REPORT OF THE MULTIPLE RATING ORGANIZATIONS STUDY GROUP TO THE WORKERS’ COMPENSATION (C) TASK FORCE

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Report of the Multiple Rating Organizations Study Group To The Workers' Compensation (C) Task Force

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INTRODUCTION

The Multiple Rating Organizations Study Group (study group) has analyzed the workers’ compensation multiple rating organization environment for the National Association of Insurance Commissioners. The study group reviewed numerous papers, received many oral presentations, and compiled the information presented in this report. The study group is confident the information presented in this report will help public policymakers identify the ramifications of a workers’ compensation multiple rating organization environment. The study group is hopeful that its analysis of the issues identified will be of assistance to states if they are again faced with the possibility of having more than one advisory rating or statistical organization for workers’ compensation. It is the desire of the study group that the reader will find this information useful, not only in understanding the challenges presented, but in crafting solutions to fit their jurisdictions’ particular circumstances.

WORKERS’ COMPENSATION IS UNIQUE

Why is workers’ compensation coverage often viewed differently than other insurance coverages? Does workers’ compensation have unique qualities, and if so, how are they identified? Since most insurance coverages already operate in a multiple advisory organization environment (e.g., commercial general liability, inland marine, etc.), why do some insurance professionals suggest workers’ compensation remain uniquely immune from the multiple rating organization experience?

To answer these questions the reader must go to the very core of workers’ compensation creation. Before workers’ compensation, an employer’s legal obligation to pay an injured employee was determined by common-law rules of negligence. The injured employee had to prove that his employer had failed to exercise due care in protecting him or her from the accident and that the employer’s negligence was the proximate cause of the injury. Should the employer be found negligent, the employer could still escape liability through three common-law defenses: assumption of risk, fellow-servant rule, and contributory negligence.

The dawn of the 20th century saw dramatic changes in the economic and legal environment of the United States. The Industrial Revolution caused employers to revisit the system used to address workplace injuries. These changes facilitated the formation of a political coalition that supported the passage of workers’ compensation legislation. The coalition was composed of employees, employers, and insurance companies who all saw gains in replacing the employer negligence liability system that existed through the first decade of the 1900s in the United States. Employers expected to reduce their liability and administrative costs. The employees expected higher benefits for on-the-job injuries. Insurance companies expected to expand their coverage of workplace accidents. The United States was already behind many other industrial countries in the adoption of workers’ compensation legislation. By 1900 Austria, Denmark, Finland, France, Germany, Great Britain, Italy, Hungary, Luxembourg, Netherlands, New Zealand, Russia, Spain, and Sweden had enacted such legislation.

The adoption of workers’ compensation legislation in the United States beginning in the 1910s represented one of the major tort reforms of the 20th century. This reform shifted liability in the
workplace from negligence to a form of strict liability. Workers’ compensation has been said to be the first widespread social insurance program in the United States and helped pave the way for such governmental programs as unemployment insurance, old-age pensions, and even Medicare/Medicaid. Legislative action was required to make workers’ compensation a reality in the United States because the court system did not recognize private contracts in which workers waived their rights to negligence suits prior to an on-the-job accident occurring.

Workers’ compensation is unique because of its history. It was created through legislative action driven by societal acceptance of this no-fault concept. Workers’ compensation coverage is also unique in its many references in state statutes and insurance regulations that pertain to its creation and application. A third element in this uniqueness is the development of its advisory/rating/statistical organizations. The most prominent workers’ compensation advisory/rating/statistical organization for the past 77 years has been the National Council on Compensation Insurance (NCCI). The NCCI is currently the only such organization in the 33 states and the District of Columbia in which it operates. The remainder of the states also have unique rating/statistical organizations. Several states require that workers’ compensation rates be promulgated through an independent workers’ compensation bureau. The first independent bureau, the New York Compensation Insurance Rating Board, was organized in 1914. Independent workers’ compensation bureaus are currently operating in California, Delaware, Indiana, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Carolina, Pennsylvania, Texas, and Wisconsin (12 states). Exclusive state insurance funds currently provide coverage for employers in North Dakota, Ohio, Washington, West Virginia, and Wyoming (five states). The exclusive state insurance funds serve in their respective jurisdictions as the exclusive providers of workers’ compensation insurance. The existence of these workers’ compensation advisory/rating/statistical organizations throughout the United States has been attributed to helping maintain a more actuarially sound and unfragmented database for each of the 50 states.

A market comparison of each of these three types of workers’ compensation organizations is available by totaling direct premiums earned for their respective states. The data for this comparison was compiled from the NAIC Statistical Compilation of Annual Statement Information for Property/Casualty Insurance Companies in 1998, Statutory Page 14 and the AASCIF Fact Book 1999 (Appendix A). The states with independent bureaus total $17,130,661,000 direct premiums earned in 1998 (49.83%), compared to $13,249,617,000 direct premiums earned in the NCCI states (38.54%) and $3,996,855,000 direct premiums earned in the states with exclusive insurance funds (11.63%).

Do the unique qualities of workers’ compensation prohibit the type of development that has led to multiple rating organizations in other insurance lines? This is a question each jurisdiction must explore on its own to provide the optimum answer in a changing world. This report is prepared by the study group to provide important information needed in analyzing the ramifications of the workers’ compensation multiple rating organization environment and to help the reader make sound decisions on this topic within their jurisdiction.
ORIGINS OF THE NCCI

How did the NCCI evolve into the sole workers’ compensation advisory organization and/or statistical agent in 34 jurisdictions? The NCCI was organized under the auspices of the National Convention of Insurance Commissioners (known since December 1935 as the National Association of Insurance Commissioners—NAIC) after a series of conferences between insurance company representatives and representatives of the National Convention of Insurance Commissioners that took place in 1922. Organization of the NCCI occurred during the December 7, 1922, meeting of the NAIC and formal duties and functions of the NCCI began on May 1, 1923. Thus, the NCCI was created by insurance regulators as a not-for-profit shared-service organization to serve several very important regulatory functions.

The actions of the December 7, 1922, National Convention of Insurance Commissioners indicated that the insurance commissioners at that time regarded the NCCI as occupying a special status. Never before had the representatives of one of the major lines of insurance been in such agreement with the insurance commissioners as to the formation of its rating organization. The commissioners in 1922 were casting their influence in favor of uniformity, to help insure that rates were not excessive, unfairly discriminatory or inadequate. The insurance commissioners were very concerned about the adverse impact on financial solvency that can result from cutthroat competition. They selected a model that would minimize the risk of insolvency and add uniformity and stability for insured employers. Prior to this time, when an insurance company varied its classifications or rates to meet the needs of competition, there would ensue a competitive war in which the principles of adequacy and non-discrimination were often lost. The concerns of some commissioners were expressed in the following comments from the Proceedings of the National Convention of Insurance Commissioners in 1920:

“In the actual operation at the outset there would have been ‘confusion worse confounded’ if each company had made independently its own division of industries into classes and then made a rate for each class. With twenty-five operating companies there might have been twenty-five different sets of classifications of industries, and in each set over a thousand classifications and a thousand rates to apply thereto. And the insurance commissioner would have had the duty of passing upon them all. And what of the agent! What of the employer seeking insurance! His search for protection would have been rewarded by a most confusing array of classifications and rates, and have resulted in disgust for a business that showed so little coherence.”

RECENT HISTORY OF WORKERS’ COMPENSATION ADVISORY ORGANIZATIONS IN THE UNITED STATES

The following recent history provides the reader with a chronology of the events that led to the development of competing workers’ compensation advisory organizations to challenge NCCI’s prominence.
Circa 1990: Conversion of NCCI from advisory rate development to advisory loss cost development

The NCCI, since its inception, has provided fully developed manual rates to its members. Fully developed rates include allocations for insurance company profits and underwriting expenses as well as the ultimate cost of losses. Likewise, the Insurance Services Office, Inc. (ISO), an advisory organization primarily serving property and casualty lines of insurance other than workers’ compensation, has provided fully developed manual rates for most states and lines of insurance. By the late 1980s events were about to change the way these two organizations operated (NCCI had annual revenues around $144,000,000 and ISO had annual revenues around $260,000,000 at the time this report was written). Efforts in 1990 to amend the federal McCarran-Ferguson Act and Proposition 103 in California heightened debate between the insurance industry and consumers over the appropriateness of fully developed rates. Some consumers and regulators criticized that providing fully developed rates was a form of price fixing. The critics favored measures intended to increase competition among insurance companies to the benefit of insurance consumers.

The NAIC adopted a resolution in December 1990 stating that rating organizations should no longer provide insurance companies with fully developed rates, including charges for profits and expenses. This resolution reaffirmed the intent of a preliminary recommendation made by the NAIC’s Workers’ Compensation Advisory Organization Working Group in 1989. In addition, the NAIC proposal recommended that a loss-cost approach for organizations like the NCCI and ISO be utilized. The NAIC has defined prospective loss costs as the following:

“That portion of a rate that does not include provisions for expenses (other than loss adjustment expense) or profit, and are based on historical aggregate losses and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.”

The ISO, with over 1,400 insurance company members and subscribers, voluntarily stopped circulating advisory rates in favor of loss-cost data to avoid a perception of anti-competitive behavior. Since its inception in 1971, the ISO has provided loss costs for homeowners and personal automobile for states with competitive rating laws. In 1989, ISO began a conversion to loss costs for all lines and all states. This was essentially completed in 1992. The NCCI, with over 800 insurance company members and subscribers, formally approved the establishment of procedures for changing its primary focus to the preparation and filing of prospective loss costs at a July 12, 1990, meeting.

Insurance companies generally criticized the loss-cost approach at that time, saying it unnecessarily increased their expenses because individual insurance companies would have to calculate expenses and individually file their rates with each state. Each insurance company would now have to apply for state approval of its own profit and underwriting expense component of the workers’ compensation rate. The change from advisory rates to loss costs has, however, been accomplished without major problems and has been credited with creating a more competitive workers’ compensation marketplace for employers.
Administered-pricing states did not follow the trend to adopt loss cost in lieu of traditional rate filings and today continue to require that developed workers’ compensation base rates be submitted for approval. The administered-pricing states are Arizona, Florida, Idaho, Iowa, Massachusetts, Michigan and New York (Appendix B).

December 1991: Report of the NCCI Oversight Working Group

In December 1991 a 3,700-page report of the multi-state examination of the NCCI was released. The examination of the NCCI was made due to concerns of insurance regulators over the anticipated conversion to loss cost for workers’ compensation and over NCCI’s performance as a ratemaking and statistical organization. The examination was conducted under the authority of the states of Florida, Maine, Nebraska, and Utah. The examination was designed to answer concerns in the following areas: the development and implementation of loss costs; data collection and data quality issues; and ratemaking procedures.

In seeking consulting firms to help examine the NCCI, the four states developed a Request for Proposal that explained the nature of the report, as presented in the following paragraph:

“The purpose of this examination is to thoroughly evaluate the data collection and processing activities of the NCCI as well as certain aspects of its rate making activities. The examination also is intended to review the practical considerations with respect to the NCCI’s operations involved in implementing a loss cost system. While the examination will be conducted under the authority of four states, it is intended to address issues of general concern to all state insurance regulators. The final product of the examination should be a comprehensive and detailed report that will provide insurance regulators with a good understanding of NCCI procedures as well as ideas on how those procedures might be improved.”

This was undoubtedly the largest examination ever conducted of an advisory organization. The NCCI Oversight Working Group (OWG) was established to report on the progress of addressing the 207 recommended changes identified as needed from the examination. The OWG reported to the Workers’ Compensation (C) Task Force of the NAIC on its progress. While enhancements were recommended, the general summary of the examination found that NCCI’s procedures were generally reasonable. In response to the examination, the NCCI said “the exam’s major findings are on the mark, and NCCI strongly supports the exam’s major recommendations.”

“The Final Report on the Implementation of the NCCI Examination: Executive Summary” provides an overview of the progress made on these recommendations through December 1994 and is available through NAIC Publications by calling (816) 783-8300, or by e-mail to pubdist@mailkc1.naic.org. The last remaining item to review was reported to the Workers’ Compensation (C) Task Force in June 1999 in a paper titled “Reconciling Financial Data to Unit Report Statistical Data.” A copy of this report is available through the NAIC Research Library by calling (816) 783-8250, e-mail address reslib@mailkc1.naic.org.
Circa 1993: Insurance Data Resources, Inc. (IDR) and IDR Statistical Services (IDRSS) are formed

IDR and IDRSS were formed as legal entities in 1993 by a former NCCI executive officer, and remained composed of former NCCI employees in its top positions throughout the companies’ existence. These entities were designed to perform workers’ compensation data management, rate making, statistical analysis and actuarial consulting functions. IDR and IDRSS were originally owned by Peterson Consulting, a Chicago, Illinois data-management company.

IDR was a for-profit entity licensed as a rating organization. IDRSS was a not-for-profit entity designed to serve as a statistical agent. IDRSS believed that it was not in the best interests of employers, insurance companies or the states to have the workers’ compensation statistical agent making a profit from its member insurance companies, since the insurance companies were required by law to make statistical filings with the state regulatory authority.

On December 22, 1994, Florida became the first jurisdiction to grant IDR a license to provide ratemaking services. By May 1999, IDR and IDRSS were licensed as a rating organization and/or statistical agent in 29 jurisdictions.

Circa 1994: The NCCI shifts from premium-based funding to fee-for-service

Prior to 1994-1995, the NCCI and the independent bureaus were largely funded through assessments upon insurance companies. Insurance companies paid for services based largely on their writings in the relevant state(s).

Starting in 1994, the NCCI announced that its funding basis would shift, at least partially, from premium-based assessments to revenue generated on a fee-for-service basis. The NCCI President at this time, William D. Hager, stated that the change was motivated by a growing demand for products and services from non-members of the NCCI, especially self-insurers, consultants and producers. “We decided we had to broaden our customer base and reach out to various constituencies,” Mr. Hager concluded. (Some insurance professionals question this statement, noting that many non-members were already purchasing numerous products from the NCCI, such as manuals, bulletins, and various statistical compilations. Many products were provided to any interested party at no charge or a nominal fee, which is still the case with the independent rating bureaus.)

Prior to the conversion, the NCCI’s member insurance companies traditionally had been the only payers of NCCI assessment fees. These fees were based on the insurer’s premium share of the workers’ compensation market in a given state. As of April 1995, the NCCI had converted 95% of its members from an assessment-based payment system to a fee-for-service system, although some fees are still determined as a percentage of premiums. Under this system, non-affiliates in some states were forced to become subscribers in order to comply with statutory or regulatory requirements (e.g., mandatory experience rating modifications). The remaining non-affiliates were charged significantly higher fees for many NCCI products and services, especially those that contain data contributed by NCCI affiliates or deemed intellectual property by the NCCI.
The NCCI’s new fees and “product development” initiatives angered some agents, brokers, consultants and other non-affiliates. These critics contended that the NCCI’s new funding basis shifted the burden away from large insurance companies and made it more difficult for smaller entities to compete. As an extreme example, a non-affiliate seeking a copy of an NCCI rate filing was quoted a fee equivalent to the premium-based assessment paid by its largest member in that state. Opinions differ sharply between the NCCI and its critics on the fairness and the competitive effects of NCCI pricing policies upon small and non-affiliated entities. The NCCI states that the fee-for-service approach has generated relatively few complaints and has resulted in more equitable cost sharing, while its detractors assert that it overcharges small and non-affiliated entities.

Although the NCCI cost-related issues have been discussed at the NAIC several times in recent years, no NAIC position has been taken and no recommendations have been made. In part, this may be attributable to the difficult nature of the questions surrounding the topic. What statutory authority do the states have to deal with these questions? After all, a monopoly exists, and the state insurance regulator has been given a charge to oversee it. Presuming that authority exists, what is fair pricing for the various products produced by an entity like the NCCI? To what extent does such pricing have competitive ramifications? What is a fair price for non-reporting “group self-insurers” to pay for products produced by insurance companies with which they compete? (This is not intended to be an all-inclusive list.)

In summary, product pricing and distribution is a significant consideration in either a single-rating-organization environment or a multiple-rating-organization environment. The questions are complex and unresolved within a single rating organization environment, and they could be more complex, but not necessarily the same, in a multiple-rating-organization environment.

**Circa 1995: U.S. Rating Bureau, Inc. is formed**

The U.S. Rating Bureau (USRB) was formed in 1995 by Aon Group as a for-profit workers’ compensation advisory/rating/statistical organization. Like IDR/IDRSS, the USRB top positions were primarily occupied by former employees of the NCCI. The advisory/rating/statistical organization became operational in 1995 and obtained 18 licenses as a state workers’ compensation advisory or statistical organization by 1997. However, this organization became inactive by the end of 1998 due to a lack of support by the insurance industry to have an additional workers’ compensation pricing system. There was also a discernable lack of enthusiasm for the USRB’s experience rating-modification system, which developed modifications that differed from those produced by the NCCI.

**Circa 1996-1999: The NCCI’s lawsuit with IDR in Florida**

Filings made in many states by IDR and IDRSS copied almost verbatim the language used in the NCCI’s basic manual, experience rating manual, retrospective manual, statistical plan, and classification plan. Such filings by IDR and IDRSS led to the January 16, 1996 copyright infringement lawsuit between NCCI (plaintiff) and IDR (defendant) in Florida U.S. District Court.
On October 3, 1996, the Florida U.S. District Court decision concluded that the NCCI’s codes and formulas did not possess the requisite creativity to be protected under the copyright act (Case No. 96-8036-Civ-Ryskamp). U.S. District Judge Kenneth Ryskamp noted in the decision that while the NCCI was designated Florida’s statistical agent in 1946 and has filed its manuals with the Florida Department of Insurance ever since that date, it was not until 1979 that the NCCI registered copyrights for some of its manuals. Furthermore, the judge stated that by distributing its manuals for years without the requisite copyright notice, the NCCI injected its manuals into the public domain.

On October 27, 1997, the NCCI won an appeal of Judge Ryskamp’s decision. The U.S. Court of Appeals found that the NCCI had clearly stated a claim for copyright infringement in its amended complaint by properly alleging that it owned a valid copyright and that the defendants copied the work. In addition, it was decided that the district court erred by considering evidence “outside” the amended complaint in ruling on IDR’s motion to dismiss. In reversing and remanding the action for further proceedings, the U.S. Court of Appeals did not further address the substantive claims of copyright infringement.

The May 7, 1999 license agreement between ISO and NCCI settled this legal dispute, and in that month all parties asked the federal district court to dismiss the lawsuit. While this agreement settled the Florida court case, it did not conclusively answer the questions facing the court involving intellectual property disputes.

April 1996: NCCI considers changing from a not-for-profit to a for-profit entity

The NCCI has been a not-for-profit entity since its inception. During the April 1996 NCCI Annual Issues Symposium, NCCI President William Hager declared that the advisory organization should become a for-profit organization. Mr. Hager suggested that the NCCI should move toward a for-profit format by selling its products and services to anyone, not just NCCI member companies. Mr. Hager took the position that such a conversion would be expected to enhance the NCCI’s future ability to meet its core loss cost, reform and residual market objectives.

The question of the NCCI changing to a for-profit status was not an issue with immediate broad-based support. Many insurance regulators and insurance industry representatives felt there were some major public policy questions that needed to be addressed before this change could take place. State regulators complained that it was inappropriate to allow a for-profit rate-making and statistical agent to be in a position to profit from providing services essential to a state-mandated coverage such as workers’ compensation. Regulators were resistant to grant a monopoly to a for-profit entity without clear authority for regulatory review and approval over the prices that the NCCI charges for its services. There was concern that a for-profit NCCI might tend to maximize profits at the expense of employers required by law to obtain workers’ compensation coverage on their employees. Many insurance companies were also opposed to the NCCI changing to a for-profit status.

On March 6, 1997, the NCCI Board of Directors voted to postpone consideration of the proposal to convert to for-profit status, saying they needed to further study its implications. In 1998, the
NCCI made the decision to abandon pursuit of becoming a for-profit company. The ISO, which was not as closely tied to insurance regulators by law and had established competitors, became a for-profit entity on January 1, 1997. The NCCI competitors at this time, U.S. Rating Bureau, Inc. and Insurance Data Resources, Inc., were formed as for-profit entities.

**July 2, 1997: Announcement that ISO and NCCI may enter into a business relationship**

A joint statement from the NCCI and the ISO was released on July 2, 1997, confirming the two entities were discussing a possible business alliance. Such an alliance could include one or more joint ventures, reorganizations, consolidations or a merger. The ISO said it would maintain NCCI as a not-for-profit subsidiary with a focus on workers’ compensation if a merger with ISO were to take place.

Workers’ compensation market experts questioned the success of such an alliance due to the differences inherent in collecting and reporting data for workers’ compensation vs. all other lines of insurance. Some observers pointed out that the experience rating data set, that are the substance of the NCCI’s database, are vastly different from ISO’s aggregated summary databases. Workers’ compensation insurance companies must submit much more detailed information on claims experience and workplace injuries to state regulators and others. A consolidation of the two advisory organizations was thus perceived by many as posing a significant data reporting and collection systems integration problem.

On April 7, 1998 the NCCI Board of Directors unanimously rejected an acquisition bid by the ISO. The NCCI Board of Directors ultimately decided that, strategically, it was in the best interest of the NCCI to remain an independent body.

**November 9, 1998: Purchase of IDR and IDRSS by ISO**

The ISO announced its purchase of IDR and IDRSS on November 9, 1998. The sale required the ISO to buy 80 percent interest of IDR/IDRSS, with an option to buy the remaining 20 percent interest in one year. With this transition ISO could begin to offer workers’ compensation advisory organization and statistical services in the jurisdictions where IDR and IDRSS were licensed as an advisory organization or statistical agent. At this time IDR and IDRSS were licensed in 27 states.

**May 7, 1999: Joint agreement between NCCI and ISO**

NCCI and ISO jointly announced on May 7, 1999, that they had signed a nationwide agreement providing for NCCI to license its intellectual property to ISO. The license permitted ISO to use NCCI materials, including NCCI policy forms and endorsements, statistical and retrospective rating plans, and its class code and basic manuals. ISO acknowledged NCCI’s copyrights in these materials. Negotiations continued regarding the sharing of a single database that included employers’ experience rating modification factors. The license term was perpetual and applied to all states in which the ISO subsidiary, IDR, was licensed to provide workers’ compensation services. Under the agreement, ISO retained the option to develop its own alternative materials and could have reduced the scope of the agreement on an individual product license or state
basis. The joint agreement also resolved the legal dispute that began in 1996 when the NCCI filed a lawsuit against IDR in federal court, alleging copyright infringement.

Insurance regulators were generally very supportive of the joint agreement as it held the promise of maintaining uniformity in the workers’ compensation system nationally. An ISO spokesman explained the future of the joint agreement in these terms: “If ISO’s insurance company customers want uniformity, IDR will continue to license materials and plans from NCCI; if they want choice, then IDR has the option to develop its own materials and plans.” NCCI President and CEO Bill Schrempf said, “We believe that the agreement gets us as close as we could get to achieving the industry’s stated goals, a uniform infrastructure and equitable cost sharing.”

June 21, 1999: Announcement of acquisition by the NCCI of the ISO workers’ compensation insurance subsidiaries IDR and IDRSS

The letter quoted below announced the sale of the ISO subsidiaries, IDR and IDRSS, to NCCI. The NCCI also agreed to sell ISO its aggregate workers’ compensation data products and to allow ISO to distribute NCCI’s other risk-services products so that ISO customers could choose to have access to comprehensive information that could be used to analyze risk on an account or classification basis.

The ISO wrote to the National Association of Insurance Commissioners on June 21, 1999:

“In recent months, regulators and insurers have underscored the high priority they place on maintaining uniformity in the workers’ compensation core materials—statistical and rating plans, policy forms, manuals, loss costs and rates. Given the resulting reduction in the scope of IDR’s service offerings, ISO reexamined the economics of full-scale IDR operations. Under this agreement, ISO will be able to integrate NCCI’s workers’ compensation aggregate data with the 12 other commercial lines serviced by ISO. ISO will continue to develop a transactional-based reporting system for workers’ compensation data, so that customers can choose to organize and report data the same way for workers’ compensation as for other commercial lines. ISO could then transmit, for its customers, required statistical data to NCCI and other workers’ compensation statistical agents and rating organizations.”

Fred R. Marcon, ISO’s chairman and chief executive officer, summed up the sentiment behind the sales agreement by reflecting, “Regulators and insurers have expressed a desire to work with uniform core workers’ compensation materials and a single database.” On August 17, 1999, the NCCI announced that it had completed the acquisition of the ISO’s workers’ compensation insurance subsidiaries, IDR and IDRSS.

Although the acquisition of IDR and IDRSS by NCCI brought a temporary close to the monumental debate about whether there should be more than one advisory or statistical organization for workers’ compensation, it left many unanswered issues.
Still unanswered is the question of “ownership” of the data, classification system, manuals and other materials that NCCI produces. Given NCCI’s history as a creation by insurance regulators for several regulatory purposes, there are those who argue NCCI’s materials should be part of the public domain. Others maintain that NCCI’s materials belong to its members, the insurance companies that provide the data and pay for its services. NCCI maintains that it owns the materials and has vigorously asserted its claim of copyright protection in recent years. It was not, however, until 1979 that NCCI obtained a copyright on the materials that it considered its intellectual property. NCCI has copyrighted its insurance manuals, published reports, rate filings, data reports, products and formulas to protect its intellectual property rights.

THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS’ (NAIC) INVOLVEMENT IN THE WORKERS’ COMPENSATION MULTIPLE RATING ORGANIZATION ENVIRONMENT

In 1998, after its attempt to acquire the NCCI was rejected, ISO purchased the fledgling workers’ compensation advisory organizations IDR and IDRSS. The purchase of IDR and IDRSS by this large property and casualty advisory organization awoke even the most complacent observers of the workers’ compensation scene. ISO was preparing to enter a new arena, servicing insurance companies that write workers’ compensation policies—and challenge the 75-year-old NAIC–created institution of the NCCI.

Following this announcement the NAIC, through its Workers’ Compensation (C) Task Force, identified many areas of concern. The following concerns, centering on uniformity and the fair treatment of employers, received the most attention.

Data quality issues

1. How would statistical data gathered from multiple workers’ compensation advisory organizations be maintained and reported to develop an actuarially credible database?
2. Would a statewide and countrywide aggregate database be maintained in a workers’ compensation multiple-rating-organization environment?

Experience rating plan issues and marketplace issues

1. Will multiple experience rating modifications for the same period of time exist for an employer in a workers’ compensation multiple-rating-organization environment?
2. Would multiple experience rating modifications result in their use as a competitive tool, with little relevance to the actual claims experience of the employer?
3. Could a multiple experience rating environment lead to deterioration of incentives toward safety in the workplace?
4. With multiple-rating-organizations licensed, would multiple loss costs exist for the same workers’ compensation exposure?
Access to information issues

1. How would the multiple-rating-organization environment affect intellectual property concerns? With many advisory organizations providing data required under state workers’ compensation laws to a statistical agent, or statistical agents, would not this data be more susceptible to unnecessary copyright infringement lawsuits?

2. Would access to information lead to a world of multiple classification plans, multiple statistical plans, multiple experience rating plans, etc., that would be unable to support a sound workers’ compensation system?

In an effort to resolve these matters, the task force formed the Multiple Rating Organization Study Group and charged it with looking into the various regulatory issues related to maintaining more than one advisory or statistical organization for workers’ compensation. This paper is the principle product of the study group.

PURPOSE OF THE STUDY GROUP

The Multiple Rating Organizations Study Group was formed by its parent committee, the Workers’ Compensation (C) Task Force, in June 1998. The purpose of the study group is described in the 1999 CHARGE and 1999 WORK PLAN of the parent committee:

1999 Charge

“Appoint a Multiple Rating Organizations Study Group to review the compilation of state laws on statistical, rating and advisory organizations to assess whether a regulatory response should be developed to inform insurance regulators about the benefits and pitfalls of allowing multiple rating, advisory and/or statistical organizations for workers’ compensation. Report the results of this ongoing charge on a quarterly basis.”

1999 Work Plan

“Finalize appropriate regulatory responses and report results to the Workers’ Compensation (C) Task Force during the NAIC 1999 Winter National Meeting.”

HISTORY OF THE STUDY GROUP

The need for the study group evolved from a desire by members of the Workers’ Compensation (C) Task Force to understand the ramifications of a workers’ compensation multiple-rating-organization environment. The multiple-rating-organization issues became of interest with the incorporation of IDR and IDRSS in 1994 and the incorporation of the U.S. Rating Bureau in 1995. While the USRB became inactive by late 1997 and IDR and IDRSS were purchased by the National Council on Compensation Insurance (NCCI) in June 1999, the importance of understanding a multiple-rating-organization environment in workers’ compensation persists. The possibility that a new workers’ compensation advisory/rating and/or statistical organization(s) may challenge the notion of a single advisory/rating and/or statistical
organization in a state remains a possibility that workers’ compensation regulators may again need to ponder. During the June 10, 1997, meeting of the Workers’ Compensation (C) Task Force, former NCCI President Bill Hager remarked that his organization encouraged a more competitive environment and free–market approach.

The Multiple Rating Organizations Study Group held its first meeting on September 12, 1998, during the NAIC Fall National Meeting in New York City. At that meeting the study group began to identify the issues involved. The following issues were identified:

- Definitional differences between jurisdictions of the terms statistical agent, rating organization and advisory organization;
- Data control and ownership;
- Licensing issues;
- Existing legal barriers;
- Costs;
- Political ramifications;
- What is best for the employee, employer, insurers, and advisory organizations;
- Confidentiality vs. public record issues relative to data collection and reporting;
- Data credibility for rate making purposes; and
- Effects a competitive system may have on insurance services.

The study group identified its role as information gathering for the purpose of providing guidance to states that are considering the emerging options for the workers’ compensation multiple-rating-organization environment. It was generally agreed that moving from a single to a multiple statistical rating organization environment was going to be a considerable undertaking.

The study group met again on December 5, 1998 in Orlando, Florida. Gregory Krohm, Ph.D. (Editor of the Journal of Insurance Regulation) made a presentation titled “The Evolving Role of Statistical Agents in Workers’ Compensation” (Appendix C). In that presentation Dr. Krohm pointed out that “data quality does not manage itself.” He elaborated by saying he believed it was possible to have more than one statistical agent in a state for workers’ compensation data collection and reporting if these functions were regulated properly. He pointed to the telephone companies and electricity producers as successful examples of regulation where the market has evolved from a single supplier of an essential public product to having multiple suppliers of these products.

The study group conducted a conference call on February 18, 1999, in which the uniqueness of workers’ compensation as an insurance coverage was discussed. Concerns regarding data fragmentation, higher insurance costs, delays in experience modification promulgation and the potential for reduced safety efforts by employers were also discussed during this conference call. Mona Carter, chair of the study group, commented that uniformity seemed to be emerging as the key issue.

The study group met on March 6, 1999, in Washington, D.C. Alan Wickman (NE) discussed the importance of defining certain terms, as explained in his paper titled “Advisory Organizations and Statistical Agents” (Appendix D). Arizona, Florida, Oklahoma and Oregon made
presentations explaining their current efforts in designing a means to cope with the multiple rating environment. Also participating in this discussion were various interested parties (insurance company representatives, associations, etc.).

An interim meeting was held on May 19, 1999, in Schaumburg, Illinois that provided information from the NCCI and the ISO on their May 7, 1999, announcement regarding their nationwide data-sharing agreement (Appendix E). The agreement provided for the NCCI to license its intellectual property to the ISO and therefore ended a legal dispute between NCCI and IDR, then an ISO subsidiary. This dispute began in 1996 when NCCI filed a federal lawsuit against IDR alleging copyright infringement. The agreement involved the NCCI’s workers’ compensation statistical and rating plans, policy forms, manuals, loss costs and rates. Both NCCI and ISO expressed their desire during the interim meeting to maintain a credible workers’ compensation database. The states with the most activity in this area provided status reports, and a discussion of issues ensued. The Chair asked this question: “Is there truly a benefit to maintaining the system of workers’ compensation as it has been in place for the past 76 years, rather than allowing a change to multiple-rating-organizations such as has occurred in other lines of insurance?” The consensus of the members of the study group was that the objectives of the workers’ compensation system remain, but perhaps multiple rating organizations could provide some advantages by allowing for a more competitive system.

The study group met on June 5, 1999, in Kansas City, Missouri. Updates were provided by the most active states and plans were made to develop a report to be presented to the Workers’ Compensation (C) Task Force on these issues. The study group agreed that it is valuable to develop aggregate state data to maintain the data’s integrity.

The original draft “Report of the Multiple Rating Organizations Study Group” dated September 23, 1999 was presented by Bob Card (NAIC) to the study group for their evaluation on October 2, 1999 during the NAIC Fall National Meeting in Atlanta, Georgia. Comments on the draft were open to both members and interested parties. Final comments on this draft were to be made to NAIC staff no later than November 29, 1999, so that a revised draft could be completed and sent out for a conference call prior to the next NAIC national meeting. Discussion during this meeting also included state updates from Arizona, Oklahoma, and Oregon and a presentation by the NCCI on its acquisition of IDR/IDRSS from the ISO.

The November 9, 1999, Multiple Rating Organizations Study Group conference call reviewed the changes made to the September 23, 1999, draft by the revised draft dated November 5, 1999. The discussion centered on the following sections of the report: “Workers’ Compensation is Unique”; “NCCI’s Prominence”; and “Recent History of Workers’ Compensation Advisory Organizations in the United States”. It was agreed that additional changes suggested to be made during the conference call would be revised in a draft prepared for the next NAIC national meeting. The study group would also have to review two sections it had not previously had time to discuss—“Lingering Concerns” and “Conclusion.”

The study group met in San Francisco, California on December 6, 1999, during the NAIC Winter National Meeting. The latest revised draft dated November 29, 1999, was reviewed. Various changes were suggested that primarily involved the following sections: “Circa 1994 (NCCI shifts
from a premium-based funding basis to a primarily fee-for-service basis); “Intellectual Property Issues”; “Lingering Concerns”; and “Conclusion”. Having completed review of all sections of the paper, the chair concluded that the report might be ready for a vote once the discussed changes were made. A conference call was suggested prior to the NAIC 2000 Spring National Meeting.

