

STATE OF OHIO  
OFFICE OF THE INSPECTOR GENERAL

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REPORTS OF  
INVESTIGATION



COMPLIANCE REVIEW

OHIO SAFETY COUNCIL PROGRAM

ENTITIES:

OHIO BUREAU OF WORKERS' COMPENSATION  
SOUTHEASTERN OHIO SAFETY COUNCIL

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## The Office of the Ohio Inspector General ... The State Watchdog

*"Safeguarding integrity in state government"*

The Office of the Ohio Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. The Inspector General may investigate the management and operation of state agencies on his own initiative. We at the Inspector General's Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General's Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41 through 121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*.

The Ohio General Assembly enacted Ohio Revised Code §121.52, effective September 10, 2007, which created the deputy inspector general for the Ohio Bureau of Workers' Compensation (OBWC) and the Industrial Commission of Ohio (ICO). This statute requires a deputy inspector general be designated who "... shall investigate wrongful acts or omissions that have been committed by or are being committed by officers or employees ..." of both OBWC and the ICO, and provides the deputy inspector general the same powers and duties as specified in Ohio Revised Code §§ 121.42, 121.43, and 121.45 for matters involving the OBWC and ICO.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General's Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General's Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



# OFFICE OF THE OHIO INSPECTOR GENERAL EXECUTIVE SUMMARY

## SCOPE OF REVIEW

On April 8, 2019, the Office of the Ohio Inspector General initiated an investigation to determine whether the Southeastern Ohio Safety Council was complying with the terms of the agreement with the Ohio Bureau of Workers' Compensation (OBWC) and the provisions within the Ohio Safety Council Policy and Guidelines (OSCPG) manual. OBWC awarded the Southeastern Ohio Safety Council subsidies totaling \$5,500 for fiscal year (FY)<sup>1</sup> 2018 and \$5,500 for FY 2019.

The investigation also examined the level of oversight exercised by OBWC when awarding and monitoring the safety councils' activities. This report is the first in a series of reports into safety councils who received safety council subsidy<sup>2</sup> funds from OBWC.

The Office of the Ohio Inspector General found that the Southeastern Ohio Safety Council complied with the provisions of the agreement between the Southeastern Ohio Safety Council and OBWC, which included the guidance provided in the OSCP manual.

The Office of the Ohio Inspector General found OBWC implemented processes to ensure the required documents were submitted by the Southeastern Ohio Safety Council, issued rebates to eligible employers for the FY 2018 program, and provided training when implementing the safety council financial reporting requirements. However, instead of OBWC monitoring the safety council's compliance with the contract and the OSCP manual, investigators found that the OBWC Safety Council Program staff often relied upon the safety council steering committee, including the assigned OBWC service office representative, and/or the sponsoring organization to monitor compliance with these requirements.

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<sup>1</sup> A fiscal year runs from July 1 through June 30.

<sup>2</sup> A subsidy is a grant or contribution of money.

## **RECOMMENDATIONS**

The Office of the Ohio Inspector General is making three recommendations to the Southeastern Ohio Safety Council and asks the council to respond within 60 days with a plan detailing how the recommendations will be implemented.

The Office of the Ohio Inspector General is making 14 recommendations to the administrator of the Ohio Bureau of Workers' Compensation to strengthen the agency's internal control systems to ensure the safety councils comply with the agreement with OBWC and the OSCPG manual. The Office of the Ohio Inspector General requests a response within 60 days with a plan detailing how these recommendations will be implemented.

To assist the Ohio Bureau of Workers' Compensation in clarifying guidance to the safety councils and to strengthen internal controls within the overall Ohio Safety Council Program, the Office of the Ohio Inspector General has identified 10 additional matters for the agency's consideration.

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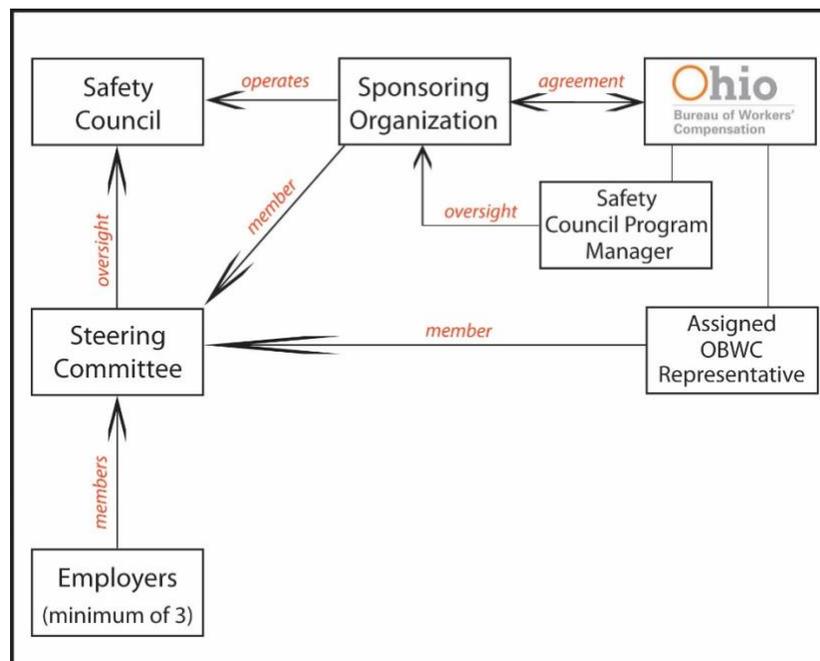
## ENTITIES UNDER REVIEW

### *Ohio Bureau of Workers' Compensation*

The Ohio Bureau of Workers' Compensation (OBWC) is responsible for providing workers' compensation benefits to public and private employees who are unable to work due to a work-related injury. In Ohio, companies or employers with employees must have coverage from either state funds or be self-insured. For those companies or employers with no employees who meet specific requirements, Ohio law makes workers' compensation coverage elective. The agency also offers workplace safety consulting services, safety and hygiene training, and other programs for Ohio employers to support them in providing safe and healthy workplaces. It is the largest state-funded insurance system in the nation.<sup>3</sup>

### *Ohio Safety Council Program*

The Ohio Safety Council program is administered by OBWC and provides a “forum for occupational safety and health education, resources and networking in local communities.” The following chart depicts the relationships between OBWC, OBWC staff, the sponsoring organization, and the safety council:



<sup>3</sup> Source: Biennial budget documents and <https://info.bwc.ohio.gov/wps/portal/bwc/site/home>.

