

Audit of the Orange County Risk Management Division

**Report by the
Office of County Comptroller**

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October 3, 2005

Richard T. Crotty, County Chairman
And
Board of County Commissioners

We have conducted an audit of the Risk Management Division. The audit was limited to a review of Risk Management's responsibilities to administer claims and monitor safety conditions, training, and environmental projects. The period audited was October 1, 2002 through December 31, 2003. Our audit was conducted in accordance with generally accepted government auditing standards, and included such tests as we considered necessary in the circumstances.

Responses to our Recommendations for Improvement were received from the Manager of the Risk Management Division and the Human Resources Division and are incorporated herein.

We appreciate the cooperation of the personnel of the Risk Management Division during the course of the audit.

Martha O. Haynie, CPA
County Comptroller

c: Ajit Lalchandani, County Administrator
Eric Gassman, Director of Fiscal Management
John Petrelli, Risk Manager, Risk Management Division
Ricardo Daye, Manager, Human Resources Division

EXECUTIVE SUMMARY

Executive Summary

We have conducted an audit of the Orange County Risk Management Division. The objectives of this audit were to ascertain that there is a comprehensive and effective risk management system in place that proactively identifies and corrects or mitigates risk for the County. To achieve this overall objective, we reviewed the adequacy of the monitoring of safety conditions; the overall effectiveness of Risk Management's oversight of claims administration; whether Risk Management has adequate procedures to ensure County employees are receiving the training required by the County's Safety and Health Manual; and whether Risk Management is taking appropriate steps to prevent or mitigate environmental losses. The audit period was October 1, 2002 through December 31, 2003.

The Risk Management Division's (Risk Management) primary role is to identify risks within the County and then take steps to correct or mitigate the risks. The efforts of the Risk Management Department are spread throughout the County.

In our opinion, Risk Management's policies and procedures set to identify and correct or mitigate risk are adequate. Specifically, Risk Management has adequate oversight of the monitoring of safety conditions, claims administration, training and oversight of supported environmental projects. However, Risk Management does not have adequate oversight over the expenditures of the third party administrator of claims. Improvements are needed as summarized below and outlined in this report.

In managing the overall County risk, we made recommendations to Risk Management to improve their inspection program by identifying all County property, performing a formal risk analysis, developing a standard checklist, performing surprise inspections, and providing all safety recommendations in writing. We also suggested Risk Management improve their monitoring of the required employee physical examinations. Finally, with respect to overall risk, we recommended Risk Management work with the Purchasing Department on contract review and develop detailed procedures of reporting real property purchases to the County's insurance carrier.

Within the training and risk awareness area, we suggested Risk Management improve their procedures ensuring that all County personnel receive adequate safety training. In addition, we recommended Risk Management improve procedures when potentially unsafe drivers are identified.

As to Risk Management's efforts to manage the environmental risk that the County faces, we recommended that all purchases and leases be routed through Risk Management for review. We also suggested Risk Management improve their fuel tank monitoring procedures and the administration of the environmental services contracts.

The County is self-insured and all liability claims are paid through a third party administrator (TPA). Risk Management is responsible for overseeing the TPA. We made numerous recommendations on improving this oversight. Among them, we suggested Risk Management (not the TPA) select the sample of files to review as part of the bi-annual review process. With regards to claim payments, we noted Risk Management did not approve 22 percent (\$320,720) of the total paid to the TPA for claims during March and April 2004 and, we therefore recommend all claim payments are approved in advance of issuance. We also found that the TPA was over reimbursed for certain claims which prompted Risk Management to conduct a full review of the claim files finding that the TPA was overpaid \$116,000. The TPA has reimbursed this amount to the County.

Two recommendations were made to the County regarding testing for drugs and alcohol of those holding commercial drivers licenses.

Risk Management and HRD concurred or partially concurred with all but three of the thirty Recommendations for Improvement. Corrective action is either underway, planned, or completed.

ACTION PLAN

**AUDIT OF THE RISK MANAGEMENT DIVISION
ACTION PLAN**

NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
1.	We recommend Risk Management identifies all buildings subject to inspection and perform a documented risk analysis. An inspection plan can then be developed taking into consideration available resources and relative risk. The risk analysis and inspection plan may require the Safety and Health Manual to be updated.	✓			Completed	
2.	We recommend Risk Management uses a standard checklist that notes compliance as well as deviations, not limited to, but including the following: review of Material Safety Data Sheets; review of Job Safety Analysis/Risk Assessments; and review of department/division Safety and Health policies.		✓		Completed	
3.	We recommend Risk Management be given the authority to perform periodic surprise inspections through the Administrative Regulations.	✓				✓
4.	We recommend Risk Management develops procedures to document each safety recommendation to the appropriate level of management. Further, consideration should be given to preparing an annual report to be distributed to County Administration and the Risk Management Committee compiling the status of all the recommendations made.	✓			Completed	
5.	We recommend Risk Management, in addition to providing a copy of the Safety and Health Manual to the contractor, works with the Purchasing and Contracts Division to require that contractors follow safety guidelines set forth in the manual.	✓				✓

**AUDIT OF THE RISK MANAGEMENT DIVISION
ACTION PLAN**

NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
6.	We recommend Risk Management creates a list of positions that requires annual physicals, updates it periodically, and implements a monitoring program that would ensure that all required employees are receiving an annual physical.			✓		
7.	We recommend Risk Management works with the Purchasing and Contracts Division to implement written guidelines to specify what contracts get routed to Risk Management for review and comment.	✓				✓
8.	We recommend Risk Management develops detailed procedures of reporting purchased real property to the Broker. Also, Risk Management should develop and implement procedures to ensure their list of properties is complete and accurate.	✓				✓
9.	We recommend Risk Management better coordinates with County departments to ensure health and safety training needs are met for specific job functions. Further, training assessment and verification should be incorporated into the inspection process.		✓		Completed	
10.	We recommend Risk Management develops procedures to notify County managers when personnel are identified as potentially unsafe drivers. In addition, Risk Management should maintain a record of the corrective action recommended and taken by the employee's department/division.	✓			✓	

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ACTION PLAN**

NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
11.	We recommend Risk Management requests the County to add a requirement in the Administrative Regulations that all building/land purchases/leases be routed through Risk Management. This would allow for Risk Management to decide whether to perform an environmental site assessment prior to purchasing/leasing.	✓				✓
12.	We recommend Risk Management:					
A)	Maintains a complete list of all County Fuel tanks;	✓				✓
B)	Develops a procedure to ensure periodic fuel tank inspections are performed and considers reviewing monitoring processes by the department/division during inspections; and,	✓				✓
C)	Includes fuel inventory as part of the fuel tank inspection process.	✓				✓
13.	We recommend Risk Management:					
A)	Ensures rates contained in bid proposals and invoices do not exceed those specified in the contract document; and,	✓			Completed	
B)	Retains a complete copy of the contractual document until all purchase orders written under the contract are closed.	✓			Completed	
14.	We recommend Risk Management:					
A)	Only authorizes services that are within the scope of the contract; and,	✓			Completed	
B)	When possible, utilizes the new environmental services contract for long-term services instead of the expiring contract.	✓			Completed	

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NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
15.	We recommend Risk Management selects the sample of claim files from the TPA to review for the bi-annual performance review.	✓			Completed	
16.	We recommend Risk Management and the Comptroller's Office develop a system to ensure the appropriate approvals are obtained for payments to the TPA. In addition, Risk Management should work with the Comptroller's Finance and Accounting Department to establish a procedure for reconciling payments issued to payments approved by Risk Management.	✓			Completed	
17.	We recommend Risk Management obtains adequately supported invoices for all future allocated expenses payable to the TPA and perform periodic audits of such expenses. Also, Risk Management should work with the TPA to determine the net effect of the non-compliant invoices and seek reimbursement.	✓			Completed	
18.	We recommend Risk Management approves the initial and subsequent monthly assignments of a Nurse Case Manager and ensures that the TPA is billing for the Telephonic and Field Nurse Case Managers appropriately.	✓			Completed	
19.	We recommend Risk Management ensures that the TPA maintains the required documentation and that a periodic review is done of subsidiary charges to determine if the County is being charged properly for services.	✓			Completed	
20.	We recommend Risk Management works with the TPA to identify and log all subrogated claims. Also, status reports should be obtained and monitored relative to subrogated claims from the TPA on a regular basis.	✓				✓

