



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of Risk Management



Phillip A. Lattimore, III  
Chief Risk Officer

DISTRICT OF COLUMBIA CAPTIVE INSURANCE AGENCY  
FY 2013 ANNUAL REPORT TO:  
THE HONORABLE VINCENT C. GRAY  
AND  
THE COUNCIL OF THE DISTRICT OF COLUMBIA

January 2, 2014

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441 4<sup>th</sup> Street, NW, Suite 800S, Washington, D.C. 20001  
(202) 727-8600 - Main (202) 727-8319  
Website: [orm.dc.gov](http://orm.dc.gov)



# DISTRICT OF COLUMBIA CAPTIVE INSURANCE AGENCY

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### INTRODUCTION

The District of Columbia Captive Insurance Agency (“D.C. Captive”) submits this annual report to the Mayor and the Council as required by D.C. Official Code § 1-307.88. The report summarizes the activities of the D.C. Captive in the preceding calendar year, including net earned premiums, health center enrollment, expense of administration, and paid and incurred losses. The annual report must be filed within 60 days of the D.C. Captive's filing of its annual report with the Department of Insurance, Securities, and Banking (“DISB”) as required by D.C. Official Code § 1-307.86.

### D.C. CAPTIVE CREATION AND PURPOSE

In 2008, the D.C. Captive was created as a subordinate agency under the Mayor and is managed by the D.C. Office of Risk Management (“ORM”). ORM’s mission is to reduce the probability, occurrence and cost of risk to the District of Columbia government through the provision of risk identification and insurance analysis and support to District agencies, and by efficiently and fairly administering the District’s public sector workers’ compensation, tort liability, and Captive insurance programs.

The purpose for creating the D.C. Captive was to limit the District of Columbia’s exposure to potential medical malpractice losses of health centers that was previously assumed under the D.C. Free Clinic Assistance Act of 1986<sup>1</sup>, and to issue affordable medical malpractice insurance policies to participating health centers. The policies provide medical malpractice insurance coverage to health center staff, contractors, and volunteer service providers for services provided by the health centers to patients, regardless of their ability to pay. Doing so furthers the District of Columbia’s goal of providing access to quality health care for all residents.

### D.C. CAPTIVE RESULTS FOR FY13

During FY13 (policy period October 1, 2012 to September 30, 2013), the D.C. Captive (1) provided excellent service to four health centers - Bread for the City, Carl Vogel Center, Family Medical Counseling Service, and So Others Might Eat; (2) settled the D.C. Captive's only claim since incorporation in 2009 (*Hugley v. FHBC, et. al.*); (3) initiated emergency legislation for securing earthquake insurance; (4) advocated for the permanent legislation expansion of the D.C. Captive to authorize the issuance and purchase of property insurance; and (5) initiated the process to hire a real-property appraiser for District-owned property.

### *Continued Implementation of Underwriting and Risk Management Procedure*

During the FY13 D.C. Captive renewal period, ORM and Aon collected underwriting data and visited each health center as part of the annual underwriting and risk assessment process. This

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<sup>1</sup> The District of Columbia Free Clinic Assistance Program Act (“D.C. Free Clinic Program”) was enacted in 1986 to create a program for medical malpractice liability coverage to non-profit health centers in the District. The D.C. Free Clinic Program provided for unlimited indemnification for any medical malpractice liabilities incurred by those health centers that were enrolled in the program.

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process included a visual inspection of each health center's HIPAA protocol, evaluation of the credentialing process and procedure for assessing the loss history for medical providers, and a discussion concerning the health center's financial stability. After conducting this review, the D.C. Captive determined that the health centers maintained strong risk management programs.

The insured health centers for 2013 were underwritten based on the number of physicians and their specialties, the hours worked by the physicians, the number of persons who visit the health center, and the number and type of medical procedures undertaken each year. This data was then submitted to and reviewed by the D.C. Captive manager's actuary team, which then determined the appropriate premium for each health center. The underwriting guidelines that were formally adopted in 2010 continued to prove to be an effective tool in helping to determine the D.C. Captive membership as well as premium levels.

