

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORTS OF
INVESTIGATION



COMPLIANCE REVIEW

OHIO SAFETY COUNCIL PROGRAM

ENTITIES:

**OHIO BUREAU OF WORKERS' COMPENSATION
CONSTRUCTION SAFETY COUNCIL OF NORTHEAST OHIO**

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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 Construction Safety Council of Northeast Ohio 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 Construction Safety Council of Northeast Ohio subsidies totaling \$16,500 for fiscal year¹ (FY) 2018 and \$16,500 for FY 2019.

The investigation also examined the level of oversight exercised by OBWC when awarding and monitoring the safety council's activities. This report is the final report in a series of reports into safety councils who received safety council subsidy² funds from OBWC.

FINDINGS

The Office of the Ohio Inspector General found that the Construction Safety Council of Northeast Ohio complied with the provisions of the agreement with OBWC which included the guidance provided in the OSCP manual, except for four requirements: the safety council steering committee failed to meet in the 3rd quarter of FY 2018; inaccurately reported certain employers met the identified eligibility requirements in FY 2018, thereby resulting in OBWC, in some instances, improperly issuing a rebate; failed to obtain the safety council steering committee approval to reimburse the sponsoring organization payroll and benefit costs using other safety council funds; and, failed to comply with quarterly financial reporting requirements.

The Office of the Ohio Inspector General found OBWC implemented processes to ensure the required documents were submitted by the Construction Safety Council of Northeast Ohio, issued rebates to eligible employers for the FY 2018 program, and provided training to the

¹ A fiscal year runs from July 1 through June 30.

² A subsidy is a grant or contribution of money.

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.

RECOMMENDATIONS

The Office of the Ohio Inspector General is making six recommendations to the Construction Safety Council of Northeast Ohio 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 21 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 issued five additional comments for the agency's consideration.

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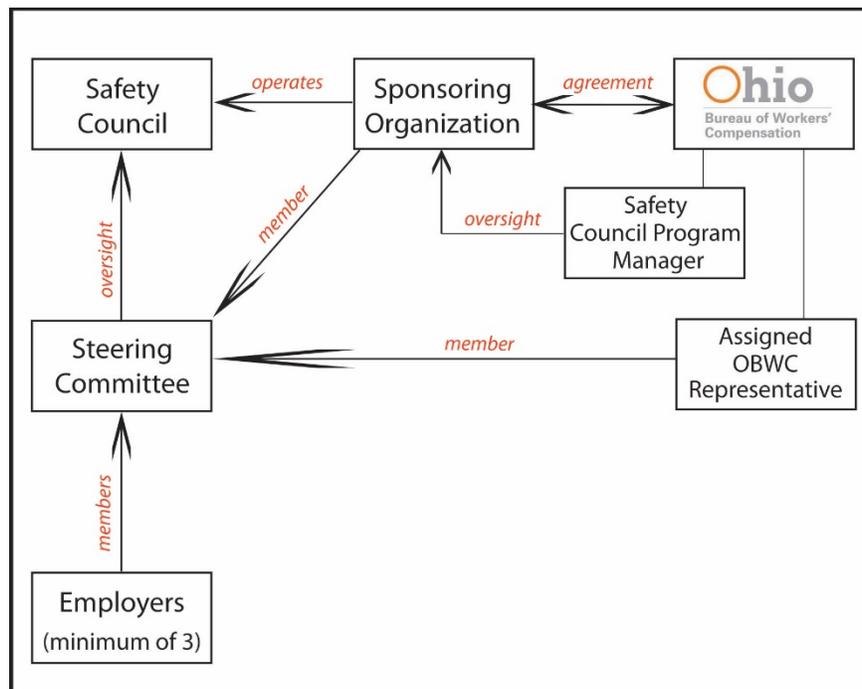
ENTITIES UNDER REVIEW

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 & 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.³

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:



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

The OBWC Division of Safety & Hygiene (DSH) 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 OBWC's OSCP manual. In addition, the program manager is responsible for providing clarification and guidance to the safety council 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 a spokesperson for the OBWC.

Construction Safety Council of Northeast Ohio

The Construction Safety Council of Northeast Ohio is sponsored by the Construction Employers Association and is one of over 80 safety councils in Ohio who is 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 they were working with management to strengthen controls ensuring 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 & 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 the Construction Safety Council of Northeast Ohio entered into an agreement [\(Exhibit 1\)](#) which resulted in the award of a safety council subsidy in the amount of \$16,500 for FY 2018 and \$16,500 for FY 2019. This agreement provided that both OBWC and the Construction Safety Council of Northeast Ohio agreed to comply with the terms set forth in the agreement and the OBWC OSCPG manual.

Based on issues noted in previous reports of investigation of funds awarded by OBWC 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 Construction Safety Council of Northeast Ohio was complying with the terms of the agreement and the provisions of OBWC's OSCPG 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 Construction Safety Council of Northeast Ohio was complying with the terms of the agreement with OBWC ([Exhibit 1](#)) and with the provisions of OBWC's OSCPG 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 Construction Safety Council of Northeast Ohio.
- 2) Determining whether the Construction Safety Council of Northeast Ohio 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 Construction Safety Council of Northeast Ohio 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 Construction Safety Council of Northeast Ohio activities in accordance with the limitations described in the agreement ([Exhibit 1](#)) and the OSCPG manual.
- 6) Determining whether representatives of the Construction Safety Council of Northeast Ohio attended the safety council leaders' conference sponsored by OBWC.
- 7) Determining the monitoring activities used by OBWC to determine whether the Construction Safety Council of Northeast Ohio was compliant with the provisions in the agreement ([Exhibit 1](#)) and the OSCPG manual.

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

FINDINGS

The Office of the Ohio Inspector General found that the Construction Safety Council of Northeast Ohio complied with the provisions of the agreement with OBWC which included the guidance provided in the OSCPG manual except four requirements: investigators found that the safety council steering committee failed to meet in the 3rd quarter of FY 2018; inaccurately reported certain employers met the identified eligibility requirements in FY 2018, thereby resulting in OBWC, in some instances, improperly issuing a rebate; failed to obtain the safety council steering committee approval to reimburse the sponsoring organization payroll and benefit costs using other safety council funds; and failed to comply with quarterly financial reporting requirements.

The Office of the Ohio Inspector General found OBWC implemented processes to ensure the required documents were submitted by the Construction Safety Council of Northeast Ohio, 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 findings.

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:

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

The OSCPG manual requires the submission of an evaluation of the monthly meeting with accurate attendance figures to the OBWC Division of Safety & 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 Construction Safety Council of Northeast Ohio monthly meetings for calendar year 2018 was 114.7. Investigators found that OBWC appropriately awarded a \$16,500 subsidy to the Construction Safety Council of Northeast Ohio for FY 2020.

FINDING 2 – Safety Council Monthly Meetings

Section 1(b) of the agreement ([Exhibit 1](#)) between OBWC and the Construction Safety Council of Northeast Ohio 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 of the safety council program schedule. Furthermore, Section 1(e) of the agreement and the OSCPG manual provided that the Construction Safety Council of Northeast Ohio was required to hold at least 10 monthly meetings per calendar year. Lastly, the OSCPG manual provided that:

- The steering committee members shall participate in selecting the monthly safety council meeting topics and speakers.
- Seminars, conferences, and award programs are allowed to be counted as fulfilling part of the “10 meetings” requirement.
- The steering committee meetings do not count towards the “10 meetings” requirement.
- Meeting topics “... must pertain to occupational safety and health, risk management, workers’ compensation or health & wellness.”
- In FY 2018, the Construction Safety Council of Northeast Ohio was to avoid – and in FY 2019, was prohibited – from using the meeting topics identified in the OSCPG 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 & 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 Construction Safety Council of Northeast Ohio and found that the safety council was compliant except for the following:

Quarterly Safety Council Steering Committee Meetings

Section 1(b) of the agreement ([Exhibit 1](#)) between OBWC and the Construction Safety Council of Northeast Ohio provided that the safety council is responsible for holding at least four quarterly meetings for the safety council steering committee. Investigators reviewed the quarterly meeting schedule submitted by the Construction Safety Council of Northeast Ohio to OBWC and found for FY 2018, there was no quarterly meeting held in the third quarter. Instead, there were two meetings held in the fourth quarter of FY 2018.

On June 3, 2020, the Construction Safety Council of Ohio representative explained that the 3rd quarter meeting for FY 2018 was “made up in Q4” because of scheduling conflicts with the steering committee members in Q3.

Quarterly Safety Council Steering Committee Meeting Attendance

The OSCPG manual states,

Safety councils are **required** to have a steering committee made up of **at least** three employer representatives, a sponsoring organization representative (known as the safety council manager) and the assigned BWC representative.

