



## In Brief

## Administration of Continuation of Pay Program Report Number A-07-09-1, July 18, 2008

### Why We Did This Audit

This is the first of two reports covering the Workers' Compensation Program at the Smithsonian Institution. During our audit, we determined that management did not effectively administer Continuation of Pay (COP) benefits, resulting in both overpayments and improper payments to employees.

We issued this report to advise management of program weaknesses and to prevent continued erroneous payments of COP benefits.

### What We Recommended

We made six recommendations to strengthen management of the COP program and improve the accuracy of benefit payments. We recommended that management seek reimbursement for overpayments and improper payments; perform monthly reconciliations of payroll reports to workers' compensation records; require physicians' certifications of employees' continued disability; strengthen training for supervisors and timekeepers; and clarify requirements for maintaining workers' compensation files.

Management concurred with our findings and recommendations and has taken or planned corrective actions that resolve all our recommendations.

### What We Found

The Smithsonian generally did not ensure the accuracy of COP benefit payments. For fiscal years 2004 through 2007, the Smithsonian paid over \$400,000 in COP benefits for the 97 COP cases we reviewed. The Smithsonian made overpayments or improper payments, totaling over \$189,000, in 68 of the 97 cases. The Smithsonian did not ensure that supervisors and timekeepers were adequately trained in COP policies and procedures. Additionally, the Smithsonian did not maintain complete and accurate workers' compensation files and had no system in place to properly track COP benefit payments. The Office of Human Resources did not provide sufficient oversight of the COP program and did not adequately support Smithsonian units, which manage individual claims. Likewise, unit supervisors and timekeepers did not effectively administer employee COP cases; for example, they did not consistently track COP usage and obtain required medical documentation.

Examples of overpayments and improper payments to Smithsonian employees for COP cases included:

- Between FY 2004 to 2007, eight employees filed CA-1 forms late and still received COP benefits totaling \$62,846.
- Between FY 2004 to 2007, 19 employees did not file injury claims yet received COP benefits totaling \$42,995.
- In 2005, two employees received 60 and 45 days of COP beyond the 45-day limit, totaling \$11,563 and \$4,995, respectively.
- For a 3-year period between FY 2004 to 2006, one employee intermittently received COP benefits totaling \$5,316 although the 45-day period had ended.

Weak oversight over the COP program increases the risk that the Smithsonian will continue to overpay COP benefits to employees, diminishes the Smithsonian's ability to return employees to a productive status, and leads to increased work-loads for other unit staff. Moreover, these weaknesses will negatively affect the management of workers' compensation cases as they progress through the longer-term aspects of the program.

**For additional information or a copy of the full report, contact the Office of the Inspector General at (202) 633-7050 or visit <http://www.si.edu/oig>.**



# Smithsonian Institution

Office of the Inspector General

Date July 18, 2008

To G. Wayne Clough, Secretary  
James D. Douglas, Director, Office of Human Resources

cc Alison McNally, Acting Under Secretary for Finance and Administration  
Alice Maroni, Chief Financial Officer  
Gregory Bettwy, Associate Director, Office of Human Resources  
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Roger Yankoupe, Director, Office of Safety, Health, and Environmental Management  
Andrew Zino, Comptroller

From  A. Sprightley Ryan, Inspector General

Subject Report on the Administration of the Continuation of Pay Program,  
Number A-07-09-1

This is the first of two reports covering the Workers' Compensation Program at the Smithsonian Institution. During our audit, we determined that management did not effectively administer Continuation of Pay (COP) benefits, resulting in both overpayments and improper payments to employees. We are issuing this report to advise management of program weaknesses and to prevent continued erroneous payments of COP benefits.

Our objectives for the audit of workers' compensation were to assess whether adequate procedures are in place for: (1) reviewing and submitting claims in a timely manner; (2) monitoring claims to ensure that case files are accurate and up-to-date and that claimants return to work as soon as possible; and (3) reconciling charge-back costs and recovering overpayments promptly. We assessed the objectives for this portion of the audit to the extent they related to the COP benefits program.

We identified 343 employees who received about \$683,000 in COP benefits between fiscal years (FY) 2004 to 2007. We reviewed 97 case files for a sample of 88 employees receiving COP payments totaling about \$405,000. We include a detailed description of our scope and methodology in Appendix A.

## RESULTS IN BRIEF

The Smithsonian generally did not ensure the accuracy of COP benefit payments. For the period reviewed, we determined that the Smithsonian made overpayments or improper payments, totaling over \$189,000, for 68 of the 97 cases we reviewed. The Smithsonian did not ensure that supervisors and timekeepers were adequately trained in COP policies and procedures. Additionally, the Smithsonian did not maintain complete and accurate workers' compensation files and had no system in place to properly track COP benefit payments. The Office of Human Resources (OHR) did not provide sufficient oversight of the COP program and did not adequately support Smithsonian units, which manage individual claims. Likewise, unit supervisors and timekeepers did not effectively administer employee COP cases; for example, they did not consistently track COP usage and obtain required medical documentation.

We made six recommendations to strengthen management of the COP program and improve the accuracy of COP benefit payments. We recommended that the Institution recover inappropriate payments we identified as part of this review and examine the case files for the other employees who received COP benefits to determine the propriety of those payments.

