

**NASSAU COUNTY
OFFICE OF THE COMPTROLLER**



**THE COUNTY'S WORKERS' COMPENSATION
CLAIMS MANAGEMENT NEEDS IMPROVEMENT**

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THE COUNTY'S WORKERS' COMPENSATION CLAIMS MANAGEMENT NEEDS
IMPROVEMENT

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OFFICE OF THE COMPTROLLER



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EXECUTIVE SUMMARY

In 2012, Nassau County's ("County") workers' compensation costs are expected to exceed \$25 million, a 43% increase since 2004. The Comptroller's Office ("Office") undertook a study of these costs as well as the management effectiveness in mitigating claims and controlling costs. The County is self-insured for employee workers' compensation claims with management responsibility under the County's Office of Management & Budget ("OMB"). OMB contracted with Triad Group, L.L.C. ("Triad"), a third party administrator ("TPA"), since July 12, 2004, to administer the workers' compensation program on behalf of the County.

Triad is responsible for processing claims and performing a number of administrative services, including some risk management, in order to help minimize the County's workers' compensation claim liability.

This Office reviewed data obtained from its Vendor Claims and Payroll & Health Benefits departments as well as information requested from Triad and OMB. The study included an analysis of the 2004 and 2009 County agreements with Triad, this Office's "Limited Review of the Nassau County Contract with Triad Group, L.L.C." dated September 6, 2007 ("2007 Limited Review") as well as the corresponding work papers.

We found that:

1. The County's Workers' Compensation Claims Management May Not Be Effective;
2. The County Contract with Triad Has Resulted in 50% Higher Processing Costs Than Projected; and
3. The Lack of Effective Workers' Compensation Management May Have Resulted in up to \$13 Million Higher Costs to the County in the Last Three Years.

Therefore, this Office recommends that the County take immediate steps to more effectively manage workers' compensation claims and costs, including:

1. Finding a more cost-effective TPA for the County through the RFP process;
2. Conducting an in-depth analysis of claims submitted by each department and multiple claims submitted by the same individuals;
3. Setting standards to trigger investigations where fraud is suspected or indicated; and
4. Establishing an Occupational Safety Task Force to identify and correct potential work place hazards that may contribute to injury claims.

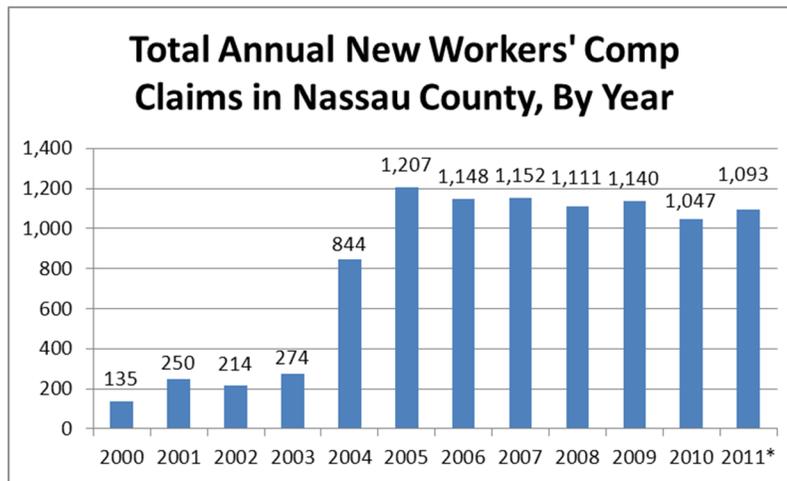
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1.0 BACKGROUND

From 2000 to 2010 and part of 2011, the County had 2,382 “Open Claims”¹ out of a total 9,615 claims incurred² (full year 2011 data was not yet available at time of this study and has been projected).³ Exhibit 1 shows the number of incurred claims annually from 2000 to 2011.

