



# ***ACCEL AUDIT 2022***

*January 19, 2023  
By: Robert E. Powers, ARM  
R.E.Powers & Company, LLC*

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PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 918-7021  
rnwrs@nachell.net

## FINAL

Authority for California Cities Excess Liability (ACCEL) January 19, 2023  
c/o Alliant Insurance Services  
560 Mission St., 6<sup>th</sup> Floor  
San Francisco, CA 94105

Attn: Conor Boughey  
Lorissa Huey  
Account Managers

## ACCEL

### Liability Claims Administration Audit -2022

The enclosed **Audit Reports** are the result of the general/automobile liability audit for the Authority for California Cities Excess Liability (ACCEL) for the 2022 year.

Part 1-The summary of Member's Individual Audit (IA) results.

Part 2 -The George Hills Company TPA audit.

Also included, are the Individual Audits for each Member and a combined Claim Matrix of the Individual Audits review elements- (*sent in electronic form only*).

I want to thank all the Members and their staffs for the cooperation and assistance during this year's audit. We continued to gain additional insight this year as we met with each Member, continued to build relationships with their staff and observe the claims operations at each Member's city. Observing how each Member processes, handles and resolves liability claims and litigation provides important insights that are summarized in the audit.

There are many similarities and many different approaches to liability risk management among the Membership. I believe this third year was most productive as I was able to discuss the audit result and ACCEL expectations with each Member in depth.

Feedback is an important part of this process. I welcome any comments or constructive criticism on the findings, methodology and areas of improvement in future years.

Respectfully submitted,  
R. E. Powers & Company, LLC  
*Robert E. Powers*  
Robert E. Powers, ARM - ACCEL Auditor

**PART 1****FINAL**

## ACCEL Liability Claims Administration Audit -2022 Member Summary

### 2022 Highlights

- *All Members are in compliance and all reportable claims have been noticed to the Third-Party Administrator, George Hills Company*
- The City of Bakersfield continues to improve communication between defense counsel and ACCEL.
- The City of Modesto has made remarkable improvement over last year with the change from in-house claims handling to a TPA (GHC).
- The Cities of Bakersfield and Salinas have hired new TPA's.
- Three new Risk Managers.
- City Attorney Office staff changes.
- Settlement demands and settlements are increasing.
- Claim volume is up over last year.
- Generally, very good cooperation between CAO and Risk Management.
- George Hills Company's TPA role is functioning extremely well. *See Part 2.*
- Communication between ACCEL TPA and commercial carriers is excellent.
- Members feedback on ACCEL TPA staff is positive.
- Several cases were tried during the past year. Many resulted in favorable outcomes.
- Many Members are performing at a *Professional Level*. Maturity and expertise in claims matters is apparent.
- Several Members have adopted prior recommendations, particularly the enhanced recognition of the need to analyze injury and its relationship to exposure.
- There are a few borderline cases that we have suggested in depth analysis for ACCEL reporting requirements.
- RM claims staffs continue to gain experience and maturity.
- Training material has been provided to RM staff responsible for claim processing.
- Discussion with Members claims personnel about ACCEL expectations, areas of potential concern and the purpose of the audit.
- Five-year commentary-Auditor

### Preface

The ACCEL audit format is substantially the same as the previous years. We made some minor changes in the Claims Matrix, but these didn't impact any scoring or result in any changes in audit criteria.

Overall, compliance with ACCEL Handling Guidelines has improved over last year. If you recall, two Members were underperforming. That situation has been corrected and both Members are now working above expectations.

Caseloads are trending up over last year. As we discussed, there appears to be a substantial increase in settlement demands. Case settlement evaluations seem likewise to be trending upwards.

While Covid-19 still impacts operations at City Hall, most personnel responsible for claims processing are back working in the office. Most Third-Party Administrators (TPA) adjusters and supervisors are still working remotely. This situation is probably going to be permanent. Along those lines, while speaking with TPA managers, in order to attract qualified adjusters they usually have to offer remote adjusters to clients.

The details of the individual audits and the most **substantive** information are contained in the Member's Narrative Reports and Claim Matrices. These reports have been provided to the Claims Committee for review before finalizing the Final Audit Report.

The commentary below contains a summation and general comments in the audit criteria pertaining to all Members since processing methodology for claim processing and resolution vary greatly among the Membership. Each Member has their own formal internal guidelines and procedures.

## Audit Focus

The ACCEL Audit primary objectives are to review claims management and provide feedback to the ACCEL Board in three key areas:

### 1. Exposure Recognition

- Determine if all reportable claims have been properly noticed to Risk Management Services (RMS).
- Making sure the RM files contain sufficient records to determine if ACCEL reporting requirements are being followed.
- Verify the various RM staffs are aware of the guidelines and recognize claims that require reporting.
- Verify that RMS is receiving all the records as required by the guidelines.

### 2. Claim risk liability to the pool

- Determine if any file management issues impact the pool, *i.e.*, all avenues of recovery and contribution have been pursued and conversely not waived.
- Potential areas where coverage may an issue.
- Conflicts.
- Management competence.

### 3. Verification that Member's files meet acceptable ACCEL and Commonly Accepted Industry Standards

## Executive Summary

### Preliminarily

The 2022 liability claims audit commenced in August 2022 and completed on December 8, 2022.

The audits were performed online and on-site where practical. We provide the Member with the opportunity to select the best option that works for them. Those Members with paper files must be reviewed on site. Generally, the Members being serviced by TPA's are reviewed online with a video wrap up. These sessions usually involved the RM and key staff personnel. The auditor felt it was an important component of the audit process to observe the claim processing operations in person, so on-site was the preferred method.

Each Member was asked to provide a listing of all open claims and current closed claims. We also interviewed key personnel on changes to staff, clerical support and the CAO. The auditor then reviewed all the claims and selected the files to be reviewed. We chose files that had potential risk to ACCEL, primarily claims involving public safety, civil rights and EPL claims.

The review was tabulated on an Excel spreadsheet that we named the "Claims Matrix." This contained the data elements for the file review. We made some changes to the form this year to better capture important elements in the claim handling process. This was noted above.

At the completion of the audit and the wrap up session, each Member was provided a draft "Narrative Report" of findings, observations, and recommendations. The Member was given time to add commentary, after which a final Narrative Report along with the Claims Matrix was provided and filed with the Program Administrator, Alliant Insurance Services.

Before each Member's audit I asked if there were any areas that they wished us to add comments, *i.e.*, claim handling procedures, technical questions, and TPA performance. This information was added to the Member's Narrative Report.

### Observations/Conclusions

The audit of liability claims for ACCEL finds that Members, their respective administrators and the Third-Party Administrator, George Hills Company (formerly RMS) continue to be in **general compliance** with ACCEL claims handling guidelines and industry standards. The change of TPA's at Bakersfield and Salinas, the switch from an in-house system to TPA at Modesto has greatly improved underlying claims handling, loss run data tracking and overall performance.

**Audit Criteria/Focus**

**Note: Attached in Appendix C are the Claims Matrix Audit components we look for in claim files.**

1. **Exposure Recognition** - The audit resulted in verification that all cases were reported to GHC. However, there were several cases that we considered “borderline”. On those claims we suggested the Member conduct an in-depth analysis to evaluate exposure. If ACCEL reporting criteria is met, then we advised the Member to report the case. We also identified several problem cases that the Member should do additional workup to determine exposure. These matters were identified on the individual audits and discussed in the wrap up sessions
2. **Risk to Pool** - We did not find any specific claims that fall in this category, but we did point out potential matters in the individual audits. We are primarily concerned with conflicts, application of coverage and potential issues with parties under contract with the Member fulfilling their obligations.
3. **ACCEL/Industry Compliance** - The audit confirms that all Members are in general compliance with ACCEL Guidelines and claim industry standards.

Recall, last year the Cities of Modesto and Salinas were out of compliance. With the changes noted above, both Members are now within ACCEL claim handling expectations.

4. **File Handling** Each Member RM department has a claim file set up for every claim matter filed with the city. Each file has the necessary documents and associated records that we expect to see in a typical public entity *file in the initial claim stage*. This is generally consistent across the board with Members. The level of summaries and analysis *after action on the initial claim* is not consistent across the Membership. The individual audits contain specific recommendations for Members.

The general rule of thumb in the industry is that “the file speaks for itself.” While most Member’s files meet this test, some do not. We were very pleased to see several Member’s staffs working at the *professional level*.

As in prior years, we continue to see an overuse of informal communication from TPA’s and defense counsel. While an expeditious method of exchanging information, we often see this as a substitute for regular analysis and summaries.

E-file records was added as a scoring item on this year’s audit. The main criteria for this category are labelling and the ability to retrieve important records, *i.e.*, defense counsel evaluations and summaries, updates from Member’s re facts and important strategic decisions. While most Members do an adequate job in this area, many do not.

Several Members are still using paper files. Overall, we found these records well organized along traditional lines.

Recommendations on file handling are contained in the individual audits.

5. **Reserving Accuracy** – There is no change from the 2021 audit. However, three Members have begun analyzing injury exposure more consistently, thus their reserves have higher credibility.

Accurate reserves cannot be established unless operative facts are analyzed for causation, based upon the nature and extent of the claimed injury and compensable damages. This has been a consistent theme in my prior audits and stressed in the narrative reports and the wrap-up meetings.

This is an area with a great deal of inconsistencies among Members. Each Member has their own way of setting case reserves. **Case reserves for larger cases, where the City believes liability exists, are generally set appropriately.** Reserving for lower value cases is inconsistent. The individual audits contain more detail.

Some Members require City Council approval for higher reserves creating delays for setting reserves. Some cities are using ZERO while others place nominal reserves on small cases. The auditor's challenge is trying to connect the dots on the injury, liability and reserves with a dearth of information on the injury and only partially completed investigations. We also found a lack of understanding of liability for Dangerous Condition of Public Property. This impacts the auditor's ability to select cases for review.

The pre-audit activity reviews the Member's internal handling guidelines. We have no concerns in this area as most Members follow their own guidelines very well as would be expected.

6. **Investigations** - In house claims administration relies on Departments for investigations. Some Members investigations range from very good to weak. However, for the majority of the Members, investigations and related analyses are very good. Those Members we have determined to need help, we have provided training material and discussion. We have also advised our availability for "crash courses via Zoom. We observed many claim files that contain no material on alleged facts except those contained on the initial claim form.

While Police Reports and Department records have good information, they often contain inaccuracies and heresy evidence. I have recommended that Members should make an independent judgement of those reports.

Members should analyze the investigations and follow up as appropriate. Those Members that utilize TPA's have them perform the investigations. Investigations,

overall, range from very good (some excellent) to weak. A weak investigation is usually the result of a lack of understanding of the legal components that go into public entity liability. Again, the individual audits contain comments for each one of the Members.

The result of inadequate investigations is that the defense attorney must conduct an investigation via legal discovery which adds considerable costs to the Members

I found no serious deficiencies in this area of the audit, but this category could use improvement.

7. **Litigation Management** - City Attorneys and outside Panel Counsel take over primary claim handling functions and responsibility once a case becomes litigated. The audit reviewed the RM file only, except Mountain View and Palo Alto where the CA handles claims pre litigation. In that case, we reviewed the CA file. The CA and outside defense counsel provide periodic status reports and other informal communication. A few Cities work as an integral part of the litigation management of the file, while other RM departments are only informed about the courses of litigation at arm distance. Keep in mind that once the claim is reported to GHC they take on an active role to monitor and provide input on cases.

I was able to review the GHC ACCEL file before each Member audit. This provided a wider perspective on claims since I was able to see the total picture, i.e., the “excess file” and the “primary file.” I was able to “merge” factual development and liability exposure while scoring files. I provided feedback and commentary to both GHC and member representatives.

GHC introduced a Case Management Evaluation form for defense counsel several years ago. The continued use helps in case evaluation and keeps the defense counsel on track to articulate defense strategy. **Bakersfield** has continued to improve in this area as we saw a number of these reports in the GHC file although they were superficial.

The direction and strategy of a lawsuit isn't always contained in the file, leaving the auditor to use “extrapolation methods” to determine what is going on. On larger reported cases this isn't a problem, but on the routine cases it is quite difficult to determine the City liability exposure (reserves) on litigated matters.

City Attorney staffing changes was noted in the 2021 Audit Report. Overall, these have reflected an improvement in the files, especially the summary and analytical reports.

Except for a few Members, litigation management is deferred to the CA.

8. **Staffing** - We find staffing acceptable for the number of active cases the Members have on their respective systems. City in-house staffs carry an acceptable workload and perform tasks in a timely manner.

