Audit Report

Uninsured Employers' Fund

September 2021

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

Gregory A. Hook, CPA
Legislative Auditor

September 14, 2021

Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Carol L. Krimm, House Chair, Joint Audit and Evaluation Committee
Members of Joint Audit and Evaluation Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have conducted a fiscal compliance audit of the Uninsured Employers' Fund (UEF) for the period beginning November 28, 2016 and ending November 30, 2020. UEF is responsible for paying workers' compensation awards to claimants who fail to receive payments from their employers that did not have workers' compensation insurance, as required. UEF is also responsible for collecting assessments from certain employers and insurance companies to fund these awards as well as reimbursements from uninsured employers. Since September 2017, UEF has contracted with a Third Party Administrator (TPA) that is responsible for investigating, processing, and managing UEF claims.

Our audit disclosed that UEF did not ensure that payments to its TPA were adequately supported and consistent with the contract terms. According to UEF records, as of February 2021, payments to the TPA totaled approximately $6.5 million. We found that UEF did not obtain adequate documentation to support certain of these payments, and made payments totaling $521,000 that were not included in, or exceeded, the contract rates. UEF also did not adequately review recurring indemnity payments processed by the TPA, which totaled approximately $1.9 million during calendar year 2020.

Our audit also disclosed deficiencies with UEF's processes to bill and collect assessments from insurance companies and employers on certain Workers' Compensation Commission awards, and reimbursements from uninsured employers. These deficiencies were commented upon in our preceding audit report dated January 3, 2018 and some have been commented upon in preceding reports dating back to May 2009. Specifically, UEF's automated accounts receivable system did not generate certain subsequent billing notices to facilitate collection of delinquent accounts and did not produce accurate accounts receivable aging reports. Also, UEF did not always refer delinquent accounts to the Department of Budget and Management's Central Collection Unit (CCU). As of November 30, 2020 we identified 1,920 delinquent accounts totaling approximately $14.5 million that had not been referred to CCU as required. UEF also had not established a process to identify and refer delinquent employers for license suspension, as permitted by State law.

Our audit also included a review to determine the status of the eight findings contained in our preceding audit report. We determined that UEF satisfactorily addressed six of these findings. The remaining two findings are repeated in this report.

In our preceding audit report, dated January 3, 2018, we reported that UEF's accountability and compliance level was unsatisfactory in accordance with the rating system that we established in conformity with State law. Based on the results of our current audit, we have concluded that UEF has made improvements in its fiscal and compliance operations and, accordingly, UEF's accountability and compliance level is no longer unsatisfactory.

UEF's response to this audit is included as an appendix to this report. We reviewed the response and noted agreement to our findings and related recommendations, and while there are other aspects of UEF's response which will require further clarification, we do not anticipate that these will require the Joint Audit and Evaluation Committee's attention to resolve.

We wish to acknowledge the cooperation extended to us during the audit by UEF and its willingness to address the audit issues and implement appropriate corrective actions.