### *The First Lawsuit Against an Insured Health Center*

On January 24, 2011, the lawsuit of *Hugley v. Family Health and Birth Center ("FHBC"), et al* was filed in the Superior Court of the District of Columbia. Plaintiffs' complaint was for wrongful death of an infant and survival. This is the first and only lawsuit filed against a member of the Captive since the D.C. Captive's creation in 2008. During FY13, Bonner Kiernan Trebach and Crociata LLP, the D.C. Captive's legal counsel defended the D.C. Captive and FHBC against the claim. The lawsuit was settled on March 4, 2013.

### *D.C. Captive Expansion to Include Property Insurance*

FY13 marked another exciting year of transition for the D.C. Captive, as the D.C. Captive initiated emergency legislation for securing earthquake insurance, advocated for the permanent legislation expansion of the D.C. Captive to authorize the issuance and purchase of property insurance, initiated the process to hire a real-property appraiser for District-owned property.

After much consultation with the Office of the Mayor, the City Administrator, HSEMA, DISB, and DGS, as well as the Captive Advisory Council, the Gray Administration achieved the following:

#### **(1) D.C. CAPTIVE EMERGENCY EXPANSION FOR EARTHQUAKE INSURANCE**

District-owned property sustained approximately \$6.8 million in damage as a result of the August 2011 earthquake. President Barack Obama declared the earthquake a national disaster making the damaged property eligible for 75% reimbursement in Federal Emergency Management Agency ("FEMA") public assistance. The Homeland Security and Emergency Management Agency applied to receive reimbursement, under the FEMA Public Assistance program, created pursuant to the Stafford Act.<sup>2</sup> Section 311 of the Stafford Act requires states,<sup>3</sup> before receiving public assistance, to obtain and maintain

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<sup>2</sup> Robert E. Stafford Disaster Relief and Emergency Assistance Act, approved May 22, 1974, (88 Stat. 143; 42 USC §§ 5121 – 5207).

<sup>3</sup> Under section 102 of the Stafford Act, the District of Columbia is included in the definition of a state. See 42 USC § 5122(3).

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insurance for the damaged buildings up to the value of the public assistance sought. *See* 42 USC § 5154(b). To comply with this requirement, on March 20, 2013, Mayor Gray signed emergency legislation - "Captive Earthquake Property Insurance Amendment Act of 2013" - to allow the D.C. Captive to obtain and maintain earthquake and earthquake related coverage for the damaged buildings.<sup>4</sup>

### (2) D.C. CAPTIVE PERMANENT EXPANSION FOR PROPERTY INSURANCE

Historically, the District has practiced pure self-insurance. In FY13 the District began moving towards a hybrid system made up of both self-insurance and the option to either formalize self-insured property insurance or purchase property insurance for D.C. Government buildings. In doing so, Mayor Gray and the Council supported the permanent expansion of the D.C. Captive to allow the purchase and issuance of property insurance through the D.C. Captive. Specifically, Subtitle D of Bill 20-0199, the fiscal year 2014 Budget Support Act of 2013, approved by the Council on June 26, 2013, authorizes the D.C. Captive to purchase and issue property insurance for District-owned real property assets.<sup>5</sup> Additionally, Subtitle D of Bill 20-0199:

- a. Changed the name of the D.C. Captive to reflect a broader scope of authority
- b. Authorized the D.C. Captive to purchase terrorism insurance for District real property
- c. Modified the number and expertise of the Captive Advisory Council
- d. Defined the term District real property assets, Act of Terrorism, and property insurance
- e. Changed the due date for the Captive's annual CPA statement to December 15

### (3) D.C. CAPTIVE INITIATE INVITATION FOR BID FOR REAL PROPERTY APPRAISER

In support of the strategic risk management plan to purchase property insurance for District-owned property, on August 12, 2013, the D.C. Captive through OCP published an IFB for real property appraisal services for the purpose of determining insurable values and insurance amounts for real property owned by the District.<sup>6</sup>

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<sup>4</sup> Subsequent to September 30, 2013, on December 16, 2013, the D.C. Captive agreed to purchase the earthquake policy and terrorism insurance from Aspen Specialty insurance company for a total of \$87,975. Once we pay the premium for the earthquake policy, the District would then be able to receive \$4,750,000 in public assistance funds from FEMA.

<sup>5</sup> Subsequent to September 30, 2013, on November 8, 2013, the D.C. Captive agreed published RFP No. DCRJ-2014-R-0001 for Captive Manager and Property Insurance brokerage services in support of subtitle D of Bill 20-0199.

