formal manner and is the final evidentiary proceeding. An appeal of an Appeals Officer decision can be taken to the District Court, and an appeal of the District Court decision can be taken to the state Supreme Court.

The Division has several inter-agency agreements with state agencies that use its services. After a hearing is conducted for such agencies and the case is closed, the agency is billed for time dedicated by the Hearings or Appeals Officer, Clerical Assistant, costs for mailings, etc. The following is a list of some of the agencies the Division bills for hearing services:

- Department of Employment, Training and Rehabilitation;

- Department of Public Safety, Division of Emergency Management;
- Department of Administration, Division of Human Resource Management, State Personnel Commission;
- Department of Health and Human Services, Division of Health Care Financing and Policy;
- Department of Administration, Purchasing Division; and
- Department of Administration, Victims of Crime Program.

The Division has offices in Las Vegas and Carson City. As of November 2016, all 45 of the Division's authorized full-time equivalent positions were filled. The Las Vegas office consists of 5 Hearing Officers, 8 Appeals Officers, and 20 support staff. The Carson City office consists of 2 Hearing Officers, 3 Appeals Officers, and 7 support staff.

The Division is primarily funded through transfers from the Fund for Workers Compensation and Safety Administration by the Department of Business and Industry's Division of Industrial Relations. Expenditures for fiscal year 2016 totaled almost \$4.6 million. Exhibit 1 shows the Division's revenues and expenditures for the last 3 fiscal years.

**Revenues and Expenditures
Fiscal Years 2014 to 2016**
Exhibit 1

Revenues	2014	2015	2016
Transfers from Division of Industrial Relations	\$4,455,574	\$4,546,833	\$4,728,353
Other Revenue ⁽¹⁾	44,146	86,434	125,032
Total Revenues	\$4,499,720	\$4,633,267	\$4,853,385
Expenditures			
Personnel Services	\$3,368,170	\$3,393,437	\$3,548,083
Operating	738,563	684,174	747,592
Other Expenditures ⁽²⁾	128,497	174,432	188,936
Information Services	73,725	38,547	106,316
Total Expenditures	\$4,308,955	\$4,290,590	\$4,590,927
Difference	\$ 190,765	\$ 342,677	\$ 262,458
Reversion to Division of Industrial Relations	(190,765)	(342,677)	(262,458)
Ending Funds	\$ 0	\$ 0	\$ 0

Source: State accounting system.

⁽¹⁾ Includes charges for services, prior year refunds, and other transfers.⁽²⁾ Includes travel, training, Department of Administration cost allocations, purchasing assessments, state cost allocations, and Attorney General's Office cost allocations.

Scope and Objectives

The scope of our audit included a review of the Hearings Division's protection of sensitive information in fiscal year 2016; performance measures for fiscal years 2014 to 2016; accounts receivable and revenue tracking in fiscal year 2016; and employee performance evaluations for fiscal years 2015 and 2016. Our audit objectives were to determine whether the Division has:

- Adequate controls to protect personally identifiable information and sensitive health information.
- Adequate controls related to performance measures, accounts receivable and revenue tracking, and employee performance evaluations.

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 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.

Improvements Are Needed to Protect Sensitive Information

Sensitive Information Was Collected Unnecessarily

The Division's controls related to the protection of personally identifiable information and sensitive health information need improvement. The Division collects Social Security numbers unnecessarily from applicants for workers compensation employer representative licensure and maintains that information on its hearings management system. Additionally, the Division has not worked with the Department of Administration's Enterprise Information Technology Services (EITS) to review the security of its server.

The Division collects and maintains nonessential personal information in hardcopy format, including Social Security numbers. Furthermore, the Division stored unencrypted Social Security information on the hearings information management system. The workers compensation employers' representatives licensing section in the information system contains the Social Security numbers of 435 licensees. This information is accessible to six Division employees who do not need the information to carry out their assigned duties.