A conference call was held on March 2, 2000, to review the February 22, 2000, draft report. The study group discussed Appendix A and looked at some minor changes, including the need to update some state information. With the understanding the report would be prepared for presentation to the Workers’ Compensation (C) Task Force during the NAIC 2000 Spring National Meeting, the study group unanimously adopted the report.

On March 13, 2000 during the NAIC Spring National Meeting in Chicago, Illinois, the March 7, 2000, revision of the report was presented by members of the study group to the Workers’ Compensation (C) Task Force. The Report of the Multiple Rating Organizations Study Group was unanimously adopted by the Workers’ Compensation (C) Task Force at this meeting.

STATE PAPERS

Appendix F presents information gathered from those states in the study group that have been identified as being the most active in the workers’ compensation multiple-rating-organization debate: Arizona, Florida, Oregon and Oklahoma. While Utah was not an active participant in the study group meetings, it was an active state regarding these issues and submitted correspondence on its progress. Appendix F, therefore, also includes information obtained from Utah.

STATE LAWS PERTAINING TO THE WORKERS’ COMPENSATION MULTIPLE RATING ENVIRONMENT

Appendix G provides information about the laws pertaining to the workers’ compensation multiple-rating-organization environment in the active states.

ACTIVE STATE SUMMARIES

Arizona

The Arizona Department of Insurance first became involved with the workers’ compensation multiple-rating-organizations environment in 1997. The Department sent out a Request for Proposal (RFP) on July 7, 1998, in search of a workers’ compensation insurance statistical agent to obtain statewide aggregate data. The RFP was predicated upon the statutory system of administered pricing in Arizona for workers’ compensation insurance. The statistical agent selected would be required to abide by Part Two of the RFP under 2.4.1.10:

“All compilations of loss and expense experience data and work product resulting from the contractor’s operation as the State Agency’s Statistical Agent are the sole property of the State of Arizona, without impairing any property rights of insurers in underlying data and information.”
Arizona law requires every insurance company that writes workers’ compensation in that state, including the Arizona State Compensation Fund, to be a member of a workers’ compensation rating organization. The law also restricts each insurance company to membership in one workers’ compensation rating organization at a time, but does not limit the number of workers’ compensation rating organizations that may be licensed in the state.

“The role of a designated statistical agent is crucial in a multiple-rating-organization scenario to maintain the integrity and credibility of the Arizona loss and expense database upon which workers’ compensation rates in Arizona are based,” said an Arizona Department of Insurance Circular Letter dated June 3, 1998. The circular went on to describe how the statistical agent and the licensed workers’ compensation rating organizations were to interact:

1. Each licensed workers’ compensation rating organization will report the loss and expense statistics of its member insurance companies to the statistical agent in accordance with the statistical plan developed by the statistical agent.

2. The statistical agent, in conformance with acceptable actuarial and statistical standards, will compile the loss and expense data reported by the rating organizations to produce one statewide compilation that includes the loss and expense experience of every insurance company writing workers’ compensation insurance in the state.

3. After compiling the data, the statistical agent will provide the compilation to the Arizona Department of Insurance and to every licensed rating organization in the state.

4. Each rating organization will thereafter use the compilation as a basis upon which to promulgate its base or starting rates.

5. The rating organizations will then file the rates they have made with the Arizona Department of Insurance.

6. The statistical agent will also provide rating organizations with experience rating data regarding insureds that move from one workers’ compensation insurance company to another.

On November 25, 1998, IDRSS was awarded the contract to become the Arizona Statistical Agent for the period of January 1, 1999, to December 31, 1999. The contract contained a provision to allow an extension for up to four additional one-year periods. IDRSS became operational as the Arizona Statistical Agent on February 1, 1999.

On April 22, 1999, the Arizona Department of Insurance established a workers’ compensation multiple-rating-organizations task force to look into the need for a uniform classification plan, a uniform statistical plan, a uniform experience modification plan, and other considerations endemic to a new multiple-rating-organizations environment. The recommendations of the task force were released June 25, 1999, and some of the essential issues are summarized below (refer to Appendix F for a complete copy of the June 25, 1999 Memorandum).
Classification Plan Recommendation: Arizona law should be amended to require all insurance companies and rating organizations to adhere to a uniform workers’ compensation classification plan, which would also permit insurance companies to use sub-classifications as long as the expenses and experience of the sub-classification are reported to the Arizona Statistical Agent using the core classification.

Statistical Plan Recommendation: Arizona law should be amended to require every rating organization and every insurance company transacting workers’ compensation insurance in Arizona to adhere to a uniform statistical plan, but also permit a rating organization to use its own statistical plan, which has been filed with the Director of Insurance and received approval, to the extent that the statistical plan does not materially conflict with the uniform statistical plan for the purpose of making all reports to the Arizona Statistical Agent.

Experience Rating Recommendation: Arizona law should be amended to require every insurance company transacting workers’ compensation insurance in this state to adhere to a uniform experience rating plan approved by the Director of Insurance. The Director of Insurance may designate the experience-rating plan of any rating organization or any other state as the uniform experience-rating plan.

Loss Costs Recommendation: Arizona has historically operated under an administered–pricing workers’ compensation rating environment. This system has worked very efficiently, and continues to provide a competitive workers’ compensation market in Arizona. The variety of workers’ compensation rating plans available in Arizona (e.g., deductible plans; schedule rating plans) have provided a workers’ compensation market that does not have impediments to competition. However, the task force expressed a desire for the flexibility to change to a workers’ compensation loss–cost rating system when the Arizona workers’ compensation market dictates a change is needed.

The Arizona Director of Insurance evaluated the recommendations made by the task force and proposed legislation to address the issues presented. The task force recommendations were manifested in proposed legislation, which is to be considered during the 2000 legislative session.

In a circular dated December 1, 1999, Director of Insurance Charles R. Cohen announced that his department would not renew the Arizona Statistical Agent contract when it expires on December 31, 1999. From February 1, 1999, through August 27, 1999, IDRSS operated as the Arizona Statistical Agent. Although IDRSS was licensed as a workers’ compensation rating organization in Arizona, IDRSS did not act as a rating organization in Arizona during the period it was the Arizona Statistical Agent. After acquisition of IDR and IDRSS by NCCI in August 1999, NCCI requested that the Arizona Statistical Agent contract be assigned to them. NCCI proposed operating as an active rating organization in Arizona while also acting as the Arizona Statistical Agent. After consideration of the issues involved the Arizona Department of Insurance determined that it was not feasible for an active rating organization, particularly the sole active rating organization, to simultaneously perform the responsibilities of the Arizona Statistical Agent in a manner desired by the Department. Therefore, the Department requested that the

**Florida**

In a first-of-its-kind move, The Florida Department of Insurance awarded the state’s workers’ compensation statistical agent contract to three different organizations in November 1997: NCCI, IDRSS and ISO. The NCCI and IDR/IDRSS were to serve as both rating agencies and statistical agencies, while the ISO was only to provide statistical data in this administered–pricing state. Florida statute required all statistical agencies to compile aggregate data and use the same statistical and classification plan. By so doing the Florida Department of Insurance can solidify accurate, statewide, aggregate data for its regulatory purposes.

The statistical agents selected were operational in Florida by January 1, 1998, and were able to provide consolidated data at no cost to the Florida Department of Insurance. The data compilation costs were borne by insurance companies writing business in Florida. The Florida workers’ compensation multiple-rating-organizations system is designed as follows:

1. The insurance companies report raw data to their statistical agent.
2. The statistical agent edits and compiles data and sends data to the compilation agent (refer to Appendix D for a definition of a compilation agent).
3. The compilation agent compiles industry totals and confirms completeness of the data. The compilation agents agree on an aggregate report that can be used by others to develop rates.
4. An aggregate report is sent to each rating–organization and the Florida Department of Insurance.
5. Each rating organization adds their unique rate making factors to the data and files its proposed rates and rating plans.
6. The Florida Department of Insurance approves a single set of assumptions (e.g., trends, loss development) that produces and overall approved change.
7. Each rating organization calculates class rates using the same data and assumptions to comply with the Florida Department of Insurance–approved overall change. Each rating organization re-files class rates, which should be identical.

Steps 1 through 4 above were accomplished in 1998 and 1999. However, steps 5 through 7 have only involved one filing from NCCI. In 1998 IDR did not make an independent filing, and the sale of IDR in 1999 occurred before the normal filing date.

Due to the sale of IDR/IDRSS by the ISO to the NCCI in August 1999, filings previously made in Florida by IDR/IDRSS have been withdrawn. The NCCI is therefore reverting to being the only rating organization and statistical agency for workers’ compensation insurance in Florida.
Oklahoma

On December 31, 1998, the Oklahoma State Board for Property & Casualty Rates (the Board) licensed IDR and IDRSS as the state’s second workers’ compensation advisory organization. Formerly the NCCI was the only workers’ compensation advisory organization in Oklahoma. Due to this development, the Board authorized the creation of the Oklahoma Multiple Rating/Statistical Organization Task Force to examine the multiple-rating-organization issues and make recommendations.

The Oklahoma Multiple Rating/Statistical Organization Task Force was composed of an impressive cross-section of insurance industry professionals. The members included representatives from the Oklahoma Insurance Department, Alliance of American Insurance, National Association of Independent Insurers, Oklahoma Association of Insurance Agents, Oklahoma State Chamber of Commerce, NCCI, IDR/IDRSS, and the NAIC.

The task force met five times from January 25, 1999, to April 21, 1999, and concluded that the state should allow multiple rating organizations with only one statistical agent. The statistical agent was to be selected through a Request for Proposal process. The statistical agent selected would act as a clearinghouse for data by receiving data from each advisory organization and then send back to each advisory organization statewide aggregate data for the advisory organizations promulgation of loss-costs and for other insurance purposes. One option being considered was to add the IDRSS workers’ compensation loss cost proposal to the workers’ compensation loss–cost hearing process, previously held to determine only the NCCI loss costs to be approved. With this change in the workers’ compensation loss cost hearing process, the Board would approve only one set of loss costs for the state after it reviewed the actuarial information from both NCCI and IDRSS.

Questions from the Oklahoma Multiple Rating/Statistical Organization Task Force were distributed to NCCI and IDR/IDRSS for their comments. Appendix F presents these questions and the responses from each advisory organization.

In June 1999, Oklahoma HR 1042 established a new workers’ compensation task force, composed of members of the Oklahoma House of Representatives, to “study, review, and make recommendations relating to the issue of multiple-rating-organizations and statistical agents in the workers’ compensation insurance marketplace in Oklahoma.” Oklahoma formed a legislative task force under HR 1042 in June 1999. This new task force is composed of members of the Oklahoma House of Representatives to “study, review, and make recommendations relating to the issue of multiple-rating-organizations and statistical agents in the workers’ compensation insurance marketplace in Oklahoma.” Enthusiasm for the legislative task force is expected to wane as a result of the purchase of IDR/IDRSS by the NCCI in August 1999.

Oregon

Oregon has been especially interested in copyrights and confidentiality issues in the multiple-rating-organization environment. As an Oregon study group representative of the Multiple
Rating Organizations Study Group commented during a recent meeting, “We don’t want to find that a significant part of the market can’t write workers’ compensation insurance due to copyright or confidentiality issues.”

To help overcome various multiple-rating-organization environment concerns, the Oregon Insurance Division W/C Statistical and Experience Rating Plans Work Group was formed in January 1999. The goal of the work group was to assure that all insurance companies continue to price coverage using the most reliable and stable information available, which should continue to include statewide payroll, statewide premium, and statewide loss experience. Oregon, a competitive rating state, also desired to maintain a uniform experience-rating plan. To accomplish these goals, the work group decided to pursue classification, statistical, and experience rating plans that could be used in the public domain—by designing their own state statistical, classification, and experience rating plans. These plans would be patterned in part after plans made available through the Workers’ Compensation Insurance Rating Bureau of California (the designated advisory/statistical organization in California). Significant issues and concerns over the implementation of such revisions were identified in this process.

Under the Oregon concept, each workers’ compensation rating organization in the state would be required to use the statewide aggregate data developed through the state–approved statistical plan. If each advisory organization has data from part of the market, then the advisory organizations should be required by law, the Oregon study group representative surmised, to share that data or jeopardize losing their license. In addition, if Oregon was to approve any rating or classification plan filing from one workers’ compensation advisory organization, then the Division would want to receive a similar filing from all other workers’ compensation advisory organizations, so that aggregate data would be combinable and remain credible statewide.

The Oregon Division of Insurance approved a license for IDR on May 28, 1999, with the understanding that the advisory organization would license and utilize the loss–cost filings of the NCCI. Due to the acquisition of IDR/IDRSS by the NCCI in August 1999, IDR voluntarily surrendered its license.

Oregon Senate Bill 280 became law on June 9, 1999, and is designed to help preserve the workers’ compensation statewide database by:

1. Giving the Director of Insurance discretion as to how many advisory organizations to license.
2. Authorizing the Director of Insurance to appoint a single statistical agent to compile statewide data.
3. Requiring advisory organizations to share data according to rules and fees adopted by the Director of Insurance.

The Oregon Division of Insurance held a hearing on February 9, 2000, to develop regulations in compliance with Senate Bill 280. The Division will adopt these regulations upon filing with the Oregon Secretary of State.
Utah

Utah House Bill 269 became effective May 3, 1999. The bill revised the entire rate–regulation chapter of the Utah Rate Regulation Act. Chapter 19a., Part 4 of the bill pertains to workers’ compensation and applies to all Utah insurance companies writing workers’ compensation coverage, including the Workers’ Compensation Fund of Utah. Highlights of Part 4 of the bill follow and address many multiple-rating-organization environment concerns (reference Appendix G. for a complete copy of Part 4).

“It is the purpose of this part to provide for a designated rate service organization to perform certain functions on behalf of the commissioner. The commissioner shall designate one rate service organization to develop and administer the uniform statistical plan, uniform classification plan, and uniform experience rating plan filed with and approved by the commissioner. Each workers’ compensation insurer, directly or through its selected rate service organization, shall: (a) record and report its workers’ compensation experience to the designated rate service organization as set forth in the uniform statistical plan approved by the commissioner; (b) adhere to a uniform classification plan and uniform experience rating plan filed with the commissioner by the rate service organization designated by the commissioner; and (c) adhere to the prospective loss costs filed by the designated rate service organization. An insurer may develop directly or through its selected rate service organization subclassifications of the uniform classification system upon which a rate may be made. A sub-classification shall be filed with the commissioner 30 days before its use. “

In a September 10, 1999, letter on this subject addressed to Bob Card (NAIC) from the Utah Insurance Department, the following statement was made: “The sale of IDR to the NCCI does not really affect our system, other than to eliminate the urgency to act. The way the statute now reads, it allows for one or multiple rate service organizations.”

STATE SCHEMATIC DIAGRAMS

The state schematic diagrams help explain the workers’ compensation data–reporting requirements of various insurance departments, as these requirements existed in May 1999 (Appendix H). The diagrams presented to the study group were the following: Traditional Model; Texas Model; Florida Model and Arizona Model. The study group found these diagrams very helpful in understanding alternatives to the traditional data reporting system. The study group noted during this period that Arizona and Florida have adopted models moving to the workers’ compensation multiple-rating-organization environment.

INSURANCE INDUSTRY POSITION PAPERS

The study group wishes to thank the many insurance companies and their representatives for taking the time to participate in the discussions on the multiple-rating-organizations
environment. Without their insights, the study group would not have had the understanding needed to fully evaluate the changes occurring.

While the positions of the insurance industry varied on some points, the majority encouraged uniformity regarding the workers’ compensation classification system and statistical plan. Many also agreed to maintain a uniform experience-rating plan.

A summary of insurance industry position papers received by the study group may be reviewed under Appendix I. A copy of each position paper is available through the NAIC Research Library, 2301 McGee, Suite 800, Kansas City, Missouri  64108-2604. Phone: (816) 783-8250. Fax: (816) 783-8235. Copies are available at no charge to insurance regulators, however there is a minimal charge for non-regulators.

SYNOPSIS OF LEADING POSITIONS OF THE WORKERS’ COMPENSATION ADVISORY ORGANIZATIONS

A synopsis of leading positions of the workers’ compensation advisory organizations on the workers’ compensation multiple-rating-organization environment is listed below.

**Positions previously advocated by the U.S. Rating Bureau, Inc. (USRB)**

USRB’s rate–making methodology, based on a classification system compatible with the Standard Industrial Classifications, resulted in a more responsive pricing system, reflecting more timely values.

Competition works. By creating an alternative pricing mechanism, the marketplace would be free from the restrictive pricing imposed by indications from a single source.

The USRB had a simplified database for its experience-rating plan. The modification calculation was easier to understand, perform and, because of its streamlined requirements, resulted in significant cost savings for the industry.

**Positions previously advocated by the Insurance Data Resources, Inc. (IDR)/IDR Statistical Services, Inc. (IDRSS)**

There have been significant advances in technology in recent years regarding insurance data collection, warehousing and reporting.

There are benefits of open competition in workers’ compensation to the consumer. IDR/IDRSS is looking to provide insurance companies with a choice. Multiple rating organizations with uniformity can lead to a better system of choice for the consumer.

State insurance rating laws already contemplate the existence of multiple workers’ compensation advisory organizations and statistical agents. The state insurance laws, intellectual property laws and the law of antitrust provide tools to regulate the behavior of multiple rating organizations.
NAIC model rating laws have generally pointed to increased competition and uniformity as acceptable means to develop the insurance marketplace.

**Positions of the National Council on Compensation Insurance (NCCI)**

The workers’ compensation system needs management.

NCCI is in the best position to perform the needed workers’ compensation functions.

A multiple–rating environment could lead to data fragmentation, higher insurance costs, delays in experience modification promulgation and even a reduction in safety efforts by employers.

**Positions held in common by IDR/IDRSS/ISO and NCCI**

To maintain a credible database, as exemplified in the nationwide agreement jointly announced by NCCI and ISO on May 7, 1999 (Appendix E).

Ensure trade secret protection.

All insureds should adhere to only one classification system and experience rating plan.

**STUDY GROUP ANALYSIS OF KEY ISSUES**

**Definition of terms**

The study group reviewed the terms “advisory organization” and “statistical agent” (Appendix D). The term advisory organization is usually addressed in state law and generally follows the NAIC definition. The NAIC defines an advisory organization as any entity that has two or more member insurers, or is controlled directly or indirectly by two or more insurers and assists insurers in rate–making–related activities. The term statistical agent, while generally not addressed in state laws, is much more difficult to define than advisory organization due to the diverse interpretation of the term by the states. A new term, “compilation entity” was therefore proposed for application by states in a workers’ compensation multiple-rating-organization environment. The difference between a compilation entity and a traditional statistical agent is that a traditional statistical agent collects data from insurers while a compilation entity collects and compiles data for regulatory purposes from other entities (i.e., advisory organizations and statistical agents) that have collected the data from insurers. A compilation entity is unnecessary for a state where a single traditional statistical agent collects all of the data, such as currently exists in the United States with NCCI having no rivals in the states where it is active.

Another term discussed was “data collection agency” (Appendix D). A data collection agency (DCA) was defined as a committee, created by statute, charged with establishing policy for collecting and publishing workers’ compensation data in a state. The DCA could be co-chaired by the directors of the Insurance Department and the workers’ compensation agency and could be comprised of representatives from business, labor or other segments of the workers’ compensation community. The DCA would determine what data is to be collected and how the
The cost of data collection, compilation and editing is to be allocated among data providers. They would also establish fines and penalties for providing inaccurate or untimely data and establish fees and confidentiality rules for selling reports and/or providing data access to interested parties.

**Uniformity and credibility issues**

Uniformity was at the heart of the study group’s concerns. During assembly of rate-making data, the data must go through a massive validation process. The advisory/rating or statistical organization must work through insurance company reports before aggregating the database. Without a uniform aggregate state or countrywide database, actuarially sound, credible data is in doubt.

The chair believed that uniformity was emerging from the study group as the key issue. It was suggested that the following questions remain even when a credible database is maintained: (1.) Does there need to be a uniform classification plan? (2.) Does there need to be a uniform statistical plan? (3.) Does there need to be a uniform experience-rating plan?

The consensus of the study group regarding classification plans was that a single classification plan is needed in a state to allow uniformity of data collection. Classification plans, however, would not have to be exactly the same throughout the country to work effectively and to be comparable. Today, states with few exposures in a given classification often rely on the national experience of the classification to provide a complement to data credibility.

The consensus of the study group favored a uniform workers’ compensation statistical plan so that a credible aggregate database could be maintained. Without a uniform statistical plan, insurance company data cannot be meaningfully compared and utilized. With a uniform statistical plan, the promulgation of rates and loss costs is enhanced to produce actuarially sound rates that are not excessive, inadequate or unfairly discriminatory.

The consensus of the study group favored a uniform experience-rating plan. While some members were of the opinion that experience rating plans could vary when based upon an actuarially sound aggregate database, many members were concerned about the experience rating plans becoming a competitive tool among the insurance companies unless some uniformity standard prevailed. There was concern that experience rating, which has been an important incentive to employer safety programs, might lose its ability to effectively promote workplace safety unless the new environment is properly managed.

The American Academy of Actuaries made the following comments to the study group regarding uniformity (Appendix J):

- There should be a single, minimum standard class plan and statistical plan countrywide.
- There should be minimum qualification standards for statistical agents aimed at ensuring data integrity and appropriate data confidentiality.
• There should be good electronic communications and data–transfer abilities between statistical agencies and rate–making organizations, in order to ensure efficiency and data integrity.

• There should be good electronic communications and data–transfer abilities between statistical agencies in order to determine whether a risk is eligible for experience rating and to facilitate accurate experience rating calculations.

• All decisions should keep in mind the benefits of minimizing the cost of compiling and accessing data by all advisory organizations (advisory organizations include both rating organizations and other authorized users).

• Provision should be made to enable the aggregation of industry–wide data as necessary.

The following comments from study group members and interested parties may be of further enlightenment when considering the uniformity issues:

• Uniformity is needed in the classification system, but not necessarily in rate and experience rating promulgation as long as the data is ultimately actuarially combinable.

• Multiple entities handling aggregate statistical reporting could lead to less efficiency and more costs, and may result in multiple editing of information.

• Multiple statistical agents should be able to exist in the same jurisdiction if aggregate data is obtained timely and accurately.

• It is difficult to see why more than one rating organization per state would ever be needed.

• Should a state allow an insurance company to be a member of more than one workers’ compensation rating organization? Response: The concern is with which set of rates, loss costs, rules and forms the insurance company would be using.

• There are different ways to collect data, but it must be combinable with related data to be actuarially sound.

• Regulators generally desire the least invasive approach to the multiple-rating-organization dilemma.

• Each state must work out what it wants to do in the changing workers’ compensation environment.

**Intellectual property issues**

In the past decade, intellectual property issues have increased in importance to the insurance industry. *A Dictionary of Modern Legal Usage* (Second Edition, Copyright 1995) defines intellectual property as comprising two subdivisions: industrial property and copyright. Industrial
property includes patents, inventions, trademarks, industrial designs, and trade secrets. Copyrights are property rights in literary, musical, artistic, photographic, and film works, as well as in maps and technical drawings. In the insurance sphere, examples of intellectual property include databases, manuals, and rating formulas.

Insurance companies are concerned that the use of their data by others may cause harm to their competitive positions. They maintain that the data are their business records and are therefore owned by the insurance company and shared with the regulator and/or statistical agent for only limited purposes. Statistical agents and advisory organizations maintain that they have ownership rights in aggregated data to which they have added meaning and value.

The NCCI commented on intellectual property issues during a Workers’ Compensation (C) Task Force meeting, as quoted below from the NAIC Proceedings, Second Quarter of 1996:

“The NCCI wishes to restrict access to its more esoteric information that is used to support rate filings. The NCCI wants to avoid access to the information by non-payers. The NCCI is not trying to restrict access to regulators, but has visited with states about ways to deny access to those that merely try to avoid paying their share of the costs to compile the information. A NCCI representative discussed various ways that the NCCI seeks to protect its intellectual property rights, including providing regulators with lists of the portions of filings that it wishes to protect or having regulators review information and then return it to the NCCI.”

Insurance regulators generally want insurance data to be made publicly available once it has been released to the regulatory authority. Regulators believe that providing data and information to employers will allow them to become more informed purchasers of the workers’ compensation product. Conversely, they fear that hiding information is detrimental to competition. They point to various state freedom of information acts to support this view by requiring certain information to become public record once it has been provided to the regulator.

Insurance companies point out that certain data reported to regulators and/or statistical agents are trade secrets and protected by various federal or state (or both) intellectual property laws, notwithstanding state freedom of information acts. Further, insurance companies point out that release of certain types of information by regulators may have a chilling effect on competitive innovation in the marketplace. Insurance companies assert that application of intellectual property law to various products and data of insurers, statistical agents, advisory organizations and regulators is fact-specific to each individual claim. Insurance companies further assert that application of intellectual property law may require a court of competent jurisdiction to balance the applicable federal and state intellectual property laws and the federal and state freedom of information acts.

Florida has partially addressed the intellectual property issues by asserting its ownership right to statistical data, statistical plans, and editing specifications. This was accomplished through the contracts awarded to the designated statistical agents for workers’ compensation. The designated statistical–agent contracts make a distinction between data collected by the statistical agent and data reported to the department and made publicly available. The data received by the
department does not include any level of detail that would identify individual employers, policyholders, claimants, insurers or insurer groups. The underlying detailed data, including all the identifiers, must be transferred to other statistical agents, as needed, and to rating organizations whose insurers need the information for their policyholders. The aggregate department data are considered public information and are available to any rate–making organization or others and is designed to be sufficient for producing rates.

Another approach to coping with intellectual property issues, expressed by an NCCI representative, would be for state laws to require various insurance products declared as intellectual property to be licensed out to others for reasonable consideration without the creating organization losing its intellectual property rights.

The ultimate resolution of these questions may require both litigation and legislation. As insurance regulators provide input for any legislation that may be necessary in this area, they will seek a proper balance. The balance will be between the claims of insurers and advisory organizations that the data is proprietary and that of employers, employees, agents and other stakeholders desiring the data to be part of the public domain.

**Countrywide standardization**

While the study group was united in its desire to maintain state regulation of workers’ compensation, the members did discuss the possibility of countrywide standardization regarding the multiple-rating-organization environment. The advantages of such a uniform approach were cited as avoiding duplication and applying consistency across the country. It was suggested that countrywide uniformity in the classification, statistical and experience rating plans could be developed through a forum of the states at the NAIC, or developed through an industry organization for approval by the states.

**Who is going to benefit?**

The study group discussed the ramifications of a workers’ compensation multiple-rating-organization environment on the employer, employee, insurance company, advisory rating or statistical organization, producer and the insurance regulator. It was noted that the employer’s reaction to this environment affects the outcome to the employee, insurance company, advisory rating or statistical organization, and ultimately the regulator.

A study group representative commented that one of the main reasons he had joined the study group was to ascertain the effect of the multiple-rating-organization environment on the employer. Another study group representative responded that in his opinion the multiple-rating-organization environment was not likely to make a profound difference to the employer. If a state has uniform loss costs, uniform classifications, uniform experience rating, then the impact of the multiple-rating-organizations environment may be negligible to the employer. However, if uniformity exists only with the requirement for a statewide database, then the employer could be significantly impacted where multiple loss costs, multiple classification systems, and multiple experience rating plans are allowed to exist. The study group concurred with these remarks.
LINGERING CONCERNS

Workers’ compensation bureaus, both the NCCI and the independents, have monopolies that have been generally encouraged and largely created by regulators and/or legislators. As such, the questions that present themselves relate to the relationship that the state desires with the bureau and whether the bureau prices its products fairly and consistently in the public interest. Should the gathering of data and the making of rates or loss costs be a joint venture of the state and the insurance industry with the bureau providing necessary services? Should the bureau be viewed only as a tool of the industry that, owing to its monopolistic nature, requires special regulatory attention? In either case, to what extent should state regulators be involved with setting or overseeing the bureau’s charges for its products and services?

CONCLUSION

In an address by the Honorable Frank H. Hardison, as recorded in the Proceedings of the National Convention of Insurance Commissioners in 1920, when commenting on the dilemma regulators faced in establishing a rating bureau for workers’ compensation, he said:

“The business like the beginning of the world, was ‘without form and void, and darkness was on the face of the deep!’ Omnipotence did not intervene and say ‘Let there be light.’”

The study group has attempted to shed light on this subject by providing the reader with information pertaining to the workers’ compensation multiple-rating-organization environment experienced briefly by a number of states. While the USRB became inactive in 1998 and IDR/IDRSS were acquired by the NCCI in August 1999, the importance of understanding a multiple-rating-organization environment in workers’ compensation persists. The possibility that a new workers’ compensation advisory/rating and/or statistical organization(s) may challenge the notion of a single advisory/rating and/or statistical organization in a state remains a possibility that workers’ compensation regulators may again need to ponder. This study may serve as an historical record at such time these issues resurface. In addition, it may serve as resource material for states that wish to reconsider whether their current regulation of monopolistic advisory/statistical organizations best protects the public interest.

The reader is encouraged to contact Bob Card, Senior Regulatory Specialist, National Association of Insurance Commissioners, about questions regarding this report. Mr. Card’s business address is NAIC, 2301 McGee, Suite 800, Kansas City, Missouri 64108-2604. He may be reached by e-mail at bcard@naic.org, by telephone at (816) 783-8263, or by fax at (816) 460-7513.
### APPENDIX A

#### WORKERS' COMPENSATION 1998 DIRECT PREMIUMS EARNED BY INSURANCE RATING/STATISTICAL ORGANIZATION

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Percent: 38.54% 49.83% 11.63%

*AASCIF FACT BOOK 1999

**Identification by Type of Organization: 1 = NCCI; 2 = Independent Bureau; 3 = Exclusive State Fund

w:Mar00/tf/wc/wg/mro98PREMS.xls
APPENDIX C

The Evolving Role of Statistical Agents in Workers Compensation ¹

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Introduction

Numbers rule workers compensation insurance far more than in other enterprises. The business is based on detailed evaluations of loss cost by hundreds of sub-groups, or classifications. Other businesses collect detailed cost data, but costs for workers compensation are much more difficult to pin down. Losses and loss adjustment expenses must be sorted and analyzed using actuarial methods. The goal of this analysis is to have a true fair measure of historic costs and an informed judgment of what prospective cost might be during a future policy period.

Equity and good insurance practice dictate that policyholders be grouped into reasonably similar risk classes. Rates for each risk class levels are set. Finally, individual employers own loss experience is used to modify their rates. This system of “experience rating” requires prompt and detailed reporting and recording of all workers compensation payroll and losses attributed to experience rated employers.

Since the dawn of workers compensation (WC) insurance,² the job of gathering data had been the job of industry sponsored organizations, like the National Council on Compensation Insurance (NCCI). The NCCI collects information on more than $20 billion in workers’ compensation insurance premiums. They serve about 700 insurance company members or subscribers.

The NCCI, like other statistical agents, is licensed by insurance departments in those states where it operates. The granting of this license means that the statistical agent should be closely regulated by the state for a public purpose. A later section will discuss these purposes, including the related duties of a “rate service organization.”

To discharge their supervisory duties, state departments have from time to time done on-site audits of the NCCI and other independent bureaus. In 1991, the Workers Compensation Task Force of the NAIC lead a multi-million dollar technical and market conduct audit of all NCCI operations.³ A five volume report

¹ The author benefited from the comments and insights of David Bellusci, Peter Burton, Richard Colvin, Ron Cooper, Lou Hannes, Larry Hockstetler, Jim Nau. The views expressed here do not necessarily reflect the positions of the above persons or the author’s agency. All errors are the sole responsibility of the author.
² Formed in 1923, the National Council on Compensation Insurance (NCCI) is the oldest and largest statistical and rate service organization.
³ This was an unprecedented effort. The author knows of no other examination of a statistical agent approaching this in resources or scope.
with hundreds of specific recommendations for updating and improving operations came out of this monumental effort. That examination issued four priority recommendations:

- Clearly define data quality policies and standards
- Measure and report carrier and NCCI performance against those standards
- Build effective incentives to achieve performance objectives
- Build integrated systems which support policies and objectives

The resources committed to this examination and regulatory follow up underscore the importance of data quality rate making and regulation. As the examination discusses, the NCCI has struggled with prompt and accurate reporting of underlying experience. Thus, regulators should be on the alert for a diminished incentive to rigorously enforce quality standards on reluctant carriers. While not inevitably so, competing statistical agents may be more cost conscious and reluctant to expend resources on quality controls if it makes them less cost competitive in the marketplace.

The magnitude of examination and depth of the involvement by the NAIC Task Force in the operations of the NCCI illustrates how regulators habitually treated the NCCI like a quasi-utility, or regulatory adjunct. The unique services they provided simplified the focus of regulatory attention: it was the NCCI on one side of the table opposite the regulators on the other side. Shattering this notion of “natural monopoly” takes a paradigm shift in the thinking of many state regulators.4

Perhaps the attitude that NCCI was a unique resource, or natural monopoly, stemmed from the enormity of the job that needed to be done. The NCCI developed a prodigious ability to collect, store, and analyze business-related numbers from insurers writing workers’ compensation insurance. They store detailed reports on premiums and losses for 3 million policyholder statistical reports (“unit stat cards”). They used this data to develop formulae for charging back costs to employers. The NCCI, regulators and other rating organizations developed procedures how workers’ compensation information systems should be defined and applied to support rating and claims systems. They also harness their storehouse of data to study systems for purposes of adjusting benefits and law. The major state WC reform legislation enacted in the early 1990s was advocated by insurance and employer trade groups, supported by statistical analysis of the NCCI.

