



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

January 26, 2016

TO: Chris Liu, Director
Department of Enterprise Services

FROM: David Schumacher
Director

SUBJECT: REVIEW OF PROGRAMS AND SERVICES AT DEPARTMENT OF ENTERPRISE SERVICES – MOTOR VEHICLE CLAIMS PROCESSING THROUGH RESOLUTION

RCW 43.19.008(5) directs the Office of Financial Management (OFM) to conduct a review of the programs and services performed by the Department of Enterprise Services (DES) to determine whether a program or service may be performed by the private sector in a more cost-efficient and effective manner than being performed by the department. Up to six activities and services may be selected by OFM each biennium for this review. In conducting its review, OFM is authorized to break programs into discrete services or activities or the programs may be reviewed as a whole. However, priority for selection must be given to agency activities or services that are significant, ongoing functions.

In February 2014, OFM selected four activities for the 2013-15 biennium, one of which was “motor vehicle claims processing through resolution” (motor vehicle claims). For each selected activity, DES must conduct a procurement process. If OFM determines through the results of the procurement process that the activity or service could be provided by the private sector at a reduced cost and with greater efficiency, DES may proceed with the contract.

Based on our analysis of the DES motor vehicle claims procurement process, which is attached for your reference, we cannot definitively conclude that the service can be provided at a reduced cost and with greater efficiency. However, based on variables in the response to the procurement and other related factors, OFM has determined that the private sector may be able to provide the service at a reduced cost and with greater efficiency.

Although OFM does not recommend that DES contract out the entire motor vehicle claims processing service based on the limited information received from the procurement, OFM does recommend that DES enter into a contract for the services for up to 50 percent of the motor vehicle claims to test the accuracy of the bid response and determine whether the service can be provided at both a reduced cost and with greater efficiency. For this pilot project, care should be given so that the claims provided to the vendor are comparable to those that will be processed by DES staff. In doing so, OFM will develop performance measures that will measure the cost and efficiency, as detailed in the analysis, for both the vendor and DES employees. In that way, we can definitively learn whether the service of motor vehicle claims processing through resolution should be contracted out, not contracted out, or some combination.

Chris Liu, Director
January 26, 2016
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If you have any questions, please contact Roselyn Marcus, OFM Assistant Director for Legal and Legislative Affairs, at (360) 902-0434 or Roselyn.marcus@ofm.wa.gov, or Cheri Keller, Senior Budget Assistant, at (360) 902-0563 or cheri.keller@ofm.wa.gov.

Attachment

cc: David Postman, Chief of Staff, Office of the Governor
Tracy Guerin, Deputy Director, OFM
Roselyn Marcus, Assistant Director for Legal and Legislative Affairs, OFM
Cheri Keller, Senior Budget Assistant, OFM



STATE OF WASHINGTON

OFFICE OF FINANCIAL MANAGEMENT

Insurance Building, PO Box 43113 • Olympia, Washington 98504-3113 • (360) 902-0555

January 25, 2016

TO: David Schumacher
Director

FROM: Roselyn Marcus *R. Marcus*
Assistant Director for Legal and Legislative Affairs

**SUBJECT: REVIEW OF PROGRAMS AND SERVICES AT DEPARTMENT OF
ENTERPRISE SERVICES – MOTOR VEHICLE CLAIMS PROCESSING
THROUGH RESOLUTION**

RCW 43.19.008(5) directs the Office of Financial Management (OFM) to conduct a review of the programs and services performed by the Department of Enterprise Services (DES) to determine whether a program or service may be performed by the private sector in a more cost-efficient and effective manner than being performed by the department. Up to six activities and services may be selected by OFM each biennium for this review. In conducting its review, OFM is authorized to break programs into discrete services or activities or the programs may be reviewed as a whole. However, priority for selection must be given to agency activities or services that are significant, ongoing functions.

In February 2014, OFM selected four activities for the 2013-15 biennium review, one of which was "motor vehicle claims processing through resolution" (motor vehicle claims). For each selected activity, DES must conduct a procurement process. If OFM determines through the results of the procurement process that the activity or service could be provided by the private sector at a reduced cost and with greater efficiency, DES may proceed with the contract.

Based upon the analysis of the DES motor vehicle claims procurement process, I cannot definitively conclude that the service can be provided at a reduced cost and with greater efficiency. The bid response, if accurate, indicates that there is a good probability that the private sector may be able to provide the service at a reduced cost and with greater efficiency. To validate that conclusion, a pilot project would need to be conducted.

