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Auditor's Examination of the Office of Risk Management's Oversight of the District's Disability Compensation Program

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EXECUTIVE SUMMARY

PURPOSE

Pursuant to request from Councilmember Mary M. Cheh and section 455 of the District of Columbia Home Rule Act, as amended, Public Law 93-198, D.C. Official Code, Section 1-204.55,¹ the District of Columbia Auditor (Auditor) conducted an audit of the District's Disability Compensation Program (DCP).

CONCLUSION

The Auditor's review of the DCP for the period of October 1, 2008 through September 30, 2010 found that the Office of Risk Management's (ORM) former executive leadership mismanaged the DCP and provided ineffective management and oversight of the DCP's Third Party Administrator (TPA). The Auditor's review also found that ORM and the Office of the Chief Financial Officer (OCFO) did not develop sufficient internal controls to protect the DCP and the Disability Compensation Fund (DCF) from waste, fraud and abuse. Moreover, numerous deficiencies found in the mismanaged areas were longstanding and existed prior to the delegation of DCP functions to ORM in December 2003.

Since FY 2001, ORM and OCFO have failed to accurately and timely record and remit deducted health and life insurance premiums to all insurance carriers; did not effectively verify disability compensation payments; and did not conduct sufficient verification or reconciliation of invoices before making payments to health insurance carriers. The Auditor also found that ORM management did not ensure that all vendor invoices and payments resulting from administrative orders issued by the Department of Employment Services were paid in a timely manner.

The Auditor's review also found that the OCFO's Office of Finance and Resource Management (OFRM), Office of Finance and Treasury (OFT), and Office of Integrity and Oversight (OIO) did not comply with OCFO financial policies and procedures that should have been applied to the DCP and DCF, thus resulting in numerous financial management oversight deficiencies. Our review found that these deficiencies exposed District funds to potential adverse impacts including waste, fraud and abuse that must be immediately corrected.

¹ See section 455 (b) of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198, 87 Stat. 803); D.C. Official Code §1-204.55 (b) (2001) which states: "The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he [she] may prescribe." See also, section 455 (c) of the District of Columbia Home Rule Act, as amended, approved December 24, 1973, (87 Stat. 803, D.C. Official Code § 1-204.55 (c) (2001) which states: "The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

The Auditor notes that during fiscal year 2010 ORM experienced significant management changes at the senior level including the separation of the former ORM Director. Subsequent to the Auditor's review, interim ORM officials have indicated that ORM and OCFO personnel have begun implementing operational changes and establishing additional financial internal controls. The Auditor finds that, based upon exit conference interviews and written comments provided by ORM and OCFO in response to the draft report, many of the changes, if effectively and efficiently implemented, will rectify many of the deficiencies cited in this report. However, the operational changes and additional financial internal controls must be consistently monitored and evaluated on a regular basis to ensure their effectiveness.

FINDINGS

1. ORM and OCFO did not provide effective and efficient oversight of DCP funds by implementing sufficient internal controls and not regularly accounting for, verifying, recording, and reconciling DCP expenditures and liabilities.
2. ORM and OFRM failed to record and remit an estimated \$8.7 million in deducted health and life insurance premiums.
3. ORM and OFRM have not fully implemented a corrective action plan to accurately record and remit deducted insurance premiums.
4. ORM did not conduct sufficient and timely verification or reconciliation of invoices prior to payment of \$2.3 million to insurance carriers.
5. ORM and OFRM failed to effectively verify disability compensation payments.
6. ORM did not ensure that DCP vendor invoices were paid in a timely manner.
7. ORM did not ensure that payments as a result of DOES administrative orders were paid in accordance with D.C. code 1-623.24(g).
8. OFRM failed to effectively reconcile the SunTrust bank account related to the disability compensation program.
9. OFT and the OCFO Office of Integrity and Oversight failed to establish adequate management and oversight of the Chief Financial Officer's digital signature.
10. ORM's former Director violated District law by allowing vendors to provide services without a valid contract.

11. ORM and OCP failed to provide effective contract administration and oversight of the TPA contract.
12. ORM failed to conduct all required performance audits.
13. ORM's former Director improperly modified the terms of the TPA's contract without the approval of OCP and withheld \$1,098,479.32 in payments to the TPA.
14. ORM's former Director did not develop sufficient internal controls to ensure effective and efficient management oversight of the DCP.

RECOMMENDATIONS

1. ORM, DCHR, and the OCFO should develop a written policy detailing procedures to properly and timely record and remit to respective insurance carriers, on a weekly or monthly basis, health and life insurance premiums deducted from claimants' weekly disability compensation payments for lost wages.
2. The OCFO OFRM should establish written policies and procedures establishing a sound methodology to certify the actual liability owed to health and life insurance carriers prior to payment.
3. ORM should request that the TPA provide the weekly prepay report in an electronic format, not electronically send a PDF, so that ORM and OFRM personnel can sort expenditure information for administrative, financial and budgetary purposes.
4. ORM should request that the TPA's weekly prepay report properly detail health and life insurance deductions, descriptions as to whether the deduction is for health or life insurance, and the carrier for each type of deduction made.
5. ORM should request that the TPA's weekly prepay report provide "net" and "gross" totals.
6. ORM should establish quarterly and annual reports detailing the total health and life insurance deductions collected and paid on behalf of each disability compensation claimant.
7. ORM and OCFO OFRM personnel should develop a written policy detailing the procedures for properly verifying, and certifying health insurance carriers' monthly invoices prior to approving and processing payments and establish procedures to ensure that these payments are made in a timely manner.

8. ORM should establish written policies and procedures properly detailing the DCP Claims Specialist's and Manager's review and verification process of DCP expenditures that are listed on the TPA's weekly prepay report. These policies and procedures should include the DCP Claim's Specialist's and Manager's sample expenditure selection process.
9. The OCFO's OFRM should develop procedures to properly verify ORM's Certification of the prepay report by periodically ensuring that the DCP expenditures listed on the weekly prepay report are accurate, reliable, and supported by adequate appropriate documentation.
10. ORM must develop written policies and procedures that require timely payment of DCP expenditures as well as ensure compliance with the District's Quick Payment Act.
11. ORM must develop a process to properly track administrative orders issued by DOES and ensure that payments required by the orders are issued in a timely manner consistent with the terms of the Order.
12. The OCFO's OFRM must conduct timely monthly reconciliations of the ORM DCP bank account.
13. The OCFO's OFRM officials should establish procedures to monitor and review monthly reconciliation files to ensure that DCP bank account files are complete and monthly reconciliations are adequately documented.
14. The OCFO OFT should immediately request the TPA and the TPA's subcontractor to return the District CFO's digital signature image within 30 days of the date of this report.
15. In the future, OCFO OFT personnel must timely conduct a risk assessment of any nongovernment entities in possession of the District CFO's digital signature to ensure that adequate internal controls are in place to safeguard the potential for inappropriate use of the CFO's signature and District funds.
16. The ORM Director must immediately review the DCP vendor list and negotiate and establish a legal binding contract with each vendor, where applicable.
17. The ORM Director and DCP Manager must establish adequate documentation files for selected vendors to ensure contracting files are complete and adequately document the date the vendor provided a presentation, the information provided by the vendor, the evaluation completed by specifically identified ORM officials, ORM DCP Manager cost savings analysis, and a copy of the vendors contract.

18. To the maximum extent allowed by law, consistent with D.C. Code § 2-301.05 (d) (2) ORM's DCP Manager should be held accountable to the fullest extent permissible by applicable personnel rules for allowing vendors to provide services and authorizing payments to vendors without a valid contract.
19. The OCFO's OFRM/AFO must require that the ORM Director verify the existence of a valid contract, where applicable, prior to processing any further DCP vendor payments. The OFRM should establish procedures to ensure that no payments are made to any vendors in the absence of a valid executed contract.
20. The ORM Director should perform quarterly performance audits of the TPA as required by the TPA contract.
21. OCP's contracting officer and the ORM Director must ensure that any modifications to contracts are conducted in accordance with District law, and that employees who deviate from this are held fully accountable to the maximum extent allowed by applicable personnel law and rules, up to and including termination.
22. The ORM Director should develop comprehensive written policies and procedures which properly detail the various functions and procedures within the District's DCP.
23. The ORM Director should develop and maintain a website which is informative and provides relevant and up-to-date details on the various functions and procedures within the DCP.
24. The ORM Director should establish task specific position descriptions and written policies or guidelines detailing ORM's DCP Manager and Claim Specialists functions related to the DCP.
25. The ORM Director should review and update the Client Service Plan in order to properly reflect the current procedures within the program.
26. The ORM Director should provide DCP staff and the TPA with a copy of the updated Client Service Plan.
27. The ORM Director should develop written policies and procedures detailing ORM's monitoring and oversight of IME's and AME's within the DCP. These policies and procedures, at a minimum, should outline the type of documentation the DCP Manager must complete to properly document the monitoring of IMEs and AMEs.
28. The ORM Director should develop policies and procedures to document the review, verification, and validation of IME's and AME's certifications.

29. The ORM Director should develop policies and procedures properly documenting DCP formal hearings status, formal administrative orders issued by DOES, and ORM compliance with DOES administrative orders.
30. ORM should develop a comprehensive modified work program. The program, at a minimum, must include a listing of different agencies which provide alternative duty assignments, provide monitoring of the disability compensation claimant placement and progress, and properly communicate and coordinate with the disability compensation claimant's treating physician and the TPA.

PURPOSE

Pursuant to a request from Councilmember Mary M. Cheh and section 455 of the District of Columbia Home Rule Act, as amended, Public Law 93-198, D.C. Official Code, Section 1-204.55,¹ the District of Columbia Auditor (Auditor) conducted an audit of the District's Disability Compensation Program (DCP).

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of the audit were to determine whether the:

1. Office of Risk Management (ORM) and the Office of the Chief Financial Officer (OCFO) developed sufficient internal controls to effectively protect the DCP and District assets from waste, fraud, and abuse; and
2. ORM developed sufficient internal controls to provide effective and efficient management and oversight of the DCP.

The audit covered the period of October 1, 2008 through September 30, 2010. The scope of the audit included a review of the standard operating procedures, policies, and practices used by the ORM, OCFO, and the Third Party Administrator in managing and overseeing the DCP and Disability Compensation Fund during the period.

In conducting the audit, the Auditor reviewed: the District of Columbia Merit Personnel Act (D.C. Law 2-139), D.C. Code §1-623, prior audit reports issued by the Office of the District of Columbia Inspector General (OIG), and relevant budgets, invoices and contracts. The Auditor also evaluated ORM and OCFO internal controls over the DCP and Disability Compensation Fund (DCF). Additionally, the Auditor conducted interviews with relevant staff within the Office of Risk Management (ORM); the Office of Contracting and Procurement (OCP); Sedgwick CMS; the Department of Human Resources (DCHR); the Department of Employment Services (DOES); the Office of the Chief Financial Officer's (OCFO) Office of Finance and Resource Management (OFRM), Office of Contracts (OOC), Office of Finance and Treasury (OFT), and Office of Integrity and Oversight (OIO). Lastly, the Auditor conducted interviews with officials from the Workers' Compensation Commissions of Maryland and the Commonwealth of Virginia.

¹ See section 455 (b) of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198, 87 Stat. 803); D.C. Official Code §1-204.55 (b) (2001) which states: "The District of Columbia Auditor shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he [she] may prescribe." See also, section 455 (c) of the District of Columbia Home Rule Act, as amended, approved December 24, 1973, (87 Stat. 803, D.C. Official Code § 1-204.55 (c) (2001) which states: "The District of Columbia Auditor shall have access to all books, accounts, records, reports, findings and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

The Auditor conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The Auditor believes that the evidence obtained provides a reasonable basis for our findings and conclusions based on the audit objectives.

BACKGROUND

The DCP was established by the District of Columbia Merit Personnel Act (D.C. Law 2-139) to pay compensation to District employees (or their survivors) injured or killed while in performance of official duties, excluding uniformed police and fire personnel. Eligible compensation includes compensation for lost wages, medical services related to the injury, and other services such as vocational rehabilitation.

Effective December 15, 2003, the Mayor delegated the functions of the DCP to ORM.² ORM is responsible for administering the DCP and deciding all questions arising under DC Official Code § 1-623.01 et. seq., except disability compensation hearings and adjudication powers, which are to be exercised by the Director of DOES. ORM employs five full-time employees to manage and administer the DCP.

On May 9, 2005 ORM executed a contract³ with Comp Management of Virginia, Inc. (CMI) in order for a Third Party Administrator (TPA) to operate the District's DCP. On September 13, 2006 Sedgwick CMS acquired CMI and assumed CMI's responsibilities as the TPA.

On December 1, 2008, ORM executed a contract⁴ with Sedgwick CMS to continue operating the District's DCP. Sedgwick CMS (hereafter referred to as "TPA") is responsible for recording, processing, and monitoring District employee disability compensation claims. The TPA is also responsible for printing checks and disbursing payments to DCP claimants and vendors on behalf of the District through a bank account established and funded by the District. From October 1, 2008 through September 27, 2010, the TPA processed a total of 2,777 disability compensation claims, of which 1,374 were closed claims⁵ and 1,403 were open claims.⁶

² See D.C. Official Code §2003-35, Reorganization Plan No. 1 of 2003 (D.C. Official Code Vol. 1). Prior to the December 15, 2003 reorganization, the functions of the DCP were administered by the Office of the City Administrator for the period October 1, 2002 to December 14, 2003. Prior to this period, the functions of the DCP were administered by the District of Columbia Office of Personnel for the period FY 2002 (October 1, 2001 to September 30, 2002). Prior to FY 2002, the DCP was administered by the Department of Employment Services' Office of Benefits Administration.

³ Contract number 2005-D-0014

⁴ Contract number DCRK-2008-C-0042

⁵ According to the TPA officials "closed claims" are disability compensation claims that have been resolved or closed in which medical services and disability compensation payments are no longer disbursed by the District.

⁶ According to the TPA officials "open claims" are disability compensation claims that are receiving medical services and/or disability compensation payments from the District. Open claims may also include disability compensation claims that are not receiving any benefits, but are still open pending ongoing dispute or investigation that may lead to litigation.

