



Washington State Department of  
Labor & Industries

# **Partnering to Prevent Fraud and Abuse in the Workers' Compensation System (RCW 51.04.153)**

*2013 Annual Report to the Legislature*

# Table of Contents

---

<b>Executive Summary describing the Department of Labor &amp; Industries’ role and efforts in preventing fraud .....</b>	<b>2</b>
Accountability, Fairness and Integrity .....	2
Why We Do What We Do .....	2
<b>Key Findings.....</b>	<b>5</b>
Important Results .....	5
<b>Education.....</b>	<b>6</b>
Media Campaigns .....	6
SuspectFraud.com .....	6
ProtectMyHome.net .....	6
Media Coverage of Fraud Issues .....	7
Social Media - Nailed .....	9
New Employer Reviews .....	9
Construction Contractor Education and Outreach .....	11
Employer Services Outreach.....	11
Industries More Likely to Use Independent Contractors .....	13
First Quarter Report .....	14
Guide to Hiring Independent Contractors.....	14
<b>Enforcement .....</b>	<b>15</b>
Types of Investigation .....	16
Worker Fraud .....	16
Benefit Recovery.....	16
Provider Fraud.....	17
Provider Review.....	18
Employer Fraud.....	18
Unregistered Employers.....	19
Contract Release.....	20
Facing the Music (Fighting Employer Fraud) .....	21
Contractor Compliance in Construction.....	22

Right Place Right Time .....	24
Contractor Compliance Detection Unit.....	24
Electrical Compliance.....	25
<b>Partnerships .....</b>	<b>26</b>
Improving Value for Our Customers.....	26
Fraud Abuse and Detection.....	26
Targeting Employer Fraud and Misreporting.....	27
Cross-agency Collaboration.....	27
Targeting Claimant Fraud and Abuse .....	28
Targeting Provider Fraud .....	28
Data Sharing Efforts .....	28
Collections.....	29
Dollars Collected .....	29
Employer Assistance Program.....	29
<b>Conclusion.....</b>	<b>31</b>
Completed Initiatives .....	31
Upcoming Initiatives .....	32
How to Report Fraud.....	33
Glossary of Terms.....	34

# Executive Summary

---

The work of fighting fraud in the workers' compensation system is made up of three essential functions: Education, Enforcement and Partnerships. Education is the first line defense that arms consumers with knowledge and teaches employers the rules with which to operate. Enforcement is necessary for those players who seek to intentionally subvert the system for their own gains. Partnerships are the vital link that unites all work done by a diverse multitude of work groups.

## ACCOUNTABILITY, FAIRNESS AND INTEGRITY

The Department of Labor and Industries (L&I) is committed to preventing fraud and enforcing compliance. Rooting out abuse of the workers' compensation system helps protect the economic health of Washington State. Preventing fraud protects investments and jobs.

- Fraud shifts costs from cheaters to honest premium payers.
- Cheaters gain a competitive advantage over honest players.
- Individual workers pay for about one quarter of the total cost of their insurance. Dishonest workers not only cheat the system, but also their coworkers.
- Corrupt health care providers drive up costs. Expenses are passed on to rate-paying employers and workers.

Fighting fraud is about fairness and accountability.

- Fairness – because honest people shoulder the burden when cheaters get away with it.
- Accountability – because cheaters use other people's money – yours and mine – to commit the crime.

## WHY WE DO WHAT WE DO

All over Washington State, employers and employees work hard to create and grow successful businesses. Contractors are building homes. Programmers are writing software. Farmers are harvesting crops. Regardless of the field of business, they all play an important part of the state economy and when one of their workers is injured on the job, the Washington State workers' compensation system supports both the worker and employer. L&I manages the “no-fault” insurance system providing benefits to people suffering a work-related injury and protecting their employers from tort claims for those injuries. It's a system with more than 100 years of tradition that both employers and workers pay into and have a stake in keeping secure.

Some bad actors view the workers' compensation system as a potential paycheck, and seek to abuse it. Others undermine their business competition by avoiding their workers' compensation obligations.

Intentionally cheating the system is fraud and can occur in a variety of ways. For example:

- The worker receiving benefits when no longer injured.
- The employer classifying his construction crew as office workers.
- The physical therapist billing for appointments that never happened.
- The window installer being paid under the table in cash.

When people willfully misrepresent themselves for profit or for an advantage over competitors, they are committing fraud.

Fraud increases workers' compensation costs for businesses and employees. It puts honest employers at a competitive disadvantage.

### **L&I actively pursues cheaters**

L&I reviews every tip reporting potential fraud. Investigators work to build a case. Auditors determine how much money is owed. Revenue agents work to collect it. The worst cases end up in court, where those accused of fraud can face criminal charges.

Fraud prevention program staff understand that not all infractions are deliberate. Determining the cause of misreporting or errors is an important part of fighting fraud.

By definition, fraud is a deliberate action, but many compliance issues are simply mistakes. L&I separates the confused from the cheaters, and uses education and outreach to reduce reporting errors for those business owners who made an honest mistake.

Most of us want to follow the rules. L&I strives for rules that are easy to understand and follow. Reducing the amount of unintentional errors allows the department to focus on the cheaters.

Fighting fraud is a big job requiring teamwork between many work groups. The Fraud Prevention and Labor Standards (FPLS) division leads these efforts. Other units at L&I provide support and information to the frontline fraud-fighting units. L&I also works with the state Employment Security Department (ESD) and the state Department of Revenue (DOR) to combat unregistered contractors in the Underground Economy. The Attorney General's Office has two attorneys devoted to prosecuting L&I fraud cases.

L&I takes fraud very seriously.

## **WHAT IS WORKERS' COMPENSATION?**

---

Workers' compensation is a form of insurance. The 162,000 employers in the program share risk by paying premiums to fund the system. Employers pay L&I a premium based on the risk associated with the type of work their employees perform. This is referred to as the "risk class." The rate is adjusted based on the number of injuries their employees report and the number of work hours reported. This is referred to as the employers' "experience factor." Hazardous work activities with a higher risk of injury require a higher premium rate. Companies that experience more injuries will also pay a higher rate.

## **OF NOTE: FISCAL YEARS**

---

For the purposes of this report all years displayed are fiscal years. Washington State government defines a fiscal year as the period from July 1 through June 30.

# Key Findings

In 2013, L&I’s Fraud Prevention and Compliance program continued to make employers, workers and providers think twice about committing fraud. L&I effectively used systematic and innovative approaches to detect and deter fraud and abuse.

## IMPORTANT RESULTS

L&I’s fraud-fighting activities produced substantial results, including:

- Set a new assessment record. Assessed \$28.8 million in unpaid employer premiums plus penalties.
- Audited 1,072 unregistered employers.
- Completed 4,554 investigations.
- Identified over \$5 million in health care provider overpayments.
- Collected \$157.3 million in delinquent premiums.
- Reviewed 3,512 public works contracts worth \$4.1 billion to ensure workers’ compensation premiums were paid.
- Improved audit selection; 82% of employers audited owed debts to L&I.

Table 1 Full Time Equivalents (FTEs) dedicated to combatting fraud	
Program	FTEs
Detection Tracking and Outreach	12
Contractor Compliance	37
Field Audit	79
Investigations	65
Collections	84
Firm Appeals	10
Administrative	3
Provider Review	19
Significant Cases	2
<b>Total</b>	<b>311</b>
Source: Fraud Prevention and Labor Standards	

### RETURN ON INVESTMENT

For every dollar spent fighting fraud in 2013, L&I returned \$9.20. This was 10 cents lower than the previous year due to a slight decrease in delinquent premium collections.

Return on investment compares the division’s operating costs to the money recovered, collected and expenses avoided during the year. Operating costs include salaries, benefits and capital outlays.

Preventing fraud is a good investment.

# Education

---

Outreach and education play a vital role in preventing fraud. L&I has a variety of customers, so its outreach strategy uses a variety of communication methods. Each message is targeted at a specific audience.

- Mass media reaches homeowners and the general public.
- Educational audits help new businesses learn the rules.
- L&I staff appearances and presentations at trade events are directed at stakeholder groups.

Raising awareness about fraud ultimately plays a large role in stopping it.

L&I wants businesses and the public to be successful. Rules should be easy for employers to understand and follow. Education efforts for employers help prevent administrative and financial headaches for them. The public should know what to look out for and how to report fraud. L&I uses a variety of outreach methods to teach the public how to protect themselves from unregistered contractors and how to keep a watchful eye out for cheaters.

Stakeholders should be aware of what L&I is doing to protect them. Cheaters need to know L&I will find them.

