Department of Labor and Workforce Development
Division of Special Compensation and Departmental Payroll Expenditures

July 1, 2006 to September 30, 2008
The Honorable Jon S. Corzine  
Governor of New Jersey  

The Honorable Richard J. Codey  
President of the Senate  

The Honorable Joseph J. Roberts, Jr.  
Speaker of the General Assembly  

Mr. Albert Porroni  
Executive Director  
Office of Legislative Services  

Enclosed is our report on the audit of the Department of Labor and Workforce Development, Division of Special Compensation and Departmental Payroll Expenditures for the period of July 1, 2006 to September 30, 2008. If you would like a personal briefing, please call me at (609) 292-3700.

Stephen M. Eells  
Assistant State Auditor  
April 2, 2009
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Department of Labor and Workforce Development
Division of Special Compensation and
Departmental Payroll Expenditures

**Scope**
We have completed an audit of the Department of Labor and Workforce Development, Division of Special Compensation and departmental payroll expenditures for the period July 1, 2006 to September 30, 2008. The audit included payroll expenditures on a department wide basis and Division of Special Compensation program expenditures. Average annual expenditures totaled $370 million. Our audit of revenues included collections for the Division of Special Compensation programs. Average annual revenues totaled $157 million and were accounted for in the state’s General Fund.

The department’s primary mission is to ensure the opportunity for employment at fair wages in a safe environment, to enhance the quality of the state’s labor force, and to administer income support services.

**Objectives**
The objectives of our audit were to determine whether financial transactions were related to the department’s programs, were reasonable, and were recorded properly in the accounting systems.

This audit was conducted pursuant to the State Auditor’s responsibilities as set forth in Article VII, Section I, Paragraph 6 of the State Constitution and Title 52 of the New Jersey Statutes.

**Methodology**
Our audit was conducted in accordance with Government Auditing Standards, issued by the Comptroller General of the United States.

In preparation for our testing, we studied legislation, administrative code, circular letters promulgated by the Department of the Treasury, and policies of the department. Provisions that we considered significant were documented and compliance with those requirements was verified.
by interview, observation, and through our samples of transactions. We also read the budget message, reviewed financial trends, and interviewed agency personnel to obtain an understanding of the programs and the internal controls.

A nonstatistical sampling approach was used. Our samples of financial transactions were designed to provide conclusions about the validity of transactions as well as internal control and compliance attributes. Sample populations were sorted and transactions were judgmentally selected for testing.

Background

The Division of Special Compensation administers the Second Injury Fund (SIF) and the Uninsured Employers Fund (UEF) programs. The Second Injury Fund was initiated in 1923 to encourage employers to hire workers with disabilities. In the event of further injuries to these workers, the employers’ liability for compensation payments would be limited to the costs applicable to the latest injury. Once the worker has been adjudicated to be permanently and totally disabled, the payments from the employer or their insurance carrier would eventually cease and SIF payments would commence and continue until the death of the beneficiary or gainful employment.

The Uninsured Employers Fund was established by the New Jersey Workers’ Compensation Law to provide temporary disability benefits and cover medical expenses for workers who suffer from compensable injuries while working for an employer who fails to provide required coverage and fails to make those benefit payments awarded by the Division of Workers’ Compensation.

Both the SIF and UEF programs are funded by surcharges paid by insurance carriers and self-insured companies. The UEF program also imposes fines, penalties, and assessments against companies that are found to lack adequate workers’ compensation insurance. On an annual basis, the funds are analyzed and costs are
projected by the Department of Labor and Workforce Development. This information is
provided to the Department of Banking and Insurance which calculates the annual surcharge
rates.

In fiscal year 2007 the SIF collected $133 million
and paid out $154 million to approximately 9200
recipients. In fiscal year 2008 the fund collected
$178 million and paid out $163 million. The UEF
recorded revenue of $1.3 million in fiscal year
2007 while expending $1.8 million and in fiscal
year 2008 recorded revenue of $2 million while
expending $2.1 million.

**Conclusions**

We found the financial transactions included in our
testing were related to the department’s programs,
were reasonable, and were recorded properly in the
accounting systems. In making this determination,
we noted matters of compliance with laws and
regulations and certain internal control weaknesses
meriting management’s attention.
State regulations regarding debt collection are not being followed.