TPA's, with one exception, overwork their adjusters and it shows in the files. Investigations are slow to develop, there are long delays between file entries, and the files reflect form over substance. When pressed the TPAs don't provide accurate caseloads.

I have spent considerable time interviewing claim staff during the file reviews. I believe this was very helpful to gain an understanding of the level of experience and technical knowledge of the various claim handlers. This will help me assess trends, point out the needs for improvement and recommend training where the case may be. The wrap up discussions following the individual audits covered my assessment of overall claims knowledge and experience of the RM staff.

I found that Member's staffs have a satisfactory level of industry knowledge, *and improving*, experience, educational background and technical skill to perform their jobs. Whereas, with a few exceptions there is a shrinking knowledge base within the TPA industry to the point where their handling is more of a record keeping function versus traditional active file management.

Across the board, the RM staffs are aware of ACCEL reporting guidelines. Most TPA's are slow, but due provide reports to ACCEL.

9. **Diary** - Other than that observation, Member's files were up to date with evidence of active case management on a regular basis. Communication was good with no discernable lags that would impact claim handling.

My criterion for acceptable diary control is active/responsive communication that is up to date. If we see a communication in a file with no response, then it is evident the file handler is not keeping the file up to date.

I found no concerns or deficiencies in this area with the one notable exception.

10. **Settlements/Payments/Closures** - Members are identifying cases for settlements and where applicable and entering into settlement negotiations with claimants and plaintiffs. A number of Members are actively trying to dispose of smaller cases before they become litigated. This is somewhat limited as the settlement authority for the RM departments is usually very low in the \$5,000 to \$15,000 range. More cases could be settled with higher authority levels. We recommend settlement authority to \$25,000 to \$35,000. However, I do not detect a great deal of interest in making any changes in authority levels.

Files that were settled had the customary releases and dismissals. Most contained the Council's briefing and authority. Cases that were closed due to the running of the Statute of Limitations were so documented. We recommended to Monterey

that they maintain an open file until the Statute of Limitations runs or there is evidence that the claimant is not pursuing the matter. Currently, they close the case after it is denied. This has no impact on ACCEL and is merely a suggestion to create uniformity among Members.

This area of claim handling exhibits full compliance with industry standards. This is consistent with comments in past audits.

## Recommendations

For Members:

- Continued improvement in risk identification & exposure by early investigation and identification of injury and injury potential.
- Earlier factual development.
- Periodic summary reports with POA-Plan of Action.
- Recognition of exposure to legal fees in EPL and most public safety claims.
- Recognition that EPL case have very high exposure to defense legal fees, and fee awards to plaintiffs.
- Look for educational opportunities for staff re PE liability.
- Educate staff re California Government Code 835, et seq.
- Educate staff re exposure recognition on civil rights cases.

Note: I have discussed these recommendations with members staff during the debriefing following the audit. I have also, sent relevant training material as on these topics.

## Methodology

A total of 602 open files and 23 closed files were reviewed. Files were selected after reviewing all the open files of the Member's Loss Run. The Member was then provided a listing of selected files for the audit. The sample files were selected by potential risk to the pool: fatalities, cases where there is an exposure to legal fees (primarily civil rights, EPL, law enforcement matters) and potential for significant injury. We selected a number of low exposure claims, non-tort, land use, writs and contract cases to see how these were handled, investigated, resolved, denied, etc. These claims are often co-mingled with covered and non-covered claims that may have an impact on ACCEL and require a coverage position.

## Appendix A

Member's cases reportable to RMS:

Anaheim	None
Bakersfield	One
Burbank	None
Modesto	None
Mountain View	None
Monterey	None
Palo Alto	None
Ontario	One
Salinas	One
Santa Cruz	None
Santa Barbara	None
Santa Monica	None
Visalia	None

Cases that are borderline or problematic are duly noted on the Narrative Report and have been discussed with Members during the exit interview. Also, noted on the claim matrix.

**Appendix B**

<b>MEMBER</b>	<b>FILES REVIEWED</b>	<b>AUDIT LOCATION</b>	<b>CLAIMS ADMINISTRATION</b>
Anaheim	34 Open/3 Closed	On-Site	Self-Administered
Bakersfield	54 Open/4 Closed	Remote/On-Site	TPA George Hills Company
Burbank	49 Open/5Closed	On-Site	Self-Administered
Modesto	81 Open/Closed	Remote	TPA George Hills Company
Mountain View	16 Open/2 Closed	On-Site	Self-Administered-GHC for Loss Run
Monterey	13 Open/Closed	On-Site	TPA George Hills Company
Ontario	26 Open/4 Closed	Remote	Carl Warren & Company
Palo Alto	19 Open/2Closed	Remote/On-Site	Self-Administered-GHC for financial only
Salinas	25 Open	Remote	Carl Warren & Co. (New 7/1/2022)
Santa Cruz	10 Open/2 Closed	On-Site	Self-Administered
Santa Barbara	49 Open/Closed	On-Site	Self-Administered
Santa Monica	53 Open/Closed	Remote	Self-Administered
Visalia	20 Open/1 Closed	On-Site	Self-Administered-AIMS for some BI/PD Claim Handling
RMS	153Open/Closed	Remote	GHC
<b>Totals</b>	602 Open/23 Closed		

Notes: Overall claim volume up from last year.

## Appendix C

### **Claim Matrix Criteria-Claim Handling Components<sup>1</sup>**

#### **Factual Development**

- Investigation and verification of the details of the incident/accident/matter under consideration.
- Discerning operative facts
- Development of defenses to allegations
- Separating provable evidence from allegations (fact from fiction)
- Continuing process
- Physical evidence
- Identifying contributions from other tortfeasors/parties
- Facts limiting liability
- Contractual risk transfer, pursuit of other responsible parties and insurers

#### **Reserving**

- Exposure recognition
- Rational in setting reserves.
- Identifying and analyzing injury/property damage potential.
- Exposure to legal fees
- Degree of liability of defending entity
- Application of statutory or limiting defenses and immunities
- Application of comparative fault principals
- History of settlement trends in venue and favorable/unfavorable jury pool
- Monitoring and adjusting
- Evaluating defense/experts' costs

#### **Litigation Management**

- Control and management of legal expenses
- Developing case defense strategy
- Articulating plan of resolution, trial versus settlement
- Regular reports and communication from counsel
- Counsel lit management program compliance
- Fee structure
- Reviewing legal invoices for work product and billing compliance to fee arrangements.

#### **Liability Assessment**

- Evaluation of all the factors that are determinative of ultimate outcome.
- Continuing process
- Recognition of developing facts and information.
- Plaintiff witness quality/presentable to trier of facts

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<sup>1</sup> What criteria used to complete the "Claims Matrix" Worksheet

- Legal principals
- Evaluation of facts vs. legal liability
- Plaintiff risk factors
- Defense Risk Factor

**File Management Claim Data Organization clarity**

**Diaries**

- Timely and up to date and consistent

**Notes**

- Regular/relevant/articulate
- Memorialize and document important conversations and communications
- Summarize developing facts, evidence, and important events
- Summary of follow up investigation
- Bring together disparate parts of the overall claim picture/status
- Discussion of resolution plan

**Data Organization**

- File records labeled and in logical fashion
- E-Mail strings summarized and flagged for importance
- Proper coding for department, injury cause codes-accuracy and consistency and following industry practices.

**Timely Negotiations**

Recognize settlement opportunities

Mediation

Informal settlement discussions (1153 & 1154 EC)

Effectiveness of settlements

Contributions

**Appropriateness of Outside /Panel Counsel**

Requirement of trial expertise

Specialty nature of claim (EPL/SH Etc.)

Conflicts

Cost benefit overall

Matching defense attorney to plaintiff attorney expertise.

**Excess Reporting**

Requirement for all layers above Retained Limit

Following reporting requirement guidelines i.e. Injury and reserves

Record of Report

Acknowledgement by Excess Carrier/Program

Coverage issues addressed

Potential disputes recognized

## Part 2 Third Party Administrator Audit

### GHC Liability Claims Administration Audit- 2022

ACCEL Administrator (TPA) – GHC/RMS  
Audit Dates: October 4, 2022, to November 4, 2022  
Audit Location: Online  
Files Reviewed: 153  
Primary Claim Handler: David Trautz  
Litigation Manager: Den Orem  
Supervisor: Rose Melchor

**Audit Elements:** Claim set up, Coverage Determination, Investigations, Reserving, Excess Reporting, Litigation Management, Reporting to ACCEL Board, Settlements.

**Summary:** All files are well handled and actively managed/monitored. All audit criteria elements scored at the highest level (4.0). Communication with Members, Member's counsel and file handlers is timely and good.

One area that deserves a special comment is the interaction with ACCEL's commercial carriers. This is exceptional. All requests are dealt with promptly with detailed *insightful* (emphasis added) comments.

Overall, claim efficacy is excellent. There is a high degree of cooperation with Members, Member's CTO, outside counsel offices and underlying staff.

**Results:** ACCEL continues to receive very high-quality claims management from GHC.

The confidential Claims Matrix that accompanying his report has the audit results that were discussed with GHC and the scoring of the file review.

The attached chart shows scoring elements in each of the audit categories that are identified on the confidential claims matrix.

#### **Recommendation**

- The ACCEL BOD should delegate to GHC the authority to issue preliminary coverage advisories pending a more formal coverage review and Reservations of Rights letters.

**Comments:** I received positive feedback on the GHC staff from Members claims staff while conducting Member audits, *i.e.*, from Risk Managers, City Attorneys and their respective staffs

### TPA Scoring Elements

Audit Dates: 10/4/2022 to 11/4/2022

Files Audit: 153 Open/Closed

Review: Online

Category	Outstanding	Exceeds Expectations	Acceptable	Needs Improvement	Comments
Factual Development	✓				Very good to excellent summaries.
Reserving	✓				Excellent recognition of exposure and value.
Litigation Management	✓				On active ACCEL cases.
Liability Assessments	✓				Shows a high degree of understanding causation and exposure on complex cases.
Damage Evaluation	✓				At the BOD level. Good understanding of liability exposures.
File Management	✓				Files are exceptionally well organized.
Negotiations	✓				This activity monitored and reported at BOD level
E-File Records	✓				All records up to date and easily reviewed.
Excess Notification and Interaction	✓				Very active and methodical.

Overall: Professional + (highest rating)

Comments: All files are up to date with very good to excellent case analyses. Commercial carriers receive regular updates. Inquiries are dealt with promptly. Coverage issues and unusual claims are addressed properly. Knowledge of underlying legal principles is excellent. ACCEL receiving the very best quality claims management. Auditor has not found any exceptions or concerns.

END OF 2022 ACCEL AUDIT

# CITY OF ANAHEIM



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 918-7021  
rpwrs@pacbell.net

Ms. Tracey Matthews Esq., Risk Manager  
City of Anaheim  
201 South Anaheim Blvd., Suite 503  
Anaheim, CA 92805

December 16, 2022

Re: ACCEL/City of Anaheim Claim File Review 2022

Audit Dates: December 12, 2022  
Audit Location: On Site.  
Wrap up: In person.  
Claims Administration: In-House  
Defense Counsel: In-House/Outside/Panel Counsel  
Files Reviewed: 34 Open/Closed

Dear Ms. Matthews

### **Highlights 2022 Audit**

- New temporary Claims Examiner Heather Walker's files are handled very well, with good comments, notes and analysis.
- Very articulate reports, analyses, and denial letters.
- Audit files are well organized in traditional claims industry fashion.
- All files actively managed and up to date.
- Investigations are good with good summary of details.
- The **Tender Status Report** is an excellent method of keeping track of this important RM function.
- **Scene Investigation Summary** form is an excellent enhancement to claim files.
- RM is understaffed given the complexity and volume of claims and suits.
- ACCEL is receiving timely notices of new exposures.

### **Organization**

No change from last year. Risk Management Division (RM) reports to the Deputy Human Resources Director. Liability claims are managed internally with staff positions. The City Attorney's Office (CA) handles litigation and assigns out some cases to specialty panel counsel. Risk Management has a collaborative working relationship with the City Attorney for litigated and high exposure matters.

The audit only reviewed claim matters in the RM office.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

The City of Anaheim Risk Management Division (RM) has a highly competent claims management/claim resolution program. All files are professionally managed. This system has been in place for many years and served the city well. The RM Division is responsible for a volume of highly complex claims and does an excellent job managing these cases to resolution. The Claims Manager position is being handled by Heather Walker. Litigation and complex cases are being handled by the Risk Manager. Files reflect active management and preservation of City of Anaheim financial resources.