## MEDIA CAMPAIGNS

### **SuspectFraud.com**

For the third year, L&I ran a legislatively mandated ad campaign about fraud from January through March 2013. Designed to help combat the Underground Economy, the campaign featured a radio ad and banner ads on several websites. It focused on provider and injured worker fraud. The ads encouraged people to report fraud when they spotted it. Advertisements directed people to visit [www.SuspectFraud.com](http://www.SuspectFraud.com) a website developed by the DOR. The site is a one-stop shop for the various types of fraud faced by L&I, DOR and the ESD. On the site, people can learn about fraud as well as how to report it.

### **ProtectMyHome.net**

All too often, the evening news features a story of homeowners falling victim to unregistered contractors performing shoddy work and running off with the money. Education is one of the most successful tools to prevent such a scenario. This year L&I gave homeowners a new tool to add to their tool box, ProtectMyHome.net.

ProtectMyHome.net is a comprehensive website that educates homeowners on hiring a contractor. It includes how-to advice, checklists and other tools in an easy-to-navigate modern interface. From basement remodels to roof repairs, homeowners can equip themselves with the information they need to hire a registered contractor. Additionally, the site includes information on contractor scams and tools for reporting contractor problems and fraud.



The site launched on Feb. 14 with a consumer-focused cable, radio and web campaign. The advertisements featured HGTV's Mike Holmes (Holmes on Homes) as a spokesperson. Holmes donated his time for the advertisements. During the media campaign, the site received almost 10,000 visits. Visitors stayed on the site longer and viewed more pages than the industry average. L&I is excited about this new opportunity to educate consumers on the importance of hiring reputable registered contractors and the impact it can have on fighting the Underground Economy.

## MEDIA COVERAGE OF FRAUD ISSUES

L&I works with the media to publicize fraud prevention and the importance of using registered contractors. Over the course of the year, media outlets around the state have featured stories related to fraud and L&I's efforts to curb abuse. They highlight success stories and provide cautionary tales for consumers about the dangers of using unregistered contractors who work within the Underground Economy.

This is a list of several of those stories – some of them generated by L&I press releases or contacts with the media and others discovered by reporters.

### **State says wage thief is at it again**

- KIRO 7 TV, Dec. 10, 2012
- <http://bit.ly/12jt5qm>

### **L&I's surprise weekend sweep nabs unregistered contractors**

- Wenatchee Business Journal: NCWBusiness.com, Dec. 7, 2012
- <http://bit.ly/1lyf9k1>

### **Mike Holmes talks about L&I's ProtectMyHome**

- The Holmes Spot blog, Feb. 18, 2013
- <http://bit.ly/154dYkJ>

**Investigators: Tacoma couple swindled state out of \$223K**

- KOMO News, Nov. 30, 2012
- <http://bit.ly/16izmTM>

**Language Interpreter Gets Jail Time for Overcharging State**

- Claims Journal, March 25, 2013
- <http://bit.ly/10DOpr9>

**Spokane man accused of stealing \$113,271 in workers' comp**

- The Spokesman-Review, Jan. 14, 2013
- <http://bit.ly/Y6iiB7>

**For defying L&I, Pierce County couple must pay nearly \$23,000**

- The News Tribune, March 7, 2013
- <http://bit.ly/1dmMzzV>

**Jail Time for Man Who Faked Work Injuries to Get Drugs**

- proActive Safety Services Blog, May 15, 2013
- <http://bit.ly/167TCNG>

**Woman faces workers' comp fraud charges**

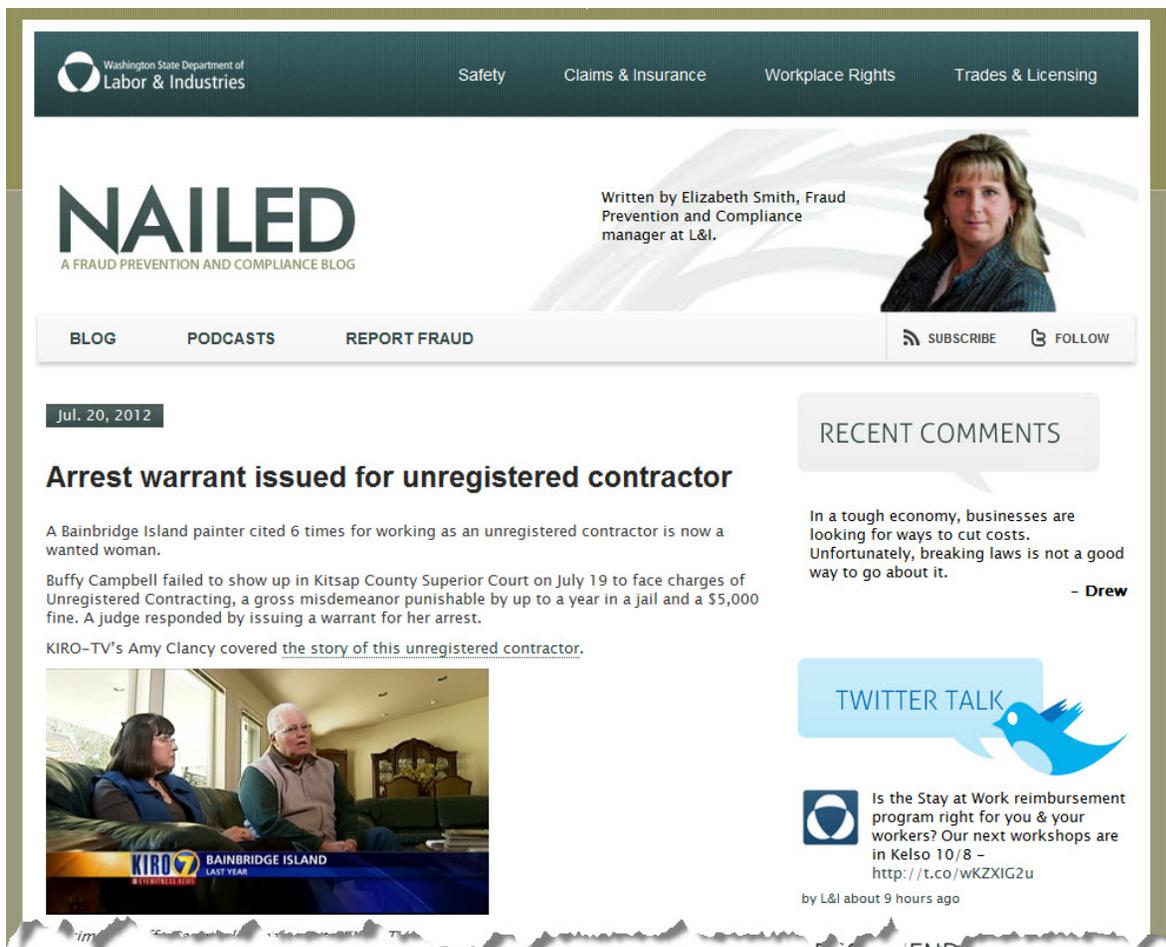
- Business Examiner blog, May 14, 2013
- <http://bit.ly/YVX0Hq>

**Drywall Firm Fined For Underreporting and Prime Contractor Foots the Bill**

- LexisNexis Workers' Comp Newsroom Fraud Team, Nov. 23, 2012
- <http://bit.ly/1gv4153>

## SOCIAL MEDIA – NAILED

Fraud Prevention and Compliance launched the blog, “Nailed,” in August 2010. The blog allows L&I to engage new audiences and take part in new avenues of communication. Each entry is also featured on the agency Twitter account, exposing the blog to a wider audience.



Washington State Department of Labor & Industries

Safety Claims & Insurance Workplace Rights Trades & Licensing

# NAILED

A FRAUD PREVENTION AND COMPLIANCE BLOG

Written by Elizabeth Smith, Fraud Prevention and Compliance manager at L&I.

BLOG PODCASTS REPORT FRAUD

SUBSCRIBE FOLLOW

Jul. 20, 2012

## Arrest warrant issued for unregistered contractor

A Bainbridge Island painter cited 6 times for working as an unregistered contractor is now a wanted woman.

Buffy Campbell failed to show up in Kitsap County Superior Court on July 19 to face charges of Unregistered Contracting, a gross misdemeanor punishable by up to a year in a jail and a \$5,000 fine. A judge responded by issuing a warrant for her arrest.

KIRO-TV's Amy Clancy covered [the story of this unregistered contractor](#).