Steering committee members shall participate in selecting monthly meeting topics and speakers based on their safety and health workforce experience and are encouraged to

assist sponsoring organizations with monthly meeting responsibilities (including registration, meet and greet, speaker introduction, etc.).

Investigators reviewed available sign-in sheets for the quarterly steering committee meetings and the steering committee roster submitted to OBWC and found that:

- Less than 50% of the members attended the August 2017 steering committee meeting.
- Two attendees at the December 2017 steering committee meeting, and one attendee at the April 2018 steering committee meeting, were not identified as steering committee members on the roster submitted to OBWC.
- The May 31, 2018, meeting was not attended by OBWC service office representatives. The meeting agenda included a topic of “Review of the 2018-2019 CSC Meeting Presenter Schedule.”
- The April 16, 2019, meeting was not attended by OBWC service office representatives. On April 10, 2019, OBWC notified the sponsoring organization of their unavailability for the April 16, 2019, meeting. On April 16, 2019, the sponsoring organization notified the assigned OBWC service office representatives that the steering committee would be discussing the proposed schedule of presentations for the next fiscal year.

On December 4, 2019, the OBWC service office representative assigned to the Construction Safety Council of Northeast Ohio responded to a survey sent by the Office of the Ohio Inspector General and stated that she was not involved in the selection or approval of speakers and/or topics for the monthly meetings and stated that OBWC speakers were not used by the safety council.

On May 27, 2020, OBWC Loss Prevention Supervisor David Godenswager told investigators that he had requested the rescheduling of the last steering committee meeting⁴ in which the next year’s schedule of speakers was to be approved because neither he nor the assigned OBWC service office representative could attend. Godenswager stated that the Construction Safety Council of Northeast Ohio safety council manager declined to reschedule the meeting and that

⁴ Records provided by OBWC identified the last Construction Safety Council Steering Committee meeting was held on May 31, 2018 for FY 2018.

the speaking schedule was approved without a review by the assigned OBWC service office representatives. Furthermore, Godenswager stated that “the scheduling of the steering committees was held at times that was incorporated into a meeting which you needed to be a member. Kent [safety council manager] would not allow us to attend.”

On June 9, 2020, the Construction Safety Council of Northeast Ohio stated in an email they will have safety council members who may have an interest in serving on the steering committee and as such, the safety council manager encourages their participation and allows them to attend the steering committee meeting. In some instances, an existing steering committee member is unable to attend and will send a company representative to attend in their place. In the case of the August 2017, steering committee meeting, the safety council stated, “due to the lateness of cancellation by attendees of Steering Committee there was not ample time to reschedule the meeting so meeting was held at 50% of participation.”

Furthermore, the safety council stated in the email that,

The May 31st meeting that you referencing [sic] was held following a Safety Forum Meeting. The Safety Forum has no affiliation with the BWC. That Safety Forum Meeting was hosted by the Bricklayers JATC at 8497 Leavitt Rd, Amherst, OH 44001. Steering committee members were attending and participating in the Safety Forum Meeting and made a verbal request to hold the CSC Steering Committee meeting following the Safety Forum Meeting. In respect to our committee members’ time and participation, I granted the request.

In regards to the OBWC Staff not permitted to attend the steering committee meeting is inaccurate. The OBWC Staff rep emailed CEA on May 29th informing my staff of a schedule conflict and could not make the meeting in Amherst No request was made to reschedule or a request to change location. Because of the OBWC staff late notice of not being able to attend the May 31st meeting I was requested to forward the OBWC staff members a copy of the meeting handouts and upcoming speakers for review

The Construction Safety Council of Northeast Ohio provided the May 29, 2018, email from the assigned OBWC service office representative stating that she was unable to attend the meeting due to a conflict. The safety council also provided a June 8, 2018, email correspondence in which the supervisor of the assigned OBWC service office representative asked for the minutes of the May 31, 2018, steering committee meeting be sent to himself and the assigned OBWC service office representative.

Investigators noted the email correspondence for FY 2018 and FY 2019 did not include a discussion of whether the monthly speakers were approved by the assigned OBWC service office representatives. On June 12, 2020, the Construction Safety Council of Northeast Ohio representative stated in an email that,

I have managed the Safety Council for the last ten years and I cannot recall a time that I received an approval document/correspondence or verbal/documented request to revise a schedule from the OBWC staff. The OBWC sits on the committee and actively participates in the planning of the presenters for the upcoming year. The OBWC staff also receives quarterly updates on the status of upcoming presenters during steering committee meetings. We have interpreted the OBWC's staff direct participation of development/recommendations/status updates of the presenters as approval.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Monthly Safety Council Meeting Notifications.

Investigators reviewed records provided by OBWC and found no evidence in the OBWC records that the Construction Safety Council of Northeast Ohio had notified OBWC of six safety council meetings held in FY 2018 and two safety council meetings held in FY 2019. On May 26, 2020, OBWC Safety Council Manager Michelle Francisco responded to an investigator's inquiry about the missing safety council meeting notifications that,

I am confident these meeting notices were sent by the sponsor to their members and we are on all distribution lists to receive the notices as well. However, we do experience difficulty receiving some correspondence from some safety councils based on our filters.

Your discovery of these missing announcements obviously confirms we don't always realize what documentation we may be missing. We have controls in place to ensure all evaluations & sign-in sheets are received for scheduled meetings, but no controls to confirm 1000+ meeting notices per year are received.

Francisco noted that after OBWC receives monthly safety council meeting evaluation forms, OBWC staff occasionally discover meetings that were held and had not been previously reported in the "meetings" database. Francisco said, when this occurs, OBWC staff record the information of the omitted meeting in the "meetings" database at that time. However, there is no mechanism in place to "flag" the meeting for follow-up to obtain a copy of the meeting notice. Francisco stated that, "this is not for lack of interest or intent to make sure the program guidelines are met, but simply a time and process management challenge."

FINDING 2 RECOMMENDATIONS

Construction Safety Council of Northeast Ohio

1. Consider implementing procedures to ensure the required quarterly steering committee meetings are held each quarter, that the safety council steering committee members are notified that the meeting is open to all steering committee members to attend, and to schedule meetings only when a quorum of the members, including an OBWC-assigned service office representative are able to attend, allowing members to verify that the quarterly financial reports are distributed, and providing the opportunity to approve the speakers for upcoming monthly safety council meetings.

Ohio Bureau of Workers' Compensation

1. Consider providing guidance regarding in which instances a steering committee should be rescheduled, such as a lack of attendees; whether existing steering committee members can delegate their responsibilities to a coworker; and, whether non-steering committee members can attend and vote on matters before the steering committee.
2. Consider developing and implementing a process to memorialize that the required documents are submitted throughout the fiscal year, were submitted in their entirety as

required by the OSCPG manual, and are saved in a manner which allows for easy retrieval of the records when necessary.

3. Consider implementing policies and procedures which require 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 OSCPG manual guidance.

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 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 ⁵ or group-retrospective ⁶ 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

⁵ 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.”

⁶ 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.”

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 OSCP manual required that employers meet the following rebate program eligibility requirements:

- Enroll with the local safety council by July 31st of the program year.
- 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.⁷

At the end of each program year, the safety council submitted a completed pre-populated spreadsheet⁸ to the OBWC Safety Council program staff documenting the safety council members' activities that were completed in an effort to meet the overall rebate eligibility requirements.

⁷ These reports are provided to each employer member twice a year (July 1 and January 1) to report the previous six months' activities.

⁸ 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.

OBWC Safety Council Program Staff Responsibilities

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

- 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 member to verify 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 Payments Division contractor uploaded the data into the Rates and Payment computer system⁹ and executed a “batch job”¹⁰ 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 pay 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 are also eligible for a performance rebate, a second “batch job” was executed to determine whether the employer complied with the additional 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 Payments Division contractor sent Francisco a spreadsheet identifying whether each policy met or failed to meet the rebate eligibility criteria.

⁹ The Rates and Payment computer system is used by OBWC to develop employer premium rates.

¹⁰ A “batch job” is a series of commands that are processed in sequence in the Rates and Payment computer system without requiring user input or intervention.

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 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 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 Payments Division contractor indicating the rebate list was finalized. The contractor then forwarded the rebate list to Finance for processing.

Construction Safety Council of Northeast Ohio Records

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

FY 2018 Pre-populated Spreadsheet

The OSCPG manual provides that,

Immediately following each meeting, the safety council completes an evaluation of the meeting (topic, speaker and official attendance count) for submission to DSH.

For rebate auditing purposes, sign-in sheets are submitted at the same time.