Although I do not recommend that DES contract out the motor vehicle claims processing service based on the limited information received in the procurement process, I do recommend that DES enter into a contract with the apparently successful vendor to provide motor vehicle claims processing services for up to 50 percent of the motor vehicle claims. DES should develop a system to provide comparable claims to the vendor and DES staff. This pilot project would then provide additional information that can be used to determine whether the service can be provided at both a reduced cost and with greater efficiency. In conducting this pilot project, OFM should develop performance measures to determine the cost and efficiency, as detailed in the analysis, for both the vendor and DES employees. In that

way, we can definitively learn whether the motor vehicle claims processing through resolution service should be contracted out, not contracted out or some combination.

Background

The DES Office of Risk Management (ORM) administers the Self-Insurance Liability Program (Program). Individuals who have been harmed or who have suffered a loss as a result of negligent actions by a state employee or agency can submit a tort claim to ORM. Chapter 4.92 RCW requires ORM to receive and process these claims. Under RCW 4.92.210, ORM must review, investigate and determine the state's liability for the claimed injuries. It then compensates claimants for damages or negotiates a settlement when liability is supported by the evidence. Approved claims are paid out of the Program, specifically the self-insurance revolving account, which is funded by premiums assessed on state agencies. The premium for each agency is based on the agency's loss history.

ORM also may deny claims when it determines that liability is unsupported by the evidence. After a denial, claimants may file a lawsuit against the state in a court of competent jurisdiction. All claims that result in a lawsuit must be forwarded to the Attorney General's Office (AGO). The AGO will represent the agency named in the action and must collaborate with ORM in the investigation, denial, or settlement of the claim as provided in RCW 4.92.210.

ORM is required to maintain a centralized claim tracking system to provide agencies with accurate and timely data on the status of tort claims. This system must include all information related to each claim filed with ORM, from inception through resolution. The data in the claims tracking system, other than the information submitted on the claim form, are privileged and confidential. Currently, ORM uses the iVOS system (electronic records system) for the centralized claim tracking system.

Motor Vehicle Claims Processing through Resolution Activity

Claims resulting from automobile accidents can arise in one of two ways: accidents where the state employee is at fault and accidents resulting in damages to state vehicles when the other party is at fault. For accidents where the state employee is at fault, the claim must be filed with ORM. ORM has delegated authority to the Washington State Department of Transportation (WSDOT) to conduct investigations for claims involving its vehicles and employees. For claims involving accidents for all other agencies¹, ORM handles the claims from inception to resolution. There are approximately 200 claims filed in this category each fiscal year.

Claims also arise when a state vehicle is damaged by another person, not the fault of the state employee. In those cases, the state (ORM) seeks to recover from the responsible person the cost of the damage to the state vehicle. ORM determined that the recovery rate for damages was low. To improve the state's recovery rate, ORM contracted with the private sector (CEI) to recover damages to state vehicles. Since 2012, CEI has been assigned 1,174 claims and recovered from 962 claims, for a net recovery to state agencies of \$1,562,706.28, which is 70.6 percent of the loss suffered.

¹ The University of Washington handles its own claims processing for accidents involving its vehicles or employees.

Office of Risk Management Operations

In addition to administering the Self-Insurance Liability Program, ORM also manages the Risk Financing Program. This program procures and manages all the commercial insurance purchased on behalf of the state and individual state agencies, including property insurance, marine insurance, and excess insurance. ORM also provides loss prevention services and administers the Loss Prevention Review Team Program. Finally, ORM has the regulatory function of providing oversight of joint self-insured local government property and liability programs, as well as individual and joint self-insured local government employee health and welfare benefit programs.

ORM comprises 15.37 FTEs to perform the work for all of the above-referenced functions. All staff members are located at DES headquarters at 1500 Jefferson Street, Olympia, except for the employee who oversees the regulatory function. She is located in Moses Lake, closer to the plans she oversees. The WSDOT tort claims unit comprises 6.5 FTEs, 3.2 of whom process motor vehicle claims related to WSDOT vehicles.

In addition to the ordinary costs of maintaining staff in an office environment, ORM maintains the centralized claims tracking system (iVOS system) but is working on a replacement of this system. Other contracts include an interagency agreement with the AGO for services related to tort claims and lawsuits (\$23 million for the biennium), actuarial services, and the contract with CEI for recovery of damages. The CEI contract provides for compensation as a percentage of the funds recovered.