Division management stated they only use Social Security numbers to clearly identify the person applying to be licensed, and the numbers are entered into the hearings management system because they are requested on the application. In addition, management confirmed that the Social Security numbers in the system are not encrypted. State information technology standards indicate confidential personal information should be encrypted whenever possible.

After reviewing the security settings provided by the Division, we found six employees had access to the Social Security information on all the workers compensation employers' representatives

licensees. These Division employees do not need this information for their work functions.

NRS 239B.030 says that a government agency shall not require a person to include any personal information on any document that is recorded, filed or otherwise submitted to a government agency, except when required in specific instances. However, if personal information is required to be included in a recorded document, filed or otherwise submitted to a governmental agency, the agency is to ensure that the personal information is maintained in a confidential manner.

Collecting and storing unencrypted personal identifying information such as Social Security numbers increases the risk that identity theft could occur.

Case Management Information System Not Properly Protected

The Division has not adequately protected information in its hearings case management information system. This information is critical for the Division to meet its mission to provide hearings in a timely and cost-efficient manner. The Division uses its own server for its hearings management system. Although EITS set up and installed the server, Division staff stated the security settings for the server have not been reviewed by EITS.

A security review of the Division's server will help reduce the risk of a third-party security breach. The Division's case management system contains the case information for all of the Division's hearings, including scheduling information, case information, and data regarding operations. If a breach were to occur, or if the server were to malfunction in any way, it would affect the Division's ability to function smoothly.

Recommendations

1. Discontinue collecting Social Security numbers from applicants for workers compensation employer representative licensure and delete the Social Security number field from the hearings management system.
2. Ensure that the Department of Administration's Enterprise Information Technology Services periodically reviews the hearings management system server's security settings.

Certain Administrative and Financial Practices Need Strengthening

The Division's controls related to certain financial and administrative practices need strengthening. Specifically, the Division's policies and procedures for performance measures, including data collection, calculation, and supervisory review, are too vague. In addition, there is currently no process to ensure hearings conducted under agreements with some agencies are properly billed and collected. The Division's controls do not ensure that revenues are sufficiently reviewed and reconciled to the state's accounting system. Finally, the Division did not evaluate employee performance as required by state law.

Controls Needed to Ensure Performance Measure Results Are Reliable

Due to the Division's lack of supporting records, we could not determine the accuracy of its three performance measures. Furthermore, the Division's policies and procedures are not sufficient and are not followed. In addition, descriptions of the measures in the Executive Budget are not clear or accurate. Performance measures should assist an agency and government officials in identifying financial and program results, evaluating past resource decisions, improving future resource allocation decisions, and communicating program results. The Division can provide better information to decision makers by improving its performance measures.

The Division has three performance measures: 1) average number of days from filing to case resolution, 2) cases resolved by the Division without an appeal to District Court, and 3) customer ratings of Hearings and Appeals Officers. These measures are reported to the Department of Administration (Department) every quarter. In addition, these three measures are reported in the

Executive Budget and are, therefore, used during the budget process.

Reported Results Were Not Adequately Supported

The Division could not provide all records to support the reported results for its performance measures. Additionally, the backup support provided was inconsistent with the measures reported. Furthermore, staff could not re-create the reports to show how the numbers were obtained. The lack of underlying records prevented us from being able to verify the accuracy of the reported results.

The Division did not retain supporting documentation for reported performance measures as required by its policies and procedures and state guidelines. For example, information systems staff could not show how fiscal year 2016 third quarter numbers were obtained because staff did not have the spreadsheet where those numbers were calculated. Furthermore, staff could not re-create the reports to show how the numbers were calculated. When we requested support for fiscal year 2016 first and second quarterly performance measure reports, staff provided the email communication to the Department of the performance measures during those quarters, and also provided the spreadsheet used to complete the calculation for the fiscal year 2016 second quarter. However, the numbers communicated to the Department did not match the numbers on the spreadsheet.

When we asked the Division to provide supporting documentation for all reported performance measures since fiscal year 2014, management stated that the Division does not consistently retain supporting records for its performance measures. Further, information systems staff indicated the data could not be recreated because the case information changes, so a report generated for a specific time period would reflect the new case data, not the data at the time the report was first created.