## BACKGROUND

The Federal Employees Compensation Act<sup>1</sup> (FECA) provides that employees who sustain a work-related traumatic injury resulting in a disability or lost time from work are entitled to their regular pay up to a maximum of 45 calendar days. This benefit is called Continuation of Pay, and is subject to taxes and other payroll deductions. To be eligible for COP, an employee must submit a signed CA-1 ***Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation*** form within 30 calendar days of the injury and have started losing time from work within 45 calendar days of the injury. COP ensures that an employee continues to receive regular pay while the claim is being adjudicated by the Department of Labor's (DOL) Office of Workers' Compensation (OWCP).<sup>2</sup>

OWCP has the exclusive authority to determine questions of entitlement and all other issues relating to COP; however, the Institution pays COP benefits to the employee. OWCP provides specific criteria an employer must meet to controvert<sup>3</sup> COP entitlement or terminate COP payments. OWCP retains the ultimate right to reinstate COP benefits. (See Appendix C.)

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<sup>1</sup> 5 U.S.C. §§ 8101-8193. The Smithsonian provides FECA benefits to federal and trust employees as well as to volunteers for disability due to personal injury or disease sustained while in the performance of duty.

<sup>2</sup> 20 C.F.R. §§ 10.200-224 applies to continuation of pay under FECA. OWCP administers FECA.

<sup>3</sup> The term "controvert" means to dispute, challenge, or deny the validity of a claim for COP.

## Smithsonian Policies and Procedures

Smithsonian policies and procedures for both federal and trust employees mirror the federal regulations for COP and are contained in Smithsonian Directives (SD) 212 and 213, Chapter 810. Responsibility for administering the COP program is shared by the OHR, unit supervisors, timekeepers, and employees. The Offices of Human Resources at the Smithsonian Astrophysical Observatory and the Smithsonian Tropical Research Institute<sup>4</sup> manage their own workers' compensation cases. In early FY 2007, Smithsonian Business Ventures'<sup>5</sup> (SBV) human resources office assumed responsibility from OHR for its workers' compensation cases. Additionally, the Office of Safety, Health, and Environmental Management (OSHEM) obtains COP data from OHR and includes it in the Institution's Annual Report on Occupational Safety and Health to the Secretary of Labor.

The employees' timely submission of a CA-1 form supports the payment of COP benefits and begins the adjudication process at OWCP. Injured employees must submit a completed CA-1 form to their supervisor within 30 days from the date of injury. Supervisors assist the employees in completing the form, certify that the claim information is accurate, and forward the completed form to OHR for processing. Supervisors are also responsible for recommending approval or controverting the claim and notifying OHR when the employee has returned to work. OHR reviews the form for completeness, maintains the signed copy for internal workers' compensation files, and forwards an electronic version of the CA-1 form and other documentation to OWCP for adjudication. OWCP notifies the employee and OHR of the claim status. Employees, supervisors, and timekeepers are responsible for accurately reporting COP on regular timesheets. (For a detailed flowchart of the process, see Appendix D.)

If either the Institution or OWCP determines that an employee is not entitled to COP after benefits have been paid, the employee may choose to have the time charged to annual leave, sick leave, or leave without pay. If adjustments are necessary, the supervisor will communicate any changes to the employee and coordinate with the timekeeper and payroll division to correct timesheets and pay.

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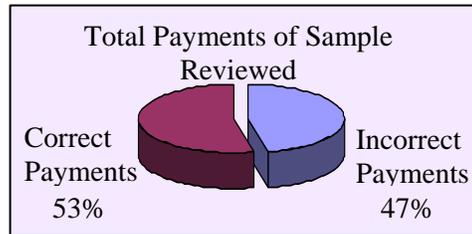
<sup>4</sup> Smithsonian Tropical Research Institute (STRI) federal and trust employees are entitled to receive COP benefits under FECA regulations. Panamanian employees are covered under Panama's Caja de Seguro Social – Departamento de Riesgos Profesionales, which is similar to the U.S. Social Security Administration.

<sup>5</sup> SBV is now Smithsonian Enterprises.

## RESULTS OF AUDIT

### The Smithsonian Did Not Effectively Administer Continuation of Pay Benefits

The Smithsonian did not provide adequate oversight, training, or employee records for the COP benefit program. Based on our sample of 88 employees, we identified 97 worker's compensation cases totaling \$405,040. We concluded that the Institution incorrectly paid \$189,563 for 68 cases, which represents 47 percent of the COP benefits we reviewed.



Examples of overpayments and improper payments to Smithsonian employees for COP included:

- Between FY 2004 to 2007, eight employees filed CA-1 forms late and still received COP benefits totaling \$62,846. In addition to filing the CA-1 form late, one of these employees received benefits for 195 days (the limit is 45 days), for a total of \$30,072.
- Between FY 2004 to 2007, 19 employees who did not file injury claims received COP benefits totaling \$42,995.
- In 2005, two employees received 60 and 45 days of COP beyond the 45-day limit, totaling \$11,563 and \$4,995, respectively.
- For a 3-year period between FY 2004 to 2006, one employee intermittently received COP benefits totaling \$5,316, although the 45-day period had ended.

Table 1 describes the circumstances in which COP benefits should be denied according to OWCP regulations.

