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Authority for California Cities Excess Liability (ACCEL). BOD- January 23, 2024
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Account Managers

ACCEL

Liability Claims Administration Audit -2024

The enclosed **Audit Reports** are the result of the general/automobile liability audit for the Authority for California Cities Excess Liability (ACCEL) for the 2024 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



ACCEL
Audit Report 2024
Audits & Materials

By: Robert E. Powers, ARM
R.E.Powers & Company, LLC

Subject	Page
Part 1-Members Summary	1
Preface	2
Scoring System	2
Audit Focus	3
Executive Summary	4
Observations/Conclusions	4
Audit Criteria/Focus	5
Exposure Recognition	5
Risk to Pool	5
ACCEL/Industry Compliance	5
File Handling	6
Reserving	6
Investigations	7
Litigation Management	7
Staffing	8
Diary	9
Settlements/Payments/Closures	9
Recommendations	9
Methodology	10
Appendix A	10
Appendix B	11
Appendix C	12
Part 2-GHC AUDIT	15
Summary	15
Results	16
Observations	16

PART 1

ACCEL Liability Claims Administration Audit -2024 Member Summary

2024 Highlights

- *All Members are in general compliance with ACCEL claim handling requirements. Service concerns with City of Bakersfield TPA. Should be discussed.*
- *There are three cases from the audit that needed reports to ACCEL. None posed any measurable risk the pool.*
- *Overall complexity of case files increases.*
- *ACCEL has 311 cases in inventory compared to 227 last year.*
- *ACCEL has 23 actively managed cases where last year with fewer claims in inventory there were 21. We would expect to see an increase in active cases (about 30).*
- *Four new risk managers this audit cycle with one position still open and being handled by an interim RM.*
- *Member's claim inventory is down 125 from last year (2562 vs. 2687), but severity and complexity are greater.*
- *Use of the "Disclaimer" by TPA was only noticed via file review. Auditor wasn't informed beforehand. Possible conflicts developing.*
- *Sheer volume of complex information on claims is on the increase.*
- *We are well above "Nuclear Verdicts" on case potential in 2024.*
- *Demands on routine claims are often over \$1M.*
- *Shortage of qualified claim handlers continues to grow.*
- *Many older cases have escalated in value due to rise in overall claim settlements.*
- *Generally, Members audit performance this year is about the same as the last two years.*
- *This year's audit required measurably more time than last year due to new guidelines.*

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 down 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.

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, 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.

Scoring System

We made some changes in the claims matrix and added scores based upon subjective criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Lastly, files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Also, routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling.

The system is still subjective based upon observation and work experience of the auditor. The values should be used for comparison purposes only.

	2023	2024
Member A	2.55/4.00	2.63/4.00
Member B	3.50/4.00	3.52/4.00
Member C	2.85/4.00	3.10/4.00
Member D	3.30/4.00	3.25/4.00
Member E	3.10/4.00	3.15/4.00
Member F	3.50/4.00	3.37/4.00
Member G	2.50/4.00	2.83/4.00
Member H	N/S	N/S
Member I	3.25/4.00	3.05/4.00
Member J	3.36/4.00	3.01/4.00
Member K	3.20/4.00	2.86/4.00
Member L	3.58/4.00	3.45/4.00
Member M	2.60/4.00	2.53/4.00

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 (GHC).
- 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 GHC 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 be an issue.
- Conflicts.
- Management competence.

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

Executive Summary

Preliminarily

The liability claims audit commenced on August 1, 2024, and completed on December 5, 2024.

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 City Attorney Office (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 continue to be in **general compliance** with ACCEL claims handling guidelines and industry standards. Only a few standout observations:

Bakersfield: Changed TPA's in 2022 with performance improvements through 2023 when increased workload cause a degradation for the one staff adjuster. Another staff change (adjuster and supervisor) in June

2024 resulted in a marked decline in file handling. When the audit took place in mid-late August 2024 files were within a 60-day widow of acceptability. However, it was apparent the new staff was too far behind (Diary, POA, Investigation, Reporting) to bring files up to date in a reasonable timeframe (90-days). Further, the rate of decline would increase without measurable new resources. Based upon recent conversations with COB, there continues to be service concerns. It is my understanding the city recently met with TPA management to understand the plan to correct current deficiencies.

Salinas: This member changed TPA's in 2023 with a noticeable improvement in claim handling. This has continued into the 2024 audit year. Both supervision and claim handling are performing well above expectations.

Modesto: This member continues to perform at the *professional* level (4.0). Please recall prior issues from the 2020 and 2021 years.

