

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
SAFETY COUNCIL OF GREATER COLUMBUS

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

“Safeguarding integrity in state government”

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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.

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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 Safety Council of Greater Columbus 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 Safety Council of Greater Columbus subsidies totaling \$26,950 for fiscal year¹ (FY) 2018 and \$26,950 for FY 2019.

The investigation also examined the level of oversight exercised by OBWC when awarding and monitoring the safety councils' activities. This report is one 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 Safety Council of Greater Columbus complied with the provisions of the agreement with OBWC, which included the guidance provided in the OSCP manual, except that the safety council sponsoring organization (1) inaccurately reported that certain employers met the identified eligibility requirements in FY 2018 thereby resulting in OBWC, in some instances, improperly issuing a rebate; and, (2) failed to comply with certain quarterly and annual financial reporting and financial accountability requirements.

The Office of the Ohio Inspector General found that OBWC implemented processes to ensure the required documents were submitted by the Safety Council of Greater Columbus, issued rebates to eligible employers for the FY 2018 program, and provided training to the parties involved when the safety council financial reporting and accountability requirements were

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

² A subsidy is a grant or contribution of money.

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 Safety Council of Greater Columbus 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 19 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 six additional matters for the agency's consideration.

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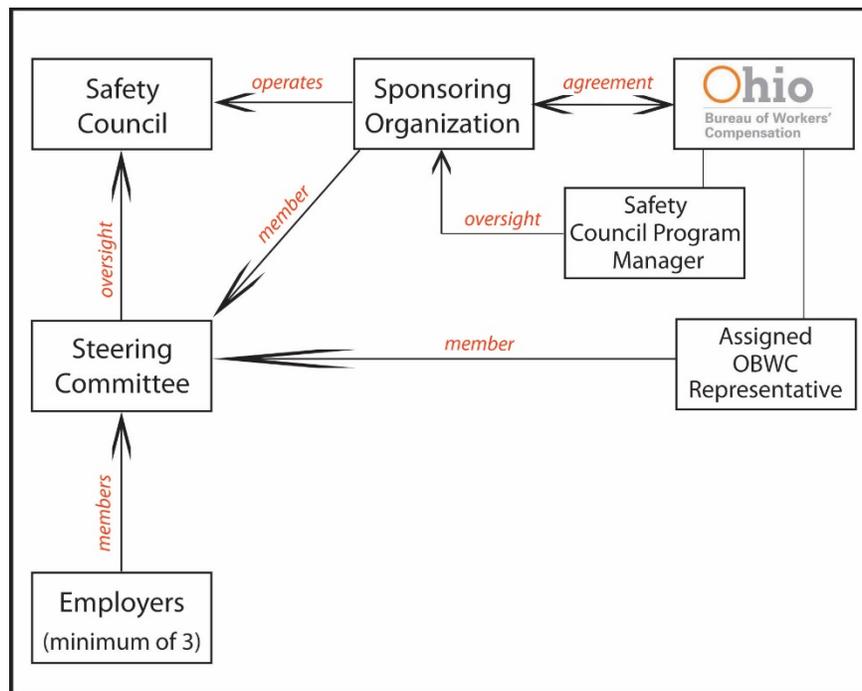
ENTITIES UNDER REVIEW

Ohio Bureau of Workers' Compensation

The Ohio Bureau of Workers' Compensation (OBWC) is responsible for providing workers' compensation benefits to public and private employees who are unable to work due to a work-related injury. In Ohio, companies or employers with employees must have coverage from either state funds or be self-insured. For those companies or employers with no employees who meet specific requirements, Ohio law makes workers' compensation coverage elective. The agency also offers workplace safety consulting services, Safety & 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, amongst 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 that 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.

Safety Council of Greater Columbus

The Safety Council of Greater Columbus is sponsored by the Builders Exchange of Central Ohio (BX) 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 that 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 Safety Council of Greater Columbus entered into an agreement [\(Exhibit 1\)](#) which resulted in the award of a safety council subsidy in the amount of \$26,950 for FY 2018 and \$26,950 for FY 2019. This agreement provided that both OBWC and the Safety Council of Greater Columbus 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 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 Safety Council of Greater Columbus was complying with the terms of the agreement and the provisions of OBWC's OSCPG manual. The initiative also examined the level of oversight exercised by OBWC both 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 review was to determine whether the Safety Council of Greater Columbus 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 review 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 compliance review included:

- 1) Determining whether OBWC awarded the appropriate subsidy to the Safety Council of Greater Columbus.
- 2) Determining whether the Safety Council of Greater Columbus 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 Safety Council of Greater Columbus 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 the Safety Council of Greater Columbus activities in accordance with the limitations described in the agreement ([Exhibit 1](#)) and the OSCPG manual.
- 6) Determining whether the Safety Council of Greater Columbus complied with financial reporting guidelines provided in the OSCPG manual and Ohio Revised Code (ORC) §§9.23 through 9.236.
- 7) Determining whether representatives of the Safety Council of Greater Columbus attended the Safety Council Leaders Conference sponsored by OBWC.
- 8) Determining the monitoring activities used by OBWC to determine whether the Safety Council of Greater Columbus was compliant with the provisions in the agreement ([Exhibit 1](#)) and the OSCPG manual.