Is the Stay at Work reimbursement program right for you & your workers? Our next workshops are in Kelso 10/8 – <http://t.co/wKZXIG2u>

by L&I about 9 hours ago

## NEW EMPLOYER REVIEWS

Starting a new business can be daunting. Opening a workers' compensation account is an important task that is often overlooked or confusing. To help business owners, L&I offers New Employer Reviews.

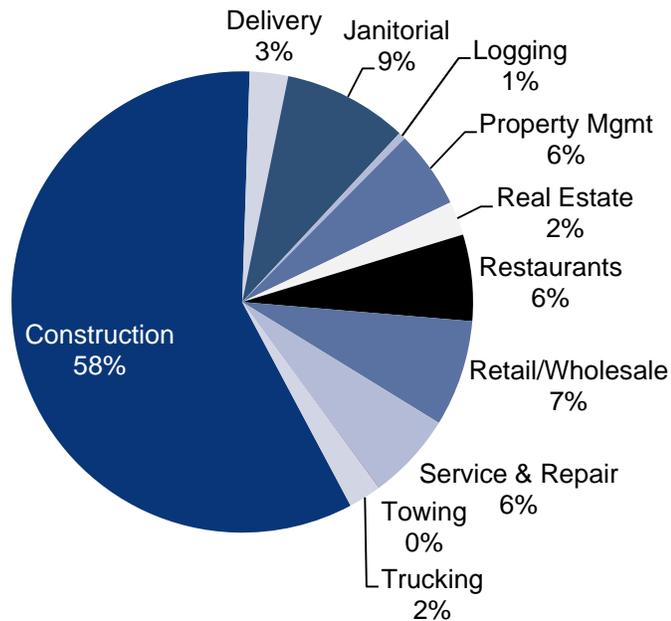
The reviews are an opportunity for businesses to learn the reporting requirements the easy way. L&I offers risk-free instructional audits to businesses that have been in operation for six months. This is designed to teach the new business about reporting and record-keeping rules. The lessons are specific to their industry. Reviews are offered at no cost to the employer and are educational, meaning there is no possibility of penalties or fines.

L&I offers reviews to new employers in the following target industries:

- Construction
- Janitorial
- Trucking
- Landscaping
- Property Management
- Automobile Services
- Restaurants
- Delivery Services
- Real Estate
- Retail and Outside Sales
- Nurseries
- Towing

The program establishes a relationship between the new employer and L&I, connecting individual employers with their point of contact. They can ask L&I questions that many firms have when starting up, and learn the requirements specific to their industry. Ultimately, this avoids long-term misreporting and expensive mistakes.

**Chart 1: New Employer Reviews**



Source: Field Audit

## CONSTRUCTION CONTRACTOR EDUCATION AND OUTREACH

The construction industry is where activity in the Underground Economy activity is most visible. Contractors in the Underground Economy are typically either unregistered or underreporting their workers' compensation responsibilities and avoid paying their fair share of taxes and premiums. Unregistered contractors present a risk to consumers and gain an unfair advantage over competing businesses playing by the rules.

In a later section, this report will describe the enforcement actions L&I takes to crack down on the Underground Economy. L&I educates contractors on laws and rules, helping them to reduce simple reporting errors and allowing L&I to focus on contractors that intentionally subvert the system. L&I makes it easy for contractors to register with step-by-step instructions and explanations of laws and rules online.

L&I partners with the building industry to provide training events such as: Contractor Training Days, "Employer's Introduction to L&I" workshops and specialized training events. This year the department provided eight Contractor Training Days around the state with an estimated 1,300 contractors attending.

**Table 2 Contractor Training Event Results**

Year	Contractor Training Events	Average Contractor Attendance per event	Estimated Contractors Trained
2009	10	130	1,300
2010	8	142	1,100
2011	9	125	1,100
2012	8	130	1,200
2013	8	162	1,300

Source: Detection, Tracking and Outreach

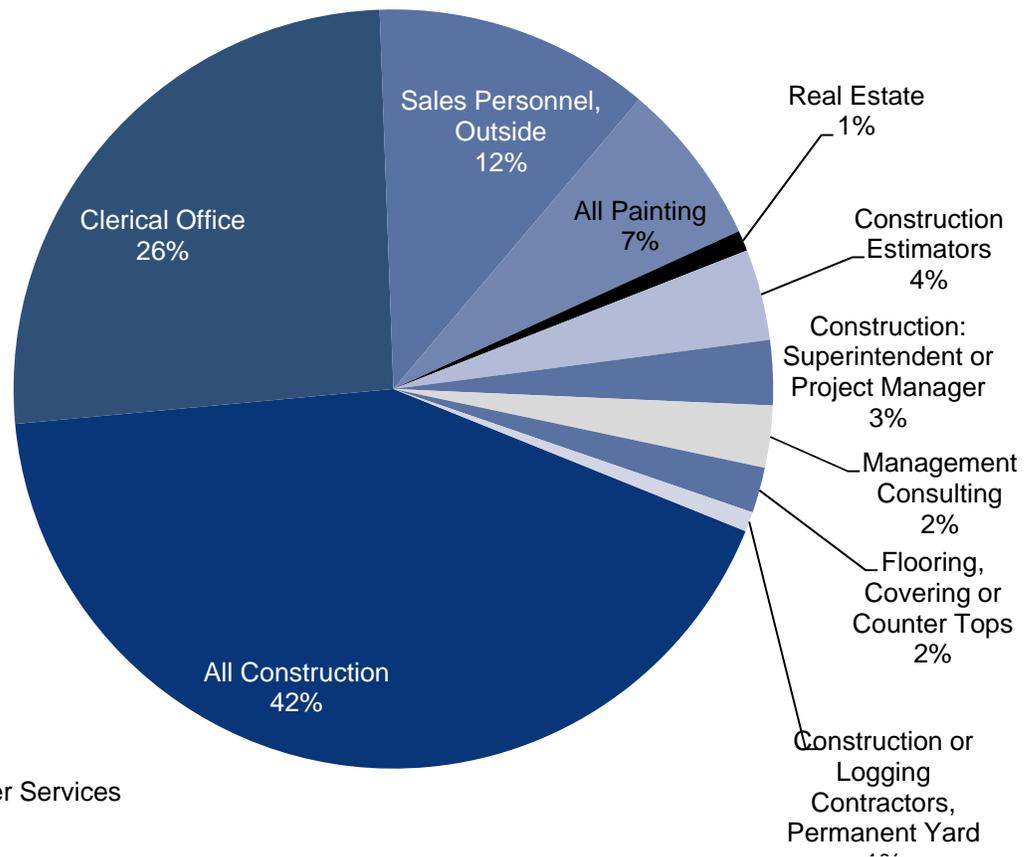
## EMPLOYER SERVICES OUTREACH

The state's Business License Application (BLA) is the first opportunity to educate employers. When an account is opened, Employer Services educates employers on reporting in the correct risk class. This starts employers down the right path. Employers who contract for public works projects receive additional assistance.

These efforts are all part of L&I's proactive approach to prevent reporting errors. On the license application, applicants are asked if they plan to use independent contractors. L&I contacts and provides educational material to every applicant who indicates they plan to hire independent contractors. This year, the department contacted 14,983 business owners and, of those applicants, 1,488 determined they needed to open a workers' compensation account because people they had classified as independent contractors were actually employees.

Additionally, when new employers apply for a business license and indicate they are not hiring employees, Employer Services Outreach contacts them to make sure they understand the independent contractor rules in Washington. Educational materials are provided and the business is offered help to re-file the application and set up an account. This year, L&I contacted 7,561 business owners. Of those applicants, 168 determined they needed to open a workers' compensation account because workers they had classified as independent contractors were actually employees.

**Chart 2: New Businesses Indicating Use of Independent Contractors**



Source: Employer Services

## Industries more likely to use Independent Contractors

Employer Services Outreach uses the information received from the independent contractor box on the license application to select which industries are prone to independent contractor issues. Using this data outreach is given to specific industries.

This year, L&I focused efforts on:

**Table 3 Industry-Focused Outreach Results**

Industry	Businesses Contacted	Increase in Premiums
Management Consultants	3,924	\$91,725
Service and Professional Organizations	3,292	\$9,672
Construction Superintendents and Construction Estimators	5,583	\$76,791

Source: Employer Services

**Table 4 Outreach Publications**

Trade Industry Articles		
Washington Massage Journal	4,500 members	Spring 2013
Washington Restaurant Association	5,000 members	July/August 2013

Source: Employer Services

**Table 5 Outreach Presentations**

Trade Presentations	Attendees
Washington Association of School Administrators	100
HOPELINK	60
Paratransit	50
Contractor Training (8)	120
Farm Contractor Training	25

Source: Employer Services

## First Quarter Report

When new employers don't file their first quarter report, they are not sent directly to collections. Employer Services Outreach contacts them, provides reporting instructions and walks them through the reporting website. Employers appreciate the help because many of them are hiring for the first time and have no knowledge of reporting requirements.