Respectfully submitted,

Gregory A. Hook

Gregory A. Hook, CPA
Legislative Auditor

Table of Contents

* **Denotes item repeated in full or part from preceding audit report**

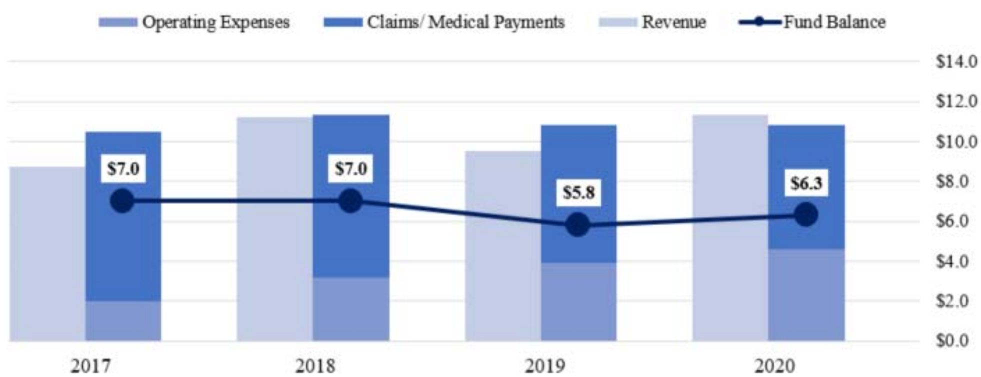
Background Information

Agency Responsibilities and Financial Activity

The Uninsured Employers' Fund (UEF) is responsible for paying workers' compensation awards (including medical payments) to claimants who failed to receive payments from their employers that did not have workers' compensation insurance as required by State law. The principal source of funding for claim payments and UEF operating expenses is an assessment collected from employers and insurance companies on awards and settlement agreements approved by the Workers' Compensation Commission (WCC) involving permanent disability and death. Chapter 495, Laws of Maryland 2020 temporarily increased the assessment rate from the historic two percent rate to three percent during fiscal year 2021. UEF also collects fines and penalties assessed by WCC on uninsured employers and on insurers who fail to comply with certain statutory filing requirements. Finally, UEF bills uninsured employers for UEF payments made on their behalf to injured workers. UEF uses a Third Party Administrator (TPA) to investigate, process, and manage its claims.

According to UEF records, UEF's fund balance as of June 30, 2020 totaled approximately $6.3 million. For fiscal year 2020, income (primarily assessments) totaled approximately $11.3 million, claim payments (indemnity and medical payments) totaled approximately $6.2 million, and operating expenses (including payments to the TPA) totaled approximately $4.6 million. As shown in Figure 1, UEF's operating expenses have increased over the last 4 years, primarily due to the costs associated with its TPA contract.

Figure 1
Summary of UEF Financial Data for Fiscal Years 2017 - 2020
($ in millions)



Source: UEF Records

Unfunded Liability Increase and Potential Fund Insolvency

UEF's most recent actuarial study performed in December 2020 indicated that, as of June 30, 2020, UEF had an unfunded liability for its claims of approximately $115.8 million, representing an increase of $99.8 million since UEF's prior actuarial study from January 2015. The current study primarily attributed this significant increase to UEF having more complete and reliable claims data than was available at the time of the prior estimate.

The unfunded liability results from claim obligations being funded on a pay-as-you-go basis. Accordingly, obligations that become due in future periods will have to be paid from future assessments collected from employers and insurance companies. In this regard, the December 2020 study indicated that the Fund will be insolvent by fiscal year 2030 unless the aforementioned temporary increase to UEF's assessment rate is maintained in future years.

Resolution of Claim Against the Subsequent Injury Fund

On April 10, 2012, UEF requested that the Subsequent Injury Fund (SIF) return $544,000 in assessments that UEF believed it had erroneously paid in connection with a 2006 memorandum of understanding (MOU). The MOU addressed the processing of workers' compensation claims associated with employees of the former Bethlehem Steel Corporation (BSC), which had filed for federal bankruptcy protection in 2001. Under the terms of the 2006 MOU, the Chesapeake Employers' Insurance Company (CEIC), on behalf of the State of Maryland, was to process workers' compensation claims of former BSC employees, and UEF was to reimburse CEIC for the claims paid. In accordance with the MOU, UEF reimbursed CEIC for the claim payments but subsequently discovered that some of these payments improperly included SIF assessments related to BSC claims. UEF requested SIF to return the assessment payments related to the BSC claims.

In our preceding audit report, we commented that, as of June 2017, SIF had preliminarily agreed to reimburse UEF for these assessments, totaling $441,468 (including lost interest). In accordance with the terms of a December 2017 settlement agreement, SIF paid this amount to UEF to fully resolve this claim.

Referrals to the State Ethics Commission

During our audit, we identified certain potential violations of State ethics laws involving UEF's Third Party Administrator (TPA) vendor and a current and a former UEF employee. Specifically, we noted that one individual employed by the TPA was the immediate family member of a former UEF employee involved in the procurement of the TPA contract. In addition, we noted that the TPA covered another employee's costs (meals and lodging) to attend an out-of-state conference sponsored by the TPA.

Although the familial relationship and the conference attendance were disclosed on the respective employees' financial disclosure forms, senior management personnel at the State Ethics Commission advised us that the aforementioned activities could potentially violate State ethics laws. Accordingly, we referred both matters to the Commission, which would ultimately make any final decision related to violations of the State ethics laws.

