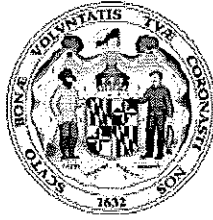


LAWRENCE J. HOGAN, JR.
GOVERNOR

STATE OF MARYLAND



MARTIN E. LEWIS
CHAIR

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

DONCELLA S. WILSON
AMY L. THOMPSON
MEMBERS

STATE OF MARYLAND
UNINSURED EMPLOYERS' FUND

300 East Joppa Road, Suite 402
Towson, MD 21286
PHONE - (410) 321-4136
FAX - (410) 321-3975

January 29, 2019

The Honorable Douglas J. J. Peters, Chair
Sub-Committee on Public Safety and Administration
Senate of Maryland Budget and Taxation Committee
Miller Senate Office Building
3 West Wing
11 Bladen Street
Annapolis, MD 21401-1991

Dear Chair Peters and Committee Members,

Please accept the following, with the enclosed attachments, as the written testimony of the Maryland Uninsured Employers' Fund (UEF) on January 31, 2019 regarding the status of the UEF and the budget proposal for FY 2020:

The Maryland Uninsured Employers' Fund (UEF/Agency) is a statutory agency created to protect Maryland workers who are injured on the job (or develop an occupational disease). The purpose of the Agency is to provide workers' compensation benefits when an uninsured employer fails to provide benefits awarded by the Maryland Workers' Compensation Commission (WCC) to an injured worker because of the employer's failure to maintain workers compensation insurance coverage for employees.

The UEF is a special fund which is funded by fines levied by the WCC against uninsured employers and also by assessments imposed on most WCC awards of indemnity benefits. The agency also strives to recover reimbursement from uninsured employers for expenditures made by the UEF pursuant to WCC Orders.

While the UEF is not an insurance provider, it does act as the "insurer of last resort" and is responsible for providing all of the same benefits that a workers' compensation carrier provides. The benefits provided include medical treatment, medications and medical equipment,

physical and vocational rehabilitation services, pain management and other forms of therapy. The compensation provided also includes temporary and permanent disability benefits.

During the past two years the UEF has been continually and actively engaged in a process of identifying and correcting a host of serious issues which were left by prior UEF management, including correcting serious deficiencies in the critical areas of claims administration and collections. In June, 2017, the UEF signed an eighteen-month emergency contract with the Corvel Corporation, a national third-party claims administrator, to manage the UEF's claims administration process. Corvel's contract replaced the prior claims administrator, with whom the UEF had a multi-year "relationship" without the existence of a written contract. The UEF is currently engaged in a Request for Proposals process for these services which is expected to award a contract upon completion in several months.

A systematic and detailed set of collections policies and protocols has also been developed and implemented at the UEF. This process includes not only the creation of collections systems and protocols, it also has involved developing an enforcement program as well. The re-establishment of a dormant business license suspension program and obtaining never-before sought legal authority for criminal prosecution of uninsured employers who fail to reimburse the UEF for expenditures made to claimant employees of those uninsured employers by the UEF are just two of the accomplishments. As a result, this agency is, for the first time in many years, actually working actively to collect from uninsured employers in support of our Fund.

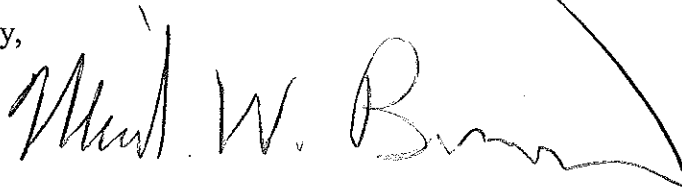
Additionally, current UEF management has been dealing with the Office of Legislative Audits (OLA) an audit which literally began within days of the arrival of the new Executive Director in late 2016. This resulting audit found eight findings - seven of which were contained in the proceeding audit report dated November 7, 2014 which prior UEF management was unable or unwilling to address.

It is important to recognize that the OLA audit is, unfortunately, only one part of a much larger picture of dysfunction which current leadership has, and continues to, address. As the documents attached detail, the UEF has been working with the OLA consistently to address the findings in the audit to the satisfaction of all parties. Real progress has been made and continues as detailed in these reports. We continue to work to correct the deficiencies found in the audit report. Our report to the Joint Audit Committee dated January 22, 2019 is attached.

Please also find attached hereto this agency's Response to the Analysis of the FY 2020 Maryland Executive Budget for your review. I urge you to consider our responses, especially to suggested recommendations, which are made to you after discussions among the staff and which are based on our expertise with, and knowledge of, our unique role and mission as a state agency.