Although the TPA is responsible for recording, processing, and monitoring District employee disability compensation claims and printing checks and disbursing payments to DCP claimants and vendors, ORM is ultimately responsible for overseeing the DCP operations and ensuring that the TPA complies with contract terms by conducting ongoing audits. ORM is also responsible for reviewing, approving and certifying all expenditures related to the DCP.

Funding for the Disability Compensation Program

The DCP is funded through the Disability Compensation Fund (DCF).⁷ D.C. Code § 1-623.42(2) states:

“There is established in the District of Columbia government the Employees Compensation Fund (“Fund”), which shall consist of sums that the Council of the District of Columbia government or Congress, from time to time, may appropriate for or transfer to it and amounts that otherwise accrue to it under this chapter or other statute. The Fund is available without time limit for the payment of compensation and other benefits and expenses, except administrative expenses, authorized by this chapter or any extension or application thereof, except as otherwise provided by this subchapter or other statute.”

The DCF is funded with local dollars and the funds are non-lapsing. The Mayor’s initial local fund budgets for the DCF were approximately \$15 million for FY 2009 and \$25 million for FY 2010. The FY 2009 and FY 2010 initial budgets were both subsequently increased through supplemental budget requests⁸ and reprogrammings. Table I presents the DCF prior year carryover funds, initial local fund budget, revised local fund budget, reprogrammings, liabilities, and expenditures for FYs 2009 and 2010. Details of the FYs 2009 and 2010 reprogrammings and budget supplements are presented in **Appendix I**.

TABLE I
ORM’S DCF ANNUAL BUDGET:
FISCAL YEARS 2009 AND 2010

Fiscal Year	Prior Year Carry Over Funds	Approved Budget (Agency Fund BG0)	Reprogrammings/ Supplemental Budget Requests	Total Revised Budget	Expenditures/ Liabilities	Surplus/ Deficit
2009	\$12,472,069.19	\$15,030,000.00	\$1,120,000	\$28,622,069.19	\$27,822,194.84	\$799,874.35
2010	\$799,874.35	\$25,163,171.67	\$12,678,488	\$38,641,534.02	\$38,309,538.73	\$331,995.29
TOTAL		\$40,193,171.67	\$13,798,488	\$67,263,603.21	\$66,131,733.57	

Source: OFRM Financial Budget Reports/SOAR

⁷ The Auditor notes that the Disability Compensation Program’s authority comes under D.C. Official Code §1-623.42(2), which established the Employee Compensation Fund.

⁸ Bill 18-413, The Second FY 2009 Balanced Budget Request Amendment Act of 2009.

DCP Weekly Payment Process- ORM's Functions

All vendor invoices to be paid through the DCP are submitted directly to ORM. ORM is responsible for reviewing, approving and submitting the vendor invoices to the TPA. Once the TPA receives the reviewed and approved vendor invoices from ORM, the TPA scans the invoices into their database to be included as an expenditure on a weekly prepay report that is submitted to ORM for further review and approval.

On Wednesday of every week, the TPA provides ORM with the weekly prepay report in PDF form. The report is not provided in an electronic format to facilitate the sorting of data by expenditure type. The report contains the following weekly DCP expenditures:

- claimants' weekly payments for lost wages,
- any deductions from the claimants' weekly payments,
- payments required by a DOES administrative order, and
- invoiced amounts for vendor provided services such as nurse management, vocational rehabilitation, prescription discount services, medical/hospital fees, etc.

ORM is to review and certify the prepay report and ORM's Director is required to submit to OFRM a certification memorandum attesting that all DCP expenditures on the weekly prepay report have been reviewed and approved by ORM personnel.

DCP Weekly Payment Process- OCFO's Functions

The OFRM Agency Fiscal Officer (AFO) prepares and submits a certification memorandum based solely on the ORM Director's certification memorandum, to the Office of Finance and Treasury (OFT), through the OCFO Government Operations Cluster Acting Controller, for approval. The OFRM AFO certification memorandum indicates: (1) the Disability Compensation Fund (Agency Fund BG0) has adequate funding; and (2) the total amount of funds OFT should wire transfer to SunTrust Bank account (Bank Identification Number (BID) #713). The OCFO Government Operations Cluster Acting Controller approves and submits the OFRM AFO certification memorandum, via e-mail, to the OFT Cash and Investment Manager. OFRM is also responsible for recording the expenditures contained on the prepay report within SOAR.

On Thursday of each week, the OFT Cash and Investment Manager wire transfers the funds certified in the OFRM AFO's memorandum to the SunTrust Bank account. The TPA, whose offices are located outside the District, generates and disburses the DCP weekly checks, on behalf of the District. The checks generated by the TPA contain the signature of the District's Chief Financial Officer.

Changes Within ORM Management During the Course of the Audit:

During fiscal year 2010, ORM experienced significant management changes at the senior level. On July 1, 2010, ORM's Director was placed on administrative leave with pay. On July 7, 2010, ORM's Chief of Staff was also placed on administrative leave with pay. These two officials were designated as key points of contact for this audit. According to ORM officials, the former Director was separated from the District government effective September 14, 2010 and the former Chief of Staff began working for another District government agency on October 19, 2010.

The former Mayor immediately appointed an Interim Director and Interim Chief of Staff. The former Mayor's General Counsel was appointed Interim Director and the Interim Chief of Staff, was filled by an employee from the Office of the City Administrator, who also served as ORM's General Counsel. Interim ORM officials were unable to provide the Auditor with documentation summarizing the issues that led to the decision(s) to place the former ORM Director and Chief of Staff on administrative leave.

FINDINGS

ORM AND OCFO DID NOT PROVIDE EFFECTIVE AND EFFICIENT OVERSIGHT OF DCP FUNDS BY IMPLEMENTING SUFFICIENT INTERNAL CONTROLS AND NOT REGULARLY ACCOUNTING FOR, VERIFYING, RECORDING, AND RECONCILING DCP EXPENDITURES AND LIABILITIES

According to GAO standards for internal control, all transactions and other significant events need to be clearly documented and the documentation should be readily available for examination. All documentation and records should be properly managed and maintained.⁹

The ORM Director is responsible for certifying that all DCP expenditures and liabilities have been properly reviewed and approved for payment. Additionally, the OCFO's OFRM is responsible for certifying ORM's review and approval of all DCP expenditures and liabilities, and ensuring that financial transactions are recorded in a manner that will produce accurate financial information and that financial transactions are accounted for as realistically as possible and in accordance with the time and manner that the events occur.

Between October 1, 2008 through September 29, 2010 ORM and OFRM certified approximately \$46.5 million in DCP payments. The Auditor found that, from October 1, 2008 to September 29, 2010, ORM and OFRM management did not have sufficient internal controls in place to effectively certify the \$46.5 million in DCP payments, protect the DCP and District assets from waste, fraud, and abuse, and ensure that expenditures and liabilities of the DCP were accurate. Specifically, the Auditor found that ORM and OFRM:

- failed to record as a liability or pay an estimated \$8.7 million in life and health insurance premiums deducted from claimant's weekly disability compensation payments for lost wages;
- failed to implement a corrective action plan to accurately record and remit all deducted insurance premiums;
- did not perform effective verification or reconciliation of invoices prior to payment of approximately \$2.3 million to insurance carriers; and
- did not effectively verify the accuracy and legitimacy of weekly disbursements from the DCP.

⁹ See Standards for Internal Control in Federal Government, GAO/AIMD-00-21.3.1 (11/99) p.15.

ORM and OFRM Failed to Record And Remit an Estimated \$8.7 Million in Deducted Health and Life Insurance Premiums

The OCFO's Financial Policies and Procedures Manual, Chapter II, Accounting Standards states: "the highest standards of truthfulness and honesty shall be applied in accounting for receipt, disbursement and application of District funds. Accordingly, financial transactions shall not be recorded in a manner that will produce inaccurate, false, or misleading information. All financial transactions must be accounted for as realistically as possible and in accordance with the time and manner that the events occurred."¹⁰

When a disability compensation claim is accepted, the claimant's portion of health and life insurance premiums, in effect at the time of the injury, are deducted from the claimant's weekly disability compensation payment for lost wages.¹¹ As previously stated, on Wednesday of every week, the TPA provides ORM with a weekly prepay report. The prepay report is to be reviewed and certified by ORM and OFRM. The prepay report contains for each claimant the:

- gross amount of the weekly disability compensation payment for lost wages;
- any deductions for applicable health and life insurance premiums;
- any other deductions such as court mandated child support payments;
- the net amount to be disbursed to the claimant; and
- the total amount to be transferred to the SunTrust bank account for disbursement.

Although deductions for applicable health and life insurance premiums were included in all weekly prepay reports, the Auditor found that, since December 15, 2003 when ORM was delegated the functions of the DCP, ORM and OFRM did not: (1) accurately record, as a liability, health and life insurance premiums deducted from disability claimants' weekly disability payments for lost wages; and (2) remit deducted premiums to all of the respective health and life insurance carriers.¹² Further, the Auditor found that, since FY 2001, during the periods when the functions of the DCP were administered by DOES, the Office of Personnel¹³,

¹⁰ The OCFO's Financial Policies and Procedures Manual (last updated FY 2004) Chapter 11 (Accounting Standards) Section 4050.00, page 10.

¹¹ District Government employees hired prior to 1987 have an option of 15 different health insurance carriers to select from; whereas employees hired after 1987 have only 3. Each of these carriers charge separate rates. There is only one insurance carrier providing life insurance coverage to District employees hired post 1987, which is Standard Life Insurance Company. Pre- 1987 employees are enrolled in the federal FEGLI life insurance plan. District government employees can select 4 different life insurance options each carrying a separate premium deduction amount.

¹² The Auditor found that although ORM and OCFO failed to remit deducted health and life insurance premiums to all respective health and life insurance carriers, ORM and OCFO did submit payment to three health insurance carriers (Kaiser Permanente, United Healthcare, and Aetna Health Insurance). For the period of our audit, the Auditor found that ORM and OCFO paid a total of \$2,367,735.99 to these health insurance carriers

¹³ Now the District Department of Human Resources.

and the Office of the City Administrator,¹⁴ ORM and OFRM could not provide documentation evidencing that deducted insurance premiums were recorded as a liability in SOAR or remitted to:

1. the health insurance carriers providing health benefit coverage for disability claimants hired prior to 1987;¹⁵ and
2. the life insurance carrier for any disability compensation claimants.¹⁶

As a result, the Auditor found that since FY 2001 the total costs associated with the DCP had been understated and reprogrammings totaling approximately \$8.7 million were required to cover a portion of the estimated liability for unrecorded and unpaid premiums.

According to an OCFO Office of Integrity and Oversight (OIO) official, as of September 29, 2010, the OCFO was in the process of determining the total health and life insurance premiums owed to the District's health and life insurance carriers. Once this was determined, according to an OIO official, these figures would be provided to the District of Columbia Office of the Attorney General (OAG) in an effort to negotiate a settlement agreement with the affected carriers.

According to OFRM officials, ORM provided OFRM a total estimated health and life insurance premium liability of approximately \$8.7 million on September 29, 2010. As of September 30, 2010, OFRM recorded \$8,678,362 within SOAR as an estimated liability for health and life insurance premiums owed and potential interest and penalties owed to the life insurance carrier providing coverage for District employees hired prior to 1987. This liability created a spending pressure which resulted in significant reprogrammings (See **Appendix I**). Table II presents the estimated liability including potential interest as determined recorded by OFRM.

¹⁴ The functions of the DCP were administered by the Office of the City Administrator for the period October 1, 2002 to December 14, 2004. Prior to this period, the functions of the DCP were administered by the District of Columbia Office of Personnel for the period FY 2002 (October 1, 2001 to September 30, 2002). Prior to FY 2002, the DCP was administered by the Department of Employment Services' Office of Benefits Administration.

¹⁵ Although ORM did not pay all of the life or health insurance premiums collected, DCHR official stated that disability compensation claimants were still covered and provided benefits under blanket coverage. Blanket coverage is a policy or contract covering an entire specified group of people.

¹⁶ Ibid

TABLE II
Total Estimated Health and Life Insurance Premiums Owed to Carriers
For the Period FY 2001 to FY 2010
As of October 20, 2010

PREMIUM TYPE	FISCAL YEAR	POTENTIAL PAYMENT	POTENTIAL INTEREST	TOTALS
Life Insurance (DCP Employees hired post 1987)	2001 through 2010	\$1,989,146	\$238,022	\$2,227,168
Life Insurance (DCP Employees hired pre 1987)	2001 through 2010	\$605,303	-0-	\$650,303
Health Insurance	2008 through 2010	\$5,845,891	-0-	\$5,845,891
TOTAL		\$8,440,340	\$238,022	\$8,678,362

Source: OFRM

OFRM officials relied solely on the liability projections submitted by ORM. However, the Auditor found that the documentation supporting the estimated liability provided by ORM did not detail the methodology used in reaching the \$8.7 million estimate or provide a sufficient paper trail to validate the \$8.7 million liability recorded in SOAR. Further, according to OIO officials, “identifying the actual amount owed to the carriers is difficult because ORM does not require the TPA to record the total health and life insurance premiums deducted; there is no communication between ORM and DCHR reporting the total health and life insurance premium deductions from disability claimants’ weekly compensation payments for lost wages; or that the deductions on the prepay report are the correct amount.” Questions may be raised concerning the OAG’s ability to begin negotiations with the District’s health and life insurance carriers given the fact that OCFO officials cannot properly report or account for the total liability of the premiums owed with certified financial and program documentation detailing the methodology used in reaching the estimate or the ability to validate the \$8.7 million liability recorded in SOAR. The Auditor found that as of October 20, 2010, the estimated \$8.7 million liability had not been confirmed by the health and life insurance carriers.

Given that full health and life insurance premium payments had not been remitted to health and life insurance carriers since FY 2001, the Auditor found that the estimated \$8.7 million could be significantly higher due to the fact that:

- The OCFO could not provide certified financial and program documentation attesting to the methodology used to determine the estimated amount for health and life insurance payments; and
- No interest or penalties owed to any health insurance carriers or the life insurance carrier providing coverage to District employees hired after 1987 had been estimated.

ORM AND OFRM Have not Fully Implemented a Corrective Action Plan to Accurately Record and Remit Deducted Insurance Premiums

According to verbal accounts by ORM/DCP officials, in FY 2004 ORM's former Director was made aware of ORM's and OFRM's failure to record and remit deducted insurance premiums but made no effort to correct the problem. The long term failure to correct this significant deficiency has resulted in inaccurate, false, or misleading financial information and the exposure of the District to a significant unrecognized financial liability.