## Guide to Hiring Independent Contractors

This year, Employer Services led a multi-divisional effort to create a better Independent Contractor Guide to help businesses classify their employees correctly. This group effort succeeded in helping external customers understand some very complicated laws about hiring independent contractors.

It also serves to ensure that everyone at L&I gives a clear, consistent and standard message to customers about independent contractors.



# Enforcement

---

The Investigations program consists of several units that examine potential fraud and abuse. Each unit focuses on a specific type of fraud whether it is committed by workers, pensioners, employers or providers. The Investigations program gathers evidence of fraud and issues Administrative Fraud Orders (AFO) to recover money paid on fraudulent benefits.

There are three types of fraud that L&I investigates:

**Worker Fraud:** An individual who lies in order to obtain benefits is committing worker fraud.

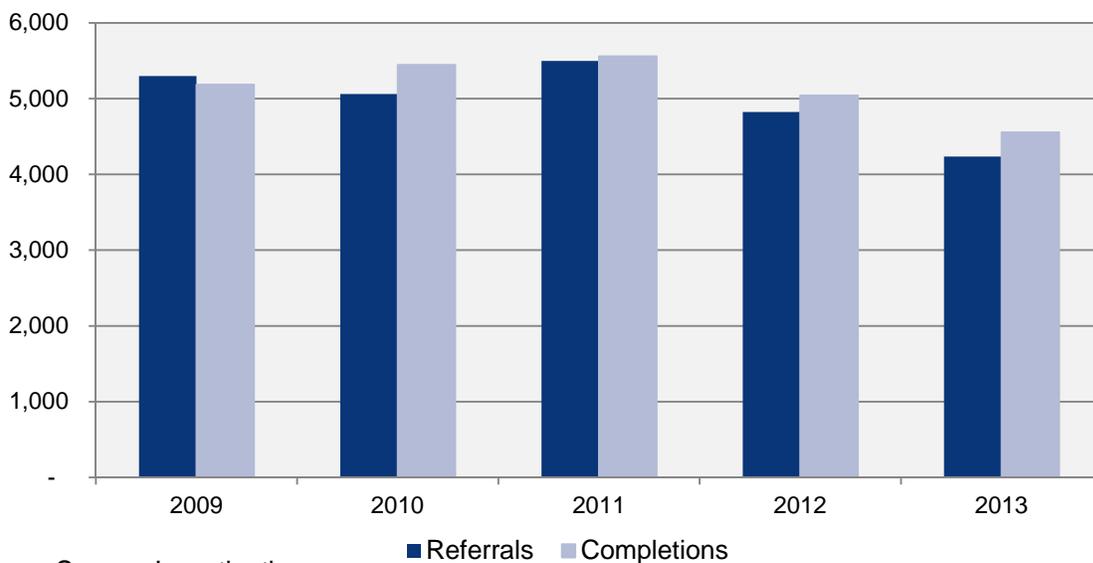
**Employer Fraud:** Employers commit fraud when they intentionally report employees as a lower risk class or underreport worker hours. Participants in the Underground Economy are also committing employer fraud.

**Provider Fraud:** Providers commit fraud when they charge for fictional services or inflate rates.

The duties of the Investigations program go beyond fraud. L&I also looks into Industrial Insurance Discrimination (IID) and Claim Suppression Investigations (CSI). These occur when an employer interferes or attempts to interfere with an injured worker's right to file a claim or retaliates against an injured worker for filing an injury claim.

In 2013, the Investigations program received 4,235 referrals and conducted 4,554 investigations.

**Chart 3: Investigation Referrals vs. Completions**



## TYPES OF INVESTIGATION

There are several types of investigations:

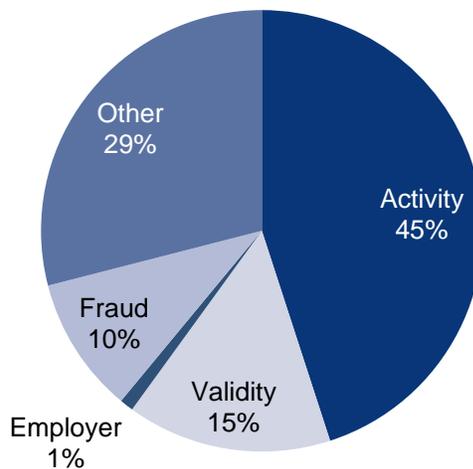
**Validity:** Was there a work-related injury that resulted in injury? Validity checks examine the facts surrounding a claim for benefits.

**Activity:** Is the injured worker still unable to work? Activity checks investigate the current level of a worker's activities to see if they are still injured or exceeding their medical condition.

**Fraud:** Is there evidence of deliberate misrepresentation? Fraud investigations may result in the required repayment of benefits obtained by fraud or criminal conviction.

**Other:** Other investigations can include requests by Claim Managers who need information for ongoing management of a claim.

**Chart 4: Completed Investigation Types**



Source: Investigations

## WORKER FRAUD

Worker fraud continues to be an important area for investigations. Greater public awareness leads to an increase in leads and tips. This year, L&I received more than 1,274 public tips related to worker fraud.

### Benefit Recovery

The Investigations program issued 187 Administrative Fraud Orders (AFO) in 2013. The assessments totaled \$6.3 million. Investigations do not just identify debts owed to L&I,

### CASE IN POINT

On Jan. 7, 2013, a Tacoma couple pleaded guilty to one count of felony theft each for collecting workers' comp benefits illegally.

L&I stopped benefit payments after an investigation determined that the husband and wife continued working after their purported injuries occurred. The couple own a drywall company. Between the two of them, the couple collected \$223,758 in benefit payments over two years.

Each felony count carries a maximum penalty of 10 years in prison and a \$20,000 fine, in addition to the restitution.

they also avoid unnecessary expenses. When investigations determine a claimant is not entitled to benefits, L&I stops paying them. Never paying for fraudulent benefits is preferable to trying to recover money after the fact.

**Table 6 Worker Fraud Results**

Administration Fraud Orders Issued	Assessments	Avoided costs
187	\$6.3 million	\$9.9 million

Source: Investigations

## PROVIDER FRAUD

The Provider Fraud unit audits and investigates health care and vocational providers suspected of criminal fraud. Examples of providers include: translators, chiropractors, physical therapists, medical equipment retailers and doctors. L&I constantly monitors and reviews the services and billing practices of providers. The unit educates providers on proper billing codes. Identifying billing issues early prevents ongoing overpayments and possible fraud. Provider investigations are typically complex and labor-intensive. This year, the program identified almost \$2 million dollars of overpayments and penalties.

**Table 7 Provider Fraud Results**

Order & Notices Issued	Identified Loss	Penalties	Avoided costs
8	\$0.5 million	\$1.4 million	\$0.4 million

Source: Investigations

### CASE IN POINT

Overcharging for translation services landed an interpreter with her own hefty bill, 90 days in jail and \$34,208 in restitution. In March, the interpreter pleaded guilty to first-degree theft charges for fraudulently billing L&I for language interpretive services she never provided. She contracted with L&I to interpret for injured workers needing medical care, billing the agency for both her services and the mileage to her L&I appointments.

An L&I auditor discovered that the interpreter billed for amounts far in excess of the services and travel that actually occurred. Further investigation determined that she used false addresses and billed for appointments that never took place. When providers overcharge or charge for nonexistent services, it ends up increasing costs for everyone.

## Provider Review

The Provider Credentialing and Compliance unit performs quality-of-care reviews and billing audits of health care providers. The Vocational Audit unit carries out the same responsibilities for vocational-services providers. This year, the audits by the two units identified almost a half-million dollars in overpayments to providers.

**Table 8 Provider Review Results**

Review Type	Completed Reviews	Assessments
Health care	48	\$874,040
Vocational	64	\$56,490
<b>Total</b>	<b>112</b>	<b>\$930,530</b>

Source: Insurance Services

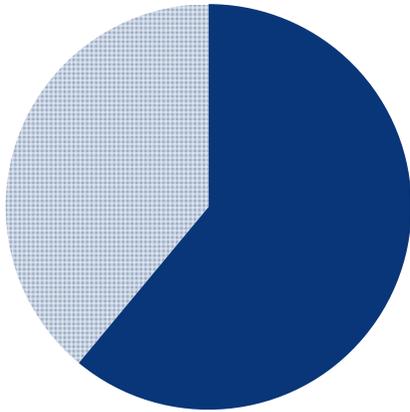
## EMPLOYER FRAUD

Audits are an important tool in ensuring that employers report their worker hours correctly and pay appropriate premiums. L&I has a standard audit process that involves checking business records and conducting interviews to determine facts. Examinations may include verifying the number of workers reported and that all hours are reported in the correct risk class. Reviewing the records helps an auditor determine if fraud is occurring.