Ontario: Ontario changed TPA's from Carl Warren & Company (CWC) to George Hills Company (GHC). Last year (2023) audit results showed some degradation from past years due to the change and ramping up by the new TPA. However, this year claims handling has returned to normal. Performance is good.

As noted, the major area of concern is the inflation of case values over the last few years. High risk cases have escalated in settlement value to an alarming degree.

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 TPA's put every e-mail and attachment in the file record. Most are redundant and lend nothing to moving the file forward to resolution.

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. Typos and non-standard abbreviations degrade file records. While an expeditious method of exchanging information, we often see informal and e-mail strigs 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. Many records are not labeled correctly making retrieving important documents (for example, defense status reports) difficult to find and very time consuming.

Several Members are still using paper files. Overall, we found these records well organized along traditional lines. Burbank and Santa Barbara have plans to go electronic in the next few years.

Recommendations on file handling are contained in the individual audits.

5. **Reserving Accuracy** –There is no change from the 2023 audit. More 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 most of the Members, investigations and related analyses are very good. For 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, with the exception of Bakersfield, 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:

- Produce trial and mediation calendars. Updated and send to GHC for a master calendar.
- Maintain a record of CCP 998 demands over \$1M. Advisory to GHC.
- Use coverage advisories versus disclaimers.
- Focus on developing injury as this drives financial risk and resolution.

- Recognition of the general high inflation value in high exposure claims.
- Continued improvement in risk identification & exposure by early **independent** investigation. Police reports are not evidence and potentially unreliable.
- Periodic summary reports with POA-Plan of Action.
- 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 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 806 (up from 782 last year) 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 GHC:

Anaheim	None
Bakersfield	One (see note)
Burbank	None
Modesto	None
Mountain View	None
Monterey	None
Palo Alto	None
Ontario	None
Salinas	None
Santa Cruz	ONE
Santa Barbara	None
Santa Monica	None
Visalia	None

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

Members Open Inventory

Member	Open 2023	Incurred	Open 2024	Incurred
1 Santa Monica	305	\$ 22,102,697.00	338	\$ 25,105,053.53
2 Bakersfield	269	\$ 13,041,605.00	298	\$ 19,452,111.51
3 Ontario	276	\$ 12,651,162.00	236	\$ 15,562,994.18
4 Modesto	519	\$ 24,449,208.00	433	\$ 36,418,415.32
5 Visalia	56	\$ 1,925,750.00	47	\$ 1,344,200.00
6 Monterey	46	\$ 1,911,534.00	44	\$ 1,622,082.31
7 Palo Alto	123	\$ 3,711,967.41	60	\$ 4,209,512.59
8 Salinas	157	\$ 3,235,322.22	105	\$ 1,159,502.06
9 Santa Cruz	63	\$ 5,872,631.73	71	\$ 4,130,925.21
10 Anaheim	504	\$ 15,882,318.00	562	\$ 11,461,682.00
11 Mountain View	75	\$ 1,715,376.00	48	\$ 1,451,961.94
12 Santa Barbara	90	\$ 2,200,000.00	157	\$ 4,929,222.81
13 Burbank	204	\$ 10,399,361.00	225	\$ 10,941,004.74
Members	2687	\$ 83,954,630.36	2624	\$ 137,788,668.20
ACCEL	227	\$ 59,863,498.59	311	\$ 67,050,914.12
		23 Active		21 Active

Appendix B

MEMBER	FILES REVIEWED	AUDIT LOCATION	CLAIMS ADMINISTRATION
Anaheim	35 Open/Closed None	On-Site	Self-Administered
Bakersfield	85 Open/Closed	Remote/On-Site	TPA George Hills Company
Burbank	53 Open/Closed	On-Site	Self-Administered
Modesto	63 Open/Closed	Remote	TPA George Hills Company
Mountain View	13 Open/Closed	On-Site	Self-Administered-GHC for Loss Run
Monterey	13 Open/Closed	On-Site	TPA George Hills Company
Ontario	38 Open/Closed	Remote	George Hills Co
Palo Alto	23 Open/Closed	Remote/On-Site	Self-Administered-GHC for BI & financial.
Salinas	45 Open/Closed	Remote	Carl Warren & Co.
Santa Cruz	19 Open/Closed	On-Site	Self-Administered
Santa Barbara	44 Open/Closed	On-Site	Self-Administered
Santa Monica	49 Open/Closed	Remote	Self-Administered
Visalia	15 Open/Closed	On-Site	Self-Administered-AIMS for some BI/PD Claim Handling
GHC	311 Open/Closed	Remote	GHC
Totals	806		

Appendix C

Claim Matrix Criteria-Claim Handling Components¹

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

¹ 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.