The City of Anaheim does not reject claims per the Government Code, but does issue detailed denial letters which are excellently crafted.

Our *professionally managed* designation requires high efficacy in managing liability risk, close collaboration with the City Attorney Office (CAO) and the various departments. Anaheim RM handles claims from cradle to grave and overall results are outstanding, considering today's litigation environment.

## **OBSERVATIONS**

- Several file enhancements noted this year-Tender Summary and Scene Investigation Summary forms.
- Consistent and active case management.
- Files reflect high competence overall in analysis, insights, and case summaries.
- Files are very well documented and organized for easy review.
- Very good claim resolutions.
- Excellent claim evaluations.
- RM is actively involved in claims supervision and direction.
- Claim resolution is effective and timely as noted via excellent settlements/resolution/dismissals on the closed claims.
- Files are up to date with management notes and summary reports.

## **TECHNICAL REVIEW (NO CHANGE FROM THE PRIOR YEARS AUDIT)**

### **Investigation:**

The files we reviewed were well investigated, documented accordingly with good analysis, and understanding of causation issues. Analysis of important facts, records and related documentation is quite sophisticated. This is due to guidance provided by Tracey Mathews and her skill as an attorney with many years' experiences. In addition, the files

also demonstrate that the Claims Manager conducts highly competent investigations, evaluations and analysis for assigned matters. The addition of an additional claims examiner should further enhance field investigations and overall claims handling. Also, moving to a paperless claims system would streamline claim documentation and record retention.

**File Management:**

Files were well organized, up to date with financial data separated from other records. Notes are detailed with claimants and attorney contact details.

**Supervision**

Via roundtable discussions on important cases, risk evaluation and reserving. There is regular consultation with GHC on ACCEL reportable cases.

**Excess Reporting**

ACCEL is receiving timely notifications and updates on potential and claims. As advised, at the time of the audit, I had already reviewed the GHC ACCEL claim file records.

**Recommendations**

- A new RMS would greatly enhance the RM claim program and free up valuable staff time.
- Consider additional staff.
- File 22000232 is a fully indemnified claim with high potential. I would suggest the upper-level excess carriers on the vendors policies be notified. Discretionary reporting to ACCEL is your option.

**Comments**

It was a pleasure to review these highly organized well-documented files.

If we can be assistance on any matter within the scope of our work with ACCEL, please feel free to contact me. We appreciate any feedback or comments on this year's audit.

Thank you

Very truly yours  
R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers, ARM  
ACCEL Auditor

# **CITY OF BAKERSFIELD**



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 918-7021  
rpwrs@pacbell.net

Jena Covey, Risk Manager  
City of Bakersfield  
1600 Truxtun Ave., Fifth Floor  
Bakersfield, CA 93301

August 28, 2022  
Sent via E-Mail

Re: ACCEL/City of Bakersfield Claim File Review 2022

Audit Dates: August 4, 2022 to August 8, 2022  
Audit Location: Remote via GHC Spear-Tech RMS  
Claims Administration: GHC TPA (Prior to April 2022-Sedgwick)  
Defense Counsel: Outside/Panel Counsel  
Files Reviewed: 54 open (out of 217). 5 closed claims from the prior year.

Dear Jena:

### *2022 Audit Highlights*

- The file conversion from Sedgwick/York resulted in the inability to retrieve all necessary records<sup>1</sup>. Some records were either lost “in the jungle” or missing altogether. However, I could review enough records to complete the audit.
- The interregnum period (December 2021 to April 2022) resulted in poor record keeping, but only minor issues on continuity.
- One file was reserved over the ACCEL threshold reporting level and needs to be reported.
- Most records have been updated and are mostly current with only a few housekeeping items to deal with.
- The GHC system is lightyears ahead of the system used by the prior TPA.
- Record keeping is now very good, and, looking forward, the City’s claim program will benefit.
- Cooperation between Defense Counsel and ACCEL continues to improve.
- I was able to review the City file alongside the ACCEL file. Communication between the parties is very good. The ACCEL files are well managed.
- The City’s well established claim program is now back on track after the speed bumps of late 2021, early 2022.
- Claim intake is up from last year - 217 up from 175.
- GHC is providing excellent support and supervision on files. Laura now has knowledgeable resources that was lacking with the prior TPA.

<sup>1</sup> Many file attachments are lumped together as “Conversion File” with no labels as to what it contains. Laura’s reports are either mislabeled or missing.

## **Preface**

Below is a summary of findings following the recently completed claim review and our “wrap up” session. The Excel Worksheet that accompanies this letter contains specifics comments on claims. If there are any recommendations, these are detailed at the end of the report. Laura Harmon provided assistance and commentary on your program/claims during the review. We thank her for their help.

The Third-Party Administrator (TPA) transition from Sedgwick to George Hills Company (GHC) is not without some issues. Administration between December 2021 and the takeover by GHC was a holding action with little effort to effectively manage claims. The data transfer has resulted in records being lost, mired/comingled in the *black hole* of the “Conversion File.” GHC has assigned personnel to relabel file records lumped together as Conversion File. “See comments below.

## **Structure**

This audit reviewed the Risk Management (RM) claims files. From our interview: the City Attorney’s Office (CA) handles Litigation Management, oversight and supervision of outside counsel. Outside counsel reports directly to the CAO. The CAO provides monthly updates via regularly scheduled meetings. The CAO *Suit File* updates provided at the meetings are in the RMS file. The CAO provided the auditor the latest updates and these were reviewed during the audit.

Reserves are a collegiate process with RM and the TPA based upon information gathered through investigation.

In addition to directing outside counsel, the CAO provides authority to proceed to trial, resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. The adjuster will negotiate and settle claims assigned to them by RM. On some occasions the CAO will ask the adjuster to explore settlement opportunities.

There is a dichotomy between non-litigated and litigated files. Non-litigated files are handled by the RM office with most activity occurring between the Risk Manager and the primary TPA adjuster. There is a great deal of collaboration between the two. Claims that need to be resolved are effectively handled with appropriate documentation, properly adjusted, payments made, and releases obtained. This structure has been in place for many years and works extremely well. The TPA adjuster is called out on accidents that may involve liability claims. The City benefits greatly from this arrangements with early investigation and preservation of evidence.

RM handles all new matters until suit is served then the City Attorney Office takes over the matter. The TPA function is then more of a record keeping and monitoring function keeping internal and external parties, such as ACCEL, informed on important developments, reserve adjustments and payments. RM will also assist with legal discovery, i.e., interrogatories, if asked. The CAO is in 100% control of all litigation strategy. Information is closely held, but updates are provided to CAO “clients” via monthly Litigation Meetings as noted above. ACCEL is now getting defense counsel reports on a more consistent basis.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Bakersfield files are competently managed and meet or exceed industry standards and ACCEL's expectations. As in past audits there are no exceptions from accepted ACCEL auditing criteria.

The city has an establish procedure to review incoming claims and suits, manage, and resolve claims.

### **OBSERVATIONS (SEE HIGHLIGHTS ABOVE)**

- With the one exception noted below, all ACCEL cases were reported with active follow up support.
- The electronic claim file records have been a problem for several years as the TPA changed databases several times. This has created a quagmire of unusable file records. This will be a problem for years until the older files are closed out. Since most of the more important records are in defense counsel's files, I don't see any significant exposure to the COB in that regard. I haven't observed any potential E&O issues yet.
- Laura and GHC have brought most of the files current in light of the prior comment.
- The auditor received copies of the Litigation Log from the monthly meetings. The RM files reflect current litigation activity.
- The database of *reserves* and *payments* is up to date, and nothing was lost in the conversion.
  
- The investigation trail is haphazard due to the transfer and inconsistent records from December 2021 to April 2022.

### **Other Observations:**

- GHC has instituted some record keeping protocols that will enhance the records.
- File handling is consistent, up to date and actively managed.
- Non litigated files are handled very well despite the poor records. This should improve this year.
- Settlements are well documented. These claims are effectively managed.
- Since April 1, 2022, new cases are actively investigated and have good factual development.
- I found no unusual claims, risks or other issues that would pose potential risk for ACCEL.
- The claim handler is actively documenting the file. Diaries are up to date.
- RM recognizes exposures and potential risk to ACCEL.

- ACCEL is getting regular updates from Laura Harmon and DC.
- New claim filings were reviewed with compliance with Government Code filing deadlines; appropriate notices and denials were sent out timely.
- Reserving is excellent.
- Evidence of risk transfer and contribution were observed

## **TECHNICAL REVIEW**

### **Investigation:**

The City has an established program that requires the TPA claim handler to respond to the scene of serious accidents 24/7. This is an important function that should be maintained. Sedgwick tried to reign in this activity (probably to save costs). Routine cases are investigated competently, documented with department reports, photographs and related investigation records. Police cases are usually handled internally. Newer files do have some police records in them (redacted accordingly).

The adjuster's investigation reports are thorough with very good analysis of facts and liability causation.

### **File Management:**

File maintenance is back on track. We would expect the prior deficiencies to correct themselves as GHC and Laura update the files.

We have had several discussions with Sedgwick management over the years on significant deficiencies in file record maintenance, lack of supervision and support for the adjuster, insufficient experience with public entities and various related issues. I believe the City of Bakersfield made the right choice in transitioning to a new TPA.

### **Supervision**

GHC has experienced and capable supervisors on this account. I have experience with these supervisors, and I am impressed with their knowledge and experience. This is reflected in the claim file records.

### **Excess Reporting**

CBAN011851-Needs to be reported as it is reserved above the reporting threshold. The reserve was adjusted on Dec 21, 2021, while under the control of the interim Sedgewick adjuster, but wasn't reported to ACCEL.

Otherwise, ACCEL is receiving timely notifications and updates on potential and claims.

## **Recommendations**

We have sent a list of minor housekeeping items directly to Laura for correction.

For this Audit:

- Focus and develop injury information and make it part of the claim file and update periodically. It is our experience that injuries drive the claims processes.
- GHC is now using the Plan of Action on files. Make sure these are updated on a routine basis.

## **Comments**

We look forward to working with the staff at GHC as this is a major improvement over the prior TPA's approach to Public Entity claim administration.

If we can be assistance on any matter within the scope of our work with ACCEL, please feel free to contact me. We appreciate any feedback or comments on this year's audit.

Thank you

Very truly yours

*Robert E. Powers*

Robert E. Powers, ARM  
ACCEL Auditor

# CITY OF BURBANK



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 647-9835  
rwrs@pacbell.net

Ms. Betsy McClinton  
Management Services Director  
City of Burbank  
275 E. Olive Ave  
Burbank, CA 91510

September 27, 2022

*Electronic Transmittal Only*

Re: ACCEL/City of Burbank Claim File Review 2022

Audit Date: September 19, 2022  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed 49 Open 5 Closed

Dear Ms. McClinton:

### **Highlights 2022 Audit**

- Burbank claim handling continues to exceed expectations.
- Staff changes-introduction of new liability analyst, Marlene Kim
- Cooperation between the City Attorney's Office (CAO) and Risk Management (RM) is very good.
- Claim files are well handled, up to date and contain very good analyses.
- CAO analyses are excellent. These are mostly mature files with City Council briefs.
- We identified some older suit files that could use CAO updates. See below.
- We provided some additional training material to staff and discussed general claim handling and procedures.

### **Preface**

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specific comments on claims. If there are any recommendations, these are detailed at the end of this report. I greatly appreciated your staff having the files *well* organized and the assistance provided during the file review.

Prior audits did not identify any notable exceptions, trends or concerns in the way the RM administers its liability risk program. We do note that cooperation and interaction between the CAO and RM Office continues to improve over past years. Staff describes cooperation as very good to excellent.

## Structure

This audit only reviewed the Risk Management (RM) claims files. Alvaro Valdez oversees the liability claims and workers compensation units with Marlene Kim taking over his role as primary liability analyst. The City Attorney Office (CAO) is responsible for litigation management, reserve adjustments on litigated matters and case evaluation for the City Council. The City Attorney's Office also resolves claims and suits, negotiates settlements, and obtains releases and other closings documents. RM handles new matters, investigates, and sets reserves on non-litigated cases and attempts settlements on certain cases deemed appropriate for early resolution.

The claims staff works closely with the City Attorney's office, which acts as the City's defense counsel. The city will utilize outside counsel on specialty cases. The degree of cooperation has improved markedly over the last four years.

