



**A SPECIAL PERFORMANCE AUDIT
OF THE
DEPARTMENT OF LABOR & INDUSTRY**

***ENFORCEMENT OF UNDERGROUND UTILITY
LINE PROTECTION LAW (PA ONE CALL)***

NOVEMBER 2010

Bureau of Departmental Audits

November 4, 2010

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania
Room 225 Main Capitol Building
Harrisburg, PA 17120

Dear Governor Rendell:

This report contains the results of the Department of the Auditor General's special performance audit of the Department of Labor & Industry (Labor & Industry) and its adherence to provisions of the Underground Utility Line Protection Law, which required the creation of the communication system known as Pennsylvania One Call System, Inc. (PA One Call). The audit examined the period covering July 1, 2002 through June 30, 2008, including follow-up procedures concluded as of December 2009. This audit was conducted pursuant to Sections 402 and 403 of The Fiscal Code and in accordance with generally accepted government auditing standards (GAGAS). The aforementioned standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives.

We found that Labor & Industry's enforcement of the Underground Utility Line Protection Law was inadequate, including management's use of a decentralized approach to administer the enforcement of the law without using adequate oversight controls. In addition, management has not issued written policies and procedures to direct the administration of the enforcement program. Moreover, management stated that it relies on the work of Labor & Industry investigators located throughout the state to adequately investigate an incident, maintain documentation to support the investigation activities, and properly conclude on the investigation. This lax environment and failure to hold violators of the law accountable for their actions jeopardizes public health and safety.

Significant deficiencies that we found include incidents not being investigated and case files being incomplete. Specifically, auditors reviewed incident case files and found that, of the files identified as closed, 82% did not contain evidence of supervisory review, 61% did not contain evidence documenting the conclusion of the investigation, and 41% lacked evidence that the investigator validated whether or not a one-call was actually made. Auditors also noted an untimely completion of case files, with the range of time spanning anywhere from two weeks to more than three years before closure. Moreover, auditors found that Labor & Industry inconsistently issued administrative penalties to entities for failing to make a one-call and it failed to issue administrative penalties to entities receiving three or more warnings in a calendar year.

Additionally, our auditors found that inaccurate tracking system records could lead to inaccurate reporting being provided to external and internal decision makers. When examined for accuracy, discrepancies existed that included whether a one-call was made, the date on which the incident occurred, the name of the utility line owner, and the name of the offending party; management failed to develop written policies and procedures describing what and when information should be data-entered. Labor & Industry should also take a more proactive approach to identifying possible violations of the law, rather than relying solely on excavators or utility owners self-reporting incidents to Labor & Industry. It should work more closely with PA One Call management to identify other violations that may be occurring which may not result in property damage or injury.

We offer nine recommendations to address identified deficiencies and strengthen Labor & Industry's policies, controls, and oversight with regard to the Underground Utility Line Protection Law and PA One Call. We are confident that these recommendations, if fully implemented by Labor & Industry, will ensure the heightened health and safety of both workers and residents.

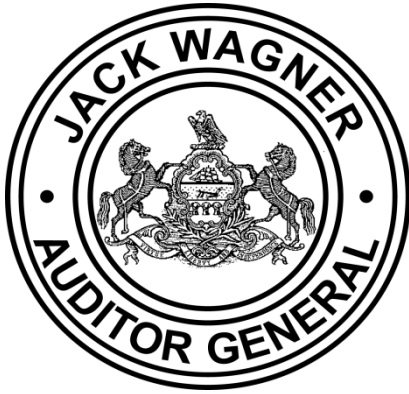
We will follow up at the appropriate time to determine whether and to what extent Labor & Industry has implemented our recommendations.

Sincerely,

JACK WAGNER
Auditor General

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Enforcement of Underground Utility Line Protection Law (PA One Call)*

*Pennsylvania Department of the Auditor General
Jack Wagner, Auditor General
November 2010*

***Results
In
Brief***

The Department of the Auditor General conducted a special performance audit of the Department of Labor & Industry (Labor & Industry) and its adherence to provisions of the Underground Utility Line Protection Law, which required the creation of the communication system known as Pennsylvania One Call System, Inc. (PA One Call). The audit examined the period covering July 1, 2002 through June 30, 2008, including follow-up procedures concluded as of December 2009. Our audit resulted in one finding and nine recommendations.

Finding

We discuss and identify deficiencies relevant to the Labor & Industry's inadequate enforcement of the Underground Utility Line Protection Law, including management's use of a decentralized approach to administer the enforcement of the law without using adequate oversight controls. In addition, management has not issued written policies and procedures to direct the administration of the enforcement program. Moreover, management stated that it relies on the work of Labor & Industry investigators located throughout the state to adequately investigate an incident, maintain documentation to support the investigation activities, and properly conclude on the investigation. This lax environment and failure to hold violators of the law accountable for their actions jeopardizes public health and safety. The following describes the significant deficiencies found:

- Incidents not being investigated and case files incomplete
- Untimely completion of case files
- Inconsistently issuing administrative penalties to entities for failing to make a one-call
- Failing to issue administrative penalties to entities receiving three or more warnings in a calendar year
- Inaccurate tracking system records can lead to inaccurate reporting being provided to external and internal decision makers
- Identification of violators needs improved

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Results in Brief

We recommend that Labor & Industry provide proactive leadership and develop appropriate policies and procedures for the investigators to ensure that they are effectively performing and documenting incident investigations and their conclusions. This would include documentation ensuring that the investigator validates through PA One Call as to whether or not a one-call was made. In addition, supervisors should be required to review and approve all case files prior to recording the incident as closed in the tracking records. Labor & Industry should maintain case files in a centralized location and ensure proper accountability. Moreover, it should establish timeframes in which incident investigations are concluded and case files closed. Labor & Industry should also monitor the status of open incident cases to ensure completion within established timeframes.

Additionally, we recommend that Labor & Industry use its authority to issue penalties to entities that violate the law on a consistent basis and issue penalties to entities that receive three or more warnings in a calendar year. It should also develop policies and procedures with respect to what information is to be entered into the tracking system records, when the information should be entered, and how often the data-entry staff reviews for updates to the tracking records to ensure accuracy. In addition, Labor & Industry should request damage logs from PA One Call on a more frequent basis, such as monthly, to better identify violators and to ensure that incidents are timely and effectively investigated and concluded. Finally, Labor & Industry should be more proactive in identifying one-call incidents and violations of the law by working with PA One Call management and other parties.

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Background The Department of Labor & Industry (Labor & Industry) is comprised of a complement of approximately 6,000 employees and more than 150 offices throughout the state, making it one of the more sizeable governmental agencies within the Commonwealth of Pennsylvania. Originally created in 1913 to administer the inspection of working conditions in factories, Labor & Industry incurred greater responsibility in response to shifting economies and an ever-changing workforce.

Labor & Industry retains cabinet-level status within the executive branch of state government; therefore, the Governor of the Commonwealth appoints the Secretary of Labor & Industry to administer the agency. The Senate of Pennsylvania must confirm the appointment.

