

**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

**PERFORMANCE AUDIT REPORT
SEPTEMBER 2006**

To The Fiscal Committee Of The General Court:

We have conducted an audit of the Department of Administrative Services (DAS), Bureau of Risk Management insurance procurement practices based on a recommendation made to you by the Legislative Performance Audit and Oversight Committee. We conducted our audit in accordance with the standards applicable to performance audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to provide a reasonable basis for our findings and conclusions. Accordingly, we have performed such procedures as we considered necessary in the circumstances.

The purpose of the audit was to determine if New Hampshire's insurance procurement is efficiently and effectively managed according to State law, administrative rule, DAS policy and procedure, and best practice. The audit period includes State fiscal years 1998 through 2005.

This report is the result of our evaluation of the information noted above and is intended solely for the information of the DAS and the Fiscal Committee of the General Court. This restriction is not intended to limit the distribution of this report, which upon acceptance by the Fiscal Committee is a matter of public record.

Office Of Legislative Budget Assistant
Office Of Legislative Budget Assistant

September 2006

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

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ABBREVIATIONS

BOC	Board Of Claims
BRM	Bureau Of Risk Management
COBRA	Consolidated Omnibus Reconciliation Act Of 1986
DAS	Department Of Administrative Services
DDC	Defensive Drivers Course
DHHS	Department Of Health And Human Services
DOS	Department Of Safety
DOC	Department Of Corrections
DOL	Department Of Labor
DOT	Department Of Transportation
ERISA	Employee Retirement Income Security Act Of 1974
G&C	Governor And Executive Council
HIPAA	Health Insurance Portability And Accountability Act Of 1996
IFS	Integrated Financial System
LPAOC	Legislative Performance Audit And Oversight Committee
NHID	New Hampshire Insurance Department
OAG	Office Of The Attorney General
OHRV	Off Highway Recreational Vehicle
PBM	Pharmacy Benefits Manager
RFP	Request For Proposal
SFY	State Fiscal Year
SORP	State Owned Real Property
SOS	Secretary Of State
SPD	Summary Plan Document
TPA	Third Party Administrator

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

SUMMARY

Purpose And Scope Of Audit

This audit was performed at the request of the Fiscal Committee of the General Court consistent with the recommendation of the joint Legislative Performance Audit and Oversight Committee. It was conducted in accordance with generally accepted government auditing standards applicable to performance audits. The purpose was to examine the State's insurance and related service procurement practices, statewide controls over insurance and related service procurement, the State's utilization of insurance producers, and planning for self-insured active and retired State employee health benefits. The audit period included State fiscal years 1998 through 2005.

Background

Management controls underlie all government functions, providing reasonable assurance an organization achieves its goals and safeguards public resources. The Department of Administrative Services (DAS), established by RSA 21-I, is responsible for managing and coordinating administrative and financial functions including budgeting, pre-auditing, accounting, financial reporting, risk management, personnel administration, and procurement upon which the effective and efficient management of all State programs and operations rely.

Public entities are vulnerable to many risks and risk management is a fundamental component of good management controls. Risk management can minimize the threat of potential risks and the impact on the organization when losses occur, often resulting in financial savings. The Bureau of Risk Management (BRM), created by RSA 21-I:8, II, was statutorily organized under the Division of Accounting Services within the DAS, and is responsible for ongoing identification of loss exposure statewide, developing and operating risk reduction programs, identifying cost effective means for protecting against various types of losses, preparing bid specifications for use by the State when seeking commercial insurance, and purchasing insurance and bonds.

RSA 99-D:3 requires the State and its agencies to self-insure against all damages, losses, and expenses except to the extent insurance coverage is obtained. Under RSA 21-I:8, II(e), all insurance purchases are to be carried out by the BRM, with few exceptions. Insurance is generally purchased through an intermediary. Agents and brokers function as intermediaries between customers seeking to transfer risk and insurers. The State utilizes insurance producers such as agents, brokers, and consultants to acquire many of its commercial insurance policies. Brokers and agents typically receive compensation from the insurance companies while insurance consultants generally contract directly with, and receive compensation from, the insurance purchaser.

Public sector procurement is a complex process, subject to abuse, mismanagement, and confusion while expending large amounts of public funds. Pursuant to *Government Auditing Standards*, abuse occurs when the conduct of a government program falls short of behavior expected to be reasonable and necessary business practices. Effective public sector procurement can reduce the cost of government, inspire public confidence, and improve public service quality.

The Division of Plant and Property Management, within the DAS, is responsible for purchasing all materials, equipment, supplies, and services for the State using full and open competition, with limited exceptions such as insurance and services provided solely to one agency. RSA 21-I contains the majority of State procurement law, but there are many other statutory requirements governing the procurement process generally applicable to State agencies. Many State agencies have statutory authority to acquire certain materials and services, although it is evident in most cases this authority does not exempt agencies from RSA 21-I or other requirements, as statute specifically articulates such exemptions in a few cases. In most instances procurement authority appears to permit agencies to outsource agency services or functions. However, many agencies develop their own purchasing function separate from the DAS.

The Division of Personnel, within the DAS, is the State's central human resource management agency and is statutorily responsible for administering active and retired State employee benefits. Until 2003, the State fully-insured medical and dental benefits. In October 2003, the State began self-insuring medical benefits. With the transition to self-insured medical benefits, primary responsibility for program administration moved from the Division of Personnel to the BRM. However, the Division of Personnel continued to procure employee life insurance.

Results In Brief

Our audit presents 39 Observations with recommendations and seven of those Observations recommend legislative action. The first Observation addresses overall management control within the DAS. The following 20 Observations detail specific issues with various aspects of DAS management control including five control environment Observations, four risk management Observations, six control activities Observations, three information and communications Observations, and two monitoring Observations. Eighteen Observations address the procurement processes we found in use during the audit period and while considered a subset of control activities, we separately address these Observations to closely focus on procurement practices. One Observation addresses the overall procurement system, nine observations address non-employee benefit insurance procurement, three Observations address producer services acquisition, and five Observations address employee benefit procurement. We found numerous issues in several prior audits, including our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, related to insurance procurement, which persisted during the current audit.

We also present five other issues and concerns, which were not developed into formal Observations yet we consider noteworthy. In commenting on this report, the DAS concurred with 25 Observations and recommendations, concurred in part with 12 Observations and recommendations, and did not concur with two Observations and recommendations. The Department's overall response is contained in Appendix A and detailed responses follow each Observation and recommendation.

Management Controls

Management controls provide reasonable assurance an organization achieves its goals and safeguards public resources. The DAS lacked adequate management controls to ensure efficient

and effective operations of the programs and functions we reviewed. We found reactive management and inadequate training of BRM staff. The DAS reorganized itself into a structure neither complying with State law nor the Department's own administrative rules. The DAS placed management responsibility for the employee health benefits program with the BRM and the State lacked a comprehensive, formal plan to effectively administer the program. The Department continued to contract for fully-insured dental benefits contrary to statute and the State's self-insured employee health benefit program is largely unregulated.

No statewide risk management policy statement exists, the Department lacks agency-wide or activity-based risk assessments, and administration of the State's risk management program is flawed. The BRM does not provide comprehensive statewide risk management services and therefore the State continues to lack a comprehensive approach to managing risk. The BRM continues to operate the State's risk management program without statewide identification of loss exposures and purchases commercial insurance without identifying cost effective means for protecting against various types of losses as required by statute. The BRM procures liability insurance without a complete evaluation of the State's adoption of the doctrine of sovereign immunity. Ongoing coordination between the BRM and the Board of Claims does not occur.

The BRM lacks adequate mechanisms to control its major functions. For over 21 years, DAS management has not promulgated required administrative rules detailing loss prevention guidelines. The BRM functions as a satellite human resources, purchasing, training, and business office; all leading to inefficiencies. The BRM does not have comprehensive written policies and procedures to govern daily activities and major Bureau functions including insurance procurement, contract review, and external technical assistance. Control over many insurance procurements was vested in one individual within the BRM contrary to good management control, allowing numerous procurements to proceed contrary to State law and policy.

There have been and continue to be no administrative rules for managing State employee health benefits, including the former fully-insured medical and current dental programs and self-insured medical program. The State implemented its current self-insured employee health benefits program without finalized summary plan documents to guide contracted plan administrator actions and fully inform active State employees, retirees, and qualified dependants of their benefits. The DAS does not have policies and procedures guiding its pharmacy benefit claims dispute process for plan beneficiaries. The DAS places full responsibility for health benefit claims appeals with the contracted third party administrator (TPA), despite recommendations to the contrary made in our Employee Benefit Fund Financial and Compliance Audit For The Year Ended June 30, 2004.

For an agency to control its operations, relevant and reliable financial and non-financial information is essential. We found no DAS information management system, rules, or policies and procedures. We found communication between the BRM and other State agencies inadequate to ensure management control of the State's risk management program and insurance and related services procurement. Further, to control statewide procurement, the DAS relies upon and requires other State agencies use an outdated Manual of Procedures and an administrative handbook which is separate from the Manual. Neither were adopted as administrative rules. During the audit period the DAS has not consistently submitted timely self-insured health plan

implementation reports to the Legislature every 60 days as Chapter 319:32, Laws of 2003 requires.

Monitoring assesses agency performance over time and ensures audit findings are promptly resolved. A positive and supportive attitude towards internal and external monitoring, audits, and evaluations is essential. However, the DAS internal auditor engages in operational functions by participating in multiple procurement processes contrary to statute and best practice. The DAS did not conduct any internal review or audit of its management controls, risk management, procurement functions, or other areas related to the topics we reviewed during this audit. The State's health insurance providers never received a DAS-sponsored review, audit, or other assessment. The DAS lacked written policies and procedures for addressing audit Observations and inadequately remediated the conditions leading to numerous Observations we issued in past audits related to our current audit topic.

Procurement

Five public procurement principles, 1) competition, 2) impartiality and equity, 3) openness, 4) conservation of funds, and 5) appropriate value and quality for the cost, are integral to public procurement best practice. Despite efforts to organize State government on a functional basis, the State's procurement system remains decentralized and does not support efficient and effective insurance and related service procurement.

Insurance And Related Service Procurement Practices

The State procures insurance to cover real and personal property, employee faithful performance bonds, and other liabilities. Under RSA 21-I:8, II(e), the BRM is to procure the State's insurance. The BRM inconsistently followed public procurement best practice and requirements of State law, administrative rule, and policy in procuring insurance and related services. We found significant noncompliance with procurement principles and standards in each of the five steps of public procurement: planning, soliciting, vendor selection, contract execution, and contract monitoring.

Competition, government's most effective means of obtaining goods and services at a fair and reasonable price, is the preferred selection method but the Bureau routinely sole-sourced contracts under \$5,000 to incumbent insurance producers providing coverage for similar risks and sole-sourced 'specialty line' insurance contracts over \$5,000 without required justification. Overall, the Bureau sole-sourced 44 percent of the insurance secured during the audit period and used limited competition in 23 percent of procurements. These procurements totaled \$702,399 and \$1.3 million respectively during the audit period. In one instance, we found the BRM sole-sourced an additional \$429,495 in insurance services onto an ongoing contract over a two-year period. We also found two sole-sourced specialty line insurance policies totaling \$474,459 for the audit period; both lacking Governor and Executive Council (G&C) approval and full and complete justification for sole-sourcing. Further, the BRM inadequately ensured against incumbent producers having an unfair advantage in the insurance procurement process, affecting over \$2.4 million in insurance service procurements during the audit period.

The BRM lacked data quantifying State property risk, policies or procedures to obtain such data, and loss control programs to mitigate related risks. Despite these and other shortcomings, the BRM procured statewide property insurance covering State-owned real property without cost-benefit or similar analysis. In place of analysis to determine the balance between the level of self-insured risk retention and commercial insurance, we also found the BRM used budget constraints to determine the level of real property coverage. Further, the BRM did not implement a loss control program for real property and the property valuation data the BRM used to procure the State's real property insurance were inconsistent and incomplete.

We found the BRM did not assess personal property risk facing the State, establish a system to regulate and monitor State personal property, collect personal property risk data, or have policies and procedures or administrative rules relative to these responsibilities. As a result, the Bureau neither determined if any State personal property were essential to State operations nor the amount of personal property risk the State faced. We found certain State agencies obtained property insurance policies separate from the statewide policy without cost-benefit analysis, risk assessment, or competitive process. During the audit period, the State's separately insured property policies totaled \$436,168 in premiums, while claims totaled \$132,756, resulting in a loss ratio for the period of \$3.29 in premiums to \$1 in claim payments.

The BRM inadequately managed the State automobile fleet loss control program. The Bureau lacked a program to comprehensively address State automobile fleet risks, conducted no periodic reviews of contract efficiency, and had no rules, policies, or procedures related to automobile fleet loss control. Additionally, adequate competition was not always available to the State, as incumbent vendors were afforded an unfair advantage during the request for proposal (RFP) process. In one instance, the BRM sole-sourced additional fleet insurance services from a producer after the contract was in place. We found no evidence of a contract or other formalization of the State's relationship with the BRM-procured defensive driver course (DDC) vendor or the use of competitive procurement to obtain these services. We found no analytical evidence supporting bundling the DDC program with fleet insurance procurement. We also found no evidence supporting the DDC is best administered by the BRM.

The BRM inefficiently administered foster care provider insurance. From October 1997 through October 2005, the State paid a total of \$456,268 in premiums while claims totaled \$138,190, resulting in a loss ratio of \$3.30 to \$1. The BRM has not conducted a cost-benefit analysis to determine whether this insurance is cost effective. No foster care provider loss control program has been implemented by the BRM. Further, the New Hampshire Insurance Department was not consulted prior to purchasing foster care provider insurance as RSA 170-G:3 requires.

The BRM inefficiently and ineffectively administered the State's motorcycle rider education loss prevention program. We found no cost-benefit analysis concluding commercial insurance procurement is the most efficient way to mitigate motorcycle rider education program risk. Over the audit period the State paid \$126,081 for motorcycle rider education program insurance premiums, offset by \$4,358 in paid claims, for a loss ratio of \$29 in premiums for every \$1 received in claim payments. We found no evidence these contracts were put out to bid nor did we find written justification for sole-sourcing these contracts. Additionally, we found no evidence

the G&C approved these contracts. We also found the Bureau contracted with non-resident unlicensed producers for motorcycle rider education program insurance contrary to statute.

Insurance Producer Service Procurement Practices

Insurance services are generally sold through an intermediary, either an agent or a broker. In addition to using State employees to negotiate directly with insurers, the State utilized brokers, agents, and consultants, collectively termed producers, to acquire insurance and related services. Producers assisting the State with employee health benefits were assigned the business of acting on the State's behalf without any formal procurement process or contract protecting State interests. During the audit period, four brokers received \$484,288 in commissions on employee dental insurance premiums. From March 2002 to November 2003, three brokers received \$382,683 in commissions on employee medical insurance premiums. Further, we found evidence an additional insurance producer, with no formal relationship to the State, was soliciting bids, receiving and evaluating proposals, and rejecting vendors for at least three potential State contracts in May 2003. The DAS reports since November 2003, the State has not used brokers to assist with medical or dental benefits.

The BRM entered into a two-year, \$680,000 contract with an unlicensed insurance consultant for actuarial, claims audit, and employee health benefit consulting services. The BRM also utilizes insurance producers to obtain non-employee benefit related insurance. We are unable to report the commission non-employee benefit producers received on State-paid insurance premiums because the BRM does not collect this information; however, we estimate producers received approximately \$1 million based on our 2005 survey of the State's insurers during the audit period (Appendix D). The BRM does not include adequate specifications for insurance producer services in its RFP or as criteria for awarding insurance contracts. BRM procurements: 1) did not consistently comply with the requirements of RSA 21-I:22-a, regulating procurements over \$35,000; 2) commingled producer and insurance service specifications; 3) and may have unnecessarily limited the potential pool of insurance producers.

Employee Benefit Procurement Practices

The DAS Commissioner is responsible for implementing the current self-insured employee health program. The Division of Personnel administered the fully-insured health benefits program for active and retired State employees until 2003 when the State began self-insuring and the newly-created position of Administrator of Risk and Benefits assumed responsibility. Employee benefit and ancillary service procurements for active and retired State employees require additional oversight. Our file review found noncompliance with procurement principles and standards in each of the five public procurement steps: 1) planning, 2) soliciting, 3) vendor selection, 4) contract execution, and 5) contract monitoring.

Fully-insured retiree health insurance procurement totaled over \$144 million during the audit period. Retiree health insurance lacked a formal procurement process, relied on inadequate agreements or lacked written agreements altogether, and was sole-sourced by the DAS without the required full and complete justification or G&C approval from SFY 1998 through 2003.

Active employee health insurance procurement lacked comprehensive planning as best practice requires, and did not always benefit from public notice for RFPs. According to State procurement directives and best practice, sole-sourcing should only be undertaken after an exhaustive effort to locate alternative sources, and with written justification. We found dental contracts for active State employees were sole-sourced for State fiscal years 2001 and 2002. Documentation we obtained did not appear to adequately justify these procurements, as State directives and best practice require. Further, we found limited competition was used twice to procure medical insurance coverage and once to obtain employee health TPA services. We did not find adequate monitoring of active employee health benefit contracts.

Related service procurements were similarly troubled. We found BRM's procurement of workers' compensation TPA services does not comply with State directives and in one year was inappropriately sole-sourced. The BRM does not adequately use performance guarantees to monitor its TPA contract providing State employee and retiree medical benefit claims administration services and did not amend the TPA performance guarantees as recommended by the State's contracted insurance consultant. Further, the DAS inappropriately sole-sourced over \$830,000 in employee life insurance services.

Other Issues And Concerns

We identified several other issues and concerns for DAS and Legislative consideration, including:

- Ensure Vendors Receive Equal Treatment,
- Improve Clarity Of Letters To Governor And Executive Council,
- Consider Consolidating Similar Contracted Services,
- Centralize All State Procurement, and
- Segregate Conflicting Tasks Carried Out By The State's Contracted Health Benefits Consultant.

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
1	29	Yes	<p>The DAS: strengthen its management control structure; conduct ongoing reviews of applicable statutes; align operations with statute; promulgate administrative rules; focus on statewide risk management; allocate functional responsibilities to purpose-created entities within the Department and remove such responsibilities from BRM; develop comprehensive, written policies and procedures; proactively manage Departmental responsibilities; develop comprehensive, written records retention policies and procedures; conduct internal reviews and audits on an ongoing basis; and revise and consolidate guidance to State agencies related to procurement and codify them in a duly adopted administrative rule.</p> <p>The Legislature consider amending RSA 541-A:1, XV, to delete the exemption for the DAS Manual of Procedure from administrative rule requirements.</p>	DAS-CIP
2	36	No	The DAS organize units as specified in statute and administrative rule.	DAS-C
3	37	No	The DAS reassign employee health benefits administration to the Division of Personnel.	DAS-DNC
4	39	No	The DAS complete a formal plan to administer employee benefits programs to include identifying personnel necessary to implement the plan and their respective roles and responsibilities.	DAS-CIP

Agency Response Legend: C = Concur
CIP = Concur In Part
DNC = Do Not Concur

DAS = Department Of Administrative Services
NHID = New Hampshire Insurance Department
DOS = Department Of Safety

BOC = Board Of Claims
SOS = Secretary Of State

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
5	40	No	The DAS: conduct comprehensive analysis of fully- and self-insured dental benefits, revisit its analysis regularly, and secure the most efficient services for the State and its employees.	DAS-C
6	41	Yes	The Legislature consider clarifying the applicability of State insurance laws to the State in its new role as a self-insured employer.	DAS-C NHID-C
7	47	No	The DAS proactively operate a statewide risk management program consistent with State law and risk management best practice.	DAS-C
8	51	Yes	The Legislature consider: consolidating all risk management functions across State government, centralizing claims management and assigning statewide claims resolution responsibility to the BRM.	DAS-C
9	54	No	The DAS: consult with the OAG to define the limits of the State's liability under the sovereign immunity doctrine, review liability insurance procurements and discontinue procurements duplicating the State's sovereign immunity and the RSA 541-B claims process, conduct cost-benefit analyses preceding liability insurance procurement when commercial insurance procurement is in the State's best interest, and develop and implement loss control programs.	DAS-CIP
10	55	Yes	The Legislature consider centralizing claims management within the BRM administratively attaching the Board of Claims to the DAS.	DAS-C BOC-DNC SOS-DNC

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11	58	No	The DAS promulgate administrative rules detailing loss prevention guidelines and supporting forms as required by State law.	DAS-CIP
12	60	No	The DAS adopt comprehensive administrative rules for managing the State employee health benefits program.	DAS-C
13	62	No	The DAS: develop, implement, and maintain comprehensive written risk management-related operating procedures and policies addressing the daily activities and major functions of the BRM.	DAS-C
14	63	No	The DAS: finalize health and pharmacy benefit plan SPDs no later than the plan's implementation date and develop policies and procedures for developing and reviewing SPDs before related contracts are implemented.	DAS-C
15	64	No	The DAS develop detailed comprehensive policies and procedures to guide the pharmacy benefits claim dispute process.	DAS-C
16	65	No	The DAS: develop a formal process to review and adjudicate second-level health plan claims, define the claims review process in the summary plan document, and promulgate related administrative rules.	DAS-C
17	67	No	The DAS develop and implement written comprehensive policies and procedures to improve and ensure adequate information management.	DAS-CIP

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Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
18	69	No	The DAS develop and implement detailed written procedures accounting for statewide insurance expenditures.	DAS-C
19	71	No	The DAS submit required self-insured health plan implementation reports to the Fiscal Committee timely.	DAS-C
20	72	No	The DAS utilize the internal audit function in a manner consistent with statute and national standards.	DAS-C
21	73	No	The DAS: develop comprehensive written monitoring policies and procedures, incorporating semiannual reviews of the third party administrator, including at least one onsite visit annually.	DAS-CIP
22	76	Yes	The Legislature consider: centralizing State insurance procurement within the Division of Plant and Property Management, DAS making necessary changes to statute.	DAS-C
23	81	No	The DAS: utilize procurement best practices, conduct proper and full oversight of its insurance and related service procurement activities, and develop comprehensive policies and procedures for reviewing all State contracts for substantive protection of the public interest.	DAS-CIP

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Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
29	100	Yes	<p>The DAS: ensure automobile fleet risks are considered in a statewide risk assessment; implement a statewide loss control program for the State's automobile fleet; obtain and review road observation reports and address specific risks with State agencies; conduct cost-benefit analyses to ensure insurance procurement is in the State's best interest; develop comprehensive, written policies and procedures; and promulgate administrative rules.</p> <p>The Legislature consider amending RSA 21-I:8, II(e), to require automobile fleet insurance procurement be contingent upon a detailed cost-benefit analysis.</p>	DAS-CIP
30	104	No	<p>The DAS: develop and implement a foster care provider loss control program with written policies and procedures to ensure timely contracting and compliance with procurement laws; conduct a cost-benefit analysis to ensure insurance procurement is in the State's best interest; maintain fair and open competition; obtain complete risk data; and ensure consultation with the NHID occurs and is documented when procuring foster care provider liability insurance.</p>	DAS-CIP

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Agency Response Legend: C = Concur
 CIP = Concur In Part
 DNC = Do Not Concur

DAS = Department Of Administrative Services
 NHID = New Hampshire Insurance Department
 DOS = Department Of Safety

BOC = Board Of Claims
 SOS = Secretary Of State

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
31	107	No	The DAS: improve the efficiency and effectiveness of the motorcycle rider education loss prevention program; utilize full and open competition when procuring services; obtain Governor and Executive Council approval for service contracts; contract with and ensure only State-licensed resident agents receive commissions related to insurance or surety bond sales; conduct a cost-benefit analysis to determine the most cost effective manner to mitigate risk; and reassume responsibility for managing motorcycle rider education insurance.	DAS-CIP NHID-CIP DOS-C
32	112	No	The DAS follow State policy and best practice using full and open competition when procuring insurance broker services.	DAS-C
33	114	No	The DAS develop policies and procedures to control insurance producer relationships.	DAS-C
34	115	Yes	The DAS: develop policies and procedures for procuring insurance producer services, implement a two-step insurance procurement process, include detailed objective specifications for producer services in RFPs, use detailed objective RFP specifications as criteria for awarding contracts, and require producers disclose any compensation to be received from the insurer. The Legislature consider amending RSA 21-I:8, II(e), to delete producer residency requirements.	DAS-CIP
35	118	No	The DAS conduct proper and full oversight of active and retiree State employee benefit procurement to ensure adherence to management controls.	DAS-C

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Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
36	124	No	The DAS: conduct business with licensed producers and develop policies and procedures for procuring insurance and related services, which include determination of licensure requirements and ensuring prospective vendors meet those requirements.	DAS-C
37	126	No	The DAS procure workers' compensation TPA services according to statute and State directives.	DAS-DNC
38	127	No	The DAS: increase contract monitoring related to the State's TPA contract by completing account management report cards and follow recommendations to improve performance guarantees made by the State's contracted insurance consultant.	DAS-C
39	130	No	The DAS: procure life insurance services using full and open competition in accordance with State law, administrative rule, and policy and procedure; and de-link the State intranet benefits page from the current vendor's website.	DAS-C

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

OVERVIEW

On May 20, 2004 the Fiscal Committee of the General Court approved a recommendation by the joint Legislative Performance Audit and Oversight Committee (LPAOC) to conduct a performance audit of Insurance Broker Fees. Subsequently, the LPAOC and the Fiscal Committee approved the expanded audit scope detailed below.

At the request of the Department Of Administrative Services (DAS), the LPAOC also approved delaying the start of the audit pending completion of an ongoing financial audit. Financial audit field work concluded in December 2004 and we held our entrance conference with the DAS on January 20, 2005. While the original audit period was to include State fiscal years (SFY) 1998 through 2004, SFY 2005 was added due to the delay in starting the audit.

SCOPE, OBJECTIVES, AND METHODOLOGY

This performance audit was conducted in accordance with generally accepted government auditing standards applicable to performance audits and accordingly included such procedures as we considered necessary in the circumstances.

Scope And Objectives

This audit answers the following question: **How efficient and effective were the State's insurance procurement practices during the audit period, SFY 1998 through SFY 2005?**

To address this question, our efforts focused on the following four issue areas:

- State procurement of insurance and related services,
- statewide controls over insurance and related service procurement,
- State management of insurance producers (i.e., agents, brokers, and consultants), and
- planning for self-insured active and retired State employee health and related benefits procurement.

Methodology

To answer the audit question we:

- conducted structured interviews with current and former DAS personnel, and personnel of other State agencies familiar with or involved in insurance or related service procurement to determine current insurance procurement practices;
- surveyed insurance producers and insurers to determine whether producers were used on State insurance contracts, how producer services were obtained, and compensation producers received;
- surveyed State agencies to determine whether and how they managed risk and procured insurance;

- surveyed other states' risk managers and health benefits managers to establish common practice in state government risk management and state employee health benefits administration;
- established public procurement best practices through a review of pertinent documents from academia and the federal, state, and local levels of government;
- conducted a file review of State insurance and related procurements including contracts, requests for proposals and other solicitations, advertisements of contract opportunities underlying program planning, and contract management to determine adequacy of controls over the procurement processes; and
- reviewed statutes, administrative rules, and policies and procedures related to insurance, procurement, and risk management to establish current State requirements.

BACKGROUND

The Department Of Administrative Services

The DAS, established by RSA 21-I, is responsible for centralized budgeting, pre-auditing, accounting, financial reporting, risk management, personnel administration, and procurement. The DAS mission is to provide quality resource management services to customers while maintaining required administrative oversight. These services are provided to the Legislative, Judicial, and Executive Branches; the Governor; State employees; the general public; and local governments. The DAS is responsible for controlling much of the State's administrative operations either directly or indirectly through rules and policies and procedures. The DAS consisted of 261 employees as of June 30, 2005; Figure 1 displays the Department's insurance procurement related elements.

Management controls are integral to an organization's culture. Management controls provide reasonable assurance an organization achieves its goals and safeguards public resources. Controls span all aspects of an organization's operations and must be continually assessed and updated to reflect changes in the operating environment. There are five components of management control: control environment, risk assessment, control activities, information and communications, and monitoring. Management control underlies all government functions. The DAS is responsible for many of the State's central control functions upon which the effective and efficient management of all State programs and operations rely.

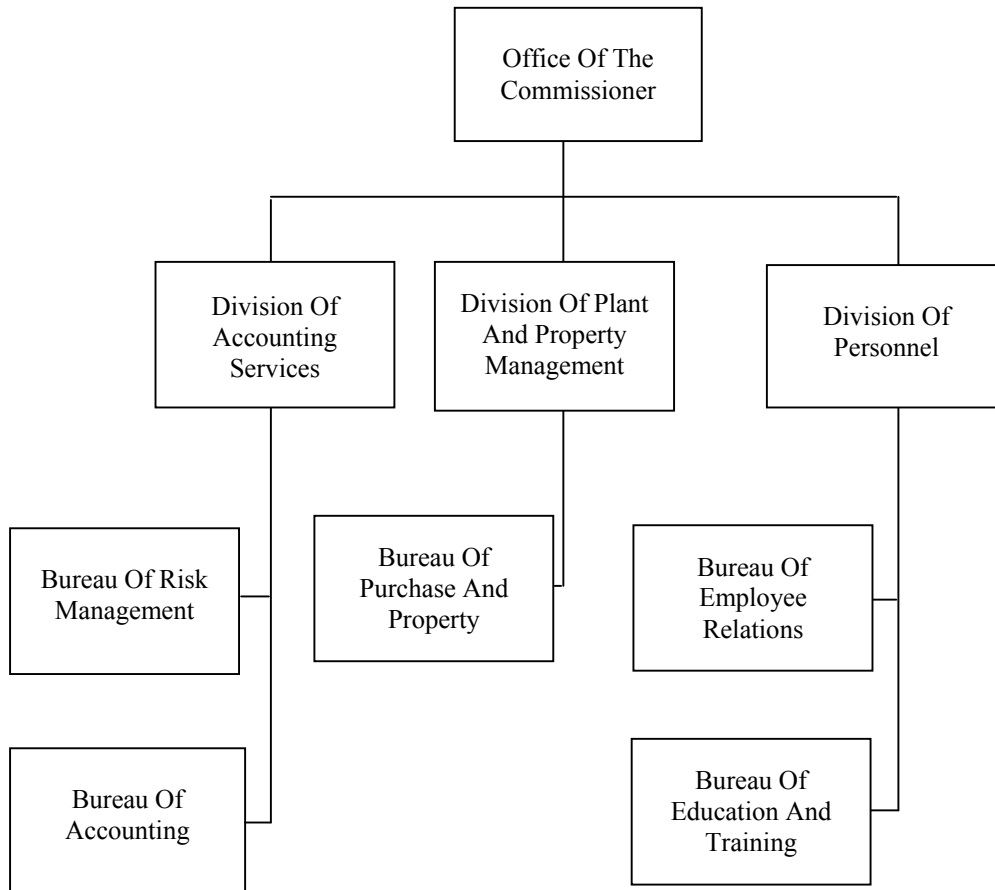
The Bureau Of Risk Management

To implement a risk management program for State government and coordinate programs in function-oriented departments, the Legislature created the Bureau Of Risk Management (BRM) and assigned it to the DAS, Division of Accounting Services (RSA 21-I:8, II; RSA 21-G:3). The Bureau's statutory responsibilities include ongoing identification of loss exposure statewide, developing and operating risk reduction programs, identifying cost effective means for protecting against various types of losses, preparing bid specifications for use by the State when seeking commercial insurance, and purchasing insurance and surety bonds for the State. To translate its responsibilities into functional programs, RSA 21-I:8, II(b), makes the BRM responsible for developing and operating risk reduction programs in accordance with loss prevention guidelines

adopted in administrative rule under authority granted to the DAS Commissioner by RSA 21-I:14, II. The BRM has also been assigned primary responsibility for the State's employee medical and dental programs and workers' compensation related service procurement by the Commissioner.

Figure 1

**Insurance Procurement Related Components Of
The Department Of Administrative Services, As Of June 30, 2005**



Source: LBA Analysis.

From SFYs 1998-2001 the BRM was fully staffed with two employees. In September 2003, the Department received a new position, the Risk and Benefits Administrator. This position was located in the Office of the Commissioner but was responsible for managing the BRM and health benefits. The Risk and Benefits Administrator position was vacant from November 2004 until August 2005. The position was moved to the BRM in 2005. Additionally, the BRM's Administrative Assistant position was vacant for four months during SFY 2005.

Risk Management

Risk is inherent in most productive activities. Even the most conscientious efforts cannot eliminate all risk but enhancing protection from known or potential threats can reduce risks. Public entities are vulnerable to many risks beyond the common, insurable risks associated with accidental losses such as property damage, automobile accidents, and general workplace hazards. Risk management is a fundamental component of good management controls which can minimize the threat of potential risks and the impact on the organization when losses occur, often resulting in financial savings. Risk management practice is becoming more sophisticated as risk events become more severe. In the latter part of the 1980s to the early 1990s, risk management was defined as the process of making and carrying out decisions to minimize the adverse effects of accidental losses upon an organization. Risk management encompassed the identification, evaluation, and methodical controlling of losses or potential losses through a combination of reduction, elimination, assumption, or transference activities. Risk management was mainly concerned with insurance procurement, managing insurable risks, and risk retention.

Currently, the definition of risk management encompasses larger, more complex risk retention programs and greater assumption of insurer functions. A successful risk management program includes a five-step process, as well as written guidelines, training programs, continuous monitoring, and evaluation of policies and procedures. Risk managers focus on risk financing, loss control, claims management, regulatory compliance, public safety, cost allocation, contractual risk transfer, claims and litigation management, benchmarking, and integrated disability management. Risk managers need to be aware of the organization's risk tolerance and legal constraints.

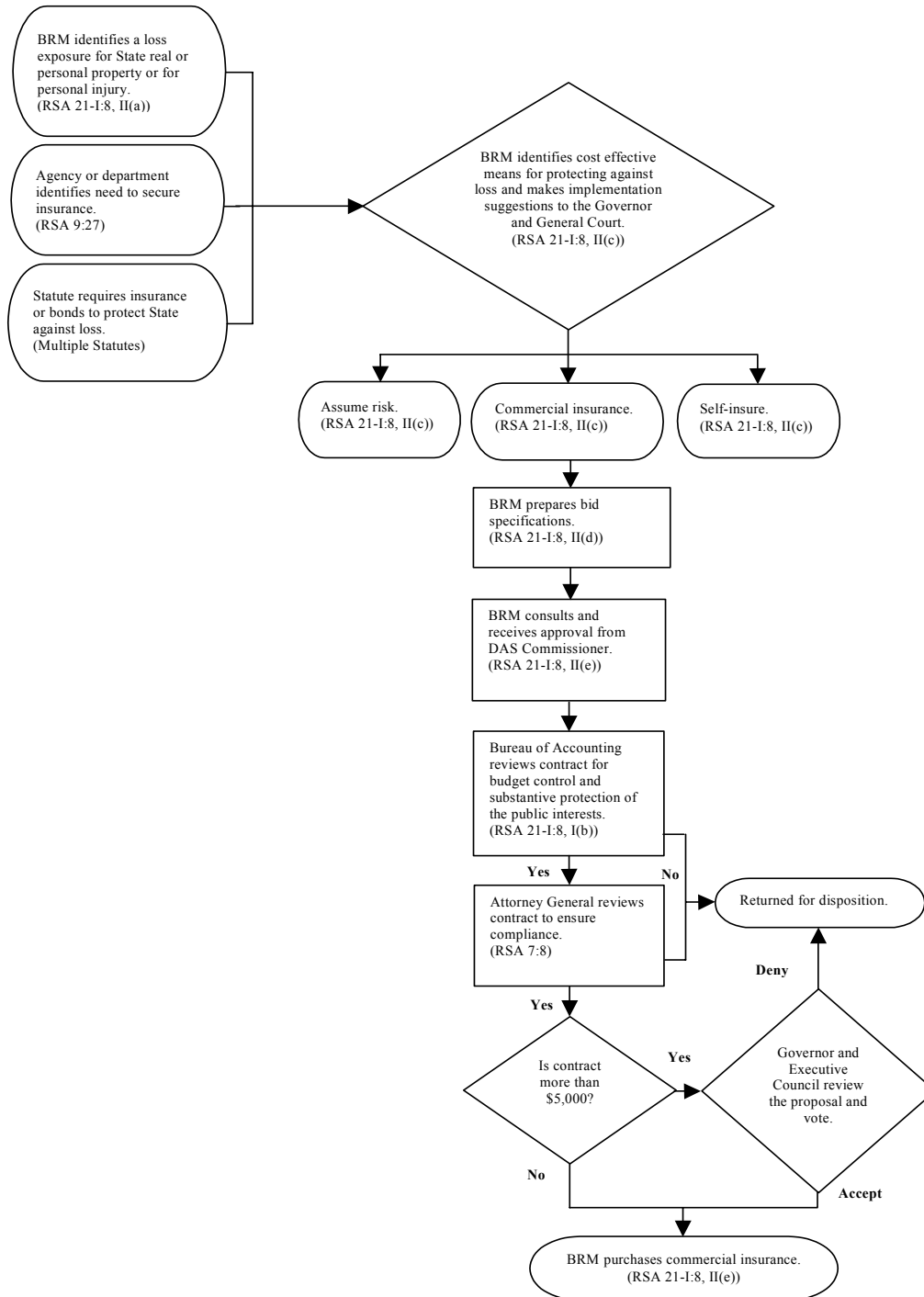
Insurance Procurement

According to RSA 9:27 agencies may secure casualty or liability insurance on State-owned property or in connection with any program or activity of the State. RSA 21-I:8, II(e), requires the BRM purchase all insurance and surety bonds as any State agency or official may be legally authorized to secure or required to furnish. The 1986 Attorney General Opinion 86-122 affirmed the BRM must purchase all liability and casualty insurance. Figure 2 illustrates the process most State agencies should follow when procuring insurance. Table 1 illustrates BRM-procured insurance policies valued \$5,000 or more in annual premiums secured during the audit period.

However, some agencies purchase insurance without BRM coordination. The Department of Health and Human Services (DHHS) procures numerous insurance-related services including health, dental, and mental health insurance coverage for uninsured children through the State Children's Health Insurance Program. The Department also provides for insurance payments under several other programs. The University System of New Hampshire procures insurance with intermittent BRM involvement. Numerous quasi-governmental agencies have independent insurance and related service procurement authority.

Figure 2

State Insurance Procurement Flowchart



Source: LBA Analysis.

Table 1

**BRM-Procured Property And Casualty Policies Valued Over \$5,000,
Policy Years 1998-2005**

Property And Casualty Policies	1998	1999	2000	2001	2002	2003	2004	2005
Laptops	\$12,031	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Faithful Performance Bond	8,895	7,511	7,511	7,511	7,511	7,511	8,423	8,423
Food Stamps	11,880	11,880	7,080	0	0	0	0	0
Register Of Deeds Bond	2,471	2,471	3,679	3,216	4,375	4,980	5,208	5,208
Boilers And Pressure Vessels	12,602	12,602	11,468	11,468	11,468	34,305	0	0
Physical Damage Electric Trucks	0	7,360	7,893	0	8,419	13,711	0	0
Physical Damage Special Vehicles	4,705	3,017	2,883	2,666	3,116	8,725	7,780	9,455
Liquor Warehouse	6,203	6,354	6,354	1,471	0	0	0	0
WRBP ¹	32,295	32,337	32,316	29,480	30,180	30,180	32,366	32,984
State Owned Real Property	0	0	0	144,574	152,448	178,196	193,058	177,792
Safety Aircraft	35,294	35,294	35,793	41,745	32,615	102,503	27,579	27,579
Employment Security Property	3,265	3,253	4,061	5,576	10,163	12,611	12,611	51,588
Total	\$129,641	\$122,079	\$119,038	\$247,707	\$260,295	\$392,722	\$287,025	\$313,029

Note: ¹ Winnepesaukee River Basin Program.

Source: LBA Analysis Of DAS Data.

Sovereign Immunity And Self-Insurance

Sovereign immunity protects the State from being sued in its own courts without its consent. Sovereign immunity is applicable to all claims and civil actions against the State and its employees when acting in the official scope of their duty. RSA 99-D:3 requires the State and its agencies to self-insure against all damages, losses, and expenses except to the extent insurance coverage is obtained.

Where sovereign immunity is waived by statute or not applicable, the State covers much of its risk by self-insuring, which requires the State to accept liability for all damages, losses, and expenses beyond the limits of commercial insurance coverage. RSA 541-B:14, I, limits damage awards to \$250,000 per claimant and \$2 million per incident. The Department of Transportation, the Department of Corrections, and the DHHS have authority to settle small claims (RSAs 228:29; 541-B:9, V; and 541-B:9, V-a). The Board of Claims has jurisdiction over claims of \$5,000 or less, and shares jurisdiction with the Superior Court for claims between \$5,000 and \$50,000. The Superior Court is assigned claims in excess of \$50,000 (RSA 541-B:9, II; 541-B:9, III; and 541-B:9, IV). In addition to the State's sovereign immunity and self-insurance requirement, the BRM procures commercial liability insurance as illustrated in Table 2. If there is commercial insurance for the incident, policy proceeds will be awarded even if they are higher than the statutory damage limits.

Table 2

Liability Insurance Policies Valued Over \$5,000, Policy Years 1998-2005

Liability Policies	1998	1999	2000	2001	2002	2003	2004	2005
Automobile Fleet	\$427,176	\$375,046	\$378,339	\$379,051	\$590,490	\$590,490	\$590,490	\$658,658
Foster Care Provider	58,988	50,738	48,032	48,032	48,032	60,037	67,541	74,868
Motorcycle Rider Education	24,516	16,560	13,558	10,464	13,833	13,390	16,896	16,864
Off Highway Recreational Vehicle	78,030	68,850	53,672	53,672	53,672	63,870	63,861	63,861
Watercraft Fleet	13,140	13,140	11,501	11,912	11,663	11,663	11,162	10,662
Cannon Mountain Ski Area	69,408	35,366	29,752	29,752	29,752	56,430	117,682	135,532
Total	\$671,258	\$559,700	\$534,854	\$532,883	\$747,442	\$795,880	\$867,632	\$960,445

Source: LBA Analysis Of DAS Data.

Insurance Producers

Insurance services are generally sold through an intermediary. Agents and brokers function as intermediaries between customers seeking to transfer risk and insurers. While agents generally represent insurance companies and brokers represent the customer, their roles overlap. Agents may represent insurance companies, either as an independent agent representing many insurance companies or a captive or exclusive agent representing one insurance company. However, brokers may seek and negotiate insurance coverage directly from an insurer or through an agent or another broker.