The Office of the Ohio Inspector General examined OBWC and Safety Council of Greater Columbus 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 Safety Council of Greater Columbus complied with the provisions of the agreement with OBWC, which included the guidance provided in the OSCPG manual, except that the safety council sponsoring organization, (1) inaccurately reported certain employers met the identified eligibility requirements in FY 2018, thereby resulting in OBWC, in some instances, improperly issuing a rebate; and, (2) failed to comply with certain quarterly and annual financial reporting and accountability requirements.

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

FINDING 1 – OBWC Subsidy

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

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 Safety Council of Greater Columbus monthly meetings for calendar year 2018 was 264.5. Investigators found that OBWC appropriately awarded a \$26,950 subsidy to the Safety Council of Greater Columbus for FY 2020.

FINDING 2 – Safety Council Monthly Meetings

Section 1(b) of the agreement ([Exhibit 1](#)) between OBWC and the Safety Council of Greater Columbus 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 Safety Council of Greater Columbus 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 Safety Council of Greater Columbus 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 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 Safety Council of Greater Columbus and found that the safety council was compliant, except for the monthly safety council meeting notifications.

Investigators reviewed records provided by OBWC and found no evidence that the Safety Council of Greater Columbus had notified OBWC of safety council meetings held on July 11, 2018; August 1, 2018; September 5, 2018; October 3, 2018; November 7, 2018; or December 5, 2018.

On April 8, 2020, in response to an investigator's inquiry about the matter of missing safety council meeting notifications from the OBWC records provided, OBWC Safety Council Manager Michelle Francisco stated,

I can assure you we routinely receive three or four monthly meeting notices from this safety council without fail and I have no doubt they were sent on schedule in the first six months of FY19 (July – Dec, 2018). I am unable to locate copies of the meeting notices, except for July and September, in our files but I did locate 'recap' messages sent immediately following each meeting which serves as reasonable documentation that the other four meetings occurred as scheduled, along with the evaluation and sign-in sheets. This was obviously a filing or data handling error on our part ...

FINDING 2 RECOMMENDATIONS

Ohio Bureau of Workers' Compensation

1. Consider developing and implementing a process to document that the required documents are submitted throughout the fiscal year, were submitted in their entirety as required by the OSCP manual and are saved in a manner which allows for easy retrieval of the records when necessary.

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 OSCP 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 ⁴ or group-retrospective ⁵ 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 OSCP manual provides that an employer,

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

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

⁴ 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."

⁵ 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."

Safety Council Responsibilities

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

- 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.⁶

At the end of each program year, the safety council submitted a pre-populated spreadsheet⁷ 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.

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.

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

⁷ 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.

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 system⁸ and executed a “batch job”⁹ to determine whether the identified employer met the following additional criteria for a participation rebate:

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

For those employers who 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.

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 the evaluation period, Francisco explained that she or her staff investigated these policies and took steps to determine whether the initial “fail” determination should be changed to a “pass.”

⁸ The Rates and Payment computer system is used by OBWC to develop employer premium rates.

⁹ 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.

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 the OBWC Finance Department for processing.

Safety Council of Greater Columbus Records

Investigators compared information reported by the Safety Council of Greater Columbus 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,

... 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.

In addition, the OSCPG manual provided, “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.” Investigators compared the monthly safety council sign-in sheets to the pre-populated spreadsheet submitted by the Safety Council of Greater Columbus and found for FY 2018 that:

- For 55 employers, the pre-populated spreadsheet reflected that an employer representative had attended the monthly safety council meeting in 87 instances, which included five instances for the sponsoring organization, the Builders Exchange of Central Ohio. However, this attendance was not supported by a signature on the meeting sign-in sheet. This inaccurate reporting on the pre-populated spreadsheet improperly indicated that 16 employers met the first level of safety council rebate eligibility requirements. Investigators further determined that 16 of the 55 employers received safety council rebates.
- For 20 employers, the monthly safety council meeting sign-in sheet reflected that an employer representative attended the monthly safety council meeting in 21 instances.

However, the pre-populated spreadsheet submitted by the safety council to OBWC did not document an employer representative had attended 21 monthly meetings. Investigators determined this inaccurate reporting did not impact whether the employer received a safety council rebate.

On April 8, 2020, investigators emailed the Safety Council of Greater Columbus to obtain clarification of discrepancies between the pre-populated spreadsheet and the signatures on the sign-in sheets. Additionally, investigators asked why the pre-populated spreadsheet documented that the sponsoring organization attended five monthly safety council meetings when there was no signature on the sign-in sheet for the sponsoring organization.

On April 17, 2020, the Safety Council of Greater Columbus manager confirmed by email that “signatures are required when signing in to obtain meeting credit” and acknowledged that errors do occur. Attendance errors were usually identified when the employer reviewed the updated online attendance spreadsheet. When an error was identified, the safety council manager told investigators that the employer emailed the sponsoring organization about the discrepancy and that she or her staff reviewed the discrepancy and adjusted the attendance when necessary. The safety council manager further stated,

The Builders Exchange (BX) is the managing organization for SCGC [Safety Council of Greater Columbus], and the BX has at least five employees present at each monthly event to execute the success of the monthly meeting. Because there is much for the staff to do during the large meeting, sometimes the sign-in sheet does not get signed.