According to the ORM Interim Director and DCHR Director, as further corrective action, once the OCFO and the OAG have negotiated the amount due to health and life insurance carriers, all disability compensation claimants' health and life insurance premium deductions will be recorded in PeopleSoft. According to ORM and DCHR officials, this corrective action plan will ensure that health and life insurance premium deductions are properly recorded and remitted to the carriers in a timely manner. However, the Auditor found that the ORM and DCHR officials have not fully implemented the corrective action. The Auditor found that ORM continues to deduct health and life insurance premiums without remitting all the payments to the affected carriers.

ORM did not Conduct Sufficient and Timely Verification or Reconciliation of Invoices Prior to Payment of \$2.3 Million to Insurance Carriers

The OCFO Financial Policies and Procedures Manual, Section 3020.400, entitled Internal Control, states: "all invoices are to be examined prior to certification of payment, and payments are not to be made until the certifying or disbursing officer determines that the payment is proper, correct, and supported by adequate documentation."

The Auditor found that although ORM and OFRM failed to remit deducted health and life insurance premiums to *all* of the respective health and life insurance carriers, the Auditor found that, during the period of the audit, ORM and OFRM remitted payments totaling \$2,367,735 to three health insurance carriers (Kaiser Permanente, United Healthcare, and Aetna Health Insurance).¹⁷ These three health insurance carriers received payment only because they submitted a monthly invoice to ORM, which is responsible for reviewing and certifying all DCP expenditures and liabilities.

The Auditor reviewed 40 health insurance invoices submitted by Kaiser, United and Aetna, received during the period of the audit, totaling \$2,254,511.03 and found that the ORM reconciliation process documented and certified payment for \$919,980.23, or 40%, of the total invoiced amount. However, ORM reconciliation records lacked sufficient documentation or detail indicating the reason why \$1,334,530.80 was not paid. Further, the Auditor found that in

¹⁷ Insurance carriers providing health coverage to District employees hired after 1987.

19 of the 40 invoices reviewed, ORM submitted the monthly certification memorandums and invoices to OFRM for payment, more than 30 days after the date of the invoice and ORM's date of receipt of the invoices. As a result, these invoices could not have been paid in a timely manner and in accordance with the District Quick Payment Act.¹⁸

ORM and OFRM Failed to Effectively Verify Disability Compensation Payments

As previously stated, OCFO policies and procedures require that all invoices are to be examined prior to certification of payment, and payments are not to be made until the certifying or disbursing officer determines that the payment is proper, correct, and supported by adequate documentation.

ORM has no written policy detailing the review and verification of expenditures listed on the weekly prepay report. According to ORM officials, the following entails the review and verification procedures:

- ORM's Claims Specialist will verify and approve, through invoices and supporting documentation, a random selection of expenditures listed on weekly prepay reports that do not exceed \$5,000.
- For expenditures exceeding \$5,000 either the ORM Director or the DCP manager, is responsible for the review, verification, and approval.

The Auditor found that ORM could not provide any documented evidence of the DCP Claims Specialist's, DCP Manager's, or ORM Director's review and verification of expenditures listed on weekly prepay reports. OFRM officials stated that they rely solely on the ORM Director's certification and do not perform any type of verification or reconciliation of the expenditures on the weekly prepay report. The Auditor found however that prior to October 1, 2009, OFRM did not require ORM's Director to provide a certification memorandum attesting that all DCP expenditures on the weekly prepay report had been reviewed and approved by ORM. As a result, prior to October 1, 2009 there is no documentation or evidence to support that either ORM or OFRM determined that DCP payments were proper, correct, or supported by adequate documentation.

The Auditor examined existing supporting documentation for a sample of 100 DCP expenditures reported on the TPA's weekly prepay reports from October 1, 2008 through June 24, 2010, totaling \$528,394.15. Although the Auditor was able to verify 26 expenditures totaling \$424,641.70 through supporting documentation, our review found that:

¹⁸ The District's Quick Payment Act states: "that the required payment date shall be: (i) The date on which payment is due under the terms of the contract for the provision of the property or service; or (ii) 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract. The Act also permits for interest of 1% beginning on the day after the required payment date."

- ORM was unable to provide a copy of the actual invoice to properly support the payment of 11 items totaling \$22,762.86;
- 51 expenditures, totaling \$40,520.78, were for vendor payments, however, there was no valid written contract or price list to support the charges or payments;
- 3 invoices totaled \$2,196.60 yet OFRM, based on ORM's certification, paid a total of \$2,405.76 on these invoices. ORM personnel could not provide the Auditor any documentation to justify and support the adjusted payments, and
- 9 invoices totaled \$38,188.14 yet OFRM paid only \$18,341.52 on these invoices. ORM personnel could not provide the Auditor any documentation to justify and support why the full amount was not paid.

ORM and OFRM's failure to properly verify and certify the accuracy of the TPA's weekly prepay report increased the risk of errors and potential misuse of DCP funds.

RECOMMENDATIONS:

1. ORM, DCHR, and the OCFO should develop a written policy detailing procedures to properly and timely record and remit to respective insurance carriers, on a weekly or monthly basis, health and life insurance premiums deducted from claimants' weekly disability compensation payments for lost wages.
2. The OCFO OFRM should establish written policies and procedures establishing a sound methodology to certify the actual liability owed to health and life insurance carriers prior to payment.
3. ORM should request that the TPA provide the weekly prepay report in an electronic format, not electronically send a PDF, so that ORM and OFRM personnel can sort expenditure information for administrative, financial and budgetary purposes.
4. ORM should request that the TPA's weekly prepay report properly detail health and life insurance deductions, descriptions as to whether the deduction is for health or life insurance, and the carrier for each type of deduction made.
5. ORM should request that the TPA's weekly prepay report provide "net" and "gross" totals.
6. ORM should establish quarterly and annual reports detailing the total health and life insurance deductions collected and paid on behalf of each disability compensation claimant.

7. ORM and OCFO OFRM personnel should develop a written policy detailing the procedures for properly verifying and certifying health insurance carriers' monthly invoices prior to approving and processing payments and establish procedures to ensure that these payments are made in a timely manner.
8. ORM should establish written policies and procedures properly detailing the DCP Claims Specialist's and Manager's review and verification process of DCP expenditures that are listed on the TPA's weekly prepay report. These policies and procedures should include the DCP Claim's Specialist's and Manager's sample expenditure selection process.
9. The OCFO's OFRM should develop procedures to properly verify ORM's Certification of the prepay report by periodically ensuring that the DCP expenditures listed on the weekly prepay report are accurate, reliable, and supported by adequate appropriate documentation.

ORM DID NOT ENSURE THAT DCP VENDOR INVOICES WERE PAID IN A TIMELY MANNER

All vendor invoices are submitted directly to ORM. ORM is responsible for reviewing and submitting the invoices to the TPA. Once the TPA receives the reviewed and approved invoices from ORM, the TPA scans the invoices into their database to be included as an expenditure on the weekly prepay report that is submitted to ORM for further review and approval.

The District's Quick Payment Act states: "that the required payment date shall be: (i) The date on which payment is due under the terms of the contract for the provision of the property or service; or (ii) 30 calendar days, excluding legal holidays, after receipt of a proper invoice for the amount of the payment due, if a specific date on which payment is due is not established by contract. The Act also permits for interest of 1% beginning on the day after the required payment date."

The Auditor examined existing supporting documentation for a sample of 100 DCP expenditures reported on the TPA's weekly prepay reports from October 1, 2008 through June 24, 2010, totaling \$528,394.15. Of the 100 expenditures reviewed, the Auditor found 19 invoices that were paid from 3 months to 2 years after receipt of the invoice. Of the 19 cases, ORM and OFRM personnel did not pay the vendor interest calculated at \$953.97 as a result of these late payments.

RECOMMENDATION:

ORM must develop written policies and procedures that require timely payment of DCP expenditures as well as ensure compliance with the District's Quick Payment Act.

ORM DID NOT ENSURE THAT PAYMENTS AS A RESULT OF DOES ADMINISTRATIVE ORDERS WERE PAID IN ACCORDANCE WITH D.C. CODE 1-623.24(g)

In the event a disability compensation claimant's claim is denied by the TPA on behalf of ORM, the claimant can request a formal hearing from DOES' Office of Hearings and Adjudication (OHA).¹⁹ During the formal hearing, the DOES Administrative Law Judge (ALJ) will review the documentation provided by the disability compensation claimant and the District's OAG. The ALJ will render a DOES administrative order either approving or denying the settlement of any and all claims for compensation benefits.

D.C. Code 1-623.24(g) states: "If the Mayor or his or her designee fails to make payments of the award for compensation as required by subsection (a-3)(1),(a-4)(2) or (b)(3) of this section, the award shall be increased by an amount equal to one month of the compensation for each 30-day period that payment is not made; provided, that the increase shall not exceed 12 months compensation. In addition, the claimant may file with the Superior Court of the District of Columbia a lien against the Disability Compensation Fund, the General Fund of the District of Columbia, or any other District fund or property to pay the compensation award. The Court shall fix the terms and manner of enforcement of the lien against the compensation award."

The Auditor examined existing supporting documentation for a sample of 100 DCP expenditures reported on the TPA's weekly Prepay Reports from October 1, 2008 through June 24, 2010, totaling \$528,394.15. Of the 100 DCP expenditures, 8 payments totaling \$299,843.28 resulted from DOES administrative orders. The Auditor found that ORM did not pay 2 DOES administrative orders, totaling \$161,555.46, in accordance with D.C. Code, or pay late payment penalties. For example, the Auditor found that DOES issued an administrative order on December 10, 2008 that payment of \$58,370 be made in 20 days. However, ORM management did not request the payment to be made until May 26, 2010, approximately 17 months after the required payment date, and ORM did not include a late payment penalty fee of \$11,592.

The Auditor found that ORM has not properly implemented a system to document and track DCP administrative orders issued by DOES. As a result, ORM cannot ensure timely compliance with DOES administrative orders. This deficiency has a potentially adverse budgetary and financial impact that must be corrected immediately.

RECOMMENDATION:

ORM must develop a process to properly track administrative orders issued by DOES and ensure that payments required by the Orders are issued in a timely manner consistent with the terms of the Order.

¹⁹ D.C. Official Code §1-623.24(b)(1)

OFRM FAILED TO EFFECTIVELY RECONCILE THE SUNTRUST BANK ACCOUNT RELATED TO THE DISABILITY COMPENSATION PROGRAM

The OCFO's Financial Policies and Procedures Manual, Section 1010.700(B), entitled Internal Control, states: "Bank accounts are reconciled monthly by someone independent of receiving and depositing cash."²⁰ Additionally, the OFRM memorandum to the OFT Cash and Investment Manager certifying adequate funding in the Disability Compensation Fund and indicating the total amount of funds OFT should transfer to SunTrust Bank account clearly states: "per our requirements our office will conduct monthly reconciliations and periodic audits of this account **BID713**."²¹

According to OCFO officials, prior to September 2009, bank reconciliations for the SunTrust Bank Account were incomplete. This was due to the fact that missing/miscoded information in the custody of the TPA was unavailable to OFRM. The Auditor found that OFRM did not reconcile the SunTrust Bank Account for FY 2009 (October 1, 2008 to September 30, 2009) until September 30, 2009. After September 30, 2009, OFRM began conducting monthly reconciliations of the SunTrust Bank account. The Auditor reviewed 107 OFRM reconciliation files for FY 2009 and FY 2010 and found the following deficiencies:

- OFRM's bank reconciliation files for the SunTrust bank account were often incomplete. For example, some files lacked complete copies of monthly bank statements, the TPA's weekly prepay reports, ORM Director's certification memoranda, and SOAR journal vouchers detailing revenue and expenditure adjustments; and
- SOAR Journal Voucher entries did not always match the actual deposits made to the SunTrust Bank account, adjustments were not always made in a timely manner, and supporting documentation did not always properly explain the differences between the SOAR journal voucher entries, SunTrust bank statements and subsequent financial adjustments made by OFRM. The Auditor found 9 instances in which the SOAR Journal Vouchers did not match the actual deposits made to the SunTrust Bank account. Table III presents the instances along with the differences between the SOAR Journal Vouchers and the actual deposits recorded per the SunTrust monthly bank statements.

²⁰ OCFO's Financial Policies and Procedures Manual, dated August 31, 1998, page 17.

²¹ See OFRM Certification of Disability Compensation Payment Memorandums FY 2009-FY 2010.

TABLE III
INSTANCES WHERE OFRM'S SOAR JOURNAL VOUCHERS
DID NOT MATCH THE SUNTRUST MONTHLY BANK STATEMENTS
AS OF 9/30/2010

Date of the Deposit Per the SunTrust Bank Statement	Total Amount Recorded by OFRM within SOAR (A)	Total Amount of Deposit Per SunTrust Bank Statement (B)	Overstatement/ (Understatement) SOAR Entries vs. Sun Trust Bank Deposits (A-B)	Date of OFRM Adjusting Journal SOAR Vouchers	Amount of Adjusting Journal SOAR Voucher Entry
11/6/08	\$155,722.64	\$155,147.57	\$575.07	6/25/09	\$575.07
11/26/08	\$119,805.13	\$118,161.51	\$ 1,643.62	6/25/09	\$ 1,643.62
12/1/08 ²²	\$573,093.92	\$567,625.15	\$5,468.77	6/25/09	\$453.49 ²³
12/11/08	\$647,427.97	\$652,443.25	(\$5,015.28)	No Adjustment	No Adjustment
2/5/09	\$802,617.17	\$195,828.04	\$606,789.13	No Adjustment ²⁴	No Adjustment
11/12/09	\$737,024.60	\$273,541.26	\$463,483.34	9/30/09	\$463,483.34
5/6/10	\$141,833.44	\$94,812.08	\$47,021.36	3/31/10	\$47,021.36
6/24/10	\$770,287.75	\$750,396.74	\$19,891.01	5/28/10	\$21,189.49
9/23/10	\$138,468.70	\$51,238.67	\$87,230.03	4/1/10,6/30/10,7/30/10,8/21/10	\$89,827.02
TOTALS	\$4,086,281.32	\$2,859,194.27	\$1,227,087.05		

Source: OFRM/SOAR Journal Voucher Entries and SunTrust Bank Statements

As a result of these discrepancies, the DCP expenditure information is overstated in SOAR and SOAR cannot be relied upon to provide accurate financial information related to the DCP. Additionally, because the TPA generates and disburses the DCP weekly checks on behalf of the District, failure to conduct accurate and timely reconciliations exposes the SunTrust bank account to fraud, waste, and abuse that could potentially go undetected.

