



# Risk Management Program Review Report

Office of Injured Employee Counsel

November 30, 2015

**Conducted By:**

Christine Wright, PCP, Risk Manager





## STATE OFFICE OF RISK MANAGEMENT

WILLIAM P. CLEMENTS, JR. BUILDING, 6<sup>TH</sup> FLOOR  
P.O. BOX 13777, AUSTIN, TEXAS 78711  
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November 30, 2015

Ms. Jessica Corna  
Public Counsel  
Office of Injured Employee Counsel  
7551 Metro Center Dr., Suite 100  
Austin, TX 78744-1609

Agency #448

Re: Risk Management Program Review (RMPR)

Dear Ms. Corna:

The State Office of Risk Management conducted a Risk Management Program Review (RMPR) of the Office of Injured Employee Counsel (OIEC) on November 18, 2015. The review was conducted under the authority of Texas Labor Code, Title V, Subtitle A, Chapter 412, and was designed to assist state agencies to develop and implement comprehensive risk management programs that meet Risk Management for Texas State Agencies (RMTSA) guidelines.

Mr. Erick Dunaway, Associate Director of Administration and Operations, and Ms. Kristi Dowding, Staff Services Officer, accompanied SORM and actively participated during the OSC.

The following observations were reviewed and discussed during the visit:

- Number of Workers' Compensation Claims submitted by OIEC:
  - FY15 – 2 (2 were accepted)
  - FY14 – 3 (3 were accepted)
  - FY13 – 4 (2 were accepted)
  - FY12 – 8 (5 were accepted)
  - FY11 – 8 (6 were accepted)
  
- The total medical and income benefits paid to date to OIEC claimants who were injured in the following fiscal years are listed below:
  - FY15 – \$15,005 (primarily due to one claim >\$13k)
  - FY14 – \$956
  - FY13 – \$9,868

- FY12 – \$7,602
  - FY11 – \$19,877 (primarily due to one claim >\$15k)
- The Injury Frequency Rates (IFR) at OIEC during FY11 – FY15 are listed below. IFR is calculated as follows - (number of accepted claims \*100 / Full Time Employees (FTEs):
  - FY15 – 1.2%
  - FY14 – 1.8%
  - FY13 – 1.3%
  - FY12 – 3.2%
  - FY11 – 3.8%
- Workers' Compensation claim costs per full-time equivalent employees (FTEs) at OIEC during FY11 – FY15 are listed below:
  - FY15 - \$90
  - FY14 – \$6
  - FY13 – \$63
  - FY12 – \$49
  - FY11 – \$126
- The occupations or classifications with the most workers' compensation claims at OIEC during FY11 – FY15 were:
  1. Ombudsman (12)
  2. Customer Service Representative (9)
- The leading causes of workers' compensation claims at OIEC during FY11 – FY15 were:
  1. Strain/Injury by (7)
  2. Slip/Trip/Fall (6)
  3. Repetitive Motion (5)
- The average lag time (i.e. date of injury until date claim received at SORM) for workers' compensation claim submission by OIEC is listed below:
  - FY15 – 9 days
  - FY14 – 11 days
  - FY13 – 11 days
  - FY12 – 17 days
  - FY11 – 9 days
- The percentage of submitted workers' compensation claims for OIEC employees with greater than 2 years of service is listed below:
  - FY15 – 100%
  - FY14 – 66%
  - FY13 – 100%
  - FY12 – 100%

- FY11 – 75%

Noteworthy observations made during this review include the following:

- OIEC's risk management staff participates in monthly safety presentations conducted by the Texas Department of Insurance (TDI) and shares that information with OIEC employees through newsletters, posters, email, etc. Formal training is documented and tracked;
- OIEC frequent travelers are required to complete a four hour driver safety course through the National Safety Council every three years;
- The main OIEC building lobby doors are all controlled access and require employee badges for entrance;
- The OIEC Receptionist has a panic button available that alerts OIEC's onsite Field Officer Managers who would report to the lobby if needed;
- TDI-DWC Occupational Safety and Health Consultation (OSHCON) department teaches first aid/CPR/AED to all interested OIEC employees. This training is required for OIEC Additional Duty Safety Officers (ADSOs);
- Formal outside training for OIEC employees from other agencies or professional organizations such as SORM, or the Texas Safety Association (TSA) is encouraged;
- The agency has two Automated External Defibrillators onsite; one on each floor of the building;
- OIEC conducts frequent fire drills and uses a detailed system for building evacuation, gathering at the designated rally point, accounting for mobility impaired personnel, and providing the "all clear" once the drill has concluded. The last drill was conducted on 8/27/15;
- OIEC has detailed policies and procedures such as an Employee Manual, Occupational Safety and Health Program, Emergency Plan, Ergonomic Policy, Active Shooter Plan (including information on potentially threatening injured employees), and Traveler/Traffic Procedure. All policies and procedures are reviewed annually;
- Housekeeping throughout OIEC's office location is exemplary.

During the visit, the recommendation generated as a result of the OSC conducted on July 24, 2014 was reviewed and discussed. OIEC has fully implemented the following recommendation, which is now **closed**:

**14-03-01 Safety: Additional Duty Safety Officer (ADSO)**

As a result of this consultation, the following new recommendation is made to help maintain or improve the effectiveness of your risk management program:

**16-11-01 Workers' Compensation – Lag Time**

While reviewing the workers' compensation claims data that was prepared by SORM for this RMPR, it was noted that the lag time for all four fiscal years reported (FY11-FY15) were in excess of 35 days. Lag time is defined as the difference in time between the date of the injury and the date that it is reported to SORM. Injuries should be reported by the injured worker to their supervisor within 24 hours, but no later than 30 days. SORM recommends that OIEC meet with TDI's Workers' Compensation Claims Coordinator to determine why the lag times are excessive and to implement procedures to shorten the lag time. The goal is to have claims reported to SORM within 72 hours.

Reference: SORM website - <https://www.sorm.state.tx.us/claims-coordinator-handbook-overview/claims-coordinator-responsibilities>; RMSTA Guidelines Volume III, Section One, Chapter 2 – Workers' Compensation Program; The Texas Workers' Compensation Act, Texas Labor Code, Title 5

**16-11-02 Risk Management: Compliance – Property and Casualty Claims**

Pursuant to the Texas Labor Code, Chapter 412.053, each state agency shall report property and casualty loss information to SORM. This information is used to identify, analyze, and assess the losses incurred by each agency, and by the state as a whole. With this information, OIEC and the state can develop programs to control the identified risks. The Property and Casualty Database, within SORM's Risk Management Information System (RMIS), is designed to capture this information, and has the capability to generate reports based on the data submitted.

While the agency is entering property and casualty claims into the SORM Risk Management Information System (RMIS), there is one claim dating back to 2010 that remains open in the system. Lastly, claim expenses such as repair costs, litigation and settlement/judgment amounts are not being entered into the database. SORM recommends the following:

- A) Develop a procedure by which all OIEC departments notify the agency risk management department about all claims so they can be entered into the RMIS database;
- B) Update the SORM RMIS property and casualty claims database to appropriately close the open claims within the system;
- C) Ensure any and all Professional Liability/Employment Liability Claims are entered into the property and casualty database in addition to the quarterly update on the bordereau report;

- D) Update all claims that incurred costs with the total cost of the claim. This would include expenses such as repair costs to agency property/equipment and 3<sup>rd</sup> party property/equipment, costs of litigation and/or settlements/judgments.