<b>Table 1: Amount of Overpayments and Improper Payments of COP Benefits Made to Employees in Sample</b>		
Reason for Overpayments or Ineligibility	Number of Cases	Amount of Payments
<b>OVERPAYMENTS TO ELIGIBLE EMPLOYEES</b>		
45-day limit exceeded	22	\$ 42,213
COP began after end of 45-day period	1	5,316
Recurrence of disability <sup>6</sup> after end of 45-day period	1	3,059
COP charged prior to or on date of injury	<u>11</u>	<u>2,164</u>
<b>Total Overpayments to Eligible Employees</b>	<b><u>35</u></b>	<b><u>\$ 52,752</u></b>
<b>IMPROPER PAYMENTS TO INELIGIBLE EMPLOYEES</b>		
CA-1 signed more than 30 days past injury date	8	\$ 62,846
No claim filed with OWCP	19	42,995
Claim denied by OWCP	2	14,824
No medical documentation obtained	3	13,545
Employee reported occupational disease <sup>7</sup>	<u>1</u>	<u>2,601</u>
<b>Total Payments to Ineligible Employees</b>	<b><u>33</u></b>	<b><u>\$136,811</u></b>

We found no indication that supervisors, timekeepers, or employees submitted corrected timecards to convert ineligible COP to annual leave, sick leave, or leave without pay.

There are a number of causes for the weaknesses in the Smithsonian’s management of the COP program, including a lack of centralized oversight, lack of adequate training for monitoring and tracking of COP, and poor recordkeeping.

- Lack of Oversight.** We found that there was no centralized oversight of the COP program at the Smithsonian. According to SDs 212 and 213, OHR is responsible for providing assistance on the proper procedures for reporting and documenting claims; reviewing individual claim forms for completeness; and communicating directly with OWCP on the settlement of compensation claims. Additionally, OHR should coordinate with the Office of the Comptroller Payroll Branch on issues relating to COP benefits.

OHR did not closely monitor COP benefit payments. Because the units prepare and approve timecards, OHR generally has no immediate knowledge when an employee charges COP. However, we found that even when OHR identified COP recipients from the National Finance Center (NFC) payroll system, it failed to provide the necessary oversight: it did not reconcile COP files to payroll data

<sup>6</sup> Recurrence of disability is defined as a spontaneous return or increase of disability due to a previous injury or occupational disease without intervening cause, or a return or increase of disability due to a consequential injury.

<sup>7</sup> Occupational disease is defined as a condition produced in the work environment over a period longer than one workday or shift. It may result from systemic infection, repeated stress or strain, exposure to toxins, poisons or fumes, or other continuing conditions of the work environment.

or distribute COP reports to supervisors to assist them in identifying inaccuracies and other coding errors. OHR did not alert supervisors of ineligible employees, missing documentation, overpayments, or claims denied by OWCP.

We also found that the NFC payroll reports used by OHR to identify COP payments do not capture timecard corrections, which may result in reductions or additions to COP costs. OSHEM uses this uncorrected data to prepare the Institution's Annual Report on Occupational Safety and Health to the Secretary of Labor. We also note that the new Time and Labor module of the Institution's Enterprise Resource Planning System is expected to be fully implemented by October 1, 2008. This system will replace the current time and attendance system and is designed to produce management reports of all time charged to COP, including timecard corrections.

OHR and supervisors also were not diligent in obtaining and reviewing initial medical documentation. Additionally, OHR does not require that employees submit to their supervisors a physician's certification supporting their continued disability, a best practice. Medical certification, at a minimum, must show that an employee continues to be disabled and unable to return to work. We observed several cases where the attending physician's report, received by the Institution during the 45-day COP period, indicated that an employee could return to work, yet the employee continued to charge and receive COP.

Further, unit supervisors indicated in interviews that they had received very little feedback or guidance from OHR regarding COP issues. Several indicated that they were unaware that their employees were ineligible for COP. We believe that active monitoring of COP data would have alerted OHR to employees who were ineligible or had received excess payments.

According to OHR, staff allocated to workers' compensation has not been adequate, and it has had difficulty retaining qualified benefits specialists. In previous years, one benefits specialist was assigned to handle all aspects of workers' compensation in addition to managing many other federal benefit programs. In April 2007, OHR reorganized and cross-trained its benefits staff in workers' compensation, designating one benefits specialist as a subject matter expert in workers' compensation.

- **Inadequate Training.** Prior to the implementation of the Automated Incident Reporting System (AIRS) in July 2007,<sup>8</sup> supervisors and timekeepers were generally inadequately trained on the preparation and timely submission of claim forms, maintenance of COP logs, and active communication with employees on COP issues. Supervisors and timekeepers generally were not aware that COP eligibility was contingent on the timely submission of key documents, such as the CA-1 form and medical evidence. For example, we identified eight instances

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<sup>8</sup> AIRS automatically generates the CA-1 form, expediting the injury claim process.

where CA-1 forms were submitted after the 30-day deadline for COP eligibility. These employees received almost \$63,000, despite being ineligible for COP benefits.

During our interviews with timekeepers and supervisors, they stated that they had not received training on how to count COP days, were not always aware that COP is counted in calendar days and not workdays, and that COP days include weekends and holidays. Many were not aware that it was incorrect to charge COP 1) for more than the 45-day limit; 2) when a claim had not been filed; and 3) beginning after the 45-day period of eligibility had expired. In addition, supervisors, in many cases, did not seek clarification from the OHR benefits specialist on how to properly track COP.

As a result, supervisors and timekeepers did not count COP usage in accordance with OWCP regulations, resulting in \$42,213 of overpayments to 22 eligible claimants. We found numerous instances where both supervisors and timekeepers continued to approve COP on timecards even when employees had exceeded the 45-day limit. The following table illustrates the range of the excess COP days resulting in overpayments.