Brokers generally are viewed to be independent and are designated by customers to represent their interests. Brokers are often considered experts in a given field and while their use is not required, they can facilitate non-experts within their given field of expertise, filling a role similar to an insurance consultant. Where brokers and agents typically receive compensation from the insurance companies, insurance consultants generally contract directly with and receive compensation from the insurance purchaser. Consultants are independent providers of insurance-related advice for insurance purchasers. During the audit period, the State utilized the services of brokers, agents, and consultants, collectively termed insurance producers, to acquire its commercial insurance policies.

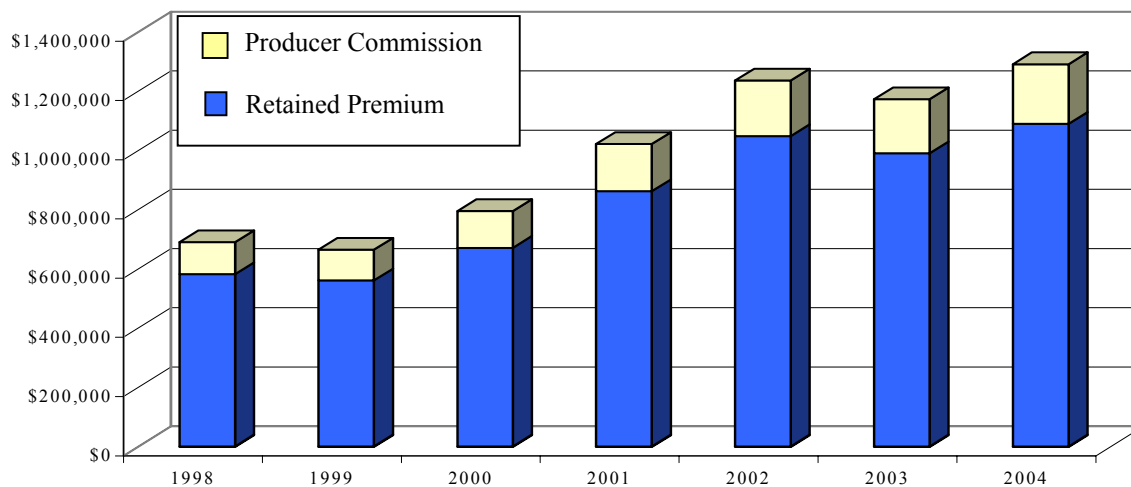
Analysis of responses to our 2005 survey of insurers providing services to the State (Appendix D) found insurers compensate non-health producers on average approximately 16 percent of the insurance contract premium. Our 2005 survey of producers providing services to the State (Appendix E) found 96 percent of producers received compensation based on the premium. While the BRM does not collect producer compensation data, our survey results allow us to estimate total producer compensation for non-health insurance contracts. We estimate producers received over \$1 million in commissions during policy years 1998 through 2004. Figure 3 illustrates our estimates of non-health producer compensation and insurance company retained premiums by year for policy years 1998 through 2004.

The Division Of Plant And Property Management

Procurement is an administrative function common to most public agencies. Public sector procurement is a complex process, subject to abuse, mismanagement, and confusion while expending large amounts of public funds. Pursuant to *Government Auditing Standards*, abuse occurs when the conduct of a government program falls far short of behavior expected to be reasonable and necessary business practices. Public procurement has historically been subject to weak management and corruption. Poorly managed public procurement can result in inefficient and wasteful government to the detriment of citizens and may raise the price government pays. Effective public sector procurement can reduce the cost of government, inspire public confidence, and improve public service quality. Citizens demand high standards of the procurement system and those operating it and expect control over procurement producing predefined results: accountability, disclosure, integrity, impartiality, and equality.

To achieve these predefined results and maintain high public accountability standards, public procurement managers must institute a system of management controls. Best practice indicates centralization leads to increased efficiency and effectiveness. The Division of Plant and Property Management, within the DAS, is responsible for purchasing all materials, equipment, supplies, and services for the State using full and open competition, with limited exceptions such as insurance and services provided solely to one agency.

**Non-Health Insurance Premiums And Estimated Agent And Broker Commissions,
Policy Years 1998-2004**



	1998	1999	2000	2001	2002	2003	2004
Producer Commission	\$107,500	\$103,540	\$123,882	\$159,252	\$188,081	\$182,900	\$201,353
Retained Premium	\$581,601	\$560,175	\$670,232	\$861,592	\$1,017,567	\$989,534	\$1,089,373
Total	\$689,101	\$663,715	\$794,114	\$1,020,844	\$1,205,648	\$1,172,434	\$1,290,726

Note: Estimates for policy year 2005 were not conducted due to data limitations.

Source: LBA Analysis.

While RSA 21-I contains the majority of State procurement law, many other statutory requirements governing the procurement process generally applicable to State agencies exist. Major requirements include Governor and Executive Council approval, registration with the Secretary of State, evidence the vendor may execute and be bound by contracts, basing contract awards only upon published criteria, using criteria that do not skew the award process toward one specific consultant, and procurement through the DAS.

While many State agencies have statutory authority to acquire certain materials and services, it is evident in most cases this authority does not exempt agencies from RSA 21-I or other requirements as statutes specifically articulate exemptions in a few cases. In most instances, procurement authority appears to permit agencies to outsource services or functions. However, many agencies develop their own purchasing function separate from the DAS.

The Division Of Personnel

Employee health presents risk to every employer. Every state provides some form of health benefit for employees, that form being highly variable. Medical benefits play a pivotal role in attracting and retaining employees and in maintaining productivity. Nationally, costs associated

with employee health coverage have increased during the audit period and are expected to continue to rise for the foreseeable future.

The Division of Personnel is the State’s central human resource management agency statutorily responsible for administering active and retired State employee benefits, other than benefits administered by the New Hampshire Retirement System. From SFY 1998 through 2003 the State fully-insured medical and dental benefits. In October 2003 the State began self-insuring medical benefits. With the transition to self-insured medical benefits, program administration moved from the Division of Personnel to the BRM. The State acquired third party administrator (TPA) services to manage claims and engaged a second vendor to provide an on-line enrollment and benefit selection system.

The State’s acquisition of TPA services and enrollment management was troubled. The enrollment management contract was awarded sole-source amid questions of propriety resulting in Department of Justice and New Hampshire Insurance Department investigations. Inadequacies with the initial TPA request for proposal and the selection process forced the State to re-bid. The second round of bidding was similarly troubled. While a third-party ex post facto review of the process, contracted for by the Office of the Governor, concluded the bidders were equally disadvantaged, the review did not find the procurement was the most efficient or effective for the State. Table 3 details the cost of active and retired State employee medical and dental benefits and related broker commissions over the audit period.

Table 3

Active And Retired State Employee Health Benefit Costs And Broker Compensation, SFYs 1998-2005

SFY	Medical Premium	Medical Broker Compensation	Dental Premium	Dental Broker Compensation	Total	Percent Increase
1998	\$67,432,352	\$0	\$6,113,923	\$61,757	\$73,608,032	n/a
1999	71,051,604	0	6,516,196	65,821	77,633,621	5.5
2000	85,999,504	0	7,183,388	72,560	93,255,452	20.1
2001	103,570,128	0	7,613,785	76,907	111,260,820	19.3
2002	113,190,526	77,276	8,049,473	81,307	121,398,582	9.1
2003	131,144,423	223,197	8,700,579	87,885	140,156,084	15.5
2004 ¹	135,907,384	82,210	9,026,422	38,051	145,054,067	3.5
2005	176,450,661	0	9,503,114	0	185,953,775	28.2
Total	\$884,746,582	\$382,683	\$62,706,880	\$484,288	\$948,320,433	152.6²

Notes: ¹ In October 2003 the State moved to a self-insured medical benefits program.

² This percentage represents total increase as of SFY 2005 for SFY 1998-2005.

Source: LBA Analysis.

Achievements

It is important to recognize performance auditing by its nature is a critical process, designed to identify problems or weaknesses in past and existing practices and procedures. Noteworthy management achievements related to the scope of the audit are included here to provide appropriate balance to the report. Achievements are considered practices, programs, or procedures evidence indicates are performing according to expectations.

Workers' Compensation And Workplace Safety

In our Workers' Compensation Program For State Employees, Performance Audit Report, January 1993, we found the DAS simply paid workers' compensation claims with little effort in preventing or managing claims. In 1995, the DAS began contracting with a TPA to process claims and provide loss prevention and claims management services. From calendar year 1998 to 2005, claims frequency has generally decreased. Pursuant to a 1998 executive order of the Governor, the BRM has provided an increasing variety of workplace safety and defensive driver course trainings to many Executive Branch agencies. In 1999, two topics were provided to agencies and by 2005, 14 topics were available.

Information Management

In 2005, the BRM began creating an insurance program database intended to afford management the opportunity to access information related to the State's insurance programs. This database is intended to manage policies, track trend experience data, and maintain historical management information. This database offers an opportunity for the BRM to proactively manage its information and operations.

Employee Benefits

In 2003, the DAS transitioned approximately 38,000 beneficiaries from a fully-insured to self-insured program with annual expenditures of nearly \$200 million. The Department implemented the self-insured program three months after the effective date of the mandating statute (RSA 21-I:30-d). The BRM assumed primary responsibility for administering the program with other elements of the Department supporting the Bureau. In 2003 the DAS obtained one additional position and in 2005 three additional positions to assist with administering the self-insured employee benefits program.

To procure employee health benefit services for the State's self-insured program, an intradepartmental team to include the BRM, the Division of Plant and Property Management, the Division of Personnel, the DAS internal auditor, and a contracted health benefits consultant was assembled. We found the Department's compliance with the requirements of State law, administrative rule, and policy when purchasing services for the State employee health benefits program improved significantly. We found the Department's compliance with procurement law,

rule, policy, and procedure for:

- Medical benefit management services averaged 34 percent prior to 2005 and thereafter increased to 69 percent,
- Dental services averaged 23 percent prior to 2005 and thereafter increased to 74 percent, and
- Enrollment services averaged 24 percent prior to 2005 and thereafter increased to 74 percent.

**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

MANAGEMENT CONTROL

Management controls provide reasonable assurance an organization achieves its goals and safeguards public resources. Management controls are an integral component of an organization's operations and management, providing reasonable assurance operations are effective and efficient, financial reporting is reliable, and entities comply with applicable laws and regulations. Controls span all aspects of an organization's operations and must be continually assessed and updated to reflect changes in the operating environment. Management control is not a separate system within an agency. Management controls aid organizations in accomplishing their mission, improving accountability, and minimizing operational problems through effective stewardship of public resources. Management is responsible for developing the detailed policies and procedures to operationalize controls. Management sets the objectives, puts the control mechanisms and activities in place, and monitors and evaluates controls. Poor controls may lead to fraud, waste, and abuse.

There are five generally accepted components of management control including: the control environment, risk assessment, control activities, information and communications, and monitoring. The Department of Administrative Services (DAS) is responsible for many statewide administrative and financial functions. Our audit found the DAS has not implemented adequate management controls to ensure efficient and effective insurance and related service procurement.

Many of the conditions we found in our current audit are discussed in our prior audits. Had the Department undertaken to fully address these issues, it is reasonable to conclude several conditions we found in our current audit would not exist or would be less severe and pervasive. Further, the poor controls we found during our current audit led to several instances of abuse and administrative violations which may also have been avoidable.

Observation No. 1

Improve Management Controls

RSA 21-I:1 assigns fiscal planning and control functions to the Commissioner of Administrative Services, placing in the DAS responsibility for managing and coordinating administrative functions upon which effective and efficient management of all State programs and operations rely. Risk management, procurement, employee benefits, and ongoing program evaluation and audit are among DAS statutory responsibilities. We found instances where management controls require improvement or development.

Control Environment

An agency's control environment includes management's philosophy. Management should exhibit a philosophy and operating style supportive of developing and maintaining effective internal control. We found the DAS risk management function is reactive and not conducive to effective management control. Further, adequate training is essential to employee competence and the control environment. We found no trained procurement specialist in the Bureau of Risk Management (BRM) despite its long standing responsibility for procuring the State's insurance.

Risk Assessment

To conduct adequate organizational risk assessments, management must establish clear and consistent entity-wide objectives in the form of mission, goals, and objectives, such as those defined in strategic and annual plans. Entity-wide objectives relate to and stem from statutory requirements. In 1993, we found no risk management policy statement and recommended the DAS develop a comprehensive policy. The DAS concurred, stating the Department needed to take the lead in developing such a policy. No such policy currently exists. Further, as we discuss in our Employee Benefit Fund Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2004, and Observation No. 4, no plan ever existed to structure the State's employee benefits program and DAS management of the program.

Management must comprehensively identify internal and external risks using qualitative and quantitative methods on a scheduled and periodic basis. Management identifies risks both entity-wide and for each significant activity of the agency. The BRM has broad statutory risk management responsibilities but as we discuss in Observation No. 7, we found flaws in its administration of the State's risk management program. We also found the Department lacks agency-wide or activity-based risk assessments.

Control Activities

Control activities include the control mechanisms and policies and procedures, developed and implemented to ensure adherence to established management directives. Control activities integral to agency operations include program planning, implementing, and monitoring. Management must ensure control activities are properly applied to ensure proper stewardship and accountability of government resources and for achieving effective and efficient program results. As we discuss in numerous Observations, DAS management has not ensured management controls designed to control insurance and related service procurement processes are consistently applied.

Management controls include clearly documenting, procedures, transactions, and significant events. As we discuss in several Observations, the DAS lacks written, comprehensive policies and procedures regulating many of the operations we reviewed. As we discuss in Observation No. 17, the DAS did not maintain sufficient documentation. Further, segregation of key duties and responsibilities is essential. We found control over many insurance procurements vested in one individual contrary to good management control. Ensuring compliance with laws, rules, and policy are essential for adequate management control. Numerous Observations in this report illustrate where Department operations do not comply with statute.

As we discuss in Observations No. 3, 22, and 25, the BRM functions as a satellite human resources office, a satellite purchasing office, and a training office. We found the BRM also functions as a satellite business office by handling bills from insurance vendors and tracking down delinquent State agencies, which in one case exceeded \$201,000 in overdue payments on one policy in one year. Centralizing common services allows agencies to focus on core missions and improve efficiency and accountability. Decentralization may lead to duplicative effort, resources, and personnel; mismanagement; inefficiencies; inconsistencies across government;

and lack of accountability. RSA 21-G stipulates agencies should be organized on a functional basis, so programs are coordinated and comprehensive planning is undertaken, realizing efficiencies and improving effectiveness.

Information And Communications

An agency must have relevant, reliable financial and non-financial information relating to internal and external events to enable management to carry out management control and operational responsibilities. Management is responsible for ensuring effective internal communications. Internal communications include policy and procedure manuals. In 1993, we found a lack of risk management-related and insurance procurement policies and procedures. The Department's response, in part, agreed written policies and procedures would help address the conditions leading to our 1993 Observations. In numerous current Observations, we also discuss issues with the Department's information management. Without adequate guidance, employees may inconsistently carry out duties. Without adequate data, management cannot make informed timely decisions and cannot fully inform other State decision-makers.

Management must ensure effective external communications occur with groups affecting its programs, projects, operations, and other activities, including budgeting and financing. Given the DAS role as the State's central service provider, this is a broad responsibility. In 1993, we found the BRM did not effectively coordinate risk management activities with other State agencies and the Department acknowledged coordination needed to increase. We found communication between the BRM and other State agencies currently inadequate to ensure management control of the State's risk management program and insurance and related services procurements. Perhaps most importantly, there is no centralized, statewide risk management activity as our 2005 survey of 41 State agencies (Appendix B) illustrates. Of the 41 agencies surveyed, 32 (78 percent) report the agency does not have a formal documented risk management plan while nine agencies (22 percent) report having a formal documented risk management plan. When asked how the agency mitigates risk, the 41 respondents provided the following 55 responses: seven (17 percent) use a formal loss control program, 13 (32 percent) procure commercial insurance or other related service, 13 (32 percent) self-insure, three (seven percent) report the agency faces no risk, 13 (32 percent) report not knowing if the agency faces risk, and six (15 percent) report not knowing how the agency mitigates risk.

External communications include administrative rules. To control statewide procurement, the DAS relies upon, and requires other State agencies use, an outdated Manual of Procedures that was once an administrative rule, expired in 1990. The DAS Commissioner sought and received legislation to exempt the Manual from administrative rule requirements and the Manual has never been updated. The DAS also relies upon an administrative handbook which is separate from the Manual and is also not an administrative rule. The Department lacks administrative rules in several other areas.

Monitoring

Management control monitoring should assess the quality of an agency’s performance over time and ensure audit findings are promptly resolved. A positive and supportive attitude towards internal and external monitoring, audits, and evaluations is also essential. RSAs 21-I:7 and 21-I:7-a establish within the DAS an internal audit and an evaluation structure. However, we found:

- The DAS has not conducted any internal review or audit of its management controls, risk management, procurement functions, or other areas related to the topics we reviewed during this audit.
- The State’s medical insurance providers have never been reviewed, audited, or otherwise assessed directly by the DAS.
- The DAS lacks written, comprehensive policies and procedures for addressing audit Observations. The DAS has inadequately remediated the conditions leading to several Observations we issued in past audits and are related to our current audit’s topic. Table 4 illustrates our assessment of the Department’s remediation of the conditions leading to these past Observations.

Table 4

DAS Resolution Of Prior LBA Audit Observations Related To Insurance Procurement Practices, As Of June 30, 2005

LBA Audit Report	Observations				
	Reviewed	Fully Resolved	Substantially Resolved	Partially Resolved	Not Resolved
Property and Casualty Loss Control Program, Performance Audit Report, November 1993	18	3	0	3	12
Workers’ Compensation Program For State Employees, Performance Audit Report, January 1993	2	0	0	1	1
Department Of Administrative Services Audit Report For The Year Ended June 30, 1993	1	0	0	1	0
Department Of Administrative Services Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2003	2	0	0	2	0
Employee Benefit Fund Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2004	14	0	1	4	9
Total	37	3	1	11	22
Percent		8	3	30	59

Source: LBA Analysis.

Recommendations:

We recommend Department management strengthen its management controls structure by:

- **conducting ongoing reviews of applicable statutes and aligning operations to comply with statutory requirements;**
- **promulgating administrative rules where specified and seeking additional authority where necessary;**
- **focusing on statewide risk management, internally and externally;**
- **allocating functional responsibilities such as procurement, human resources management, and business office functions to purpose-created entities within the Department and removing such responsibilities from BRM, allowing it to focus on risk management;**
- **developing comprehensive, written policies and procedures to address audit findings in a timely manner;**
- **managing Departmental responsibilities proactively;**
- **developing comprehensive, written records retention policies and procedures to ensure documents supporting significant agency decisions are retained and available; and**
- **conducting internal reviews and audits of Departmental functions on an ongoing basis.**

We recommend the Legislature consider amending RSA 541-A:1, XV, to delete the exemption for the DAS Manual of Procedure from administrative rule requirements. We further recommend the Department revise and consolidate its guidance to State agencies related to procurement and codify them in a duly adopted administrative rule.

DAS Response:

We concur in part.

The Department concurs that management controls are an integral component of an organization's operations and acknowledges improvements can and will be made to enhance the various components of the Department's management controls.

The LBA has identified "five areas of management controls" in which it believes the Department lacks sufficient controls. Each of these five areas is addressed below.

Control Environment:

We do not concur the BRM's activities have been reactive and not conducive to management control. The BRM has been proactive in several of its dealings with agencies. As recognized by the LBA in Observation No. 11, BRM has provided guidance to state agencies in the form of various documents containing risk management policies, procedures, and guidelines posted to the State's website. In addition, the BRM has provided resources to state agencies for loss exposure identification in the form of classroom training and workshops.

The Department concurs insurance procurement responsibilities should be allocated to the Bureau of Purchase and Property and the Department will pursue funding in the next biennium to achieve that result, along with needed changes in legislation. The Commissioner, with his subordinates, has developed a plan that delineates the respective responsibilities of units and individuals under his supervision at the Department.

In addition, the Department proposed changes to RSA 21:1-8 which resulted in the passage of Chapter 70, Laws of 2006 that reorganized the reporting structure of the Bureau as a unit within the office of the Commissioner rather than under the Division of Accounting Services.

Risk Assessment:

We concur that risk management is an essential component of an entity's management control structure, and is one that can minimize both the threat of potential risks as well as the impact upon the organization when losses do occur, often resulting in a financial savings. However, the Bureau is currently neither statutorily empowered nor staffed to develop and carry out a comprehensive state-wide approach to managing risk. Today, the Bureau focuses its efforts on "loss" in the traditional sense of accidental loss.

Performing broader risk management functions requires not only substantive knowledge of each specialty field, but also of the business objectives, risk psychology, and business climate of the various areas. Further, loss control and loss financing involve two separate disciplines. To date, the Legislature has neither clearly directed, nor financed state operations to carry out, such a global coordinated approach to risk management.

Since 1983, when the risk management law went into effect, resources and staff have been dedicated to controlling losses in the more limited, traditional sense. The Bureau does perform insurance purchasing functions as part of its risk management mission.

In addition, the Bureau endeavors to identify ways to prevent or eliminate injuries to state employees and the public. While workers' compensation has been, and remains, a priority of the Bureau, it has also identified risks in other areas. Over the past eight years, the Bureau has worked with numerous individual state agencies and offered multiple programs on a statewide basis to identify loss exposures and develop loss prevention plans to address these exposures.

Risk management should be conducted on a statewide basis. However, for this to happen, the Bureau will require both legislative authority and additional staff. Finally, the Department concurs with the statutory changes recommended by the LBA under Observation No. 8 to both clarify and authorize the Department to make these changes.

Control Activities:

The Bureau concurs its policies and procedures are not adequate. The BRM is currently drafting policies and procedures in the areas of general bureau operations (to include office procedures, office equipment operations, new hires and invoicing procedures) and risk management and related services (to include, among other topics: introduction to risk management, statutory and

legal requirements, insurance procurement, foster parent claims processing, watercraft inventory, and fleet inventory), as well as with respect to the Defensive Driving and workers' compensation programs (to include general information, filing processes, accident investigation checklists and agency performance indicators). Adherence to document retention policies will be stressed in these policies and procedures.

The Department concurs its management data regarding its insurance programs can be improved. The Bureau currently collects and reviews cost and loss data on its insured programs and will review and improve that information on an on-going basis.

The LBA observes that the control over many of the Bureau's insurance procurements was vested in one individual, contrary to good management control. We concur and have already taken action to ensure these insurance procurements are not vested in one individual.

Information and Communications:

As indicated above, the BRM is in the process of documenting its policies and procedures. Over the past eight years, the Bureau has worked with numerous individual state agencies and offered multiple programs on a statewide basis to identify loss exposures and develop loss prevention plans to address these exposures. The BRM has also been available to state agencies as a primary risk management resource. The Department believes the Bureau does maintain a line of communication between it and the state agencies, but also recognizes it needs to strengthen the frequency and breadth of that communication in the context of a statutorily created statewide risk management program.

The Department has also recently assigned specific responsibility for updating the Department's Manual of Procedures in response to the audit. This update will include relevant information from the Department's Administrative Handbook.

Monitoring:

The Department does have a process to resolve audit findings, but acknowledges it does not have written policies and procedures for addressing audit observations. Formal follow-up reports for the Department's Financial and Compliance audit for the year ended June 30, 2003 and the Employee Benefit Fund audit for the year ended June 30, 2004 have been provided to the Fiscal Committee. As indicated in the Employee Benefit Fund follow-up report, seven (7) observations have been fully resolved while the remaining twelve (12) have been substantially or partially resolved. In spite of these efforts, the Department concurs that it must improve upon its timely closure of all open audit observations, including remedial action when required.

LBA Rejoinder:

The Legislature has directed the DAS carry out statewide risk management activities. The BRM is the sole entity charged with being the State's risk manager (RSA 21-I:8, II). It is important the Bureau's operation be optimized and ancillary responsibilities be relocated

in purpose-created elements of the DAS. Only then can an independent, quantitative analysis be undertaken to inform the DAS and Legislature of potential BRM staffing needs.

CONTROL ENVIRONMENT

Management should establish an environment and operating style supportive of the development and maintenance of effective internal control, setting the foundation for all other standards. Key elements of an efficient control environment include integrity and ethical values; management's commitment to competence, philosophy, and operating style; an organization's structure; and policies and procedures. Our audit found the DAS control environment lacking in several areas affecting the efficiency and effectiveness of the control environment.

Observation No. 2

Organize The Department As Specified In Statute And Administrative Rule

DAS organizational structure neither complies with State law nor DAS administrative rules. Reportedly, to better control the BRM and facilitate communication between the Bureau and the Commissioner the BRM has reported directly to the Commissioner since at least 1994. RSA 21-I:8, effective in 1983, and DAS administrative rule part Adm. 102.04 (f), effective in 1999, subordinate the BRM to the Division of Accounting Services within the DAS. RSA 21-I:4 establishes the organization of the Commissioners' Office and does not include the BRM.

According to RSA 21-G:2, I, the Executive Branch is responsible for implementing and administering Legislative policies and programs. Under RSA 21-G:9, V, commissioners have the duty to propose legislation to the General Court to effect desired internal reorganizations.

Recommendations:

We recommend Department management organize its units as specified in statute and administrative rule. Should Department management conclude a structural change is needed to increase efficiency and effectiveness, it should follow established procedures and propose changes demonstrated to be necessary to the Legislature for proper consideration.

DAS Response:

We concur.

Following the 1993 performance audit, a decision was made to have the Bureau administrator report directly to the DAS Commissioner. As a direct result of this change, the Bureau's operations improved.

The Department pursued legislation which resulted in the passage of Chapter 70, Laws of 2006 that reorganized the reporting structure of the Bureau as a unit within the office of the Commissioner, rather than under the Division of Accounting Services. The BRM is now organized as specified in statute.

Observation No. 3

Return Employee Health Benefits Management To The Division Of Personnel

The DAS places management responsibility for the employee health benefits program with the BRM. Historically, and conforming to general national practice and OAG opinion, employee benefits were administered by the Division of Personnel. According to DAS personnel, when the State transitioned from a fully-insured to a self-insured employee health benefit program, the Commissioner reassigned employee health program responsibility to the Administrator of the BRM following the departure of a former Director of Personnel amid allegations of improprieties.

RSAs 21-I:13, IX, and 21-I:27 assign to the Commissioner administration of State employee benefit programs, while RSA 21-I:42, VIII, makes the Director of Personnel responsible for overseeing the administration of employee benefit programs. RSAs 21-I:44, II(a), and 21-I:44, II(c), charge the Manager of Employee Relations with responsibility for administering employee benefit programs. In clarifying statute at the DAS' request, the OAG concluded in 1986 the Manager of Employee Relations is authorized to administer employee benefit programs under the supervision of the Director of Personnel and the authority of the Commissioner (NH Attorney Gen. Op. No. 86-126).

Assigning employee health benefit management responsibility to the BRM decentralizes the personnel system, effectively creating a satellite human resources office in the BRM and possibly creating inefficiencies. This improvisation may also minimize the focus on the BRM's current statutory mission. As the State's centralized personnel agency, the Division of Personnel maintains ongoing communication with State human resource managers, which has become increasingly necessary in matters related to employee health since the State moved to self-insuring. With the BRM responsible for administering employee health benefits, the BRM must also establish lines of communication with agency human resource managers and participate in ongoing communications with the Division. Further, RSAs 21-I:43 and 21-I:42, XV, provide the Division sole authority to promulgate administrative rules and to define all personnel transactions. The BRM has no rule making or policy and procedure development authority for employee benefits in statute.

Our review of state employee benefit management structures revealed one of the 49 other states administers employee benefits within a distinct bureau of the state's risk management office. We also surveyed risk and health benefit managers from 21 states in 2005, including seven states from the northeast and 14 other states across the nation. None of the 21 states we surveyed (Appendix C) reported risk management administering employee health benefits.

Recommendation:

We recommend Department management reassign employee health benefits administration to the Division of Personnel.

DAS Response:

We do not concur.

The responsibility to administer the State's employee health benefits program rests with the Department of Administrative Services under current state law. This program has major cost implications for the entire state budget, having grown to over \$200 million, and requires more skills than those possessed by Human Resource personnel. Virtually all of the personnel skills within the Department are needed at various times to assist in the administration of it.

It is extremely important to recognize the Commissioner, the Director of Personnel, the Manager of Employee Relations, and the BRM among other units, within the Department, collaborate on a daily basis with respect to the program. The Division of Personnel and the Manager of Employee Relations, along with the Division of Accounting Services, bring extensive expertise and experience with the operation and financing of health benefits programs. We do not believe this involvement decentralizes the personnel system, nor do we believe it minimizes the focus of the BRM's mission. On the contrary, it strengthens the program by utilizing the various disciplines at the Commissioner's disposal that are integral to the administration of such a complex benefits program.

The Division of Personnel has significant relationships with personnel officials throughout the state agencies, as noted in the observation. And, the Manager of Employee Relations clearly has a well-established relationship with the collective bargaining unit. All of these individuals participate in the Department's overall administration of the employee benefits program. They attend regular meetings within the Department as well as with the third party administrators of the program. The Commissioner has prepared a formal report on the program that delineates the respective responsibilities of the units and individuals under his supervision at the Department.

The efficiency and effectiveness of the administration of the health benefits program is not dependent on the unit to which it is assigned. It is dependent upon the management decisions that are made and on the effective coordination of all of the stakeholders affected by the program. With that said, the Department will work with the Legislature Advisory Committee created under Chapter 207:3, Laws of 2006, on the recommendations for administration of the program in light of the LBA's recommendation.

LBA Rejoinder:

Returning management of the employee health benefit program to the Division of Personnel will not reduce the ability of the Department to access needed skills in other components of the Department nor necessitate changes to decision making. It will centralize employee benefit administration and remove from the BRM a program outside its statutory responsibility. The Observation does not assert BRM can play no role in the employee health benefit program.

Observation No. 4

Develop A Formal Plan To Administer Employee Benefits

The DAS lacked a comprehensive formal plan to effectively administer State employee benefit programs. In our Employee Benefit Fund Financial and Compliance Audit Report For the Fiscal Year Ended June 30, 2004, we reported the plan to administer the State's self-insured employee health benefits program was poorly conceived, poorly executed, and its performance was poorly monitored. We recommended the DAS assign sufficient, suitably trained staff organized in a clear structure to administer the employee health benefits plan as a partial remedy to the Observation.

Department management reported there was no plan to structure the employee benefit program or the relationships and responsibilities of the various staff working on employee benefits. Instead, DAS personnel reported staff from the Department's various Divisions and Bureaus were responsible for different aspects of the employee health benefits program.

Plans support the entity-wide objectives, address resource allocations and priorities, and assign authority and responsibility to meet organizational goals and objectives. Plans clearly communicate assignments to all affected employees and are a key factor in establishing an adequate control environment. Clarifying roles and responsibilities helps ensure appropriate program coordination, reduce redundancy, and avoid conflicts and misunderstandings about accountability and management control. Personnel collaborating to achieve collective objectives should be directed by a comprehensive plan assigning adequate staff and outlining how each employee's actions relate to the actions of others.

Recommendation:

We recommend Department management complete a formal plan to administer employee benefits programs to include identifying personnel necessary to implement the plan and their respective roles and responsibilities.

DAS Response:

We concur in part.

The Legislature did not direct that a particular Division or unit at the Department administer the self-funded health benefits program. It merely instructed the Department to implement such a program, with virtually no additional resources. The Department was able to accomplish this monumental assignment by the Commissioner's assemblage of a team of professionals from throughout the agency. While the Bureau is the "home" of the program within the Department and is ultimately responsible for program expenditures, the day-to-day administration is shared with the Divisions of Personnel, Accounting Services, Purchase and Property, as well the Budget Office and Office of Financial Data Management. In a recent opinion the Department received from the Attorney General's Office, that Office indicated this collaborative approach is

appropriate under the law in support of the Commissioner's statutory authority to administer employee benefit programs.

The Department has developed a formal plan to document this on-going collaboration in response to the LBA's recommendation.

LBA Rejoinder:

It appears DAS management concurs with the recommendation as it reports a formal plan documenting the ongoing collaboration to administer employee health benefits is complete.

Observation No. 5

Conduct Comprehensive Analysis Before Securing Employee Dental Benefits

During the audit period the Department chose to fully-insure dental benefits contrary to statute and continues to fully-insure dental benefits despite reported savings available under a self-insured program. According to RSA 21-I:30-d, effective July 1, 2003 and repealed effective July 30, 2006 the Department "shall implement a self-insured health plan for all state employees and their families and retired state employees and their spouses." Historically, State employee health benefits included medical, dental, mental, and pharmaceutical services. In October of 2003, the Department began self-insuring the medical, mental health, and pharmacy benefits but chose to continue fully-insuring dental benefits.

During the most recent 2005 RFP, the Department solicited bids for fully-insured and self-insured dental benefit programs. According to the Department, switching from a fully-insured to self-insured dental program may have saved the State up to \$240,000 over a two year period. However, personnel reported the Department determined additional resources would be necessary to administer a self-insured dental program and it did not want to assume the additional risk. The Department instead decided to focus management efforts and resources on the medical, mental health, and pharmacy benefit programs by carving out pharmacy benefits, where greater opportunity for savings reportedly exist. The Department did not provide documentation substantiating analysis was performed to quantify the additional risk or cost associated with self-insuring dental benefits or savings opportunities associated with self-insuring the medical, dental, or pharmacy benefit programs.

The repeal of RSA 21-I:30-d does not remove the responsibility to conduct a comprehensive analysis weighing costs and benefits of a fully and self-insured dental benefits program to ensure the program provided is in the best interests of the State. In Observation No. 4 we note the DAS lacked a comprehensive formal plan to effectively administer State employee benefit programs that would include assigning responsibility for conducting analysis to determine costs and benefits of self- and fully-insured benefits programs.

Recommendation:

We recommend Department management conduct a comprehensive analysis considering the costs and benefits of a fully-insured and self-insured dental benefits program, revisit its analysis regularly, and secure the most efficient services for the State and its employees.

DAS Response:

We concur.

RSA 21-I:30-d, required the state to self-fund the health benefit program for all state employees and their families and retired employees and their spouses. The State does not provide state-funded dental benefits to retirees and, therefore, the Department does not believe it was statutorily obligated to self-fund dental benefits. The cost of this benefit is paid entirely by contributions from retirees. Moreover, unlike medical and pharmacy benefits, dental benefits are not customarily integrated with other health care benefits. Finally, the Department is not aware of a legislative intent to self-fund dental benefits.

The Department agrees that a comprehensive analysis of the costs and benefits of a fully insured self-funded dental benefits program is worthwhile. It will prepare this analysis in the future as additional resources become available to implement a comprehensive loss control, risk management, and insurance procurement program, as discussed more fully in our responses to Observations No. 1 and No. 7.

Observation No. 6

Clarify Applicability Of State Insurance Laws When The State Self-Insures

Currently, the State's self-insured employee medical benefit program is largely unregulated. The federal Employee Retirement Income Security Act (ERISA) of 1974 (29 USC § 1001 et seq.) regulates private employer self-insured employee health benefits and does not apply to the State. The New Hampshire Insurance Department (NHID) reported under current law it does not have jurisdiction over the State's self-insured employee medical benefit program. The DAS has never adopted administrative rules or policies and procedures structuring the program. The collective bargaining agreement between the State and its Executive Branch employees only establishes a level of coverage for beneficiaries.

State insurance regulation is intended to ensure public protection and industry stability. To this end, there is a vast array of health insurance regulation in RSA Title XXXVII and NHID administrative rule. In part, regulation in health-related areas establishes standards for the relationship between insurers and:

- the insured by prohibiting retroactive denials of paid claims (RSA 415:18-m, II), by requiring minimum standards for claim review (RSA 415-A:4-a) and appeal procedures

- (RSA 415-A:4-b), by mandating certain coverage in numerous statutes, and by requiring internal grievance and external review processes be available (RSAs 420-J:5 and 420-J:5-a);
- health service providers by requiring prompt payment to service providers (RSA 415:18-k, I and 415:6-h, I); and
 - related service providers by establishing the insurer as ultimately responsible for competent administration of plans administered by third party administrators (TPA) and requiring semi-annual reviews of TPAs by insurers (RSA 402-H).

There is no rationale for not regulating the State in this area. We note State law is applied to the State when it self-insures workers' compensation benefits; the Department of Labor being responsible for oversight. Our discussions with employee benefits managers in other states have shown at least five states apply state insurance laws to their self-insured state employee health benefit programs either voluntarily or as required by state statute. One stated it was "not a good indication of good faith if the state ignored its own rules" and another noted "the state is subject to the same laws [as other insurers], it is inappropriate for the state to exempt [itself] from statutory mandates applicable to the general public."

Recommendation:

We recommend the Legislature consider clarifying the applicability of State insurance laws to the State in its new role as a self-insured employer.

DAS Response:

We concur.

While we believe State law is clear, we support the LBA's recommendation for consideration of additional legislation in this area. Under current law, the State of New Hampshire is neither an "insurer" nor an "insurance company" under the State's insurance laws or any other state law. When the State "self-insures", or more properly "self-funds", its benefits obligations, it retains its own risk for the costs associated with those obligations, but it does not thereby accept the transfer of any one else's risk, the hallmark of insurance.

Notwithstanding that State insurance laws do not apply to the program or the Department in its capacity as administrator of the State's employee and retiree health benefits, the Department will work with the Legislative Advisory Committee created under Chapter 207:3, Laws of 2006 on recommendations for administration of the program, including applicability of state insurance laws.

NHID Response:

We concur.

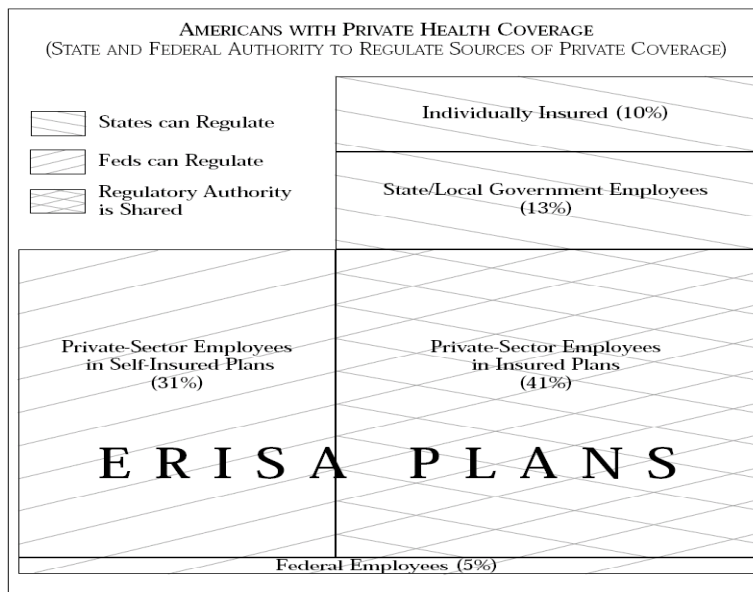
In particular, we concur with the observation that "[t]he state's self-insured employee medical benefit program is largely unregulated." It is an accepted principle of New Hampshire case law that a program of self-funded benefits is not on its face considered to be insurance. Furthermore,

ERISA does not apply to state and local government employee plans. This leaves the state's program more or less in a regulatory vacuum - that is, none of the consumer protections in state insurance law or in the federal ERISA law apply. ERISA does not preempt states from regulating self-funded government plans. Attached as Figure 4 is a useful chart taken from the ERISA Preemption Manual for State Health Policymakers (Patricia A. Butler, National Academy for State Health Policy 2000) that illustrates state jurisdiction under ERISA. This means that the legislature could amend the insurance laws to clarify which of the vast array of state regulatory provisions within Title XXXVII that apply to health insurers and health insurance will apply to New Hampshire's self-funded employee benefit program.

The observation concludes that "[t]here is no rationale for not regulating the state in this area." The observation refers approvingly to the statement made by a regulator in another state that it is "not a good indication of good faith if the state ignored its own rules." These are good observations, and the Insurance Department is in agreement with them. However, it would be counter intuitive and probably bad policy to simply deem the state a health insurer and apply all applicable statutes and regulations to the state program. For this reason, the Insurance Department also agrees with the final recommendation in the observation that the Legislature clarify the applicability of state insurance laws to the state's self-funded employee benefit program. In particular, the legislature should clarify which of the many insurance laws that apply to health insurers and health insurance should apply to the state. Probably the examination and liquidation/rehabilitation laws should not apply, as well as the laws giving the Commissioner authority to assess fines against insurers. Probably, the laws concerning coverage mandates, internal grievance, and external review should apply. The premium tax is an interesting question for the legislature to consider. It could indeed be applied to the state's program and, if applied, would generate significant net revenue to the general fund.

Figure 4

State And Federal Authority To Regulate Sources Of Private Coverage



Source: NHID.

RISK MANAGEMENT

Risk management is a fundamental component of management control which can minimize the threat of potential risks and the impact on the organization when losses occur, often resulting in financial savings. Risk management encompasses identifying, evaluating, and methodically controlling losses or potential losses. Risk, defined as any exposure to the chance of injury or loss, is a function of assets, threats, and vulnerabilities. Risk or the potential for loss can interfere with State agencies' financial stability or ability to fulfill their missions. Risk for State government can include risks to employees (e.g., workplace safety and health), real and personal property risks (e.g., fire, flood, explosion, storm, theft, and vandalism), general liability risks (e.g., wrongful acts, errors and omissions, professional malpractice, contract risks, and civil rights violations), and State agencies must also anticipate risks to public reputation, revenue, tax bases, and bond ratings. Adequate statewide risk management programs develop plans to identify and comprehensively control risk.

Risk identification requires an organization review assets and programs to determine potential exposure. Risk evaluation requires the organization analyze its exposure in terms of probable frequency and potential severity of loss. Risk control requires systematic management of identified exposures through a combination of reduction (through mechanisms such as safety programs), elimination (by sovereign immunity, or dropping unacceptably risky programs or activities), assumption (frequently involving self-insurance or self-funding), and transference (typically by insurance purchase).

Ongoing, systematic, enterprise-wide risk management provides management crucial information needed to exert increased control over limited resources and avoid the unknowing assumption of risk. Written guidelines, training, and ongoing program evaluation and reporting are essential components of a successful risk management program.

As cited in Observation No. 1, our 2005 survey of senior managers in 41 State agencies (Appendix B) revealed 78 percent had no formal documented risk management plan. Further, seven percent reported their agency faces no risk, 32 percent reported not knowing if their agency faces risk, and 15 percent reported not knowing how their agency mitigates risk.