As a multifaceted agency, Labor & Industry currently addresses a vast array of issues, including the development of a skilled labor market, assisting with promoting a positive business climate in Pennsylvania, advancing cooperative efforts between companies' management and labor, and providing services that assist the unemployed. It is also responsible for ensuring the enforcement of labor laws, as well as delivering vocational rehabilitation services for individuals with disabilities.

Additionally, Labor & Industry manages several programs relevant to workers' compensation for injured employees and applicable compensation insurance for employers, including those employers refused policies by private insurance firms. Moreover, Labor & Industry also determines eligibility for specified Social Security disability benefits on behalf of the federal government.

Enforcement of the Underground Utility Line Protection Law

In addition to the aforementioned responsibilities, Labor & Industry continues to be accountable for the implementation and oversight of numerous occupational health and safety initiatives that regulate the protection of residents, workers, and work-sites throughout Pennsylvania. Various organizational entities within Labor & Industry perform these functions.

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Background

The duties of Labor & Industry include enforcing provisions of the Underground Utility Line Protection Law (law)¹ by preventing excavation or demolition work from damaging underground utility lines used in providing electricity, communications, gas, propane, oil delivery, oil product delivery, sewage, water, or other services to Pennsylvania residents. The law designates Labor & Industry as the agency responsible for enforcing and investigating incident reports. Labor & Industry, through its Bureau of Labor Law Compliance (BLLC), conducts investigations into alleged violations of the law using 32 investigators assigned to five regional offices located in Harrisburg, Altoona, Philadelphia, Pittsburgh, and Scranton.

Labor & Industry receives incident reports by Internet, telephone, or hard copy. A case number is assigned to each incident when it is received. The incident is then assigned to an investigator in the appropriate region, who should complete a case report to document the incident investigation. The investigator contacts those persons responsible for the damage as well as the facility owner.

The law confers responsibility on Labor & Industry for issuing warnings, fines, and penalties for violations of the act. Types of violations would include: not making a one-call, three or more warnings in a calendar year, not following best practices while digging, or not submitting an incident report when required. If it was determined that a violation occurred, the investigator determines the course of action to be taken (i.e., warning, fine, or no action). If a warning is determined to be appropriate, then a warning letter is sent to offending party after it is reviewed by Labor & Industry's administrative officer in the Harrisburg headquarters. If a fine is recommended, the Chief Counsel and Deputy Secretary of Labor & Industry review the incident and determine if a fine is warranted and the amount of the fine. An Order to Show Cause is then sent to the violator.

¹ Act 287 of 1974, as amended, 73 P.S. § 176 et seq.

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Background

Pennsylvania One Call System

The law requires the establishment of a communication system that warns contractors about the presence of underground utility lines at locations in which excavation is pending. Consequently, a nonprofit organization called Pennsylvania One Call System, Inc. (PA One Call) was created to administer such a communication system. PA One Call requires the contact or input of all underground facility owners and operators performing work in the Commonwealth of Pennsylvania. Presently, PA One Call members consist of approximately 3,249 underground facility owners, including local municipal governments.

One individual, holding the title of President and Executive Director, administers the day-to-day operations of PA One Call, including the supervision of approximately 70 employees. A 36-member board of directors, chosen by facility owners in accordance with provisions of the law, oversees the nonprofit organization. The board is comprised of representatives from utility contractors, industry trade groups, as well as local municipal and state governmental agencies.

Labor & Industry participates directly in decisions of governance involving PA One Call, complying with the provision of the law that specifies that the Secretary of Labor & Industry, or her designee, shall sit on the board of directors of the nonprofit entity.

Under the law, anyone wishing to excavate and/or request the location of underground utility lines within Pennsylvania is required to contact PA One Call, which is available 24 hours per day, every day of the year, using the toll free telephone number 800-242-1776. However, callers from within Pennsylvania may also simply dial 811. Excavators must call at least three business days in advance of excavation and work must begin by the tenth business day. According to PA One Call, "Information is obtained from the caller and disseminated to underground facility operators via data transmission to their computers or fax machines and voice relayed to their personnel when necessary. The system accepts automated responses from facility operators and relays them to the excavators." Moreover, PA One Call emphasizes that, since its inception, "the use of the service by excavators increased from 389 calls the first year to 664,395 in 2008."

(See page 16 for Flow Chart of Duties Related to Labor & Industry, PA One Call, and Contractor).

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***Objectives,
Scope, and
Methodology***

Objectives

The objectives of this special performance audit were to determine whether the Department of Labor and Industry:

- adequately monitored the actions of entities involved with PA One Call for adherence to relevant utility line protection laws and regulations (see finding);
- tracked and sufficiently addressed all utility line incident reports (see finding);
- appropriately assessed, collected, and subsequently expended fines and penalties in accordance with laws (see finding); and
- conducted statewide outreach and other activities to educate facility owners and excavators regarding utility line damage prevention (no finding noted).

Scope

Our audit covered the duties and responsibilities of Labor & Industry with regard to PA One Call. The audit period covered July 1, 2002 through June 30, 2008, including follow-up procedures concluded as of December 2009.

Methodology

The methodology in support of the audit objectives included:

- reviewing appropriate laws, Labor & Industry policy and procedure manuals, Labor & Industry's budget, related information from Labor & Industry's website, and newspaper articles;
- evaluating incident reports to determine any trends of significance and whether audit follow up was adequately performed;
- interviewing Labor & Industry management and staff, conducting walkthroughs at Labor & Industry, and reviewing documentation to assess controls and gain an understanding of policies and procedures used in processing and administering incident reports;

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Objectives, Scope, and Methodology

- reviewing information included in case files, such as invoices of damages, warning notices, letters of investigations, orders to show cause, and settlement agreements; and
- performing data analysis procedures on data files and reports provided by Labor & Industry to select types of incident reports for review and testing. Our sample of 111 incidents included: cases of three or more warnings, cases open over 365 days, incidents under investigation, and incidents resulting in fines and no calls made. We stratified the population of incident reports by these types and used targeted and random sampling methodologies.

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Finding ***The Department of Labor & Industry Failed to Adequately Enforce the Underground Utility Line Protection Law, Which Jeopardizes Public Health and Safety***

On December 10, 1974, the Governor of Pennsylvania signed the Underground Utility Line Protection Law (law) for the purpose of protecting public health and safety by preventing excavation or demolition work from damaging underground utility lines that provide electricity, communication, gas, sewage, water, or other services to commonwealth citizens.² The law further created a communication system, administered by a nonprofit organization known as the Pennsylvania One Call System, Inc. (PA One Call), which provides a toll-free telephone number (i.e., 811) for excavators to call (commonly referred to as a “one-call”) not less than three nor more than ten business days in advance of beginning excavation or demolition work. This time period allows utility owners to mark, stake, or otherwise provide the position of their underground utility lines at the stated excavation or demolition site.

As part of a 2004 amendment to the law,³ if damage does occur (an incident) to a utility line while excavation or demolition work occurs and the damage results in personal injury or if property damage occurs to parties other than the affected excavator or utility owner, both the excavator and the utility owner are required to report this incident to the Department of Labor & Industry (Labor & Industry). Examples of personal injury or property damage that have occurred included a worker being electrocuted from striking a underground power line and a restaurant being blown up as a result of a backhoe hitting a gas line. Moreover, this amendment allows Labor & Industry to issue warnings, orders, and administrative penalties for violations of the law, such as not making a one-call or not reporting an incident. By not issuing warnings, orders, and penalties, Labor & Industry increases the likelihood that violations of the act will occur. This, in turn, increases the risk that an underground utility line will be damaged, which jeopardizes the health and safety of those working or living near the excavation site.

