

**DIVISION OF
ADMINISTRATIVE HEARINGS**

Adjudication of Disputes Program,
Workers' Compensation Appeals Program,
and Selected Information Technology Controls
and Administrative Activities



Sherrill F. Norman, CPA
Auditor General

Director of the Division of Administrative Hearings

The Division of Administrative Hearings is established by Sections 20.22 and 120.65, Florida Statutes, within the Department of Management Services as a separate budget entity not subject to control, supervision, or direction by the Department. The Division is headed by a Director who serves as the Chief Administrative Law Judge and is appointed by the Administration Commission composed of the Governor and Cabinet, subject to Senate approval. During the period of our audit, the Honorable Robert S. Cohen served as Division Director.

The team leader was Susan Walthall, CPA, and the audit was supervised by Joshua Barrett, CPA.

Please address inquiries regarding this report to Christi Alexander, CPA, Audit Manager, by e-mail at christialexander@aud.state.fl.us or by telephone at (850) 412-2786.

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DIVISION OF ADMINISTRATIVE HEARINGS

Adjudication of Disputes Program, Workers' Compensation Appeals Program, and Selected Information Technology Controls and Administrative Activities

SUMMARY

This operational audit of the Division of Administrative Hearings (Division) focused on the Division's administration of the adjudication of disputes and workers' compensation appeals programs and selected information technology (IT) controls and administrative activities. Our audit disclosed the following:

Adjudication of Disputes Program

Finding 1: The Division should consider periodically verifying of record that Administrative Law Judges remain in good standing with The Florida Bar.

Worker's Compensation Appeals Program

Finding 2: Division records did not always evidence that State mediators completed required training.

Information Technology Controls

Finding 3: Division procedures for periodically reviewing the appropriateness of Case Management System (CMS) and JCC Application (JCCA) user access privileges need improvement. Additionally, the Division did not always timely deactivate CMS or JCCA user access privileges upon an employee's separation from Division employment.

Finding 4: Certain security controls related to CMS and JCCA user authentication and physical access to information technology resources (IT) need improvement to ensure the confidentiality, integrity, and availability of CMS and JCCA data and related IT resources.

Finding 5: Security controls over mobile device utilization need improvement to ensure the confidentiality, integrity, and availability of Division data and IT resources.

Selected Administrative Activities

Finding 6: The Division did not conduct periodic background screenings of employees as a condition of continued employment.

Finding 7: Division controls for timely reconciling physical inventory results to Division property records and investigating noted differences need improvement.

BACKGROUND

State law¹ establishes the Division of Administrative Hearings (Division) within the Department of Management Services (Department) as a separate budget entity not subject to control, supervision, or direction by the Department. The Division is charged with providing a uniform and impartial forum for the

¹ Sections 20.22 and 120.65, Florida Statutes.

hearing and adjudication of disputes between private citizens and State entities and private organizations and State entities. Division cases involve a broad range of issues including taxation, elections, air pollution, child support, business regulation, and cases brought under the Baker Act.² The Division is also responsible for maintaining a Statewide mediation and adjudication system for the resolution of disputed workers' compensation claims. To administer these responsibilities, the Division established the Adjudication of Disputes Program and the Workers' Compensation Appeals Program.

For the 2017-18 fiscal year, the Legislature appropriated approximately \$26.1 million to the Division and authorized 241 positions.

FINDINGS AND RECOMMENDATIONS

ADJUDICATION OF DISPUTES PROGRAM

Pursuant to State law,³ the Division oversees the hearing and resolution of challenges to State agency rules; proceedings in which the substantial interests of a party are determined by a State agency; and hearings involving disputed issues of material fact between private citizens and State entities and private organizations and State entities. State law provides time frames for the Division to complete certain hearing and adjudication activities. For example, Administrative Law Judges (ALJs) must render a decision within 30 calendar days of a hearing challenging State agency rules and state in writing the reasons for the decision.

State law⁴ specifies for each type of hearing whether the Division is authorized to issue a final order, which is a written final decision, or a recommended order, which is the official recommendation of an ALJ that may be accepted or rejected by the applicable State agency. According to Division records, during the period July 2016 through February 2018, ALJs issued 210 final orders and 534 recommended orders related to the Adjudication of Disputes Program.

Certain non-State entities, such as cities, counties, regional planning councils, water management districts, and educational entities, also contract with the Division for ALJ services.⁵ According to Division records, the Division processed 6,393 Adjudication of Disputes Program hearing requests, including 1,737 Baker Act requests, during the 2017-18 fiscal year. Table 1 shows the number of hearing requests, by type, processed during the 2017-18 fiscal year.