Times are changing. Information technology required to support massive databases is radically cheaper, faster, and more powerful. Just a few years ago, the NCCI relied on the most powerful IBM mainframes enshrined in a glass-walled climate-controlled room. Long aisles of tapes and cassettes stored billions of records. Now, that same raw processing power sits on a desktop. In addition, the growing reliance on self-insurance opens up a new market for agents willing to provide loss and rating information for group self-insurance markets. Finally, other entities are asserting their ability to use statistical data from insurers to analyze the WC system and guide policymakers.5

Multiple statistical agents covering the same lines of insurance are not new. ISO, NAI, NISS, IDR, and AAIS, among others, now compete to collect data for, and provide services to, parts of the property and casualty industry. Even in workers compensation, competition has existed on the edges of markets. That is to say, the NCCI competed for the job of servicing all or part of the statistical and rate making functions of independent bureaus, state funds, and state assigned risk pools. Their duties in these areas

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4 In economic theory, a natural monopoly exists in a market when one supplier has such economies of scale that it has continuously declining average costs as size increases. Utilities were the textbook example of natural monopolies, but, like statistical agents, this view may be changing.
5 For example, the Workers Compensation Research Institute and California Workers’ Compensation Research Institute have done large scale studies of system performance using statistical data received directly from insurance carriers.
expanded or contracted based on their ability to service state needs. Competition for services has been real and dynamic:

- Just two years ago the NCCI was successful in winning approval to perform all the functions of the Hawaii Rating Bureau.
- In 1985, the Indiana Compensation Rating Bureau outsourced all of its functions (and employees) to the NCCI. Beginning January 1998, the Bureau took back the management oversight and some customer service functions, providing these functions with Bureau employees. Before the current contract with NCCI expires, the Bureau is likely to unbundle these services and put them out to the best competitive proposal.
- The Wisconsin Compensation Rating Bureau has relied for many years on the NCCI for some services, but provided others in-house. The bureau is planning to conduct more services in-house and bid out the remainder.
- The independent bureaus in Michigan and North Carolina contract with the NCCI to collect all of their statistical data using a modified version of the NCCI statistical plan.

So, competition is not new. The groundbreaking events are the use of a shared data by multiple rating organizations and requiring statistical agents to share data for common use. To the author’s knowledge, in no line of insurance have statistical agents shared data for rate making purposes with other statistical agents.

Driven by technological and market changes, new entities assert that they can duplicate the functions formerly performed by only by the NCCI in most states. They cite the advantages of market competition for providing innovation and service improvements. Regulators are puzzling through how to deal with these competing agencies. This paper is a guide to parties concerned with the emergence of multiple workers compensation statistical agents and rate service organizations. It takes no position on the optimal number of agents for a state. Instead, the paper discusses how to preserve the essential functions of data in workers compensation without being unnecessarily restrictive on new business practices and competitive forces.

Function of a Statistical Agent

“Statistical agent” is a term peculiar to insurance. No other industry has an entity collecting cost and/or pricing information for the use of industry members. No other industry has a history of collective pricing decisions like insurance. Closely related to the concept of a statistical agent is the role of a rate service or rate advisory organization (RSO). RSOs are entities licensed by state insurance departments to prepare and file rates and rating plans for their member or client insurers. All RSOs have traditionally been statistical agents, in order to collect data for rate making purposes. There is no logical barrier to having multiple rate service organizations in a state using the same statistical database (California law, for example, allows for that possibility). For simplicity, we broadly use the term statistical agent to cover both roles.

Statistical agents had their origin in fire bureaus for property insurance. These bureaus helped member insurers more carefully and systematically evaluate the cost of fire and related coverage. Today, serving as rating organizations, some bureaus also help their members by developing the ancillary forms and rating manuals. They act on behalf of their members before regulatory bodies. Rather than have hundreds of companies file forms and manuals, the statistical agent does it once for all members.

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6 These organizations served both carriers with a propriety and controlling interest in the bureau (members) and clients who simply paid for services (subscribers). This distinction between members and subscribers continues today.
Members are then allowed to reference this filing as proof of compliance with state filing or prior approval laws.

Statistical agents sometimes represent many lines of insurance. The Insurance Service Office (ISO) has the broadest scope of any statistical agent, covering diverse lines like inland marine, personal auto, commercial liability, and property insurance. Others are focused on coverages for a specific insurance line (title insurance or surety) or a type of customer (grain and elevator or atomic energy). The NCCI has always concentrated only on workers compensation insurance.

Finally, it is worth noting that actuarial firms can— in principle— perform many of the functions of statistical agents and rate service organizations. Indeed, in life and health insurance, there has never been anything like a licensed statistical agent. Instead, large actuarial consulting firms maintain large proprietary databases of loss experience that they use to design products and set rates. If multiple statistical agents are recognized and required to share data to all requesters at cost, a new market may emerge for actuarial consultants and other entities to be licensed as “rate service only” organizations.

Agents vary widely in the scope of their statistical and rate making or advisory services. Below are the major functions of these agents.7

Developing a Statistical Plan

Collecting data is meaningless if the data are not comparable. Suppose, to use a non-insurance illustration, that one wished to track the average cost of a restaurant meal. If one simply added all cost of ingredients and divided by the number of meals served, the resulting average cost would be meaningless for purposes of an individual restaurant owner that wanted to know what the cost of a particular plate and style of presentation. Restaurants owners, like other businesses, are not permitted to know each other’s costs—it is generally illegal to share cost data for price setting.8 However, in insurance it is possible for state agencies to license agents to perform data collection for a public purpose. Statistical agents have a two fold function: 1) they help carriers (particularly new or small ones) price coverage, and 2) they assist regulators in evaluating rates to insure they are “adequate, not excessive, nor unfairly discriminatory.”

Collection of Data

Even the best plan needs to be executed well to get the desired outcome. As the 1991 examination of the NCCI repeatedly emphasized, it is a monumental job to collect individual data on millions of policyholders. Payment and claims characteristics need to be checked for compliance with the statistical plan and errors corrected. The information on individual claims is matched and assigned down to the claims level of detail. The agent must establish reporting and quality standards and enforce them. This may require “disciplinary” actions, such as fines or severance of a reporting relationship for chronic and severe non-compliance. Data integrity is expensive to maintain.

Analysis of Data

The statistical agencies have large staffs of actuaries and others to analyze premium and loss data. Their function is to develop appropriate reserve estimates for unearned premium and losses by accident and policy years. Loss development is a very complex matter and has a great impact on rate indications. These fully developed premium and loss data are the building blocks used to develop rates.

7 While the emphasis in these descriptions is on workers’ compensation insurance, similar functions are performed by agents in other lines of property and casualty insurance.
8 The Sherman Act makes price coordination a per se anti-trust violation.
Trending

According to actuarial principles and competitive business requirements, rates should be based on the expected costs of doing business during the policy period being rated for. These forward-looking rates depend on trending or forecasting of historic loss patterns into the future period being rated. This function has historically been done by a rating organization in each state, using generally accepted actuarial procedures. Nothing logically prevents a third party, distinct from a statistical agent, in trending individual or industry loss expense for rate making.

Filing with Regulators

A useful administrative service provided by most statistical agents in P&C lines is filing reports, policy forms and other related documents with state regulators. Keeping up with various state laws and filing procedures would tax the resources of insurers writing in many states. The overhead costs of understanding and meeting regulatory requirements would be very large to fledgling or small writers. Without this assistance, some carriers would be reluctant to enter new markets unless they could build up a large market share. Member and subscriber insurers are always free to deviate from rates and forms filed on their behalf.

In the past, RSOs, like NCCI, filed rate manuals and rules of application. In some states these manuals, once approved by the state, were basis for agents to quote premiums to prospective policyholders. Everyone in the same class paid the same manual rate and all insurers were required to use these manual rates without modification. Now, because of law changes, many states have adopted loss cost rating, in lieu of prior approval of full manual rates. Loss costs are the actuarially expected losses per $100 of payroll, allocated to each class code. It is up to the member insurers to add a factor for their own estimated expense and profit needs and produce the final rate.

Reports and Analysis

From time to time regulators ask for information about the condition of lines of insurance. They may want information on profits, losses, premiums or other market characteristics. Statistical agents are in an ideal position to provide these analyses. They have detailed information relating to claims and employers ideal for assessing the impact of such things as:

- safety initiatives
- benefit changes
- coverage extensions or contractions
- managed care arrangements.

Such studies have been extremely useful to state officials and legislators in reforming WC laws and establishing new benefit levels. In the past, the NCCI has freely given generous amounts of consulting and analytical time to public policy makers. In a competitive system, such services may have to be explicitly priced and funded.

Other functions

Statistical agents may perform other service functions for their members that are not addressed here. These functions do not deal with the collection and use of data for rate analysis. Examples of these allied functions include the management of assigned risk pools, computation of experience modification factors,
maintaining policy information for regulators, special actuarial studies, and the distribution of manuals and guides.

Following are examples of services marketed by the NCCI:
- Database products, such as medical services by injury type and a flexible query system on loss data accessible for the Internet.
- Software and publications
- Safety analysis and publications
- Proof of coverage verification for state industrial commissions
- Administration of state-mandated programs, such as safety credits, managed care credits, and premium adjustment programs.

**WC Interstate Rating**

Maintaining the workers compensation interstate experience modification data is a complex task performed solely by the NCCI. They collect applicable loss data, compute modification factors, and communicate these to the proper carrier to make appropriate endorsements to policies. Interstate rating is complicated for employers with insured operations in California, Michigan, Delaware, New Jersey and Pennsylvania do not participate in the NCCI’s interstate rating system. In addition, monopolistic fund states\(^9\), which do not allow insurance to cover workers compensation benefits, do not report loss experience to any statistical agent.

**Multiplying Agents**

- This section covers the problems and issues associated with allowing more than one statistical agent to serve the needs of a given state’s WC insurance market. As stated earlier, many property and liability insurance lines have several agents collect data. Even in workers compensation, individual states have collected their own loss data for means of pricing or cost allocation.

Recently, two new entities appeared to challenge the traditional role of the NCCI in collecting experience from carriers and performing statistical services. US Rating Bureau appeared on the scene in late 1995. It initial market was state funds and pool business. It acquired several licenses and a few regional carrier-clients. However, it became dormant in late 1997. IDR existed on paper as a statistical agent as early as 1994. Only in early 1997 did they begin operating in earnest with a full time staff. They acquired licenses in 27 states, but have operations only in Arizona, Florida, Louisiana, and Missouri. They were recently purchased by ISO and will operate as a distinct WC agent affiliated with ISO. They are actively soliciting subscribers from regional and national carriers.

Adding additional statistical agents complicates the management and regulation of workers compensation rate making. Why? Making accurate and stable rates calls for as large a set of consistent loss experience as possible. More agents could mean a dilution of consistent data, unless there is an effort to coordinate the work of the competing agents. Also, there are likely to be cost and service implications from adding competing statistical agents.

To date, there are only limited examples of coordination among statistical agents. During the tight markets of the late 1980s, the Insurance Services Office (ISO), the National Association of Independent Insurers (NAII) and other statistical agents cooperated on closed claim studies done in connection with tort reform proposals. More recently, the NAIC has collected data from agents to study insurance redlining. Statistical agents routinely participate in NAIC committees and working groups that involve

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\(^9\) These states are: North Dakota, Ohio, Washington, West Virginia and Wyoming.
defining statistical plans or special data collection activities. More to the point, Florida DOI has required competing organizations to sign a data exchange agreement. Apart from this Florida regulation, NCCI and IDR have also signed a data exchange agreement for all states in which they operate. This agreement covers the sharing of unit statistical data for the purpose of intra-state rating. It does not, however, resolve the important issue of interstate experience rating.

Who controls the classification system?

The workers compensation system uses a complex system to classify all employers into 700 or more classifications. Each class has a code number and a uniform description of what types of businesses should be included. The number of classes varies from state to state, which complicates the use of the data. Most states use the NCCI’s “Basic Manual.” The Basic Manual is the filed document for class codes and the starting point. The SCOPES manual gives a more detailed description of the class codes. It is only filed in one jurisdiction (Virginia). In all other states it is used as a reference book to guide class decisions. States add or modify classifications to suit local economic or political needs. Wisconsin’s independent bureau, demonstrates this tendency to deviate from the NCCI’s practices:

1) When the NCCI merged window washers (class 9170) with janitorial services (class 9014) the merger was reluctantly accepted by the Wisconsin Bureau, but later disapproved by the Insurance Commissioner. The Commissioner’s reversal order may have been prompted by strident criticism of the Bureaus recommended change from janitorial employers. At the time the janitorial rate was roughly $4/100 in payroll, while the window washer rate was over $40/100. Clearly, the former had nothing to gain from having a much different and riskier exposure grouped with them.

2) The NCCI elected to combine two auto classifications: Class 8391 “Auto Garages and Dealers” with class 8387 “Auto Repair (Limited repair work).” Instead, the Wisconsin bureau continues to maintain separate experience for these two classes. Wisconsin’s belief being that the two classes had distinctly different hazards and each had large employment levels. The consistent grouping of businesses into like categories is crucial to fair and politically supportable rate making. If businesses feel they are being arbitrarily grouped with dissimilar businesses, they will resist the rating system. States frequently use discretion (often driven by local business pressure groups) to modify classification systems.

Where does the data get reported?

Data must be collected, checked, and corrected. The rules for data collection are necessarily quite complex. The quality of the database depends on consistent and disciplined application of the statistical plan. Again, the 1991 NCCI exam recounted the many difficulties of securing accurate and timely reporting by carriers. The statistical agent must check the data against standards and communicate with carriers about possible errors or missing data. Testing and cleaning data is a complex job that consumes much of an agent’s effort. The agent must follow up on late reports and discipline insurers that fail to follow the rules and schedules with appropriate sanctions.

Credibility

If all experience is not captured it will reduce the strength of the data for ratemaking and policy analysis. Even without competitors, the NCCI data was not fully credible for rate making at the individual state level, Multiplying agents would diminish any single agent’s data storehouse. In particular, a breaking down overall state rates to individual class codes would be greatly weakened by fragmentation of the
database. To illustrate the magnitude of the problem, using NCCI credibility criteria virtually no manufacturing class codes are sufficiently credible to set rates at the state level. Granted, there are several competing actuarial standards for credibility. Monopolistic fund states and independent bureau states have used their own criteria for full credibility of losses at the class level that differs materially from the NCCI standard. California does not use any out-state data for its class ratemaking. Yet, the fact remains that most employer classes would not be considered fully credible for an average size state. Thus, for smaller than average size states, data sharing is particularly important.

**Efficiency**

Carriers, agents, and third party administrators have a clear preference for simplicity in the administration of insurance policies. They already feel burdened by the inconsistency of state laws regarding coverages and reporting. State exceptions on rates, forms, and filings of any sort increase the chance of error, increase staff training costs, and complicate computer systems. If more inconsistent and non-communicative system emerged in a competitive world, these stakeholders would react negatively.

The short existence of US Rating Bureau is partly due to the negative reaction of insurers and brokers to their unique statistical plan and experience modification system. Some have argued that their system was an improvement over the NCCI model. Be that as it may, those responsible for writing, recording and accounting for workers compensation experience were less interested in actuarial refinements than simplifying their business operations. Every deviation from a standard, nationwide statistical plan means more training, more work, and more errors for an interstate carrier.

**Solutions**

Licensing multiple agents can foster competition that may promote efficiency and better service. Competition may also spark innovation and better problem solving. On the other hand, competition may weaken system uniformity and the classification process if appropriate rules of conduct are not adapted. Costs could increase from duplication of efforts and transactions costs. Finally, delays may be introduced in producing rates.

This paper is neutral on the issue of whether multiple agents should be licensed in a given state. Below are some suggestions for dealing with multiple licensed statistical agents. Our purpose is to alert regulators to issues that need to be resolved if manifold agents are to harness the best of competition and minimize the costs. With well functioning systems for uniform collection and sharing of data, statistical agents will maximize value to regulators, carriers, and employers they serve.

**Sharing Arrangements**

A well-designed and enforced regulation can cure the fragmentation of data. However, the competing interests of the agents may such arrangements challenging to enforce.

This agreement should cover such details as:
- Medium of transmission, including uniformity of codes, descriptors and formats
- Format of data to be exchanged
- Data quality and validation
- Fees and service charges
- Preservation of data
- Confidentiality
Sharing agreements are complicated by the likelihood that, for purposes of credibility, data from outside the state must often be blended with intrastate data. Small states are almost never fully credible for any rate class. Actuarial principles suggest blending own-state experience with data from the same class in other states.

One of the most difficult parts of the sharing agreement will be pricing shared data. Another agent or actuarial consulting firm must pay its fair share of the cost of acquiring and preparing the data. It may be unfair for a start-up agent with a minuscule share of the loss data to acquire data on equal terms with the NCCI. Overhead and development costs must be recognized in the pricing of sharing agreements. Developing cost-based pricing should be developed by the parties of interest, with regulatory supervision to ensure even-handed behavior for new entrants. Disputes on the application of the agreement will probably arise, and should be arbitrated by the state regulatory agencies involved.

**Quality Standards**

Any organization holding itself out as a statistical agent must meet clear and enforceable standards for data quality. Surely, disputes will arise among competing statistical agents if they lose faith in the quality of the data being recorded by one of the agents. Moreover, declining accuracy and consistency of data weakens its utility for classification and rate making.

Part of quality includes enforcement. The statistical agent should have the will and means to enforce compliance with filing rules. The NCCI uses a system of fines to discipline carriers to file statistical reports on time. Misclassification is a problem in competitive markets. Employers and agents may distort classes to help suppress the premium paid by their accounts. Field audits are necessary to ensure that agents and insurers are properly classifying employers. However, field audits are expensive, so the statistical agent must have the proper incentives to expend resources on data quality.

**Regulatory ownership of statistical plan**

The definitions, nomenclature, and format of the statistical plans must be carefully developed and communicated to insurers and others filing loss experience. For example, the complete description of what constitutes a window maker from a window wholesaler/installer is essential to proper and fair classification. These parties include data suppliers, statistical agents, and regulators. Since 1980, the NCCI has provided the most uniform standard to the insurance industry through its “Basic Manual.” This manual has not been slavishly followed in every state. All states--independent bureau or NCCI--have their own state exceptions to the statistical plan.

If there are multiple statistical agents in a state, it should be a condition of their license that they adhere to the single statistical plan approved by that state’s insurance department. Ideally, such a plan should be based on a national model. Some minor state variations are to be expected and would not be fatal to the system. However, wholesale redefinition of classifications or reporting requirements would hamper rate making and analysis of the workers compensation system.

The political struggles to reclassify employers erupt in every state. For example in Wisconsin, loggers, lobbied to create a special rate class for mechanized logging (using Florida as a model). This proposal was rejected because there were too few employers with truly mechanized operations. Instead, the interest groups involved negotiated a redefinition of class 2702 (logging) to exclude “cruisers” (field surveyers), who were reassigned to another rate class. Logging truckers were assigned to the general trucking category. This long contested change was as much interest group jockeying as actuarial science. It shows the pressures that statistical agents and regulators must face in maintaining a rational and consistent classification system.
Without regulatory direction, it would be difficult to collect loss experience and apply it to anything but large industry divisions. That is, instead of 700 relatively homogeneous employer classes we might end up with 50-100 very broad industry divisions. This would be fine for employers that benefited by lower rates from being grouped with less hazardous employers. Yet it would surely create hostility and protest from low-risk employers whose rates went up by being lumped with other higher risk firms.

**Conclusion**

Logically there is no obstacle to having more than one statistical agent for workers compensation in a given state. Economic theory would applaud the potential benefits of competition. There are, however, practical problems that must be addressed to avoid serious harm to data integrity.

The regulatory coordination suggested here is quite new. It may be more complex than other regulatory functions in workers compensation tackled by the NAIC and state commissioners to date. Because of the novelty of the problem to workers compensation, it will take leadership and planning by the NAIC and state regulatory staff.
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<td>NCCI &amp; IDR</td>
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<td>Missouri</td>
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<td>Bureau &amp; IDR</td>
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<td>North Dakota</td>
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<td>Oklahoma</td>
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<td>West Virginia</td>
<td>Monopolistic Fund</td>
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<td>Wisconsin</td>
<td>Administered Pricing</td>
<td>Bureau using NCCI</td>
</tr>
<tr>
<td>Wyoming</td>
<td>Monopolistic Fund</td>
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</tbody>
</table>
APPENDIX D

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

Memorandum

To: Mona Carter, Chair
Multiple Rating Organization Study Group

From: Alan Wickman, Nebraska

Date: February 8, 1999

Subject: "Advisory Organization' and "Statistical Agents"

The purpose of this memo is to add clarity to the discussions of the Multiple Rating Organization Study Group. It is not the purpose of this memo to advocate anything. Please note that I am not requesting that this memo be "adopted" in any fashion or even formally received into the minutes. I would simply like members to read it and be prepared to discuss it briefly at the Study Group's DC meeting.

"Advisory Organizations" –(clearing up) some confusion:

There are a lot of terms being used that can, at least for our purposes, be viewed as interchangeable. Because the term "advisory organization" is shown in the current NAIC model laws, and also because many of the entities in this business appear to prefer this title, I suggest that we use the term "advisory organization" in a manner consistent with the current NAIC model rating laws. In effect, I propose (for our discussions) that:

Advisory Organization = Rate Service Organization = Rating Bureau = Rating Organization

Before going further, however, I want to clear up some confusion that may otherwise occur owing to the fact that this proposed usage is not 100% consistent with the definition in most states' laws. The definition of "advisory organization" from the current NAIC model is:

"Advisory organization" means any entity, including its affiliates or subsidiaries, which either has two or more member insurers or is controlled either directly or indirectly by two or more insurers, and which assists insurers in ratemaking-related activities such as enumerated in Sections [] and []. Two or more insurers having a common ownership or operating in this State under common management or control constitute a single insurer for purposes of this definition.
The NAIC models also contain lists of allowable and prohibited activities for advisory organizations. These are good for getting a feel of the scope of advisory organization activity. For instance, the production of experience rating modifications is an allowable activity. See Exhibit I for the NAIC models' listing of allowable and prohibited activities. The definition shown above, however, is less common than the older definition of "advisory organization" that reads something like this:

"Advisory organization" means every group, association or other organization of insurers which assists (a) rating organizations in ratemaking or (b) insurers that make their own rate filings, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make rate filings with the Commissioner.

States with this older definition also generally have a definition of a rate service organization, rating bureau or rating organization that files rates on behalf of insurers. While it might actually be clearer to refer to "rate service organizations" entirely, and forget about the somewhat misunderstood term of "advisory organization," the fact remains that such entities generally want to be referred to as "advisory organizations." They are, in fact, much more "advisory" than the bureaus of some 50 years ago.

"Statistical Agents" - clearing up some confusion:

"The Commissioner may designate one or more rating organizations or other entities to assist in gathering data and making compilations thereof."

Even though it doesn't necessarily follow from these laws, the term "statistical agents" has commonly been associated with entities that handle the complete set of, related duties: collecting data from insurers, checking the data, assimilating it into databases, and providing the regulator with reports from these databases. But it isn't essential for an entity to perform all of these functions to assist the Commissioner as contemplated by these laws. And that is the problem with the term statistical agent: it either tends to imply that the entity is performing all of these duties - which is not always correct - or it is ambiguous, because we aren't certain what the entity is doing. In Florida and Arizona, for example, we see situations where entities that I would consider to be functioning as "statistical agents" are not necessarily performing all of the functions normally attributed to the "traditional" statistical agent.

Compilation Entity - a new term that may be handy:

This is the only new term that I suggest. I have heard the term "compilation agent" used for several years within the circle of people that regularly follow the Statistical Task Force. The difference between a compilation entity and a "traditional" statistical agent is that a traditional statistical agent only collects data from insurers, while a compilation entity collects and compiles data for regulatory purposes from other entities (i.e., statistical agents and advisory organizations) that have collected the data from insurers. Thus, a compilation entity is unnecessary for states where a single traditional statistical agent collects all of the data. Examples of compilation entities now exist in Arizona and Florida (although they are not termed as such). As will be seen, Arizona defines a "statistical agent" to be what I recommend that we call a compilation entity.

I have no problem with Arizona using this terminology, because I agree that a "compilation entity" is a "statistical agent," even if they don't do everything done by traditional statistical agents. Recall that advisory organizations are not required to do everything that falls under the possible range of activities for an advisory organization, either. Rather, simply for the purpose of our discussions, I want to avoid using the term "statistical agent" in order to avoid the confusion that I believe would result.
Reference to the term "statistical agent" has confused people and I recommend that we avoid (or at least be very careful) using such terminology to describe "alternative" regulatory approaches like those in Florida and Arizona. While the term "statistical agent" is widely used, one should note that it has only been a recent addition to NAIC model laws and has yet to make it into state statutes. The language in most state laws that refers to "statistical agents" (although without using the term) reads something like the following:

Florida normally intends to leave the selection of a compilation entity to IDRSS and NCCI, or to allow them to both act as compilation entities with a requirement that they reconcile any differences in their compilations. The Florida Department could designate a single compilation entity should IDRSS and NCCI be unable to come to terms. In Arizona, the rating organizations must provide statistical collection services, while that is not required in Florida. In fact, a rating organization in Florida could operate without any affiliation with an entity providing statistical collection services, and an entity performing statistical collection services would not necessarily need to be affiliated with a rating organization.

Conclusions and Recommendations:

The term "statistical agent" is not widely defined or referenced in statutes. It has commonly been an entity that performs the entire gamut of data collection and reporting services, although it usually does not collect insurer data from other data collection entities like a "compilation entity." But it might be a compilation entity" (as in Arizona) or it might be an entity that performs some other data-related activity on the Commissioner's behalf. The one underlying thread is that data is being collected or processed owing to some form of regulatory direction or designation. Without some tie-in to regulatory direction or designation, the mere collection of statistics by an entity is unlikely to make that entity a statistical agent."

I recommend that we avoid use of the overly broad term "statistical agent" and encourage those that report to us to follow the same practice. We need to refer to the various data collection functions that are performed by who, when, how, etc., and to determine the role of the regulator in designating, directing or overseeing this activity.

I wish to thank Dee Dee Mays (NCCI), Mary VanSise (ISO) and Jim Nau (IDR) for their extensive suggestions. Please let me know if you have any questions with regard to this memo.
**Arizona and Florida - clearing up some confusion:**

The situations in Florida and Arizona are seen to be similar in many respects. The two reasons that these situations challenge the definitions that we normally use are that (1) the "statistical agent function" is not fulfilled all in the same place by the same entity, and (2) Arizona uses a different definition for the term "statistical agent" than is generally used elsewhere.

<table>
<thead>
<tr>
<th>Florida</th>
<th>Arizona</th>
</tr>
</thead>
<tbody>
<tr>
<td>IDR, IDRSS and NCCI are licensed as advisory Same as Florida. (rating) organizations. Recall that licensure as an advisory organization (which thus allows the entities to collect statistics) does not necessarily mean that the Commissioner has designated the entity as a &quot;statistical agent.&quot;</td>
<td>IDR and NCCI are required to collect data from their insurers. IDRSS does not provide rate services in Arizona; hence it does not have client insurers from which it must collect data.</td>
</tr>
<tr>
<td>IDR, IDRSS and NCCI are authorized, owing to their licensure, but not required, to collect data from insurers.</td>
<td>Insurers are required to report to the same entity with which they are affiliated for rating organization services. As such, IDR-affiliated insurers must report to IDR and NCCI-affiliated insurers must report to NCCI. Insures do not report to IDRSS.</td>
</tr>
<tr>
<td>Insurers are required to report statistical data to an entity licensed to collect it. This entity does not with which they are affiliated for rating organization services. The practice is that IDR-affiliated insurers report to IDRESS and that NCCI-affiliated insurers report to NCCI. Note that IDR itself does not collect data, choosing to have IDRSS handle the function for client insurers.</td>
<td>NCCI provides data to IDRSS, and IDRSS provides data to NCCI</td>
</tr>
<tr>
<td>NCCI provides data to IDRSS, and IDRSS provides data to NCCI</td>
<td>NCCI and IDR provide data to IDRSSS</td>
</tr>
<tr>
<td>Both IDRSS and NCCI function as compilation entities. They must reconcile their combined results, which should be identical, before reporting them to the Florida Department of Insurance.</td>
<td>IDRSS acts as the single “compilation entity” for the Arizona Department of Insurance refers to IDRSS as its “statistical agent,” which is confusing with out additional explanation, as IDRSS does not handle direct data collection from NCCI and IDR</td>
</tr>
<tr>
<td>The rating organizations may use the complied data for ratemaking.</td>
<td>Same as Florida</td>
</tr>
<tr>
<td>For experience rating, rating organizations request data that they don’t already have from the statistical agent that collected the data.</td>
<td>For experience rating, rating organizations request any needed date from the compilation entity (a.k.a. the “statistical agent”) IDRSS.</td>
</tr>
</tbody>
</table>

Please note that nothing about these descriptions is intended to imply that Arizona's or Florida's approach is either desirable or undesirable.
Exhibit 1

Section []. Advisory Organizations: Permitted Activity

Any advisory organization in addition to other activities not prohibited, is authorized, on behalf of its members and subscribers, to:

A. Develop statistical plans including territorial and class definitions;
A. Collect statistical data from members, subscribers or any other source;
C. Prepare and distribute prospective loss costs which may include provisions for special assessments;
D. Prepare and distribute factors, calculations or formulas pertaining to classification, territory, increased limits and other variables;
E. Prepare and distribute manuals of rating rules and rating schedules that do not include final rates, expense provisions, profit provisions or minimum premiums;
F. Distribute information that is required or directed to be filed with the commissioner;
G. Conduct research and on-site inspections in order to prepare classifications of public fire defenses;
H. Consult with public officials regarding public fire protection as it would affect members, subscribers and others;
I. Conduct research in order to discover, identify and classify information relating to causes or prevention of losses;
J. Conduct research relating to the impact of statutory changes upon prospective loss costs and special assessments;
K. Prepare policy forms and endorsements and consult with members, subscribers and others relative to their use and application;
L. Conduct research and on-site inspections for the purpose of providing risk information relating to individual structures;
M. Conduct on-site inspections to determine rating classifications for individual insureds;
N. For workers' compensation insurance, establish a committee which may include insurance company representatives to review the determination of the rating classification for individual insureds and suggest modifications to the classification system;
0. Collect, compile and distribute past and current prices of individual insurers and publish such information;

P. Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;

Q. File final rates, at the direction of the commissioner, for residual market mechanisms; and

R. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

Section[]. Advisory Organizations: Prohibited Activity

In addition to the other prohibitions contained in this Act, except as specifically permitted under Section [], no advisory organization shall compile or distribute recommendations relating to rates that include expenses (other than loss adjustment expenses) or profit.
March 12, 1999

Mona T. Carter
Director, Property & Casualty
Department of Insurance
P.O. Box 517
215 West Main Street
Frankfort, KY 40602-0517

RE: Multiple Rating Organization Study Group of the Workers Compensation (C) Task Force

Dear Ms. Carter:

It was good to see you again at the NAIC Meeting in Washington. At your request, I am enclosing a copy of the testimony that I provided to the Multiple Rating Organization Study Group of the Workers Compensation (C) Task Force. It was originally presented to the NAIC Workers Compensation Advisory Organization Activities Working Group ten years ago when I was a consultant with Tillinghast, but it is still relevant today. Please feel free to call me if you have any questions.

As the President of an independent advisory organization, i.e. an actuarial consulting firm, that specializes in workers compensation, it is important that you make a distinction between the role of compilation/statistical agents and advisory organizations/rating bureaus. While I agree with most of Alan Wickman's 2/8/99 paper, I think it is important to maintain the distinction of statistical agent, and offer the following definitions and clarifications:

1. Data Collection Agency (DCA) - A committee, created by statute, charged with establishing policy for collecting and publishing workers compensation data in a state. The DCA could be co-chaired by the directors of the Insurance Department and the workers compensation agency and could be comprised of representatives from business, labor or other segments of the workers compensation community. The DCA would determine what data is to be collected and how the cost of data collection, compilation and editing is to be allocated amongst data providers. They would also establish fines and penalties for providing inaccurate or untimely data and establish fees and confidentiality rules for selling reports and/or providing data access to interested parties. This concept is similar to the DCA that has been in place in Michigan for almost two decades.

2. Compilation Agent - An entity (preferably a single entity in each state) that collects data from statistical agents and maintains a 'data warehouse" of workers compensation information on behalf of regulators and the workers compensation community. For confidentiality reasons (and protection from Freedom of Information Laws), it would be better that this agent be an independent contractor working on behalf of the DCA. However, the statistical plan developed and the data collected by the compilation agent would be the property of the DCA, not the contractor, according to the contract. Since the compilation agent would be responsible for assessing fines and penalties, it would be preferable that the compilation agent not be owned or controlled by entities providing the data.
3. **Statistical Agents** - entities that collect data from insurers and provide required information to the compilation agent. For efficiency, insurers would generally prefer to work with a single statistical agent across all states. These entities would be experts on the various state reporting requirements and would assist insurers, especially smaller ones, in complying with these requirements. Some large insurers may choose to report directly to compilation agents, i.e. be their own statistical agent, while certain types of insurers (e.g. mutuals, state funds or self-insurers) may wish to have their own statistical agents.

4. **Advisory Organization** - An entity, usually an actuarial consulting firm, that assists insurers or self-insurers in establishing actuarial reserves, estimating future loss costs and making their own rates by reviewing data from the Compilation Agent and the client's own internal experience and expenses. These entities also perform benchmarking studies comparing their client's experience and performance to statewide averages and to those of "peer companies".

5. **Rating Bureaus** - These entities are like advisory organizations, but they are owned and controlled by their member companies. They develop rating manuals, classification loss costs (or rates in some states) and other rating plans and file them with regulators on behalf of their members. These filings may be adopted by member companies without having to make their own rate filing in most cases. Rating bureaus prepare these filings by reviewing data from the Compilation Agent.

