



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

OFFICE OF RISK MANAGEMENT
FAILED CONTRACT ADMINISTRATION

Report by
Inspector General Bill Lynch

Prepared for
Governor M. J. "Mike" Foster, Jr.

April 17, 2002

File No. 1-02-0011

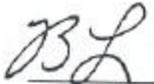


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Report by

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Approved by

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March 26, 2002

File No. 1-02-0011

Office of Risk Management Failed Contract Administration

The Office of Risk Management failed to adequately administer three of its workers compensation related contracts exposing the state to the loss or waste of hundreds of thousands of dollars. A review of the three contracts revealed the following:

1. Seth Keener Jr., then director of Risk Management, arbitrarily increased a contract contingency fee by 20 percent, from 12.5 to 15 percent, adding at least \$18,097 in cost to the state. Mr. Keener's attempted justification was an ineffectual and questionable change in the scope, which the contract monitor termed "not practical." In fact, the state received no additional services or additional benefits.
2. Risk Management allowed three companies to collaborate in submitting three virtually identical proposals on a competitive request for proposal. The three companies had three opportunities to win the award which creates a procurement process fraught with potential conflict to the detriment of the state.
3. Risk Management failed to properly review and correct a contract, submitted to Office of Contractual Review for approval, containing a significantly higher fee than contained in the contractor's proposal. The improper fee increase had it not been detected by an auditor from the Office of Inspector General would have cost the state nearly \$770,000.
4. Risk Management approved and paid at least \$13,722 to a company for work performed without a contract, and without approval of Contractual Review and Department of Civil Service as required by state law. The company, which had a \$57,500 contract to audit the subrogation program, was allowed to expand its services to do subrogation and recovery work on an hourly fee basis. These services were not included in the audit contract. In addition, the arrangement may be a conflict of interest under the State Ethics Code.
5. Risk Management improperly paid \$12,101 in travel expenses to a contractor whose contract did not authorize the expenses.
6. Risk Management failed to deposit timely a \$16,172 recovery check received from a contractor subjecting the state to loss of interest and exposing the state to risk of loss or theft.

7. Risk Management falsely certified to the director of Contractual Review that a cost benefit analysis had been conducted for a contract when no such analysis had been performed.
8. Risk Management failed to prepare a final contract performance report as required by state law.

Background

The Office of Risk Management was created within the Division of Administration by state law to provide a comprehensive risk management program for the state. The agency provides workers compensation coverage to all state employees, coverage for state property, employee bonds, crime, automobile liability and physical damage, comprehensive general liability, personal injury liability, boiler and machinery, medical malpractice, road hazards, and miscellaneous tort claims.

The contracts reviewed are:

1. Reimbursement Consultants Inc. of Metairie, a maximum of \$500,000, to identify and pursue reimbursement of certain workers compensation claims paid by Risk Management.
2. Thomas and Associates of Baton Rouge, a maximum of \$3 million, to implement a vocational rehabilitation/transitional duty program involving workers compensation claims.
3. Crawford & Co. of Dallas, Texas, a maximum of \$57,500, to determine whether the Risk Management staff is doing what it should in the recovery of funds from liable third parties in claims cases.

The above contracts with Reimbursement Consultants, Inc. and Thomas and Associates provided services solely related to the Risk Management Workers Compensation Unit. This unit processes claims for state workers who were injured on the job.

The contract with Crawford and Co. provided services related to the Workers Compensation Unit as well as the Property Unit and Transportation Unit, which process loss claims associated with state property and vehicles.

This office previously cited Risk Management in a report dated July 28, 1998, for failing to execute written contracts and obtain proper approvals from Contractual Review and Civil Service for \$1,787,206 of services being rendered by various vendors to the Workers' Compensation Unit.

Reimbursement Consultants, Inc.

Mr. Keener arbitrarily increased a contract contingency fee by 20 percent, from 12.5 to 15 percent, adding at least \$18,097 in cost to the state. Mr. Keener's attempted justification was an ineffectual and questionable change in the scope, which the contract monitor termed "not practical." In fact, the state received no additional services or additional benefits.

In July, 1998, four months before using a competitive request for proposal, Mr. Keener sought approval to non-competitively award a contract to Reimbursement Consultants for a contingency fee of 15 percent. The company had offered to assist Risk Management with pursuing reimbursements from certain workers compensation claims. At that time, Risk Management in-house adjusters, as part of their duties, were responsible for pursuing these claims.