The OBWC Division of Safety and Hygiene contracts with chambers of commerce, educational institutions, and/or community-based organizations, among others, to manage and administer the area's safety council program. The entity that OBWC contracts with becomes the safety council's sponsoring organization. Each safety council is required to have a steering committee with members from at least three employers who are part of the safety council program, the sponsoring organization, and the assigned OBWC service office representative. The steering committee assists the sponsoring organization with the monthly meeting, including selecting topics and speakers, and is also involved in the budgeting and spending of safety council funds.

The OBWC safety council program manager is responsible for ensuring the sponsoring organizations are complying with the agreement with OBWC, as well as with the policies and guidelines outlined in the OBWC OSCP manual. In addition, the program manager is responsible for providing clarification and guidance to the safety councils when necessary. To assist the safety council program manager, OBWC assigns local OBWC service office representatives to monitor program activities; provide resources, information, clarification or direction when applicable; and to act as spokespersons for the OBWC.

#### *Southeastern Ohio Safety Council*

The Southeastern Ohio Safety Council is sponsored by the University of Rio Grande and is one of over 80 safety councils in Ohio who are responsible for providing safety council members with quality educational programs involving occupational safety and health, workers' compensation, and risk management.

## **BACKGROUND**

On December 15, 2016, the OBWC Internal Audit Division (IAD) reported the results of an internal audit of the Ohio Safety Council program at the OBWC Board of Directors Audit Committee meeting. The IAD reported to the committee that the overall internal control environment for the program was rated as "needs improvement." As part of the audit, IAD reported that they were working with management to strengthen controls to ensure the appropriate use of subsidy funds by:

- Developing written procedures outlining the steps to be performed as part of the audit process.
- Resuming performance of the required audits.
- Enhancing management reporting to provide management the ability to monitor the performance of the required audits.
- Enhancing reporting requirements to include submission of a detailed disbursement log for the use of subsidy funds.

Lastly, the OBWC IAD acknowledged that the OBWC Division of Safety and Hygiene had recently implemented financial reporting and audit requirements to provide assurance that the safety council funds were used appropriately. These requirements were implemented with the FY 2018 Ohio Safety Council program.

The OBWC and Southeastern Ohio Safety Council entered into an agreement ([Exhibit 1](#)) which resulted in the award of a safety council subsidy in the amount of \$5,500 for FY 2018 and \$5,500 for FY 2019. This agreement provided that both OBWC and the Southeastern Ohio Safety Council agreed to comply with the terms set forth in the agreement and the OBWC OSCP manual.

Based on issues noted in previous reports of investigation completed by the Office of the Ohio Inspector General and the results of the 2016 OBWC internal audit, the inspector general launched an initiative to determine whether the Southeastern Ohio Safety Council was complying with the terms of the agreement and the provisions of the OBWC OSCP manual. In addition, the initiative examined the level of oversight exercised by OBWC when awarding and monitoring the safety council subsidies and of the overall safety council program.

## **OBJECTIVE, SCOPE OF REVIEW & METHODOLOGY**

The primary objective of the investigation was to determine whether the Southeastern Ohio Safety Council was complying with the terms of the agreement with OBWC ([Exhibit 1](#)) and with the provisions of the OBWC OSCP manual. The secondary objective of the investigation

was to determine the level of oversight exercised by OBWC when awarding the subsidy, safety council rebates, and monitoring the Ohio Safety Council program.

The investigation's review included:

- 1) Determining whether OBWC awarded the appropriate subsidy to the Southeastern Ohio Safety Council.
- 2) Determining whether the Southeastern Ohio Safety Council held the required minimum 10 meetings per calendar year and whether the speakers' presentations were in accordance with the OSCPG manual.
- 3) Determining whether the Southeastern Ohio Safety Council maintained the appropriate records to verify that employers who were receiving rebates met the eligibility criteria.
- 4) Determining whether OBWC issued rebates to only those employers who met the eligibility criteria.
- 5) Determining whether safety council funds were expended for Southeastern Ohio Safety Council activities in accordance with the limitations described in the agreement ([Exhibit 1](#)) and the OSCPG manual.
- 6) Determining whether representatives of the Southeastern Ohio Safety Council attended the safety council leaders' conference sponsored by OBWC.
- 7) Determining the monitoring activities used by OBWC to determine whether the Southeastern Ohio Safety Council was compliant with the provisions in the agreement ([Exhibit 1](#)) and the OSCPG manual.

The Office of the Ohio Inspector General examined OBWC and Southeastern Ohio Safety Council records; reviewed safety council program agreements, policies, manuals, and relevant emails; and interviewed OBWC staff involved with the Ohio Safety Council Program and the issuance of the participation and performance rebates to safety council members.

## **FINDINGS**

The Office of the Ohio Inspector General found that the Southeastern Ohio Safety Council complied with the provisions of the agreement with OBWC and the guidance provided in the OSCPG manual.

The Office of the Ohio Inspector General found OBWC implemented processes to ensure the required documents were submitted by the Southeastern Ohio Safety Council, issued rebates to eligible employers for the FY 2018 program, and provided training to the parties involved when the safety council financial reporting requirements were implemented. However, instead of OBWC monitoring the safety council’s compliance with the contract and the OSCPG manual, investigators found that the OBWC Safety Council Program staff often relied upon the safety council steering committee, including the assigned OBWC service office representative, and/or the sponsoring organization to monitor compliance with these requirements. The specifics of these findings are discussed in the following paragraphs.