Status of Findings From Preceding Audit Report

Our audit included a review to determine the status of the eight findings contained in our preceding audit report dated January 3, 2018. As disclosed in Figure 2, we determined that UEF satisfactorily addressed six of these findings. The remaining two findings are repeated in this report.

In our preceding audit report, we reported that UEF's accountability and compliance level was unsatisfactory, in accordance with the rating system we established in conformity with State law. Based on the results of our current audit, we have concluded that UEF has improved its fiscal and compliance operations to the point that UEF's accountability and compliance level is no longer unsatisfactory.

Figure 2
Status of Preceding Findings

Preceding Finding	Finding Description	Implementation Status
Finding 1	The Uninsured Employers' Fund (UEF) did not conduct independent reviews of account receivable transactions.	Not repeated
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 should have been referred to the Department of Budget and Management's Central Collection Unit.	**Repeated** (Current Finding 3)
Finding 3	UEF did not adequately review indemnity and medical claim payments for propriety.	Not repeated
Finding 4	UEF violated State procurement regulations to obtain claims processing and related service from 11 vendors, did not have written agreements, and did not adequately monitor the vendors' services and verify their billings.	**Repeated** (Current Finding 1)
Finding 5	UEF did not have adequate procedures and controls to ensure that all collections were deposited.	Not repeated
Finding 6	Sensitive personally identifiable information maintained by UEF was stored without adequate safeguards.	Not repeated
Finding 7	Security event monitoring, access controls, and user access monitoring were not sufficient.	Not repeated
Finding 8	UEF did not have an information systems disaster recovery plan.	Not Repeated

Findings and Recommendations

Third Party Administrator Contract

During our audit period, the Uninsured Employers' Fund (UEF) awarded two contracts to a Third Party Administrator (TPA) vendor to investigate, process, and manage UEF claims. According to UEF records, as of February 2021, payments under these two contracts totaled $6.5 million. Our audit focused primarily on activity related to the contract awarded in July 2019, as described below.

<u>September 2017 Emergency Contract</u>
As noted in our preceding audit report, UEF issued a $994,500 (plus fees) emergency contract to a TPA vendor in June 2017 covering the 18-month period from September 2017 through February 2019. That contract was approved by the Board of Public Works (BPW) in December 2017. In our UEF follow-up review report, dated November 2, 2018, we identified certain payments that were not included in the scope of the contract. In March 2019, UEF received BPW approval for a modification to the emergency contract, extending the term through June 2019. BPW also retroactively approved additional payments made to the vendor during the initial 18-month term that were identified in our November 2018 follow-up report. According to UEF records, payments to the TPA under the emergency contract totaled $2.5 million.

<u>July 2019 Contract</u>
In July 2019 UEF competitively procured a TPA contract covering the 5-year period from July 2019 through June 2024. The contract was awarded to the TPA vendor procured under the emergency contract and had a total value of $16.4 million. The contract value includes a fixed monthly administrative fee for each year of the contract (for example, $160,554 during fiscal year 2021), and certain separate additional fees for various services provided by the TPA, such as medical bill reviews. Under the contract, the TPA is responsible for virtually all critical UEF claim activities (see Figure 3), including processing payments of claims and related benefits and expenses in accordance with the associated workers' compensation awards. UEF reimburses the TPA for these payments. According to UEF records, payments to the TPA for costs

Figure 3
TPA Claim Processing Responsibilities

- Investigating claims
- Case management
- Bill review
- Maintain Preferred Provider Network and Pharmacy Benefit Program
- Medicare reporting and set aside evaluations
- Processing payments of claims and related benefits and expenses
- Independent Medical Examination referrals and scheduling
- Preparing for litigation

under the current contract (excluding claims payments) totaled $4.0 million as of February 2021.

Finding 1
UEF did not ensure that payments to its TPA were adequately supported and consistent with the contract terms. As a result, we identified payments totaling $521,083 for which the rate paid by UEF was not included in the contract or exceeded the rates specified in the contract.

Analysis
UEF did not ensure that payments to the TPA under the July 2019 contract were adequately supported and consistent with the contract terms. Our analysis of TPA payments disclosed a number of deficiencies resulting in overpayments totaling $521,083.