However, the director of Contractual Review later advised the Risk Management contracts supervisor that the services were considered consulting in nature. She also advised if the contract exceeded \$49,999, state law required an award by a competitive request for proposal.

In October, 1998, Risk Management publicly advertised a request for proposal to provide certain claim recovery services. The request for proposal required on-site reviews of Risk Management workers compensation files, investigation of new claims, and pursuit of claim reimbursements. The request for proposal indicated that all new claims were subject to recovery by the contractor. These were virtually the same services requested for non-competitive award in July, 1998.

Risk Management received two responses. Reimbursement Consultants was awarded the contract with a contingency fee of 12.5 percent of gross recoveries. The other response included a 30% contingency fee.

Risk Management awarded Reimbursement Consultants a \$500,000 contract commencing March 1, 1999, and terminating Feb. 28, 2002. However, the resulting contract provided the company a 15 percent contingency fee, a 20 percent increase of the

Failed Contract Administration

Page 4

12.5 percent award. This raised the contingency fee back to the 15 percent included in the non-competitive contract Mr. Keener sought in July, 1998.

According to Mr. Keener, he agreed to the fee increase after he added a provision to the contract that allowed Risk Management 60 days to determine if new claims should be pursued with in-house staff. He said this provision facilitated cherry picking, whereby Risk Management had the opportunity to pick the easily collectible claims and assign Reimbursement Consultants the more difficult ones. He also stated that negotiations after the request for proposal process are allowable.

Mr. Keener executed the contract with the added provision and fee increase after the proposals had been accepted, graded, and the winning proposal selected for contract award. The request for proposal did not include the 60-day provision. State law requires that a request for proposal clearly define the tasks to be performed under the contract.

Mr. Keener's action precluded competition as other potential contractors were not given the opportunity to respond to the altered scope.

The change in scope proved to be ineffectual. According to Karen Jackson, manager of the Workers' Compensation Unit and the assigned contract monitor, 60 days is not enough time for her adjusters to obtain the necessary information, particularly medical history, which would be required to determine claim potential. She said it is typically 90 to 180 days before the adjuster receives the required information. This information would be needed before pursuing claim reimbursement.

Despite Mr. Keener's assertion of the cherry picking benefit, Risk Management could not provide documentation to substantiate any pursuit of reimbursement by in-house adjusters on new claims dated after the contract commenced.

Ms. Jackson acknowledged that she did not advise Mr. Keener of her concerns about the provision. However, she said Mr. Keener never discussed matters with her regarding cherry picking by her adjusters. She said at the contract inception she was not aware that the contract fee was higher than what was proposed. She also said she was not involved in the request for proposal process and contract negotiations.

Mr. Keener unnecessarily increased the contract fee from 12.5 percent to 15 percent. His defense of increasing the fee because the contract called for a 60-day waiting period was not justified. In fact, the contract monitor indicated it would take 90 to 180 days for Risk Management to make such a decision.

As of Feb. 27, 2002, the state paid \$18,097 more than it would have under the awarded 12.5 percent fee. Although the contract terminates Feb. 28, 2002, the contract provides

that the company would continue receiving its fee on assigned claims that are reimbursed after the termination date. Therefore, the unjustified cost to the state could grow.

Thomas and Associates

1. Potential for Abuse

Risk Management allowed three companies to collaborate in submitting three virtually identical proposals on a competitive request for proposal. The three companies had three opportunities to win the award which creates a procurement process fraught with potential conflict to the detriment of the state.

The proposals were scored by the agency based on pre-defined evaluation factors in the request for proposal. The highest scoring proposer was to be awarded a contract to provide medical management, vocational rehabilitation, and transitional duty services.

The collaboration between three Baton Rouge companies, Thomas and Associates, Thomas Bott & Associates, Inc., and Vocational Solutions, Inc., provided that if one of them was the winning proposer, all three would share equally in the work through sub-contracts. They each submitted virtually identical proposals, particularly the price to be charged.

Both the Division of Administration and the Attorney General's Office concluded that the unique arrangement was legal, noting the identical pricing and that it opened the door to small companies who might not otherwise be able to propose on a large contract.

However, it also opens the door to future situations with individual proposers collaborating with any number of other proposers, thereby skewing the competitive request for proposal process. Such collaborations contain a substantial potential for abuse. Although pricing can be a prime consideration in contract proposals, under the required request for proposal process it is not the only factor. Under such circumstances, a person with multiple proposals (even if the price is the same) could withdraw those proposals that were less profitable, thereby the state paying a higher price for lesser-valued services.