## Audit Criteria

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Burbank's files are *well* managed, exceeds industry standards and ACCEL's expectations. The designation requires adherence to industry standards, that is, competent claim processing, analyses, documentation, investigation (factual development) and most importantly, a good working relationship with the CAO and City Departments.

## OBSERVATIONS (SOME OF THESE ARE CARRY OVERS FROM PRIOR AUDITS).

- Field investigations are very well done with important evidence preserved and documented.
- Claim analyses are very good and detailed.
- The bulk of City claims are slip/trip type accidents.
- Claim files are very well organized along industry customs and practices.
- Excellent department protocols for preserving evidence pre-litigation
- We note efforts to resolve claims pre-litigation
- Reserves are generally good and up to date.
- The litigated files have updates on a regular basis. Most CAO reports are very good. Some of the older litigated files should be updated.
- Files reflect good prelitigation contact with claimant attorneys and attempts at early resolution.
- Recommendations from the two prior audits are evident this year

- RM is now monitoring other potential matters for liability exposure, *i.e.*, Inverse Condemnation, writ actions.

## **TECHNICAL REVIEW (NOTE: SAME AS LAST YEAR)**

### **Investigation/Claims Intake:**

Field investigations along with photographs and other physical evidence was evident in the files I reviewed. Where appropriate, claims were transferred to contractors and other parties. Claims being brought against the City were analyzed to determine applicable legal/risk exposure. Government Claims were analyzed for compliance, timeliness and sufficiency with the Government Code. Proper notices are being utilized.

### **File Management:**

Files were well organized in logical fashion and contained all the paper/electronic media we expect to see in a claim file. I scored file management as “exceeds” industry standards and expectations (see Claims matrix).

All the files were organized for easy review, documents we look for were readily recognizable and the loss run was up to date and followed our request for data layout.

RM is going to use electronic files and beginning to eliminate the paper files. RM will continue to use *iVos* for financial transactions and Loss Runs.

### **Supervision:**

As stated, Alvaro Valdez will continue to supervise and oversee the liability unit along with his primary duties devoted to the workers compensation program. Evidence of supervision and collaboration was evident in the file records.

### **Excess Reporting**

The reports to ACCEL were timely and contained all the mandatory information that ACCEL requires to be sent to GHC. (Recognizing that the CA has primary duties to keep RMS updated)

## **RECOMMENDATIONS**

Some of the older legal files could use new CAO updates. These are noted on the Claims Matrix. I sent a Defense Counsel Evaluation (DCE) form to Alvaro for consideration. We would be available for discussion if any other format would be more appropriate.

### **Comment:**

I am available to discuss this report and any related matter. Again, I want to thank the RM staff for the assistance during the file review.

Thank you  
Very truly yours  
R. E. Powers & Company, LLC

*Robert E. Powers*

**Robert E. Powers, ARM  
ACCEL Auditor**

# CITY OF MODESTO



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 647-9835  
rnwrs@nachell.net

Mr. Joe Frank Rodriguez, Risk Manager  
City of Modesto  
1010 10th Street  
Modesto, CA 95354

August 23, 2022  
*Electronic Delivery Only*  
*Sent to: Joe Rodriguez*

Re:

Re: ACCEL/City of Modesto Claim File Review 2022

Audit Date: August 10th to August 13<sup>th</sup>, 2022  
Audit Location: Online via the GHC CXP System  
Claims Administration: **TPA**-George Hills Company-(June 2021-Present)  
Defense Counsel: City Attorney/Select Panel on some cases.  
Files Reviewed<sup>1</sup>: 81 Claims- Various Open/Closed

Dear Mr. Rodriguez:

**2022 Audit highlights:**

- All open claims are up to date and fully summarized and analyzed.
- The City of Modesto has earned my highest rating designation-*Professionally Managed*.
- The file handler and supervisor are highly experienced public entity claims professionals as evidenced in the files.
- Files are reserved and analyzed with a high degree of expertise.
- The files reflect excellent independent liability and exposure analyses.
- GHC should be commended for their diligence getting these files back on track.
- The GHC CXP System is a significant upgrade over the prior RMS.
- Record keeping is now excellent and important file documents are easy to retrieve.
- Defense reports are very good and regularly updated. Collaboration with GHC is good.

**Preface**

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specifics comments on claims. If there are any recommendations, these are detailed at the end of the report.

<sup>1</sup> I reviewed the description and reserves in all the open files to select those files that could possibly hit my "radar" (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

## **Structure**

The Risk Manager and Risk Management Office reports to the HR Director. The Risk Manager is the ACCEL Board Member. Prior to June 2021 the claims were administered in house. Temporary personnel that were in place through 2020 and part of 2019 departed in October 2021.

The city hired George Hills Company starting in June 2021 to administer their claims. All the files were converted from the legacy system the GHC claims management system. This is a notable improvement.

The (Contract) City Attorney's Office (CAO) handles litigation as well as Litigation Management, oversight and supervision of outside counsel. In the past, outside counsel reported directly to the CAO. While the CAO is responsible for litigation management, we found many examples of direct communication between George Hills and Mr. Swingles office. Counsel Reports are part of the RM file. There appears to be good collaboration between Defense Counsel (DC) and GHC. DC reports are very good to excellent.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to (GHC) RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based on the 2022 ACCEL Audit, the City of Modesto claim files are *professionally managed*, meet and exceed expectations, industry standards and ACCEL Guidelines.

The ACCEL Audit for 2021 was conducted in August 2021. The claim files at that time had marked deficiencies. However, GHC had just started contract TPA services, and we anticipated that corrections would come after the takeover. Several conferences were held with Alliant and GHC senior staff. A plan to triage the files and correct deficiencies were agreed upon. We went back in and reviewed many files a second time in November 2021. The corrections were well underway. A supplemental report was issued, and the City of Modesto was designated back in compliance with ACCEL Requirements for the 2021 audit cycle.

This audit shows the process is now completed. The files are now well managed as noted above.

### **Observations**

- All files are up to date and actively managed.
- All diaries are current.

- File summaries are excellent with expert analysis.
- The adjuster and supervisor are highly experienced in public entity liability exposures.
- The injury/damage evaluations vis-a -vis causation/liability are excellent.
- Reserving is good to excellent.
- Files reflect good independent comments and realistic liability exposures.
- Collaboration with DC is very good.
- There are Plans of Action (POA) in almost all the files. This enables up to monitor progress and strategy going forward.

## **TECHNICAL REVIEW**

### **Investigation:**

Litigated files have excellent factual development. Defense counsel's reports are reviewed by the GHC adjuster and independent comments are duly noted via file notes.

Most files have all the necessary elements we would expect to find re investigation, photographs, departmental records, witness summaries and other physical evidence.

### **File Management:**

Overall file management is excellent. The files are updated on a regular basis with important observations on changing circumstances. Reserves changes are justified with rationale. Projected changes are noted via the POA. Financial transactions are logged in quickly and have the necessary supporting documentation, *i.e.*, indexing, Medicare, etc.

### **Supervision**

Supervision is regular and overall excellent. Files reflect collaboration between adjuster and supervisor.

### **Excess Reporting**

I didn't find any reportable cases that need notification to ACCEL. The files reflect regular updates to ACCEL along with responses to inquiries from ACCEL and the Excess Carriers.

### **Recommendations**

None (this rarely occurs). I passed along two minor housekeeping items and one typo for correction.

### **COMMENT**

I am available to discuss any matter or concern raised in this report and provide recommendations. I believe an ongoing dialogue with the City would be more helpful than trying to articulate other concepts for management correction.

Thank you

Very truly yours

R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers, ARM

# CITY OF MONTEREY



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 917-7021  
rpwrs@pacbell.net

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Sent to: [king@monterey.org](mailto:king@monterey.org)

Ms. Rafaela T. King  
ACCEL Board Member  
City of Monterey  
735 Pacific Street, Suite A  
Monterey, CA 93940

December 17, 2022  
*sent electronically only*

Re: ACCEL/City of Monterey Claim File Review 2022

Audit Dates: September 17<sup>th</sup> to Sept. 19, 2022  
Audit Location: Online  
Claims Administration: George Hills Company.  
Defense Counsel: City Attorney  
Files Reviewed: 13 Open /Closed<sup>1</sup>

Dear Ms. King,

### **2022 Audit Highlights**

- The City of Monterey now contracts with George Hills Company (GHC) for TPA services.
- Files have been transferred to GHC and most records are in their claims system.
- Files now have professional claims oversight.
- Most files are up to date, but some need additional work up.
- The number of claims is up over prior years.

### **Preface**

This report is very similar to last year's report since there have been no *substantive changes* in the City of Monterey claim handling program.

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specifics comments on claims. If there are any recommendations, these are detailed at the end of the report.

In performing this year's audit, I reviewed the 2019 and 2020 audits. There are no trends that would cause concerns. This audit confirms overall good file management.

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<sup>1</sup> I reviewed the description and reserves in all the open files to select those files that could possibly hit my "radar" (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

The City of Monterey is one of ACCEL'S low risk Members. There only a few claims presented each year.

## **Structure**

This audit reviewed the claims files in the Risk Management Office (RM). RM is under the auspices of the Finance Department. RM administers claims and actively collaborates with the City Attorney's Office (CA). The CA manages litigation and uses Staff Attorneys for most cases. Some cases may be assigned to outside counsel. Claims over \$50,000 need City Council approval for denial. Settlements over \$25,000 need Council approval

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling considering ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Monterey files are handled within acceptable industry standards and ACCEL's expectations. I would expect this to improve as GHC ramps up completely.

### **OBSERVATIONS – (CONSISTENT WITH LAST YEAR'S AUDIT)**

- Files reflect active participation and collaboration with the City Attorney's Office.
- Files are generally well investigated with photographs and Department commentary.
- Overall, the files and handling are consistent with prior years.
- Files are up to date.
- Claims activity is relatively light.
- The Public Works department conducts good investigations on dangerous condition cases. Department cooperation is very good.
- The community is small enough that information about claimant's injuries is readily available. A big plus.

## **TECHNICAL REVIEW**

### **Government Claims Filings**

All government claim filings were handled promptly, timely with proper notices to claimants. The process of filing responses and notices are good.

**Investigation:** Claims being brought against the City were investigated, analyzed to determine legal/risk exposure (most have CAO input) and that proper filing requirements procedure are followed by the claimant/plaintiff in bringing a case against the City.

Investigations are for the most part good. Department reports are good.

**File Management:**

Files were very well organized and contained all the media pertaining to the claim. These records were regularly updated. All files have evidence of active management. Files reflect responsive communication with claimants and internal staff. Files are organized logically and easy to review.

The claim files contain enough information for the auditor to discern any ACCEL Pool risk.

**Supervision**

The RM reports to the Finance Director. The CA oversees and has input in the handling of claims since the City Council approves claim settlements above \$25,000. The files reflect evidence of active CA oversight and collaboration.

**Excess Reporting**

- Good and in compliance.
- RM updates and coordinates with GHC on reportable cases.

**RECOMMENDATIONS**

- Focus and develop injury information and make it part of the claim file and update periodically. It is our experience that injuries drive the claims processes.

Otherwise, we have no other recommendations. Again, I thank the RM staff for assistance during the file review. As stated above, I am available for discussion on any matter in this narrative summary of the recent audit.

Thank you  
Very truly yours  
R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

# **CITY OF MOUNTAIN VIEW**



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 917-7021  
rpwrs@pacbell.net

[Sent to: mailto:sheryl.higa@mountainview.gov](mailto:sheryl.higa@mountainview.gov)

Sheryl Higa, Risk Manager  
City of Mountain View  
500 Castro Street  
Mountain View, CA 94039-7540

December 8, 2022

*Sent Via E-Mail*

Re: ACCEL/City of Mountain View Claim File Review 2022

Audit Dates: November 17, 2022  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Staff Counsel  
Files Reviewed: 18 Open/Closed<sup>1</sup>

Dear Ms. Higa:

The City of Mountain View continues to excel in all audit criteria. In the five years I have audited your claim files, I rate the City's claims program in the top tier of ACCEL Members. This is due primarily to the City Attorney's Office (CAO) professional management of suits and claims, and the support from Angela Aplitz in Risk Management and Lynette King in the City Attorney's Office.

### **Highlights 2022 Audit**

- Assessment and management of liability risk is exceptional.
- Record keeping is meticulous and well organized.
- RM interaction with CAO is very good.
- RM file notes and commentary in the files is excellent.
- CAO enjoys the fruits of seasoned RM and CAO staff.
- Overall claims program is mature and functions very well.
- Mountain View (COMV) files are professionally managed.
- Two of the larger exposure cases have been resolved

### **Preface**

The audit results are mostly identical to the comments from last year's file review. There have been no substantive changes in the GL/Auto claim-handling program this year.