Under the traditional administered pricing environment, there was only one Compilation Agent, Statistical Agent and Advisory Organization, and they were combined into a single entity, i.e. a rating bureau. Quite often, regulators retained independent advisory organizations to review the filings of these "monopolistic" rating bureaus and provide a second opinion. With the rapid growth of open competition and competitive rating laws, the time has come to change our model rating laws to eliminate the pre-historic notion of rating bureaus and replace them with multiple competing statistical agents and advisory organizations. Insurers and consumers will be better served by competition among these entities. Contrary to the Florida model, however, I believe the system will be better served by a single compilation agent that is held accountable to both insurance and workers compensation regulators through a quasi-governmental Data Collection Agency.

I would welcome the opportunity to discuss these concepts and alternative model legislation that would incorporate these definitions. I have also enclosed a more detailed presentation summarizing the proposal that I made in Iowa for a "pure" open competition environment. This testimony also discusses proposed residual market reforms that are needed to maintain a healthy insurance market. I am a staunch advocate of open competition as the best way to assure employers that rates are neither excessive nor unfairly discriminatory. Affordable access to quality, timely actuarial information is the key to maintaining a competitive insurance marketplace. Thank you for the opportunity to testify before your committee.

Sincerely,

Richard A. Hofmann, ACAS, MAAA
NATIONAL COUNCIL ON COMPENSATION INSURANCE INKS AGREEMENT WITH INSURANCE SERVICES OFFICE TO RESOLVE OUTSTANDING LEGAL BATTLE –

BOCA RATON, Fla., May 7 - The National Council on Compensation Insurance (NCCI) and Insurance Services Office, Inc. (ISO) jointly announced today that they had signed a nationwide agreement that provides for NCCI to license its intellectual property to 130. The agreement ends a legal dispute between NCCI and Insurance Data Resources, Inc. (IDR), now an ISO subsidiary, that began in 1996, when NCCI filed a federal lawsuit against IDR alleging copyright infringement.

(more)
"We're very pleased to reach an agreement that benefits our customers and serves the best interests of the workers compensation community," said Fred R. Marcon, ISO's chairman and chief executive officer. "The agreement promises significant benefits to the industry by preserving the required uniformity unique to workers compensation insurance."

The agreement covers statistical and rating plans, policy forms, manuals, loss costs and rates. Statistical plans are the uniform methods insurers use to record and report statistics through state-appointed statistical agents to state insurance regulators. Rating plans are the methods, generally approved by state regulators, used to calculate insurance rates for classes of risks or individual risks.

'NCCI continues to be willing to make our manuals, classification systems, databases and other resources available as long as others are willing to share equally in their cost and maintenance. Both sides have worked very hard to achieve an agreement," said Bill Schrempf, NCCI's president and chief executive officer. 'We have both made some tough choices because we know that this agreement is in the best interests of all workers compensation stakeholders -regulators, insurers and employers."

ISO conducts its operations for workers compensation through its subsidiary for that line of insurance, IDR, which ISO acquired last year.

The license term is perpetual and applies to all states in which IDR is licensed to provide workers compensation services. Under the agreement, ISO retains the option to develop its own alternative materials and can, if it chooses, reduce the scope of the agreement on an individual product license or state basis.

Under the agreement, ISO acknowledged the NCCI's copyright of the materials for the term of the license, and the NCCI agreed to withdraw its lawsuit and not seek to reinstate it for any alleged past infringement.

For further information, contact David Ostwald at ISO (212-898-6601), or James Wolfe, NCCI chief communications officer (561-997-4749). 

(more)
Insurance Services Office, Inc. (ISO) is the premier source of information about property and liability risk. ISO provides statistical, actuarial, underwriting and claims information and analyses; consulting and technical services; policy language; and information about specific locations. ISO offers services for 18 lines of property/casualty insurance. In the United States and around the world, ISO serves more than 2,900 insurers and reinsurers, as well as agents, brokers, self-insureds, risk managers, insurance regulators, and other government agencies.
For Immediate Release

NCCI Contact: James Wolfe
Chief Communications Officer
561-997-4749

ISO Contact: David Ostwald
Vice President Corporate Communications
212-898-6601

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(more)
May 10, 1999

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NCCI, a shared-services organization serving the workers compensation industry, offers a comprehensive array of services that enables insurers and other stakeholders to access and use workers compensation data to establish accurate loss costs, calculate experience rating modifications, manage residual market mechanisms and reduce its overall costs. For additional information, visit our website: www.ncci.com.
TO: Insurance Rating Organizations, Insurance Industry Representatives, Insurance Trade Associations, Property & Casualty Insurers, And Other Interested Parties

FROM: John A. Greene
Director of Insurance

DATE: June 3, 1998

RE: Administration of Workers' Compensation 'Laws; Arizona Revised Statutes, Title 20, Chapter 2, Article 4

The Arizona Department of Insurance (the Department) administers the Arizona Revised Statutes, Title 20, Chapter 2, Article 4, which governs workers' compensation (WC) rate filings made by rating organizations.

An insurer may satisfy its obligation to make rate filings by authorizing the Department to accept on the insurer's behalf filings made by the licensed rating organization of which the insurer is a member. A.R.S. §§ 20-357(A), (B). The law requires every insurer that writes WC insurance in Arizona, including the Arizona State Compensation Fund, to be a member of a WC rating organization. The law also restricts each insurer to membership in one WC rating organization at a time. A.R.S. § 20-363(E).

Arizona law does not limit the number of WC rating organizations that may be licensed in this state. Since 1969, only one licensed WC rating organization has operated in Arizona. Consequently, all authorized WC insurers have been, and are at this date, members of that rating organization. That WC rating organization has been, and remains, the repository for all loss and expense data arising out of the transaction of WC insurance in this state. However, in 1997, the Department issued WC rating organization licenses to three other entities. At this time, none of the three entities licensed in 1997 have satisfied all prerequisites to act as a rating organization in this state. However, in anticipation of that eventuality, I must now exercise my authority to designate a Statistical Agent pursuant to A.R.S. § 20-371 to assist in gathering and compiling loss
and expense data used to make WC rates in this state and to make compilations of that data available to licensed WC rating organizations.

The insurance laws plainly contemplate a competitive market for rating organization services. However, multiple operational rating organizations without a designated Statistical Agent will fracture the Arizona loss and expense database, impair the credibility of each portion of that database, and impair the credibility of the resultant rates. The role of a designated Statistical Agent is crucial in a multiple rating organization scenario to maintain the integrity and credibility of the Arizona loss and expense database upon which WC rates in Arizona are based. Further, designating a Statistical Agent resolves the issue under A.R.S. § 20-316' :) (F) as to what degree of combined experience of a rating organization's members is "reasonably adequate for rate-making purposes" because all licensed rating organizations will have access to the combined loss and expense data for the entire state.

The Department, with the assistance of members of the WC insurance industry and the Arizona Industrial Commission, developed a Request for Proposals (RFP) for Statistical Agent services, which will be issued shortly by the State Procurement Office. The recipient of this contract award will be the Department's sole Statistical Agent during the term of its agreement. The Statistical Agent shall develop and administer a statistical plan which meets the specifications of the RFP, and in accordance with which all licensed WC rating organizations shall report the loss and expense statistics of their member insurers to the Statistical Agent. The law and the RFP provide that the Statistical Agent shall give due consideration to the rating systems on file with the Director and to the form of statistical plans used for rating systems in other states in order that the statistical plans may be as uniform as is practicable among the several states. A.R.S. § 20 371. The law and RFP also provide that no insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed for it. The RFP also provides for comprehensive data security procedures to protect the privacy rights of individual insureds, the property rights of individual insurers in underlying data and information concerning their insureds, and the property rights of the Department to the compiled loss and expense data and related work product.

The Statistical Agent and the licensed WC rating organizations will interact as follows:

1. Each licensed Arizona WC rating organization will report the loss and expense statistics of its member insurers to the Statistical Agent in accordance with the statistical plan developed by the Statistical Agent.

2. The Statistical Agent, in conformance with acceptable actuarial and statistical standards, will compile the loss and expense data reported by the rating organizations to produce one state-wide compilation that includes the loss and expense experience of every insurer writing WC insurance in Arizona.

3. After compiling the data, the Statistical Agent will provide the compilation to the Department and to every licensed rating organization in Arizona.
Circular Letter 1998  
June 3, 1998

4. Each rating organization will thereafter use the compilation as a basis upon which to promulgate its base or starting rates to be used by its respective member insurers to calculate WC premiums for policyholders.

5. The rating organizations will then file the rates they have made with the Department in accordance with A.R.S. § 20-357.

6. The Statistical Agent will also provide rating organizations with experience rating data regarding insureds who move from one WC insurer to another.

The RFP provides that the Statistical Agent shall bid a total annual calendar year fee for all services as the designated Statistical Agent. The fee shall be allocated among all Arizona licensed rating organizations on a pro-rata basis according to net written Arizona premium of the rating organizations' members for the immediate preceding calendar year, subject to a minimum charge to each licensed rating organization in the amount of five per cent of the Statistical Agent's total annual fee. The fee shall be billed and collected quarterly during the calendar year to which it applies, with installments due January 1, April 1, July 1, and October 1 of each year.

The Department contemplates that the contract will take effect on January 1, 1999. After being issued, copies of the RFP may be obtained by faxing requests to the State Procurement Office at (602) 542-5508, referencing RFP No. A8-0106.

Should you have questions about this circular letter, please direct them to Deloris Williamson at (602) 912-8461.
REQUEST FOR PROPOSAL: AB-0106

PROPOSAL DUE DATE: AUGUST 12, 1998 3:00 P.M. MST

LOCATION: State Procurement Office, Capital Center Building 15 South 15th Avenue, Suite 103, Phoenix, AZ 85007

PRE-PROPOSAL CONFERENCE: A Pre-Proposal Conference will be held on July 29, 1998, in the State Procurement Office, Conference Room A, located at the Capital Center Building, Suite 103, 15 South 15th Avenue, Phoenix, Arizona. The conference will begin promptly at 8:30 A.M. All potential offerors are encouraged to attend this conference. All offerors should bring a copy of the RFP as it will be used as part of the agenda for the meeting.

In accordance with A.R.S. §41-2S34, competitive sealed proposals for the materials or services specified will be received by the State Procurement Office at the above specified location until the time and date cited. Proposals received by the correct time and date will be opened and the name of each offer will be publicly read.

Proposals must be in the actual possession of the State Procurement Office on or prior to the exact time and date indicated above. Late proposals will be considered except as provided in the Arizona Procurement Code.

Proposals must be submitted in a sealed envelope with the Request for Proposal number and the offeror's name and address clearly indicated on the envelope. AM proposals must be completed in ink or typewritten and a complete Request for Proposal returned along with the offer by the time and cited above. Additional instructions for preparing a proposal are provided on the reverse side of this notice.

Offerors are strongly encouraged to carefully read the entire Request for Proposal.

Designated Agency: ARIZONA DEPARTMENT OF INSURANCE

Material and/or Service: DESIGNATED STATISTICAL AGENT

Contract Type: FIRM, FIXED PRICE

Contract Term: JANUARY 1, 1999 THROUGH DECEMBER 31, 1999

Susan Bayer, CPPB
Procurement Specialist
Phone (602) 5642-5511

JOHN O. ADLER, C.P.P.O.
ADMINISTRATOR, PROFESSIONAL SERVICES & CONSTRUCTION

THIS PROPOSAL IS OM-RED BY: Name or Company:
SPO Form 201-RFP (9/96)
November 25, 1998

Mr. Thomas Cleary
IDR Statistical Services, Inc.
29425 N. 67th Way
Scottsdale AZ 85262

Re: Award of Contract A8-0106-001

Dear Mr. Cleary,

Your proposal for Designated Statistical Agent has been accepted. A copy of your Contract is enclosed. The Contract period shall be from January 1, 1999 to December 31, 1999 and may be extended, by the State Procurement Office, for up to four additional one year increments. Please provide a certificate of insurance, in accordance with Article 17 of the Contract Special Terms and Conditions, within ten days following receipt of this notification. Congratulations on your contract award. If you have any questions, please call me at (602) 542-9136.

Sincerely,

John O. Adler, CPPO
Professional Services Administrator

cc: Deloris Williamson
Arizona Department of Insurance
OFFER AND CONTRACT AWARD

SOLITATION NO. AB-0106

Submit the original of the form to the State

OFFER

TO THE STATE OF ARIZONA:
The Undersigned hereby offers and agrees to furnish the material, service or construction in compliance with all terms, conditions, specifications and amendments in the Solicitation and any written exceptions in the offer. Signature also certifies understanding and compliance with paragraph one of the State of Arizona Standard Terms and Conditions (SPO Form 202).

Arizona Transaction (Sales) Privilege For clarification of this offer, contact:

Name Thomas Cleary, Vice President

Federal Employer Identification Phone: 602-563-3070

No.: 65-0401569 FAX No.: 602-563-3069

IDR Statistical Services, Inc. Signature of Person Authorized to Sign Offer

Company Name

29425 N. 67th Way

City Scottsdale

State AZ

Zip 85262

Title Vice President Regional Affairs

ACCEPTANCE OF OFFER AND CONTRACT AWARD (FOR THE STATE OF STATE OF ARIZONA USE ONLY)

Your offer is hereby accepted.
The Contractor is now bound to sell the materials, services or construction listed by the attached award notice based upon the solicitation, including all terms, conditions, specifications. amendments, etc. and the Contractor's offer as accepted by the State.

Contract includes IDR Proposal abd Best and Final Offer, dated October 27, 1998

This contract shall henceforth be referred to as contract no. AS-0106-001

The Contractor is hereby cautioned not to commence any billable work or provide any material, service or construction under this contract until Contractor receives an executed purchase order or contract release document.

State of Arizona

Awarded This 25th day of November 1998

JOHN 0. ADLER, C.P.P.O.

ADMINISTRATOP, PROFESSIONAL SERVICES & CONSTRUCTION

SPO Form 203 (So-96)
1. INTRODUCTION

1.1 This document constitutes a Request for Proposal (RFP), via competitive sealed proposals, from qualified rating organizations and advisory organizations, to provide the Arizona Department of Insurance (hereinafter referred to as "State Agency") with workers' compensation insurance statistical agent services.

1.2 For ease of use only, this RFP is divided into five sections. Part One is the Introduction and Background, Part Two describes the Scope of Work and Qualifications, Part Three is Special Terms and Conditions, Part Four contains Special Instructions to Offerors and Part Five contains the Pricing Schedule, Exhibits and Attachments.

2. BACKGROUND

2.1 A.R.S. § 20-363(E) requires every insurer, including the Arizona state compensation fund, writing workers' compensation ("WC") insurance in this State to be a member of a WC rating organization and restricts insurers to membership in one WC rating organization at a time. A "rating organization" is an entity, other than a single insurer, that assists insurers by compiling and furnishing loss or expense statistics and recommending, making or filing WC rates, forms or supplementary rate information with the State Agency. A. R.S.§ 20-357(B) permits an insurer to satisfy its obligation to make WC filings as required by A.R.S. § 20-357(A) by authorizing the State Agency to accept on the insurer's behalf filings made by the licensed WC rating organization of which the insurer is a member.

2.2 A.R.S. § 20-371 (D) permits the State Agency to designate one or more rating organizations or other agencies to assist the State Agency in gathering and recording WC loss and expense experience and making compilations thereof to be made available to insurers and rating organizations.
2.3 The contractor selected as a result of this RFP process will serve as the State Agency's sole "Statistical Agent". In addition to collecting and compiling data, the Statistical Agent shall develop and administer a statistical plan which meets the specifications of this RFP, and in accordance with which all licensed WC rating organizations shall report the loss and expense statistics of their member insurers to the Statistical Agent.

2.4 The Statistical Agent, in accordance with acceptable actuarial and statistical standards, will compile the loss and expense data reported by the rating organizations to produce one state-wide compilation that includes the loss and expense experience of every insurer writing WC in Arizona.

2.5 The Statistical Agent after compiling the data will provide the compilation to all licensed rating organizations in Arizona. Each rating organizations will use the compilation as a basis upon which to promulgate its base or starting rates to be used by their respective member insurers in calculating WC premiums for policyholders.

2.6 The rating organizations will file the rates they promulgate with the State Agency in accordance with A.R.S. § 20-357.

2.7 This RFP is predicated upon the current statutory system of administered pricing in Arizona for WC. If there is a change in the law, it may become necessary to amend, replace or terminate the contract to conform with the new law.
PART TWO

SCOPE OF WORK AND QUALIFICATIONS

1. GENERAL REQUIREMENTS

1.1 The contractor shall provide any one or combination of the following services in accordance with the applicable provisions of the Arizona Revised Statutes, the State Agency's procedures, and statistical-keeping procedures acceptable to the Director.

1.2 The State Agency reserves the right to determine the nature of and to direct that changes shall be made to the statistical plan and to the system of reporting, collecting, and compiling statistics. Changes to the plan and system may be made during the term of the contract by the State Agency.

1.3 The contractor shall provide all its own supplies and equipment, including ordinary office supplies and equipment, computer related hardware and software, and any reference materials.

1.4 The State Agency shall not be responsible for loss of or damage to contractors' supplies or equipment.

1.5 The State Agency may supply storage for compiled data and may supply to the contractor any reference materials (if available at no additional cost to the State Agency) the State Agency deems necessary for the performance of the work by the contractor, including publications of the – National Association of Insurance Commissioners (“NAIC”).

1.6 The contractor shall perform work as the State Agency's sole Statistical Agent in accordance with A.R.S. § 20-341 et seq., including A.R.S. § 20-37 1:
1.6.1 The contractor shall develop and implement a statistical plan reasonably adapted to each of the rating systems on file with the Director, which may be modified from time to time and which shall be used thereafter by each rating organization in recording and reporting the loss and countrywide expense experience of each of its member insurers in order that the experience of all insurers may be made available, at least annually, in such form and detail as may be necessary to aid the Director of the State Agency in determining whether rating systems comply with the standards set forth in A. R. S. 20-341 et seq. The statistical plan may also provide for recording and reporting of expense experience items which are especially applicable to this State and are not susceptible of determination by prorating of countrywide expense experience.

1.6.2 The contractor shall give due consideration to the rating systems on file with the State Agency and, in order that the rating rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of plans used for such WC rating systems in other states.

1.6.3 The contractor shall provide a statistical plan that does not require any insurer to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by or for it.

1.6.4 The contractor shall develop and implement a statistical plan that requires no insurer to file its loss and expense experience with a rating organization of which the insurer is not a member or subscriber.

1.6.5 The contractor may exchange information and experience data with insurance supervisory officials, insurers, and rating organizations in other states and consult with the insurance supervisory officials of other states with respect to rate making and the application of rating systems.

1.7 The contractor shall prepare and submit reports as required by the State Agency using compatible software, in a format, context and medium acceptable to the State Agency.

1.8 The contractor shall prepare for and participate in hearings and represent the State Agency in meetings as required.
1.9 The contractor shall also perform other duties which are reasonably requested by the State Agency and which relate to the work performed hereunder, including, without limitation, being called upon to testify as a witness in any administrative or court proceeding relative to the work performed by the contractor as the State Agency's Statistical Agent.

1.10 At the State Agency’s discretion, the contractor shall be required to travel to the offices of the WC rating organizations, either within or without the State of Arizona, that report data to the Statistical Agent.

2. SPECIFIC REQUIREMENTS

2.1 Technical Qualifications: The contractor shall have the following minimum qualifications:

2.1.1 Contractor shall be licensed as a rating organization in Arizona in accordance with A.R.S. § 20-361 or have complied with the provisions of A.R.S. § 20-368 if an advisory organization.

2.1.2 Contractor shall be experienced as a licensed rating organization, advisory organization, statistical agent, or similar organization by whatever name called by the regulatory official, in any state of the United States having authority over insurance companies, or shall demonstrate that it possesses some other relevant experience that evidences the contractor can perform the work described herein.

2.2 Data Collection and Maintenance:

2.2.1 Description of Work: The contractor shall provide the following services to the State Agency:

2.2.1.1 The contractor shall develop and administer a statistical plan acceptable to the State Agency in accordance with which all licensed WC rating organizations shall report the statistics of their member insurers to the State Agency's Statistical Agent. A "statistical plan" shall include, but is not limited to: a detailed instruction book that defines and describes data elements, uniform report formats, reporting
time frames, data quality standards, procedures relative to delinquent or late reports, reporting procedures, compatible data requirements, experience rating plan data, unit statistical reports, calls for aggregate experience, detailed claim information reporting, unified reporting standards for rating organizations, and other information as described in the NAIC's Handbook, Section 23, Workers' Compensation Reports attached hereto as Exhibit 1

2.2.1.2 The contractor shall implement changes in data collection and reporting activities resulting from changes approved and required by the State Agency in the statistical plan. The contractor may recommend changes in the statistical plan to the State Agency.

2.2.1.3 The contractor must accept data in the reporting format that can be most easily provided by insurers to the respective rating organizations of which they are members.

2.2.1.4 Upon request from a rating organization, the contractor shall provide the experience rating data relative to an insured of a member of the rating organization even if such data was provided to the contractor by another rating organization.

2.2.1.5 The contractor shall not destroy any record or any other document acquired, compiled, or developed in its role as the State Agency's statistical agent and shall maintain all such records and documents in a readily retrievable format for the term of the contract and any renewal hereof, after which the records shall be disposed of in accordance with the instructions of the State Agency.

2.3 Data Quality and Reliability and Timeliness Procedures:

2.3.1 Description of Work: The contractor shall provide the following services to the State Agency:
2.3.1.1 The contractor shall ensure that its reports to the State Agency and the data it collects are accurate and that its compilations are based on credible data. The contractor shall make any required changes to reports and produce reports for the State Agency on both a regular and an ad hoc basis. Additionally, the contractor shall respond to the State Agency concerning any inquiries relative to the reports, or any other matter resulting from the contractor's acting as the State Agency's Statistical Agent.

2.3.1.2 The contractor shall assist the State Agency in establishing and maintaining reasonable standards of performance and quality relative to the statistical plan, data collection and data compilation.

2.3.1.3 The contractor shall submit at any time to financial and performance audits by the State Agency. The contractor must maintain and make available to the State Agency and its authorized representatives books, records, work papers, electronic files, and all other files, documents, and other materials related to the services provided by the contractor.

2.3.1.4 The contractor must ensure that data reported by insurers accurately, reliably and completely reflects each insurer's actual premium, exposure and loss experience.

a. The statistical agent must implement the data edits and error tolerances.

b. The statistical agent must return submissions or portions of submissions not meeting the error threshold standards to the reporting rating organization with an itemization of reporting errors.
c. For unit statistical card and detailed claim information, the statistical agent must propose data reasonability tests for the State Agency’s approval. For the annual financial call, the statistical agent must implement logical and data reasonability tests.

d. The statistical agent must make inquiry to each reporting rating organization whose data submission exceeds error thresholds for data reasonability tests. This inquiry shall be in writing and shall specifically identify the data in question.

e. Prior to submission of reports to the State Agency, the statistical agent must review reports and underlying data for accuracy, reliability, reasonableness and completeness.

2.3.1.5 The contractor must ensure that data reported by rating organizations is acknowledged, processed for data quality and reliability, returned to the rating organizations for necessary corrections, posted to data bases and processed into reports in a timely manner.

a. The statistical agent must acknowledge receipt of data submissions within ten (10) working days of receipt of a data submission or resubmission.

b. The statistical agent must employ relevant data edits on all data submissions within ten (10) working days of receipt of a data submission or resubmission.

c. The statistical agent must provide an error report and request for resubmission of data failing data edit procedures to reporting rating organizations within five (5) working days of employing the data edit procedures.
d. The statistical agent must employ data reasonability tests within thirty (30) days of the data submission passing the data edit procedures.

e. The statistical agent must request an explanation from reporting rating organizations for data submissions exceeding error thresholds for data reasonability procedures within (5) working days of employing the data reasonability procedures.

f. The statistical agent must post edited data to databases within sixty (60) days following the submission date.

g. The statistical agent must provide the reports described herein in Section 2.5 in the following time frames:

1) Unit Statistical Card Annual Year End Report for calendar/policy year experience shall be reported in personal computer database format no later than April 1 of each year.

2) Unit Statistical Card Schedule Z Report shall be produced annually no later than June 1 of each year. This report in personal computer database format, to be compatible with the State Agency's computer requirements, shall show the premiums, losses, loss adjustment expense, and payroll by type of injury, by business classification and by medical versus indemnity claims for the most recent five years, including first through fifth reports.
3) Detailed Claim Information Database shall be provided at the end of each calendar quarter in personal computer database format and shall reflect the most currently available data.

4) Annual Financial Call, as described in Section 2.5, shall be provided by June 1 following the end of the calendar experience year in preliminary version incorporating all available data. A final set of reports incorporating all required submissions shall be provided annually by August 1.

2.3.1.6 The contractor must provide service and support to the reporting rating organizations, including:

a. The statistical agent must assist reporting rating organizations in their efforts to submit accurate and reliable data in a timely fashion by developing, providing and supporting a data edit package to be used by reporting rating organizations prior to submission and/or by other cost-effective means.

b. The statistical agent must provide written notices to reporting companies whose submissions have failed data edit or data reasonability procedures. Such notices shall include explanations of specific tests failed and instructions for remedying the problem, resubmitting corrected data and/or responding to specific inquiries.

2.4 Data Security Procedures:

2.4.1 Description of Work: The contractor shall implement the procedures and is restricted as follows!
2.4.1.1 The contractor shall implement data security procedures to ensure no unauthorized access occurs of data reported by insurers.

2.4.1.2 Subject to Part 2, Paragraph 2.2.1.4, the contractor shall not allow any information that would identify an individual employer, policyholder, claimant or insurer to be released except with the permission of the employer, claimant or insurer. However, the contractor may release data to another designated statistical agent for WC or a licensed rating organization for WC provided the organization agrees in writing to hold such information confidential and abide by the same restrictions concerning release of such data as the contractor supplying such data.

2.4.1.3 The contractor shall not use data collected in its role as the State Agency’s ‘Statistical Agent for any purpose other than those authorized by the contract with the State Agency, unless the State Agency specifically authorizes those additional uses of the data or the data are otherwise available pursuant to Arizona’s public records laws.

2.4.1.4 The contractor shall not assert ownership of any reports, collected data and work product resulting from its activity as a statistical agent for the State Agency.

2.4.1.5 Subject to Part 2, Paragraph 2.2.1.4, the contractor shall not use information obtained from its activity as a statistical agent to make rates as a rating organization except to the extent that it may use the compiled aggregate loss and expense data that any Arizona licensed rating organization also receives from the statistical agent.
2.4.1.6 The contractor shall not give any rating organization the underlying, Individual claims data relative to another rating organization's members, with the exception of experience rating data relative to an insured who has changed insurers, for the purpose of promulgating an experience rating modification factor, as requested by the rating organization whose member has acquired the insured.

2.4.1.7 Subject to Part 2, Paragraph 2.2.1.4, the contractor shall not use another rating organization's data for its own benefit as a rating organization. Designation as a statistical agent shall not confer any special privileges to a rating organization or an advisory organization in its respective role as a rating organization or advisory organization.

2.4.1.8 The statistical agent must, upon request, provide reporting rating organizations with the procedures the contractor has implemented to maintain the confidentiality of each insurer's data except for the procedures relative to any individual insurer's express authorization to release or use its data.

2.4.1.9 The statistical agent must ensure data security including adequate back-up copies of data and no unauthorized access to WC databases.

   a. The statistical agent must maintain and secure adequate back-up files of all system libraries, documentation and all software programs utilized to process data submissions.

   b. The statistical agent must develop data security procedures to ensure no unauthorized access to data submissions and data-bases by individuals other than appropriate statistical agent personnel or by designated representatives of the State Agency.
C. The statistical agent must develop an agreed-upon procedure for providing reporting rating organizations with aggregate historical premium and loss data.

d. The statistical agent must not alter a reporting company's data submission without prior approval of the reporting rating organization and the State Agency.

2.4.1.10 All compilations of loss and expense experience data and work product resulting from the contractor's operation as the State Agency's Statistical Agent are the sole property of the State of Arizona, without impairing any property rights of insurers in underlying data and information.

2.5 Provision of Reports and Data to Arizona Department of Insurance and to Rating Organizations:

2.5.1 Description of Work: The contractor shall provide the following services to the State Agency:

2.5.1.1 Compiled data shall be provided by the contractor to the rating organizations no later than April 1 of each year for use by the rating organizations to make rates for policies with effective or anniversary rating dates of October 1 of that year.

2.5.1.2 The contractor must annually, by July 1, provide each reporting rating organization with a report of the rating organization's reporting performance relative to data edit and data reasonability test error thresholds and relative to the reporting performance of all reporting rating organizations.
2.5.1.3 The contractor must provide the State Agency with comprehensive access to databases of data reported by rating organizations pursuant to approved WC statistical plans. The contractor must provide the State Agency with the capability to access WC databases and create ad hoc reports in two or more of the following ways:

a. Fast turnaround (within 10 working days, if feasible) on ad hoc data requests.

b. Quarterly copies of databases provided on CD-ROMs.

c. State Agency on-line access to WC databases with software tools to create and download reports to State Agency computers.

d. Other mechanisms proposed by the statistical agent.

2.5.1.4 The contractor must keep the State Agency well informed of the status of data reporting, processing and management.

a. The contractor shall within 30 days after the conclusion of each calendar quarter provide a quarterly status report on data collection and processing activities. The report shall include, at a minimum:

1) Names of reporting rating organizations that are late in filing data submissions.

2) Names of reporting rating organizations whose data submissions failed data edit procedures.
SCOPE OF WORK

SOLICITATION NO.: A8-0106

3) Status of requests for corrections and resubmissions from reporting rating organizations.

4) Names of reporting rating organizations whose data submissions failed data reasonability procedures.

5) Status of requests for explanations of data failing data reasonability procedures.

6) Any significant changes in personnel responsible for carrying out the activities and responsibilities of the statistical agent for WC insurance.

7) A list of reporting rating organizations with premium or loss experience in that quarter, but whose data are not included in WC databases or reports.

b. The contractor shall promptly inform the State Agency of problems, potential problems or the need for guidance from the State Agency regarding routine and special data collection, processing and maintenance activities.

2.6 During the six (6) months following initial designation as a statistical agent, the contractor shall provide monthly reports to the State Agency regarding the implementation and, if applicable, the transition from a former statistical agent. The contractor shall provide reports more frequently if such reports are necessary to ensure an orderly implementation or transition.

SPO Form 222 (9-96)
2.7 Transition Due to a Change in Statistical Agent:

2.7.1 Description of Work:

2.7.1.1 The contractor shall maintain data, databases and related programs in a manner which allows for ease of transfer to another organization in the event the State Agency withdraws the statistical agent designation. Data, databases, statistical plans, edit and reasonability test specifications, historical data, experience rating data, and certain programs for editing data at the rating organization level and for generating certain reports, are the property of the State Agency and must be provided to the replacement statistical agent designated by the State Agency, in the format required by the State Agency.

2.7.1.2 The contractor must ensure a smooth transition to another statistical agent in the event the State Agency were to designate a replacement statistical agent.

a. The contractor must identify and document in writing to the State Agency relevant transition issues within thirty (30) days of a replacement statistical agent being designated by the State Agency.

b. The contractor shall provide relevant assistance and support to the replacement statistical agent during the six-month period immediately following a change in statistical agents.

2.7.1.3 Should this contract be terminated, the contractor shall ensure that there is a smooth transition without any gaps in data compilation and collection and in services between the work performed by the contractor and that of the replacement statistical agent.
2.8 Other Related Activities:

2.8.1 Description of Work: The contractor shall provide analytical support services needed for any related functions performed by the State Agency, including:

2.8.1.1 Identifying and reporting to the State Agency apparent WC market and rate abuses.

2.8.1.2 Conducting analysis and research related to WC loss experience.

2.8.1.3 Auditing rating organizations using the data and compilations provided by the contractor to determine whether the data and compilations provided are being appropriately used and reporting any exceptions to the State Agency.

2.8.1.4 Attempting to resolve with the respective rating organizations report exceptions, errors, data credibility problems and any failure to report and then report the problems to the State Agency.

2.9 Other Services: The Statistical Agent shall, neither offer nor provide to rating organizations or Insurers any services under this contract with the State Agency or under color of this contract or in conjunction with this contract other than those specified herein. Any other services offered or provided must be in another capacity, under a separate contract between the parties, and shall not conflict in any way nor to any extent with the performance of the Statistical Agent's obligations hereunder.
2.10 Billing Procedures:

2.10.1 Description of Work:

2.10.1.1 The fee for services under this contract shall be an annual calendar-year fee. The fee shall be allocated among all Arizona licensed rating organizations on a pro-rata basis according to their memberships' Arizona WC net written premium for the immediate preceding calendar year, subject to a minimum charge to each licensed rating organization in the amount of 5% of the statistical agent’s total annual fee under this contract. The contractor shall bill and collect the fee quarterly during the calendar year to which it applies, with installments due January 1, April 1, July 1, and October 1 of each year. Quarterly installments may be collected thirty (30) days in advance of each quarter. Billing for the first quarter of the calendar year may be based on projected premium writings, and billings in subsequent quarters of that year shall be adjusted as necessary to account for any variance between the projected and actual premium writings.

2.10.1.2 The statistical agent must provide an explanation of the fees relative to a particular rating organization, upon request of the State Agency, the rating organization or a member insurer of a rating organization.

2.10.1.3 The statistical agent must, respond to inquiries from reporting rating organizations regarding billings for fees within ten (10) working days of receipt of the inquiry.

2.10.1.4 The statistical agent must, provide statistical agent services in a cost-effective manner.
RFP KEY ELEMENTS

STATISTICAL PLAN:
RFP, p 7, 2.2.1.1 The contractor shall develop and administer a statistical plan acceptable to the State Agency in accordance with which all licensed WC rating organizations shall report the statistics of their member insurers ... A statistical plan shall include, but is not limited to: a detailed instruction book that defines and describes data elements, uniform report formats, reporting time frames, data quality standards, procedures relative to delinquent or late reports, reporting procedures, compatible data requirements, experience rating plan data, unit statistical reports, calls for aggregate experience, detailed claim information reporting, unified reporting standards for rating organizations, and other information as described in the NAIC's Handbook Section 23.