A 200% increase in claims is observed from 2003 to 2004, the year Triad took over as the TPA. The high level of claims filed annually increase by 43% in 2005 and the high rate was sustained in each subsequent year to 2011. Although some of these increases are due to the change in process⁴ of recording injury-only claims where no medical treatment was sought (1,892 claims or about 23% of the total), we were unable to find any further explanation or acknowledgement for the rapid rise in claims.⁵

Exhibit 1:



**Projected*

If this trend is analyzed in terms of claims per employee, we find an alarming increase from one annual claim for every 41 employees in 2002 to one annual claim for every 8 employees by 2011.⁶ Exhibit 2 shows the increase in this ratio of claims to the number of County employees⁷ and its sustained high level from 2004 to 2011 (projected).

¹ Any claim expecting additional activity for a particular claimant.

² Incurred refers to those claims which were submitted.

³ See Comptroller’s Claim List discussed in subsequent section. CD received October 21, 2011.

⁴ Prior to Triad, the County did not record injury-only claims where no medical treatment was sought.

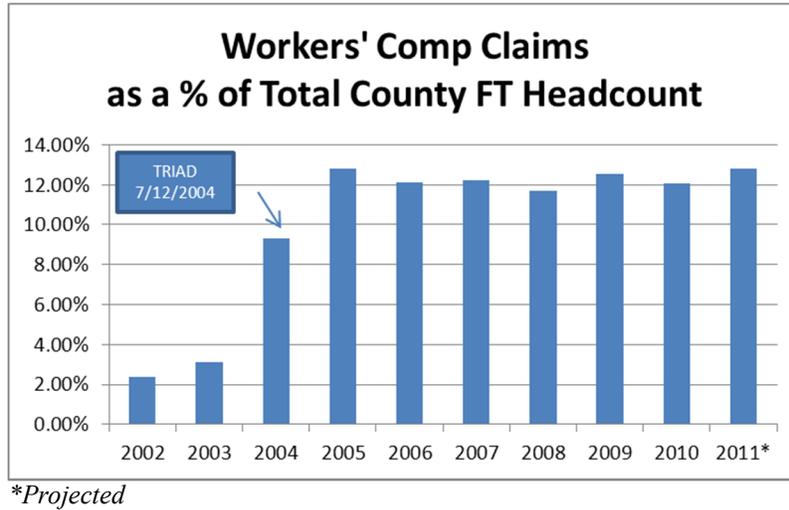
⁵ Ibid.

⁶ Headcount figures derived from the Nassau County Comprehensive Annual Financial Report, “County Government Employees by Function. Year Ended December 31, 2011, Exhibit T-20, pages 191-192.

⁷ County headcount decreased from 8,934 (FT) in 2002 to 8,005 (FT) in 2011.

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Exhibit 2:



Open Claims result in cumulatively higher annual workers' compensation costs from continuous medical treatment and employees' absence from work. Exhibit 3 below shows the total Open Claims active by year over the last 12 years (as of October 5, 2011).

Exhibit 3:

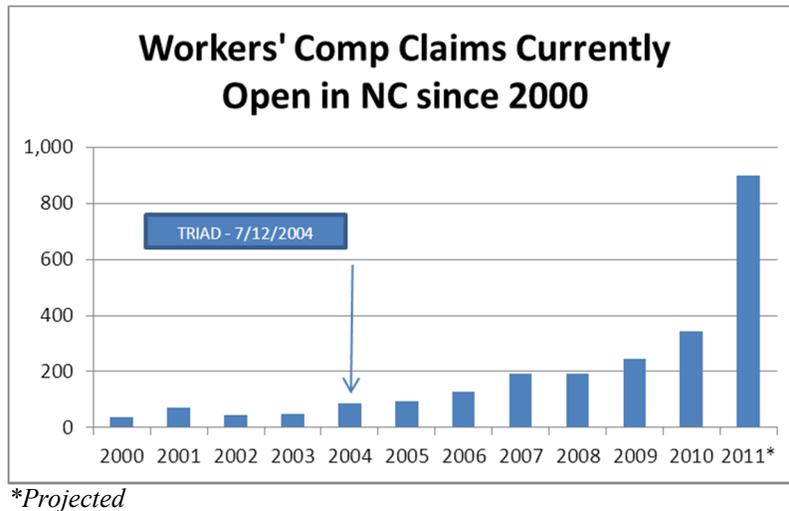
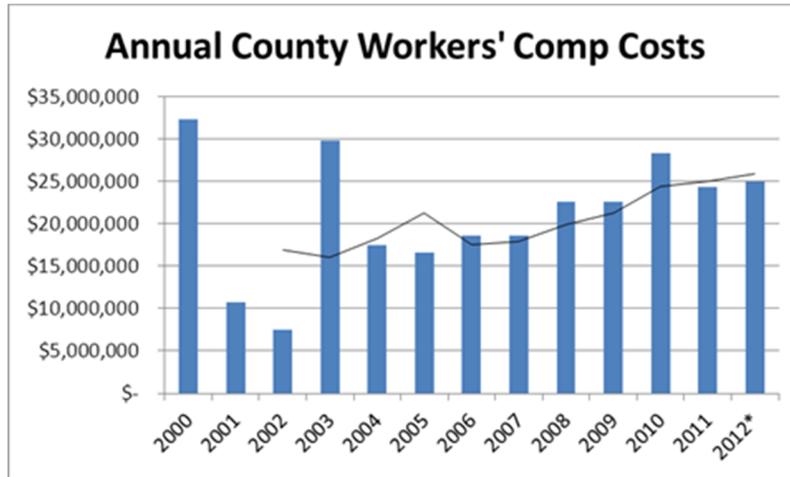


Exhibit 4 below shows the steady increase in annual cost. Although years 2000 and 2003 show an anomalous increase in annual costs, an analysis of a 3-year moving average from 2000 to 2012 shows a steady increase from approximately \$17.5 million to over \$25 million per year since 2004. The abnormal increases in 2000 and 2003 were due primarily to the inclusion of

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litigation costs which were excluded in all other years.⁸ We were unable to separate litigation costs from workers’ compensation costs in those years. We were also unable to find any acknowledgement from Triad or OMB for the rise in claims and costs in the data provided.

Exhibit 4:⁹



*2012 Budgeted

**2000-2004 include Litigation figures.

Additionally, we were only able to find limited evidence of initiatives to mitigate the rise in claims.

⁸ According to the Nassau County Comprehensive Annual Financial Report, “Notes to Combined Financial Statements – Notes Payable and Long-Term Obligations.” Years Ended December 31, 2000 - 2011.

⁹ Ibid.

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2.0 FINDINGS

2.1 The County's Workers' Compensation Claims Management May Not Be Effective.

2.1.1 Triad Experience

The 2009 contract between Triad and the County includes a Report Generation Requirement that expressly states that Triad must provide "Comptroller Requested Reports."¹⁰

All reports shall be current, accurate and provided on a timely basis. The County shall provide the Contractor with a list identifying those reports required regularly on a weekly and monthly basis. *The generation of ad hoc reports will be on an "as needed" basis. Ad hoc reports may be requested at any time depending upon necessity. All reports shall be provided in Microsoft Excel file format as well as PDF file format. (Emphasis added).*

On September 27, 2011, this Office requested a report from Triad containing the following in order to conduct a review of the County's workers' compensation costs and claimants: (1) name, (2) address, (3) age, (4) claims incurred in last two years by claimant, (5) dates claims were opened and closed, (6) last date a review was completed on each claim and the name of the individual performing the review, (7) total claims paid out to date, (8) claims currently outstanding, and (9) processing fees paid to Triad under the agreement by claimant.