² Chapter 394, Part I, Florida Statutes.

³ Chapter 120, Florida Statutes.

⁴ For example, pursuant to Section 120.56(1)(e), Florida Statutes, ALJs issue final orders regarding challenges to the validity of proposed or adopted agency rules and, pursuant to Section 120.569, Florida Statutes, ALJs issue recommended orders for hearings involving disputed issues of material facts.

⁵ Section 120.65(9), Florida Statutes.

Table 1
Hearing Requests by Type
2017-18 Fiscal Year

Type	Number of Requests
State Agency	4,258
Non-State Entity	398
Baker Act Requests	1,737
Total	<u>6,393</u>

Source: Division's 45th Annual Report.

Finding 1: ALJ Employment Criteria

State law⁶ requires that, as a condition of employment, ALJs be a member of The Florida Bar in good standing⁷ for the preceding 5 years. To remain active and in good standing, The Florida Bar requires, among other things, members to complete at least 33 credit hours of approved continuing legal education (CLE) every 3 years.

As part of our audit, we evaluated Division employment processes and examined Division records for 15 ALJs employed at some point during the period July 2016 through February 2018. Our audit procedures found that, while the Division obtained from The Florida Bar Certificates of Good Standing for ALJs at the time of employment, the Division did not subsequently and periodically verify with The Florida Bar that ALJs remained in good standing. In response to our audit inquiry, Division management indicated that ALJs were expected to self-report CLE to The Florida Bar and were responsible for maintaining their good standing. Additionally, the Division relied on the invoice for and payment of the ALJs' annual Florida Bar membership fees as evidence of the ALJs' good standing. However, our review of annual membership fees statements disclosed that reliance on the invoice for and payment of annual membership fees alone does not provide assurance that an ALJ is a member of The Florida Bar in good standing.

The periodic review of The Florida Bar membership status of ALJs would provide Division management greater assurance that ALJs remain in good standing during the duration of employment.

Recommendation: We recommend that Division management periodically determine of record whether ALJs remain in good standing with The Florida Bar.

WORKERS' COMPENSATION APPEALS PROGRAM

State law⁸ establishes the Office of the Judges of Compensation Claims (OJCC) within the Department to mediate and adjudicate disputed workers' compensation benefits. The OJCC is headed by the Deputy Chief Judge of Compensation Claims who reports to the Division Director. OJCC judges of compensation

⁶ Section 120.65(4), Florida Statutes.

⁷ Rule 1-3.2, *Membership Classifications*, Rules Regulating The Florida Bar, specifies that members of The Florida Bar in good standing means only those persons licensed to practice law in Florida who have paid annual membership fees for the current year and who are not retired, delinquent, inactive for incapacity, or suspended.

⁸ Section 440.45(1)(a), Florida Statutes.

claims (JCC) are appointed by the Governor to 4-year terms and, for the 2017-18 fiscal year, the OJCC had 176 authorized positions, including 31 JCCs and 29 senior attorneys and State mediators. According to Division records, the OJCC received 70,295 petitions for benefits (PFB) filings,⁹ including 30,470 new PFB case filings representing the first PFB in the history of that particular accident by that particular injured worker, during the 2017-18 fiscal year.

Finding 2: State Mediator Training

State law¹⁰ provides that, as a condition of employment, State mediators must be a member of The Florida Bar for at least 5 years and complete a mediation training program approved by the Deputy Chief Judge. As part of our audit, we evaluated OJCC employment and training processes and examined Division records for 15 State mediators employed by the Division at some point during the period July 2016 through February 2018. Our audit procedures found that Division records did not evidence that 14 of the State mediators completed the required mediation training program. In response to our audit inquiry, Division management indicated that State mediators were responsible for ensuring completion of the required mediation training program. Subsequent to our audit inquiry, the Division obtained evidence of the completion of the required mediation training program by the 14 State mediators.

Documentation evidencing completion of the required mediation training program would provide the Division greater assurance that State mediators are qualified to perform their assigned duties.

Recommendation: We recommend that Division management ensure that Division records evidence each State mediator's completion of the required mediation training program.

