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WSI PERFORMANCE EVALUATION

Legislation

The 1997 Legislature enacted North Dakota Century Code (NDCC) section 65-02-30 requiring a performance evaluation of Workforce Safety and Insurance (WSI) be conducted biennially. The statute's language initially required a "performance audit". The Attorney General's Office indicated that the use of the term "audit" required that the study be conducted by a CPA firm. The 1999 Legislature changed the term "audit" to "evaluation" to enable consulting firms with expertise in workers compensation to conduct the examination.

In order to ensure the performance evaluation was independently conducted, the statute provided the State Auditor's Office with the authority to determine the scope of the evaluation and to select the vendor to perform the evaluation. However, the Legislature in specific language in the statute required the performance evaluation to include certain topics. For example, each performance evaluation was required to include an evaluation of the effectiveness of fraud expenditures made by WSI (NDCC 65-02-23). In addition, at least every other performance evaluation was required to include an evaluation of the effectiveness of safety and loss prevention programs as well as whether the board of directors was operating in accordance with state law and the board's bylaws (NDCC 65-02-30). Finally, at least every other performance evaluation was required to include an evaluation of departments of WSI to determine whether they are providing quality services in an efficient and cost effective manner (NDCC 65-02-30).

The 2009 Legislature significantly changed the parameters surrounding the process used to determine the scope of the WSI performance evaluation. As stated previously, the State Auditor's Office made the final determination about what areas of WSI would be reviewed during the performance evaluation. As a result of changes adopted by the 2009 Legislature, the Workers' Compensation Review Committee may now select up to four elements to be included in the performance review. The State Auditor's Office will select the remaining elements up to a maximum of 8 elements total. The statute does allow the maximum number of elements to be exceeded in "exceptional circumstances".

Process Followed for Past WSI Performance Evaluations

There have been six performance evaluations conducted on WSI since the legislation passed in 1997. Typically the steps in the process were:

- a) The State Auditor's Office contacted WSI and requested that WSI identify specific areas that WSI would like to be included in the performance evaluation. WSI was generally given at least a month to respond;
- b) The State Auditor's Office gathered information on potential areas to include in the WSI performance evaluation. Sources included but were not limited to: WSI financial auditors; issues from past legislative sessions, other state's findings in related areas etc;

- c) The State Auditor's Office developed a request for proposal (RFP). WSI was provided a chance to review the scope of services section and to comment on any concerns they had (if any) with the elements included;
- d) The RFP was issued to vendors nationally and the RFP was posted on the State Auditor's website. Generally the vendors were given 2 months to submit proposals for the project. Any questions that vendors have were answered by the State Auditor's Office;
- e) Once the State Auditor's Office received all proposals by the deadline provided in the RFP, a copy of the proposals was provided to WSI for their comments. The State Auditor's Office ultimately made the final decision on which vendor was selected and a contract was entered into;
- f) A draft report was received by the State Auditor's Office as well as WSI. WSI was provided time to formally respond to all formal recommendations in the draft report;
- g) The final report was presented to the Legislative Audit and Fiscal Review Committee as well as to a legislative committee (usually the Industry, Business and Labor Committee) during the next legislative session.

Process to be Followed for Future WSI Performance Evaluations

The process to be followed for future WSI Performance Evaluations will have changes however the overall process will be very similar. The legislation passed by the 2009 Legislature will mean that the scope of the performance evaluation will be determined by both the Workers Compensation Review Committee (up to 4 elements may be selected by the committee) and the State Auditor's Office (total of 8 elements to be included unless exceptional circumstances exist).

In addition, the final report is required to be presented to the Workers Compensation Review Committee instead of the Legislative Audit and Fiscal Review Committee. Finally, the legislation also eliminated the requirement that the performance evaluation included specifically identified elements.

The State Auditor's Office will continue to issue the RFP, as well as make the final decision as to which firm will be awarded the contract. The State Auditor's Office will also continue to identify a project coordinator to ensure the performance evaluation process is timely and proceeds smoothly.

Past WSI Performance Evaluation Costs and Recommendation Totals

2004 Performance Evaluation---Cost \$146,720---59 Formal Recommendations

2006 Performance Evaluation---Cost \$128,190---109 Formal Recommendations

2008 Performance Evaluation---Cost \$196,920---46 Formal Recommendations