Georgia Department of Audits and Accounts
Performance Audit Division

Greg S. Griffin, State Auditor
Leslie McGuire, Director

Why we did this review

This follow-up review was conducted to determine whether the Office of the Commissioner of Insurance (OCI) addressed recommendations from our January 2018 special examination (Report #17-13).

The special examination was conducted to review the transparency of revenue collection and budgeting functions and evaluate whether there were compelling reasons to transfer responsibility for the Industrial Loan program to the Department of Banking and Finance.

About the Office of the Commissioner of Insurance

The Office of the Commissioner of Insurance (OCI) is responsible for enforcing Georgia's insurance laws and other state laws governing fire safety and small loans. OCI licenses insurance companies and agents, investigates insurance fraud, handles consumer complaints, and collects revenue from licenses, permits, and taxes. Approximately $22 million was appropriated to OCI for fiscal year 2020.

Follow-Up Review
Office of the Commissioner of Insurance

Budgetary and financial issues have been addressed

What we found

The Office of the Commissioner of Insurance (OCI) addressed the budgetary and financial issues raised in our 2018 special examination. OCI hired a Chief Financial Officer (CFO) to strengthen its financial and accounting functions, discontinued its practice of using funds from one program to subsidize another program, and implemented a plan to allocate indirect costs across programs. Also, OCI updated its internal control policies to meet state requirements.

Risk of Budget Shortfall: Our 2018 special examination found that OCI's poor control environment led to a series of management decisions that had a cumulative negative impact on its budget. OCI's monthly spending exceeded the levels necessary to meet its annual budget for six of the first seven months of fiscal year 2017. Significant spending reductions, including laying off 12 employees and furloughing 212 employees for four days, were necessary in order to avoid a budget shortfall for fiscal year 2017. OCI's CFO, hired in January 2018, began monitoring and communicating OCI's budgetary position to management so management could make effective decisions about expenditures. OCI has not been at risk of a budgetary shortfall since fiscal year 2017.

Program-Based Budgeting: Our original report found that OCI found itself in a projected budget shortfall because it had bypassed legal budgetary controls and used funds from one program to subsidize another program. Following the release of our report, OCI discontinued its practice of moving expenditures from one program to another program through manual journal entries. Also, OCI worked with the Office of Planning and Budget (OPB) and the General Assembly to correct budgetary deficits within programs.

Special Fraud Fund: In 2018, we found that OCI did not comply with O.C.G.A. § 33-1-17, which restricts the use of the Special Fraud assessment to the investigation and prosecution of insurance fraud in the state. OCI expended a portion of the funds from the Special Fraud assessment on Insurance Regulation and Administration. Since that time, OCI worked with DOAA financial auditors to develop a cost allocation plan to systematically and consistently distribute indirect costs from the Special Fraud program. The fiscal year 2021 general appropriations act (House Bill 793) transferred approximately $3.4 million from Insurance Regulation to create Special Fraud as a separate program, which is expected to provide greater transparency in the use of the Special Fraud assessment.

Pay Increases: During the special examination, we found that OCI did not comply with state regulations prohibiting salary adjustments from exceeding the maximum pay range applicable to an employee's position. OCI implemented multiple pay increases for Fire Safety employees during fiscal year 2016 resulting in an increase in the number of employees whose salaries exceeded the maximum pay range at the beginning of fiscal year 2017. During the follow-up, we found that OCI did not comply with State Personnel Board rules while implementing pay increases during fiscal year 2020. OCI implemented pay increases for six employees who already exceeded the maximum of the pay range for their position. Pay increases OCI implemented during this period also resulted in nine additional employees exceeding the maximum pay range. Prior to the release of this report, OCI took corrective action to amend the job code for all employees whose salary exceeded the maximum of the pay range applicable to their position. OCI reported that due to turnover in its Director of Human Resources position, some pay increases were implemented by staff without human resources responsibilities and lacked the expertise necessary to ensure compliance with applicable rules.

Industrial Loan Program: The original report recommended that the General Assembly consider transferring the Industrial Loan program from OCI to the Department of Banking and Finance and increasing the maximum amount of the loans regulated under the Industrial Loan Act. The General Assembly transferred the Industrial Loan program and its funding to Department of Banking and Finance effective July 1, 2020. The General Assembly has not considered legislation to increase the maximum loan amount.