In our opinion, these types of collaborations are not good public policy and may potentially create a restraint of trade prohibited by federal law.

As the highest scoring proposer, the Thomas group was awarded 10 groups, each representing different state agencies, under its contract. However, the Thomas group declined to accept three of the 10 groups. The second highest scoring proposer, Resolution Network, was awarded these three groups at a substantial increase in cost to the state.

The request for proposal did not obligate the winning proposer to accept any award. However, from a cost standpoint, the public's interest may have been better served if it had.

2. Inadequate Contract Review

Risk Management failed to properly review and correct the Thomas and Associates contract submitted to Contractual Review for approval. The contract contained a significantly higher fee than contained in the contractor's proposal. The improper fee increase, had it not been detected by an auditor from the Office of Inspector General, would have cost the state nearly \$770,000 if the maximum of the three year contract been reached.

According to its proposal, Thomas and Associates quoted hourly fees of \$60 for professional time, \$25 for travel time, and no charge for wait time. Professional time is defined in the request for proposal as the actual time rendering medical case management, vocational rehabilitation, and transitional duty services. Travel time is defined as the time required traveling to/from the nearest metropolitan city to the work site, worker's home, doctor's office, or agency of employment while performing covered services. Wait time is defined as the time expended waiting to see a member of the medical profession.

Based on a weighted formula in the request for proposal, the separate fee quotes translates to an average hourly rate of \$36.25 used for scoring the proposal. Cost represented 130 of the total 400 points a proposer could earn.

However, the contract submitted by Risk Management to Contractual Review for approval, contained hourly fees of \$65 for professional time, \$32.50 for travel time, and \$32.50 for wait time.

These fees translated to an average hourly rate of \$48.76, a 35 percent increase from the proposed fees.

The Risk Management review and approval process for the contract was inadequate.

Bonnie Fuller, Risk Management contracts reviewer, acknowledged typing the incorrect fees in the contract. She said she typed the Resolution Network contract before typing the Thomas and Associates contract. She said since the contracts were to use the same format, she typed the fees included in Resolution Network's contract to the Thomas and Associates contract.

Ms. Fuller said this was the first time she ever drafted contracts based on a request for proposal. She said she overlooked comparing the contract fees to the proposed fees to verify they were the same. She also said Ms. Whiteside assisted her with drafting the Thomas and Associates contract and a copy was submitted to Ms. Jackson for review.

Ms. Whiteside acknowledged that her office failed to perform any procedures to ensure the contract agreed with the request for proposal language and the proposal. She said she would implement procedures to help prevent recurrence of this type of error.

Ms. Jackson acknowledged that Ms. Fuller submitted the contract to her for review. She said she skimmed over it and did not review it line by line. She acknowledged missing the error.

Even after an Inspector General auditor advised Ms. Fuller, Ms. Whiteside, Ms. Jackson, and then Assistant Director Evon Wise of the fee increase, Risk Management failed to ensure corrections were made to the contract submitted to Contractual Review and its Procurement Support Team for final approval. The contract had been executed by Risk Management and Thomas and Associates and had received Civil Service approval.

Contractual Review refused to approve the contract until the error was corrected.

Mr. Keener, Ms. Wise, and Ms. Jackson, who attended a meeting of Contractual Review and its Procurement Support Team, said they thought their staff had corrected the error.

Risk Management would have overpaid the company nearly \$770,000 if the maximum amount of the three year contract had been reached and the error not detected.

Crawford and Company

State law provides that a state agency shall have full responsibility to diligently administer and monitor its contracts for services. Contrary to this law, Risk Management failed to adequately administer its contract with Crawford in several areas as follows:

1. Failure to Obtain Approved Contract

Risk Management approved and paid at least \$13,722 to Crawford for work performed without a contract and without approval of Contractual Review and Civil Service as required by state law. The company had a \$57,500 contract to audit the subrogation program, not to perform recovery. Risk Management improperly allowed Crawford to perform subrogation and recovery services on an hourly fee basis.

Subrogation is a right of action against a responsible third party to recover damages. At the time of the services, Risk Management had in-house claims adjusters assigned to pursue claims with subrogation potential.

Risk Management contracted with Crawford on March 12, 2000, to perform an audit of all selected subrogation claims and potential subrogation claims to determine whether they are being handled properly. The contract and subsequent amendments did not include subrogation and recovery services. The contract further provided that from the audit findings, Risk Management would determine if it should enter into a contract with an independent company for subrogation.