Figure 4
OLA Identified Overpayments
Between July 2019 and February 2021

Service	Total Paid	Overpayments
Administrative Services	$273,000	$273,000
Medical Cost Savings	236,991	200,778
Independent Medical Examinations	212,328	27,039
Medicare Set-Aside Evaluations	71,347	9,693
CMS Reporting Fee	25,257	10,573
Total	**$818,923**	**$521,083**

<u>Monthly Administrative Payments Were Not Verified</u>
UEF did not obtain sufficient documentation to support the reasonableness of the monthly payments to the TPA for administrative services. UEF paid the TPA a fixed monthly fee for each year of the contract (a total of $3.1 million during the period from July 2019 to February 2021) for administrative services. Specifically, in accordance with the contract the administrative services were to include nine full-time dedicated vendor employees (one supervisor, four claims adjusters, and four claims investigators) to process UEF claims. However, the invoices submitted by the TPA did not identify the specific vendor employees and related hours worked by these individuals as required by the contract, and did not include descriptions of the work performed.

As a result, UEF was precluded from determining the reasonableness of billed services (for example, whether the TPA provided all the administrative services for which they were paid); nor did UEF implement any other appropriate review process. In this regard, we reviewed monthly statistical reports routinely provided by the TPA to UEF for 14 months between January 2020 and February 2021, but which were not used by UEF in the invoice approval process. Based on our review of these documents and a comparison to the monthly invoices, we determined that the TPA only reported claims processing activity for 8 of the 9 employees in 10 of the months reviewed. UEF was not aware of this discrepancy until we brought it to their attention.

Overpayments for Certain Included Services

UEF overpaid the TPA by making separate monthly payments of $13,650 (a total of $273,000 as of February 2021) for services that were included in the monthly administrative payment. These separate payments were for work by one TPA employee who was handling the settlement of claims associated with a large company's bankruptcy[1]. UEF was not aware the current contract did not provide for these payments until we brought the matter to its attention, but agreed that the TPA should not have received separate payments for these services.

Overpayments for Claims-Related Services

Since the inception of the contract in July 2019 through several dates that we reviewed these matters, UEF repeatedly paid the TPA at higher rates than those specified in the contract resulting in overpayments totaling $248,083.

- According to an analysis provided by the TPA in January 2021, UEF overpaid the TPA $200,778 for medical cost savings achieved by the TPA through its preferred provider network. However, as of June 2021, UEF had not independently verified the TPA's analysis, and had only recovered $27,000 of the reported overpayments.

- UEF payments to the TPA for independent medical examinations and Medicare set-aside evaluations exceeded the established contract rates, resulting in overpayments of $36,732 between July 2019 and February 2021.

  UEF advised that it considered the contract rates for these services to be estimates and that it had an informal understanding with the TPA that it could bill UEF above these rates. We confirmed with UEF legal counsel and Department of General Services officials involved in the procurement of the

[1] Payments for this employee's services were also identified during our November 2018 UEF follow-up review. As previously noted in this report, UEF obtained retroactive approval for those payments from the Board of Public Works in March 2019.

contract that UEF's position was not consistent with the contract payment terms.

- Since the inception of the contract through February 2021, UEF overpaid the TPA $10,573 for fees related to monthly reports to the Centers for Medicare and Medicaid Services (CMS). This occurred because the TPA billed UEF based on an estimated number of claims rather than the actual number as called for by the contract.

Although UEF management knew in certain cases that higher rates were being paid than it was contractually obligated, it erroneously concluded that the higher payments were acceptable or permissible. Other overpayments occurred due to a lack of understanding of the contract payment terms. Similar conditions regarding the failure to ensure the propriety of TPA invoices and monitor the related services were noted in our prior audit report.

Recommendation 1
We recommend that UEF

a. **ensure that invoiced amounts are supported and agree to contract approved rates and level of services prior to approving invoices for payment (repeat), and discontinue payments not provided for in the contract;**
b. **establish a process for monitoring TPA performance for claims processing and related functions (repeat); and**
c. **consult with legal counsel regarding the potential to recover the aforementioned overpayments.**

Claims Processing

Finding 2
UEF did not adequately review recurring indemnity payments processed by the TPA to ensure claimants were still eligible for payment.