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ACTION PLAN**

NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
21.	We recommend Risk Management works with the TPA to obtain reimbursement for the amounts paid in excess of the contractual requirements. In addition, all contractual changes should be documented as a contract amendment and signed by the appropriate parties.	✓			Completed	
22.	We recommend Risk Management obtains competitive bids or price quotes for services currently performed by subsidiaries of the TPA in current and future contracts.	✓			Completed	
23.	We recommend Risk Management develops and implements a form used by all departments/divisions that would be filled out when an employee returns to work from a workers compensation paid absence. This form would be forwarded to Risk Management, which would then notify the TPA that the employee has returned to work.			✓		
24.	We recommend Risk Management coordinates with Purchasing and Contracts to amend the County's Interlocal Risk Management Agreement and the Broker Contract to reflect the County's required rating for insurance providers. We further recommend the Broker contract be amended to require the Broker to monitor and notify the County of the ratings of all its providers.	✓			Completed	
25.	We recommend the County considers providing the department managers with the names of the employees that are to be randomly tested for drugs and alcohol on the day of testing. Further, employees who miss the test (due to an acceptable reason) should report for the test immediately upon return to work.			✓		

**AUDIT OF THE RISK MANAGEMENT DIVISION
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NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
26.	We recommend the County improves procedures to ensure all CDL drivers, who perform safety sensitive functions requiring a CDL, are included in the list used by the Human Resources Division to select a random sample of employees for alcohol and drug testing.	✓				✓

INTRODUCTION

Background

The Risk Management Division's (Risk Management) primary role is to identify risks within the County and then take steps to correct or mitigate the risks. Risk Management administers the self-insurance program for all members of the Orange County Interlocal Risk Management and Self Insurance Agreement (Interlocal Agreement). This includes monitoring and analyzing claims (workers' compensation, liability, and property) as well as working with members to reduce the volume of claims. To help reduce the volume of claims, Risk Management maintains a Safety Program. Policies and procedures of the safety program are outlined in the Safety and Health Manual (Manual), which all members of the Interlocal Agreement are required to follow. Members of the Interlocal Agreement are the Orange County Board of County Commissioners, Orange County Clerk of the Circuit and County Court, Orange County Comptroller, Orange County Property Appraiser, Orange County Supervisor of Elections, Orange County Tax Collector and Orange Blossom Trail Development Board.

A Third Party Administrator (TPA) handles all claims with Risk Management along with the Risk Management Committee in an oversight role. The Risk Management Committee consists of five members: one is appointed by the Orange County Comptroller, another is appointed by the Orange County Office of Management and Budget and three are rotational members, as stated in the Interlocal Agreement. In fiscal year 2002-2003, 2117 claims were paid totaling \$5,915,742. The TPA was paid approximately \$1.2 million dollars to administer these claims. This does not include allocated expenses, such as nurse case management, appraisals, surveillance, vocational rehabilitation, etc.

As part of their responsibilities, Risk Management is charged with ensuring compliance with the guidelines set forth in the Manual and for monitoring safety conditions. Risk Management addresses this responsibility through the performance of inspections. Inspections also allow Risk Management to have a presence throughout the County and remind employees of the importance of safety.

The Manual lists responsibilities of management as well as employees that help establish a safe work environment. It details required training and best practices to be used for certain high-risk jobs (such as working in confined areas, working with chemicals or working with blood, etc.). Risk Management provides direct training as well as coordinates training that requires more expertise with outside organizations.

Risk Management also plays a role in environmental projects. Risk Management supervises site assessments on prospective properties to determine the extent of pollution and required clean-up, if applicable. Risk Management oversees numerous clean-up projects that take place throughout the County.

Scope and Objectives

The audit scope was limited to a review of Risk Management's responsibilities to administer claims and monitor safety conditions, training, and environmental projects. The audit period was October 1, 2002 through December 31, 2003.

The overall objective of our audit was to ascertain that there is a comprehensive and effective risk management system in place that proactively identifies and corrects or mitigates risk for the County. To achieve this overall objective, we targeted the following risk areas:

- A) The adequacy of the monitoring of safety conditions;
- B) The overall effectiveness of Risk Management's oversight of claims administration;
- C) Whether Risk Management has adequate procedures to ensure County employees are receiving the training required by the County's Safety and Health Manual; and
- D) Whether Risk Management is taking appropriate steps to prevent or mitigate environmental losses.

Audit methodology can be found in Appendix B.

Overall Evaluation

In our opinion, Risk Management's policies and procedures set to identify and correct/mitigate risk are adequate. Specifically, Risk Management has adequate oversight of the monitoring of safety conditions, claims administration, training and oversight of supported environmental projects. However, Risk Management does not have adequate oversight over the expenditures of the third party administrator of claims. Improvements are needed as outlined in this report.

RECOMMENDATIONS FOR IMPROVEMENT - RISK

1. Risk Management Should Perform a Documented Risk Analysis and Ensure Their List of Buildings is Complete

Risk Management’s annual inspection plan does not list all buildings subject to inspection. We also noted that no documented formal building risk analysis prioritizing County departments/divisions and facilities by risk had been performed. Section 3.3 of the Safety and Health Manual states, “Risk Management will perform at a minimum, annual inspections of the facilities and work sites.” Risk Management does not inspect all buildings on an annual basis because they believe they do not have the necessary resources. However, if a formal risk assessment with complete and accurate listings of buildings subject to inspection (categorized by risk and/or potential unsafe work conditions) was prepared, it might be discovered that all buildings need not be inspected annually.

We Recommend Risk Management identifies all buildings subject to inspection and perform a documented risk analysis. An inspection plan can then be developed taking into consideration available resources and relative risk. The risk analysis and inspection plan may require the Safety and Health Manual to be updated.

Management’s Response:

Concur - Implemented

Risk Management concurs with this recommendation. Effective January 2005, we have changed our inspection process to initially inspect all county facilities. Instead of having one Safety Analyst perform all of the inspections for an assigned department, three analysts are working as a team to complete an overall inspection of all of the county’s facilities over a 12-month time period. A master report will be generated with recommendations that will then be re-inspected 30 days after each individual department has received the report. The results from these inspections will help to determine which facilities to focus more closely on in

the future. We will incorporate this change in the Safety and Health Manual the next time it is updated.

2. Risk Management Should Enhance Their Inspection Procedures

During our review of inspections performed by Risk Management, we noted the following:

- No evidence was provided showing that Material Safety Data Sheets (MSDS) were reviewed during inspections. MSDS are sheets maintained on all chemicals, describing the contents of the chemicals, how to store the chemicals, and what to do if someone is exposed to the chemical. MSDS are required in the Hazard Communication Program, section 8.22.1 of the Safety and Health Manual. If these sheets are not maintained, employees may be harmed due to incorrect handling and may not get the medical attention needed.
- Risk Management does not request Job Safety Analysis/Risk Assessments as part of the inspection process. Section 4.3 of the Safety and Health Manual states the following: “By performing a Job Safety Analysis/Risk Assessment, job tasks are evaluated to identify hazards involved.” If Risk Management does not review Job Safety Analysis/Risk Assessments, all the components of the position may not be identified. Opportunities for training could be missed and employees could harm themselves, other employees or citizens.
- Policies and procedures relating to safety and health issues maintained by the departments/divisions are not reviewed. Section 1.0 of the Safety and Health Manual states the following: “Specific job-related safety procedures can be found in each Department’s safety policies and procedures manual.” Risk Management should be reviewing these policies and

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procedures for uniformity to the Safety and Health Manual. If Risk Management does not review them, there may be practices in departments/divisions that conflict with Risk Management's own practices and potentially harm the employee.

A standard checklist was not used to document all areas of review. A checklist should be used and retained to evidence all areas inspected/reviewed, to ensure no areas are overlooked, and to note exceptions, violations or non-compliance. Without adequate inspection procedures, unsafe work environments may lead to harm to employees and citizens.

We Recommend Risk Management uses a standard checklist that notes compliance as well as deviations, not limited to, but including the following: review of Material Safety Data Sheets; review of Job Safety Analysis/Risk Assessments; and review of department/division Safety and Health policies.