INFORMATION TECHNOLOGY CONTROLS

State law¹¹ requires State agencies to establish information security controls to ensure the security of agency data, information, and information technology (IT) resources. Additionally, Agency for State Technology (AST) rules¹² establish minimum security standards for ensuring the confidentiality, integrity, and availability of State agency data, information, and IT resources. The Division utilizes the Case Management System (CMS) and the JCC Application (JCCA) to assign cases to judges, record work hours by case, and to collect and store data for each case, including confidential patient and student records. Additionally, the JCCA automatically schedules mediations based on statutorily defined time frames. The Division contracted with a service organization to develop, maintain, modify, and enhance the CMS and the JCCA.

⁹ Division Rule 60Q-6.102(10), Florida Administrative Code, defines PFBs as a pleading that invokes the jurisdiction of the OJCC that is subject to the requirements of Section 440.192(1) through (4), Florida Statutes.

¹⁰ Section 440.25(3)(a), Florida Statutes.

¹¹ Section 282.318(4), Florida Statutes.

¹² AST Rules, Chapter 74-2, Florida Administrative Code.

Finding 3: Access Privilege Controls

AST rules¹³ require State agencies to review access rights (privileges) periodically based on system categorization or assessed risk. Periodic reviews of user access privileges help ensure that only authorized users have access and that the access provided to each user remains appropriate. AST rules¹⁴ also require State agencies to ensure that IT access privileges are deactivated when access to an IT resource is no longer required. Prompt action to deactivate access privileges is necessary to help prevent misuse of the access privileges.

To maintain the security of CMS and JCCA data, Division policies and procedures¹⁵ required the Division Access Control Custodian to immediately deactivate user access privileges upon notice of a Division employee's separation from Division employment. Division policies and procedures also specified that the Access Control Custodian was to annually review all user access privileges to the CMS and the JCCA for appropriateness. Additionally, OJCC management conducted semi-annual reviews of the appropriateness of JCCA employees assigned access privileges to modify case information or view out-of-district cases. According to People First¹⁶ and Division records, during the period January 2016 through February 2018, the Division granted CMS access privileges to 68 Division employees and JCCA access privileges to 222 Division employees.

As part of our audit, we evaluated user access privilege controls for the CMS and the JCCA and examined Division records for 4 of the 12 employees with CMS user access privileges and 4 of the 50 employees with JCCA user access privileges who separated from Division employment during the period July 2016 through February 2018. Our audit procedures disclosed that:

- Division policies and procedures requiring an annual review of user access privileges to the CMS and the JCCA were insufficient based on the criticality of the CMS and the JCCA, the inclusion of confidential data within the systems, and the user authentication and physical access security control deficiencies described in Finding 4. Further, while OJCC management had implemented a semi-annual review of selected JCCA user access privileges, the reviews did not adequately ensure that all users' access to confidential information was periodically reviewed for appropriateness.
- The Division did not review the appropriateness of CMS user access privileges during the period July 2016 through February 2018. In response to our audit inquiry, Division management indicated that, in lieu of reviews, the Division relied on Human Resources to notify the Access Control Custodian in advance of changes to an employee's assigned responsibilities and whether an employee's access privileges were no longer necessary.
- The Division deactivated CMS or JCCA user access privileges for 6 of the 8 selected Division employees 3 to 114 business days (an average of 38 business days) after the employees' separation dates. According to Division management, in lieu of immediately deactivating the users' access privileges, 3 of the employees' passwords were to be immediately changed by the Access Control Custodian upon the employees' separation from Division employment. However, Division records did not evidence that the users' passwords had been changed upon the employees' separation from Division employment. Additionally, Division management indicated

¹³ AST Rule 74-2.003(1)(a)6., Florida Administrative Code.

¹⁴ AST Rule 74-2.003(1)(a)8., Florida Administrative Code.

¹⁵ Division Policy and Procedure No. 5.04, *Access Control Policy and Procedures*.

¹⁶ People First is the State's human resource information system.

that delays in notifying the Access Control Custodian of employment separations resulted in the delays in deactivating the other 3 users' access privileges.

Periodic reviews of user access privileges would provide Division management assurance that user access privileges are authorized and remain appropriate. Additionally, as unauthorized access can occur at any time, timely deactivation of user access privileges when such privileges are no longer necessary limits the potential for unauthorized disclosure, modification, or destruction of Division data and IT resources by former employees or others.

Recommendation: We recommend that Division management reassess the required frequency of CMS and JCCA user access privileges reviews to better align with the criticality of the systems and confidential data therein and perform and document such reviews verifying that user access privileges are authorized and remain appropriate. We also recommend that Division management ensure that CMS and JCCA user access privileges are deactivated immediately upon a user's separation from Division employment.

