

Special Review

**Uninsured Employers' Fund
Follow-up Review**

November 2018



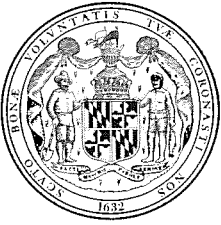
OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Victoria L. Gruber
Executive Director

Thomas J. Barnickel III, CPA
Legislative Auditor

November 2, 2018

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate C. William Frick, Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a follow-up review of the actions taken by the Uninsured Employers' Fund (UEF) to address the findings in our January 3, 2018 audit report. In that report, we concluded that UEF's accountability and compliance rating was unsatisfactory.

UEF provided a status report, as of June 29, 2018, indicating the implementation status of each finding as well as its corrective action plan, including timelines and processes to monitor the implementation of the plan. In summary, UEF's status report indicated that 4 findings had been corrected and additional actions were still required to address the 4 remaining findings.

We performed certain procedures to evaluate the actions taken by UEF for 5 of the 8 report findings. Specifically, we reviewed the 4 findings which UEF's status report indicated were corrected and 1 of the 4 findings for which UEF's status report indicated that additional actions were required. Our review, which was performed during the period from July to August 2018, disclosed that UEF had corrected 1 of the 5 findings we reviewed. To varying degrees, UEF had made progress, but had not resolved the other 4 findings (including 3 findings that UEF reported as corrected).

Exhibit 1 identifies UEF's assessed implementation status for all 8 findings, according to its status report, as well as the results of our review for the 5 findings. Exhibit 2 describes, in detail, the 4 findings we determined that UEF had not corrected.

UEF's status report is included as Appendix A, and its response to this report is included as Appendix B.

To improve its accountability and compliance rating, UEF should continue to implement its corrective action plan for all findings and ensure that other areas do not deteriorate. We will review the status of all of the audit findings during our next audit of UEF. We wish to acknowledge the cooperation extended to us by UEF during this review.

Respectfully submitted,

A handwritten signature in black ink, reading "Gregory A. Hook". The signature is written in a cursive style with a large, stylized 'G' and 'H'.

Gregory A. Hook, CPA
Acting Legislative Auditor

Exhibit 1

Implementation Status of Findings in the January 2018 UEF Audit Report

Prior Finding	Status as Determined by UEF as of June 2018 ¹	Status Based on Auditor's Review
Accounts Receivable		
1. The Uninsured Employers' Fund (UEF) did not conduct independent reviews of accounts receivable transactions.	In Progress	N/A
2. UEF did not adequately monitor and pursue collection of delinquent accounts. As of January 5, 2017, there were 3,980 delinquent accounts totaling \$5.2 million that should have been referred to the Department of Budget and Management's Central Collection Unit.	In Progress	N/A
Claims Processing		
3. UEF did not adequately review indemnity and medical claim payments for propriety.	Corrected	In Progress (See Exhibit 2)
4. UEF violated State procurement regulations to obtain claims processing and related services from 11 vendors, did not have written agreements, and did not adequately monitor the vendors' services and verify their billings.	Corrected	No Progress (See Exhibit 2)
Cash Receipts		
5. UEF did not have adequate procedures and controls to ensure that all collections were deposited.	Corrected	In Progress (See Exhibit 2)
Page 1 of 2		

N/A – Not applicable since we did not review the implementation status of this finding

¹ UEF's detailed implementation status for each finding is based upon UEF's status report, as of June 29, 2018. The status based on the auditor's review presented by finding in Exhibit 1 was discussed with, and generally agreed to, by UEF management personnel.

Exhibit 1

Implementation Status of Findings in the January 2018 UEF Audit Report

Prior Finding	Status as Determined by UEF as of June 2018 ²	Status Based on Auditor's Review
Information Systems Security and Control		
6. Sensitive personally identifiable information maintained by UEF was stored without adequate safeguards.	Corrected	Corrected
7. Security event monitoring, access controls, and user access monitoring were not sufficient.	In Progress	N/A
8. UEF did not have an information systems disaster recovery plan.	In Progress	In Progress (See Exhibit 2)
Page 2 of 2		

N/A – Not applicable since we did not review the implementation status of this finding

² UEF's detailed implementation status for each finding is based upon UEF's status report, as of June 29, 2018. The status based on the auditor's review presented by finding in Exhibit 1 was discussed with, and generally agreed to, by UEF management personnel.

Exhibit 2

Detailed Comments on the Findings for Which the Office of Legislative Audits Deemed the Implementation Status to be “In Progress”

Claims Processing

Prior Finding 3

UEF did not adequately review indemnity and medical claim payments for propriety.

Prior Report Recommendation 3

We recommended that UEF

- a. conduct independent supervisory reviews of indemnity payments to ensure the payments are valid and accurate (repeat); and
- b. establish a documented procedure to verify, at least on a test basis, that medical claim payments were proper based on supporting documentation (repeat).