For subsidy auditing purposes, every person in attendance at a safety council sponsored meeting, seminar or special event shall sign in, no matter their rebate eligibility status.

... At the end of the fiscal year, the safety council will provide an electronic spreadsheet of employer members that have met all of the eligibility requirements, by policy number, using a pre-populated spreadsheet provided by DSH.

Investigators compared the monthly safety council sign-in sheets to the pre-populated spreadsheet submitted by the Construction Safety Council of Northeast Ohio and found for FY 2018 that:

- Records provided by OBWC for review did not contain the sign-in sheets for January 2018, February 2018, April-June 2018, or all of FY 2019. However, these records did exist and investigators were able to obtain the sign-in sheets from the Construction Safety Council of Northeast Ohio for this review.
- For 10 employers, the pre-populated spreadsheet reflected that an employer representative had attended the monthly safety council meeting in 14 instances, which included one instance for the sponsoring organization, the Construction Employers Association. However, this attendance was not supported by a signature on the meeting sign-in sheet. Investigators determined this inaccurate reporting did not impact whether the employer received a safety council rebate.
- For eight employers, the monthly safety council meeting sign-in sheet reflected that an employer representative attended the monthly safety council meeting in 18 instances; though, the pre-populated spreadsheet submitted by the safety council to OBWC did not document an employer representative had attended 18 monthly meetings. Investigators determined this inaccurate reporting did not impact whether the employer received a safety council rebate.

Investigators asked the Construction Safety Council of Northeast Ohio to clarify the discrepancy between the pre-populated spreadsheet and the signatures on the sign-in sheets for the sponsoring organization's attendance at the June 2018 meeting. On May 27, 2020, the Construction Safety Council of Northeast Ohio manager told investigators in an email that this was a clerical oversight and explained,

As of June 2018 Construction Safety Council had [a] new employee assisting with Safety Council filing and meetings. She was unaware that she had to sign the sign-in sheet to prove Construction Employers Association's attendance at the meetings as it was her first meeting. There are always two employees in attendance for Construction Employers Association at each Safety Council meeting ...

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Incomplete Semi-Annual Reports

The OSCPG manual provides that to meet the initial eligibility requirements for a FY 2018 safety council rebate that the safety council members must submit the semi-annual reports for the 2017 calendar year. Safety council members are provided these reports twice a year (July 1 and January 1) for the employer to report the previous six months' activities. These reports are to be submitted by July 15th and January 15th.

Investigators compared the entries recorded on the pre-populated spreadsheet by the Construction Safety Council of Northeast Ohio to a report generated from the OBWC web application and found that the web application did not reflect that the safety council had submitted the 2nd half of calendar year 2017 semi-annual report due January 15, 2018, to OBWC as of June 30, 2018. Despite the missing submission, investigators determined that the sponsoring organization received a safety council performance rebate for FY 2018.

Investigators asked the Construction Safety Council of Northeast Ohio why the pre-populated spreadsheet reflected this report had been submitted when OBWC's records did not support that determination. On May 27, 2020, the Construction Safety Council of Northeast Ohio emailed investigators the following explanation:

Employee was new to Safety Council and did not realize as Construction Employers Association employee, that she needed to [sign] the hard copy of Construction Employers semi-annual [report]. This information was given to employee internally and filed with BWC. Again, this was a clerical oversight.

On May 28, 2020, Francisco informed investigators that,

Employers must ultimately submit both calendar year semi-annual reports no later than the final day of the fiscal year (June 30) for rebate eligibility. The exception to the submission by that date is if a sponsor determines there was an error in handling the report or entering the data prior to the deadline. The sponsor then has a few days in early July to enter all reports submitted to them by the June 30 deadline and to update their spreadsheet before submitting it to BWC in mid-July.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Failure to Verify External Training Credit

The OSCP manual provided the following guidance for external training credits:

It is the employer's responsibility to submit an official certificate of attendance for external training credit to the safety council in which they are enrolled by June 30, 2018. For audit purposes, copies of external training certificates must be submitted to DSH as they are received from member companies.

Investigators analyzed external training documentation provided by OBWC and the Construction Safety Council of Northeast Ohio and found that the pre-populated spreadsheet documented that 20 employers had completed 26 external trainings. However, investigators were unable to locate copies of the documentation supporting the external training credit awarded by the safety council in records provided by OBWC. Investigators determined that this inaccurate reporting of the external training credit resulted in two employers being identified as having met the initial eligibility requirements and, as such, received a safety council rebate.

On May 27, 2020, the Construction Safety Council of Northeast Ohio described in an email to investigators the following process used in tracking external training credits:

We ask our Safety Council members to submit certificates of completion of Safety Classes their employees have attended. Once we received that certificate we proceed to forward certificates to BWC for approval of credit. Once the Safety Council member's

external credit is approved Construction Safety Council will issue credit for attendance. Again a clerical oversight for new employee of Safety Council.

On May 28, 2020, Francisco confirmed in an email that OBWC did not have documentation supporting the reported external training which resulted in the two employers being identified as having met the initial eligibility requirements and subsequently receiving a safety council rebate. However, on June 3, 2020, Construction Safety Council of Northeast Ohio representatives provided investigators with copies of OBWC-sponsored trainings attended by the employees of the two employers. Investigators were unable to confirm that OBWC had received this documentation.

Construction Safety Council of Northeast Ohio Response: Procedural Changes

On May 27, 2020, the Construction Safety Council of Northeast Ohio stated that, “we have restructured staff in 2020 to ensure the above clerical errors will cease.”

FINDING 3 RECOMMENDATIONS

Construction Safety Council of Northeast Ohio

1. Consider implementing procedures to compare the information reflected on the monthly sign-in sheets, external training credit documentation, and semi-annual reports received 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. Review the pre-populated spreadsheet discrepancies identified in this Finding and determine whether a rebate was improperly issued. For those improperly issued, OBWC should take steps to recoup the improperly issued rebate.
2. 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 and whether the CEO or highest-ranking local authority attended the identified meeting.

3. Consider developing and implementing procedures mandating the inclusion of documents supporting external training upon receipt by the safety council, reviewing the external training credits requested, and documenting those employers whose external training credits were denied. This list of 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 that the disallowed external training credits were properly excluded.
4. Consider developing and implementing procedures to require and document that an independent verification of changes made to the Rates and Payments Division's initial rebate eligibility determination is completed prior to notifying the Rates and Payments Division that the rebates can be processed.

FINDING 4 – Safety Council Expenditures

The OSCPG manual provided the following guidance ([Exhibit 2](#)) to the Construction Safety Council of Northeast Ohio 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 ledgers, bank statements, and documentation payments totaling \$69,837.07 for FY 2018 and \$42,939.74 for FY 2019 and found that safety council funds were expended in accordance with the agreement and the OSCPG manual and found the following:

Supporting Documentation

The OSCPG manual states for the expenditure of safety council funds, including the subsidy provided by OBWC that, “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.” Investigators analyzed the records and evaluated responses provided by the Construction Safety Council of Northeast Ohio and were unable to obtain invoices supporting the issuance of checks totaling \$679.24 for FY 2018. The Office of the Ohio Inspector General reviewed the general ledger descriptions and additional information provided by the safety council and determined that these expenditures were related to safety council activities. Investigators further found expenditures during FY 2018 and FY 2019 associated with safety council activities included tips totaling \$899.70.

Sponsoring Organization Reimbursements

The OSCPG manual provides,

The sponsoring organization can use up to, but no more than 30% of the annual BWC subsidy, to reimburse itself for payroll and benefits. If determined by the sponsoring organization and steering committee, additional reimbursement for these costs can come from other safety council funds.

The Construction Safety Council of Northeast Ohio provided a copy of an administrative fee agreement entered into with their sponsoring organization on October 31, 2012, [\(Exhibit 3\)](#) in which the safety council agreed to pay the sponsoring organization an administrative fee of \$20,000 in four quarterly payments, plus one quarter of the subsidy received from OBWC. Investigators determined that the safety council remitted payments to the sponsoring organization in accordance with this agreement.

Investigators reviewed the agreement and noted that the tasks described in the administrative fee agreement ([Exhibit 3](#)) involved the sponsoring organization staff performing a variety of safety council duties and would result in the sponsoring organization incurring payroll costs associated with safety council activities.

On June 3, 2020, Francisco stated in an email to investigators that she could not recall seeing the administrative fee agreement between the Construction Safety Council of Northeast Ohio and the sponsoring organization. Francisco further explained that,

This type of activity is permissible in that the current guidelines allow for sponsor reimbursement beyond 30% from non-subsidy revenue for personnel expenses with the authorization of the steering committee.