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

Failure to Verify the CEO’s Attendance

The OSCPG manual provides that the,

... CEO or highest-ranking local authority must attend any one safety council-hosted meeting or special event. The safety council is the ultimate authority on approving a

qualified representative to fulfill the CEO requirement. The highest standard must be maintained in accepting only qualified representatives to fulfill this requirement.

During a June 28, 2019, interview, Francisco told investigators that at every opportunity, she reinforces to the sponsoring organization that it is their responsibility to verify that the individual completing the sign-in sheet as the CEO is in fact the highest-ranking local official, and advises them not to rely upon the checkmark indication on the sign-in sheet. The date or a checkmark should only be included in the CEO column on the pre-populated spreadsheet if the sponsoring organization had verified that the individual was the highest-ranking official who attended the monthly meeting.

Investigators analyzed records supporting the entries on the pre-populated spreadsheet and were unable to locate documentation supporting the date reflected on the pre-populated spreadsheet that the CEO attended a monthly safety council meeting for 22 employers for FY 2018. This inaccurate reporting resulted in the improper identification on the pre-populated spreadsheet that the employer met the first level of safety council rebate eligibility requirements. Investigators further determined that 13 of these 22 employers received safety council rebates for FY 2018.

In response to clarification requested by investigators, the Safety Council of Greater Columbus manager explained in an April 17, 2020, email that the records provided in response to the Office of the Ohio Inspector General subpoena included,

A scan of every CEO card we have for FY 18 as well as the spreadsheet, which lists the date that the CEO attended. Occasionally, the CEO or highest-level local authority signs the *general* sign-in only, and does not or forgets to sign the CEO card as well ... If we have their physical signature on the general sign-in sheet, they are then sent a digital CEO card to sign ...

Failure to Verify External Training Credit

The OSCPG 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, 2017.

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 Safety Council of Greater Columbus and found that two employers completed external training in FY 2018 and that this external training credit was not recorded as earned on the pre-populated spreadsheet submitted to OBWC. Investigators determined that the failure to record this external training credit did not impact whether the employer received a safety council rebate.

FINDING 3 RECOMMENDATIONS

Safety Council of Greater Columbus

1. Consider revising the existing monthly safety council meeting sign-in sheet to require attendees to print their names and their titles, and to sign their names. Also consider implementing procedures to compare the information reflected on the monthly sign-in sheets, the external training documentation, and the completed CEO cards 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 attends the identified meeting.

3. Consider developing and implementing procedures for the review of external training credits 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 OSCP manual provided the following guidance ([Exhibit 2](#)) to the Safety Council of Greater Columbus 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 payments¹⁰ totaling \$103,778.56 for FY 2018 and \$105,378.81 for FY 2019

¹⁰ This includes expenditures listed in the safety council ledger as expenses and those spent from the safety council bank account but not reported on the safety council ledger.

and found that safety council funds were expended in accordance with the agreement and the OSCP manual and also found the following:

Sponsoring Organization Reimbursements

The OSCP 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.

Investigators noted that the safety council ledgers provided in response to a subpoena by the sponsoring organization identified the safety council paid the sponsoring organization a total of \$26,000 for both FY 2018 and FY 2019. Each FY ledger indicated the \$26,000 amount was allocated in the following manner:

- 30% of BWC Stipend to BX for staff, overhead expenses of \$8,085.¹¹
- Additional BX staff and overhead expenses of \$17,915.

Investigators reviewed the quarterly safety council steering committee agendas and found the November 1, 2017; February 4, 2018; August 1, 2018; and November 7, 2018, agendas reported a “BX reimbursement” expense. However, the agendas did not specify the amount of each “BX reimbursement” expense.

On April 28, 2020, the Safety Council of Greater Columbus manager provided investigators with a spreadsheet ([Exhibit 3](#)) showing the \$8,085 was calculated as 30% of the \$26,950 subsidy for FY 2018 and FY 2019. The remaining \$17,915 for BX staffing/management allocation to the safety council was calculated as 40% of the FY 2018 safety council member dues and 41% of the FY 2019 safety council member dues.

Investigators asked the safety council for clarification of the settlement process used by the sponsoring organization to calculate the amount to be reimbursed by the safety council for

¹¹ This amount is equal to 30% of the \$26,950 OBWC received for FY 2018 and for FY 2019.

payroll and overhead expenses in excess of the 30% cap. Investigators also noted to the safety council that the amount paid by the safety council to the sponsoring organization was less than the total cost associated with the payroll hours identified on documentation provided by the safety council in response to the subpoena. [\(Exhibit 3\)](#)

On May 18, 2020, the safety council manager explained in an email,

- 1) The SCGC [Safety Council of Greater Columbus] reimburses the Builders Exchange for Council-related expenses, which has been the accounting practice since the inception of the Council. This is reviewed and discussed by the steering committee during the steering committee meetings.
- 2) The hours [reflected as time spent by sponsoring organization staff] are the actual total cap. The Builders Exchange staff spends more staff time than the 30% maximum stipend amount allowed.
- 3) Twice a year, the Builders Exchange presents the SCGC a settlement ledger that includes the expenses paid on behalf of SCGC by the BX, and any revenue¹² that the BX (on behalf of SCGC) has accumulated since the last settlement. The SCGC then issues a check to the BX for the net amount.