Starting in fiscal year 2016, the Division began to keep handwritten notes with the core data results which were reported as the performance measure numbers. However, the handwritten reported measures do not show evidence of who compiled the

numbers, and if there was any supervisory review of the underlying records and calculations for the reported numbers.

We also found two of the measures included in the 2015–2016 Executive Budget were not calculated correctly. One measure did not use a weighted average of the data reported, and another measure was mathematically incorrect. For example, one measure is an average of four quarters' average number of days, and is not weighted to consider the number of cases closed in each quarter. Although the mathematical errors were relatively minor, these errors went undetected because of the lack of review over performance data calculations.

The Division's policies require both fiscal and program staff to review the performance measure to ensure consistency with budget instructions. However, the Division's records did not contain any evidence of supervisory review. A thorough review reduces the risk of errors and ensures measures are reliable.

Policies and Procedures Need Improvement

The Division can enhance controls over the reliability of its performance measures by improving policies and procedures, and making sure staff are following the guidelines. The Division's policies and procedures state that documentation is maintained describing how performance measures are monitored and calculated, including formulas. Only one staff person knows how to obtain the performance measure information from the information system, and there are no instructions on how the measures are calculated as required by the policies and procedures.

Additionally, the performance measures section of the Division's policies and procedures is derived directly from the Governor's Finance Office's self-assessment template, and has not been tailored to the Division. For example it does not indicate the measures, who is responsible for compiling and reviewing them, or how often and to whom they are reported.

The State Administrative Manual (SAM) requires agencies to develop written procedures on how the performance measures

are computed, including where the data is obtained, and which reports are used. Additionally, fiscal and program staff have the responsibility to review the performance measure procedures and ensure they are followed. Lastly, SAM 2512 requires the records used in computing the performance measures to be retained for 3 fiscal years. Written procedures help ensure the process for collecting performance data is reasonable and consistent over time.

Clarity of Measures Needs To Be Improved

Descriptions of the performance measures in the Executive Budget are not clear or accurate. Clarifying the definitions and purpose of the Division's performance measures and evaluating if the correct information is being measured will help ensure the performance measures are useful to decision makers.

Average Days for Case Resolution Is Misleading

One of the performance measures is a combination of the average number days to decide on hearings cases, which must close within 45 days, and the average number of days to decide on appeals cases, which can continue for up to 12 months. This performance measure could be misleading due to this combination, and stakeholders might assume both case types average the same number of days.

Cases Resolved Without Appeal Is Overstated

Another of the Division's performance measures is cases resolved by the Division without an appeal to District Court. This measure is calculated by subtracting the number of appeals of the Appeals Officer decisions to a District Court from the total number of cases and dividing that number by the total number of decisions by both Hearings and Appeals Officers. Although this formula includes the number of decisions by the Hearings Officers, it does not include the number of Hearings Officer decisions that were appealed to Appeals Officers. In addition, it counts decisions that are appealed to Appeals Officers twice.

Ratings of Hearings and Appeals Officers Is Misleading and Outdated

The last of the Division's performance measures is a customer rating of Hearings and Appeals Officers. While the Division reports this measure quarterly, it is based on a survey conducted every few years. According to the Division, the first survey was conducted in 2003 and occurred every 3 years; however, it is now on a 2 year schedule. Information systems personnel indicated these surveys are mainly on the appeals level because Appeals Officers are appointed and the survey results could provide statistics to decision makers about whether to renew the appointment or to select someone else as a replacement. However, the name of the reported measure is misleading as it appears the rating applies to both Hearing Officers and Appeals Officers.

In addition, the surveys are being conducted less often than intended. While the Division stated the surveys were originally on a schedule of 3 years and every 2 years since 2015, the file where the survey results are kept does not match the survey schedule described. For example, the file showed that the last Appeals Officer survey was conducted in 2012.