**FINDING 1 – OBWC Subsidy**

The OBWC Ohio Safety Council Policies and Guidelines (OSCPG) manual issued for FY 2018 and FY 2019 provided that a fiscal year subsidy was awarded to the safety council “... based on the average attendance of the ten highest attended meetings per calendar year,” using monthly meeting attendance reports and the following formula:

<b>Average Attendance</b>	<b>Subsidy Amount</b>
1 - 50	\$5,500
51 – 100	\$11,000
101 – 150	\$16,500
151 – 200	\$22,000
201+	\$26,950

The OSCPG manual requires that an evaluation of the monthly meeting with accurate attendance figures be submitted to the OBWC Division of Safety and Hygiene. The monthly meeting attendance figures are used to identify the top 10 attended meetings held within a calendar year and to calculate the amount of subsidy to be awarded for a future fiscal year.

The Office of the Ohio Inspector General analyzed the monthly evaluation sheets and determined the average attendance at the Southeastern Ohio Safety Council monthly meetings for calendar year 2018 was 38.1. Investigators found that OBWC appropriately awarded a \$5,500 subsidy to the Southeastern Ohio Safety Council for FY 2020.

## **FINDING 2 – Safety Council Monthly Meetings**

Section 1(b) of the agreement ([Exhibit 1](#)) between OBWC and the Southeastern Ohio Safety Council provided that the safety council is responsible for scheduling, organizing, and leading at least four quarterly meetings for the safety council steering committee for the organization, as well as planning the safety council program schedule. Furthermore, Section 1(e) of the agreement and the OSCP manual provided that the Southeastern Ohio Safety Council was required to hold at least 10 monthly meetings per calendar year. Lastly, the OSCP manual provided that:

- The steering committee members shall participate in selecting the monthly safety council meeting topics and speakers.
- Seminars, conferences, and awards programs are allowed to be counted as fulfilling part of the “10 meetings” requirement.
- The steering committee meetings do not count towards the required 10 monthly meetings.
- Meeting topics “... must pertain to occupational safety and health, risk management, workers’ compensation or health & wellness.”
- In FY 2018, the Southeastern Ohio Safety Council was to avoid — and in FY 2019 was prohibited from using — certain meeting topics identified in the OSCP manual “unless specific information is obtained in advance to confirm the topic’s relation to occupational safety and health, workers’ compensation or risk management ...”
- Speakers from OBWC “... shall be used no more than twice a year, however BWC may request the opportunity to make a presentation when there are new services and/or programs available.”
- The safety councils were required to notify the OBWC Division of Safety and Hygiene of all safety council meetings, conferences, or seminars held.

Investigators analyzed the safety council meeting evaluation sheets and notification emails submitted to OBWC by the Southeastern Ohio Safety Council and found that the council was compliant with all of the above provisions except for one requirement: Investigators determined that for both FYs 2018 and 2019, OBWC employees spoke at three separate safety council meetings, contrary to the OSCP manual requirement of no more than two per year. On November 26, 2019, the assigned OBWC service office representative to the Southeastern Ohio

Safety Council acknowledged that there are times when, "... we have a last-minute cancelation with a speaker and we will have a BWC speaker fill in."

On December 9, 2019, Southeastern Ohio Safety Council representatives explained that one of the speakers during FY 2018 was discussing a new OBWC program which is excluded from the two-meeting limitation. Moreover, safety council representatives stated that they were unaware that the third speaker in FY 2019 was an OBWC employee but asserted that the OBWC service office representative requested this speaker. The Southeastern Ohio Safety Council representatives explained that, "we are a small safety council and sometimes we have a speaker cancel at the last minute and BWC is always to help. *[original underlined]*"

## **FINDING 2 RECOMMENDATION**

### *Ohio Bureau of Workers' Compensation*

1. Consider implementing procedures to track the instances when an OBWC employee spoke at the safety council meeting and to remind the safety council that once OBWC employees have spoken twice within the identified 12-month period, OBWC representatives cannot present at future safety council meetings unless the presentation is in accordance with the guidance in the OSCPG manual.

## **FINDING 3 – Rebates**

Ohio Administrative Code §4123-17-56.2 (B) provides that the OBWC administrator may establish for each program year a participation and performance rebate incentive for employer participation in a local safety council. In accordance with this code section and the OSCPG manual, OBWC offered the following rebates to eligible employers participating in the safety council program:

Employer	Eligible Rebates
Participates in a group-experience rating program	2% performance bonus rebate only
Participates in a group-retrospective rating program	2% participation rebate only
Does not participate in a group-experience <sup>4</sup> or group-retrospective <sup>5</sup> rating program	2% participation rebate and 2% performance bonus rebate

The participation rebate was based on the employer meeting the overall rebate program eligibility requirements of attending 10 meetings/events, the CEO or equivalent attending a meeting, and submitting the required semi-annual reports. In addition, the OSCPG manual provides that an employer,

... must be current with respect to all payments due BWC. Employers may not have cumulative lapses in workers' compensation coverage in excess of 40 days within the prior 12 months. Additionally, employers must have timely reported actual payroll for the preceding policy year and pay any premium due upon reconciliation of estimated premium and actual premium.

Eligible employers, as identified in the above table, who met the overall rebate program eligibility requirements, could earn an additional 2% performance bonus rebate for reducing injured worker claim frequency or severity by 10%, or by remaining at zero claims for the program year. Lastly, OBWC is responsible for verifying an employer's eligibility and for calculating the amount of the participation and performance rebates awarded to each employer.

*Safety Council Responsibilities*

To be eligible for a participation and/or performance bonus rebate, the OSCPG manual required that employers meet the following rebate program eligibility requirements during the program year:

- Enroll with the local safety council by July 31<sup>st</sup> of the program year.

<sup>4</sup> According to an OBWC fact sheet, the group-experience rating program "... allows employers with good claim histories to join to act as one big employer for a reduction in OBWC premium rates."

<sup>5</sup> According to the OBWC website, the group-retrospective rating program is a "... voluntary, performance-based incentive program in which sponsors can create groups of employers who manage safety and claims to achieve lower premiums."