END OF PART ONE

Part 2 Third Party Administrator Audit

GHC Liability Claims Administration Audit- 2024

ACCEL Administrator (TPA) – GHC
Audit Dates: September 15, 2024 to November 13, 2024
Audit Location: Online
Files Reviewed: 311
Supervisor: David Trautz
Primary Claim Handler: Rich Santana
Litigation Manager: Ben Orem

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

Summary: The George Hills Company staff has been in place for three years and shows consistent and professional management of ACCEL reported claims. Moreover, GHC has maintained overall consistency in all audit components-see attached.

All files are well handled and actively managed/monitored. All audit criteria elements scored at the highest levels. Communication with Members, Member's counsel and file handlers is timely and very good.

Interaction with ACCEL's commercial carriers 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 and interaction with Members, Member's CAO, outside counsel offices and underlying staff.

Note: We continue to see overall escalation in claim values. Also, the plaintiff attorneys have increased demands. We see demands on routine cases exceed \$2-3M. Expectations are very high for plaintiff recovery.

Reportable cases are up this year (331) from last year (223)-ACCEL adopted more stringent reporting guidelines in September 2024. Changes are how cases are monitored were recently discussed.

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

The confidential Claims Matrix that accompanying his report has the audit results, scoring points and comments.

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

Recommendations

- **None**
- **Comments:** I continue to receive positive feedback on the GHC staff from Members claims staff while conducting Member audits, *i.e.*, from Risk Managers, City Attorneys and their respective support staff.

This chart shows results of ACCEL active cases. Monitored only cases are not included.

Brief Summary: Files are well organized along Claims Industry Standards. Summaries and analyses are insightful and articulate. We noted up to date supervisor comments in every audited file. Coverage is analyzed with denials and reservations notices to Members. Timely responses to excess carrier request. Excess carrier notifications are carefully (and fully) documented. Member underlying case work up is generally good with some exceptions. No housekeeping items to note this year. Financial accounting is very good.

Category	Outstanding	Exceeds Expectations	Acceptable	Needs Improvement	Comments
Factual Development	✓				Very good to excellent summaries. HR/EPL cases are slow to develop due to nature of these cases.
Reserving	✓				Excellent recognition of exposure and value. ACCEL has 23 cases with reserves. All others are Monitor Only with no reserves.
Litigation Management	✓				On active ACCEL managed cases.
Liability Assessments	✓				Shows a high degree of understanding causation and exposure on complex cases. Good to excellent insights on case exposure.
Damage Evaluation	✓				At the BOD level. 23 active cases.
File Management	✓				Files are exceptionally well organized. Up to date with proactive management.
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. Carrier status timely/regular.

END OF 2024 ACCEL AUDIT

CITY OF ANAHEIM

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

December 8, 2024

Re: ACCEL/City of Anaheim Claim File Review 2024

Audit Dates: December 5, 2024
Audit Location: On Site.
Wrap up: In person.
Claims Administration: In-House
Defense Counsel: In-House/Outside/Panel Counsel
Files Reviewed: 35 Open/Closed

Dear Ms. Matthews

Highlights 2024 Audit

- Scoring this year: 3.10 vs 2.85 last year. Overall, Anaheim claims are *professionally managed* (my highest designation).
- New claims staff this year, with Assistant RM.
- Reports, analyses, and denial letters are very good with detailed comments, discouraging any follow up on unmeritorious claims.
- Audit files were well organized in traditional claims industry fashion.
- All files have notes re-claims activity in chronological fashion.
- All files actively managed and up to date.
- Investigations are very good with good summary of details.
- Tenders to contractors/vendors are timely and appropriate.
- RM appears to be adequately staffed, based on the files under review.
- ACCEL is receiving timely notices of new exposures.
- Files maintained along insurance industry standards.
- File notes are descriptive.
- Files “speak” for themselves.
- Patrice’s insurance background evident in files.
- PD claims are well documented, and discounts applied.

Scoring System

Scores are highly subjective and based upon observation criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Most routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling. Scores are provided for comparison purposes and do not necessarily reflect overall quality of claims management.

Scores are for comparison purposes, i.e., prior years, other members, etc.