Process Needed to Ensure Collection of Accounts Receivable

The Division does not have an adequate process to ensure it bills and collects amounts due for conducting hearings for state agencies. We found problems with 13 of 50 (26%) of the cases tested: 9 cases were not billed and 4 cases totaling \$995 were billed but not collected. These problems occurred because the Division does not have adequate policies and procedures to ensure all appropriate services are billed and collected.

The Division has several interagency agreements with agencies that use its services for hearings. After a hearing is conducted for such agencies and the case is closed, the agency is charged for time dedicated by the Hearings Officer, Clerical Assistant, costs for mailings, etc. The invoices are sent to the Department's Administrative Services Division (ASD) for transfer of the money electronically between the agencies and the Division. In fiscal year 2016, the Division had 333 billable hearings.

The Division does not have the necessary controls to ensure all billable hearings are billed and that the Division is collecting all the funding it is due. The Division relies on ASD to track the payments of invoices and does not verify payments are made through the state's accounting system.

According to the Division, it does not need a tracking process because ASD handles the billing claims. Therefore, the Division has not developed policies and procedures to help ensure all funds are collected. In addition, some staff are unaware there are written procedures related to billable hearings, and some staff are not adhering to those procedures. Also, invoices did not have evidence of supervisory review as required by Division policy.

The Governor's Finance Office offers internal control guidelines for state agencies to help ensure proper controls related to accounts receivable are implemented. These internal controls address responsible parties, backup positions, how often billings are sent, supervisory approvals, collection efforts, and reconciliations. However, the Division's procedures do not address all responsible parties, do not give specific timelines for when invoices are to be completed, do not mention a tracking system to ensure all billable hearings were invoiced, do not address verifying that payment is received, and do not mention collection procedures for past due amounts.

Revenues Were Not Tracked Properly

The Division's revenue collection practices need improvement. The Division did not deposit revenue timely and staff are not following written policies and procedures regarding revenue collection. We could not determine the amount collected in fiscal year 2016 at the Carson City office because staff was not able to provide a check log for the first half of fiscal year 2016. Poor controls over revenue increase the risk that errors or lost or stolen funds could go undetected.

We sampled a total of 29 receipts of the 78 receipts listed on the check logs from the Las Vegas and Carson City offices in fiscal year 2016. We found that all monies in our sample were deposited. However, we also found the following:

- Staff deposited 19 of 29 (66%) receipts totaling \$1,213 an average of 4 days later than required by NRS 353.250;
- Staff accepted cash as a form of payment on two occasions at the Carson City office location, although this practice is against the Division's policies and procedures;
- Management did not reconcile check logs with the state's accounting system on a monthly basis as required by the Division's policies and procedures to verify receipts were deposited and recorded correctly.

Similar issues were found in the prior audit conducted in 2007. We recommended a revision to existing procedures to ensure cash receipts are properly logged and deposited timely.

In addition, the Division collects the initial application and license fee and renewal fee for workers compensation representative (WCR) licenses. However, the Division does not have procedures for the WCR licensing process, which has led to different revenue collection practices between the Las Vegas and the Carson City offices. For example, in the Carson City office, the person who collects the application fees does not keep a check log and sends the checks to the Las Vegas office rather than to ASD. In Las Vegas, staff record payments on the check log and then send the payments to ASD.

Employee Performance Evaluations Were Often Not Performed

The Division did not evaluate employees' performance as required by state law. We examined 32 employee records for evidence of required probationary period evaluations and for evidence of required annual evaluations. In fiscal years 2015 to 2016, there were 69 employee evaluations due. Our testing found:

- 56 of 69 evaluations were not conducted;
- 7 of 13 evaluations conducted were more than 30 days past due;
- 5 of the 32 files examined did not contain evidence that the employees had ever been evaluated;

- 8 of the 32 employee files examined did not contain evidence that evaluations had been conducted since 2013; and
- 2 of the 32 employee files examined did not contain evidence that evaluations had been conducted since 2011.

Without the required evaluations, management does not have documentation to ensure that promoted employees are fulfilling their new duties satisfactorily. In addition, without evaluations it is difficult for management to terminate employees who are not performing adequately or acknowledge those employees whose performance exceeds standards.

