

BWC Board of Directors
Audit Committee
Thursday, May 29, 2008, 4:00 P.M.
William Green Building
Neil Schultz Conference Center
30 W Spring St, 2nd Floor (Mezzanine)
Columbus, OH 43215

Members Present: Kenneth Haffey, Chair
Philip Fulton
William Lhota

Members Absent: None

Other Directors Present: Charles Bryan, James Harris, James Hummel, Jim Matesich, and Larry Price

Call to order

Mr. Haffey called the meeting to order at 4:04 PM and the roll call was taken.

Minutes of April 24, 2008

The minutes were approved on a motion by Mr. Lhota, seconded by Mr. Fulton without further changes.

New business / Action items

1.Rule Review

Proposed Rule 4123-21-03.1

Tom Sico, Assistant General Counsel, presented proposed Rule 4123-21-03.1. This is an emergency rule in response to Senate Bill 323, which created the mine safety fund to be administered by the Department of Natural Resources. The bill has been passed by the House and Senate, and should be signed by Governor Strickland shortly. The bill is emergency legislation to preserve public peace, health and safety, and will take effect immediately upon signature, so any proposed emergency rule must also be ready to take effect. Section 4131.03 gives the Administrator the power to promulgate rules, with the advice and consent of the Board, and to transfer investment earnings from the pneumoconiosis fund to the mine safety fund.

Mr. Sico reviewed the common sense business regulation checklist and noted there was abundant stakeholder participation in developing the rule. Mr. Haffey suggested that the checklist for all rules to be reviewed in the future include all questions, including those questions that may not be applicable to the rule at issue. Any questions that may not be applicable should be noted as such.

Mr. Sico reviewed the text of proposed Rule 4123-21-03.1, noting one minor change to paragraph 1 which should read "section 4131.03(B)(2)". The rule contains various checks and balances for fund

transfers and was developed by John Pedrick, Chief Actuarial Officer, and Bruce Dunn, Chief Investments Officer.

Emergency rules are not uncommon. Mr. Sico stated that 21 executive orders for emergency rules were issued in 2007. They are only effective for 90 days. During this time period, the rule will be filed and proceed through public hearing and JCARR review. Mr. Lhota raised the issue of whether Committee and Board motion was the proper method for approval of the rule. Mr. Price and James Barnes, Chief Legal Officer, provided assurances that the procedures were appropriate.

Mr. Fulton moved to recommend approval of the proposed Rule 4123-21-03.1 to the Board of Directors, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote.

b. Subcommittee Charter Amendment

Mr. Lhota moved to accept draft charter language, as corrected by the Governance Committee, allowing the creation of subcommittees, seconded by Mr. Fulton. The motion was approved by unanimous roll call vote.

Discussion items

1. FY 08 3rd Quarter Executive Summary

Joe Bell, Chief Internal Auditor, reviewed several items from the 3rd Quarter Executive Summary, beginning with three new audits. The first involved the Transitional Work Grant Program closeout. Internal Audit concluded the grants were reasonable and quality assurance accurate. Mr. Fulton asked if the program would be reinstated. Administrator Ryan replied there was no plan to do so at this time.

The second new audit involved MCO Audit #3. Internal Audit was pleased with the findings and internal controls are adequate.

The third new audit concerned the Medical Bill Payment Process Audit. Seven recommendations were noted, most significantly a Material Weakness in determining actual administrative costs associated with bill processing. Internal Audit recommends evaluating costs in a more regimented manner, utilizing benchmarks and key performance indicators. Management disagrees this is a Material Weakness, as actual BWC costs and reasonable vendor costs can be determined. Other recommendations in this comment include investigating shortening the 2-year statute of limitations for medical bill payments, and eliminating the levels and backlog of ADR appeals. Robert Coury, Chief of Medical Services and Compliance, explained the ADR process and the involvement of BWC, the MCO and the IC. Mr. Fulton commented that those who represent injured workers encourage changes to the ADR process. Mr. Bell elaborated that further evaluation, including reviewing processes in other states, was needed to determine if a shorter window of time for submitting medical bills would be more efficient.

Mr. Bell proceeded to review the outstanding comments and several statistical charts. Outstanding comments have decreased 23% in the past year, and 76% of the remaining comments will be addressed through implementation in the next six months, including 75% of material comments. IT comments are not included in these calculations, as they involve large systemic changes and

would unfairly skew the figures. It was noted that outstanding comments now reflect both the original and revised target dates.

Mr. Fulton raised an issue as to the outstanding comment on page 5 of the Summary regarding Bankrupt Self-Insured Claims and the issuance of an RFP to study the impact of permitting Social Security Retirement benefits against PTD awards. Mr. Fulton moved for the Committee to ask BWC to withdraw the RFP. The motion was not seconded and was later withdrawn by Mr. Fulton. After an extended discussion, it was clarified by Administrator Ryan and Mr. Bell that the RFP is part of the Deloitte study and is a fact-finding mission. More research is needed before any policy recommendation can be made. In addition, Mr. Bell noted that if management accepts the risk of not taking corrective action recommended by Internal Audit, it will be forwarded to the Administrator for further review.

Mr. Bell advised the June 2008 meeting will include presentation of the FY 09 Audit Plan. He also reviewed changes to the FY 08 Audit Plan and Internal Audit's focus for 4th Quarter FY 08. A planned review of the Adjudication process will be delayed until FY 09 so that newly-developed procedures can be implemented.

2. Office of Budget and Management, Internal Audit Update

Mr. Bell distributed the OBM implementation plan report approved by the Controlling Board on May 19, and reviewed the report summary in detail. BWC is in a unique position because it already has an appropriate internal audit structure. Any proposed transfer of BWC staff to the Office of Internal Audit would not occur until FY 2010.

Mr. Haffey noted field work began on the External Audit on May 19.

3. Inspector General Report Responses

Brian Walton, Labor Relations Director, discussed four recent Inspector General Reports:

1. An anonymous complaint in August 2007 prompted an investigation of the director of office services for alleged misuse of a state vehicle, falsification of time records, and improperly promoting a subordinate. No conclusive evidence of wrongdoing was found, however, the IG did make recommendations. BWC provided a response on May 22 noting the updating of work hour and telecommuting policy, reminding **employees** to use comments to record schedule deviations, and revoking permission for the employee in question to work from home.
2. In December 2007, an investigation of an external auditor was conducted which found 16 falsifications, including forged employer signatures, improperly conducting audits by phone, and receipt of improper mileage reimbursement. The Inspector General reported these findings to the county prosecutor. The employee was fired for unrelated job performance issues. After filing a grievance, the employee was permitted to resign. A review is in progress of the audits conducted by this employee. The immediate supervisor was disciplined with a 10-day suspension.
3. In May 2008, we received two reports where employees were investigated for misuse of resources (computer and e-mail) for personal business. One employee received a 10-day

suspension. Discipline is being reviewed for the other employee, including potential removal.

Mr. Price inquired as to details reported in media coverage of the Inspector General's investigations. Administrator Ryan replied that the reports are available to the public on the Inspector General website.

4. Other Business

Mr. Haffey moved for recess to executive session, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote. The Committee entered executive session at 5:45 for presentation of the Litigation Update by Mr. Barnes.

At 6:05, Mr. Haffey moved to conclude the executive session, seconded by Mr. Lhota. The motion was approved by unanimous roll call vote.

Adjournment

The next Audit Committee meeting is June 26, 2008 at 4:00 PM.

Mr. Haffey moved to adjourn the meeting at 6:06 PM, seconded by Mr. Fulton.

Prepared by Jill Whitworth, BWC Staff Counsel
May 30, 2008