Upon audit completion, L&I provides a closing conference with the employer. Typically this involves a phone conversation, but sometimes is an in-person meeting. This post-audit conference is an important part of the process and required on every audit. It provides employers with an opportunity to better understand the reporting process. Auditors supply educational materials and explain how to keep better records. It is also a chance to answer questions the employer may have and helps prevent further issues.

Audits are targeted at employers who are most likely to have premiums due. A focused approach means less impact on employers who follow rules and makes better use of L&I resources. This year, premium assessments grew by \$4.2 million from the previous year, despite the fact that 849 fewer audits were conducted thanks to improved identification of employers. Audits assessed a total of \$28.8 million in premiums owed. Four out of five employers selected for audits owe L&I premiums. The goal is to audit the right employers.

**Chart 5: Premium Assessments**



**\$17.6 Million  
Registered Employers**

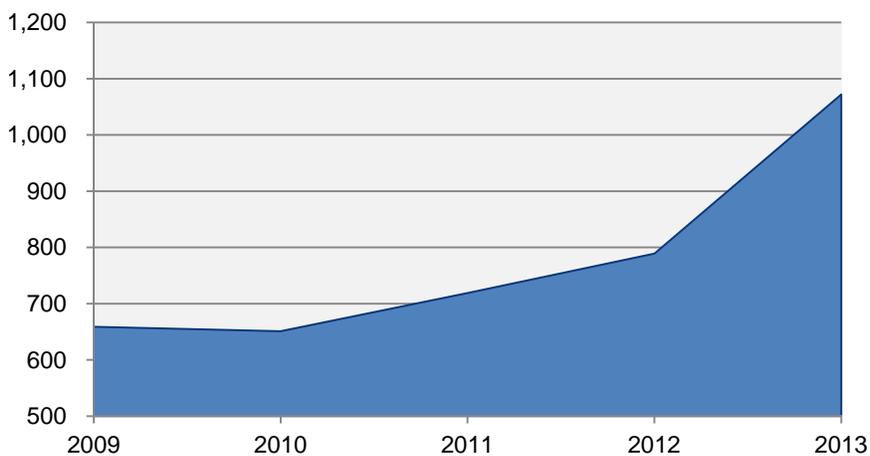
**\$11.2 Million  
Unregistered Employers**

Source: Field Audit

### **Unregistered Employers**

Over the last five years, L&I has expanded efforts to curb the Underground Economy. Audits have targeted unregistered businesses. These are employers who hire employees but fail to open a workers' compensation account. Since 2008, the number of audits on unregistered businesses has grown by 84%. The premium amounts assessed have more than doubled. This year, L&I audited 1,072 unregistered employers who were assessed more than \$11.2 million in premiums.

**Chart 6: Unregistered Employers Audits**



Source: Field Audit

**Table 9 Audit Premium Results**

Registered Employers		Unregistered Employers		Total	
Audits	Assessments	Audits	Assessments	Audits	Assessments
2,882	\$17,599,015	1,072	\$11,238,570	3,954	\$28,837,582

Source: Field Audit

### **CASE IN POINT**

An audit of a roofing company resulted in an assessment of more than \$1 million. The assessment included a penalty for misrepresentation by the employer.

The L&I auditor found that the firm had deliberately accepted injury claims and safety inspection citations from a subsidiary company with a lower experience factor. This artificially kept the employer's injury experience rating at a lower rate so that the employer would pay lower premiums. In the end the auditor's extensive documentation foiled the employer's attempted fraud.

### **CONTRACT RELEASE**

Every public works job worth more than \$35,000 is reviewed for workers' compensation payments. On these public works projects, the final 5% of payments is held until certain tax payments are verified. This ensures that contractors follow the law and pay taxes, including L&I debt. In 2013, L&I reviewed 3,512 contracts. The total value of the contracts reviewed was \$4.1 billion.

This year, L&I identified just over \$314,000 in debt owed for work on projects. Reviews are not restricted to just the workers' compensation owed on the public works project. If it is discovered that a contractor owes workers' compensation premiums for other work, contract-release law allows the department to pursue other debts owed to L&I. An additional half-million in premiums owed by contractors working on public works jobs was discovered in this process. A total debt of just under \$847,000 was identified. The Collections unit recovered just over \$696,000 from review of contracts.

L&I works with contractors to resolve reporting discrepancies. If there is a problem, contractors can voluntarily amend their reporting. Not all cases can be resolved voluntarily. A small number of instances require an audit. This year 64 firms were audited and 85% of those audits revealed debt owed to L&I.

**Table 10 Contract Release Results**

Requests Completed	Contract Debts Identified	Total Debts Identified	Total Collected
3,512	\$0.3 million	\$0.8 million	\$0.7 million

Source: Detection and Tracking Unit

## FACING THE MUSIC: FIGHTING EMPLOYER FRAUD

### APPEALS PROCESS

Sometimes employers disagree with L&I's premium assessments. Employers have 30 days to appeal a decision by L&I. The Firm Appeals program manages the appeals process. The program reviews the actions taken and ensures that L&I fairly and correctly applied the law.

The program will first work directly with the employer to try to resolve the case. Employers may also appeal to the Board of Industrial Insurance Appeals, an independent administrative-law agency. The Firm Appeals program has two goals. First is to provide employers with an efficient and convenient forum to resolve disputes. The second is to promote high quality and consistent decisions based on Washington laws.

There are consequences when employers ignore their workers' compensation responsibilities. Failing to properly report workers and pay premiums can lead to civil or criminal actions. Civil misrepresentation penalties can be up to 10 times the premiums owed. Simply closing or selling a business does not allow employers to escape their debts. Establishing a connection between a prior business and the new firm to pursue debts is known as "successorship." L&I also can pursue "personal liability" if there is proof that a business had the money to pay workers' compensation premiums but chose not to. In that case, L&I can pierce the corporate veil and collect on the limited liability company or corporation's debt from the responsible individuals. Both of these options require L&I to prove its case, but both are valuable at preventing cheaters from repeating fraud under new business names.

Several other laws allow L&I to pursue criminal misdemeanor and felony charges:

- Engaging in business without Certificate of Coverage (RCW 51.48.103)
- Employer's False reporting or Failure to secure payment of Compensation (RCW 51.48.020)
- Employer Engaging in Business after the Employer's Certificate of Coverage has been Revoked (RCW 51.48.103)
- Employer working as an Unregistered Contractor and Theft (from employees or the state – RCW 9A.56.030)

The most severe employer fraud cases require coordination across all fraud prevention programs and with the Attorney General's Office. Offenders face punishments ranging from steep monetary penalties to substantial criminal charges.

**Prosecutions** – Investigated and referred three employer cases for criminal prosecution to the Attorney General's Office, which filed charges in all three cases. One additional employer case remains under investigation. Prosecution results included:

- The owner of a Snohomish County roofing firm pleading guilty to one count of false reporting of employees. He was sentenced to 60 days in jail and ordered to pay restitution of over \$29,000 to L&I and penalties of just under \$10,000 each to L&I, Snohomish County and the Attorney General's Office.
- A married couple who owned a Pierce County towing company admitting to employing workers after the state had prohibited them from doing so. The husband pleaded guilty to a felony count of engaging in business without a certificate of coverage for workers' compensation insurance; his wife pleaded guilty to a gross misdemeanor of the charge. They were ordered to pay just under \$22,000 in restitution plus court costs. In addition, the husband received a 30-day jail sentence converted to 240 hours of community service.

**High-level civil enforcement** – L&I pursued significant civil penalties against four firms for failing to register as a contractor or for misclassifying and underreporting employees for workers' compensation insurance.

## CONTRACTOR COMPLIANCE IN CONSTRUCTION

Increasing the presence of construction compliance inspectors in the field delivers a direct blow to actors in the Underground Economy. In 2006, L&I created the Fraud/Audit/Infraction/Revenue (FAIR) Team to identify fraudulent employers and stop illegal contractors. Under this new model, the six-member FAIR Team worked as "boots on the ground" in one area of the state, conducting jobsite inspections during weekdays, nights and weekends.