The initial request for this information was made by phone call and a follow-up email to a Triad Claims Adjuster. Triad's President called on September 29, 2011 in response to the request stating that the information was available via *FileHandler*¹¹ software access that was granted to the Payroll & Health Benefits Director in this Office.

Several attempts were made to download the data. This Office encountered various difficulties, including (1) being unable to obtain certain reports and (2) any minor reports that were successfully imported into Excel had formatting errors that made it difficult to decipher and separate the data, which could not be easily corrected manually.

This Office met with Triad's President, OMB's Deputy Director, and OMB's General Claims Manager on October 5, 2011 and again requested the information. Triad's President stated that requests for information and customized reports by this Office would be time-consuming and at the County's expense, referring us again to *FileHandler*. Another attempt was made to utilize this software but again we were unable to download the necessary data.

¹⁰ Contract between Triad, L.L.C. and the County, commencing on May 16, 2009, Exhibit A, Section C, pg. 12.

¹¹ FileHandler is the software used by Triad to store data and generate reports.

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On October 12, 2011, the Deputy County Comptroller for Audits & Special Projects and the Deputy County Comptroller for Administration emailed and faxed a second written request to Triad for the same information contained in the September 27, 2011 email. A final follow-up email was sent on October 18, 2011. This Office received data on a CD from Triad's President on October 21, 2011. This information was comprised of 163 Adobe files ("PDFs") and included data of supporting documentation for the Comptroller's Claims department (Nurse Case Management and Review¹², Medical Bill Review, Section 15-8, Section 32, Tail Claims¹³, and Workers' Compensation management), claim notes for 2010 and 2011, invoice registers for the above, and claims opened, closed, and paid for 2010 and 2011. This Office also received nine Excel files consisting of financial registers for paid, open, and closed claims for 2010 and 2011 with corresponding notes. Overall, the format in which this data was provided did not comply with the report requirement in the contract.

Only one raw data file out of the 172 files sent, the Excel file named "comptreclm1ist" ("Comptroller's Claim List"), provided raw data amenable to relevant analysis. This file contained usable information such as claimant name, claims incurred by claimant, dates claims were opened, name of the handler and total funds incurred. However, it failed to include the claimant's address, age, dates claims were closed, the last date a review was completed on each claim (if any), bills currently outstanding, and processing fees paid to Triad per claim. The PDFs did contain some of this missing information on an individual claim basis.

This Office attempted to evaluate injury trends by County department using the Comptroller's Claim List received from Triad. However, when the claims were sorted by department and compared with County data, Triad's department codes did not correspond with County codes, were incorrect, or individuals were listed in the wrong departments. This impaired this Office's ability to accurately review information and its ability to properly analyze the data.

From 2004 through October 5, 2011, there were a total of 8,560 claims processed. This included closed, currently open, and reopened claims. While reviewing these claims, we discovered departmental coding inconsistencies as well as individuals listed in the wrong departments. In some instances, Triad's departmental codes differed from each other, which also differed from the County's code. For example, the County code for Nassau Community College is "CY," however; Triad denotes it as "NCC," where "CC" is the County code for the Sheriff/Correctional Center. Triad also had different interchangeable codes for certain departments, such as County Clerk, which they denote as "NCL" and "NCCL," respectively. Additionally, there were several claims that were attributed to a different department than the one that employee worked in when their claim was filed, making it difficult to analyze departmental workers' compensation trends on the whole. For example, a claim filed by an employee from Nassau County Community College was coded by Triad as "NCO," where Triad's code for the College is "NCC."

¹² Included corresponding copious notes.

¹³ Tail Claims refer to all claims incurred by the County prior to July 12, 2004.

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As a result of Triad’s departmental coding system and the inconsistencies and errors noted above, this Office could not effectively evaluate the trends of injuries by County departments.