Number of Days Over 45 Days	Number of Cases	Total Overpayments
1-5 days	11	\$ 5,138
6-10 days	4	6,916
11-20 days	2	4,160
21-30 days	2	3,686
31 days and greater	<u>3</u>	<u>22,313</u>
<b>TOTAL</b>	<b><u>22</u></b>	<b><u>\$42,213</u></b>

After the implementation of AIRS, OHR developed training to familiarize employees with revised OHR policies and procedures for filing an injury claim. OHR offers workers' compensation training to supervisors, with a specific COP component on tracking COP usage. Also, OHR has offered COP training to timekeepers.

- Poor Recordkeeping.** Although OWCP recommends that the employing agency develop a recordkeeping system that provides easy access to claim information, OHR did not maintain adequate worker compensation files. OHR case files were lacking key documents, such as the CA-1 forms and medical evidence. Of the 97 cases sampled (for the 88 employees we selected), we had to request and review 52 case files from OWCP to obtain the documentation that should have been in OHR files but was missing. OHR attributed missing files and the lack of

documentation to some units having submitted injury claims directly to OWCP.<sup>9</sup> Incomplete case files restrict OHR's ability to effectively manage the COP program.

Weak oversight over the COP program increases the risk that the Smithsonian will continue to overpay COP benefits to employees, diminishes the Institution's ability to return employees to a productive status, and leads to increased work-loads for other unit staff. As we previously mentioned, COP is the first phase of the workers' compensation program. In our view, weak oversight and poor recordkeeping also will negatively affect the management of workers' compensation cases as they progress through the longer-term aspects of the program.

## RECOMMENDATIONS

To strengthen management of the COP program, the Institution should develop and implement additional procedures for monitoring and tracking COP benefits.

We recommended that the Director of the Office of Human Resources, in coordination with the Human Resources Directors at Smithsonian Business Ventures, Smithsonian Astrophysical Observatory, and the Smithsonian Tropical Research Institute:

1. Instruct the units to prepare corrected employee timecards and seek reimbursements for the identified overpayments and improper payments, as appropriate.
2. Conduct a review of those employees who received COP benefits who were not included in our sample; identify overpayments and improper payments; and take corrective action.
3. Perform monthly reconciliations of payroll reports to workers' compensation records to confirm employee eligibility.
4. Require supervisors to obtain physicians' certifications of employees' continued disability and forward copies to OHR to be filed in employees' workers' compensation files.
5. Ensure that newly developed and implemented procedures are included in COP training for supervisors and timekeepers.
6. Clarify requirements for workers' compensation file maintenance, including, at a minimum, that all OHR workers' compensation case files include signed CA-1 forms and initial medical evidence required for COP eligibility.

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<sup>9</sup> With the implementation of AIRS, Smithsonian procedures now require that a signed CA-1 form be received by OHR prior to transferring an electronic copy of the CA-1 to OWCP.

## **MANAGEMENT RESPONSE**

Management's June 30, 2008, response to our draft report concurred with all six recommendations. Beginning July 1, 2008, OHR will perform monthly reconciliations of payroll reports to workers' compensation records to confirm employee eligibility. By December 31, 2009, management will correct overpayments and improper payments identified by this audit, and will review all remaining employees who received COP benefits (but were not included in the audit sample) and take corrective action as appropriate.

Additionally, management noted that it has completed actions on three of the recommendations. OHR has documented the requirement for obtaining physicians' certifications of employees' continued disability in its written processes and included policies and procedures specific to COP issues in current workers' compensation training. Also, management stated that requirements for obtaining signed CA-1 forms and initial medical evidence will be reinforced in COP training and clarified policies for filing key documents in OHR.

We include the full text of management's response as Appendix B.

## **OFFICE OF THE INSPECTOR GENERAL COMMENTS**

Management's actions, both taken and planned, respond to the recommendations, and we consider the recommendations resolved. For recommendations 1 and 2, OHR concurs with the recommended actions but estimates that the expense of reconciling these records and correcting the errors may exceed the overall costs recovered. OHR assumes that many employees will choose to recoup compensation for lost wages through DOL and we will ultimately have to pay DOL for those costs anyway. OHR also plans to hire contractors to perform the bulk of this work. In our opinion, the work left to correct the erroneous payments we identified and analyzed is minimal and should not require contractor services.

Regarding recommendation 2, we consider OHR's cost estimates to review and correct erroneous payments for the rest of the COP recipients excessive. The estimates do not reflect opportunities for reducing the cost to recover these payments. For example, approximately 50 employees did not have a case filed with DOL as of June 30, 2007, reducing the number of cases to be reviewed. In addition, we agree that it may not be cost beneficial to pursue erroneous payments to former employees, which further reduces recovery costs.

Overall, OHR projects that it will need to expend over \$175,000 in contractor services to assist OHR in analyzing the COP records and seeking appropriate recoveries. OHR's estimates assume a \$35 per hour premium over OHR's program experts. In our view, OHR and the Institution would be better served by hiring a full-time or part-time workers' compensation expert to perform these tasks, relieve the burden on existing staff,

and provide OHR with longer-term assistance in improving management of the Smithsonian's workers' compensation program and other benefits services.

Regarding recommendation 3, on performing monthly reconciliations, by September 30, 2008, we will review OHR's reconciliations of payroll reports to workers' compensation records to confirm employee eligibility. Likewise for recommendation 6, while OHR indicated in its response that actions for this recommendation were already completed, we will establish a completion date of September 30, 2008. OHR assured us that it will be more diligent in ensuring that signed CA-1 forms and initial medical evidence are retained in its workers' compensation files. As part of our continuing work on the workers' compensation program, we will select a sample of case files to determine if OHR is retaining the required documentation.