Auditor’s Assessment of Status – In Progress

UEF established procedures to address recommendation a, but did not fully address recommendation b.

For recommendation b, UEF had not established a documented procedure to verify that medical claim payments were proper based on supporting documentation. Specifically, although UEF advised us that verifications are performed on a test basis, it did not document which medical claim payments it selected for review and did not document the basis for selecting the payments to verify.

Prior Finding 4

UEF violated State procurement regulations to obtain claims processing and related services from 11 vendors, did not have written agreements with the vendors, and did not adequately monitor the vendors' services and verify their billings. During the period from January 2014 to April 2017, UEF paid these vendors approximately \$3.5 million.

Prior Report Recommendation 4

We recommended that UEF

- a. comply with the procurement and contract provisions of the State procurement regulations by soliciting competitive bids and executing written contracts for the claims processing and related services that include all relevant contract provisions (repeat),
- b. ensure that invoiced amounts are supported and agree to contract-approved rates and level of services prior to approving invoices for payment,
- c. establish a process for monitoring vendor performance for claims processing and related functions, and
- d. re-submit the emergency contract award to the BPW.

Auditor's Assessment of Status – No Progress

UEF did not adequately address any of the audit recommendations. Therefore, virtually no progress was made. UEF is now using only one vendor for claims processing and related services instead of using multiple vendors. As noted in our prior finding, UEF entered into an emergency contract with a vendor for claims processing and related services for an 18-month term beginning September 1, 2017 at an estimated cost of \$994,500 (plus fees).

With regard to recommendation a, UEF did not comply with provisions of the State procurement regulations with respect to certain additional services procured. Specifically, beginning in February 2018, UEF began paying the claims processing vendor a separate fee for services provided by an individual employed by the vendor who was handling the settlement of claims associated with a large company's bankruptcy. While the emergency contract with this vendor included a provision for additional services, UEF did not enter into a contract modification with the vendor for these services to reflect agreed-upon terms. Furthermore, the vendor's invoices did not specify the hours worked by this individual nor the number of claims handled to support the work performed. During the period from February to August 2018, UEF paid \$95,550 to the vendor for this individual's services.

For recommendation b, we determined that UEF did not ensure invoiced amounts from the vendor were supported and agreed to contract-approved rates.

Specifically, UEF paid the vendor a fixed monthly fee of \$82,875, which is based on a 12-month contract term, rather than the required \$55,250 based on the actual 18-month term. UEF management advised us that it was aware of this discrepancy, and that it had an informal understanding with the vendor that the \$994,500 estimated cost would be paid over a 12-month period rather than the 18-month period specified in the contract. UEF management further advised that it would continue to compensate the vendor at the monthly rate of \$82,875 for the remaining six months of the contract, essentially overpaying the contract by \$497,250. As of August 2018, UEF had paid the vendor approximately \$1.1 million, consisting of \$994,500 for claims administration fees, \$12,000 for other fees, and \$95,550 for the aforementioned individual's services.

Regarding recommendation c, UEF had not established a process to monitor vendor performance for claims processing and related functions even though the contract contains provisions establishing criteria for claims processing and medical bill review timeliness. For example, the contract requires that medical bill reviews be completed within five days.

Finally, regarding recommendation d, the aforementioned emergency contract was initially withdrawn from the Board of Public Works (BPW) agenda before the meeting date but was re-submitted and approved by BPW on December 20, 2017, as recommended. However, as noted above, UEF was compensating the vendor at rates that exceeded the contract terms, and the contract terms presented to BPW did not reflect this informal arrangement.

Cash Receipts

Prior Finding 5

UEF did not have adequate procedures and controls to ensure that all collections were deposited.

Prior Report Recommendation 5

We recommended that UEF

- a. ensure that the initial record of collections is forwarded directly to an independent employee to perform the deposit verification function (repeat),
- b. ensure that all deposits are made intact,
- c. ensure that collections are properly safeguarded and are transported directly to the bank for deposit no later than the next business day,
- d. ensure that the cash receipts and accounts receivable duties are adequately separated (repeat), and
- e. consider the feasibility of using a bank lockbox account to receive collections.

Auditor's Assessment of Status – In Progress

UEF had established adequate procedures and controls to address recommendations b and c and adequately addressed recommendation e. However, UEF did not fully address recommendations a and d.

For recommendation a, the initial record of collections (an adding machine tape) was not forwarded directly to the employee responsible for independently verifying that all collections had been deposited. Instead, the initial record and related collections were forwarded to two employees responsible for preparing the bank deposits, recording the deposits in the State's accounting records, and depositing the collections at the bank. Furthermore, the employee responsible for verifying that all collections had been deposited was not independent as this employee had access to the safe where collections were stored overnight.