In the work papers for the 2007 Limited Review, auditors raised concerns after a review of Triad’s “Claims Duplicate Report”, regarding apparent lack of risk management with claimants reporting three or more claims. They noted that some claimants had up to seven claims during the period of 2004 to 2005. Specifically, out of a test population of 2,330 claims, where 571 duplicate claimants were found, “. . . 94, (17%) [were] from employees that had filed three claims, 20 employees (3%) had a total of four claims on file, while 12 employees (2%) had a total of five claims on file and only two employees (<1%) had as many as seven claims each on file.”

This Office performed a follow-up test to evaluate whether this issue with multiple claims has been improved since that time. Using the Comptroller’s Claim List, we tested to verify if the multiple claims reported in 2007 have since decreased. Our test sampled 1,934 claims or 25% of the total 7,716 claims opened between 2005 and a loss date of the most recent information received (October 5, 2011). The results indicate that 168 claimants had three or more claims, resulting in 675 total claims of those sampled during this period. The total results of the test as well as the results from the 2007 Limited Review are illustrated in Exhibit 5 below.

Exhibit 5:

2007 Limited Review test of Claimants with more than 3 Claims, July 2004 to December 2005 (opened or closed).			
Amount of Claims per Claimant	# of Claimants	Total Claims from These Claimants	% of Total
3	94	282	12.1%
4	20	80	3.4%
5	12	60	2.6%
6	0	0	0.0%
7	2	14	0.6%
8	0	0	0.0%
Total	128	436	18.7%

2007 Limited Review Sample: 2,330

Claimants with more than 3 Claims from 2005 to October 5, 2011 (opened or closed).			
Amount of Claims per Claimant	# of Claimants	Total Claims from These Claimants	% of Total
3	76	228	11.8%
4	42	168	8.7%
5	31	155	8.0%
6	10	60	3.1%
7	8	56	2.9%
8	1	8	0.4%
Total	168	675	34.9%

Sample: 1,934 of 7,716 or 25%

Comparing these two, we estimate that claimants with three or more claims made up 18.7% of sampled claims in the 2007 Limited Review, which increased to 34.9% through October 5, 2011.

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Upon further analysis, the Comptroller's Claim List and "Claims Duplicate Report" were not only found to contain numerous classification errors, but there were also abundant input errors in the spelling of claimants' names; such as misspellings of first and last names, inclusion or exclusion of middle initials, issues with timing and use of hyphenated last names, use of suffixes and use of wrong middle initials. These errors would have hindered anyone in making a useful risk analysis and raises questions as to possible errors contained in any risk analysis that was performed.

2.1.2 County OMB Experience

On December 8, 2011, this Office sent a follow-up request for information to OMB for data concerning risk management initiatives, and investigations of *fraudulent claims* and *abusive/repeat claimants* since 2000, as well as any data, information, reports or analysis that OMB uses to evaluate the County's workers' compensation savings attributable to the *County's own Risk Management* and/or *that of Triad*.

In January 2012, OMB responded by submitting a letter and 13 computer files. Six of the files were PDFs with *raw data* containing a "Notice of Denied Treatments," "Medical Payment Register," "Subrogation," "List of Claims Pre Triad," "List of Claims Post Triad" and a "Claims Duplicate Report." In addition, OMB sent three Excel files that contained a list of settlements and comparison of actual settlements versus exposure for 2010 and 2011. Lastly, OMB sent four PowerPoint presentations that (1) outline a June 2, 2009 outreach presentation at Old Bethpage Restoration, (2) describe Triad's corporate information, (3) outlined a presentation to "key county personnel" regarding changes to the workers' compensation law and (4) outlined a presentation made to the Nassau County Correctional Center ("NCCC") in 2009. OMB also sent nine internal documents describing certain policies, including (1) "Workplace Violence Prevention Program," (2) "Exposure Control Guide for Rabies Virus," (3) "Hazard Communications Program," (4) "Hazardous Energy Control," (5) "Intrinsically Safe Electronic Devices," (6) "Personal Protective Equipment Policies," (7) "Use of Portable Personal Electronic Devices," (8) "Nassau County Respiratory Protection Program," and (9) "Safety Footwear Policy."