ORM is funded primarily by premiums paid by state agencies. Premiums are determined based on the agency's loss history. In addition, the oversight program is funded by fees charged to the regulated entities. The total budget for ORM is approximately \$14 million per biennium.

DES Request for Quotes and Qualifications

DES conducted a competitive solicitation through the use of a Request for Quotes and Qualifications (RFQQ). The RFQQ details the process and performance expectations of the contractor. Services in the RFQQ included, but were not limited to, conducting an initial investigation, evaluating the claim and the exposure of the state related to the claim, setting appropriate reserves in the state's self-insured retention fund, and working with claimants and claimants' counsel to resolve the claim.

The RFQQ was issued via the Washington Electronic Business Solutions system on April 22, 2015. The solicitation was issued to 1,818 vendors of which 394 were small businesses or those owned by a woman, minority, or veteran. Two amendments were posted to extend the bid due date and to answer questions raised at the May 5, 2015, pre-bid conference. Responses were due on May 22, 2015. Despite this broad outreach, DES received only two responses: Hugh Claims Management, LLC and Partners Claim Services, Inc.

The responses were scored by an evaluation team composed of representatives from ORM, WSDOT, and the Washington State Patrol. A representative from the Department of Social and Health Services withdrew from the evaluation team due to a conflict of interest.

The responses were scored on non-cost factors (700 points) and cost factors (300 points) for a total of 1,000 points. Non-cost factors included the vendors' experience level, approach for customer service

and quality assurance, approach for meeting the key requirements, performance measures, and references. Cost factors included a rate per claim for bodily injury, rate per claim for property damage, and an hourly rate for services. Bidders were allowed to submit rates for additional services, including appraisals, medical records, expert opinions, and salvage.

After the two responses were reviewed and evaluated for non-cost and cost factors, Partners Claim Services, Inc. (Partners) received the highest score and would be the apparently successful vendor if a contract is to be awarded.

Evaluation of Efficiencies

For motor vehicle claims processing through resolution, ORM receives the claim, inputs the data into iVOS (the centralized claims tracking system), evaluates the claim and sets the reserve requirement, investigates the claim, and either denies it or tries to settle the claim without litigation. If the services were to be contracted, ORM would still need to receive and review each claim and input the data in iVOS. The contractor would receive the claim through iVOS and perform the remaining tasks up to actual payment of the claim. If a claim is settled, the payment would still be processed through DES.

In looking at efficiencies, a key measure is the duration to close a claim. Claims can be divided into those with bodily injuries² and those with only personal property damage. Based on fiscal year 2015 data, the claims duration rate for ORM and WSDOT is as follows:

| Agency | Claim Type | Average Number of Days to Close | Range of Duration |
|--------|-------------------|---------------------------------|-------------------|
| ORM | Bodily Injury | 118 days | 2 - 372 days |
| WSDOT | Bodily Injury | 101 days | 9 - 315 days |
| ORM | Personal Property | 52 days | 3 - 306 days |
| WSDOT | Personal Property | 51 days | 2 - 297 days |

Partners responded that its average time to close claims is as follows:

- Property claims – 13.5 days
- Bodily injury claims – ranges from 90 to 120 days.

Based on the responses, it would appear that Partners can close claims more quickly than either ORM or WSDOT. Until the work is actually done, we cannot verify that this efficiency can be reached. However, it appears there is a potential for claims to be closed faster.

From the bid, you can glean several reasons for this greater efficiency.

- Partners' staff are available "24 hours a day, seven days a week to respond to claims." ORM staff are available during regular state working hours. Many ORM staff are overtime eligible, and are therefore unable to work more than 40 hours a week without the agency incurring overtime costs.

² Bodily injury claims traditionally take a longer time to investigate and ultimately settle.

- Partners' operations are nationwide. It has a wide variety of services in place to assist in the investigation and evaluation of claims, namely a "strategic network of highly experienced and trusted independent adjusters and experts." This is not available from ORM.
- Partners' staff appears to have greater experience and expertise than the state staff conducting this same work. This may be due to the relatively low state salary range for the classifications for the ORM staff members who perform the claims investigation work.

Evaluation of Cost

If the service were completely contracted out, there would still be costs to ORM related to the service. ORM would still need to maintain the centralized claims tracking system³. In addition, ORM would still need to review the claims as they are received and input the initial data in the system before passing the claim on to the contractor. ORM would need to coordinate with the contractor through resolution and pay the final settlement, if any.

In addition, given the structure of ORM, the work on vehicle claims is spread among 10 employees, but totals only about 1.2 FTE. See Table 1 below for a breakdown of staff members who work on these claims.