RECOMMENDATIONS:

1. The OCFO's OFRM must conduct timely monthly reconciliations of the ORM DCP bank account.

²² This total amount reflects two deposits (\$477,543.58 on December 1, 2008 and \$90,081.57 on December 4, 2008) made by OFRM due to an error by the TPA within the weekly prepaid report for the week of November 25, 2008.

²³ According to OFRM personnel there is no adjusting journal SOAR voucher because the \$453.49 is the difference between the overfunding of the account of \$5,468.77 on 12/1/08 and the \$5,015.28 credit on 12/8/08.

²⁴ According to OFRM personnel there is no adjusting journal SOAR voucher because the OFT funded the bank account twice on 1/22/09 with the same amount.

2. The OCFO's OFRM officials should establish procedures to monitor and review monthly reconciliation files to ensure that DCP bank account files are complete and monthly reconciliations are adequately documented.

OFT AND THE OCFO OFFICE OF INTEGRITY AND OVERSIGHT FAILED TO ESTABLISH ADEQUATE MANAGEMENT AND OVERSIGHT OF THE CHIEF FINANCIAL OFFICER'S DIGITAL SIGNATURE

The OCFO's Financial Management and Control Order No. 01-001, dated August 6, 2002, states: "Dual signatures shall be required for all checks that are not electronically printed through the District's Check Writing system."

The CFO and a former City Administrator further issued a memorandum dated April 22, 2004 establishing "Procedures and Controls over Agency's stand alone Bank Accounts."²⁵ This memorandum states: "the OCFO's Office of Integrity and Oversight (OIO) shall schedule periodic reviews of the agency or component unit's stand-alone checkbook procedures to ensure consistency of operation and adherence to Treasury and internal control procedures."²⁶

Since September 2006, OFT has provided the TPA contractor, a non-D.C. government entity, with a digital image of the District CFO's signature²⁷ because checks for DCP expenditures are not generated and disbursed through the District's check writing system. The Auditor found that in July 2007, the TPA subcontracted the check writing and disbursement of the DCP checks to a third party subcontractor, Epig Systems, Inc. (EPIQ), and provided the subcontractor with the District CFO's digital signature. EPIQ does not have a contract with the District. The District's CFO signature on each of the District's DCP checks obligates the District to payment.

The Auditor found none of the DCP checks printed and disbursed by the TPA or the TPA's subcontractor contained dual signatures as required by the OCFO's Financial Management and Control Order No. 01-001. The Auditor further found that the OIO did not perform any reviews of the TPA or the TPA subcontractor's stand-alone check printing and disbursement procedures as required.

In accordance with Financial Institutions Deposit and Investment Amendment Act of 1997 (D.C. Law 12-56), the OCFO's OFT Banking Services Unit manages and monitors banking services provided by financial institutions holding deposits and disbursing funds on behalf of the District government. The Auditor found that OFT officials were unaware of any internal

²⁵ Memorandum issued by the OCFO and the former City Administrator, dated April 22, 2010, to all District Agency Directors, Program Managers, Associate CFO, Fiscal Officers, and Agency Controllers.

²⁶ Ibid, page 3.

²⁷ According to OFT officials, "The image or facsimile signature is a digital image created from the CFO's signature that is contained on a print file that resides on the TPA's system(s)"

controls established by the TPA or the TPA's subcontractor to secure and protect the CFO's digital signature. Further, OFT has not conducted a risk assessment of the TPA's controls over the CFO's digital signature. Conducting a risk assessment of the TPA's internal controls related to the securing and safeguarding of the CFO's digital signature would have determined whether adequate internal controls were in place and the level of risk involved in allowing the TPA to print, sign, and disburse all DCP payments under the CFO's digital signature. The Auditor found that OFT has no assurance that the District CFO's digital signature, in the possession of this contractor and subcontractor, is properly safeguarded against potential misuse or abuse. These deficiencies, combined with the fact that OFRM has failed to consistently reconcile the Sun Trust bank account and ensure that financial transactions related to the account are accurately recorded within SOAR, again has a potentially adverse financial impact that must be immediately corrected.

RECOMMENDATIONS:

1. The OCFO OFT should immediately request the TPA and the TPA's subcontractor to return the District CFO's digital signature image within 30 days of the date of this report.
2. In the future, OCFO OFT personnel must timely conduct a risk assessment of any nongovernment entities in possession of the District CFO's digital signature to ensure that adequate internal controls are in place to safeguard the potential for inappropriate use of the CFO's signature and District funds.

ORM'S FORMER DIRECTOR VIOLATED DISTRICT LAW BY ALLOWING VENDORS TO PROVIDE SERVICES WITHOUT A VALID CONTRACT

D.C. Code § 2-301.05 (d) (1) states: "No District employee shall authorize payment for the value of supplies and services received without a valid written contract. This subsection shall not apply to a payment required by court order, a final decision of the contract Appeals Board, or an approval by the Chief Procurement Officer in accordance with paragraph (4) or (5) of this subsection."

D.C. Code § 2-301.05 (d) (2) further states: "After April 12, 1997, no District employee shall enter into an oral agreement with a vendor to provide goods or services to the District government without a valid written contract. Any violation of this paragraph shall be cause for termination of employment of the district employee." [Auditor's Emphasis]

Further, pursuant to section C.5.8.1 of the TPA's contract, "the Contractor (TPA) shall establish and maintain a panel of local preferred physicians, specialists, clinic and hospitals (orthopedic, neurology) for the DCP". According to ORM's Acting Chief Risk Officer, "vendors used by the DCP are to be selected by the TPA in accordance with the TPA's written

vendor selection process. “Further, under the ORM contract with the TPA, the vendors are to be considered subcontractors of the TPA, not contractors of the District, and their selection is not therefore, governed by the Procurement Practices Act.”

The Auditor found that the prior ORM Director circumvented the terms of the TPA contract concerning vendor selection. In October 2009, ORM’s former Director, former Chief of Staff, and DCP Manager began to add and remove vendors on the vendor listing maintained by the TPA. According to the former DCP Manager, “if a particular vendor is offering a service which ORM needs, the ORM DCP Manager would invite the vendor to ORM to provide a presentation on the type of services the vendor offers and the cost for the services. This presentation was provided to ORM’s former Director, former Chief of Staff, and DCP Manager. Based on the information presented, if the vendor’s services were deemed necessary and at a lesser cost, then ORM would hire the vendor and add them to the [TPA’s] vendor listing.” The Auditor found that the former ORM Director, former Chief of Staff, and DCP Manager permitted these vendors to provide services without a valid contract in place. The vendors were selected on a sole source noncompetitive basis and were used at the discretion of ORM’s former Director, former Chief of Staff, and the ORM DCP manager.

ORM provided a vendor listing for the period October 1, 2008 through August 25, 2010 which contained a total of 71 vendors. Of the 71 vendors, ORM officials were unable to identify if the vendors were contracted by the TPA as a subcontractor or selected by the former ORM Director, Chief of Staff and DCP manager, without executing a contract. The Auditor examined 607 invoices for payments issued to 5 of the 71 vendors for a 5 month period totaling \$1,497,386.18. Table IV presents the payments issued to the five vendors for the period September 30, 2009 to June 24, 2010.

Table IV
Payments Issued to Vendors
Without Valid Contracts

Vendor	Total Number of Invoices	Total Payment Issued to the Vendor
Med-Eval Inc.	51	\$63,710.93
Scripnet	27	\$91,665.29
Raytel Imaging Network	90	\$86,715.06
Modern Medical Inc.	348	\$1,198,477.73
Once Call Medical	91	\$56,817.17
TOTALS	607	\$1,497,386.18

Source: TPA’s Weekly Prepay Report

The Auditor found that ORM lacked any written documentation supporting the selection of these 5 vendors. The lack of documentation supporting the selection of these vendors gives the appearance of preferential treatment in the selection process which could have been based solely on the subjective opinion of three ORM employees.

Without a contract in place with these vendors, ORM: (1) cannot properly hold these vendor's accountable for any failure to provide deliverables; and (2) has no written standards by which to measure the vendor's performance.

RECOMMENDATIONS:

1. The ORM Director must immediately review the DCP vendor list and negotiate and establish a legal binding contract with each vendor, where applicable.
2. The ORM Director and DCP Manager must establish adequate documentation files for selected vendors to ensure contracting files are complete and adequately document the date the vendor provided a presentation, the information provided by the vendor, the evaluation completed by specifically identified ORM officials, ORM DCP Manager cost savings analysis, and a copy of the vendors contract.
3. To the maximum extent allowed by law, consistent with D.C. Code § 2-301.05 (d) (2) ORM's DCP Manager should be held accountable to the fullest extent permissible by applicable personnel rules for allowing vendors to provide services and authorizing payments to vendors without a valid contract.
4. The OCFO's OFRM/AFO must require that the ORM Director verify the existence of a valid contract, where applicable, prior to processing any further DCP vendor payments. The OFRM should establish procedures to ensure that no payments are made to any vendors in the absence of a valid executed contract.

ORM AND OCP FAILED TO PROVIDE EFFECTIVE CONTRACT ADMINISTRATION AND OVERSIGHT OF THE TPA CONTRACT

The TPA is responsible for the recording, processing, and monitoring of District employee disability compensation claims. The Auditor found, however, that OCP and ORM failed to provide effective contract administration and oversight of the TPA contract. Specifically, the Auditor found that:

- ORM failed to conduct all quarterly performance audits of the TPA, as required by the contract; and
- ORM's former Director improperly modified the terms of the TPA contract without the prior knowledge and approval of OCP, and further used the modified contract terms to withhold \$1,098,479.32 in payments.

ORM Failed To Conduct All Required Performance Audits

The TPA's contract requires ORM to conduct quarterly performance audits of the disability compensation claim files to ensure that the TPA is in compliance with performance standards outlined in the contract. Section B.3.2 of the TPA contract states:

"At the end of every consecutive three (3) months or calendar quarter, personnel from ORM will conduct a retrospective performance audit of a random sample of claims. The audit will commence within ten (10) business days of the end of the quarter and conclude in no more than ten (10) business days thereafter. The District will use the results of this audit to determine the extent to which the contractor (TPA) earns either an incentive or disincentive."

The Auditor found that ORM failed to complete quarterly performance audits of the TPA for the 4th quarter of calendar year 2009 and the 1st and 2nd quarters of calendar year 2010. The Auditor found that ORM's failure to conduct quarterly performance audits was first reported to ORM in a FY 2007 audit report issued by the Office of the District of Columbia Inspector General (OIG). The report, dated April 23, 2007, stated that: "ORM did not perform the quarterly performance audits or take advantage of the performance-based incentives or disincentives. As a result, ORM was unaware that the TPA was providing inadequate case management and, therefore, missed opportunities to identify and act on correcting or eliminating inadequate case management practices by the TPA."²⁸ The OIG recommended that ORM immediately begin performing quarterly performance audits of the TPA as required by the contract and use the audit results to enforce the incentive and disincentive provisions in the TPA contract. The Auditor found that, ORM management failed to implement the OIG's recommendation.

ORM's Former Director Improperly Modified the Terms of the TPA's Contract Without the Approval Of OCP and Withheld \$1,098,479.32 in Payments to the TPA

27 District of Columbia Municipal Regulations (DCMR) § 3600.1 (a-c) states: "Only a contracting officer acting within the scope of the contracting officer's delegated contract authority is authorized to execute a contract modification on behalf of the District. Other District personnel shall not do any of the following: Execute contract modifications; Act in a manner that causes a contractor to believe that they have authority to bind the District; or Direct or encourage a contractor to perform work that should be the subject of a contract modification."

²⁸ OIG audit report (No. 06-1-07BG) entitled, "Audit of the District of Columbia Employee Disability Compensation Program," dated April 23, 2007, pages 15 and 16.

27 DCMR § 3600.2 (a-b) states: “Employees and agents of the District other than duly appointed contracting officers shall not execute contract modifications or do either of the following: Act in a manner that causes or could reasonably cause a contractor to believe that they have authority to bind the District; or Director or encourage a contractor to perform work, or modify the manner in which work is being performed, that should be the subject of a contract modification.”

Section B.3.2.2 of the TPA contract states: “The Performance Audit will test the Contractor’s compliance with 7 (seven) Performance Measures and determine if the Contractor meets, fails to meet, or exceeds the associated Performance Standards (as described in Section C.6). Based on the results of this audit, the District will either increase or decrease the Contractor’s next monthly payment to reflect the previous 3 month period’s performance in accordance with Section G.4 (Payment Method).” Section C.6.1 states: “The District will use the evaluation report similar to the one provided in Attachment J.1.6, which outlines 7 specific categories and associated weights used to determine the contractor’s composite audit score.”

Section G.9.2 of the TPA contract states: “It is understood and agreed that the COTR shall not have the authority to make changes in the specifications or scope of work or terms and conditions of the contract.” Section G.8 of the contract further states “The OCP Contracting Officer is the only person authorized to approve changes in any of the requirements of this contract.”

ORM’s former Director served as the Contracting Officer’s Technical Representative (COTR) for the TPA contract. According to Section G.9.1 of the TPA’s contract, the COTR was responsible for the general administration of the contract and advising the OCP Contracting Officer as to the TPA’s compliance or noncompliance with the terms of the contract.

The Auditor examined ORM’s TPA quarterly performance audit documentation from January 2009 through May 2010. The Auditor found that ORM’s former Director, who served as the COTR, modified the terms of the TPA’s contract by altering the 7 associated weights, contained in Section B.3.2.2 of the TPA contract, without the approval of the OCP Contracting Officer. Table V presents the unilateral contract modifications enacted by the former ORM Director.