With a transmittal letter dated March 29, 2000, Crawford provided Mr. Keener a report detailing the findings and conclusions of its audit of the Risk Management in-house subrogation activities. The audit report indicated that Crawford's staff reviewed selected open (active) subrogation and workers compensation claims as well as selected closed workers compensation, transportation, and property claims. Risk Management adjusters said they were not aware that Crawford was auditing their processing of subrogation claims and were never advised of the audit findings.

Based on Crawford status reports to Risk Management dated after the audit report, the company shifted its primary activity from its audit mode under the contract to conducting subrogation and recovery activities that were outside the scope of the audit contract. Crawford's claim specialists issued subrogation notices, corresponded with injured state employees and their attorneys, corresponded with the adverse third parties and their carriers, and solicited and received recovery checks from the third

parties on behalf of Risk Management. These services were not included in the contract.

Risk Management paid Crawford \$50,648 under the audit contract. Crawford invoices reflect that at least \$13,722 of the \$50,648 was for subrogation and recovery services. The \$13,722 represents 274.5 hours at a \$50 hourly rate.

Ms. Jackson was the assigned liaison and monitor for the Crawford contract. As part of her duties, Ms. Jackson approved the company's invoices for payments.

Ms. Jackson denied that she personally assigned the claims to be subrogated. However, she acknowledged that the company would provide her a list of claim files it wanted pulled to determine subrogation potential. She would accommodate the request and the company proceeded with subrogation and recovery on some of the claims. In effect, Ms. Jackson gave tacit approval for the company's subrogation activities. This also allowed Crawford the opportunity to select the most promising, less difficult, and most profitable claims.

Ms. Jackson said she believes the contract extension and payments to Crawford are proper.

Mr. Keener said he delegated monitoring of this contract to Ms. Jackson. He said if there was supposed to be an amendment or new contract, Ms. Jackson would have been responsible.

David Eytcheson, Crawford contract manager, said he did not negotiate the contract but it was his understanding from Don Johnson, Crawford assistant vice president, that the company could pursue subrogation and recovery on files with lost opportunity. He said Mr. Johnson negotiated the contract. He also said Ms. Jackson was advised of claims being pursued.

Mr. Johnson said he did not recall discussing any scope changes with Mr. Keener during contract negotiations. Mr. Johnson said Mr. Eytcheson would not have moved forward without authority from Ms. Jackson. He assumed that Risk Management prompted any change in activity.

2. State Ethics Code

In its March 29, 2000, audit report, Crawford stated there was a lack of aggressive handling of open workers compensation subrogation cases, there was some lost opportunity for subrogation recoveries in closed workers compensation and property claims, and there was a lot of lost opportunity for subrogation recoveries in closed

transportation claims. The audit concluded there was potentially \$900,000 in recovery opportunities that should be aggressively pursued.

The Crawford audit report recommended Crawford be allowed to review all closed and open claims files and be assigned all identified subrogation claims for recovery pursuit. It included two pricing options for its services, a time and expense basis or a cost plus. In fact, Crawford did subrogation and was paid at least \$13,722 for these services.

By Crawford performing an audit of claims, which included findings and recommendations beneficial to its own economic enrichment, there may be a conflict of interest under the State Ethics Code.

3. Improper Travel

Risk Management paid Crawford \$12,101 travel expenses despite the contract not having a provision for travel reimbursement. State regulations require that contracts allowing travel reimbursement contain language consistent with state travel regulations.

The contract provided for the company to be paid \$50 per hour for each employee providing services. Absent of any other consideration provision in the contract, the hourly rate included expenses and profit.

Crawford submitted six invoices that contained travel expenses for company employees who conducted site visits on six occasions at Risk Management offices in Baton Rouge, Monroe, Shreveport, Lafayette, and Pineville.

The travel expenses consisted of airline tickets, rental cars, gas, hotels, and meal allowances. One invoice also included campground site rental and mileage for an employee who drove his travel trailer to Baton Rouge on one occasion.

Ms. Jackson approved the invoices for payment and the company was subsequently reimbursed for travel. No other approvals were required before payment was made.

When advised that the contract included no travel provision, Mr. Eytcheson said it was his understanding that the contract was for time and expense including travel.

Ms. Jackson, the assigned contract liaison and monitor, said she was not aware that travel expenses could not be paid. She said the invoices were sent to the Risk Management Accounting Section for payment and no one there told her it was not proper.

Pam Whiteside, administrator of the Accounting Section, said that if travel was to be reimbursed, it should have been included as a contract provision. Ms. Whiteside further stated that her office does not review invoices and relies on the office receiving services to ensure that billings are proper.