Category	Score	Files Scored 34 Out of 35 files	Acceptable	Needs Improvement
Factual Development Investigation	3.13	34	X	
Reserving	N/A	N/A	X	
Litigation Management	N/A	N/A	X	
Liability Assessments	3.05	29	X	
Damage Evaluation	3.13	23	X	
File Management	3.09	35	X	
Negotiations	3.25	12	X	
E-File Records	N/A	N/A	X	
Excess Notification and Interaction	See report		X	
Files				
Overall Score	3.10	34		
Outstanding Files	2	34		
Exceed Expectations	27	34		
Acceptable	5	34		
Below Expectations	None	34		
Highest Scores	4.0	34		
Lowest Score	2.33	34		

Organization

Risk Management Division (RM) now reports to the 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 hard copy paper 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 considering ACCEL's expectations/guidelines.

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

All files are professionally managed, our highest designation for ACCEL Members.

The City of Anaheim Risk Management Division (RM) has a highly competent claims management/claim resolution program. 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 role has been filled by the hiring of the Assistant Risk Manager, Donna Starr, who has a solid background in general liability claims in the public and private sectors. Patrice Harris, the Claims Examiner, has completed her probationary year and her experience and training are demonstrated in the files. In past years, litigation and complex cases were managed and, in many instances, handled directly by the Risk Manager due to staffing issues. While it is anticipated that the Risk Manager will now delegate those matters to the Assistant Risk Manager and the Claims Examiner, the Risk Manager will maintain an active role in complex and excess reported matters. Nevertheless, files reflect active management and preservation of City of Anaheim financial resources.

The City of Anaheim does not routinely reject claims per the Government Code but does issue detailed denial letters, which are excellently crafted. Represented and unrepresented claimants rarely dispute denial letters once issued.

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 (FROM HIGHLIGHTS)

- 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 claim 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

Evidence of regular supervision was present in the files we reviewed via e-mails and file notes on the inside cover jacket.

Excess Reporting

We reviewed the GHC ACCEL claims files on their RMS. 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.

Follow up on file: 24000269

Complete investigation on injury. Report if applicable.

Please review the ACCEL reporting guidelines and make sure all cases are reported, especially:

1. All excessive force cases.
2. Demands over \$250K
3. Trials and mediations.

Recommendations

- Consider use of a Summary Report/POA in each file.

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-
rpwrs@pacbell.net
805 320-6782

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

September 9, 2024

Sent via E-Mail

Re: ACCEL/City of Bakersfield Claim File Review 2024

Audit Dates: August 20, 2024, to August 24, 2023
Audit Location: Remote via GHC Spear-Tech RMS
Claims Administration: GHC TPA
Defense Counsel: Outside/Panel Counsel
Files Reviewed: 84 files (out of 299)

Dear Jena:

Note: During the discussion with GHC supervisor Jessica Pickering on Sept. 9, 2024, she advised that GHC is bringing on one more adjuster on the account. She acknowledged the need to prioritize file updates although didn't commit to a time. We discussed the findings in the report, and she agree that work had to be done to come into compliance with COB expectations.

2024 Audit Highlights

- Overall scoring is up from last year 2.63 from 2.55. ***Sustaining this level for the next year will be a challenge for GHC staff which has an unrealistic workload. If the reviewed files are not updated soon, they would be considered deficient.***
- New cases from July 2024-Investigations are slow to develop.
- Oversight notes should be more substantial.
- Claim intake - set up and reviewed for Government Code compliance is slow and, in some cases, possibly late.
- Much improved communication from outside defense attorneys. Their reports are very good. There is good cooperation between Defense Counsel (**DC**) and ACCEL.
- **As of the audit dates**, files are up to date with coherent records and file notes mostly dated from Laura Harmon's handling with ended on June 26, 2024. Only a few of the files showed recent activity by the new team. Caveat - I didn't review many newer files, so this only applies to the files I reviewed. I usually concentrate on high exposure complex files that may impact ACCEL, and not the newer files.
- E-files labeling since Laura's departure needs improvement.
- We reviewed the Bakersfield/ACCEL file on reported cases. Overall, records are up to date with current litigation status **but falling behind**.
- Reserves are accurate and regularly updated.
- Claim intake is up from last year - 299 up from 269. **NOTE: 17 of these files are from one occurrence-This brings the open inventory closer to last year.**

- GHC support and peer review on files down from last year. There is a new supervisor on the account this year and GHC is still in a transitional period.
- MVA's with BPD are still problematic.

NOTE: In all fairness, GHC should be allowed an adequate amount of time to transition new staff and become familiar with City of Bakersfield handling requirements. The concern from the auditors' perspective is that the number of cases in the current inventory, and the influx of newer claims will overwhelm the GHC staff.