- Attend 10 meetings, with at least eight of those meetings or events being held through the local safety council. Rather than attending the monthly safety council meetings, the employer has the option to earn a maximum of two external training credits by attending a training event.
- Ensure the employer's CEO or highest-ranking local authority attends one safety council meeting or event.
- Submit semi-annual reports for the identified calendar year.<sup>6</sup>

At the end of each program year, the safety council submitted a completed pre-populated spreadsheet<sup>7</sup> to the OBWC Safety Council program staff documenting the safety council members' activities that were completed to meet the overall rebate eligibility requirements.

#### *OBWC Safety Council Program Staff Responsibilities*

Upon receipt of the pre-populated spreadsheet from the safety council, OBWC Safety Council program staff completed the following actions:

- Created a master spreadsheet identifying the employers eligible for a safety council program rebate.
- Compared the eligible employers reflected on the master spreadsheet to an OBWC web application repository of semi-annual reports submitted by the sponsoring organization on behalf of the safety council members to verify that the reports identified by the sponsoring organization were filed.
- Submitted the master spreadsheet with the verified eligible employers to the OBWC Rates and Payments Division for processing of the participation and performance rebates.

#### *Rates and Payments Divisional Review*

Upon receipt of the master spreadsheet from OBWC Safety Council Program Manager Michelle Francisco, an OBWC Rates and Payment Division contractor uploaded the data into the Rates

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<sup>6</sup> These reports are provided to each employer member twice a year (July 1 and January 1) to report the previous six-months' activities.

<sup>7</sup> At the beginning of the program year, OBWC provides each safety council with a pre-populated spreadsheet containing a list of the employers who are safety council members and spaces to document the attendance at monthly meetings, the CEO's attendance, and whether the semi-annual reports were submitted.

and Payment computer system<sup>8</sup> and executed a “batch job”<sup>9</sup> to determine whether the identified employer met the following additional criteria for a participation rebate:

- Was current with respect to all payments due to OBWC.
- Had timely reported actual payroll for the preceding policy year and paid any premium due upon reconciliation of the estimated and actual premiums.
- Did not have cumulative lapses in workers’ compensation coverage in excess of 40 days in the previous 12 months.

For those employers who were also eligible for a performance rebate, a second “batch job” was executed to determine whether the employer complied with the additional eligibility criteria and had reduced their injured worker claim frequency or severity by 10% or remained at zero claims for the program year. Once these computer “batch jobs” were executed, the OBWC Rates and Payment Division contractor sent Francisco a spreadsheet identifying whether each policy met or failed to meet the rebate eligibility criteria.

Francisco and her staff were able to review the results of the computer “batch job” in the Rates and Payment computer system and could change whether a policy met or failed to meet the eligibility criteria. On January 9, 2020, Francisco explained in an email, that she and her staff were notified by email that a report was available “... to review safety council rebate data before the policies are moved to production.” The report consisted of a spreadsheet documenting the policies which failed to meet a specific rebate eligibility criterion. For those policies determined to have an incorrect address and/or a policy “original effective date” out of the evaluation period, Francisco explained that she or her staff investigated these policies and took steps to determine whether the initial “fail” determination should be changed to a “pass.”

Once Francisco and her staff completed their review, Francisco emailed the OBWC Rates and Payment Division contractor indicating the rebate list was finalized. The contractor then forwarded the rebate list to the OBWC Finance department for processing.

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<sup>8</sup> The Rates and Payments computer system is used by OBWC to develop employer premium rates.

<sup>9</sup> A “batch job” is a series of commands that are processed in sequence in the Rates and Payments computer system without requiring user input or intervention.

*Southeastern Ohio Safety Council Records*

Investigators compared information reported by the Southeastern Ohio Safety Council on the pre-populated spreadsheets submitted to OBWC for FY 2018 and FY 2019 to the monthly safety council sign-in sheets, certain external training credit documentation, and certain semi-annual report submissions provided for review. Investigators found:

- Four instances in FY 2018 and two instances in FY 2019 in which an employer representative had completed the monthly meeting sign-in sheet and their attendance was not reflected on the pre-populated spreadsheet submitted to OBWC.
- Five instances in FY 2018 in which an employer representative had not completed the monthly meeting sign-in sheet, but the pre-populated spreadsheet submitted to OBWC reflected that the employer representative attended the monthly meeting.
- Two instances in FY 2018 and one instance in FY 2019 that investigators were unable to confirm the CEO attended the meeting reflected on the pre-populated spreadsheet submitted to OBWC.

Investigators determined the discrepancies identified in the data submitted on the pre-populated spreadsheet for FY 2018 did not change OBWC's safety council rebate eligibility determination. Investigators found that for one employer in FY 2019, the pre-populated spreadsheet indicated the CEO had attended the December 11, 2018, safety council meeting; however, the individual who completed the sign-in sheet was not the employer's CEO. Francisco told investigators that at every opportunity, she reinforces to the sponsoring organization that it is their responsibility to verify that any individual completing the sign-in sheet identifying themselves as a CEO is in fact the CEO or highest-ranking local official, and cautions them not rely upon the checkmark indication on the sign-in sheet. The date or a checkmark should only be included in the CEO column if the sponsoring organization had verified that the individual was the highest-ranking official who attended the monthly meeting.

On December 9, 2019, Southeastern Ohio Safety Council representatives emailed investigators regarding the FY 2019 discrepancy involving the CEO attendance date, stating that, "sometimes CEO's [sic] forget to check the CEO box no matter how much they are told. I always send out a

copy of the Spreadsheet [sic] to all members before I send it to BWC and check to see if the information is correct.”

### **FINDING 3 RECOMMENDATIONS**

#### *Southeastern Ohio Safety Council*

1. Consider revising the existing monthly safety council meeting sign-in sheet to require attendees to print their names and their titles, and to sign their names. Also consider implementing procedures to compare the information reflected on the monthly sign-in sheets to the pre-populated spreadsheet prior to submitting them to OBWC to ensure the spreadsheet accurately reflects the safety council’s activities and complies with the guidance in the OSCP manual.