<sup>1</sup> I reviewed the description and reserves in all the open files to select those files that could possibly hit my "radar" (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

In order to avoid redundancy, this is a brief report capturing only current relevant comments. Most of these are contained in the Claims Matrix and highlighted. I am including last year's report for reference as well.

We thank your staff and the City Attorney's staff for assistance during the audit.

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specific comments on claims. If there are any recommendations, these are detailed at the end of the report.

## **Structure**

### **Organization**

New Risk Manager this year, otherwise no changes from last year. The audit reviewed the claims files in the City Attorney's Office. From our interview at the time of the audit: The City Attorney's Office (CA) administers claims and litigation management. The Risk Manager reviews each file on a regular basis and places notes in the CA file. The City uses Staff Attorneys for most cases. Some cases are assigned to outside counsel. Legal support staff maintains the files and process releases and other closing records. George Hills Company is utilized for Loss Runs only.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to GHC.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Mountain View files are professionally managed and, in many areas, exceed industry standards and ACCEL's expectations.

### **OBSERVATIONS**

- All files had a summary page verifying RM involvement in the claim.
- The files are meticulously maintained with important records tabbed and highlighted.
- Consistent review by RM staff is evident with commentary and updated regularly.
- Investigations were good and, in many cases, excellent.
- Legal analysis and comments are very good.
- We did not discover any unusual matters that would *potentially* impact ACCEL's layer.

**TECHNICAL REVIEW  
(SAME AS IN PAST YEARS)**

**Government Claims Filings**

All government claim filings were handled promptly, timely with proper notices to claimants.

**Investigation**

The files are in paper folder format. It was evident in the files reviewed, that claims being brought against the City were investigated, analyzed to determine applicable legal/risk exposure and that proper filing requirements procedure are followed by the claimant/plaintiff in bringing a case against the City. Interaction with City Departments is very good. Investigations include pictures and technical details from the involved department. Police reports are part of the claim file.

**File Management**

Files were very well organized and contained all the paper media pertaining to the claim. Angela Apitz regularly updates the files with a status sheet. Lynette King organizes the files, tabs and notes important documents. Files are consistent with the type of records in a typical law office. Records are kept chronologically, and important records are analyzed by Staff Attorneys. These are among the easiest files to review due to their organization, logical layout and regular updates.

**Supervision**

CA supervises the claim process and all litigation. Regular communication from more senior Staff Attorneys is evident in the files.

**Excess Reporting**

All matters that require reporting have been noticed to the ACCEL TPA  
Otherwise, cases in the RMS "pipeline" are consistently updated and communication to/from George Hills Company (formerly RMS) is good.

**RECOMMENDATIONS**

None

Again, I thank the RM staff and the City Attorneys Staff for assistance during the file review.

Thank you

Very truly yours

R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers, ARM

ACCEL Auditor

# CITY OF ONTARIO



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 647-9835  
rnwrs@nacbells.net

Jeanette Chavez, ACCEL Board Member  
Assistant Human Resources/Risk Management Director  
City of Ontario  
303 East "B" Street  
Ontario, CA 91764

August 19, 2022  
*Sent via E-Mail*

## RE: CITY OF ONTARIO CLAIM FILE REVIEW

Audit Dates: August 15th to 18th, 2022  
Audit Location: Remote Audit-CWC "File Handler Enterprise System"  
"Wrap up" (TBA)  
Files Audited: 25 Open 5 Closed out of 154 Open Cases

Dear Mrs. Chavez:

### Highlights 2022 Audit

Note: Many of these comments can be explained by the leave of absence of the primary litigation adjuster and the change in the account supervisor.

- One file needs an ACCEL report.
- Claim volume is up from last year-154 versus 94.
- Overall TPA performance is lower than last year.
- Some staffing changes at CWC-may impact observations below.
- Some files need attention. Discussed with TPA supervisor.
- Non-Litigated cases with obvious liability continue to be handled well.
- The city is transitioning staff overseeing liability files.
- We expect improvement in the coming year with new personnel.
- I have reviewed Ms. Huff's work in other audits and find her to be an experienced and knowledgeable claims person.
- One panel counsel is retiring with his files being reassigned.

### Preface

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specific comments on claims. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated Carl Warren & Company's assistance provided during the file review. I am available to discuss any item contained in the attached Claims Matrix or this report.

In performing this year's audit, I reviewed the prior year's audits. I also reviewed current CWC staffing work guidelines and the current TPA *Best Practices*. There were some staffing changes, but the main adjuster is on leave since February and Shari Huff is the new supervisor.

This audit reviewed the claims files in the TPA file via their online system *FileHandler Enterprise*. This is one of the better RMS systems being utilized in the industry. The system contained all the expected records and documents. This year, I added a column in the Data Matrix that evaluates the use of e-file records, labeling and ease of document retrieval.

## Structure

The City utilizes Carl Warren as the TPA for claims processing, investigation, reserving, most settlements and other overall handling. The City uses outside panel counsel for litigation. Carl Warren interfaces with defense counsel to update the file and participate in most settlements. The TPA sets reserves. The RM has \$25,000 settlement authority with a stair step up to the Assistant HR/Risk Management Director, Executive HR/Risk Management Director and City Manager. Cases over \$100,000 require City Council approval.

CWC Claims staff:

- Kimberly Smith Litigation and higher exposure cases
- Stephanie Carter Liability, bodily injury and property damage claims
- Stacy Goopio Property damage and Bodily injury claims  
Appears to be assigned more complex higher value claims
- Shari Huff Supervisor (new to account)

The Risk Management Department monitors claims activity as evident in the CWC files.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Ontario claim files meet industry standards and ACCEL's expectations. Some improvement is warranted as the files reviewed last year scored higher. The process of reviewing new claims, determination if ACCEL reporting is required, reserving and appropriate file documentation was evident in the files we reviewed with the one exception.

I reviewed 30 files. I reviewed the description and reserves in all the open files to select those files that could possibly hit my “radar” (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

## **OBSERVATIONS**

- Pro-active case management has declined over last year.
- From our perspective, defense counsel is taking the lead on litigation strategy. This is due to the adjusters not articulating a clear POA. See recommendations.
- Caseloads are up this year as filings with the City have increased.
- Kimberly Smith provided *very good analytical File Notes*.
- Files are reasonably up to date and possess the necessary documentation to assess claim handling and resolution.
- The City of Ontario is receiving excellent legal representation. The defense attorneys are seasoned professionals with trial experience.
- There are a few looming large exposure cases.

## **TECHNICAL REVIEW**

The attached Claims Matrix has comments on the technical aspect required in the audit. Generally, all the file records that ACCEL requires are evident. We found one ACCEL reportable case and several cases with low reserves.

### **Investigation:**

A step back from last year. The files reflect reasonable but cursory investigations. The summaries could be more detailed with independent analysis versus parroting official reports and defense counsel comments. One adjuster, Ms. Smith, has an excellent, clear way of writing. Her analyses are good to excellent. We noted that some investigations were slow to develop.

### **File Management:**

Generally good and what we would expect from the City’s TPA. This follows standard industry standards. The e-file records are generally very good. All the necessary records are present, but some file notes are perfunctory and lacking in independent quality analysis (called “top sheeting”).

### **Supervision**

The files reflect active supervision by CWC. Supervision appears regular and appropriate. Peer review is good. However, I saw many cases where the adjuster didn’t follow up on supervisor recommendations. I didn’t see the same level of RM interaction with CWC as seen in prior years.

### **Excess Reporting**

One case needs reporting. ACCEL was generally updated regularly. The Claims Examiners are cognizant and follow ACCEL reporting guidelines.

- Case 3028934- This has been passed on to CWC.

## **RECOMMENDATIONS**

- CWC should follow up on the comments in the Claims Matrix
- The files should reflect proactive case management.
- Complex files should have a regular periodic summary pulling loose ends together. This would apply to any file with reserves over \$50K, EPL, Civil Rights and Public Safety liability claims.
- Challenge defense counsel on justification for demurrers and MSJ on routine tort case. While effective on EPL and civil rights cases, they are of dubious value on routine tort cases.
- A POA in every file.
- More in-depth investigations and summaries. Independent analysis of facts and official reports.
- Update files on current activity.
- File notes that “pull together” loose ends.
- The claim file should speak for itself. That is, representative of professional claims management.

(Note: The following recommendations are not specific to the City of Ontario Audit, but general recommendations we are making for all ACCEL Members).

- Focus and develop *injury information* and make it part of the claim file and update periodically. *It is our experience that injuries drive the claims processes.*
- A Plan of Action (POA) comment re resolution, *i.e.* trial, settlement, procedural dismissal, etc., or even “still developing a plan”.

Otherwise, we have no other recommendations. Again, I thank the TPA staff and your office for assistance during the file review.

Thank you  
Very truly yours  
R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

# CITY OF PALO ALTO

Sent to Sandra.Blanch@CityofPaloAlto.org

Sandra Blanch, Risk Manager  
City of Palo Alto  
250 Hamilton Avenue  
Palo Alto, CA 94301

December 5, 2022

*Electronic Transmission Only*

Re: ACCEL/City of Palo Alto Claim File Review 2022

Audit Dates: November 17, 2022  
Audit Location: On-Line/On-site  
Claims Administration: In-House/GHC for financial record keeping only.  
Defense Counsel: Inside/Outside Counsel  
Files Reviewed: 22 Open / Closed

Dear Sandra,

I was only able to review a limited number of records in the selected audit files. As you are aware, George Hills Company (GHC) only records financial transactions. Claim records are housed in the **City Law** database. I was only able to review the PDF files.

However, I was able to glean most of the information I needed from the ACCEL files maintained by GHC and the limited number of PDF files. I had access to GHC files for the financial records.

Accordingly, many of the categories listed below do not have enough files records to comment on.

Tricia advised that the City of Palo Alto (COPA) is considering an updated RMS which would be a major improvement over **City Law**. That RMS isn't structured for typical public entity claim processing, record keeping etc. Since COPA is handling most claims in house, a more robust system would be a major improvement over **City Law**.

Overall, I believe claim handling and record keeping will be much improved with a new system.

If the City of Palo Alto does acquire a traditional claim system, I would recommend that the file records are set up and maintained along traditional claim industry standards. I would be glad to assist the COPA in that regard. See Exhibits.

### **Highlights 2022 Audit**

- Claims are handled in an acceptable manner.
- Files are up to date.

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- Reserve structure is good.
- No concerns or negative trends

## **Preface**

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specific comments on claims. If there are any recommendations, these are detailed at the end of the report.

In performing this year's audit, I reviewed prior audits to determine trends and/or changes over that time. There were no changes or negative trends. Handling guidelines are the same, except that the city is not utilizing George Hills Company (GHC) on any cases. All the files I selected were considered "in-house" files only. GHC current primary function is record keeping and financial.

## **Structure**

There are no changes from last year. This audit reviewed the City Attorney (CA) claims files via "City Law" software and the on-line files of George Hills Company. The City Attorney's Office (CAO) administers claim management and litigation management. Bodily Injury and PD claims are handled in house with GHC maintain financial transactions only. The city uses outside panel counsel for most cases. Chief Assistant City Attorney Terrence Howzell oversees and supervises claim management activities. Mr. Howell is retiring, and a new Chief Assistant City Attorney is coming on board. Payment recommendations require City Council approval for settlements above \$35,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements, and obtains the releases and other closings documents.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling considering ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Palo Alto's files are handled in an acceptable manner. This conclusion is based on the limited records reviewed during the audit, the financial records maintained by GHC and the ACCEL files maintained by GHC as TPA for ACCEL.

### **OBSERVATION**

Please see the above note. We were only able to verify that there were no ACCEL exposures that needed to be reported.

### **TECHNICAL REVIEW**

**Investigation:** Based upon the limited records available for this audit, it appears that claims being brought against the City were investigated to a *limited degree*<sup>1</sup>, analyzed to

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<sup>1</sup> Based upon limited records available for review.

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determine applicable legal/risk exposure. Government claims appear to be handled properly.

**File Management:**

See above note.

**Supervision**

The CAO oversees the in-house claims handling program. Again, few records were available for this audit. The e-mails, that I was unable to view, probably had the interaction with CAO staff, but without access, I am not able to comment any further.

**Excess Reporting**

The auditor reviewed the GHC/RMS ACCEL reported claims. Communication was good and updates provided timely.