Investigators analyzed the general ledgers provided by the Construction Safety Council of Northeast Ohio for FY 2018 and FY 2019 and found that the safety council received program income from its members in excess of the \$20,000 administrative fee and one quarter of the OBWC subsidy paid to its sponsoring organization.

On June 12, 2020, the Construction Safety Council of Northeast Ohio explained to investigators that,

The Fee Agreement is based on CEA employees hours up to including all payroll tax fees and burdens; not to exceed 30% per guidelines. The Fee Agreement breaks out all tasks performed by CEA as of 2012 and it was decided to set-up a base fee based on above criteria. To date, these tasks have not changed but due to inflation the Fee Agreement will need to update as it closing in on 10 years old. It was based on vehicles and also office space used by CSC for Safety Council activities that are owned and paid for by CEA. Calculation of the fee base amount was also based on additional administrative duties that would need to be performed throughout the year by CEA employees. Again, actual agreement is not reviewed annually by the Steering Committee due to the fact the tasks themselves have not changed but as events have gotten larger over the years.

Investigators found no evidence that the steering committee had authorized the administrative fee payments during FY 2018 or FY 2019 as provided for in the OSCPG manual.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Construction Safety Council of Northeast Ohio Response: Procedural Changes

On May 27, 2020, the Construction Safety Council of Northeast Ohio notified investigators that upon OBWC's recommendation in January 2020, the safety council determined that its PNC bank account would be used to track the receipt and expenses of OBWC subsidy funds and concurrently, its Key Bank account would be used to track the receipt and expenses of other safety council funds.

On June 12, 2020, the Construction Safety Council of Northeast Ohio explained that they will begin reviewing the Fee Agreement yearly with the safety council steering committee.

FINDING 4 RECOMMENDATIONS

Construction Safety Council of Northeast Ohio

1. Consider implementing procedures and maintaining supporting documentation to ensure that the safety council is complying with the OSCPG manual requirement that transfers of OBWC subsidy funds are not to exceed 30% for payroll and benefit costs to the sponsoring organization and that the required approvals are obtained for additional transfers of funds to the sponsoring organization.
2. Consider implementing an annual process to document the review and subsequent approval of the agreement to pay the sponsoring organization an administrative fee using non-OBWC subsidy funds to operate the safety council to ensure funds are spent only on safety council activities.

Ohio Bureau of Workers' Compensation

1. Consider amending the OSCPG manual to provide clarification and guidance on records to be maintained to support mileage reimbursements, limitations on travel expenses including tips, and records to be maintained supporting hours spent working on safety council activities by the sponsoring organization in order to support the reimbursements to the sponsoring organization for payroll and benefit costs.

2. Consider amending the OSCPG manual to provide guidance for agreements between the safety council and the sponsoring organization of what types of expenses are permissible; whether the safety council should receive an accounting of how the funds were spent; and, the frequency of reporting, type of documentation, and approvals to be obtained from the safety council steering committee for these payments.

3. Consider amending the OSCPG manual to provide guidance on the types of documentation to be maintained to support that expenditures made by the safety councils were for safety council activities, and to describe the documentation required to show the expenditures reviewed and approved by the steering committee verify that these expenditures were in accordance with the OSCPG manual.

FINDING 5 – Safety Council Financial Reporting Guidelines

From a review of the agreement ([Exhibit 1](#)) between OBWC and the Construction Safety Council of Northeast Ohio and the OSCPG manual, the Office of the Ohio Inspector General determined that the Construction Safety Council of Northeast Ohio 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 OSCPG 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 & 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 OSCPG 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. Furthermore, Francisco explained in a January 28, 2020, email that the safety council was to maintain a separate ledger for the spending of subsidy funds “... per the financial reporting guidelines strengthened for such reason effective July 1, 2017.”

Investigators analyzed the records provided by the Construction Safety Council of Northeast Ohio; evaluated responses sent to investigators by both OBWC and the safety council; and found the Construction Safety Council of Northeast Ohio complied with the provisions in the agreement and the OSCPG manual with the following exception:

Quarterly Financial Reports to Steering Committees

The OSCPG manual requires the safety council to “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).” Investigators reviewed the four quarterly financial reports submitted to OBWC and found:

- None of the quarterly financial reports listed the itemized expenses or the balance (current year and overall) for safety council funds.

- The quarterly financial report only consisted of a balance sheet for one quarter in FY 2018 and three quarters in FY 2019. The balance sheet did not report revenues, itemized expenses, or the balance (current year or overall) for safety council funds.

OBWC provided investigators with an August 15, 2019, email from Francisco to the assigned OBWC service office representatives in which she stated that certain safety councils, including the Construction Safety Council of Northeast Ohio, had “failed to complete one or more FY19 financial reporting requirements. **My request to you is that you monitor these circumstances and alert me if the issues noted are not addressed as the year progresses [original emphasis].**” Francisco provided the assigned OBWC service office representatives with the following summary of her conversation with the Construction Safety Council of Northeast Ohio’s manager:

Although copies of four reports shared with [the] steering committee were provided, they were not for the appropriate timeframe or provide the level of detail intended. Advised sponsor we expect appropriate reports to be shared with steering committee beginning immediately.

On May 27, 2020, OBWC supervisor David Godenswager confirmed in an email to investigators the financial reports are distributed at the quarterly safety council steering committee meetings but described the review of these financial reports was “at best a cursory review.” Godenswager further stated that he had met with the safety council manager on October 8, 2019,

... to discuss his inaccuracy of reporting the quarterly reports. Kent [Crytzer, safety council manager] reported that he had a new person doing his financial reports the other bookkeeper was fired. I followed up with what should be included in a financial report in an email to the new controller ... I never received a response from the new controller.

On June 3, 2020, a Construction Safety Council of Northeast Ohio representative explained that it appeared that,

... This was a clerical error for a portion of 2018 that appeared to be reviewed in November of 2019 as the Income Statement, by quarter, should be submitted. It does appear that, within the subpoena [sic] period of 01/01/17 – 006/30/2019, that overall

financials were submitted Although the time period is outside the audit, we would like to show that the entire year of 2018 Income statement was reviewed and provided at the November 12, 2019 Steering Committee Meeting when CSC noticed the clerical error.

On June 3, 2020, Francisco provided investigators with a copy of an August 19, 2019, email sent to the assigned OBWC service office representatives identifying that the Construction Safety Council of Northeast Ohio had failed to complete one or more FY 2019 financial reporting requirements. Francisco requested the assigned OBWC staff “to monitor these circumstances and alert me if the issues noted are not addressed as the year progresses.” Francisco noted that the quarterly reports shared by the safety council “were not for the appropriate timeframe or provide the level of detail intended.”

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe that a wrongful act or omission occurred in this instance.

FINDING 5 RECOMMENDATIONS

Construction Safety Council of Northeast Ohio

1. Develop and implement procedures to ensure the steering committee receives itemized Construction Safety Council of Northeast Ohio expenditures and the current year and overall balance of safety council funds as required by the agreement with OBWC and the OSCPG manual.
2. Consider requiring all steering committee members present, including the assigned OBWC service office representative to sign the quarterly safety council report acknowledging that they have received, reviewed, and approved the quarterly financials.

Ohio Bureau of Workers’ Compensation

1. Consider amending the OSCPG manual to incorporate a template to be used to report financial activity or to include examples of the level of detail expected to be provided to the steering committee and OBWC when submitting financial reports.

FINDING 6 – Annual Conferences

Section 1(g) of the agreement ([Exhibit 1](#)) between OBWC and Construction Safety Council of Northeast Ohio provided that the safety council agreed to “attend all safety council leaders’ conferences sponsored by the Division of Safety & Hygiene.” The OSCP 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 immediate 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 to the sponsoring organizations for their use in administering the safety council program.

On August 12, 2019, Francisco notified investigators that the Construction Safety Council of Northeast Ohio was not one of the two safety councils absent from the annual safety council managers conference held in FY 2018. Francisco also stated that all the safety councils were represented at the annual safety council managers conference held in FY 2019. Investigators did confirm that Francisco had 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 ensure 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 all program-oriented events hosted by the OBWC Division of Safety & Hygiene.

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

Representatives

The OSCPG manual describes the assigned local OBWC service office representative's¹¹ 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 service office 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 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 December 4, 2019, the OBWC service office representative assigned to the Construction Safety Council of Northeast Ohio responded to a survey sent by the Office of the Ohio Inspector General and stated that she:

- Was not trained on her role as the assigned OBWC service office representative.
- Was aware there were safety council general rules and procedures available and that the OSCPG manual was online.
- Did not receive training materials, and rarely received updates on the safety council program requirements.
- Did not attend the annual safety council leaders conference and was not provided a copy of the training material distributed or information shared at this conference.