This same issue was found in the prior audit in 2007. We recommended procedures include management tools to monitor compliance with performance evaluations required by law. Although this recommendation was implemented after the 2007 audit, management did not sustain the implementation for more than a few years.

While the Division's policies and procedures address conducting annual employee performance evaluations, there is no mention of conducting performance evaluations during the probationary period for new employees or recently promoted employees according to the requirements in NRS 284.340. Per NRS 284.340, evaluations must be filed at the end of the 3rd, 7th, and 11th months of employment for employees with a 12-month probation period.

Recommendations

3. Review performance measures to determine whether the measures are clearly defined and the correct information is measured.
4. Develop policies and procedures on the methodology used to obtain each performance measure and distribute to all affected staff. The procedures should include how the supporting data is collected, how the measures are calculated, who reviews the calculations, and how long the supporting data and calculations are retained.

5. Create policies and procedures to address accounts receivable to ensure collection of money for all billable hearings.
6. Comply with policies and procedures related to collecting revenue.
7. Update policies and procedures to include administering workers compensation licenses, including the collection and deposit of fees, in both the Carson City and Las Vegas offices.
8. Develop a system to monitor due dates and conduct timely employee performance evaluations.
9. Update the Division's policies and procedures to include evaluations for new hires and recently promoted employees in compliance with NRS 284.340.

Appendix A

Audit Methodology

To gain an understanding of the Hearings Division, we interviewed staff, reviewed statutes, regulations, and other information describing the Division's activities. We also reviewed financial information, prior audit reports, budgets, and legislative committee minutes. Furthermore, we documented and reviewed the Division's internal controls and administrative procedures related to the security of sensitive information, performance measure reporting, budget tracking, and conducting employee evaluations.

To determine if the Division adequately protects sensitive information, we reviewed computer controls that limit access to Social Security numbers. We observed the Division's system for storing hard copy files. Also, we discussed with staff the Division's reasons for collecting sensitive information, and compared the reasons with state requirements.

To determine the reliability of performance measures used in the state's budget process, we reviewed the three measures reported in the Executive Budget for the 2014–2016 Biennium. We requested the written procedures about how the measures are calculated, and the supporting documentation to determine if the reported information was mathematically accurate and if the underlying records were complete.

To determine if the Division effectively monitors accounts receivable for billable hearings, we obtained a report of all billable hearings in the Las Vegas and Carson City offices for fiscal year 2016 and verified the accuracy and completeness of the reports. We counted the number of each of the three types of billable hearings: Victims of Crime, State Personnel Commission, and other billable hearings. We judgmentally determined the number of each type to test from each office location. Exhibit 2 shows the

number of each type of billable hearings selected for testing. The samples were selected randomly.

**Populations and Sample Sizes
2016 Billable Hearings**

Exhibit 2

	Las Vegas Office				Carson City Office				Total – Hearings Division			
	Victims of Crime	Personnel Commission	All Other Billable Hearings	Total	Victims of Crime	Personnel Commission	All Other Billable Hearings	Total	Victims of Crime	Personnel Commission	All Other Billable Hearings	Total
Population	80	26	109	215	51	32	35	118	131	58	144	333
Sample Size	5	5	20	30	5	5	10	20	10	10	30	50

Source: Auditor Prepared.

We tested whether the agencies were properly billed by reviewing Division case files. We determined if the money was collected by the Division from information found in the state accounting system. If money was not collected, we discussed collection efforts taken by the Division and the Administrative Services Division and determined if they were timely and reasonable.

To evaluate if receipted funds were properly deposited, we reconciled a random sample of 29 entries from the Division check logs to the amount recorded in the state accounting system. We found there were 78 receipts in fiscal year 2016 listed on the check logs at Division’s Las Vegas and Carson City offices. However, this is not the full number of actual receipts because Division staff were not able to provide the Carson City office’s check log for the first half of fiscal year 2016. We then calculated the days it took to deposit receipts to determine if receipts were deposited timely in accordance with NRS 353.250. We assessed whether there was evidence of deposit information being improperly altered after the deposit was initially prepared by comparing the Division check logs and the amounts deposited.