OCI Response: In its response to the report, OCI generally concurred with the current status of most findings as presented.

The following table summarizes the findings and recommendations in our 2018 report and actions taken to address them. A copy of the 2018 special examination report 17-13 may be accessed at http://www.audits.ga.gov/rsaAudits.

Office of the Commissioner of Insurance
Follow-Up Review, August 2020

Original Findings/Recommendations	Current Status
What factors put OCI at risk of a budgetary shortfall during fiscal year 2017 and how did OCI remain within spending limits? OCI's poor control environment led to a series of management decisions that had a cumulative negative impact on its budget. We found that OCI's monthly spending exceeded the levels necessary to meet its annual budget for six of the first seven months of fiscal year 2017. Significant spending reductions, including laying off 12 employees and furloughing 212 employees for four days, were necessary in order to avoid a budget shortfall for fiscal year 2017.	**No recommendation –** This informational finding did not include recommendations. Following the release of our 2018 report, OCI revised budgetary controls, improved internal controls~~,~~ and improved controls over financial reporting. As part of this process, OCI updated its internal control policy and risk assessment analysis plan to reflect the agency's risk assessment and control activities and submitted this information to the State Accounting Office. DOAA's financial auditors determined that OCI's risk assessment and control activities were consistent with the minimum requirements specified by statewide internal control guidance and, if operating effectively, should prevent issues similar to those identified in our 2018 report. OCI reported that its control environment and risk assessment, which was implemented in fiscal year 2018, is evaluated annually. In February 2018, the newly hired CFO began providing executive personnel with monthly financial reports that presented OCI's budgetary position by program. OCI retains these reports, which are available for review by external entities as needed. OCI has not been at risk of a budgetary shortfall since fiscal year 2017.
Did OCI comply with Program-Based Budgeting? OCI did not comply with Program-Based Budgeting requirements and legal budgetary controls that restrict the use of an agency's state appropriations.	**No recommendation –** This informational finding did not include recommendations. In fiscal year 2018, OCI discontinued its practice of using funds from one program to subsidize another program through manual journal entries. During the amended budget process, OCI worked with the General Assembly to move funds in accordance with state law to correct budgetary deficits within its programs and ensure programs had adequate funds for its expenditures. OCI's fiscal year 2018 amended budget transferred $1.8 million from Insurance Regulation to Departmental Administration. Similarly, the fiscal year 2019 general appropriations act transferred approximately $508,000 from Insurance Regulation to Departmental Administration. No funds were transferred between OCI's programs during fiscal year 2020.
Did OCI comply with statutes and regulations governing the Special Fraud Fund? OCI did not comply with O.C.G.A. § 33-1-17, which restricts the use of the Special Fraud assessment to the investigation and prosecution of insurance fraud in the state.	**No recommendation –** This informational finding did not include recommendations. OCI developed an indirect cost allocation plan for the Special Fraud Fund to distribute indirect costs from Special Fraud to other programs. The plan, which establishes the indirect cost rate method and rate for each program, specifies that other programs incur costs related to salaries, space, supplies and communications to support Special Fraud activities. Beginning in fiscal year 2019, OCI used its indirect cost allocation plan to systematically and consistently allocate the costs that administration, enforcement, and insurance regulation programs incur in these categories to support special fraud. The fiscal year 2021 general appropriations act (HB 793) transferred approximately $3.4 million from Insurance Regulation to create Special Fraud as a separate program. Creation of this

<table>
<tr><th colspan="2">Office of the Commissioner of Insurance
Follow-Up Review, August 2020</th></tr>
<tr><th>Original Findings/Recommendations</th><th>Current Status</th></tr>
<tr><td></td><td>new program allows for greater transparency in OCI's use of the Special Fraud Fund. OCI reported that creation of the Special Fraud program will not require it to make changes in its operations. However, limited administrative changes will be necessary.</td></tr>
<tr><td>Did OCI follow best practices and state regulations for pay increases?