Finding 4: CMS and JCCA Security Controls

Security controls are intended to protect the confidentiality, integrity, and availability of data and IT resources. Our audit procedures disclosed that certain security controls related to CMS and JCCA user authentication and physical access to IT resources need improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising CMS and JCCA data and related IT resources. However, we have notified appropriate Division management of the specific issues.

Without adequate security controls related to CMS and JCCA user authentication and physical access to IT resources, the risk is increased that the confidentiality, integrity, and availability of CMS and JCCA data and related IT resources may be compromised.

Recommendation: We recommend that Division management enhance certain security controls related to CMS and JCCA user authentication and physical access to IT resources to ensure the confidentiality, integrity, and availability of CMS and JCCA data and related IT resources.

Finding 5: Mobile Device Security Controls

Security controls are intended to protect the confidentiality, integrity, and availability of data and IT resources. Our audit procedures disclosed that certain security controls related to mobile device¹⁷ utilization need improvement. We are not disclosing specific details of the issues in this report to avoid the possibility of compromising Division data and IT resources. However, we have notified appropriate Division management of the specific issues.

Without appropriate security controls related to the use of mobile devices by Division employees, the risk is increased that the confidentiality, integrity, and availability of Division data and IT resources may be compromised.

¹⁷ Mobile devices are portable devices, such as laptop computers, smartphones, and tablets, that allow storage and transmittal of entity data.

Recommendation: We recommend that Division management enhance certain security controls related to employee use of mobile devices to ensure the confidentiality, integrity, and availability of Division data and related IT resources.

SELECTED ADMINISTRATIVE ACTIVITIES

As part of our audit, we also evaluated selected Division administrative activities and controls, including those related to background screenings and Division property items.

Finding 6: Background Screenings

State law¹⁸ requires all employees in positions of special trust, responsibility, or sensitive location to undergo a level 2 background screening¹⁹ as a condition of employment and continued employment. Division policies and procedures designated all Division positions as positions of special trust and required all employees undergo a level 2 background screening within 30 days of employment.

As part of our audit, we examined personnel records for 12 Division employees, including 3 employees hired during the period July 2016 through February 2018, to determine whether the Division timely obtained and appropriately reviewed employee background screening information. Our examination disclosed that, while 6 of the employees who had been employed with the Division for more than 6 years as of February 28, 2018, received a level 2 background screening during the 2008-09 fiscal year, none of the employees had been subject to a subsequent screening.

In response to our audit inquiry, Division management indicated that the Division was not required to obtain subsequent background screenings after an employee was hired. Notwithstanding Division management’s response, the conduct of periodic background screenings of Division employees would provide Division management greater assurance that only those individuals with appropriate backgrounds are employed.

Recommendation: We recommend that Division management subject Division employees to periodic level 2 background screenings as a condition of continued employment.

Finding 7: Property Controls

Effective controls for the management of tangible personal property²⁰ require that property items be adequately controlled, safeguarded, and accounted for by Division management. Department of Financial Services (DFS) rules²¹ require State agencies to record all tangible personal property with a value or cost of \$1,000 or more and a projected useful life of 1 year or more in the Florida Accounting

¹⁸ Section 110.1127(2)(a), Florida Statutes.

¹⁹ As defined in Section 435.04, Florida Statutes, level 2 background screenings include, but need not be limited to, fingerprinting for Statewide criminal history records checks through the Department of Law Enforcement, national criminal history records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

²⁰ Tangible personal property is defined in applicable laws and rules as State-owned equipment, fixtures, and other tangible personal property of a nonconsumable or nonexpendable nature, the value or cost of which is \$1,000 or more and the projected useful life of which is 1 year or more.

²¹ DFS Rule 69I-72.002, Florida Administrative Code.

Information Resource Subsystem (FLAIR) Property Subsystem. DFS rules²² also require the Division to complete a physical inventory of all tangible personal property at least once each fiscal year. Upon completion of a physical inventory, the results are to be reconciled to Division property records and noted differences are to be investigated and corrected, as appropriate.

Division policies and procedures specified that, in addition to all tangible personal property, all attractive property items (e.g., personal computers, laptop computers, tablets) with a value or cost of less than \$1,000 were to be recorded in Division property records. In accordance with DFS rules, Division policies and procedures required property custodians at each Division office to complete an annual physical inventory and the Property Coordinator to oversee the physical inventory and reconciliation of all inventoried items, including attractive property items. While Division policies and procedures required the Property Coordinator to reconcile the results of the physical inventories to Division property records, the policies and procedures did not specify a time frame for completing the reconciliations.