For recommendations 4 and 5, management added a requirement for employees to submit physician's certifications to support continued disability and included new COP procedures in workers' compensation training for supervisors and timekeepers. We verified that supervisors and timekeepers have been attending COP training during FY 2008. Based on these actions and OHR's commitment to keeping workers' compensation records current and continuing to offer COP training, we consider these recommendations closed.

## APPENDIX A. SCOPE AND METHODOLOGY

To determine whether the Institution has adequate policies and procedures to administer and track its COP program, we interviewed management and staff from the Office of Human Resources, Office of the Comptroller (OC), Smithsonian Business Ventures, Smithsonian Astrophysical Observatory, Smithsonian Tropical Research Institute, Office of Facilities, Engineering and Operations, Office of the Chief Information Officer (OCIO) and several Institution museums and organizations. We reviewed the Smithsonian policies and procedures for documenting and managing COP benefits; the Code of Federal Regulations; and DOL publications, policies, and procedures for the management of COP.

To identify the total universe of COP payments, we obtained payroll data from the Office of Human Resources and Smithsonian Business Ventures for fiscal years 2004 through 2007. We identified 343 Institution employees who received COP benefits totaling \$683,195. We matched employees on the payroll listings to the OWCP chargeback reports and identified associated OWCP case numbers,<sup>10</sup> which validate that an injury claim was filed.

We judgmentally selected a sample of 88 employees receiving \$405,040 in COP benefits to conduct detailed testing. We determined that several employees had multiple cases, which expanded our testing to 97 workers' compensation cases. The sample comprised employees who we determined represented groups with a greater chance for overpayments or improper payments, plus a randomly selected sample of the universe. Our sample included the following groups:

- **Employees with 360 or more hours of COP:** We selected all 10 employees who charged 360 or more hours to COP resulting in payments totaling \$123,910. We decided to sample employees who charged 360 or more hours because supervisors and timekeepers tracking COP might incorrectly convert 45 calendar days to hours ( $45 * 8 = 360$  hours).
- **Employees who received over \$5,000 in COP benefits:** Beyond those employees charging more than 360 hours of COP, we selected all remaining 27 employees who received COP payments in excess of \$5,000, totaling \$192,039. Although the amount of COP paid to an employee is largely a factor of the injured employee's salary, it may also be an indication of someone who has been paid for more than the allowed 45 days of COP.
- **Employees not listed on the Charge-Back Report:** We identified 70 employees not listed on the July 2004 through June 2007 chargeback reports. We selected all 23 employees from this group who received COP payments of

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<sup>10</sup> All injury claims submitted to OWCP are assigned a case number regardless of whether accepted or denied.

\$1,000 or greater, totaling \$57,041. Failure to appear on a chargeback report usually indicates that OWCP did not receive a claim.

- **Employees at Smithsonian Business Ventures** – In 2003, SBV implemented a separate payroll processing system. We selected the 10 employees with the highest COP costs. Payroll costs for these employees totaled \$14,851, which represented 81 percent of SBV’s total COP costs for the audit period.
- **Employees at the Smithsonian Astrophysical Observatory (SAO)** – SAO workers’ compensation cases are managed by SAO human resources staff in Cambridge, Massachusetts. We identified 8 employees who received COP benefits totaling \$8,877. Because of the small number, we decided to review all 8 SAO employees.
- **Random Selection of COP claimants** – We determined that 200 employees did not fall into any of the previously identified groups. We randomly selected 10 employees from this category who received benefits totaling \$8,322.

To determine whether employees charged COP for more than 45 days, after the 45-day deadline, or prior to the date of the injury, we requested official timecards, including corrected timecards, from the payroll divisions of OC, SBV, and SAO. For each claim, we tracked COP days to determine if the usage was properly counted. We obtained additional timecard detail from OCIO for Office of Facility Engineering and Operations employees. To verify time charged to COP, we reconciled timecards to the payroll data produced from the NFC and Automatic Data Processing systems.

To determine whether claims were submitted in a timely manner, we reviewed the workers’ compensation case files maintained at the respective human resources offices and assessed whether required documentation was submitted within OWCP guidelines. In cases where there was no file or available files were lacking information, we reviewed the official case files at the Department of Labor, Office of Workers’ Compensation. We contacted DOL OWCP district offices in Washington, D.C., New York, San Francisco and Philadelphia for assistance in obtaining records.

We interviewed supervisors and timekeepers from various offices to assess their knowledge of the COP program and whether they had received training on COP regulations, policies and procedures. We determined to what extent their respective human resource offices had provided guidance on the management of COP. We followed up with the payroll offices to determine if any efforts were made to correct overpayments or improper payments. Lastly, we identified deficiencies in the program, causes and effects of the deficiencies, and management’s plans for corrective action.

We conducted this audit in Arlington, Virginia and Washington, D.C. from November 2007 to June 2008 in accordance with ***Government Auditing Standards*** as prescribed by the Comptroller General of the United States and included tests of internal controls as we considered necessary.