#### *Ohio Bureau of Workers’ Compensation*

1. Consider developing and implementing procedures to require and document that an independent verification of changes made to the Rate and Payment Department’s initial rebate eligibility determination is completed prior to notifying the Rates and Payments Department that the rebates can be processed.

### **FINDING 4 – Safety Council Expenditures**

The OSCP manual provided the following guidance ([Exhibit 2](#)) to the Southeastern Ohio Safety Council for the expenditure of safety council funds, including the subsidy provided by OBWC:

- Safety council funds shall be used to cover the direct and indirect costs of safety council sponsorship or with projects and/or initiatives to enhance occupational safety in the community.
- Safety councils are restricted from using OBWC subsidy funds for political activity.
- The sponsoring organization can use up to, but not more than 30% of the OBWC subsidy, to reimburse itself for payroll and benefits. If determined by the sponsoring organization and the steering committee, other safety council funds may be used to reimburse the sponsoring organization for the payroll and benefit costs incurred for safety council activities.

- Safety councils shall not “have a zero-budget practice for unused safety council funds to be absorbed by the sponsoring organization.”

The Office of the Ohio Inspector General reviewed the safety council expenditure ledgers, bank statements, and documentation supporting Southeastern Ohio Safety Council expenditures totaling \$19,420.82 for FY 2018 and \$6,531.38 for FY 2019 and found safety council funds were spent in accordance with the agreement and the OSCPG manual. Investigators further noted:

- Expenditures totaling \$3,631 were not supported by an invoice detailing the items purchased. However, the Southeastern Ohio Safety Council representatives provided explanations supporting that the expenditures were related to safety council activities.
- Safety council funds were used to purchase lunches for steering committee members totaling \$227.71. The Southeastern Ohio Safety Council representatives explained the lunches were used to encourage steering committee members to attend the quarterly meeting.

Investigators found no guidance regarding the purchase of meals by the safety council for the steering committee members including the assigned OBWC service office representatives in the OSCPG manual. On December 11, 2019, investigators emailed Francisco and asked, based on the provisions of Ohio Administrative Code Chapter 4123-15 and the Ohio Ethics Law, what discussions had occurred within OBWC about whether it was allowable for the safety council to pay for the lunch for the OBWC staff attending the quarterly steering committee meeting.

On January 9, 2020, Francisco responded by email, stating:

There has been no recent discussion on this subject. In general, because it is the BWC representative’s work assignment to participate in steering committee activities, any meal served is provided to the entire steering committee and is of nominal individual value and funded at least in part by BWC subsidy it hasn’t been questioned as being in conflict with Ohio Ethics Law.

Francisco further clarified in a January 28, 2020, email that OBWC staff did not verify that these lunches were funded with subsidy funds and that, “it is presumed that lunches purchased for

BWC assigned staff are paid with those funds.” Francisco also attached to the email an Excel spreadsheet which documented that, like the assigned OBWC service office representatives, she attended 29 monthly safety council meetings and five steering committee meetings in FY 2018 and attended 28 monthly safety council meetings and four steering committee meetings in FY 2019.

Lastly, investigators found that the Southeastern Ohio Safety Council made an annual payment of \$1,650 directly to the safety council manager upon receipt of an invoice, and no timesheets were submitted to document the time spent on safety council activities. Investigators noted that this amount (\$1,650) was equal to exactly 30% of the \$5,500<sup>10</sup> OBWC subsidy which could be used **to reimburse the sponsoring organization** [*emphasis added*] for payroll and benefit expenses. Francisco explained to investigators that the sponsoring organization manages the safety council and that the decision whether to reimburse for additional payroll and benefit expenses is made after a discussion on the matter has occurred between the sponsoring organization and the steering committee members. Francisco explained that during this discussion, the steering committee is responsible for determining what documentation is needed to support the decision to reimburse the additional expenses.

In its written response to an Office of the Ohio Inspector General subpoena, the Southeastern Ohio Safety Council manager provided the average amount of time spent each week and year to complete specific duties of the position. On December 9, 2019, the safety council manager clarified in an email to investigators that when she first started in her position as the safety council manager, she had a discussion about the amount of time it would take to complete the duties of the position. In July of each FY, the safety council manager stated that there was still “work” to be completed for the safety council, even though a monthly meeting had not been held. The safety council manager commented,

There are times it takes more time and there are times things go smoothly ... At our last steering committee meeting the members stated that I should be paid more but I refused. I am not in this for the money. I am just trying to help the local businesses.

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<sup>10</sup> The OSCP manual provides the sponsor can be reimbursed up to 30% of the annual OBWC subsidy for payroll costs. The Southeastern Ohio Safety Council received a \$5,500 subsidy and 30% of that is \$1,650.

Finally, the Southeastern Ohio Safety Council further acknowledged in a letter to investigators that, "... we do have some money that has been built up during the years. We are trying to do grants, special meetings, and other things to use this money." While it was noted that Southeastern Ohio Safety Council held a free training in conjunction with local sponsors in FY 2018, investigators noted no additional training activities occurred in FY 2019.

#### **FINDING 4 RECOMMENDATIONS**

##### *Southeastern Ohio Safety Council*

1. Consider implementing procedures to ensure that applicable documentation (including, but not limited to: invoices, receiving reports, or donation receipts) is maintained to support the expenditure of safety council funds.

##### *Ohio Bureau of Workers' Compensation*

1. Consider clarifying existing OBWC guidance in the OSCPG manual of when it is acceptable, and the frequency allowed, for the assigned OBWC service office representatives and OBWC staff to accept meals at a monthly safety council meeting or quarterly steering committee meeting.

