

## **RISK MANAGEMENT ADVISORY COMMITTEE (RMAC)**

Meeting Minutes  
September 10, 2018

A meeting of the state Risk Management Advisory Committee was held on this date in the LBJ Building, Conference Room #155, 650 W. State Street, Boise, Idaho. Chairman Geddes called the meeting to order at 1:30 p.m.

### **Members Present:**

Robert L. Geddes, Director, Department of Administration and Committee Chair

Faith Cox, Statewide Risk Manager, Office of Risk Management (ORM)

Travis McGrath, Chief Operations Officer, Idaho Transportation Department

Henry Atencio, Director, Department of Correction

Theresa Chrisman, Assistant to the VP for Finance and Administration, Lewis-Clark State College (via conference call)

Representative John Gannon

### **Absent and Excused:**

Senator Dean Mortimer

### **Others Present:**

Keith Reynolds, Deputy Director and CFO, Department of Administration

Tony Eldeen, Analyst, Division of Financial Management

Kris Coffman, Risk Management Program Supervisor, ORM

Max George, Claims Technician, ORM

Kristie Fields, Technical Records Specialist, ORM

Colleen Tarlas, Claims Technician, ORM

Tim Erickson, Claims Adjudicator, ORM

Diane Blume, Program Specialist, Department of Administration

## **APPROVAL OF MINUTES**

**MOTION: Mr. Atencio moved, and it was seconded by Mr. McGrath that the minutes of the May 29, 2018 Risk Management Advisory Committee meeting be adopted as written. The motion passed unanimously.**

## **FINANCIAL REVIEW**

### **Premium Allocations and Methodology**

Mr. Reynolds asked the committee to consider continuing the methodology currently in place for premium allocations.

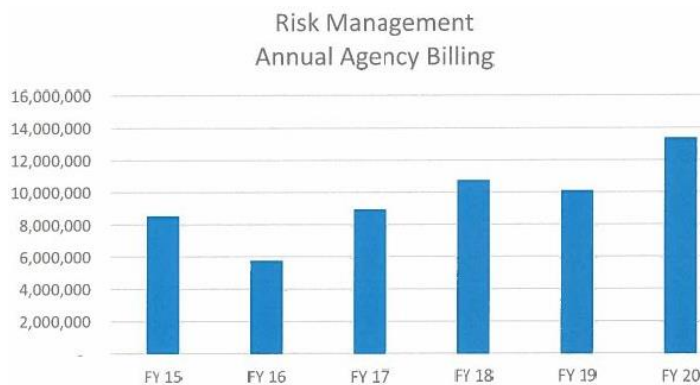
Premiums are set by line of coverage, he explained, to satisfy reporting requirements of the federal government that moneys collected are allocated specifically to each line. Over the past six years, premiums have been set with the target of maintaining a cash reserve equal to the estimated unpaid losses, or total liability, he explained. That amount is calculated annually by the state's third-party actuary, Towers Watson, and represents the state's estimated liability for known claims as well as future unknown claims.

Estimated premiums for liability coverage has risen due to an increase in claims against the state. In addition, there was a recent case which resulted in a judgement for \$1.5 million against the state. This judgement is being appealed, but it had a large impact on estimated unpaid losses, he said. Comparative losses went from \$9.6 million in FY19 to \$11.4 million in FY20. Compounded with that, he continued, agency receipts for FY19 are \$2.9 million which is quite a bit less than projected claims expense. At the time the premium level was set, it was expected there would be an excess reserve balance, so premiums were reduced to draw down the reserve. Consequently, agency receipts are going from \$2.9 million in FY19 to \$6.7 million in FY20 to make up for under-collecting, under-reserving, and in anticipation of increases in future claims.

Although liability billings will increase by \$3.8 million in FY20, considering all lines of coverage, the average increase in agency premiums is 33%. This is because the property line of coverage decreased significantly due to the efforts of Ms. Cox in reducing the state's premium charge paid to its outside insurance company, he said. Further, the department deviated a bit from its typical cyber liability model because the state's insurance policy has a million-dollar deductible and our actuary estimated a reserve quite a bit lower. The actuary recommended, and the committee approved the premium be set based on the premium paid to the state's outside insurer, estimated losses, and \$333,000 in additional reserves to build up a million-dollar reserve level.

A two-year build-up of the reserve was considered, but dismissed, he said, because the 3-year method takes advantage of the actuarial estimate making sure there is no subjectivity involved. There was also the fear that if the data was smoothed the state may not collect enough, have another bad year, and end up in a worse position. The Division of Financial Management was in favor of keeping the same methodology but suggested the issue be taken to this committee for consideration.

Finally, he distributed a graph to show the impact of annual agency billings over the last six years. He said the rate increases are tied in part to some large whistleblower claims and the "Me Too" movement. He said he anticipates the rates to return to a more level rate.



**MOTION:** Mr. McGrath moved, and Representative Gannon seconded that the committee approve the continued use of current methodology in the establishment of reserves. The motion passed unanimously.

**UPDATE FROM STATEWIDE RISK MANAGER**

**July Renewals**

FY19 coverage has been put in place for Property, Boiler/Machinery, stand-alone Terrorism, Out-of-State Workers Compensation, Cyber Liability, and Employee Bond/Crime, Ms. Cox explained. Total insured values for renewal increased by 11%. Property values went up from \$7.3 billion to \$8.2 billion, largely due to the acquisition of the Chinden Campus; nevertheless, premiums only went up from \$3.3 million to \$3.5 million, she said. In part, this was due to the negotiation of a stand-alone terrorism policy that was \$55,000 less.