The information provided by OMB¹⁴ allowed for this Office to analyze some preventative measures used by them and the data they use to calculate savings attributable to Triad. This information, however, provided limited evidence of review and analysis of the data by the County. Some of the data that OMB cited as being used to evaluate Triad's performance was supplied by Triad with limited evidence of an independent review or verification. Additionally, the spreadsheets provided by OMB used to illustrate savings of \$4.4 million (negotiated settlements, denied billing, and the differences between actual vs. reserve claims values) were prepared in-part by Triad and did not state how the "savings" classification was determined.

The OMB files provided limited evidence of proactive risk management. Of the four *PowerPoints* provided, the first was a general education presentation held at Old

¹⁴ Letter and accompanying CD from OMB to Comptroller's Office, received January, 2012.

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Bethpage Restoration for County Employees discussing “New and Pending Regulatory Changes for Workers’ Compensation,” “New Policies and Procedures for Nassau County,” “Workers’ Compensation Coding for In-time users” and “Workers’ Compensation Fraud Investigations.” The third *PowerPoint* was similar in nature and was presented to “key county personnel” sometime in 2007 to review the changes to the Workers’ Compensation Reform Bill. Lastly, the 2009 *PowerPoint* was a presentation of a review conducted of the NCCC by OMB regarding workers’ compensation trends. The second *PowerPoint* was not relevant to this analysis. This *PowerPoint*, which was limited to the NCCC, discussed an analysis of an increase in new claims of 4.8% between 2007 and 2008 and a proactive effort by OMB to minimize loss days. Although these *PowerPoints* demonstrated attempts by OMB to educate County staff and increase safety awareness to manage workers’ compensation claims, there was limited evidence provided of any such program(s) run from 2004-2006, 2008 or 2010-2011.

This Office also received a copy of the “Claims Duplicate Report” provided by OMB, which contained classification errors and a number of flagged individuals with only a single claim. The test results and findings indicate that some of the issues identified in the 2007 Limited Review by the previous County Comptroller still persist.

2.2 The County Contract with Triad Has Resulted in 50% Higher Processing Costs Than Projected.

The original contract with Triad was for almost \$2 million, for a term beginning on July 12, 2004 and ending on May 16, 2007.¹⁵ During the 2007 Limited Review, auditors determined that claims from 2005 were being paid using funds set aside for 2006 and that 2006 claims were being paid using 2007 funds as a result of under budgeting.¹⁶ By the end of this contract in 2007, the County experienced a cost overrun of \$750,000 or 35% for Triad’s services.

In May 2007, the contract with Triad was renewed for a two year term ending in May 2009, for \$2.3 million.¹⁷ The new contract also included a change to Triad’s payment structure, eliminating the “Pay-Per-Savings” incentive (15% of what the County “saved” per medical bill reviewed), and replaced it with a “Pay-Per-Claim” based fee (payment per claim processed). When the 2007 contract extension expired in 2009, the change appeared successful in helping to limit cost overruns because no additional funds were needed after the initial amendment.

When the original contract ended, the County again contracted with Triad a second time for a new period ending December 2014 at a maximum cost of \$4.4 million. As of June 2012 (36 months since renewal), more than half-way through the contract, \$3.5 million has already been expended leaving \$858,500 still available. At the current billing average

¹⁵ See Contract between Nassau County and Triad Group, L.L.C. commencing on July 12, 2004.

¹⁶ Nassau County Comptroller’s Office, “Limited Review of the Nassau County Contract with Triad Group, L.L.C.,” September 6, 2007, accompanying work papers.