Management's Response:

Partially Concur - Implemented

In January 2005, Risk Management requested and received an updated HAZMAT program from each division within the County. The information received from each division included documentation of MSDS and safety programs for chemical storage. Rather than reviewing this information during the inspection, however, an update will be requested on an annual basis and the inspections will be utilized to validate the programs as submitted. Additionally, Risk Management has been working with the Environmental Protection Division to explore the potential for adopting and implementing an Environmental Management System program, which includes a chemical maintenance component.

In reference to the second item noted in this recommendation, Risk Management does not review the Job

Safety Analysis/Risk Assessments as part of the inspection process due to the extremely large number of job descriptions that exist within the County. It would be impractical given the restraint of having three inspectors to review each of these during an inspection. Even with this restraint, Risk Management agrees that it is necessary to conduct inspections with a focus on the hazards associated with specific jobs. As an alternative, beginning in January 2005, Risk Management began utilizing JJ Keller safety inspection software that identifies hazards by job types. The software allows inspections to be customized by job type and relates safety requirements to OSHA, NFPA and EPA standards.

Finally, Risk Management has requested to be supplied with departmental/divisional safety procedures. Upon receipt, they are reviewed for compliance with the Safety and Health Manual. To ensure compliance, these policies and procedures are also reviewed during the inspection process.

3. Risk Management Should Have Written Authority to Perform Surprise Inspections

Risk Management does not perform any surprise inspections of County Facilities to review for health and safety violations. Current County Administrative regulations do not allow for such to be performed. Surprise inspections would allow Risk Management to view the actual condition of the organization and potentially get a more accurate picture of how the Safety and Health Manual requirements are being implemented without the “clean up” and “best behavior” that may take place if a notice was given.

We Recommend Risk Management be given the authority to perform periodic surprise inspections through the Administrative Regulations.

Management's Response:

Concur - Planned

Risk Management concurs that safety inspections are more effective if they are conducted without being scheduled. County Administration is also in agreement and the process has been implemented effective July 1, 2005.

4. All Safety Recommendations Should Be Documented in a Formal Letter and, If the Department/Division Chooses Not to Implement the Recommendation, Risk Management Should Adjust the Insurance Cost Allocation Accordingly

During our review of the safety violations reporting procedures, we noted the following:

- A) Risk Management does not provide all safety recommendations in writing to the Department/Divisions. On occasion, we were told that Risk would call or send an e-mail to the safety liaison for the department/division when an item is noticed. All recommendations should be documented in a letter to the responsible party as well as management, so that they are aware of the issue as well as the possible effects. This provides accountability and ensures proper priority is placed on the issue.
- B) Tracking and annual reporting on the implementation status of recommendations are not performed. Risk Management should develop a tracking system that incorporates all recommendations provided to management throughout the year. On an annual basis the results should be compiled and reported to the County Administrator and Risk Management Committee. This will help ensure that proper attention is given to all recommendations made by the Department and allow the Risk Management

Committee to consider the results of compliance while determining the annual insurance allocation.

We Recommend Risk Management develops procedures to document each safety recommendation to the appropriate level of management. Further, consideration should be given to preparing an annual report to be distributed to County Administration and the Risk Management Committee compiling the status of all the recommendations made.

Management's Response:

Concur - Implemented

Risk Management has implemented a new procedure effective January 2005 whereby each safety inspection recommendation will be tracked and compliance will be documented in the follow-up inspection. The report will then be provided to the manager of the division upon completion of the re-inspection and will also be included in the annual report. It is important to note, serious safety findings are brought to the attention of the appropriate division manager, department director and county administration for immediate corrective action. We will continue this process.

5. County Contracts Should Require Contractors to Follow the Safety and Health Manual

Although the Safety and Health Manual requires contractors to follow it, they are not provided a copy. Also, County contracts do not reflect this requirement. The Safety and Health Manual, section 1.3.3 entitled "Application And Responsibility" states the following: "The rules set forth in this manual are the minimum standard requirements that apply to everyone within Orange County Government and contractors working on County facilities." If Risk Management cannot contractually hold contractors to the standards set in the Safety and Health Manual, unsafe practices by Contractors can take place on County property.

We Recommend Risk Management, in addition to providing a copy of the Safety and Health Manual to the contractor, works with the Purchasing and Contracts Division to require that contractors follow safety guidelines set forth in the manual.

Management's Response:

Concur - Planned

Risk Management agrees that all contractors should be contractually obligated to follow the county's safety manual; however, due to limited staff and resources in the Risk Management Division, it would be impractical for us to assume the responsibility of providing each contractor with a copy of the Safety and Health Manual. Alternatively, Purchasing has agreed to incorporate into all new contracts the requirement of following the Safety and Health Manual. The language will provide the web address for the Safety and Health Manual online for reference by the contractor.

6. Risk Management Should Ensure All Required Annual Physicals Are Received

Risk Management does not have a list of positions or a monitoring process to determine whether the employees that are required to receive a physical due to their job duties are receiving one. We found that none of the employees in a County Division classified as a high-risk division had received a physical since June of 2002. Section 3.7 of the Safety and Health Manual requires certain employees, depending on their job function (which, for instance, involves exposure to chemicals) to receive annual physical examinations and related testing. Without a monitoring process that ensures annual physicals, a health condition caused by unsafe exposures on the job could go undetected which, in turn, could cause an employee physical harm.

We Recommend Risk Management creates a list of positions that requires annual physicals, updates it

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periodically, and implements a monitoring program that would ensure that all required employees are receiving an annual physical.

Management's Response:

Do Not Concur

Departments/divisions are responsible for monitoring and ensuring compliance for certain employees that require annual physicals due to their job duties. The Florida Hospital occupational medicine contract identifies the positions that require annual physicals in the contract's attached exhibits. Due to limited staff in Risk Management and the number of annual physicals, exceeding 1,500 annually, it is more practical to continue to have the departments/divisions monitor compliance. Risk Management will, however, send reminders to departments/divisions regarding the various positions that require annual physicals and will also continue to coordinate additional occupational medicine services as needed.

7. Procedures for Review of County Contract Insurance and Risk Requirements Should Be Modified

The Purchasing and Contracts Division decides which contracts Risk Management needs to review based on the dollar amount of the contract without giving any consideration to the type or inherent risks of the contracted arrangement. During our audit, we selected 11 contracts that were not forwarded to the Risk Management Division and reviewed the scope with the Division Manager. The Manager noted that, on three of the contracts, he would have wanted to review the contract in order to determine what levels of insurance needed to be required due to the stated scope.

Risk Management is responsible for assessing risks within the County and should be aware of contracts the County

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FOR IMPROVEMENT –
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enters into to determine appropriate insurance levels. Written guidelines should be developed to specify what contracts get routed to Risk Management for review and comment. Without such, there is a greater risk that a contract may be entered into with improper insurance requirements.

We Recommend Risk Management works with the Purchasing and Contracts Division to implement written guidelines to specify what contracts get routed to Risk Management for review and comment.

Management's Response:

Concur – Planned

Risk Management agrees that contracts need to contain appropriate language and insurance requirements. All contracts entered into by the County do not need to be reviewed by Risk Management. Risk Management employs one employee to conduct contract reviews and it would not be possible for a single individual to review every contract entered into by the County. Additionally, there is standard indemnification and hold harmless language incorporated into all contracts currently.

Risk Management has been working with Purchasing to create a new insurance level requirement matrix. This process is ongoing and will further define the insurance level requirements on future contracts and which contracts need to be referred to Risk Management for review.

8. Risk Management Should Identify, Report, and Reconcile Real Property Purchased

During our review of the buildings and property schedule provided to the County's insurance carrier, we had the following concerns:

**RECOMMENDATION
FOR IMPROVEMENT –
RISK**



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- Two County properties (purchased in 1994 and 1998) totaling \$788,551 were not reported because Risk Management was unaware of them. To ensure their list is complete and accurate, Risk Management needs to take further steps including verifying property listings with the Comptroller's Property Accounting Department.
- Two of the five property purchases reviewed (totaling \$333,716) during the audit period were not reported to the insurance carrier. Risk Management informed us that the buildings were not added due to each purchase being under two million dollars.