Investigators discovered that the quarterly steering committee meeting planned agendas did not include an agenda item for the discussion of reimbursing the sponsoring organization for payroll and benefits using safety council dues and sponsorships received during the fiscal year. On May 27, 2020, the Safety Council of Greater Columbus manager responded to investigators' questions that the reimbursements issued to the sponsoring organization are approved during the steering committee meeting, that the reimbursement is reflected on the financial statements after the check is issued, and that the only documentation supporting the steering committee discussions are the meeting agendas.

Investigators contacted the assigned OBWC service office representatives for FY 2018 and FY 2019 and asked them to elaborate on the matter of steering committee discussions and approvals

¹² Per the safety council manager, the safety council cannot collect fees paid by credit card. As such, BX, the sponsoring organization, collects the fees on behalf of the safety council.

to reimburse the sponsoring organization using non-OBWC subsidy funds for additional payroll costs incurred for safety council activities. On May 20, 2020, the FY 2018 assigned OBWC service office representative stated in an email that she was,

... not able to locate any discussion, conversation or paperwork whatsoever, concerning reimbursement estimates, calculations or any approval of using non-subsidy funds to reimburse the Builder's Exchange for any associated payroll costs.

On May 21, 2020, the FY 2019 assigned OBWC service office representative explained in an email to investigators that at the steering committee meeting, there is "usually a discussion of upcoming expenditures or payments that are due as well as expenditures that have been made." The assigned OBWC service office representative further stated that,

By specific discussion, I mean that there was no discussion by the steering committee above and beyond the general information provided to us by the BX representative because there were no questions or concerns on the information that was provided ...

Furthermore, the representative did not recall seeing any steering committee members at this safety council or any others to which he is assigned, questioning "administrative reimbursements so it could be discussed how the payment was calculated, if it was based on actual hours spent, whether estimates were used, or if all they had rounded up or down correctly with the fraction of hours." Lastly, the representative explained "... I have always assumed that their calculations were based on estimates but I have never asked."

FINDING 4 RECOMMENDATIONS

Safety Council of Greater Columbus

1. Consider implementing a process to document the review of the supporting documentation, expense allocations, and the subsequent approval of the settlement request submitted by the sponsoring organization for reimbursement of expenses including payroll costs incurred by the sponsoring organization on behalf of the safety council.

Ohio Bureau of Workers' Compensation

1. Consider amending the OSCP manual to provide clarification and guidance on approvals to be obtained and records to be maintained supporting hours spent working on safety council activities in order to support the reimbursements to the sponsoring organization for payroll and benefit costs incurred for safety council activities.

FINDING 5 – Safety Council Financial Reporting Guidelines

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

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

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

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

On June 28, 2019, Francisco told investigators that the only guidance provided to the safety councils regarding these financial reports was included in the OSCP manual. Francisco

acknowledged that no guidance had been provided to the safety councils on the format of the reports addressing items such as the allocation of revenue between the safety council and other revenue sources and the level of detail as to how the funds were spent by the safety council. 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 Safety Council of Greater Columbus; evaluated responses sent to investigators by both OBWC and the safety council; and subsequently found the Safety Council of Greater Columbus had complied with the provisions in the agreement and the OSCPG manual for financial reporting except for the quarterly and annual financial reports.

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).” However, investigators found that the quarterly steering committee financial reports provided to the safety council steering committee for three quarterly meetings in FY 2018 and all four quarterly meetings in FY 2019 did not include an itemized list of expenses. Instead, financial data was reported to the steering committee in overall totals as is shown in the following example:

Beginning Balance (11/01/18) - \$41,690.82
Income (Dues, BWC stipend, sponsorships) - \$17,351.40
Expenses (Makoy, Checks, Health Fair mugs, awards speaker deposit) -
<u>\$19,025.81</u>
Ending Balance (02/28/19) - \$40,016.41

Investigators compared the above report to the safety council fund expenditure ledgers and determined the report did not identify all the expenditures made during this period.

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

Annual Report to Membership

Section 1(j) of the agreement ([Exhibit 1](#)) requires the Safety Council of Greater Columbus to “report high-level safety council finances to the safety council membership at the conclusion of the fiscal year.” Furthermore, the OSCPG manual provides that the safety council “present a financial report to its members at *one of the final meetings of the fiscal year* [emphasis added].” The OSCPG manual provided that, the annual membership financial report shall include at least the following:

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

Investigators analyzed records submitted by the safety council to OBWC for FY 2018 and discovered documents that indicated that the FY 2018 financials were discussed at the August 1, 2018, safety council meeting, which occurred after the end of FY 2018 and therefore, contrary to the provisions of the OSCPG manual.