Mr. Keener said he was not aware of the specific contract terms and the invoicing of travel.

4. Failure to Deposit Check

Risk Management failed to deposit timely a \$16,172 recovery check received from Crawford subjecting the state to loss of interest and exposing the state to risk of loss or theft. The check is missing and was reissued by Crawford 19 months later.

With a transmittal letter dated April 27, 2000, to Ms. Jackson, Crawford remitted a \$16,172 check, drawn on its bank account and payable to the State of Louisiana, for subrogation recoveries the company received from liable third parties for the month on behalf of Risk Management.

In a faxed memorandum dated June 9, 2000, Ms. Jackson advised Mr. Johnson that she would be returning the check because the recoveries must be made payable to the Office of Risk Management directly by the third parties and not through Crawford. Actually, the procedure was not necessary. Regardless of the check being drawn on Crawford's account, Ms. Jackson should have ensured prompt deposit as required by state law.

It is not known if the check was returned to Mr. Johnson. Mr. Johnson stated he did not recall the memorandum or the check. Ms. Jackson said she did not recall the disposition of the check.

There appeared to be a breakdown of internal controls with respect to the check. According to an administrative manager, proper procedure requires that all cash receipts are received in the mailroom and recorded to a control log. A copy of the log and the checks should then be submitted to the Accounting Section for immediate deposit. Risk Management records showed no evidence that the check was recorded to the mailroom control log and deposited to the state account.

Based on proper procedure, Ms. Jackson should not have had possession of the check at any time. Ms. Jackson did not recall how she came to have possession.

On or around Nov. 28, 2001, approximately 19 months after remitting the check, Crawford advised Ms. Jackson that the check was never cashed. Crawford stopped

payment on the missing check and reissued a replacement check which has been deposited by Risk Management.

5. False Certification

Risk Management falsely certified to the director of Contractual Review that a cost benefit analysis had been conducted for the Crawford contract. A cost benefit analysis had not been conducted. State law requires that a written cost benefit analysis be conducted which indicates that obtaining services from the private sector is more cost-effective than the agency performing the services in-house.

As part of her administrative duties, Ms. Whiteside oversees the Contracts Unit, which is responsible for drafting agency contract and obtaining necessary approvals.

As part of obtaining Contractual Review approval for the Crawford contract, Ms. Whiteside, in a letter dated May 11, 2000, to the director of Contractual Review, certified that a cost benefit analysis had been conducted. Contractual Review approved the Crawford contract on June 2, 2000.

When asked for a copy of the analysis by an Inspector General auditor, Ms. Whiteside said she did not think one had ever been prepared. When questioned about making a false certification, she said the certification was made on a standard form letter issued by her staff on all new contracts.

Ms. Jackson, as contract monitor, said she did not know that the law required a cost benefit analysis.

Mr. Keener stated there was discussion and a determination made after a rational review. Regardless of his assertion, state law requires the preparation of a written cost benefit analysis to substantiate contract necessity and to ensure the best interest of the state is being realized.

6. Failure to Prepare Final Report

Risk Management failed to prepare a final contract performance report on Crawford. State law requires that a report, which includes evaluation of contract performance and an assessment of the utility of the final product be provided to the director of Contractual Review within 60 days after completion of the contract.

The contract terminated Sept. 11, 2001. According to state law, the report should have been provided to Contractual Review before Nov. 11, 2001.

In the May 11, 2000, contract approval request to the director of Contractual Review, Ms. Whiteside certified that the Contract Performance Evaluation form, a form serving as the final report, would be submitted to Contractual Review within 60 days after the contract is terminated. When questioned about the form, Ms. Whiteside said she did not have the form and Ms. Jackson would have been responsible for preparing it since her office received the services.

Ms. Jackson said she did not know about the law and the required form. She said she does not have a clear knowledge of contract requirements. She acknowledged that her unit and the Accounting Section were not on the same page with these matters.

Without the evaluation, Risk Management cannot substantiate that Crawford adequately performed and that the final product was beneficial to the state.

