

Audit Highlights



Highlights of Legislative Auditor report on the Office of Labor Commissioner issued on April 12, 2011. Report # LA12-02.

Background

The Office is responsible for enforcement of all labor laws not specifically vested in any other officer, board, or commission. The Office does not enforce statutes related to unemployment, workers compensation, workplace safety, employment discrimination, and public employees. Major responsibilities of the Office are: (1) to investigate complaints (referred to as claims) received from employees claiming their employer did not pay them the correct amount of wages, and (2) to establish and monitor the prevailing wage rates on public works projects.

The agency has an office in Las Vegas and in Carson City. As of September 2010, it had 18 employees. The Office is funded entirely by a General Fund appropriation. Expenditures were about \$1.42 million in fiscal year 2010. The Office also has a bank account under its custody. The account is used to deposit money received from employers and to write checks to claimants. Total deposits into the account in 2010 were a little over \$1.9 million.

Purpose of Audit

The purpose of this audit was to determine if the Office of Labor Commissioner has: (1) effective controls to safeguard the receipt and disbursement of claim monies, (2) sufficient controls in place to ensure the timely resolution of wage claims, and (3) sufficient and reliable information for management and external parties. Our audit focused on wage claims in fiscal year 2010, but included prior fiscal years for procedures concerning contractors with multiple substantiated claims.

Audit Recommendations

This audit report contains five recommendations to improve safeguarding of cash received from employers on behalf of claimants. In addition, the report has three recommendations to help ensure wage and hour claims are resolved timely. Finally, there are four recommendations to improve the information available to supervisors that monitor claim investigations and to external parties.

The Office accepted the 12 recommendations.

Recommendation Status

The Office's 60-day plan for corrective action is due on July 7, 2011. In addition, the six-month report on the status of audit recommendations is due on January 9, 2012.

Office of Labor Commissioner

Department of Business and Industry

Summary

By modifying its longstanding practices, the Office can get money to claimants faster, eliminate many time-consuming tasks performed by staff, and reduce the risk of money being lost or stolen. The current process for remitting money to claimants is inefficient and delays the delivery of money to claimants by 2 to 3 weeks. Most of the inefficiencies are a result of the Office's practice of depositing money received from employers into its outside bank account and then writing checks to disburse the money to claimants. Significant improvements can be achieved by sending checks received from employers directly to claimants, as is done in other states.

Although the Office resolved many claims timely, it can improve the effectiveness of its claim investigations by monitoring timeliness better, assessing penalties more consistently, and reporting amounts unpaid by employers to the State Controller to pursue collection. Finally, sufficient and reliable management information is needed to oversee investigations and to report important information to external parties, including the Governor, Legislature, and State Contractors' Board.

Key Findings

The information system used to record the collection and disbursement of cash held in an outside bank account is not adequately secured. Weaknesses included inadequate passwords, a lack of edit logs to track which employee creates or modifies a record, and the ability to modify system information at any time. These weaknesses increase the risk fraud could occur and go undetected. This account had disbursements of \$1.9 million in fiscal year 2010.

The Office's process for remitting money to claimants is inefficient and delays the delivery of money to claimants by 2 to 3 weeks. Most inefficiencies are a result of the longstanding practice of depositing money received from employers and then writing checks to claimants. Other inefficiencies come from the information system itself. Other states remit checks directly to claimants, which eliminates many tasks required by the Office's current process.

For most of the wage and hour claims filed, the employer did not object and therefore remitted money to the Office, which then forwarded the money to the claimant. However, when the employer filed an objection to the claim, the Las Vegas office often did not take timely action to resolve the claim. Some claims remained open for several months or even years without any action. Delays can cause financial hardship to workers and their families.

Penalties were not always assessed correctly or consistently. In 7 of 24 claims, the penalty was not calculated using the correct number of days as outlined in statute. In 12 of 24 claims, the penalties were not consistent with the Office's informal policy. The differences included some claims where the employer paid less than the required penalty, but the Office accepted the lesser payment without documenting why it was accepted or supervisory approval.

In fiscal year 2010, the Office did not report to the State Controller over \$1.7 million in debts owed by employers to the Office on behalf of claimants. When debts are not reported, the Controller is not able to pursue actions to collect monies owed to claimants.

The Office's information system does not provide sufficient and reliable information necessary to track and monitor wage and hour claim investigations. Specifically, the system can only be queried to show basic information such as the number of claims. Also, the Office had to review each of the almost 2,800 claims opened during the year to compile information for a performance measure, since the system could not provide the information.

NRS 607.165 requires the Office to notify the State Contractors' Board when three substantiated claims have been made against a contractor in a 2-year period. The Office has not notified the Board in part because the Office's information system is not capable of easily identifying such contractors. Based on multiple queries of the system data and review of files, we identified 13 contractors with 3 or more claims in a 2-year period.

The Office has not prepared a report of its activities for external parties, including information on claims it investigated. NRS 607.080 requires the Commissioner to prepare a biennial report for the Governor and Legislature that includes statistical information relating to the Office's statutory objectives. Without such data, decision-makers might not have the information they need to make informed decisions regarding labor related trends.