Investigators analyzed records submitted by the safety council to OBWC for FY 2019 and found no evidence that OBWC was notified when the annual financial report was distributed to the membership. However, investigators obtained an agenda from the Safety Council of Greater Columbus documenting that the FY 2019 annual financial report was presented to the membership at the June 4, 2019, safety council meeting. Lastly, investigators found that the report to the membership failed to include the safety council fund balance for the current year and overall as required by the OSCPG manual.

On April 28, 2020, Francisco explained in an email that this item was not documented as “missing” in the initial review of the FY 2019 financial reporting requirements and, as such, there was no follow-up to obtain this documentation. Francisco acknowledged that in April 2020 that she requested clarification from the safety council sponsor and received the June 2019 talking points document and confirmed the year-end financials were shared with members as required by the OSCPG manual.

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

Safety Council of Greater Columbus

1. Develop and implement procedures to ensure the steering committee receives itemized expenses in accordance with the agreement with OBWC and the OSCPG manual.
2. Consider requiring all steering committee members present, including the OBWC service office representative to sign the quarterly safety council report acknowledging that they have received, reviewed, and approved the quarterly financials.
3. Consider implementing policies and procedures to ensure an annual report of safety council financial activities is distributed to the membership by no later than the June meeting and that the report is in accordance with the guidance in the OSCPG manual.

FINDING 6 – Safety Council Financial Accountability and Rules Compliance

Section 3 of the agreement between OBWC and Safety Council of Greater Columbus ([Exhibit 1](#)) provides that when receiving grant awards in excess of \$25,000, the safety council agrees to comply with Ohio Revised Code (ORC) §§9.23 through 9.236. These sections contain provisions for the financial accountability of persons that contract with the state for services primarily for the benefit of the public. The agreement between OBWC and the Safety Council of Greater Columbus included the following provisions reviewed as part of this investigation:

- (A) Pursuant to R.C. Section 9.232(A), the Bureau and the 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% ...

- (B) The records that the Safety Council must maintain to document the 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 ...

- (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 the Safety Council in excess of the contract payment earned¹³ will be repaid to the Bureau.

In addition, the OSCP manual further provided the safety council was required "... to maintain records for all money expended with BWC (state government funds)" and that "... these records must track those direct costs versus allocable non-direct costs." Furthermore, safety councils were not permitted to spend more than 20% of the safety council subsidy on allocable non-direct costs.

¹³ The contract payment earned was defined in the agreement as the "total of direct costs and allocable non-direct costs, which shall not in any event exceed the amount to be disbursed as set forth in Paragraph 2, above." Paragraph 2 of the agreement contains the amount of the safety council grant awarded by OBWC to the identified safety council.

Investigators analyzed the records provided by the Safety Council of Greater Columbus; evaluated responses sent to investigators by both OBWC and the safety council; and, ultimately, found that the Safety Council of Greater Columbus complied with the provisions in the agreement and the OSCPG manual with the exception of the following:

Tracking of Direct Costs

Section 3(A) of the agreement with OBWC provides that pursuant to ORC §9.232(A), “the Bureau and the 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% ...” Additionally, the OSCPG manual provides that “a safety council sponsoring organization can expend 80-100% of subsidy dollars to direct costs, but no more than 20% of subsidy dollars on allocable non-direct costs.”

Investigators determined the FY 2018 and FY 2019 financial reports provided by the safety council in response to the subpoena contained a listing of safety council expenditures for each fiscal year. However, the ledger did not identify which costs were (1) paid with OBWC subsidy funds or (2) the amount of the expenditure that an “allocable non-direct cost” of the safety council program.

Furthermore, investigators were unable to determine the amount associated with direct and the allocable non-direct costs for the “Additional BX staff and overhead expense” and “30% of BWC Stipend to BX for staff, overhead expense” line items on the FY 2018 and FY 2019 financial reports submitted to investigators in response to a subpoena. Lastly, the FY 2018 and FY 2019 Profit & Loss Reports submitted to OBWC documented a total of \$26,000 in expenditures which were classified as a “Stipend to BX for overhead expenses.”

Investigators asked Francisco what additional communications occurred to ensure that the Safety Council of Greater Columbus had complied with spending no more than 20% of the subsidy funds for the sponsoring organization’s indirect costs. On April 28, 2020, Francisco responded that,

No additional communication or action was taken at the time. When direct expenses are higher than the subsidy amount paid to the sponsor, I assume subsidy is used for direct expenses and indirect costs are from other revenue.

Annual Report to OBWC

Section 3(A) of the agreement between OBWC and Safety Council of Greater Columbus [\(Exhibit 1\)](#) provided that when receiving grant awards in excess of \$25,000, the 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."

On June 20, 2018, OBWC sent the following email to the Safety Council of Greater Columbus:

As a reminder, safety councils earning more than \$25,000 in FY18 (July 1, 2017 – June 30, 2018) are required by Ohio Revised Code 9.231 to report use of subsidy dollars for the fiscal year. Safety council sponsors are required to repay excess funds not expended on "direct costs" or "allocable nondirect costs", as outlined on page 6 of the program's FY18 Policies and Guidelines Manual (attached).

Please submit a report of use of FY18 safety council subsidy funds to my attention by **Tuesday, July 31**.