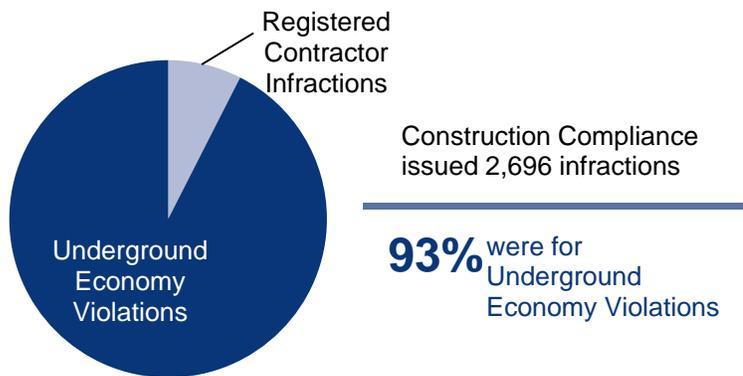
In 2011, L&I met with business and labor representatives about improving compliance. Stakeholders liked the FAIR model, but were concerned that inspectors still lacked a presence in the field statewide. Based on that input, the department reorganized the construction inspector workforce in 2012 to be more effective in the field. The department assigned 23 inspectors and three supervisors into three regional compliance teams that are based on the FAIR Team model.

In 2013, L&I continued to build on that emphasis, developing new tactics and tools to get inspectors to the right place at the right time.

Today, compliance inspectors watch for all types of violations on job sites. They enforce plumber and electrical certification rules and check contractor registration. They spot employers who owe significant debt to L&I. They confirm worker counts to compare with reported numbers, and refer cases to auditors. They make referrals for potential violations of workers' compensation, prevailing wage and DOR rules.

Word is out: L&I compliance inspectors are in the field and looking for unregistered contractors.

**Chart 7: Focus on the Underground Economy**



Source: Construction Compliance

**WHAT'S THE HARM IN BEING UNREGISTERED?**

Contractor registration protects consumers and legitimate businesses. It sets a minimum level for bonding and insurance coverage. Unregistered contractors are part of the Underground Economy and avoid paying their fair share of taxes and workers' compensation premiums.

For consumers, contractor registration can be the first line of defense against scams. If a contractor does not have a bond, and something goes wrong, consumers have nowhere to turn to recover their money. L&I makes it easy to verify if a contractor is registered online. The search also shows if there are lawsuits against a contractor's bond and if the contractor has been cited for violations of construction laws governed by L&I. A quick search online can help protect a consumer from shoddy work and liens against their property if a contractor fails to pay for supplies or work.

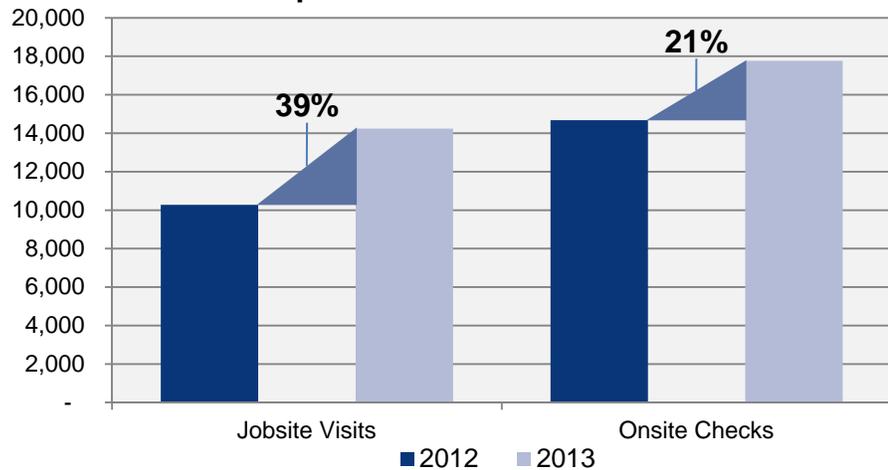
For the business community, contractor registration levels the playing field. Unregistered contractors who skip the expense of protecting the consumer can underbid their competition. A contractor also must be registered and in good standing with workers' compensation premiums in order to be hired for a public works contract.

## Right Place Right Time

In 2012, L&I reorganized the construction compliance team to be more effective year in the field. This year, the team devised new tactics and tools to get inspectors to the right place at the right time.

By nature, the Underground Economy doesn't operate on a 9-to-5, Monday-through-Friday schedule. To counteract this "weekend work," inspectors launched a new tactic – surprise compliance sweeps, visiting multiple jobsites over the course of a weekend. They conducted seven such sweeps in FY 2013.

**Chart 8: Increasing Construction Compliance presence in the field**



Source: Construction Compliance

## Contractor Compliance Detection Unit

The Construction Compliance Detection and Tracking Unit (CC DTU) processes consumer complaints and other referrals for potential enforcement actions and conducts centralized advertising compliance (e.g., checking Craigslist ads for unregistered contractors). The unit also mines data to identify compliance problems that may not be found in the field. The unit work focuses on the Underground Economy.

**Table 11 CC DTU Results\***

Infractions Issued	Audit Referrals
500	135

Source: Detection, Tracking and Outreach

\*CC DTU Infractions are included in the Construction Compliance totals.

## ELECTRICAL COMPLIANCE

The Electrical Compliance Program identifies non-compliant electrical contractors and electricians. The program also finds entities that do not obtain electrical permits and inspections. One hundred electrical inspectors perform on-site checks. Compliance activity focuses on three areas:

- No electrical contractor license.
- No electrician certificate.
- No electrical permit.

The program also has a team that specifically targets the Underground Economy. The Electrical-Compliance, Outreach, Regulation and Education (E-CORE) team pursues tips and leads. The unit receives tips from legitimate contractors competing with the unlicensed electrical contractors as well as homeowners unhappy with the work of an unlicensed electrician. The team makes fraud referrals for other units to take action on. This year, the E-CORE team more than doubled the number of focused citations they issued for non-compliance with electrical requirements.

**Table 12 E-CORE Results**

Focused Citations/Warnings*	Audit Referrals
1,233	19

\*Focused citations include: unlicensed electrical contractor, uncertified electrician, failure to obtain an electrical permit

Source: Electrical Compliance

# Partnerships

---

Several work groups collaborate to support frontline efforts preventing fraud and enforcing compliance. The partnership allows them to work smarter and fully utilize resources.

## IMPROVING VALUE FOR OUR CUSTOMERS

L&I is focused on providing more value and a better experience for customers. In order to improve, teams are using the Lean process, a system that ferrets out and eliminates waste. Waste can rear its head in a variety of ways, but ultimately it translates to activities that do not produce value for the customer. By reducing waste, L&I seeks to reduce wait times, better use resources and improve the quality of work.

This year, the Firm Appeals program made significant improvements in the reconsideration process. When employers disagree with the results of their audit, they can seek recourse through Firm Appeals. Before going through Lean, the program treated all customers the same. That meant that the average time to go through the appeals process took a long time, sometimes even years. However, not all customer needs are the same. As Firm Appeals reviewed and improved the reconsideration process, the team developed three different tracks for customers to pursue their appeal. As a result, the program has reduced the process time down to just over a month. During a reconsideration appeal, interest accrues and so for the customer, time is money. Reducing the process time in turn saves the customer money. Additionally, staff now have a clearly defined work flow that makes their workload more manageable. It is a victory that benefits everybody involved.

Fraud Prevention and Labor Standards is applying Lean process improvements throughout the division as part of a year-long campaign that focuses on one program and process a month. So far, teams have worked on improving processes in Investigations, Collections and Firm Appeals. Staff are engaged and enthusiastic about improving results and value for customers.

## FRAUD AND ABUSE DETECTION

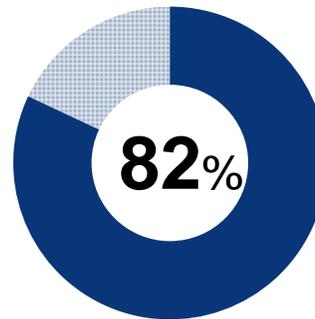
L&I has a variety of fraud-finding tools. Staff scour databases using discovery software. They share data with other agencies. Tips from the public and other programs lead to investigations.

The eyes and ears of Washington State citizens play a vital role in finding fraud. This year, L&I received more than 1,500 leads from the public. These tips led to \$2.3 million in premium assessments.