I always genuinely appreciate the opportunity to appear before the legislature and look forward to continuing to work with you to make the Maryland Uninsured Employers' Fund an outstanding and successful State government agency.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael W. Burns". The signature is fluid and cursive, with a large, sweeping flourish at the end.

The Honorable Michael W. Burns, Esquire

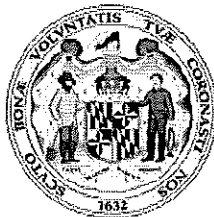
Encls.

LAWRENCE J. HOGAN, JR.
GOVERNOR

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January 29, 2019

The Honorable Keith E. Haynes, Chair
The Honorable Mark S. Chang, Vice-Chair
Public Safety and Administration Sub-Committee
Maryland House of Delegates Appropriations Committee
Room 120, House Office Building
Annapolis, MD 21401-1991

Dear Chair Haynes, Vice-Chair Chang and Members of the Sub-Committee,

Please accept the following, with the enclosed attachments, as the written testimony of the Maryland Uninsured Employers' Fund (UEF) on January 30, 2019 regarding the status of the UEF and the budget proposal for FY 2020:

The Maryland Uninsured Employers' Fund (UEF/Agency) is a statutory agency created to protect Maryland workers who are injured on the job (or develop an occupational disease). The purpose of the Agency is to provide workers' compensation benefits when an uninsured employer fails to provide benefits awarded by the Maryland Workers' Compensation Commission (WCC) to an injured worker because of the employer's failure to maintain workers compensation insurance coverage for employees.

The UEF is a special fund which is funded by fines levied by the WCC against uninsured employers and also by assessments imposed on most WCC awards of indemnity benefits. The agency also strives to recover reimbursement from uninsured employers for expenditures made by the UEF pursuant to WCC Orders.

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provides. The benefits provided include medical treatment, medications and medical equipment, physical and vocational rehabilitation services, pain management and other forms of therapy. The compensation provided also includes temporary and permanent disability benefits.

During the past two years the UEF has been continually and actively engaged in a process of identifying and correcting a host of serious issues which were left by prior UEF management, including correcting serious deficiencies in the critical areas of claims administration and collections. In June, 2017, the UEF signed an eighteen-month emergency contract with the Corvel Corporation, a national third-party claims administrator, to manage the UEF's claims administration process. Corvel's contract replaced the prior claims administrator, with whom the UEF had a multi-year "relationship" without the existence of a written contract. The UEF is currently engaged in a Request for Proposals process for these services.

A systematic and detailed set of collections policies and protocols has also been developed and implemented at the UEF. This process includes not only the creation of collections systems and protocols, it also has involved developing an enforcement program as well. The re-establishment of a dormant business license suspension program and obtaining never-before sought legal authority for criminal prosecution of uninsured employers who fail to reimburse the UEF for expenditures made to claimant employees of those uninsured employers by the UEF are just two of the accomplishments. As a result, this agency is, for the first time in many years, actually working actively to collect from uninsured employers in support of our Fund.

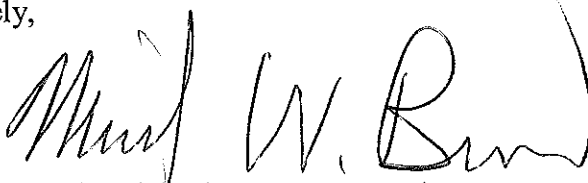
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It is important to recognize that the OLA audit is, unfortunately, only one part of a much larger picture of dysfunction which current leadership has, and continues to, address. As the documents attached detail, the UEF has been working with the OLA consistently to address the findings in the audit to the satisfaction of all parties. Real progress has been made and continues as detailed in these reports. We continue to work to correct the deficiencies found in the audit report. Our report to the Joint Audit Committee dated January 22, 2019 is attached.

Please also find attached hereto this agency's Response to the Analysis of the FY 2020 Maryland Executive Budget for your review. I urge you to consider our responses, especially to suggested recommendations, which are made to you after discussions among the staff and which are based on our expertise with, and knowledge of, our unique role and mission as a state agency.

I always genuinely appreciate the opportunity to appear before the legislature and look forward to continuing to work with you to make the Maryland Uninsured Employers' Fund an outstanding and successful State government agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Burns". The signature is fluid and cursive, with the first name "Michael" written in a larger, more prominent script than the last name "Burns".

The Honorable Michael W. Burns, Esquire

Encls.