Investigators determined that the Safety Council of Greater Columbus submitted a profit and loss statement to OBWC on June 22, 2018. In addition, investigators found the FY 2018 Profit & Loss Report contained estimated amounts for the following line items: Stipend to BX for overhead expenses, Supplies, OCILB Credit Application, and Award Certificate Holders. On May 27, 2020, the current Safety Council of Greater Columbus manager explained that she was not involved in the safety council finances at that time and believed her predecessor may have sent a "preliminary report."

On May 27, 2020, Francisco stated in an email to investigators that she did not recall "noticing the three items reported as 'estimated amount[s]'" and did not find any documentation showing she [Francisco] followed up on these amounts." Francisco explained that the three items that were identified as direct expenses would have been "considered appropriate and the amounts not out of the ordinary."

Investigators further noted a similar reminder was sent for the FY 2019 report. However, the records provided by OBWC only contained a high-level summary of hours spent by staff and an estimated \$32,406.42 cost. On April 28, 2020, Francisco admitted to investigators by email that the high-level summary of hours spent by staff was the only documentation that OBWC received at that time and explained that,

It is evident I did not review the item submitted at the time. If I had done so, I would have asked for a revised report on the use of FY19 subsidy dollars when only a spreadsheet of sponsor hours was submitted.

Francisco further acknowledged that there were no additional communications with the Safety Council of Greater Columbus to obtain a ledger documenting the expenditure of OBWC subsidy funds for FY 2018 or FY 2019. However, after our inquiry, Francisco obtained the FY 2019 Profit & Loss Report from the safety council and provided it to investigators for review.

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

Required Financial Records

The OSCPG manual provides that,

State of Ohio legislation requires safety council sponsoring organizations earning more than \$25,000 to maintain accounting records for all moneys expended with BWC (state government) funds ...

Investigators compared the safety council's FY 2018 and FY 2019 Profit & Loss Reports [**\(Exhibit 3\)**](#) to the ledgers and other documentation the safety council provided to investigators in response to the subpoena. Investigators found the Profit & Loss Reports did not include expenditures used for safety council activities in the amounts of \$628.95 for FY 2018 and \$4,528.38 for FY 2019. Additionally, the Office of the Ohio Inspector General was unable to determine whether these expenses were paid using OBWC subsidy or other safety council funds. Investigators asked the Safety Council of Greater Columbus representatives why these expenses

were excluded from the FY 2018 and FY 2019 Profit & Loss Reports. On May 18, 2020, the Safety Council of Greater Columbus manager replied, “This may have been omitted.”

Lastly, investigators were unable to locate the ledger documenting specifically how the \$26,950 of OBWC subsidy funds were expended. The ledgers provided in response to the subpoena by the sponsoring organization and OBWC contained all safety council fund activity, not just the spending of OBWC subsidy funds. Investigators asked Francisco why she did not request the safety council to submit a report on how the subsidy funds were spent as requested in the email. On April 28, 2020, Francisco stated in an email to investigators that “I have no explanation for not making that distinction.”

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

FINDING 6 RECOMMENDATIONS

Safety Council of Greater Columbus

1. Consider implementing reconciliation procedures between bank activity and the general ledger accounts representing safety council expenditures to ensure all financial activities involving the safety council funds as defined in the OSCPG manual are recorded in the safety council fund ledger and the required financial reports submitted to OBWC.

Ohio Bureau of Workers’ Compensation

1. Consider amending the OBWC Ohio Safety Council Policies and Guidelines manual to identify the applicable statutes containing the additional requirements for safety councils receiving in excess of \$25,000 and outline which provisions of the manual only apply to those safety councils, explain what is meant by “generally accepted accounting procedures,” and provide guidance on the level of detail required in safety council accounting records to identify direct and allocable non-direct costs.

FINDING 7 – Annual Conferences

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

On June 28, 2019, Francisco explained that the safety council representatives were not required to sign in upon their arrival at the conference, and instead, OBWC used the uncollected name badges to identify the attendees who did not attend. Francisco admitted that there are no 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.

Investigators reviewed records provided by the Safety Council of Greater Columbus, OBWC, and determined that safety council representatives attended the annual conference held in Columbus in FY 2018 and FY 2019. Additionally, investigators confirmed that Francisco had sent the PowerPoint presentation to the sponsoring organization representatives.

On April 6, 2020, Francisco notified investigators that in January 2020, the Safety Council of Greater Columbus had changed safety council managers. Francisco explained that she had determined the new safety council manager had been the “person ultimately responsible for program administration responsibilities” under the previous manager and that she did not need to provide additional training to the new safety council manager.

In an April 15, 2020, email, the current Safety Council of Greater Columbus manager stated that she “never received proper training” and that she had assisted the previous safety council manager prior to her promotion. Additionally, the current safety council manager explained in an April 28, 2020, email, that prior her promotion, she assisted with the monthly meeting planning, steering committee organization, membership and attended the FY 2018 and FY 2019 annual Safety Council Leaders Conference with the former safety council manager.

FINDING 7 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.
3. Consider implementing an annual training program for safety council managers, sponsoring organizations, and steering committee members and a training for newly appointed safety council managers which explains their responsibilities, outlines the 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 summarizes clarifying guidance provided to safety council representatives on OSCP manual requirements.