Analysis
UEF did not adequately review recurring indemnity payments processed by the TPA to ensure claimants were still eligible for payment. Recurring payments are made by the TPA for a set period or for the life of the injured person based on awards determined by the Workers' Compensation Commission (WCC). According to UEF records, recurring indemnity payments during fiscal year 2020 totaled approximately $1.9 million for 171 claimants.

Our review disclosed that UEF could not document that it reviewed recurring claim payments to ensure the recipients were still within their authorized payment period. Specifically, UEF acknowledged the need for such a review and advised that it reviewed recipients on a test basis, but could not document which claimants were selected and the results of these reviews. UEF also advised that it relied on the TPA to conduct periodic "alive and well" checks to verify that claimants were still alive and therefore eligible to continue receiving payments, but UEF did not obtain the results of these efforts. Although our testing did not disclose any improper indemnity payments, the lack of documented reviews could result in unauthorized or erroneous payments that are not readily detected.

Recommendation 2
We recommend that UEF

a. **establish a documented procedure to verify, at least on a test basis, that recurring indemnity payments are made only to eligible individuals; and**
b. **obtain and review the results of the TPA's alive and well checks to ensure that future recurring indemnity payments to deceased individuals are terminated and recover any payments made after the date of death.**

Accounts Receivable

Finding 3
UEF did not adequately monitor and pursue collection of all delinquent accounts. As of November 30, 2020, there were 1,920 delinquent accounts totaling $14.5 million that, based on their age, should have been referred to the State's Central Collection Unit (CCU).

Analysis
UEF did not adequately monitor and pursue collection of all delinquent accounts and did not refer delinquent accounts to CCU as required. UEF maintains accounts receivable records for amounts due from insurance companies and employers. These amounts include assessments on certain WCC awards, fines and penalties assessed by WCC, and reimbursements due from uninsured employers for claimant awards and medical payments made on their behalf. As of November 30, 2020, UEF's records reflected an accounts receivable balance totaling approximately $96.8 million, with $29.3 million currently outstanding, and accounts totaling $67.5 million that had been previously referred to CCU.

Dunning Notices Were Not Properly Generated
UEF's automated accounts receivable system was not programmed to continue generating monthly dunning notices after the accounts were delinquent for more

than 90 days, and UEF did not manually send the subsequent dunning notices. CCU regulations, as amended for UEF, require that outstanding accounts which remain uncollected for 180 days be transferred to CCU for further collection activity.

UEF advised that it did not send these additional monthly dunning notices because it referred delinquent accounts to CCU after 90 days (rather than the CCU required 180 days). However, as noted below, numerous delinquent accounts had not been referred to CCU.

Delinquent Accounts Were Not Referred to CCU as Required

UEF had not referred all delinquent accounts to CCU as required. According to UEF's records as of November 30, 2020, there were 1,920 delinquent accounts totaling $14.5 million that, based on their age, should have been referred to CCU. This included 138 delinquent accounts with individual balances greater than $20,000 that collectively totaled $11.2 million, which had been delinquent for periods ranging from 222 days to more than 30 years. Eleven of these accounts totaling $328,000 had been delinquent for more than 25 years. Delays in the pursuit of outstanding debt may decrease the likelihood of collecting the funds owed.

Account Aging Reports Were Not Accurate and Reliable

The accounts aging reports produced by UEF's automated accounts receivable system were not accurate and reliable for use in monitoring its accounts receivable. Specifically, the total amount of delinquent accounts referred to CCU according to UEF's monthly aging report ($67.5 million) did not agree to a detailed report of delinquent accounts that were referred ($23.3 million) – a difference of $44.2 million.

This condition was commented upon in our two preceding audit reports. Although UEF management previously advised that it was working with its IT support vendor to correct this issue, UEF could not document these efforts and still could not explain the reason for the discrepancy. An accurate monthly report to age delinquent accounts is required by the Comptroller of Maryland's *Accounting Procedures Manual* and is a critical tool to help UEF monitor unpaid accounts and related collection efforts, including delinquent accounts referred to CCU.