² Act 287 of 1974, as amended, 73 P.S. § 176 et seq.

³ Act 199 of 2004, effective 60 days from November 30, 2004, as further amended.

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Finding

Leadership and development of policies and procedures need improved

With respect to obtaining incident reports and issuing warnings and penalties, Labor & Industry is responsible for enforcement of the law by recording and tracking potential violations, investigating and concluding on these violations, and consistently issuing warnings, orders, and penalties. Based on the results of our interviews and test work as of December 2009, we found that management uses a decentralized approach to administer the enforcement of the law without using adequate oversight controls. Management has not issued written policies and procedures on how the enforcement program is to be administered. Additionally, management stated that it relies on the work of Labor & Industry investigators located throughout the state to adequately investigate an incident, maintain documentation to support the investigation activities, and properly conclude on the investigation. The failure to develop and implement oversight controls to ensure investigations are completed, violators are held accountable, and incident statistics provided to internal and external parties are accurate indicates that management did not consider its enforcement responsibility to be important within the context of Labor & Industry's other responsibilities. This lax environment, passive leadership, and failure to hold law violators accountable for their actions jeopardize public health and safety. The following describes the significant deficiencies found:

Incidents not being investigated, supervised, and case files incomplete

Incidents filed with Labor & Industry are recorded on a standard form and ultimately entered into Labor & Industry's tracking system. The form may be completed on the Internet by the individual reporting the incident or by Labor & Industry personnel when an individual is phoning in the information. A case number is assigned to each incident when the form is completed. Once incidents are reported, an investigator is assigned to the case based on regional location and is expected to investigate the incident. The investigator should create a paper case file to document investigation activities. Related information is maintained in tracking records for the program. Labor & Industry does not have any policies and procedures regarding what documents are to be maintained in an investigation case file. However, it is reasonable that the case file would include documentation showing procedures performed by the investigator and the outcome of the investigation. Additionally, because Labor & Industry's authority includes enforcement of the act, the investigator should contact PA One Call to determine whether a one-call was made.

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Finding

Of the more than 4,350 incidents reported to Labor & Industry between January 2005 and June 2008, we selected 91 incidents and requested the corresponding case files. According to management, the case files are maintained by the investigators. Of the 91 case files requested, 13 were never provided by Labor & Industry. Management could not explain why these files were missing. Of the 78 case files provided, which management represented to us as the complete case file, 49 cases were considered closed and 29 cases were considered open. We reviewed the closed case files and found the following deficiencies:

- **4 (or 8 percent) case files only contained a copy of the incident report.** There was nothing in the file to indicate the investigator did anything with respect to these incidents, including no written notes, no correspondence, no conclusion, and no evidence that the investigator validated whether a one-call was made. As a result, there is no evidence an investigation occurred and no evidence supporting the conclusion noted in the tracking system.
- **40 (or 82 percent) other cases did not contain evidence of supervisory review.** According to management, supervisors are not required to review case files.
- **30 (or 61 percent) other cases did not contain evidence documenting the conclusion of the investigation.**
- **20 (or 41 percent) cases lacked evidence that the investigator validated whether or not a one-call was made.**

These troubling results are illustrated by the following example: One investigator, who provided us a case file, included a narrative stating that, due to never receiving a reply from a company related to the incident, the investigator put the case file aside and forgot about the investigation. The investigator further explained that he only became aware of not completing or closing the investigation when he was requested to provide the auditors the case file. At that time, the investigation had been opened for more than a year.

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Finding

These deficiencies demonstrate management's failure to oversee incident investigations, which indicates inadequate supervision. Without documentation that an investigation occurred, the risk increases that the investigators are not performing their jobs, which, in turn, makes the results of these investigations suspect. Management must provide guidance of its intent through written policies and procedures and must develop adequate controls, such as supervisory review of case files and ongoing monitoring procedures. Case files must be maintained and available to allow a supervisor to review them in order to ensure that the investigator properly conducted and concluded the investigation and to ensure that violators of the law are held accountable.

Untimely completion and inadequate monitoring of case files

In addition to the concern regarding incomplete files or the quality of the investigation, we are also concerned with the length of time it is taking to complete and close the case files. Because of its hands-off decentralized approach regarding case files, management indicated that it is only concerned with the cases that result in potential penalties, thus the case files that are forwarded to management in Harrisburg.

We compiled the number of months the 78 case files had been open and noted that the range of time was two weeks to more than three years. Specifically, 40 were open for 12 months or less, 25 were open for 13 to 24 months, and 13 were open for more than 24 months. Although management does not have a requirement of how long it should take to complete a case, we believe that cases should be completed within established time frames. Failing to timely complete case files and inadequate monitoring delays making violators accountable for their actions, which increases the likelihood that unsafe activities will continue, placing the public at risk.

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Finding

Inconsistently enforcing and issuing administrative penalties to entities for failing to make a one-call

According to the 2004 amendment to the law, Labor & Industry has the authority to enforce the law through the issuance of administrative penalties. Using Labor & Industry's tracking system records provided in February 2009, we found that Labor & Industry issued a total of 20 penalties in the following calendar years:

- 2007 – 8 penalties, ranging from \$250 to \$1,500, totaling \$4,500.
- 2008 – 12 penalties, ranging from \$250 to \$2,500, totaling \$7,900.

We question the absence of penalties in 2005 and 2006. According to Labor & Industry management, Labor & Industry was not given the authority to issue administrative penalties until early 2007. We take exception to this reasoning given that the law regarding this change was effective in January 2005. Therefore, two years went by before Labor & Industry began issuing penalties.

We requested and obtained the case files for these 20 incidents that resulted in penalties and found that the deciding factor to penalize in all cases was that the excavator failed to make a one-call prior to performing an excavation or demolition. However, as part of our test of 78 case files and our review of documentation provided, which management represented to us as the complete case file, we found 11 additional case files that indicated a one-call was not made, but Labor & Industry failed to issue a penalty. Documentation maintained in these case files did not explain why penalties were not issued. Labor & Industry management must be consistent when issuing penalties to violators. Making violators accountable reduces the risk that the entities would continue to violate the law. This is especially important when these violations may jeopardize public safety.

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Finding

Failing to issue administrative penalties to entities receiving three or more warnings in a calendar year

In accordance with the law, Labor & Industry may issue a warning to a violator for an incident that is not deemed significant enough to warrant a penalty. Labor & Industry may also impose an administrative penalty not to exceed \$500 for entities receiving three or more warnings from Labor & Industry in a calendar year. We found 20 instances during the period January 2005 through June 2008 in which Labor & Industry had issued three or more warnings to an entity in a calendar year. The warnings issued to these 20 entities totaled 235 with one entity receiving 32 warnings in 2005 without being penalized. We presented 11 examples of these instances to Labor & Industry for an explanation, and, in November 2009, it concurred that these entities had received three or more warnings in a calendar year and acknowledged that no penalties were issued as a result. Management explained that Labor & Industry was not currently issuing penalties for three or more warnings because there was no mechanism or accountability in place to track or identify entities that received multiple warnings in a calendar year. We disagree. By reviewing the existing tracking records, we were able to determine which companies had received three or more warnings. Again, this response is indicative of the lax enforcement environment and tolerance of noncompliance with the law that was allowed to exist under Labor & Industry's responsibility.