¹¹ In most cases, there was a primary and a back-up OBWC service office representative assigned to each safety council.

- Had no authority when it comes to the safety council, that the safety council contacts Francisco or her supervisor directly, and that her supervisor instructed her to send any concerns or questions a safety council member may have to him to follow-up.
- Passively attended the quarterly steering committee meetings held after the regular monthly safety council breakfast meeting and recused herself from attending after being notified that it was acceptable to hold these meetings at a restaurant. She further stated that her attendance at these meetings was not mandatory as her supervisor made himself the primary contact for the safety council.
- Was not involved in the selection or approval of speakers and or topics for the monthly meetings and stated that OBWC speakers were not used by the safety council.
- Did not discuss with steering committee members whether the speaking topics are safety related. If the safety council had a question about a topic, the safety council contacted Francisco directly.
- Attended the monthly safety council meetings and presented talking points.
- Did not know that the safety council funds were to be held in a separate bank account as required by the OSCPG manual.
- Did not believe reviews of the safety council budget occurred at the steering committee level.
- Did not review safety council expenditures and when she attempted to do so, her supervisor stated that he would complete the review.

On May 26, 2020, investigators contacted the supervisor, Godenswager, referenced by the assigned OBWC service office representative to obtain an understanding of his involvement with the Construction Safety Council of Northeast Ohio. On May 27, 2020, Godenswager told investigators in an email that he:

- Was aware of conflicts between the assigned OBWC service office representative and the Construction Safety Council of Northeast Ohio safety council manager.
- Had not notified the Construction Safety Council of Northeast Ohio or Francisco that he was the primary contact for OBWC.
- Did not notify the primary assigned OBWC representative that he would perform the review of safety council expenditures.

- Did not receive training or guidance on the safety council program other than the emails sent from Francisco as issues arose.
- Confirmed that financial reports are distributed at the quarterly steering committee meetings. However, he stated that at times there were not enough copies, an electronic version was not sent to members, and that the financials are not usually reviewed at the steering committee meetings. Godenswager described the review was “at best a cursory review.”

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. Francisco stated the OBWC 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.
2. Consider implementing an evaluation process and conducting annual evaluations to determine whether the assigned OBWC representatives are complying with their job responsibilities and expectations of their involvement with the safety councils.

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 (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 Construction Safety Council of Northeast Ohio’s financial activities and to determine the sponsoring organization and safety council’s compliance with the agreement and the OSCPG manual:

| Safety Council Expenditures | |
|--|--|
| Requirement | OBWC Safety Council Program Staff Monitoring Activities |
| 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"> • Monitored communications from the sponsoring organizations to the safety council members. • Reviewed quarterly reports submitted to the steering committee for unusual expenditures. |
| 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 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 improve. 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 Construction Safety Council of Northeast Ohio complied with the agreement and the OSCP manual:

| Rebate Eligibility | |
|---|--|
| Requirement | OBWC Safety Council Program Staff Monitoring Activities |
| 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 & 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 representative to notify her staff if there are issues with the sponsoring organization's management of the safety council program, Francisco 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 her June 28, 2019, interview, Francisco told investigators that one of her principle 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 be a member of the sponsoring organization. Francisco explained that, "it is known, stated, and expected."

Francisco noted that there are four circumstances¹² 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.

¹² 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."

FINDING 8 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 Division.
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 Division.
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 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).
5. Consider developing and implementing procedures defining instances in which an income and expense statement should be requested on demand, the review process, and documenting the results of this review.
6. 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 clarifying existing guidance to the safety councils in the agreement and OSCP manual to be consistent in the level of financial information to be provided to OBWC for review.
2. Consider amending existing OBWC service office representative responsibilities in the OSCP manual to include reviewing the safety council expenditures at the steering committee meetings and documenting whether the expenditures were in accordance with the OSCP 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.
3. 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.
4. Consider the benefit of surveying the 83 safety councils to identify grants, rebates, and other programs operated by the safety councils and disseminating the results of the surveys to all 83 councils to provide ideas of additional benefits that the safety council can provide to their members using their safety council funds to improve safety in the workplace.
5. Consider implementing an annual training program for safety council managers, sponsoring organizations, and steering committee members which explains their responsibilities, duties and expectations of their position with the safety council and discusses instances of

noncompliance identified in the past year during OBWC reviews and audits; and guidance provided to safety council representatives on OSCP 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

RANDALL J. MEYER, INSPECTOR GENERAL

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

FILE ID #: 2019-CA00013

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
August 25, 2020**

MAILING ADDRESS

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**AGREEMENT between OHIO BUREAU OF WORKERS' COMPENSATION and
Construction Safety Council of Northeast Ohio**

This is an Agreement by and between **Construction Safety Council of Northeast Ohio** (hereinafter referred to as the "Safety Council"), sponsored by the Sponsor doing business under the laws of the State of Ohio at 950 Keynote Circle, Suite 10, Brooklyn Heights OH 44131 and the **State of Ohio, Bureau of Workers' Compensation** (hereinafter referred to as the "Bureau"), having offices at 30 West Spring Street, Columbus, Ohio 43266-2256, entered into the day, month and year set below.

Whereas the Bureau's Division of Safety & Hygiene and the Safety Council seek to establish by mutual consent such reasonable regulations in order to stimulate greater interest in the prevention of accidents and maintain a high standard of operation by conducting a co-sponsored safety campaign, now,

Therefore, the parties hereto mutually agree to the following:

1. MUTUAL TASKS. The Safety Council, in consideration of the Bureau's promise to make grants to the Safety Council to pursue the joint purpose of a safety campaign in accordance with the terms set forth in this agreement and the **FY18 Policies and Guidelines Manual**, agrees and promises to provide the following services:

- a. Maintain a working relationship with the Division of Safety & Hygiene and follow all procedures of the safety council program, outlined in the program's FY18 Policies and Guidelines Manual, as amended from time to time.
- b. Schedule, organize and lead at least quarterly meetings of the safety council steering committee for the organization and planning of the safety council program schedule.
- c. Coordinate and direct the co-sponsored safety council program.
- d. Distribute semi-annual reports to the participating companies, collect and review these reports and submit them to the Division of Safety & Hygiene for calendar year 2017 by mid-February, 2018, utilizing BWC's web application to submit the semi-annual report statistics.
- e. Conduct a minimum of ten meetings, conferences, and seminars with the membership for the purpose of providing information and education and identifying resources in accident prevention, workers' compensation, and risk management.
- f. Notify the Division of Safety & Hygiene of all safety council meetings, conferences, and seminars.
- g. Attend all safety council leaders' conferences sponsored by the Division of Safety and Hygiene.
- h. Encourage all companies to use the safety services of BWC.
- i. Provide an evaluation of any safety council meeting, with an accurate attendance figure and submission of sign-in sheets, immediately following each event.
- j. Follow all financial reporting guidelines set forth by BWC including:
 - a. Maintain a separate bank account for all safety council funds
 - b. Report detailed safety council income and expenses to the safety council steering committee at least once per quarter
 - c. Report high level safety council finances to membership at the conclusion of the fiscal year
- k. For fiscal year 2018 (FY18) rebate program, maintain accurate records of member program participation and enrollment, including submission of monthly meeting sign-in sheets, annual rebate eligibility spreadsheet and copies of documents provided as proof of external training.
- l. Maintain appropriate and active workers' compensation coverage and have no outstanding balance with BWC.
- m. Submit two signed copies of this agreement with a list of current safety council steering committee members.

The Bureau will furnish program policies and guidelines and other materials and instructions necessary to operate such safety council program.

2. METHOD OF PAYMENT. The Bureau, in consideration of the Safety Council's promise to perform services in accordance with the terms of the Agreement, does hereby grant to the Safety Council \$ 16,500 for fiscal year 2018 to be disbursed by the Bureau in the amount of \$ 8,250 in two semi-annual installments.

3. FINANCIAL ACCOUNTABILITY AND RULES COMPLIANCE.

Compliance with Revised Code Sections 9.23 through 9.236: For any contract in which the payment equals or exceeds **\$25,000.00**, the Safety Council agrees to comply with Revised Code Sections 9.23 through 9.236 and the rules of the Attorney General as they may be adopted under Section 9.237, regarding financial accountability of persons that contract with the state for services performed primarily for the benefit of the public, including, but not limited to, the following:

A. Pursuant to R.C. Section 9.232(A), the Bureau and Safety Council hereby agree that the minimum percentage of money that is to be expended on the Safety Council's Direct Costs to perform the Work will be a minimum of 80%. The Payment Earned shall be a total of Direct Costs and Allocable Non-direct Costs. Allocable non-direct costs are determined by a formula; Allocable Nondirect Costs are not to exceed the amount of Direct Cost divided by the above percentage minus the amount of Direct Cost. The Payment Earned equals the total of the Direct Costs and Allocable Nondirect Costs, which shall not in any event exceed the amount to be disbursed as set forth in Paragraph 2, above.