Delinquent Employers Were Not Referred for License Suspension

UEF had not established an effective process to identify and refer delinquent employers for license suspension. Although UEF advised that it attempted to identify delinquent employers with a business license or permit, UEF did not document these efforts nor could it provide a comprehensive listing of employers that had been referred for suspension. Our test of 10 employers with accounts totaling $504,000 that had been delinquent for between 132 days to more than 3 years disclosed that UEF could not document that it attempted to identify a business or professional license or permit for 9 of the employers with outstanding balances totaling $484,000. State law permits UEF to request State and local licensing authorities to suspend the applicable license or permit of employers who fail to pay an assessment or penalty or who failed to reimburse UEF for the payment of an award.

Conditions regarding UEF's failure to ensure accounts are adequately monitored and pursued for collection have been noted during our four preceding audits dating back to May 2009. In addition, the conditions regarding the inaccuracy of the monthly account aging reports and the failure to refer delinquent employers for license suspension were noted during our two preceding audits.

Recommendation 3
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 all delinquent accounts to CCU for collection in accordance with the amended CCU regulations (repeat), and**
c. **establish a process to identify and refer delinquent employers to applicable State and local licensing authorities for license or permit suspension (repeat).**

Audit Scope, Objectives, and Methodology

We have conducted a fiscal compliance audit of the Uninsured Employers' Fund (UEF) for the period beginning November 28, 2016 and ending November 30, 2020. The audit was conducted 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.

As prescribed by the State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine UEF's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of significance and risk. The areas addressed by the audit included UEF's monitoring of the Third Party Administrator contract deliverables (including claims processing, assessment collections and billings, and information systems security and control). We also determined the status of the findings contained in our preceding audit report.

Our assessment of internal controls was based on agency procedures and controls in place at the time of our fieldwork. Our tests of transactions and other auditing procedures were generally focused on the transactions occurring during our audit period of November 28, 2016 to November 30, 2020, but may include transactions before or after this period as we considered necessary to achieve our audit objectives.

To accomplish our audit objectives, our audit procedures included inquiries of appropriate personnel, inspections of documents and records, tests of transactions, and to the extent practicable, observations of UEF operations. Generally, transactions were selected for testing based on auditor judgment, which primarily considers risk, the timing or dollar amount of the transaction, or the significance of the transaction to the area of operation reviewed. As a matter of course, we do not normally use statistical sampling in our tests, so unless otherwise specifically indicated, neither statistical nor non-statistical sampling was used to select the transactions tested. Therefore, unless sampling is specifically indicated in a finding, the results from any tests conducted or disclosed by us cannot be used to project those results to the entire population from which the test items were selected.

We also performed various data extracts of pertinent information from the State's Financial Management Information System (such as revenue and expenditure data). The extracts are performed as part of ongoing internal processes established by the Office of Legislative Audits and were subject to various tests to determine data reliability. We determined that the data extracted from this source were sufficiently reliable for the purposes the data were used during this audit. We also extracted data from UEF's automated accounts receivable system for the purpose of testing assessment accounts receivable. We performed various tests of the relevant data and determined that the data were sufficiently reliable for the purposes the data were used during the audit. Finally, we performed other auditing procedures that we considered necessary to achieve our audit objectives. The reliability of data used in this report for background or informational purposes was not assessed.

UEF's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records; effectiveness and efficiency of operations, including safeguarding of assets; and compliance with applicable laws, rules, and regulations are achieved. As provided in *Government Auditing Standards*, there are five components of internal control: control environment, risk assessment, control activities, information and communication, and monitoring. Each of the five components, when significant to the audit objectives, and as applicable to UEF, were considered by us during the course of this audit.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

This report includes findings relating to conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect UEF's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report also includes a finding regarding a significant instance of noncompliance with applicable laws, rules, or regulations. Other less significant findings were communicated to UEF that did not warrant inclusion in this report.

In our preceding audit report, we reported that UEF's accountability and compliance level was unsatisfactory, in accordance with the rating system we established in conformity with State law. Our current audit disclosed that UEF has improved its fiscal and compliance operations and, accordingly, UEF's accountability and compliance level is no longer unsatisfactory. Our rating conclusion has been made solely pursuant to the aforementioned law and rating guidelines approved by the Joint Audit and Evaluation Committee. The rating process is not a practice prescribed by professional auditing standards.