Lack of policies and procedures and inaccurate tracking system records can lead to inaccurate reporting being provided to external and internal decisionmakers

The tracking system records maintained for the program include incident information including case number, date of incident, county where it occurred, utility line owner, type of line, offending party, was a one-call made, equipment used, case disposition, date case closed, and investigator's name. The tracking system records are used to generate monthly and quarterly reports, which are provided to PA One Call and Labor & Industry's management.

To determine whether the tracking system records were accurate, we compared the information to case file documentation for 78 cases and found discrepancies with 45 cases. Several discrepancies included whether a one-call was made, the date the incident occurred, the name of the utility line owner, and the name of the offending party.

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Finding

We made inquiry with respect to these discrepancies and found that management failed to develop written policies and procedures describing what and when information should be data entered. Additionally, we found that the tracking system records lacked management oversight and monitoring to ensure that the records are adequate. According to the data-entry person, he periodically looks for updated information, but admitted, during an interview in December 2009, that at any one time the information in the tracking system records is not 100 percent accurate. As a result, the reports generated by these tracking records will be inaccurate and the users of these reports may make inaccurate decisions. Furthermore, these administrative weaknesses and other weaknesses noted in this finding indicate that Labor & Industry is not taking seriously its enforcement responsibilities over this program and the adverse impact that it may have on the safety of citizens.

Identification of violators and request of damage logs need improved

In addition to the weaknesses previously noted, management needs to take a proactive approach to identifying possible violations of the law. Relying solely on excavators or utility owners to self-report incidents to Labor & Industry is not sufficient. Although management stated that its enforcement authority is limited to addressing the incidents reported to it, management indicated that, since 2005, it periodically requests damage log information maintained by PA One Call to identify potential violators that failed to contact Labor & Industry. We applaud this proactive effort. However, management needs to request this information frequently, in order to timely address related incidents.

Other than requesting damage log information, Labor & Industry management should be more proactive and work closely with PA One Call management to identify other violations of the law that may be occurring which may not result in property damage or injury. This would allow Labor & Industry to put the violators on notice through warning or otherwise to reduce the recurrence of the violations, which, in turn, reduces the likelihood that future personal injury or property damage will occur.

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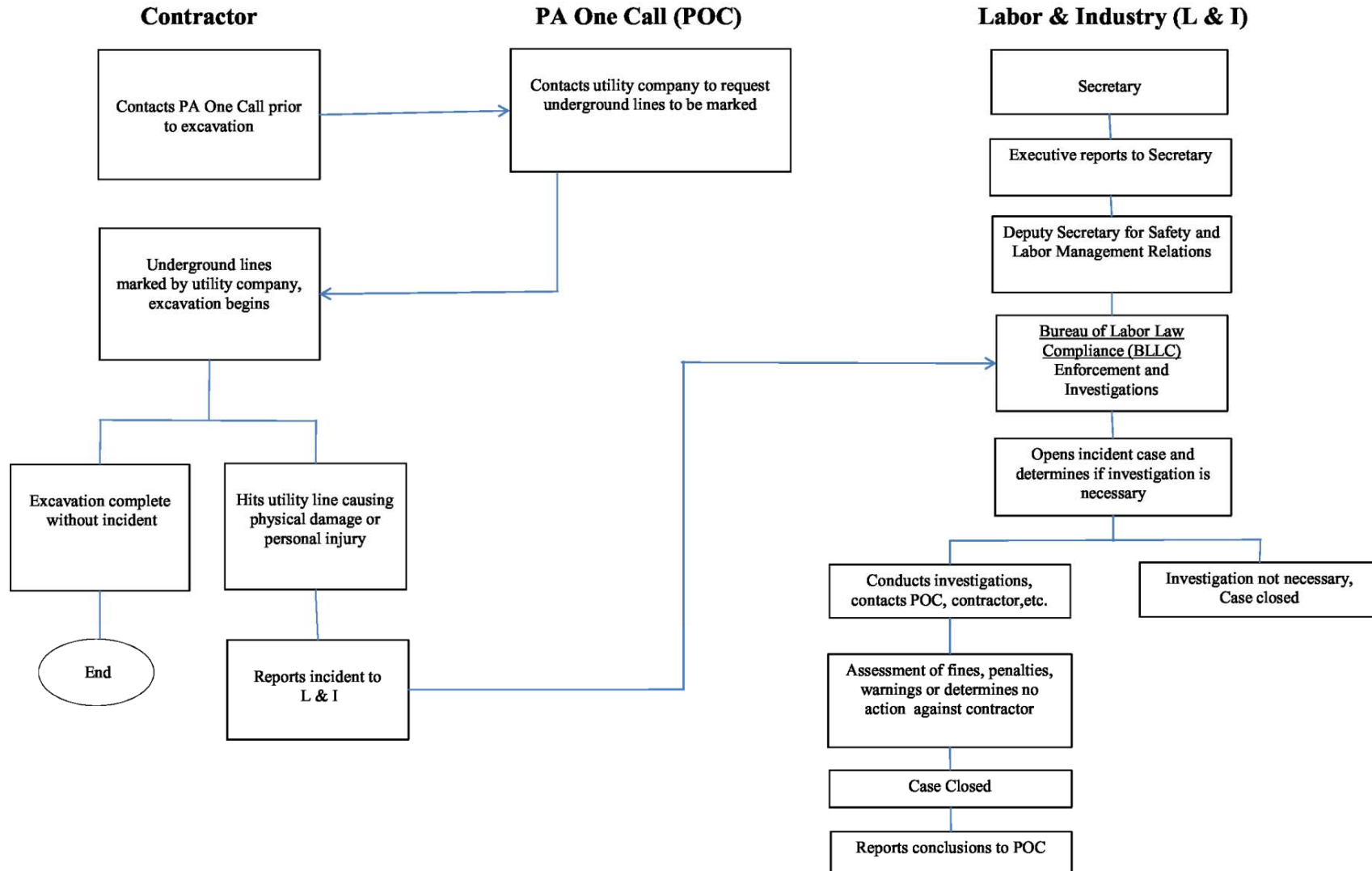
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Finding

Recommendations: We recommend that Labor & Industry:

1. Provide proactive leadership and develop appropriate policies and procedures to the investigators to ensure that they are effectively performing and documenting incident investigations and their conclusions. This would include documentation ensuring that the investigator validated through PA One Call as to whether or not a one-call was made;
2. Require supervisors to review and approve all case files prior to recording the incident as closed in the tracking records;
3. Require case files to be maintained in a centralized location and ensure proper accountability;
4. Establish time frames in which incident investigations are concluded and case files are closed;
5. Monitor the status of open incident cases to ensure that they are completed within established time frames;
6. Enforce its authority for issuing penalties to entities that violate the law on a consistent basis and issuing penalties to entities that receive three or more warnings in a calendar year;
7. Develop policies and procedures with respect to what information is to be entered into the tracking system records, when the information should be entered, and how often the data-entry person reviews for updates to the tracking records to ensure accuracy;
8. Request damage logs from PA One Call on a more frequent basis, such as monthly, to allow Labor & Industry to identify violators and to ensure incidents are timely and effectively investigated and concluded; and
9. Be more proactive in identifying one-call incidents and violations of the law by working closely with PA One Call management and other parties.