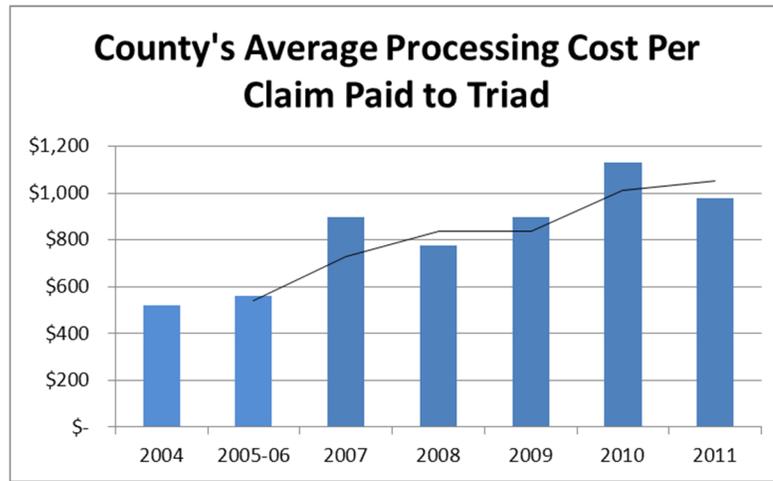
¹⁷ See Contract between Nassau County and Triad Group, L.L.C. commencing on May 16, 2009.

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rates of approximately \$98,000 per month, the existing Triad contract funding will be expended by February 2013, 22 months prior to the expiration of the contract. In order to fund the remaining contract term, we estimate that \$2.2 million additional funding will be required or 50% above estimates.¹⁸

Between 2004 and 2006, the average compensation paid to Triad per claim was \$518 and \$559, respectively. In 2007, the average processing cost per claim on average increased to \$896 and as of October 2011, stands at \$977 per claim, an 89% increase. The increasing average processing cost per claim is illustrated in Exhibit 6.

Exhibit 6:



*2005 and 2006 were merged due to a significant number of claims being processed between the two periods on the same voucher.

¹⁸ According to this Office's Vendor Claims Department, in March 2010, the County began compensating Triad 20% of savings realized by the County from collection services. Since then, the County has realized \$497,800 in total gross savings from this program, of which \$99,600 was paid to Triad for its services and the County retained \$398,300. Currently, independent of this study, these payments to Triad are under audit by the Vendor Claims Department.

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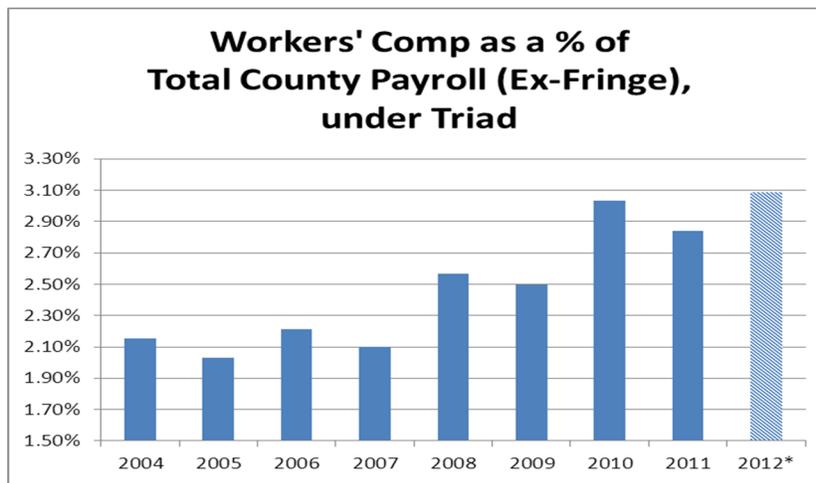
2.3 The Lack of Effective Workers' Compensation Management May Have Resulted in up to \$13 Million in Higher Costs to the County in the Last Three Years.

As previously stated, Triad and the County's performance in managing workers' compensation risks and costs are measured, kept, and provided to the County by Triad. The data provided and conclusions made by OMB appear to be based on Triad's own analysis and not independently cooperated by OMB. This issue was previously raised in the 2007 Limited Review by this Office under the prior County Comptroller who found that because of "inadequate data access capabilities," auditors were "uncertain" if instances of "claimed savings . . . existed."