To determine if employee performance evaluations were conducted in accordance with NRS 284.340, we obtained the personnel files for all 26 classified current employees and 6 recently terminated employees. We reviewed the files to determine whether employee performance evaluations were completed timely. Additionally, we conducted interviews with staff

at the Division and the Department of Administration's Division of Human Resources Management to determine its role in employee performance evaluation monitoring.

For our sample design, we used non-statistical audit sampling, which was the most appropriate and cost-effective method for concluding on our audit objectives. Sample sizes were judgmental and determined based on knowledge of the population and ensuring appropriate coverage. We did not project our results because the samples may not be representative of the population. Based on our professional judgment, review of authoritative sampling guidance, and careful consideration of underlying statistical concepts, we believe that non-statistical sampling provides sufficient and appropriate audit evidence to support the conclusions in our report.

Our audit work was conducted from April to December 2016. 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In accordance with NRS 218G.230, we furnished a copy of our preliminary report to the Senior Appeals Officer of the Hearings Division. On August 28, 2017, 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 18.

Contributors to this report included:

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Appendix B

Response From the Hearings Division

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Governor



Patrick Cates
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Michelle L. Morgando, Esq.
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September 8, 2017

Rocky Cooper, CPA
Legislative Auditor
Legislative Council Bureau
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Carson City, NV 89701

Dear Mr. Cooper:

I have reviewed the findings, conclusions and recommendations from the audit of the Hearings Division that was conducted in 2016. The Hearings Division accepts all of the recommendations and addresses each recommendation and set forth proposed compliance actions below.

As we discussed in our videoconference meeting on August 28, 2017, there has been a recent change in the Senior Appeals Officer position. I am working diligently with our staff to ensure that past compliance issues are remedied and do not resurface. I hope the responses to the recommendations fully address your concerns.

Hearings Division **Recommendations and Responses**

Recommendation No. 1: Discontinue collecting Social Security Numbers from applicants for workers compensation employer representative licensure and delete the Social Security number field from the hearings management system.

Response: *Accepted.* All Social Security Numbers (SSN) in Time Matters have been removed from the license representative fields and the SSN field was removed on August 30th, 2017. Appropriate staff has been assigned to redact the SSNs from all physical files.

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Recommendation No. 2: Ensure that the Department of Administration's Enterprise Information Technology Services periodically reviews the hearing management system server's security settings.

Response: *Accepted.* We have reached out to Enterprise Information Technology Services (EITS) Information Security Officer & Manager, Steve Ingersoll. He has provided us with a Security Center Vulnerability Scan Worksheet to begin the process. EITS will put our request on the next available schedule. EITS does not maintain a periodic scan schedule of non-EITS servers therefore the request will be added to our internal schedule of reports until such time that the Hearings Division can migrate our servers into EITS purview.

Recommendation No. 3: Review performance measures to determine whether the measures are clearly defined and the correct information is measured.

Response: *Accepted.* The newly assigned Senior Appeals Officer and management staff will meet to ensure the quarterly performance measures accurately reflect the agency's progress and that these performance measures are clearly defined. Any changes to the performance measures must be approved by the Director of the Department of Administration and we expect these to be approved by year's end.

Recommendation No. 4: Develop policies and procedures on the methodology used to obtain each performance measure and distribute to all affected staff. The procedures should include how the supporting data is collected, how the measures are calculated, who reviews the calculations, and how long the supporting data and calculations are retained.

Response: *Accepted.* We have assigned Paul Trepanier to outline the procedures used for the performance measures. We then will develop policies to include these procedures along with the data collection, assignment of duties, reviewing the calculations and retention. We expect these to be completed by year's end.

Recommendation No. 5: Create policies and procedures to address accounts receivable to ensure collection of money for all billable hearings.