Appendix – Flow Chart of Related Duties



*Department of Labor & Industry
Enforcement of Underground Utility Line Protection Law (PA One Call)*

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***Labor &
Industry's
Response
and Auditors'
Conclusions***

What follows on subsequent pages is the response of the Department of Labor & Industry to our finding and recommendations. Our auditors' conclusions follow each response.

We are confident that the recommendations that resulted from our finding, if fully implemented by management, will strengthen Labor & Industry's policies, controls, and oversight of PA One Call. Consequently, workers and residents will experience a heightened sense of safety and well-being, knowing that Labor & Industry is thoroughly scrutinizing excavation at work-sites.



COMMONWEALTH OF PENNSYLVANIA

March 19, 2010

Randall R. Marchi, CPA, CFE, CGFM
Director
Bureau of Departmental Audits
225-D Finance Building
Harrisburg, PA 17120

Dear Mr. Marchi:

Enclosed please find the Department of Labor and Industry's response to the Auditor General's draft finding and recommendations pertaining to the special performance audit of the Department as it relates to the Pa. One Call System.

The Department requests that the response be included and distributed with the Auditor General's final audit report.

Sincerely,


Sandi Vito
Secretary

OFFICE OF THE SECRETARY | Department of Labor & Industry | 651 Boas Street |
Room 1700 | Harrisburg, PA 17121 | 717.787.3756 | www.dli.state.pa.us

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Overall Finding

Labor & Industry's Response: The Department [of Labor & Industry] strongly disagrees with many of the misleading statements and unsubstantiated conclusory allegations contained in the Auditor General's report. The first example of a misleading statement is that: "[b]y not issuing warnings, orders and penalties, Labor & Industry..." As a point in fact, the Department [of Labor & Industry] issued over 2000 warning letters from 2004 through 2009 and has collected in excess of \$104,000 in penalties from individuals and businesses found to be in violation of the Act.

Although the Auditor General possessed the information as part of the audit, in an attempt to support the conclusion – "Labor & Industry increases the likelihood that violations of the act will occur...which jeopardizes...health and safety" – the report is silent on the 2009 Department [of Labor & Industry's] efforts that collected over \$50,000 in fines. Moreover, the conclusion implies that the imposition of penalties and warning letters provides the only incentive for contractors to comply with the Act. To the contrary, excavators and facility owners are liable for repairs to underground facilities and appurtenant damages caused by a violation, which in many cases exceeds the maximum fine the Department [of Labor & Industry] can impose.

In the second example of a misleading statement – "management did not consider its enforcement responsibility to be important with its other responsibilities"- the report is once again silent on the substantial time and resources the Department [of Labor & Industry] invested to improve compliance with the Act. The Department [of Labor & Industry] has conducted nearly 150 education seminars on the Act and has also participated in approximately 30 outreach efforts. Further, the Department [of Labor & Industry] has partnered with two facility owners to provide bilingual training on the law to excavators installing underground facilities. The Department [of Labor & Industry] believes it is critically important to prevent violations all together, by educating contractors on the importance of placing a one-call and using prudent techniques within the tolerance zone of the underground facilities. This approach is validated by a recent Pa. One Call System report indicating that reported damages occurred in approximately 1% of excavations where an initial one call is placed. With respect to the Department [of Labor & Industry's] current enforcement efforts - after resolving legitimate legal concerns on how to efficiently impose fines and ensure the protection of alleged violators' due process rights – they have been publicly recognized by various members of the Pennsylvania One Call System's Board of Directors.

Despite limited resources, the Department [of Labor & Industry] continues to focus on improving the effectiveness of its enforcement activities and shall continue its extensive outreach and education efforts.

Auditors' Conclusions: Labor & Industry's expressed disagreement with our overall finding and its insinuation that our conclusions are nothing more than misleading allegations is indicative of Labor & Industry's failure to acknowledge without a doubt that it must ensure the implementation of measures that adequately address disclosed weaknesses.

As indicated in the finding, we took exception to 20 entities that received three or more warnings in a calendar year totaling 235 warnings, with one entity receiving 32 warnings in one year without being penalized. We consider this condition to be unacceptable.

As also noted in the finding, Labor & Industry issued no penalties in 2005 and 2006 and only issued penalties totaling \$12,400 in calendar years 2007 and 2008. According to the Commonwealth's accounting records, Labor & Industry collected approximately \$51,500 of PA One Call penalties in 2009, for a cumulative total of \$63,900 as of December 31, 2009. As such, the \$104,000 that Labor & Industry claims to have collected through 2009 has not been verified or audited. In addition, the fact that excavators and facility owners are held liable for repairs to underground utility lines caused by a violation does not relieve Labor & Industry of its responsibility to issue penalties when warranted.

As for Labor & Industry's representations concerning taking its enforcement responsibility seriously, our test work found that management uses a decentralized approach to administer the enforcement of the law without adequate oversight controls. Management has not issued written policies and procedures on how the enforcement program is to be administered. Additionally, management stated that it relies on the work of Labor & Industry investigators located throughout the state to adequately investigate an incident, maintain documentation to support the investigation activities, and properly conclude on the investigation. Failing to develop and implement oversight controls to ensure that investigations are completed, violators are held accountable, and incident statistics provided to internal and external parties are accurate indicates that management did not consider its enforcement responsibility to be important within the context of Labor & Industry's other responsibilities. This lax environment and failure to hold law violators accountable for their actions jeopardizes public health and safety.

Based on Labor & Industry's response, the finding and recommendations remain as previously stated.

Incidents not being investigated and case files incomplete

Labor & Industry's Response: The Department [of Labor & Industry] takes exception with the Auditor General's characterizations that investigators are not performing their duties. More than 1,400 Underground Utility Line Protection Act Investigations occurred in 2009.

While taking exception to the assertion investigations may not have been properly completed, the Department [of Labor & Industry] acknowledges the importance of maintaining documentation that supports investigatory conclusions, and recognizes the need to provide retraining to investigators on the importance of creating and maintaining that documentation.

With respect to the cases cited by the report as not having supervisory review or which failed to contain evidence documenting the conclusion, the Department [of Labor & Industry] would point out that those cases in which a warning letter or fine were issued have been subject to central office review since 2007. While the Department [of Labor & Industry] will continue that practice with respect to incidents in which an action is taken, the Department [of Labor & Industry] has implemented, statewide, practices currently in place in certain regional offices which require supervisory review and sign off prior to case closure and will implement practices requiring reports on cases open longer than 60 days.