For recommendation d, the responsibilities for the cash receipts and accounts receivable functions were not separated since three employees involved in the collection process had the capabilities to record the collections and any adjustments in the related automated accounts receivable records.

Information Systems Security and Control

Prior Finding 8

UEF did not have an information systems disaster recovery plan.

Prior Report Recommendation 8

We recommended that UEF develop and implement a comprehensive disaster recovery plan, in accordance with the *Information Technology (IT) Disaster Recovery Guidelines* (repeat).

Auditor's Assessment of Status – In Progress

UEF had not completely addressed the recommendation for development and implementation of a disaster recovery plan (DRP). UEF, working together with its information technology support vendor, had developed a draft DRP document, which was currently under management review. We examined the draft DRP document and determined that sections existed for recommended key plan elements such as concept of operations, notification and activation procedures, recovery strategies (including use of alternate sites) and reconstitution procedures. However, for these same plan elements, the plan lacked detailed content describing specific steps, information, and other materials necessary for a complete DRP, which could be both tested and executed if necessary.

Scope, Objectives, and Methodology

We conducted a follow-up review of the actions taken by the Uninsured Employers' Fund (UEF) to address the findings in our January 3, 2018 audit report. In that report, we concluded that UEF's fiscal accountability and compliance rating was unsatisfactory.

The purpose of our review was to determine the status of UEF's corrective actions to address certain of our audit findings. This review was conducted under the authority of Section 2-1220(a)(4) of the State Government Article and was based on our long-standing practice of performing a follow-up review whenever an agency receives an unsatisfactory rating in its fiscal compliance audit report. The rating system was established, in accordance with State Government Article, Section 2-1221 of the Annotated Code of Maryland, for the purpose of determining an overall evaluation of an agency's fiscal accountability and compliance with State laws and regulations.

Our review consisted of obtaining a status report from UEF, as of June 29, 2018, which described the level of implementation of each prior audit report finding. Our review also consisted of performing tests and analyses of selected information and holding discussions with UEF personnel, as we deemed necessary to determine the status of UEF's corrective actions to address selected findings from our January 3, 2018 audit report.

This review did not constitute an audit conducted in accordance with generally accepted government auditing standards. Had we conducted an audit in accordance with generally accepted government auditing standards, other matters may have come to our attention that would have been reported.

Our review was conducted primarily during the period from July to August 2018, and our assessment of the status of UEF's corrective actions was performed at the time of our review.

UEF's response to our follow-up review is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise UEF regarding the results of our review of its response.

APPENDIX A

LAWRENCE J. HOGAN, JR.
GOVERNOR

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June 29, 2018

Thomas J. Barnickel III, CPA
Legislative Auditor
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Barnickel:

Attached please find The Maryland Uninsured Employer's Fund (UEF) status report for the fiscal compliance audit for the period beginning November 14, 2013 and ending November 27, 2016 for your review and consideration.

We continue the ongoing process of responding to the Recommendations contained in the audit.

I will note that I am the contact person to whom inquiries regarding this matter should be addressed.

The UEF is available to meet with you, or with your staff, if you wish to discuss any of these items in more detail. I would advise that any such meeting should have also in attendance representatives of our technical vendor, DP Solutions, as well as the UEF's CFO Andrew Anderson so I would request a series of available dates from the OLA if a further in-person meeting is desired for scheduling purposes.

The UEF appreciates working with the Office of Legislative Audits to comply with the Recommendations contained in the relevant audit as it continues to improve the function and performance of the agency.

Thank you.

Respectfully submitted,

Michael W. Burns

The Honorable Michael W. Burns, Esquire
Executive Director

Encl.

UNINSURED EMPLOYERS' FUND
STATUS REPORT TO AUDIT REPORT
JUNE 29, 2018

Accounts Receivable

Finding 1

UEF did not conduct independent reviews of accounts receivable transactions.

Recommendation 1

We recommend that UEF establish a process to ensure the propriety of transactions recorded in its accounts receivable records. Specifically, we recommend that UEF perform independent reviews to ensure that all WCC awards and properly authorized adjustments are accurately entered into its accounts receivable records (repeat). We advised UEF on accomplishing the necessary separation of duties using existing personnel.

Status of UEF Response to Recommendation 1

In Progress. As with all audit finding and recommendations, the UEF has been working towards compliance with this Recommendation for several months.

As noted in our December 6, 2017 response to the audit, the UEF had a process in place for reviewing awards and payments that involves multiple employees who review awards and adjustments. As a result of the audit, that system was reviewed and evaluated to comply with this recommendation.

An important part of that review has been the cooperation and ongoing efforts between the UEF, our technical vendor DP Solutions and our third-party claims administrator, Corvel, to attempt to develop an electronic system to transfer relevant "accounts receivable" data from the Workers' Compensation Commission (WCC) data the UEF receives to the system utilized by the State of Maryland for the preparation of the relevant accounts receivable. Due to the technical nature of the various computer systems involved this has proved to be a challenging task. After five months of work it is unclear whether or not the process of electronic transfer is possible. Work on this remains ongoing but, absent giving up, it cannot be predicted with certainty when this process will be completed or if it is possible.