Conclusions:

1. Risk Management failed to adequately administer three of its workers compensation related contracts exposing the state to the loss or waste of hundreds of thousands of dollars.
2. Mr. Keener, then director of Risk Management, arbitrarily increased the Reimbursement Consultants contract contingency fee by 20 percent, from 12.5 to 15 percent, adding at least \$18,097 in cost to the state. Mr. Keener's attempted justification was an ineffectual and questionable change in scope, which the contract monitor termed "not practical." In fact, the state received no additional services or additional benefits. Reimbursement Consultants continues to receive the increased fees under the contract.
3. Risk Management allowed three companies to collaborate in submitting three virtually identical proposals on a competitive request for proposal. The three companies had three opportunities to win the award, which creates a procurement process fraught with potential conflict to the detriment of the state.
4. Risk Management failed to properly review and correct a contract with Thomas and Associates containing a significantly higher fee than contained in the contractor's proposal. The improper fee increase, had it not been detected by an auditor from the Office of Inspector General, would have cost the state nearly \$770,000 if the maximum of the three year contract been reached.

5. Ms. Jackson improperly approved at least \$13,722 of payments to Crawford for work performed without a contract approved by Contractual Review and Civil Service as required by state law.
6. Risk Management allowed Crawford to implement audit recommendations beneficial to its own economic enrichment, which may be a conflict of interest under the State Ethics Code.
7. Ms. Jackson improperly approved \$12,101 of travel reimbursements to Crawford despite its contract not having a travel provision.
8. Ms. Jackson failed to ensure that a \$16,172 recovery check she received from Crawford was forwarded to the Accounting Section for timely deposit. The check has been replaced.
9. The \$16,172 recovery check was not recorded to a control log in the mailroom and came into the possession of Ms. Jackson, a claims manager, in violation of proper internal controls.
10. Risk Management falsely certified to the director of Contractual Review that a cost benefit analysis had been conducted for the Crawford contract.
11. Risk Management failed to prepare a final report on contract performance by Crawford as required by state law.

Recommendations:

1. Risk Management should ensure employees are properly trained and knowledgeable of contract processing requirements.
2. Risk Management should pursue with Reimbursement Consultants recovery of the \$18,097 additional fees paid and a reduction of future fee payments to 12.5 percent.
3. The Division of Administration should review its policy on collaboration by proposers to assure that potential manipulation of proposals through myriad combinations does not corrupt the process.
4. Risk Management should ensure that contract provisions are consistent with the related request for proposal and contractor proposal.

5. Risk Management should seek recovery of the \$12,101 improperly paid travel reimbursements to Crawford.
6. Risk Management should ensure that all cash receipts are processed in accord with its procedures and deposited immediately.
7. Risk Management should ensure that all contract-processing requirements, to include cost benefit analyses and contract performance reports, are completed before contract approval.
8. Risk Management should prepare a final report on the Crawford contract and submit to Contractual Review.
9. The report will be referred to the appropriate authorities for review.

Responses:

Responses from Risk Management, Crawford & Co., and Reimbursement Consultants are attached. Seth Keener and Thomas and Associates did not provide a response to the report.

BL/GL

File No. 1-02-0011



State of Louisiana
DIVISION OF ADMINISTRATION
OFFICE OF THE COMMISSIONER

M. J. "MIKE" FOSTER, JR.
GOVERNOR

MARK C. DRENNEN
COMMISSIONER OF ADMINISTRATION

March 25, 2002

Mr. Bill Lynch
State Inspector General
Office of State Inspector General
P. O. Box 94095
Baton Rouge, Louisiana 70804

Dear Mr. Lynch:

Re: Response to File No 1-02-0011

This office appreciates the opportunity to provide a response to your draft report "Office of Risk Management Failed Contract Administration" dated February 28, 2002. Your report covered contracts to three firms, Reimbursement Consultants of Metairie, Thomas and Associates of Baton Rouge and Crawford & Co. of Dallas, Texas. As the report reflects both Recommendations and Conclusions I will attempt to address both as they relate to each contract.

REIMBURSEMENT CONSULTANTS: (Conclusion # 2 and Recommendation # 2)

Based upon my investigation this contract, to provide review and subrogation of Workers Compensation Second Injury claims previously performed by in house personnel, was initiated by the former director, Mr. Seth Keener. The contract for outside services was justified on the basis that due to a table of organization reduction, in-house personnel previously providing these services had to be transferred to other units to cover claims workload. An RFP was prepared, issued, proposals received and evaluated and Reimbursement Consultants selected. Your report is correct in that the contract fee was increased from 12.5% to 15% and as a consequent of the change additional fees were incurred. Your report fails to reflect that the former Contract Administrator Ms. Brenda Pinkerton brought this fee increase discrepancy to Mr. Keener's attention and that Mr. Keener instructed Ms. Pinkerton to process the contract with the 15% rate.