In addition, based upon procedures established with the Pa. One Call System, the central office will remain responsible for determining whether a call was properly placed.

In response to the Auditor General's findings concerning files that were not produced, some were beyond the Department [of Labor & Industry's] record retention schedule. To ensure the records can be readily accessed, closed files will be retained in the district offices in accordance with the Department [of Labor & Industry's] record retention schedule.

The Department [of Labor & Industry] also notes that investigators responsible for the Underground Utility Line Protection Act are also responsible for enforcing 11 other laws. No additional funding was provided for enforcement of this Act and the Department [of Labor & Industry] has endured continued budget cuts. Therefore, the Department [of Labor & Industry] has less personnel to enforce 12 laws. Additional resources and personnel would ensure better enforcement of this and other statutes.

Auditors' Conclusions: Despite Labor & Industry taking exception with our description of incidents not being investigated and case files not being complete, the evidence provided by management for the audit period allows us to stand firmly by our conclusion. With respect to Labor & Industry's representation that more than 1,400 investigations occurred in 2009, this was subsequent to the audit period and was not verified during this audit. Therefore, it has no relevance to the finding. As discussed in the finding, of the more than 4,350 incidents reported to Labor & Industry between January 2005 and June 2008, we selected 91 incidents and requested the corresponding case files. According to Labor & Industry management, the case files are maintained by the investigators. Of the 91 case files requested, 13 were never provided by Labor & Industry. Management could not explain why these files were missing. Of the 78 case files provided, we tested 49 cases that were considered closed and noted significant deficiencies.

As for the representations that Labor & Industry has implemented statewide practices in "certain" regional offices as well as other additional procedures noted, these procedures were not provided to us as of November 2009 when we asked management for any new procedures that have been implemented. As such, we have not verified the existence or functioning of these procedures.

Based on Labor & Industry's response, the finding and recommendations remain as previously stated.

Untimely completion of case files

Labor & Industry's Response: The Department [of Labor & Industry] disagrees with the Auditor General's recommendation that cases should be completed within established time frames and with the assessment that it takes a hands-off approach. Each case presents its own unique set of circumstances and challenges. The Department [of Labor & Industry] must gather documentation from the parties involved, as well as third parties such as damage reports from utilities - fines are contingent upon the existence and extent of damage - and in some cases police and fire department reports. Given the nature of the case, some investigations will be more complex and take more time than others.

Moreover, the Department [of Labor & Industry] simply does not have sufficient personnel to solely dedicate to enforcement and review of One Call cases. As with the Underground Utility Protection Line Law and one more recently enacted law in which the Department [of Labor & Industry] has been charged with enforcement, there were no accompanying appropriations for additional personnel. Therefore, those cases are handled by personnel in conjunction with their other existing responsibilities. Thus, the Department [of Labor & Industry] continually looks for ways to improve efficiencies.

Nonetheless, based upon review of some the cases the Department [of Labor & Industry] concedes that there may be a need to increase oversight over opened cases to ensure timely completion. Under a policy implemented by the previous director in 2005, all investigators were notified when cases were opened longer than 60 days and they were expected to provide their supervisors with the reasons it remained open and the expected completion date. This policy will be re-implemented and monitored to ensure consistent application.

Auditors' Conclusions: Labor & Industry's disagreement and roundabout dismissal of our finding relevant to its untimely completion of case files only heightens our concern that the health and safety of the public is potentially not the uppermost priority of management. Supporting the aforementioned concern, our auditors sampled 78 case files opened by Labor & Industry and determined that Labor & Industry did not properly address or resolve these case files in a timely manner.

Based on Labor & Industry's response, the finding and recommendations remain as previously stated.

Inconsistently issuing administrative penalties to entities for failing to make a one-call

Labor & Industry's Response: With respect to the absence of fines in 2005 and 2006, the Auditor General's report misconstrues management's response. In reference to the absence of authority to impose fines, management was referring to the Department [of Labor & Industry] itself, not the law. During that time period the Department [of Labor & Industry] was working to create an efficient method to impose and collect fines that ensured the due process rights of alleged violators were protected. The Department [of Labor & Industry] notes that it did collect \$41,000 in 2006 for two major incidents, but concedes that it did not provide this information to the Auditor General.

Additionally, in 2009, the Department [of Labor & Industry] collected over \$50,000 for a variety of violations including, failure to use prudent techniques, failure to properly mark the location of an underground facility and failure to respond to a request to mark the location of underground facilities; as well as failure to make a one call.

In referencing cases in which a One Call was not placed and monetary fines were not issued, the Auditor General's report fails to acknowledge the discretionary nature of the Department [of Labor & Industry's] authority. Section 7.2(c.1) of the act provides the Department [of Labor & Industry] with the authority to issue warnings and orders requiring compliance with the Act. It further provides that the Department [of Labor & Industry] *may* levy administrative penalties for violations of the Act. Thus, the Department [of Labor & Industry] has the discretion to determine whether a fine is the appropriate penalty in a particular case.

The Department [of Labor & Industry] considers several factors in determining whether to issue a warning letter in lieu of fines and the amount of fines on a case-by-case basis. If an individual or entity failed to make the one-call, the Department [of Labor & Industry] will consider whether it is a first violation, the individual's knowledge regarding the requirement to make the call and the extent of damages. For example, if a prime contractor places a one call and has the underground utilities marked, a subcontractor performing the excavation on the same site is also required to place a one call, a technical requirement of which, some subcontractors may be unaware. In addition, the Act premises administrative fines on damages; consequently, the failure to place a One Call will not be subject to an administrative fine if no damage has occurred.

The Department [of Labor & Industry] believes that safety starts with the one call itself. Accordingly, the Department [of Labor & Industry] believes education is vital to preventing the recurrence of incidents involving underground lines. As noted earlier, a recent PA One Call Systems report, for the period from 2001 to 2008, indicated that when an initial one call is placed, reported damages occurred in only approximately 1% of excavations. Thus, rather than levying a minimal fine, the Department [of Labor & Industry] may choose to issue a warning as a method to educate the excavator.

The Department [of Labor & Industry] acknowledges that case files should contain documentation explaining why a particular course of action was chosen. Accordingly, the Department [of Labor & Industry], in providing additional training to its investigators, will instruct them to include the documentation.

Auditors' Conclusions: Labor & Industry had ample time throughout the audit period to clarify any perceived misunderstandings before the release of the report. Moreover, it is incumbent upon Labor & Industry to ensure that our auditors received all information requested relevant to the audit period.

We believe that an excavator's failure to make a one-call places public safety at risk and should result in a penalty being issued by Labor & Industry. As noted in the finding, there were only 20 penalties issued from 2005 through 2008.

Labor & Industry management must be consistent when issuing penalties to violators. Holding violators accountable reduces the risk that the entities would continue to violate the law. This is especially important when these violations may jeopardize public safety.

With regard to the \$41,000 of fines that Labor & Industry now claims to have collected in 2006, this assertion has not been verified or audited.

Based on Labor & Industry's response, the finding and recommendations remain as previously stated.