According to Division records, as of February 28, 2018, the Division was responsible for 637 tangible personal property items with acquisition costs totaling \$2,568,497 and 304 attractive property items with acquisition costs totaling \$188,027. As part of our audit, we examined Division records for the 2016-17 fiscal year physical inventories conducted at Division offices located throughout the State and noted that the Division reconciled the results of the physical inventories to Division property records on April 19, 2018, 44 to 220 business days (an average of 194 business days) after the physical inventories were performed. Consequently, while the reconciliations identified 27 tangible personal property items and 10 attractive property items as potentially lost or stolen, the Division did not conclude the investigation of the noted differences until February 20, 2019. The investigation determined that 1 of the tangible personal property items (computer) and 3 attractive property items (computers) remained unaccounted for and appeared to have been cannibalized. In response to our audit inquiry, Division management indicated that the property custodians did not timely provide the physical inventory results to the Property Coordinator for reconciliation to Division property records and that the investigation into the unaccounted for property items was delayed due to staffing constraints and the relocation of four Division field offices.

Absent effective property controls, including the timely reconciliation of physical inventory results to Division property records and investigation of noted differences, Division management has reduced assurances that all property is adequately controlled, safeguarded, and accounted for by the Division.

Recommendation: We recommend that Division management enhance property controls to ensure that annual physical inventory results are timely reconciled to Division property records and differences, if any, are timely investigated and resolved.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Auditor General conducts operational audits of governmental entities to provide the Legislature, Florida's citizens, public entity management, and other stakeholders unbiased, timely, and relevant

²² DFS Rules 69I-72.003 and 69I-72.006, Florida Administrative Code.

information for use in promoting government accountability and stewardship and improving government operations.

We conducted this operational audit from March 2018 through October 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

This operational audit of the Division of Administrative Hearings (Division) focused on the Division's administration of the adjudication of disputes and workers' compensation appeals programs and selected information technology (IT) controls and administrative activities. The overall objectives of the audit were:

- To evaluate management's performance in establishing and maintaining internal controls, including controls designed to prevent and detect fraud, waste, and abuse, and in administering assigned responsibilities in accordance with applicable laws, administrative rules, contracts, grant agreements, and other guidelines.
- To examine internal controls designed and placed in operation to promote and encourage the achievement of management's control objectives in the categories of compliance, economic and efficient operations, the reliability of records and reports, and the safeguarding of assets, and identify weaknesses in those internal controls.
- To identify statutory and fiscal changes that may be recommended to the Legislature pursuant to Section 11.45(7)(h), Florida Statutes.

This audit was designed to identify, for those programs, activities, or functions included within the scope of the audit, deficiencies in management's internal controls, instances of noncompliance with applicable governing laws, rules, or contracts, and instances of inefficient or ineffective operational policies, procedures, or practices. The focus of this audit was to identify problems so that they may be corrected in such a way as to improve government accountability and efficiency and the stewardship of management. Professional judgment has been used in determining significance and audit risk and in selecting the particular transactions, legal compliance matters, records, and controls considered.

As described in more detail below, for those programs, activities, and functions included within the scope of our audit, our audit work included, but was not limited to, communicating to management and those charged with governance the scope, objectives, timing, overall methodology, and reporting of our audit; obtaining an understanding of the program, activity, or function; exercising professional judgment in considering significance and audit risk in the design and execution of the research, interviews, tests, analyses, and other procedures included in the audit methodology; obtaining reasonable assurance of the overall sufficiency and appropriateness of the evidence gathered in support of our audit's findings and conclusions; and reporting on the results of the audit as required by governing laws and auditing standards.

Our audit included the selection and examination of transactions and records. Unless otherwise indicated in this report, these transactions and records were not selected with the intent of statistically projecting the results, although we have presented for perspective, where practicable, information concerning relevant population value or size and quantifications relative to the items selected for examination.

An audit by its nature, does not include a review of all records and actions of agency management, staff, and vendors, and as a consequence, cannot be relied upon to identify all instances of noncompliance, fraud, abuse, or inefficiency.