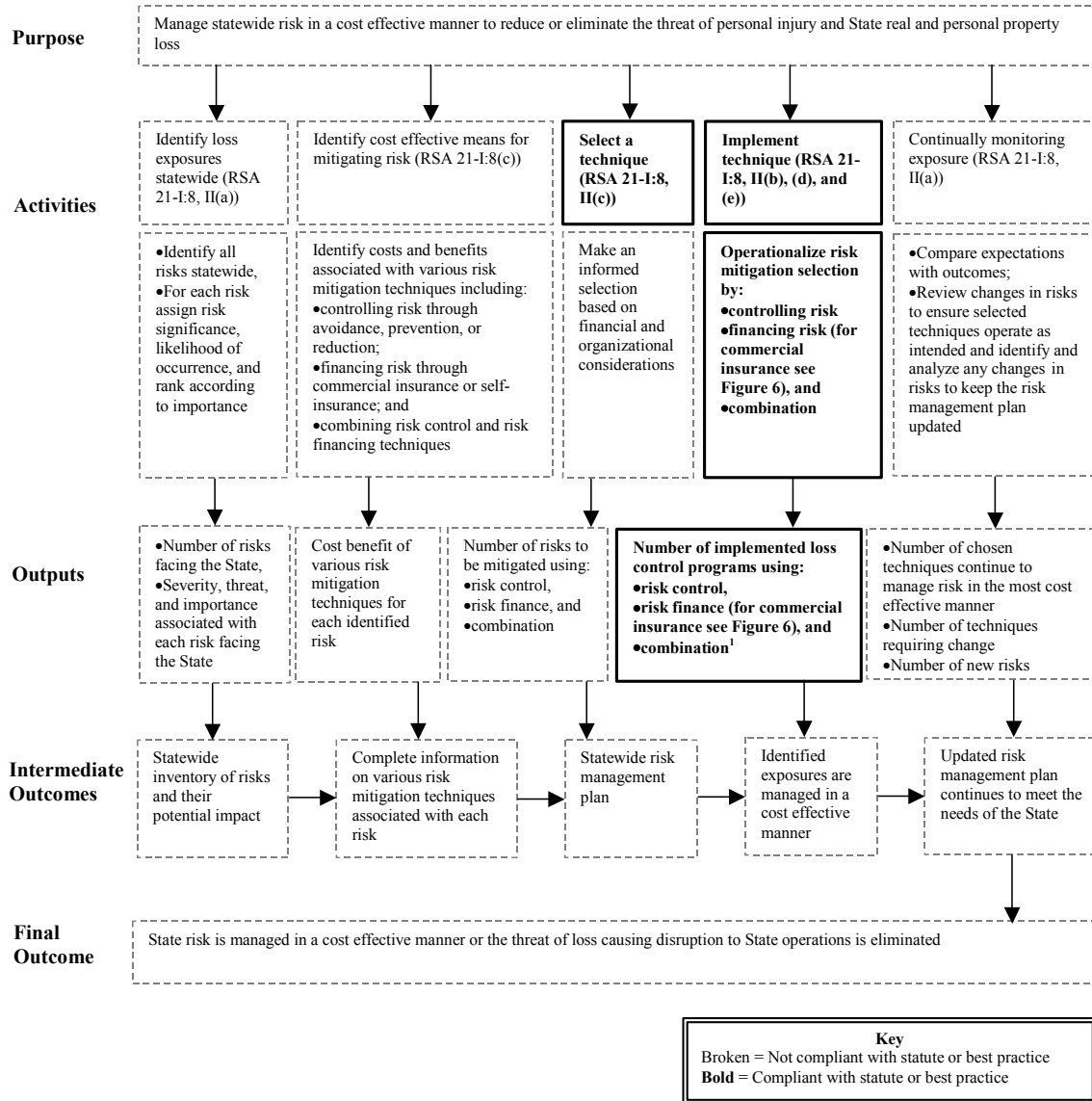
Following the five-step risk management process provides reasonable assurance statewide risk is adequately managed. Figure 5 illustrates linkages between the five-step risk management process and associated activities, outputs, and intermediate outcomes resulting in the final outcome. Broken-border boxes in risk management activities and outputs illustrate areas where we found the BRM was not in compliance with statute or best practice. Bold-border boxes indicate areas where the Bureau is acting in accordance with statute or best practice. In one case the primary activity is in a bold-border box and associated specific activities are in broken-border boxes because we found the BRM implementing appropriate activities yet in a manner inconsistent with associated standards. Intermediate and final outcomes are presented in broken-border boxes because preceding activities, outputs, and intermediate outcomes are not consistently implemented, therefore, the desired programmatic effect is not realized.

Following the five-step procurement process provides reasonable assurance procurements are made at the least cost to and in the best interest of the State. Where following the risk

management process outlined in Figure 5 can result in an identified need for commercial insurance, Figure 6 illustrates the insurance procurement process including the linkages between the five-step procurement process and associated activities, outputs, and intermediate outcomes resulting in the desired final outcome.

Figure 5

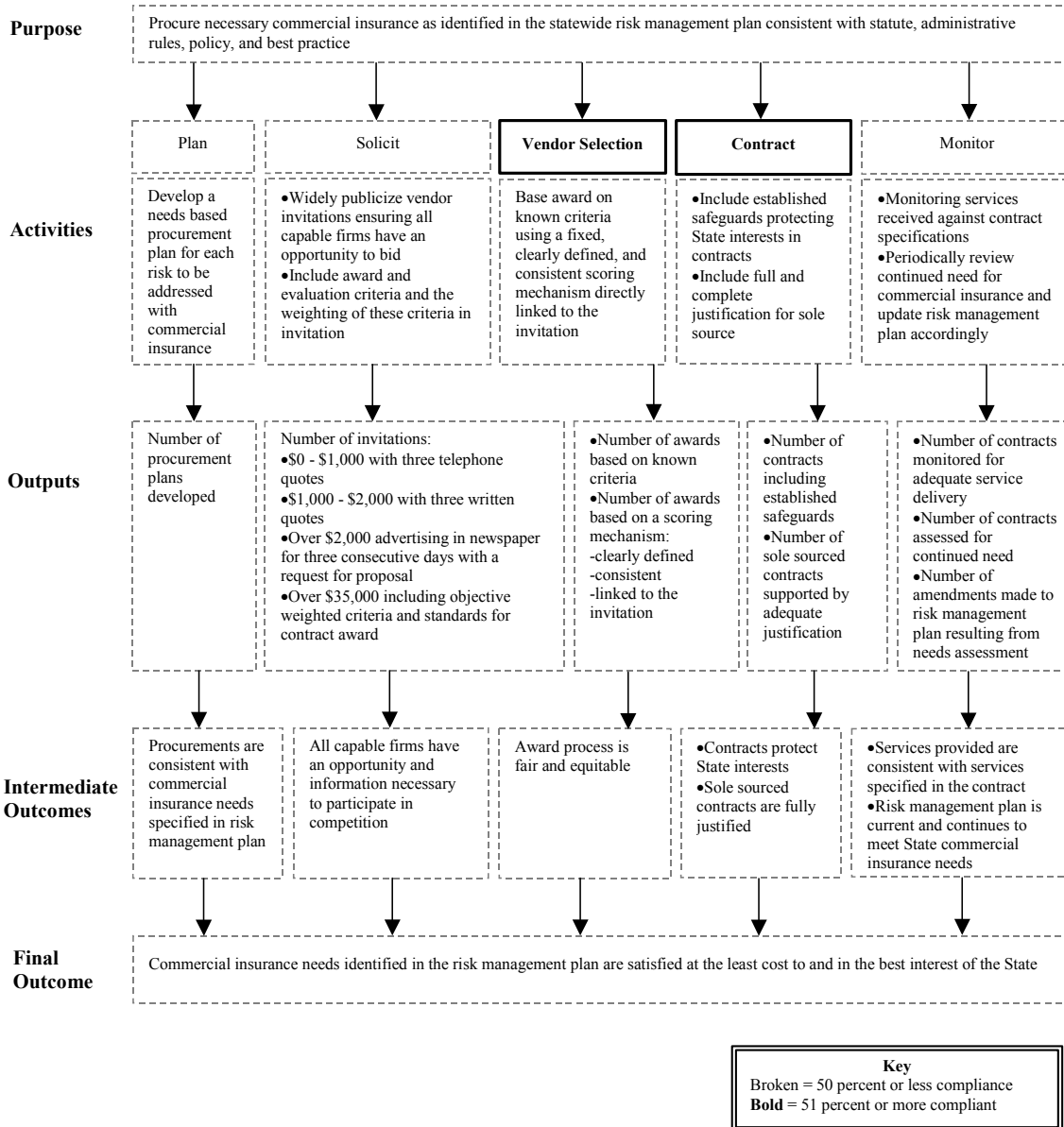
Risk Management Logic Model



Note: ¹ The BRM primarily relies upon commercial insurance purchases to mitigate exposure.
 Source: LBA Analysis.

Figure 6

Commercial Insurance Procurement Logic Model



Source: LBA Analysis.

The broken boxes in procurement activities and outputs in Figure 6 illustrate areas where we found the DAS was not in compliance with the majority of requirements of statute, administrative rule, policy and procedure, or best practice. Bold boxes indicate areas where the Department is more than 50 percent compliant. In some cases the primary activity is presented in a bold box and associated specific activities are in a broken box because we found the BRM

implementing appropriate activities yet in a manner inconsistent with associated standards. Intermediate and final outcomes are presented in broken boxes because preceding activities and outputs are not consistently implemented, therefore, the desired programmatic effect is not realized.

Within the DAS, the BRM, is the State's centralized risk manager and procurer of insurance. In our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, reviewing the State's then ten-year old risk management program, we found the State's program was neither efficient nor effective and management controls were broadly lacking. As the logic models in Figures 5 and 6 illustrates we found these significant conditions persisted through our current audit period.

Observation No. 7

Develop And Implement A Risk Management Program As Statute Requires

The State continues to lack a comprehensive approach to managing risk. Current best practice demonstrates risk management should be conducted on a statewide basis. The DAS is responsible for managing and coordinating administrative functions upon which effective and efficient management of all State programs and operations rely, including risk management. Statute requires the DAS follow a process generally consistent with risk management best practice to include: 1) identifying exposures (RSA 21-I:8, II(a)), 2) evaluating techniques to manage exposures (RSA 21-I:8, II(c)), 3) selecting techniques to mitigate exposures (RSA 21-I:8, II(c)), 4) implementing techniques to mitigate exposures (RSA 21-I:14, II and 21-I:8, II(b), (d), and (e)), and 5) continually monitoring exposures (RSA 21-I:8, II(a)).

In our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, we found numerous weaknesses with the BRM's handling of these responsibilities. While the Bureau reports taking a comprehensive approach to managing workers' compensation pursuant to a 1998 work place safety Executive Order, workers' compensation is only one piece of the multifaceted and comprehensive statewide risk management program necessary to identify and mitigate other risks facing the State.

Identifying Exposures

Identifying exposures requires a systematic inventory of risks facing the State and includes evaluating the likelihood of occurrences, estimating the frequency of occurrence, assessing the severity of consequences, and establishing priorities among risks. Identifying loss exposure provides the underpinnings of basic risk management and is the basis for the Bureau to undertake other statutory responsibilities such as developing and operating risk reduction programs, identifying cost effective means for protecting against various types of losses, and procuring commercial insurance and bonds.

Our 1993 performance audit found the BRM did not identify loss exposure. The DAS concurred with our Observation stating "a business plan to ensure proper identification and collection of obvious risk exposures across the State, as well as a comprehensive inventory at each State agency level" would be developed. No formal internal risk assessment policies and procedures or

planning was found in our Department Of Administrative Services Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2003. In 2005, the Department reported partially resolving this condition and continuing to work on establishing formal internal risk assessment policies and procedures. However, we found the DAS has not developed a program to identify loss exposures, an inventory of risks facing State agencies, nor any internal Department risk management policies and procedures. In addition, our 2005 survey of 41 State agencies (Appendix B) reveals 78 percent had no formal documented risk management plan while 22 percent maintain a formal documented risk management plan.

Evaluating Techniques To Manage Exposures

Evaluating techniques to manage identified exposures involves identifying and documenting costs and benefits associated with various risk mitigation techniques, including risk control, risk financing, or a combination of techniques, making losses less frequent, less severe, or more predictable through avoidance, prevention, or reduction. Evaluating various techniques to manage exposures provides assurance the State is using the most cost effective and efficient means to manage its risks and leads to an informed selection based on financial and organizational considerations.

Our 1993 performance audit found the Bureau functioning primarily as an insurance purchasing office and was unable to demonstrate State-procured commercial insurance purchases were efficient and effective. The DAS concurred, noting it planned to evaluate and analyze then-current policies and analyze on an ongoing basis other risks facing the State. However, the BRM continues to routinely purchase commercial insurance without conducting cost-benefit or other analyses, examining alternate risk mitigation techniques, or conducting requisite steps of the risk management process.

Selecting Techniques To Mitigate Exposures

Absent a statewide risk management plan and BRM analysis, Bureau personnel reported purchasing insurance according to history, statute, lease agreements, within budget constraints, and on State agency request. Additionally, some agencies independently procure insurance based on perceived need. The resulting approach is reactive and piecemeal, allowing agencies with individual perceived needs and the necessary funds to procure insurance while other agencies go without, irrespective of actual risk exposures.

Our 1993 performance audit identified at least three commercial insurance purchases resulted in unfavorable loss ratios when the State paid considerably more in premiums compared to amounts insurers paid in losses. We reviewed 16 commercially insured non-health risks with policies in place during the audit period and valued over \$5,000. Table 5 illustrates the State paid approximately \$8 million in policy premiums and received \$4 million in claim payments during the audit period. For these 16 commercially insured risks, the State paid \$1.91 in insurance premiums for every one dollar received in claim payments, not including State-paid deductibles, indicating the use of inefficient risk mitigation techniques continues.

Table 5

**Loss Ratios For Non-Health Commercial Insurance Policies Valued Over \$5,000,
SFYs 1998-2005**

Policy Description ¹	Total Premiums Paid	Total Claims Paid ²	Loss Ratio (Premium to Claims Paid)
Safety Aircraft	\$348,378	\$0	\$348,378 : 0
Cannon Mountain Ski Area Liability	573,324	49,244	11.64 : 1
Physical Damage Electric Trucks	44,860	0	44,860 : 0
Automobile Fleet Liability	3,989,740	2,698,974	1.48 : 1
Foster Care Provider Liability	456,268	125,255	3.64 : 1
Boilers and Pressure Vessels	106,515	0	106,515 : 0
Liquor Warehouse	26,736	50,313	1 : 1.88
Motorcycle Rider Education Liability	126,081	4,358	28.93 : 1
Off Highway Recreational Vehicle Liability	435,627	0	435,627 : 0
Statewide Real Property	1,021,585	1,121,216	1 : 1.10
Department of Employment Security Property	105,359	0	105,359 : 0
Register of Deeds Bond	31,608	0	31,608 : 0
Statewide Employee Faithful Performance Bond	63,296	0	63,296 : 0
Physical Damage Special Vehicles	43,858	9,731	4.51 : 1
Watercraft Fleet Liability	105,855	19,448	5.44 : 1
Winnepesaukee River Basin Program	318,310	0	318,310 : 0
Total	\$7,797,400	\$4,078,539	\$1.91 : 1

Note: ¹ Laptop and Food Stamp insurance are not included due to data limitations.

² Amounts displayed do not include State-paid deductibles.

Source: LBA Analysis Of BRM Data.

Implementing Techniques To Mitigate Exposures

Implementing selected techniques to mitigate risks rests on risk control program implementation and can include dropping or modifying risky programs, self-insuring, purchasing commercial insurance, or controlling risks through a combination of techniques. By routinely purchasing commercial insurance and without first conducting the requisite analysis in the first three steps, the BRM essentially skips to the fourth step of the risk management process, truncating the control structure of the risk management process, and purchases commercial insurance without basis for making this decision. Further, as we discuss in Observation No. 11, no loss prevention guidelines to structure the State's risk management program and provide agencies guidance have been adopted in administrative rules as required by statute.

Monitoring Exposures

Ongoing monitoring ensures selected mitigation techniques in the State's risk management plan operate as intended and emerging or changing risks are addressed appropriately. While the Bureau purchases insurance to mitigate certain risks, we found no ongoing monitoring or analysis demonstrating this method is the most efficient and effective means of addressing those risks. A coordinated statewide risk management plan, guided by a comprehensive risk management policy can provide decision makers adequate and timely information about risks facing the State. Without a systematic approach to risk management, there is little assurance risks are mitigated in the most efficient and effective manner or the most critical risks facing the State are being addressed at all, which may leave State decision makers with a false sense of security.

Recommendations:

We recommend Department management:

- **focus the BRM on proactively operating a statewide risk management program consistent with State law and risk management best practice;**
- **develop, publish, and follow a comprehensive State risk management policy;**
- **promulgate necessary administrative rules, policies and procedures;**
- **complete and maintain a comprehensive statewide risk assessment;**
- **identify cost effective means for protecting against various types of losses, including self-funding, commercial insurance purchases, and risk assumption;**
- **ensure analysis clearly demonstrates the State's best interest is served by commercial insurance purchases; and**
- **continually monitor the program and the State's exposures, modifying the State's plan when necessary.**

DAS Response:

We concur.

The Bureau is not currently staffed to develop and carry out a comprehensive approach to managing risk as discussed in our response to Observation No. 1.

Since 1983, when the risk management law went into effect, resources and staff have been dedicated to controlling losses in the traditional sense. The Bureau does perform insurance purchasing functions as part of its risk management mission. In addition, the Bureau endeavors to identify ways to prevent or eliminate injuries to employees and the public. While workers' compensation has been, and remains, a priority of the Bureau, it has also identified risks in other areas.

During the audit period, the Bureau comprised a staff of three, and at one point two, employees. Prior to 2004, the flow of dollars managed by the Bureau was approximately \$6 million annually. Since October 2004, the flow of annual dollars managed by the Bureau exceeds \$200 million. Currently, the Bureau staff numbers five (5) employees with one (1) vacancy. Even

though the Bureau utilized the resources of other units within the Department to assist in managing its programs, it is clear additional resources will be required to administer a comprehensive risk management program.

While we do not believe statute requires a comprehensive risk management program, we concur that risk management should be conducted on a statewide basis and the Department will include requests for additional legislative authority in 2007 as well as staffing in its budget submission for fiscal years 2008 and 2009.

Observation No. 8

Centralize Risk Management Responsibility

The BRM does not provide comprehensive statewide risk management services. In our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, we found the BRM primarily functioned as a commercial insurance purchasing office and did not provide centralized risk management services. This lack of integration undermined the State's ability to comprehensively manage its risks and exert increased control over limited resources. During our current audit, we found similar concerns.

State Law Provides Multiple Paths Deviating From Centralized Risk Management

The Legislative Branch, State Reporter (of Supreme Court decisions), and Secretary of State are completely exempt from the provisions of RSA 21-I except for recycling and purchasing requirements in RSA 21-I:22-a through RSA 21-I:22-d. The Judicial Branch is fully exempt from RSA 21-I except for the procurement requirements RSA 21-I:22-a through 21-I:22-d. Consequently these Branches and agencies are beyond BRM purview as it is created by RSA 21-I:8, II, limiting the Bureau's ability to fulfill its statutorily envisioned role as the State's risk manager (RSA 21-I:1, II(h); RSA 21-I:8, II).

Agencies face a wide array of risks. Risk management is an administrative service, the need for which is common to all agencies. Formal, ongoing, proactive risk management is an integral component of an organization's management control structure. Without a centralized and coordinated approach to risk management, agencies risk reactive crisis management, lessening the effectiveness and efficiency of a planned centrally coordinated response. Creating a risk management office for each exempt entity seems unnecessary. Centralizing common services allows agencies to focus on core missions, improve efficiency and accountability, and conforms to apparent legislative intent.

Statutorily Directed Insurance Procurement Removes The BRM And The Risk Management Process From The Decision To Procure Commercial Insurance

In considering mitigation techniques, procuring insurance is but one method to control potential exposures facing an organization. When statute specifies procuring specific insurance and bond, the risk management function is short-circuited. This directive approach takes the risk management process out of all specified insurance or bond procurements, as it supplants risk

analysis and obviates alternative mitigation methods. As we discuss in Observation No. 23, RSAs 9:27 and 170-G:3, VI, and at least 44 other statutory clauses, direct or permit insurance and bond procurement. The Bureau Administrator indicated where other entities are given authority or responsibility for risk management-related activities, such as clauses regarding insurance procurement, a centralized approach to risk management is undermined. While this situation may lead to confusion, the BRM remains responsible for insurance procurement as RSA 21-I:8, II(e) is clear, and a 1986 OAG opinion further emphasized the BRM must procure insurance for the State (NH Attorney Gen. Op. No. 86-126).

Claims Management Is Decentralized

We found the Board of Claims (BOC) is not attached to the DAS, manages risk independent of the BRM, and communications between the BRM and the BOC are neither consistent nor frequent. Our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, found the same condition and recommended attaching the BOC to the DAS, in part, to allow for comprehensive risk management. Further, three agencies have authority to settle small claims without BRM involvement or notification (RSA 541-B:9, V; RSA 541-B:9, V-a; and RSA 228:29). We found the Bureau does not receive information on these agency-paid claims. Without this information, the BRM does not have the information necessary to act in its role as the State's central risk management agency or to participate in mitigating these risks. Additionally, the OAG handles certain claims in a process outside the State's risk management system under the BRM. Closer interaction between the BRM and other agencies managing risk would permit the Bureau to complete statewide analyses of claims and develop risk mitigation plans for the underlying cause of the claims.

Support To Agencies Is Limited

The DAS has not promulgated required administrative rules detailing loss prevention guidelines. Agencies are left without the guidance and information necessary to implement effective loss reduction and prevention strategies, undermining the BRM's ability to operate coherent risk reduction programs and function as the State's central risk manager. As our 2005 survey (Appendix B) of State agencies reveals, most agencies have no risk management plans and information about risks facing the State varies considerably between agencies. BRM staff report focusing their risk management efforts on workers' compensation pursuant to a 1998 work place safety Executive Order and automobile fleet-related issues during the audit period. However, these efforts are only two pieces of the multifaceted program needed to address all risks facing the State.

Centralization can increase efficiency and effectiveness and enhance government responsiveness to its citizens. While State government has historically been decentralized, in RSA 21-G:3, establishes efficiency and effectiveness; coordination of related programs; clearly defined agency jurisdictions; and clear lines of authority, responsibility, and accountability as goals for State government. Further, RSA 21-I:1, RSA 21-I:8, II, and RSA 21-I:11, assign central fiscal planning and control, risk management, and procurement to DAS, functions upon which the effective and efficient management of all State programs and operations rely.

Recommendations:

We recommend the Legislature consider consolidating all risk management functions across State government within the BRM. We recommend the Legislature consider amending RSA 21-I:8, II, to:

- centralize risk management services for all State agencies within the BRM;
- require the BRM develop and regularly update a statewide risk management program and plan;
- remove responsibility for purchasing from the BRM and vest that responsibility with the State's central procurement office, the Division of Plant and Property;
- require all insurance-related procurement initiated by agencies be reviewed and approved by the BRM with the concurrence of the DAS Commissioner; and
- provide the DAS Commissioner necessary rule making authority to operationalize comprehensive statewide risk management.

We recommend the Legislature consider:

- repealing RSA 9:27,
- repealing other statutory provisions permitting or requiring insurance procurement by State agencies, and
- amending RSA 99-D to require regular reporting by the OAG on liabilities incurred under the Chapter to the BRM and provide rule making authority to permit the DAS to establish the manner and format such reports should follow.

We recommend the Legislature consider further centralization of claims management within the BRM by repealing RSA 541-B:9, V; RSA 541-B:9, V-a; and RSA 228:29 and assigning statewide claims resolution responsibility to the BRM. The DAS Commissioner may require additional rule-making authority to accomplish this task.

DAS Response:

We concur.

The Department concurs with the general recommendation that state risk management functions be centralized within the Bureau. Should the Legislature or its committees choose to consider altering the current statutory provisions relating to risk management in favor of the new statutory structure envisioned in this Observation, the Department stands ready to assist the General Court in analyzing how these significant alterations could best be accomplished.

In regard to the relationship between the Bureau and the Board of Claims, please see Response to Observation No. 10. The Board of Claims' settlement authority, as well as that of many other agencies (including the Attorney General) may need to be either eliminated or significantly curtailed. In addition, the Bureau would require new resources and staffing to carry out this expansive claims management, along with the other responsibilities recommended in this Observation.

Observation No. 9

Improve Efficiency Of Liability Risk Mitigation Programs

The doctrine of sovereign immunity should be a consideration in an analysis performed before procuring liability insurance. Under RSA 99-D:1, the sovereign immunity doctrine, the State is immune from suit unless it acquiesces to being sued. Under RSA 491:8, the Superior Court has jurisdiction over contractual disputes involving the State. RSA 541-B limits other claims to \$250,000 per claimant and \$2 million per any single incident, or the proceeds from any insurance policy, whichever amount is greater, and establishes a mechanism for claims to be made against the State which includes the Board of Claims and the Superior Court. The BRM procures liability insurance in instances where the OAG found the State appears to have no liability. Given the State's adoption of the doctrine of sovereign immunity and the lack of BRM analysis to determine insurance needs, we question whether purchasing liability insurance policies is efficient and effective use of State resources.

The BRM procured \$435,627 in off-highway recreational vehicle (OHRV) liability insurance coverage over the audit period. According to BRM data, there has been no loss on this policy during the audit period. The BRM records indicate, OHRV coverage levels are based on the State's limitations in RSA 541-B because the State had been named as an additional insured. However, the State has not been an additionally named insured since at least 2001. Further, according to the OAG, there appears to be no liability incurred by landowners who allow OHRV riders to use their land without charge, the statutory recipient of the insurance procured by the BRM (RSA 260:61). With no liability incurred on behalf of the insured, it appears the BRM procured a retainer on legal defense services through its insurance contract for these landowners.

During our audit period, the Bureau purchased ten different liability insurance policies totaling over \$5.6 million. We found no cost-benefit analysis or other analytical review providing assurance these BRM insurance purchases are efficient, effective, and made in the best interest of the State. Additionally, ski area liability demonstrates inefficient administration of liability insurance which we also commented on in our 1993 audit. During our audit period, this policy's annual premium climbed from \$69,741 to \$135,532, had a loss ratio of \$11.64 in premiums for every one dollar received in claim payments, and was obtained via sole-source in at least one instance.

Recommendations:

We recommend Department management:

- **consult with the OAG to define the limits of the State's liability under the sovereign immunity doctrine,**
- **review liability insurance procurements and discontinue procurements duplicating the State's sovereign immunity and the RSA 541-B claims process,**
- **conduct cost-benefit analyses preceding liability insurance procurement to identify when commercial insurance procurement is in the State's best interest, and**
- **develop and implement loss control programs.**

DAS Response:

We concur in part.

Many of the points addressed in this Observation stem from two important legal conclusions. The first is that the doctrine of sovereign immunity protects the State from adverse liability judgments and awards. The second is that the Bureau, with the approval of Governor and Council, determines whether and which liability insurance policies are to be purchased.

Notwithstanding the historical doctrine of sovereign immunity codified in RSA 99-D: 1, the State faces significant liability exposure in its various activities and undertakings. The New Hampshire Supreme Court has severely limited the application of the doctrine in recent decades. Moreover, the doctrine does not apply to claims based upon federal law. Nor does it prevent the filing of lawsuits, which in turn requires the State to bear the cost of defending itself and its officials. As a result, there are many instances in which the Legislature and state agencies have determined that potential liability exposure justifies the purchase of liability insurance as a risk management tool.

RSA 260:61, II, directs the OHRV Bureau, within the Department of Safety, to use certain program funds to “bear the expenses of...liability insurance...for the benefit of landowners who allow riders...to use their property, and...liability insurance...for the benefit of landowners who lease their land to the State of New Hampshire for use by riders...” (Emphasis added). State law instructs the OHRV Bureau to procure liability insurance protecting landowners, not the State. To the extent the OHRV Bureau elected to include the State as an additional insured under these policies, it is appropriate that the RSA 541-B liability limit be incorporated. Further, none of the statements of the Office of the Attorney General in the 2002 Final Report on HB 244 suggests that this procurement is unnecessary or otherwise inappropriate.

We concur the Bureau lacks documentation of its insurance analysis. The Bureau has sought legal advice from the Attorney General’s Office, which concurs that there are numerous instances in which sovereign immunity fails to protect the State from liability and unpredictable costs attendant thereto. The Attorney General’s Office has agreed to conduct a comprehensive analysis of the State’s existing liability policies to determine whether any duplicate the State’s sovereign immunity. In addition, the Department has sought its further advice with respect to the authority of state agencies to purchase insurance without Bureau involvement. Finally, as part of its comprehensive risk management legislative request, the Department will seek a clarification of the impact of the RSA 99-D on the State’s liability exposure.

Observation No. 10

Strengthen The Board Of Claims Process

In our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, we found no contact occurred between the BRM and the BOC. This lack of integration limits the State’s ability to comprehensively manage its risks. To address this, we recommended the BOC be administratively attached to the DAS. Until notified by the audit team, the

Department believed the Observation was partially resolved with the BOC being administratively attached to DAS.

We found the BOC is not administratively attached to the DAS and the substance of our 1993 Observation has not been addressed. The purpose of the 1993 recommendation was, in part, to increase the Bureau's involvement in BOC activity, provide administrative support to the Board, and allow for comprehensive risk management. Closer interaction could permit the Bureau to complete statewide analysis of BOC claims and foster developing risk mitigation plans for the underlying cause of the claims. None of these purposes have been met as there continues to be no contact between BRM and the Board.

Instead, the Board reportedly undertakes independent risk management efforts without BRM involvement by recommending to agencies with claims before the Board methods to mitigate risk trends. Additionally, RSA 541-B:11-a requires the Secretary of State to provide BRM with annual BOC reports. No reports have been generated during the audit period or are on file with the Secretary of State, further limiting the BRM's awareness of risks statewide. RSA 541-B:11, also creates a disjointed claims handling process without BRM involvement, inhibiting the Department's ability to fulfill its statutory mission to manage and coordinate the State's risk management function and hindering effective and efficient management of State programs and operations.

Recommendations:

We recommend the Legislature consider centralizing claims management within the BRM by amending:

- **RSA 541-B:2, to administratively attach the BOC to the DAS under RSA 21-G:10;**
- **RSA 541-B:11-a, to require the Board to complete annually a summary report on its activities;**
- **RSA 541-B:11, II, to require State agencies provide the BRM with the results of preliminary claims investigations;**
- **RSA 541-B:11, III, to require claimants to file claims with the BRM, not the Secretary of State; and**
- **RSA 541-B:11, IV and V, to delete reference to the Secretary of State and substitute the BRM.**

DAS Response:

We concur.

We concur with the LBA's recommendations regarding centralization of claims management within the Bureau and amending RSA 541-B as indicated in the recommendation. The Department is of the view that identifying, assessing and managing all types of material risks facing the State falls within the statutory responsibility of the Bureau. The activities of the Board are central to these tasks.

Board Of Claims Response:

We do not concur.

1. *Amend RSA 541-B:2, to administratively attach the Board of Claims to the Department of Administrative Services under RSA 21-G:10.*

We agree that the New Hampshire Board of Claims operates with very little administrative assistance. However, we believe we are better suited to be attached to the Administrative Office of the Courts rather than Administrative Services. We operate much like a court and have similar issues and concerns. While we understand the obvious desire to have communication between New Hampshire Board of Claims and the Executive Branch of Government, we believe that our issues are more aligned with those of New Hampshire court system than administrative agencies.

2. *Amend RSA 541-B:11-a, to require the Board to complete annually a summary report on its activities.*

The Board has on occasion prepared such a report and delivered it to the Chief Justice of the Supreme Court and Secretary of State. The Board is more than willing to continue that process if it would be helpful to the State and the Bureau of Risk Management. We do not concur on the need to amend legislation. A simple request is more than sufficient.

3. *Amend RSA 541-B:, III, to require claimants to file claims with the Bureau of Risk Management, not the Secretary of State.*

Currently, the only administrative support that the Board of Claims receives is through the Secretary of State's Office. We believe this relationship has been productive and has helped in serving those claimants that do not understand the system. Therefore, we do not concur with your recommendation. However, the Board would agree to provide the Bureau of Risk management with a copy of all orders if it would help State government in tracking, assessing and responding to risk.

4. *Amend RSA 541-B:11, IV and V, to delete references to the Secretary of State and substitute the Bureau of Risk Management.*

As indicated above, the Board does not concur with this recommendation. Specifically, we have worked with the Secretary of State's Office in excess of 25 years and it has been a healthy and productive arrangement. However, the Board does recognize the need for the Bureau of Risk Management to track awards and to assess risks associated with the various practices undertaken by the State of New Hampshire. We believe that this function may be adequately served through receiving copies of the Board's orders and the various agencies' preliminary investigations.

Secretary Of State Response:

We do not concur.

We are not aware of any communications from the Department of Administrative Services or the Bureau of Risk Management that communication with the Board of Claims or the Department of State has been a problem. There is no guarantee that having the Board of Claims and the Bureau of Risk Management administratively attached to the same department will improve any communication issues that may exist. To the extent that there may be an issue with communication, we believe the issue can be addressed appropriately between departments short of changing the administrative attachment of the Board of Claims.

A significant number of claims made to the Board do not involve risk management issues.

We believe it is important that the general public have confidence in a claims process that is not attached to an executive branch agency that may have an interest in the outcome of claims brought against the state. Since the Secretary of State is a constitutional office, independent from the executive branch, public confidence exists in perception and in fact. While there may be room for improved communication and administrative functions, we do not believe the proposed recommendations are necessary or appropriate.

CONTROL ACTIVITIES

Control activities are the policies and procedures, techniques, and mechanisms enforcing management directives. Control activities are an inherent part of planning, implementing, and reviewing agency operations and help provide accountability in achieving intended organizational results. Control activities occur at all levels and functions of an organization and must be evaluated regularly. There are a wide variety of control activities an organization may employ, such as rules, policies and procedures, including those related to procurement. However, we address procurement control activities in a separate section of this report to closely focus on the inefficiencies and ineffectiveness we found. We found the DAS has neither initiated nor carried out adequate control activities during the audit period.

Observation No. 11

Promulgate Administrative Rules For Loss Prevention Guidelines And Supporting Forms

For over 21 years, DAS management has not promulgated required administrative rules detailing loss prevention guidelines. RSA 21-I:14, II, requires the DAS adopt loss prevention guidelines in administrative rule. The only risk management-related administrative rules in effect are Part Adm. 503 adopted in 2001, which cursorily address loss prevention guidelines by establishing their purpose, requiring their use by agencies, and requiring variances from the guidelines be approved by the BRM.

The DAS posts several risk management-related documents to the State's website. These documents contain risk management policies, procedures, and guidelines for various areas of risk

facing the State but have not been adopted in administrative rule as required by RSA 21-I:14, II. Additionally, these documents:

- Include forms supporting the State's risk management program without adoption in administrative rule (RSA 541-A:16, I(b)(1)).
- Direct non-DAS user or agency action, notwithstanding State law requiring agencies adopt in administrative rule all requirements applicable to persons in other agencies or the public (RSAs 541-A:1, XV and 541-A:22, I).
- Require social security numbers without statutory authority to do so (RSA 541-A:22, III(h)).

Prior LBA audits, including our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, demonstrate a lack of required risk management guideline rules. The Department concurred with our 1993 recommendation, stating a risk management manual would be produced for statewide use. Resolving prior audit Observations is a key element of management control.

Administrative rules are an essential component of the State's management control system and convey lawmaking authority on administrative agencies (RSA 541-A:22, II). Rules specify and clarify legally binding definitions, procedures, and requirements affecting other State agencies and the public (RSA 541-A:1, XV). Given the Department's role as the central State agency for internal services, and the State's reliance on DAS for effective and efficient management, it is critical the Department adopt comprehensive administrative rules.

Without administrative rules for loss prevention guidelines and supporting forms:

- State agencies do not have the guidance and information necessary to implement effective loss reduction and prevention strategies.
- Requirements are unenforceable on State agencies.
- BRM's ability to operate coherent risk reduction programs and function as the State's central risk manager is undermined.
- Effective utilization of scarce resources is inhibited.
- Legislative and public oversight integral to the rule adoption process is avoided.

Recommendation:

We recommend Department management promulgate administrative rules detailing loss prevention guidelines and supporting forms as required by State law.

DAS Response:

We concur in part.

DAS has promulgated rules for loss prevention guidelines under Adm 503.01. While the Adm 503 rules do not by themselves provide detailed loss prevention guidelines, Adm 503.01(a), requires compliance with the Department of Labor's (DOL) Safety and Health rules under LAB 1400. The DOL's rules pursuant to RSA 281-A (Workers' Compensation Laws) and RSA 277 (Safety and

Health of Employees) are detailed in a thirty-one (31) page document that includes, among others, rules for accident reporting, hazardous and toxic substances, noise exposure, respiratory protection, fire protection and blood borne pathogens. These rules are also supplemented by the DOL's rules for safety programs and Joint Loss Management Committees, and a guide for developing a written safety program.

Notwithstanding the foregoing comments, the Department concurs its administrative rules can be improved and will seek to amend the Adm. 500 rules to provide detailed loss prevention guidelines and supporting forms as appropriate during fiscal year 2007. In addition, the Bureau will also review the loss prevention guidelines and material published on the State's website for possible improvements.

Observation No. 12

Promulgate Administrative Rules For Managing The State Employee Health Benefits Program

Since 1991, the DAS has failed to promulgate administrative rules for managing State employee health benefits, including fully-insured medical and dental programs and the current self-insured medical program. RSA 21-I:14, XIII, requires the Commissioner adopt administrative rules managing the State's employee group insurance program authorized by RSA 21-I:26 through 21-I:36.

Our 1993 and 2003 financial audits of the Department note the absence of administrative rules required by RSA 21-I:14, XIII. In its response to our Department Of Administrative Services Financial And Compliance Audit For The Fiscal Year Ended June 30, 2003, the Department concurred rules are necessary, but did not provide a timeframe for rule development. As of November 2005, the Department was reportedly "discussing" the need for such administrative rules.

The State began self-insuring employee health benefits in October 2003, thereby expanding the need for administrative rules. Under the State's prior fully-insured medical plan, insurance carriers had broad responsibilities, which the State's insurance statutes and NHID administrative rules clearly regulate. With the State self-insuring employee health benefits, many responsibilities once belonging to insurance providers are now the responsibility of the State, notwithstanding the State's retention of a third party administrator, which executes many administrative responsibilities.

Management controls, including administrative rules, provide reasonable assurance State administration of employee health benefits is consistent, appropriate, and efficient. Administrative rules are necessary to specify and clarify definitions, procedures, and requirements for affected parties not subject to DAS internal policy and procedure. As previously discussed in Observation No. 6 the State's current self-insured employee health benefits program is functionally unregulated and the lack of administrative rules contributes to this. Areas warranting administrative rules include:

- Pharmacy benefit management (PBM) claims dispute resolution,
- Ensuring patient privacy under the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996,
- Consolidated Omnibus Reconciliation Act (COBRA) of 1986 billing procedures, and
- Eligibility-related issues.

This list only enumerates those areas of DAS operations we have examined in relationship to audits conducted. It is likely other areas will require rule promulgation.

Recommendation:

We recommend the Commissioner comply with RSA 21-I:14, XIII, and adopt comprehensive administrative rules for managing the State employee health benefits program.

DAS Response:

We concur.

The vast majority of the state employee and retiree health benefit program provisions will not be the subject of rule making because they are collectively bargained, provided for in statute, or addressed in contracts with the program's third party administrators. In the case of the collective bargaining agreement, the Department lacks the authority to establish certain terms and conditions of the program through rule making or otherwise. All of the benefit terms and conditions of the program are considered "cost items" under RSA 273-A, relative to public employee labor relations, and must be negotiated by the State, represented by the Governor, and the union. In addition, a great number of program provisions are set forth in the several third party administrator contracts and those applicable to program enrollees are restated in the Benefits Booklets.

Despite these limitations, the Department will identify which of the as yet unwritten policies and procedures of the program that are not prescribed by statute, the collective bargaining agreement or contracts with third party administrators are the subject of administrative rule making, and will either propose rules for these areas in fiscal year 2007 or seek changes in legislation to eliminate the requirement for rules after a thorough review.

The Bureau of Risk Management is developing policies and procedures relative to a great range of administrative issues, such as eligibility of former legislators, removal of divorced spouses, reimbursement of COBRA payments in certain circumstances, and the like. The Department will propose rules with respect to those policies and procedures that are subject to RSA 541-A:1, XV during fiscal year 2007.

We also note that for purposes of enrollee and public notice and information, the Department provides ample access to the written details of the program benefits and procedures. Except for the first three (3) months of the self-funded program when the final versions of the Benefits

Booklets were being edited, enrollees and the public have access to the Benefits Booklets and other program materials located at the Department's web site.

Observation No. 13

Develop And Implement Operating Policies And Procedures

The BRM does not have comprehensive written policies and procedures to govern daily activities and major Bureau functions including insurance procurement, contract review, and external technical assistance. Developing and implementing comprehensive, written policies and procedures is a basic management responsibility. In our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, we noted this same condition existed and recommended the Department develop and implement comprehensive written policies and procedures. The Department concurred. In the intervening 12 years, management has not followed-through on recommendations to develop necessary policies and procedures.

As we noted in 1993, without comprehensive written operating policies and procedures, resources may be used inefficiently, a lack of understanding or responsibilities and priorities may develop, and continuity of operations may be disrupted during personnel turnover. We found the lack of policies and procedures in several areas:

- As discussed in Observation No. 36, the lack of consultant procurement policies and procedures led to the Department contracting with an unlicensed vendor, resulting in an Insurance Department investigation.
- In 1993, the BRM was unaware if other agencies were procuring insurance independent of the Bureau. We found at least eight agencies currently procuring insurance without BRM involvement and the Bureau remains unsure whether additional agencies independently purchase insurance.
- In 1993, the BRM lacked adequate claims data. The DAS reports it now maintains loss data; however, our file review found several years of loss data were still missing. The BRM provided the missing data after contacting and obtaining the data from vendors. The BRM reports no documented plan or formal policies and procedures structuring data collection and use.
- In 1993 there were no policies or procedures for agency loss exposure identification. Responses to our 2005 survey of State agencies (Appendix B) illustrated the lack of progress in this area with 32 of 41 agencies (78 percent) reporting not having a formal risk management plan, 13 agencies (32 percent) reporting not being aware of the risks they face, and six agencies (15 percent) reporting being unaware how they mitigate risks.