Collection Efforts

Uninsured Employers Fund

The Uninsured Employers Fund (UEF) provides temporary disability benefits and covers medical expenses for those injured while working for an employer who does not provide the required coverage and fails to provide those benefit payments awarded by the Division of Workers' Compensation. In addition to these individual cases, the Division of Special Compensation (the division) periodically matches Department of Labor and Workforce Development files of registered employers against the Department of Banking and Insurance files of insured employers in order to identify those businesses without required workers' compensation insurance coverage. If proof of insurance coverage is not provided or obtained by the uninsured employers, cases proceed through the court system. Judgments are docketed and liens are filed against the uninsured employer. Although the division attempts to collect the docketed judgments, we found their efforts were not in compliance with state regulations.

A Department of the Treasury circular letter, which has recently been enacted into law, requires state agencies to use the Department of the Treasury, Division of Revenue in the recovery and resolution of non-tax debt if the agency is unable to collect the debt within 90 days. The Division of Special Compensation has not turned over any receivable records to the Division of Revenue. The UEF has an accounts receivable balance of $63 million as of July 2008. The amounts eventually collected are subject to negotiation and could be significantly reduced. Since 1979 the division has collected only $3.2 million from uninsured employers, including $1.8 million through a collection agency it used beginning in 1997.
Second Injury Fund

Benefit overpayments should be investigated.

The Second Injury Fund (SIF) limits the liability of employers and their insurance carriers in cases where a worker with disabilities experiences further injury. Once the employee has been adjudicated to be permanently and totally disabled, the employer’s payments would eventually cease and the SIF would continue such payments until the death of the beneficiary or gainful employment.

Although the division requires beneficiaries to submit an annual certification and performs cross-matches against death and wage files, benefit overpayments may still occur. We found that the division has not established satisfactory procedures to investigate these benefit overpayments and arrange for their immediate repayment. The division does initially notify the beneficiaries or their estates of the overpayments and makes attempts to recoup these funds. It is currently collecting on benefit overpayments of approximately $150,000 where the recipients have agreed to repay their debt on a periodic basis. When terms of repayment are not agreed upon, cases have been transferred to the Division of Law, but only if they exceed $2,000. In 2002, the division sent 78 cases of benefit overpayments to the Division of Law which totaled $606,000 and occurred from 1981 through 2002. Only two of these cases totaling $7,700 were being collected by the Division of Law as of August 2008. The division recently forwarded another $524,000 in benefit overpayments from 2002 to July 2008 to the Division of Law but no action has been taken. Most of these SIF benefit overpayments totaling $1.3 million have not been brought to the attention of the Division of Criminal Justice or transferred to the Division of Revenue for collection.

Recommendation

We recommend that the Division of Special Compensation transfer UEF accounts receivable to the Division of Revenue. We also recommend that the division review SIF benefit overpayments.
by consulting with the Division of Criminal Justice (DCJ). Any cases not pursued by DCJ should be turned over to the Division of Revenue.

Internal Controls

An effective system of internal controls provides adequate checks and balances that ensure financial transactions are properly authorized and recorded, and a means to safeguard the assets of an entity. In order to accomplish these objectives, management generally provides a means to verify that all receipts are recorded and deposited, and that more than one individual is involved in the process. Our review of the Division of Special Compensation programs found inadequate segregation of duties, inadequate safeguarding of assets, and a lack of written policies, procedures, and documentation.

Proper segregation of duties regarding receipts is needed.

Our review of surcharge payments made by self-insured entities found that the same employee sends out bills, receives checks, and records payments to subsidiary records. Although another employee deposits the checks, no reconciliation between the subsidiary records and the amount deposited is performed. The audit tests that we performed to address this risk did not reveal any improprieties. There is also an inadequate segregation of duties in regards to the collection of Second Injury Fund (SIF) overpayments to beneficiaries or their estates. The same employee arranges repayment terms, receives payments, posts the receipts, and prepares deposits.

Safeguarding of assets should be improved.