**RECOMMENDATIONS**

- Make sure the ACCEL Reporting Letter that Tricia Hoover uses on *ANY* case assigned to outside counsel, particularly the ones where GHC is only keeping financial records. I believe this is being done but added here to stress the importance since there are few safeguards otherwise.
- From an auditor's perspective, a better RM system that allows for complete access and would enable us to perform a more in-depth analyses of claim handling.
- I would recommend summary reports that bring the loose ends of the files together on a periodic basis. I am enclosing an example.
- I am enclosing a claim handling checklist of traditional commonly accepted industry standards for your review.

Thank you, and I welcome any feedback on this report or the audit process in general.

Very truly yours

R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers, ARM

ACCEL Auditor

Note

See the two exhibits attached

## **EXHIBIT 1**

### **CHECKLIST FOR CLAIMS**

#### **INITIAL CLAIMS SET UP-RECEIPT OF THE TORT CLAIM (NON-TORT CLAIMS REFERRED TO CC FOR DIRECTIONS RE RESPONSE)**

- FACESHEET COMPLETED WITH 24-48 HOURS OF RECEIPT OF CLAIM
- TORT CLAIM REVIEW TO ENSURE CORRECT STAMP OF RECEIPT AND/OR POST MARKED ENVELOPE.
- CLAIM FORM PROPERLY SIGNED AND DATED.
- REVIEWED FOR TIMELINESS, COMPLIANCE, SUFFICIENCY.

#### **CODING OF FILE INCLUDING CORRECT DEPARTMENT/DIVISION IDENTIFICATION**

- FILE SET UP AND CODED PROPERLY IN DATABASE, BY CORRECT DEPARTMENT AND CORRECT DIVISION.
- CODING CORRECT AS TO TYPE OF CLAIM, I.E. GENERAL LIABILITY, EPL (EMPLOYMENT, AUTO LIABILITY) WITHIN 24-48 HOURS.

#### **CONTACT -24 TO 48 HOURS**

- VERBAL CONTACT TIMELY MADE WITH CLAIMANT, 24-48 HOURS
- WRITTEN ACKNOWLEDGMENT LETTER SENT OUT TIMELY TO CLAIMANT.
- ATTORNEY CONTACT-REQUEST FOR DOCUMENTATION OF DAMAGES-BI & PD.

#### **LIABILITY INVESTIGATION**

- WAS REQUEST SENT TO PROPER DEPARTMENT, SEEKING DOCUMENTATION AND/OR INFORMATION TO ASSIST IN EVALUATION OF TORT CLAIM.
- WERE PHOTOGRAPHS OBTAINED, AS APPLICABLE, AND OR AUDIO/VIDEO EVIDENCE SECURED AND PRESERVED.
- FACTUAL DEVELOPMENT-DETERMINE PROVABLE FACTS. DEFENSES.
- IDENTIFY OTHER POTENTIAL DEFENDANTS (JOINT SEVERAL ISSUES).
- \*AS NEEDED, IF INJURY CLAIM, WERE CLAIMANTS INDEXED THROUGH ISO
- WAS A LIABILITY DETERMINATION MADE WITHIN 40 DAYS OF RECEIPT OF TORT CLAIM. IF ADDITIONAL INFORMATION NEEDED, WAS IT DOCUMENTED TO CLAIMS FILE (CXP).
- INSURANCE VERIFICATION FROM CLAIMANT.
- VEHICLE REGISTRATION FOR PD CLAIMS.

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- POTENTIAL FOR FRAUDULENT CLAIM.
- WEBSEARCH ON CLAIMANTS

**DAMAGES (DAMAGES DRIVE RESERVES AND POTENTIAL FOR RESOLUTION).**

- BODILY INJURY-NATURE AND EXTENT OF INJURY, SPECIALS (MEDICAL EXPENSES, LOST INCOME, RECOVERABLE DAMAGES), FLAGGED FOR POTENTIAL HIGH EXPOSURE. VERIFICATION.
- PROPERTY DAMAGE-DOCUMENTATION FOR EXPOSURE, ESTIMATES, INVOICES, ETC., LOSS OF USE, VERIFICATION.

**TORT CLAIM RESPONSE**

- WAS THE TORT CLAIM INSUFFICIENT? IF SO, WAS A NOI (NOTICE OF INSUFFICIENCY) SENT WITHIN 20 DAYS OF RECEIPT OF THE TORT CLAIM.
- IF THE TORT CLAIM WAS LATE LESS THAN 1 YEAR FROM DATE OF LOSS, WAS APPLICATION TO SEEK RELIEF FROM LATE CLAIM SENT OUT WITHIN 45 DAYS.
- IF THE TORT CLAIM WAS LATE BEYOND 1 YEAR DATE OF LOSS, WAS LATE CLAIM NOTICE SENT OUT WITHIN 45 DAYS, ADVISING THAT THE COUNTY WILL TAKE NO ACTION AND AS NEEDED, CLAIMANT NEEDS TO SEEK COURT RELIEF.

**RESERVES (BASED ON DAMAGES)**

- WERE TIMELY RESERVE SET WITHIN THE FIRST 30 DAYS OF THE CLAIM AND REVIEWED THEREAFTER, ON OPEN OR ACCEPTED CLAIMS, EVERY 90 DAYS OR WHEN NEW INFORMATION RESULTED IN A CHANGE TO PENDING RESERVES.
- RESERVES FOR EXPOSURE TO LEGAL FEES (PERSONAL INJURY CLAIMS, CIVIL RIGHTS, ETC.)
- RATIONALE FOR RESERVES

**PLAN OF ACTION**

- WAS A PLAN OF ACTION COMPLETED WITHIN 30 DAYS OF RECEIPT OF THE CLAIM.
- WAS LIABILITY ANALYSIS, ANY IMMUNITIES ADDRESSED AND DAMAGE ANALYSIS INCLUDED IN THE PLAN OF ACTION, BASED ON INFORMATION KNOWN AT THAT TIME.
- DID THE PLAN OF ACTION INDICATE WHAT THE CASE WAS ABOUT, LIABILITY AND DAMAGE EXPOSURE, RESERVES AND NEXT STEPS, SUCH AS MONITOR FOR STATUTE OF LIMITATIONS OR ATTEMPT RESOLUTION.
- IDENTIFICATION OF CASES FOR EARLY RESOLUTION.

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**TENDER OR RISK TRANSFER OPPORTUNITIES:**

- WERE RISK TRANSFER OPPORTUNITIES PURSUED, SUCH AS CONTRACTS THAT INCLUDE INDEMNIFICATION AND DEFENSE LANGUAGE. WERE TENDER LETTERS MADE TIMELY AS NEEDED.
- OBTAIN INSURANCE CERTIFICATES AND CONTRACTS
- TENDER LETTERS

**EXCESS NOTIFICATION**

- WAS THE FILE IDENTIFIED AS MEETING CRITERIA TO REPORT TO EXCESS/PRISM AND NOTED IN THE FILE AND CODED IN CXP (CLAIMS MANAGEMENT SYSTEM).
- ON EXCESS REPORTED CASES, WAS PRISM UPDATED EVERY 90 DAYS ON THE STATUS OF THE CASE.
- IDENTIFICATION OF POTENTIAL HIGH EXPOSURES

**AUTHORITY OBTAINED**

- WAS SETTLEMENT AUTHORITY TIMELY OBTAINED BY EXAMINER THROUGH RISK.
- WAS RISK GIVEN NOTICE, 15-30 DAYS IN ADVANCE, OF NEED FOR AUTHORITY ON THE FILE.
- WERE PROPER RELEASES OBTAINED AND DOCUMENTED IN THE FILE.
- WAS THE SETTLEMENT CHECKS REQUESTED TIMELY WHEN SETTLEMENT DOCUMENTS RECEIVED, NO LATER THAN 15 DAYS.

**CLOSING DOCUMENTS:**

- WAS THE FILE PROPERTY DOCUMENTED AS TO REASON FOR CLOSURE.
- WAS FILE CORRECTLY CLOSED IN CXP-CLAIMS MANAGEMENT SYSTEM, ALL FEATURES.
- EXECUTED RELEASES, PROPERLY SIGNED AND NOTORIZED.
- COURT DOCUMENTS-DISMISSALS, AGREEMENTS AND NOTICES, COURT CONFOMD COPIES.

**EXHIBIT 2**

**SAMPLE FILE SUMMARY**

**Review Date:**

**Claimant Name:**

**Adjuster:**

**Supervisor:**

**Litigation Manager:**

**Line of Business: GL**

**Coverage: ( Such as: EPL, BI, PD, Civil Rights)**

**Claimant Type:**

**SIR/Deductible:**

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**Division/Department:**

**Date of Loss:**

**Date Claim Presented:**

**Date Rejected:**

**Application for Leave to Present Late Claim:**

**Late Claim Return Date:**

**1st Report to Excess:**

**Date Last Reported to Excess**

**Description of Loss:**

(Examples) Employment, Trip/Fall, Road Design Etc. Causation triggers.

**Timely?**

**Sufficient? Yes**

**Pool: ACCEL**

**Coverage Confirmation:**

**Activity Since Last Report:**

**Investigation Synopsis:**

**Liability:**

(Example)-Doubtful, Possible, Probable, mitigating factor

**Damages:**

(Example) Plaintiff alleges loss of wages, salary, lost future earnings, intangible benefits, loss of promotional opportunities, loss of reputation, etc. The prayer for damages includes general and special damages, attorney's fees, costs of suit, and further relief as the Court deems to be just and proper.

**Reserve Rationale:**

**Plaintiff Attorney**

**Defense Attorney:**

**Litigation Plan:**

**Settlement Strategy/Plan:**

**Outstanding Items:**

# CITY OF SALINAS



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 918-7021  
rpwrs@pacbell.net

Sent via e-mail to: [rhondac@ci.salinas.ca.us](mailto:rhondac@ci.salinas.ca.us)

Ms. Rhonda Combs, Esq., Assistant City Attorney  
City of Salinas  
200 Lincoln Ave  
Salinas, CA 93901

November 9, 2022

Re: ACCEL/City of Salinas Claim File Review 2022

Audit Dates: October 24-26, 2022  
Audit Location: Remote via Carl Warren & Company FHE System  
Claims Administration: Carl Warren & Company, Inc.  
Defense Counsel: Inside/Outside Panel Counsel  
Files Reviewed: 25 Files

Dear Ms. Combs:

#### **Brief Overview**

*(Added 12/17/2022) Since writing this report, we became aware of a significant issue re delayed payment of vendor invoices by CWC. This generated voluminous e-mail strings with CWC management, the City Attorney, and staff. The late payment issue was recently resolved after much anguish. The issue doesn't impact the audit results, but it was agreed that we would revisit the issue during the next audit cycle or on an ad hoc basis in the interim period.)*

This year's Narrative Report is shorter than normal. Carl Warren & Company (CWC) took over as Salinas's TPA over in July 2022, but it appears that the data transfer from Sedgwick didn't take place until late August 2022. Most significantly, the data is disorganized to a significant degree. Older file records are *not* labeled by document, but lumped together as a "Conversion File", rendering the records mostly unusable. Retrieving previous records is far too time consuming to be of any value. The City of Bakersfield encountered a similar situation with the data coming over from Sedgwick. It also appears, that once Sedgwick knew the account was lost, they quit working on the files.

CWC personnel couldn't begin triaging the files until late September 2022. Accordingly, CWC is still working on bringing the files up to date. So far, they have done a good job organizing files, putting in file notes to update activity with a supervisor note on work to be done (POA).

Most of the files I reviewed had evidence of CWC activity and the notes are acceptable for update plans.

Overall, I am pleased with the changeover to CWC. The files are much more actively managed and organized along industry standards. Their RMS is far superior to Sedgwick's.

I spoke to supervisor Joyce Ray Farley to get her assessment of the transfer. We agreed that it will take three to six months to get the bumps evened out and normal file handling to resume. Also, I found her to be an experienced public entity supervisor.

This report will only assess the limited time CWC has been on your account, recognizing that at the time of the audit, they were just getting up to speed on your files.

## **Preface**

Below is a summary of findings following the recently completed claim review. The Excel worksheet *Claims Matrix* that accompanies this letter contains specific comments on claims. If there are any recommendations, these are detailed at the end of the report.

I am available to discuss any item contained in the attached Claims Matrix or this report.