## APPENDIX B. MANAGEMENT RESPONSE



Smithsonian Institution

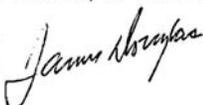
Memo

Office of Human Resources

Date: June 30, 2008

To: A. Sprightley Ryan  
Inspector General

cc: Gregory Bettwy, Associate Director, Office of Human Resources  
Paige Jones, Manager, Benefits Manager, Office of Human Resources  
Dana Moreland, Director, Human Resources, Smithsonian Enterprises  
Sibyl Middleton, Benefits Manager, Human Resources, Smithsonian Enterprises  
Laura M. Conway, Department Manager, Human Resources, Smithsonian Astrophysical Observatory  
Georgina DeAlba, Associate Director, Administration and Finance, Smithsonian Tropical Research Institute  
Luz Latorraca, Director, Human Resources, Smithsonian Tropical Research Institute  
Roger Yankoupe, Director, Office of Safety, Health, and Environment Management  
Alice Maroni, Chief Financial Officer  
Andrew Zino, Comptroller  
Alison McNally, Acting Under Secretary for Finance & Administration

From: James D. Douglas, Director  
Office of Human Resources 

Subject: Draft Report on the Administration of the Continuation of Pay Program  
Number A-07-09-1

Thank you for the opportunity to review the draft report on the audit of the Workers' Compensation Continuation of Pay (COP) program. The following comments address the recommendations made in the Office of Inspector General (OIG) report.

The Office of Human Resources (OHR) fully endorses and supports the view that the Continuation of Pay program should be administered consistent with all applicable laws and regulations, with recognition that some specific responsibilities rest with individual supervisors and managers.

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ORIGINAL

## APPENDIX B. MANAGEMENT RESPONSE

Background: The draft report of the OIG provides the following summary details:

- 343 employees received \$683,000 in COP benefits between fiscal years 2004 through 2007
- Case files for 88 employees were reviewed by the OIG with a total of 97 cases (some of the 88 employees had more than one injury) with COP payments totaling approximately \$405,000
- "Overpayment or improper payments" were made to 68 of 88 employees totaling \$189,000 (46.6% of \$405,000)

**Recommendations:**

1. Instruct the units to prepare corrected employee timecards and seek reimbursements for the identified overpayment and improper payments as appropriate.

**Response: We concur with the recommendation.**

**Action:**

OHR will develop a process and plan of action to complete the correction process. OHR estimates the cost to analyze and correct the records in both recommendations may exceed the overall recovery. We have provided an estimate in attachment 1.

**Date to be completed:** December 31, 2009

2. Conduct a review of those employees who received COP benefits who were not included in our sample; identify improper payments and take corrective action.

**Response: We concur with the recommendation**

**Action:**

OHR requests the OIG provide additional details as to the process the OIG used to identify the over and/or incorrect payment of COP to ensure consistency in the process followed for identification of errors. OHR will develop a process and plan of action to complete the corrections. OHR estimates the cost to analyze and correct the records in both recommendations may exceed the overall recovery. We have provided an estimate in attachment 1.

**Date to be completed:** December 31, 2009

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## APPENDIX B. MANAGEMENT RESPONSE

3. Perform monthly reconciliations of payroll reports to worker's compensation records to confirm employee eligibility.

**Response: We concur with the recommendation**

**Action:**

OHR will perform monthly reconciliation of payroll reports to workers' compensation records to confirm employee eligibility.

**Date to begin:** OHR will begin monthly audits effective July 1, 2008.

4. Require supervisors to obtain physicians' certification of employees' continued disability and forward copies to OHR to be filed in employees' workers' compensation files.

**Response: We concur with the recommendation**

**Action:**

OHR concurs and has included documentation of the above requirement in our written processes. OHR currently provides supervisors with workers compensation and COP training and has incorporated the above requirements in our training.

**Date to be completed:** Already completed.

5. Ensure that newly developed and implemented procedures are included in COP training for supervisors and timekeepers where applicable.

**Response: We concur with this recommendation.**

**Action:**

OHR has already implemented COP training for supervisors and timekeepers and has included the new procedures in our training.

**Date to be completed:** Already completed.

## APPENDIX B. MANAGEMENT RESPONSE

6. Clarify requirements for workers' compensation file maintenance, including, at a minimum, that all OHR workers' compensation case files include signed CA-1 forms and initial medical evidence required for COP eligibility.

**Response:** We concur with this recommendation.

**Action:**

The requirement for submitting a signed CA-1 has always been noted in our training and processes. Existing procedures have always required first line supervisors to obtain and submit the CA-1 and to obtain initial medical evidence from the injured employee. OHR has reinforced that requirement in our training and will continue to communicate the requirement for supervisors to obtain and provide COP initial medical documentation. This was most recently communicated at our COP training session held June 17, 2008. Additionally, in July of 2007, SI introduced an electronic incident reporting system, AIRS, which stands for automated incident reported system. AIRS enables SI to complete and forward electronic CA-1's to the DOL. To ensure copies of signed CA-1's are on file in OHR, a signed copy of the CA-1 is required before the electronic submission is sent.

**Date to be completed:** Already completed.

In addition to the above, a list of factual attachments is also provided as Attachment 2.

Please contact Paige Jones, Manager of Compensation and Benefits, at 202-633-6316 if you have any questions. We thank you for the opportunity to comment on this report.

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## APPENDIX B. MANAGEMENT RESPONSE

### Attachment 1

#### OHR Cost-Benefit Analysis

While the Smithsonian is committed to correcting the errors identified in the Inspector General's audit, as we discussed with you during a meeting on June 26, we estimate that the cost of reconciling these errors will exceed the potential amount recovered. We also anticipate that some employees will choose to appeal the findings in their cases. In addition, many of these employees have already separated from the Smithsonian, increasing the effort necessary to locate them.