TABLE V
MODIFICATIONS TO THE TPA'S PERFORMANCE MEASURE
ASSOCIATED WEIGHTS

PERFORMANCE MEASURE	ASSOCIATED WEIGHT PER THE CONTRACT	ASSOCIATED WEIGHT DUE TO ORM'S FORMER DIRECTOR MODIFICATIONS
1. Investigations	20	15
2. Payment of Claims	20	5
3. Medical Management	15	15
4. Reserves	10	10
5. Claims Management	20	25
6. Litigation Management	5	15
7. Supervision	10	15
TOTAL	100	100

Source: TPA's Contract and ORM's Modified TPA's Quarterly Audit Summary Sheets

The Auditor further found that the former ORM Director directed ORM's Program Analyst to revise the TPA's completed quarterly performance audits for the 1st, 2nd, and 3rd quarters of calendar year 2009 based on her modifications. As a result, the TPA failed all the quarterly performance audits for the 1st, 2nd, and 3rd quarters in 2009, which the TPA had previously passed. The former ORM Director further withheld the TPA's monthly payments for the four month period of February, March, April and May 2010 totaling \$1,098,479.32. Although the TPA did not receive any payments for four months, the TPA continued to operate the District's DCP.

The TPA's attorney submitted a formal letter to ORM's former Director on May 25, 2010 and to the OCP Contracting Officer on May 26, 2010 noting non-compliance issues with the contract and non-payment of \$1,098,479.32 for claims administration services. In addition, the TPA's attorney stated that the District had accrued \$41,584.10 in interest.²⁹ On July 23, 2010, the ORM Interim Director authorized the payment of the TPA's outstanding balance of \$1,098,479.32 and negotiated with the TPA not to terminate the contract. The Auditor found that the \$41,584 in accrued interest was waived by the contractor.

The Auditor found that other than the procurement actions taken during the pre-award of the contract, OCP provided minimal oversight of the contract between ORM and the TPA. The Auditor also found that the TPA's quarterly performance audits were not submitted to or requested by OCP. As a result, OCP was unaware of the total amount outstanding owed to the TPA and of the modifications made to the TPA contract by the former ORM Director.

²⁹ Due to violations of the contract and the Districts Quick Payment Act.

The ORM former Director's failure to properly comply with the terms of the TPA's contract could have potentially placed the District in legal litigation with the TPA for breach of contract and cost the District \$41,584.10 in accrued interest, penalties, and fees for not paying the TPA for 4 months.

RECOMMENDATIONS:

1. The ORM Director should perform quarterly performance audits of the TPA as required by the TPA contract.
2. OCP's contracting officer and the ORM Director must ensure that any modifications to contracts are conducted in accordance with District law, and that employees who deviate from this are held fully accountable to the maximum extent allowed by applicable personnel law and rules, up to and including termination.

ORM's FORMER DIRECTOR DID NOT DEVELOP SUFFICIENT INTERNAL CONTROLS TO ENSURE EFFECTIVE AND EFFICIENT MANAGEMENT OVERSIGHT OF THE DCP

Pursuant to D.C. Official Code §1-623.02b, "the functions of the DCP shall be to:

- 1) Establish appropriate systems and procedures for the reporting of occupational accidents and illnesses;
- 2) Maintain and analyze records of all occupational accidents and illnesses occurring within agencies;
- 3) Study safety programs and recommend actions to correct undesirable conditions or unsafe practices;
- 4) Monitor and evaluate adequacy and effectiveness of safety procedures and practices of District agencies through inspection;
- 5) Make determinations and awards for, or against payment of compensation;
- 6) Pay compensations to employees for work related disability or death resulting from personal injury sustained in the performance of their duty;
- 7) Conduct promotional campaigns to stimulate employees' interest in accident prevention and to train and motivate supervisors in accident prevention concepts, practices and techniques;
- 8) Develop and maintain working agreements with designated physicians and other public or private organizations, as required; and

- 9) Monitor the adequacy and effectiveness of medical services under this section, and develop guidelines for the determination of disabilities and professional fees.”

Government Accountability Office (GAO) standards for internal control states, in relevant part, that:

“Internal control is an integral component of an organization’s management that provides reasonable assurance that the following objectives are being achieved: 1) effectiveness and efficiency of operations; 2) reliability of financial reporting; and 3) compliance with applicable laws and regulations.³⁰ Furthermore, control activities, such as policies, procedures, techniques, and mechanisms, are an integral part of an entity’s planning, implementing, reviewing, and accountability for stewardship of government resources and achieving effective results.”³¹

The Auditor found that ORM’s former Director did not establish adequate internal controls to ensure effective and efficient management and administration of the DCP. Specifically, the Auditor found that:

1. ORM has not developed efficient and effective written policies or guidelines detailing the various procedures of the DCP. Although ORM's website provides access to the initial disability compensation claim form and a general flow-chart of the program; ORM’s website, at the time of our review, failed to adequately and effectively communicate to the public critical information detailing: 1) ORM’s review, assessment, and monitoring of disability compensation claims; 2) ORM’s notification process for acceptance or denial of disability compensation claims; 3) the formal hearing and adjudication process performed by DOES; and 5) ORM’s procedures for compliance with administrative orders issued by DOES.
2. ORM has no task specific position descriptions or written policies or guidelines detailing the DCP Manager’s and Claims Specialists’ functions. Although ORM provided the Auditor with generic position descriptions, without task specific position descriptions and official policies and procedures detailing their functions, there is no basis on which to hold these individuals accountable for the quality of their work or the effectiveness of their daily practices.
3. ORM failed to maintain a complete, up-dated, and consolidated Client Service Plan (CSP). The CSP is a compilation of information and requirements agreed to between ORM and the TPA and is intended to be used as a reference guide for ORM staff and TPA representatives, when handling claims and answering questions regarding

³⁰ See Standards for Internal Control in Federal Government, GAO/AIMD-00-21.3.1 (11/99) p.4.

³¹ See Standards for Internal Control in Federal Government, GAO/AIMD-00-21.3.1 (11/99) p.11.

requirements or procedures that are applicable to the DCP. The Auditor found that ORM has various out-dated versions of the CSP and has not provided the TPA or any of the DCP Claims Specialists with an updated CSP properly reflecting current program procedures.

4. ORM has not developed written policies or procedures detailing ORM's monitoring of IME and Additional Medical Examiners (AME). An IME and AME are assigned to a disability compensation claimant by ORM. An IME and AME are to render unbiased opinions to help determine cash, medical, and/or rehabilitation benefits for the disability compensation claimants. ORM has not established policies and procedures detailing how the IME and AMEs selected or monitored by ORM or any procedures for verifying or validating IME and AME credentials or certifications. According to ORM's DCP Manager, she monitors the timeliness and quality of work provided by the IME's and AME's in consultation with TPA claims adjusters and Disability Compensation claimants, however, there was no formal documentation maintained by ORM validating the manager's oversight and monitoring of the IMEs and AMEs.
5. The Auditor found that there is no regular communication between ORM and DOES nor does ORM maintain adequate documentation related to DOES's formal hearings and administrative orders. The ORM DCP Analyst is responsible for maintaining a log of disability compensation claimants' formal hearing dates and administrative orders issued by DOES. However, the Auditor found that the Analyst did not maintain a log for FY 2008. According to the ORM DCP Analyst's formal hearing log from October 1, 2009 through July 12, 2010 there were a total of 161 formal DOES hearings. The Auditor found that for 89 of these hearings, the ORM files lacked information, such as the current status of formal hearing dates, DOES's administrative orders related to the hearing, and the financial impact per claim. As a result, ORM cannot readily report on compliance with all administrative orders issued by DOES.
6. ORM has not developed a comprehensive modified work program. Pursuant to D.C. Code § 1-623.47 (a) on a monitored, progressive basis, the Mayor may direct employees with temporary or partial disabilities to participate in a modified work program designed to provide consistent and appropriate assistance to employees that allow them to return to work quickly and safely. In a review of ORM's "Return to Work Program," the Auditor found ORM lacks written policies and procedures detailing:
 - A depository listing of jobs where disability compensation claimants can be placed for light duty or modified duty employment assignments;

- The ORM staff person(s) responsible for managing the program as well as serving as liaison between the disability compensation claimant, the District agency, and medical provider;
- Procedures for reviewing and maintaining custody of the physicians' evaluation forms/records of injured employees' restrictions;
- Procedures to identify alternative work for the disability compensation claimant;
- Procedures for documenting vocational rehabilitation for disability compensation claimants that cannot return to their prior place of employment due to their physical limitations ; and
- Monitoring procedures of the disability compensation claimants' physical condition and job placement.

RECOMMENDATIONS:

1. The ORM Director should develop comprehensive written policies and procedures which properly detail the various functions and procedures within the District's DCP.
2. The ORM Director should develop and maintain a website which is informative and provides relevant and up-to-date details on the various functions and procedures within the DCP.
3. The ORM Director should establish task specific position descriptions and written policies or guidelines detailing ORM's DCP Manager and Claim Specialists functions related to the DCP.
4. The ORM Director should review and update the Client Service Plan in order to properly reflect the current procedures within the program.
5. The ORM Director should provide DCP staff and the TPA with a copy of the updated Client Service Plan.
6. The ORM Director should develop written policies and procedures detailing ORM's monitoring and oversight of IME's and AME's within the DCP. These policies and procedures, at a minimum, should outline the type of documentation the DCP Manager must complete to properly document the monitoring of IMEs and AMEs.
7. The ORM Director should develop policies and procedures to document the review, verification, and validation of IME's and AME's certifications.
8. The ORM Director should develop policies and procedures properly documenting DCP formal hearings status, formal administrative orders issued by DOES, and ORM compliance with DOES administrative orders.

9. ORM should develop a comprehensive modified work program. The program, at a minimum, must include a listing of different agencies which provide alternative duty assignments, provide monitoring of the disability compensation claimant placement and progress, and properly communicate and coordinate with the disability compensation claimant's treating physician and the TPA.

CONCLUSION

The Auditor's review of the DCP for the period of October 1, 2008 through September 30, 2010 found that the Office of Risk Management's (ORM) former executive leadership mismanaged the DCP and provided ineffective management and oversight of the DCP's Third Party Administrator (TPA). The Auditor's review also found that ORM and the Office of the Chief Financial Officer (OCFO) did not develop sufficient internal controls to protect the DCP and the Disability Compensation Fund (DCF) from waste, fraud and abuse. Moreover, numerous deficiencies found in the mismanaged areas were longstanding and existed prior to the delegation of DCP functions to ORM in December 2003.

Since FY 2001, ORM and OCFO have failed to accurately and timely record and remit deducted health and life insurance premiums to all insurance carriers; did not effectively verify disability compensation payments; and did not conduct sufficient verification or reconciliation of invoices before making payments to health insurance carriers. The Auditor also found that ORM management did not ensure that all vendor invoices and payments resulting from administrative orders issued by the Department of Employment Services were paid in a timely manner.

The Auditor's review also found that the OCFO's Office of Finance and Resource Management (OFRM), Office of Finance and Treasury (OFT), and Office of Integrity and Oversight (OIO) did not comply with OCFO financial policies and procedures that should have been applied to the DCP and DCF, thus resulting in numerous financial management oversight deficiencies. Our review found that these deficiencies exposed District funds to potential adverse impacts including waste, fraud and abuse that must be immediately corrected.

The Auditor notes that during fiscal year 2010 ORM experienced significant management changes at the senior level including the separation of the former ORM Director. Subsequent to the Auditor's review, interim ORM officials have indicated that ORM and OCFO personnel have begun implementing operational changes and establishing additional financial internal controls. The Auditor finds that, based upon exit conference interviews and written comments provided by ORM and OCFO in response to the draft report, many of the changes, if effectively and efficiently implemented, will rectify many of the deficiencies cited in this report. However, the operational changes and additional financial internal controls must be consistently monitored and evaluated on a regular basis to ensure their effectiveness.

Respectfully submitted,


for: Deborah K. Nichols
District of Columbia Auditor

APPENDIX

APPENDIX I

FY 2009 DCF BUDGET REPROGRAMMINGS AND SUPPLEMENTS

Requested Date	Source of Reprogramming/ Supplement	Reason for the Reprogramming/ Supplement	Amount
6/29/2010	Bill 18-413-The Second Fiscal year 2009 Balanced Budget Request Amendment Act of 2009	Operating expenses for DCP.	\$1,000,000.00
8/4/2009	Office of Contracting and Procurement	To support spending pressure due to escalating increase claim costs.	\$120,000.00
Total Amount of Reprogramming/Supplements			\$1,200,000.00

Source: OFRM

FY 2010 DCF BUDGET REPROGRAMMINGS AND SUPPLEMENTS

Requested Date	Source of Reprogramming/ Supplement	Reason for the Reprogramming/ Supplement	Amount
5/27/2010	City-Wide Budget Reprogramming	Closing plan for spending pressure.	\$3,200,126.00
9/20/2010	District's Operating Cash Reserve	To cover the forecast of a deficit within the budget.	\$800,000.00
9/29/2010	District's Operating Cash Reserve	To cover part of the balance of a \$2.7 million liability for life insurance benefits for premiums that were not paid in FY 2010.	\$1,900,000.00
10/5/2010	The Non-Public Tuition Account	To cover a portion of the \$8.7 million spending pressure caused by an outstanding insurance liability.	\$1,250,000.00
10/5/2010	The Office of the City Administrator	To cover a portion of the \$8.7 million spending pressure caused by an outstanding insurance liability.	\$300,000.00
10/5/2010	The Office of the Mayor	To cover a portion of the \$8.7 million spending pressure caused by an outstanding insurance liability.	\$600,000.00
10/15/2010	The Unemployment Compensation Fund	To cover a portion of the \$8.7 million spending pressure caused by an outstanding insurance liability.	\$804,953.00
10/21/2010	The Non-Public Tuition Account	To cover costs associated with the life insurance for DCP whose premiums were not paid in FY 2010.	\$2,000,000.00

Requested Date	Source of Reprogramming/ Supplement	Reason for the Reprogramming/ Supplement	Amount
10/26/2010	The Office of Contracting and Procurement	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$100,000.00
10/26/2010	The Office of the City Administrator	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$100,000.00
10/26/2010	The Office of Asian and Pacific Islander Affairs	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$90,000.00
10/26/2010	The Office of the Attorney General	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$300,000.00
10/26/2010	The Office of Community Affairs	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$50,000.00
10/26/2010	The Office of Campaign Finance	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$50,000.00
10/26/2010	The Office of the Chief Technology Officer	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$100,000.00
10/27/2010	The Office of the Mayor	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$100,000.00
10/27/2010	The D.C. Office on Aging	To cover a portion of the \$8.7 million spending pressure caused by an outstanding insurance liability.	\$583,409.00
10/28/2010	The D.C. Public Library	To cover costs associated with the life and health insurance benefits for DCP whose premiums were not paid from FY 2001 to FY 2010.	\$350,000.00
Total Amount of Reprogramming/Supplements			\$12,678,488.00

Source: OFRM

AGENCY COMMENTS

AGENCY COMMENTS

On February 2, 2010, the District of Columbia Auditor (Auditor) submitted this report in draft to the Office of Risk Management (ORM) and the Office of the Chief Financial Officer (OCFO) for review and comment. An exit conference was held with OCFO officials on February 9, 2010 and with ORM officials on February 15, 2010.