Be that as it may, as to the actual audit finding and recommendation regarding the propriety of transactions recorded in accounts receivable, the UEF, the UEF has accomplished the following items:

- 1) Our review of the system indicated that the WCC had not been providing the UEF with Temporary Total Disability Orders which are required for the UEF to assess the 15% assessment due on such awards. The UEF contacted the WCC and this situation has been corrected. Currently the UEF is working on entering the data supplied by the WCC for such orders.
- 2) Pursuant to that issue, and in order to facilitate the entry of accounts receivable data, the UEF has hired, effective July 2, 2018, an employee to assist with this issue, including data entry, as well as other issues.
- 3) Currently one of two employees entered the relevant data by hand into the computer system. It is reviewed by the UEF CFO on a random basis to insure accuracy. When fully trained, the new employee noted in Item 2 above will also be checking over completed accounts receivable randomly to insure accuracy.

Finding 2

UEF did not adequately monitor and pursue collection of delinquent accounts. As of January 5, 2017, there were 3,980 delinquent accounts totaling \$5.2 million that, based on their age, should have been referred to CCU.

Recommendation 2

We recommend that UEF

- a. **investigate and take the necessary corrective actions to resolve the noted deficiencies (generate dunning notices and produce accurate accounts receivable aging reports) to ensure that the accounting system provides sufficient information to monitor and pursue collection activities (repeat),**
- b. **refer delinquent accounts to CCU for collection as required (repeat), and**
- c. **establish a process to identify and refer delinquent employers to applicable State licensing authorities for license or permit suspension (repeat).**

Status of UEF Response to Recommendation 2

- a. In Progress. The correction of deficiencies in the collection of delinquent accounts has been a major priority of the agency. The UEF has been evaluating and addressing the condition and effectiveness of the entire system of collections and assessments utilized by the agency. Systems in different collection and billing areas have been examined and changes implemented – and in certain cases established or re-established - and will continue to be developed, implemented, evaluated and adjusted, and are being monitored to ensure that this recommendation is implemented.

The UEF has made addressed the lack of adequate and effective collection processes by the Agency. A number of systems have already been established regarding billing and collections regarding fines, penalties, assessments and employer debts. This process

remains ongoing. It includes, among other items, the re-establishment of a program to suspend business licenses for enforcement purposes, which has again begun to occur and is ongoing for which hearings are currently routinely scheduled and conducted.

The UEF is commencing criminal cases, when appropriate, against appropriate employers who fail to repay compensation payments made to claimants by the Agency.

Finally, the UEF has developed a completely new protocol to deal with uninsured employer obligations much earlier in the process which is beginning on July 1, 2108. The program is designed to comply with the statute and to ensure that such obligations are recognized and collection initiated contemporaneously with the issuance of WCC Orders and any resulting failure by the uninsured employer to accept responsibility for payments pursuant to those Orders to pay claims or to reimburse the Fund for all payments made pursuant to a claim found by the WCC to be the responsibility of that uninsured employer.

As of July 1, 2018, the program will work as follows: upon receipt of an Order for payment by the UEF from the WCC the UEF will send letters to both the claimant and to the uninsured employer. The claimant will be instructed, pursuant to the statute, to request payment from the employer and to notify the UEF of the response of the employer. The employer will be forwarded a copy of the Order and instructed to notify the UEF as to its agreement to pay the Order. After 30 days, the employer will receive a further letter instructing it of its obligation to pay and giving it 10 days to contact the UEF regarding the matter. After the 10 days the employer will receive a final letter notifying it that the UEF will pursue all available remedies, including criminal prosecution, business license suspensions, civil lawsuit and referral to the CCU to collect any and all debts owed.

By initiating collections in this fashion, instead of waiting months and years to attempt to collect these debts, it is our evaluation that uninsured employers' payments will be recovered in a much quicker and more effective manner and the prior numbers of delinquent accounts subject to being sent to the CCU for collection will be reduced.

- b. In Progress. The UEF met with the CCU on June 7, 2018 regarding all collection issues as well as a UEF proposal sent to the Department of Budget and Management to initiate a program of joint jurisdiction over debts between the CCU and the UEF as well as an established program of contact between the two agencies on a regular basis as regards debt collection. The CCU also has provided the UEF with a list of assessments owed to the UEF for which the agency has initiated a process of investigation and collection. The two agencies have agreed in principle to the parameters laid out in the UEF proposal. The CCU, however, is in the process of changing over to a new data storage system for its debts in June and the UEF is, therefore, waiting until July in order to finalize an

agreement. It is anticipated that this agreement will be in place within the next two months.