##### Recommendation #1:

The amount OIG has calculated to be corrected from their initial sample of 88 employees, amounts to \$189,000. OHR estimates the cost to correct the cases identified in recommendation one will be \$43,964. However, we do not know how many of these employees will subsequently complete and file with the Department of Labor (DOL) a CA-7 (the form used to claim compensation for wages lost due to a work related traumatic injury) for the periods for which COP was paid, although we believe a significant number will avail themselves of this option. As a result, OHR is unable to estimate what portion of the \$189,000 will actually be recovered by the Institution. (Note: "Recovery" may consist solely of an employee substituting accrued sick or annual leave for the erroneous COP. Further, OHR believes that in many instances, the DOL will approve the CA-7 claim, in which case the employees will receive workers compensation payments for the periods of erroneous COP.)

##### Estimated cost to correct:

OHR contractor- 97 cases @ 4 hours each case to correct actions, total of 88 hours X \$85/hour contractor charge = \$32,980

OHR- case analysis and follow-up (tracking spreadsheet/employee communication/issue resolution). Estimate 80 hours at average \$50/hour = \$4,000

Payroll – manually retrieving paper timecards, verifying timecard/timecard correction/leave buy back correction/communication with National Finance Center (NFC) (Smithsonian payroll provider), 2 hours X 97 cases = 194 hours at \$36/hour = \$6,984

Total estimated OHR, contractor and payroll cost= \$43,964

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## APPENDIX B. MANAGEMENT RESPONSE

### Recommendation #2:

Recommendation #2 involves the analysis of 255 additional employees identified as receiving COP but not reviewed by the OIG. The amount of COP paid to this group was \$278,000. OHR assumes the same ratio as in recommendation #1 (46.6% of COP was paid and estimates the amount of overpayment would be approximately \$129,548. OHR estimates the cost to review and correct the cases in recommendation two will be \$175,542. As in recommendation one, OHR is not able to predict specifically what amount will actually be recovered by the Institution.

Estimated cost and time to review and correct:

OHR contractor – review 255 employees (estimate 281 cases) @ 6 hours each case to review and correct actions, total of 1686 hours X \$85/hour contractor charge = \$143,310

OHR- case analysis and follow-up (tracking spreadsheet/employee communication/issue resolution). Estimate 240 hours at average \$50/hour = \$12,000

Payroll – manually retrieving paper timecards, verifying timecard/timecard correction/leave buy back correction/communication with NFC 2 hours X 281 cases = 562 hours at \$36/hour = \$20,232

Total estimated OHR, contractor and payroll cost- \$175,542

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## APPENDIX B. MANAGEMENT RESPONSE

### Attachment 2

OHR offers the following clarifying comments to provide additional context to statements made in the report:

During the time of the OIG audit, there was one Benefits Specialist assigned to coordinate workers compensation for all Smithsonian. This same specialist also provided benefits administration services to 4,000 employees.

The current ratio is 1 to every 1,800 employees and all specialists are required to administer workers compensation.

OHR believes the ratio of benefits specialists to employees will present significant challenges to implement, administer and monitor all benefits programs available to the Institution's 6000 federal and trust employees and retirees.