Risk Management's Procedures Manual does not detail the dollar threshold or the process of reporting building purchases, such as the time frame or method (via e-mail, form letter, etc.), to the Broker. Risk Management should incorporate procedures to ensure accurate and complete listings of property are obtained. Without documented procedures, proper reporting of purchases or timely information may not be provided to the insurance companies and therefore, such properties may not be covered in the case of loss.

We Recommend Risk Management develops detailed procedures of reporting purchased real property to the Broker. Also, Risk Management should develop and implement procedures to ensure their list of properties is complete and accurate.

Management's Response:

Concur - Planned

Risk Management reports the acquisition of new property on a quarterly basis to the broker carrier if the property is \$5 million in value or less. This reporting requirement is detailed in the property insurance policy. Knowledge of these purchases is currently gained through review of the BCC Agenda. In addition, we will be discussing this

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recommendation with the Real Estate Management Division in order to develop a procedure whereby Risk Management is notified of all property acquisitions. As an additional monitoring procedure, Risk Management also reconciles with Facilities Management's online listing of maintained facilities for accuracy of the Risk Management property database. This process will be incorporated into the Risk Management Procedure Manual.

**RECOMMENDATIONS FOR
IMPROVEMENT – TRAINING AND
SAFETY AWARENESS**

9. Risk Management Should Ensure County Personnel Receive Adequate Training

During our review of Risk Management's oversight of safety training throughout the County, we noted the following:

- In two of the four inspections reviewed, the inspector did not assess training needs of department personnel. During related procedures performed, we also noted two other instances where Risk Management could not provide evidence that training needs were assessed during an inspection. Section 1.2.1 of the Safety and Health Manual provides that employees should be properly trained to operate equipment and to perform other job duties safely. Further, Risk Management does not review documentation on necessary training when an inspection is conducted. There is an increased risk that employees or citizens could be harmed if employees' training needs are not assessed and met.
- Eleven percent (21 of 195) of the employees reviewed that drive County vehicles or their own vehicles for County business did not receive defensive driving training within 90 days of hiring or once every three years thereafter as required by section 6.0.1 (c) of the Safety and Health Manual.

Risk Management should coordinate with other County Departments to ensure that all County employees review the health and safety training required for their job. Further, as part of the inspection process, Risk Management should assess training needs of departmental personnel and verify they were met. Without adequate training, County personnel may not have the skills needed to prevent accidents and injuries.

We Recommend Risk Management better coordinates with County departments to ensure health and safety training needs are met for specific job functions. Further, training

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assessment and verification should be incorporated into the inspection process.

Management's Response:

Partially Concur - Implemented

In 2003-2004, Risk Management provided 181 training classes that trained 2,766 employees with two staff members who also are safety inspectors. These courses are conducted based on Administrative Regulation requirements and departmental requests. Risk Management also reviews losses that have occurred on a weekly basis to identify trends. If trends are identified, the Safety Inspector either arranges training through Risk Management or requests that the department provide additional training to their employees. Additionally, during the last quarter of 2004, Risk Management sent a questionnaire to each department requesting that they provide us with their training needs and the time during the year to best complete this training. Since January 2005, Risk Management has been completing the training as requested by the departments and this process will continue during the course of the entire year. The questionnaire will once again be sent to identify training needs for 2006.

While Risk Management agrees that training is critical to creating a safe workplace, it is impractical to assess training needs during an inspection. The Safety Inspector is normally with a supervisory level individual from the department while conducting inspections and does not have direct contact with the employees of the department. To further assist in determining training needs, Risk Management will add to their inspection process effective June 1, 2005 a request to be provided with training logs from the department at the time of the inspection.



**10. Risk Management Should Improve Procedures
When Potentially Unsafe Drivers Are Identified**

Risk Management did not follow-up to determine if corrective action was taken for four of the six auto liability claim files reviewed. These claim files indicated that the auto accident was either caused by the employee or contained a Department of Motor Vehicles report that included citations within the past year. In addition, we could not determine if corrective action was taken for four other incidents. Section 1.2.1 (j) of the Safety and Health Manual prescribes that the Safety Program includes investigating accidents and implementing corrective action to prevent accident recurrences. Section 1.2.1 (k) includes preparing and maintaining proper and complete accident reports. Corrective action for personnel identified as potentially unsafe drivers may not be taken in time to prevent undue harm to County personnel/property and public citizens. Further, the situation may increase the County's exposure to costly litigation.

We Recommend Risk Management develops procedures to notify County managers when personnel are identified as potentially unsafe drivers. In addition, Risk Management should maintain a record of the corrective action recommended and taken by the employee's department/division.

Management's Response:

Concur. Underway.

The County has a well defined disciplinary system and responsibility for discipline and corrective action rests with each department. Risk Management does communicate with each department and provides appropriate input.

In addition, Risk Management has finalized a contract with an on-line driver education-training vendor that will allow DMV checks and the ability to develop a driver hazard rating. Risk Management has created a database to track

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individuals who have been sent to DDC or been required to re-attend due to driving issues. This process will improve with the on-line tracking that is part of the on-line program.

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11. All Purchases and Leases Should Be Routed Through Risk Management for Review

Risk Management did not examine three of the five purchases/leases selected for review during the audit period to determine whether a formal independent environmental site assessment would be necessary. Current Administrative Regulations do not require Risk Management to be notified of all potential purchases or whether a site assessment should be performed. County regulations should require Risk Management be notified of all land purchases and provide a recommendation as to whether an independent site assessment is needed. Further, these regulations should provide guidelines as to when a site assessment is needed. Involving Risk Management in the process of determining when a site assessment is needed could help the County determine whether an independent environmental assessment is needed.

By performing independent site assessments, the County can be made aware of the financial ramifications of purchasing land that is in need of remediation to correct pollution problems. In the past, the County has purchased land that has been costly to remediate. For example, land acquired for a park in the Dr. Phillips area was purchased for approximately \$3 million, and approximately \$3 million has been spent to remediate the land. These figures do not include the cost to develop the land into its proposed use of a County park. The original estimate, provided by the seller, was \$500,000 to clean the land. Had the County conducted its own site assessment prior to purchasing the land, more realistic costs to remove the pollution might have been obtained.

We Recommend Risk Management requests the County to add a requirement in the Administrative Regulations that all building/land purchases/leases be routed through Risk Management. This would allow for Risk Management to decide whether to perform an environmental site assessment prior to purchasing/leasing.

Management's Response:

Concur - Planned

We concur that the Administrative Regulations should be revised to require the appropriate Phase I Assessments on new properties. The new policy will define circumstances where it is appropriate to conduct Phase I Site Assessments.

12. Risk Management Should Change Procedures Regarding Fuel Tanks

During our review of fuel tank handling, the following was noted:

- A) Risk Management had no record of two of the twenty-two registered fuel storage tanks sampled during our review. Subsequent to the audit period, the County's new environmental insurance policy only covers damage from tanks that have been reported to the insurance provider. This makes it necessary for Risk Management to maintain a complete and accurate list of all County owned tanks. Under that policy the County would be responsible for all costs associated with remediation of any contamination caused by a tank that was not reported to the insurance provider.
- B) Risk Management does not have a procedure for monitoring fuel tank data and inspections. Six of eight tanks reviewed were not routinely inspected. Proper monitoring of equipment should occur so that needed maintenance and repairs can be performed in a timely and safe manner and prevent undue damage and harm to equipment and personnel.
- C) As a result of reviewing inspection data from a sample of eight fuel tanks, we noted that an inventory of the fuel was not included during the inspection process. A periodic fuel tank inventory is a means to detect leaks. Without this procedure, fuel tank leaks may go



undetected resulting in damage to surrounding land and/or water.

We Recommend Risk Management:

- A) Maintains a complete list of all County Fuel tanks;
- B) Develops a procedure to ensure periodic fuel tank inspections are performed and considers reviewing monitoring processes by the department/division during inspections; and,
- C) Includes fuel inventory as part of the fuel tank inspection process.