Response: *Accepted.* We will begin developing a policy and procedures manual for all billable hearings. We will be reaching out to the State of Nevada Administrative Services Division for more information on their process for handling our billing advices, and how payment is collected. This will help us in creating an effective tracking method to ensure timely receipt of payments.

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Recommendation No. 6: Comply with policies and procedures related to collecting revenue.

Response: Accepted. A thorough review of our policies and procedures manuals will be performed. We will revise and update our policies and procedures manuals, and adhere to the procedures related to collecting revenue.

Recommendation No. 7: Update policies and procedures to include administering workers compensation licenses, including the collection and deposit of fees, in both the Carson City and Las Vegas offices.

Response: Accepted. Our policies and procedures manuals will be updated to include the administering of workers compensation licenses, as well as the collection and deposit of fees in both the Carson City and Las Vegas offices.

Recommendation No. 8: Develop a system to monitor and conduct timely employee performance evaluations.

Response: Accepted. The Hearings Division is in the process of contacting the Division of Human Resources Management to obtain a comprehensive list of employee evaluations that are past due, as well as compiling a list of each employee who is subject to evaluation and on what dates the evaluations are due. We will then implement a computer-based/calendar reminder system so that reminders are automatically generated several weeks prior to the due date/dates of the evaluations. The Division will also send out, and post on the Division's website, surveys to attorneys and licensed representatives who appear before the Appeals Officers, Special Appeals Officers and Hearing Officers. These surveys are designed to measure judicial and other management skills, temperament and demeanor, legal knowledge, performance, bias/objectivity and for Appeals Officers, whether he or she should be retained.

Recommendation No. 9: Update the Division's policies and procedures to include evaluations for new hires and recently promoted employees in compliance with NRS 284.340.

Response: Accepted. The Division's policies and procedures will be reviewed, revised, and updated to include evaluations for new hires and recently promoted employee. These updates will be in compliance with NRS 284.340

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Conclusion

Thank you for the past and current audit recommendations. I believe the Hearings Division will benefit from the recommendations. Working with your auditors helped us to recognize concerns and begin addressing these issues. Jennifer Brito from your office demonstrated the highest level of professionalism and I was informed that she was a pleasure to work with. Lino Jasso and Paul Trepanier from this office provided invaluable support during the audit and the preparation of this response. We look forward to providing you with the required 60-day plan for correction and the six-month report on the status of audit recommendations.

Respectfully submitted,



Michelle L. Morgando, Esq.
Acting Senior Appeals Officer

Hearings Division’s Response to Audit Recommendations

<u>Recommendations</u>	<u>Accepted</u>	<u>Rejected</u>
1. Discontinue collecting Social Security numbers from applicants for workers compensation employer representative licensure and delete the Social Security number field from the hearings management system	<u> X </u>	<u> </u>
2. Ensure that the Department of Administration’s Enterprise Information Technology Services periodically reviews the hearings management system server’s security settings	<u> X </u>	<u> </u>
3. Review performance measures to determine whether the measures are clearly defined and the correct information is measured	<u> X </u>	<u> </u>
4. Develop policies and procedures on the methodology used to obtain each performance measure and distribute to all affected staff. The procedures should include how the supporting data is collected, how the measures are calculated, who reviews the calculations, and how long the supporting data and calculations are retained	<u> X </u>	<u> </u>
5. Create policies and procedures to address accounts receivable to ensure collection of money for all billable hearings	<u> X </u>	<u> </u>
6. Comply with policies and procedures related to collecting revenue	<u> X </u>	<u> </u>
7. Update policies and procedures to include administering workers compensation licenses, including the collection and deposit of fees, in both the Carson City and Las Vegas offices.....	<u> X </u>	<u> </u>
8. Develop a system to monitor due dates and conduct timely employee performance evaluations.....	<u> X </u>	<u> </u>
9. Update the Division’s policies and procedures to include evaluations for new hires and recently promoted employees in compliance with NRS 284.340.....	<u> X </u>	<u> </u>
TOTALS	<u> 9 </u>	<u> </u>