Recommendations:

We recommend Department management develop, implement, and maintain comprehensive written risk management-related operating policies and procedures addressing the daily activities and major functions of the BRM.

DAS Response:

We concur.

The BRM does not have formal written policies and procedures. However, there are informal policies and procedures in place that include monitoring on a regular basis, an inventory of all insurance in effect to determine when policy renewals are due, steps to follow in issuing request for proposals (RFP), evaluating RFP responses and obtaining quality services for the State at the lowest possible price, conferring with the New Hampshire Insurance Department (NHID) on licensure requirements, recommending bid award of selected vendors to DAS management, obtaining Governor and Council approval and handling requests from agencies for insurance coverage etc. In addition, consistent procedures are followed in the daily administrative functions of the Bureau such as budget reviews, approvals of invoices, timesheets and travel expenses and providing staff training and conducting performance evaluations. Procedures are also followed to identify the most efficient and effective means of servicing state agencies utilizing loss control prevention from the BRM and a third party administrator. These informal policies and procedures proved to be ineffective in some cases.

The Bureau recently posted a new position that will have formal responsibility for assisting with the development and completion of policies and procedures for the full range of Bureau responsibilities. The Bureau anticipates completion of these policies and procedures over the course of the next year.

Observation No. 14

Develop And Implement Operating Policies And Procedures To Finalize Health Benefit Summary Plan Documents

The State operated its current self-insured employee medical benefits program without a finalized summary plan document (SPD) to guide contracted plan administrator actions and fully inform plan beneficiaries for over three months. On September 1, 2005, the State's TPA and PBM began administering health and prescription drug benefits for State employee health plan beneficiaries, and SPDs were not complete until mid December.

Industry practice dictates final SPDs be developed for all covered groups by the implementation date of the health benefits plan. The SPD is a fundamental document for guiding the efforts of the contracted TPA and PBM. SPDs commonly detail plan operation and management including plan benefits, eligibility terms for beneficiaries and dependents, claims filing procedures and payment, plan limitations and exclusions, and claims appeal procedures. Without finalized SPDs, the TPA and the PBM may not have complete information necessary to administer the plan as the State intended.

The SPD is similarly important for the beneficiaries. Common industry practice indicates beneficiaries should receive a finalized SPD at the time of coverage. The federal Employee Retirement Income Security Act of 1974 (ERISA) sets minimum standards for most private industry self-insured health benefit plans and entitles beneficiaries to a SPD upon becoming a

plan beneficiary. Similarly, RSA 415-A:4, regulating State health insurance carriers, requires beneficiaries receive an outline of coverage with the insurance application or policy. Although, as previously discussed in Observation No. 6, the State's self-insured plan is currently unregulated, State plan beneficiaries should be afforded the same protections as non-State beneficiaries enrolled in self-insured or fully-insured health plans. Without finalized SPDs, beneficiaries may not have complete information necessary to fully understand their health benefits plan.

Our Employee Benefit Fund Financial and Compliance Audit Report For The Year Ended June 30, 2004, also notes the Department operated the self-insured employee health benefits program without a finalized SPD for at least eight months. Lacking a finalized SPD at the program's inception contributed to uncertainty and ad hoc decision making on the part of DAS employees when interpreting plan coverage. The DAS concurred with the prior audit Observation noting "the Department recognizes the importance of establishing policies and procedures to review SPDs and is currently developing relevant business practices associated with this process." The Department currently has no such policies and procedures.

Recommendations:

We recommend Department management finalize health and pharmacy benefit plan SPDs no later than the plan's implementation date and develop, implement, and maintain policies and procedures for developing and reviewing SPDs before related contracts are implemented.

DAS Response:

We concur.

The Department had every intention to develop the Benefits Booklets by the implementation date of the health benefits program. However, due to limited resources within the Department, and staff turnover and transition issues involving the medical administrator and the new pharmacy benefits manager, respectively, there was a delay in finalizing the Booklets. The Department finalized and posted detailed Benefits Booklets for the medical and pharmacy programs on its web site on December 19, 2005.

Observation No. 15

Develop Policies And Procedures For Resolving Pharmacy Benefit Claims Disputes

The DAS does not have policies and procedures guiding its pharmacy benefit claims dispute process for active State employees, retirees, and qualified dependants. Since September 1, 2005, the PBM has been contractually responsible for initial claims approval or disapproval and the adjudication process while the State reserves "final determination regarding payment of all submitted claims."

Without policies and procedures guiding the Department's pharmacy benefit claims dispute process, issues identified in our Employee Benefit Fund Financial and Compliance Audit Report For The Fiscal Year Ended June 30, 2004, may plague the Department's current dispute process. Policies and procedures can provide reasonable assurance an organization consistently conducts operations in accordance with best practice. Policies and procedures detailing the process for resolving pharmacy benefits claims disputes helps ensure decisions are made in an equitable and consistent manner and as intended by the State. Decisions made in accordance with policies and procedures and a finalized SPD may be better supported should the Department's determinations face future challenges. As previously discussed in Observation No. 12, the Department lacks administrative rules for managing the State employee health benefits program. Since PBM dispute resolution may affect non-DAS employees, retirees, and eligible dependants, administrative rules in this area are likely needed.

Recommendations:

We recommend Department management develop, implement, and maintain detailed, comprehensive policies and procedures to guide its pharmacy benefits claim dispute process.

DAS Response:

We concur.

The Department intended to develop the Benefits Booklets (referred to in the Observation as the "Summary Plan Description") by the implementation date of the health benefits program. However, due limited resources within the Department and staff turnover and transition issues involving the new Pharmacy Benefits Manager, there was a delay in finalizing the Booklets. The appeals process for the pharmacy administrative and clinical claims adjudication denials is set forth in the Benefits Booklet.

The State has delegated to the pharmacy benefit administrator the authority to adjudicate claims and to internally administer the first and second level appeals process. The Department does not currently have the staff or medical expertise to review clinical pharmacy appeals. The Department will consult with the newly created Legislative Advisory Committee on this issue.

Observation No. 16

Realign Claims Appeal Process

We found the DAS continues to place full responsibility for health benefit claims appeals with the contracted TPA, despite recommendations to the contrary made in our Employee Benefit Fund Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2004. In 2004, we reported the DAS removed itself from the claims review process, referring all claims to the TPA for resolution, while the summary plan document allocated second-level appeals to the Department. The report found before assigning both levels of the appeals process to the TPA, the Department was adjudicating claims in an ad hoc manner resulting in instances of HIPAA

noncompliance and in one case providing the TPA with two separate and conflicting decisions. The report recommended developing a clearly defined appeals process, “which allows for proper Department representation in the process.” Subsequent to our recommendation, the Department entered into a TPA contract allocating first and second-level health benefit appeals responsibility to the TPA and did not provide for any reporting to the State or other management control in this area.

Generally, fully and self-insured health benefit plan beneficiaries have the option to contact external regulatory entities for appeals assistance or file a complaint. While the NHID has no jurisdiction over self-insured plans, fully-insured plan beneficiaries may seek assistance or file a complaint with the NHID. Beneficiaries of self-insured plans may file complaints with the U.S. Department of Labor, unless it is a self-insured government or church plan. According to the NHID, in most cases ultimate responsibility for resolving claims disputes under fully-insured government employer health benefit plans rests with “the governing body of the employer sponsoring the plan.”

Full and fair claim reviews benefit the State and its health plan participants. As ultimate financial and administrative responsibility for the self-insured health plan rests with the State, and beneficiaries do not have the option to seek assistance or file a complaint with a regulatory agency, a State role in the appeals process provides an essential management control. Simply assigning second-level appeals responsibility to the TPA, in place of developing an adequate Departmental appeals structure including related administrative rules, is not in the best interest of health plan beneficiaries or the State and does not provide adequate management control.

Recommendations:

We recommend Department management develop an organizational structure and processes to review and adjudicate second-level health plan claims. The Department should define the claims review process in the summary plan document and promulgate related administrative rules.

DAS Response:

We concur.

Enrollees in the health benefit program currently have meaningful opportunities to seek review by the State of benefit appeal denials. In addition, enrollees may appeal certain medical appeal denials to an external review organization that is independent of both the medical administrator and the State. While the State review process has yet to be formalized through the establishment of a review board, and adoption of a corresponding rule, the Department will consult with the newly created Legislative Advisory Committee on desirability of creating such a review board.

Under the medical administrator contract (as reflected in the Benefits Booklet), the administrator is responsible for administering first and second level benefit denial appeals. Those appeals involving clinical issues may be further appealed to an independent review organization. The medical administrator is responsible for arranging those appeals; however, the administrator may not influence that appeal process in any fashion. Notwithstanding the

availability of the administrator's comprehensive internal appeals process, (which is compliant with ERISA claims regulations), along with the additional external review, state employees and retirees have access to personnel within the Department should they become frustrated with their individual appeal.

Individuals within the Division of Personnel and the Bureau of Risk Management routinely assist employees and retirees with the appeal process itself, as well as screening and reviewing requests for benefit and coverage exceptions. It should be noted that the state collective bargaining unit has to date not advanced a state-level appeal opportunity as a contract priority.

INFORMATION AND COMMUNICATIONS

For an organization to operate efficiently and effectively it must have relevant, reliable, and timely communications. Managers need both financial and operational information to assess the organization's performance. Operating information is needed to determine if an organization is complying with requirements of law and regulation. When information is available in a timely manner effective monitoring of events can occur enabling prompt action. Our audit found the DAS lacked adequate management information and data.

Observation No. 17

Improve Department-Wide Information Management

We found no DAS system, rules, or policies and procedures related to information management. In 1993, we found the lack of BRM data the "single most important deficiency of the State's risk management program." The lack of data led to a risk management program without substance, possibly providing a false sense of security to State decision makers. The Department asserts the conditions leading to this Observation are "substantially resolved."

In conducting our fieldwork, we requested numerous documents from the Department. In many cases, the Department provided the materials. However, in other instances the Department did not possess and could not locate requested documents, including Departmental budget requests for two biennia and materials related to the State's use of insurance producers, loss-runs, and major service contracts. We never obtained some materials and the DAS took over eight months to locate other materials. Some items could be located only after the DAS contacted former employees or current and former vendors. In other instances, the Department: 1) contacted former employees to obtain an understanding of current operations and locate requested materials, 2) reported agency files were removed by a former Director of Personnel or, 3) reported files were provided to the OAG pursuant to an investigation, without retaining a copy. As we discuss in Observation No. 18, the DAS also lacks necessary fiscal information.

During our insurance procurement file review of the BRM, we found the Bureau maintains incomplete procurement records, loss data, and data identifying risks to State real property, including clusters of facilities potentially subject to a single catastrophic event. Further, data do not exist identifying: 1) risks to State personal property; 2) risks associated with business interruptions; 3) risks associated with general liability, professional malpractice, and errors and

omissions; and 4) agency mitigation efforts. Additionally, the BRM reported being unable to obtain information on outstanding and negotiated settlements from the OAG.

Government records serve crucial business functions including evidencing government decisions and actions. Effective decision making is based on analysis of timely, accurate, and reliable data. The Secretary of State Records Management and Archives Division requires contracts be retained by agencies for eight years after terminating the contractual relationship. Under RSA 5:33, agency heads are responsible for establishing and maintaining a records management program containing adequate and proper documentation of agency organization, functions, policies, decisions, procedures, and essential transactions designed to furnish information to protect the legal and financial rights of the State and of persons directly affected by the agency's activities. According to RSA 5:37, all records prepared or received by State officials in the course of their public duties are the property of the State and are not to be transferred or removed except as provided by law.

As the State's central internal service agency, it is imperative the Department retain important documents. RSA 5:33 requires agencies establish and maintain records to protect the legal and financial rights of the State. RSA 5:37 makes all records prepared or received by State officials the property of the State. The lack of an enforced, comprehensive records retention policy not only confounds review of Departmental operations, but may limit the Department's ability to comply with Right-to-Know requests under RSA 91-A, compromising public oversight and the State's ability to recount or defend agency decisions. As we found in multiple Observations, risk management and procurement decisions are not consistently based on data and where data are used, the data are often incomplete or inaccurate.

Recommendations:

We recommend Department management develop, implement, and maintain written, comprehensive policies and procedures to improve and ensure adequate information management. Policies and procedures should cover documents essential to procurement on a statewide basis, current and future risk management operations, and document creation and retention standards.

DAS Response:

We concur in part.

The Bureau of Risk Management attempted to provide LBA auditors with requested materials in a timely manner, in spite of having to also manage the day-to-day operations of the Bureau with limited staff, as discussed in the Bureau's responses to other Observations. The Department acknowledges the significance of the LBA's findings in this area

However, the Department does have policies and procedures related to information management including a Procedures Manual and a User's Guidebook for its New Hampshire Integrated Financial System (IFS), both of which have been in existence since the inception of the system. Other information management policy and procedure documentation maintained by the

Department includes the Manual of Procedures, the Budget Office's Administrative Handbook and annual Budget Manual, and the Bureau of Accounting's Appropriation Accounting Policies and Procedures Manual, Payroll Policies and Procedures Manual, Annual Closing Review and the Fixed Assets Policies and Procedures Manual, in addition to formal Administrative Rules and other documentation. Information management is a wide-ranging topic and is not reduced to a single document by the Department that details all rules, policies, or procedures.

The auditors report that major service contracts could not be located at the time of the audit. While the department does not have a specific explanation for this, a significant amount of documentation was moved in and out of the BRM offices during the investigation by the Office of the Attorney General regarding the State's use of an unlicensed insurance producer. (See our response to Observation No. 34.) This movement could account for some of the documents that could not be located.

Contracts that have received Governor and Council approval are routinely filed by the Department's Bureau of Accounting to support encumbrances recorded in the state's IFS for those contracts and are archived according to state policy. The Department also maintains necessary fiscal information that can be retrieved under properly defined parameters, as evidenced by the issuance of unqualified opinions from the State's auditors for several consecutive years.

The Department agrees that more detailed written procedures for the accounting for statewide insurance expenditures is needed and desired, as we discuss more fully in our response to Observation No. 18, Obtain Necessary Management Data on Insurance Expenditures.

Finally, the Department believes it is in compliance with the requirement to "establish and maintain an active, continuing program for the economical and efficient management of records of the agency..." under RSA 5:33. We do not believe the experience of the LBA during its audit is indicative of the Department's overall record keeping practices.

Observation No. 18

Obtain Necessary Management Data On Insurance Expenditures

In our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, we found the DAS lacked basic management data. In our current audit, we found the DAS continues to lack adequate data, including data on the cost of insurance procured by the State. Data obtained through our 2005 survey of State agencies illustrates DAS-supplied summaries of expenditures for insurance and related services were incomplete and inaccurate. In one case, agency insurance payments totaled over \$1.1 million for non-health lines of insurance. The Integrated Financial System (IFS) reported expenditures for this agency were \$93,772 or less than one twelfth of the agency reported expenditures. Further, we found insurance premium cost data maintained by the BRM did not correlate to IFS provided data. Table 6 illustrates the magnitude of the issue.

Table 6

**Variance In IFS And BRM Reported Insurance Costs,
SFYs 1998-2004**

SFY	IFS-Reported Insurance Cost	BRM-Reported Insurance Cost	Difference	Percent Variance
1998	\$531,843	\$689,101	\$157,258	30
1999	407,591	663,715	256,124	63
2000	656,108	794,114	138,006	21
2001	601,683	1,020,844	419,161	70
2002	792,451	1,205,648	413,197	52
2003	731,726	1,172,434	440,708	60
2004	878,471	1,290,726	412,255	47
Total	\$4,599,873	\$6,836,582	\$2,236,709	49

Note: Comparisons for SFY 2005 were not possible due to data limitations.
Source: LBA Analysis Of DAS And BRM Data.

Fiscal accountability is an essential management control. RSA 21-I:1, assigns fiscal planning and control functions to the Commissioner of Administrative Services and places in the DAS responsibility for managing and coordinating administrative functions upon which the effective and efficient management of all State programs and operations rely.

Recommendations:

We recommend Department management develop, implement, and maintain detailed written procedures for accounting for statewide insurance expenditures.

DAS Response:

We concur.

The Department has a tremendous amount of management data regarding its insurance programs, including data on the cost of insurance procured by the State. The Bureau currently collects and reviews cost and loss data on its insured programs. In addition, worker's compensation loss data is maintained for incident rates for total claims, lost time, incurred costs for lost time, total claims and amounts paid for lost time. Information is also available from the State's third party administrators and insurance carriers as needed.

The Bureau also records and maintains internal cost data on all state insurance policies. While this cost data should coincide with amounts reported from the state's IFS, there are two

significant issues affecting the reconciliation of these numbers. First, the Bureau reports premium cost data on a policy year versus state fiscal year basis. Second, the Bureau has determined that state agencies do not consistently report insurance premium costs. Frequently, many agencies fail to post these expenditures to the proper object code in the IFS as instructed by the Department's Budget Manual (i.e., 0250, Insurance and Bond Premiums). The BRM has determined that the insurance cost discrepancies observed by LBA are largely the result of other agency mis-postings to different object codes. Accordingly, when the DAS query of the IFS was performed at the agency level for reporting premium costs, the query was insufficient and did not identify all agency costs. The Department will continue to stress the need for correct object coding during the biennial budget process and on a daily basis by the Department's Agency Records Auditors at the time of payment voucher processing.

The Department operates in compliance with RSA 21-I:1, and specifically with the fiscal planning and control functions noted by the auditors. However, we recognize the need for more detailed written procedures for accounting for statewide insurance expenditures and will emphasize them in the Department's written procedures during fiscal year 2007.

Observation No. 19

Submit Self-Insured Health Plan Implementation Reports Timely

The DAS continues to fail to meet the requirements of Chapter 319:32, Laws of 2003, stipulating the DAS Commissioner report to the joint Legislative Fiscal Committee every 60 days regarding implementation of the self-insured health plan. During the audit period, the DAS provided the Committee with only four of 12 required implementation reports.

Chapter 319:32, Laws of 2003 went into effect July 1, 2003. During the audit period the DAS provided the Committee implementation reports in January 2004, June 2004, September 2004, and March 2005.

Our Employee Benefit Fund Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2004, notes the same issue. In its response to the 2004 financial audit, the DAS reports it will "propose legislation to change the reporting requirement from 60 days to quarterly." The Department did not propose legislation for the 2006 session to change the reporting requirement. The Fiscal Committee's ability to monitor the self-insured State employee health plan may be impeded when the DAS does not submit reports timely or at all.

Recommendation:

We recommend Department management submit the required self-insured health plan implementation reports to the Fiscal Committee as required by statute.

DAS Response:

We concur.

Beginning in fiscal year 2006, implementation reports for the self-funded health plan have been filed in a timely manner.

Written reports were submitted to the Fiscal Committee in the months of August, October and December 2005 and several verbal updates were also given to the Committee. During 2006, reports were submitted in February, April and June. The Department will continue to provide these reports in accordance with statute. The Department did not seek a legislative change to Ch. 319:32, Laws of 2003 because it believes that frequent reporting to the Fiscal Committee is appropriate, at least until the program is well established.

MONITORING

Monitoring is utilized to assess the quality of performance over time and ensure audit findings or other reviews are promptly resolved. Monitoring should be ongoing and include policies and procedures ensuring audit and review findings are promptly resolved. Monitoring provides routine feed back and examination of performance and control objectives. We found the DAS could improve its monitoring activities.

Observation No. 20

Internal Auditor Should Not Engage In Operational Functions

The DAS internal auditor engaged in operational functions by participating in multiple procurement processes with the BRM and other agency personnel. According to agency personnel, the Commissioner directed the internal auditor to participate in at least one procurement process; senior management reportedly directing other involvement. The internal auditor should not assume managerial, supervisory, or operational functions and should conduct audits according to national standards.

According to national standards, internal auditors should be impartial, unbiased, and avoid conflicts of interest. Maintaining independence in fact and appearance facilitates impartial opinions, conclusions, judgments, and recommendations. The internal auditor's participation in procurement functions may impair the auditor's independence during future examinations of these procurement processes or the services provided by these contracts.

Recommendation:

We recommend Department management utilize the internal audit function in a manner consistent with statute and national standards.

DAS Response:

We concur.

In response to the many significant tasks assigned to the Department following enactment of RSA 21-I: 30-d, the Commissioner, pursuant to his authority under RSA 21-I: 13, VIII, assigned a number of employees, including the internal auditor, to carry out certain responsibilities for the new self-funded health plan. As of June 13, 2006, the Commissioner has reassigned the internal auditor to his original audit responsibilities

Observation No. 21

Develop Policies And Procedures Ensuring Semiannual Review Of The State's Third Party Administrator

The DAS did not conduct semiannual reviews of its contracted TPA. Statute and NHID administrative rules require insurers (entities providing health insurance coverage in New Hampshire) to conduct such semiannual reviews. RSA 402-H:6, III, and NHID administrative rule Part Ins 2301.15 specify when administrators administer benefits for more than 100 beneficiaries on behalf of an insurer, the insurer shall conduct a review of the administrator's operations, at least semiannually. At least one such review shall be an on-site operations audit of the administrator. While there is uncertainty as to whether the State is subject to RSA 402-H, given the magnitude of the State's program, following this statutory requirement appears to be in the best interest of both the State and its self-insured program beneficiaries. The State paid an insurance consultant \$283,925 to provide two annual on-site health claims audits for State fiscal years 2004 and 2005; however, no additional reviews were conducted.

In 2003, the DAS contracted with a TPA to administer claims for the approximately 38,000 beneficiaries of its self-insured employee health benefits program. As we discuss in Observations No. 6 and 14, the State assumes broad responsibilities in its self-insured employee health benefits program, responsibilities once handled by insurance carriers. Under its self-insured plan, it is the sole responsibility of the State to provide for competent administration of its program. The State's reviews of its contracted TPA are essential for ensuring such responsibilities are met.

DAS has not developed policies and procedures controlling insurance and related services monitoring. Policies and procedures govern daily activities related to major bureau functions and are part of an internal control structure, providing reasonable assurance the organization conducts operations in accordance with applicable laws and regulations.

Recommendations:

We recommend Department management develop, implement, and maintain comprehensive, written service monitoring policies and procedures incorporating semiannual reviews of its third party administrator, including at least one onsite visit annually.

DAS Response:

We concur in part.

Neither the State nor the Department is an “insurer” nor an “insurance company” for purposes of the State’s insurance laws, including RSA 402-H: 6. Further support for this position is an amendment to RSA 402-H: 6 by Chapter 271:5, Laws of 2006 that defines an “insurer” as a “licensed insurance company, prepaid hospital or medical plan, or a health maintenance organization” for the purpose of third party administrator oversight.

However, notwithstanding the lack of regulation of the State’s relationship with the third party administrators of its self-funded health benefit program, the Department conducts comprehensive and ongoing reviews of their services. With respect to the benefits program, the Department performs the following for each of its program vendors:

- Negotiates and executes comprehensive service agreements, subject to the reviews of the Department’s Budget Office and Attorney General’s Office, and Governor and Council approval;*
- Receives and reviews numerous program cost, utilization and performance reports;*
- Conducts, through its independent and nationally-recognized benefits consultant, annual onsite claims audits;*
- Conducts bi-weekly program vendor meetings;*
- Engages in numerous daily telephonic, electronic and personal contacts with all program vendors; and*
- Obtains on-going guidance from its benefits consultant regarding the appropriate scope, nature and timing of vendor reviews.*

These activities, taken together, far exceed the oversight required by RSA 402-H: 6, II and III. The Bureau of Risk Management is in the process of developing policies and procedures relative to this review of the benefits program vendors to formalize its existing practices. In addition, the Department will assign its internal auditor to participate in the annual on-site claims audits and other reviews of the third party administrators as it deems necessary.

LBA Rejoinder:

The DAS appears to concur with our recommendation as, “*The Bureau of Risk Management is in the process of developing policies and procedures relative to this review of the benefits program vendors....*”

**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

PROCUREMENT MANAGEMENT

Effective public sector procurement can reduce the cost of government, inspire public confidence, and improve the quality of services rendered to the public. Five public procurement principles: 1) competition, 2) impartiality and equity, 3) openness, 4) conservation of funds, and 5) appropriate value and quality for the cost, are integral to best practice. Centralized procurement has historically been viewed as the way to ensure adequate control and quality and is considered best practice. Centralized procurement offers several advantages, including improved management control. Qualified procurement officials maintain the procurement system's controls. Rules and policies and procedures implement controls over procurement and mitigate risk. A complete and accurate public record of activity for every step of the procurement process helps ensure accountability.

Proper planning underpins the procurement process and must be carried out in great detail. Planning should establish whether a commercial procurement is needed, is cost effective, and meets legal requirements. Planning establishes specifications; the critical underpinnings of successful public contracting. Government must widely advertise its requirements when soliciting vendors.

The award process is also driven by planning and is critical to ensuring vendor performance. The process must be consistent, objective, and transparent; and must ensure equal opportunity for all bidders. Public contracts are formal, standardized, written documents and must be technically correct and well written to avoid loss of accountability and control. Contract monitoring, driven by planning and detailed in the contract, is essential in ensuring the State gets what it paid for.

GENERAL STATE REQUIREMENTS

While RSA 21-I provides the bulk of State procurement law, numerous requirements governing the procurement process and generally applicable to State agencies are found elsewhere in State law. Through RSA 21-I:11, the Division of Plant and Property Management, within the Department of Administrative Services (DAS), is responsible for competitively procuring materials, equipment, supplies, and services for all State agencies, with some exceptions such as insurance and services provided solely to one agency. RSA 21-I:8, I(b), requires the Division of Accounting Services, within the DAS, to review State contracts for budget control and substantive protection of the public interest.

According to best practice, competition is a basic tenet of public procurement and is the most effective means of obtaining goods and services at a fair and reasonable price. RSA 21-I:11, III, consistent with best practice, requires competitive bidding before making purchases for the State, with limited exceptions. DAS administrative rules and State policies further emphasize the need for competitive bidding and documenting sole-source justification.

At least 17 State agencies have statutory authority to acquire certain materials and services, but are not exempt from RSA 21-I or other statutory requirements. In most instances this authority appears to permit agencies to outsource services or functions. However, many agencies developed their own purchasing function, often acting without DAS coordination. Additionally,

numerous quasi-governmental entities have a high degree of autonomy in statute or exist independent of State government. Whether these agencies are required to adhere to State purchasing laws and regulations is not consistently clear.

Observation No. 22

Improve Efficiency And Effectiveness Of System To Procure State Insurance And Related Services

Despite efforts to organize State government on a functional basis, the procurement system remains decentralized and does not support efficient and effective insurance procurement. With RSA 21-G:4, effective July 1983, the Legislature began a continuous process of functionally organizing State government to increase efficiency and effectiveness. Fiscal planning, control functions, and managing and coordinating administrative functions, which effective and efficient management of all State programs and operations rely upon, are all explicitly the responsibility of the Commissioner and the DAS through RSA 21-I:1, consistent with RSA 21-G:4. The DAS mandate includes risk management, procurement, and ongoing monitoring and evaluating of State agencies.

Regardless of Legislative efforts at centralization, we found the procurement system remains piecemeal in statute. State laws provide multiple routes for agencies to avoid or be exempt from central insurance procurement creating inefficiency and confusing roles and responsibilities related to risk management.

Several Entities Are Either Wholly Exempt Or Have Certain Purchases Exempt From Central DAS Procurement

RSA 21-I commingles the State's procurement policy with the structure and mission of the DAS. In addition to falling outside of central risk management, the Legislative Branch, State Reporter, Secretary of State and the Judicial Branch fall outside central insurance procurement requirements of RSA 21-I:8, II(e); central and competitive procurement requirements of RSA 21-I:11; and RSA 21-I:13-a, II, which requires protecting invitations or other proposals for public bids to maintain the integrity of the public bidding process. Further, several quasi-governmental entities with broad purchasing authority also appear to fall outside central procurement requirements. This piecemeal structure is inconsistent with best practice and apparent Legislative intent.

Fundamental State Procurement Laws Are Waived In Statute

RSA 21-I:11, I(f), provides for a major exception to centralized procurement by exempting services to be used by one agency. This effectively waives most of the State's procurement laws, including central DAS oversight (RSA 21-I:8, I(b)) and control of insurance purchases (RSA 21-I:8, II(e)), and places such procurements outside of competitive bidding requirements in RSA 21-I:11.

Numerous statutes provide State government entities with procurement authority. While these authorizations apparently do not equate to exemption from RSA 21-I as other statutory language is explicit in this regard, these authorizations may lead to confusion regarding procurement authority.

The DAS Commissioner Lacks Full Administrative Rule Promulgation Authority To Comprehensively Control The Procurement Process

RSA 21-I:14, XII, requires the Commissioner adopt rules specifying standards and procedures governing the purchase of materials, supplies, and equipment by the Division of Plant and Property Management. This provision excludes standards and procedures related to service procurement. Central control and procedure development is considered best practice in public procurement.

Insurance And Bond Procurement Statutes Are Inconsistent

RSA 21-I:11 creates the Division of Plant and Property Management, the State's procurement office. However, RSA 21-I:8, II(e), requires the BRM procure insurance and bonds for State agencies, in effect creating a satellite procurement office. During our audit, the BRM had no procurement specialist on staff. As we discuss in numerous Observations, we found significant issues in BRM's insurance and related service procurements. The satellite procurement office function of the BRM further contributes to inefficiencies. Neither effect is consistent with best practice or the apparent intent of RSA 21-G and RSA 21-I:1, I.

Under RSA 21-I:8, II(e), the Bureau of Risk Management (BRM) procures insurance and bonds for the State. However, according to BRM management, RSA 21-I:8, II(e), is conditional and leads to confusion regarding the Bureau's responsibilities. BRM management concludes RSA 9:27 permits agencies to secure casualty or liability insurance independently, providing opportunity to circumvent the BRM and the DAS when procuring insurance. RSA 9:27 was originally promulgated in 1909 and last updated in 1985. The 1985 revisions permitted agencies to use State funds for casualty and liability insurance where before the paragraph had prohibited such purchase, as the State historically self-insured. A 1986 OAG opinion reinforces the BRM's responsibility to purchase all liability and casualty insurance, and post-dates the change in RSA 9:27. BRM management stated RSA 9:27 takes risk management responsibility away from the Bureau when agencies procure under this authority. Given the apparent purpose of RSA 21-I and RSA 21-G and considering the 1986 OAG opinion, we question this interpretation, which appears to undermine the broad implications of RSA 21-I and RSA 21-G.

Several statutes direct agencies away from the BRM when procuring insurance, creating opportunity for confusion. RSAs 93-B:3, 218:6, 227:2, and 284:21-hh, point several agencies to the Division of Plant and Property Management or Bureau of Purchase and Property to procure insurance or bonds for the State. Further, RSA 21-I:11, III(d), states where approved insurance rates are uniform, insurance procurement is exempt from price competition but the Director of Plant and Property Management is not precluded from inviting plans of insurance coverage.

Statutorily Directed Insurance Procurement Removes The BRM From The Risk Management Process

In considering mitigation techniques, procuring insurance is but one method to control the risk facing an organization. Statutorily-required commercial insurance removes the risk management system from the decision-making processes as it is directive, supplants risk analysis, and obviates alternative risk mitigation methods. The BRM Administrator indicated where other entities are given authority or responsibility for activities related to risk management, such as clauses regarding insurance procurement, a central approach is undermined. Effective July 1985, RSA 9:27 specifies “any insurance specifically required by law shall be carried,” further emphasizing at least 45 instances where statute directs or permits insurance and bond procurement.

Key Steps In The Procurement Process Are Not Required

No law, rule, or policy requires agencies complete detailed planning before procurement occurs. Effective purchasing necessarily requires sound planning. State law, administrative rule, and policy and procedure do not contain comprehensive, systematic requirements of contract monitoring. Best practice indicates monitoring is essential in providing reasonable assurance the State gets what it pays for, improving contractor performance and customer satisfaction.

We found agencies independently procure insurance and do so without risk management plans or cost-benefit analyses demonstrating the State’s best interest is served. As our 2005 survey of State agencies (Appendix B) reveals, most agencies have no risk management plans. Of 41 State agencies we surveyed, 32 (78 percent) report no formal documented risk management plan, while nine agencies (22 percent) report having a formal documented risk management plan. This leaves agencies to carry out risk management and the subsidiary function of insurance procurement largely independent of the State’s designated risk management office.

Decentralization may lead to duplication of effort, resources, and personnel; mismanagement; inefficiencies; inconsistencies across government; and lack of accountability. Agencies can make decisions based on organizational best interest, not necessarily based on statewide best interest. RSA 21-G:4 indicates consolidation of agencies in the Executive Branch should be on a functional basis, so programs are coordinated and comprehensive planning is undertaken, realizing efficiencies and improving effectiveness. The Legislature’s objective to coordinate related programs in function-oriented departments; clearly define agency jurisdictions; and establish clear lines of authority, responsibility, and accountability is not being met (RSA 21-G:3).

Recommendations:

We recommend the Legislature consider centralizing State insurance procurement within the DAS, Division of Plant and Property Management by:

- **amending RSA 21-I:8, II(e), to require insurance and bond purchase by the Division of Plant and Property Management;**

- amending RSA 21-I:11, I(f), to delete “‘Services’ shall not mean services provided solely to one agency;”
- amending RSA 21-I:14, XII, to provide the Commissioner of Administrative Services authority to promulgate service procurement administrative rules;
- establishing statutory contract planning and monitoring requirements;
- repealing RSA 9:27; and
- repealing individual agency procurement authorizations found in RSAs.

DAS Response:

We concur.

We concur with the recommendation that the State’s insurance procurement activities be centralized within the Department. Centralization would enable the Department to achieve the desired efficiencies and effectiveness. The absence of a central insurance purchasing unit for the State also precludes the development of a statewide risk management program. To the extent state agencies have independent insurance procurement authority, the Department cannot prescribe the most effective means to mitigate risk.

Currently, several governmental entities are statutorily exempt, either in whole or in part, from the Department’s procurement requirements. Some of these entities are within the executive branch of government, while others (specifically the Legislature and the Judiciary) are entirely separate branches of government, the operations of which are not generally subject to oversight by the executive branch. The insurance procurement structure described in this Observation is a creation of the New Hampshire General Court.

The Department intends to seek legislation to establish the central role of the Division of Plant and Property management and the Risk Management Unit in insurance procurement and risk management, respectively. Further, so as to address the LBA’s statements regarding the current insurance purchasing responsibilities of the Bureau, the Department sought legal counsel from the Attorney General’s Office with respect to: (1) the authority of agencies to purchase insurance without involvement of the Bureau; and (2) the applicable procurement rule with respect to insurance purchased or arranged by the Bureau. Legislation of this nature would have a substantial impact and would call for careful analysis of constitutional, statutory, financial and practical matters prior to implementation.

For example, deletion of the statutory provision indicating that “services” procured through the Division of Plant and Property Management do not include services provided solely to one agency is generally supported by that Division, but on a “phased approach” that would initially allow for the hiring and/or transfer of a significant number of personnel to handle a substantial increase in workload. Again, this would be a major change in the scope of the Division’s responsibilities and its impact should not be underestimated.

Other accommodations would include the establishment of a centralized procurement website, institution of processes for the procurement of items now handled through the Bureau, as well as the procurement of additional “statewide” services (but historically purchased on a single

agency basis) such as janitorial, snow and trash removal, systems testing and maintenance. Ultimately, the Division would institute a framework that would allow for procurement of the host of other items that are now provided solely to a single agency.

A centralized procurement system would necessitate the identification and amendment or repeal of statutes such as RSA 9:27 that specifically authorize (or require) state agencies to purchase insurance. In addition, there should be an assessment of the agencies or branches of government that should (as a practical matter), or must (as a legal or constitutional matter), be excluded from the structure, as well as an analysis of what additional or amended rulemaking authorities should be vested in the Department.

The Department requested positions for a unit to handle service contracting in its 2004-2005 budget process but was denied. We believe such a unit is necessary for the State to uniformly handle RFPs and the bidding process. The Governor and Executive Council have also discussed the need to centralize and standardize the procurement of services.

INSURANCE PROCUREMENT PRACTICES

The State procures insurance to cover real and personal property, bonds covering the faithful performance of its officers and employees, and other perceived liabilities as a mechanism to transfer risk. State law, administrative rule, and policy and procedure require competitive bidding with limited exceptions. Contract and purchasing rules and subsequent purchasing activity are generally the responsibility of the Division of Plant and Property Management with certain agencies excepted.

However, the BRM and the Division of Personnel have historically managed the procurement of insurance and related services independently. RSA 21-I:8, II(e), authorizes the BRM to procure insurance for the State; however, our survey of State agencies (Appendix B) revealed eight agencies purchase insurance independent of the BRM. Of these eight agencies, only three appear to have procurement authority independent of the BRM. This leads to questions about whether personnel at agencies have the knowledge and experience to identify insurance needs, and find appropriate coverage at the least cost to the State, and whether the State's management controls are adequate. Additionally, the BRM may not have accurate records of all State policies. We expressed significant concerns with insurance procurement in our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, including the lack of comprehensive controls ensuring competitive bidding for insurance contracts. These same concerns persist today.

No law, administrative rule, or policy and procedure details how insurance is to be procured, even though such procurement is often closely regulated as our survey of other states (Appendix C) found. Sixteen of 18 (89 percent) responding risk managers and nine of 12 (75 percent) health benefit managers reported guidelines such as statutes, administrative rules, policies and procedures, or other mechanisms specifically regulate insurance procurement. Of these respondents 15 (83 percent) risk managers and seven (58 percent) health benefit managers report statute specifically regulates insurance procurement. Thirteen (72 percent) risk managers reported using full and open competition, two (11 percent) using limited competition, two (11

percent) sole-sourcing (Appendix C) to obtain insurance for their states. Eleven (92 percent) health benefit managers reported using only full and open competition to procure employee health benefits. Our review of DAS files found not all policies were competitively procured, competition appeared artificially or unnecessarily limited in other instances, and policies were retroactively awarded. These conditions lessened assurances the State received the best service at the lowest cost and insurance procurements were in the public's best interest.

Observation No. 23

Improve Oversight Of Commercial Insurance Procurement

The BRM inconsistently followed public procurement best practices and requirements of State law, administrative rule, and policy. We found significant noncompliance with procurement principles and standards in each of the five general steps of public procurement: planning, soliciting, vendor selection, contract execution, and contract monitoring. In our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, we also found the BRM inefficiently administering commercial insurance contracts.

Planning

As we discuss in Observation No. 22, we found no statutory requirement for procurement planning. Proper planning underpins the entire procurement process and must be in sufficient detail. Planning integrates program personnel and contract specialists; establishes whether a commercial procurement is needed and cost effective; ensures a procurement meets legal prohibitions, requirements, and public accountability goals; and establishes specifications. Our file review of 52 BRM procurements found one procurement (two percent) had a documented plan developed to inform and structure the ensuing procurement process. The remaining 51 procurements (98 percent) lacked evidence of coherent planning.

Soliciting

Full and open competition is impossible when potential vendors are unaware of potential public procurements. Government must widely advertise its requirements and solicit vendors to ensure all capable firms have the opportunity to bid. Our file review found 17 procurements recorded some form of public notice. However, in neither these 17 instances nor the other 22 where it also should have occurred, could we find evidence of public notice meeting the State's requirement for advertisement in a newspaper of statewide circulation for three consecutive days. Table 7 illustrates other major findings related to BRM procurement during the solicitation phase of procurement.

Vendor Selection

Competition, government's most effective means of obtaining goods and services at a fair and reasonable price, is the preferred selection method. Full and open competition affords vendors an equal opportunity to compete for government contracts and helps prevent favoritism, collusion, and fraud. Competition should be restricted only when the public need requires. Limited

competition involves soliciting from a pre-qualified list of vendors or a limited list formed on some ad hoc basis such as agency determination of capable vendor status. Limited competition should require approvals. Sole-sourcing should be discouraged, as it is least likely to meet procurement principles. Sole-sourcing should only be undertaken after efforts to locate alternative sources are exhausted and should include written justification.

Table 7

BRM Compliance With Solicitation Phase Procurement Requirements

Requirement:	Number Compliant	Number Noncompliant	Number Not Applicable	Percent Compliant	Percent Noncompliant
For purchases up to \$1,000, were three telephone quotes obtained?	1	13	38	7	93
For purchases of \$1,000 to \$2,000, were three written quotes obtained?	0	6	46	0	100
For purchases of \$2,000 and above, was a request for proposal (RFP) advertised in a statewide newspaper for three days?	0	39	13	0	100
Was a request for written or sealed RFP used?	28	11	13	72	28
Did the RFP for a purchase greater than \$35,000 contain objective criteria to review submissions?	9	10	33	47	53
Did the RFP for a purchase greater than \$35,000 contain the standards upon which any award will be based?	10	9	33	53	47
Did the RFP for a purchase greater than \$35,000 state particular requirements to receive more weight in the review of the submission?	9	10	33	47	53
If judgment on vendor ability to complete work was made, was this option clearly stated in the RFP and if used as the reason for the award, is it so stated?	5	13	34	28	72
Was the RFP comprehensive, written, linked to the agency's requirements, and linked to planning?	26	26	0	50	50
Did the RFP contain specifications?	27	25	0	52	48
Did the RFP contain bidding information such as closing time, date, location, bidders' conference, award date, and start date?	25	27	0	48	52
Did the RFP contain award and evaluation criterion and the weighting of these criterion?	14	38	0	27	73
Did the RFP specify prior performance data were to be used as selection criterion?	5	47	0	10	90
Did risk management review the RFP for contractual risks before issuance?	2	50	0	4	96

Source: LBA Analysis.

According to BRM personnel, the Bureau frequently sole-sources contracts under \$5,000 to incumbent insurance producers providing coverage for similar risks and sole-sources specialty line insurance contracts over \$5,000, with the belief formal open competition with a request for proposal would not elicit interest from additional vendors. Table 8 illustrates the various methods we found the BRM used to acquire commercial insurance services for the State.

Table 8

**Procurement Methods Utilized By The BRM To Procure Insurance,
SFY 1998-2005**

Procurement Type	Number	Percent Of Total Procurements	Dollar Value	Percent Of Total Value
Sole-Source	23	44	\$702,399	9
Limited Competition	12	23	1,300,598	18
Competitive	17	33	5,389,419	73
Total	52	100	\$7,392,416	100

Source: LBA Analysis.

In addition to the \$702,399 in sole-sourced procurements, we found one instance of the BRM adding \$429,495 in insurance services by sole-source to a competitively procured insurance policy over a two-year period. Table 9 illustrates other major findings related to BRM procurement during the selection phase. Additionally, we found separate instances where BRM personnel: 1) attempted to break up one contract to bring premiums below \$5,000; 2) where an incumbent producer was advised to keep quotes under \$5,000, or the contract would be put out to bid; and 3) where a 16-year incumbent producer quoted a contract at approximately \$100 over \$5,000 and the BRM requested and received a credit bringing the premium below \$5,000.