#### **FINDING 5 – Safety Council Financial Reporting Guidelines**

From a review of the agreement ([Exhibit 1](#)) between OBWC and the Southeastern Ohio Safety Council and the OSCPG manual, the Office of the Ohio Inspector General determined that the Southeastern Ohio Safety Council was required to comply with the following financial reporting guidelines:

Section 1(j) of the Agreement	OSCPG Manual
Maintain a separate bank account for all safety council funds.	Maintain a separate bank account for all safety council funds.
Report detailed safety council income and expenses to the safety council steering committee at least once per quarter.	Distribute financial reports to the safety council steering committee that includes OBWC subsidy and other revenue generated in the name of the safety council; itemized expenses; and a balance summary (current year and overall).
Report high-level safety council finances to the safety council membership at the conclusion of the fiscal year.	Present a financial report to its members at one of the final meetings of the fiscal year. This report shall include at least the safety council funds revenue, expenses, and a balance summary (current year and overall).

The OSCP manual provided that the safety council was required to submit, with the annual signed safety council agreement, the following documents to the OBWC Division of Safety and Hygiene:

- A schedule of the previous calendar year’s steering committee meetings.
- Copies of the four previous fiscal year’s quarterly financial reports reviewed by the steering committee.
- A roster of the upcoming year’s steering committee members.

On June 28, 2019, Francisco told investigators that the only guidance provided to the safety councils regarding these financial reports was included in the OSCP manual. Francisco acknowledged that no guidance had been provided to the safety councils on the format of the reports addressing items such as the allocation of revenue between the safety council and other revenue sources, and the level of detail as to how the funds were spent by the safety council.

The Office of the Ohio Inspector General analyzed the records provided by the Southeastern Ohio Safety Council. Investigators found the Southeastern Ohio Safety Council had complied with most of the provisions specified in the Agreement and the OSCP manual for financial reporting. However, investigators determined the Southeastern Ohio Safety Council failed to include in the Steering Committee Roster submitted to OBWC with its signed agreement who was assigned as the OBWC service office representative for both fiscal years.

## **FINDING 5 RECOMMENDATION**

### *Southeastern Ohio Safety Council*

1. Consider implementing procedures which require each steering committee member, including the assigned OBWC service office representative, who attends the meeting where the annual financial report is distributed to complete an acknowledgement indicating receipt of the report. These acknowledgements should be submitted to OBWC to be included as part of their annual reporting requirements.

## **FINDING 6 – Annual Conferences**

Section 1(g) of the agreement ([Exhibit 1](#)) between OBWC and the Southeastern Ohio Safety Council provided that the safety council agreed to “attend all safety council leaders’ conferences sponsored by the Division of Safety and Hygiene.” The OSCPG manual further stated that, “a safety council representative is required to attend all program-oriented events hosted by DSH, in particular the annual Safety Council Leaders Conference.”

On June 28, 2019, Francisco explained that the safety council representatives were not required to sign in upon their arrival at the conference, and instead, OBWC used the uncollected name badges to identify the attendees who did not attend. Francisco admitted that there are no repercussions for a safety council not being represented at the conference. Lastly, Francisco stated that after the conference, she sends a copy of the PowerPoint presentation used at the conference to all the safety council sponsoring organizations for their use in administering the safety council program.

Investigators reviewed records provided by the Southeastern Ohio Safety Council and determined that a Southeastern Ohio Safety Council representative attended the 2018 and 2019 annual conferences held in Columbus. Additionally, investigators confirmed that Francisco sent the PowerPoint presentation to the sponsoring organization representatives.

## **FINDING 6 RECOMMENDATIONS**

### *Ohio Bureau of Workers' Compensation*

1. Consider requiring safety council representatives to sign in upon arrival at the conference to confirm each safety council is represented at the conference.
2. Consider whether penalties or other restrictions should be imposed on safety councils who do not attend the required program-oriented events hosted by the OBWC Division of Safety and Hygiene.

## **FINDING 7 – OBWC Safety Council Program Oversight – OBWC Service Office**

### **Representatives**

The OSCP manual describes the assigned local OBWC service office representative's role as being responsible to "... monitor program activities, provide resources, information, clarification or direction in applicable situations and to serve as a BWC spokesperson." The manual further provides that the assigned OBWC representatives are responsible for approving all monthly meeting topics and speakers as part of their active involvement in the steering committee program decisions.

On June 28, 2019, Francisco explained that a local OBWC service office representative<sup>11</sup> was assigned to each safety council and was responsible for:

- Attending the monthly safety council meetings.
- Presenting OBWC talking points at the monthly safety council meetings.
- Serving as a member of the safety council steering committee.
- Attending quarterly steering committee meetings.
- Receiving copies of the quarterly financial reports.

On October 25, 2019, the Southeastern Ohio Safety Council program manager notified investigators that she had no OBWC emails or correspondence referencing the approval of topics for the monthly safety council meetings. Furthermore, she stated that, "We have a BWC rep that

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<sup>11</sup> In most cases, there was a primary and a back-up representative assigned to each safety council.

meets with us during our steering committee meeting and they are the ones that approve or check on our topics.”

On November 26, 2019, the OBWC service office representative assigned to the Southeastern Ohio Safety Council responded to a survey sent by the Office of the Ohio Inspector General and stated that he:

- Attended a meeting with two other consultants and received training on safety council responsibilities and was provided a copy of the OSCPG manual. The representative explained that he has worked closely with Francisco when issues occurred.
- Reviewed the speaker list at steering committee meetings, verified OBWC staff were not identified as speakers for more than twice in the year, and participated in the group’s verbal approval of the speaker list.
- Notified steering committee members that a proposed speaker was disapproved by Francisco.
- Presented OBWC talking points at the monthly safety council meetings.
- Confirmed that the safety council funds were held in a separate bank account by the sponsoring organization as required by the OSCPG manual.
- Reviewed the expenditure of safety council funds to ensure funds were spent only on safety council activities and in accordance with the OSCPG manual.
- Did not attend the annual safety council managers conference and did not believe that he received copies of the training materials provided at this conference.

Investigators learned that there were no records available documenting the OBWC service office representative had approved the meeting topics for the monthly safety council meetings.