B. The records that the Safety Council must maintain to document such direct costs pursuant to R.C. 9.232(B) shall consist of the following: The Safety Council shall keep financial records in a manner consistent with generally accepted accounting procedures. Documentation to support each action shall be filed in a manner allowing it to be readily located.

The Safety Council shall keep a separate account for this contract ("contract account"). All disbursements made from the contract account shall be only for obligations incurred in the performance of this contract and shall be supported by contracts, invoices, vouchers, and other data, as appropriate, to support such disbursements. All disbursements from the contract account shall be for obligations incurred only after the effective date of this contract.

During the period covered by the contract and until the expiration of three years after final payment under the contract, the Safety Council shall provide the State, its duly authorized representatives, or any person, agency, or instrumentality providing financial support to the work performed under the contract, with access to and the right to examine any books, documents, papers and records of the Safety Council involving transactions related to the contract.

C. Safety Council shall comply with the financial review and audit requirement established under R.C. Section 9.234 and the rules of the auditor of state adopted under Section 9.238.

D. Safety Council shall comply with the Rules 109-3-01 through 109-03-04 as established by the Attorney General under Section 9.23; as such Rules are from time to time modified and amended.

E. Pursuant to R.C. 9-232(F), Safety Council and the Bureau hereby agree that any excess funds disbursed to Safety Council in excess of the contract payment earned will be repaid to the Bureau.

4. TIME OF PERFORMANCE. The Safety Council agrees that all services promised to be performed pursuant to this Agreement shall commence on July 1, 2017, and shall be completed no later than June 30, 2018, after which this Agreement shall terminate and be of no force or effect. This Agreement shall become effective upon the execution by all parties to the Agreement, and on compliance with any and all conditions precedent.

5. TERMINATION. It is mutually understood and agreed that during the term of this Agreement either party may terminate said Agreement upon thirty (30) days written notice prior to the effective date of termination. Termination is effective only for the following causes: (1) need to conserve funds; (2) deterioration of the safety campaign as determined by the Bureau; (3) change in administrative policy by the Bureau, and/or (4) failure on the part of either party to comply with this Agreement.

6. MODIFICATION. The parties may, by mutual agreement, modify or rescind the terms of this Agreement. Any such modification, including extensions, or rescission shall not be effective unless expressed in writing and signed by the parties hereto. Such modifications shall not be effective until compliance with any and all conditions precedent this agreement.

7. CONDITIONS PRECEDENT. It is expressly understood and agreed that approval of this Agreement by the Office of Budget & Management, pursuant to Ohio Revised Code Section 126.07, and that certification of the availability of funds sufficient to meet the obligation proposed to be incurred hereunder, shall be conditions precedent to the creation of any obligation under this Agreement. It is further agreed that in the event that the maximum sum payable hereunder shall equal or exceed the sum of fifty thousand dollars, the approval and expenditure of such sum by the Ohio State Controlling Board shall be a condition precedent to the creation of any obligation pursuant to this Agreement.

8. COMPLIANCE WITH LAWS OF OHIO. The Safety Council agrees and covenants that the Safety Council at this time is, and for the duration of the Agreement will be, in compliance with all laws of Ohio specifically including, but not limited to, the workers' compensation laws of Ohio, corporate and licensing laws of Ohio, financial records laws, professional licensing laws of Ohio, and all rules and regulations promulgated pursuant to those laws. Breach of this covenant by the Safety Council will be grounds for immediate termination of this Agreement.

9. HOLD HARMLESS AND INDEMNIFICATION. The Safety Council will hold the Bureau harmless and indemnify the Bureau from and against any claims, demands, losses, and causes of action asserted against or incurred by the Bureau which result from or arise out of the negligent conduct or intentional acts of the Safety Council.

10. TAXES AND INSURANCE. The Safety Council is responsible for all tax obligations incurred by the Safety Council as a result of the monies granted by the Bureau to the Safety Council for the services provided pursuant to this Agreement. The Safety Council shall be responsible for acquiring and maintaining all applicable insurance coverage.

11. NON-ASSIGNABILITY OF RIGHTS. Neither this Agreement nor any rights hereunder may be assigned or otherwise transferred, including, but not limited to, subcontracting of duties acquired pursuant to this Agreement, by the Safety Council without the prior written consent of the Bureau.

12. MERGER CLAUSE. It is mutually understood and agreed that this writing represents the entire Agreement between the Safety Council and the Bureau, and that such parties have entered into no agreement express or implied other than the Agreement set forth in this writing. It is further agreed that no oral representation of any modification of the terms set forth herein shall be given any force or effect unless such modifications shall have been expressed in writing and signed by the parties as provided in Paragraph 5.

13. INDEPENDENCE. It is mutually understood and agreed that the Safety Council is at all times acting independently of the Bureau. The Safety Council has control over the means and methods by which its services are provided and performed and the Bureau merely approves or disapproves the results of that performance.

14. EXPENSES. The Bureau shall not be required to pay for or reimburse the Safety Council for any travel or other expenses incurred or paid by the Safety Council in connection with the performance of services pursuant to this Agreement. The payment of such expenses is the sole responsibility of the Safety Council and not the responsibility of the Bureau.

15. JURISDICTION. The terms and the conditions contained herein shall be construed and interpreted in accordance with the laws of the State of Ohio. Any and all disputes arising under this Agreement shall be governed by the laws of the State of Ohio. The parties mutually agree to submit to the jurisdiction of Ohio courts for any and all disputes related to this Agreement.

16. SEVERABILITY. If for any reason any provision or part of this Agreement is declared void, invalid, or unenforceable, the validity of the rest of this Agreement shall not be affected and the Agreement shall remain in full force and effect with the void, invalid, or unenforceable provision(s) eliminated.

17. WAIVER. No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the party against whom the waiver is sought to be enforced. Failure of a party to insist upon strict performance of any provision of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment of the right to insist upon strict compliance with such provision in the future.

18. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY. The Safety Council will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders. The State encourages the Safety Council to purchase goods and services from Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors."

19. OHIO ELECTIONS LAW. The Safety Council hereby certifies that no applicable party listed in Divisions (I), (J), (Y) and (Z) of O.R.C. Section 3517.13 has made contributions in excess of the limitations specified under Divisions (I), (J), (Y) and (Z) of O.R.C. Section 3517.13.

20. DRUG-FREE WORKPLACE. The Safety Council agrees to comply with all applicable state and federal laws regarding drug-free workplace. The Safety Council shall make a good faith effort to ensure that all its employees, if working on state property, will not purchase, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

21. **CONFLICTS OF INTEREST AND ETHICS COMPLIANCE CERTIFICATION.** The Safety Council affirms that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict, in any manner or degree, with the performance of services which are required to be performed under any resulting Contract. In addition, the Safety Council affirms that a person who is or may become an agent of Safety Council, not having such interest upon execution of this Safety Council shall likewise advise the Bureau in the event it acquires such interest during the course of this Contract.

The Safety Council agrees to adhere to all ethics laws contained in Sections 102.03, 102.04 and 2921.43 of the Ohio Revised Code governing ethical behavior, understands that such provisions apply to persons doing or seeking to do business with the Bureau, and agrees to act in accordance with the requirements of such provisions; and warrants that it has not paid and will not pay, has not given and will not give, any remuneration or thing of value directly or indirectly to the Bureau or any of its board members, officers, employees, or agents, or any third party in any of the engagements of this Agreement or otherwise, including, but not limited to a finder's fee, cash solicitation fee, or a fee for consulting, lobbying or otherwise.

22. **SUBCONTRACTING / ASSIGNMENT / DELEGATION:** The Safety Council will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of the Bureau. Any assignment or delegation not consented to may be deemed void by the Bureau. However, the Bureau's approval will not serve to modify or abrogate the responsibility of the the Safety Council for the acts, omissions, nonfeasance, malfeasance, or misfeasance of any and all subcontractors.