Failing to issue administrative penalties to entities receiving three or more warnings in a calendar year

Labor & Industry's Response: The Department [of Labor & Industry] takes issue with the Auditor General's characterization of the Department [of Labor & Industry's] response. While it is true, that the Department [of Labor & Industry] has not in the past pursued administrative penalties for those entities receiving 3 or more warnings in a calendar year, the Department [of Labor & Industry] did not state that this was due to lack of accountability in place to track or identify entities that received three or more in a calendar year.

The Department [of Labor & Industry] was advised by its former Chief Counsel that pursuit of penalties for three or more warnings was not feasible, because it would open the door for an individual or entity to challenge each individual warning, resulting in a higher number of hearings and a greater burden on resources. Section 7.2(c.2)(2) provides that any person or entity receiving three or more warnings in a calendar year may only be subject to an administrative penalty not to exceed five hundred dollars (\$500). Accordingly, given the time and resources it takes to pursue fines, reductions in staff, increased job responsibilities and the economic environment, staff concentrated on pursuing fines for primary violations.

Due to processes developed and approved by the Department [of Labor & Industry's] Executive Deputy Secretary and current Chief Counsel, the Department [of Labor & Industry] is now able to cost effectively issue and collect fines while affording due process rights, as demonstrated by the fines – in excess of \$50,000 imposed in 2009. The Department [of Labor & Industry] will begin issuing administrative fines utilizing the current process to entities that receive three or more warnings in a calendar year as recommended by the Auditor General.

With respect to several entities receiving an excessive number of warnings, the Department [of Labor & Industry] through its compliance efforts, has sought to proactively address the problem. Most of the multiple offenders were contracted by one company for expansion of their underground facilities throughout Pennsylvania. Department [of Labor & Industry] representatives met with officials from that company to develop and implement a plan that would reduce the number of hits to other underground facilities and protect the public. As a result, the Department [of Labor & Industry] participated in, with representatives from a utility company, statewide and regional meetings with the company's excavators, and kick-off meetings prior to the commencement of excavation to educate the excavators on the Act's requirements and the necessity of using reasonably prudent techniques. Those kick-off and monthly meetings continue to this date.

Auditors' Conclusions: While Labor & Industry may object to our representation of the evidence, nevertheless, in a November 2009 meeting with the auditors, Labor & Industry management indicated that no mechanism was in place to track or identify entities that received multiple warnings in a calendar year. Management further stated that, in order to identify such violators, Labor & Industry would have to manually compile this information from its accounting system.

Based on the Labor & Industry's response, the finding and recommendations remain as previously stated.

Inaccurate tracking system records can lead to inaccurate reporting being provided to external and internal decision makers

Labor & Industry's Response: Initially, it must be noted that the Department [of Labor & Industry] does take its enforcement responsibilities seriously as demonstrated throughout this response document. During the initial design and development of the Bureau's computer system, it was responsible for enforcing 10 other laws. Prior to final implementation of the system, the Bureau was assigned enforcement of the Underground Utility Line Protection Law. Unfortunately, due to the program's limitations and concomitant budget constraints, the Department [of Labor & Industry] was unable to create and implement an effective tracking and reporting system for one-call cases. Therefore, at the request of the Director in 2004, staff created a separate excel spreadsheet for tracking purposes. Unfortunately, such a method requires staff to reenter data submitted on the system. Although time intensive, the creation of the separate system to track matters and generate reports underscores the Department [of Labor & Industry's] ingenuity and resourcefulness to solve a problem and to ensure that tracking is accomplished. The Department [Labor & Industry] is cognizant of the shortcomings in this tracking system and staff has been working with the Department [of Labor & Industry's] Information Technology Office to create a more sophisticated and accurate tracking system.

Nonetheless, the Department [of Labor & Industry] acknowledges that the spreadsheet did contain multiple errors. Thus, the Department [of Labor & Industry] will heed the Auditor General's recommendation for supervisory monitoring and oversight controls to ensure that information is accurately inputted and updated. However, it must be noted that the primary purpose of the spreadsheet is for internal case tracking and management.

With respect to the Auditor General's statements that users of those reports will make inaccurate decisions, the Department [of Labor & Industry] has only provided summarized data for informational purposes on a quarterly basis to the PA One Call System Board members.

Auditors' Conclusions: Labor & Industry management must do more than refer to the seriousness that it gives to its enforcement of laws and regulations. Without an accurate system in place to track the current status of investigation cases, we question Labor & Industry's ability to properly oversee, manage, and monitor these cases. As noted in the finding, we found that the tracking system records lacked management oversight and monitoring to ensure that the records are adequate. This conclusion was corroborated by the data-entry person, who indicated that he periodically looks for updated information, but admitted, during an interview in December 2009, that at any one time the information in the tracking system records is not 100 percent accurate. As a result, the reports generated by these tracking records will be inaccurate and the users of these reports may make inaccurate decisions. Furthermore, these administrative weaknesses and other concerns indicate that Labor & Industry is not taking seriously its enforcement responsibilities over this program and the adverse impact that it may have on the safety of citizens.

Based on the Labor & Industry's response, the finding and recommendations remain as previously stated.

Identification of violators needs improved

Labor & Industry's Response: The Department [of Labor & Industry] strongly disagrees with the Auditor General's assertion that the Department [of Labor & Industry's] proactive efforts to enforce the Act are limited to periodically requesting damage log information from the PA One Call System. Initially, as a point of clarification, sections 2 and 4 of the Act only requires facility owners and excavators to report incidents that result in personal injury or property damage to parties other than the affected excavator or facility owner. The majority of fines issued in 2009 were from incidents voluntarily reported by utilities-not incidents subject to mandatory reporting. Those submissions were facilitated through the Department [of Labor & Industry's] quarterly participation on the PA One Call System's compliance task force subcommittee. In fact, the Department [of Labor & Industry] has made it clear in many forums that it will accept and investigate any incident submitted to it. The incident report is easily accessible and can be submitted online through the Department [of Labor & Industry's] website. The Department [of Labor & Industry] also receives and investigates notices of violation from the Pennsylvania Emergency Management Agency and other entities.

The Auditor General's language choice implies that the Department [of Labor & Industry] "sometimes" receives the damage log report from the PA One Call System. In fact, this report has been provided to the Department [of Labor & Industry] on a quarterly basis since 2005. When the report is received, the Department [of Labor & Industry] cross-references the reports to determine if any incidents were reported through other sources. If an incident is unreported, a request for information is sent to individuals or entities listed on the damage report to ascertain whether a violation may have occurred. Since 2007, the BLLC has sent out, on average, 2,800 letters per year in response to the quarterly damage log report from PA One Call.

Additionally, the Auditor General's report fails to mention the Department [of Labor & Industry's] proactive efforts to help prevent incidents from occurring in the first place. The Department [of Labor & Industry] provided the Auditor General with information relating to its extensive compliance efforts. In cooperation with PA One Call, the Department [of Labor & Industry] has conducted nearly 150 education seminars on the Act and has also participated in approximately 30 outreach efforts. Further, the Department [of Labor & Industry] has partnered with the facility owners to provide bilingual training on the law to excavators installing underground facilities. This partnership significantly decreased the number of hits related to the project. Furthermore, there have been instances where Departmental personnel, during personal time, noticed potential violations in progress and stopped the excavation. Department [of Labor & Industry] personnel also serve on the Pa. One Call System's compliance task force and prevention of recurrence of incidents subcommittees.