## **Structure**

This audit reviewed the claims files in the Third-Party Administrator (TPA) system called File Handler Enterprise (FHE). No City Attorney files were audited. Risk Management is part of the City Attorney's Office (CAO) administered and overseen by Assistant City Attorney Rhonda Combs. Accordingly, the City Attorney's Office administers claims and litigation management. The Assistant City Attorney actively oversees and supervises Carl Warren & Company who acts as the City's TPA. The CAO handles most litigation in house with a few specialty cases, such as excessive force cases, assigned to outside counsel. We note that the CAO has a vacancy, and some lawsuits are be handled by an outside private defense firm.

This is an "Excess Audit." The ACCEL Audit its primary focus points are:

- Exposure recognition and reporting to George Hills Company (formerly RMS).
- Claim risk liability to the pool.
- Overall claims handling considering ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the 2022 audit, The City of Salinas claims program complies with ACCEL handling guidelines and industry standards. I believe that given more time, CWC would rate "an above expectations" designation. Indeed, we would expect next years audit to conclude with that label.

### **OBSERVATIONS**

- CWC is a big improvement over the previous TPA.
- Files had active supervisor oversight.
- Each file had a file summary.

- Reserves now have a logical basis.
- Report summaries are good.
- Investigations are underway on many new cases.

## **TECHNICAL REVIEW**

### **Investigation**

CWC has pieced together enough records to determine the facts on most claims for our review. We expect improvement in the coming year.

Sedgwick's investigations were lacking, if non-existent. As indicated, the records from Sedgwick's database were not labeled, unretrievable and mostly unusable.

### **File Management**

CW file records follow Commonly Accepted Industry Practices (CAIP). Overall, their e-file records are rated above expectations. Most are very good.

### **Supervision**

Joyce Ray Farley's supervisor notes and instructions to the primary adjuster are very good, reflect her expertise with public entity liability, and understanding of liability causation.

This is one area of the audit that I am comfortable stating that, overall, CWC supervision is very good and will serve the City of Salinas well in the coming years.

### **Excess Reporting**

One file requires reporting to ACCEL were sent to George Hills Company (GHC).

- CWC file 3037163 needs to be reported to ACCEL. This may already been done since the audit.

CWC responded to inquiries from GHC in a timely matter. Reports were good. When I spoke to Joyce, I encouraged her to develop a relationship with Mr. Trautz, who would be a good resource for her on large exposure cases.

Interaction between ACCEL TPA and Members is very important and stressed this in my discussion with Ms. Farley.

## **RECOMMENDATIONS**

- CWC needs some time to get all the open files updated and on track. The only recommendation I have is to see if CWC would consider a standard template for file summaries and activity update. I am enclosing an example.

## **COMMENT**

I fully expect that next year's audit summary will look quite different. I will be able to elaborate more completely on important audit components. Also, I would expect a higher overall rating as stated above.

Thank you.

Very truly yours,

*Robert E. Powers*

Robert Powers, AM

## **REPORT TEMPLATE**

### **Description of Loss:**

(Examples) Employment, Trip/Fall, Road Design Etc. Causation triggers.

**Timely?** No/Yes, comments

**Sufficient?** Yes/No comments

**Pool:** ACCEL

**Coverage Confirmation:** Coverage issues.

**Activity Since Last Report:**

**Investigation Synopsis:**

**Liability:**

(Example)-Doubtful, Possible, Probable, mitigating factor

**Damages:**

(Example) Plaintiff alleges loss of wages, salary, lost future earnings, intangible benefits, loss of promotional opportunities, loss of reputation, etc. The prayer for damages includes general and special damages, attorney's fees, costs of suit, and further relief as the Court deems to be just and proper.

**Reserve Rationale:**

**Plaintiff Attorney**

**Defense Attorney:** City of Salinas Office of the City Attorney

**Litigation Plan:** Case number, status, CMC,

**Settlement Strategy/Plan:**

(Example) Unknown/document and confirm liability and damages, evaluate for settlement, trial outcome??

**Outstanding Items:**

(Example) (1) Monitor for defense counsel evaluation, (2) CMC 09/20/22. Trial not yet on calendar. POA due 11/14/22.

**CITY OF  
SANTA  
BARBARA**



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 918-7021  
rpwrs@pacbell.net

Mark Howard, Risk Manager  
City of Santa Barbara  
735 Anacapa St.  
Santa Barbara, CA

October 25, 2022

*Sent electronically only*

RE: ACCEL/City of Santa Barbara Claim File Review 2022

Audit Dates: 9/28/2022  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed: 49 Open/Closed

Dear Mark:

## Highlights 2022 Audit

- The City of Santa Barbara claims continue to be professionally managed.
- Staff reaching capacity due to high number of claims being filed.
- Liability claim handling efficacy remains at a high level, due mainly to an experienced RM staff.
- Staff identifies claims for early settlements.
- Report generation and follow up is very good.
- Early and quality assessment of liability exposure evident in files.
- Excellent interaction between RM and City Departments, CAO, Public works, Police etc.
- Record keeping is excellent.
- Clearly articulated Plans of Action (POA).
- Department record keeping is excellent. See below.
- Files are updated regularly.

## Preface

Below is a summary of findings following the recently completed claim review and the end of audit "wrap up." The Excel Worksheet that accompanies this letter contains specifics comments on claims. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated Ms. Khan's assistance provided during the file review. The electronic files were organized for easy access.

I selected the audit files after reviewing all open cases for possible exposure to ACCEL and potential for high risk. Further, to determine how unusual cases are handled, at the RM level and by ACCEL's TPA.

## Structure

This audit only reviewed the Risk Management (RM) claims files. RM receives new claims, processes them into the claim system, sets reserves and handles tort cases prior to litigation. Cases are reviewed for potential liability and handled accordingly by Ms. Kahn, the staff adjuster. She has \$5,000 authority to settle claims. The RM has \$15,000 settlement authority. The Finance Director has \$25,000 authority and the City Administrator has up to \$35,000 authority. The City Council approves settlements above \$35,000.

Ms. Khan coordinates reporting between CAO and RM, reports cases to ACCEL, and overall, maintains the files. Non-tort cases are referred to the City Attorney's Office (CAO) for handling. The CAO advises on litigated and non-tort case reserves and is actively involved in the early stages of claims. They also provide technical advice if requested. The CAO staff attorney is the primary defense counsel.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

The City of Santa Barbara has a well-established and efficiently administered liability claims program. Overall, the files are *professionally* managed, meet and exceeds ACCEL file handling guidelines and industry standards.

Ms. Kahn's claim handling is outstanding. The files reflect active management:

- Good claim resolution.
- Articulate files notes.
- File records laid out in logical fashion.
- Good summaries.
- Accurate assessment of liability risk, i.e., injury potential investigated and analyzed.
- Communication with claimants concerning pending claims is excellent.

There were no substantive changes in staffing, policy or procedural changes. There are no concerns or exceptions from expected industry accepted management principles.

The high degree of cooperation and collegiate approach with the City Attorney's Office (CAO) is key to the professional rating.

We did see where the file handler, Ms. Khan, has incorporated our recommendation from last year re injury assessment into her files. We saw several very good injury analyses.

## **OBSERVATIONS (SOME CARRYOVERS FROM LAST YEAR)**

- I observed many good settlements this year.
- Ms. Kahn actively documenting injury information. This is a continuing suggestion with audited cities. The COSB is one of the few ACCEL Members following this suggestion.
- Liability risk analyses on complex matters are very good.
- Files were well documented and contain all the records we expect to see in claim files.
- Cases were actively managed and up to date.
- Injury cases were indexed.
- Diaries are up to date.
- Files were regularly updated
- Good file notes
- Files were easy to review, and I was able to find important records easily
- Marissa has a very good understanding of liability issues and understanding of injury potential. This reflects her industry background.

## **TECHNICAL REVIEW-(NO CHANGE FRO PREVIOUS YEAR)**

### **1. Investigation/Factual Development:**

Claim files are very well investigated with field investigation, departmental comments, photographs, department records and other technical material. The adjuster actively comments on potential third party involvement, notices to other potential tortfeasors with appropriate follow up. The investigation is updated when new information becomes available. Ms. Kahn actively communicates with claimants directly and through their attorneys.

### **2. File Management:**

Files were well organized and contained all the paper/electronic media pertaining to the claim. Records are consistently updated along industry standards. Government Code filings are processed, evaluated with proper notices. The adjuster will seek CAO input on unusual matters. Important records are properly labelled and easily retrieved.

Case summaries /notes are good to excellent and well-articulated.

### **3. Supervision:**

The claim adjuster has regular meetings with the Risk Manager to discuss files, proposed handling, reserves etc. The staff also has regular meeting with the City Attorney's Office on litigated and potential litigation. The file record shows active supervision by the RM and CAO staff attorney.

I noted active supervisor input on files.

### **4. Excess Reporting**

The reports to ACCEL were *well* crafted and contained all the mandatory information that ACCEL requires to be sent to RMS. Regular updates are provided.

Note: Potential ACCEL reportable cases -File notes indicate reports are scheduled:

- 23-0000020-Does 1, et al -New EPL case. Report to ACCEL when more facts are known.
- 22-00000218-non-jurisdictional fatality. No need to report now. If COSB involved in suit, check with GHC on reporting.
- 21-00000276-allegation of spinal injury. Notes indicate that ACCEL will be notified.

## **Recommendations**

None.

## **Comment:**

The City of Santa Barbara is well served by an experienced staff. Marissa Kahn has an excellent understanding of legal liability and causation triggers on claims. The files are well documented and handled effectively. The City of Santa Barbara has earned my highest rating on overall claims handling for the past five years.

I would appreciate any feedback that will assist or enhance the audit process for ACCEL.

Thank you

Very truly yours  
R. E. Powers & Company, LLC

*Robert Powers*

Robert E. Powers ARM  
ACCEL Auditor

# **CITY OF SANTA CRUZ**



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 917-7021  
rpwrs@pacbell.net

Sent to [rbrandon@cityofsantacruz.com](mailto:rbrandon@cityofsantacruz.com)

Mr. Ross Brandon,  
Risk and Safety Manager  
City of Santa Cruz  
1200 Pacific Ave, Suite 290  
Santa Cruz, Ca 95060

November 30, 2022

Re: ACCEL/City of Santa Cruz Claim File Review 2022

Audit Dates: November 16, 2022  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Counsel (Contract City Attorney)  
Files Reviewed: 12 Open/Closed<sup>1</sup>

Dear Ross:

### Highlights 2022 Audit

- Fewer files to review this year. See note.
- The two ACCEL cases are in latter stages ready for resolution.
- File handling and resolution of routine matters is very good.
- RM is resolving claims expeditiously.
- No changes in RM/CAO structure from last year.
- We did not find any new reportable ACCEL cases in the last two audits.
- Angela Dmitriyeva, primary support staff, maintains excellent records that are very well organized and up to date. This facilitates the audit process (and much appreciated).

### Preface

Many of these comments are the same as last year with a few exceptions.

Below is a summary of findings following the recently completed claim review and “wrap up” session. The Excel Worksheet that accompanies this letter contains specifics comments on claims. Many of the cases reviewed last year were reviewed this year. I reviewed in depth those cases reported to GHC as ACCEL’S TPA. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated you and your staff having the files organized and the assistance provided during the file review.

<sup>1</sup> I reviewed the description and reserves in all the open files to select those files that could possibly hit my “radar” (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

## **Structure**

No change from last year. This audit reviewed the claims files in the Risk Management Office (RM). From our interview at the time of the audit: RM administers claims and actively collaborates with the City Attorney's Office (CA). The City Attorney's office manages and directs litigation. Some matters are assigned to outside panel counsel.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guideline

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Santa Cruz files are *professionally managed* and exceed commonly accepted claim industry standards and ACCEL's expectations.

The number of files for audit selection is low, thus only 12 cases needed review.

## **OBSERVATIONS**

Observations from the last two audits are still relevant. File records indicate:

- Files contain excellent summaries and analysis.
- Files are very well organized, tabbed and in chronological/logical order.
- Files were up to date and contained all the records we expect to find in a claim file.
- Investigations are good to very good.
- Continued accumulated claim expertise. Staff development is good.
- RM actively involved in litigated matters.
- Cases properly tendered via contract.
- CA analyses are very good & helpful to the review process.
- The Risk Manager closely scrutinizes claim activity.
- The City of Santa Cruz is a low-risk entity. It is small enough that the RM and departments will know of any matter that would create risk/exposure to the City.
- The Departments are responsive to inquiries re investigation, records etc.
- RM has excellent understanding of factual causation leading to possible City liability exposure.

## **TECHNICAL REVIEW**

### **Government Code Requirements**

In order with all claims in compliance with proper, timely notices to claimants. Files are properly documented.