### **FY19 Claim Results**

In FY17, she pointed-out, there are 1,083 total claims to date and in FY18 there are 878. This is a snap shot in time comparing numbers in 6/30/17 versus 6/30/18. Liability claims went down in FY18 from 443 to 239. Many of the liability claims in FY17 were pothole claims during the prior harsh winter weather. Those type of claims are not covered by the state. Of the 443 claims in FY17, only 3 ended up in litigation; however, of the 359 claims in FY18, 14 are in litigation. She suggested that because of some recent large awards to whistleblower claims, attorneys are not waiting to file lawsuits. This has significantly increased the state's litigation costs. Typically, litigation rates are about .5% but for FY18 they are 4%.

Auto liability has decreased, she continued, and cyber liability has remained constant with one claim in each FY17 and FY18. Property claims are way down going from \$2.19 million paid out in FY17 to \$809,174 in FY18. Boiler/machinery claims are also down and there were no claims for employee bond/crime for either year. Auto physical damage has remained constant and Inland Marine claims were down, as well. In summary, overall claims experience is good except for the liability line of coverage.

### **Liability Trends**

There has been an increase in whistleblower claims, she reported. The intent of these type of claims is to report waste by an employee in a protected activity; however, District Courts are determining that any sort of activity reported is protected. There have been several of these claims recently and they very difficult to defend, she said. The judgement for one such claim was for \$1.5 million. The state asked that the amount be reduced to the \$500,000 tort claim cap, but the judge subsequently split the amount and awarded \$1 million, ruling two occurrences. This case is currently being considered at the Supreme Court. This and other cases, now at the Supreme Court, could set precedent and have a significant impact on the state.

Another issue the Supreme Court is considering is statute of limitations. With the "Me Too" movement there have been several claims surface from past juvenile correction inmates, she said. Minors must report within a certain timeframe but several claims have made it to the Supreme Court that were reported outside that timeframe.

Representative Gannon inquired about the extent of employee actions that are covered by the state's risk insurance. Ms. Cox responded that if a claim is made toward an employee, the state will defend that employee until such a time when the state becomes aware the employee was engaged in illegal activity or the employee acted outside the course and scope of their job.

### **New Auto Property Damage Deductible**

The new auto property damage deductible was implemented in July, she reported. Since, staff as received inquiries from many agencies that want to learn about safety programs and why the claims are occurring in the first place. Another recent change was increase of the rental car deductible to \$2,500 if agencies rent outside the Enterprise contract. This contract was negotiated to provide coverage for property damage and liability. Some agencies rent cars outside of the

contract which imposes a huge exposure to the state, she explained. By the next meeting, she said, she will have some figures to report on the effects of these new policies.

### **New Risk IT System (RMIS) RFP**

Ms. Cox thanked the committee for supporting a new IT system. The current one is so antiquated it is difficult to extract information. Larger agencies will be involved in its design to offer feedback on their needs as users, she said.

### **June Claims Litigation Seminar**

There were over 90 attendees at Risk Management's June Litigation Seminar, she reported. Speakers offered an introduction to some of the litigation strategies currently being encountered such as the Reptile Theory. Subsequently, the Attorney General's Office offered a more in-depth seminar with instruction how to defend against some of those strategies.

### **Upcoming October 23<sup>rd</sup> All-Agency Training**

She distributed the agenda for the upcoming all-agency training and explained that based on direction from this committee, the top six priorities will be addressed, as follows:

- The Idaho Human Rights Commission Process, What an Agency Should Expect  
*Benjamin Earwicker, IHRC Administrator*
- Idaho Cyber Coverage What's Covered, What's Not? What to do when a Loss Occurs  
*Faith Cox, Statewide Risk Manager along with a Representative of the Office of Information Technology Services*
- How to Decrease your Workers Compensation Costs  
*Jennifer Reyment, State Insurance Fund*
- How to Start an Auto Safety Program  
*Jim Smith, Arthur J. Gallagher*
- Risk Management 101 – Best Practices when Working with Risk Management  
*Risk Staff*
- Idaho Claims Trends-How to Keep your Agency Out of Trouble  
*Faith Cox, Statewide Risk Manager*

Chairman Geddes suggested members of the advisory committee attend this training. Ms. Cox noted the session will be videotaped and available on the Risk Management website.

### **State Risk Insurance Management Association (STRIMA) 2020 Conference**

The state of Idaho will host the STRIMA conference in September of 2020, she explained. This week-long event will be a huge undertaking for staff, as typically there are about 300 attendees.

## **PROPOSED 2019 MEETING SCHEDULE**

The following dates were proposed for the upcoming RMAC meeting:

Tuesday, January 15<sup>th</sup> at 1:30 pm

Tuesday, May 14<sup>th</sup>, 1:30 pm

Tuesday, September 17<sup>th</sup>, 1:30 pm

## **ADJOURNMENT**

**Representative Gannon moved, and Mr. Atencio seconded that the Risk Management Advisory Committee be adjourned 2:15 pm. The motion passed unanimously.**

A handwritten signature in cursive script that reads "Diane K. Blume".

Diane K. Blume, Program Specialist  
Department of Administration