FINDING 8 – OBWC Safety Council Program Oversight – OBWC Service Office Representatives

The OSCP manual describes the assigned local OBWC service office representative's role as being responsible to "... monitor program activities, provide resources, information, clarification or direction in applicable situations and to serve as a BWC spokesperson." The manual further provides that the assigned OBWC 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 representative¹⁴ 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.

¹⁴ In most cases, there was a primary and a back-up representative assigned to each safety council.

- Attending quarterly steering committee meetings.
- Receiving copies of the quarterly financial reports.

On December 20, 2019, the OBWC service office representative assigned to the Safety Council of Greater Columbus responded to a survey sent by the Office of the Ohio Inspector General and stated that he:

- Received a copy of the OSCPG manual and reviewed the manual on his own.
- Did not participate in training, webinars, or staff meetings regarding his safety council responsibilities.
- Did not receive training materials, and rarely received updates on the safety council program requirements.
- Was unaware of and did not attend the Safety Council Leaders Conference. Furthermore, he was not provided a copy of the training material distributed at this conference.
- Was instructed to contact Francisco when the safety council was not following the OSCPG manual and would refer questions posed by the safety council to Francisco for resolution.
- Attended the quarterly steering committee meetings which were held after the regular monthly safety council meeting.
- Discussed with steering committee members to ensure the speaking topics were safety related, that the speakers were arranged for upcoming safety council meetings months in advance, and that he verbally approved the safety council topics.
- Verified OBWC staff were not speaking more than permitted by the OSCPG manual and notified the committee if a monthly safety council speaking topic was prohibited by OBWC.
- Presented OBWC talking points at the monthly safety council meetings.
- Has not confirmed that the safety council funds were held in a separate bank account by the sponsoring organization as required by the OSCPG manual. However, the safety council has assured him that this is the case.
- Participated in limited discussions regarding the safety council budget and reviewed the expenditures at the quarterly steering committee meetings to ensure the expenditures comply with the OSCPG manual.

- Reviewed the financial reports provided by the sponsoring organization at the quarterly steering committee meetings and verified the expenditures were not for political activity or to reimburse the sponsoring organization more than 30% of the OBWC subsidy funds.

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

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

FINDING 8 RECOMMENDATIONS

Ohio Bureau of Workers' Compensation

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

FINDING 9 – OBWC Safety Council Program Oversight – Safety Council Manager

The OBWC OSCPG 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 Safety Council of Greater Columbus' 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 did not conduct 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 Safety Council of Greater Columbus 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 circumstances¹⁵ which could result in the termination of a safety council that would require any unspent funds to be returned to OBWC. Francisco explained that in the most recent termination, the safety council sent a check for the unspent funds directly to her and that she delivered the check to the OBWC Cash Control Department for deposit. Investigators questioned Francisco as to how she knew the total amount of the funds sent back to her was correct. Francisco replied that she concluded the amount was correct because of the reporting by the safety council and the amount would have matched the safety council's last quarterly financial report. Francisco acknowledged that other than the policies specified in the OSCPG manual, there are no additional policies instituted regarding the performance of her department involving the Ohio Safety Council program.

FINDING 9 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

¹⁵ 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."

with OBWC and the OSCP manual. This recommendation was also made to the Ohio Safety Council Program in December 2016 by the OBWC Internal Audit Division.

3. Consider implementing a process to ensure those sponsoring organizations receiving an OBWC subsidy in excess of \$25,000 submits the required annual financial report documenting how the OBWC subsidy funds were spent and ensuring the OBWC subsidy funds not spent are returned to OBWC in accordance with the agreement.
4. Consider developing and implementing policies and procedures to conduct a review of the annual financial report submitted by those safety councils receiving an OBWC subsidy in excess of \$25,000 for compliance with the agreement with OBWC and the OSCP manual and to document the results of this review.
5. 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.
6. 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).
7. 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.
8. Consider requiring the safety council to submit an annual certification confirming they have complied with various contractual and OSCP 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 OSCPG manual:

1. 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.
2. Consider clarifying existing guidance to the safety councils in the agreement and OSCPG manual to be consistent in the level of financial information to be provided to OBWC for review.
3. Consider amending the OSCPG manual to incorporate a template to be used to report financial activity or to include examples of the level of financial detail expected to be provided to the steering committee and OBWC when submitting financial reports.
4. Consider amending existing OBWC service office representative responsibilities in the OSCPG manual to include reviewing the safety council expenditures at the steering committee meetings and documenting whether the expenditures were in accordance with the OSCPG manual. For those expenditures considered questionable or unallowable, consider incorporating procedures for notifying the Ohio Safety Council program manager of these concerns and documenting how those concerns were addressed.
5. 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.

6. 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.

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
Safety Council of Greater Columbus**

FILE ID #: 2019-CA00014

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 18, 2020**

MAILING ADDRESS

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**AGREEMENT between OHIO BUREAU OF WORKERS' COMPENSATION and
Safety Council of Greater Columbus**

This is an Agreement by and between **Safety Council of Greater Columbus** (hereinafter referred to as the "Safety Council"), sponsored by the Sponsor doing business under the laws of the State of Ohio at 1175 Dublin Road, Columbus OH 43215 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 \$ 26,950 for fiscal year 2018 to be disbursed by the Bureau in the amount of \$ 13,475 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 parol 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.