OCI did not follow best practices when conducting salary comparisons for positions in Special Fraud and Fire Safety. Also, OCI did not comply with state regulations prohibiting salary adjustments from exceeding the maximum pay range applicable to an employee's position.</td><td>No recommendation – This informational finding did not include recommendations.

OCI did not comply with state regulations prohibiting state agencies from adjusting employees' salaries to exceed the maximum pay range applicable to the employee's position when implementing pay increases for employees during fiscal year 2020. Prior to the release of this report, OCI took corrective action to amend the job code for all employees whose salary exceeded the maximum of the pay range applicable to their position. Turnover in the Director of Human Resources position may have contributed to OCI's noncompliance.

<u>Pay Increases</u> – During fiscal year 2020, OCI implemented agency-initiated pay increases funded with its existing budget and legislatively funded performance-based pay increases. OCI implemented these pay increases for six employees whose salaries already exceeded the maximum of the pay range for their position. These pay increases also resulted in the salary of nine additional employees exceeding the maximum of the pay range.

OCI reported that because of turnover in its Director of Human Resources position, staff outside of human resources implemented some of the fiscal year 2020 pay increases, including the performance-based increase implemented on July 1, 2019.[1] At the time, OCI did not have a Human Resources Director and staff believed that OCI had a responsibility to implement the pay increases. OCI acknowledged that the staff involved in implementing some pay increases lacked the expertise necessary to ensure compliance with applicable rules.

<u>Assessing Employee Compensation</u> – During fiscal year 2020, OCI initiated salary increases for 19 employees in various positions across several programs. OCI staff reported that while a formal analysis was not conducted, the amount of the salary increases was determined by comparing the salaries of other OCI employees in the same position. These increases, which were implemented in July 2019 and January 2020, raised employee salaries by 2% to 22%. Staff reported that these pay increases were implemented to align compensation for employees performing similar job functions.

In response to a draft of this report, OCI noted that "16.75% of OCI employees exceeded the maximum pay range for their job classification in November 2018. By the end of April 2020, that number had decreased by nearly half."</td></tr>
</table>

[1] Between January and July 2019, OCI had four different Human Resources Directors.

Office of the Commissioner of Insurance Follow-Up Review, August 2020	
Original Findings/Recommendations	**Current Status**
Are there compelling reasons to transfer responsibility for the Industrial Loan program to the Department of Banking and Finance? We recommended that the General Assembly consider transferring the Industrial Loan program from OCI to Department of Banking and Finance. Industrial Loan is a self-contained program within OCI and could be transferred without disrupting OCI's other functions. Department of Banking and Finance staff stated that it could administer the function but would need Industrial Loan's resources to do so.	**Fully Addressed** – SB 462, introduced during the 2020 legislative session, amended O.C.G.A § 7-3-2 to transfer the Commissioner of Insurance's powers, functions, and duties pertaining to the Industrial Loan program to Department of Banking and Finance. The fiscal year 2021 general appropriations act transferred approximately $500,000 of state general funds from OCI to the Department of Banking and Finance. OCI staff estimated that it would take about six months to complete the transition of financial responsibilities associated with this transfer. SB 462 standardizes the program's regulatory functions by requiring the use of the Nationwide Multistate Licensing System and Registry. The provisions of SB 462, which renames the Georgia Industrial Loan Act to the Georgia Installment Loan Act, are effective July 1, 2020.
Should the maximum amount of the loans regulated by the Industrial Loan program be increased? We recommended that the General Assembly consider increasing the maximum amount of the loans regulated under the Industrial Loan Act to provide greater consumer protection.	**Not Addressed** – Since our special examination in 2018, the General Assembly has not introduced legislation to increase the maximum amount of the loans regulated under the Industrial Loan Act. However, OCI engaged in discussions about increasing the maximum amount of these loans with industry and consumer groups in 2019. OCI reported that it proposed maximum loan amounts ranging from $5,000 to $22,000. While consumer groups favored an increase in the maximum loan amount to at least $10,000, representatives of the small loan industry expressed no interest in increasing the loan amount.
6 Findings	**1 Fully Addressed** **1 Not Addressed** **4 No Recommendations**