Contracting

The contract is a result of planning and accounts for negotiations and other changes. The contract is a formal, written document essential to controlling the State's relationship with its vendors. Table 10 illustrates major findings related to BRM procurement during the contracting phase of procurement.

Monitoring

Post-award contract monitoring is essential in ensuring the State gets what it pays for. We found no evidence the DAS requires post-award contract monitoring. In our file review of 52 BRM insurance procurement iterations, or cycles we found no evidence of a documented contract monitoring plan and only three instances (six percent) of contract review to reaffirm a contract's need.

Table 9

BRM Compliance With Selection Phase Procurement Requirements

Requirement:	Number Compliant	Number Noncompliant	Number Not Applicable	Percent Compliant	Percent Noncompliant
Were awards based on known criteria for contracts valued \$35,000 or more?	6	13	33	32	68
Were awards based on judgment on vendor ability to complete work as stated in the solicitation and if used as the reason for the award, is it so stated for contracts valued \$35,000 or more?	1	16	35	6	94
Was offered service determined to meet the established need?	14	38	0	27	73
Were an adequate number of responses obtained?	7	45	0	13	87
Was a fixed, clearly defined, and consistent scoring mechanism directly linked to those in the invitation used?	5	47	0	10	90
Was award decision documented with supporting materials?	3	49	0	6	94

Source: LBA Analysis.

We also found the DAS Bureau of Accounting does not review contracts, including insurance contracts, for substantive protection of the public interest. RSA 21-I:8, I(b), requires the Bureau review all State contracts for budget control and substantive protection of the public interest, but there are neither policies and procedures nor personnel with this assigned responsibility. Of the 52 procurements we reviewed we found no documented instances where DAS personnel reviewed contracts for protection of the public's interest and only one instance where DAS personnel reviewed a contract for budget control.

The DAS reports the BRM was organizationally relocated from the Division of Accounting Services to the Commissioner's Office after our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, found numerous issues requiring management action. The DAS reports this organizational change resulted in improved oversight, management control, and communication between the Bureau and the Commissioner. We found the need for improved management control over BRM procurement activities continues.

Table 10

BRM Compliance With Contracting Phase Procurement Requirements

Requirement:	Compliant	Noncompliant	Not Applicable	Percent Compliant	Percent Non Compliant
Was a formal, standardized, written document used?	24	28	0	46	54
Was a formal cover letter sent to Governor and Executive Council (G&C)?	19	14	19	58	42
Did the G&C submission provide full and complete justification for sole-sourced procurements?	2	6	44	25	75
Did the G&C submission contain an explanation of service?	15	18	19	45	55
Did the G&C submission contain certificate of authority?	21	12	19	64	36
Did the G&C submission contain certificate of good standing?	18	15	19	55	45
Did the G&C submission contain a certificate of insurance?	11	21	20	34	66
For a sole-source procurement, was the best interests of the State served thereby and the purchase under \$2,000 or in an approved class?	0	11	41	0	100
For sole-source procurement, was it apparent, after reasonable investigation, that any required unit or item of supply, or brand of such unit or item, is procurable by the State from only one source?	0	23	29	0	100
For sole-source procurement, was it apparent, after reasonable investigation, that required services, unit or items of supply, or brand of such unit or items, has a fixed market price at all sources available to the State?	0	23	29	0	100
For sole-source procurement, were the rates filed with and approved by the Insurance Commissioner uniform?	0	23	29	0	100
Did non-competitive purchase of more than \$2,000 or in an approved class have written approval of the DAS Commissioner?	1	11	40	8	92
Did non-competitive purchase of more than \$2,000 or in an approved class have a written statement outlining reasons for non-competitive purchase from Director of Plant and Property Management?	0	12	40	0	100
Did the contract codify performance standards?	1	51	0	2	98
Did the contract provide the basis for monitoring?	9	43	0	17	83
Did the contract have required signatures, approvals, and witnesses?	12	40	0	23	77

Source: LBA Analysis.

Recommendations:

We recommend Department management:

- **utilize procurement best practices when procuring insurance;**
- **conduct proper and full oversight of its insurance and related service procurement activities; and**
- **develop comprehensive written policies and procedures for reviewing all State contracts for substantive protection of the public interest and resource this review function with competent, trained personnel.**

DAS Response:

We concur in part.

Since 2004, the BRM has worked closely with the Division of Plant and Property in its commercial insurance procurements and now consistently follows the procurement rules of the Bureau of Purchase and Property for all procurements entailing annual premiums of \$5,000 or more. For those procurements of lesser amounts, the BRM follows the applicable provisions of the Department Budget Office Administrative Handbook. It should be reiterated that while the BRM did not follow best procurement practices for its insurance purchases, the LBA's analysis indicates seventy three percent (73%) of the dollar value of the purchases were competitively bid, eighteen percent (18%) of the dollar value were bid with limited competition, and nine percent (9%) of the dollar value was sole sourced. The BRM will attempt to procure 100 percent (100%) of its insurance through competitive bidding in the future if cost justified.

With respect to post-award contract monitoring, we point out that all contracts requiring Governor and Council approval, whether executed by the BRM, the Commissioner or by the state agency, originate on the standardized contract form developed by the Attorney General known as a P-37. The Department's Budget Office Administrative Handbook, in conjunction with Chapter Adm 600 of its Administrative Rules, provide guidance to agencies that is intended for the substantive protection of the public interest. In addition, all such contracts require the review and approval of an attorney from the Attorney General's Office as to form, substance and execution before submission to the Governor and Council.

Contracts are also reviewed by a Business Supervisor in the Department's Budget Office for content and substantive protection of the public interest as well as available funding. An explanation of the contract's purpose and the availability of budgeted funds is specifically noted on the "Requested Action" letters that accompany the contracts to the Governor and Council. After contracts are approved by the Governor and Council, the Department's Bureau of Accounting performs the last budgetary review at the time the contracts are encumbered in the State's integrated financial system.

Contracts under the limits established by the Governor and Council for their approval (contracts under \$2,500 for personal services and under \$5,000 for other contracts), are submitted by state agencies to the Bureau of Accounting. The Bureau reviews these submissions and encumbers the

funds in the State's integrated financial system based on available funds. The Department is in the process of formalizing a procedure recently instituted by the Division of Accounting Services to ensure that funds are encumbered prior to the authorization of payment on presented vouchers. If funds are not encumbered, the auditors will investigate and determine whether a contract exists and was properly reviewed and approved.

LBA Rejoinder:

We do not dispute contracts are reviewed for budget control as is spelled out in the Department's response; however, we found no evidence the Bureau of Accounting conducts reviews for substantive protection of the public interest. We found inadequate DAS management controls allowed: inappropriate sole-sourcing, avoidance of G&C approval, business be to conducted with unlicensed vendors, numerous vendors to provide services without contracts, and insufficient public notice of opportunities to provide services to the State.

Observation No. 24

Ensure Incumbent Vendors Do Not Have An Unfair Advantage

The BRM does not adequately ensure against incumbent producers having an unfair advantage in the insurance procurement process. We reviewed all lines of insurance and related procurement documentation available at the BRM for the audit period. Of the 47 commercially insured risks managed by the BRM we found 24 RFPs related to 15 insured risks and eight contracts related to six insured risks available for review. Our review of RFP language illustrates, with the exception of two cases, all RFPs limited producers to offering a maximum of two bids. The two exceptions contained less restrictive language "discourag[ing]" producers from blocking markets. We did not find language to prevent incumbent producers from soliciting bids from insurance markets before subsequent RFPs are formally issued by the BRM.

In three instances, incumbent producers secured insurance markets before RFPs were released by the BRM, effectively giving these incumbent producers an unfair advantage by preventing competing producers from obtaining equal access to all markets, eliminating competition between producers. All instances were for major statewide policies covering three-year periods and collectively valued over \$2.4 million. When made aware incumbent vendors secured markets before the RFP was released, BRM staff took no action to restore full and open competition to the procurement and simply proceeded with the process. In one case, BRM staff replied to disenfranchised respondents the incumbent producer was only following its internal procedures in obtaining renewal pricing before policy expiration, even though it was well in advance of the State's RFP release. The incumbent producer received the subsequent contracts in each case.

As we discuss in Observations No. 13, 31, 36, and 40 the BRM lacks policies and procedures controlling insurance procurement. Policies and procedures govern daily activities related to major bureau functions and are part of an internal control structure, providing reasonable assurance the organization conducts operations in accordance with applicable laws and regulations and in the best interest of the State. Our Property and Casualty Loss Control

Program, Performance Audit Report, November 1993, found the BRM lacked policies and procedures and a comprehensive program for competitively bidding insurance services. The Department concurred with our recommendation to develop a comprehensive program to ensure competitive insurance procurement.

Recommendation:

We recommend Department management develop administrative rules and policies and procedures regarding the insurance procurement process to ensure no firms have an unfair advantage. These measures should include adding language in insurance RFPs and contracts preventing incumbent producers from securing markets before the BRM formally releases an RFP.

DAS Response:

We concur.

Since 2005, the BRM has included language in its insurance RFPs and policy contracts that incumbent producers shall not secure or otherwise interfere with insurance markets prior to the issuance of any subsequent RFP. In addition, all prospective bidders are notified via electronic mail at the time RFPs are posted on the Department's website. Finally, the Bureau will include insurance procurement in its written policies and procedures during FY 2007 to ensure fair and open competition.

Observation No. 25

Improve Defensive Driver Course Service Procurement

In our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, we found the BRM inadequately managed the State's defensive driving course (DDC). Key shortcomings included contract noncompliance, no competitive bidding, overpaying for the service, and inadequate program monitoring. The DAS responded it would investigate training delivery alternatives "to ensure the most efficient use of State resources" and study the program to determine the need for further revisions. The BRM continues to administer the State's DDC program but we could find no evidence these investigations or studies were ever completed.

Following our 1993 performance audit, the DAS rebid fleet insurance, removing the DDC vendors we found problematic from State business. During the current audit period, fleet liability insurance vendors had to bid on two options for funding DDC services: 1) fully providing the service or 2) paying for certain costs of the State run program. Most selected option 2. To secure DDC services under this option, the State engaged another vendor, one of the two vendors we found problematic in our 1993 report. This vendor supported the DDC program as the sole provider of DDC services during the audit period. However, we found no evidence a public procurement process, to include full and open competition, was used to secure these services nor was a contract or other formalization of the State's relationship found. According to Bureau records, during the 2003-2004 and 2004-2005 fleet insurance contract years, the total value of

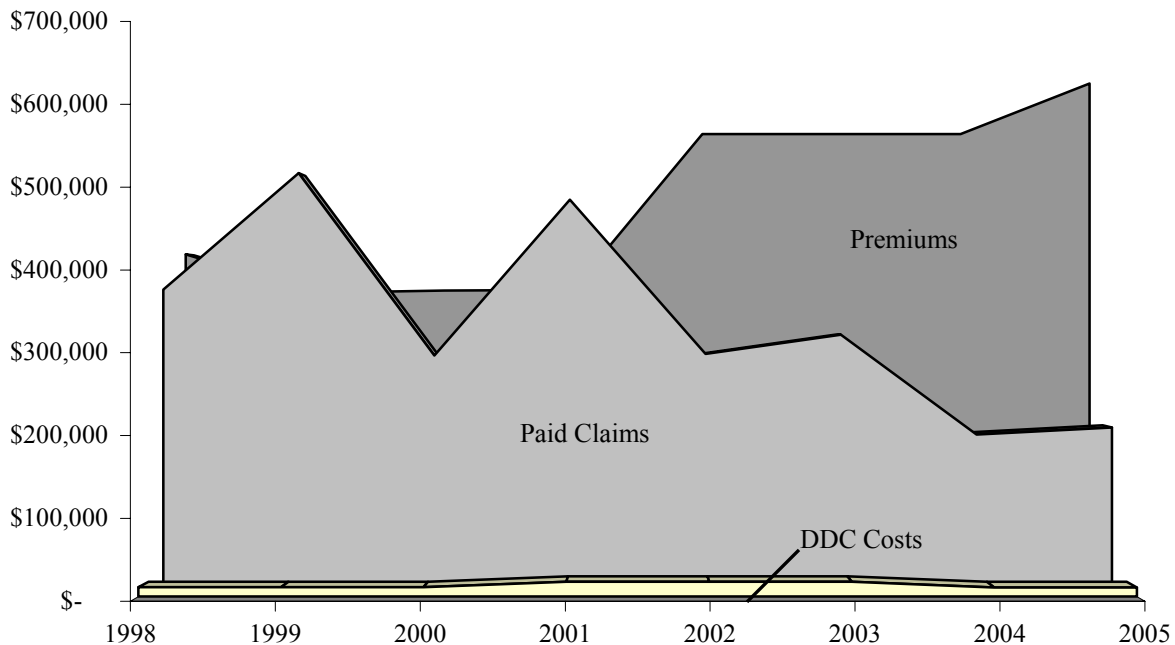
DDC services was anticipated to be \$18,245 annually. However, the DDC vendor provided services valued at \$8,844 and \$8,918, respectively.

Our review of BRM files indicated the DDC vendor’s main role was to update certifications for DDC instructors and provide updated training materials. The BRM acted as an intermediary for these certifications and administered payments. The Department did not respond to our inquiries regarding: 1) the most efficient location for this program or other options for providing this training, 2) the efficiency of passing administrative DDC fees from State agencies to the vendor as insurance premiums only to have the vendor later pay State agency bills, or 3) whether the State pays producer fees on DDC program funds.

While DDC program costs were part of the State’s insurance premium, the producer on this insurance policy reported unused DDC program funds would not return to the State nor would the insurance premium change if the State deleted the DDC from its insurance contract altogether. The DDC program and claims administration are the only two specified services in the fleet contract, with the DDC being the only service with a specified, contractual value. Our analysis found the value of paid claims and the DDC program decreased as total fleet liability insurance premiums increased as illustrated in Figure 7. This raises questions about the benefit the State received for its insurance premium.

Figure 7

**Unallocated Automobile Fleet Insurance Premiums,
Policy Years 1998-2005**



Source: LBA Analysis Of DAS Data.

Further, we found no analytical evidence supporting bundling the DDC program with fleet insurance procurement. Historically, the BRM funded the DDC through the State's fleet insurance policy with the insurance company paying program fees. Public procurement best practice shows unbundling services whenever practical leads to increased competition, reducing the cost of services.

We also found no analytical evidence supporting the DDC is best administered by the BRM. Under RSA 21-I:44, III, the Department's Division of Personnel contains the Bureau of Education and Training. Under RSAs 21-I:42, XVII, and 21-I:43, II(o), the Division of Personnel has statutory authority to manage, and promulgate administrative rules for, employee training. RSA 21-G:4, III, states the consolidation of agencies in the executive branch should be on a functional basis, so programs can be coordinated and comprehensive planning can be undertaken. Centralization allows program agencies to focus on core missions.

Recommendations:

We recommend Department management:

- **segregate fleet liability insurance and the defensive driver course when procuring these services,**
- **procure defensive driver course services using full and open competition, and**
- **place defensive driver program management in the Bureau of Education and Training.**

DAS Response:

We concur.

The Bureau has made considerable improvements in the DDC program since the 1993 audit, in terms of efficient use of state resources and improved training available to the state agencies.

Improvements were made in the DDC and other Bureau areas with the addition of only one staff member. (The 1993 audit recommended two additional staff members.) Some of the improvements that the Bureau accomplished since the 1993 audit are as follows:

- *In 1993, DDC training was outsourced by the insurance agent a vendor at a cost of \$45,000 to the State. Following the 1993 audit, the Bureau negotiated with that vendor to lower the program charges. In addition, the Bureau arranged with the new insurance vendor to include the costs of DDC training as part of the fleet liability insurance at no additional cost to the State. Under the prior arrangement, DDC training service would have cost the State \$360,000 for fiscal years 1998 through 2005.*
- *In 1993, very few personnel from only 3 or 4 agencies had attended DDC training. Since then, the Bureau has taken steps to involve over twenty (20) agencies in DDC training and now oversees sixty-four (64) active DDC instructors throughout state government.*
- *The Bureau evaluated the program and developed a process of categorizing state drivers into 4 classes of risk and ensuring that drivers creating the highest class of risk for the State attended Defensive Driving first and more frequently than drivers presenting lower risks. The*

Bureau also considered the amount of work time that was missed when state employees attended DDC, and established a two-hour Defensive Driving Refresher course to keep overall state costs down.

- The Bureau assisted with the coordination of classes on state grounds to ensure optimal attendance. In addition, the Bureau arranged for combined classes so smaller departments could share class space with larger departments whenever space was available. The indirect cost savings of these efforts are difficult to quantify, yet the efforts have enhanced the administration of DDC program and made it more equitable and efficient for all state departments.

As stated above, the Bureau negotiated with the insurance vendor to include the DDC training as part of the State's fleet liability insurance, ostensibly at no additional cost to the State. The vendor agreed to include the DDC as an added service. While there are no "DDC program funds", per se, administered by the State, the insurance vendor provides an "allowance" for the amount of DDC training dollars available to the State. The "allowance" was capped at \$18,245 for policy periods 2001 to 2003 and \$11,000 for the 2004 –2005 policy period.

The Department will explore alternative options for procuring the DDC program prior to the next RFP process. We will investigate a separate procurement of the program, distinct from the fleet coverage procurement, as well as options for placing the program under the Bureau of Education and Training.

LBA Rejoinder:

The DAS claim of avoiding \$360,000 in DDC program costs is misleading. Given the lack of data collection on these program costs, we are unable to determine total program cost for the audit period.

Observation No. 26

Improve Statewide Real Property Insurance Procurement Practices

The State's real property loss control program requires improvement. Under RSA 21-I:8, II(a)-(c) the BRM must identify real property loss exposure, develop and operate risk reduction programs in accordance with loss prevention guidelines, and identify cost effective means for protecting against various types of losses. The BRM lacks adequate data quantifying State real property risk, or policies and procedures to obtain such data, and loss control programs to mitigate related risks. Our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, made similar Observations with which the Department concurred, agreeing to take steps to resolve these issues.

Inadequate Analysis Establishing Need

In May 2000, the BRM obtained statewide catastrophic property insurance covering most State-owned real property without independently conducting a cost-benefit or similar analysis to establish and quantify commercial property insurance need. We found the Department relied

instead on specifications developed by an insurance producer servicing other State insurance contracts.

One insurance producer obtained an in-depth understanding of the State's real property risks beginning in 1996. In late 1998, this producer established insurance contract specifications, obtained quotes, and met with BRM staff to continue soliciting this additional business. BRM staff then met with the DAS Commissioner to discuss plans for insuring State real property; however, budget constraints at the time prohibited such a procurement. Subsequently, the producer contacted at least one Legislator to further advocate for coverage despite economic constraints and eventually the State opted to obtain commercial real property insurance in early 2000 using the specifications this producer had developed. This producer received the State's first real property insurance contract in SFY 2000 and has held it since.

According to BRM documents, statewide real property insurance premiums for May 2000 through May 2005 total over \$1 million. Our 2005 survey of non-health insurers (Appendix D) revealed producers earn on average approximately 16 percent of State-paid premiums, which would equate to approximately \$160,000 in commission payments from May 2000 through May 2005.

Inadequate Data Supporting Continued Procurement

Adequate programs are not in place to accurately inventory and value State real property and associated risks, resulting in inconsistent and incomplete data used to procure the State's real property insurance. Staff stated no statutes or administrative rules compel agencies to submit data. However, as we discuss in Observation No. 11, the DAS has not adopted required rules intended to support this function (RSA 21-I:8, II(b) and 21-I:14, II). In our 1993 performance audit, we recommended the DAS focus on identifying, collecting, evaluating, and maintaining basic data. The DAS concurred stating it would develop a strategy and business plan to "ensure identification and collection of all data necessary to properly identify and analyze risk and its associated cost." This was never accomplished and instead the first policy insuring State-owned real property, effective May 2000, relied solely on the State Owned Real Property (SORP) report to establish property values. The SORP lists State property at historical or acquisition cost; not at replacement value, or the cost to repair or replace damage to State-owned property. Since the insurer would only pay the lesser of the value scheduled by the State or the actual replacement value, minus a \$1 million deductible, data accuracy is of paramount importance.

For the real property insurance policy effective May 2003, the BRM used property information solicited from State agency facility managers in addition to the SORP to develop a Schedule of Locations and Values (Schedule). Facility managers received no training and there are no administrative rules or statutes to compel or guide their efforts. The one-page instruction the BRM provides facility managers to guide their reporting efforts does not specify acquisition cost or replacement value. According to BRM personnel some buildings are reported at acquisition cost while others are at replacement value. Table 11 illustrates the significant discrepancies we noted when comparing only DAS properties listed on the BRM Schedule to the DAS properties listed on the SORP over a four-year period.

Table 11

DAS Properties, Policy Years 2002-2005

	2002	2003	2004	2005
Total BRM Schedule Value Of DAS Properties	\$51,327,190	\$54,831,156	\$114,949,740	\$153,937,187
Total SORP Value Of DAS Properties	83,469,477	84,969,477	89,515,683	94,262,944
Number Of DAS Properties Either: 1) Not On SORP Or 2) Not Scheduled	21	19	15	16
Value Of DAS Properties Either: 1) Not On SORP Or 2) Not Scheduled	\$53,014,641	\$40,066,080	\$33,236,948	\$75,062,586

Source: LBA Analysis Of DAS Data.

The lack of internal control over the acquisition and quality of State-owned property data is exacerbated in part by the cessation after two years of property appraisals written into the first statewide real property insurance contract. While the State contractually had ten annual appraisals, the appraisals were discontinued after the second year due to their increasing effect on the State's real property insurance premium. Further, in place of careful analysis to determine the balance between the level of self-insured risk retention and commercial insurance, we also found the BRM used budget constraints to determine the level of real property coverage, adjusting the State's coverage or property valuations and accepting greater risk, to meet these constraints.

Limited Competition

Statewide real property insurance is one of two major State policies where we found evidence incumbent producers secured markets before the State released the RFP, which we discuss in Observation No. 24. Further, the lack of data was a major obstacle preventing realistic property insurance quotes. While BRM staff concluded improved data accuracy could lead to more competitive bidding, there is no formal plan to get the State's approach to real property insurance in line with best practice.

No Corresponding Risk Reduction Program Implemented

Finally, we found the BRM has never implemented a risk reduction program for real property. The nature and control of risks can have a significant effect upon insurers' willingness to accept risks and may affect the premium level. Risk reduction programs indicate to insurers positive steps are being taken to reduce and control risks.

BRM staff concluded part of the problem underlying inadequacies in the real property program was insufficient staffing, limited monetary resources, and the lack of authority to require agencies to submit accurate data. BRM staff reported needing a better understanding of appraisals and values of property on the Schedule. Despite all of the inconsistencies, BRM staff

asserted they trusted the underwriters, the insurers, and their data and are satisfied with procurement of real property insurance and the mitigation of risk.

Recommendations:

We recommend Department management:

- **develop and operate a comprehensive real property risk reduction program in accordance with loss prevention guidelines and supported by comprehensive administrative rules, and policies and procedures;**
- **identify real property loss exposures and cost effective means for protecting against various types of losses; and**
- **base insurance procurement decisions on independent, quantitative analysis using complete and consistent real property data.**

DAS Response:

We concur.

The Bureau currently relies upon records maintained by state agencies for the evaluation of the State's risk when attempting to secure real property insurance coverage. As noted by the LBA, the Bureau did initially rely upon the State Owned Real Property ("SORP") report to establish building values. More recently, however, the BRM implemented a formal procedure to obtain real property data on an annual basis. Using information from the SORP, a spreadsheet was developed listing state properties at acquisition cost and applying the industry standard commercial estimator rates to arrive at estimated replacement costs of the properties. This process complemented the direct appraisals that were completed with respect to certain essential government buildings.

To carry out a comprehensive property loss control survey would require technical expertise that the Bureau currently lacks. Such a survey would entail a complex process and involves engineering familiarity with building construction. Historically, the Bureau has employed two (2) full-time professional employees and an administrative assistant to perform all property and casualty risk management, the workers compensation program as well as the more recently added self-funded health benefit program. In surveying other state programs, the Department has learned that the State of Maine, which possesses a comparable population, has five (5) full time employees dedicated solely to managing that State's property and casualty insurance program. In addition, Maine law expressly empowers the Director of the Bureau of General Services to "determine and review the values of property in which the State has an insurable or legal interest...". 5 MLA 152: 1728-A.

The Department agrees that insurance decisions based on better real and personal property data will enable the Bureau to conduct more effective risk management and purchase more appropriate insurance coverage. The Bureau is currently exploring training opportunities for real property valuation and inventory management and is preparing an RFP for real property appraisal services. In order to develop and maintain a complete inventory of building values and

develop a comprehensive loss control program, including written policies and procedures, the Bureau would also require additional staffing. The Department will seek additional statutory authority to be able to mandate consistent inventory and valuation reporting from state agencies and will include requests for additional staff in its budget submission for fiscal years 2008 and 2009.

Observation No. 27

Improve Separate Real Property Loss Control Program Efficiency

We found certain State agencies obtain property insurance policies separate from the statewide blanket policy. For those procured through the BRM, Bureau personnel assert statute requires or history reflects BRM has always obtained these policies. Other State agencies procure property insurance completely independent of the BRM. Regardless, we found procurement is not based on cost-benefit or other analysis demonstrating the State's best interest is served. Only the policy for the Winnepesaukee River Basin wastewater treatment facilities has statutory basis, in RSA 485-A:53. During the audit period, the State's separately-insured property policies totaled \$436,168 in premiums. Claims totaled \$132,756, resulting in a loss ratio for the period of \$3.29 in premiums to \$1 in claim payments.

Additional inefficiencies we noted related to these policies included:

- Agencies procured coverage without benefit of a risk assessment.
- Agencies procured coverage without benefit of a competitive process.
- Agencies procured coverage through the same producer for multiple years, in one case for over 13 years without BRM involvement.
- One agency expanded coverage without BRM involvement.
- Agencies reduced property valuations to reduce premiums. In one instance a \$500,000 loss in 2002 was incurred, while the State received only \$105,428 in insurance payments.
- Agencies allowed insurance producers to establish policy specifications.
- Agencies manipulated coverage to avoid the \$5,000 threshold required for Governor and Executive Council approval.
- Agencies failed to pay premiums and policies lapsed as a result.

During the audit, BRM personnel were unable to confirm whether real property was doubly insured as the values of these separately insured properties are deducted from the total schedule value of the statewide blanket policy. In the 2005 Schedule, the BRM assigned a total value of \$15 million to account for unscheduled properties valued at \$500,000 or less. According to BRM staff, these properties are covered and they are unsure whether some of the separately insured properties may be doubly insured as a result. If improperly coordinated, multiple insurance policies can cancel one another, leaving the insured without coverage.

Recommendations:

We recommend Department management improve the efficiency of real property insurance by:

- **ensuring property insurance is centrally procured and consolidated into one policy;**
- **implementing a loss control program for State-owned real property;**
- **implementing comprehensive, written policies and procedures to ensure inefficiencies noted are avoided;**
- **promulgating administrative rules; and**
- **conducting cost-benefit analysis to ensure insurance procurement is in the State's best interest.**

DAS Response:

We concur.

Improving the State's real property loss control program will require both legislative action as well as additional funding. As we responded to Observation No. 26, a property loss control survey entails a complex process and requires technical expertise in building construction and systems. The Bureau does not employ any individuals with such expertise. During the audit period, the Bureau had two (2) full-time employees and an administrative staff member managing the property and casualty, workers' compensation and, more recently, the self-funded health programs.

The Department concurs that insurance decisions based on better real property data will enable more effective insurance coverage. However, in order to develop and maintain a comprehensive inventory of building values and develop a comprehensive loss control program, the Bureau would require additional staffing with the technical abilities in construction and building systems. As important, however, is the need for clear statutory authority within the Department to procure all insurance, including real property insurance, purchased by the State.

As noted in this Observation, certain state agencies are obtaining property insurance policies separate from statewide blanket policies. Pursuant to RSA 9:27, "any state agency or department may, with the approval of the Governor and Council and within the limits of its appropriation, secure casualty or liability insurance on any property owned by the state or in connection with any program or activity of the state..." The Bureau has no authority to prohibit any agency from purchasing separate insurance policy specific to that agency.

This combination of limited staffing within the Bureau and broad agency authority to purchase insurance seriously limits the Bureau's capacity and ability to implement a statewide real property loss control program.

With respect to the Observation that the Department of Employment Security policy was not supported by a cost benefit or other analysis, we point out that the decision to procure the subject policy in 1996 was made by the Commissioner of that agency. The policy was purchased

entirely with federal funds. Again, the agency determined that notwithstanding the historic absence of claims, a risk transfer was warranted because it was not equipped to handle catastrophic loss.

In addition, real property insured by state agencies is not doubly insured because the values of these separately insured properties are deducted from the total schedule of values of the statewide blanket policy. If real property does not appear on the State Owned Property inventory for the blanket policy and there is coverage through another policy, the \$15,000,000 for unscheduled properties on the inventory is not available. This \$15,000,000 in coverage is for properties that do not appear on any property inventory schedule. Again, these separate real property policies have different limits and deductibles depending on the exposures and the purpose behind procuring the policy.

Observation No. 28

Comply With Statutes Requiring Management Of State Personal Property Risks

The BRM does not comply with requirements to identify and mitigate personal property risks facing the State. RSA 21-I:8, II, requires the BRM identify loss exposure for personal property on an ongoing basis, develop and operate risk reduction programs in accordance with loss prevention guidelines, and identify a cost effective means for protecting the State against various types of losses. In our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, we found the BRM lacked data quantifying the risk to State personal property, policies or procedures to obtain such data, and loss control programs to mitigate related risks. The DAS concurred with our recommendations, asserting it would focus on identifying, collecting, evaluating, and maintaining loss exposure information; develop policies and procedures; and publish a risk management manual.

Our current audit found the BRM did not assess personal property risk facing the State, establish a system to regulate and monitor State personal property, collect personal property risk data, and have policies and procedures or administrative rules relative to these responsibilities. As a result, the Bureau has neither determined if any State personal property is essential to State operations nor the amount of personal property risk the State faces. This is further illustrated in our 2005 survey of State agencies (Appendix B) where 32 of 41 agencies (78 percent) reported not having a formal risk management plan, 13 agencies (32 percent) reported not being aware of the risks they face, and six agencies (15 percent) reported being unaware how they mitigate risks, underscoring the lack of a statewide risk management system.

BRM staff stated there is no plan to review personal property risks. According to BRM management, obtaining an understanding of the State's personal property risk is far too costly as there is neither a central repository of accurate information nor any Legislative or Executive Branch effort to obtain the information. The Bureau has conducted no analysis to substantiate this position.

The BRM manages personal property risks on an ad hoc basis. From policy year 1998 through 2000 there was no real or personal property insurance coverage statewide. At least six agencies

individually procured insurance covering personal property. When the State first secured statewide real property insurance in 2000, these six policies continued even though personal property was covered under the statewide real property policy. Under the current statewide real property policy, the State again does not centrally insure personal property, insuring only one State agency's personal property under this policy. The six individually procured policies continue. It is unclear how or why there was a change in personal property coverage between policy years.

Recommendations:

We recommend Department management:

- **comply with State law and ensure personal property risks are considered in a statewide assessment of risk facing the State;**
- **conduct cost-benefit analyses as a precursor to insurance procurement to identify when commercial personal property insurance procurement is in the State's best interest;**
- **develop comprehensive, written policies and procedures structuring the BRM's handling of personal property risks, to include data collection; and**
- **promulgate necessary administrative rules to manage statewide personal property risks.**

DAS Response:

We concur in part.

Although the Bureau has the responsibility for "identifying loss exposure for all state...personal property", as indicated in this Observation, that responsibility is qualified by the further language "except as otherwise provided by law" under RSA 21-I:8, II (a). That qualification includes the authority vested in each state agency to "secure...insurance on any property..." under RSA 9:27. Further, RSA 21-I lacks any provision whereby the Bureau or the Commissioner is empowered to demand personal property inventories and valuation data from state agencies. Unlike RSA 21-I:6, II with respect to budget procedures and data, RSA 21-I:8, II does not contain any mandatory reporting or procedural compliance by state agencies with respect to loss exposure, risk management of insurance procurement. Rather, RSA 21-I:8, II essentially contemplates a voluntary risk management program.

The Department concurs that a uniform statewide database system to accurately track personal property is essential to the assessment and management of the State's risk. Adequate resources are critical to the maintenance of this information and to continuously update inventories and associated replacement costs. Currently, the Bureau of Risk Management must rely, in large measure, upon records maintained and voluntarily provided by state agencies when attempting to secure personal property insurance coverage.

In the past, the Bureau has consulted insurance agents to determine the prospects for, and pricing of, premium-based coverage for the State's personal property. Because the BRM lacks a comprehensive inventory and consistent, statewide replacement cost data, insurers have shown

little or no interest in insuring the State's personal property. The decision to forego personal property coverage was not made in an ad hoc manner. This decision, like many in the Bureau, was made after consultation with the New Hampshire Insurance Department and insurance professionals from other States. The Bureau also utilizes the expertise of the State Risk and Insurance Management Association (STRIMA), an organization established to promote the advancement of risk management principles and practices in the public sector and of which the State is a member.

Following many years of Department requests, in 2000, the legislature appropriated funds for the purchase of state property insurance. With the limited funds available, the BRM prioritized the procurement of real property catastrophic insurance as a first step towards limiting the State's exposure to catastrophic loss.

The Bureau arranged a catastrophic insurance policy to protect the State's real estate, collectively valued at approximately \$750M. Premium charges for the period through 2005 have totaled approximately \$1M. The State has recovered over \$1.1M (net of a \$1.0 million deductible) under the policy in losses associated with a fire at the Mount Washington Observatory in 2003.

With respect to personal property insurance procured by the six (6) agencies referenced in the observation, it should be noted that these policies address specific agency requirements. The policies have different deductibles and different types of coverage for properties that would not otherwise be covered at those levels under the State's catastrophic real property insurance.

Further, the BRM has not scheduled an inventory of personal property and has not secured personal property insurance coverage for such inventory. The only personal property coverage included in the current policy is to cover the State's liquor warehouses and its contents, as authorized by RSA 176:15.

The BRM has assisted agencies in identifying and addressing the various risks they face. As recognized by the LBA in Observation No. 11, the BRM has posted to the State's website various documents containing risk management policies, procedures, and guidelines for various areas of risk facing the State. Additionally, the BRM has provided agencies resources for loss exposure identification by means of classroom training and workshops.

The Department will seek legislation in 2007 establishing the requisite authority and staffing to collect and maintain accurate personal property inventories from state agencies. Prior thereto, the Department will consult with the Attorney General's Office to ascertain whether and what additional authority is necessary to support the state personal property risk reduction program envisioned by the LBA. In addition, the Department will develop comprehensive written policies and procedures for the Bureau's handling of personal property risks and will promulgate administrative rules where necessary after the enactment of required legislation and funding for additional staff.

LBA Rejoinder:

The BRM is responsible for developing and operating the State's risk reduction programs (RSA 21-I:8, II(b)). The DAS Commissioner shall adopt loss prevention guidelines in administrative rule to structure these programs (RSA 21-I:14, II). The BRM is also responsible for identifying cost effective means for protecting against various types of losses (RSA 21-I:8, II(c)). Further, considering the \$1 million State-paid deductible related to the Mount Washington fire in 2003 and statewide property insurance premiums, State costs (over \$2.1 million) appear to outweigh the benefit (over \$1.1 million) associated with the policy.

Observation No. 29

Improve Statewide Automobile Fleet Loss Control Program Efficiency

RSA 21-I:8, II(e) requires the BRM procure statewide fleet automobile liability insurance. The BRM is also responsible for developing and operating the State's risk reduction programs (RSA 21-I:8, II(b)), identifying cost effective means for protecting against various types of losses, and making recommendations to the Governor and General Court to implement such means (RSA 21-I:8, II(c)). The DAS Commissioner shall adopt loss prevention guidelines in administrative rule to structure these programs (RSA 21-I:14, II). During our current audit, we found the BRM lacks a program to comprehensively address State automobile fleet risks. We found no periodic reviews, rules, or policies and procedures related to automobile fleet loss control.

In our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, we questioned the efficiency of the automobile fleet insurance program. The DAS concurred with our recommendations, asserting it would focus on identifying, collecting, evaluating, and maintaining loss exposure information; develop policies and procedures; publish a risk management manual; and periodically review the efficiency of this program. We found the BRM able to obtain loss data from the vendor but no analyses were conducted demonstrating cost efficiency. We found indicators the State's automobile fleet policy may continue to be inefficient. In 1993, the automobile fleet policy had a loss ratio of \$1.80 in premiums to every dollar paid by the insurer on losses. Table 12 prepared using BRM data indicates loss ratios increasingly favored the vendor during the current audit period.

As loss ratios have increasingly favored the vendor, adequate competition was not always available to the State and has lessened over the audit period. For policy years 1998-2001, three producers responded to the State's RFP. For policy years 2001-2004, two producers replied. In the most recent procurement for policy years 2004-2007, only the incumbent producer responded. Further, the BRM allowed the incumbent producer to have an unfair advantage when the vendor secured a market before the RFP was publicized.

Additionally, the BRM obtained additional services from the producer valued at \$123,593 over two years after the contract was awarded. There was no evidence a competitive procurement process took place to obtain these additional services. State agencies also underpaid their portion of the fleet premium.

Table 12

**State Automobile Fleet Loss Ratios,
Policy Years 1998-2005**

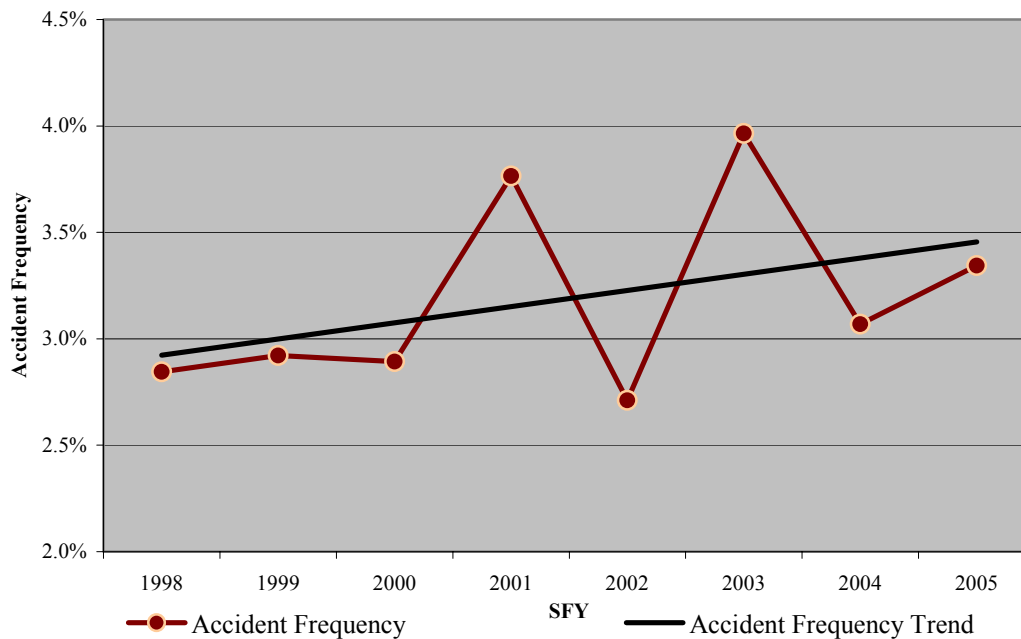
Policy Year	Premiums Paid	Claims Paid	Loss Ratio
2005	\$658,658	\$199,934	\$3.29 : 1
2004	590,490	190,755	3.10 : 1
2003	590,490	319,820	1.85 : 1
2002	590,490	295,010	2.00 : 1
2001	379,051	494,141	0.77 : 1
2000	378,339	292,776	1.29 : 1
1999	375,046	528,385	0.71 : 1
1998	427,176	378,153	1.13 : 1
Totals	\$3,989,740	\$2,698,974	\$1.48 : 1

Source: LBA Analysis Of BRM Data.

BRM fleet accident data for the audit period indicate the number of accidents per vehicle increased an average of 5.2 percent per year and 17.5 percent during the audit period. Figure 8 illustrates the accident rate trend during the audit period.

Figure 8

State Automobile Fleet Accident Frequency Increase, SFYs 1998-2005



Source: LBA Analysis Of BRM Data.

The State's automobile fleet liability vendor provided the Bureau with road Observation reports to inform the State of observed State vehicle operation. BRM management directed the insurer to cease reporting because such reports presented "a legal dilemma" by supplying "highly subjective and ambiguous" information "for which no program exists within the State's agencies to address or enforce," underscoring the lack of a statewide loss prevention program. The vendor reported such information would be maintained and available should the State require it in the future and for underwriting purposes. As BRM staff stated, insurers will examine an insured's risks and controls. Better controls can lead to reduced premiums. Road Observation programs are not uncommon components of fleet safety programs. Current BRM staff are aware it is important to control losses.

Recommendations:

We recommend Department management:

- **ensure automobile fleet risks are considered in a statewide assessment of risk;**
- **implement a statewide loss control program for the State's automobile fleet;**
- **obtain and review road Observation reports and address specific risks with State agencies;**
- **develop comprehensive, written policies and procedures structuring BRM's handling of automobile fleet risks, to include data collection;**
- **promulgate administrative rules necessary to structure the program; and**
- **conduct cost-benefit analyses as a precursor to insurance procurement to identify when commercial automobile fleet insurance procurement is in the State's best interest.**

Additionally, we recommend the Legislature consider amending RSA 21-I:8, II(e), to require automobile fleet insurance procurement be contingent upon a detailed cost-benefit analysis, thereby demonstrating the State's best interest is served.

DAS Response:

We concur in part.

The Bureau is meeting its statutory obligation to purchase and manage the state fleet insurance for both automobiles and watercraft. The Bureau continues to identify loss exposures and to develop and implement risk reduction programs. While current law dictates that the Bureau purchase fleet and watercraft liability insurance, we agree that the performance of a cost benefit analysis to determine the appropriateness of this coverage is desirable. Statutory amendments to provide this flexibility as well as the resources to document policies and procedures structuring BRM's handling of automobile fleet risks and data will be pursued during FY 2007.