C96J00

Uninsured Employers' Fund (UEF)

Executive Summary- Response to Recommendations

- 1) **The Department of Legislative Services (DLS) recommends that the budget committees adopt narrative requesting UEF to provide the cost of the third-party administrator contract with the agency's operating budget, starting with the fiscal 2021 budget submission.**

Agency Response:

The UEF is in the process of awarding its first-ever contract for Third Party Claims Administration (TPA) services. The RFP was issued on October 2, 2018, and the award process is ongoing. This contract is currently expected to be awarded, approved and in effect within the next several months.

To the extent the contract terms and costs can be listed or estimated the UEF will provide such costs to the extent possible for inclusion in the 2021 FY Budget submission.

- 2) **UEF should discuss the need for both the program manager IV and the office manager and clerk, given the seeming overlap in the duties of the 2 positions.**

Agency Response:

These two positions are separate and distinct. This is very little, if any, overlap between them.

The Program Manager IV position is designed to be the agency's Claims Administrator and Procurement Officer. As Procurement Officer, the position will manage and oversee the process and insure compliance with contracts between the agency and outside parties, including the contract with the agency's TPA. The oversight over the contract of with the TPA is a function handled by the Program Manager and will involve in-depth interaction with the TPA on a daily basis. The oversight will include the day-to-day operations of the TPA as well as oversight to include review of bills processed and payments made by the TPA to insure accuracy and will address one of the 2018 audit findings. The Program Manager will also interact with the legal and collections sections of the agency as required to assist with defense, enforcement and collections, as well as evaluate the agency's TPA program and make recommendations for changes and improvements over time.

The Administrative Officer II will serve as the agency's office manager as well as the office Clerk responsible for interacting with the TPA and the legal section as required involving scheduling notices and other related issues. The Administrative Officer will also serve as the staff member responsible for the day-to-day function and management of the office.

Both positions are critical to the successful structure and stability of the Uninsured Employers' Fund and to the program to stabilize the Fund's structure.

- 3) **UEF should explain why the claims investigator IV position merits a salary increases of \$50,000, given the position has been filled at an authorized salary of \$34,000 for three years.**

Agency Response:

The legislature abolished a claims investigator IV position in 2016. The UEF does not recommend increasing any claims administrator IV position's salary in the FY2020 Budget.

As to the Administrative Manager Senior I position, that position was created in 2017 and the salary for that position was established at the current funding level at that time and included and approved in the FY 2019 budget.

- 4) **The Department of Legislative Services (DLS) recommends deleting the funding associated with contractual FTEs, given the agency has none.**

Agency Response:

The agency agrees with the recommendation.

- 5) **DLS recommends deleting the \$2 million general fund appropriation in fiscal 2020 and that a long-term revenue solution, such as increasing the assessment rate, be pursued instead.**

Agency Response:

The agency recommends against the recommendation.

In 2003 Bethlehem Steel Corporation, which was self-insured for workers compensation purposes, declared bankruptcy. Pursuant to statute, the UEF took over administration and payment of that failed company's workers compensation claims. Over the past fifteen years the UEF has paid out millions of dollars in to Bethlehem Steel workers. For the past several years, these payments have been made without any source of recovery for the Fund.

In early 2018, the UEF's newly-contracted Third-Party Claims Administrator discovered the existence of hundreds of potential additional Bethlehem Steel cases involving hearing damage and loss and related issues. A review for reserve purposes has set a figure of \$6 million on the potential exposure in these cases.

The Administration, when presented with these facts, developed a program that protects these Maryland workers by budgeting \$2 million in funding for each of the next three fiscal years in order to deal with and resolve these cases. This planned funding is designed to remedy the situation in a fair, equitable and final manner.

- 6) **DLS recommends \$100,000 in special funds be restricted until UEF submits award information to the budget committees indicating the agency has entered into a contract for an actuarial study.**

Agency Response:

The UEF will agree to do an actuarial study. Restricting \$100,00 of the UEF's budget, considering the size of the agency and its overall budget, is a serious and unnecessary restriction on the agency's operating ability and the UEF recommends against budget language further restricting the Fund.

- 7) **UEF should comment on the OLA follow-up review in November 2018 and explain why the agency did not submit contract modifications to BPW as recommended by OLA. The agency should also explain why the third-party administrator vendor was overpaid in comparison to the contract brought to BPW**

Agency Response:

The UEF issued a RFP for TPA Services on October 2, 2018. Simultaneously, the UEF has been working with the Department of Management and Budget (DBM) to prepare a complete set of accurate contract modifications to the Board of Public Works (BPW) for approval. This process is nearly complete and submission to the BPW will take place in the near future.

The contract modifications should resolve the issue of the "overpayment" to the TPA which is referenced. There was a drafting ambiguity in the emergency procurement contract that has resulted in this issue arising and the contract modification submission planned should resolve the issue.