Additionally, Francisco told investigators that the assigned OBWC service office representatives are only responsible for ensuring the financial reports are distributed to steering committee members. Lastly, Francisco stated the OBWC service office representatives represent her and they can, and do, alert her of safety council matters she needs to be aware of, including questions about meeting topics or the expenditure of safety council funds.

**FINDING 7 RECOMMENDATIONS**

*Ohio Bureau of Workers’ Compensation*

1. Consider implementing an annual training program for OBWC service office representatives assigned to the safety councils explaining their responsibilities, duties, and the expectations of their position with the safety council; discussing issues or concerns that occurred since the last training; and reviewing changes to the existing Ohio Safety Council program requirements.

**FINDING 8 – OBWC Safety Council Program Oversight – Safety Council Manager**

The OBWC OSCP manual issued for FY 2018 and FY 2019 described the OBWC program manager role (Francisco) as the person who, “... ensures sponsoring organizations adhere to the policies and guidelines outlined in this manual and provides statewide instructions, updates, and guidance.” On June 28, 2019, Francisco explained OBWC Safety Council program staff performed the following activities to monitor the Southeastern Ohio Safety Council’s financial activities and to determine the sponsoring organization’s and safety council’s compliance with the agreement and the OSCP manual:

<b>Safety Council Expenditures</b>	
<b>Requirement</b>	<b>OBWC Safety Council Program Staff Monitoring Activities</b>
Maintain a separate bank account for safety council funds.	Relied upon the OBWC service office representative for verification of the safety council’s compliance.
No more than 30% of subsidy funds shall be used to reimburse the sponsoring organization for payroll and benefit expenses.	Did not require the submission of documentation supporting that the amount billed by the sponsoring organization was only for time spent on the safety council program.
Safety council subsidy funds may not be spent for political activity.	<ul style="list-style-type: none"> <li>• Monitored communications from the sponsoring organizations to the safety council members.</li> <li>• Reviewed quarterly reports submitted to the steering committee for unusual expenditures.</li> </ul>
Reserve the right to request an income and expense statement from any sponsoring organization on demand.	No recent requests have occurred. Should a request be made, the statement is reviewed to determine funds were spent appropriately and consistently with how safety councils spent their funds.
Shall conduct a random audit of at least 10 safety council-sponsoring organizations per year to confirm appropriate use of safety council program funds.	Ten safety councils were selected from FY 2018 for an audit. The audit involved a review of the quarterly reports previously submitted to the steering committee. Audit reports documenting the steps performed and the results were not prepared. No reports were submitted to OBWC management documenting the audit results or how subsidy funds were spent.

During the interview, Francisco explained that, the safety council steering committee (of which an OBWC service office representative was a member) was responsible for:

- Ensuring the sponsoring organization is spending safety council funds on safety council activities, in accordance with the OSCPG manual, and not for other sponsoring organization-related activities.
- Ensuring the sponsoring organization is not spending safety council subsidy funds for political activity.
- Ensuring the sponsoring organization is not absorbing any unused subsidy funds for the sponsoring organization's expenses.

Furthermore, if the safety council or OBWC service office representative notified her of administrative issues within the safety council, Francisco explained that she addressed the issues with the safety council and expected them to be reconciled. However, Francisco admitted that those activities did not “really get to the financial side” of the safety council and were more related to the overall management of the safety council.

Lastly, investigators learned that OBWC had not conducted audits for FY 2019. On January 28, 2020, Francisco informed investigators in an email that the 10 safety council audits for FY 2019 were not conducted because she “... considered the in-depth sample review being conducted by IG to be sufficient and saw no need to duplicate effort.”

#### *Oversight of Participation and Performance Rebates*

Francisco explained OBWC staff performed the following activities to verify the rebate eligibility information submitted by the Southeastern Ohio Safety Council complied with the agreement and the OSCPG manual:

<b>Rebate Eligibility</b>	
<b>Requirement</b>	<b>OBWC Safety Council Program Staff Monitoring Activities</b>
Submit the completed pre-populated spreadsheet to OBWC identifying the monthly meeting and CEO attendance and the submission of semi-annual reports.	Received the monthly sign-in sheets from the safety councils supporting the employer's compliance with eligibility requirements. Periodically, a review was completed, and the safety councils were notified if there were pending evaluation and sign-in sheets owed to OBWC.
OBWC reserved the right to audit the information on the pre-populated spreadsheet submitted by the safety councils.	Audits of the rebate eligibility information submitted by the safety councils have not been completed in recent years.
The employer is responsible for submitting an official certificate of attendance for external training to the safety council. For audit purposes, the safety council is required to submit the external training certificates to the OBWC Division of Safety and Hygiene as they are received from the employers.	Reviewed documentation submitted and obtained clarification as needed for the external training credit claimed by the employer during the fiscal year. If the documentation is insufficient, OBWC notified the safety council to remove the external training credit from the pre-populated spreadsheet prior to its submission by the safety council.

In addition to relying upon the OBWC service office representative to notify Francisco's staff if there were issues with the sponsoring organization's management of the safety council program, she explained in an email that she and her staff, "... enter all meeting notices into an Access database and generally review such details in the data-entry process." During the June 28, 2019, interview, Francisco told investigators that one of her principal concerns with the program was the management of the large volume of data received from the safety councils, including the monthly safety council meeting notices and evaluations.

Francisco further explained to investigators that it was the safety council's responsibility to determine whether the employer should receive credit for attending the monthly meeting and whether it was the CEO or highest-ranking local official that had attended the meeting. Investigators asked Francisco as to how OBWC ensured that sponsoring organizations did not require the safety council members to also be a member of the sponsoring organization. Francisco explained that, "it is known, stated, and expected."

Francisco noted that there are four circumstances<sup>12</sup> which could result in the termination of a safety council that would require any unspent funds to be returned to OBWC. Francisco explained that in the most recent termination, the safety council sent a check for the unspent funds directly to her and that she delivered the check to the OBWC Cash Control Department for deposit. Investigators questioned Francisco as to how she knew the total amount of the funds sent back to her was correct. Francisco replied that she concluded the amount was correct because of the reporting by the safety council and the amount would have matched the safety council's last quarterly financial report. Francisco acknowledged that other than the policies specified in the OSCPG manual, there are no additional policies instituted regarding the performance of her department involving the Ohio Safety Council program.