- CHANGES PERMITTED:
RFP, r) 8, 2.2.12. The contractor shall implement changes in data collection and reporting activities resulting from changes approved and required by the State Agency in the statistical plan. The contractor may recommend changes in the statistical plan to the State Agency.

- MAJOR STATISTICAL AGENT DUTIES
RFP, D 9, 2.3.1.4. The contractor must ensure that data reported by insurers accurately, reliably and completely reflects each insurer's actual premium, exposure and loss experience.
RFP, p 10, 2.3.1.5. The contractor must ensure that data reported by rating organizations is acknowledged, processed for data quality and reliability, returned to the rating organizations for necessary corrections, posted to data bases and processed into reports in a timely manner.
RFP, D 1Z, 2.3.1.6. The contractor must provide service and support to the reporting rating organizations to include their efforts to submit accurate and reliable data timely and by providing written notices to reporting companies whose submissions have failed data edit or data reasonability procedures.

- CONFIDENTIALITY:
RFP, g 14, 2.4.1.8. The statistical agent must, upon request, provide reporting rating organization with the procedures the contractor has implemented to maintain the confidentiality of each insurer's data except for the procedures relative to any individual insurer's express authorization to release or use its data.
RFP, r) 13, 2.4.1.2. The statistical shall not allow any information that would identify an individual employer, policyholder, claimant or insurer to be released except with the permission of the employer, claimant or insurer. However, the statistical agent may release data to another designated statistical agent for WC or a licensed rating organization for WC provided ' the organization agrees in writing to hold such information confidential and abide by the same restrictions concerning release of such data as the statistical agent.
RFP, D 14, 2.4.1.6. The statistical agent shall not give any rating organization the underlying, individual claims data relative to another rating organization's members, with the exception of experience rating data relative to an insured who has changed insurers, for the purpose of promulgating an experience rating modification factor, as requested by the rating organization whose member has acquired the insured.
RFP KEY ELEMENTS

EXPERIENCE RATING:

- **RFP, v 8, 2.2.1.4.** The statistical agent shall provide, upon request from a rating organization, the experience rating data relative to an insured of a member of the rating organization even if such data was provided to the contractor by another rating organization.

- **RFP, t 14, 2.4.1.6.** The statistical agent shall not give any rating organization the underlying, individual claims data relative to another rating organization's members, with the exception or experience rating data relative to an insured who has changed insurers, for the purpose of promulgating an experience rating modification factor, as requested by the rating organization whose member has acquired the insured.

- **RFP, P 18, 2.7.1.1.** The statistical agent shall maintain data, databases and related programs in a manner which allows for ease or transfer to another organization in the event the State Agency withdraws the statistical agent designation. Data bases, statistical plans, edit and reasonability test specifications, historical data, experience rating data, and certain programs for editing data at the rating organization level and for generating certain reports.
TO: Insurance Rating Organizations Insurance Industry Representatives; Insurance Trade Associations; Property & Casualty Insurers; and, Other Interested Parties

From: Charles R. Cohen
Director of Insurance

Date: April 2, 1999

RE: Administration of Workers' Compensation Laws; Arizona Revised Statutes, Title 20, Chapter 2, Article 4

The Arizona Department of Insurance (Department) administers the Arizona Revised Statutes, Title 20, Chapter 2, Article 4, which governs workers' compensation (WC) rates and rate-related activities. In Circular Letter 1998-3 (attached), dated June 3, 1998, the Department discussed plans for designating a statistical agent.

An Arizona Statistical Agent (ASA) has been designated, is in operation, and is performing as planned. The Department has received a number of questions about the purpose of the ASA and how it will interact with WC rating organizations. Therefore, I thought it would be helpful to provide you with the attached newsletter from the ASA that answers the most frequently asked questions.

1 A.R.S. § 20-371 (D) states:
The director may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and the compilations shall be made available subject to reasonable rules promulgated by the director, to insurers and rating organizations, but no insurer shall be required to file its experience with an organization of which it is not a member or subscriber.
April 2, 1999

Establishing the ASA to maintain a statewide WC data base when multiple rating organizations operate in the state is only one piece of the multiple rating organization puzzle. Remaining considerations about the classification system, the assigned risk plan, experience rating and other matters must still be addressed. I believe the best approach is for the Department to work with representatives of the affected industry.

Therefore, I have established a WC Task Force (Task Force) to recommend action to me after addressing the following questions, without limitation, together with any attendant issues:

1. Should rating organizations be required to adhere to one uniform, statewide classification system?

2. Should there be one statewide WC assigned risk plan to which the membership of each operating rating organization must belong or may there be as many assigned risk plans as there are rating organizations?

3. Should the state adopt a statistical plan that is different from statistical plans used by private rating organizations?

4. Should there be one statewide WC appeals board or should each rating organization have its own?

5. Should there be one uniform, statewide experience rating plan?

6. What issues must be considered if a rating organization cannot operate or goes out of business?

The Task Force is composed of industry and insurer representatives and Department personnel. Deloris Williamson, Assistant Director, Rates and Regulations Division, will chair the Task Force.

I envision that the Task Force will meet several times between about April 22 and June 30, 1999. I will ask the Task Force to provide me with a report that analyzes the issues and makes recommendations for action, including recommendations for any proposed legislation.

If you believe there may be other issues that should be addressed, please provide your input to the attention of Deloris Williamson. Her telephone number is (602) 912-8461, and her FAX number is (602) 912-8421.
MEMORANDUM

Date: June 25, 1999

To: The Honorable Charles R. Cohen
   Director
   Arizona Department of Insurance

From: Jon Allen
      Peter Bartolozzi
      Michele Bernel
      David Kenep
      Gary Knoble
      Gene Lundberg
      Kenneth Schroeder
      Deloris Williamson

1999 Workers' Compensation Task Force

The 1999 Arizona Workers' Compensation Task Force (Task Force) has completed its deliberations relative to issues involving the advent of multiple competitive workers’ compensation rating organizations in Arizona and is pleased to submit its report and recommendations.

The Task Force has carefully examined the existing law for Arizona and extensively discussed, per your charge, the issues involved and alternatives available. The actions of other states facing similar concerns were also considered.

The report which follows presents the Task Force’s assessment of the issues you asked the Task Force to examine and presents seven specific recommendations together with recommended law changes that the Task Force believes will address the issues.

We would like to express the Task Force’s appreciation to the Department of Insurance and its staff for its support of our endeavors. In particular, we want to thank Dean Ehler who provided the principal staff support to the Task Force.

Thank you for the opportunity to participate in formulating the response to these ground breaking issues. The Task Force trusts this document will be of assistance in your meeting the challenges presented by the changes taking place relative to rating organizations.
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THE REPORT OF THE 1999 WORKERS’ COMPENSATION TASKFORCE

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I. INTRODUCTION:

On April 22, 1999, the Director of the Arizona Department of Insurance (Department), Charles R. Cohen, established a Workers' Compensation Task Force (Task Force). The names of the Task Force members are listed in Appendix A of this Report.

The Issues the Director asked the Task Force to consider included, but were not limited to the following:

1. Should rating organizations (ROs) be required to adhere to one uniform, statewide classification system?

2. Should there be one uniform, statewide experience rating plan (ERP) that every RO must file with the Department and every insurer adopt?

3. Should the State adopt a statistical plan that is different from statistical plans used by a private RO (e.g., the California statistical plan)?

4. Should there be one statewide WC assigned risk plan to which the membership of each active RO must belong, or may there be as many assigned risk plans as there are multiple ROs?

5. Should there be one statewide WC appeals board or should each RO have its own?

6. What issues must be considered if a RO cannot operate or goes out of business?

7. What other ancillary issues should be considered (e.g. consideration of loss costs, moving to another system such as one RO that is also the statistical agent, credibility of the detailed claim information, etc.)?

The primary mission of the Task Force was to:

Make specific recommendations by June 30, 1999, to the Director ensuring Arizona has a well-conceived and functioning system, described in writing, in which multiple competitive ROs smoothly interact with the Director's Arizona Statistical Agent (ASA) to safeguard the credibility of the Arizona statewide WC data base and to guarantee the availability of data for ratemaking and that the overall system has integrity.
The recommendations of the Task Force could include, but were not necessarily limited to, recommending: amending the statutes, making administrative rules, issuing policy statements, and/or designing a new system.

II. BACKGROUND:

The Department administers the Arizona Revised Statutes, Title 20, Chapter 2, Article 4 (Article 4) which governs workers' compensation (WC) rate filings made by rating organizations.

The current WC rate system in Arizona operates as follows. Article 4 requires every insurer transacting WC insurance in Arizona to be a member of a RO and restricts insurers to membership in one WC RO at a time. A "rating system", is required to be filed with the Director. The RO files the rating system with the Director on behalf of its members. The rating system includes rates that have, historically, been filed with the Director annually to be effective October 1. The rates must be on file with the Director for a waiting period of 15 days before they become effective during which time the Director may disapprove them, without holding a hearing, if they are found to be excessive, inadequate or unfairly discriminatory. After the expiration of the 15 days, the rates become effective unless they have been disapproved. The Director may later disapprove the rates, if at any time, he finds that the filing does not meet the standards set forth in A.R.S. § 20-356 by holding a hearing and issuing an order. The order does not affect any contract or policy made or issued prior to the expiration of the period set forth in the order after which the rate may no longer be used.

Although all members of the RO must adhere to the filings made on their behalf (to include the entire rating system) by their RO, insurers may deviate from the RO's rates by filing with the Director a uniform percentage decrease or increase to be applied to the premiums produced by the rating system. Insurers may not otherwise deviate from the RO's rating system. The current rating system filed in Arizona includes an experience rating plan (ERP) and two schedule rating plans (SRP). The filed rating system does not permit a deviation and a SRP to be simultaneously used by an insurer. The insurer may, therefore, elect to file a deviation or to adopt a SRP; but it cannot do both under the filed rating system. Under the two available SRP options, SRP I is a typical SRP by which an insurer may, within an available range of modifications, assign credits or debits, not exceeding an overall maximum under the plan of +/-25%, to specific risk characteristics. SRP 11 is a formula-based SRP with specific RO established schedule rating factors applied by its member insurer to the insured's

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1 A.R.S. § 20-359 (A).
manual premium loss ratio. An insurer may opt to use SRP I or 11, but may not use both simultaneously. Either SRP may be used in conjunction with the ERP. The ERP and the SRPs are both subject to the same minimum eligibility requirements. The expected loss rates (ELRs), W Values, B Values, and D Ratios are developed by the RO for its members. The RO has traditionally determined the ELRs from the manual rates.

Arizona law does not-limit the number of WC rating organizations that may be licensed and may operate in this state. From 1969 to February 1, 1999, a sole licensed WC rating organization operated in Arizona. Consequently, all authorized WC insurers at that time, were members of that rating organization, which was the repository for all loss and expense data arising out of the transaction of WC insurance in this state, by virtue of its having been the sole RO in the state. In 1997, the Department issued WC RO licenses to three other entities. However, none of these new licensees met the statutory requirement that would permit them to operate as a RO until 1999. February 1', 1999, a second RO became active.

In anticipation of a second RO becoming operable, the Director had previously exercised his authority to designate a statistical agent pursuant to A.R.S. § 20 371 to assist him in gathering and compiling loss and expense data used to make WC rates in this state and to make compilations of that data available to licensed WC ROs. The ASA was selected through the state procurement process; and, on February 1, 1999, the ASA became operable.

Arizona insurance laws plainly contemplate the operation of multiple ROs. However, multiple operational ROs, without a designated ASA, could fracture the Arizona loss and expense database, impair the credibility of each portion of that database, and impair the credibility of the resultant rates. The role of the designated ASA is crucial in a multiple RO scenario to maintain the integrity and credibility of the Arizona loss and expense database upon which WC rates in Arizona are based. Furthermore, designating an ASA resolved the issue under A.R.S. § 20-363(F) as to what degree of combined experience for a RO's members is "reasonably adequate for rate-making purposes" as all licensed ROs have access to the combined loss and expense data for the entire state.

Currently, each RO reports four types of data to the ASA in accordance with the statistical plan (i.e., the Department's statistical plan) filed with the Director by the ASA. Although there is no statutory requirement for a uniform statistical plan, the Department's statistical plan is substantially similar to the statistical plans currently used

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9 "W Value" means "Weighting Factor which varies with the volume of the employer's expected losses. The "B Value" is the "Ballast Factor" which is a stabilizing element used to limit the effect of a major shock loss. Both the W and B values/factors are obtained from tables in the ERP manual filed by the RO. "D Ratio" is the "Discount Ratio! used to determine the expected loss amount for each classification that constitutes Expected Primary Losses. The D Ratio is also obtained from a table in ERP manual.

10 Prior to operating as a RO, each licensee is required to have as members not less than five insurers authorized to write and who are writing WC in Arizona and whose combined experienced is determined by the Director to be reasonably adequate for rate-making purposes. A.R.S. § 20-363 (F).

11 Policy Information Data, Unit Statistical Data, Financial Data (aggregate experience), and Detailed Claim Reports
by each RO in Arizona. (Further, although the classification, ERP, and SRP plans of each RO are also substantially similar, there is likewise no statutory requirement that there be a uniform classification, ERP, or SRP plan in Arizona.)

The ASA, when acting within the scope of its authority, is the agent of the Department and acts on behalf of the Director. The ASA will collect the data from the ROs, edit it, compile it, and return the compilation to the ROs from which data each RO will promulgate rates. The ASA does not promulgate rates or ELRs or compute experience rating modification factors (E Mods) under the ERP; these remain the prerogative of the ROs.

As ratemaking remains the prerogative of the RO's, it is quite possible that each RO will develop and file different rates to be effective October 1, 1999 with the Director. As ELRs have historically been tied to basic manual rates, the ELRs of each RO's ERP will undoubtedly also be different.

Arizona has had one WC assigned risk plan (ARP). An ARP is a plan by which employers who could not otherwise obtain WC insurance from insurers actively transacting WC in Arizona may purchase WC insurance. The reasons why insurers may not agree to provide the coverage voluntarily (i.e., in the "voluntary" market) vary but may include the employers loss ratio or size of risk. An employer is eligible for the ARP if the Arizona State Compensation Fund and two other insurers have declined to write the employer in the voluntary market.

By law, the WC insurers are required to participate in the ARP (i.e., the "involuntary" market). Distribution of assignments among the insurers is required to be made in proportion to each insurer's share of the total net direct WC premium written in Arizona, "so far as practicable." The RO described in A.R.S. § 20-363(E) "shall upon approval of the insurance director issue a directive for the equitable apportioning of such assigned risks among all the insurance carriers, including the state fund ." A.R.S. § 20-363(E) states:

Every Insurer, Including the Arizona state compensation fund, writing workers' compensation insurance in this state shall be a member of a workers' compensation rating organization. No insurer may at the same time belong to more than one rating organization with respect to such Insurance.

Although insurers are prohibited from belonging to more than one WC RO at a time, they may change memberships and there may be more than one WC RO simultaneously operating within the state. Therefore, it appears that it would not be impossible for there to be more than one ARP in Arizona if each RO filed an ARP. However, as a factual matter only one of the ROs has filed to date an ARP. The ARP filed and administered by this RO permits the RO, through an internal procurement process developed and performed by the RO, to select two "servicing carriers" that will

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12 A.R.S. § 23-1091.
provide insurance under the ARP to eligible employers with the servicing carriers afforded "reinsurance" by the national workers compensation reinsurance pool (Pool). The Pool was formed by and is administered by the RO. All WC insurers currently transacting WC in Arizona participate in the Pool. Therefore, as a practical matter, there is only one ARP in Arizona at this time although current law does not require a sole ARP.

Arizona law also does not currently require that there shall be one appeals board (i.e., a means by which RO's permit an aggrieved employer to present his concerns relative to the RO's rating system). Specifically, A.R.S. 8 20-367(B) states:

Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means by which any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which the rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject the request within thirty days after it has been made, the applicant may proceed in the same manner as if his application had been rejected.

The party affected by the RO's action may, within 30 days after receiving the RO's written response, appeal to the Director who must hold a hearing to affirm or reverse the RO's action. Based on current law it appears that there could be as many appeals boards as operating ROs.

III. UNIFORM CLASSIFICATION PLAN CONSIDERATIONS:

Historically, in Arizona, there has been one uniform classification plan 14 solely because there was only one active RO. Thus, the uniform classification plan was the plan of that particular RO. However, with the advent of multiple ROs, it is conceivable that active ROs could legally file different classification plans (CP) with the Department as no current Arizona law requires all ROs to adhere to one uniform CP. 15

The Task Force discussed the ADVANTAGES of having a uniform CP. Those items thought to be advantageous are listed below:

I. A uniform CP ensures similarity and commonality in the reporting of data to the ASA.

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14 Employers with similar exposure to losses are grouped in classifications that describe that groups specific work functions. The classification system is the common tool used by a RO's member insurers to calculate an insured's WC premium from the Ro's WC rate manual. Each classification is assigned a four digit classification code. There are approximately 600 available classification codes under the current Arizona WC system that are used by each operating RO. Each classification code is assigned a rate by the respective-RO.

15 Both active Arizona ROs' currently use a CP substantially similar to the historical CP used in Arizona. However, there is no Arizona law that would prohibit any RO from substantially changing the CP or filing a completely new CP.
2. A uniform CP is familiar to insurers, employers, and other interested parties alike.

3. Uniformity of classes supports rate credibility by ensuring that the classes reflect homogeneity and improved predictability due to sufficient numbers within the class.

4. A uniform CP provides a stable framework within which insurers may enjoy the freedom of changing ROs while adhering to the same CP.

5. A uniform CP that is substantially similar to other such CPs throughout the United States assists with multi-state rated risks and is more efficient for insurers, and permits the compilation of multiple state data.

6. Mandating a uniform CP in law prevents the possibility of a RO inserting a substantially different CP into the system that could unnecessarily disrupt the collection of uniform statewide data.

7. A uniform CP serves to distribute premiums among employers equitably and consistently while recognizing statistically supportable differences in losses among classes.

8. A uniform CP helps to ensure data quality.

9. A uniform CP avoids the ordeal of transitioning from one class plan to another.

10. A uniform CP eliminates the need for a state to design its own system.

The Task Force also discussed the DISADVANTAGES of having a mandatory uniform CP. Those items thought not to be advantageous are listed below:

1. Insurers and/or ROs' do not have the flexibility to independently separate classes in recognition of a particular risks classification peculiarities.

2. A uniform CP does not allow subclassifications that could support a more equitable rating structure.

The Task Force considered that there are ways to recognize classification peculiarities other than permitting ROs to file CPs that are not uniform. For example, in Arizona, an insurer may use its RO's filed SRP if the insurer is adhering to the RO's filing without deviation to the manual rates. A SRP is a plan that recognizes individual risk "classification peculiarities" that may, in the judgment of the insurer, warrant a credit or debit not to exceed a certain range of modifications per characteristic and an overall total maximum modification under the SRP. However for the most part, this type of SRP does not apply to smaller accounts.
The Task Force considered the possibility of permitting insurers to use subclassifications as some states permit subclassifications. However, it was the consensus of the Task Force that subclassifications should:

1. Require the approval of the Department.\(^{17}\)
2. Be included in the core classification of the subclassification.\(^{18}\)
3. Have class codes that mirror the core classification.\(^{19}\)

The Task Force discussed the recently enacted Utah law\(^{20}\) that addresses a uniform classification system. The consensus of the Task Force was that certain language of the Utah law relative to a uniform classification plan should be adopted into Arizona law. See Appendix B for summary of Task Force recommendations and Appendix C for suggested law changes.

The Task Force makes the following RECOMMENDATION regarding a CP to the Director:

That Arizona law be amended (see Appendix C for suggested language akin to Utah’s 1999 law) to require all insurers and ROs to adhere to a uniform CP, but which law also permits insurers to use subclassifications as long as the expenses and experience of the subclassification are reported to the ASA using the core classification.

IV. EXPERIENCE RATING CONSIDERATIONS:

In Arizona, ERPs are filed by the ROs with the Director on behalf of their members. The ASA only collects and compiles the experience rating (ER) data. The ASA does not promulgate the ERP’s rating values or factors nor does it calculate the E Mods of insureds. The aforementioned activities remain within the prerogative of the ROs. No prohibition exists under current Arizona law preventing different ROs from filing different ERP and/or different rating values or factors.

Currently, both active WC ROs’ adhere to substantially the same ERP. A WC ERP is a plan by which the actual loss experience of the insured is compared to the loss experience normally expected by other risks within the insured’s rating classification. As filed by the ROs in Arizona, the ERP is mandatory and all eligible insureds must be experience rated by insurers. An insured is eligible for

\(^{16}\) Michigan, California, Illinois, Minnesota, etc.
\(^{17}\) Under current law in Arizona, the RO would make the sub classification filing on the insurer’s behalf. The only “deviation” to the rates/rules of the RO currently permitted is a uniform percentage deviation applicable to all rates (e.g., -25%). A.R.S. 20-359. A RO, of course, could file subclassifications under the current law.
\(^{18}\) For example, if the core classification were ’trucking;’ Class 8002, and the subclassifications were "Drivers" and "All Others," all expenses and loss experience for the subclasses "Drivers" and "All Others" would be reported to Class 8002. This would ensure that the overall core classification code has sufficient numbers within the class to retain statistical credibility for rate-making purposes.
\(^{19}\) For example, assuming the core classification code was 8002, then subclasses for "Drivers" and "All Others" should have similar codes to the core code such as "8002a7" and "8002b" in order to statistically track the sub classification codes.
\(^{20}\) HB 269, effective 5/3/99.
ER, under both ROs' plans, if the employees payroll in the last year or last two years of the experience period produced a premium of at least $6,000. Or, if more than two years, an average annual premium of at least $3,000 was produced. The eligibility minimums (i.e., the $6,000 and $3,000) of the ERP were established.

Each year prior to the insured's renewal date, an E Mod is applied by the insurer to the insured's premium, to reflect the risk's variation from the average risk. The E Mod will lower or increase the insured's premium depending upon the insured's particular E Mod. E Mods are calculated by the ROs based on the insured's ER period and are calculated in accordance with the same established ER formula. Noteworthy is the fact that the E Mod is not determined simply by an insured's loss ratio, but is determined by the insured's loss frequency and a weighted portion of the severity of the losses. Both ROs currently have a table of weights and ballast values that mirror each other.

The ROs also calculate the ELR. The ELR is the factor used to determine the amount of expected losses by classification for each $100 of payroll. As ROs, under the current law, can calculate the ELR's the W and B values, and the D ratio, among other factors, it is possible that all of the aforementioned will differ between ROs, depending upon the RO performing the calculation and the assumptions made by the particular actuary.

The Task Force believes that ER serves the following purposes:

1. ER is in the public's interest because it encourages employers to provide a safe work place;

2. ER penalizes the employer who has a poor safety record and rewards the employer who has a good safety record by increasing the premium of the one and lowering the premium of the other; and,

3. ER tailors the cost of insurance to individual employers more specifically than does manual rating.

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21 The experience period generally consists of three completed years of experience ending one year prior to the effective date of the modification.
22 Currently, ROs derive ELRs from manual rates but make adjustments to the manual rates when calculating them which adjustments include, but are not limited to the following: a) Insurance Company expenses are eliminated from the manual rate; b) the manual rate is reduced to recognize that losses in the ER calculation are not at full maturity; c) a portion of the trend is eliminated from the manual rate as it measure changes that are subsequent to the ER period; d) losses are limited in the ERP so the manual rate is reduced to account for these claim limitations; and e) off-balance is removed from the manual rate because it is not part of the actual losses. Manual rates consider all employers, to include small employers that may not be eligible for ER. As an employer's payroll increases, more weight is given to his claims experience. Historically, it has been statistically proven that an employer's losses, on the whole, decrease as his premium increases. Thus, it would be reasonable to expect that under an ERP that there would be more credits from the manual rates than debits. Therefore, the ERP will not realize the manual rate because of the credit off-balance of the ERP.
23 Rates as promulgated by a RO before application of any credits or deviations and which rates are published in the RO's rating manual.
Some states (e.g., Michigan and Texas) permit insurers to have their own independent ERP. In Arizona, ROs file an ERP; and, by virtue of the ROs' having made filings that mandate ERP participation all insurers must use an ERP in Arizona. Both RO's ERPs are substantially similar as of February 1, 1999. However, no current Arizona law requires a RO to file an ERP if it decides not to make ER available to its members, to adhere to a uniform ERP, or to file the same plan as another RO.

The Task Force discussed the **ADVANTAGES** of having one uniform ERP and concluded that the advantages of a uniform ERP are:

1. It promotes stability within the WC system by having commonality of methodology. The factors, formula, loss limitation, eligibility requirements and minimums mean the same to all insurers, ROs and other interested parties.

2. Some parties look to an employer's E Mod as an indication of the quality and effectiveness of the employer's safety program. For example, some OSHA\(^{24}\) representatives consider an employee's E Mod when considering the employer's safety program. Contractors when bidding on projects often have to inform their project manager of their E Mod.

3. A uniform ERP recognizes similar losses.

4. Employers accept and recognize the advantages of a uniform ERP.

5. The integrity of the ERP is enhanced through the use of one uniform ERP.

6. Insurers and/or ROs will not be burdened with the additional actuarial time and expenses involved if they were to develop independent ERPs. Substantial analysis underlies the development of each factor in order to optimize the ERP's ability to predict future losses.

7. Prevents insureds from abusing the system by moving in and out of different ERPs in order to take advantage of the system rather than emphasizing safety programs.

The **DISADVANTAGES** of having one uniform ERP are:

1. If a uniform ERP does not also have one set of rating values, then it is probable that each RO will develop different rating values. This could cause employers to move from an insurer that is a member of one RO to an insurer of another RO in order to take advantage of that RO's particular ERP that may have values and factors that are more favorable to the employer.

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\(^{24}\) Occupational Safety and Health Act.
2. \( W^{25} \) and \( B^{26} \) values could differ. Although each RO may use the same statewide database, the factors underlying the ERP are likely to be considerably different due to differences in judgment throughout the development of the ERP. These factors include ELR's, B&W values, the formula for calculating primary versus excess losses (including the corresponding D-ratios), loss limits, the number of years and the maturity of experience to be used in the ERP. Each of these factors has judgmental components.

The B&W values determine how much credibility to give an individual risk. For example, is a $2 million risk fully credible, or a $10 million risk, or is no risk fully credible? The primary/excess loss split and the limitation on medical only losses, reflect the judgmentally desired balance between recognizing frequency and severity of claims.

The ELR's for each class reflect the losses per payroll expected to be reported for each class during the experience period. Since the only data available is historical, the historical losses need to be trended forward to reflect the expected values for the experience period that will be used in the next experience rating. This trend is selected judgmentally based on the trend in the aggregated financial data. (Note if each RO uses its own financial data, it is likely that the trends will be different.) Adjustment would also be made to reflect benefit changes, which are also judgmental.

Typically, rather than starting with unit statistical data and working forward, the ELR's are based on the loss assumptions underlying the class rates. The class rates have the benefit of being already adjusted to reflect the credibility of the underlying unit statistical data. The losses are then adjusted for trend, benefit change and loss development (to back into the losses expected at 1st, 2nd, and 3rd report), as well as for swing limits, loss limitations and/or test correction factors which may be included in the class rates. Each of these factors is judgmental, and likely to differ based on the financial data used.

3. No other options are available that provide flexibility and a choice.

4. Increased response time results if it is necessary to adjust the ERP if the factor(s) or formula are not working.

5. A uniform ERP does not provide competitive alternatives for an employer who has a good safety program and is not gaming the system.

6. Inhibits individual insurer creativity in developing new approaches to ERP.

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25 "W" is a weighting factor. Ibis value is a ratio that determines the percentage of excess losses to enter the ER formula. It is applied to both actual excess losses and expected excess losses and commonly is a value between .07 and .63 that increases as expected losses increase. The values are obtained from the Tables of Weighting and Ballast Values in the ERP.

26 "B" value is the "ballast value." This value is a stabilizing element designed to limit the effect of any single loss on the experience. It is added to both the actual and expected primary losses. It increases as expected losses increase.
The Task Force makes the following **RECOMMENDATION** regarding an ERP to the Director:

That Arizona law be amended (see Appendix C for suggested language) to require every insurer transacting WC insurance in this state to adhere to a uniform ERP approved by the Director. The Director may designate the ERP of any RO or of any other state as the uniform ERP. An insurer may develop directly through the RO of which it is a member its experience modifications based on the uniform classification plan, uniform statistical plan, and the uniform rate filing.

V. STATISTICAL PLAN CONSIDERATIONS:

A "Statistical Plan" means the plan, system, or arrangement used in collecting workers' compensation data. Historically, in Arizona, there has been one uniform statistical plan solely because there was only one active RO. The uniform statistical plan (SP) was the plan of that particular RO. However, in the advent of multiple ROs, different statistical plans can be filed by active ROs with the Department, as no current law requires all ROs to adhere to one uniform statistical plan.

The Task Force discussed the **ADVANTAGES** of having a uniform SP. Those items thought to be advantages are listed below:

1. Provides for a common denominator to ensure data collected by the ASA is credible and is uniformly reported.

2. Provides a source of common data for credible rate making.

3. Establishes mandates for data collection which otherwise would not be collected.

4. Establishes stability in the rate making process.

5. Requires only one edit package and eliminates the efficiency and cost effectiveness concerns of having multiple edit packages.

The Task Force also believes there are no disadvantages to having a mandatory uniform SP.

The consensus of the Task Force was that a uniform SP be adopted in Arizona and the Director shall designate the uniform SP. See Appendix B for summary of Task Force

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27 Insurers report statistical data on exposures, premiums, and loss data to the Ro which it is a member of for every workers' compensation policy and employers' liability policy it writes. Currently in Arizona, the ROs report the statistical data received from their member insurers to the designated statistical agent for compilation purposes.
recommendations and Appendix C for suggested law changes. The Task Force also decided ROs may use their own statistical plan to the extent that the statistical plan does not materially conflict with the uniform statistical plan.

The Task Force makes the following RECOMMENDATION regarding a SP to the Director:

The Arizona law be amended (see Appendix C for suggested language) to require every RO and every insurer transacting WC insurance in this state to adhere to a uniform SP, but which law also permits a RO to use its own SP which has filed with the Director and received approval, to the extent that the SP does not materially conflict with the uniform SP for the purpose of making all reports to the statistical agent designated by the Director.

VI. DESIGNATED RATING ORGANIZATION AND UNIFORM RATE FILING CONSIDERATIONS:

Arizona law presently permits each active RO to independently make and file with the Director rates; and, since the Fall of 1998, each active RO has made a separate rate filing with the Department. Although separate rate filings were filed in 1998, the two rate filings, in effect, are substantially similar. Therefore, currently, as a practical matter different rate levels are not in effect.

The Task Force considered the issues that would arise if two substantially different rate filings were filed with the Director. These issues included, but were not limited to, the following:

1. What base rate level would be used by the Assigned Risk Plan? Historically, the assigned risk plan rates have been merely a uniform percentage increase (e.g., +25%) over the base manual rates of the one active Arizona RO. However, multiple ROs can mean multiple rate levels. The Task Force considered: a) choosing the rate filing of the RO having the highest rate as the base rate filing above which a percentage increase would be added and b) permitting the statistical agent or the assigned risk plan administrator to make assigned risk rates.

2. What would be the ramifications of having the Director choose one rate filing from among all rate filings filed with the Director? It was suggested by some members of the Task Force that the Florida Department of Insurance selects, from among all rate filings filed, just one rate filing that will be used for the next rating period. However, after calling the Florida Department, the Task Force learned that the Florida Department that there is no Florida law that permits the Department to select one rate filing. Arizona would require an enabling law to act similarly. Further, this option would ultimately place the Director in the position of being the ratemaker, of having to second-guess the opinions of the ROs’ and of having to defend his choice by expending limited Department resources and possibly incurring costly hearings.
3. What would be the ramifications of having the ROs choose and pay for an independent actuary who would select which rate filing to use or having the Director choose the actuary who would select the rate filing to be used. The Task Force rejected this option due to the extra costs that would ultimately be passed on to insurers, and problems similar to those described in number two above for the Director.

4. What would happen with ELRs? The use of two different rate levels could result in two different ELRs. For reasons already discussed in this Report (see Section IV), a system by which different ELRs result is not recommended by the Task Force.

5. What would happen to interstate rating? Much of the commonality important to interstate rating would be lost with the use of different rate levels because different ROs would have different rating values that would lead to different modifications depending upon the RO with which an insurer was affiliated.

After considering the issues and the available options, the Task Force decided that the best solution would be for the Director, through the state procurement process, to select a "Designated RO." The Designated RO would make WC rates for the state. Other WC ROs would still have a viable role in the state. That is they could have member insurers, could collect data, could report to the ASA on behalf of their membership, and could serve their members in every capacity as currently, except they would not make rates. The Designated RO would be the only RO that would make rates in this state.

The Designated RO would be required to annually file a uniform rate filing to be effective October 1. The filing would be required to be on file for a waiting period of fifteen days during which period the Director could disapprove the rates if the rates did not meet the standards of A.R.S. §20-356(I). Upon the Director's approval, the rate filing of the Designated RO would become the "uniform rate filing." All insurers transacting WC would be required to adhere to the uniform rate filing, except as to a uniform deviation as permitted by A.R.S. §20-359. Further, the Designated RO would calculate ELRs, ballast factors, weighting factors, and other experience rating factors to which all insurers transacting WC in this state would also be required to adhere.