Over the last year alone, the Loss Control Consultant worked with the current insurance carrier to identify a number of accident trends within the Department of Transportation (DOT), including those involving the same operators, accident dates relative to date of hire, motor vehicle record (MVR) checks and injuries resulting in workers' compensation claims. Based on trend analysis, individuals were identified as high-risk drivers/employees and were placed in a

pilot program designed to make the individuals aware of their high- risk performance indicators and to establish expectations for behavior change.

The Bureau maintains a fleet contact list that identifies a point person in each department operating State-owned vehicles. The Bureau provides quarterly and annual loss run reports to all departments. The reports include claim number, driver's name, loss date, type of loss (i.e. liability, property damage or both), accident type and description, as well as amounts incurred and paid. In addition, graphs and charts are used to further illustrate the information in the reports. The Bureau meets quarterly with the agent and insurance carrier representatives to review the State's performance and strategize loss control efforts. In addition, the Bureau monitors all third party subrogation efforts associated with accidents involving others at fault.

In September 2000, the Bureau released its Vehicle Fleet Safety Program (the Program). The Program's components include instructions relative to general use of vehicles, loss prevention programs (including defensive driving certification and instructor training, motor vehicle and driver qualification record checks, maintenance requirement checklists and other tools), and post accident claims procedures (including accident report forms, supervisor's cause and prevention report and other reporting). This comprehensive Program is available to all state departments and accessible through the Sunspot web page. State departments were encouraged to use the Program as a resource in developing their department-specific fleet safety program.

The Bureau also established a fleet inventory management process in which agencies use a Schedule of Change in Automotive Equipment form to notify the Bureau when changes are made to their fleet inventories. In addition, on an annual basis each agency is provided with its inventory to ensure matching records. These inventories are utilized in the Bureau's insurance bid process. In 2002, the Bureau ceased processing the MVR check program due to a 2001 legislative change requiring the DOS to review its MVR release process. As a result of the review, the DOS instituted a charge for each MVR requested. Lacking an appropriation for this expense, the Bureau instructed agencies to assume responsibility for retaining this program so as to ensure driver competency. BRM has consistently communicated to state agencies that, pursuant to Executive Order 89-2, the MVR check is mandatory.

This Observation finds inefficiencies in the fleet policy, citing the premium loss ratios that "increasingly favored the vendor". While loss ratio is not the sole, or even most important, barometer of a successful loss control program, we believe the audit period loss ratio demonstrates a loss ratio well within industry standards. And, considering that only "paid", as opposed to "incurred" losses are reflected, Table 12 actually reveals an overall constant loss ratio over the audit period. Thus, it should be recalled that with the passage of time and the full payment of policy year claims (i.e. the transfer of "incurred" amounts into "paid" amounts), the more recent year loss ratios would improve as well.

In 2004, the Bureau directed the current fleet carrier to cease producing road observation reports. These reports were found to be subjective in nature, in that state vehicle validation was frequently lacking and/or was not communicated to the Bureau until well after the observation occurred. The Bureau had determined that unless there was immediate law enforcement involvement it would be difficult to avoid allegations of false or discriminatory accusations. After

consulting with the Attorney General's Office and discussing the reports with the carrier, which agreed with the Bureau's concern, road observation reports were discontinued. The Bureau will revisit this issue with the Attorney General's office and investigate the availability of resources to institute a toll free telephone number for the reporting of questionable or poor driving practices and an appropriate response program.

LBA Rejoinder:

The Observation questions cost efficiency as loss ratios increasingly favor the vendor regardless of whether paid losses or incurred losses are used. The Observation further questions effectiveness of the program citing the lack of a statewide loss control program and increased accident frequency during the audit period.

As noted elsewhere in the report, Bureau operations should be optimized to include transferring ancillary responsibilities to purpose-created elements of the DAS. Only then can an independent, quantitative analysis be undertaken to inform the DAS and the Legislature of potential BRM staffing needs.

Observation No. 30

Improve Foster Care Provider Loss Control Program Efficiency

The administration of the foster care provider loss control program should be improved. Our Property And Casualty Loss Control Program, Performance Audit Report, November 1993, found the BRM inefficiently administered commercial insurance contracts, including foster care provider insurance, and lacked loss control programs. The DAS concurred with our recommendation to develop and implement procedures to ensure commercial insurance procurement efficiency and provide loss prevention guidelines to State agencies. We found no foster care provider loss control program, required by RSA 21-I:8, II(b), has been developed or implemented by BRM, nor has BRM conducted analysis to identify cost effective means for protecting against various types of losses.

Consequently, foster care provider insurance remains inefficient. Table 13 shows the State paid a total of \$456,268 in premiums for policy years 1997-1998 through 2004-2005. Claims totaled \$138,190 with a loss ratio for the period of \$3.30 in premiums to \$1 in claim payments.

During our current audit period, the State could have realized a savings of over \$318,000 had the foster care provider insurance program been self-operated. Further, our analysis revealed the foster care program's insurance premium increased significantly. Policy year 2003-2004 premiums increased by 12.5 percent and policy year 2004-2005 premiums increased 11 percent. Premiums increased 25 percent during policy years 2002-2005. Acknowledgements signed by BRM management illustrate the non-standard coverage contributed to the State paying higher rates than normal.

Additionally:

- insurance procurement did not consistently comply with RSAs 21-I:22-a and 21-I:22-b requiring RFPs contain objective review criteria, criteria weights, and award criteria and contracts be awarded according to the published criteria;
- insurance contracts were awarded retroactively twice and amended retroactively without competition twice, potentially jeopardizing coverage and leading to increased cost;
- insurance contracts did not consistently contain monitoring clauses;
- incomplete data define the scope of risk facing the State; and
- the incumbent producer enjoyed an unfair advantage when it solicited markets before RFP release.

Table 13

**Foster Care Provider Insurance Loss Ratios,
Policy Years 1997-2005**

Policy Year	Premium	Loss	Loss Ratio
2004-2005	\$74,868	\$17,242	\$4.34 : 1
2003-2004	67,541	17,124	3.94 : 1
2002-2003	60,037	20,054	2.99 : 1
1999-2002 ¹	144,096	37,087	3.89 : 1
1998-1999	50,738	27,774	1.83 : 1
1997-1998	58,988	18,909	3.12 : 1
Total	\$456,268	\$138,190	\$3.30 : 1

Note: ¹ Due to data limitations, policy years 1999-2002 are aggregated.

Source: LBA Analysis Of DAS Data.

We also found required consultation with the New Hampshire Insurance Department (NHID) does not occur. RSA 170-G:3, VI, permits the Department of Health and Human Services (DHHS) Commissioner to purchase liability insurance covering foster parents, varying in amount and nature at the discretion of the DAS Commissioner after consulting with the NHID and the BRM. We found no evidence of BRM or DHHS personnel consulting with the NHID before purchasing liability insurance for foster parents. We found BRM correspondence advising DHHS personnel they need not contact the NHID before purchasing liability insurance for foster parents. The NHID is the State regulatory agency responsible for promoting and protecting the public good by enforcing State insurance laws. Consulting with the NHID when purchasing insurance provides reasonable assurance potential vendors are in good standing with the NHID and consequently operating in compliance with State insurance statutes. Procuring services in a manner inconsistent with statute violates Legislative intent and circumvents statutory controls.

Recommendations:

We recommend Department management:

- **develop and implement a foster care provider loss control program;**
- **improve administration of foster care provider insurance by conducting a cost-benefit analysis preceding procurement to identify when commercial insurance procurement is in the State's best interest;**
- **develop and implement comprehensive written policies and procedures to ensure timely contracting and amendments;**
- **comply with procurement laws and maintain fair and open competition;**
- **obtain complete risk data; and**
- **ensure consultation with the NHID occurs and is documented when procuring foster care provider liability insurance.**

DAS Response:

We concur in part.

Currently, the Department of Health and Human Services (HHS) is responsible for any loss control efforts associated with the State's foster family program and merely consults with the BRM with respect to the insurance that HHS is authorized to purchase, pursuant to RSA 170-G: 3, VI. The Bureau is neither statutorily authorized, nor sufficiently staffed, to prescribe appropriate loss control and risk management activities to HHS with respect to the foster care provider program. Further, while we concur that a cost/benefit analysis regarding best risk management tools would be beneficial, under current law the ultimate responsibility for conducting such an analysis would lie with HHS and not BRM. The institution of a comprehensive centralized risk management capacity within the Bureau would address many of the LBA's concerns regarding this program. The Department has sought legal counsel from the Attorney General's Office regarding the current statutory assignment of these responsibilities.

By way of history, the Bureau's prior Administrator worked with HHS legal counsel to initiate compliance with RSA 170-G:3 after the LBA reported deficiencies in the 1993 audit. Extensive research was performed regarding the willingness of voluntary, admitted insurers in New Hampshire to offer coverage for the unique risks inherent in the Foster Parent program. NHID was consulted, as were other States' Risk Management Bureaus and foster care programs.

It was learned that many States went without insurance and some self-insured and utilized a third party administrator to handle claim investigations and payments. Research and analysis was conducted for a little over a year before it was concluded that insurance purchase was most cost effective and appropriate given New Hampshire's Foster Parent Program needs. At that time, the NHID confirmed that the voluntary market does not offer a policy to cover this program's unique risks, nor did it file rates, which the Department could review and offer comment. Discussions took place between the Bureau and NHID personnel regarding the carrier covering this risk and the rates charged. NHID concurred that it was a reasonable purchase with limited availability.

RSA 170-G:3, VI does not assign responsibility to the Department to consult with the New Hampshire Insurance Department (NHID) prior to purchasing liability insurance for foster parents. Nevertheless, we acknowledge that BRM personnel gave erroneous advice to HHS personnel on the need to consult the NHID prior to purchasing this insurance. The Department agrees that better documentation should be maintained with regards to consultation with the NHID to provide evidence of its consultation, even though it is not responsible to consult with NHID under the statute. Finally, the Department has requested legal counsel from the Attorney General's Office regarding the applicable procurement rule with respect to this insurance.

Observation No. 31

Improve Motorcycle Rider Education Loss Control Program Efficiency And Effectiveness

The BRM inefficiently and ineffectively administers the State's motorcycle rider education loss control program. We found insurance purchases are inefficient, possibly unnecessary, and not purchased in compliance with State law, administrative rule, policy, or best practice.

The BRM procured eight years of insurance coverage for the motorcycle rider training program during the audit period. The cost for individual policies ranged from \$10,464 to \$24,516 per year, totaling to \$126,081 for the audit period. We found no evidence these contracts were competitively bid nor did we find written justification for sole-sourcing these contracts. Additionally, we found no evidence the Governor and Executive Council (G&C) approved these contracts.

We also found the BRM contracted with non-resident unlicensed producers for motorcycle rider education program insurance. RSA 21-I:8, II(e), requires the BRM contract with licensed resident agents and stipulates only resident agents may receive commissions from State insurance or surety bond sales unless an insured risk is outside the State. Additionally, State insurance statute requires producers negotiating insurance in the State hold a license from the NHID (prior to January 1, 2001, RSA 405:17; effective January 1, 2001, RSA 402-J:3). For eight years the producer business entity with which the BRM contracted was unlicensed, and for seven of those years the individual producers on the contract were also unlicensed. According to RSA 402-J:3, II, effective January 1, 2006, an individual person practicing as an insurance producer without a license is guilty of a class A misdemeanor and a business entity is guilty of a felony, effectively making the January 2006 contract process appear contrary to State law as, according to the NHID, the producer business entity and the individual producer remain unlicensed in New Hampshire. Our 2005 survey of non-health insurers (Appendix D) revealed producers earn approximately 16 percent of State-paid premiums. This would equate to the motorcycle rider education program producer receiving approximately \$20,000 in commission for the audit period.

Additionally, we found no cost-benefit analysis or other review concluding commercial insurance procurement was the most efficient way to mitigate motorcycle rider education program risk. As we discuss in Observation No. 7, the BRM does not evaluate various techniques to manage exposures to provide assurance commercial insurance is the most cost

effective and efficient means to manage risks. Over the audit period the State paid \$126,081 in premiums for motorcycle rider education program insurance, which is offset by \$4,358 in paid claims, for a loss ratio of \$29 premiums to every \$1 in claim payments. Department of Safety (DOS) personnel have questioned the efficiency of purchasing commercial insurance to mitigate program risks on at least two occasions since 1993. DOS personnel consulted with the BRM before purchasing the most recent contract with the same vendor effective January 1, 2006 through January 1, 2007 to determine if the procurement was necessary. The BRM advised the DOS to continue purchasing the commercial insurance.

We also found the BRM inappropriately assigned responsibility for procuring this policy to the DOS in 2004. Under RSA 21-I:8, II(e), the BRM is responsible for procuring insurance and bonds for State agencies. A 1986 OAG opinion reinforces the Bureau's responsibility to purchase all liability and casualty insurance. Reassigning risk management responsibilities to the DOS contrary to statute undermines a coordinated approach to risk management. As stated in Observation No. 22, decentralization may lead to a duplication of effort, resources, and personnel; mismanagement; inefficiencies; inconsistencies across government; and a lack of accountability.

Recommendations:

We recommend Department management improve the efficiency and effectiveness of the motorcycle rider education loss prevention program by:

- **utilizing full and open competition when procuring services. When research determines sole-sourcing is in the best interest of the State, DAS management should ensure full and complete documentation of the justification;**
- **obtaining approval from the G&C for all service contracts over \$5,000;**
- **contracting with and ensuring only State-licensed resident agents receive commissions related to insurance or surety bond sales; and**
- **conducting a cost-benefit analysis or other review to determine the most cost effective manner to mitigate exposures.**

We further recommend the Bureau reassume responsibility for managing motorcycle rider education insurance, should it be found to be in the State's best interest, to reinforce a coordinated approach to risk management.

DAS Response:

We concur in part.

The institution of a comprehensive centralized risk management capacity within the Bureau would address the LBA's concerns regarding this program. Currently, the Department of Safety (DOS) is responsible for any loss control efforts associated with the State's motorcycle rider education program and merely consults with the BRM with respect to insurance for this program. The Bureau is neither statutorily authorized, nor sufficiently staffed, to prescribe appropriate loss control and risk management activities to DOS with respect to the motorcycle

rider education program. Further, while we concur that a cost benefit analysis regarding best risk management tools would be beneficial, under current law, the ultimate responsibility for conducting such an analysis would lie with DOS and not BRM. While RSA 21-I:8 II (e) directs the Bureau to purchase insurance and bonds for state agencies, RSA 9:27 authorizes those very agencies to “secure casualty or liability insurance on any property owned by the state or in connection with any program or activity of the state...”. The Bureau would require additional statutory authority and staffing to properly administer loss control activities associated with this program. The Department has sought legal counsel from the Attorney General’s Office with respect to: (1) authority of agencies to purchase insurance without involvement of the Bureau; and (2) the applicable procurement rule with respect to this insurance.

With respect to procurement, the Bureau acknowledges that prior to 2004, the coverage for this program was not competitively bid, based upon the prior Administrator’s determination that this was an appropriate circumstance in which to purchase coverage by negotiation. Should responsibility for purchasing this coverage be returned to the BRM, it will be procured through licensed resident agents competitive bidding and with Governor and Council approval.

The Bureau understands that DOS initially contracted with New Hampshire Traffic Safety Instruction (NHTS) to administer the Program. In 1995, the DOS terminated its contract with NHTS and assumed responsibility for administering the Program. It was at that time the DOS contacted the Bureau to request its assistance in procuring the “same insurance” afforded under the contract with the vendor.

The DOS informed the Bureau that based upon its own research, only one insurance carrier was currently writing the required coverage. The Bureau assisted the DOS in identifying the available and appropriate types and extents of coverage and coordinated communication with the producer identified by the DOS. The Bureau assumed responsibility for all communications with the insurer.

Due primarily to a series of communication problems with the DOS, the Bureau ultimately determined that it would be in the best interest of the State to transfer risk management of the Program back to the DOS. On March 31, 2004, the Bureau wrote a letter to DOS informing it of this determination. The full Program file was returned to the DOS at that time. Because in this case, the BRM was not able to work effectively with the agency to manage risk and limit state exposures, the BRM determined to relinquish its assistive role. An important feature of any comprehensive risk management program is the authority to refuse to handle any risk deemed prejudicial to the State. See, eg. 5MLA 152:1728-A.3. The Department will seek provision that clearly confers this right as part of its risk management legislation.

Subsequently, in May 2005, a Program instructor, who also happened to be a state employee, sustained serious injuries while conducting a class. The Bureau’s Loss Control Consultant learned that the same motorcycle used by the instructor at the time of his accident was later used that same day for another training class and was involved in another accident, this time with a student. The injured instructor continues to have an open workers’ compensation claim and has incurred over \$60,000 in indemnity, medical, and other expenses to date.

Most recently, the DOS contacted the Bureau with respect to the 2006 policy renewal, and inquired as to whether continuing coverage was necessary. The Bureau responded that, given the liability associated with the third party training sites, potential for injuries associated with the Program, as well as instructor liability, continuing to have insurance coverage in place would be in the best interests of the State.

The Department is unable to confirm the licensure status of the producer business entity and individual producers associated with this insurance. We understand that the New Hampshire Insurance Department (NHID) is currently investigating the licensure status of those producers.

NHID Response:

We concur in part.

Our review of Observation No. 30 and the recommendations provided is limited to the determination of whether the contracts in question under this observation were entered into with State-licensed resident agents. We cannot concur with or dispute the remaining aspects of the observation as they are outside of our scope of authority and/or direct knowledge.

According to our records we found that the contracting parties indicated in the Motorcycle Rider Education program had not been properly licensed with the New Hampshire Insurance Department during the audit period.

We contacted the Department of Safety to obtain copies of each of the contracts in question to begin a full investigation and potential disciplinary proceedings against the unlicensed producers and agencies. At this time the Department of Safety has arranged for us to review the contracts in question and we should be able to complete our full investigation within a matter of weeks. At that point in time we will commence administrative enforcement actions if appropriate.

DOS Response:

We concur.

The observations and recommendations regarding the procurement and management of insurance for the Motorcycle Rider Education program is best completed by the Bureau of Risk Management.

The Department of Safety, Division of Motor Vehicles would like an analysis as to whether the purchase of commercial insurance remains the best way to mitigate program risks in the motorcycle rider education program. As this assessment requires knowledge outside the purview of the Department of Safety we would look to the Bureau of Risk Management for assistance.

LBA Rejoinder:

The BRM is responsible for developing and operating the State's risk reduction programs (RSA 21-I:8, II(b)). The DAS Commissioner shall adopt loss prevention guidelines in

administrative rule to structure these programs (RSA 21-I:14, II). The BRM is also responsible for identifying cost effective means for protecting against various types of losses (RSA 21-I:8, II(c)).

The State's central control agency suggesting verbal representations are adequate justification for sole-sourcing \$126,000 in service contracts raises concerns. We neither found nor asserted the insurance contract was contrary to State law. We found the contract was not obtained in compliance with State law, administrative rule, DAS policy, or best practice. To suggest a contract with an unlicensed producer would be enforceable in New Hampshire courts is not germane to the finding and does not justify the numerous levels of established management control circumvented in procuring this insurance.

As we note elsewhere in the report, Bureau operations should be optimized to include transferring ancillary responsibilities to purpose-created elements of the DAS. Only then can an independent, quantitative analysis be undertaken to inform the DAS and the Legislature of potential BRM staffing needs.

PRODUCER SERVICE PROCUREMENT

Insurance services are generally sold through an intermediary. Producers, or agents and brokers, function as intermediaries between customers seeking to transfer risk and insurers. Generally, agents represent insurance companies, either as independent agents representing many insurance companies or as an agent of direct writers working for one insurance company (e.g., captive or exclusive agents). Brokers generally are designated by the insurance purchasers to represent the policy holders' interests. The roles of brokers and agents overlap. Brokers may also act as an agent of an insurer although they are not tied exclusively to one insurer. Where brokers and agents typically receive compensation from the insurance companies, insurance consultants generally contract directly with and receive compensation from the insurance purchaser.

There can be substantial variation in compensation rates depending on the line of business and other factors. Utilizing a producer is necessary in most insurance procurements and represents a distinct cost. When producer services utilized are other than those required, additional discretionary costs are incurred. In addition to commissions, producers may be compensated by insurance purchasers with contingent commissions or other fees.

A large consumer like the State should competitively solicit producer services from producers with considerable experience with large accounts. Large clients such as the State may require several producers to adequately advise on its varied and complex insurance needs. In our 2005 survey of risk managers and health benefit managers (Appendix C) nineteen (90 percent) of 21 other states' surveyed reported insurance brokers or insurance consultants were used by state agencies to assist with insurance procurements. In addition to using State employees to negotiate directly with insurers, the State utilized brokers, agents, and consultants to acquire insurance and related services. There appear to be no laws, policies and procedures specifically regulating the selection and use of producers by the State. Some in service to the State were simply assigned the business of acting on the State's behalf without any formal procurement process. Other states have laws and policies regarding selecting producers and best practice indicates competitive

procurement should be used. In our survey of other states, 14 of 16 (88 percent) risk managers responding to our producer selection question reported using full and open competition, one (six percent) reported using limited competition, and two (13 percent) reported sole-sourcing to procure producer services. Of the 14 state health benefit managers responding, 13 (93 percent) reported using only full and open competition. One (seven percent) reported using both full and open competition and limited competition to procure producer services.

DENTAL INSURANCE PRODUCERS

In the early 1990s, three brokers began receiving commissions on the active and retired State employee dental insurance contract. In March 2003, the Director of Personnel released all three brokers and appointed a new broker to assist with negotiating dental insurance. The new broker received commissions on dental insurance premiums through November 2003 when the DAS Commissioner cancelled the appointment. During the audit period the four brokers received \$484,288 in commissions on State- and retiree-paid dental insurance premiums. The DAS reports since November 2003, the State has not used brokers to assist purchasing dental insurance.

MEDICAL INSURANCE PRODUCERS

Reportedly, the Division of Personnel began working with brokers to assist in procuring State employee and retiree medical benefits in the early 1990s when the Division of Personnel entered into a few small contracts with brokers. In July 2001, the DAS entered into a \$2,499 contract with two of the State's dental insurance brokers to assist with retiree health insurance contract renewal. In March of 2002, the DAS Commissioner formally appointed the same two brokers as brokers of record to assist in negotiating active and retired State employee health insurance. In March 2003, the Director of Personnel released these brokers and designated a new broker of record for the active and retired State employee dental and medical contracts. Effective December 1, 2003, the DAS Commissioner cancelled this appointment. From March 2002 through November 2003, the three brokers of record received \$382,683 in commission on State-paid employee and retiree medical insurance premiums. The DAS reports since November 2003, the State has not used brokers to assist with medical benefits.

Observation No. 32

Procure Health Insurance Broker Services According To State Policy And Best Practice

Contrary to State policy and best practice, health insurance broker services were obtained using letters of appointment from the Commissioner of Administrative Services and a Director of Personnel in place of a formal full and open selection process.

In March 2002, the Commissioner appointed a broker of record, on the advice of the Director of Personnel, to assist in negotiating fully-insured health and dental benefits for active and retired State employees. DAS records indicated the Commissioner-appointed broker received \$339,270 in commissions from the medical and the dental insurance carriers over approximately one year. In March 2003, the new Director of Personnel terminated the State's relationship with the Commissioner-appointed broker and promptly appointed a replacement broker. Over an eight-

month period, the Director of Personnel-appointed broker received \$194,737 in commissions from the medical and dental insurance carriers. The Commissioner terminated the second broker in November 2003. We found no written justification for these sole-source broker appointments. Further, we found DAS did not obtain G&C approval and the Commissioner-appointed broker was a business entity not in good standing with the Secretary of State. Administrative rule and State policy require competitive bidding and documenting sole-source justification. By procuring services in a manner inconsistent with State policy and best practice, the Department circumvented management controls and lessened assurances the State received the best service at the lowest cost and procurements occurred in the public's best interest.

Recommendation:

We recommend Department management follow State policy and best practice by using full and open competition when procuring broker services.

DAS Response:

We concur.

All insurance consultant services, including any broker services, are now competitively bid pursuant to the applicable Department statutes, rules, policies and procedures. Competitive bid procedures are followed for all procurements of such services.

By way of background, in March 2002, the then-incumbent healthcare insurance carrier had proposed double digit increases in its renewal rates of 23.7% and 12.52% for the active and retired employees, respectively. The sheer size of these potential premium increases (\$21.3M for actives and \$4.4M for retirees) prompted the Department to hire a professional broker to negotiate more competitive rates on behalf of the State. (This was also recommended by the joint labor management Insurance Advisory Committee.) After consulting with the Governor, the Department engaged the services of the licensed professional health insurance broker to advise the State in managing its medical insurance coverage in an efficient and effective manner.

The broker's services included: (1) advising the State as to the industry standards for claims experience reporting and (2) meeting with insurance carriers to discuss reporting, rating projections, rating components and appropriateness of premium rates. While not a justification for a sole source contract, the State did in fact realize significant savings from the broker appointment. As a direct result of these services, the State was able to reduce the original proposed premium rates by \$8.3M and \$2M for the active and retired employees' policies, respectively. The total realized savings (i.e. \$10.3M for the plan year 2002-2003) far exceeds the commission costs (i.e. \$300,000) associated with the broker services.

Notwithstanding this background information, the Department will procure all insurance consultant services in compliance with all applicable laws, rules, policies and procedures

Observation No. 33

Develop Policies And Procedures To Control Insurance Producer Relationships

We found evidence of an insurance producer, with no formal relationship to the State, soliciting bids, receiving and evaluating proposals, and rejecting vendors for at least three potential State contracts in May 2003. The producer issued RFPs soliciting bids from at least seven pharmacy benefits management vendors, ten medical reinsurance vendors, and five retiree dental insurance vendors. It appears the producer was collaborating with a former Governor-appointed volunteer assisting with State employee health benefit renewals.

The RFPs inform recipients the solicitation is being made on behalf of the Director of Personnel and the State which “has partnered with [the broker] to solicit competitive bids on its behalf” and states the recipients have been pre-selected as a potential provider to the State of New Hampshire. We found no documentation or other evidence supporting these statements.

The RFPs also instructed vendors not to contact the State directly during the course of the RFP process, a policy inconsistent with procedures seen in other DAS RFPs. Further, we found no evidence the RFPs received any review by State personnel ensuring they included necessary specifications to meet the State’s health benefits needs, were administered in a manner to meet State requirements for full and open competition, were approved by the State, or included necessary provisions to protect the State’s interests.

DAS management is responsible for establishing effective internal controls to direct the Department’s use of producers and ensure unintended actions do not result. Activities associated with producers negotiating with vendors on the State’s behalf should be controlled and monitored to protect the interests of the State and ensure all potential vendors receive equitable treatment. Formal policies and procedures guiding the Department’s relationships with producers provides reasonable assurance appropriate oversight and management is exercised, protects the State from potential embarrassment, and may ensure positive vendor relations.

Recommendation:

We recommend Department management develop policies and procedures to control the Department’s relationships with insurance producers.

DAS Response:

We concur.

The observation made by the LBA auditors has been well publicized and the matter investigated by the Attorney General.

The Department now follows all applicable procurement rules, policies and procedures. RFPs issued by the Department provide detailed contract specifications, including full compliance with

RSA 21-I: 22-a, RSA 21-I: 22-b and other applicable state and federal laws. We believe these procurement practices provide effective internal controls over the procurement process.

NON-HEALTH PRODUCERS

The BRM utilized insurance producers to obtain the insurance policies in place during the audit period. While BRM management reports only contracting with agents for commercial insurance, during the audit period our survey of producers and insurers found both agents and brokers were used on certain policies, paying premium-based commissions (Appendix D and Appendix E) to multiple agents and brokers in some instances. We are unable to report the commission producers received on State paid insurance premiums because the BRM does not collect this information; however, we estimate producers received over \$1 million during the audit period based on our surveys of State-contracted producers and insurers.

Observation No. 34

Improve Procedures Used To Obtain Non-Employee Benefit Insurance Producer Services

BRM procedures for obtaining non-employee benefit insurance producer services should be improved. The insurance producer business is a for-profit service business. In addition to obtaining the best insurance coverage for a client, producers typically can provide risk management and numerous administrative services. The BRM routinely contracts with insurance producers and in turn producers contract with insurers for the State's insurance coverage.

In 1993, we made Observations related to the lack of administrative rules, policies and procedures and inefficient administration of commercial insurance contracts. The Department responded it would address the causes of these Observations. As we discuss in several Observations, the BRM lacks policies and procedures controlling insurance procurement. We also found:

The BRM Unnecessarily Commingles Insurance And Insurance Producer Services

Insurance procurement practice can include procuring producer services separately from insurance, essentially separating specifications for producer services from insurance service specifications. Public procurement best practice calls for breaking contracts into smaller components where technically feasible to increase the number of bidders and improve competition. Establishing adequate contract specifications during the procurement planning phase is a critical underpinning to successful procurement. We found no instance of the BRM soliciting insurance producer services separately from insurance. Each procurement commingled producer and insurance specifications.

The BRM Inadequately Specifies Insurance Producer Services

The BRM inadequately specifies insurance producer services in its RFPs and inadequately utilizes producer specifications as criteria for awarding insurance contracts. We found the BRM

routinely specifies producers maintain State licensure and residency consistent with RSA 21-I:8, II(e); however, additional specifications are not consistently required.

RSA 21-I:22-a requires every procurement greater than \$35,000 contain: 1) objective criteria by which a response will be reviewed, 2) requirements which will receive more weight reviewing submissions, and 3) standards upon which any award will be based. RSA 21-I: 22-b requires awards be made only on these known criteria. We reviewed all commercially insured risks and related procurement documentation available at the BRM for the audit period. Our review of 24 available RFPs found 11 RFPs were valued over \$35,000:

- Three of the 11 RFPs (27 percent) were not in compliance with RSA 21-I:22-a as they did not include any weighted criteria.
- Eight of the 11 RFPs (73 percent) contained weighted criteria; however, only three (27 percent) contained weighted criteria associated with expected producer services.

We also found the 24 RFPs consistently required producers maintain licensure with the NHID, and maintain an office in the State with regular business hours and requested vendors provide information on loss prevention services offered. RFPs did not consistently specify which loss prevention services the State was seeking. The only RFPs reviewed with any substantive specifications for producer services to be provided to the State were:

- Nine of the 24 RFPs (38 percent) that required producers provide information on claims assistance offered and
- Seven of the 24 RFPs (29 percent) that included a performance guarantee for two-day response time to insurance questions.

The BRM Does Not Require Disclosure Of Financial Relationships

BRM-issued RFPs do not require producers disclose all commissions and fees paid by insurers and the BRM does not maintain such data. Requiring producers disclose compensation received from insurers is essential because insurers compensate producers with a portion of the State paid insurance premium. As provider reimbursement rates can vary, this information can help better inform the selection process. According to insurers responding to our 2005 survey (Appendix D), non-health producers contracting with the State are earning on average approximately 16 percent commission from non-health State-paid premiums.

By establishing a clear statement of services expected and payment to be received, BRM personnel may be better able to compare vendor proposals and make more informed contract awards, providing more assurance insurance procurements are made in the State's best interest.

State Law May Unnecessarily Restrict Competition

RSA 21-I:8, II(e), requires the BRM purchase insurance from resident, State licensed producers. Public procurement best practice suggests procurement be as competitive as possible and unnecessary constraints on procurement may limit competition and increase costs. Restricting eligibility to resident producers may unnecessarily limit competition as many producers licensed

in the State are not resident. By not accessing non-resident vendors, the State may unnecessarily limit the pool of potential insurance producer vendors and may pay a higher price for services.

Recommendations:

We recommend Department management:

- **develop policies and procedures for procuring insurance producer services;**
- **implement a two-step insurance procurement process to procure producer and insurance services separately;**
- **include detailed objective specifications for producer services in RFPs;**
- **use detailed objective RFP specifications as criteria for awarding contracts;**
- **require producers disclose any compensation to be received from the insurer, including any fees and commissions when submitting proposals; and**
- **require all invoices clearly indicate the amount of commissions and fees producers receive.**

We recommend the Legislature consider amending RSA 21-I:8, II(e), to delete producer residency requirements.

DAS Response:

We concur in part.

The Department acknowledges the BRM Administrator's oversight in failing to include the weighted criteria as required by statute in some of the RFPs issued by the Bureau. Producer specifications were not consistently incorporated into award criteria in the RFPs. In addition, the LBA faults the Bureau for generally failing to adequately specify producer services. While we acknowledge that consistent inclusion of producer services is a sound practice, the Department believes that where insurance-related services were necessary or appropriate, they were included in the respective RFP. Whether those services were to be provided by the producer or the insurer is of far less consequence than the provision of the services themselves. In those cases in which insurance-related services are critical, such as fleet (i.e. invoicing services), property (i.e. appraisal services) and workers' compensation (i.e. loss prevention services), those services have been specified in the RFPs.

Nevertheless, the Bureau agrees that contract specification for producer services should be consistently delineated in RFPs. The Bureau will investigate the feasibility of separate procurement procedures for producer and insurer services. In addition, the Bureau will commence requiring in its RFPs and contracts the disclosure and invoicing of producer commissions.

RSA 21-I: 8, II (e) directs the Bureau's ability to utilize only New Hampshire resident agents. The Bureau's current practice of requiring that insurance producers be both licensed in and resident of New Hampshire prior to submitting insurance bids ensures compliance with RSA 21-I: 8, II (e) and obviates the need for an additional compliance mechanism. The Bureau is of the

view the existing resident agents are more familiar with the markets and other New Hampshire conditions, including state insurance regulations, and are thus better equipped to submit quality bids. Nevertheless, the Bureau is willing to explore this issue with the Legislature in its next session.

EMPLOYEE BENEFITS

Employee health presents risk to every employer. Every state provides some form of health benefit for employees, that form being highly variable. Nationally, costs associated with employee health coverage have increased during the audit period and are expected to continue to rise for the foreseeable future

Self-insuring is a complicated undertaking and is not always found to be more cost effective than fully-insured health care. Self-insuring poses many unique risks and involves a wide array of legal and financial implications. A plan guiding transition to self-insuring is the key to coherent transition. Self-insurance is often coupled with stop-loss or excess insurance. Third party administrators (TPA) generally handle claims payments and otherwise administer self-insured programs unless the employer handles these responsibilities directly.

The DAS Commissioner is responsible for implementing the current self-insured employee health program. The Division of Personnel administered the fully-insured health benefits program for active and retired State employees until 2003 when the State began self-insuring and the Administrator of Risk and Benefits assumed responsibility. With the transition to self-insuring, the Risk and Benefits Administrator who directly reports to the Commissioner, assumed management of the State's program until November 30, 2004, when that position was vacated.

Observation No. 35

Improve Employee Benefit Procurement Oversight And Compliance With Procurement Requirements

We found benefit and ancillary service procurements for active and retired State employees require additional oversight. Our file review found noncompliance with procurement principles and standards in each of the five major public procurement steps including: 1) planning, 2) soliciting, 3) vendor selection, 4) contract execution, and 5) contract monitoring.

Retired Employee Health Insurance Service Procurement

In addition to lacking a formal procurement process following the five steps of public procurement, we found agreements securing retiree health insurance services were inadequate during 58 of the 75 months of the audit period when retiree medical was commercially insured. In place of formal contracts, the DAS reportedly secured retiree commercially insured health services using signed rate sheets for 36 months and informal agreements without signature or documentation for 22 months. Formal contracts meeting DAS procurement policy and procedure

requirements would have included numerous provisions intended to protect State interests including a certificate of authority, good standing, and contract bond requirements. Further, the Division of Personnel sole-sourced over \$144 million in fully-insured retiree health benefits during State fiscal years 1998 through 2003 without the required full and complete justification or G&C approval.

Active Employee Health Benefit Contracts

We reviewed 14 active State employee benefit and ancillary service procurements including the current fully-insured dental, medical pharmacy benefits management, TPA, and enrollment provider contracts comparing them to principles of best practice and State requirements. For 17 months of the audit period retired and active employees used the same vendor for fully-insured health benefits and both groups were included on the same formal contracts.

As previously discussed, planning is the first phase of the procurement process and establishes specifications, underpinning the entire procurement process. We did not find comprehensive planning as best practice requires in the 14 procurements reviewed. Soliciting, the second phase of the procurement process, aims to make prospective suppliers aware of potential public acquisitions to ensure all capable firms have the opportunity to bid. Our file review of 14 procurements reveals seven instances (50 percent) of public notice. However, no instance documented public notice for three consecutive days, as State directives require. Table 14 outlines other major findings related to the solicitation phase.

Vendor selection, the third phase of the procurement process, is critical to ensuring vendor performance, determining vendor responsibility, and ensuring fair awards through a consistent, objective, and transparent process providing equal opportunity for all bidders. According to State procurement directives and best practice, sole-sourcing should only be undertaken after an exhaustive effort to locate alternative sources, and with written justification. We found dental contracts for active State employees were sole-sourced for SFYs 2001 and 2002. Documents we obtained did not appear to adequately justify these procurements, as State directives and best practice require. Further, we found limited competition was used twice to procure medical insurance coverage and once to obtain TPA services. Table 15 illustrates other major vendor selection procurement phase findings.

Table 14

**DAS Compliance With Solicitation Phase Procurement Requirements,
Active State Employee Benefits, SFYs 1998-2005**

Requirement:	Number Compliant	Number Noncompliant	Number Not Applicable	Percent Compliant	Percent Noncompliant
Was a written or sealed RFP used?	10	4	0	71	29
Did the RFP for a purchase greater than \$35,000 contain objective criteria to review submissions?	3	11	0	21	79
Did the RFP for a purchase greater than \$35,000 contain the standards upon which any award will be based?	5	9	0	36	64
Did the RFP for a purchase greater than \$35,000 state particular requirements to receive more weight in the review of the submission?	3	11	0	21	79
If judgment on vendor ability to complete work was made, was the option clearly stated in the RFP and if used as the reason for the award, is it so stated?	2	11	1	15	85
Was the RFP comprehensive, written, linked to the agency's requirements, and linked to planning?	7	7	0	50	50
Did the RFP contain specifications?	7	7	0	50	50
Did the RFP contain bidding information such as closing time, date, location, bidders' conference, award date and start date?	8	6	0	57	43
Did the RFP contain award and evaluation criterion and the weighting of these criterion?	4	10	0	29	71
Did the RFP specify prior performance data were used as selection criterion?	4	10	0	29	71
Did risk management review the RFP for contractual risks before issuance?	0	14	0	0	100

Source: LBA Analysis.

Table 15

**DAS Compliance With Selection Phase Procurement Requirements,
Active State Employee Benefits, SFYs 1998-2005**

Requirement:	Number Compliant	Number Noncompliant	Number Not Applicable	Percent Compliant	Percent Noncompliant
Were awards based on known criterion for contracts valued \$35,000 or more?	4	10	0	29	71
Were awards based on judgment on vendor ability to complete work as stated in the solicitation and if used as the reason for the award, is it so stated for contracts valued \$35,000 or more?	3	11	0	21	79
Was offered service determined to meet the established need?	12	2	0	86	14
Were an adequate number of responses obtained?	4	10	0	29	71
Was a fixed, clearly defined, and consistent scoring mechanism directly linked to those in the invitation used?	3	11	0	21	79
Was award decision documented with supporting materials?	3	11	0	21	79

Source: LBA Analysis

The fourth phase, contracting, involves a formal, written document and is essential to controlling the State's relationship with its vendors and protecting the State's interests. The fully-insured dental and medical contracts reviewed for the audit period do not include maximum price limitations. Three fully-insured medical and three dental contracts, including the current dental contract, limit contract price by the cost per month per employee while four medical and two dental contracts provide an estimated annual cost and limit the price by month per employee cost. Additionally, we found no price limitation on the 2005-2007 PBM contract, and service specifications were not finalized until approximately four months after the vendor began providing services. Lack of service specifications combined with no price limitation increases the risk the State may pay for unexpected services. Public procurement best practice includes maximum contract price limits to provide fiscal control.

The fifth phase of the procurement process is monitoring. Monitoring ensures services procured are received. We did not find adequate monitoring practices in the 14 procurements reviewed. Table 16 details other major findings related to the contracting phase.

Table 16

**DAS Compliance With Contract Phase Procurement Requirements,
Active State Employee Benefits, SFYs 1998-2005**

Requirement:	Number Compliant	Number Noncompliant	Number Not Applicable	Percent Compliant	Percent Noncompliant
Was a formal, standardized, written document used?	14	0	0	100	0
Was a formal cover letter sent to G&C?	14	0	0	100	0
Did the G&C submission provide full and complete justification for sole-sourced procurements?	0	3	11	0	100
Did the G&C submission contain an explanation of service?	14	0	0	100	0
Did the G&C submission contain a certificate of authority?	13	1	0	93	7
Did the G&C submission contain a certificate of good standing?	9	5	0	64	36
Did the G&C submission contain a certificate of insurance?	8	6	0	57	43
For sole-source procurement, was the best interests of the State served thereby and the purchase under \$2,000 or in an approved class?	0	3	11	0	100
For sole-source procurement was it apparent, after reasonable investigation, that any required unit or item or supply, or brand of such unit or item, is procurable by the State from only one source?	0	3	11	0	100
For sole-source procurement was it apparent, after reasonable investigation, that required services, units or items of supply, or brand of such units or items, have a fixed market price at all sources available to the State?	0	3	11	0	100
For sole-source procurement, were the rates filed with, and approved by the Insurance Commissioner uniform?	0	2	12	0	100
Did the non-competitive purchase of more than \$2,000 or in an approved class have written approval of the Commissioner?	1	2	11	33	67
Did the non-competitive purchase of more than \$2,000 or in an approved class have a written statement outlining reasons for the non-competitive purchase from the Director of Plant and Property Management?	0	3	11	0	100
Did the contract codify performance standards?	3	11	0	21	79
Did the contract provide the basis for monitoring?	5	9	0	36	64
Did the contract have required signatures, approvals, and witnesses?	14	0	0	100	0

Source: LBA Analysis

During the audit period, the Division of Personnel was primarily responsible for procuring employee benefits until medical benefits became self-insured and responsibility shifted to the

BRM with support from the Division of Plant and Property Management, Division of Personnel, the DAS internal auditor, and a contracted health benefits consultant. As we recommend in Observation No. 22, centralized procurement in the Division of Plant and Property Management may better support efficient and effective procurement practices. Notably, our file review of health benefit procurement revealed compliance with State procurement directives improved significantly after using a collaborative approach including the Division of Plant and Property. We found the Department's compliance with procurement law, rule, policy, and procedure for:

- medical benefit management services averaged 34 percent prior to 2005 and thereafter increased to 69 percent,
- dental services averaged 23 percent prior to 2005 and thereafter increased to 74 percent, and
- enrollment services averaged 24 percent prior to 2005 and thereafter increased to 74 percent.