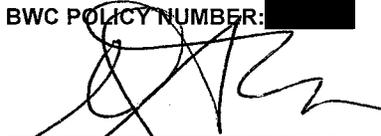
23. **OFFSHORE PROVISION OF SERVICES PROHIBITED - EXECUTIVE ORDER REQUIREMENTS AND RELATED TERMINATION / SANCTION / DAMAGES PROVISIONS:** The Safety Council affirms to have read and understands Executive Order 2011-12K and shall abide by those requirements in the performance of this Contract. Notwithstanding 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>

Safety Council of Greater Columbus

STATE OF OHIO, BUREAU OF WORKERS' COMPENSATION

TAX ID NUMBER: [REDACTED]

BWC POLICY NUMBER: [REDACTED]



Signature

Mary Tebeau

Printed Name

Executive Director

Title

6.30.2017

Date



Signature

Printed Name

Barbara Ingram

Title

7-31-17

Chief of Fiscal & Planning

Date

**AGREEMENT between OHIO BUREAU OF WORKERS' COMPENSATION and
Safety Council of Greater Columbus**

This is an Agreement by and between **Safety Council of Greater Columbus** (hereinafter referred to as the "Safety Council"), sponsored by the Builders Exchange of Central Ohio doing business under the laws of the State of Ohio at 1175 Dublin Road, PO Box 369, Columbus OH 43215 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.
- 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 \$ 26,950 for fiscal year 2019 to be disbursed by the Bureau in the amount of \$ 13,475 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, 2018, and shall be completed no later than June 30, 2019, 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 parol 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 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>

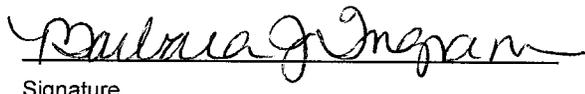
Safety Council of Greater Columbus

STATE OF OHIO, BUREAU OF WORKERS'
COMPENSATION

TAX ID NUMBER: [REDACTED]

BWC POLICY NUMBER: [REDACTED]





Signature

Signature

Mary Tebeau

Barbara J. Ingram, CPA

Printed Name

Printed Name

Executive Director

Chief Fiscal & Planning Officer

Title

Title

6.19.2018

8-17-18

Date

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

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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).

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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.

<u>Revenue</u>	
Annual Dues	\$42,450
Stipend	\$26,950
Sponsorships	\$14,100
Total	\$83,500
<u>Expense</u>	
Makoy Rental & Food*	\$50,793.88
Speaker	\$650
Nametags	\$40
Stipend to BX for overhead expenses*	\$26,000
Bartha	\$450
Best Courier	\$19
Supplies (Balloons&Office supplies)*	\$500
OCILB Credit Applications*	\$172
SCGC Sweaters	\$1,120
Award Certificate Holders*	\$606
SCGC Website	\$850
Health Fair Bowls	\$2,743
Posters	\$22
Safety Council Leaders Conference	\$105
Postage (Awards)	\$73
Total	\$84,071.87
Net Income	(\$571.87)

*=estimated amount

Exhibit 3

FY19 - Profit & Loss Worksheet

<u>Revenue</u>	
Annual Dues	\$ 43,350.00
Stipend	\$ 26,950.00
Sponsorships	\$ 15,100.00
Safety Council Leaders Committee*	\$2,001.40
Total	\$ 87,401.40
<u>Expense</u>	
Makoy Rental & Food	\$ 49,777.20
Speaker	\$ 1,250.00
Nametags	\$ 33.51
Stipend to BX for overhead expenses	\$ 26,000.00
Bartha	\$ 950.00
Postage	\$ 43.20
Miscellaneous Expenses	\$ 180.12
OCILB Credit Applications	\$ 155.00
SCGC Shirts	\$ 865.16
Award Certificate Holders	\$ 608.45
SCGC Website	\$ 855.00
Health Fair Giveaways	\$ 1,927.01
Posters	\$ 354.07
Safety Council Leaders Conference*	\$ 2,360.65
Checks	\$ 129.21
New Website	\$ 3,243.03
Total	\$ 88,731.61
Net Income	\$ (1,330.21)

*Assisted with processing financials

SCGC Charge Analysis

2018	% for Staffing/Mgmt Allocation to BX		
Stipend	\$ 26,950	30%	\$ 8,085
Dues	\$ 44,550	40%	\$ 17,915
Sponsorship	\$ 13,900	0%	\$ -
Total	\$ 85,400		\$ 26,000

2019			
Stipend	\$ 26,950	30%	\$ 8,085
Dues	\$ 43,350	41%	\$ 17,915
Sponsorship	\$ 15,100	0%	\$ -
Other	\$ 2,001	0%	\$ -
Total	\$ 87,401		\$ 26,000

BX SCGC Management Cost

2018	
BX Cost	\$ 34,780
SCGC Charge	\$ 26,000
BX Loss	\$ (8,780)

2019	
BX Cost	\$ 32,406
SCGC Charge	\$ 26,000
BX Loss	\$ (6,406)