The Auditor received written comments on February 16, 2010 from the ORM Acting Chief Risk Officer and the Chief Financial Officer for the District of Columbia. Where appropriate, the Auditor made changes to the final report based upon exit conference discussions and a review of received written comments. All agency comments are appended in their entirety to this final report. However, the Auditor offers an analysis addressing certain agency comments.

AUDITOR'S RESPONSE TO AGENCY COMMENTS

The Auditor appreciates the comments on this report that were provided by the Office of Risk Management (ORM) and the Office of the Chief Financial Officer (OCFO). All comments are appended in their entirety to this final report. The Auditor made revisions to the final report, based on these comments, and also offers the following analysis and response to certain agency comments.

The Office of Risk Management Comments

ORM and OFRM Failed to Record and Remit an Estimated \$8.7 Million in Deducted Health and Life Insurance Premiums

ORM's response stated that, "ORM calls into question that Auditor's draft finding that payments have not been made since 2001. It is not clear on what documentation this finding is based."

Auditor's Analysis: The Auditor stands by the estimated liability figures reported in Table II of both the draft and final report. On September 29, 2010, ORM's Interim Director submitted to OFRM the estimated liability for life and health insurance premiums cited in the report. This estimate was confirmed by OFRM and booked as a liability in SOAR on September 30, 2010. Further according to reprogramming documents submitted by OFRM, reprogramming requests indicated that the liabilities dated to FY 2001. These reprogramming are cited in our report at Appendix I.

ORM's response stated that, "Since 2005, ORM had submitted Clearinghouse Enrollment Reconciliation (CLER) forms to report to OPM, on a quarterly basis, those pre-1987 workers' compensation claimants who were enrolled in federal life and health insurance benefit plans."

Auditor's Analysis: The Auditor stands by the liability figures reported in Table II of both the draft and final report. As previously stated, on September 29, 2010, ORM's Interim Director submitted to OFRM the estimated liability for life and health insurance premiums cited in the report. This estimate was confirmed by OFRM and booked as a liability in SOAR on September 30, 2010. According to OFRM officials, it was OPM who informed ORM that the last submission by ORM for pre-1987 workers' compensation claimants was in July of 2005. However, as of February 12, 2011 ORM or OFRM could not provide documentation evidencing that these payments had been made.

The Office of the Chief Financial Officer Comments

ORM and OFRM Failed to Record and Remit an Estimated \$8.7 Million in Deducted Health and Life Insurance Premiums

The OCFO OFRM response stated that, “it is ORM’s responsibility to be fully aware of all liabilities against its operation. OFRM is responsible for making payment once ORM provides authorization.”

Auditor’s Analysis: The Auditor has amended the audit report to provide more clarification on the ORM and OFRM responsibilities within the DCP. However, the Auditor has included recommendations to mitigate the risk associated with the identified internal control weaknesses.



**DISTRICT OF COLUMBIA GOVERNMENT
DC OFFICE OF RISK MANAGEMENT**

Phillip A. Lattimore, III
Acting Chief Risk Officer

February 16, 2011

Deborah K. Nichols
District of Columbia Auditor
717 14th Street, NW
Suite 900
Washington, DC 20005

Dear Auditor Nichols:

This is to provide comments on the draft report of the "Auditor's Examination of the Office of Risk Management's Oversight of the District's Disability Compensation Program" (the "draft report"), which I received on February 2, 2011. I am providing these comments based on the information that is in the custody, possession and control of this agency and its employees. As you know, I was appointed Acting Chief Risk Officer by Mayor Gray on January 24, 2011.

As a general matter, please be advised that I am unable to respond to the draft report's findings and recommendations regarding the Office of the Chief Financial Officer (OCFO) and the Office of Contracting and Procurement (OCP); my comments solely relate to the findings and recommendations that concern the Office of Risk Management (ORM). I appreciate your taking these comments into consideration as you complete your final report.

BACKGROUND

The effective date of the Reorganization Plan that created ORM is December 15, 2003, not December 14, 2004. *See* Reorganization Plan No. 1 of 2003.

ORM currently employs four full-time employees who manage and oversee the public sector workers' compensation program (PSWCP)¹. I understand that at the time of your audit, the former Chief of Staff was considered to be a fifth full time employee who oversaw the program (see page 2 of the draft report).

Also as we discussed during our exit conference, ORM's former Director, who was placed on administrative leave on July 1, 2010, was separated from the District government on September 14, 2010. ORM's former Chief of Staff began working for another government agency in October 2010.

¹ The name of the Disability Compensation Program (DCP) changed to the Public Sector Workers' Compensation Program (PSWCP) on October 1, 2010, pursuant to Subtitle G of the Fiscal Year 2011 Budget Support Act of 2010.
441 4th Street NW, Suite 800S, Washington DC 20001 Office: 202-727-8600 ♦ Fax: 202-727-8319

FINDINGS

DCP Weekly Payment Process

The draft report states on page five that “[a]ll vendor invoices to be paid through the DCP are submitted directly to ORM. ORM is responsible for reviewing, approving and submitting the invoices to the [Third Party Administrator] TPA.” The practice of the agency has changed over time, depending on the direction of ORM management and the specific invoice. The current practice of the agency is that vendor invoices are sent directly to Sedgwick, whose claims examiners then review and recommend payment, if appropriate, through the prepay system. ORM employees only review individual invoices for medical services of \$5,000 or more. The ORM Director then certifies the prepay report after it is reviewed by the Sedgwick manager, PSWCP manager and PSWCP claims specialists.

ORM and OFRM Failed to Record And Remit an Estimated \$8.7 Million in Deducted Health and Life Insurance Premiums

The draft report states on page six that the ORM Director “[f]ailed to record as a liability or pay an estimated \$8.7 million in life and health insurance premiums deducted from claimant’s [sic] weekly disability compensation payment [sic] for lost wages.” On page seven it states that:

[T]he Auditor found that since FY 2004 when ORM was delegated the functions of the DCP, ORM and OFRM failed to: (1) accurately record, as a liability, health and life insurance premiums deducted from disability claimants [sic] weekly disability payments for lost wages; or (2) remit deducted premiums to all the respective health and life insurance carriers. Further, the Auditor found that since FY 2001, during the periods when the functions of the DCP were administered by DOES, the Office of Personnel, and the Office of the City Administrator, no insurance premiums were recorded or remitted to:

1. the health insurance carriers providing health benefit coverage for disability claimants hired prior to 1987; and
2. the life insurance carrier for any disability compensation claimants.

To my knowledge, ORM failed to pay life insurance premiums for workers’ compensation claimants and also failed to pay health insurance premiums for workers’ compensation claimants hired by the District government prior to September 30, 1987 (“pre-1987 employees, or those claimants who were enrolled in federal health insurance benefits). ORM has, however, paid for health insurance premiums for workers’ compensation claimants hired by the District government after September 30, 1987 (“post-1987 employees”), based on invoices submitted to the agency for payment by the insurance companies. ORM has provided examples of those payments to your office. Footnote 12 on page seven of the draft report acknowledges this payment but still states that ORM and OCFO “failed to remit deducted health and life insurance premiums to all respective health and life insurance carriers” for these employees. It is not clear how your office can reach this conclusion given the facts.

Once the prior administration became aware of the failure to pay premiums, an Interim Director of ORM was appointed in July 2010. The Interim Director, working with the former Attorney General, former Director of the Department of Human Resources (DCHR), and OCFO officials, provided an estimate of the liability associated with the non-payment of premiums, which the OCFO then used to record the associated liability in FY 2010. A summary of the liability that was recorded by OCFO is provided on page eight of the draft report.

Please also be advised that ORM and DCHR subsequently received documentation from the federal Office of Personnel Management (OPM) showing that the last payment received by OPM for life and health insurance premiums for pre-1987 workers' compensation claimants was received in July 2005 (a copy of the documentation received from OPM is attached). This documentation calls into question the Auditor's draft finding that payments have not been made since 2001. It is not clear on what documentation this finding is based.

Footnote 11 on page seven states that "[t]here is only one insurance carrier providing life insurance coverage to District employees regardless of their hire date." This is incorrect. Pre-1987 employees are enrolled in the federal FEGLI life insurance plan. Post-1987 employees are enrolled in the Standard life insurance plan.

The report on page eight states that the Auditor "questions the OCFO's and OAG's ability to begin negotiations with the District's health and life insurance carriers given the fact that OCFO officials cannot properly report or account for the total liability of the premiums owed with certified financial and program documentation." It then states on page nine that "OCFO could not provide certified financial and program documentation attesting to the methodology used to determine the estimated amount for health and life insurance payments," that no interest for the non-payment of premiums has been estimated, and that "no formal settlement agreement has been negotiated between the insurance carriers and the District."

In fact, prior to negotiating a formal settlement with the Standard life insurance company, representatives from DCHR, ORM, the Department of Insurance, Securities and Banking (DISB), OAG, and at times OCFO, convened meetings to determine the liability owed to Standard, based on ORM's workers' compensation enrollment data and the rates charged by Standard over time. The liability computation arrived at by the District was shared with Standard, who agreed with the government's liability assessment. This estimate was used to achieve a formal settlement with Standard on December 16, 2010, which included the District's agreement to make a partial payment for interest penalties. A copy of this settlement was provided to your office during our February 15, 2011 exit conference.

To determine the liability owed to OPM as a result of non-payment of health and life insurance premiums for pre-1987 employees, ORM undertook an exhaustive effort to examine the available documentation and records. Since 2005, ORM had submitted Clearinghouse Enrollment Reconciliation (CLER) forms to report to OPM, on a quarterly

basis, those pre-1987 workers' compensation claimants who were enrolled in federal life and health insurance benefit plans. Using the CLER reports and benefit plan rate information provided by DCHR, ORM estimated the liability owed to OPM. Using this estimate, DCHR and ORM contacted OPM to initiate discussions regarding payment of the liability. In November 2010, OPM instructed DCHR and ORM to fill out the appropriate federal forms documenting the contributions and withholdings for life and health insurance (Forms 2812 and 2812a) and to submit those forms along with the District's payment. OPM did not ask the District to pay interest on the overdue payments. ORM submitted the forms to OCFO for payment on December 28, 2010.

ORM and OFRM Have not Implemented a Corrective Action Plan to Accurately Record and Remit Deducted Insurance Premiums

The draft report states on page nine that "as of October 20, 2010 ... ORM and DCHR officials have not implemented any corrective action as a written policy or rule nor has any action plan been tested. The Auditor found that ORM continues to deduct health and life insurance premiums without remitting all the payments to the carriers." In fact, both ORM and DCHR have been participating, since July 2010, in a multi-agency effort to transfer payment of workers' compensation indemnity checks and accompanying benefits deductions from Sedgwick's payroll system to the District's PeopleSoft system. This will ensure, as the draft report notes, that insurance premiums are properly deducted, recorded and kept current. The Office of the Chief Technology Officer (OCTO), OCFO, and the Office of Payroll and Retirement Systems are also participating in this process. OCFO has finished gathering the requirements for this project and is currently conducting internal design review sessions before moving forward with a final timeline for implementation. Written policies for this process are still being developed.

Until the PeopleSoft conversion is complete, ORM has worked with DCHR to set up a system to ensure that timely payments are made to the insurance companies. DCHR is now processing payments to the insurance companies for life and health insurance for all workers' compensation claimants. Since December, ORM has submitted bi-weekly deduction reports to DCHR as support for DCHR's processing of payments to the carriers.

ORM and OFRM did not Perform Any Verification or Reconciliation of Invoices Prior to Payment of \$3.4 Million to Insurance Carriers

The draft report states that with respect to those payments made by ORM for health insurance for post-1987 workers' compensation claimants, the Auditor found "that there was no verification or certification conducted by ORM or OFRM to determine if the payments were valid or accurate." This is not accurate. Prior to transferring this payment responsibility to DCHR in December 2010, ORM had a process whereby invoices were reviewed for accuracy to ensure that they reflected charges for health care coverage only for employees who were receiving workers' compensation benefits from ORM. If the invoice included charges for employees who were not on workers' compensation or who had gone back to active duty, ORM would amend the invoices and

deduct charges for those employees from the total payment amount. ORM would document these changes in enrollment, certify them, and send them to OCFO for payment. ORM has provided your office with examples of invoices that were paid according to this process. ORM is in the process of formalizing and improving the current procedure for verifying enrollment, to support DCHR's payment of these invoices. But it is not accurate to state that ORM and OFRM did not perform "any" or "no" verification or reconciliation of these invoices.

ORM and OFRM Failed to Effectively Verify Disability Compensation Payments

ORM is currently reviewing the list of payments that are the basis for the finding regarding the sample of 100 DCP expenditures, described on page 11 of the draft report, which we received from your office today. If we have any further comments on this finding, we will submit them to your office as soon as possible.

RECOMMENDATIONS

1. Agree.
2. Disagree. As described above, ORM, DCHR and OCFO have already created a methodology for estimating the liability, have established estimates of the liability owed to Standard and OPM for non-payment of premiums, and remitted payment for that liability.
3. ORM is currently examining the feasibility of implementing this recommendation.
4. ORM is currently examining the feasibility of implementing this recommendation. In the meantime, it should be noted that the deduction file that ORM is providing to DCHR on a bi-weekly basis is based on the prepay report and includes this information.
5. The prepay report does provide net totals for each payee (i.e. vendor, claimant, etc). I cannot respond to this recommendation without more explanation of what additional net or gross totals are being recommended.
6. Agree.
7. Agree.
8. Agree.
9. OCFO recommendation.

ORM DID NOT ENSURE THAT DCP VENDOR INVOICES WERE PAID IN A TIMELY MANNER

ORM is currently reviewing the list of invoices that are the basis for the finding regarding the sample of 100 DCP expenditures, described on page 12 of the draft report, which we received from your office today. If we have any further comments on this finding, we will submit them to your office as soon as possible.