The Task Force makes the following RECOMMENDATION regarding a uniform rate filing to the Director:

That Arizona law be amended (see Appendix C for suggested language) to permit the Director to designate one RO that meets the requirements of A.R.S. §§ 20-361 and 20-363(F) to promulgate and to annually file WC rates by October 1. The rate filing shall be a uniform rate filing to which every insurer transacting WC insurance shall adhere except as provided in A.R.S. § 20-359(A).
VII. ASSIGNED RISK PLAN CONSIDERATIONS:

Currently Arizona has one WC assigned risk plan (ARP). An ARP is a plan by which employers who could not otherwise obtain WC insurance from insurers actively transacting WC in Arizona may purchase WC insurance. An employer is eligible for the ARP if the Arizona State Compensation Fund and two other insurance carriers have declined to write the employer in the voluntary market.28

The Task Force considered the use of multiple ARP rates. However, it was decided this would lead to inefficiency within the ARP. The Task Force agreed that one ARP should be used. The Task Force also decided that the ARP rates used to determine the premiums of risks in the ARP shall be the rates annually filed with the Director of Insurance by the designated RO plus a uniform percentage increase applicable to all classifications as determined by the designated RO, subject to the approval of the Director. It was determined that the ELRs, ballast factors, and other factors promulgated by the designated RO for use with the uniform experience rating plan filed with the Director shall also apply to experience rated risks in the ARP. It was also determined that the rating classifications used in the ARP shall conform to the uniform CP and that subclassifications or rate/rule deviations shall not be used in the ARP. This type of an ARP will preserve one rate level from which ARP rates can be built. By preserving one rate level, the benefit of continued interstate rating in Arizona will be realized.

The Task Force recommended a law change which would permit the Director of Insurance to contract with a RO, advisory organization, statistical organization, insurer, or other entity to administer the ARP. The assigned risk plan administrator will charge all insurers transacting workers' compensation insurance in Arizona a reasonable fee as determined through the state procurement process for the services performed in administering the ARP. Each insurer shall pay the fee based upon its share of the total net direct WC and occupational disease compensation insurance premiums written in Arizona.

The Task Force decided that the assigned risk plan administrator shall develop a plan of operation and shall upon approval by the Director issue a directive for the equitable apportioning of WC assigned risks among all insurers, including the Arizona State Fund. The plan of operation is to include:

1. A method by which one or more insurers transacting WC in this state selected by it to act as servicing carriers. The performance of the servicing carriers shall be monitored by the ARP administrator.

2. A method for apportioning the WC assigned risks among all the insurers, including the State Fund.

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28 ARS. §23-1091 (A)
The Task Force makes the following **RECOMMENDATION** regarding an ARP to the Director (see Appendix B for summary of Task Force recommendations and Appendix D for suggested law changes):

That A.R.S. §§ 20-360 and 23-1091 be amended (see Appendix D for suggested language) to require one ARP, a contract for an administrator of the ARP, the use of the annually filed rates filed by the designated RO plus a uniform percentage increase, the use of EI-Rs, ballasts factors, and other experience rating factors filed by the designated RO, and the use of the uniform CP without subclassifications and rate/rule deviations.

**VIII. APPEALS BOARD CONSIDERATIONS:**

Currently, A.R.S. § 20-367 requires every RO and every insurer that makes rates to provide a reasonable means by which any person aggrieved by the RO’s or the insurer’s rating system may be heard in person or by his authorized representative on his written request to review how the rating system has been applied in connection with the insurance afforded him. Although this law refers to “insurers” as well as ROs, insurers do not make their own rates in this state due to the fact that A.R.S. § 20-363(E) requires them to belong to a WC RO and the RO makes rates on their behalf. Therefore, the RO to which the insurers belong has traditionally provided the system by which an aggrieved party may be heard. This review system is commonly referred to as the appeals board. Historically, due to the fact that there was only one RO there was, in turn, only one appeals board. However, with the advent of multiple, operating WC ROs that changed as the law clearly requires each RO to have a review system.

Therefore, each RO currently has an appeals board to which employers may bring their grievances concerning the rating system. Depending upon the RO, the composition of the appeals board may vary. However, the RO normally sits on the board as a non-voting member and selected insurers from the RO's membership serve as voting participants as do the members of the public who also serve. Once the appeals board has provided written notice of its action, the affected party may appeal to the Director, who must hold a hearing, to affirm or reverse such action. Neither the Director nor a member of his staff serves on the RO's appeals board for the very reason that the ultimate decision to affirm or reverse the appeals board's action lies with the Director.

The question addressed by the Task Force was whether more than one appeals board should be permitted. The conclusion of the Task Force was "no" and that the law should be changed to require one statewide appeals board. The Task Force’s reasoning for its conclusion was that a statewide appeals board would provide consistency in interpretations of the rating systems, notwithstanding which RO developed the rating system, and would be more efficient and cost effective because only one appeals board would need to be staffed.

The Task Force viewed the advantages and disadvantages of having one appeals board as follows:
Advantages:

1. One appeals board would provide a consistent interpretation of rating systems among all licensed, operating FIOs in this state.

2. One appeals board would be more efficient and cost effective because more than one board would not have to be staffed or administered.

3. One appeals board would ensure that review procedures are consistent thereby ensuring that the complaints of all aggrieved parties affected are similarly handled.

Disadvantages:

1. A law change is required to establish one appeals board.

2. As not all the members of the appeals board will necessarily be affiliated with the RO of which the insurer providing the coverage to the employer who is the aggrieved party, the aggrieved party may perceive that he will not be fairly treated or that those members not affiliated with the RO whose rating system is being challenged will not understand his concerns about the specifics of the rating system being challenged.

The Task Force makes the following RECOMMENDATION regarding an appeals board to the Director (see Appendix B for summary of Task Force recommendations and Appendix C for suggested law changes):

That A.R.S. 5 20-367 be amended to require one statewide appeals board composed of a non-voting representative of each operating, licensed RO in this state and the designated statistical agent, five insurers chosen by the ROs from among their membership in accordance with each RO's overall membership share of the total net written premium in this state, and four members of the public. The public members shall be selected by the ROs and the designated statistical agent and shall consist of a member of the Arizona State Chamber of Commerce, an insurance agent or broker who is a member of the Arizona Association of Insurance Agents and Brokers, a member of the Arizona Chapter of the National Federation of Independent Business, and an employer having over one hundred employees in Arizona. The insurers and the public members shall serve a term of three years. The appeals board shall select its chairperson, shall meet as often as needed and in accordance with the provision of Arizona law, and shall have an operating plan approved by the Director.
IX. CONSIDERATIONS IF A RO CANNOT OPERATE OR GOES OUT OF BUSINESS:

Currently, A.R.S. 8 20-361 addresses the requirements to be licensed as a RO in Arizona. None of the requirements state what should be done if a RO, once licensed, fails to operate or goes out of business. With the advent of multiple ROs, it is possible that a RO, for whatever reason, may, after it has acquired member insurers, decide to cease operating as RO in this state. Therefore, a number of questions could arise such as:

1. Are the member insurers of a defunct RO required to become members of another RO? The Task Force believes the answer is "yes," because A.R.S. 8 20-363(E) requires every insurer writing WC in this state to be a member of a WC RO. If the insurers of the defunct RO did not immediately become members of another RO, they would have violated the aforementioned law. However, notwithstanding the insurers must become members of an operating Arizona RO, there is no current statute that requires a RO to accept an insurer as a member. Therefore, the Task Force believes that the law should be amended to require a RO to accept an insurer that makes application to the RO for membership. Language akin to Illinois law, ILCS 6 5-459(2), stating that each RO shall permit any insurer transacting WC insurance in Arizona to become a member to its rating services for WC.

2. Would the rates of the defunct RO still apply without interruption to the policies of an insurer that moves to a new RO? - The Task Force believes the answer is "yes," because the RO's rates would have been annual rates applied for the annual term of the policy and not subject to change because the insurer merely changed ROs.

3. What happens to the statistics of insurers of a defunct RO? No current Arizona law explicitly requires an insurer to report its statistics. However, within the statutory requirement that insurers belong to a WC RO is an implicit requirement that the insurer will report its statistics to that RO. However, with multiple ROs operating any one of which could become defunct, the problem arises as to whom the members of the defunct RO should report its statistics. The acquiring RO may not be able to timely collect the data or want the past data. The Task Force believes that Arizona law should be amended to explicitly add the requirement that an insurer shall report its statistics to the ASA and that it may fulfill this obligation by having a RO report its statistics on its behalf; but, in the event of the RO's being unable to perform this duty, then the insurer must report its statistics directly to the ASA. Also, in the event the data has been lost, the Task Force suggests that language be added to the law that requires the insurer to reconstruct the data in order to provide it to the ASA.

4. Who will promulgate the E Mods of the member insurer of a defunct RO? The Task Force believes that the acquiring RO, the insurer (assuming it has the capability), or another entity with which the insurer would contract would calculate the E Mods. As A.R.S. 5 20-363(E) prohibits an insurer belonging to more than one WC RO at a time, an insurers "contract" with another WC RO of which it was not a member for the sole
purpose of the second RO’s calculating the insurers E Mods may be perceived as the insurer’s belonging to a second WC RO. Therefore, the "contract" should be with an entity other than a WC RO of which the insurer is not a member. The Task Force does not believe a law change is necessary to effect this result.

5. What explicit law permits the Director to require a RO to submit a financial statement showing that it is an ongoing business concern or to provide an action plan detailing the steps to be taken that will provide for a smooth transition and not disrupt the market place should the RO cease doing business? No statute currently provides the Director with this explicit authority. Therefore, the Task Force recommends that the law be changed to give the Director authority to require a RO to provide a financial statement at any time and to have an action plan, filed at the time of licensure, to address transition issues should the RO cease doing business in this state.

X. CONSIDERATION OF ANCILLARY ISSUES:

A. SHOULD ARIZONA CONSIDER MOVING TO LOSS COSTS?

The Task Force discussed a WC loss cost rating system as a futuristic rating model for Arizona. Arizona has historically operated under an "administered pricing" WC rating environment. This system has worked very efficiently and the Task Force agreed that this system is not broken and continues to provide a competitive WC market in Arizona. The variety of WC rating plans available in Arizona such as: retrospective rating plans; deductible plans; schedule rating plans; and deviations have provided a WC market that does not have impediments to competition.

However, the Task Force expressed a desire for the flexibility to change to a WC loss cost rating system when the Arizona WC market dictates a change is needed. The Task Force discussed that timing is most important in determining when a change to a loss cost environment would be desirable. It was suggested that when comparing the benefits of a loss cost WC rating system over the current administered pricing system in Arizona, the benefits do not significantly warrant a change at this time.

The Task Force discussed the following additional concerns with loss costs as a futuristic WC rating model:

1. It would be critical to maintain a credible WC data base. It was not determined how a loss cost rating system would effect the Arizona WC data base.

2. New laws would have to address whether insurers could delay or non-adopt loss costs filed by 110s.

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29 A loss cost rating system is one in which ROs file prospective lost cost on the behalf of its member insurers with the Director. Each insurer files the loss cost adjustment and loss cost modification factors applicable to the prospective loss costs filed by the ROs.
3. New laws would have to address how the ARP would operate under a loss cost environment. The Task Force suggests that the designated RO should be used for the filing of assigned risk rates.

4. A concern was raised as to what type of law loss costs should be filed under. The Task Force agreed that a file and use law with a fifteen day waiting period should be used.

B. SHOULD ARIZONA MOVE TO ANOTHER SYSTEM SUCH AS ONE RO THAT IS ALSO THE STATISTICAL AGENT?

The Task Force's recommended futuristic WC model is discussed in section A above.

C. HOW CAN ARIZONA BEST ADDRESS DETAILED CLAIM (DCQ CREDIBILITY ISSUES?)

The Task Force suggests that the Director of Insurance forms a working subgroup composed of the Arizona Statistical Agent, statistical personnel from each RO, and some WC insurers to discuss how to handle DCI in more depth.
Appendix A
OF THE REPORT OF THE
1999 WORKERS’ COMPENSATION
TASK FORCE

TASK FORCE MEMBERS

1. JON ALLEN
   Arizona State Compensation Fund

2. PETER BARTOLOZZI
   Cigna Property & Casualty Insurance Company

3. MICHELE BERNAL
   Fremont Companies
   (Also representing the American Insurance Association)

4. DAVID G. KENEPP
   Liberty Mutual Insurance Group
   (Also representing the Alliance of American Insurers)

5. GARY KNOBLE
   Hartford Insurance Group

6. GENELUNDBERG
   Farmers Insurance Group

7. KENNETH SCHROEDER
   Auto-Owners Insurance Company
   (Also representing the National Association of Independent Insurers)

8. DELORIS WILLIAMSON
   Arizona Department of Insurance

Arizona Department of Insurance Staff Representative:
Dean Ehler
Appendix B
OF THE REPORT OF THE
1999 WORKERS' COMPENSATION
TASKFORCE

TASK FORCE RECOMMENDATIONS

The 1999 WC Task Force makes the following recommendations to the Honorable Charles R. Cohen, Director, Arizona Department of Insurance:

1. That Arizona law be amended (see Appendix C for suggested language akin to Utah's 1999 law) to require all insurers and ROs to adhere to a uniform CP, but which law also permits insurers: a) to use subclassifications as long as the expenses and experience of the subclassification are reported to the core classification and b) to use different rating rules.

2. That Arizona law be amended (see Appendix C for suggested language) to require every insurer transacting WC insurance in this state to adhere to a uniform ERP approved by the Director. The Director may designate the E43P of any RO or of any other state as the uniform ERP. An insurer may develop directly through the RO of which it is a member its experience modifications based on the uniform classification plan, uniform statistical plan, and the uniform rate filing.

3. That Arizona law be amended (see Appendix C for suggested language) to require every RO and every insurer transacting WC insurance in this state to adhere to a uniform SP, but which law also permits a RO to use its own SP which has been filed with the Director and has received approval, to the extent that the SP does not materially conflict with the uniform SP for the purpose of making all reports to the statistical agent designated by the Director.

4. That Arizona law be amended (see Appendix C for suggested language) to permit the Director to designate one RO that meets the requirements of A.R.S. §§ 20-361 and 20-363(F) to promulgate and to annually file WC rates by October 1. The rate filing shall be a uniform rate filing to which every insurer transacting WC insurance shall adhere except as provided in A.R.S. § 20-359(A).

5. That A.R.S. §§ 20-360 and 23-1091 be amended (see Appendix D for suggested language) as follows: a) to require one ARP; b) to permit the Director to contract for an administrator of the ARP; c) to require that the annually filed rates filed by the designated RO plus a uniform percentage increase apply to the ARP; d) to require that the ELRs, ballasts factors, and other ER factors filed by the designated RO be used; and, e) to require the use of the uniform CP without subclassifications and/or rate/rule deviations.

6. That A.R.S. 8 20-367 be amended (see Appendix C) to require one statewide appeals board composed of a non-voting representative of each operating, licensed RO in this state and the designated statistical agent, five insurers chosen by the ROs from among their membership in accordance with each RO's overall membership share of the total net written premium in this state, and four members of the public. The public members shall be selected by the ROs and shall consist of a member of the Arizona State Chamber of Commerce, an insurance agent or broker who is a member of the Arizona Association of Insurance Agents and Brokers a member of the Arizona Chapter of the National Federation of Independent Business, and an employer having over one hundred.
employees in Arizona. The insurers and the public members shall serve a term of three years. The appeals board shall select its chairperson, shall meet as often as needed and in accordance with the provision of Arizona law, and shall have an operating plan approved by the Director.

7. That Arizona law be amended (see Appendix C) to require a RO to accept an insurer that makes application to the RO for membership using language akin to Illinois law, ILCS 8 5-459(2), which states that each RO shall permit any insurer transacting WC insurance in Arizona to become a member to its rating services for WC.

8. That Arizona law be amended (see Appendix C) to explicitly add the requirement that an insurer shall, report its statistics to the ASA and that it may fulfill this obligation by having a RO report the insurer's statistics on its behalf; but, in the event of the RO's being unable to perform this duty or the data being lost, the Task Force recommends that language be added to the law that requires the insurer to reconstruct the data and provide it to the ASA.

9. That the law be changed (see Appendix C) to give the Director authority to require a RO to provide the Director with a financial statement at any time and to have an action plan, filed at the time of licensure, to address transition issues should the RO cease doing business in this state for whatever reason.
CIRCULAR LETTER 1999-9

TO: Insurance Rating Organizations; Insurance Industry Representatives; Insurance Trade Associations; Property & Casualty Insurers; and Other Interested Parties

FROM: Charles R. Cohen
Director of Insurance

DATE: December 1, 1999

RE: Administration of Workers' Compensation Laws; Arizona Revised Statutes Title 20, Chapter 2, Article 4

The Arizona Department of Insurance (Department) administers the Arizona Revised Statutes, Title 20, Chapter 2, Article 4, governing the workers' compensation (WC) rates and rate-related activities of Insurers.

As discussed in previous Circular Letters 19128-3 and 1999-1, I am authorized to designate a Statistical Agent pursuant to A.R.S. § 20-371 to assist in gathering and compiling loss and expense data used to make WC rates in this state and to make compilations of that data available to licensed WC rating organizations. Until earlier this year, the National Council on Compensation Insurance (NCCI) had been the only licensed, active WC rating organization in this state for the past approximately the years. Consequently, all authorized WC Insurers were NCCI members, and the NCCI was the sole repository for all loss and expense data arising out of the transaction of Insurance Data. The advent of competition for WC rating organization services, through the licensure and activation of a now WC rating organization, Insurance Date Resources, Inc. (IDR), generated concern that multiple operational rating organizations without a designated Statistical Agent would fracture the Arizona loss and expense database, impair the credibility of each portion of that database, and impair the credibility of the resultant rates. Consequently, this office worked with members of the WC Insurance Industry and the Arizona Industrial Commission to develop a Request for Proposals for Statistical Agent services.

In late 1998, through a competitive bid process administered by the State Procurement Office (SPO), IPR Statistical Services, Inc. (IORSS), an affiliate of IDR, was awarded the contract to act as the Department's Arizona Statistical Agent (ASA). From February
1, 1999 through August 27, 1999, IDRSS operated as the ASA. Although IDRSS was licensed as a WC rating organization in Arizona, IDRSS did not act as a rating organization in Arizona during the period it was the Department's ASA.

The purpose of this Circular Letter is to advise that we will not renew the Department's ASA contract when it expires on December 31, 1999, and to explain that action.

Implementation of the ASA was a complex project and various difficult issues arose immediately, including issues associated with obtaining the historical database from the NCCI. Eventually, those issues were resolved to a satisfactory degree and the Department began to see the benefits of an Independent ASA. In particular, the ASA provided the Department an opportunity to improve the quality and credibility of the WC lose and expense database upon which WC rates are based.

Effectuation of the ASA demonstrated that edits and validation of a rating organization's date tire best performed by an Independent third party acting as the Department's agent with the authority to require the rating organization to correct data quality errors. Edits are vital underpinnings of a credible database, which is necessary for credible rates. One of the most important edits is relational editing. This edit determines that the dam reported in one field is valid in relation to other fields reported for the same date type and/or among other date types, which may have originated from different computer programs. It is a crosscheck for errors. For example, the edit could determine whether the class code rate reported in the unit report data and the class code rate reported in the policy data for the same risk match by comparing unit report data and policy data. In particular, Detailed Claim Information collected by rating organizations should be thoroughly edited by an Independent ASA. Depending upon the nature of the error identified by the ASA, the ASA could prevent a rating organization from posting the date to the production database until the rating organization and/or its member Insurer correct the errors.

On August 27, 1999, the NCCI acquired IUR and IDRSS. After the acquisition, the NCCI requested that the SPO assign the ASA contract to NCCI. NCCI proposed operating as an active rating organization in Arizona while also acting as the ASA. After consideration of the conceptual, technical and practical issues involved, the Department determined that it was not feasible for an active rating organization, particularly the sale active rating organization, to simultaneously perform the responsibilities of the ASA in the manner and spirit contemplated by the Department. Therefore, the Department requested the SPO to permit the ASA contract to expire rather than make the assignment to the NCCI.

Although the elimination of competition for WC rating organization services also eliminated the critical necessity for the Department to designate an ASA to guard against the perils of a fractured loss and expense database, it remains desirable to designate an ASA for the reasons described above concerning data quality, among others. However, a rating organization is an agent of its member Insurers with respect to their ratemaking and filing obligations. The ASA is the agent of the Department with
respect to overseeing the ratemaking and filing activities of Insurers and rating organizations to maintain the quality of data and the credibility of rates. Both in principle and practice, It is an unmanageable conflict of differing interests and perspectives for the sale rating organization to also be the Department's ASA. Under the circumstances, the Department would not be able to properly control the effectiveness, convenience and cost to Insurers of the ASA service. Thus, the Department decided to permit the contract to expire on December 31, 1999. The expiration should have no practical Impact upon insurers as they should continue to report their data to their rating organization In the manner they have historically reported.

The Department continues to believe that a designated ASA Is In the best interests of the state, the WC insurance Industry, and consumers of WC Insurance, We will consider whether it Is feasible to reformulate the ASA contract, including terms and restrictions appropriate to a single rating organization environment, and re-bid it In the future.

On a related matter, earlier this year, after effectuation of the ASA, I established a task force comprised of Department and Industry representatives to make recommendations for modifications In Arizona law or practice needed to ensure the stability of WC ratemaking procedures and the credibility of WC rates in a multiple rating organization environment. That took force submitted a well reasoned, superb report. The report's recommendations are now manifested In proposed legislation, which I anticipate will be considered in the upcoming 2000 legislative session. Among other things, the legislation would authorize the Department to designate one rating organization to make a statewide rate filing, authorize the Department to designate a statewide statistical plan, classification plan and experience rating plan, and establish a single, statewide assigned risk plan and appeals board.

I believe our brief experience with multiple WC rating organizations has enabled us to understand and address numerous issues in a way that will benefit the Department, the WC Industry and the WC marketplace In the future.

Questions regarding this circular letter may be addressed to Deloris Williamson, Assistant Director, at (802) 912-8466.
Florida Workers' Compensation Experience Rating
Multiple Statistical Agents - Multiple Rating Organizations

(1) Insurance companies report raw data to Statistical Agent.
(2) Statistical Agent edits and compiles data and makes available individual policyholder data as required by each Rating Organization.
(3) Rating Organization uses the data provided by the Statistical Agents to produce Experience Modification Factors.
Florida Workers’ Compensation Rates
Multiple Statistical Agents - Multiple Rating Organizations

(4) Aggregate Report is sent to rating organization and DOI.
(5) Each Rating Organization adds rate-making factors to data and files its proposed rates and rating plans.
(6) DOI approves a single set of assumptions (trends, loss dev.) which produces an overall approved change.

(7) Each Rating Organization compiles with DOI overall change and calculates class rates using same data and assumptions. Each rating organization refiles class rates which should be identical.
OKLAHOMA TASK FORCE QUESTIONS

NCCI RESPONSE

1. What caused the State to consider changing from the present system to one consisting of multiple rating organizations and statistical agents? Was it the result of request by policyholders/employers, producers or insurers?

The environment of a single workers compensation advisory/rating organization in each state existed from NCCI's creation in 1922 until 1998. Although there are multiple organizations serving the 51 jurisdictions, no state prior to* 1998 had been served by competing workers compensation organizations.

Oklahoma statutes governing the licensing of rating organizations permit, but do not mandate, the Commissioner to designate "one or more" organizations to assist in the collection and compilation of workers compensation rating data.

The present consideration of changing to a system with multiple organizations was prompted by the request for license approval by a new advisory/rating organization. An important consideration to keep in mind is that the issues go beyond a simple competitive posturing between two advisory/rating or statistical organizations. Regulators must keep in mind the possibility of further dilution of the system if a third or fourth competing entity were to emerge. How many competing advisory/rating organizations are needed or desired? How would future competitors be licensed? How should the system operate so that the integrity and quality of decision-making is preserved? The answers to these and related issues should not be predicated on the existence of only two competing organizations.

2. What are the benefits and detriments associated with switching to a system of multiple rating organizations and statistical agents, for policyholders/employers producers and insurers?

Workers compensation systems operating with multiple rating and statistical organizations are new, and the benefits of such systems have yet to be demonstrated. As of March, 1999, one state (Florida) has multiple advisory/rating organizations and multiple statistical agents, and one state (Arizona) has multiple advisory/rating organizations and one statistical, or compilation, agent. In several other states, multiple advisory/rating organizations are operating informally, with no provisions for aggregating the data on a statewide basis, and no direct oversight by the regulator of joint advisory/rating organization operations.

One purported benefit of competition among advisory/rating organizations for insurers is increased service options and lower costs. Although some insurers may have experienced lower fees under a new advisory/rating organization, there has not yet been a true comparison on equal standards and scope of services provided. So far, the results from other states have indicated generally higher aggregate costs and added delays in service based on the operation of two organizations doing similar work. This is to be expected, since the responsibilities of the competing organizations are not mutually exclusive. Instead they have considerable overlapping requirements due to shared data, the ability of employers to change insurers from year to year, and the ability of insurers to change advisory/rating organizations from year to year.

Moreover, many existing fundamental infrastructure components, such as the experience rating system, classification system, statistical data reporting system, and rates or loss costs are still supported by NCCI, even though another advisory/rating organization has allowed its customers to use those systems without sharing in their ongoing maintenance costs.
OKLAHOMA TASK FORCE QUESTIONS

NCCI RESPONSE

There may be benefits from the development of innovative rating methodologies, classification schemes, or other methods of premium determination. This level of competition does not exist in today's state advisory/rating organization environment, due largely in part to regulators' and insurers' desires to maintain a uniform infrastructure. As a result, filings by competing advisory/rating organizations have been imitative rather than innovative.

However, there are some considerable risks associated with multiple experience rating plans, statistical systems, classification systems, etc. Fragmentation of the database could yield less credible rates and lead to inefficient data handoffs between entities, creating new opportunities for fraud.

Multiple infrastructure systems could lead to confusion among insurers, agents, and employers. Multiple experience rating methodologies could undermine the safety incentive by undermining the importance of differences in modification values.

NCCI believes that true competition requires a level playing field of uniform plans, rules and rates. Multiple advisory/rating organizations can exist in this environment if carefully managed, using a uniform infrastructure and a single shared database. A competitive environment would also contemplate the equitable sharing of costs for the maintenance of those uniform plans, rules and rates. Such a system is not yet in place in any state, but NCCI and ISO/1DR have agreed on the basic principles of provisions that would enable this to occur.

3. What choices will competition for advisory/statistical services cause WC carriers' to make?

At the outset, carriers would have a choice of advisory/rating organization. This choice could then lead to a further choice of WC plans and rules, rating methods, rates or loss costs, and other items if the regulator desires to allow this level of flexibility in the state.

Potentially, carriers could choose to belong to as many organizations as had been licensed to do business in the state. Presumably then, the carriers would have the opportunity to choose which system they thought would best apply to their business plans on a risk-by-risk basis. The concern would then be the lack of consistent plans, rules and rates applications to similar policyholders. In addition, the inconsistencies could also affect the credibility of the data the Insurance Department, insurers and businesses rely on to make decisions.

4. How will the entities coordinate the exchange of data for loss costs, rates and rating values, classifications, statistical reporting, experience modification, retrospective rating, and general rules applicable to providing WC and employers liability coverage?

Data sharing for experience rating purposes is already taking place in Florida, Arizona, and elsewhere as needed where multiple advisory/rating organizations co exist. NCCI maintains a Data Sharing Policy that governs its sharing of data for experience purposes. Other data sharing takes place where regulators have requested that aggregate or summarized data be made available for ratemaking purposes.
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However, there is currently no provision for data sharing to support classification inspections, test audits, retrospective rating, or other functions that might require employer data that could be divided among two or more advisory/rating organizations.

5. How will differences, if any, between plans and manuals be reconciled?

If a single, uniform set of plans and manuals is desired, reconciliation would not be needed, since there would continue to be only one filed and approved set of plans and manuals. If the regulator wants to allow such differences, then reconciliation would be possible by comparing each plan and manual, then establishing examples of different applications of the plans and manuals on typical employers. However, a true reconciliation of all differences may not be practicable.

6. If experience rating plans, classification plans, retrospective rating plans, loss costs, rates and rating values, and the like vary from agent to agent, how will these variances be reconciled?

If they are truly different, the only real reconciliation would be in the resulting premiums derived from the application of the various plans and values.

7. If IDR is awarded either function, will they propose change to the rating/stat plans?

No response from NCCI.

8. If IDR is awarded either function, will NCCI work to insure a smooth transition?

NCCI, working on behalf of its affiliated insurers, would cooperate in transitioning necessary data to another advisory/rating organization or statistical agent if one were so designated.

9. Assume that the Board adopts a system in which the sequence of reporting losses is as follows:

   INSURED
   V
   INSURERS
   V
   RATING ORGANIZATION
   V
   STATISTICAL ORGANIZATION
   V
   RATING ORGANIZATION

Please explain the information transferred at each level.

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The relationship between insureds and insurers would not change, and existing data such as policy and claim information would be collected and managed by the insurer. The existing relationship between insurers and their chosen rating organization should also remain unaffected, since the rating organization would continue to perform its normal functions, including existing data collection, on behalf of its affiliated insurers. This information includes policy data, claim data, and aggregate financial information.

The rating organization would provide to the statistical organization that data required by the statistical organization's filed and approved statistical plan. This data would likely include policy, claim, and aggregate financial information.

The statistical organization would aggregate this information on behalf of the regulator, compile summaries and reports, and disseminate to the rating organization this summary information. The rating organization would identify any detailed records needed for experience rating calculations that are missing from their own database and request them from the statistical organization. This is an added step not currently contemplated by the existing system.

10. Two specific concerns regarding the use of multiple rating organizations and statistical agents are the potential for data fragmentation, which could lead to inefficiencies and increased costs, and experience mod "shopping" by policyholders. Have these issues been considered?

These issues have been considered, and as yet there is no solution that avoids increased costs of high-volume data exchanges, inefficiencies and delays in experience rating production, fraud opportunities, and other negative effects such as experience mod shopping.

Even the recently implemented system in Arizona has these negative attributes, although that approach does create a single statewide database. However, that single database is only available to the designated statistical agent, and it is the advisory/rating organizations that are responsible for experience rating calculations. Since neither organization would have the benefit of the entire database, the negative effects of multiple advisory/rating organizations cited above would exist.

NCCI believes the answer to this is the creation and maintenance of a single, shared database supporting the needs of all advisory/rating organizations authorized to serve Oklahoma insurers.

11. The use of multiple rating organizations and statistical agents is currently underway in two states, Florida and Arizona, in two different configurations. It would seem that the remaining 49 jurisdictions could benefit greatly by studying the results from those two test cases before embarking on their own use of multiples. Would there be a downside if the state of Oklahoma chose to wait and evaluate the results from those two states before changing its current system?

NCCI believes there would be no downside to the Oklahoma Department of Insurance by waiting and learning from the Florida and Arizona experiments.

12. What do they see as the pros/cons of having multiple rating/stat organizations?

NCCI suggests that Florida and Arizona representatives respond to this question.

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13. Has the price NCCI charges to their users gone down in Florida since the multiple system has started?

No. The requirements of the statistical agent function in Florida, as described in the Department's Request for Proposals, added several new functions that were not previously required. These include various data access methods for the Department, the provision of standard reports to the Department and to rating organizations, the requirement for frequent data exchanges between multiple rating organizations, and the need for each statistical agent to also perform data compilation and reconciliation functions. As a result, NCCI, which operates on a cost-recovery basis, needed to increase its normal data management fee to recover its statistical agent costs in Florida.

These added responsibilities were accounted for by NCCI and included in its bid for Florida statistical agent. Some confusion over the bid prices was noted in the Oklahoma Multiple Rating/Statistical Organization Task Force discussions from its February 17 meeting. This confusion may have arisen due to the complexity of the Florida RFP, which required bidders to propose pricing under three scenarios: if the bidder were awarded the entire contract, with 100% of the market; if the bidder were one of two awarded the contract, with 50% each, and if the bidder were one of three, each with 33.3% of the market. NCCI's bids were $4.00, $5.30, and $6.00 per unit report under these three scenarios. IDR's bid was $.0015 per dollar of premium, regardless of the scenario. Once the Florida Department decided to award the bid to three organizations, NCCI and the Department agreed that NCCI's price should be chosen assuming an 80% market share, resulting in the current $4.75 per unit report fee.

This fee, which currently averages approximately $3.25 per unit report in other states, is higher in Florida because of the additional functions required by the Florida Department as a result of their Request for Proposal.

14. Does MR feel NCCI has worked with them in Florida and Arizona to effect a smooth transition?

No response from NCCI regarding IDR's position. NCCI has worked to effect a smooth transition in each state. However, in Arizona, NCCI did object to what it believes were excessive data demands from MR that exceeded the scope of MR's Arizona statistical agent proposal. Even though NCCI disagreed with the data request, it complied and supplied all needed data to MR. In Florida, NCCI and IDR have cooperated over the past year in exchanging data as needed for experience rating calculations.

15. If MR were awarded either function, how soon would this take effect?

No response from NCCI.

16. How will competition benefit insurance companies, and through them policyholders?

Competition for advisory/rating organization functions could benefit insurers by providing more options and increased efficiencies by their chosen advisory/rating organization. However, since the overall costs of advisory/rating organization functions are low relative to total premium volume, and any savings would be minimal, there is likely to be no discernable benefit to policyholders. For example, even a savings of 10% in advisory/rating organization costs would equate to $14 million annually, on a base of $20 billion in premium, or only 0.07 percent of premium.

The potential for a detrimental effect may be greater, however. Theoretically, every additional dollar of system cost is passed on to policyholders in one form or another. In addition to the increased costs of the system, there are additional delays and other intangible costs that could negatively affect policyholders.

17. What improvements have or will result from the competition between statistical and rating entities? Who will benefit from these improvements? What will their cost be? Can they be implemented for only part of the industry, or most of these differing approaches be uniformly applied in a geographic rating or statistical information?

No improvements are demonstrable as yet from competition between advisory/rating organizations or statistical agents. It is difficult to apply any differing approaches on a geographic basis without creating differences on a countrywide basis, for example, with interstate experience rating.

Issues regarding interstate coverage, and the relationship of coverage applications in states with different rating/statistical agent programs, have yet to be addressed.

18. What choices will competition for advisory/statistical cause WC regulators to make? As described above, WC regulators will need to decide the level and direction of competition that will be allowed among insurers, using either a uniform system of infrastructure plans and rules, or allowing differing plans and rules that vary under each advisory/rating organization. Although only two such organizations are competing today, the regulator must also consider the possibility that three or more organizations could potentially be licensed and competing, each having different systems.