In conducting our audit, we:

- Reviewed applicable laws, rules, Division policies and procedures, and other guidelines, and interviewed Division personnel to obtain an understanding of the Adjudication of Disputes and Workers' Compensation Appeals Programs.
- Obtained an understanding of selected Division IT controls, assessed the risks related to those controls, determined whether selected general and application IT controls for the Division's Case Management System (CMS) and the JCC Application (JCCA) were in place, and tested the effectiveness of those controls.
- From the population of 62 Division employees with CMS or JCCA access privileges who separated from Division employment during the period July 2016 through February 2018, compared system access control and People First records for 8 selected employees to determine whether the Division timely deactivated user access privileges to the CMS and JCCA upon the users' separation from Division employment.
- Interviewed Division management and examined Division IT records to determine whether the Division performed reviews of the appropriateness of CMS and JCCA user access privileges during the period July 2016 through February 2018.
- From the population of 59 Division employees with CMS or JCCA user access privileges during the period July 2016 through January 2018, examined Division records for 12 selected employees in positions of special trust, including 3 hired during the period July 2016 through January 2018, to determine whether, prior to employment, background screenings had been requested, obtained, and reviewed to ensure that employee backgrounds were appropriate. Additionally, we interviewed Division management to determine whether background screenings were periodically obtained as a condition of continued employment.
- Interviewed Division management and examined Division IT records to determine whether the Division obtained and reviewed service auditor's reports for the service organization responsible for developing, maintaining, modifying, and enhancing the CMS and the JCCA or otherwise took steps to reasonably ensure that the service organization's controls relevant to the services performed on behalf of the Division were suitably designed and operating effectively.
- Examined Division records for 100 administrative case hearings, selected from the population of 11,842 administrative case hearings filed during the period July 2016 through February 2018, to determine whether the Division adhered to time frames established in State law or Division rules for the assignment of cases to administrative law judges (ALJ), posting of notice of the hearing, granting request for a continuance, conducting the hearing, and issuing the final order.
- Examined Division records for 25 administrative case hearings, selected from the population of 53 administrative case hearings for bid protest filed during the period July 2016 through February 2018, to determine whether the case information recorded in the CMS, including case related dates, was accurate and complete.
- From the population of 8,730 administrative case hearings, excluding Baker Act and bid protest hearings, filed during the period July 2016 through February 2018, examined Division records for 35 selected case hearings to determine whether the Division ensured that case hearing filings and pleadings contained the information specified in Division Rule 28-106.201, Florida Administrative Code, and that information input in the CMS was accurate and complete.
- Interviewed Division management and, from the population of 32 ALJs employed at some point during the period July 2016 through February 2018, examined Division employment records for

15 selected ALJs to determine whether the Division ensured that ALJs met minimum qualifications for employment, including continuing education requirements, and had been a member of The Florida Bar in good standing for the preceding 5 years in accordance with Section 120.65(4), Florida Statutes.

- Interviewed Division management and examined the Division's annual reports due February 1, 2017, and February 1, 2018, to determine whether the Division ensured that all statutorily required information was included in the reports.
- Observed, documented, and evaluated the effectiveness of Division cost-recovery processes during the period July 2016 through February 2018. Specifically, we:
 - Reviewed the Division's 2017-18 Legislative Budget Request (LBR) and examined Division records to determine whether the Division based the LBR on an appropriate cost-recovery methodology.
 - Reviewed the Division's 2017-18 fiscal year process for establishing non-State entity rates for providing adjudication of disputes services to determine whether the rates were sufficient to recover all associated costs of providing the services to non-State entities in accordance with Section 120.65(9), Florida Statutes.
 - From the population of 23 State agencies and 54 non-State entities that received Division adjudication of disputes services during the period July 2016 through February 2018, examined Division records for 10 selected State and 20 selected non-State entities to determine whether the number of hearing hours used to allocate costs, including prehearing conference hours, motion hearing hours, and final hearing hours, were complete and accurate and whether the Division ensured that State and non-State entities were allocated costs based on actual hearing hours.
- Interviewed Division management and examined Division records related to the tracking of recommended orders during the period July 2016 through February 2018 to determine whether the Division adequately tracked recommended orders through acceptance or rejection by the applicable State agency.
- Examined Division records for 30 workers' compensation case hearings, selected from the population of 51,092 workers' compensation case hearings filed and held during the period July 2016 through February 2018, to determine whether the Division adhered to the time frames established by State law or Division rules for scheduling and conducting a mediation conference and pretrial hearing, providing notice of and conducting the final hearing, and entering the final order.
- Interviewed Division management and, from the population of 32 Office of the Judges of Compensation Claims (OJCC) judges employed at some point during the period July 2016 through February 2018, examined Division records for 15 selected OJCC judges to determine whether the Division ensured that OJCC judges met minimum qualifications for employment, had been a member of The Florida Bar in good standing for the preceding 5 years, and did not engage in the private practice of law while employed as an OJCC judge, in accordance with Section 440.45, Florida Statutes.
- Interviewed Division management, and from the population of 28 OJCC State mediators employed at some point during the period July 2016 through February 2018, examined Division records for 15 selected OJCC State mediators to determine whether the Division ensured that OJCC State mediators met minimum qualifications for employment, had been a member of The Florida Bar for at least 5 years, and completed a mediation training program approved by the Deputy Chief Judge, in accordance with Section 440.25(3), Florida Statutes.
- From the population of 2,515 workers' compensation appeals petitions for benefits (PFBs) filed with mediation conference or final hearing continuances during the period July 2016 through