A link to the RMIS system can be found here:  
<https://www.sorm.state.tx.us/sorm/pages/SORMLogin.html>

*Reference: Texas Labor Code Section 412.053.*

**16-11-03 Risk Management: Policies and Procedures**

OIEC currently documented Employee Manual, Occupational Safety and Health Program, Emergency Plan, Ergonomic Policy, Active Shooter Plan (including information on potentially threatening injured employees), and Traveler/Traffic Procedures. However, the workers' compensation claims processing process is not documented, nor are the roles of the employer, employee and Workers' Compensation Claims Coordinator defined. Also lacking is a fully developed return-to-work (RTW) program or an Indoor Air Quality (IAQ) Plan available for use by the agency. SORM recommends the following:

- A) OIEC should include the roles of the employer, employee and the Workers' Compensation Claims Coordinator in the Risk Management manual;
- B) OIEC should incorporate SORM's workers' compensation claims administration procedure into their Risk Management Manual. These procedures and forms can be found online here:  
<http://www.sorm.state.tx.us/claims-coordinator-handbook-overview>.
- C) In coordination with the Landlord and/or TFC depending upon the location, the agency should identify and designate their Indoor Air Quality Coordinator. In addition, the IAQ program should be developed. The IAQ Plan will assist the agency in addressing indoor air quality concerns. Once the plan is written, employees should be made aware of the contents of the IAQ program. A sample IAQ template was emailed to OIEC on 11/20/15 in order to assist them in addressing this recommendation;
- D) While OIEC currently has a Return to Work (RTW) statement in their Employee Manual, it is very brief and does not fully explain the benefits to both the injured worker and the employer by being able to get an injured worker to return to work in an expeditious manner.

SORM further recommends that the agency fully develop OIEC's return-to-work (RTW) program and include in their Risk Management Manual. As an employer, a proactive return-to-work program can provide effective tools associated with injuries or illness by providing the opportunity for injured workers to return to the workplace as soon as it is medically appropriate. A return-to-work program (RTW) also provides a mechanism for employers to

encourage employees to return to work as soon as possible after injury or illness. National statistics indicate that a return-to-work program is a valuable loss control measure that helps control workers' compensation costs.

*Reference: RMSTA Guidelines, Volume IV, Section II, Chapter 2, RMTSA Guidelines, Volume III, Section II, Chapter 1, Subchapter 1.6, RMTSA Guidelines, Volume III, Section Two, Chapter 5, Subchapter 5.7, RMTSA Guidelines, Volume III, Section Two, Chapter 7, Subchapter 7.15; Texas Health and Safety Code, Subtitle C, Title 5, Chapter 385, RMTSA Guidelines, Volume III, Section 1, Chapter 5 – Return to Work Program and Texas Labor Code, Title 5, Subtitle A, Section 412.051.*

*Additional resources can be found on our website here:*

<https://www.sorm.state.tx.us/workers-compensation/return-to-work-program>;  
<https://www.sorm.state.tx.us/workers-compensation/return-to-work-program/goals-objectives-and-benefits>; <https://www.sorm.state.tx.us/workers-compensation/return-to-work-program/a-successful-return-to-work-program>

We request that the appropriate staff review this document, specify the actions that the Office of Injured Employee Counsel plans to take, and project the estimated date of completion for each recommendation. Please provide your response to me by **December 30, 2015** via fax, U.S. mail, or email [Christine.wright@sorm.state.tx.us](mailto:Christine.wright@sorm.state.tx.us). My direct fax number is (512) 370-9173.

Please convey my sincere appreciation to Mr. Erick Dunaway, and the entire staff at OIEC for their cooperation and assistance during the consultation. If you have any questions or concerns regarding the information detailed in this report, please call me at (512) 936-1571.

Sincerely,



Christine Wright, PCP  
Risk Manager  
State Office of Risk Management

cc: Mr. Erick Dunaway, Associate Director of Administration and Operations, OIEC



## **Important Dates & Resources**

### **Upcoming Training**

COOP Planning Workshop: Continuity of Operations (COOP) Multi-Year Strategy and Program Management Plan – December 9, 2015

### **[SORM Training Calendar](#)**

### **[SORM Safety Videos](#)**

### **[Workers' Compensation Healthcare Network](#)**

### **[State Risk Management Employment Opportunities](#)**

## **SORM Contact Information**

[www.sorm.state.tx.us](http://www.sorm.state.tx.us)

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