23. **OFFSHORE PROVISION OF SERVICES PROHIBITED - EXECUTIVE ORDER REQUIREMENTS AND RELATED TERMINATION / SANCTION / DAMAGES PROVISIONS:** The Safety Council affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Safety Council performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract. The Executive Order is available at the following website: <http://procure.ohio.gov/pdf/EO201112K/EO201112K.pdf>

Construction Safety Council of Northeast Ohio

STATE OF OHIO, BUREAU OF WORKERS' COMPENSATION

TAX ID NUMBER: [REDACTED]

BWC POLICY NUMBER: [REDACTED]





Signature
Maricia Mitchell

Signature
Barbara Ingram

Printed Name
MEMBERS Service Assistant

Printed Name
Barbara Ingram

Title
6/22/2017

Title
Chief of Fiscal & Planning

Date

Date
07.26.2017

**AGREEMENT between OHIO BUREAU OF WORKERS' COMPENSATION and
Construction Safety Council of Northeast Ohio**

This is an Agreement by and between **Construction Safety Council of Northeast Ohio** (hereinafter referred to as the "Safety Council"), sponsored by the Construction Employers Association doing business under the laws of the State of Ohio at 950 Keynote Circle, Suite 10, Cleveland OH 44131 and the State of Ohio, Bureau of Workers' Compensation (hereinafter referred to as the "Bureau"), having offices at 30 West Spring Street, Columbus, Ohio 43266-2256, entered into the day, month and year set below.

Whereas the Bureau's Division of Safety & Hygiene and the Safety Council seek to establish by mutual consent such reasonable regulations in order to stimulate greater interest in the prevention of accidents and maintain a high standard of operation by conducting a co-sponsored safety campaign, now,

Therefore, the parties hereto mutually agree to the following:

1. MUTUAL TASKS. The Safety Council, in consideration of the Bureau's promise to make grants to the Safety Council to pursue the joint purpose of a safety campaign in accordance with the terms set forth in this agreement and the **FY19 Policies and Guidelines Manual**, agrees and promises to provide the following services:

- a. Maintain a working relationship with the Division of Safety & Hygiene and follow all procedures of the safety council program, outlined in the program's FY19 Policies and Guidelines Manual, as amended from time to time.
- b. Schedule, organize and lead at least quarterly meetings of the safety council steering committee for the organization and planning of the safety council program schedule.
- c. Coordinate and direct the co-sponsored safety council program.
- d. Distribute semi-annual reports to the participating companies, collect and review these reports and submit them to the Division of Safety & Hygiene for calendar year 2018 by mid-February, 2019, utilizing BWC's web application to submit the semi-annual report statistics.
- e. Conduct a minimum of ten meetings, conferences, and seminars with the membership for the purpose of providing information and education and identifying resources in accident prevention, workers' compensation, and risk management.
- f. Notify the Division of Safety & Hygiene of all safety council meetings, conferences, and seminars.
- g. Attend all safety council leaders' conferences sponsored by the Division of Safety and Hygiene.
- h. Encourage all companies to use the safety services of BWC.
- i. Provide an evaluation of any safety council meeting, with an accurate attendance figure and submission of sign-in sheets, immediately following each event.
- j. Follow all financial reporting guidelines set forth by BWC including:
 - a. Maintain a separate bank account for all safety council funds
 - b. Report detailed safety council income and expenses to the safety council steering committee at least once per quarter
 - c. Report high level safety council finances to membership at the conclusion of the fiscal year
- k. For fiscal year 2019 (FY19) rebate program, maintain accurate records of member program participation and enrollment, including submission of monthly meeting sign-in sheets, annual rebate eligibility spreadsheet and copies of documents provided as proof of external training.
- l. Maintain appropriate and active workers' compensation coverage and have no outstanding balance with BWC.
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The Bureau will furnish program policies and guidelines and other materials and instructions necessary to operate such safety council program.

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16. SEVERABILITY. If for any reason any provision or part of this Agreement is declared void, invalid, or unenforceable, the validity of the rest of this Agreement shall not be affected and the Agreement shall remain in full force and effect with the void, invalid, or unenforceable provision(s) eliminated.

17. WAIVER. No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the party against whom the waiver is sought to be enforced. Failure of a party to insist upon strict performance of any provision of this Agreement in any one or more instances shall not be construed as a waiver or relinquishment of the right to insist upon strict compliance with such provision in the future.

18. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY. The Safety Council will comply with all state and federal laws regarding equal employment opportunity and fair labor and employment practices, including Ohio Revised Code Section 125.111 and all related Executive Orders. The State encourages the Safety Council to purchase goods and services from Minority Business Enterprise (MBE) and Encouraging Diversity, Growth and Equity (EDGE) vendors."

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The Safety Council agrees to adhere to all ethics laws contained in Sections 102.03, 102.04 and 2921.43 of the Ohio Revised Code governing ethical behavior, understands that such provisions apply to persons doing or seeking to do business with the Bureau, and agrees to act in accordance with the requirements of such provisions; and warrants that it has not paid and will not pay, has not given and will not give, any remuneration or thing of value directly or indirectly to the Bureau or any of its board members, officers, employees, or agents, or any third party in any of the engagements of this Agreement or otherwise, including, but not limited to a finder's fee, cash solicitation fee, or a fee for consulting, lobbying or otherwise.

22. SUBCONTRACTING / ASSIGNMENT / DELEGATION: The Safety Council will not assign any of its rights nor delegate any of its duties and responsibilities under this Agreement without prior written consent of the Bureau. Any assignment or delegation not consented to may be deemed void by the Bureau. However, the Bureau's approval will not serve to modify or abrogate the responsibility of the Safety Council for the acts, omissions, nonfeasance, malfeasance, or misfeasance of any and all subcontractors.

23. OFFSHORE PROVISION OF SERVICES PROHIBITED - EXECUTIVE ORDER REQUIREMENTS AND RELATED TERMINATION / SANCTION / DAMAGES PROVISIONS: The Safety Council affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding any other terms of this Contract, the State reserves the right to recover any funds paid for services the Safety Council performs outside of the United States for which it did not receive a waiver. The State does not waive any other rights and remedies provided the State in this Contract. The Executive Order is available at the following website:
<http://procure.ohio.gov/pdf/EO201112K/EO201112K.pdf>

Construction Safety Council of Northeast Ohio

STATE OF OHIO, BUREAU OF WORKERS'
COMPENSATION

TAX ID NUMBER: [REDACTED]

BWC POLICY NUMBER: [REDACTED]



Signature

Kent Crytew

Printed Name

Director

Title

6-19-18

Date



Signature

Mark A. Later

Printed Name

Director, Fiscal Operations

Title

8/17/18

Date

Ohio Safety Council



Ohio | Bureau of Workers' Compensation

Division of Safety & Hygiene

CONTACTS

Michelle Francisco
Safety council program manager
614.644.7042
614.582.6444 (mobile)

Laura Seaver
Safety council program assistant
614.466.7695

POLICIES & GUIDELINES MANUAL

FY18

July 1, 2017 – June 30, 2018

614.365.4971 Fax

safetycouncil@bwc.state.oh.us

www.bwc.ohio.gov

Financial reporting

BWC subsidy

An annual contract outlines the agreement between BWC and a sponsoring organization to administer an Ohio Safety Council. In exchange, BWC provides an annual subsidy for safety council associated costs.

DSH provides a fiscal year subsidy based on the average attendance of the ten highest attended meetings per calendar year, as determined by attendance reports from monthly meeting evaluations and based on the following formula:

| Average attendance: | Subsidy: |
|---------------------|----------|
| 1-50 | \$ 5,500 |
| 51-100 | \$11,000 |
| 101-150 | \$16,500 |
| 151-200 | \$22,000 |
| 201+ | \$26,950 |

The subsidy will be paid in two equal semi-annual payments (mid-August and mid-February).

Sponsoring organizations are encouraged to apply to receive BWC subsidy payments via electronic funds transfer (EFT). This and other updates regarding the sponsoring organization's name or address should be reported to Ohio Shared Services (www.supplier.obm.ohio.gov).

Safety council funds

The BWC subsidy may be only one component of income association with sponsoring a safety council. In addition to the BWC subsidy, safety council funds include other income generated in the name of the safety council, e.g. membership fees, monthly meeting fees, sponsorships, etc.

The sponsoring organization is **required** to maintain all **safety council funds** in a separate and independent banking account.

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.

Budgeting and use of safety council funds is the responsibility of the sponsoring organization in coordination with its steering committee.

The sponsoring organization can use up to, but no more than 30% of the annual BWC subsidy, to reimburse itself for payroll and benefits. If determined by the sponsoring organization and steering committee, additional reimbursement for these administrative costs can come from other safety council funds.