## Targeting Employer Fraud and Misreporting

L&I staff are getting better and better at whom they identify for audits. The Fraud Prevention and Compliance program began in 2004. At that time, less than half of employers audited owed premiums to L&I. Over the years, staff continue to perfect detection skills and tools so that the businesses audited are the ones most likely committing fraud. This year, 82% of employers audited owed premiums. This success can be credited to detection efforts based on a

**Chart 9: Audits Resulting in Assessments**



Source: Field Audit

comparison of the assessment rate for randomly selected audits. Perfecting detection allows for better use of resources and reduces impact on employers who follow the rules.

## Cross-Agency Collaboration

L&I partners with the Department of Revenue and Employment Security Department in the fight against fraud by sharing information across the agencies. This year, the three agencies exchanged 26,234 tips and leads through electronic data matches. The agencies work together to improve training and education. Staff understand what signs to look for and what information to share with agencies when making a referral. Removing information silos and working together makes all three agencies more effective.

**Table 13 Tips and Leads shared between DOR, ESD and L&I**

From	To	Via Interagency Referral Form	Via Electronic Data File Transfers
DOR	L&I	30	8,117
	ESD	16	8,117
L&I	DOR	16	4,761
	ESD	22	2,126
ESD	L&I	0	1,331
	DOR	2	1,782
<b>Total</b>		<b>86</b>	<b>26,234</b>

Source: Department of Revenue

## Targeting Claimant Fraud and Abuse

This year, the Claimant Fraud Detection unit referred 52 cases for fraud investigations. The unit looks for fraud by analyzing data and tips from the public. There is a dedicated phone line for fraud tips and an Internet referral form. In 2013, staff reviewed 25,860 claims. These reviews resulted in almost 500 claimant investigations. Cases that showed potential of deliberate misrepresentation or criminal fraud were referred to the Investigations unit.

## Targeting Provider Fraud

In October 2010, L&I ran a pilot program to find potential provider billing fraud and abuse. The program used software to detect medical billing anomalies. The pilot ran from October 2010 through June 2011. During that nine-month period, the unit received 240 medical provider referrals and identified almost \$1 million in inappropriate payments. Based on the success of the pilot, the Legislature provided funding to make the changes permanent.

L&I now has dedicated staff to look for odd billing patterns and review leads provided by the public. Some examples include billing for more hours than are in a day and “upcoding” (billing a 15-minute appointment as one hour). Public tips come from a variety of sources including: the Internet, other providers and even injured workers who are receiving treatment from providers. Additionally, the unit now reviews new applicants to the L&I Medical Provider Network. This year, the Provider Fraud Detection unit identified more than \$5 million dollars in estimated overpayments to be recouped. The unit received and reviewed 227 tips on providers. Of those tips, 32, were identified as potential fraud and referred to the Investigations program. The majority of the tips were referred to internal units at L&I for further review or claim actions.

## DATA SHARING EFFORTS

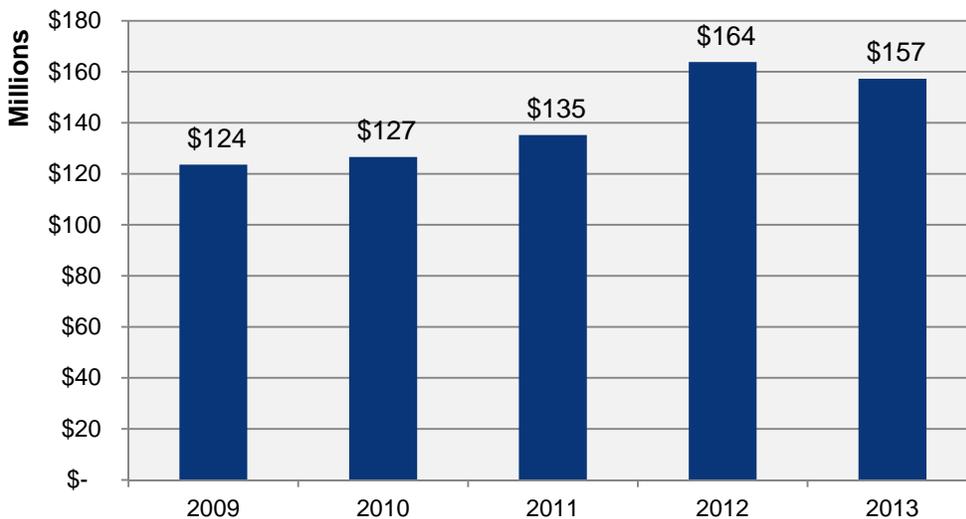
In 2011, the Legislature directed L&I to participate in a national information exchange with other insurers. The purpose of sharing information was to avoid duplication of claims and benefits. This would allow L&I to identify potentially fraudulent claims. The Legislature provided the funding needed in 2012. Since July 2012, L&I has finalized a contract with ISO for accessing and using the database. The Detection and Tracking unit is working with ISO to develop a method for sharing and receiving large data runs. Once the method and process for sharing data is finalized this data will be used in both detection and investigations. Direct results from the system are expected in 2014.

## COLLECTIONS

### Dollars Collected

When employers are delinquent in paying their workers' compensation premiums they become the responsibility of the Collections program. The program tracks down debtors and collects amounts owed to L&I for several programs. These debts include not just premiums, but also infractions, citations and overpayments to providers and injured workers. The program also collects and distributes unpaid wages owed to workers.

**Chart 10: Premium Collections**



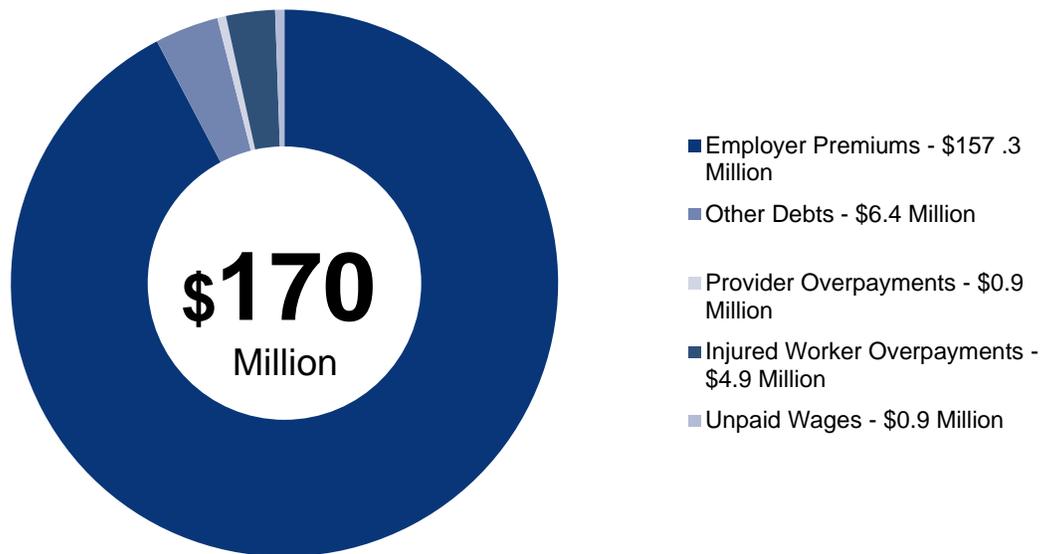
Source: Collections

### Employer Assistance Program

The department's goal is to assist all employers comply with L&I rules and requirements. In response to the economic recession, L&I began the Employer Assistance Program (EAP) for employers with a clean record who struggled to pay their premium. The program has been extended indefinitely due to the length and depth of the recession. Employers who have not been delinquent for the last four years may qualify for a "90 days same as cash" plan. In these specific cases, accrued penalties and interest are waived once the firm has successfully paid its premiums as agreed. Firms may take advantage of extended payment plans if they need more time to pay in full; these arrangements do not include an automatic waiver of penalties and interest. This helps employers to be in "good standing" and avoid further collection actions while they are making their payments.

Employers are still struggling through a difficult economy. L&I revenue agents are working with employers to resolve their debts to L&I. As of June 30, 2013, there were 7,511 employers in payment agreements, 112 fewer than the same time the prior year. During 2013, 15,563 employers came into collections who had never been delinquent or not been delinquent in the past four years.

**Chart 11: Dollars Collected**



Source: Collections

**Premiums:** Revenue Agents take action to collect unpaid premiums from employers.

**Other Debts:** Revenue Agents take action to collect unpaid contractor and other infractions, safety & health citations, Right to Know billings and Retrospective Rating Program billings.

**Provider Overpayments:** Revenue Agents take action to recover monies paid through inappropriate billings that were identified by provider reviews.