Inadequate safeguarding of Uninsured Employer Fund (UEF) and SIF assets was noted in regards to untimely deposits and re-deposits. During a 19 month period, 255 UEF checks totaling over $460,000 averaged 34 days between receipt and deposit; some receipts took up to 90 days to be deposited. In addition, we found that there is no reconciliation between the record of UEF checks
received by the division and the deposit and recording of these checks onto the New Jersey Comprehensive Financial System (NJCFS) by the department accounting office. Our review also found that the division holds SIF checks for an excessive amount of time when payment is questioned or there may be an address change. As of August 11, 2008, there were 170 checks totaling $20,000 that were being held. We also found a six month lag between the deposit of UEF recoveries by the collection agency and the recording of such receipts on NJCFS.

The division does not maintain sufficient written policies and procedures outlining day-to-day operations as follows:

- Although the UEF administrator is empowered to levy and abate fines and assessments against uninsured employers within statutory limits, no written documentation exists which explains how the amounts assessed and abated were determined.

- Although the division does require annual certifications and the inclusion of photographs every five years in order to ensure that recipients of SIF benefits are not deceased, there are no written procedures describing this process and the steps to be taken if these documents are not submitted.

- There is no user manual or written instructions which describe the in-house computer system developed within the Division of Special Compensation and utilized for both the UEF and SIF programs.
There are no written policies and procedures to direct employees in the proper handling and processing of receipts in order to conform with Department of the Treasury regulations.

**Recommendation**

We recommend:

- the department properly segregate duties regarding the processing of revenue and perform necessary reconciliations;

- deposits and re-deposits be made timely in accordance with the Department of the Treasury circular letter; and

- the division generate written policies and procedures to describe its functions and maintain adequate supporting documentation.

**Leave Time**

Monitoring and recovery of overdrawn leave time should be improved.

According to NJAC 4A:6-1.5, employees in state service are liable for vacation and sick leave time taken in excess of their entitlements. An employee is credited with their annual leave time at the beginning of each calendar year. Some of these employees could utilize all of these days early in the year and then take a leave of absence, retire, or be terminated, resulting in a negative leave balance. Although the department’s human resources unit does attempt to reduce negative leave balances, we found many instances where overdrawn leave time was not reduced in a timely manner.
As of December 31, 2007, 65 employees had 3400 hours of negative leave balances totaling $80,000. We found that the six employees we tested were terminated, resigned, or retired in 2007 and the department made no effort to collect payment for their overdrawn leave time totaling $18,000.

**Recommendation**

We recommend the department improve their monitoring of negative leave balances and recoup overdrawn leave time.

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**eCATS Input Controls**

The eCATS system became the timekeeping system utilized by the Department of Labor and Workforce Development in April 2006. The main advantage of this new system is to allow employees to record their work hours and leave time taken each pay period directly to a web-enabled application. Upon review, the supervisor is to approve the information input by the employee in order for payment to proceed.

An internal control weakness was noted during our review of this process in that an employee may select any individual within the agency to be a supervisor and have the authority to approve their timesheet on the eCATS system. From June 23, 2006 to September 26, 2008, we found 204 occurrences where two employees approved each others’ timesheets for the same pay period. This could result in incorrect timesheets and leave time not being properly charged. It should also be noted that there is currently no monitoring function performed by the human resources unit which would identify these potential improper approvals.

**Recommendation**

We recommend that updates to the eCATS system be implemented that restrict the authority to approve timesheets to appropriate supervisors.
March 27, 2009

Mr. Stephen M. Eells  
Assistant State Auditor  
Office of Legislative Services  
Office of the State Auditor  
P.O. Box 067  
Trenton, New Jersey 08625-0067

Dear Mr. Eells:

Thank you for the opportunity to respond to your audit report of the “Department of Labor and Workforce Development, Division of Special Compensation and Departmental Payroll Expenditures.” I am pleased with your overall audit conclusion that the Department’s financial transactions were reasonable, related to our programs, and recorded properly in our accounting systems.

We do note that you have recommended some areas where controls and/or operating procedures can be improved. While we believe in some instances there are offsetting controls or acceptable reasons for the Department’s actions, we will review and implement those recommendations that are cost effective and will improve our operations.