February 2018, examined Division records for 25 selected PFBs with mediation conference continuances and 30 selected PFBs with final hearing continuances to determine whether the Division ensured that the continuances were granted in accordance with State law, the Deputy Chief Judge was informed when two or more continuances were granted for a mediation conference or final hearing, and the information input into the JCCA was accurate and complete.

- Examined Division records for 30 workers' compensation pleadings, selected from the population of 100,322 workers' compensation pleadings filed during the period July 2016 through February 2018, to determine whether the Division ensured that pleadings contained the information specified in Division Rules, Chapter 60Q-6, Florida Administrative Code, and the information input into the JCCA was accurate and complete.
- Examined Division records for selected workers' compensation written pretrial stipulations, selected from the population of 8,030 workers' compensation written pretrial stipulations filed during the period July 2016 through February 2018, to determine whether the Division ensured that written pretrial stipulations contained the information specified in Division Rules, Chapter 60Q-6, Florida Administrative Code, and the information input into the JCCA was accurate and complete.
- Interviewed Division management and examined Division records to determine whether the Division provided the annual OJCC report to the Governor, Legislature, The Florida Bar, and Statewide Nominating Commission by December 1, 2017, and that the report included the information specified in Section 440.45(5), Florida Statutes.
- Reviewed applicable laws, rules, and other State guidelines to obtain an understanding of the legal framework governing Division operations.
- Interviewed Division management, examined Division forms, and evaluated Division compliance with applicable statutory requirements for collecting and utilizing individuals' social security numbers.
- Observed, documented, and evaluated the effectiveness of selected Division processes and procedures for:
 - Cash management and purchasing activities, managing FLAIR and other information technology system access privileges, settlement agreements, fixed capital outlay, and financial reconciliations.
 - The administration of tangible personal property in accordance with applicable guidelines. As of February 28, 2018, the Division was responsible for tangible personal property with related acquisition costs totaling \$2,568,497.
 - The administration of Division contracts. As of February 28, 2018, the Division was responsible for seven active contracts totaling \$159,206.
 - The administration of Division travel in accordance with State law and other applicable guidelines. During the period July 2016 through February 2018, Division travel expenditures totaled \$489,262.
 - The assignment and use of mobile devices with related costs totaling \$2,516 during the period July 2016 through February 2018.
 - The acquisition and management of real property leases in accordance with State law, Department of Management Services rules, and other applicable guidelines. As of February 28, 2018, the Division was responsible for 18 real property leases.
 - The administration of hurricane-related contracting and purchasing activities. During the period July 2016 through February 2018, the Division expended \$2,193 related to hurricane activity impacting the Division for eight Governor-declared emergencies.

- Communicated on an interim basis with applicable officials to ensure the timely resolution of issues involving controls and noncompliance.
- Performed various other auditing procedures, including analytical procedures, as necessary, to accomplish the objectives of the audit.
- Prepared and submitted for management response the findings and recommendations that are included in this report and which describe the matters requiring corrective actions. Management's response is included in this report under the heading **MANAGEMENT'S RESPONSE**.

AUTHORITY

Section 11.45, Florida Statutes, requires that the Auditor General conduct an operational audit of each State agency on a periodic basis. Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.

A handwritten signature in blue ink that reads "Sherrill F. Norman". The signature is written in a cursive style with a large initial 'S'.

Sherrill F. Norman, CPA
Auditor General

MANAGEMENT'S RESPONSE

State of Florida Division of Administrative Hearings

Ron DeSantis
Governor

Robert S. Cohen
Director and Chief Judge

Claudia Lladó
Clerk of the Division



Vacant
Deputy Chief
Administrative Law Judge

David W. Langham
Deputy Chief Judge
Judges of Compensation Claims

April 19, 2019

Sherrill F. Norman, CPA
Auditor General
Office of the Auditor General
Claude Denson Pepper Building, Suite G74
111 West Madison Street
Tallahassee, Florida 32399-1450

Dear Ms. Norman:

As required by section 11.45(4)(d), Florida Statutes, attached is the Division of Administrative Hearing's response to the preliminary and tentative findings and recommendations included in your report for the audit of the Adjudication of Disputes Program, Workers' Compensation Appeals Program, and the Selected Information Technology Controls and Administrative Activities.