Observations No. 36 and 38 note additional issues with benefit-related service procurement identified during our file review. We further found the DAS procurement of two years of internet-based health benefit enrollment services in 2004 and valued at \$885,000, was procured by sole-source contract without supporting documentation or public notice. Procurement of services related to retiree and active State employee benefits not complying with State directives and best practice provides less assurance State interests are protected and the State is procuring services efficiently and effectively. Several observed conditions may heighten the risk of fraud including: 1) management failing to enforce existing control or failing to provide adequate oversight over the control process, 2) inadequate segregation of duties, 3) missing documents, and 4) previous investigations finding questionable activity.

Recommendation:

We recommend Department management conduct proper and full oversight of its retiree and active State employee benefit procurement activities to ensure adherence to management controls.

DAS Response:

We concur.

The Department acknowledges the significant historical deficiencies in its state employee and retiree benefit procurement activities and has taken steps, as noted in this Observation, to correct the vast majority, if not all, of the individual observations. The Department will conduct proper and full oversight of its retiree and active State employee benefit procurement activities by adhering to applicable rules, policies and procedures now and in the future, including Governor and Council approval of all such contracts.

Retired Employee Health Insurance Service Procurement

The Department currently employs a comprehensive competitive bidding process for the administrative services associated with the self-funded retired employee health benefits program. That program, valued at nearly \$58 million in FY 2005, is managed as part of the consolidated employee and retiree health program, administered by the Department pursuant to RSA 21-I: 26,

et seq. The insurance and administrative services associated with the retiree benefits program were addressed in the RFP that was issued and published in February 2005. Contracts for the program were ultimately executed in June 2005. The Department also utilized the services of its benefits consultant, to analyze and evaluate the bids received with respect to the combined program. Finally, the Department intends to once again utilize those services and conduct a comparable bidding process in FY 2007.

Active Employee Health Benefit Contracts

Health benefits procurement for the State's approximately 38,000 employees, retirees and eligible dependents is now properly managed and subject to appropriate oversight. The Department has instituted effective internal management tools and reports regularly to the legislative Fiscal Committee.

Prior to 2003, the State had no capacity for a centralized enrollment database, nor a comprehensive financial and accounting system for its benefits programs. With the institution of the self-funded health program, the various Divisions and other units within the Department collaborated to establish systems for the meaningful management of the health program. Also, for the first time, the Department utilized the professional services of a national benefits consulting firm to develop and administer the RFP process with respect to the full range of administrative and insurance services associated with the program. The Department developed enrollment and accounting systems integrated with GHRS and NIFS, respectively, to accomplish the required program operations management. With only a single exception, successful and unsuccessful bidders alike praised the 2005 procurement process. The Department, through the joint labor management Health Benefits Advisory Committee, is already preparing for the 2007 procurement process and anticipates an equally successful process.

The retiree and employee health benefits are currently administered through a consolidated program arranged through a single set of contracts. The contracts are subject to review and approval by the Attorney General and Governor and Council. In addition, the Department provides a financial and operational report on the combined program to the legislative Fiscal Committee on a bi-monthly basis and Department staff is available at public hearings on the reports. Finally, in its 2006 session, the Legislature created a further oversight committee to review the employee and retiree health benefit program. See, Ch. 207:3, Laws of 2006.

Observation No. 36

Conduct Business With Licensed Consultants

The BRM contracted with a health benefits consultant not licensed in accordance with State statute and national standards. RSA 405:44-a, I, requires consultants providing advice, counsel, or information with respect to altering, changing, replacing, continuing, renewing, or rejecting any policy or contract to be licensed as an insurance producer under RSA 402-J. According to National Association of Insurance Commissioners standards, applied by the NHID, a producer requires a license to "Explain, discuss or interpret coverage, analyze exposures or policies, or give opinions or recommendations as to coverage."

According to the two-year, \$680,000 contract, the consultant was compensated \$110,500 to assist with the health benefits procurement process including, but not limited to, establishing RFP objectives, identifying vendors to receive bid specifications, RFP drafting and preparation, responding to bidders' questions, negotiating costs, interviewing and selecting providers, and writing contracts. The NHID reported the DAS health benefits consultant is not licensed as a producer.

In licensing producers, the NHID performs an oversight and monitoring function intended to protect consumers. To obtain a producer license, the applicant must meet a number of qualifications outlined in RSA 402-J. Not ensuring licensure circumvents controls carried out by the NHID and unnecessarily exposes the State to risk. Additionally, any person, corporation, partnership, or association who acts as an insurance consultant without such license "shall be subject to an administrative fine not to exceed \$2,500 for each such act"(RSA 405:44-g).

The BRM has not developed policies and procedures controlling insurance procurement and related services. Policies and procedures govern daily activities related to major bureau functions and are part of an internal control structure, providing reasonable assurance the organization conducts operations in accordance with applicable laws and regulations. Confering with the NHID to determine licensure requirements and ensure prospective vendors maintain those licenses should be an activity included in BRM policies and procedures for procuring insurance and related services.

Recommendations:

We recommend the DAS only conduct business with entities licensed according to State law. We further recommend Department management develop policies and procedures for procuring insurance and related services that include DAS determination of licensure requirements and ensure prospective vendors meet those requirements.

DAS Response:

We concur.

The State of New Hampshire went from a fully insured to a self-funded health benefit program in October of 2003 managed by a third party administrator (TPA). Lacking in-house expertise in the area of health care benefits management, the Department, through the Bureau, hired a health benefit consultant to audit the new program to ensure it was being administered effectively and efficiently by the TPA. The consultant was also retained to assist the State with the health benefit procurement process for the continuation of administrative services upon expiration of the prior TPA contract in June of 2005. While the BRM routinely confers with the NHID on licensure requirements of potential insurance vendors prior to awarding the contract, the Bureau did not follow its normal practice of verifying that the vendor in question was a licensed agent in New Hampshire because of the focus on the self-funded aspects of the program. It should be noted, however, while the health benefits consultant did not have a corporate producer license in New Hampshire, the lead consultant and Senior Vice President assigned by the corporation for the New Hampshire project is fully licensed as a producer in the State of

New Hampshire. Subsequent to the award of the contract, the consultant corporation also applied for and obtained a producer license from the NHID. Lastly, affirmative steps have already been taken to ensure all of the vendor's employees requiring a license are properly licensed by the NHID. It is also noteworthy that the consultant is a widely recognized international corporation established in 1939 and provides consulting services to more than 3000 employee benefit plans including a broad range of professional services to many public employee health benefit plans. Among these are plans covering state and local government employees, teachers and school district employees and benefit plans sponsored by public employee organizations.

Finally, the contract does not include any provisions for broker commissions to be paid to the consultant and there are no similarities between the Department's current contract with the consultant and the State's prior experiences related to the use of an unlicensed insurance broker.

The BRM does not have formal written policies and procedures. However, there are informal policies and procedures in place that are followed by the Bureau to ensure that statutory requirements are met with regard to procurement of insurance and other related services. Occasionally, these informal policies and procedures prove to be ineffective. The BRM is in the process of documenting its policies and procedures and anticipates their completion before the end of fiscal year 2007.

Informal procedures include monitoring on a regular basis, inventory of all insurance in effect to determine when policy renewals are due, steps to follow in issuing request for proposals (RFP), evaluating RFP responses and obtaining quality services for the State at the lowest possible price, conferring with the insurance department on licensure requirements, recommending bid award of selected vendors to DAS management, obtaining Governor and Council approval and handling requests from agencies for insurance coverage etc. In addition consistent procedures are followed in the daily administrative functions of the Bureau such as budget reviews, approvals of invoices, timesheets and travel expenses and providing staff training and conducting performance evaluations. The BRM fully recognizes the importance of formally documenting these policies and procedures and has embarked upon an effort to establish formal policies and procedures for its programs. However, with limited staff and a new self-funded health program that is continuing to evolve, administrative rules and formal written policies and procedures will be developed after the Department establishes relevant business rules for the program.

Observation No. 37

Procure Third Party Administrator Services According To State Directives

We found the BRM procurement of workers' compensation TPA services does not comply with State directives. In our Workers' Compensation Program For State Employees, Performance Audit Report, January 1993, we found Worker's Compensation Commission purchases of workers' compensation services did not comply with State purchasing statutes. In 1994, the BRM became responsible for the workers' compensation program. We found issues with procuring program services continue.

The worker's compensation program was fully-insured from July 1, 1999 through February 1, 2003. In February 2003, the BRM reportedly determined it would be more cost effective to switch back to a self-insured workers' compensation program with a TPA. In altering the four-year workers' compensation insurance contract to provide a fifth year of TPA services, the BRM added an additional year to the contract for a cost of \$721,800, noting "in order for [the vendor] to offer savings under the current [TPA] contract, the contract period must be extended for an additional [insured] year." Competition is a basic tenet of public procurement. RSA 21-I:11, III, requires competitive bidding "before making any purchase for the state" with limited exceptions. DAS administrative rules, policies issued on behalf of the G&C by the DAS Commissioner, and others issued jointly by the Commissioner and the Attorney General further emphasize the need policies for competitive bidding and documenting sole-source justification. We did not find evidence sole-sourcing the fifth year of workers' compensation TPA services was fully justified and documented consistent with State directives require and public procurement best practice.

Recommendation:

We recommend the Department procure workers' compensation TPA services according to statute and State directives.

DAS Response:

We do not concur.

The worker's compensation program contract in effect from July 1, 1999 to February 1, 2003 was competitively bid, consistently with RSA 21-I: 11, III, and approved by Governor and Council. The original contract was for a fully insured program and was subject to annual premium adjustments based on the State's payroll, as audited by the vendor. Due to increases in payroll, the State incurred additional premium costs in the amount of \$288,131 between fiscal years 2000 to 2002. These premium costs were in addition to the base annual premium of \$865,000. In response to this experience, the Bureau determined that converting to a self-funded program would be cost effective. Accordingly, the Department negotiated an amendment to the existing contract to transition from a fully insured to a self-funded program and to extend the contract term one year. By extending the vendor's services for an additional year, the State was able to secure an administrative rate that resulted in reduced service fees, saving the State over \$248,800. The Governor and Council approved this one-time amendment and contract extension on February 5, 2003.

Observation No. 38

Improve Third Party Administrator Contract Monitoring Through Performance Guarantees

We found the BRM does not adequately use performance guarantees to monitor the TPA contract providing State employee and retiree medical benefit claims administration services. The State initially entered into a contract with a TPA vendor, effective October 2003 through June 2005, for over \$13 million and subsequently extended the contract through August 31, 2005 for over \$1.2 million. The same vendor was awarded the subsequent contract, effective

September 2005 through June 2007, for \$13.5 million. In connection with the TPA contracts, the vendor agrees to provide a minimum service level, known as performance guarantees, and pay penalties when those guarantees are not met.

As part of the performance guarantees, the State must complete an account management report card quarterly and return it to the TPA vendor. The account management report card provides the State an opportunity to evaluate the TPA's performance in six categories including: 1) enrollment services support, 2) timely notification on issues affecting members, 3) timely and comprehensive response to the State's issues and questions, 4) completion of action plans and coordination to resolve open issues, 5) accessibility, and 6) delivery of reports timely. The account management report card has never been completed by the BRM. Reportedly, the BRM is comfortable with this arrangement because through regular communication, the TPA is made aware of the BRM's level of satisfaction. However, should the State be dissatisfied with the vendor's performance, the State may have no recourse without reports documenting this dissatisfaction.

We also found the BRM did not amend the TPA performance guarantees when the second contract was awarded in September 2005, as recommended by the State's contracted insurance consultant. The State engaged a nationally recognized insurance consultant for health claim audit services for \$283,925 covering October 2003 through June 2005. In December 2004, the State's insurance consultant reported the State's TPA was not in compliance with the time-to-process performance guarantee and recommended a review of claims procedures to ensure compliance with Legislative mandates. No changes were made to the performance guarantees in the subsequent TPA contract effective September 1, 2005. Additionally, the State's insurance consultant audit report recommended aligning TPA vendor guarantees with industry standards and including behavioral health guarantees. According to the State's insurance consultant's calculations, the TPA did not meet financial accuracy and processing time performance guarantees for the period October 1, 2003 through June 30, 2004. During SFY 2005 the TPA again did not meet the financial accuracy guarantee. However, according to the TPA's calculations, using its own methodology and not the recommended methodology aligned with industry practice, the TPA has consistently met the all performance guarantees.

The State is currently disputing the TPA's performance measure methodology. The insurance consultant recommended the State make the methodology explicit and consistent with industry standards, avoiding future disputes and protecting the best interests of the State. There is a three percent contract fee penalty for each of the two performance guarantees the State's insurance consultant found the TPA not achieving or a maximum penalty of approximately \$800,000 for the nine months the contract was in effect during the audit period.

When the contracted TPA does not meet performance guarantees, the State is not receiving the agreed-to quality of services. By not completing account management report cards, not implementing the insurance consultant's recommendations to improve monitoring efforts, and waiting over a year to dispute the TPA's calculations, the BRM is not adequately monitoring the TPA contract and lessens the assurances the State is receiving the services for which it paid.

Recommendations:

We recommend Department management increase contract monitoring related to the State's TPA contract by completing account management report cards. Additionally, we recommend the Department follow recommendations to improve performance guarantees made by the State's contracted insurance consultant.

DAS Response:

We concur.

In response to this Observation, the Bureau has instructed the TPA to direct future quarterly Report Cards to the Administrator and an additional staff person. The failure of the Bureau to complete the Report Card resulted from turnover in the Bureau's Administrator position and periods of position vacancy. In these particular circumstances, however, completion of the Account Management Report Card by the Bureau would not have resulted in the assessment of any performance guaranty penalty against the State's third party medical administrator (TPA). Because the Bureau and other Department personnel are in almost daily contact with the TPA regarding the "measurable needs" set forth in the Report Card, the Bureau's oversight of the administrator's customer service exceeds that provided in the Report Card. Should the Bureau be dissatisfied at any time with any of the six (6) "measurable needs", it will take steps to ensure the TPA promptly addresses such dissatisfaction. At no time has the Bureau allowed an outstanding issue to remain unaddressed for the period of time that would trigger the imposition of the Account Management Penalty Amount.

The prior and current performance guarantee provision of the agreements between the State and the TPA authorize the TPA to determine the audit methodology for computing satisfaction of performance guarantees. All performance guarantees under the two agreements have been satisfied for each audit period, when computed under the TPA's methodology, taking into consideration a standard margin of error.

The Bureau's employee benefits consultant applied a different methodology in its calculation of performance guarantees and concluded that both the Financial and Payment Accuracy categories declined and do not meet the associated performance guarantees. While the consultant initially advised the Department regarding the desirability of having independent determination of applicable methodology, it subsequently advised the Bureau to either amend the in-force performance guarantee provision or address the issue when the administrative services are re-bid in 2007.

We point out, however, that under the State's current agreement with the TPA, the State may elect to arbitrate any outstanding disputes, controversies or questions. See Section 11. Resolution of Disputes – Arbitration. Currently, the State is informally disputing the TPA's performance measure methodology. The Bureau has had on-going discussions with the administrator as well as its benefits consultant continues to pursue a resolution of this matter to the satisfaction of the Bureau. In any event, the Bureau will address the issue when the administrative services are re-bid in 2007.

Observation No. 39

Procure Ancillary Employee Benefit Insurance Products According To State Directives And Best Practice

The DAS sole-sourced over \$830,000 in insurance-related services during the audit period. The DAS provides permanent State employees life insurance, funded partially by the State, as required by RSA 21-I:29. According to the DAS, the State paid over \$830,000 for basic life insurance from 1998 through 2005. The DAS also makes available through a vendor by payroll deduction: term, disability, long term care, home, auto, and critical illness insurance.

The DAS reports the vendor of these services was selected through consultation between the Manager of Employee Relations, Division of Personnel, and the vendor. The last time this service was put out for bid may have been 1988. The Department cannot establish whether:

- required G&C approval occurred,
- competitive procurement was utilized,
- objective criteria and standards were used,
- any criteria used to determine which non-life insurance services should be offered,
- the vendor selected was the most efficient option for the State and its employees,
- any contracts were ever formalized for this service, or
- other Departmental administrative rule and policy and procedure requirements were followed.

Further, the State's intranet benefits page is linked to the vendor's website which commingles the benefit with other benefits not reimbursed by the State, possibly leading to the appearance the State endorses the vendor. The Department can provide no assurances on the quality of these products or that these products are offered at the lowest cost to State employees.

Recommendations:

We recommend Department management procure life insurance services using full and open competition in accordance with State law, administrative rule, and policy and procedure. We further recommend the Department discontinue its tacit endorsement of the current vendor and de-link its intranet benefits page from the current vendor's website.

DAS Response:

We concur.

Life insurance is a mandated State benefit based both on statute and the Collective Bargaining Agreement. The Department most recently began looking into its life insurance and associated voluntary benefits in the fall of 2005 as a result of a change in the benefits guaranteed by the Collective Bargaining Agreement. The Department explored the possibility of bidding the revised benefit, but ultimately determined that to do so would not be feasible in the time available. The complexity of the existing benefit scheme and the sheer number of plans held by State employees

would have occasioned an extremely difficult transition for the Department, state employees and the new vendor in the event of any change.

In the wake of irregularities in the health program bidding processes that occurred during the tenure of the prior Director of Personnel, the Department focused its immediate efforts on health benefits following his departure. This program involves costs to the State in excess of \$200,000,000 per year. It was ultimately determined that the competitive bidding of the life insurance benefit would be deferred for a January 1, 2007 effective date, to avoid disruption to the program. The life insurance RFP, a joint project of the Division of Personnel and the Bureau of Risk Management, is currently out to bid.

In regard to the other voluntary benefits that have been allowed to be offered in connection with the life insurance, this is a purely voluntary program that employees may elect to participate in or not. The products are fully paid for by the employees. By allowing some of these products to be offered, the Department enables employees to enjoy the convenience of a payroll deducted voluntary benefit. The same approach has been utilized in connection with our flexible spending program and is addressed in the State's contract with that program administrator. Nevertheless, the Department will remove the vendor link from the Division of Personnel's website.

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

OTHER ISSUES AND CONCERNS

In this section we present issues and concerns we encountered during our audit not developed into formal Observations, yet we consider noteworthy. The Legislature and the Department of Administrative Services (DAS) may consider these issues and concerns deserving of further study or action.

Ensure Vendors Receive Equal Treatment

We found the incumbent enrollment vendor may have received an unfair advantage when the DAS did not provide competing enrollment vendors reasonably sufficient time for service implementation during the 2005 employee health benefit procurement process. In 2003 when the State first contracted for enrollment services, the vendor was provided at least two months from the contract effective date to service implementation, while the 2005 procurement process allowed for less than two weeks for implementation after contract approval. Further, the Bureau of Risk Management (BRM) was unwilling to extend the implementation date to September 1, 2005 at the request of an enrollment vendor finalist, even though the implementation date for the pharmacy benefits manager and third party administrator was extended to September 1, 2005 “to allow time to incorporate a new pharmacy benefits manager into the State’s program.”

Allowing vendors reasonable time to implement services is essential to a fair and open procurement process. Unreasonable implementation specifications can unfairly benefit incumbent vendors making it difficult or impossible for competing vendors to comply with requirements. Extending implementation time frames for some vendors while not providing similar concessions to other vendors is inconsistent and creates at least the appearance of bias in favor of one vendor over another. We suggest the DAS ensure enrollment service procurements fairly produce a winner by treating all vendors consistently and providing new and incumbent vendors equal opportunity to compete for contracts.

DAS Response:

The Department concurs vendors should be treated equally during the procurement process and that contract award dates should accommodate implementation needs. In 2005, the Department chose not to extend the implementation date for an enrollment finalist because other, more competitive bidders were able to implement timely. The Department endeavors to plan each procurement process timetable with an adequate implementation period should there be a transition in vendors.

Improve Clarity Of Letters To Governor And Executive Council

Contrary to DAS policy and procedure, we found DAS-submitted letters to Governor and Executive Council (G&C) requesting permission to contract with health benefit vendors not clearly stating the vendors selection method. In separate State Fiscal Year 2001 and 2002 G&C letters, the DAS did not clearly state proposed dental vendors were selected via sole-source.

Instead, both G&C letters reference a request for proposal (RFP) for SFY 2000 services where the incumbent vendor was awarded a one-year contract following open competition with an RFP. However, the subsequent two years of services were selected by sole-source but DAS language in its G&C letters did not state this. Additionally, we found the G&C letter requesting permission to contract for health benefit enrollment services for SFY 2004-2005 did not clearly state the vendor selection method employed was sole-source. This G&C letter referenced several vendors reportedly contacted for information; however, no competition was held.

DAS management is responsible for ensuring information presented to G&C conforms to DAS policies and procedures. By not clearly stating solicitation efforts employed to arrive at the recommended vendor, G&C may not have complete information necessary to make fully informed decisions. We suggest DAS management ensure all G&C letters requesting permission to contract clearly state the Department's solicitation efforts as DAS policy and procedure require.

DAS Response:

We concur that Governor and Council (G&C) Requested Action letters should accurately reflect the associated vendor selection method. The Risk Management Unit now ensures these letters contain accurate detail regarding the procurement method. The Department's Budget Office Business Supervisors assigned to the Department also review every G&C contract submission for requisite elements for inclusion and the associated documentation that is required. As noted by the LBA, the Requested Action letters associated with each of the several 2005 employee and retiree health program contracts were compliant with this standard.

Consider Consolidating Similar Contracted Services

Various State agencies separately contract for similar services. The DAS independently contracts with one pharmacy benefit manager (PBM) for employee health and Department of Health and Human Services (DHHS) with two for different populations. The DHHS procures managed health care services for the State's Children's Health Insurance Program. The Department of Corrections procured TPA services for the inmate population in the past and is considering again procuring these services. The DAS procures TPA services for State employees. We questioned State managers on the possibility of consolidating these various services. Reportedly, there was no support for many of these initiatives; possibly because the different beneficiaries may not have wanted to be pooled out of concern populations with a higher burden of illness might cause costs to increase. However, there was no analysis to determine this was the case.

Consolidation can lead to improved efficiency and effectiveness. Further, the DAS, Division of Plant and Property Management is responsible for procuring "all materials, equipment, supplies, and services for all departments and agencies" under RSA 21-I:11, II. We suggest DAS consider consolidating these like services.

DAS Response:

We concur that consolidation of similar health care-related services should be considered in the future. However, this must be approached as a long-term goal and accorded comprehensive government wide planning. The populations served, the applicable laws and regulations, as well as the source of financing, vary substantially and significantly among the several programs cited by the LBA. In addition, the internal program administrative and financial data systems of the three (3) responsible government agencies do not currently interface. Nevertheless, consolidated contracting and programming for state health services, and indeed all public sector services, should be considered.

Centralize All State Procurement

We found significant decentralization of service procurement in State government during our field work. Best practice suggests procurement be centralized to realize potential cost savings and to improve management control. In 1983, the Legislature appears to have intended procurement be centralized, but the State's procurement system remains fragmented. We suggest the Legislature consider consolidating all procurement within the DAS, Division of Plant and Property Management.

DAS Response:

As indicated in Observation No. 22 and others, the Department concurs that state service procurement should be centralized and intends to seek appropriate legislation and funding in FY 2007.

Segregate Conflicting Tasks Carried Out By The State's Contracted Health Benefits Consultant

The DAS contracted with a health benefits consultant who aided the Department in drafting and reviewing requests for proposal but was also responsible for audits of the services acquired. These responsibilities may have placed the contracted consultant in the position of reviewing the sufficiency of its own work. While we found no specific issues with this arrangement, it was neither the purpose of our audit nor has this process been in place for more than one contract cycle. We suggest the DAS review segregating responsibility for establishing service specifications and auditing those services provided to ensure adequate management control is maintained.

DAS Response:

The Department currently benefits from having its employee benefits consulting and auditing services consolidated in one vendor. The current vendor assists, during the procurement phase, in establishing service specifications for the several health program administrators. At a later phase, the vendor audits those services, with the benefit of its familiarity with those very

specifications. These tasks are not in either temporal or ethical conflict. Given the complexity of the medical, pharmacy and enrollment administrative services, together with the relative newness of this large government program, the Department expects to retain the benefit of this consolidation.

STATE OF NEW HAMPSHIRE
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CONCLUSION

This report outlines the lack of a comprehensive statewide risk management program contributing to numerous inefficiencies with insurance and related service procurement practices including instances of abuse and administrative violations in the business dealings of the Department of Administrative Services (DAS). Pursuant to *Government Auditing Standards*, abuse occurs when the conduct of a government program falls short of behavior expected to be reasonable and necessary business practices. Inadequate management controls are evidenced in almost every area of Department operations we reviewed, many having been identified in several of our prior audits and dating back at least to 1993. This is a significant concern as the DAS is responsible for centralized services upon which efficient and effective State operations rely.

We found administrative rules and policies and procedures controlling State employee benefits programs and insurance procurement activities generally lacking. We found broad avoidance of procurement standards to include full and open competition and Governor and Executive Council oversight in the State's relationships with producers, insurance companies, and other vendors to the State. Further, we found no analysis demonstrating need or benefit to support many of the State's insurance procurement activities. Efficiency and effectiveness is further hampered by statutes allowing decentralized insurance procurement and the current Bureau of Risk Management (BRM) belief it has no role in controlling insurance procurement.

We found the self-insured employee health benefits program lacked comprehensive planning and beneficiary protections comparable to other self- or fully-insured benefits programs. Without an adequate plan to administer the program and establish safeguards, there is less assurance the well-being of beneficiaries is being served as the Legislature intended. Further, the BRM functions as a satellite human resource, administrative, training, and procurement office, detracting from its primary risk management mission. Assigning employee benefit management to the BRM is concerning as it may further dilute focus on its primary and statutory mission of managing the State's risks. It is important BRM operations be optimized and these ancillary responsibilities be transferred to purpose-created elements of the DAS. Only then can an independent, quantitative analysis be undertaken to inform the DAS and the Legislature of BRM staffing needs.

Department management is responsible for the statewide control environment. Without significant improvement in the Department's management controls, there can be little assurance future operations will not perpetuate the conditions we found leading to the significant Observations contained in this report. Given the long-standing, inadequate management control and lack of adherence to State laws, administrative rules, and policies and procedures, instances where flawed processes manifest themselves publicly, such as the inappropriate procurement of health benefit enrollment services which provided the impetus for this audit, are inevitable.

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

APPENDIX A

DEPARTMENT OF ADMINISTRATIVE SERVICES RESPONSE TO AUDIT



DONALD S. HILL
Commissioner
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State of New Hampshire
DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
State House Annex • Room 120
25 Capitol Street
Concord, New Hampshire 03301

August 24, 2006

The Honorable Frederick W. King, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

Dear Representative King:

This letter is in response to the Insurance Procurement Practices Performance Audit Report dated September 2006 issued by the Office of the Legislative Budget Assistant (LBA).

I would like to express my appreciation to the LBA management and audit staff for their effort and candor in the performance of the audit and the drafting of the resulting report. While we still have some significant differences of opinion regarding the conclusions reached during the audit, the LBA gave us the courtesy to discuss those differences in a professional manner.

The audit has identified some significant weaknesses in our past practices, but they are not the result of a lack of effort or of bad intentions. On the contrary, the staff has worked extremely hard for the citizens of our State to reduce workers' compensation costs, implement an efficient and effective self-funded health benefits program, and to procure insurance in the best interests of the State.

In this letter, I would like to highlight for the Committee those areas in which the Department's performance or perspective may not be readily apparent in the audit report.

The Concept of Comprehensive Risk Management

It is important to state at the outset that underlying many of the LBA's audit findings is its belief that current statutes are clear in directing the Department to operate a comprehensive risk management program, as that term is *currently* understood. We strongly disagree. When the Bureau of Risk Management was established in 1983, risk management was generally understood to mean insurance procurement and the management of insurable risks. The Department has endeavored to operate the BRM in light of the 1983 concept of risk management since its creation, yet has been held to a much broader, more contemporary standard during this audit. In order to clarify and strengthen the Department's responsibilities and authority to carry out the comprehensive risk management program the LBA envisions, it recommends the legislature consider no fewer than twenty-seven (27) statutes for amendment, or application to the BRM. While the Department supports a comprehensive program, the scope of statutory changes illustrates our position that many laws are simply not as clear as the LBA would lead the reader to believe.

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Representative Frederick W. King
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The Department's Action Plan

Quite apart from any disagreement we may have with certain of the LBA's perspectives, we respect the vast majority of its observations and recommendations and have spent considerable time drafting our responses to them. I encourage all members of the Fiscal Committee to read them in detail. We have also spent a considerable amount of time formulating an action plan to address the weaknesses noted.

To summarize, the auditors have concluded the Department has inadequate management controls in almost every area they reviewed. There is no doubt there have been instances of non-compliance with the Department's own policies and procedures. While this is clearly not acceptable, we disagree with the LBA's characterization of the Department's actions, or lack thereof, as abuse. However, I want to assure you and all members of the Fiscal Committee that actions have already been taken to ensure compliance with existing controls and to strengthen controls where needed. Among other corrective measures, the Department will:

- Work with the Legislative Advisory Committee established by Chapter 207:3, Laws of 2006, on recommendations for the administration of life and health insurance benefits programs,
- Pursue, with guidance from the Chapter 207 Committee, or other appropriate committee, statutory revisions to: 1) prevent agencies from purchasing insurance without prior written approval from the Risk Management Unit, 2) centralize the procurement of insurance, including insurance services, in the Bureau of Purchase and Property, 3) strengthen the Department's authority with regard to personal and real property, and liability loss prevention and risk management, 4) clarify applicability of insurance laws when the State self-funds its benefits, as well as 5) other changes required for the efficient and effective operation of the Risk Management Unit,
- Procure 100% of insurance and related services through open, competitive bidding when cost justified,
- Ensure all insurance and related service contracts are submitted to Governor and Council for approval according to established policies and procedures,
- Seek additional resources in its FY 2008 – FY 2009 budget submission to the Governor to support a comprehensive loss prevention, risk management, and insurance procurement program as recommended by the LBA.

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Significant Accomplishments of the Risk Management Unit

While the audit has identified several areas in need of improvement, I want to draw your attention to some of the good work done by the Risk Management Unit (RMU). In the area of workers' compensation, New Hampshire has benefited from the RMU's capable administration of this important program. In particular, the rate of lost time claim frequency from 1998 to 2005 (the audit period) has declined by 80% for the State's employees. This compares to a decline of about 30% statewide for both private and public sector employers combined over the same period. The RMU has been instrumental in achieving this level of performance which resulted in an estimated \$1.1 million in savings to the State in calendar year 2005 alone.

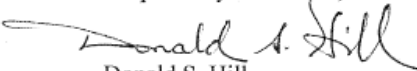
The State's self-funded health insurance program is also meeting the needs of the State, its employees and its retirees and has done so since its inception in late 2003. The program was implemented timely by marshalling the human resources of various areas within the Department and with the help of outside consultants. The program is still in its infancy and admittedly has improvements that can be made. Yet, despite its shortcomings, the program has saved an estimated \$10 million to date. I should also note the Department has made significant progress in acting upon the observations and recommendations made by the LBA in its audit of the self insurance fund for the year ended June 30, 2004 as presented to the Fiscal Committee on June 15, 2005. To date, we have fully or partially resolved sixteen (16) of the nineteen (19) recommendations contained in that report and are continuing to work to fully resolve the remaining issues.

In addition, and without diminishing the significance of the LBA's findings, the net result of the Department's procurement practices is that 91% of the dollar value of insurance procured by the Department between fiscal years 1998 to 2005 was the result of either competitive, or limited competitive, bidding according to the LBA's own analysis. While only 56% in the number of policies were awarded in this fashion, the disparity in these percentages demonstrates the RMU focused its competitive bidding practices on high dollar value insurance purchases; this was clearly in the State's best interests.

Summary

In summary, the Department has already taken action on a number of the recommendations made by the LBA and will diligently pursue resolution of all of its findings with which we concur. I fully support a strong control environment for the Department of Administrative Services, and the State as a whole, and will focus our efforts accordingly.

Respectfully Submitted,


Donald S. Hill
Commissioner

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**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

APPENDIX B

LBA INSURANCE PROCUREMENT PRACTICES SURVEY OF STATE AGENCIES

Notes:

- *Responses are in bold.*
- *Totals may not add up to 100 percent due to rounding.*
- *41 surveys were mailed and returned.*

Purpose: The primary purpose of this survey is to gain assistance in determining which components of State government procure insurance (e.g., commercial insurance, stop-loss insurance, performance and similar insurance bonds, etc.), insurance related services (e.g., third party administrator, pharmacy benefits manager, health maintenance organization, etc.), and producer services (e.g., broker and insurance consultant). We also intend to gather information about how the decision to procure insurance and insurance related services was made and the involvement, if any, of the Bureau of Risk Management, Department of Administrative Services. Therefore, your responses are important to our audit.

Confidentiality: Individual responses are confidential. Individual surveys will not be shared with any other State agency. Your responses will be combined with others and reported as aggregate data in our final report. According to State law (RSA 14:31-a, II) audit work papers, such as interviews and surveys, are not public records. However, work papers used to support our final report may be made available by majority vote of the Fiscal Committee after a public hearing showing proper cause. It is our policy not to name individuals specifically in our report. We ask for your name in order to track receipt of surveys and to follow-up on responses if needed. **Some of the survey questions may be better answered by personnel other than yourself; therefore, your signature is requested to confirm your review of, and agreement with survey responses.**

Question Format: This survey includes questions in two sections: 1) insurance and insurance related service procurement and 2) producer service procurement. The questions consist of Yes/No and multiple-choice questions. Many of the questions also appear in table format. In the table, for each insurance policy or insurance related service you list in the left hand column please answer each question in the columns to the right. If additional space is required to list insurance policies or insurance related services, please enclose additional pages with the survey questionnaire as necessary. Space is provided at the end of the survey for additional information and comments.

Answering Questions: Please answer the survey as accurately as possible based upon your direct experience or the direct experience of other personnel at your agency, its component divisions, offices, bureaus, and other bodies and any administratively attached boards, councils, authorities, commissions, or other bodies. When responding to questions, please respond for the entire audit period, State fiscal year (SFY) 1998 through 2005. Some questions may allow you to provide multiple answers by asking you to mark all that apply. **Select the best answer(s) and completely darken the corresponding circles using blue or black ink, or a pencil.** Please fill in circles completely as shown below. When writing comments, please print clearly.

Section 1. Insurance And Insurance Related Services Procurement

Please respond for the period State fiscal years 1998 through 2005, inclusive, and include the experience of all component divisions, offices, bureaus, and other bodies and any administratively attached boards, councils, authorities, commissions, or other bodies in your responses.

When we refer to insurance, it is in a broad sense to include bonds and other instrumentalities transferring risk to another entity for a fee such as commercial insurance, stop-loss insurance, performance bonds etc.. Related insurance services references services such as third party administrator, pharmacy benefits manager, health maintenance organization, etc..

1. Does your agency have a formal documented risk management plan?

Forty-one senior agency managers responded to question 1

Ⓐ Yes	9	(22%)
Ⓑ No	32	(78%)
Ⓒ Unknown	0	(0%)

2. How does your agency mitigate risk? (Mark all that apply)

Forty-one respondents provided 55 answers to question 2

Ⓐ Formal loss control program	7	(13%)
Ⓑ Agency procures commercial insurance or related services	13	(24%)
Ⓒ Agency self-insures	13	(24%)
Ⓓ Agency faces no risk	3	(5%)
Ⓔ Unknown if agency faces risk	13	(24%)
Ⓕ Unknown how agency mitigates risk	6	(11%)

If you selected 'B', Agency procures commercial insurance or related services, as a response to question 2, please continue the survey with question 3. If you did not select 'B' as a response to question 1 please skip to question 27 on page 8.

3. Has your agency promulgated administrative rules related to procurement of insurance or related services?

Fourteen respondents provided 14 responses to question 3

Ⓐ Yes	1	(7%)
Ⓑ No	13	(93%)
Ⓒ Unknown	0	(0%)

4. Has your agency developed policies and procedures related to the procurement of insurance or related services?

Thirteen respondents provided 13 responses to question 4

Ⓐ Yes	4	(31%)
Ⓑ No	9	(69%)
Ⓒ Unknown	0	(0%)

5. List all insurance and insurance related contracts.

Twelve respondents provided 79 responses to question 5 in six categories

Property	21	(27%)
Automobile Fleet	15	(19%)
Employee Benefit	11	(14%)
Liability	11	(14%)
Bond	9	(11%)
Other	12	(15%)

6. List company insurance or related service was procured from.

Ten respondents provided 74 responses to question 6

One company named 27 times
 Three companies named four or five times
 Four companies named two or three times
 Twenty-four companies named once

7. What method was used to select a vendor?

Twelve respondents provided 78 responses to question 7

Ⓐ Competitive bid with RFP	21	(27%)
Ⓑ Sole-source	3	(4%)
Ⓒ Unknown	41	(53%)
Ⓓ Other _____	13	(17%)

Two respondents provided 13 comments regarding question 7D

Select Bids	12	(92%)
Decision was based on price comparison	1	(8%)

8. Was the Bureau of Risk Management (BRM) involved in the procurement?

Twelve respondents provided 78 responses to question 8

Ⓐ Yes (if yes, skip to question 10)	49	(63%)
Ⓑ No	29	(37%)

© Unknown 0 (0%)

9. Why was the Bureau of Risk Management (BRM) not involved in the procurement?

Five respondents provided 29 responses to question 9

Ⓐ BRM involvement is not required	28	(97%)
Ⓑ Unaware of requirement for BRM involvement	0	(0%)
Ⓒ Unknown	1	(3%)
Ⓓ Other _____	0	(0%)

10. How was the decision to procure commercial insurance or insurance related services made?
(Mark all that apply)

Eleven respondents provided 79 responses to question 10

Ⓐ Agency risk management plan	35	(44%)
Ⓑ State risk management plan	2	(3%)
Ⓒ Directed in Statute	15	(19%)
Ⓓ Unknown	2	(3%)
Ⓔ Other _____	25	(32%)

Three respondents provided 25 responses to question 10E

Board of Directors required bonding against loss	1	(4%)
Property given in trust	2	(8%)
State policy	22	(88%)

11. Total cost

Eleven respondents provided 78 responses to question 11

\$4,999 and under	37	(47%)
\$5,000- \$34,999	23	(29%)
\$35,000 and above	11	(14%)
Unknown	7	(9%)

12. Coverage period

Eleven respondents provided 77 responses to question 12 in three categories

Annual	44	(57%)
Multiyear	31	(40%)
Other/ Unknown	2	(3%)

Section 2. Producer Services

Please respond for the period State fiscal years 1998 through 2005, inclusive, and include the experience of all component divisions, offices, bureaus, and other bodies and any administratively attached boards, councils, authorities, commissions, or other bodies in your responses.

According to RSA 402-J:2, V, a producer is a person licensed to “sell, solicit, or negotiate insurance.” **Insurance producers may be referred to more specifically as insurance agents, brokers, or consultants.** Insurance agents are generally employed by and represent the interests of insurance companies. On the other hand, brokers are generally independent of any particular insurance company and are employed by and represent the insured customer. Like brokers, the insured generally retains insurance consultants to provide insurance advice, counsel, or recommendations. For the purpose of this section of the survey, we are interested in your agency’s activities related to retaining the services of an insurance *broker* or *consultant* to assist with any insurance or related purchases.

13. Has an insurance *broker* been used in the procurement of commercial insurance for your agency?

Fourteen respondents provided 14 responses to question 13

Ⓐ Yes	4	(29%)
Ⓑ No	7	(50%)
Ⓒ Unknown	3	(21%)

14. Has an insurance *consultant* been used in the procurement of commercial insurance for your agency?

Fourteen respondents provided 14 responses to question 14

Ⓐ Yes	3	(21%)
Ⓑ No (If you answered no to questions 13 and 14, skip to question 27 on page 8)	8	(57%)
Ⓒ Unknown (If you answered unknown to questions 13 and 14, skip to question 27 on page 8)	3	(21%)

15. Has your agency promulgated administrative rules for using insurance broker and consultant services?

Eight respondents provided eight responses to question 15

Ⓐ Yes, for both brokers and consultants	0	(0%)
Ⓑ Yes, for brokers only	0	(0%)
Ⓒ Yes, for consultants only	0	(0%)
Ⓓ No	8	(100%)
Ⓔ Unknown	0	(0%)

16. Has your agency developed policies and procedures for using insurance broker and consultant services?

Six respondents provided six responses to question 16

Ⓐ Yes, for both brokers and consultants	0	(0%)
Ⓑ Yes, for brokers only	1	(17%)
Ⓒ Yes, for consultants only	0	(0%)
Ⓓ No	5	(83%)
Ⓔ Unknown	0	(0%)

Insurance Broker Services

The following questions concern the use of an insurance broker during the process of procuring an insurance policy or an insurance related service contract. Please respond for the entire audit period, State fiscal years 1998-2005. **If an insurance broker has not been used by your agency skip to question 22.**

17. List insurance or insurance related services identified where a broker was involved in the procurement.

Four respondents provided 17 responses in 3 categories

Employee/ employer	5	(29%)
Benefits	5	(29%)
Other	7	(41%)

18. List the name of the broker involved in the procurement.

Four respondents named 12 brokers.

19. Was the Bureau of Risk Management involved in the selection of the broker?

Four respondents provided nine responses to question 19

Ⓐ Yes	1	(11%)
Ⓑ No	8	(89%)
Ⓒ Unknown	0	(0%)

20. Which method was used to select the broker?

Four respondents provided nine responses to question 20

Ⓐ Competitive bid with RFP	1	(11%)
Ⓑ Sole-source	1	(11%)
Ⓒ Unknown	2	(22%)
Ⓓ Other _____	5	(55%)

Two respondents provided five responses to question 20D

Select bids	3	(60%)
Limited market for nonprofits	2	(40%)

21. Total compensation paid to the broker.

Three respondents provided six responses to question 21

\$4,999 and under	3	(50%)
\$5,000 to \$34,999	1	(17%)
\$34,999 and over	0	(0%)
Unknown	2	(33%)

Insurance Consultant Services

The following questions concern the use of an insurance consultant during the process of procuring an insurance policy or an insurance related service contract. Please respond for the entire audit period, State fiscal years 1998-2005. **If an *insurance consultant* has not been used by your agency skip to question 27.**

None of the 41 respondents answered questions 22 through 26.

22. List insurance or insurance related services identified in Table 1 where a consultant was involved in the procurement.