Table 1: Risk Management Operations FY 2015 FTEs

| Position | Vehicle Claim FTEs | Other Duties |
|--|--------------------|---|
| Senior Tort Claim Investigator | 0.16 | Non-auto claims; emergency management |
| Tort Claim Investigator 2 | 0.18 | Non-auto claims; public disclosure |
| Tort Claim Investigator 2 | 0.33 | Non-auto claims |
| Senior Case Manager | 0.05 | Manage lawsuits, public disclosure, supervise investigators for both non-auto and auto claims |
| Claim Representative | 0.08 | Process claims unrelated to vehicle accidents |
| Claim Representative | 0.08 | Process claims unrelated to vehicle accidents |
| Claim Representative | 0.08 | Process claims unrelated to vehicle accidents |
| Claim Representative | 0.08 | Process claims unrelated to vehicle accidents |
| RMIS Program Coordinator/Information Analyst | 0.08 | Review and work with date on claims unrelated to vehicle accidents |
| RMIS Data Coordinator | 0.08 | Review and work with date on claims unrelated to vehicle accidents |
| Other Unrelated Positions | 0.00 | Executive Assistant; loss prevention analysis; program analysis; customer service; app/tech service |
| Total FTEs | 1.20 | |

³ Currently ORM estimates the annual maintenance cost for iVOS is \$75,000. However, ORM is in the process of replacing iVOS with a new system estimated to cost approximately \$300,000 in year 1.

Table 2 provides ORM's operating expenses for the portions of its budget related to vehicle claims reported as of August 2015.

Table 2: Risk Management Operations FY 2015 Budget

| Operating Expenses | Vehicle Claim Related Costs |
|---|-----------------------------|
| A / Salaries and Wages | \$79,129 |
| B / Employee Benefits | 22,369 |
| C / Professional Service Contracts | 4,481 |
| E / Goods and Services | 25,793 |
| G / Travel | 508 |
| JA,JB / Non Capitalized Equip | 521 |
| N / Special Employment Compensation | 1,952 |
| TE / Goods and Other Services | 55,934 |
| W / Depreciation/Amortization/Bad Debts | 164 |
| Total Expenses | \$190,851 |

In addition to ORM costs, there would be cost savings due to the elimination of this activity delegated to WSDOT. Currently, WSDOT employs 3.21 FTEs who work on vehicle claims, at an estimated cost of \$379,000 per biennium. Table 3 lists WSDOT staffing model and Table 4 displays the costs.

Table 3: WSDOT Operations FY 2015 FTEs

| Position | Total FTEs | Auto Claim FTEs | Other Duties |
|--|-------------|-----------------|---|
| Tort Claims Investigator 1 | 1.00 | 1.00 | N/A |
| Tort Claims Investigator 1 | 1.00 | 1.00 | N/A |
| Tort Claims Investigator 1 | 1.00 | 0.40 | Process non-automotive claims filed against WSDOT |
| Financial Recovery Enforcement Officer 1 | 1.00 | 0.08 | Recovery of damage to state highway property |
| Claims Representative | 1.00 | 0.08 | Recovery of damage to state highway property |
| WMS Band 2 | 1.00 | 0.15 | Handles insurance issues for WSDOT; handles mediations for claims/lawsuits filed against WSDOT; supervised the FREOs in the office; handles all Jones Act claims against the department, etc. |
| Tort Claims Investigator 2 | 0.50 | 0.50 | Supervise Tort Claims Investigators 1 |
| Total FTEs | 6.50 | 3.21 | |

Table 4: WSDOT Operations FY 2015 Summary

| Operating Expenses | FY 2015 Total | Vehicle Claim Related Costs |
|-------------------------------|----------------|-----------------------------|
| A / Salaries and Wages | 386,505 | \$181,119 |
| B / Employee Benefits | 146,049 | 67,570 |
| E / Goods and Services | 30,929 | 14,443 |
| G / Travel | 14,618 | 6,826 |
| JA,JB - Non Capitalized Equip | 5,152 | 2,406 |
| Total Expenses | 583,253 | \$272,364 |

Partners' bid included a per-claim cost and an hourly rate. DES used the per-claim cost and fiscal year 2014 data when determining the cost of the service. Using those as a base, the biennial cost for performing this service would be \$570,800, which would be greater than the cost savings from DES and WSDOT. However, Partners' bid stated that the hourly rate would be lower than the per-claim rate. Without actually testing the rate through the processing of claims, that statement cannot be verified. Thus, the ultimate cost of the service cannot be determined solely by the bid.