Details of our response are contained in the attachment to this letter. If you have any questions, please contact James King, Director of Internal Audit.

Sincerely,

[Signature]
COMMISSIONER

Attachment
Audit Report Finding:

State regulations regarding debt collection are not being followed.

LWD Response:

We concur in part.

While we agree that although these "receivables" have not been submitted to the Department of Treasury's Division of Revenue (DOR), we believe that the Department's policies and operating procedures are appropriate given the nature of the receivables involved. We believe that our current practice of using our contracted collection law firm is substantively similar to collections efforts made by DOR. Therefore, LWD believes the collections efforts for these receivables are in compliance with the intent of the statute cited by the auditors, and intend to continue our current practice. Actions that DOR would have taken, such as the filing of liens or referral to a collection agency have already been taken by LWD. We have been in contact with DOR and they are now aware of our current practice. We do not anticipate DOR requesting any change to our operating policy and procedures pertaining to these receivables. We are however exploring a more efficient means to communicate to DOR summaries of this financial information.

Lastly, it should be noted that the vast majority of these receivables consist of penalty assessments under the non-compliance provisions of the statute and are set up at arbitrary amounts. It is unreasonable to expect collection of any significant portion of these receivables, and accordingly they are not recorded as an asset of the fund.

Audit Report Finding:

Benefit overpayments (Second Injury Fund) should be investigated.

LWD Response:

We concur.

Most of LWD's internal controls over Second Injury Fund payments are focused on preventing/detecting overpayments as is evidenced by the fact there are only $1.3 million in overpayments in a program that has been operational since 1923 and that during the audit period alone paid out $154 million in benefits.

While the Department does pursue overpayments, the Second Injury Fund overpayments are not perfected judgments and cannot simply be forwarded to the Division of Law or a contract collection firm. We have therefore, in compliance with your recommendation, begun referring any applicable Second Injury Fund benefit overpayments to the Division of Revenue.
Audit Report Finding:
Proper segregation of duties regarding receipts is needed.

LWD Response:
We concur.

Although your extended audit tests did not reveal any improprieties, we recognize the potential security issues presented and have taken steps to address this matter.

Audit Report Finding:
Safeguarding of assets should be improved.

LWD Response:
We concur.

Specifically, Uninsured Employers Fund checks received by the Division of Special Compensation will be timely transmitted to the Trust Fund Accounting Unit.

Audit Report Finding:
Written policies and procedures should be maintained.

LWD Response:
We are aware that there is a lack of written-procedures for all facets of the operations within the Division of Special Compensation. However, there has been a lack of staff to perform the thorough review and analysis tasks involved in accomplishing this goal. We will, to the extent resources are available, initiate this process.

Audit Report Finding:
Monitoring and recovery of overdrawn leave time should be improved.

LWD Response:
We concur.

Overdrawn leave time has been recouped and will continue to be recouped from employees who have returned from Leave of Absences without pay starting with the first full pay period upon their return. Overdrawn leave time for employees who resign, terminate or retire are also recouped if the employee's manager or supervisor contacts the Office of Human Resources Leave Section, as per instructions sent via e-mail each pay period, when they are aware that
the employee is separating from State service. If the Office of Human Resources Leave Section is notified timely overdrawn leave is collected before the employee is separated.

For employees who have overused their leave and have separated before overdrawn leave could be collected, the following steps will be restarted to collect the overdrawn leave:

1. Collection memorandum will be sent to former employee showing the amount of overdrawn leave and amount of overpayment with instructions to pay within one month of receipt.

2. If payment is received, salary refund will be processed and forwarded to Centralized Payroll.

3. If response is not received, information will be forwarded to the DOR SOIL program for collection.

Audit Report Finding:

Improper supervisory approvals are possible with the new timekeeping system.

LWD Response:

We concur in part.

The eCATS system was not designed by LWD and the ability to change supervisors was noted by LWD as a weakness. LWD does have an offsetting control placed into the system wherein any change in supervisors that approve timesheets will automatically be reported to the original supervisor. The audit did not disclose any instances of leave time not being properly charged.