Your report asserts that the contract was inadequately monitored, with a statement that the contract monitor was Ms. Karen Jackson, the Worker's Compensation Manager. We acknowledge that the contract was not adequately monitored. After review, it is apparent that the staff is unfamiliar with contract monitoring requirements and has not either received or been afforded the opportunity to obtain training in this area in the past. While we concur with that fact we would also state that the report fails to state that the original contract, approved by OCR, failed to name a contract monitor (payments were to be approved by the State Risk

Mr. Bill Lynch
March 25, 2002
Page 2

Director, Mr. Keener. Mr. Keener did subsequently name Ms. Jackson as the contract monitor on March 19, 1999.

THOMAS AND ASSOCIATES: (Conclusions #3 & 4 and Recommendations # 3 & 4)

Your report states that in this contract award the process allowed collaboration between three companies and that the process "creates a procurement process fraught with potential conflict to the detriment of the state." It is important to note that the procurement law was followed in making the award and in addition legal opinions were requested on the process to provide additional assurances that the state's fiscal position was protected.

We concur that an error existed in the contract as originally submitted for approval to OCR. This occurred due to a failure by the Contracts Unit to adequately review the contract prior to submitting the contract for approval by OCR. The report is correct in that the Inspector General's Office did detect this error during its review and did report it to ORM management. The Office is currently in the process of revising policies and procedures to prevent future instances of this nature.

CRAWFORD & CO: (Conclusions 4, 6, and 11 and Recommendations 2, 5, 8 and 7)

The report asserts that ORM staff falsely certified to the director of OCR that a costs benefit analysis had been conducted for a contract when no such analysis had been performed. We acknowledged that a certification was made without the required analysis. As noted earlier it is acknowledged that the staff had little or no training in contract administration, management and reporting requirement. As a consequence the staff failed to understand the requirements and believed many contractual activities, including the certification process, were ministerial in nature. The staff has now been apprised the functions are not ministerial and corrective action in the form of obtaining additional training and modified policies and procedures are in process that will assist in preventing future occurrences of this nature.

The report properly recommends that a final performance report on the Crawford & Co. contract is performed which we concur in. A performance report will be completed and forwarded to OCR by May 31, 2002, on this contract.

Mr. Bill Lynch
March 25, 2002
Page 3

The report suggest that the agency should pursue recoupment on travel payments made under this contract, that the Inspector General's Office question as being valid. I have reviewed the contracts and certainly can understand the basis for the concern, however, I do not find the issue to be so clear as to concur without advice of counsel. I have forwarded to the Division's legal counsel the concerns raised by the IG's report and requested their input as to the validity and ability to make those recommended recoupments.

Finally, upon issuance of this report an inquiry will be made by this agency to the Board of Ethics as to whether the assertion by the Inspector General that a potential conflict of interest with regard to the services provided under the contract with Crawford and Co. exist. Based upon their response appropriate action will be taken.

In closing, the agency acknowledges that it failed to adequately monitor the three contracts in question. We also, acknowledge that the training provided the employees delegated these responsibilities was inadequate and that lack of training was the primary cause of the deficiencies noted. As stated above efforts have already occurred to address the training issue and additional training efforts have been planned and requested. In addition, the agency is in the process of revising internal policies and procedures to enhance contract administrative, management and reporting functions.

Sincerely,



Whitman J. Kling, Jr.
Acting State Risk Manager



Howard L. Rogers, Jr., AIC
Executive Vice President

March 7, 2002

Mr. Bill Lynch
State Inspector General
State of Louisiana
224 Florida Blvd.
Baton Rouge, LA 70804-9086

Dear Mr. Lynch,

We are in receipt of your correspondence dated March 1, 2002 directed to Mr. Don Johnson, AVP of Crawford & Company based in our Dallas office. Enclosed with that correspondence was a report regarding a recent review of the Office of Risk Management by the Office of the State Inspector General.

We have reviewed this information. Item #5 outlined in your review stated " Risk Management improperly paid \$12,101.00 in travel expenses to a contractor whose contract did not authorize the expenses". In the audit and pursuit of subrogation by our Subrogation Unit based in Tulsa, Oklahoma on behalf of clients we are usually paid on either a time and expense basis or a contingency fee basis. You are correct that our contract that began on March 12, 2000 and was extended was on an hourly fee basis. This was not properly routed through our normal internal review process. Had this taken place, we would have requested a correction to accurately reflect the work to be compensated on a time and expense basis

In regards to item #4 the report indicates that our scope of services were expanded beyond our initial audit contract to include subrogation recovery on an hourly fee basis. This is correct. We were provided with oral communications from the Office of Risk Management to pursue subrogation collection on behalf of the State of Louisiana. As such, we feel that we are within our rights to assert the hourly fees for the work that was performed.