### **Investigation**

The files are in paper format. Files are well organized. The City's claims were investigated, analyzed to determine legal/risk exposure and that proper filing

requirements procedure are followed by the claimant/plaintiff in bringing a case against the City.

All files reflect active investigations. Investigative summaries are very good to excellent.

### **File Management**

Files were very well organized and contained all the paper records pertaining to the claim. These records were regularly updated. All files have evidence of active management. Files reflect response communication with claimants and internal staff. Files are organized logically and easy to review. Reserves are not established until the case is actively pursued. Other matters, such as municipal litigation and not subject to ACCEL coverage, are part of the *overall* RM budget.

### **Supervision**

The RM reports to the Finance Director and works closely with the contract City Attorney's Office. The Risk Manger has authority to settle claims up to \$5,000; to \$20,000 with approval of the Finance Director; to \$50,000 with approval of the City Manager. The City Council authorizes settlements greater than \$50,000. The CA oversees litigated claims and has input in the handling of non-litigated claims.

### **Excess Reporting**

- ACCEL reported cases are routinely updated.
- All ACCEL reportable matters have been noticed.
- The two large exposure cases are in the latter stages of litigation. File workup by outside counsel is excellent. ACCEL will participate in the resolution of these cases.

### **RECOMMENDATIONS**

- Claim Number<sup>2</sup> 2020-0832 is probably fully indemnified by vendor. The claimant has numerous serious injuries. Check with David Trautz at GHC to determine if he needs it reported. The concern here is that this loss may show up on a Loss Run and a commercial underwriter may wonder why it isn't reported to ACCEL. We just need a paper trail if that occurs.
- Focus and develop injury information and make it part of the claim file and update periodically. It is our experience that injuries drive the claims processes.
- A Plan of Action (POA) comment re resolution, *i.e.*, trial, settlement, procedural dismissal, etc., or even "still developing a plan".
- See the files on the Claims Matrix that are highlighted.

Otherwise, we have no other recommendations. Again, I thank your staff for assistance during the file review. And again, I am available for discussion on any matter in this narrative summary of the recent audit.

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<sup>2</sup> ACCEL wants claims referenced by file number only.

Thank you.  
Very truly yours,

*Robert E. Powers*

Robert E. Powers, ARM  
ACCEL Auditor

**CITY OF  
SANTA  
MONICA**



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 647-9835  
rpwrs@pacbell.net

Mr. Oles Gordeev, Risk Manager  
City of Santa Monica  
1717 4<sup>th</sup> Street, Suite 250  
Santa Monica, CA 90401

August 31, 2022

*Electronic Transmission Only*

Re: ACCEL 2022 Liability Claims Audit

Audit Dates: August 18th, 2022, to August 22nd, 2022  
Audit Location: Remote Via CSM Orgami System  
Wrap Up-/Video Conference  
Files Reviewed: 53 Open/Closed

Dear Mr. Gordeev:

This is a follow-up and will summarize details discussed in the audit "Wrap-Up" session.

## Highlights 2022 Audit

- Risk management claim files are *professionally* managed, our highest rating.
- City attorneys' analyses of facts, liability and injury are excellent.
- Files are regularly updated with timely status reports.
- Claims and lawsuit resolutions are very good.
- Reserving is excellent.
- Coordination and collaboration between RM and the CAO are very good.
- Early investigations are very good.
- Files are flagged or early resolution.
- Overall, from cradle to grave, claim and suit handling are outstanding.
- Files were easy to review.
- CAO analysis clearly articulates future litigation strategy (plan of action-PO).

## Preface

Below is a summary of findings following the recently completed claim review. The Claims Matrix Worksheet that accompanies this letter contains specific comments on claims. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated Michael Spenelli's assistance provided during the file review. The electronic files were organized for easy access. As advised, we see Mr. Spenelli's role as the lynchpin for the GL claims program. His expertise keeping all the pieces running smoothly contributes greatly to the overall

high score. Staff claim handling and assistants continue to gain knowledge and experience. This is reflected in the files.

In performing this year's audit, I reviewed the prior audits to determine trends. I am available to discuss any item contained in the attached Claims Matrix or this report.

## **Structure**

This audit reviewed the claims files in the Risk Management Office (RM). From our interview at the time of the audit: RM receives new claims, processes them into the claim system, sets initial reserves and handles tort cases. Cases are reviewed for potential liability and handled accordingly with staff adjusters. RM has settlement authority has been increased recently. This will allow the RM department to dispose of non-litigated files faster, saving expense. Mr. Mack is the primary handler. Michael Spennelli coordinates reporting between CAO and RM, reports cases to ACCEL and overall, maintains the files. Non-tort cases are referred to the City Attorney's Office (CAO) for handling. The CAO advises on litigated and non-tort case reserves. The city uses staff attorneys for most cases. Some cases are assigned to outside counsel.

We were recently advised that there have been changes in the City Attorney's Office overseeing civil litigation.

Michele Hugard is transferring to the Municipal Law Unit and a replacement is coming on board in September. *Ms. Hugard's case analyses were excellent.*

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

This report should be viewed from that perspective.

*ACCEL requires us to use file numbers and not refer to specific claims by names.*

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Santa Monica claims are handled in a *Professional* manner. The City meets and exceeds ACCEL Claim Handling Requirements and Industry Standards. The staff and handling procedures have been in place for many years. The City is well served by the current staff and claims processing system. All functions are operating at peak performance.

I found that all ACCEL reportable cases were in compliance with ACCEL requirements. There were no exceptions in any other of the rating categories.

The Liability Unit is the same as it has been for the last ten years with no change in duties.

The City is utilizing outside counsel for some matters. CAO in-house attorneys are providing excellent factual detail, liability analysis and injury details. The reports are updated on a regular basis with new developments. I particularly like the reserve rationale for adjustments.

We found no trends that would cause any area of concern; likewise, prior audits did not note any handling deficiencies. One attorney left the CAO Office and was recently replaced.

#### **OBSERVATIONS (SAME AS LAST YEAR).**

- All files were up to date and organized chronologically
- The RMS system *Origami* is the best within the ACCEL group
- E-File documents were well labeled.
- Excellent file notes and file handling
- *Very good* coordination between CAO and RM
- **CAO provided very good to excellent analyses of liability exposures, strategy and resolution plans.**

#### **Prior Audit observations are still relevant:**

- Files were evaluated for liability exposure, investigated and analyzed for possible resolution. Handling is timely. Good knowledge of Public Entity liability exposures/risk. There is recognition of equitable and contractual liability of other parties.
- ACCEL reporting requirements are recognized.
- Files are updated regularly. Litigated files have status reports from the CAO and outside counsel.
- Reserving is generally good and timely overall.
- Good staff culture, *i.e.* defined roles, motivated staff, communication and knowledge of RM policies. Most staff personnel have been on board for many years.
- Closed files generally contained the necessary records.

#### **TECHNICAL REVIEW**

##### **Investigation:**

Files were investigated early and contained enough information to evaluate liability for denial or resolution. Field investigations were good, contained pictures and other technical information. The files reflect departmental reports and comments. Third party and contracts were obtained and tendered where applicable. Claim intake and action on government claims is well documented. The files contain pictures and other physical evidence and are clearly labeled.

**File Management:**

All the files we reviewed exhibited good file management along industry standards, contained regular updates, checklists for capturing important information/dates, indexing etc.

**Supervision**

The Risk Manager reviews and provides direction on files. We observed notes or formal correspondence in the files. I observed staff regularly conferring with the RM during my prior work with the City.

**Excess Reporting**

When we determined which files to review, out of all the open claims, we pulled those cases likely to trigger reporting. The file review looked at those cases to determine if the adjuster or the CAO recognized possible exposure to the ACCEL Pool. Files reflect timely reporting and updates to the ACCEL TPA. We also saw regular communication to/from the TPA on cases.

**RECOMMENDATIONS**

None.

Again, I thank the RM staff for assistance during the file review.

Thank you  
Very truly yours  
R. E. Powers & Company, LLC

***Robert E. Powers***

Robert E. Powers, ARM  
ACCEL Auditor

# CITY OF VISALIA



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 918-7021  
rpwrs@pacbell.net

Charlotte Dunn, Risk Manager  
City of Visalia  
220 N. Santa Fe Street  
Visalia, CA 93292

September 22, 2022  
Sent via e-Mail to: [Charlotte.Dunn@visalia.city](mailto:Charlotte.Dunn@visalia.city)

Re: ACCEL/City of Visalia Claim File Review 2022

Audit Dates: September 7, 2022  
Audit Location: On Site  
Claims Administration: In-House/AIMS for investigations, some settlements.  
Defense Counsel: Outside Counsel  
Files Reviewed: 21 Open/Closed.

Dear Ms. Dunn:

### **Audit Highlights 2022**

- Most of the comments below are similar to observations from last year's audit.
- One new case is reportable to ACCEL.
- There are no changes in staff or defense counsel personnel.
- Older problem cases are winding down.
- RM has active involvement in litigation strategy. Files records show active case management.

### **Preface**

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains specifics comments on claims. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated your office having the files organized and the assistance provided during the file review.

The City is in compliance with ACCEL guidelines. Prior audits did not identify any exceptions, trends or concerns in the way the RM administers its liability risk program.

### **Structure**

This audit only reviewed the Risk Management (RM) claims files. From our interview: Risk Management (RM) is a part of the Administrative Services Department. RM processes all new claims, sends out notices and handles claims prior to litigation. Litigation Management and initial claim handling is a collaborative process with Risk Management, the City Attorney's Office (CAO) and long term outside counsel. Reserves

require City Council approval for settlements above \$30,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. AIMS, an outside adjusting firm, will negotiate and settle claims assigned to them by RM.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to GHC.
- Claim risk liability to the pool.
- Overall claims handling in light of ACCEL's expectations/guidelines.

## **EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Based upon the results of the audit, the City of Visalia's files are competently managed and meet industry standards and ACCEL's guidelines.

The Risk Manager (RM) is actively involved in the various stages of liability matters including settlements and resolution. The RM is well versed on activity and background of pending claims. Defense Counsel is a long term, experienced attorney with a well-established working relationship with the City of Visalia. The City enjoys a favorable jury pool for State Court and Federal cases.

The city has an establish procedure to manage incoming claims and suits, manage, and resolve claims. This system has been in place for many years and has served the city well.

## **OBSERVATIONS (NEW)**

- I did not review any files with AIMS involvement.
- We discussed one case that met ACCEL requirements, and this has been reported.
- A few files could use updates from Defense Counsel. See claims matrix.

**(These are same as the 2020 and 2021 Audit)**

- The files were generally up to date with good communication between RM Counsel.
- Evidence of continuous monitoring of claims activity. Responses from attorneys and City departments are up to date.
- RM recognize exposures and potential risk to ACCEL
- The file documentation has the necessary records, reports and documents to allow the auditor to discern how the case is being handled, both litigated and non-litigated.
- New claim filings were reviewed with compliance with Government Code filing deadlines; appropriate notices and denials were sent out timely.
- I found no unusual claims, risks or other issues that would pose potential risk for ACCEL.
- Evidence of risk transfer and contribution were observed.
- Files contained police and other departmental reports as part of the investigation.

**TECHNICAL REVIEW- (NOTHING NEW OR ANY CHANGES FROM PRIOR YEARS)**

**Investigation:**

It was evident in the files reviewed, that claims being brought against the City were analyzed to determine applicable legal/risk exposure and that proper filing requirements procedure are followed by the claimant/plaintiff in bringing a case against the City. Files contained photographs and other relevant investigative material: i.e., statements, medical records etc.

**File Management:**

Files were well organized and contained all the paper/electronic media pertaining to the claim. There were regular updates from Counsel. These are via monthly updates from counsel. Records and updates are part of the file. Last year we recommended more file notes, and we did observe notes in various files.

**Supervision**

Evidence of active RM involvement in claims were found in the files I reviewed.

**Excess Reporting - (See items highlighted on the Claims Matrix spreadsheet).**

- One new case has been reported to ACCEL.
- One case is approaching the ACCEL reporting threshold.

**RECOMMENDATIONS**

- Suggest defense counsel use the Defense Counsel Evaluation (DCE) form on selected cases.
- This is a general recommendation for all Members. RM staff should focus and develop injury information and make it part of the file and update periodically. It is our experience that injuries drive the claims processes.

Your office has good working knowledge of the pending claims and any activity that may become claims. You have a good system in place. The City doesn't have a great deal of potential liability risk for the pool.

Thank you, and I welcome any feedback on this report or the audit process in general.

Very truly yours  
R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers, ARM  
ACCEL Auditor