19. Is there value in the single, statewide and/or multi-state database system that today supports ratemaking and experience rating?

There is considerable value to the current standardized system of aggregation and analysis of nationwide data, the continued ability to compare states to national norms, for reform evaluation, for augmenting sparse or low credibility classifications with national data, and for combining data across states for interstate experience rating purposes.

Within an individual state system, the same holds true. A single database provides the opportunity to maintain data uniformity and credibility to complement a uniform system of plans and rules. A single statewide and countrywide database remains the most efficient means of administering the workers compensation system.

20. If so, is there any solution that would allow them to be maintained?

NCCI recommends the continuation of a uniform infrastructure of plans and rules, data specifications, rating methods, and a single integrated database for this purpose.

21. Is industry governance of database an important issue?

Since the data reported to advisory/rating organizations contains confidential information, capable of revealing individual company underwriting or claims handling strategies, the data must be protected against unauthorized release. Insurers
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have consistently maintained that industry governance of this data, and its protection through affiliation agreements such as those maintained by NCCI, are crucial.

22. Is one workers compensation infrastructure (manuals, classification system, statistical plans, experience rating formulas) beneficial or necessary, or can the system work acceptably or well with multiple infrastructures? Does this differ from a single state to a multi-state model?

As described above, NCCI believes that a single infrastructure is highly desirable within each state and across all states.

23. Should/must there be just one rate or loss cost filing in a state?

This is a decision that must be made by the regulator. NCCI recommends the continuance of a single rate or loss cost filing, since that rate or loss cost theoretically represents the one best assessment of the underlying cost for the state. It should also be noted that multiple rate/loss cost filings imply multiple experience rating values. The existence of multiple loss cost filings would lead to questions of how the regulator deals with individual carriers and agents, how policyholders will interact with those rates, and how multiple rates would affect the data reporting and data credibility within the state.

24. Would the system be better served by multiple filings produced by competing entities?

Where multiple filings are desired, NCCI recommends that each filing should represent and be used only by the insurers affiliated with the advisory/rating organization making the filing. The alternative, where multiple filings are made but only one is approved, could lead to unhealthy competition among advisory/rating organizations for the lowest rate level, and regulators would be hard-pressed to approve anything but the lowest filing. It would also be difficult in such an environment to determine how each insurer should contribute to the costs of the filing process.

25. Must multiple filings be based on one consolidated database, or can each filing be based on differing data?

If multiple filings are desired, each should be based on the overall financial results of the insurers affiliated with the organization making the filing. This would ensure that the filing was truly representative of the marketplace that would be using the rates or loss costs.

26. Will competition affect the cost or timeliness of service to the industry, and the distribution of these costs?

Competition among advisory/rating organizations has, to date, increased the costs and decreased the timeliness of service to insurers. In Florida, statistical organization costs have increased by approximately $600,000 annually. In Arizona, statistical agent costs will add at least $325,000 annually to the overall systems costs, since this function is a new, added level of function that does not replace or augment any pre existing function.

27. How will the advent of competing organizations affect the question of "who owns the data", if at all?

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NCCI takes no position on ownership of the data submitted by insurers. We are aware that some regulators assert ownership of the data. Insurers also assert ownership, and policyholders may also assert ownership. The issue of competing advisory/rating organizations should not affect these ownership positions.

28. Where there is a multitude of collecting and/or analytical entities, will or could the data that serve as a basis for these rates be diluted?

Unless implemented properly, with some provision to aggregate and compile statewide data by either a statistical or compilation organization, there would be significant dilution of the database. Even with proper controls within a state, there could be dilution of the national workers compensation database if individual states implement different arrangements.

29. What are the cost implications of coordination of data collected by two or more different entities in two or more different ways?

Data collection by two or more organizations means that the data must at some point be consolidated, adding new functions, inefficiencies, and costs. The additional costs to the Florida and Arizona systems, to date, have been provided in the response to question 26.

30. Are there problems posed by interstate rating concerns that will be exacerbated by multiple rating mechanisms?

Interstate rating becomes a significant challenge in a multiple advisory/rating organization environment. The issues include potential differing experience rating plans in each state; data sharing adding costs and time to the process; potential for fraud by making it difficult or impossible to properly link data; and the potential for different mod values being calculated for the same employer by multiple advisory/rating organizations.

31. How will variations in rates, forms and/or filings impact the chance of error, cost of staff training, and complicated computer systems, both for the agents and for the industry they serve?

If a uniform infrastructure is not maintained, these and other problems will create confusion and potential errors in premium calculation. Any time these elements are present within a workers compensation system, the potential for fraud and abuse increases as well.

32. How should potential actuarial refinements be balanced against simplification of business operations for employers and carriers? Where is the cost/benefit line crossed?

Actuarial refinements could result from truly competing systems. However, these refinements must be weighed against potential negative effects of multiple infrastructure components or state systems that are no longer compatible with those in neighboring states.

33. Can well-designed and enforced regulation "cure" data fragmentation issues that may exist?

Regulation can ensure uniformity, but probably cannot cure issues such as increased costs in data exchanges and other characteristics of multiple databases.

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34. How can shared data be priced between agents? Can cost-based pricing be developed that will be acceptable to all?

Data exchanges may be priced using cost-based methods that recover the costs associated with the search, extraction, formatting, and transfer of data to another agent. As a not-for-profit entity, NCCI would seek to recover its costs for these and other functions via cost-based pricing.

35. How will disputes between and among statistical entities be adjudicated?

Any disputes should be adjudicated by the regulator.

36. How will employers be able to compare coverage and price options given the potential for different classifications being applied to the same employer?

If disparate classification systems are allowed, the only way to compare coverages and price options would be to classify and rate the risk under both scenarios, and compare the resulting premiums.

37. Will experience modifications be calculated, given the potential for different measurement tools?

Experience modification values are calculated by comparing a given historical period of claims experience to expected losses for risks in the same classifications. NCCI’s Experience Rating Plan uses 11 tree years of history, and calculates expected losses using certain factors and parameters that are linked to NCCI’s filed rates or loss costs.

If another experience rating plan is to be used, different experience periods could apply, and there would be no linkage to NCCI’s rate filing for parameters such as expected loss rates by classification. The parameters of the other experience rating plan would have to be identified, and followed by the carriers using it, for those policyholders they may choose to apply it to.

Unless there is to be a uniform experience rating plan, along with a single rate or loss cost filing, different experience rating modifications would be applicable to the same policyholder, given the usage of differing formulas, experience periods, and parameters. If the Department desires to maintain a uniform experience rating plan, and NCCI’s Plan continues to apply, NCCI is willing to license all insurers and their selected advisory/rating organizations to use NCCI’s Plan.

38. How will the potential for differing experience modifications affect the economic incentives for worker safety built into the system?

It is possible that the safety incentive effect of modifications could be eroded. For example, employers are familiar with the mod value, and are highly sensitive to mod changes such as increases due to an increase in claims frequency. Conversely, employers expect their mod to decrease when older, high claims frequency years, roll out of the experience period.

If disparate experience rating plans are in place, two different mods could be calculated for the same employer, even using the same experience period. This could occur due to the linkage to different filed rate or loss cost levels, different parameters such as expected loss rates, different experience rating formulae such as ballast values, different ownership rules for combinability, or other factors.

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If an employer sees two different mods for his business, the lower mod might appear more attractive, even though it could be applied to a higher overall rate level, resulting in a higher premium. In such a scenario, the value of the mod would no longer indicate the employer's true relativity to similarly situated employers, and the safety incentive may be lost.

39. Would the desire to obtain profit or market share generate non-economically grounded competition, to the long-term detriment of system integrity and stability?

It is possible that, in order to generate profits or gain market share, an advisory/rating organization might be tempted to file lower rates to attract insurer affiliates seeking to compete. Similarly, without a uniform infrastructure, a competing advisory/rating organization might create unique classification or rating methods for various segments of insurers. Although this approach could appear to offer greater flexibility for insurers or additional options (attributable to competition), it could in fact serve to undermine the long-term stability and integrity of the workers compensation system.

40. Will carriers or employers experience cost occasioned by delays inherent in a system with multiple statistical agents?

To date, the two systems that have formalized a multiple advisory/rating organization or multiple statistical agent environment (Florida and Arizona) have resulted in increased costs and service delays for insurers.

41. How many experience modifications will be required to be produced for the Oklahoma market place in 1999?

The number of experience modifications is relatively constant over time. In 1998, NCCI produced 11,959 intrastate Oklahoma modifications. In addition, NCCI produced 8,445 interstate modifications in 1998 that had Oklahoma as one of the states included in the calculation. NCCI also revises experience ratings when changes occur in reported loss experience or when rate or loss cost filings are approved.

42. Are there any states in which IDR has generated the information to create its own rate filing? If so, which states? If not, how will IDR create a rate filing?

No response from NCCI.

43. Has IDR used independently generated information as the basis for a rate filing? If yes, what have been the actuarial and regulatory reactions to any such rate filing?

No response from NCCI.

44. Have any independent actuarial firms reviewed the NCCI data quality programs?

Yes. In addition to periodic examinations by various insurance departments, NCCI in 1991 was examined by four states, under the guidance of the NAIC. This examination was performed by

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two consulting firms. Milliman and Robertson performed an in-depth review of NCCI's ratemaking methods and procedures. Arthur Andersen Consulting performed a comprehensive review of NCCI's data collection and data management processes.

Through this process, NCCI worked closely with representatives of four states (Florida, Iowa, Nebraska, and Oregon) and implemented the recommendations of the examiners.

In Oklahoma, there is an annual review of the data quality and credibility provided through the NCCI systems for the loss cost filing. The Oklahoma Board for Property & Casualty Rates retains an independent, actuary to, among other things, review the quality and credibility of the data NCCI generates for the loss cost filing. This is not unusual, as most states ultimately approve of the quality and credibility of the data used.

45. Have any independent actuarial firms reviewed the D:)R data quality programs?

No response from NCCI.

46. Which of the options currently proposed has the least cost impact on carriers? Why?

Although it still adds costs and potential delays, the option outlined in question 9 above and in place in Arizona appears to minimize these costs to the extent possible when multiple advisory/rating organizations co-exist.

47. What is the estimated cost and expense increase to a national carrier based on the current laws if Oklahoma utilizes multiple statistical and/or rating agents? What is the estimated cost and expense increase for a local carrier? If there is no increase cost or expense, please explain why?

With NCCI’s not-for-profit, cost-recovery mode, NCCI has consistently been the low bidder for solutions to multiple organization situations. If a system similar to that implemented in Arizona were proposed for Oklahoma, the bids made by competing statistical agents in Arizona may give an indication of costs in Oklahoma. In Arizona, NCCI bid $37,495. The next lowest bid for the exact same functions, as required under the Request for Proposals, was $325,000. These costs are passed on to insurers based on their premium volume in the state. National and local carriers should experience similar cost increases if their premium volumes are similar. Ultimately, these costs would be passed on to policyholders.

There are increased costs in this scenario since the functions to be performed by the statistical agent are new functions that have been added to consolidate and disseminate the statewide data to and from multiple advisory/rating organizations. An inherent inefficiency in this approach is the duplicate editing and correcting of data. Since Arizona rating organizations collect data directly from insurers, they perform front-end edits and correction processes. Then, when the rating organizations forward the data to the Arizona statistical agent, the statistical agent again edits the data.

48. What would the parties recommend so that carriers and the state are assured that there are no delays in

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obtaining compilations and a uniform statistical plan if multiple statistical agents are used?

There must be a uniform statistical plan to ensure that all data reported from insurers continues to be combinable into a single database. Given the need to consolidate the data, perform duplicate data quality checks, compile the data, and produce reports, it may not be possible to completely eliminate delays in obtaining compilations. Also, given the need to request data from the statistical agent for experience rating purposes, it may not be possible to completely eliminate delays due to data exchanges.

To minimize these negative effects, NCCI recommends the continued maintenance of a single database, accessible by all authorized parties and managed by NCCI. Under this approach, data exchanges and hand-offs would be minimized or eliminated.

49. How does each entity propose that the integrity of the database be maintained if multiple statistical agents are utilized?

The above described single database approach would also provide the best opportunity to maintain the integrity of the statewide database.

50. How many experience modifications did NCCI produce in 1998 in all states?

In 1998, NCCI produced 472,521 experience modifications.

51. How many were interstate experience modifications?

66,491 of the above were interstate experience modifications.

52. How many experience modifications did IDR produce in 1998 in all states?

No response from NCCI.

53. How many were interstate experience modifications?

No response from NCCI.

54. How many Oklahoma experience modifications did IDR produce in 1998?

No response from NCCI.

55. Where did NCCI get the information for its Oklahoma workers' compensation database?

NCCI's Oklahoma workers compensation database was constructed from data reported to NCCI by Oklahoma insurers on each policy provided in the state and each claim made in the state.

56. Where did IDR get the information for its Oklahoma workers' compensation database?

No response from NCCI.

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57. How will policyholders (employers) be able to reconcile the differences between the results of the NCCI experience rating plan and any proposed IDR experience rating plan if there are more than one rating agents authorized?

If multiple experience rating plans are allowed, the only means of reconciling the differences would be to compare the final premiums resulting from the application of the proper rates and modification factor. Short of this comparison, a difference in the actual modification value alone would be meaningless.

58. Is it the proposal of either NCCI or MR that carriers be able to join both NCCI and IDR and then choose the classification, experience rating, statistical reporting and rates they want to apply to individual policyholders?

NCCI assumes that carriers would affiliate with either NCCI or IDR, but not both organizations. NCCI proposes that carriers use the same classification, experience rating, statistical reporting, rates or loss costs, and other infrastructure components regardless of their choice of advisory/rating organization.

59. Is it the proposal of either NCCI or IDR that employers be allowed to choose between different classification plans, experience rating modifications and/or rates based on the advisory organization that carriers join?

NCCI would hope that, with a common infrastructure, employers should be unaffected by the affiliation arrangements that would exist between their insurer and that insurer's choice of advisory/rating organization. If the regulator decides to allow multiple plans and rules associated with different advisory/rating organizations, then employers would indeed be able to choose the scenario most favorable for them by selecting an insurer affiliated with the advisory/rating organization that maintained those plans and rules.
1. **What caused the State to consider changing from the present system to one consisting of multiple rating organizations and statistical agents? Was it the result of request by policyholders/employers, producers or Insurers?**

The State did not have to consider changing the system. For many years, Oklahoma's insurance laws have clearly contemplated a competitive market for rating organizations and have not limited the number of workers compensation rating organizations that may be licensed within this state. Competition has served other industries and realized many beneficial results for those industries and insurance will be similarly beneficially effected. Historically, only one licensed workers compensation rating organization has operated in Oklahoma. Consequently, all authorized workers compensation insurers have been, and are at this date, members of that rating organization. However, in December of 1998, the Department issued workers compensation rating organization licenses to IDR and IDRSS.

2. **What are the benefits and detriments associated with switching to a system of multiple rating organizations and statistical agents, for policyholders/employers, producers and Insurers?**

State law supports competition for rating organizations. Competition within this Industry will bring competitive prices, better service, and superior technologies. Additionally, the benefits include the convenience of choice, fair prices, high quality and reliable service, and access to advanced technology. A competitive industry will, because of its very nature, strive harder to allocate resources in the most efficient way.

ISO/IDR systems offer reduced insurer costs and improved data quality and timeliness. The ISO/IDR INSIDER™ relational database system is designed to address current needs of insurers that use the traditional system. Also, ISO/IDR is "beta testing" a transactional reporting system that is designed to provide additional benefits and reduced costs for Insurers. Together, the ISC/IDR systems offer reduced insurer data submission costs, Improved data quality and timeliness, and the ability to provide insurers and regulators information in the formats most useful to them.

There should be no detriments with cooperation among the entities with regulatory oversight.

3. **What choices will competition for advisory/statistical services cause WC carriers to make?**

Competition will offer WC carriers an opportunity to choose service providers which best meet their technology, customer service, and other business needs. It will not require any carrier to change if it does not choose to do so.

4. **How will entities coordinate the exchange of data for loss costs, rates and rating values, classifications, statistical reporting, experience modification, retrospective rating, and general rules applicable to providing WC and employers liability coverage?**
Statistical or advisory organizations currently coordinate the exchange of information for other lines of insurance. It demonstrates the feasibility of an efficient exchange of information at minimal cost while taking advantage of today’s technology. Multiple service organizations must agree on the exchange, use and compilation of any information needed to meet state requirements for the calculation of loss costs or rates from industry-wide data or the calculation of experience modifications. Any organization that has or claims an intellectual property right to any state mandated essential tools must license them for use by others under reasonable terms that fairly compensate the creating organization for such. Such licensure must not require the purchase of unrelated products or services, or require insurers to become members or subscribers. This conclusion is based on state insurance code rating laws that contain rules for the fair treatment of individual insurers by rating organizations and standards of economic “fairness” that are embodied in the intellectual property laws, antitrust laws, as well as state insurance unfair practices acts. The equitable exchange of the data will facilitate the development of loss costs and other necessary filings.

5. Who will differences, if any, between plans and manuals be reconciled?

All organizations are obligated to conform their operations, not only to any uniformity required by state regulatory law, but also to the rules of fair dealing established by law. As used here, uniformity means any statutory or regulatory provision that requires insurers to use one or more essential, mandated items such as classification plans, experience modification plans, and statistical plans. Multiple rating organizations must work together and exchange information needed to maintain the consistent application of these state mandated tools. NCCI-ISO/IDR have entered into an agreement in principle to resolve disputes over intellectual property rights on these essential items.

6. If experience rating plans, classification plans, retrospective rating plans, loss costs, rates and rating values, and the like vary from agent to agent, how will these variances be reconciled?

See response to question number 5 above.

7. If IDR is awarded either function, will they propose change to the rating/statistical plans?

ISO/IDR is not proposing any changes in any mandated rating or statistical plans. IDR is advocating a system whereby each carrier can choose the organization that best meets its business needs. No organization will be precluded from operating in any state, and no carrier is required to report to more than one organization.

8. If IDR is awarded either function, will NCCI work to insure a smooth transition?

Question is for NCCI to address. Under the system we are advocating, all licensed organizations will be required to cooperate.

9. Assume that the Board adopts a system in which the sequence of reporting losses is as follows:

   Insureds

   Insurers
Please explain the Information transferred at each level.

This appears to be the Arizona model. Under that model, each licensed workers compensation rating organization reports loss and expense statistics of its member insurers to the Statistical Organization in accordance with its statistical plan. The Statistical Organization, in conformity with accepted actuarial and statistical standards, compiles the loss and expense data reported by the rating organizations to produce one state-wide compilation that includes the loss and expense experience of every insurer writing workers compensation insurance in the state. After compiling the data, the Statistical Organization provides the compilation to every licensed rating organization. Each rating organization is permitted to use the compilation as a basis upon which to file rates for use by its respective member insurers to calculate premiums for insureds. The statistical organization also provides rating organizations with experience rating data regarding insureds who move from one insurer to another. ISO/IDR does not recommend adoption of such a system. IDR recommends a system whereby multiple organizations are permitted to provide services and no organization is precluded from operating.

10. Two specific concerns regarding the use of multiple rating organizations and statistical agents are the potential for data fragmentation, which could lead to inefficiencies and increased costs, and experience mod "shopping" by policyholders. Have these issues been considered.

Multiple organizations should be required to work together as a condition of licensure to preserve the uniformity required by law and/or regulation. The existence of multiple workers compensation service organizations need not have the effect of "fragmenting" the data available for analysis. Uniformity of data can be reached by requiring all carriers to use the same class plan, experience rating plan and statistical plan. In addition, the benefits of competition include improved customer service, innovative new technology, increased efficiency and ultimately lower costs.

11. The use of multiple rating organizations and statistical agents is currently underway in two states, Florida and Arizona, in two different configurations. It would seem that the remaining 49 jurisdictions could benefit greatly by studying the results from those two test cases before embarking on their own use of multiples. Would there be a downside if the state of Oklahoma chose to wait and evaluate the results from those two states before changing its current system.

The downside would be an elimination of choice for insurers to select between competing and duly licensed rating organizations. IDR is already licensed as a rating organization and working to provide this much needed choice to insurers. Current State law expressly provides for more than one rating organization. Competition will result in better customer service, innovation, higher quality, and increased efficiencies among other things. At an NAIC (The NAIC Workers Compensation Task Force, Multiple Rating Organization study group) meeting held on March 6, 1999, the Florida Insurance Department reported their
favorable experience with multiple rating organizations and statistical agents in their jurisdiction. Arizona also reported on their activities to date.

12. What do they see as the pros/cons of having multiple rating/statistical organizations?

See answer No. 2.

13. Has the price NCCI charges to their users gone down in Florida since the multiple system started?

Question is for NCCI to address.

14. Does IDR feel NCCI has worked with them in Florida and Arizona to effect a smooth transition?

While there have been some transitional challenges, IDR and NCCI have both worked to achieve that which is best for the industry. Many programs and policies have been put in place to make this transition smoother in other states.

15. If IDR were awarded either function, how soon would this take effect?

IDR is already licensed as a rating organization and is close to, completing the process of becoming operational in the state. IDR could handle all functions effective 7/1/99.

16. How will competition benefit insurance companies, and through them policyholders?

See responses to questions 2, 3, 7, 10, and 12 above.

17. What improvements have or will result from the competition between statistical and rating entities? Who will benefit from these improvements? What will their cost be? Can they be implemented for only part of the industry, or must these differing approaches be uniformly applied in a geographic rating or statistical information?

The systems that ISO/IDR are offering insurers and regulators are designed to produce savings for insurers. Additionally, all aspects of the industry - the regulator, carriers, employers and injured workers will benefit through the development and introduction of advanced technology, new and improved products and reduced costs.

18. What choices will competition for advisory/statistical cause WC regulators to make?

Under the system IDR advocates, regulators are not required to choose one particular rating organization or statistical agent over another. Regulators will be called upon to license or designate those organizations qualified to provide services and determine the uniformity required.

19. Is there value in the single, statewide and or multi-state database system that today support ratemaking and experience rating?

Under the system we are advocating, a uniform multistate database can be maintained through the exchange and sharing of data and the benefits of competition will accrue to the insurers and their customers doing business in this state.
20. If so, is there any solution that would allow them to be maintained?

See answer to question 19.

21. Is Industry governance of database an important Issue?

ISOADR does not believe this is an issue. Data confidentiality and privacy are essential elements to any rating organization or statistical agent regardless of governance.

22. Is one workers compensation Infrastructure (manuals, classification system, statistical plans, experience rating formulas) beneficial or necessary, or can the system work acceptably or well with multiple Infrastructures? Does this differ from a single state to a multi-state model?

ISOADR can accommodate any of these models. Where state laws or regulation requires uniformity, it can be preserved by requiring all organizations to work together as a condition of licensure. Further, we note that NCCI and 180/IDR have reached an agreement in principle regarding Intellectual property rights and data exchange.

23. Should/must there be just one rate or loss cost filing in a state?

ISO/IDR take no position on whether there should be a single loss cost filing. Where such requirement exists the organizations will cooperate to produce whatever is required.

24. Would the system be better served by multiple filings produced by competing entities?

See answer to question 23 above.

25. Must multiple filings be based on one consolidated database, or can each filing be based on differing data?

Multiple filings could be produced on either basis.

26. Will competition affect the cost or timeliness of service to the Industry, and the distribution of these costs?

There may be some costs for the rating organization. In assessing costs related to the operation of service organizations, it is important to remember that the bulk of insurer costs, including data processing costs, are generated by the insurers themselves or by payments they make to third-party vendors other than the NCCI or other service organizations. Only a small portion of the Industry-wide cost is generated by insurer payments to service organizations. That is why costs of exchanging data between organizations are not as important as the cost considerations of insurers.

27. How will the advent of competing organizations affect the question of "who owns the data", if at all?

The emergence of competing rating organizations should not affect the data ownership issue at all. The same laws, rules and regulations should continue to apply.
28. Where there is a multitude of collecting and or analytical entities, will or could the data that serve as a basis for these rates be diluted?

The database will not be diluted so long as the organizations cooperate and produce the necessary data reports and aggregate information.

29. What are the cost implications of coordination of data collected by two or more different entities in two or more different ways?

See answer to question 26 above.

30. Are there problems posed by Interstate rating concerns that will be exacerbated by multiple rating mechanisms?

Under the system advocated by ISOADR, where uniformity is required or desirable, it will be preserved. Interstate rating can work well with multiple rating organizations, provided they cooperate when necessary.

31. How will variations in rates, forms and or filings impact the chance of error, cost of staff training, and complicated computer systems, both for the agents and for the industry they serve?

Variations currently exist in Oklahoma workers compensation rates. The improved technology resulting from competition in the rating organization and/or statistical agent functions, has and will continue to generate improved technology that will better deal with these variations, improved quality and speed delivery of information.

32. How should potential actuarial refinements be balanced against simplification of business operations for employers and carriers? Where is the cost/benefit line crossed?

This issue is not affected by multiple service organizations. Actuarial refinements should occur whether there are multiple or single organizations.

33. Can well-designed and enforced regulation "cure" data fragmentation issues that may exist?

The existence of multiple workers compensation service organizations does not fragment any "industry-wide database. When uniform databases are required, there simply are no significant cost or technical barriers to prevent multiple service organizations from exchanging, sharing or combining their data or compiling them into unified databases. Uniformity and aggregate data can be preserved. See response to questions 4, 9 and 10. State Insurance codes, Intellectual property laws and the law of antitrust provide the tools to regulate the behavior of these organizations to ensure fairness in all their dealings — with each other, Insurers, regulators and the public.

34. How can shared data be priced between agents? Can cost-based pricing be developed that will be acceptable to all?

This is a matter that the statistical agents should be able to agree upon. All agents should want to effectuate this transfer in as fair and on as equitable a cost basis as possible. As
noted in Response 22, NCCI and ISO11DR have reached an agreement in principle addressing this and other issues.

35. How will disputes between and among statistical entities be adjudicated?

The organizations should be required to cooperate as a condition of licensure. The regulator can help resolve any complaint informally or take more formal actions under broad authority found throughout most state Insurance codes. This Issue Is discussed at great length In the Position Paper prepared by ISO/IDR submitted to the NAIC Task Force.

36. How will employers be able to compare coverage and price options given the potential for different classifications being applied to the same employer?

The potential for different classifications being applied to the same employer should be no different than the potential from Insurer to Insurer. Further, the use of a single Appeals Board process can cure any inequities that could arise.

37. Will experience modification be calculated, given the potential for different measurement tools?

Experience modifications will continue to be calculated using a uniform system if the regulator so desires. Thus avoiding the potential for different measurement tools. It should be noted that most states don't even require that the experience modification calculation be performed by a rating organization. Insurers can and do perform their own calculations.

38. How will the potential for differing experience modifications affect the economic incentives for worker safety built into the system?

See question number 37 above.

39. Would the desire to obtain profit or market share generate non-economically grounded competition, to the long-term detriment of system integrity and stability?

As with competition In any Industry, the availability of choice and the motivation to produce a better product will provide short and long-term benefits to the system. The key is the establishment and maintenance of necessary ground rules to assure integrity and stability. As we have indicated In our response to question 2, ISO/IDR systems offer substantial technical benefits to workers compensation, data processing and reporting.

40. Will carriers or employers experience cost occasioned by delays inherent in a system with multiple statistical agents?

Delays are not Inherent in a system with multiple statistical agents. Given advanced technology available today, provided the organizations cooperate, there should be no additional delays In a multiple organization environment.

41. How many experience modifications will be required to be produced for the Oklahoma market place in 1999?
Since NCCI has provided the vast majority of experience modifications, they are in a better position to answer this question.

42. Are there any states in which IDR has generated the information to create its own rate filing? If so, which states? If not, how will IDR create a rate filing?

IDR provided a rate filing in 1998 to the State of Florida.

43. Has IDR used independently generated information as the basis for a rate filing? If yes, what have been the actuarial and regulatory reactions to any such rate filing?

Since IDR has been in operation only a short time, it has not used independently generated information as the basis for a rate filing.

44. Have any independent actuarial firms reviewed the NCCI data quality programs?

Question is for NCCI to address.

45. Have any independent actuarial firms reviewed the IDR data quality programs?

Yes; Georgia utilized an independent actuarial firm to review all of IDR’s systems and processes. The State Insurance Department of Florida has also conducted extensive reviews of all IDR systems and processes, including data quality. The results of the audit met or exceeded all their expectations.

46. Which of the options currently proposed has the least cost impact on carriers? Why?

We believe a competitive environment with multiple organizations is already proving to be of the greatest benefit to carriers. IDR is flexible and will respond to whatever decision is made to be in the best interest of the State of Oklahoma.

47. What is the estimated cost and expense increase to a national carrier based on the current laws in Oklahoma utilizes multiple statistical and or rating agents? What is the estimated cost and expense increase for a local carrier? If there is no increase cost or expense, please explain why?

Under the proposal advocated by ISO1IDR there should be no additional costs to carriers since they will be reporting to the organization that best meets their business needs.

48. What would the parties recommend so that carriers and the state are assured that there are no delays in obtaining compilations and a uniform statistical plan if multiple statistical agents are used?

We would recommend an agreement between the rating organizations, statistical agents and the State with respect to the plans and procedures to be utilized. It should be noted that ISOADIR and NCCI have come to terms on an agreement in principle as noted herein above.

49. How does each entity propose that the integrity of the database be maintained if multiple statistical agents are utilized?
See answer to question number 33 above.

50. How many experience modifications did NCCI produce in 1998 in all states?

Question is for NCCI to address.

51. How many were Interstate experience modifications?

Question is for NCCI to address.

52. How many experience modifications did IDR produce in 1998 in all states?

Because of its limited operations in 1998, IDR produced approximately 1,000 experience modifications. For 1999, IDR has already produced approximately 3,000 experience modifications.

53. How many were Interstate experience modifications?

A limited number.

54. How many Oklahoma experience modifications did IDR produce in 1998?

IDR was not in operation in 1998 in Oklahoma.

55. Where did NCCI get the information for its Oklahoma workers compensation database?

Question is for NCCI to address.

56. Where did IDR get the information for its Oklahoma workers compensation database?

IDR does not have an Oklahoma workers compensation data base at this time.

57. How will policyholders (employers) be able to reconcile the differences between the results of the NCCI experience rating plan and any proposed OR experience rating plan if there are more than one rating agents authorized?

There does not need to be more than one experience rating plan. See answer to questions 5 and 6 above.

58. Is it the proposal of either NCCI or IDR that carriers be able to join both NCCI and IDR and then choose the classification, experience rating, statistical reporting and rates they want to apply to individual policy holders?

OR would propose that a carrier only be permitted to belong to one rating organization at a time.

59. Is it the proposal of either NCCI or IDR that employers be allowed to choose between different classification plans, experience-rating modifications and/or rates based on the advisory organization that carriers join?
This is not IDR’s proposal and is a position for the regulator to determine. See answer to question number 22 above.
June 2, 1999

Ms. Mona Carter, Property & Casualty Director
Kentucky Department of Insurance
Post Office Box 517
Frankfort KY 40602-0517

Workers' Compensation Insurance
Multiple Rating Organizations
Summary for Oregon

Dear Ms. Carter:

We have been attempting to solve one problem at a time in Oregon. These are probably much the same as every state is facing. We have begun with a premise that we want all insurers to continue pricing this business using the most reliable and stable information available, which should still be statewide payroll, premium, and loss experience. We also want to preserve uniform experience rating as a standard benchmark.

1. Does our law permit multiple rating organizations and, if so, what must a new license applicant do to qualify?

2. How do we assure that all insurers can use a uniform classification system with compatible rules for defining and assigning payroll and reporting statistical data so that data can be combined statewide?

3. How will the classification and statistical systems be kept responsive to changing environments and still remain uniform for all insurers?

4. How do we make sure that the rating organizations will each have access to statewide data?

5. Will we be able to have the rating organizations file the same loss cost rates and experience rating values?

We decided we had to solve the second problem first. In the face of intellectual property assertions, we feared we might one day find a substantial share of our market unable to rate employers or report any financial or statistical data. We decided to pursue classification, statistical, and experience rating plans that could be in the public domain and available for any rating organization and insurer to use. We began with plans generously made available for our
use by the Workers' Compensation Insurance Rating Bureau of California. Working with an impressive committee of industry experts, we devised adaptations to the California plans for use in Oregon. Later this month, we will have the plans sufficiently developed that we will be able to adopt them by emergency rules anytime our market conditions require.

We have returned to the first problem. The statutory qualifications for a license are trustworthiness, the ability to perform all the duties statutes assign to a rating organization, and a "credible database" for performing those functions. A primary function of a rating organization is making rates to file on behalf of its members. A licensed rating organization must accept any insurer that wishes to affiliate for its services. We want each insurer to be able to appropriately price any employer that applies to it for coverage. From these considerations, and after much discussion, we have decided on an interpretation of "credible database" that is essentially actuarial rather than purely legal.

A. The rating organization must have data that is more predictive of the statewide total loss cost rates than the data of any of its members.

B. The data used by the rating organization for ratemaking must not be missing any segment of our market substantial enough to raise doubt that it is representative of statewide loss costs.

C. Each rating organization must be able to experience rate any employer in the state on request of an affiliated insurer.

Essentially, each rating organization must be able to use statewide data. For the present, the National Council on Compensation Insurance has all the data and continues to qualify for a license. IDR has now agreed to license the loss cost rate filings of NCCI, so it can also use the same information to support its identical loss cost rates. On that basis, we issued a license to IDR on May 28, 1999.

In the future, if each rating organization has data from part of the market and neither has all of it, then they must share their data or both will be in jeopardy of losing their licenses. That is how we are solving Problem Number 4.

We will soon begin addressing Problem Number 3 by re-engineering our Oregon Rating System Review and Advisory Committee. We established this committee several years ago after NCCI disbanded its own classification & rating committees as a forum for insurance experts to hear employer complaints and advise us on the rating system. NCCI has been recording secretary. We wish to invite IDR -- and any other organization we may license -- to participate as well. The multiple rating organizations will share the research and minute-keeping chores. Each will make appropriate filings on behalf of its members. If we were to approve any filing from one for a change in the rating or classification plans without a simultaneous filing from the other, then their data would no longer be combinable so neither would have a credible database.