UEF's response to our findings and recommendations 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

LAWRENCE J. HOGAN, JR.
GOVERNOR

MICHAEL W. BURNS
Executive Director
michael.burns1@maryland.gov

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September 10, 2021

Gregory A. Hook, CPA
Legislative Auditor
State of Maryland
Office of Legislative Audits
State Office Building, Room 1202
301 West Preston Street
Baltimore, Maryland 21201

Dear Mr. Hook:

The Maryland Uninsured Employer's Fund (UEF) responses to the fiscal compliance audit for the period beginning November 28, 2016 and ending November 30, 2020 are enclosed herein for your review and consideration.

As noted within the responses, the UEF concurs with the audit findings.

This document also details the UEF's responses to the Findings and Recommendations, and the responses also detail this agency's plans for implementing procedures to bring the UEF into compliance with the audit Findings and Recommendations as necessary.

We continue the ongoing process of dealing with, and resolving, the issues, deficiencies, needs and challenges which we have discovered at the UEF.

The UEF recognizes, and appreciates, the efforts of the Office of Legislative Audits in examining the situation at the UEF and making recommendations for improvements and will continue to work to correct the deficiencies noted by the Office along with the other issues facing the agency. This is especially true considering that this process occurred largely remotely because of the requirements of dealing with the ongoing covid pandemic. Staff at both agencies did a truly excellent job of cooperating to achieve this audit, and staff and both agencies involved are to be commended for their professionalism. We appreciate your efforts.

Thank you.

Respectfully submitted,

The Honorable Michael W. Burns, Esquire
Director

Encl.

Uninsured Employers' Fund

Agency Response Form

Third Party Administrator Contract

Finding 1
UEF did not ensure that payments to its TPA were adequately supported and consistent with the contract terms. As a result, we identified payments totaling $521,083 for which the rate paid by UEF was not included in the contract or exceeded the rates specified in the contract.

We recommend that UEF

a. **ensure that invoiced amounts are supported and agree to contract approved rates and level of services prior to approving invoices for payment (repeat), and discontinue payments not provided for in the contract;**
b. **establish a process for monitoring TPA performance for claims processing and related functions (repeat); and**
c. **consult with legal counsel regarding the potential to recover the aforementioned overpayments.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	**The Agency concurs with Finding 1 and the accompanying Recommendations.**		
Recommendation 1a	Agree	**Estimated Completion Date:**	March 2022
Please provide details of corrective action or explain disagreement.	**The Agency has reviewed the recommendation finding, recognized relevant issues and been working with the contractor on an ongoing basis to correct any deficiencies and to ensure that the terms of the RFP Contract are followed, including discontinuing improper payments and making corrections for purposes of insuring accurate accounting going forward.** **Plan/Timetable** **Present – January, 2022 - Continue meetings between parties; review items at issue; correct payment issues going forward; discontinue incorrect payments** **Present – March, 2022 – Continue meetings between parties; review amounts paid previously for inaccuracy; agree on amounts due**		

Uninsured Employers' Fund

Agency Response Form

Recommendation 1b	Agree	**Estimated Completion Date:**	April 2022
Please provide details of corrective action or explain disagreement.	**The Agency has established a staff position to perform this function, among others, and advertised and accepted applications. The results were not, however, satisfactory. Because of the Pandemic, the hiring process was subsequently placed on hold. The Agency will advertise and hire for the position again and these duties will be part of the position's responsibilities.** **Until the process is completed Agency staff will continue to review TPA performance as required under the direction of the Director.** **Plan/Timeline** **Present – November, 2021 – Confirm Job description and other requirements for readvertising with DBM;** **November – December, 2021 – advertise position** **January, 2022 – review applications; rank applicants** **February – March, 2022 – interview candidates** **March, 2022 – decide on candidate; offer position** **March, 2022 – hire candidate** **March-April, 2022 – train Administrator; continue and refine the process for monitoring TPA performance for claims processing and related functions**		
Recommendation 1c	Agree	**Estimated Completion Date:**	March 2022
Please provide details of corrective action or explain disagreement.	**The Agency has been meeting, and working, with our agency Attorneys Generals on an ongoing basis to accomplish this.** **Plan/Timetable** **Present – February 2022 – Continue meeting with Attorney Generals as process of investigation and agreement with TPA continues.**		

	March, 2022 – Finalize amounts owed and accomplish reconciliation between parties.