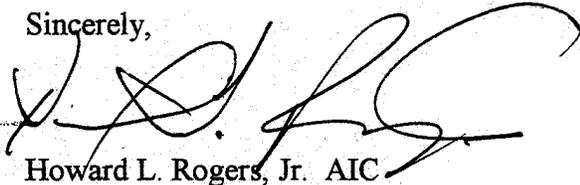
As a matter of record, during the course of this engagement we were able to subrogate on total dollars of \$534,707.00 with a net recovery of \$149,795.61. This amount greatly exceeds the total cost of our services in this matter.

In regards to your suggestion of a conflict of interest, in our opinion, we feel a conflict of interest did not exist. We were engaged to provide an audit on files that had subrogation potential that had been previously reviewed. This audit was done on an hourly fee basis. We were then engaged by the Office of Risk Management to pursue recovery of these subrogation claims on their behalf again on an hourly fee basis. Our fees represented 34% of the total amount recovered for the State of Louisiana. Typically, we provide these services on a time and expense

basis or on a contingency basis of 50%. We feel the outcome reflects that we acted ethically using sound fiduciary practices to the benefit of our client, State of Louisiana.

We have billed a total of \$63,683.05 for services to the Office of Risk Management. We have been paid a total of \$49,864.45. After the reductions for the travel expense that was excluded in our contract in the amount of \$12,101.00, there is a net amount owed for our services in the amount of \$1,717.60 that remains unpaid. We will reduce the outstanding accounts receivables by \$12,101.00 for the travel expenses. I trust that the outstanding accounts receivables amount can be resolved in a timely fashion. If I can be of further assistance on this matter, please feel free to contact me.

Sincerely,



Howard L. Rogers, Jr. AIC
Executive Vice President

Cc: Dave Eytcheson
Subrogation Unit Manager

Don Johnson
AVP, National Account Executive

Lucy Stroud
VP, Specialty Operations

Reimbursement Consultants, Inc.

Celebrating 20 Years of Excellence

March 5, 2002

Bill Lynch, Inspector General
State of Louisiana
Office of the Inspector General
224 Florida Blvd.
Baton Rouge, LA 7084-9096

Re: File No. 1-02-0011

Dear Mr. Lynch:

Your letter to Gary Knoepfler, Branch Supervisor of our Louisiana office has been referred to me for response.

Reimbursement Consultants, Inc. (RCI) responded to the Office of Risk Management's (ORM) October 23, 1998 RFP for Second Injury Fund recovery services. Our response was based on the terms outlined in the RFP. These terms did not contain a sixty-day waiting period before RCI could review cases and receive assignments, and I specifically addressed this issue at a contract discussion meeting with ORM. I was advised that Louisiana utilizes two vehicles to procure goods and services. One is an Invitation to Bid (ITB) and the other a Request for Proposal (RFP). The ITB includes strict specifications, which bind all parties. Once an ITB is released and bids are offered, the specifications cannot be changed. A RFP is subject to negotiation, even after a proposal is offered. Therefore, ORM took the position that the proposed contract and subsequent negotiations were proper.

Had the sixty-day waiting period been a part of the RFP specifications and because this would restrict our opportunity to receive assignments, our initial fee proposal would have been slightly higher. I can only assume that our competition would have viewed this situation the same way, and I doubt that this would have caused a fee reduction in their initial proposal. In addition, given the range of difference between our fee proposals, I do not think this issue created any competitive disadvantage.

I am not in a position to comment on the other issues addressed in the proposed audit comments.

In the final analysis, this contract went through an exhaustive review process and received the approval of:

1. Office of the Governor, Office of Contractual Review
2. Deputy Commissioner of the Division of Administration
3. Department of State Civil Service
4. 1st Assistant Attorney General

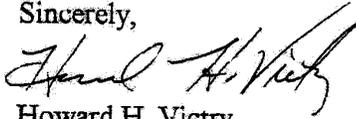
5037 SUNSET BOULEVARD
LEXINGTON, SOUTH CAROLINA 29072

(803) 957-6959
Fax: (803) 957-1126
www.rcirecoveries.com

Based on the above, I am somewhat surprised that this contract is now under scrutiny. I request that this letter be made a part of your final report. Please provide me with a copy of the final report.

Feel free to contact me if you need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Howard H. Victry". The signature is written in a cursive style with a large, sweeping initial "H".

Howard H. Victry
Vice President