Another cost savings can also be realized from the settling of claims at a lower percentage than the amount demanded. In evaluating the data from fiscal year 2015, we determined the settlement percentages versus demand and the average payout.

ORM data for 2015:

- Bodily Injury Claims
 - For bodily injury claims where a specific demand amount was provided (35 claims), ORM paid out 7 percent of the demand (\$141,000 paid out, \$2 million demanded).
 - For all bodily injury claims (46 claims), ORM paid out 10 percent of the demand (\$197,000 paid out, \$2 million demanded). Some tort claims filed did not contain a specific demand.
 - The average payout was \$4,280 (range from zero to \$28,904).

- Personal Property Claims
 - For personal property claims where a specific demand amount was named (138 claims), ORM paid out 73 percent of the demand (\$285,000 paid out, \$390,000 demanded).
 - For all personal property claims (157 claims), ORM paid out 135 percent of the demand (\$526,000 paid out, \$390,000 demanded).
 - Some tort claims filed did not contain a specific demand.
 - Paid \$0 on 42 cases out of the total 157 personal property claims (26 percent of the claims).
 - Paid 100 percent or more of the demand in 57 claims (paid 100 percent or more on 36 percent of the claims).
 - The average payout was \$2,095 (range from \$0 to \$17,219).

WSDOT data for 2015:

- Bodily Injury Claims
 - For bodily injury claims where a specific demand amount was named (32 claims), WSDOT paid out 0.1 percent of the demand (\$26,000 paid out, \$24.6 million demanded).
 - For all bodily injury claims (38 claims), WSDOT paid out 0.2 percent of the demand (\$47,000 paid out, \$24.6 million demanded).
 - The average payout was \$1,242 (range from zero to \$15,908).

- Personal Property Claims
 - For personal property claims where a specific demand amount was named (794 cases), WSDOT paid out 9 percent of the demand (\$424,000 paid out, \$4.9 million demanded)
 - For all personal property cases (857 claims), WSDOT paid out 10 percent of the demand (\$482,000 paid out, \$4.9 million demanded)
 - Some tort claims filed did not contain a specific demand.
 - Paid \$0 on 677 of the total 857 claims (WSDOT paid \$0 on 79 percent of the claims).
 - Paid 100 percent or more of the demand on 130 cases (WSDOT paid 100 percent or more on 15 percent of the cases).
 - The average payout was \$506 (range from zero to \$19,796).

In making these calculations, we assumed that the ones that say “null” mean no amount was requested. We count the ones that say “zero” as the request amount, as asking for a specific demand amount.

Partners’ bid provides the following comparable data:

“The settlement amount verses the original amount requested in the filed claim (How Many, Dollar Range difference) – With regard to property damage claims, the value of damages is not generally negotiated, but rather controlled by accurate estimates and timely claim handling. As such, we have been successful in reducing repair shop estimates by 10%-20% regularly. With regard to bodily injury claims, we generally settle claims for between 25%-45% of attorney demands and on claims without attorney representation, claims are settled for between 65% and 75% of what a claimant initially demands.”

So there may be savings incurred from settling the claims at a lower percentage than now being settled by the state. We cannot confirm this as a definitive cost savings. However, it appears that there may be additional cost savings that can be added to the direct operational cost savings that would result in a reduced cost to the state. This would need to be tested before a final determination can be made.

Recommendation

The statute provides that if OFM determines that the service can be provided by the private sector at a reduced cost and greater efficiency, OFM shall recommend that DES contract with one or more vendors to provide the service as a result of the procurement process.

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We are unable to confirm that the private sector can provide the service at a reduced cost and greater efficiency as there is no way to verify these factors unless a pilot project is deployed. However, the bid response suggests the private sector could likely provide the service at a reduced cost and greater efficiency.

Therefore, I recommend that DES enter into a two-year contract with Partners for up to half of the motor vehicle claims for both personal property damage and bodily injury to determine if it can meet the performance measures in the bid submitted. OFM should establish performance measures for both the vendor and ORM. At the end of the two-year period, DES should provide data to OFM for both Partners and ORM to determine if the contract should continue, continue with an expansion of claims, or be terminated.

If you have any questions, please feel free to contact Cheri Keller or me.

cc: Tracy Guerin, Deputy Director, OFM
Jim Crawford, Assistant Director for Budget, OFM
Cheri Keller, Senior Budget Assistant, OFM