RECOMMENDATION

Agree. For the record, however, it should be noted that section C.5.15.1.6 of ORM's contract with Sedgwick does require Sedgwick to "approve all medical and vendor bills for services utilizing the appropriate fee reduction methods and ensure that bills are paid within thirty (30) days of receipt."

ORM DID NOT ENSURE THAT PAYMENTS AS A RESULT OF DOES ADMINISTRATIVE ORDERS WERE PAID IN ACCORDANCE WITH DC CODE 1-623.24(g).

I am concerned that the findings in this section of the draft report do not reflect a thorough understanding of the administrative judicial process. The draft report states that "ORM has not developed a system to adequately document and track DCP administrative orders issued by DOES. As a result, ORM cannot ensure timely compliance with DOES administrative orders." This is not accurate. ORM, in fact, maintains a hearing log that tracks claimants' hearing dates and administrative orders by DOES, as noted by the draft report on page 26. This hearing log is maintained by an ORM employee who receives notice of every order and decision issued by DOES Administrative Law Judges (ALJs). The hearing log lists all orders of the ALJs, as well as the date of payment by ORM, and the Analyst follows up with the appropriate claims examiner or supervisor to ensure that payments are made within the statutorily required time limits, or any other permissible time limit imposed by the judge, which may be outside of the time period imposed by statute.

The draft report also states on page 26 that "the Auditor found that the Analyst did not maintain a log for FY 2008" and observes that for the 2010 log, for 89 hearings, "the ORM files lacked orders related to the hearing, or the financial impact per claim." However, ORM did maintain a log for FY 2008, which was provided to your office during the February 15, 2011 exit conference, and it shows that every payment ordered to be made by the ALJs was made in 2008, except for the payment to Theresa Hill. During the February 15, 2011 exit conference, your office expressed concern regarding "blanks" in the FY 2010 hearing log. A review of the log confirms that in the majority of the 89 cases referenced by the draft report, either the ALJs simply had not acted yet in the cases in question (the notation "ND" means "no decision"), or the hearing had not taken place yet (the FY 2010 hearing log was provided to your office on July 21, 2010. The last 19 hearings listed on the log were scheduled for late July, August or September). Therefore, these "blanks" are not due to any error on ORM's part but simply reflect the time it takes for the administrative judicial process to unfold.

RECOMMENDATION

Disagree. ORM already has a process in place, but will formalize and improve the process by putting it in writing.

ORM [FORMER] DIRECTOR VIOLATED DISTRICT LAW BY ALLOWING VENDORS TO PROVIDE SERVICES WITHOUT A VALID CONTRACT AND AUTHORIZED PAYMENTS THAT WERE NOT RATIFIED AS REQUIRED BY OCP POLICY DIRECTIVE 1800.04

I do not dispute the draft report's finding that former ORM employees began to add and remove vendors on the preferred vendor listing maintained by the TPA, starting in October 2009. According to Sedgwick and ORM employees, prior to that time period, the vendors used by the Disability Compensation Program were selected by the TPA in accordance with the TPA's written vendor selection process, a copy of which was shared with your office on September 29, 2010 and again during the February 15, 2011 exit conference. Under that arrangement and ORM's contract with the TPA, the vendors were considered subcontractors of the TPA, not contractors of the District, and their selection was therefore not governed by the sections of the Procurement Practices Act cited by the draft report.

The draft report states on page 18 that 71 of these vendors "were selected on a sole source noncompetitive basis and were used at the discretion of ORM's former Director, former Chief of Staff and the ORM DCP manager. ORM could provide an executed contract for only 1 of 71 vendors." This is not entirely accurate. The vast majority of the vendors on the list provided to your office were selected by the TPA using the TPA's vendor selection process and therefore were not governed by the Procurement Practices Act. Only those vendors chosen by former ORM employees and given business pursuant to oral agreements after October 2009, as described by the draft report, were chosen in violation of the Procurement Practices Act.

RECOMMENDATIONS

1. Partially agree. On the advice of the Office of Contracting and Procurement (OCP), I have reviewed the vendor list and taken action to ensure that each of the vendors on the list are being paid according to the requirements of the Procurement Practices Act, including through a subcontract arrangement with the TPA, if that is the preference of the TPA. ORM has ceased its involvement in the process of selecting vendors for the PSWCP.
2. Disagree. ORM has instead ceased its involvement in the process of selecting vendors for the PSWCP.
3. This employee is no longer an employee of ORM, effective February 28, 2011.
4. OCFO recommendation.
5. OCP is no longer approving ratifications, pursuant to guidance issued by OCP.
6. OCP is no longer approving ratifications, pursuant to guidance issued by OCP.

ORM Failed to Conduct All Required Performance Audits

ORM does not dispute this finding. However, it should be noted that the former Interim Director negotiated new performance audit criteria with the TPA, which was codified in a

contract modification submitted to OCP. ORM conducted a performance audit for the last quarter of calendar year 2010 using the new criteria.

ORM's Former Director Improperly Modified the Terms of the TPA's Contract Without the Approval of OCP and Withheld \$1,098,479.32 in Payments

ORM does not dispute this finding. However, it should be noted that the TPA, as part of the settlement of the contract claim that was negotiated by the former Interim Director, waived its right to interest on the invoices that were paid late. A copy of the TPA's letter waiving the interest was provided to your office during the February 15, 2011 exit conference.

In addition, we reviewed our records of the weights that were changed in 2009 and found some discrepancies in the chart on page 22 of the draft report. The third column, "associated weight due to ORM's former director modifications" should read as follows:

1. Investigations:	15
2. Payment of Claims:	5
3. Medical Management:	15
4. Reserves:	10
5. Claims Management:	25
6. Litigation Management:	15
7. Supervision:	15

RECOMMENDATIONS

1. Agree.
2. Agree.

ORM'S FORMER DIRECTOR DID NOT DEVELOP SUFFICIENT INTERNAL CONTROLS TO ENSURE EFFECTIVE AND EFFICIENT MANAGEMENT OVERSIGHT OF THE DCP

RECOMMENDATIONS

1. Agree.
2. Agree.
3. ORM is currently reviewing the position descriptions in question. Position descriptions must be developed, approved and written in concert with DCHR, and they must be written in conformity with general personnel classification principles. Thus, while ORM cannot draft these descriptions on its own, it can make sure that the relevant duties and responsibilities for these positions are incorporated in the position descriptions.
4. Agree. The Client Service Plan has been updated, in cooperation with the TPA, since the audit period.
5. Agree. The Client Service Plan has been updated, in cooperation with the TPA, since the audit period.

7. Under the contract, the TPA selects the IMEs and AMEs. ORM has ceased its involvement in the process of selecting vendors for the PSWCP. However, given the policy interest in having quality IMEs and AMEs as part of the program, ORM will review and consider this recommendation, in concert with the TPA.
8. Disagree. ORM already has a process in place, but will formalize and improve the process by putting it in writing.
6. Agree.

I hope this information is helpful. If you or your staff have any questions, please do not hesitate to contact me at 727-8600.

Sincerely,



Phillip A. Lattimore III
Acting Chief Risk Officer

MORE

FMCD60P10 (103.1)

11/30/10

THE 2812 COLLECTION AND DEPOSIT SYSTEM

SF 2812 INDEX FOR PAYROLL OFFICE 99004862 FOR 2005

RPT NBR	PAY FROM DATE	PAY TO DATE	PAID DATE	DEPOSIT DATE	CD-JV NBR	GRAND TOTAL
---	-----	-----	-----	-----	-----	-----
012	12/01/04	12/31/04	12/31/04	01/28/05	CD028	117,802.24
001	01/01/05	01/31/05	01/31/05	05/19/05	CD139	338,759.42
002	02/01/05	02/28/05	02/28/05	05/19/05	CD139	155,341.32
003	03/01/05	03/31/05	04/25/05	05/19/05	CD139	154,052.11
004	04/01/05	04/30/05	04/30/05	05/19/05	CD139	152,758.19
001	01/01/05	01/31/05	01/31/05	05/23/05	CD143	0.10
007	07/01/05	07/31/05	09/22/05	09/30/05	CD273	180,261.01
005	05/01/05	05/31/05	09/22/05	09/30/05	CD273	455,339.99
006	06/01/05	06/30/05	09/22/05	09/30/05	CD273	173,747.15

BENEFITS, LIFE INSURANCE AND RETIREMENT

Interagency Report
No. 1064-OPM-AR

Address (including Department, Bureau, Location, and ZIP Code)

Payroll Office Number

Report Number

Month reported on statement of transactions

rgoayc

PAY PERIOD

Telephone number (including area code)

attached Rec. (24X8135.8)

OFFICE OF PERSONNEL MANAGEMENT
ATTN: FUNDS MANAGEMENT BRANCH
P.O. BOX 582
WASHINGTON, DC 204044

I certify that the items listed herein are correct and the amount is available to
be credited to the OPM receipt account

Signature of authorized Administrative or Certifying Officer Date

Benefit Category	Withholdings	Contributions	Total
LIFE INSURANCE			
BASIC LIFE			
STANDARD - Option A			
ADDITIONAL - Option B			
FAMILY - Option C			
POST RETIREMENT			
TOTAL LIFE INSURANCE	0.00	0.00	0.00
HEALTH BENEFITS			
REGULAR			
T.C.C. (P.L. 100-654)			
TOTAL HEALTH BENEFITS	0.00	0.00	0.00
RETIREMENT			
CSRS			
ALL CATEGORIES			
SALARY OFFSET - REEMPLOYED ANNUITANTS			
MILITARY AND CIVILIAN SERVICE CREDIT			
TERS			
REGULAR			
MILITARY RESERVE TECH. SPECIAL			
SALARY OFFSET - REEMPLOYED ANNUITANTS			
MILITARY DEPOSIT			
TOTAL RETIREMENT	0.00	0.00	0.00
GRAND TOTAL	0.00	0.00	0.00

FMCD60P3 (100.2)

Opm System — SF 2812
THE 2812 COLLECTION AND DEPOSIT SYSTEM

11/30/10

INDIVIDUAL SF 2812 DISPLAY

PAYROLL OFFICE: 99004862

CD: 273

DATED: 09/30/05

REPORT NUMBER: 006

ERROR CODE:

PAY FROM DATE: 06/01/05

RECEIVE DATE: 09/29/05

PAID DATE: 09/22/05

PAY TO DATE: 06/30/05

DEPOSIT DATE: 09/30/05

TRANS DATE: 00/00

EMPL SHARE

GOVT SHARE

TOTAL

LI	1,626.11	0.00	1,626.11
SI	0.00		0.00
AI	0.00		0.00
FI	0.00		0.00
PI	0.00		0.00
HB	50,226.15	121,894.89	172,121.04
TC	0.00	0.00	0.00
RT	0.00	0.00	0.00
RA		0.00	0.00
MC	0.00		0.00
FR	0.00	0.00	0.00
FM	0.00	0.00	0.00
FS	0.00	0.00	0.00
FD	0.00		0.00
FA		0.00	0.00
GRAND TOTAL			173,747.15

FMCD60P4 (100.2)

THE 2812 COLLECTION AND DEPOSIT SYSTEM

11/30/10

SF 2812 A - OPM System

HB CODES

JN1	973.20
JN2	1,921.86
JN4	188.31
JN5	146.88
471	129.39
104	7,141.55
105	17,393.72
111	82.32
2G1	109.54
2G2	239.20
311	773.84
312	1,178.97
315	327.70
E31	1,811.04
E32	7,389.72
622	195.00
JP1	613.34
JP2	628.38
451	2,290.33
452	5,144.32

ENTER 'X' TO RETURN TO ENTRY SCREEN:

HB CODES

454	293.52
455	621.66
321	252.68
9R1	105.12
9R2	274.56
JN1	2,840.10
JN2	5,765.67
JN4	564.90
JN5	440.66
471	284.01
104	18,460.65
105	43,939.56
111	246.97
2G1	284.01
2G2	646.17
311	1,136.04
312	1,938.51
315	983.10
E31	5,433.54
E32	22,169.16

ENTER 'X' TO RETURN TO ENTRY SCREEN:

FMCD60P4 (100.2)

THE 2812 COLLECTION AND DEPOSIT SYSTEM

11/30/10

HB CODES

622	585.02
JP1	1,832.53
JP2	1,885.11
451	1,988.07
452	5,169.36
454	1,938.51
455	1,865.04
321	568.02
9R1	284.01
9R2	646.17

ENTER 'X' TO RETURN TO ENTRY SCREEN:

From: Baltimore, Cynthia [mailto:Cynthia.Baltimore@opm.gov]
Sent: Tuesday, November 30, 2010 5:28 PM
To: Gregory, Brender L. (DCHR)
Cc: Kirby, Karla (DCHR); Lattimore, Phillip A. (DCHR); Mauro, Amy (EOM); Richardson, Chip (EOM); Nickles, Peter (OAG); Harris, Kenneth T
Subject: RE: Health and Life Insurance Premium Payments for D.C. Disability Comp recipients

Brender

Per our conversation today, attached is a blank copy of the SF 2812 and SF 2812A (first tab), A summary of the last SF 2812s per OPM records (second tab), and a system generated SF 2812 and SF 2812A processed through our system (third tab). Let me know if you have any questions.

Cynthia Baltimore

From: Gregory, Brender L. (DCHR) [mailto:brender.gregory@dc.gov]
Sent: Tuesday, November 30, 2010 3:15 PM
To: Baltimore, Cynthia
Cc: Kirby, Karla (DCHR); Lattimore, Phillip A. (DCHR); Mauro, Amy (EOM); Richardson, Chip (EOM); Nickles, Peter (OAG)
Subject: Health and Life Insurance Premium Payments for D.C. Disability Comp recipients

Good Afternoon Cynthia,

Thank you for speaking with the D.C. team today concerning unpaid premium payments for D.C. Disability Comp recipients. As we agreed, the District will submit the required documentation for all pay periods to cover premium payments from September 2005 to present. We also agreed that OPM would forward any copies of previous submittals from 2005 to DCHR for our review and files. Finally, OPM agreed to forward a copy of form 2812 to DCHR so that we can transmit the remaining premium payments to OPM.

Thank you again for your continued support. We look forward to working with you and members of your team.