- c. Corrected. Done as previously noted and in operation currently.

Claims Processing

Finding 3

UEF did not adequately review indemnity and medical claim payments for propriety.

Recommendation 3

We recommend that UEF

- a. conduct independent supervisory reviews of indemnity payments to ensure the payments are valid and accurate (repeat); and**
- b. establish a documented procedure to verify, at least on a test basis, that medical claim payments were proper based on supporting documentation (repeat).**

We advised UEF on accomplishing the necessary separation of duties using existing personnel.

Status of UEF Response to Recommendation 3

- a. Corrected. Done. The UEF CFO regularly reviews all claims payments on a weekly basis submitted by our third-party claims administrator submitted for payment and makes corrections when required. In addition, the Executive Director randomly reviews payments to ensure validity and accuracy.
- b. Corrected. Done. All medical payments are sent upon receipt to the agency's third-party claims administrator's Bill -Review section where they are reviewed for reasonableness, correct coding and being customarily correct. Bills are then reviewed by a claims staff member to insure accuracy, including reviewing to ensure that the injury or treatment billed matches the injury in the claim. Finally, a random check is performed by the UEF staff.

Finding 4

UEF violated State procurement regulations to obtain claims processing and related services from 11 vendors, did not have written agreements with the vendors, and did not adequately monitor the vendors' services and verify their billings. During the period from January 2014 to April 2017, UEF paid these vendors approximately \$3.5 million.

Recommendation 4

We recommend that UEF

- a. comply with the procurement and contract provisions of the State procurement regulations by soliciting competitive bids and executing written contracts for the claims processing and related services that include all relevant contract provisions (repeat),**
- b. ensure that invoiced amounts are supported and agree to contract-approved rates and level of services prior to approving invoices for payment,**
- c. establish a process for monitoring vendor performance for claims processing and related functions, and**
- d. re-submit the emergency contract award to the BPW.**

Status of UEF Response to Recommendation 4

- a. Corrected. Done. The agency continues to develop a Request for Proposals (RFP) for third party claims administration services working with the DBM Procurement staff.
- b. Corrected. Done. Accomplished as described herein by staff review.
- c. Corrected. Done. Accomplished as described herein by UEF staff review. Also monitored by Executive Director on a regular basis.
- d. Corrected. Done. Emergency procurement contract approved by the Board of Public Works in December, 2017.

Cash Receipts

Finding 5

UEF did not have adequate procedures and controls to ensure that all collections were deposited.

Recommendation 5

We recommend that UEF ensure that

- a. the initial record of collections is forwarded directly to an independent employee to perform the deposit verification function (repeat),**
- b. all deposits are made intact,**
- c. collections are properly safeguarded and are transported directly to the bank for deposit no later than the next business day,**
- d. the cash receipts and accounts receivable duties are adequately separated (repeat), and**
- e. consider the feasibility of using a bank lockbox account to receive collections.**

We advised UEF on accomplishing the necessary separation of duties using existing personnel.

UEF Response to Recommendation 5

- a. Corrected. Done. An employee performs this function and deposits are now reviewed by the Executive Director or his designee when appropriate.
- b. Corrected. Done.
- c. Corrected. Done. The UEF plans on initiating remote depositing of checks but the State has issued an RFP for banking services which should be issued by August, 2018. The UEF is awaiting the award of this contract in order to initiate scanning and transmission of deposits with the new bank before changing over to this process.
- d. Corrected. Done. A separate employee handles each of these duties now.
- e. In Progress. The UEF believes that scanning and remote deposit will, in conjunction with other policies in place, insure collections are secure. A major concern with the lock-box concept remains dealing with the absolute requirement that certain relevant information contained on checks received (including claim number, claimant name, the statement stubs attached thereto, and other information) must be transmitted to the UEF by the bank for various critical agency purposes, including accounting and collections requirements, in order for a lock-box system to be implemented.

Information Systems Security and Control

Finding 6

Sensitive personally identifiable information maintained by UEF was stored without adequate safeguards.

Recommendation 6

We recommend that UEF properly protect sensitive PII information by encryption or other substantial mitigating controls.

UEF Response to Recommendation 6

Corrected. Done. This was accomplished, according to our vendor DP Solutions, several months ago.

Finding 7

Security event monitoring, access controls, and user access monitoring were not sufficient.

Recommendation 7

We recommend that UEF

- a. **enable security auditing for files on the dedicated server which hosts UEF's critical applications (repeat);**
- b. **generate and review, on a weekly basis, reports of critical security events, document these reviews, and retain the documentation for future reference (repeat);**
- c. **limit modification access to critical files and programs on the dedicated server to only those employees who require such access for their job duties (repeat);**
- d. **periodically generate system security reports and use these reports to ensure users cannot perform incompatible functions and are assigned only those capabilities needed to perform their job duties (repeat); and**
- e. **prohibit the sharing of userids (repeat).**

UEF Response to Recommendation7

Our technical vendor, DP Solutions, has been working with the UEF to comply with these recommendations. The UEF met with DP Solutions on June 11, 2018 and was updated on the status of the project. The following is their report of June 25, 2018 to this agency on the status of that process:

Below are the items we have worked on and how we addressed them. Let me know if you need more detail.