Management's Response:

Concur-Planned

- A) Risk Management agrees that all fuel tanks need to be identified and the ongoing inventory needs to be updated as tanks are taken out of service and new tanks are purchased. Since smaller tanks can be purchased for under \$1,500, there have been circumstances where tanks have been purchased on P-Cards. Additionally, there is not a centralized contract for fuel tank purchases for all County departments. We will be discussing this issue with the Purchasing Division to determine what additional policies and controls can be put into place to track purchases of fuel tanks and we will be exploring the possibility of having one master countywide contract.
- B) Risk Management also agrees that fuel tanks need to be monitored and inspected in accordance with applicable statutes and ordinances. This function has been decentralized. Several of the departments/divisions, most notably, Fire & Rescue, Utilities, and Fleet Management all conduct their own inspections. Risk Management supports a program whereby all tank inspections are conducted by or have a contract



administered by a single entity. We are currently discussing this issue with the Administrative Services Department to see if its feasible to have Fleet Management assume this function. Fleet Management normally carries out this function in other municipalities. As the inspections are complete, Risk Management will monitor for quality control and compliance.

- C) Risk Management agrees that fuel inventory control is essential to identifying any potential leaks that may occur. In the current process each department/division is more equipped to monitor this issue via either dipstick or computer inventory control because Risk Management is not involved in the fueling process. Alternatively, if a single department was responsible for tank maintenance, this could also involve fueling functions and would centralize fuel inventory maintenance. Again, we are currently discussing this issue with the Administrative Services Department to see if its feasible to have Fleet Management assume this function.

13. Adequate Controls Should Be in Place to Ensure Amounts Paid to Vendors Are Reasonable and Within Contractual Limits

In order to ensure environmental vendors are paid in accordance to contractual terms, we reviewed eight invoices from a sample of two projects. The following concerns were noted:

- A) We found one bid proposal and two invoices that had rates/unit prices that exceeded the contract terms. Rates/unit prices should be compared to the contract to ensure the correct prices are obtained.
- B) We were unable to verify whether several of the rates on two invoices reviewed conformed to the contract. Risk Management was unable to locate the copy of



the contract they used to verify the accuracy of rates listed on proposals and invoices. In addition, the copy we obtained from the Purchasing and Contracts Division was missing the last two pages of the fee schedule.

Although the amounts were minimal, adequate controls should be in place to ensure vendors are paid in accordance with contractual limits. Without such, the County could be overpaying for some of the services performed by environmental consultants.

We Recommend Risk Management:

- A) Ensures rates contained in bid proposals and invoices do not exceed those specified in the contract document; and,
- B) Retains a complete copy of the contractual document until all purchase orders written under the contract are closed.

Management's Response:

Concur - Implemented

- A) An employee in the Risk Management division incorrectly assumed the rates that were quoted/invoiced were in accordance with contracted rates. A process had been implemented whereby the employee requesting services will verify rates before approving the scope of the work to be completed or the price of the invoice.
- B) All contracts have been requested from Purchasing and are maintained in our file room.



14. Services Should Be Within the Scope of the Contract and Long Term Purchase Orders Should Not Be Executed if the Contract is Expiring in the Near Term

Per our review of contract Y9-907a for environmental services, the following was noted:

- A) Risk Management approved the contractor to remove nuisance vegetation from the Orange County Sheriff's Shooting Range on Wewahootee Road. These services were not included within the scope of the contract. Services should not be performed outside of the scope of the contract, unless these services and prices are agreed upon in writing and the amendment is made through the Purchasing and Contracts Division.
- B) Purchase order A102 (under contract Y9-907a) was issued on March 24, 2004, or ten days before the expiration of the contract. This contract was for environmental monitoring of the Orange County Sheriff's Shooting Range on Wewahootee Road. It was anticipated by all parties that this service would need to be performed for an extended amount of time. Services that are going to last far beyond the expiration of the contract should be performed by the new vendor where possible.

The County may not be receiving services at the most competitive price if services are received outside of the scope of the contract and new contracts are not used.

We Recommend Risk Management:

- A) Only authorizes services that are within the scope of the contract; and,
- B) When possible, utilizes the new environmental services contract for long-term services instead of the expiring contract.



Management's Response:

Concur - Implemented

- A) The employee requesting the services was not aware that incidental services such as brush removal required an amendment to the contract and thus authorized the services out of scope. A process has been put into place whereby any requested services not specifically identified in the scope of the contract will require the contract to be amended prior to completion.

- B) The employee was not aware of the expiration date on the contract. In order to correct this issue, a spreadsheet identifying all contracts along with inception and expiration dates has been provided to all employees. This sheet will be consulted prior to assignment of work. Long-term services will only be assigned to newer contracted vendors and expiring contracts will only be assigned services of short-term nature.

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15. Risk Management Should Select the Sample of Files for the Bi-Annual Performance Review of the TPA

The Risk Management Division allows the Third Party Administrator (TPA) to select the claim files that will be reviewed during the bi-annual performance review. Risk Management should select their own sample of claim files to help ensure an unbiased sample of claims is chosen for review. The TPA could exclude claim files that would not perform well on the performance review.

We Recommend Risk Management selects the sample of claim files from the TPA to review for the bi-annual performance review.

Management's Response:

Concur - Implemented

Prior to the contract with the TPA, the County had not used a performance based incentive contract. The performance clause of the contract determined what annual rate increase the TPA would be eligible to receive based on an audit performance score. In an effort to avoid any appearance of adverse selection of files, Risk Management allowed our contracted risk management systems (RMS) vendor to select the files for audit. This entity is a wholly owned subsidiary of the TPA, but provides RMS services to many clients and is not staffed with claims professionals. It's worth noting that the TPA was denied rate increases in 2001 and 2002 based on the results of the performance audits.

Nonetheless, in order to provide a more objective basis, Risk Management began selecting the files for the bi-annual claims review in October 2004 and will continue to do so in the future. The contract was formally amended on May 17, 2004 to reflect the selection criteria and timing of the selection of claims.



16. Risk Management Should Ensure All TPA Claims Are Approved Prior to Payment

We noted Risk Management did not approve 22 percent (\$370,720) of the dollars paid to the TPA for claims during March and April 2004. In addition, the Comptroller’s Finance and Accounting Department did not approve for release 31 percent (\$524,683) of the dollars paid during the same period. Based on the data provided, it appears these payments were not presented for approval to both the Risk Management Division and the Comptroller’s Office. Neither the Comptroller’s Office nor Risk Management could obtain a report of items approved from the system. As a result, no reconciliation is performed to ensure all monies released were approved by either the Comptroller’s Office or Risk Management.

Transaction Type	Total Payments Issued by TPA	Amount Not Approved by RM	Percent Not Approved by RM	Amount Not Approved by Finance	Percent Not Approved by Finance
Manual Checks	\$308,247.94	\$0.00	0.00%	\$153,963.65	49.95%
System Checks	\$1,186,743.71	\$262,208.18	22.09%	\$262,208.18	22.09%
Health Care Mgmt	\$2,100.00	\$2,100.00	100.00%	\$2,100.00	100.00%
Transfers to Vendor	\$125,200.39	\$21,480.00	17.16%	\$21,480.00	17.16%
990 Series	\$84,931.88	\$84,931.88	100.00%	\$84,931.88	100.00%
Totals	\$1,707,223.92	\$370,720.06	21.71%	\$524,683.71	30.73%

The Loss Fund Banking section of Contract No. Y1-1020 between Orange County and the TPA provides for a “dual” level of payment approval. This allows the Risk Management Division to review and indicate approval, with final review and release to be made by the Comptroller’s Office. Approval and reconciliation of payments will help ensure only authorized payments are made.

We Recommend Risk Management and the Comptroller’s Office develop a system to ensure the appropriate approvals are obtained for payments to the TPA. In addition, Risk Management should work with the Comptroller’s Finance and Accounting Department to establish a procedure for

reconciling payments issued to payments approved by Risk Management.

Management's Response:

Concur - Implemented

This situation occurred due to the TPA's software limitations. In order to provide a temporary process to ensure that all payments are approved and reconciled, reconciliations of payments approved to payments issued by the TPA are being performed after the fact. Risk Management, in consultation with the Comptroller's Finance and Accounting Department, has developed and implemented a process whereby Risk Management will review and approve the payment register on a weekly basis. This verification will confirm that all payments issued by the TPA are appropriate and will augment the current process of daily review and approval of pending payments with release by Finance. This enhanced process will validate 100% of payments issued by the TPA in accordance with the contract. For the long-term, we are in the process of issuing an RFP for a new TPA contract, which will become effective October 2005. As part of the RFP process, we are requiring that the successful bidder have enhanced computer system abilities, which will allow a more effective and efficient review and reconciliation process.