Claims Processing

Finding 2
UEF did not adequately review recurring indemnity payments processed by the TPA to ensure claimants were still eligible for payment.

We recommend that UEF

a. **establish a documented procedure to verify, at least on a test basis, that recurring indemnity payments are made only to eligible individuals; and**
b. **obtain and review the results of the TPA's alive and well checks to ensure that future recurring indemnity payments to deceased individuals are terminated and recover any payments made after the date of death.**

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	**The Agency concurs with Finding 2 and the accompanying Recommendations.**		
Recommendation 2a	Agree	**Estimated Completion Date:**	Completed
Please provide details of corrective action or explain disagreement.	**Agency staff has been doing this for some time. Staff member is forwarded spreadsheet with relevant information bi-weekly and randomly reviews cases to ensure payments confirm to WCC orders. Names of cases recorded.** **The Agency notes that the position noted in Agency Response 1.b. will eventually be responsible for overseeing this process when hired.**		
Recommendation 2b	Agree	**Estimated Completion Date:**	October 2021
Please provide details of corrective action or explain disagreement.	**The Agency TPA Contractor has been instructed to provide the results of all "alive and well" checks to the Agency.** **This process will be implemented by October, 2021 with the results of all checks furnished to Agency Director as "alive and well" checks occur for review by the Director.**		

	The position noted in Agency Response 1.b. will be responsible for this review task on behalf of the Agency when hired. **Plan/Timetable** **October, 2021- fully implement program.**

Accounts Receivable

Finding 3
UEF did not adequately monitor and pursue collection of all delinquent accounts. As of November 30, 2020, there were 1,920 delinquent accounts totaling $14.5 million that, based on their age, should have been referred to the State's Central Collection Unit (CCU).

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 all delinquent accounts to CCU for collection in accordance with the amended CCU regulations (repeat), and

c. establish a process to identify and refer delinquent employers to applicable State and local licensing authorities for license or permit suspension (repeat).

Agency Response			
Analysis			
Please provide additional comments as deemed necessary.	**The Agency concurs with Finding 3 and the accompanying Recommendations.**		
Recommendation 3a	Agree	**Estimated Completion Date:**	Ongoing; March, 2022
Please provide details of corrective action or explain disagreement.	**The Agency continues to work to improve these processes on an ongoing basis. Such refinements and improvements will continue regularly.** **Plan/Timetable**		

Agency Response Form

<table>
<tr><td></td><td colspan="3">Present – Ongoing – Continue to improve processes and implement on an ongoing basis.

Present – March, 2022 - Generate dunning notices and produce accurate accounts receivable aging reports on regular basis.

Present – March, 2022 – Work with IT Contractor to develop and initiate program changes that result in more accurate accounts receivable aging reports.</td></tr>
<tr><td>Recommendation 3b</td><td>Agree</td><td>Estimated Completion Date:</td><td>Ongoing</td></tr>
<tr><td>Please provide details of corrective action or explain disagreement.</td><td colspan="3">The Agency has attempted over multiple years to identify and send all identifiable debts to the CCU. Any identified relevant debt which has not been referred to the CCU as of this Report will be referred when confirmed as having not been received by the CCU.

Plan/Timetable

Present – January, 2022 – all debts identified as not having been sent to the CCU forwarded to CCU

January, 2022 – Forward – all debts forwarded by Agency to CCU on regular basis</td></tr>
<tr><td>Recommendation 3c</td><td>Agree</td><td>Estimated Completion Date:</td><td>Completed</td></tr>
<tr><td>Please provide details of corrective action or explain disagreement.</td><td colspan="3">As part of the ongoing program to overhaul, correct and initiate proper Agency functioning, the Agency established a program to "establish a process to identify and refer delinquent employers to applicable State and local licensing authorities for license or permit suspension" several years ago. That program has been and remains ongoing.

Based on Recommendation 3.c., the agency, working with its Attorneys General, has memorialized the process for identifying and referring delinquent employers for license or permit suspension in detail. A copy of the Agency License Revocation Process procedures document has been previously provided to the OLA.</td></tr>
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<u>AUDIT TEAM</u>

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