1. DR Plan—Completed May 7, 2018 and with UEF for review
2. File Access Audit—Complete Audit capture process was put into place on March 1st 2018. The iseries audit journal entries are being captured to a history file each week. Reports are being created for each journal type.
3. PII Evaluation and Remediation—Complete As of February 7, 2018, all PII's (ie SSN's) data has been removed from the UEF AS400. Programs to clear SSN field in all affected files run nightly to make sure they stay cleared.
4. User Best Practice Document—Completed May 7, 2018 and with UEF for review
5. New User Authorization Form – A form is being developed for adding new users. Type of users have been identified and "model" user profiles will be set up to facilitate the setup of new users. Only authorized personnel will be allowed to request user setup/ changes / deletions. (TBD). We hope to complete July 1, 2018.
6. Documentation and Weekly Review of Access Journals-- An automated process to email journal reports for review and storage is underway. Spoolmail from Gumbo software has been installed to create pdf files and email them automatically. We are currently working on how the review process will work. Essentially, the reports will be emailed to DPS support, so that service tickets are created and assigned to me. I will review each report and close the tickets with a comment to indicate reviewed and no action needed. If something needs more attention, that

will be noted and the appropriate action(s) will be taken. UEF will also be notified and consulted about any exceptions.

7. Coordination of billing by writing problem to allow download of relevant information directly into AS400 system—We are currently still working to determine if this is possible. We have been waiting on information from Corvel for quite a while to determine if this is possible.

- a. In Progress.
- b. In Progress.
- c. In Progress.
- d. In Progress.
- e. In Progress.

In addition to the information relevant to this Recommendation contained in the above the UEF advises that it is our position, after consulting with DP Solutions, that the UEF continues to work to comply with all recommended action items and will be completed all requested achievable tasks by September 1, 2018.

Finding 8

UEF did not have an information systems disaster recovery plan.

Recommendation 8

We recommend that UEF develop and implement a comprehensive disaster recovery plan, in accordance with the *Information Technology (IT) Disaster Recovery Guidelines* (repeat).

UEF Response to Recommendation 8

In Progress. The UEF has a draft produced working with DP Solutions and is reviewing that draft for final approval. We expect final approval by August 15, 2018.

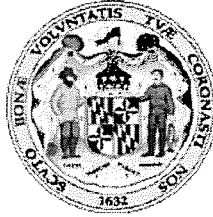
APPENDIX B

LAWRENCE J. HOGAN, JR.
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October 25, 2018

Thomas J. Barnickel III, CPA
Legislative Auditor
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Barnickel:

Attached please find The Maryland Uninsured Employer's Fund (UEF) Draft response to the Office of Legislative Audits follow-up review draft report dated September, 2018.

The UEF remains available to meet with you, or with your staff, if you wish to discuss any of these items in more detail before the issuance of a final report and final comments from this agency. I will note that I am the contact person to whom inquiries regarding this matter should be addressed.

The UEF appreciates working with the Office of Legislative Audits to comply with the Recommendations contained in the audit as it continues to diligently improve the function and performance of the agency.

Thank you.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael W. Burns".

The Honorable Michael W. Burns, Esquire
Executive Director
Encl.

Exhibit 2

Detailed Comments on the Findings for Which the Office of Legislative Audits Deemed the Implementation Status to be “In Progress”

Claims Processing

Prior Finding 3

UEF did not adequately review indemnity and medical claim payments for propriety.

Prior Report Recommendation 3

We recommended that UEF

- a. conduct independent supervisory reviews of indemnity payments to ensure the payments are valid and accurate (repeat); and
- b. establish a documented procedure to verify, at least on a test basis, that medical claim payments were proper based on supporting documentation (repeat).

Auditor’s Assessment of Status – In Progress

UEF established procedures to address recommendation a, but did not fully address recommendation b.

For recommendation b, UEF had not established a documented procedure to verify that medical claim payments were proper based on supporting documentation. Specifically, although UEF advised us that verifications are performed on a test basis, it did not document which medical claim payments it selected for review and did not document the basis for selecting the payments to verify.