We appreciate the professionalism provided by your audit staff. If further information is needed, please contact Lisa Mustain, Director of Administration, at (850) 488-9675 or Lisa.Mustain@doah.state.fl.us.

Sincerely,

Robert S. Cohen
Director and Chief Judge

RC/lm

Attachment

c: Ms. Lisa Mustain, Director of Administration, Division of Administrative Hearings
Ms. Dawn Case, Inspector General, Department of Management Services

The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060
Administrative Law (850) 488-9675 • Fax Filing (850) 921-6847
Judges of Compensation Claims (850) 487-1911
www.doah.state.fl.us

Division of Administrative Hearings
Auditor General Operation Audit
Preliminary and Tentative Response

Finding 1: The Division should consider periodically verifying of record that Administrative Law Judges remain in good standing with The Florida Bar.

Recommendation: We recommend that Division management periodically determine of record whether ALJs remain in good standing with The Florida Bar.

Response: We agree with the finding and recommendations. We will implement a procedure that verifies and documents that Administrative Law Judges are in good standing with The Florida Bar on an annual basis.

Finding 2: Division records did not always evidence that State mediators completed required training.

Recommendation: We recommend that Division Management ensure that Division records evidence each State mediator's completion of the required mediation training program.

Response: We agree with the finding and recommendations. We have implemented a procedure that verifies and documents completion of the required mediation training.

Finding 3: Division procedures for periodically reviewing the appropriateness of Case Management System (CMS) and JCC Application (JCCA) user access privileges need improvement. Additionally, the Division did not always timely deactivate CMS or JCCA user access privileges upon an employee's separation from Division employment.

Recommendation: We recommend that Division management reassess the required frequency of CMS and JCCA user access privileges reviews to better align with the criticality of the systems and confidential data therein and perform and document such reviews verifying that user access privileges are authorized and remain appropriate. We also recommend that Division management ensure that CMS and JCCA user access privileges are deactivated immediately upon a user's separation from Division employment.

Response: We agree with the finding and recommendations. We will reassess the required frequency of CMS and JCCA user access privileges as well as implement procedures that ensure that CMS and JCCA user access privileges are deactivated immediately upon a user's separation from employment, and that such deactivation of privileges is documented for review by management and interested parties.

Finding 4: Certain security controls related to CMS and JCCA user authentication and physical access to information technology recourse (IT) need improvement to ensure the confidentiality, integrity, and availability of CMS and JCCA data and related IT resources.

Recommendation: We recommend that Division management enhance certain security controls related to CMS and JCCA user authentication and physical access to IT resources to ensure the confidentiality, integrity, and availability of CMS and JCCA data and related IT resources.

Response: We agree with the finding and recommendations. We will implement enhanced security controls relating to CMS and JCCA user authentication and physical access to IT resources to ensure the confidentiality, integrity, and availability of CMS and JCCA data and related IT resources.

Finding 5: Security controls over mobile device utilization need improvement to ensure the confidentiality, integrity, and availability of Division data and IT resources.

Recommendation: We recommend that Division management enhance certain security controls related to employee use of mobile devices to ensure the confidentiality, integrity, and availability of Division data and related IT resources.

Response: We agree with the finding and recommendations. We will implement enhanced security controls related to employee use of mobile devices to ensure the confidentiality, integrity, and availability of Division data and related IT resources.

Finding 6: The Division did not conduct periodic background screenings of employees as a condition of continued employment.

Recommendation: We recommend that Division management subject Division employees to periodic level 2 background screenings as a condition of continued employment.

Response: We agree with the finding and recommendations. We will implement, in addition to the required background screening upon employment in a position of trust, a required level 2 background screening of employees every 5 years as a condition of continued employment.

Finding 7: Division controls for timely reconciling physical inventory results to Division property records and investigating noted differences need improvement.

Recommendation: We recommend that Division management enhance property controls to ensure that annual physical inventory results are timely reconciled to Division property record differences, if any, are timely investigated and resolved.

Response: We agree with the finding and recommendations. DOAH was in the process of writing new policies and procedures relating to property management before this audit was performed. We now have in place new policies and procedures containing better controls to ensure that annual physical inventory results are timely reconciled to property record differences and, if any exist, are timely investigated and resolved.