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## **APPENDIX C. REASONS FOR CONTROVERTING OR TERMINATING COP**

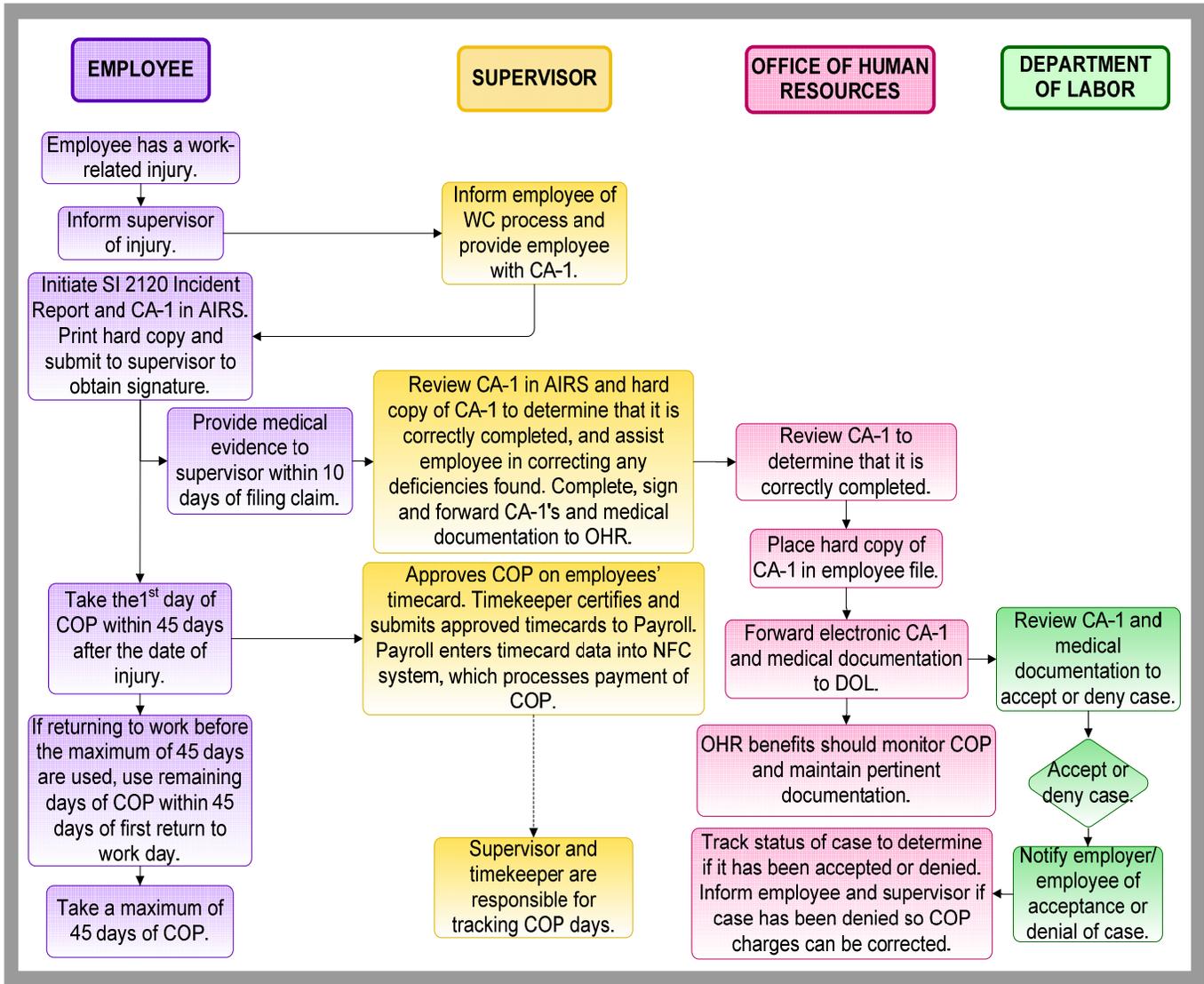
<p><b>An employer may controvert COP<sup>11</sup> when:</b></p> <ul style="list-style-type: none"><li>• The disability was not caused by a traumatic injury;</li><li>• The employee is not a citizen of the United States or Canada;</li><li>• No written claim was filed within 30 days from the date of injury;</li><li>• The injury was not reported until after employment was terminated;</li><li>• The injury occurred off the employing agency's premises and was otherwise not within the performance of official duties;</li><li>• The injury was caused by the employee's willful misconduct, intent to injure or kill himself or herself or another person, or was proximately caused by intoxication by alcohol or illegal drugs; or</li><li>• Work did not stop until more than 45 days following the injury.</li></ul>
<p><b>An employer may terminate COP<sup>12</sup> when:</b></p> <ul style="list-style-type: none"><li>• Medical evidence which on its face supports disability due to a work-related injury is not received within 10 calendar days after the claim is submitted (unless the employer's own investigation shows disability to exist). Where the medical evidence is later provided, however, COP shall be reinstated retroactive to the date of termination;</li><li>• The medical evidence from the treating physician shows that the employee is not disabled from his or her regular position;</li><li>• Medical evidence from the treating physician shows that the employee is not totally disabled, and the employee refuses a written offer of a suitable alternative position which is approved by the attending physician. If OWCP later determines that the position was not suitable, OWCP will direct the employer to grant the employee COP retroactive to the termination date;</li><li>• The employee returns to work with no loss of pay;</li><li>• The employee's period of employment expires or employment is otherwise terminated (as established prior to the date of injury);</li><li>• OWCP directs the employer to stop COP; or</li><li>• COP has been paid for 45 calendar days.</li></ul>

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<sup>11</sup> 20 C.F.R. § 10.220.

<sup>12</sup> 20 C.F.R. § 10.222.

## APPENDIX D. SMITHSONIAN INSTITUTION CONTINUATION OF PAY PROCESS



## APPENDIX E. SMITHSONIAN INSTITUTION COP PAYMENTS BY UNIT

**Fiscal Years 2004 – 2007**

Unit	Number of Hours	Total Payments
Office of Facilities Management and Reliability	10,794	\$209,412
Office of Protection Services	8,761	145,561
Cooper-Hewitt National Design Museum <sup>13</sup>	3,096	64,908
National Zoological Park	2,828	64,348
National Museum of American History	658	24,219
National Air and Space Museum	1,075	24,339
Office of Human Resources	731	21,324
National Museum of the American Indian	1,047	19,915
Smithsonian Business Ventures	1,401	18,302
National Museum of Natural History	444	11,118
Office of the Chief Information Officer	318	10,311
Office of Development	180	9,052
Smithsonian Astrophysical Observatory	350	8,877
Office of the Treasurer	80	7,500
Arthur M. Sackler Gallery/Freer Gallery of Art	254	6,862
Accessibility Programs	180	5,988
Smithsonian Institution Libraries	160	5,293
Visitors Information and Associates Reception Center	217	4,606
Office of Exhibits Central	142	3,723
Office of Safety, Health, and Environmental Management	102	3,538
Anacostia Community Museum	85	2,964
Hirshhorn Museum and Sculpture Garden	92	2,245
Center for Folklife and Cultural Heritage	35	1,888
Smithsonian Environmental Research Center	38	887
Smithsonian Latino Center	27	781
Smithsonian American Art Museum	13	435
Office of Contracting	9	363
National Museum of African Art	9	308
National Portrait Gallery	8	228
Office of Planning, Management, and Budget	3	125
<b>TOTAL</b>	<b><u>33,428</u></b>	<b><u>\$683,195</u></b>

<sup>13</sup> Payments at this organization include \$30,000 to one employee for an extended period.

## APPENDIX F. CONTRIBUTORS TO THE REPORT

***The following individuals from the Smithsonian Office of the Inspector General contributed to this report:***

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