**Injured Worker Overpayments:** Revenue Agents take collection action to recover monies from injured workers who were overpaid and no longer entitled to benefits.

**Unpaid Wages:** Under the 2006 Wage Payment Act, L&I recovers employees' unpaid wages for distribution to the workers. The amount shown only reflects the amount collected by the Collections Program after the Citation and Notice of Assessment issued by Employment Standards becomes final and binding.

# Conclusion

Fighting fraud remains a top initiative at L&I. The department is exploring new and innovative ways to prevent fraud while producing real measurable results. Lean process improvements are improving results for customers and making better use of agency resources. Looking ahead, L&I is engaging with stakeholders to develop new methods for combatting the Underground Economy in the construction industry.

## COMPLETED INITIATIVES

In the 2012 Annual Fraud Report to the Legislature, L&I identified several specific objectives for 2013.

**Table 14 Initiatives Update**

Objective	Status
Complete development of advanced fraud-analysis software for detecting employer misclassification and fraud, including the use of Internal Revenue Service data to identify unregistered and misreporting employers	Ongoing
Continue to collaborate with Construction Compliance staff to improve processes and tools that leverage information from field inspectors for finding employers in the Underground Economy.	Ongoing
Begin accepting debit and credit card payments for workers' compensation debts.	In Development
Develop an integrated case-management system for detecting contractor fraud, generating leads for compliance inspectors in the field.	Ongoing
Develop an integrated case-management system for detecting contractor fraud, generating leads for compliance inspectors in the field.	Ongoing
Participate in the nationwide ISO ClaimSearch database to identify claimants who may be claiming benefits from other systems as mandated by Engrossed House Bill 2123.	Launched
Develop a standard audit procedure, using Lean principles, with a resulting improvement in the percentage of audits completed in less than 90 days.	Complete
Implement Lean process improvement measures in Field Audit, including Standard Work for all auditors, to increase both timeliness and consistency statewide.	Complete

Develop and implement a new triage system for referral actions, to ensure that issues are handled at the appropriate level. Identify when a referral needs an audit, when it needs account manager attention and when it requires other actions.	Ongoing
Develop automated letters for employers who appear to be misreporting, but are not at a level that requires an audit or Employer Services intervention.	In Development
Improve the speed and responsiveness of criminal investigations processes, using Lean principles, with a resulting improvement in the percentage of cases referred for criminal prosecution.	Ongoing
Develop a process improvement system for Firm Appeals, to provide a standardized workflow and scorecard of work.	Complete
Launch an educational effort to increase consumer awareness of the Underground Economy	Ongoing
Implement Lean process improvements in Investigations to increase the speed and quality of investigations related to workers' compensation claims.	Ongoing

Source: Fraud Prevention and Labor Standards

## UPCOMING INITIATIVES

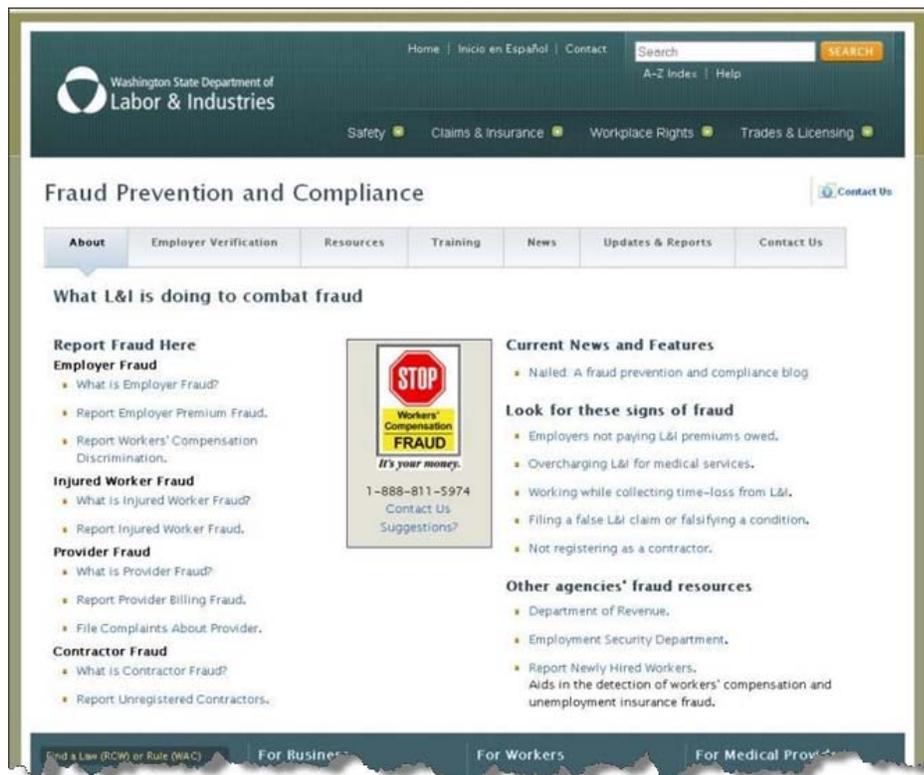
The Department of Labor & Industries will continue to aggressively pursue fraud and abuse in the workers' compensation system.

Looking ahead to 2014, the agency will employ the following strategies:

- Partner with Department of Revenue, Employment Security Department and external stakeholders from both the business and labor communities to create a Construction Underground Economy Advisory Committee (CUEAC). Through the committee identify the problems experienced by stakeholders with the Underground Economy. Develop strategies to improve effectiveness in combatting the Underground Economy.
- Improve the quality and number of referrals between the Prevailing Wage Program and Construction Compliance Program.
- Continue surprise jobsite sweeps in an effort to increase inspector presence in the field during off hours.
- Develop data analytics for use in Collections to help manage accounts and issue levies.

## HOW TO REPORT FRAUD

Help stop workers' compensation fraud. Report situations that may be fraudulent and tell others how to report.



- Fraud Reporting Hotline: 1-888-811-5974
- Fraud Reporting Website: [www.Fraud.Lni.wa.gov](http://www.Fraud.Lni.wa.gov)

Employers can help detect workers' compensation and unemployment insurance fraud. Report newly hired workers at [www.dshs.wa.gov/newhire](http://www.dshs.wa.gov/newhire).

### Contact Information

For more information about this report, please contact:

- Elizabeth Smith, Assistant Director, L&I Fraud Prevention and Labor Standards  
360-902-5933  
[Elizabeth.Smith@Lni.wa.gov](mailto:Elizabeth.Smith@Lni.wa.gov)
- Debby Abe, communication consultant, L&I Communication Services  
360-902-6043  
[Debby.Abe@Lni.wa.gov](mailto:Debby.Abe@Lni.wa.gov)

Not all of us speak “fraud” language every day. Here are some terms that should help you understand this report.

## GLOSSARY OF TERMS

- **Assessment** – a dollar amount identified as owed and payable to L&I, including premiums, overpayment of benefits, penalties and interest
- **Audit** – an official review of accounts and legally required business records
- **Benefit** – the medical coverage and/or wage replacement received by an injured worker
- **Claimant** – an individual whose eligibility for benefits as an injured worker is in question
- **Contractor** – anyone offering to perform construction-related work including: construction, alteration, or repair of real property; development or improvement of residential property for sale (e.g. “flipping”); installation of cabinets; tree removal; and paving
- **Cost Avoidance** – a dollar amount of benefits that would have been paid to a claimant found to have committed fraud
- **Employer** – any person or business engaged in work in Washington State covered by the Industrial Insurance Act and employing or contracting with one or more workers
- **Fraud** – a willful misrepresentation of facts for profit or to gain unfair advantage
- **Injured Worker** – an individual injured in the course of employment, but excluding uncovered owners/partners
- **Infraction** – an initial finding that a violation of the contractor registration law (RCW 18.27), plumbing law (RCW 18.103) or Factory Assembled Structures law (RCW 43.22) has occurred, infractions carry a fine ranging from \$250 to \$10,000, depending on the specific violation
- **Lead/tip** – potential fraud reported by the public to Labor & Industries for investigation
- **Premium** – amount to be paid by employers for workers’ compensation coverage on their workers
- **Provider** – health-care, vocational and supporting medical service specialists
- **Referral** – a verified lead that is forwarded for action such as investigation or audit
- **Underground Economy** – businesses or individuals who fail to either record, report or register a significant part of their business activities with the proper authorities as required by law
- **Worker** – a person hired to do work for compensation
- **Workers’ Compensation/Industrial Insurance** – a form of no-fault insurance providing medical benefits and wage replacement to workers injured on the job.