<sup>6</sup> Subsequent to September 30, 2013, on November 25, 2013, the real property appraisal services contract was awarded to American Appraisal for \$820,000.

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### D.C. CAPTIVE FINANCIAL SUMMARY FOR 2012

#### Financial Summary for D.C. Captive:

For the period ending on September 30, 2012, the D.C. Captive submitted a comprehensive CPA-prepared financial statement to DISB. Below is a financial summary of the key results reported to DISB:

Source: District of Columbia Captive Insurance Agency Annual Statement for the period ended September 30, 2013 and as prepared by Peter Snell, CPA

<b>Fund Balance:</b>	<b>\$4,748,214</b>
<b>Net earned premiums:</b>	<b>\$55,418</b>
<b>Health center enrollment:</b>	<b>Four Health Centers</b>
<b>Expense of administration:</b>	<b>\$58,966*</b>
<b>Paid and incurred losses:</b>	<b>\$415,209</b>

\*The expense of administering the D.C. Captive includes consulting expenses, legal fees, office supplies, and uncollectible receivables.

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### SOCIAL and FISCAL IMPACT OF THE D.C. CAPTIVE

Thanks in part to the D.C. Captive's reduced rate for medical malpractice insurance, the member health centers were able to remain in operation and accommodate more than 95,000 patient visits for the 2013 policy year. Additionally, the D.C. Captive's lower cost policy has allowed health centers to expand medical and non-medical services and has created the opportunity for job retention and new employment. Additionally, allowing the D.C. Captive to entertain property insurance can have significant impact on the stability of the District's risk management program.

**On the release of the expanded Captive Manager and Property Insurance RFP:**

*"This RFP is one of the many steps ORM's insurance program is taking to safeguard District taxpayer dollars through cutting edge risk management strategies, and I'm looking forward to a robust and competitive process that results in the best deal for the Captive." Phillip A. Lattimore, III, Chief Risk Officer, Office of Risk Management*

*"...SOME was without a permanent medical director for three months during this period. Because of the D.C. Medical Liability Captive, we were able to hire a temporary physician, knowing that the medical malpractice would be covered. Our level of staffing was able to remain stable during this period." Mary Ann Sack, Assistant Executive Director, So Others Might Eat (SOME).*

*"The captive is a program that defrays costs we might otherwise have to pay directly for private insurance, thus reducing the amount of care we can provide to D.C. residents who historically have difficulty accessing primary medical care." George A. Jones, Executive Director, Bread for the City.*

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### MEMBER HEALTH CENTERS INSURED BY THE D.C. CAPTIVE

**Bread for the City** - [www.breadforthecity.org](http://www.breadforthecity.org)

#### Mission and Vision

“The mission of Bread for the City is to provide vulnerable residents of Washington, D.C., with comprehensive services, including food, clothing, medical care, and legal and social services, in an atmosphere of dignity and respect. We recognize that all people share a common humanity, and that all are responsible to themselves and to society as a whole.”

**Carl Vogel Center** - [www.carlvogelcenter.org](http://www.carlvogelcenter.org)

#### Mission

“Carl Vogel Center (CVC) is a nonprofit community-based organization that provides multidisciplinary and integrated medical healthcare that embodies all aspects of a person's physical, mental, and emotional well-being. CVC helps medically underserved individuals to become full partners and informed advocates in managing their health.”

**Family Medical Services, Inc.** - [www.fmcsinc.org](http://www.fmcsinc.org)

#### Mission

“The mission of Family and Medical Counseling Service, Inc. (FMCS) is to employ community-based, culturally competent approaches to provide comprehensive services that promote the emotional and physical health of families and individuals, regardless of income or social status, and maximize their quality of life.”

**So Others Might Eat** - [www.some.org](http://www.some.org)

#### Mission

“SOME (So Others Might Eat) is an interfaith, community based organization that exists to help the poor and homeless of our nation's capital. We meet the immediate daily needs of the people we serve with food, clothing, and health care. We break the cycle of homelessness by offering services, such as affordable housing, job training, addiction treatment, and counseling to the poor, the elderly, and individuals with mental illnesses. Each day, SOME is restoring hope and dignity one person at a time. We invite you to join us.”