17. Risk Management Should Seek Reimbursement From the TPA for Past Excess Expenses and Obtain Adequately Supported Invoices and Audit Expenses in the Future

Risk Management does not receive invoices to support payments made to the TPA for various allocated claims expenses. Furthermore, Risk Management has not performed an examination of the claim payments and allocated expenses processed by the TPA since the inception of the contract (No. Y1-1020) in October 2001. During our review, the following items were noted:

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- Fifty-five percent (236 of 433) of the identified time and expense files created by the TPA had paid charges for services that should have been included in the claim service fee charged at the inception of the claim, and thus not separately billed. These paid charges totaled approximately \$25,000. Services on these claims included time and mileage for attending the County's Risk Management Committee (RMC) meetings and vendor in-services, conducting mediation and depositions over the phone, and various claim handling functions such as preparing settlement evaluations, corresponding with County staff, and preparing forms.
- Relative to the charges for the live mediations and depositions, we found that the TPA is charging an hourly rate of \$74 and \$76 in addition to all mileage in contrast to the contract, which specifies a flat rate of \$210 per hearing plus driving time and mileage after 25 road miles are charged.
- We noted 13 duplicate claim expenses on the check requests for March and April 2004 totaling \$1,260 paid to the TPA for various charges including nurse case manager services, index bureau reports, etc.

These expenses should be refunded to the County. Adequate controls should be implemented to ensure payments made to third parties are appropriate. Without proper controls, the County does not have reasonable assurance that the payments made to the TPA are accurate, conform to contractual terms, and are adequately supported. In addition, Risk Management should conduct an examination of the claim payments and allocated expenses processed by the TPA to determine if any additional amounts should be repaid.

We Recommend Risk Management obtains adequately supported invoices for all future allocated expenses payable to the TPA and perform periodic audits of such expenses. Also, Risk Management should work with the TPA to

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determine the net effect of the non-compliant invoices and seek reimbursement.

Management's Response:

Concur - Implemented

The current TPA makes payments on behalf of Orange County's Risk Management Program. This is a fairly new process that was implemented when we selected the vendor as our TPA in 2001. This new process has worked well for the County, ensuring that payments are made timely. Furthermore, the vast majority of payments are supported by invoices, which are reviewed and approved by the County; however, during the course of the audit a glitch in the process was identified. Previously, when services were provided by one of the TPA's subsidiaries, an electronic transfer of funds was made directly to the TPA without an invoice being generated for review by the County. These payments were reviewed prior to being released, but only matched against a payment type code and not an actual invoice.

Once this issue was identified, Risk Management entered into discussions with the TPA about incorrect charges and allocated claims expenses. A review of all these expenses was then conducted both by the TPA and Risk Management. Based on this review, the TPA issued a refund of \$116,365.35 to the County, which was received on November 15, 2004. Virtually all allocated claims expenses, with the exception of telephonic case management, have been outsourced to various other vendors other than the TPA or their subsidiaries. The remaining allocated cost services performed by the TPA or their subsidiaries require invoices to be submitted to Risk Management for approval prior to payment. Additionally, this item has specifically been addressed as a requirement in the Scope of Services in the RFP that is currently out for bid.

18. Risk Management Should Approve the Initial Assignment and Continuous Use of Nurse Case Managers and Periodically Review the Related Billing for Accuracy

During our review of charges for Telephonic Nurse Case Managers and Field Nurse Case Managers, we noted the following:

- While comparing case files to Telephonic Nurse Case Manager billing invoices, we found a number of differences between the level of Telephonic Nurse Case Manager activity included in the Claims Progress Notes and the related service fees charged. In some instances the County was charged when no services were provided. In other instances the County was not charged when services were provided. In addition, it appears as if the service fees are not being billed in a timely manner. Due to this fact, we could not determine the dollar effect of differences in charges.
- We reviewed four files' claim notes and noted that the Field Nurse Case Manager was performing tasks that the Telephonic Nurse Case Manager could have possibly been performing. The Field Nurse Case Manager charges an hourly rate while the Telephonic Nurse Case Manager charges a flat rate. For these four claims, the County could have saved \$5,398 (this is the total dollar amount of the hourly fees less the amount the County would have paid for a Telephonic Nurse Case Manager) by having the Telephonic Nurse Case Manager perform the applicable tasks. (It should be noted that in three of these four instances, the County was already paying for a Telephonic Nurse Case Manager.)
- Seventeen percent (2 of 12) of incident descriptions reviewed did not show evidence that a Telephonic Nurse Case Manager was necessary due to the minor nature of the injury. The County could have saved

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\$595 by not having the Telephonic Nurse Case Manager assigned on these specific cases.

Adequate controls should be maintained to ensure that services are provided in the most cost effective manner and that payment is not made for duplicate services. Without adequate controls, the County may be overpaying for nurse case management services.

We Recommend Risk Management approves the initial and subsequent monthly assignments of a Nurse Case Manager and ensures that the TPA is billing for the Telephonic and Field Nurse Case Managers appropriately.

Management's Response:

Concur - Implemented

The contract was amended on May 17, 2004 and now requires that the Telephonic Nurse Case Manager (TCM) request in writing from Risk Management the authority to keep claims open every 90 days following the initial date of accident. Additionally, the contract was amended on February 1, 2005 whereby the definitions associated with Loss Time and No Loss Time were changed to coincide with the billing for the claims administration. These TCM bills are submitted monthly to Risk Management for validation prior to payment. The amendment is attached to the response. Lastly, all field nurse case manager functions have ceased and Risk Management has hired a registered nurse to complete these tasks.

19. Risk Management Should Ensure the TPA Retains All Required Documentation and Performs a Periodic Review of Subsidiary Charges

During our review of documentation regarding expenses from the TPA's medical bill review subsidiary, we noted the following:

- The detail hospital or medical bills to support the service fees charged were not available for review. For the months of March and April of 2004, \$84,932 was paid in these charges. Article 22 of the TPA contract requires that the provider shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of the contract. If the accuracy and validity of the amounts reported by the TPA Subsidiary cannot be verified, the County cannot determine if only appropriate expenditures are being paid.
- A comparison of the amounts reported in the TPA's claim pay sheets for medical bill review charges did not agree with the amounts reported by the TPA's subsidiary. The claim pay sheets included charges totaling \$23,954 that were either not included or not identified on the subsidiary report. In addition, this report included charges totaling \$3,540 that were either not included or not identified on the claim pay sheets.

Adequate records should be maintained to ensure payments made to third parties are appropriate, adequately supported, and timely. Without documentation available for review and periodic review of the documentation, the County may not be aware of inappropriate charges.

We Recommend Risk Management ensures that the TPA maintains the required documentation and that a periodic review is done of subsidiary charges to determine if the County is being charged properly for services.

Management's Response:

Concur - Implemented

Navigator is a wholly owned subsidiary of the TPA and Company. The scope of services in their contract requires them to re-price medical bills in accordance with either contracted rates or the Florida Fee Schedule. These bills are electronically scanned and re-priced in the TPA's Atlanta facility. As part of this process, an automatic monetary transfer is made from the claims file to Navigator. No invoice is generated for these fees. The TPA is unwilling to change their bill review process and thus we are unable to receive invoices documenting their charges. This item has specifically been addressed as a requirement in the Scope of Services in the TPA RFP that is currently out for bid. As a temporary remedial measure, Risk Management has requested a monthly report detailing charges from Navigator to review any charges that appear to be out of the norm.

20. Risk Management Should Work With the TPA to Identify and Log All Subrogated Claims and Obtain Regular Status Reports

Risk Management does not have a complete listing of subrogated claims processed by the TPA. These claims are where the County may be owed money due to an accident being the other party's fault. We noted 15 subrogated claims with approximately \$380,000 in potential recoveries that were not on the list of open subrogated claims provided during the audit. Risk Management should be receiving status reports relative to subrogated claims on a regular basis to ensure proper oversight of the subrogated claims. The County is at risk of not receiving funds due from subrogated claims without proper oversight.

We Recommend Risk Management works with the TPA to identify and log all subrogated claims. Also, status reports should be obtained and monitored relative to subrogated claims from the TPA on a regular basis.