## **FINDING & RECOMMENDATIONS**

### *Ohio Bureau of Workers' Compensation*

1. Consider enhancing the reporting of expenditures for OBWC subsidy funds by the safety councils to both the steering committee and OBWC for all safety councils, not just those receiving more than \$25,000. This recommendation was also made to the Ohio Safety Council Program in December 2016 by the OBWC Internal Audit Department.
2. Consider formalizing audit procedures, which includes testing the safety council's compliance with spending and financial reporting requirements contained in the agreement with OBWC and the OSCPG manual. This recommendation was also made to the Ohio Safety Council Program in December 2016 by the OBWC Internal Audit Department.
3. Consider developing and implementing a formalized report to summarize the results of the audits performed, distribute these results to management, and consider using the issues identified as training material at future safety council conferences.
4. Consider developing and implementing procedures for the review of external training credits and documenting those employers who external training credits were denied. This list of

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<sup>12</sup> Per the OSCPG manual, circumstances leading to termination include, "(1) need to conserve funds; (2) deterioration of the safety campaign as determined by the BWC; (3) change in administrative policy by the BWC; and/or (4) failure on the part of either party to comply with the guidelines of the safety council program."

denied external training credits should be compared to the completed pre-populated spreadsheet submitted by the safety council to OBWC at year-end to confirm unallowed external training credits were excluded.

5. Consider developing and implementing a two-step procedure to first document the results of the random audits of the underlying records supporting an employer's eligibility for a safety council rebate. After there is verification that the employer has met the rebate criteria, then, in step two, the employer's name shall be submitted to the OBWC Rates and Payments Division for further eligibility determination and calculation of the rebate amount(s).
6. Consider developing and implementing procedures defining instances in which an income and expense statement should be requested on demand, outlining the review process, and documenting the results of this review.
7. Consider amending existing OBWC service office representative responsibilities in the OSCPG manual to include reviewing the safety council expenditures at the steering committee meetings and documenting whether the expenditures were in accordance with the OSCPG manual. For those expenditures considered questionable or unallowable, consider incorporating procedures for notifying the Ohio Safety Council program manager of these concerns and documenting how those concerns were addressed.
8. Consider requiring the safety council to submit an annual certification confirming they have complied with various contractual and OSCPG manual provisions, including but not limited to: allowable meeting topics, bank accounts, budgeting, compliance with safety council fund expenditure guidelines, and steps taken to ensure the sponsoring organization was not requiring the safety council members be a member of the sponsor organization.

## **GENERAL COMMENTS**

In addition to the findings and recommendations previously discussed in the report, the Office of the Ohio Inspector General identified the following additional matters for consideration by the Ohio Bureau of Workers' Compensation in an effort to assist OBWC in clarifying existing

guidance and strengthening the existing internal control system to ensure the safety councils are complying with the agreement with OBWC and the OSCP manual.

1. Consider amending existing guidance to address the use of OBWC employees to serve as speakers due to last-minute cancellations; whether the two-meeting rule is on a calendar, fiscal, or program year basis; and to clarify what documentation should be maintained to support an OBWC request to present at a monthly safety council meeting on a new OBWC program.
2. Consider implementing policies and procedures which prescribe a required format and requires the OBWC service office representative assigned to the safety council steering committee to document their approval in writing that the monthly safety council meeting topics and speakers are in accordance with OSCP manual guidance.
3. Consider developing and implementing a process to ensure that the required documents are submitted throughout the fiscal year in their entirety as required by the OSCP manual and are saved in a manner which allows for easy retrieval of the records when necessary.
4. Consider amending existing guidance to incorporate sign-in sheet guidance which requires the sign-in sheet to identify safety council members and the CEOs, and to provide additional space for attendees and their guests to print and sign their names which would subsequently provide clearer identification of who is actually attending the monthly safety council meetings.
5. During the period under review, investigators found that the Southeastern Safety Council spent safety council funds to reimburse mileage and meal expenses including tips. We are recommending that the OBWC Consider amending the OSCP manual to provide clarification and additional guidance on the limitations on travel expenses, including tips, and the documentation to be maintained confirming hours spent working on safety council activities in order to support the reimbursements to the sponsoring organization for payroll and benefit expenses.

6. Consider clarifying existing guidance to the safety councils in the agreement and OSCPG manual to be consistent in the level of information to be provided to OBWC for review.
7. Consider amending the OSCPG manual to incorporate a template to be used to report financial activity or include examples of the level of detail expected to be provided to the steering committee and OBWC when submitting the required financial reports.
8. Consider developing and implementing procedures for evaluating whether a safety council should face termination, the steps to be completed when terminating a safety council, how to verify that all unspent safety council funds are returned to OBWC after termination, and a process for depositing funds returned by the safety council to OBWC.
9. Consider the benefit of surveying the 83 safety councils to identify grants, rebates, and other programs operated by each safety council and disseminating the results of the surveys to all 83 safety councils to provide ideas of additional benefits that the safety council can provide to their members to improve safety in the workplace.
10. Consider implementing an annual training program for safety council managers, sponsoring organizations, and steering committee members which explains the responsibilities, duties, and expectations of each position with the safety council, discusses instances of noncompliance identified in the past year during OBWC reviews and audits, and provides guidance to safety council representatives on OSCPG manual requirements.

## **REFERRALS**

This report of investigation will be provided to the Ohio Auditor of State's Office for consideration during a review of each agency's internal control system in subsequent audits.



STATE OF OHIO  
**OFFICE OF THE INSPECTOR GENERAL**

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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Bureau of Workers' Compensation  
Southeastern Ohio Safety Council**

**FILE ID #: 2019-CA00009**

**KEEPER OF RECORDS CERTIFICATION**

**This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.**

**Jill Jones  
KEEPER OF RECORDS**

**CERTIFIED  
June 11, 2020**

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