UEF RESPONSE TO PRIOR FINDING 3 DRAFT FOLLOW-UP REVIEW

Recommendation B - The Uninsured Employers’ Fund has established and implemented the following procedure to verify, on a test basis, the validity of medical claim payments – all medical payments are sent upon receipt by the Uninsured Employers’ Fund to the agency’s third-party claims administrator (TPA), Corvel, under the Emergency Procurement Contract approved by the Board of Public Works. Corvel’s Bill -Review section receives each bill and each bill is reviewed for reasonableness, correct coding and being customarily correct by that unit. Corvel submits a detailed multipage list, numbering in the hundreds, of each of the bills submitted and the payment, if any, to be made. This document

is then reviewed by a UEF staff person who randomly takes various claims and reviews the documentation for accuracy and correct billing.

The Corvel document is also reviewed in detail by the Uninsured Employers' Fund Chief Financial Officer (CFO) to insure accuracy, including reviewing to ensure that the injury or treatment billed matches the injury in the claim. Should the CFO determine any bill requires further research or is questionable, he notifies Corvel and an investigation takes place.

The review by the CFO is detailed and thorough. It reveals individual bills that need further investigation and/or explanation from the TPA. The CFO has been performing this function for a number of months. The review by the TPA, the UEF staff person's random review and the complete review by the CFO of the submission for claims payments provides a complete process of review. The UEF is has been, and continues, to initiate a process to document in detail all reviews of medical claim payments conducted pursuant to this finding by the OLA.

Prior Finding 4

UEF violated State procurement regulations to obtain claims processing and related services from 11 vendors, did not have written agreements with the vendors, and did not adequately monitor the vendors' services and verify their billings. During the period from January 2014 to April 2017, UEF paid these vendors approximately \$3.5 million.

Prior Report Recommendation 4

We recommended that UEF

- a. comply with the procurement and contract provisions of the State procurement regulations by soliciting competitive bids and executing written contracts for the claims processing and related services that include all relevant contract provisions (repeat),
- b. ensure that invoiced amounts are supported and agree to contract-approved rates and level of services prior to approving invoices for payment,
- c. establish a process for monitoring vendor performance for claims processing and related functions, and
- d. re-submit the emergency contract award to the BPW.

Auditor's Assessment of Status – No Progress

UEF did not adequately address any of the audit recommendations. Therefore, virtually no progress was made. UEF is now using only one vendor for claims processing and related services instead of using multiple vendors. As noted in our prior finding, UEF entered into an emergency contract with a vendor for claims

processing and related services for an 18-month term beginning September 1, 2017 at an estimated cost of \$994,500 (plus fees).

With regard to recommendation a, UEF did not comply with provisions of the State procurement regulations with respect to certain additional services procured. Specifically, beginning in February 2018, UEF began paying the claims processing vendor a separate fee for services provided by an individual employed by the vendor who was handling the settlement of claims associated with a large company's bankruptcy. While the emergency contract with this vendor included a provision for additional services, UEF did not enter into a contract modification with the vendor for these services to reflect agreed-upon terms. Furthermore, the vendor's invoices did not specify the hours worked by this individual nor the number of claims handled to support the work performed. During the period from February to August 2018, UEF paid \$95,550 to the vendor for this individual's services.

For recommendation b, we determined that UEF did not ensure invoiced amounts from the vendor were supported and agreed to contract-approved rates.

Specifically, UEF paid the vendor a fixed monthly fee of \$82,875, which is based on a 12-month contract term, rather than the required \$55,250 based on the actual 18-month term. UEF management advised us that it was aware of this discrepancy, and that it had an informal understanding with the vendor that the \$994,500 estimated cost would be paid over a 12-month period rather than the 18-month period specified in the contract. UEF management further advised that it would continue to compensate the vendor at the monthly rate of \$82,875 for the remaining six months of the contract, essentially overpaying the contract by \$497,250. As of August 2018, UEF had paid the vendor approximately \$1.1 million, consisting of \$994,500 for claims administration fees, \$12,000 for other fees, and \$95,550 for the aforementioned individual's services.

Regarding recommendation c, UEF had not established a process to monitor vendor performance for claims processing and related functions even though the contract contains provisions establishing criteria for claims processing and medical bill review timeliness. For example, the contract requires that medical bill reviews be completed within five days.

Finally, regarding recommendation d, the aforementioned emergency contract was initially withdrawn from the Board of Public Works (BPW) agenda before the meeting date but was re-submitted and approved by BPW on December 20, 2017, as recommended. However, as noted above, UEF was compensating the

vendor at rates that exceeded the contract terms, and the contract terms presented to BPW did not reflect this informal arrangement.

UEF RESPONSE TO PRIOR FINDING 4 DRAFT FOLLOW-UP REVIEW

Recommendation A – On October 2, 2018, the UEF, working with the Department of Management and Budget, issued a Request for Procurement (RFP) for third party claims administration services. The pre-bid conference was held on October 18, 2018. According to procurement officials, a schedule has been established for the RFP which has the contract being awarded by the agency on a timeline which will result in the RFP being submitted to the Board of Public Works for approval in February, 2019, which is also in line with the scheduled termination of the Emergency Procurement Contract.