Management's Response:

Concur - Planned

The software package utilized by the TPA does not have a field that identifies subrogation or salvage claims. Risk Management has had to rely upon spreadsheets from the TPA and Company to track these claims. This item has specifically been addressed as a requirement in the Scope of Services in the TPA RFP that is currently out for bid that will become effective October 2005.

21. Risk Management Should Obtain Reimbursement From the TPA for Excess Fee Amounts Paid and Ensure All Changes to Contracts Are Documented and Approved by Appropriate Parties

The fee remitted to the TPA for reporting and obtaining data from the Claim Index Bureau is greater than the fee stipulated in the contract between the County and the TPA. The contract states the fee for Index Bureau reporting is \$6 per claim, however the TPA has been charging the County \$9 per claim since the contracts inception in October 2001. We reviewed the check registers for March and April 2004 and noted that the County overpaid \$960 due to this difference.

The former Risk Manager approved an increase to a contractually stipulated fee via e-mail. A formal amendment to the contract was never prepared and signed by either party. Changes in contractual terms should be documented in writing, signed by both parties and made part of the contract document.

We Recommend Risk Management works with the TPA to obtain reimbursement for the amounts paid in excess of the contractual requirements. In addition, all contractual changes should be documented as a contract amendment and signed by the appropriate parties.

Management's Response:

Concur - Implemented

All contractual changes are placed into writing now. On the issue of the Index Bureau fees, the TPA agreed to reduce the charges to the contracted rate of \$6.00 per index and refunded the over billing of \$9,438.00 on December 10, 2004.

22. Risk Management Should Obtain Competitive Bids or Price Quotes for Services Currently Performed by TPA Subsidiaries

Currently, the TPA uses wholly owned subsidiaries for appraisals, vocational rehabilitation, telephonic and field nurse case management, and medical bill review for Orange County claims. The current contract allows the TPA to use wholly owned subsidiaries to perform claim related services without requiring the TPA and/or County to obtain price quotes from other service providers. Competitive bids or price quotes should be obtained to ensure the County is receiving qualified services at a reasonable cost.

We Recommend Risk Management obtains competitive bids or price quotes for services currently performed by subsidiaries of the TPA in the current and future contracts.

Management's Response:

Concur - Implemented

The TPA contract is currently out to RFP. Included in the scope of services is the request for quoted fees for medical bill review, appraisals and telephonic case management and will become part of the new contract. These services will be optional at the selection of the County. Field nurse case management has been brought in-house via the hiring of a Risk Management staff nurse case manager. Vocational Rehabilitation was taken away from the TPA in November

2004 and is currently being completed by two separate vendors that are contracted through the TPA.

23. Risk Management Should Develop a Form to Be Filled Out When an Employee Returns to Work From a Workers Compensation Absence

During our review of workers compensation claims, the following was noted:

- A) The TPA reported a claimant was paid \$608 workers compensation for a six-day period. During this same six-day period, the County paid the employee for one 24-hour shift (the remaining days were unscheduled workdays).
- B) The TPA reported that they paid a claimant for seven days of workers compensation for a total of \$282.95. The County paid this employee for a total of five days consisting of one day as a holiday, one day term leave, one day injury pay and two days of unscheduled workdays.
- C) The TPA reported that they paid a claimant 14 days of workers compensation for a total of \$1,216. The County reported that they paid two days regular pay; one day vacation and four days were unscheduled workdays for this same period. The TPA also reported that the same claimant was paid in a different period for 10 days of workers compensation for a total of \$346.22 while the County reported that the claimant was back at work full time during this period.

Although determining the exact amount of overpayment, if any, is nearly impossible due to the lack of adequate records being available (TPA cannot report amounts paid by day), it appears likely that the claimants were paid both by the County and the TPA (from the Intergovernmental Risk

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Management Fund) for the same days. Employees should only be paid money that is due to them.

In discussing these types of problems with County personnel, we were informed that it is often difficult to ensure adequate notification is given to the TPA to cease payments. There seems to be a lack of communication between the TPA and the departments/ divisions. This lack of communication prevented the adjuster from knowing when the employee returned to work. To ensure proper payment, a form detailing the day that the employee returns to work should be forwarded to Risk Management to inform the adjuster of when an employee returns to work.

We Recommend Risk Management develops and implements a form used by all departments/divisions that would be filled out when an employee returns to work from a workers compensation paid absence. This form would be forwarded to Risk Management, which would then notify the TPA that the employee has returned to work.

Management's Response:

Do Not Concur

The County pay process when somebody is unable to work due to an industrial accident is unique among all employers in the State. This creates some issues with the departments in how to code dates like holiday pay or how to properly code the pay when somebody is utilizing Term or PTO in conjunction with workers compensation.

Risk Management intends on doing two things when the new contract is awarded. First, as part of the new contract, we anticipate better performance in complying with the contract provision that the treating doctor's office is contacting within 24 hours of the employee's office visit to confirm current work status. Secondly, we will conduct 2-4 training sessions for departmental payroll, claims and human resources staff along with the TPA staff to cover these issues specifically and ensure the process is followed as originally created.

24. The County's Risk Management Agreement and the Broker Contract Should Reflect the County's Required Rating for Insurance Providers

We noted that the County's required insurance rating is not documented in the Broker contract or the County's Interlocal Risk Management Agreement. We also noted that the Broker contract does not require the Broker to monitor and report to the County the A.M. Best ratings for the County's insurance carriers and reinsurance companies. Specific rating criteria and desired services should be documented in the contract. Without monitoring of ratings, the County may place and/or retain coverage with a substandard provider resulting in an increased liability to the County due to the default or financial difficulty of the provider.

We Recommend Risk Management coordinates with Purchasing and Contracts to amend the County's Interlocal Risk Management Agreement and the Broker Contract to reflect the County's required rating for insurance providers. We further recommend the Broker contract be amended to require the Broker to monitor and notify the County of the ratings of all its providers.

Management's Response:

Concur - Implemented

Although the broker's contract previously didn't require rating levels for insurance companies or for the broker to monitor and notify the county of ratings of all of its providers, the county always ensured that we only contracted with highly rated companies. The broker contract was renewed on 4/1/05 under contract #Y4-1032-NW. Under Exhibit A, Scope of Work (1), it requires that all carriers that have County insurance placed with them must have an A.M. Best rating of A- XV and Risk Management must approve any deviations.

Appendix A – Additional Recommendations to Human Resources

25. The County Should Consider Revising Drug and Alcohol Testing Procedures

Human Resources provides department managers with the names of the employees with Commercial Driving License (CDL) selected for a random drugs and alcohol testing the day before the test is performed. If the selected employee misses the drugs and alcohol test due work absence, the employee is not required to take the drug test immediately upon return to work. The Federal Motor Carrier Safety Administration, Department of Transportation Regulation 382.305 Random Testing (k)(1) states, "Each employer shall ensure that random alcohol and controlled substances tests... are unannounced." It is possible that an employee selected for testing will receive prior notice and not report for work the day of the test because they know that the test will be positive (failed) for drugs and/or alcohol. They will also know that the County will not test them upon return to work, therefore avoiding the test without losing their job. As a result, the substance abuse could go undetected and corrective action would not be taken.

We Recommend the County considers providing the department managers with the names of the employees that are to be randomly tested for drugs and alcohol on the day of testing. Further, employees who miss the test (due to an acceptable reason) should report for the test immediately upon return to work.

Management's Response:

Do Not Concur

Human Resources currently sends the names of employees randomly selected to each department the day prior to the testing. Arrangements have been made with the authorized departmental representatives to maintain confidentiality of the employees selected for testing until the following morning. When the information is faxed to the departments, representatives are notified and the notifications are sent to a secure fax number.

Notification to the department representatives on the day of the testing would affect operations within the departments. CDL testing is normally scheduled for 7:00 am to ensure work crews are notified and tested prior to leaving the work premises for the daily job assignment.

Written justification must be submitted by each department for any employees unable to report for testing upon notification. This failure to report could be as a result of illness, vacation, military leave, etc. The names of the employees not reporting are returned to the random selection listing for future testing. CDL guidelines prohibit an employee from reporting for testing during a vacation, while sick or on other types of leave.