Guidelines for appropriate use and management of safety council funds

Direct costs (expenses the sponsoring organization would not otherwise incur if they were not contracted to sponsor a safety council) include, but are not limited to:

- Reimbursement beyond 30% from non-subsidy revenue to reimburse sponsoring organization for payroll and benefits
- Speaker reimbursement for fees and expenses
- Marketing, advertising, logo, signage, billboards
- Web site fees and internet access
- Technical equipment, audio visual, laptops and projectors
- Meeting facility rental or usage fees
- Monthly meeting food and beverages
- Office supplies and copier expenses
- Printing and postage
- Training seminars
- Awards program expenses
- Conference and special event travel expenses including annual safety council leaders conference and Ohio Safety Congress
- Monthly door prizes
- Other incentive items and appreciation gifts
- Community affairs, scholarship funds, donations and grants

Indirect costs (costs of doing business, allocated to a particular contract, in this case the safety council) include, but are not limited to:

- Overhead costs, phone/fax lines, office space rental and building utilities
- Software upgrades and computer supplies

Transparency

Safety councils are **required** to provide steering committees with **at least** quarterly safety council financial reports (e.g. August, November, February and May) to assist in the budgeting and expenditure of safety council funds.

Steering committee financial reports shall include the following:

- BWC subsidy and other revenue generated in the name of the safety council
- Itemized expenses
- Balance summary (current year and overall)

Safety councils are **required** to present a financial report to its members at one of the safety council's final meetings of the fiscal year, no later than the June meeting.

Membership financial report shall include at least the following:

- Safety council funds revenue
- Expenses
- Balance summary (current year and overall)

BWC has no "use it or lose it" financial policy and no sponsoring organization shall have a zero-budget practice for unused safety council funds to be absorbed by the sponsoring organization. Safety council sponsoring organizations are restricted from using subsidy dollars for political activity.

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 and a roster of the upcoming year's steering committee members shall be submitted with the annual signed safety council contract to DSH.

DSH reserves the right to request an income and expense statement from any sponsoring organization on demand, but shall conduct a random audit of at least 10 safety council sponsoring organizations per year to confirm appropriate use of safety council program funds.



Ohio Safety Council **Policies and Guidelines**

FY19

July 1, 2018 – June 30, 2019

Division of Safety & Hygiene Contacts

Michelle Francisco
Safety Council Program Manager
614.644.7042
614.582.6444 (mobile)

Laura Seaver
Program Assistant
614.466.7695

safetycouncil@bwc.state.oh.us
www.bwc.ohio.gov
614.365.4971 Fax

Financial reporting

BWC subsidy

An annual contract outlines the agreement between BWC and a sponsoring organization to administer an Ohio Safety Council. In exchange, BWC provides an annual subsidy for safety council associated costs.

DSH provides a fiscal year subsidy based on the average attendance of the ten highest attended meetings per calendar year, as determined by attendance reports from monthly meeting evaluations and based on the following formula:

| Average attendance: | Subsidy: |
|---------------------|----------|
| 1-50 | \$ 5,500 |
| 51-100 | \$11,000 |
| 101-150 | \$16,500 |
| 151-200 | \$22,000 |
| 201+ | \$26,950 |

The subsidy will be paid in two equal semi-annual payments (mid-August and mid-February).

Sponsoring organizations are encouraged to apply to receive BWC subsidy payments via electronic funds transfer (EFT). This and other updates regarding the sponsoring organization's name or address should be reported to Ohio Shared Services (www.supplier.obm.ohio.gov).

Safety council funds

The BWC subsidy may be only one component of income association with sponsoring a safety council. In addition to the BWC subsidy, safety council funds include other income generated in the name of the safety council, e.g. membership fees, monthly meeting fees, sponsorships, etc.

The sponsoring organization is **required** to maintain all **safety council funds** in a separate and independent banking account.

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.

Budgeting and use of safety council funds is the responsibility of the sponsoring organization in coordination with its steering committee.

The sponsoring organization can use up to, but no more than 30% of the annual BWC subsidy, to reimburse itself for payroll and benefits. If determined by the sponsoring organization and steering committee, additional reimbursement for these administrative costs can come from other safety council funds.

Guidelines for appropriate use and management of safety council funds

Direct costs (expenses the sponsoring organization would not otherwise incur if they were not contracted to sponsor a safety council) include, but are not limited to:

- Reimbursement beyond 30% from non-subsidy revenue to reimburse sponsoring organization for payroll and benefits
- Speaker reimbursement for fees and expenses
- Marketing, advertising, logo, signage, billboards
- Web site fees and internet access
- Technical equipment, audio visual, laptops and projectors
- Meeting facility rental or usage fees
- Monthly meeting food and beverages
- Office supplies and copier expenses
- Printing and postage
- Training seminars
- Awards program expenses
- Conference and special event travel expenses including annual safety council leaders conference and Ohio Safety Congress
- Monthly door prizes
- Other incentive items and appreciation gifts
- Community affairs, scholarship funds, donations and grants

Indirect costs (costs of doing business, allocated to a particular contract, in this case the safety council) include, but are not limited to:

- Overhead costs, phone/fax lines, office space rental and building utilities
- Software upgrades and computer supplies

Transparency

Safety councils are **required** to provide steering committees with **at least** quarterly safety council financial reports (e.g. August, November, February and May) to assist in the budgeting and expenditure of safety council funds.

Steering committee financial reports shall include the following:

- BWC subsidy and other revenue generated in the name of the safety council
- Itemized expenses
- Balance summary (current year and overall)

Safety councils are **required** to present a financial report to its members at one of the safety council's final meetings of the fiscal year, no later than the June meeting.

Membership financial report shall include at least the following:

- Safety council funds revenue
- Expenses
- Balance summary (current year and overall)

BWC has no "use it or lose it" financial policy and no sponsoring organization shall have a zero-budget practice for unused safety council funds to be absorbed by the sponsoring organization. Safety council sponsoring organizations are restricted from using subsidy dollars for political activity.

Documents supporting how BWC's financial reporting requirements have been met shall be submitted with the annual signed safety council contract to DSH.

DSH reserves the right to request an income and expense statement from any sponsoring organization on demand, but shall conduct a random audit of at least 10 safety council sponsoring organizations per year to confirm appropriate use of safety council program funds.



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To: CSC Steering Committee

From: Tim Linville, Executive Vice President

Date: October 31, 2012

Re: Proposal for CEA Services to Administer the CSC

Following-up on our October 15, 2012 meeting with the CSC Steering Committee, I respectfully submit the following proposal. In return for an annual administrative fee of Twenty-Thousand Dollars (\$20,000) plus one quarter of any BWC Subsidy received through the CSC, CEA will administer the CSC. The above-quoted administrative fee shall be paid to CEA on a quarterly basis, and CEA shall be paid its portion of the BWC Subsidy upon CSC's receipt of the Subsidy from BWC.

CEA's administration shall include all aspects of the Safety Council, including, but not limited to, the following:

Meeting & Event Management

- Track and Schedule Speakers for Various Meetings
- Provide Handouts for Meetings
- Email Meeting Notice and Reminders to Members
- Purchase Door Prizes for Monthly Meetings
- Track and Collect all Accts Receivable for Unpaid Attendees
- Collect and Track Registrations Per Meeting
- Manage all Meetings with Hotel, Including Awards Banquet and CEO Event
- Transport, Set Up and Tear Down Audio Visual Equipment at Monthly Meetings
- Develop and Review Meeting Survey for Monthly Meetings
- Administer the 50/50 Raffle



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Interface with Ohio Bureau of Workers' Compensation

- All Correspondence and Forms with BWC Regarding Safety Council
- Verify Number of Meetings Each CSC Member Attended (Including CEO Requirement)
- Send Semi-Annual Report Forms to Members
- Process External Seminar Credits for Members with BWC For Approval and Filing
- Audit and Send New Enrollment Forms to BWC
- Verify Semi-Annual Reports Received from Each CSC Member by Deadline
- Enter Data from Semi-Annual Reports Received into the BWC Database
- Research and Correct BWC Rejected Semi-Annual Reports from Members
- Distribute BWC Discount Checks to CSC Qualified Members
- Council Administration
- Coordinate Steering Committee Meetings
- Attend Annual Managers Meeting in Columbus
- Issue Credits for Qualified CSC Members at Year End

Finance

- Deposit and Record All Checks
- Process and Transfer All Credit Card Payments
- Reconcile all Bank Statements
- Process all Payments
- Process all Costs for Meetings
- Provide all Financial and Tax Information to Auditors for Annual 990 Tax Returns



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- Provide Analytical Reports to Management

General

- All Correspondence with Members
- Send Annual Enrollment forms to CSC Members
- Solicit New CSC Members from CEA/CISP Contacts and Outside Contractors
- Maintain Contact Groups for Emails
- Assist all Members with Questions
- Track Non-Returning Members and Research Cause

Please sign below and return this proposal to CEA at your earliest convenience.

Accepted and agreed to this 31st day of October,
2012.



Kent Crytzer
Construction Safety Council



Timothy Linville
Construction Employers Association