Best Regards,

Brender L. Gregory
Director
D.C. Department of Human Resources
441 4th Street NW
Washington, D.C. 20001
(202) 442-9600
(202) 727-6827 fax

brender.gregory@dc.gov



Government of the District of Columbia
Office of the Chief Financial Officer



Natwar M. Gandhi
Chief Financial Officer

February 16, 2011

Deborah K. Nichols
District of Columbia Auditor
Office of the District of Columbia Auditor
717 14th Street, N.W., Suite 900
Washington, D.C. 20005

Dear Ms. Nichols:

Thank you for the opportunity to respond to your Draft Report entitled "Auditor's Examination of the Office of Risk Management's Oversight of the District's Disability Compensation Program." My staff and I have reviewed the draft report and concur with the majority of the recommendations contained therein. In addition, my Office of Integrity and Oversight issued a final audit report relative to the Disability Compensation Program (DCP) on December 13, 2010, recommending management actions to correct certain deficiencies associated with management of the DCP.

The Office of the Chief Financial Officer (OCFO) is fully committed to working with the Office of Risk Management (ORM), D.C. Office of Human Resources (DCHR) and other support agencies to ensure that all recommendations are fully and effectively implemented. However, certain findings in your report give us cause for concern because of the need to fully recognize and clearly delineate the difference between the roles and responsibilities of the programmatic and financial functions. For example:

- **ODCA Finding--ORM and OFRM failed to record and remit an estimated \$8.7 million in deducted Health and Life Insurance premiums. (ODCA Finding 2, Page 6)**

The Office of Finance and Resource Management (OFRM) is not responsible for determining program liabilities. It is ORM's responsibility to be fully aware of all liabilities against its operations. OFRM is responsible for making payments once ORM provides authorization. By way of clarification, for the first time on September 29, 2010, ORM forwarded to OFRM the projected amounts due to Standard Life Insurance and the Office of Personnel Management. ORM worked closely with the DCHR in determining the current insurance rates and the outstanding amounts due to the providers. As soon as OFRM received the supporting data for the projected \$8.7M liability, the information was

reviewed and reported to the Office of Budget and Planning to include as a spending pressure. Shortly thereafter, funding was secured to cover the shortfall and OFRM recorded the liability in SOAR.

In addition to determining the outstanding liability, ORM worked with the Office of the Attorney General and DCHR in negotiating a Settlement Agreement with Standard Life Insurance for \$2,108,146.53. The settlement agreement included \$119,000 in outstanding payments for interest and penalties. The payment was transmitted to Standard Life Insurance via electronic transfer on December 22, 2010.

On December 27, 2010, OFRM was informed by ORM Interim Director that a Settlement Agreement was not required for the federal Office of Personnel Management (OPM). ORM worked closely with DCHR in preparing the outstanding Federal Form 2812 reports to bring the District current. Upon receipt of the Federal Form 2812 reports, OFRM sought the legal opinion of the OCFO General Counsel to determine if documentation was sufficient for payment. The OCFO General Counsel concluded that with an ORM Certification Memo and supporting Form 2812's payment could be made for the insurance liability. The payment in the amount of \$11,190,814.73 was hand delivered to the OPM on January 16, 2011.

Subsequent Developments

It was assumed by ORM, DCHR and OAG that the District Government was responsible for paying the Government and employee federal contributions. OFRM personnel working with the federal office of Personnel Management discovered that DC Government had erroneously paid approx. \$ 7.5 million. It was further established that the DC Government was only responsible for the employee withholding portion and the federal Government is responsible for the Government contribution. OFRM has successfully obtained a commitment from OPM for a refund which is due to the District in the near future.

- **ODCA Finding--ORM and OFRM have not implemented a corrective action plan to accurately record and remit deducted insurance premiums. (ODCA Finding 3, Page 9)**

OFRM has requested that the ODCA review this finding to clearly identify the roles of ORM and the OCFO. It was not the responsibility of OFRM to adopt a corrective action plan.

First, this finding states that the OCFO and OAG were responsible for negotiating settlement agreements.

The OCFO was not a part of the settlement negotiations. OFRM provided a copy of the Standard Life Insurance Settlement agreement that confirms the parties involved included OAG, ORM and DCHR.

Second, DCHR accepted the proposition that Disability Compensation Claimants should be paid similar to other District employees using PeopleSoft. The transition of claimants to PeopleSoft would eliminate the need for OFRM to record and remit payments to insurance providers.

OFRM will continue to work with ORM, the agency that is leading the PeopleSoft Conversion Project in conjunction with the OCTO, DCHR and OPRS. Upon full implementation of the PeopleSoft Project, benefit payments will be transmitted to providers electronically along with all other District employee payments.

The implementation of this initiative will eliminate the need for OFRM to accrue insurance liabilities and transmit payments to providers. To date, OFRM has accrued funding to support payments to Standard Life Insurance and the Federal Office of Personnel management through December 31, 2011. It is imperative that ORM revive this effort.

- **ORM and OFRM did not perform any verification or reconciliation of invoices prior to payment of \$3.4 million to Insurance Carriers.**

OFRM disagrees with this finding and has requested that the ODCA review this finding after reviewing the payment process and sampling relevant data.

ORM is responsible for verifying and certifying the receipt of goods and services for the Disability Compensation Program. OFRM ensures that invoices for payments to Kaiser Permanente, United Healthcare and Aetna Health Insurance include supporting documentation and reconciling documents to explain adjustments.

There is no corrective action plan required for this finding. OFRM has reviewed and received sufficient documentation to support payments made to these vendors. During the Exit Interview with the D.C. Auditors Office, it was determined that the Auditors were unaware of the documentation provided to support the related payments. ODCA will perform a review of the related documentation on February 14, 2011.

- **ORM and OFRM failed to effectively verify Disability Compensation Payments.**

OFRM has requested that the ODCA review this finding to clearly identify the roles of ORM and OFRM. This finding asserts that OFRM was responsible for determining the methodology related to the outstanding insurance liability.

As previously stressed, OFRM is responsible for making payments once program provides authorization. Therefore, ORM was responsible for determining and providing the amount owed to Insurance providers.

The current format of the D.C. Weekly Prepay Report prevents OFRM from sampling Disability Compensation data. OFRM has developed revised payment procedures that will allow for a more comprehensive review and analysis of DCP expenditures.

However, as previously stated, OFRM is unable to effectively verify Disability Compensation Payments until ORM, if necessary, makes changes to the contractual agreement with the Third Party Administrator. In addition, ORM should provide OFRM with the D.C. Weekly Prepay Report in an exportable format for sampling purposes.

- **ODCA Finding--OFRM failed to properly reconcile the SunTrust Bank Account (BID #713) related to the Disability Compensation Program. (ODCA Finding 8 page 14)**

We disagree with this finding. Prior to September 2009, bank reconciliations for the SunTrust bank accounts were incomplete. This was due to the fact that missing/miscoded information in the custody of the TPA was unavailable to OFRM.

Effective July 2009, subsequent to meetings with OFT, ORM and the TPA, complete copies of monthly bank statements, the TPA's weekly prepay reports, ORM Director's certification memorandums, and SOAR journal vouchers detailing revenue and expenditure adjustments were made available to OFRM. This facilitated accurate and timely monthly Bank Reconciliation.

The table 3 on page 14 of the report portrays inaccurate conclusions. It would appear that adjusting entries were not taken into consideration. Supporting documentation for each item listed in Table 3 is and has been available.

Subsequent to a meeting on Wednesday, February 9, 2011, it is our understanding that the OCDA will conduct a subsequent review of the related documents.

- **ODCA Finding—OFT and the OCFO Office of Integrity and Oversight failed to establish adequate management and oversight of the Chief Financial Officer signature stamp.**

Relative to the CFO's signature stamp, we agree that that the CFO's signature on all checks needs to be properly safeguarded, with appropriate procedures and internal controls. In fact, on September 22, 2009, the Office of Finance and Treasury (OFT) wrote new account management and disbursing procedures for the disability compensation program. The procedures included the removal of the CFO's signature from the check print process. The instructions were emailed to both the Office of Finance and Resource Management (OFRM) and to OIO, who previously recommended corrective action. OFT understood that OFRM was working with the program staff to implement the new procedures. According to OFRM, due to almost quarterly program management turnover, a settlement negotiation with the Third Party Administrator (TPA), and the decision by the Office of Risk Management (ORM) not to rebid the TPA contract, the requested OFT changes were not implemented.

Our specific responses to the ODCA recommendations are presented below:

ODCA Recommendations 1 and 2 (page 11)

ORM, DCHR, and the OCFO should develop a written policy detailing procedures to properly and timely record and remit to respective insurance carriers, on a weekly or monthly basis, health and life insurance premiums deducted from claimants' weekly disability compensation payments for lost wages.

OCFO Response: We concur.

The OCFO will continue to accrue funding to support payments to Standard Life Insurance and the Federal Office of Personnel Management. This action is contingent upon timely information from ORM. Ultimately, the implementation of the PeopleSoft will eliminate the need for the accrual process. That is, upon full implementation of the PeopleSoft proper benefit payments will be transmitted to providers electronically along with all other District employee payments.

It is imperative that ORM revive this effort. The OCFO OFRM should establish written policies and procedures establishing a sound methodology to certify the actual liability owed to health and life insurance carriers prior to payment.

OCFO Response: While it is ORM's responsibility to be fully aware of all liabilities against its operations, and therefore determine the liability, the OCFO will work with ORM to provide certification to the OCFO of actual liability owed to health and life

insurance carriers prior to payment. Accordingly, this recommendation should also be directed to ORM.

ODCA Recommendations 7 and 9 (page 12)

ORM and OCFO OFRM personnel should develop a written policy detailing the procedures for properly verifying, and certifying health insurance carriers monthly invoices prior to approving and processing payments.

OCFO Response: We concur. The OCFO will propose new guidelines for the quality of supporting documentation to be provided by ORM in support of payments to health insurance carriers.

The OCFO's OFRM should develop procedures to properly verify ORM's Certification of the prepay report by periodically ensuring that the DCP expenditures listed on the weekly prepay report are accurate, reliable, and supported by adequate documentation.

OCFO Response: We concur. The OCFO will propose to ORM that on a periodic basis, OFRM will be given access to supporting documentation based upon samples determined by OFRM.

ODCA Recommendations 1 and 2 (page 15)

The OCFO's OFRM must conduct timely monthly reconciliation of the ORM DCP bank account.

OCFO Response: We concur. The OCFO is conducting monthly reconciliations of the ORM DCP bank account in a timely manner.

The OCFO's OFRM officials should establish procedures to monitor and review monthly reconciliation files to ensure that DCP bank account files are complete and monthly reconciliations are adequately documented.

OCFO Response: We concur. Policies and procedures are in place for the reconciliation of all bank accounts under the purview of OFRM. Bank account files are complete and monthly reconciliations are documented and available for examination by Auditors. Further, all bank account reconciliations are duly submitted monthly to the Office of Financial Operations and Systems (OFOS).

ODCA Recommendations 1 and 2 (page 17)

The OCFO OFT should request the TPA or the TPA's subcontractor immediately return the District's OCFO's signature stamp within 30 days of the date of this report.

OCFO Response: The facsimile signature mechanism is not a signature stamp. It is a digital image created from a signature that is contained in a print file that resides on the TPA's systems. OFT will work with OIO and the OCFO's Office of the Chief Information Officer (the CFO's information technology group) to determine the best manner in which to proceed with the return and removal of the signature from the TPA's print files and systems.

OFT will engage OFRM and the contractor to implement OFT's instructions, which would eliminate the CFO's signature being managed by a contractor. Over the longer term, OFT recommends moving the Disability Compensation payment program to a debit card process. This will be a more efficient process that will eliminate the need for check printing and handling.

In the future, OCFO OFT personnel must timely conduct a risk assessment of any nongovernment entity's when it is in the possession of the District's CFO's signature stamp and has access to District's funds to ensure that adequate internal controls are in place to safeguard the CFO's signature stamp and District funds.

OCFO Response: Although the TPA was in possession of the CFO's signature stamp, it did not have access to the District's funds without the funding approval of OFRM staff of the amounts being funded and the checks associated with each funding amount. OFT staff confirmed this with OFRM staff some time ago as a requirement for allowing this arrangement to continue during a period of transition to OFT's recommended procedures. In the future, OFT will minimize, if not eliminate, the use of the CFO's signature outside of approved processes directly controlled by the District. If there are any cases where this is required, OFT will engage the Chief Risk Officer and OIO to ensure appropriate internal controls and audit the processes to safeguard the CFO's signature and associated District funds.

ODCA Recommendations 4, 5 and 6 (page 19)

The OCFO's OFRM AFO must require that the ORM Director verify the existence of a valid contract prior to processing any DCP vendor payments. The CFO OFRM should establish procedures to ensure that no payments are made to any vendors in the absence of a valid executed contract.

OCFO Response: We disagree. Given the current structure of the DCP contract, this is not a requirement. In order to meet this recommendation, ORM must modify the terms to the existing contract. The OCFO will establish in coordination with ORM appropriate procedures to verify the existence of a valid contract document prior to payment.

ORM's Director and OFRM officials should immediately submit all request for payments from DCP vendors, in the absence of a valid contract, to OCP for ratification in accordance with OCP's Policy Directive 1800.04.

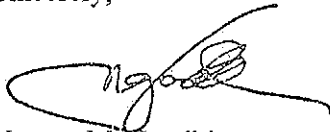
OCFO Response: There is no longer a ratification law in place. As previously stated, given the current structure of the DCP contract, this is not a requirement.

ORM's Director and OFRM officials must ensure that payments made to DCP vendors without a contract are promptly authorized through the District's procurement ratification process.

OCFO Response: See Response to previous recommendation.

If you have any questions, please contact Mohamed A. Mohamed, Associate Chief Financial Officer, Government Operations Cluster, at (202) 727-0333 or Lasana Mack, Deputy Chief Financial Officer, OFT at (202) 727-2469.

Sincerely,



Natwar M. Gandhi
Chief Financial Officer

cc: Angell Jacobs, Chief of Staff, OCFO
William J. DiVello, Executive Director, OIO
Mohamed Mohamed, Associate Chief Financial Officer
Lasana Mack, Deputy Chief Financial Officer and Treasurer, OFT
Kathy Crader, Chief Risk Officer, OCFO