The Department [of Labor & Industry] intends to continue it's [sic] educational and outreach efforts. Unfortunately, the type of incidents the law is designed to prevent, while generally foreseeable, are not predictable. Thus, it is impossible for the Department [of Labor & Industry] or any other entity to entirely prevent recurrences in the future.

Auditors' Conclusions: Labor & Industry's disagreement with the need to be proactive in improving the identification of violators further demonstrates management's detachment from the recognition of the importance of minimizing potential risks to the health and safety of the public. Labor & Industry's response states, "[I]t is impossible for the Department [of Labor & Industry] or any other entity to entirely prevent recurrences in the future." As such, violations will continue to occur. As a result, it is important for Labor & Industry to proactively identify potential violations as soon as possible. Therefore, we recommended that Labor & Industry request damage logs from PA One Call on a more frequent basis. However, based on Labor & Industry's response to Recommendation 8, management believes that obtaining damage logs quarterly is sufficient.

Based on Labor & Industry's response, the finding and recommendations remain as previously stated.

The following is Labor & Industry's responses to our nine recommendations.

Audit Recommendation #1

Provide proactive leadership and develop appropriate policies and procedures to the investigators to ensure that they are effectively performing and documenting incident investigations and their conclusions. This would include documentation ensuring that the investigator validated through PA One Call as to whether or not a one-call was made.

Labor & Industry's Response: The Department [of Labor & Industry] agrees with this recommendation in part. Processes will only improve with continued proactive leadership and appropriate policies and procedures. However, in cases where the placement of the one-call is at issue, the Department does, in fact, validate whether this occurred. The Department [of Labor & Industry] and the Pa. One Call System jointly developed a process for requesting and receiving the information. The process in place is effective and efficient, and the Department [of Labor & Industry] will continue to utilize it.

Auditors' Conclusions: Labor & Industry asserts that a process is in place and is effective. We disagree. As stated in the finding, we found that 20 of 78 case files did not contain evidence that the department verified if a one-call was made prior to excavation. Therefore, the department should review its current process and re-evaluate its operational effectiveness.

Audit Recommendation #2

Require supervisors to review and approve all case files prior to recording the incident as closed in the tracking records.

Labor & Industry's Response: Agree. This process is already in place in some field offices and has proved to be very effective. Consequently, the Department [of Labor & Industry] has expanded the process to the other field offices.

Auditors' Conclusions: According to Labor & Industry, the implementation of these procedures occurred after our audit period and, as such, the functioning and effectiveness of these procedures were not verified or audited.

Audit Recommendation #3

Require case files to be maintained in a centralized location and ensure proper accountability.

Labor & Industry's Response: All closed files will be maintained, in accordance with the Department [of Labor & Industry's] record retention schedule, in the district office in which the investigator works.

Auditors' Conclusions: We disagree with management's response to this recommendation. We believe a more consistent level of control over the files would be achieved if the closed files were maintained in a central location, such as the Harrisburg headquarters. As stated in the finding, because there are no written operating procedures for the district offices to follow, allowing them to maintain their files locally will likely lead to inconsistencies among the district offices.

Audit Recommendation #4

Establish time frames in which incident investigations are concluded and case files are closed.

Labor & Industry's Response: As stated in its response, the Department [of Labor & Industry] does not believe cases should be completed in established time frames. However, the Department [of Labor & Industry] is agreeable to enacting procedures that require investigators to justify why a case has been opened longer than 60-days. This will ensure that case investigations are actively progressing.

Auditors' Conclusions: We disagree with management's response that it is not necessary to establish time frames. We hope Labor & Industry implements a system to identify cases open longer than 60 days.

Audit Recommendation #5

Monitor the status of open incident cases to ensure that they are completed within established time frames.

Labor & Industry's Response: As stated above, the Department [of Labor & Industry] does agree that open incident cases must be subject to periodic supervisory monitoring to ensure that the case investigations are actively progressing and come to timely conclusions.

Auditors' Conclusions: As noted above, we disagree with management's response and hope that management implements a monitoring system to effectively track open cases in a timely manner.

Audit Recommendation #6

Enforce its authority for issuing penalties to entities that violate the law on a consistent basis and issuing penalties to entities that receive three or more warnings in a calendar year.

Labor & Industry's Response: As stated [previously], there is no evidence to suggest that penalties are not issued on a consistent basis; and the Department [of Labor & Industry] continues to issue and collect penalties from individuals and entities, which violate the Act. The Department [of Labor & Industry] does agree that it will commence issuing penalties to entities that receive three or more warnings in a calendar year.

Auditors' Conclusions: We disagree with management's response that Labor & Industry issues penalties on a consistent basis.

Audit Recommendation #7

Develop policies and procedures with respect to what information is to be entered into the tracking system records, when the information should be entered, and how often the data-entry person reviews for updates to the tracking records to ensure accuracy;

Labor & Industry's Response: The Department [of Labor & Industry] agrees that policies and procedures will be developed to ensure that the tracking system records are accurately inputted and updated.

Auditors' Conclusions: We are hopeful that Labor & Industry will develop policies and procedures in order to ensure that information entered into its tracking system for incident reports is accurately inputted and updated.

Audit Recommendation #8

Request damage logs from PA One Call on a more frequent basis, such as monthly, to allow Labor & Industry to identify violators and to ensure incidents are timely and effectively investigated and concluded; and

Labor & Industry's Response: The Department [of Labor & Industry] receives the damage log on a quarterly basis and believes that this is sufficient to identify violators and investigate incidents.

Auditors' Conclusions: We disagree with Labor & Industry and reiterate that damage log information from PA One Call should be obtained more frequently than quarterly.

Audit Recommendation #9

Be more proactive in identifying one-call incidents and violations for the law by working closely with PA One Call management and other parties.

Labor & Industry's Response: Despite the fact that the act only mandates that certain matters be reported, the Department [of Labor & Industry] has in the past and continues to work with PA One Call system and other parties to identify one-call incidents.

Auditors' Conclusions: We are hopeful that Labor & Industry pursues potential unreported violations of the law with PA One Call.

*Department of Labor & Industry
Enforcement of Underground Utility Line Protection Law (PA One Call)*

*Pennsylvania Department of the Auditor General
Jack Wagner, Auditor General
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Distribution List

The Honorable Edward G. Rendell
Governor
Commonwealth of Pennsylvania
Harrisburg, PA 17120

The Honorable Sandi Vito (3)
Secretary
Department of Labor and Industry
1700 Labor and Industry Building
Harrisburg, PA 17121

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State Treasurer
129 Finance Building
Harrisburg, PA 17120

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Legislative Budget and Finance Committee
400 Finance Building
Harrisburg, PA 17120

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Inspector General
Executive House
101 South Second Street, 3rd Floor
Harrisburg, PA 17101

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State Library of Pennsylvania
Serials Records Section
218 Forum Building
Harrisburg, PA 17120

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Bureau of Audits
Office of the Budget
8th Floor, Forum Place
Harrisburg, PA 17101

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