LAWRENCE J. HOGAN, JR.
GOVERNOR

STATE OF MARYLAND



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

MARTIN E. LEWIS
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UNINSURED EMPLOYERS' FUND**

300 East Joppa Road, Suite 402
Towson, MD 21286
PHONE - (410) 321-4136
FAX - (410) 321-3975

January 22, 2019

Senator Craig J. Zucker, Co-Chair, Joint Audit Committee
Delegate Shelly L. Hettleman, Co-Chair, Joint Audit Committee
Members of the Audit Committee
Annapolis, Maryland

Dear Ladies and Gentlemen,

Please accept the following, with the enclosed attachments, as the testimony of the Maryland Uninsured Employers' Fund (UEF) on January 22, 2019 regarding the status of the follow-up process regarding the January 3, 2018 Office of Legislative Audits Audit Report regarding the UEF:

The Maryland Uninsured Employers' Fund (UEF/Agency) is a statutory agency created to protect Maryland workers who are injured on the job (or develop an occupational disease). The purpose of the Agency is to provide workers' compensation benefits when an uninsured employer fails to provide benefits awarded by the Maryland Workers' Compensation Commission (WCC) to an injured worker because of the employer's failure to maintain workers compensation insurance coverage for employees.

The UEF is a special fund which is funded by fines levied by the WCC against uninsured employers and also by assessments imposed on most WCC awards of indemnity benefits. The agency also strives to recover reimbursement from uninsured employers for expenditures made by the UEF pursuant to WCC Orders.

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During the past two years the UEF has been continually and actively engaged in a process of identifying and correcting a host of serious issues which were left by prior UEF management, including correcting serious deficiencies in the critical areas of claims administration and collections. In June, 2017, the UEF signed an eighteen-month emergency contract with the Corvel Corporation, a national third-party claims administrator, to manage the UEF's claims administration process. Corvel's contract replaced the prior claims administrator, with whom the UEF had a multi-year "relationship" without the existence of a written contract. The UEF is currently engaged in a Request for Proposals process for these services.

A systematic and detailed set of collections policies and protocols has also been developed and implemented at the UEF. This process includes not only the creation of collections systems and protocols, it also has involved developing an enforcement program as well. The re-establishment of a dormant business license suspension program and obtaining never-before sought legal authority for criminal prosecution of uninsured employers who fail to reimburse the UEF for expenditures made to claimant employees of those uninsured employers by the UEF are just two of the accomplishments. As a result, this agency is, for the first time in many years, actually working actively to collect from uninsured employers in support of our Fund.

Additionally, current UEF management has been dealing with the Office of Legislative Audits (OLA) audit which brings us here today – an audit which literally began within days of the arrival of the new Executive Director in late 2016. This resulting audit found eight findings - seven of which were contained in the proceeding audit report dated November 7, 2014 which prior UEF management was unable or unwilling to address.

It is important to recognize that the OLA audit is, unfortunately, only one part of a much larger picture of dysfunction which current leadership has, and continues to, address. As the documents attached detail, the UEF has been working with the OLA consistently to address the findings in the audit to the satisfaction of all parties. Real progress has been made and continues as detailed in these reports. We continue to work to correct the deficiencies found in the audit report.


The UEF today is a structurally stable and functional agency. Issues that were ignored for years have been corrected or are in process of being addressed. The OLA Audit is one important part of that process and the UEF appreciates the OLA staff's professionalism, courtesy and willingness to work with the UEF in order to deal with these audit findings.

It is our hope that the legislature will recognize the situation and the efforts of the UEF to deal with the OLA audit findings.

I genuinely appreciate the opportunity to appear before the legislature regarding this matter and to answer any questions the Committee may have.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Burns". The signature is fluid and cursive, with a long horizontal stroke at the end.

The Honorable Michael W. Burns, Esquire

Encl.

LAWRENCE J. HOGAN, JR.
GOVERNOR

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UNINSURED EMPLOYERS' FUND

300 East Joppa Road, Suite 402
Towson, MD 21286
PHONE - (410) 321-4136
FAX - (410) 321-3975

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.

LAWRENCE J. HOGAN, JR.
GOVERNOR

STATE OF MARYLAND



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

MARTIN E. LEWIS
CHAIR

DONCELLA S. WILSON
AMY L. THOMPSON
MEMBERS

STATE OF MARYLAND
UNINSURED EMPLOYERS' FUND

300 East Joppa Road, Suite 402
Towson, MD 21286
PHONE - (410) 321-4136
FAX - (410) 321-3975

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 dark ink, appearing to read "Michael W. Burns", written over a diagonal line.

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

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).

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.

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.

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).

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.