Recommendation B – The agency emphasizes the following facts – In its 35-year history the UEF has, apparently, never has had a valid written contract with a vendor for third party administrative services. Additionally, until September 1, 2017 the UEF had been operating in an illegal fashion without a valid contract with a third-party administrator which was unable to perform the required services adequately. This situation came to light after the arrival of the current Director in late 2016. As a result of these and other relevant facts, the UEF initiated an Emergency Procurement with Corvel starting on September 1, 2017 for a period of 18 months. Because the agency had failed to keep detailed records, the Emergency Procurement Contract could not be based on a per claim price for services because the agency literally had no knowledge of how many claims it had and was covering. It is difficult to convey to outside parties the extent of the dysfunction and lack of adequate records existing at the UEF regarding claims administration when this Emergency Procurement was developed.

The Emergency Procurement Contract was based, therefore, on a flat rate per year for the 18-month period. Because the UEF had no adequate detailed information as to the number of claims to be handled or even accurate knowledge of the status of many claims both parties to the contract realized and acknowledged in the contract that staffing in the Emergency Contract was subject to revision as facts developed. The need to investigate and evaluate several hundred claims resulting from self-insured company bankruptcies resulted in the need to bring on another Corvel employee to handle these several hundred claims. This was done in February of 2018. The result of that action has been the identification of claims, the setting of reserves for claims, the identification of at least one additional insurance policy of coverage and other critical facts.

As described above, the Emergency Procurement Contract was agreed at a price per 12 months of services for a period of 18 months by the parties. The intent of that agreement is expressed within that contract, which was approved by the Board of Public Works. It was the clear intent of the parties. The amount paid pursuant to the Emergency Procurement by the UEF is correct per the agreement of the parties and the intent of the contract.

The agency does not agree with the Office of Legislative Audits conclusions as regards this matter regarding the Emergency Procurement but is always ready to cure any minor, technical matter that may be involved as to this issue and staff is currently working with DBM to produce formal contract modifications to be submitted to the Board of Public Works that should address the issues raised by the OLA regarding the Emergency Procurement Contract for TPA services.

Cash Receipts

Prior Finding 5

UEF did not have adequate procedures and controls to ensure that all collections were deposited.

Prior Report Recommendation 5

We recommended that UEF

- a. ensure that the initial record of collections is forwarded directly to an independent employee to perform the deposit verification function (repeat),
- b. ensure that all deposits are made intact,
- c. ensure that collections are properly safeguarded and are transported directly to the bank for deposit no later than the next business day,
- d. ensure that the cash receipts and accounts receivable duties are adequately separated (repeat), and
- e. consider the feasibility of using a bank lockbox account to receive collections.

Auditor's Assessment of Status – In Progress

UEF had established adequate procedures and controls to address recommendations b and c and adequately addressed recommendation e. However, UEF did not fully address recommendations a and d.

For recommendation a, the initial record of collections (an adding machine tape) was not forwarded directly to the employee responsible for independently verifying that all collections had been deposited. Instead, the initial record and related collections were forwarded to two employees responsible for preparing the bank deposits, recording the deposits in the State's accounting records, and

depositing the collections at the bank. Furthermore, the employee responsible for verifying that all collections had been deposited was not independent as this employee had access to the safe where collections were stored overnight.

For recommendation d, the responsibilities for the cash receipts and accounts receivable functions were not separated since three employees involved in the collection process had the capabilities to record the collections and any adjustments in the related automated accounts receivable records.

UEF RESPONSE TO PRIOR FINDING 5 DRAFT FOLLOW-UP REVIEW

Recommendations A and D – The Uninsured Employers’ Fund continues to work to implement these suggestions to the satisfaction of the Office of Legislative Audits.

Information Systems Security and Control

Prior Finding 8

UEF did not have an information systems disaster recovery plan.

Prior Report Recommendation 8

We recommended that UEF develop and implement a comprehensive disaster recovery plan, in accordance with the *Information Technology (IT) Disaster Recovery Guidelines* (repeat).

Auditor’s Assessment of Status – In Progress

UEF had not completely addressed the recommendation for development and implementation of a disaster recovery plan (DRP). UEF, working together with its information technology support vendor, had developed a draft DRP document, which was currently under management review. We examined the draft DRP document and determined that sections existed for recommended key plan elements such as concept of operations, notification and activation procedures, recovery strategies (including use of alternate sites) and reconstitution procedures. However, for these same plan elements, the plan lacked detailed content describing specific steps, information, and other materials necessary for a complete DRP, which could be both tested and executed if necessary.

UEF RESPONSE TO PRIOR FINDING 8 DRAFT FOLLOW-UP REVIEW

Recommendation 8 – The Uninsured Employers' Fund continues to work to implement these suggestions to the satisfaction of the Office of Legislative Audits.

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