This Office contacted OMB and requested data to illustrate the capture rate for fraud, abuse, and savings attributable to those claims under Triad. In OMB's January, 2012 response, a Deputy Director stated that "perhaps the best measurement of Triad's control of fraud and abuse is a comparison of *average claims costs*" (*Emphasis added*).¹⁹ OMB calculated that since July 12, 2004, Triad reduced the average claim amount by 65%, from approximately \$83,879 to \$29,269.²⁰ In total, OMB estimated that Triad has saved the County approximately \$54.6 million. Although the average claim cost has in-fact decreased as indicated, the number of claims has increased by 6,048 or 450%.²¹

Overall, the County continues to experience a high sustained level of claims, with a decreasing number of employees and progressively higher total annual costs. Exhibit 7 shows the total annual County's workers' compensation expense as a percentage of total payroll.

Exhibit 7:



*2012 Projected

¹⁹ Deputy Director for Risk Management. "Response to Comptroller's Office Information Request." Office of Management and Budget, received January, 2012. Pages 11-12.

²⁰ Ibid.

²¹ From 1998 to June 30, 2004 and July 12, 2004 to 2010.

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Even as headcount has declined by 18.27% (Full-Time)²² since 2004, the County's ratio of workers' compensation cost to payroll has increased from 2.15% to over 3.09% projected by 2012 (a 44% increase).

If we assume that the appropriate workers' compensation cost as a percent of payroll is 2.5% (the average of 2008 and 2009 percentages), then the County may have overpaid a total of up to \$12.7 million from 2010 to 2012 (projected).

²² Headcount figures derived from the Nassau County Comprehensive Annual Financial Report, "County Government Employees by Function. Year Ended December 31, 2011, Exhibit T-20, pages 191-192.

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3.0 CONCLUSION

The County's workers' compensation costs and number of claims have continued to increase while the workforce has decreased. The County's claims/risk management should be improved in order to control costs, reduce the number of claims and identify possible fraud. The County should not be experiencing one claim per year for every eight employees, on average.

The County may have overspent approximately \$13 million over the last 3 years due to less than optimum risk management.

Additionally, issues with costs and unmet contractual responsibilities for outside vendor services, as identified in the 2007 Limited Review, *have not* been remedied and continue to hamper effective management and have resulted in cost overruns.

This Office recommends that the County take immediate steps to more effectively manage workers' compensation claims and costs, including:

1. Finding a more cost-effective TPA for the County through the RFP process;
2. Conducting an in-depth analysis of claims submitted by each department and multiple claims submitted by the same individuals;
3. Setting standards to trigger investigations where fraud is suspected or indicated; and
4. Establishing an Occupational Safety Task Force to identify and correct potential work place hazards that may contribute to injury claims.

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APPENDIX 1:

Document References Used in This Analysis:

1. The Comptroller's Vendor Claims and Payroll & Health Benefits Departments,
2. Information requested from Triad,
3. Information requested from OMB,
4. The 2004 and 2009 agreements between the County and Triad,
5. The Comptroller's "Limited Review of the Nassau County Contract with Triad Group, LLC," dated September 6, 2007 ("2007 Limited Review"), and accompanying work papers,
6. The 2007 New York State Workers' Compensation Reform Bill (these changes to the law impacted caps on partial permanent disability and increases on weekly maximum rates, it should have had no impact on the number of claims.²³ Furthermore, in 2011, workers' compensation costs are anticipated to be under budget by about \$5 million, attributable to new treatment limits imposed by New York State (such as modifications to the process in which physical therapy is sought)).²⁴

²³ Weiss and Balter. *New York Workers' Compensation Handbook*. 2010 Edition, LexisNexis.

²⁴ According to Comptroller's Office Department of Accounting