Because IDR has agreed to license the NCCI rating plans and loss cost rates for Oregon, we have not yet faced Problems Number 3 or 5. We expect to be able to formulate a solution if the situation arises, possibly as early as loss cost rate filings for January 2001.
We have legislation pending in Oregon that would:

1. Give our Director discretion as to how many rating organizations to license;
2. Authorize our Director to appoint single "statistical agent 'to compile statewide data;
3. Require rating organizations to share data according to rules and fees adopted by the Director.

If this legislation (Senate Bill 280) is signed by our Governor, we will have further assurance that the statewide database will be preserved. We would anticipate adopting a compilation plan for the organizations to share data and to report to the designated statistical agent. If necessary to assure us the plan can remain in use through changes in the statistical agent, it could resemble our adaptations of the California plan.

With many states apparently evolving toward a compilation agent arrangement, there will be a need to establish and maintain some uniformity in these plans countrywide. Either the NAIC could provide a forum for states to discuss classification and rating matters, or an industry organization such as the Workers' Compensation Insurance Organizations could provide a self-regulation forum to propose consistent updating among the state plans. The latter is perhaps the more realistic idea in terms of scarce regulatory resources. A harmonious WCIO plan, useable by all rating organizations and insurers, would be an acceptable alternative to each state adopting its own plan.

That is our Oregon situation at this moment.

Sincerely,

R. Michael Lamb, F.C.A.S., M.A.A.A.
Casualty Actuary
(503) 947-7221
Rmichael.Lamb@state.or.us

ORWCSUM.DOC
September 10, 1999

Mr. Robert H. Card, Jr., CPCU
Senior Regulatory Specialist
National Association of Insurance Commissioners
120 West 12th Street Suite 1100
Kansas City, Missouri 64105-1925

Re: Multiple Rating Organizations Study Group of the Workers' Compensation (C) Task Force

Dear Mr. Card:

I am in receipt of your letter of August 18 asking about Utah's actions with regards to a workers' compensation multiple rating organization environment.

When approached by Insurance Data Resources, Inc. for licensure as a workers' compensation rating organization, we reviewed our Insurance Code and determined our existing law was really inconsistent - but seemed to provide for only one designated rate service organization. After much consideration and a lot of discussion, we decided that, as a small (in population) state with a small statistical base, it would be best to have one statistical plan, one classification plan, one experience rating plan, and one set of prospective loss costs. We also determined that doing this did not need to automatically exclude other rate service organizations from operating in Utah. If the rate service organizations could share and exchange data, we could have one designated to develop and administer the uniform plans but others could still give service and value to their clients.

Having decided this, I set about to redraft our law. The new law (H.B.269 passed in our 1999 Legislature) provides for the Commissioner to designate one rate service organization to administer the uniform plans, then gives the Commissioner rule-making authority to deal with the reporting of statistical data and the sharing of data and expenses. There really isn't much detail in the statute - the new law mainly gives the Commissioner rule-making authority to handle the details. I have enclosed a copy of the bill (the pertinent pages). I have made some notes and highlighted some areas.

The sale of IDR to the NCCI does not really affect our system, other than to eliminate the urgency to act. The way the statute now reads it allows for one or multiple rate service organizations.

If you need anything more, let me know. My telephone number is (801) 538-3860.

Regards

Vanna Hunter, CPCU
Senior Rate and Form Analyst

Enclosure

naie91099
APPENDIX G

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE
RESOLUTION NO. 1042__________

By: Askins and Cox

AS INTRODUCED

A Resolution creating the Task Force on Workers' Compensation Multiple Rating Organizations and Statistical Agents; stating membership; stating duties of the Task Force; requiring submission of a report; stating contents of report; providing for travel reimbursement; and directing distribution of report.

WHEREAS, a competitive marketplace for workers' compensation insurance is a matter of statewide concern; and

WHEREAS, the House of Representatives of the State of Oklahoma has a responsibility to ensure marketplace stability for workers' compensation insurance in the state; and

WHEREAS, the issue of multiple workers' compensation rating and statistical agents presents the opportunity for multiple rates and experience modification factors for the same employer; and

WHEREAS, the issue of multiple workers' compensation rating organizations and statistical agents has the potential to generate increased costs and system inefficiencies due to fragmenting the workers' compensation database; and

Req. No. 7320
WHEREAS, the issue of multiple workers' compensation rating organizations and statistical agents presents the potential for delays in providing necessary pricing information to consumers; and

WHEREAS, the issue of multiple workers' compensation rating organizations and statistical agents creates the potential for marketplace confusion; and

WHEREAS, the issue of multiple workers' compensation rating organizations and statistical agents potentially affects all employers and workers in the state of Oklahoma; and

WHEREAS, the current Oklahoma Statutes do not address all the issues involved in the simultaneous operation of multiple workers' compensation rating organizations and/or statistical agents.

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE 1ST SESSION OF THE 47TH OKLAHOMA LEGISLATURE:

THAT there is hereby created until February 1, 2000, a Task Force on Workers' Compensation Multiple Rating Organizations and Statistical Agents. The Task Force shall be comprised of not more than seven (7) members of the House of Representatives appointed by the Speaker of the House of Representatives. The Speaker of the House of Representatives shall select the chair from the members of the Task Force.

THAT the Task Force shall study, review, and make recommendations relating to the issue of multiple rating organizations and statistical agents in the workers' compensation insurance
marketplace in Oklahoma. In performing its duties, the Task Force shall take into consideration the effect of multiple rating organizations and statistical agents on the:

1. Preservation of a competitive marketplace;

2. Preservation of marketplace stability;

3. Potential increase in systems costs;

4. Delays in providing consumer cost information;

5. Potential increase for fraud and abuse;

6. Maintenance of system credibility through a uniform statistical rating premium policy and classification database; and

7. Positive and negative market place impacts of other states actions on the workers' compensation multiple statistical agents issues.

THAT the Task Force shall submit a report to the Speaker of the House of Representatives making recommendations on the issue of multiple rating organizations and statistical agents in the Oklahoma workers' compensation marketplace no later than February 1, 2000.
THAT Legislative members of the Task Force shall be reimbursed for travel expenses incurred in the performance of their duties on the Task Force in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes.

THAT copies of this resolution be distributed to the Insurance Commissioner, the Commissioner of the State Insurance Fund, and the Members of the State Board of Property and Casualty Rates.

47-1-7320 KB 6/1/99
AN ACT RELATING TO INSURANCE; RECODIFYING RATE REGULATION PROVISIONS; CLARIFYING PURPOSES OF CHAPTER; DEFINING TERMS; PROVIDING RULEMAKING AUTHORITY; AMENDING PROVISIONS RELATED TO RATE STANDARDS; AMENDING PROVISIONS RELATED TO RATE METHODS; AMENDING RATE FILING REQUIREMENTS; AMENDING PROVISIONS FOR DISAPPROVAL OF RATES; AMENDING PROVISION RELATED TO SPECIAL RESTRICTIONS ON INDIVIDUAL INSURERS; ADDRESSING SPECIAL PROVISIONS FOR TITLE INSURERS; ADDRESSING DIVIDEND AND PARTICIPATING PLANS; AMENDING FAULT PROVISION OF CERTAIN PREMIUM INCREASES; ADDRESSING JOINT UNDERWRITING; PROVIDING FOR TIER RATING; ADDRESSING THE RECORDING, REPORTING, AND SHARING OF STATISTICAL AND RATE ADMINISTRATION INFORMATION; PROHIBITING CERTAIN CONDUCT; ADDRESSING GRIEVANCE AND APPEAL PROCEDURES; AMENDING PROVISIONS RELATED TO RATE SERVICE ORGANIZATIONS; SPECIFYING PERMITTED AND PROHIBITED ACTIVITIES FOR RATE SERVICE ORGANIZATIONS; PROVIDING FOR A DESIGNATED RATE SERVICE ORGANIZATION FOR WORKERS COMPENSATION; PROVIDING FOR CERTAIN UNIFORM PLANS; ADDRESSING COOPERATION; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

31A-1-301, as last amended by Chapters 13 and 329, Laws of Utah 1998
31A-2-308, as last amended by Chapter 293, Laws of Utah 1998
31A-6-103, as enacted by Chapter 203, Laws of Utah 1992
31A-11-103, as last amended by Chapter 204, Laws of Utah 1986
31A-12-103, as last amended by Chapter 212, Laws of Utah 1993
31A-33-107, as last amended by Chapter 107, Laws of Utah 1998
(iii) the timing and frequency of data reporting by an insurer;
(iv) data quality standards;
(v) data edit and audit requirements;
(vi) data retention requirements;
(vii) reports to be generated; and
(viii) the timing of reports to be generated.
(c) Except for workers compensation insurance under Section 31A-19a-404, an insurer may not
be required to record or report its experience on a classification basis that is inconsistent with its
own rating system.
(2) (a) The commissioner may designate one or more rate service organizations to assist the
commissioner in gathering that experience and making compilations of experience.
(b) The compilations developed under Subsection (2) (a) shall be made available to the public.
(3) The commissioner may make rules and plans for the interchange of data necessary for the
application of rating plans.
(4) To further uniform administration of rate regulatory laws, the commissioner and every insurer
and rate service organization may:
(a) exchange information and experience data with insurance supervisory officials, insurers, and
rate service organization in other states; and
(b) Consult with persons described in Subsection (4) (a) with respect to the application of rating
systems and the reporting of statistical data.
Section 36. Section 31A-19a-401, which is renumbered from Section 3 IA-19-401 is renumbered
and amended to read:

Part 4. Workers Compensation Rates

31A-19a-401. Scope of part.

(1)This part applies to workers compensation insurance and employers' liability insurance written
in connection with it
(2) All insurers writing workers compensation coverage, including the Workers’ Compensation
Fund of Utah, are subject to this part.
Section37. Section 31A-19a-402, which is renumbered from Section 31A-19-402 is
renumbered and amended to read:

31A-19a-402. Purpose.

It is the purpose of this part to:
(1) establish specific provisions for the filing of workers compensation rates in addition to those
provided in Part 2;
(2) provide for review by the department of workers' compensation rate-making and the
results of it; and
(3) provide for a designated rate service organization to perform certain functions on behalf of the
commissioner.
Section38. Section 31A-19a4O3, which is renumbered from Section 31A-19-403 is renumbered
and amended to read:

31A-19a-403. Definitions.

As used in this part:
(1) “Uniform classification plan,” in addition to the definition of “classification system” in Section 31A-19a-201, means a plan;
(a) That is consistent between all insurers of classification codes and descriptions; and
(b) by which like workers compensation exposures are grouped for the purposes of underwriting, rating, and statistical reporting.
(2) “Uniform experience rating plan” means a plan that is consistent between all insurers for experience rating entities insured for workers compensation insurance.
(3) “Uniform statistical plan” means a plan that is consistent between all insurers that is used for the reporting of workers compensation insurance statistical data.
Section 39. Section 31A-19a-404, which is renumbered from Section 31A-19-407 is renumbered and amended to read:

31A-19a-404. Designated rate service organization.

(1) For purposes of workers compensation insurance, the commissioner shall designate one rate service organization to:
(a) develop and administer the uniform statistical plan, uniform classification plan, and uniform experience rating plan filed with and approved by the commissioner;
(b) assist the commissioner in gathering, compiling, and reporting relevant statistical information on an aggregate basis;
(c) develop and file manual rules, subject to the approval of the commissioner, that are reasonably related to the recording and reporting of data pursuant to the uniform statistical plan, uniform experience rating plan, and the uniform classification
(d) develop and file the prospective loss costs pursuant to Section 31A-19a-406.
(2) The uniform experience rating plan shall;
(a) contain reasonable eligibility standards;
(b) provide adequate incentives for loss prevention; and
(c) provide for sufficient premium differentials so as to encourage safety.
(3) Each workers compensation insurer, directly or through its selected rate service organization, shall;
(a) record and report its workers compensation experience to the designated rate service organization as set forth in the uniform statistical plan approved by the commissioner;
(b) adhere to a uniform classification plan and uniform experience rating plan filed with the commissioner by the rate service organization designated by the commissioner;
(c) adhere to the prospective loss costs filed by the designated rate service organization.
(4) The commissioner may adopt rules for:
(a) the development and administration by the designated rate service organization of the:
(i) uniform statistical plan;
(ii) uniform experience rating plan; and
(iii) uniform classification plan;
(b) the recording and reporting of statistical data and experience rating data by the various insurers writing workers compensation insurance;
(c) the selection, retention, and termination of the designated rate service organization; and
(d) providing for the equitable sharing and recovery of the expense of the designated rate service organization to develop, maintain, and provide the plans, services, and filings that are used by the various insurers writing workers compensation insurance.
(5) (a) Notwithstanding Subsection (3), an insurer may develop directly or through its selected rate service organization, subclassifications of the uniform classification system upon which a rate may be made.
(b) A subclassification shall be filed with the commissioner 30 days before its use.
(c) The commissioner shall disapprove subclassifications if the insurer fails to demonstrate that the data produced by the subclassifications can be reported consistently with the uniform statistical plan and uniform classification plan.

(6) Notwithstanding Subsection (3), an insurer may, directly or through its selected rate service organization, develop its own experience modifications based on the uniform statistical plan, uniform classification plan, and uniform rating plan filed by the rate service organization designated by the commissioner under Subsection (1).

Section 40. Section 31A-19a-405, which is renumbered from Section 31A-19-408 is renumbered and amended to read:

31A-19a-405. Filing of rates and other rating information.

(1) (a) All workers compensation rates supplementary rate information and supporting information shall be filed at least 30 days before the effective date of the rate or information. (c) Notwithstanding Subsection (1) (a), on application by the filer, the commissioner may authorize an earlier effective date.

(2) The loss and loss adjustment expense factors included in the rates filed under Subsection (1) shall be prospective loss costs filed by the designated rate service organization under Section 31A-19a-406.

Section 41. Section 31A-19a-406, which is renumbered from Section 31A-19-414 is renumbered and amended to read

31A-19a-406. Filing requirements for designated rate service organization.

(1) The rate service organization designated under Section 31A-19a-404 shall file with the commissioner the following items proposed for use in this state at least 30 calendar days before the date they are distributed to members, subscribers, or others:

(a) each prospective loss cost with its supporting information;
(b) the uniform classification plan and rating manual
(c) the uniform experience rating plan manual:
(d) the uniform statistical plan manual, and
(e) each change, amendment, or modification of any of the items listed in Subsections (1) (a) through (d).

(2) (a) If the commissioner believes that prospective loss costs filed violate the excessive, inadequate, or unfair discriminatory standard in Section 31A-19a-201 or any other applicable requirement of this part, the commissioner may require that the rate service organization file additional supporting information.
(b) If, after reviewing the supporting information, the commissioner determines that the prospective loss costs violate these requirements, the commissioner may:
(i) require that adjustments to the prospective loss costs be made; or
(ii) call a hearing for any purpose regarding the filing.

Section 42. Section 31A-19a-407 is enacted to read:

31A-19a-407. Cooperation among rating organizations and insurers.

(1) Notwithstanding Section 31A-19a-305, rate service organizations and insurers may cooperate with each other in rate-making or in other matters within the scope of this part.
(2) (a) The commissioner may review the cooperative activities and practices permitted under Subsection (1).
(b) If, after hearing, the commissioner finds any of the cooperative activities or practices permitted under Subsection (1) to be unfair, unreasonable, or otherwise inconsistent with the law, the commissioner may issue an order:
(i) specifying in what respects the activity or practice is unfair, unreasonable, or otherwise inconsistent with the law, and
(ii) requiring the persons or entities involved to discontinue the activity or practice.
Section 43. Section 31A-33-107 is amended to read:


(1) The board shall:
(a) appoint a chief executive officer to administer the Workers' Compensation Fund;
(b) receive and act upon financial, management, and actuarial reports covering the operations of the Workers' Compensation Fund;
(c) ensure that the Workers' Compensation Fund is administered according to law;
(d) examine and approve an annual operating budget for the Workers' Compensation Fund;
(e) serve as investment trustees and fiduciaries of the Injury Fund;
(f) receive and act upon recommendations of the chief executive officer;
(g) develop broad policy for the long-term operation of the Workers' Compensation Fund, consistent with its mission and fiduciary responsibility;
(h) subject to Chapter 19a, Part 4, Workers Compensation Rates, approve any rating plans that would modify a policyholders premium;
(i) subject to Chapter 19a, Part 4, Workers Compensation Rates approve the amount of deviation, if any, from standard insurance rates;
(j) approve the amount of the dividends, if any, to be returned to policyholders;
(k) adopt a procurement policy consistent with the provisions of Title 63, Chapter 56, Utah Procurement Code;
APPENDIX H

Traditional Model

<table>
<thead>
<tr>
<th>Insurers</th>
<th>Advisory/Rating Organization</th>
<th>Insurance Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report data</td>
<td>Receive data</td>
<td>Approve plans</td>
</tr>
<tr>
<td>receive feedback</td>
<td>quality assurance</td>
<td>designate / license</td>
</tr>
<tr>
<td>make corrections</td>
<td>provide feedback</td>
<td>system control</td>
</tr>
<tr>
<td>experience ratings</td>
<td>receive feedback</td>
<td></td>
</tr>
<tr>
<td>rate/loss cost filing</td>
<td>publish stat plans</td>
<td></td>
</tr>
<tr>
<td>file plans and rules</td>
<td>compile data</td>
<td></td>
</tr>
<tr>
<td>publish stat plans</td>
<td>produce reports</td>
<td></td>
</tr>
<tr>
<td>compile data</td>
<td>produce reports</td>
<td></td>
</tr>
</tbody>
</table>

Texas Model

<table>
<thead>
<tr>
<th>Insurers</th>
<th>Statistical Agent</th>
<th>Insurance Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Report data</td>
<td>Receive data</td>
<td>Approve plans</td>
</tr>
<tr>
<td>receive feedback</td>
<td>quality assurance</td>
<td>designate / license</td>
</tr>
<tr>
<td>make corrections</td>
<td>provide feedback</td>
<td>system control</td>
</tr>
<tr>
<td>publish stat plans</td>
<td>publish stat plans</td>
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</tr>
<tr>
<td>compile data</td>
<td>compile data</td>
<td></td>
</tr>
<tr>
<td>produce reports</td>
<td>produce reports</td>
<td></td>
</tr>
</tbody>
</table>
Florida Model

- Insurers
- Designated Statistical Agents
- Rating Organizations
- Insurance Department

Report data
receive feedback
make corrections

Receive data
quality assurance
provide feedback
compile data
reconcile
facilitate exchange
produce reports
publish stat plans

Receive data
quality assurance
experience ratings
rate/loss cost filing
file plans and rules

Approve plans
designate / license
system control

Arizona Model

- Insurers
- Advisory/Rating Organizations
- Designated Statistical Agent
- Insurance Department

Report data
receive feedback
make corrections

Receive data
quality assurance
provide feedback
forward to DSA
respond to DSA
experience ratings
rate/loss cost filing
file plans and rules

Publish stat plans
receive data
quality assurance
provide feedback
compile data
facilitate exchange
produce reports

Approve plans
designate / license
system control
APPENDIX I

Summary of Position Papers
Received by the
Multiple Statistical Rating Organization Study Group
May 19, 1999

Alliance of American Insurers

• Single statistical plan for aggregating payroll and loss information to be used in developing advisory loss cost by classification and for collecting individual policyholder information for the purpose of experience rating. Statistical plans should not be used for the purpose of collecting pure research data.
• Same statistical plan should be used in all states to maximize class credibility and keep company expense to a minimum.
• Limit the number of statistical agents in a state to one. If the statistical agent is the result of competitive bidding, procedures should be mandated to assure an orderly transfer of historical data. Believes a single statistical plan is more important than a single agent, but feels companies should be required to report to only one.
• Recognition that data is owned by the insurers, who license the statistical agents for aggregating exposure and loss data for rate filings and maintaining a uniform experience rating plan.
• Allow insurers a role in determining the qualifications of the statistical agent and the fees to be charged by the statistical agent.

......However, the presence of multiple and potentially conflicting rating organizations in a state has the potential to create needless complications and confusion. Given this the Alliance should oppose statutory or regulatory proposals to allow multiple workers compensation rating organizations to operate in a state so long as it is clear that this action does not in any way restrict competition in these states.

Believes competition should have an outcome. Alliance suggests that a scheme of multiple, overlapping, and duplicative compensation rating and statistical organizations be avoided. The role of a statistical agent is to allow the aggregation of loss and exposure data so that the “law of large numbers” can allow loss cost (or full rates) to be developed at the class level. The statistical agent also maintains the loss and exposure history of individual risks so that experience rating can be applied.

Believes a distinction should be drawn between individual company data and aggregated loss and exposure information needed for rate development and regulatory oversight of advisory filings. The latter serves a social purpose, however individual company data is proprietary and should remain so.
American Academy of Actuaries

Believes that the NAIC should recommend the following guidelines to states:

- There should be a single minimum standard class plan and statistical plan countrywide.
- There should be minimum qualification standards for statistical agents to ensure data integrity and appropriate data confidentiality.
- Statistical agents should be able to establish and maintain good electronic communication and data transfer abilities.
- Statistical agents should be able to share data for experience rating.
- All decisions should consider cost of compiling and accessing data by all advisory organizations and other authorized users.
- There should be a single entity created to aggregate industry data from all statistical agents and maintain the experience rating information for all policyholders.

Independent Insurance Agents of America

Encourages regulators to anticipate the potential need to direct market activity to preserve fairness among all parties. Consider the need for enhanced regulatory guidelines regarding data reporting requirements, timeliness of reserve adjustment, dispute resolution process, and post policy premium adjustments.

Insurance Services Office

Regulatory business and legal implications of multiple workers compensation service organizations:

- State laws provide an environment for multiple advisory organizations and or statistical agents.
- Most state laws provide a system of economic fairness, intellectual property and anti-trust, all of which provide adequate guidelines and framework for resolving the issues.
- Demonstrates that the availability, cost and quality of essential information, products and services can be maintained and developed more in a multiple environment.

Hartford

Urges regulators to properly manage the change as to not undermine the workers compensation marketplace and lose their ability to effectively regulate or destroy the publics faith in its integrity.

The Hartford desires the following rating environment:
• Loss cost filed by a single rating organization.
• Expense components filed by individual carriers.
• Uniform assigned risk planes filed by a single rating organization.
• Uniform system of risk classification, which is consistent countrywide and applicable to both the voluntary and residual market.
• Uniform rating rule.
• Uniform experience rating plan.
• Uniform standard coverage forms filed by a single rating organization on behalf of its members and subscribers.
• Independent coverage forms filed by carriers with the regulator.

The Hartford favors a single rating organization as the best means of achieving and preserving this environment. If multiples are licensed in a state they recommend the adoption of a process for recognizing one rate filing within a state.

The Hartford favors a uniform data reporting environment with a uniform statistical plan for core data to provide uniform industry database for consistent rate making activity. They believe that the aggregated core data should be the property of the state. At the insurance transaction level, they believe the data belongs to the carriers, except for data necessary for experience rating. Uniform standards for data quality are a must.

The Hartford favors a single statistical agent as the best means of achieving and maintaining this environment. If multiple rating organizations are licensed, they encourage states to appoint a single compilation agent. The single compilation agent would then be responsible for defining the core data, compiling the data, insuring the quality of the compiled data and providing access to all users. Companies would continue to report their data to their designated statistical agent who would report to the compilation agent.

**Liberty Mutual**

Acknowledges the insurance industry’s reliance upon rating organizations and statistical agents to provide a credible, competitive mechanism for pricing workers compensation. Notes that state laws lack direction on how statistical agents and rating organizations can function in a multiple rating organization environment and maintain functional quality data. Feels that in an environment of change the insurers proprietary interest in data and confidentiality of customer specific information must continue to be protected. Endorses a system whereby the state retains a uniform statistical plan, a single statistical agent and a single rating organization to perform rate making activities.

**Uniform Core Statistical Plan:**

- Provides for consistent definitions and reporting across companies, thereby enabling the statistical agent to compile meaningful aggregations or summaries of data.
- Core plan should only mandate reporting of the minimum amount of information to establish baseline loss cost at state and class level.
• Core plan should provide aggregation of data, but should also allow for company innovation as long as companies can report data under the core statistical plan.

Single Statistical Agent:

• Feels that a single statistical agent is in the best interest of regulators, insurers and consumers.
• The simplest, most efficient and cost effective method for a state to collect data in accordance with a uniform statistical plan.
• Advocate that only one organization perform these duties because:
  • One organization should be assigned to compile industry aggregations for the states, even in a multiple environment.
  • A single statistical agent ensures the integrity of the experience rating process, by maintaining the historical information for each policyholder.
  • Interstate risk benefit from a single statistical agent because of the retention of the integrity in the experience rating process for workplace safety.
  • A single statistical agent assures insureds and insurers of confidentiality of individual policyholder, claimant and insurer data.
  • Provides the state with one contact, thus making compliance with state regulations easier and cost efficient.

Single Rating Organization:

• Role of rating organization is to make rates/loss cost, promulgate experience ratings, develop manuals of rules, etc.
• One organization is more cost effective, efficient and lends itself to uniform plans.
• Provides for the largest volume of state specific data and provides a single benchmark loss cost by class.
• Maintains the confidentiality of proprietary and confidential individual insurer data.
• In a multiple environment companies should report to the rating organization to which they are a member. The rating organization should then report the required data to the one state statistical agent.

Cautions states to proceed with care, less they run the risk of the following:

• Fragmenting the workers compensation database.
• Instituting an inefficient process for the compilation of information, adding complexity to the use of a uniform experience rating plan.
• Making it more difficult for insurers to use consistent rating plans across the country.
• Increasing the administrative burden for state regulation of insurance. Increasing system costs and the resulting cost to employers.
• Failing to protect the confidentiality of claimant, employer and insurer data.

Point of competition should be the bid to provide services, not the delivery of those services. Competition should be via a formal bid process, awarding the contract to a single statistical agent and a single rating organization. Provider should be selected on qualifications, personnel cost and ability to perform the required tasks of the entity.

**National Association of Independent Insurers**

For data credibility, favors a single uniform statistical plan, a single uniform classification and experience rating plan, and a single loss cost. Suggest States should allow insurers to choose who they report their data through, rather than states selecting through a competitive bidding process. The bidding process may prove disruptive to a state. States should have aggregated data and need to work out issues for obtaining that compilation.

The Association sees the following issues facing Regulators:

• Timely and efficient transfer of information, particularly for experience rating.
• Ownership of Statistical plans, experience rating plans and classification plans.
• Equitable allocation of cost to each organization.
• Need to adequately define the functions of advisory organization vs statistical agent.

**National Council on Compensation Insurance**

By resolution over 75 years ago, the NAIC and the workers compensation industry established NCCI. The reasons and objectives at the time were:

• The need for loss data to make intelligent pricing decisions
• To develop incentives for a safe workplace and penalties for an unsafe workplace.
• To develop a multi-state infrastructure with common experience rating plans, statistical plans, manuals, and classification system.
• The need for a residual market (market of last resort) to be maintained.

Questions that must be answered in a multiple environment:

• Is there value in the single statewide and/or multi-state databases that we have today? If so, how do we maintain them? Should the database continue to be governed by the industry?
• Is one workers compensation infrastructure beneficial (manuals, class plans, statistical and experience rating plans)?
• Is there value in a state allowing only one rate or loss cost filing, or would multiple filings produced by competing entities better serve the system? Do multiple filings need to be based on one consolidated database, or can each filing be based on differing data?
• How will/should competition impact the cost and timeliness of service to the industry? What ways should costs be distributed among insurers, employers and other stakeholders?

**New York Compensation Insurance Rating Board**

There are three areas of general concern:

- **Timeliness:** the timeliness of data reporting and the difficulty with the multiple organizations doing so will create a complicated system for rating a risk. They conclude that additional layers of reporting statistical information will be necessary. Identification and proper allocation of experience would certainly become even more difficult and cumbersome and extend even further the time period necessary to fulfill regulatory, or the organizations goals.
- **Accuracy of Records:** Expressed concern of maintaining policyholder and employer information in an experience rating environment. It will be extremely difficult to maintain an accurate record of the insured and consequently, make the proper determination concerning data necessary to complete and promulgate the experience modification. This takes on more significance with a multi-state risk.
- **Efficiency:** Questions are raised regarding the efficiency of an operation which now requires substantive work in the development of additional data transfers between statistical and rating organizations and the necessary coordination to issue experience ratings and resolve coverage issues. Concern is expressed that the level of service may be decreased as the resources are committed to the coordination effort, to the exclusion of other duties.

There are advantages to competition, but these elements of process need to be addressed prior to making a decision on the appropriate statistical agent.

**Royal Sun Alliance**

Analyzes the impact that multiple statistical agents will have on the employer.

If statistical agencies do not share their data:

- Employers likely to pay higher rates depending on their classification, because of use of less credible data.
- Fluctuating rates.
- Competition may cause carriers to price at the lowest filed rate.
- Administrative cost of insurers will rise.
If statistical agents do share their data:

- Will reduce rate fluctuation.
- Competition does not work well when competitors are required to work together to produce their product.
- Increased cost of matching experience rated policies will be passed on to the employer in the form of higher rates.
- Insurers are likely to pass on to their insureds the additional costs of a multiple rating organization environment.

Royal Sun Alliance urges regulators to consider one statistical plan to obtain credible data and stability in rates. One statistical plan can obtain accurate, consistent, efficient and timely collection of data.
APPENDIX J

AMERICAN ACADEMY of ACTUARIES

March 4, 1999

Mona Carter, Director
Property and Casualty Division
Kentucky Insurance Department
215 W. Main Street
Frankfort, KY 40602

RE: Status Report on Academy Work on Use of Multiple Statistical Agents in Workers’ Comp.

Dear Mona Carter:

The American Academy of Actuaries is the public policy organization for actuaries practicing in all specialties within the United States. A major purpose of the Academy is to act as the public information organization for the profession. The Academy is non-partisan and assists the public policy process through the presentation of clear and objective actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal elected officials, comments on proposed federal regulations, and works closely with state officials on issues related to insurance. The Academy also develops and upholds actuarial standards of conduct, qualification and practice, and the Code of Professional Conduct for all actuaries practicing in the United States.

The American Academy of Actuaries appreciates this opportunity to provide comments to the NAIC’s Multiple Rating Organization Study Group. The Academy’s Worker’s Compensation Work Group is developing a white paper on the use of multiple statistical agents. This letter serves as a status report on that project and provides the NAIC with an overview of Academy work in this area.

A statistical agent collects and compiles workers’ compensation data from insurance carriers and some self-insurers at both an aggregate level and on a claim by claim basis. The primary purposes of the data collected by the statistical agents are: for actuaries at the rating organizations to use this data to develop statewide rates and rating plans; for insurance carriers to use this data to evaluate individual risks, determine deviated rating levels and develop underwriting strategies; and for regulators to use the data to evaluate the carriers’ rates and some self-insurers’, reserves and financial condition, as appropriate. In addition, group programs (both insured safety groups and self insurance groups) may use the data to develop rates and rating plans. Individual self insurers may use the data in estimating their funding requirements. Self-insurers and smaller carriers may use this data to establish adequate loss reserve levels.

Historically, the National Council of Compensation Insurers (“NCCI”) has been the designated statistical agent in most states, including many states with independent rating bureaus. However,
with the emergence of IDR Statistical Services, Incorporated (“IDR”) over the last several years, states are considering if and how multiple statistical agents can exist within a single state. The states expect that multiple agents create competitive pricing and lower rates for insureds. The use of multiple statistical agencies has already been approved in Florida. Arizona recently changed statistical agents; and several other states are considering the possibility of competitive statistical agents. As a result of this emerging competition among workers’ compensation statistical agents, the American Academy of Actuaries has developed a set of basic guidelines intended to help states in their consideration of multiple statistical agents. We believe the NAIC may also find them useful in providing recommendations to the states. The guidelines are as follows:

1. There should be a single, minimum standard class plan and statistical plan countrywide, for the following reasons:
   - It increases credibility in the ratemaking process by providing the ability to aggregate experience for many states. This is particularly important for smaller classes in order to prevent wide swings in policyholder premiums from one year to the next. In addition, increased credibility leads to improved predictability, reduced pricing risk, lowered required returns, and in turn, lower rates.
   - It allows for comparison of rates across states.
   - It facilitates the pricing of multi-state risks.
   - It is more efficient for carriers, statistical agents and rating agents.

   Note that a minimum standard class plan would not preclude individual states choosing to sub-divide classes as deemed appropriate.

   In the absence of a single statistical plan, it would be desirable for carriers to be able to report to only one statistical agent nationwide or in as many states as possible. This would minimize the cost for carriers and thus for policyholders, and provide the ease of maintaining only one relationship. It would also simplify interstate experience rating.

2. There should be minimum qualification standards for statistical agents aimed at ensuring data integrity and appropriate data confidentiality.

   (It is critical to maintain data integrity in order to minimize the possibility of erroneous actuarial projections and inaccurate rates overall, by class, and by employer.)

3. There should be good electronic communications and data transfer abilities between statistical agencies and ratemaking organizations, in order to ensure efficiency and data integrity.

4. There should be good electronic communications and data transfer abilities between statistical agencies in order to determine whether a risk is eligible for experience rating and to facilitate accurate experience rating calculations. A prospective insurer with appropriate authority should have access to all experience generated by a particular employer, regardless
of which statistical agent is collecting experience each year and in each state.

5. All decisions should keep in mind the benefits to minimizing the cost of compiling and accessing data by all advisory organizations. Advisory organizations include both rating organizations and other authorized users.

6. There should be a single entity that aggregates the industry data from all the statistical agencies for the state and that maintains individual risk experience rating information for all policyholders in the state. Because of the need to protect data confidentiality, this warehouse should not be maintained by a state or other agency subject to open records laws. Access to detailed data should also be limited in accordance with the property rights of insurers in collected data and information.