26. The County Should Ensure Their CDL Driver List Is Complete and Accurate

Eighteen percent (3 of 17) of the employees with a commercial drivers license (CDL) selected for review were not included in Human Resources list of employees with a CDL. All of these employees perform safety sensitive functions requiring a CDL. Orange County Policy Manual section 409.4 requires that employees who perform safety sensitive functions requiring a CDL are mandated by law to submit to random drug and alcohol screenings. Without a complete and accurate list, drug and/or alcohol abuse by CDL drivers may be excluded from testing.

We Recommend the County improves procedures to ensure all CDL drivers, who perform safety sensitive functions requiring a CDL, are included in the list used by the Human Resources Division to select a random sample of employees for alcohol and drug testing.

Management's Response:

Concur - Planned

Upon hire/promotion, Human Resources designates an employee as having a CDL license and utilizing it in the performance of job duties. This list is maintained in PeopleSoft and is used for the selection of random CDL testing.

To update this list, Central Human Resources distributes the CDL Random selection listing to Department HR Representatives approximately every six months to be updated. Departments are responsible for supplying the list with the names of those employees who maintain a CDL license and use the license in the performance of their duties.

Human Resources is agreeable to sending this listing to departments on a quarterly basis. More frequent distribution and updating of the list will ensure more reliable selection.

Appendix B – Audit Methodology

To determine the adequacy of the monitoring of safety conditions within County work places:

- We interviewed Risk Management staff to determine their involvement in the oversight of the annual physicals for applicable employees.
- We reviewed the inspection schedule to determine its completeness and the appropriateness of the frequency of inspections, taking into consideration the level of risk. We then selected a sample of the inspections conducted and performed the following:
 - ◇ We obtained the documentation announcing the inspection and determined whether the time given to the department/division to prepare was appropriate.
 - ◇ We reviewed the checklist used during inspections to determine its adequacy.
- We contacted the County Attorney's office to ensure Risk Management is aware of any litigation alleging contractors were harmed or were harming citizens.
- We judgmentally selected eleven contracts from the Purchasing and Contracts Division and examined Risk Management's list of reviewed contracts to determine whether the review was performed before the contract was executed.
- We obtained a list of properties purchased during the audit period from Property Accounting and determined whether Risk Management was aware of the purchases and timely notified the insurance carriers.
- We obtained a list of leases entered into during the audit period from Real Estate Management and Risk Management. We scanned the lists to determine whether Risk Management was reviewing all leases.

- We obtained a sample of MSTU agreements from Finance and reviewed them with the Risk Manager to determine whether Risk Management would need to review the agreements.
- We obtained a list of assembly permits from the Public Safety Office and selected a sample of permits to determine whether Risk Management performed a review.
- We obtained a list of motion picture permits from the Orlando Film Office and selected a sample to determine whether Risk Management performed a review of insurance requirements.

To determine Risk Management's overall effectiveness of claims administration oversight we performed the following:

- We determined whether proof of claim forms were filed timely and due diligence was evident on closing open claims. We checked whether Risk Management was aware of, and reacted timely, to the declining stability in insurance companies that eventually became insolvent. Specifically, we compared the dates that the companies became insolvent to the dates that Orange County changed insurance carriers. We also identified claims that were in the covered period of the County's policy with these companies.
- We reviewed documentation in a sample of 30 claim files to determine:
 - ◇ The appropriateness of established reserves and adjustments and whether proper approval levels were followed for each;
 - ◇ Whether subrogation was sought where economical;

- ◇ Whether status reports were received appropriately; and,
- ◇ Whether proper authority levels were followed and recommended amounts were used.
- We requested a list of subrogated claims and verified its completeness.
- We reviewed claim amounts against the deductible to verify whether any claims should have been or were submitted to the excess carrier (none were noted).
- We obtained the log of manual claim checks and reviewed a sample for duplicate payments.
- We reviewed the daily claim check register approval process for adequate controls.
- We selected a sample of denied claims and reviewed them for Risk Management's approval of the denial.
- We reviewed a sample of workers compensation claims to verify that Risk Management appropriately followed-up on the claim. We also reviewed the claim documentation to determine if light duty jobs were considered for recovering employees. A sample of workers compensation claims categorized as "other than medical" only was selected. Information was gathered to verify that payments were accurate and that the Risk Management Loss Fund was reimbursed by the departments/divisions appropriately if the time loss exceeded 21 days.
- We assessed the scope of the TPA claims review performed by Risk Management to determine whether it identified overall compliance with the contract.
- We reviewed for appropriateness certain internal transfer charges for subsidiaries of the TPA for services such as nurse claim management, bill review

and index bureau fees. We also investigated any fees that appeared to be duplicate fees.

- We reviewed a sample of incident-only claims, which are claims where no medical attention was necessary or money paid, to ascertain the appropriateness of charges associated with this service.

To determine whether Risk Management ensures County employees are receiving appropriate training and being informed of the requirements of the County's Safety and Health Manual:

- We selected a sample of employees who drive County vehicles as well as their personal vehicles on County business and determined whether they attended the defensive driving course, as required in section 6.0.1(c) of the Safety and Health Manual.
- We obtained the list of employees who were selected for random drug and alcohol testing and determined whether the testing met Federal Motor Carrier Safety Administration requirements.
- We reviewed a sample of automobile claims and noted ones that had been determined to be the employee's fault. For those claims, we verified that driving records were reviewed and drug and/or alcohol tests were performed and proper action was taken based on these items.
- The Defensive Driving Course distribution list was reviewed for completeness to determine whether all affected parties were being notified of the need for this training.
- We determined whether proper action was taken for positive results on non-routine drug and alcohol testing performed.

- To determine whether employees received proper training that enabled them to carry out their job requirements safely, we selected job codes that, by the description, would need specified training in the Safety and Health Manual (Hazardous communication, confined spaces, lockout/tagout, blood-borne pathogens, and back safety training). We then obtained a list of employees in the job codes and selected a sample to determine whether required training was received.
- We reviewed attendance sheets for a sample of various training classes offered by Risk Management and compared them against employees registered to determine whether management was notified when employees missed training.
- We reviewed attendance to Violence in the Workplace training to determine whether the high-risk areas were appropriately represented.
- We surveyed a sample of recently promoted or hired management level employees to determine whether they were familiar with the Safety and Health Manual.

To determine whether Risk Management is taking appropriate steps to mitigate environmental losses:

- We reviewed documentation regarding mitigation of soil and groundwater contamination at the Lawson Lamar Firearms and Tactical Training Center.
- We selected a sample of fuel storage tanks and had the Environmental Protection Division determine whether they were registered with the state. We selected a sample of twenty above and below ground fuel storage tanks and reviewed documentation to determine whether they were being routinely inspected and monitored in order to avoid environmental issues and be in compliance with state requirements.

- We selected a sample of properties acquired during the audit period and performed the following steps:
 - ◇ We obtained the independent site assessment and determined whether all necessary tests, such as indoor air quality, radon, and asbestos testing were performed, where applicable.
 - ◇ We reviewed documentation of the request for the purchase order to determine whether the purchase orders were being issued timely.
 - ◇ We reviewed the documented recommendation from Risk Management to the departments to determine whether it was followed and the reason(s) if not followed.
- We obtained the list of environmental projects from Risk Management and selected two projects to review. We reviewed the documentation contained in Risk Management files for evidence of project oversight, that the proposal and invoices complied with contract terms, and action was taken to prevent future environmental incidents.
- We selected a sample of environmental projects from the list obtained above and reviewed documentation to assess if the current environmental insurance was or should have been used.
- We scanned Board of County Commissioners' meeting agendas to determine whether there were items that Risk Management should be aware of, such as property acquisitions (land and/or buildings), leased property or demolitions, in performing their function of risk prevention and mitigation. Once these items were identified, we requested documentation from Risk Management showing that they reviewed these items and performed necessary site assessments.

- We reviewed a sample of invoices from contract Y9-907a, which is an environmental contract for site assessments and remediation, to determine whether the services provided were within the scope of the contract, adequate support was provided, and open purchase orders were closed timely.

The scope of our audit did not include testing of any OCIP (Owner Controlled Insurance Program) or the content of insurance policies held by Orange County. Also, we did not audit the internal controls or operations of the TPA.