23. List the name of the consultant involved in the procurement.

24. Was the Bureau of Risk Management involved in the selection of the consultant?

- (A) Yes
- (B) No
- (C) Unknown

25. Which method was used to select the consultant?

- (A) Competitive bid with RFP
- (B) Sole-source
- (C) Unknown
- (D) Other _____

26. Total compensation paid to the consultant.

\$4,999 and under
 \$5,000 to \$34,999
 \$35,000 and over
 Unknown

27. Provide any additional comments.

Thirteen respondents provided 14 additional comments:

Do not carry insurance above and beyond what the State procures or provides.	8
Maintain internal controls through internal auditors and audit teams.	2
Do not use the State for insurance procurement.	2
Private vendors, contractors, and consultants are required to provide their own insurance.	1
The State, which is currently self-insured, should purchase insurance policies in order to get some agencies running in case of a disaster.	1

STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES

APPENDIX C

**LBA SURVEY OF OTHER STATES' RISK MANAGERS AND
HEALTH BENEFIT MANAGERS**

Notes:

- *Responses are in bold.*
- *Totals may not add up to 100 percent due to rounding.*
- *We surveyed 25 states and obtained responses from 21 risk managers and 18 health benefits managers.*

Background

When we refer to insurance it is in a broad sense to include bonds and other instruments transferring risk to another entity for a fee, for example, commercial insurance, stop-loss insurance, or performance bonds. A few questions also include reference to insurance related services, which include services provided by third party administrators, pharmacy benefits managers, and health maintenance organizations.

Question format

This survey primarily includes multiple-choice questions and a few open-ended questions meant to gather information about current insurance procurement practices in other states. When we begin the survey, I will first read the questions and then the corresponding optional responses for you to select from.

Confidentiality statement

Your responses are confidential. Your responses will be combined with others and may be reported as aggregate data in our final report. It is our policy not to name individuals specifically in our report. We ask for your name in order to track surveys and to follow-up on responses if needed.

State Insurance Procurement Practices Survey

BACKGROUND

1. So that we may track the receipt of surveys and follow-up if necessary, please provide the following:

Name: _____

Title: _____

State: _____

Email: _____

Telephone number: _____

RISK MANAGEMENT AGENCY ORGANIZATION

2. What are the primary responsibilities of your state's risk management agency? (*Mark all that apply*)

Twenty-one risk managers provided 96 responses to question 2

Ⓐ Develop and maintain a risk management plan for state government	16 (17%)
Ⓑ Develop and maintain loss control programs for state government agencies	15 (16%)
Ⓒ Procure commercial insurance for state government agencies	20 (21%)
Ⓓ Administer self-insurance programs	17 (18%)
Ⓔ Claims management	19 (20%)
Ⓕ Other (<i>Specify</i>)	9 (9%)

Nine respondents provided 9 comments regarding question 2F

Risk management consultation to state, local government, or not-for-profits	5 (56%)
Track driver violations	1 (11%)
Real property appraisals for state owned properties	1 (11%)
Reject the inclusion of certain risks in state insurance programs	1 (11%)
Provide insurance for government	1 (11%)

3. Within what organization does the risk management agency operate?

Twenty-one risk managers provided 21 responses to question 3

Ⓐ Department of Administration (e.g, General Services or Central Services)	11 (52%)
Ⓑ Department of Finance	0 (0%)
Ⓒ Department of Revenue	0 (0%)
Ⓓ Department of Treasury	3 (14%)
Ⓔ Department of Management and Budget	3 (14%)
Ⓕ Other (<i>Specify</i>)	4 (19%)

Four respondents provided four comments regarding question 3F

Office or Department of Insurance	2 (50%)
Independent Board	1 (25%)
Office of State Comptroller	1 (25%)

4. We are interested in your position within state government. What is the reporting relationship between the risk management agency and the Governor?

Twenty-one risk managers provided 21 responses to question 4

Ⓐ Head of risk management reports directly to the Governor	2 (10%)
Ⓑ Head of risk management reports to agency head who reports directly to the Governor	5 (24%)
Ⓒ Other (<i>Specify</i>)	14 (67%)

Fourteen risk managers provided 14 comments regarding question 4C

Three removed from Governor	6 (43%)
Four removed from Governor	4 (29%)
Two removed from Governor	1 (7%)
Report to a Board	1 (7%)
Three removed from Legislature/ does not report to Governor	1 (7%)
Four removed from elected Commissioner, who confers with Governor	1 (7%)

5. How many state full-time equivalent (FTE) employees were authorized to work within the risk management agency for fiscal year 2005?

Twenty-one risk managers provided 21 responses to question 5

0.6 to 5	7 (33%)
6 to 15	6 (29%)
16 to 25	6 (29%)
26 or more	2 (10%)

6. How many contract FTE employees were used by the risk management agency in fiscal year 2005?

Twenty-one risk managers provided twenty-one responses to question 6

None	18 (86%)
Three	1 (5%)
Five	1 (5%)
8.5	1 (5%)

7. How were other agencies made aware of the risk management agency's responsibilities?
(Mark all that apply)

Twenty-one risk managers provided 79 responses to question 7

Ⓐ Statute	18 (23%)
Ⓑ Administrative rule	12 (15%)
Ⓒ Policies and procedures	18 (23%)
Ⓓ Training offered by risk management agency	16 (20%)
Ⓔ Other (<i>Specify</i>)	14 (18%)
Ⓕ Unknown	1 (1%)
Ⓖ None	0 (0%)

Fourteen risk managers provided 23 comments regarding question 7E

Website	7 (30%)
Ongoing communications with agencies	3 (13%)
Newsletter	2 (9%)
Seminar for agencies	2 (9%)
Prominence	2 (9%)
Require defensive driving course and send out monthly violation reports	1 (4%)
Sent memo to state agencies regarding risk management agency authority	1 (4%)
Bill agencies for services and proactively seek agencies in need of services	1 (4%)
Involved in task force managing transportation exposures	1 (4%)
Directives carrying the same weight as rules and a user manual	1 (4%)
Agency specific articles and loss control materials are sent to agencies	1 (4%)
The risk management agency uses loss events as learning opportunities reminding agencies of the services risk management offers	1 (4%)

8. Are there any recent audits, evaluations, or reviews of the risk management agency we can obtain?

Twenty-one risk managers provided 21 responses to question 8

Ⓐ Yes, how can we obtain (<i>Specify</i>)	8 (38%)
Ⓑ No	13 (62%)

INSURANCE

9. How many active insurance policies did the risk management agency manage in fiscal year 2005?

Twenty-one risk managers provided 21 responses to question 9

0 to 10	3	(14%)
11 to 25	4	(19%)
26 to 50	4	(19%)
51 to 75	3	(14%)
76 to 100	4	(19%)
101 and above	3	(14%)

Twelve health benefit managers provided twelve responses to question 9

1 to 3	4	(33%)
4 to 7	4	(33%)
8 to 16	4	(33%)

10. What is the total premium value of the insurance policies the risk management agency managed in fiscal year 2005?

Twenty-one risk managers responded to question 10

\$6 million or less	9	(43%)
Over \$6 million to \$15 million	8	(38%)
Over \$15 million to \$25 million	1	(5%)
Over \$25 million	1	(5%)
Other	2	(10%)

11. Does the value listed in question 10 include state employee health insurance?

Twenty-one risk managers provided 21 responses to question 11

Ⓐ Yes	0	(0%)
Ⓑ No	21	(100%)
Ⓒ Unknown	0	(0%)

12. What guidelines specifically regulate insurance procurement? (*Mark all that apply*)

Eighteen risk managers provided 29 responses to question 12

Ⓐ State law	15	(52%)
Ⓑ Administrative rule	5	(17%)
Ⓒ Policy and procedure	6	(21%)
Ⓓ Other (<i>Specify</i>)	1	(3%)
Ⓔ None	2	(7%)
Ⓕ Unknown	0	(0%)

One risk manager provided one comment regarding question 12D

Contractual and bond requirements	1	(100%)
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Twelve health benefit managers provided 20 responses to question 12

Ⓐ State law	7	(35%)
Ⓑ Administrative rule	5	(25%)
Ⓒ Policy and procedure	3	(15%)
Ⓓ Other (<i>Specify</i>)	1	(5%)
Ⓔ None	3	(15%)
Ⓕ Unknown	1	(5%)

One health benefits manager provided one comment regarding question 12D

The collective bargaining agreement	1	(100%)
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13. What guides the decision to procure insurance? (*Mark all that apply*)

Seventeen risk managers provided 33 responses to question 13

Ⓐ State Law	12	(36%)
Ⓑ Statewide risk management plan	8	(24%)
Ⓒ Agency risk management plan	3	(9%)
Ⓓ Formal loss control programs	1	(3%)
Ⓔ Other (<i>Specify</i>)	9	(27%)
Ⓕ Unknown	0	(0%)

Nine risk managers provided 13 comments regarding question 13E

Assessed/ perceived need	6	(43%)
Contracts require state carry insurance	4	(29%)
Exposure analysis	1	(8%)
Federal grants require insurance	1	(8%)
Experience	1	(8%)

Twelve health benefit managers provided 14 responses to question 13

Ⓐ State Law	7 (50%)
Ⓑ Statewide risk management plan	0 (0%)
Ⓒ Agency risk management plan	0 (0%)
Ⓓ Formal loss control programs	0 (0%)
Ⓔ Other (<i>Specify</i>)	6 (43%)
Ⓕ Unknown	1 (7%)

Six health benefit managers provided six comments regarding question 13E

The board's decision	2 (33%)
Significant changes to benefits design and to test the market	1 (17%)
Agency policy	1 (17%)
Bargaining contracts	1 (17%)
Not applicable	1 (17%)

14. How do executive branch agencies procure insurance in your state? (*Mark all that apply*)

Twenty-one risk managers provided 30 responses to question 14

Ⓐ On their own	4 (13%)
Ⓑ Through the risk management agency	16 (53%)
Ⓒ Through an alternate centralized procurement agency (<i>Specify</i>)	3 (10%)
Ⓓ They do not have insurance	3 (10%)
Ⓔ Other (<i>Specify</i>)	4 (13%)
Ⓕ Unknown	0 (0%)

Three risk managers provided three comments regarding question 14C

Central procurement agency	3 (100%)
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Four risk managers provided four comments regarding question 14E

Other governmental agency	4 (100%)
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Thirteen health benefit managers provided 13 responses to question 14

Ⓐ On their own	0 (0%)
Ⓑ Through the risk management agency	0 (0%)
Ⓒ Through an alternate centralized procurement agency (<i>Specify</i>)	4 (31%)
Ⓓ They do not have insurance	0 (0%)
Ⓔ Other (<i>Specify</i>)	9 (69%)
Ⓕ Unknown	0 (0%)

Four health benefit managers provided four comments regarding question 14C

Central procurement agency	4 (100%)
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Nine health benefit managers provided nine comments regarding question 14E

State employee benefits/ human resources agency 9 (100%)

15. How do legislative branch agencies procure insurance in your state? (*Mark all that apply*)**Twenty-one risk managers provided 28 responses to question 15**

Ⓐ On their own	4	(14%)
Ⓑ Through the risk management agency	15	(53%)
Ⓒ Through an alternate centralized procurement agency (<i>Specify</i>)	3	(11%)
Ⓓ They do not have insurance	3	(11%)
Ⓔ Other (<i>Specify</i>)	3	(11%)
Ⓕ Unknown	0	(0%)

Three risk managers provided three comments regarding question 15C

Central procurement agency 3 (100%)

Three risk managers provided three comments regarding question 15E

Other governmental agency 3 (100%)

Thirteen health benefit managers provided 13 responses to question 15

Ⓐ On their own	0	(0%)
Ⓑ Through the risk management agency	0	(0%)
Ⓒ Through an alternate centralized procurement agency (<i>Specify</i>)	4	(31%)
Ⓓ They do not have insurance	0	(0%)
Ⓔ Other (<i>Specify</i>)	9	(69%)
Ⓕ Unknown	0	(0%)

Four health benefit managers provided four comments regarding question 15C

Central procurement agency 4 (100%)

Nine health benefit managers provided nine comments regarding question 15E

State employee benefits/ human resource agency 9 (100%)

16. How do judicial branch agencies procure insurance in your state? *(Mark all that apply)*

Twenty-one risk managers provided 29 responses to question 16

Ⓐ On their own	5	(17%)
Ⓑ Through the risk management agency	15	(52%)
Ⓒ Through an alternate centralized procurement agency <i>(Specify)</i>	3	(10%)
Ⓓ They do not have insurance	3	(10%)
Ⓔ Other <i>(Specify)</i>	3	(10%)
Ⓕ Unknown	0	(0%)

Three risk managers provided three comments regarding question 16C

Central procurement agency	3	(100%)
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Three risk managers provided three comments regarding question 16E

Other governmental agency	3	(100%)
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Thirteen health benefit managers provided 13 responses to question 16

Ⓐ On their own	0	(0%)
Ⓑ Through the risk management agency	0	(0%)
Ⓒ Through an alternate centralized procurement agency <i>(Specify)</i>	4	(31%)
Ⓓ They do not have insurance	0	(0%)
Ⓔ Other <i>(Specify)</i>	9	(69%)
Ⓕ Unknown	0	(0%)

Four health benefit managers provided four comments regarding question 16C

Central procurement agency	4	(100%)
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Nine health benefit managers provided nine comments regarding question 16E

State employee benefits or human resource agency	9	(100%)
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17. Are there exceptions to insurance procurement practices? *(Mark all that apply)*

Twenty-one risk managers provided 39 responses to question 17

Ⓐ Yes, quasi-governmental agencies (bodies corporate and politic)	15	(38%)
Ⓑ Yes, state universities and colleges	12	(31%)
Ⓒ Yes, other agencies <i>(Specify)</i>	6	(15%)
Ⓓ No	5	(13%)
Ⓔ Unknown	1	(3%)

Six risk managers provided six comments regarding question 17C

Various state agencies	6 (100%)
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Twelve health benefit managers provided 19 responses to question 17

Ⓐ Yes, quasi-governmental agencies (bodies corporate and politic)	8 (42%)
Ⓑ Yes, state universities and colleges	8 (42%)
Ⓒ Yes, other agencies (<i>Specify</i>)	1 (5%)
Ⓓ No	2 (10%)
Ⓔ Unknown	0 (0%)

One health benefit manager provided one response to question 17C

Two state agencies	1 (100%)
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18. How does the state ensure agencies use central procurement for insurance purchases? (*Mark all that apply*)

Twenty-one risk managers provided 46 responses to question 18

Ⓐ State law	17 (37%)
Ⓑ Administrative rule	8 (17%)
Ⓒ Policy and procedure	7 (15%)
Ⓓ Other (<i>Specify</i>)	13 (28%)
Ⓔ Not applicable (state does not have centralized procurement)	0 (0%)
Ⓕ Unknown	1 (2%)

Thirteen risk managers provided 17 comments regarding question 18D

Audit process	3 (18%)
Central procurement controls	4 (24%)
Accounting system controls	4 (18%)
Risk management agency surveyed state agencies	1 (6%)
Insurance vendors know to only sell to risk management agency	1 (6%)
Coordination with insurance consultant	1 (6%)
Risk management agency advises agencies not to procure independently when agencies inquire on policy related questions	1 (6%)
Through the captive insurance program	1 (6%)
Prominence	1 (6%)

Eleven health benefit managers provided 14 responses to question 18

Ⓐ State law	10	(71%)
Ⓑ Administrative rule	3	(21%)
Ⓒ Policy and procedure	1	(7%)
Ⓓ Other (<i>Specify</i>)	0	(0%)
Ⓔ Not applicable (state does not have centralized procurement)	0	(0%)
Ⓕ Unknown	0	(0%)

19. How are insurance vendors selected? (*Mark all that apply*)

Twenty-one risk managers provided 26 responses to question 19

Ⓐ Full and open competition (using a request for proposal (RFP) or similar solicitation, public notice, etc.)	13	(50%)
Ⓑ Limited competition (using a list of pre-selected vendors)	2	(8%)
Ⓒ Sole-source	2	(8%)
Ⓓ Other (<i>Specify</i>)	9	(35%)
Ⓔ Unknown	0	(0%)

Nine risk managers provided nine comments regarding question 19D

Producer selects vendor	8	(89%)
Self-insured, no insurance vendors selected	1	(11%)

Thirteen health benefit managers provided 13 responses to question 19

Ⓐ Full and open competition (using a RFP or similar solicitation, public notice, etc.)	12	(92%)
Ⓑ Limited competition (using a list of pre-selected vendors)	0	(0%)
Ⓒ Sole-source	0	(0%)
Ⓓ Other (<i>Specify</i>)	1	(8%)
Ⓔ Unknown	0	(0%)

One health benefit manager provided one comment to question 19D

Not applicable	1	(100%)
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INSURANCE RELATED SERVICES

20. Does the state contract with providers of insurance related services such as third party administrators or pharmacy benefits managers?

Risk and health benefits managers from 21 states responded to question 20

Ⓐ Yes	17	(81%)
Ⓑ No (<i>skip to question 23</i>)	2	(10%)
Ⓒ Unknown (<i>skip to question 23</i>)	2	(10%)

21. What agency is primarily responsible for procuring insurance related services (e.g., third party administrators or pharmacy benefits managers)? (*Mark all that apply*)

Thirteen risk managers provided 17 responses to question 21

Ⓐ Risk management agency	9	(53%)
Ⓑ Central procurement agency	2	(12%)
Ⓒ Individual user agencies	1	(6%)
Ⓓ Other (<i>Specify</i>)	4	(24%)
Ⓔ Unknown	1	(6%)

Four risk managers provided four comments regarding question 21D

Other state agency	4	(100%)
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Fourteen health benefit managers provided 14 responses to question 21

Ⓐ Risk management agency	0	(0%)
Ⓑ Central procurement agency	5	(36%)
Ⓒ Individual user agencies	0	(0%)
Ⓓ Other (<i>Specify</i>)	9	(64%)
Ⓔ Unknown	0	(0%)

Nine health benefit managers provided nine comments regarding question 21D

State employee benefits/ human resources agency	9	(100%)
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22. How are insurance related services (e.g., third party administrators or pharmacy benefits managers) procured? (*Mark all that apply*)

Thirteen risk managers provided 17 responses to question 22

Ⓐ Full and open competition (using an RFP or similar solicitation, public notice, etc.)	11 (65%)
Ⓑ Limited competition (using a list of pre-selected vendors)	3 (18%)
Ⓒ Sole-source	2 (12%)
Ⓓ Other (<i>Specify</i>)	0 (0%)
Ⓔ Unknown	1 (6%)

Fourteen health benefits managers provided 16 responses to question 22

Ⓐ Full and open competition (using an RFP or similar solicitation, public notice, etc.)	14 (88%)
Ⓑ Limited competition (using a list of pre-selected vendors)	0 (0%)
Ⓒ Sole-source	2 (13%)
Ⓓ Other (<i>Specify</i>)	0 (0%)
Ⓔ Unknown	0 (0%)

23. Are there exceptions to how insurance related services are procured?

Thirteen risk managers provided 17 responses to question 23

Ⓐ Yes (<i>Specify</i>)	5 (29%)
Ⓑ No	6 (35%)
Ⓒ Unknown	6 (35%)

Five risk managers provided five comments regarding question 23A

Can sole-source under defined conditions	3 (60%)
Other	2 (40%)

Fourteen health benefit managers provided 14 responses to question 23

Ⓐ Yes (<i>Specify</i>)	8 (57%)
Ⓑ No	6 (43%)
Ⓒ Unknown	0 (0%)

Eight health benefit managers provided eight comments regarding question 23A

Can sole-source under defined conditions	4 (50%)
Sole-source through contract extension	3 (38%)
TPA services are sole-sourced	1 (13%)

INSURANCE BROKERS AND CONSULTANTS

24. Are insurance brokers or insurance consultants used by the following agencies to assist with insurance procurement, even if the agencies do not procure insurance directly? (*Mark all that apply*)

Risk and health benefit managers from 21 states provided 35 responses to question 24

Ⓐ Risk management agency	15	(43%)
Ⓑ Central procurement agency	1	(3%)
Ⓒ Individual user agencies	1	(3%)
Ⓓ Other (<i>Specify</i>)	15	(43%)
Ⓔ No, state agencies do not use insurance brokers or consultants (<i>Skip to question 27</i>)	2	(6%)
Ⓕ Unknown (<i>Skip to question 27</i>)	1	(3%)

Risk and health benefit managers provided 15 comments related to question 24D

Agency responsible for administering state employee health benefits	12	(80%)
Department of Administrative Services	1	(7%)
Regents	1	(7%)
Quasi governmental agencies	1	(7%)

25. How are insurance broker or insurance consultant services procured? (*Mark all that apply*)

Sixteen risk managers provided 17 responses to question 25

Ⓐ Full and open competition (using an RFP or similar solicitation, public notice, etc.)	14	(88%)
Ⓑ Limited competition (using a list of pre-selected vendors)	1	(6%)
Ⓒ Sole-source	2	(13%)
Ⓓ Other (<i>Specify</i>)	0	(0%)
Ⓔ Unknown	0	(0%)

Fourteen health benefit managers provided 15 responses to question 25

Ⓐ Full and open competition (using an RFP or similar solicitation, public notice, etc.)	14	(93%)
Ⓑ Limited competition (using a list of pre-selected vendors)	1	(7%)
Ⓒ Sole-source	0	(0%)
Ⓓ Other (<i>Specify</i>)	0	(0%)
Ⓔ Unknown	0	(0%)

26. Which of the following regulate how state agencies procure insurance broker or insurance consultant services? (*Mark all that apply*)

Sixteen risk managers provided 21 responses to question 26

Ⓐ State law	11	(52%)
Ⓑ Administrative rule	3	(14%)
Ⓒ Policy and procedure	3	(14%)
Ⓓ Other (<i>Specify</i>)	2	(10%)
Ⓔ None	2	(10%)
Ⓕ Unknown	0	(0%)

Two risk manager provided two comments to question 26D

Best practice	1	(50%)
Vendor agreement	1	(50%)

Fourteen health benefit managers provided 21 responses to question 26

Ⓐ State law	11	(52%)
Ⓑ Administrative rule	5	(24%)
Ⓒ Policy and procedure	3	(14%)
Ⓓ Other (<i>Specify</i>)	2	(10%)
Ⓔ None	0	(0%)
Ⓕ Unknown	0	(0%)

Two health benefit manager provided two responses to question 26D

Other formal directives	2	(100%)
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27. Are insurance brokers or insurance consultants used to assist in the following procurements? (*Mark all that apply*)

Risk and health benefit managers from 21 states provided 55 responses to question 27

Ⓐ Third party administrators	15	(27%)
Ⓑ Health insurance	12	(22%)
Ⓒ Property and causality	13	(24%)
Ⓓ Stop-loss insurance	4	(7%)
Ⓔ Other (<i>Specify</i>)	11	(20%)
Ⓕ Unknown	0	(0%)

Eleven respondents provided 19 comments regarding question 27E

Pharmacy benefits manager	3	(16%)
Actuarial	2	(11%)
Bond	2	(11%)
Dental	2	(11%)
Rail	2	(11%)
University travel	2	(11%)
Mental health	2	(11%)
Auto, marine, property, and aviation	1	(5%)
Construction	1	(5%)
Banking services	1	(5%)
Life and long-term care	1	(5%)

STATE EMPLOYEE HEALTH PLANS

28. What state agency is responsible for administering the state employee health plan?

Risk and health benefits managers from 21 states provided 21 responses to question 28

Ⓐ State risk management agency	0	(0%)
Ⓑ Human resources	12	(57%)
Ⓒ Other (<i>Specify</i>)	9	(43%)
Ⓓ Unknown	0	(0%)

Risk and health benefit managers from nine states provided nine comments regarding question 28C

Health Benefits Commission/Board	7	(78%)
Other agencies	2	(22%)

29. Is the state employee health plan self-insured?

Risk and health benefit managers from twenty states provided twenty responses to question 29

Ⓐ Yes	9	(45%)
Ⓑ No (<i>skip to final comments</i>)	5	(25%)
Ⓒ Unknown (<i>skip to final comments</i>)	0	(0%)
Six respondents stated employee health is partly self-insured and partly insured	6	(30%)

30. What services or insurance are procured to support the state's self-insured health plan? (*Mark all that apply*)

Risk and health benefit managers from 17 states provided 38 responses to question 30

Ⓐ Stop-loss insurance	4	(11%)
Ⓑ Actuarial	13	(34%)
Ⓒ Audit	11	(29%)
Ⓓ Other (<i>Specify</i>)	6	(16%)
Ⓔ None	2	(5%)
Ⓕ Unknown	2	(5%)

Six risk and health benefit managers provided nine comments regarding question 30D

Third party administrator services	4	(44%)
Monitor/review services	2	(22%)
General plan design consulting services and laboratory services	1	(11%)
Long-term care insurance and wellness program services	1	(11%)
Budget services	1	(11%)

31. How does the state regulate the self-insured health plan? (*Mark all that apply*)

Risk and health benefit managers from 17 states provided 35 responses to question 31

Ⓐ State law	12	(34%)
Ⓑ Administrative rules	8	(23%)
Ⓒ Policy and procedure	8	(23%)
Ⓓ Other (<i>Specify</i>)	4	(11%)
Ⓔ Unknown	3	(9%)

Four respondents provided six comments regarding question 31D

Applicable federal laws	3	(50%)
Best practice and industry standard	1	(17%)
Budget	1	(17%)
Federal laws self-insured programs are not required to follow	1	(17%)

FINAL COMMENTS

Twenty risk managers and fifteen health benefit managers provided the following themed comments

Quasi-governmental agencies voluntarily participate in centrally procured insurance or health benefits	9
Insurance consultants are used but not brokers for health benefit purchases	9
Risk manager not responsible for state employee health insurance	7
Procurement agency assists risk and health benefits manager with procurements	7
Procurement agency assists health benefits agency with health insurance procurements	5
Risk manager not responsible for workers' compensation	4
Other levels of government voluntarily participate in state health benefits program	3
Brokers are not used by the risk management agency	3
Apply state law to self-insured health plan even though not required to	3
Agencies independently procuring insurance coordinate with the risk management agency	2
Risk management agency has broker-type knowledge in-house	2

STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES

APPENDIX D

LBA SURVEY OF THE STATES' INSURANCE VENDORS

Notes:

- *Responses are in bold*
- *Totals may not add up to 100 percent due to rounding*
- *The number of policies reported, not respondents, is used as the denominator to calculate response percentages for multiple response questions*
- *45 surveys were mailed to insurers and 24 (53 percent) were returned*

Purpose: The purpose of this survey is to obtain information about New Hampshire State government use of producer (i.e., brokers, consultants, and agents) services. **We are primarily interested in cases where a producer was compensated to represent the interests of the State and are not interested in captive or exclusive agents.** When we refer to insurance, it is in a broad sense to include bonds and other instruments transferring risk to another entity for a fee such as commercial insurance, stop-loss insurance, and performance bonds. Related services include third party administration, pharmacy benefits management, and health maintenance organizations.

Confidentiality: Individual responses are confidential and will not be shared with parties external to our Office, including other State agencies, consistent with State law. According to New Hampshire Revised Statutes Annotated (RSA) Chapter 14:31-a, II, audit work papers, such as interviews and surveys, are not public records. However, work papers used to support our final report may be made public by majority vote of the joint Legislative Fiscal Committee after a public hearing showing proper cause. It is our policy not to name individuals specifically in our report. We ask for your name in order to track receipt of surveys and to follow-up on responses if needed. Your responses will be combined with others and may be reported as aggregate and anonymous data in our final report.

Question Format: Survey questions are open-ended or multiple-choice. Many are in table format. In the table, for each insurance policy or insurance related service you list in the left hand column please answer each question in the columns to the right. If additional space is required to list insurance policies or insurance related services, please enclose additional pages with the survey questionnaire as necessary. Space is provided at the end of the survey for additional information and comments.

Providers Of Insurance And Insurance Related Services: In column one, individually list each insurance policy or insurance related service contract with the State of New Hampshire *where producer services were involved* between July 1, 1997 and June 30, 2005, inclusive. For each contract, please answer questions two through six. Two pages of this table are provided for use as needed, if additional space is required please attach additional pages.

1. Producer involved insurance and insurance related contracts:

Fifteen respondents provided 74 responses to question 1

Specific Producer Named	42	(55%)
Policy Number Provided	19	(25%)
Specific Insurance Type Listed	13	(17%)
Not Applicable	2	(3%)

2. State agency procuring insurance or insurance related services:

Fifteen respondents provided 76 responses to question 2

Bureau of Risk Management	8	(11%)
Department of Administrative Services	27	(36%)
State of New Hampshire	12	(16%)
Other State Agency	27	(36%)
Other	2	(3%)

3. Type of producer service provided to State agency: *(Mark all that apply)***Fifteen respondents provided 82 responses to question 3**

(A) Broker	38	(46%)
(B) Agent <i>(Excluding captive/exclusive)</i>	38	(46%)
(C) Consultant	1	(1%)
(D) Other: _____	5	(6%)

Two respondents provided five comments to question 3D

Managing general agent	2	(40%)
Specific producer named	3	(60%)

4. Total cost of insurance policy or insurance related service contract:

Fifteen respondents provided 74 responses to question 4

Policy is \$4,999 or under	10	(14%)
Policy is between \$5,000 and \$34,999	15	(20%)
Policy is \$35,000 or over	47	(64%)
Policy value is unknown	2	(3%)

5. Insurance or insurance related service contract period.

Fifteen respondents provided 76 responses to question 5

Annual contract period	34	(45%)
Multiple year contract period	30	(39%)
Other	12	(16%)

6. Compensation paid to producer by insurance or insurance related service provider: *(Mark all that apply)***Fourteen respondents provided 72 responses to question 6**

Ⓐ Broker \$ _____	36	(50%)
Ⓑ Agent \$ _____	33	(46%)
Ⓒ Consultant \$ _____	1	(1%)
Ⓓ Other: \$ _____	2	(3%)

Eight respondents provided 36 values for question 6A

Compensation reported is 0.99% or less of policy cost	20	(56%)
Compensation reported is between 1 and 9.99% of policy cost	0	(0%)
Compensation reported is between 10 and 19.99% of policy cost	11	(31%)
Compensation reported is 20% or more of policy cost	3	(8%)
Compensation unknown	2	(6%)

Eight respondents provided 34 responses for question 6B

Compensation reported is 0.99% or less of policy cost	0	(0%)
Compensation reported is between 1 and 9.99% of policy cost	0	(0%)
Compensation reported is between 10 and 19.99% of policy cost	17	(50%)
Compensation reported is 20% or more of policy cost	16	(47%)
Compensation is unknown	1	(3%)

One respondent provided one value for question 6C

Compensation is unknown	1	(100%)
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One respondent provided two values for question 6D

Compensation reported is 0.99% or less of policy cost	0	(0%)
Compensation reported is between 1 and 9.99% of policy cost	0	(0%)
Compensation reported is between 10 and 19.99% of policy cost	0	(0%)
Compensation reported is 20% or more of policy cost	2	(100%)

Final Comments

Provide any additional comments. (Please attach additional pages if necessary)

Two respondents provided the following comments

Commission is a one time fee based on a percentage of the policy premium	1
Respondent reported no commission is paid directly to the State	1

STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES

APPENDIX E

LBA SURVEY OF THE STATES' INSURANCE PRODUCERS

Notes:

- *Responses are in bold*
- *Totals may not add up to 100 percent due to rounding*
- *The number of policies reported, not respondents, is used as the denominator to calculate response percentages for multiple response questions*
- *28 surveys were mailed to producers and 20 (71 percent) were returned*

Purpose: The purpose of this survey is to obtain information about New Hampshire State government use of producer (i.e., brokers, consultants, and agents) services. We are primarily interested in cases where a producer was compensated to represent the interests of the State and are not interested in captive or exclusive agents. When we refer to insurance, it is in a broad sense to include bonds and other instruments transferring risk to another entity for a fee such as commercial insurance, stop-loss insurance, and performance bonds. Related services include third party administration, pharmacy benefits management, and health maintenance organizations.

Confidentiality: Individual responses are confidential and will not be shared with parties external to our Office, including other State agencies, consistent with State law. According to New Hampshire Revised Statutes Annotated (RSA) Chapter 14:31-a, II, audit work papers, such as interviews and surveys, are not public records. However, work papers used to support our final report may be made public by majority vote of the joint Legislative Fiscal Committee after a public hearing showing proper cause. It is our policy not to name individuals specifically in our report. We ask for your name in order to track receipt of surveys and to follow-up on responses if needed. Your responses will be combined with others and may be reported as aggregate and anonymous data in our final report.

Question Format: Survey questions are open-ended or multiple-choice. Many are in table format. In the table, for each insurance policy or insurance related service you list in the left hand column please answer each question in the columns to the right. If additional space is required to list insurance policies or insurance related services, please enclose additional pages with the survey questionnaire as necessary. Space is provided at the end of the survey for additional information and comments.

Providers Of Producer Services (Agent, excluding captive or exclusive agents; Broker; and Consultant): In question one, individually list each insurance policy or insurance related service contract with the State of New Hampshire where producer services were involved between July 1, 1997 and June 30, 2005, inclusive. For each contract, please answer questions two through ten. Four pages of this table are provided for use as needed, with spaces on each page for responses related to two contracts. If additional space is required please attach additional pages.

1. Insurance or insurance related service for which you provided producer services:

Nineteen respondents provided 76 responses to question 1

Property Insurance	26	(34%)
Liability Insurance	32	(42%)
Employee Benefit	8	(11%)
Other	10	(13%)

2. Contract period:

Nineteen respondents provided 76 responses to question 2

Annual contract period	50	(66%)
Multiple year contract period	20	(26%)
Unknown	4	(5%)
Other	2	(3%)

3. State agency procuring the insurance or insurance related services:

Nineteen respondents provided 76 responses to question 3

Other State Agency	36	(47%)
Bureau of Risk Management (BRM)	13	(17%)
Other Entity	12	(16%)
Department of Administrative Services (DAS), not BRM	10	(13%)
Unknown	5	(7%)

4. Producer service provider reported to: *(Mark all that apply)*

Nineteen respondents provided 77 responses to question 4

Ⓐ State employee <i>(Specify)</i> _____	18	(23%)
Ⓑ Other <i>(Explain)</i> _____	34	(44%)
Ⓒ Unknown	25	(32%)

Eight respondents provided 17 comments to question 4A

BRM Employee	9	(53%)
DAS Employee, Not employed by BRM	4	(24%)
NH Insurance Department	3	(18%)
Other	1	(6%)

Five respondents provided 30 comments to question 4B

BRM	23	(77%)
Agent	3	(10%)
Broker	2	(7%)
Division of Personnel	1	(3%)
Other	1	(3%)

5. What type of producer services were provided to the agency? *(Mark all that apply)*

Twelve respondents provided 72 responses to question 5

Ⓐ Broker	10	(14%)
Ⓑ Agent <i>(Excluding captive/exclusive)</i>	61	(85%)
Ⓒ Consultant	1	(1%)
Ⓓ Other: _____	0	(0%)

6. What method was used to select producer services?

Twelve respondents provided 72 responses to question 6

Ⓐ Competitive bid with RFP	38	(53%)
Ⓑ Limited competition <i>(Only few eligible vendors solicited)</i>	4	(6%)
Ⓒ Sole-source	2	(3%)
Ⓓ Unknown	16	(22%)
Ⓔ Other: _____	12	(17%)

Two respondents provided ten comments to question 6E

Renewal	9	(90%)
Long-term relationship	1	(10%)

7. Total cost of insurance policy or insurance related service contract:

Twelve respondents provided 69 responses to question 7

Policy is \$4,999 or under	13	(19%)
Policy is between \$5,000 and \$34,999	26	(38%)
Policy is \$35,000 or over	22	(32%)
Policy value is unknown	8	(12%)

8. Annual producer compensation received:

Twelve respondents provided 71 responses to question 8

Compensation reported is 4.99% or less of policy cost	1	(1%)
Compensation reported is between 5 and 9.99% of policy cost	1	(1%)

Compensation reported is between 10 and 14.99% of policy cost	21	(30%)
Compensation reported is between 15 and 19.99% of policy cost	23	(32%)
Compensation reported is between 20 and 24.99% of policy cost	13	(18%)
Compensation reported is 25% or more of policy cost	2	(3%)
Compensation is unknown	10	(14%)

9. Producer service provider reported to: *(Mark all that apply)*

Eleven respondents provided 76 responses to question 9

Ⓐ State directly	1	(1%)
Ⓑ Insurance carrier	72	(95%)
Ⓒ Unknown	0	(0%)
Ⓓ Other: _____	3	(4%)

One respondent provided three comments to question 9D

Retailer	3	(100%)
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10. Producer service provider reported to: *(Mark all that apply)*

Eleven respondents provided 76 responses to question 10

Ⓐ Percent of premium	73	(96%)
Ⓑ Performance measures	1	(1%)
Ⓒ Services provided	1	(1%)
Ⓓ Supplemental contingent fees	0	(0%)
Ⓔ Unknown	1	(1%)
Ⓕ Other: _____	0	(0%)

Final Comments

11. Provide any additional comments. (Please attach additional pages if necessary)

Five respondents provided the following comments

Respondent reported being unaware of providing any services to the State	3
Respondent criticized the State's bidding process	1
Respondent commented they would appreciate more business from the State	1

Thank you for your assistance.

**STATE OF NEW HAMPSHIRE
INSURANCE PROCUREMENT PRACTICES**

APPENDIX F

CURRENT STATUS OF PRIOR AUDIT FINDINGS

The following is a summary of the status of the Observations related to the State’s insurance procurement practices contained in prior audit reports. Related Observations are contained in our:

- *Property And Casualty Loss Control Program, Performance Audit Report, November 1993;*
- *Workers’ Compensation Program For State Employees, Performance Audit Report, January 1993;*
- *Department Of Administrative Services Audit Report For The Year Ended June 30, 1993;*
- *Department Of Administrative Services Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2003; and*
- *Employee Benefit Fund Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2004.*

Copies of prior audits can be obtained from the Office of Legislative Budget Assistant, Audit Division, 107 North Main Street, State House, Room 102, Concord, NH 03301-4906.

Our Property and Casualty Loss Control Program, Performance Audit Report, November 1993, contains 18 Observations related to the operation of the State’s risk management program which are related to our current audit.

<u>No.</u>	<u>Title</u>	<u>STATUS</u>		
1.	Inadequate Program Data Maintained	●	○	○
2.	Lack Of Written Operating Policies And Procedures	○	○	○
3.	Loss Prevention Guidelines Have Not Been Developed	○	○	○
4.	No Policy Statement Regarding Risk Management	○	○	○
5.	Board Of Approval Should Be Abolished	●	●	●
6.	Lack Of Coordination Among Bureau Of Risk Management, Board Of Approval, Board Of Claims, And Department Of Justice	●	○	○
7.	Board Of Claims Process Should Be Strengthened	○	○	○

<u>Status Key:</u>			
Fully Resolved	●	●	●
Substantially Resolve	●	●	○
Partially Resolved	●	○	○
Unresolved	○	○	○

8. No Identification Of Loss Exposure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
9. No Evaluation Of The Frequency And Severity Of Risk	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
10. State Administration Of Commercial Insurance Contracts Is Inefficient	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
11. Inadequate Monitoring Of Commercial Insurance Contracts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
12. No Comprehensive Program For Competitively Bidding Insurance Coverage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
13. No Comprehensive Risk Reduction Program	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
14. Noncompliance With Fleet Automobile Insurance Contract	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
15. Defensive Driving Course Is Not Competitively Bid	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
16. Inadequate State Monitoring Of Defensive Driving Course	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
17. Bureau Of Risk Management Should Be Merged With The Workers' Compensation Commission	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
18. Coordination Between The Bureau Of Risk Management And State Agencies Is Insufficient	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Our Workers' Compensation Program For State Employees, Performance Audit Report, January 1993, contains two Observations related to our current audit.

<u>No.</u>	<u>Title</u>	<u>STATUS</u>		
2.	Operating Policies And Procedures	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
13.	Noncompliance With State Purchasing Rules	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Our Department of Administrative Services Audit Report For The Year Ended June 30, 1993 contains one Observation related to our current audit.

<u>No.</u>	<u>Title</u>	<u>STATUS</u>		
19.	Expired Administrative Rules	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Status Key:			
Fully Resolved	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
Substantially Resolve	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Partially Resolved	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unresolved	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Our Department of Administrative Services Financial and Compliance Audit Report For The Fiscal Year Ended June 30, 2003, contains two Observations related our current audit.

<u>No.</u>	<u>Title</u>	<u>STATUS</u>		
1.	The Department Should Establish Formal Risk Assessment Policies And Procedures	●	○	○
25.	Required Administrative Rules Should Be Adopted	●	○	○

Our Employee Benefit Fund Financial And Compliance Audit Report For The Fiscal Year Ended June 30, 2004, contains 14 Observations related to DAS management of employee health benefits related to our current audit.

<u>No.</u>	<u>Title</u>	<u>STATUS</u>		
1.	The State's Self-Funded Employee Health Benefits Program Was Not Effectively Administered During Fiscal Year 2004	○	○	○
2.	Greater Understanding Of Contracted Operations Is Needed	●	○	○
3.	Summary Plan Descriptions Must Be Current	○	○	○
4.	Organization Structure And Policies And Procedures Should Be Established For Department Involvement In Claims Coverage Determinations	○	○	○
7.	Formal Risk Assessment Policies And Procedures Should Be Established For The Operation Of The Health Benefits Plan	●	○	○
8.	HIPAA Compliance Policies And Procedures Must Be Established	○	○	○
9.	Policies And Procedures Should Be Established For COBRA Billings	●	●	○
11.	Policies And Procedures Should Be Established To Ensure Only Eligible Dependents Of Active Employees Are Provided Plan Coverage	●	○	○
12.	Controls Must Be Established To Ensure The Retiree Eligibility Data Remains Current And Accurate	○	○	○

<u>Status Key:</u>			
Fully Resolved	●	●	●
Substantially Resolve	●	●	○
Partially Resolved	●	○	○
Unresolved	○	○	○

- 13. Policies And Procedures Should Be Established To Ensure Only Eligible Dependents Of Retirees Are Provided Plan Coverage
- 16. Implementation Reports On State Employee Self-Funded Health Plan Should Be Submitted In A Timely Manner
- 17. Policies And Procedures Should Be Established To Effectively Monitor And Administer Ancillary Health Benefits
- 18. Only Statutorily Authorized Groups Should Participate In The Health Benefits Plan
- 19. Issues Raised During Contracted Claims Audit And Operational Review Should Be Resolved

Status Key:			
Fully Resolved	●	●	●
Substantially Resolved	●	●	○
Partially Resolved	●	○	○
Unresolved	○	○	○