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. I advised Ms. Pickering, the new supervisor of the audit and invited her to an informal discussion post audit. This has not taken place as of this writing.

Structure- No change from prior years.

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 GHC 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 established claim processing procedures to review incoming claims and suits, manage, and resolve claims.

We made some changes in the claims matrix and added scores based upon subjective criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

The scoring for this audit overall is: 2.63. See chart summary on next page.

The audit was performed by reviewing the GHC COB file along side the ACCEL file maintained by GHC, in order to get a overall picture of the cases. This is due to the internal procedures and protocols established by the City Attorney's Office.

Some files are not scored due to the nature of the case. EPL cases are not scored as they take a long time to develop. Newer cases are likewise not scored as there are insufficient records to review. Non-jurisdictional cases and some tendered cases are not scored. Scores are tabulated by occurrence not by suffices.

OBSERVATIONS

- We sent one new file be reported to ACCEL to GHC.
- Noticeable change in file activity with GHC staff changes.
- Electronic files scored 2.7 down from last year.
- Settlements are well documented.
- I found no unusual claims, risks or negative trends would pose potential risk for ACCEL.

- Files actively managed as of late June 2024 but are becoming dated. Diaries are up to date but will be late in 30 days from this report.
- RM recognizes exposures and potential risk to ACCEL.

Category	Score	Files Scored Out of 83 files	Acceptable	Needs Improvement
Factual Development Investigation	3.09	38	√	
Reserving	2.4	42	√	
Litigation Management	4	1	√	
Liability Assessments	2.8	28	√	
Damage Evaluation	3.2	16	√	
File Management	2.3	42	√	
Negotiations	2.6	3	√	
E-File Records	2.7	83	√	Trend is downward
Excess Notification and Interaction	1 exception	83		
Files				
Overall Score	2.6	41	√	
Outstanding Files	0	41	√	
Exceed Expectations	11	41	√	
Acceptable	24	41	√	
Below Expectations	4	41	√	
Highest Scores	3.25	41	√	
Lowest Score	1.67	41	√	

- ACCEL is getting regular updates from GHC and DC.
- Reserving is excellent.
- Evidence of risk transfer and contribution were observed and properly documented.

SCORING SUMMARY

Note: Based on records as of the audit date

TECHNICAL AUDIT

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. Routine cases (as of late June 2024) 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.

Again, this is based on activity where most file entries end, on or about the end of June 2024.

File Management:

File maintenance is acceptable. If GHC can maintain the same level of activity there shouldn't be any negative trend. **If not** the sheer volume of claim intake will overwhelm the claims handlers. The claim volume indicates at least 2.5 staff positions to handle adequately.

Supervision

The prior GHC supervisor has been replaced. The prior supervisor was very active in the files. I don't see that level of activity, primarily due to new personnel on the files during this transition period.

- Discussion item.

Excess Reporting

Cases that should be reported if not already done so:

- 4A210798G94 – Advised GHC to report file.

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

Recommendations

For this Audit:

- GHC should consider a triage of all open files to bring up to date.
- Update GHC coding for legal files.
- POA on every file. Not consistent.
- 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 some files. They should be part of every file.

Comments

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

Mr. Alvaro Valdez
Assistant Management Services Director
Risk Management & Safety
City of Burbank
275 E. Olive Ave
Burbank, CA 91510

October 7, 2024

Electronic Transmittal Only

Re: ACCEL/City of Burbank Claim File Review 2024

Audit Date: September 19, 2024
Audit Location: On Site & Remote via USB Drive
Claims Administration: In-House
Defense Counsel: In-House
Files Reviewed 53 Files

Dear Alvaro:

Highlights 2024 Audit

- Last year's average score was 3.50. This year's score is 3.52.
- On a percentile basis, Burbank amassed 82% of total points available based on audit criteria below. An excellent achievement
- Burbank claim management has earned my **Professionally Managed** designation.
- Cooperation between the City Attorney's Office (CAO), Risk Management (RM) and the Departments is very good.
- Claim files continue to be well handled, up to date and contain very good analyses. Marlene's file organization and attention to detail is excellent.
- CAO analyses are excellent. These are mostly mature files with City Council briefs.
- Development of injury details are very good.
- Case summaries are thorough and well written.
- RM has good procedures in place for processing and evaluating liability claims.
- Loss reserves are accurate and reflect exposure.

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, RM Office and Departments (especially the Police Department) 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, Assistant Management Services Director, Risk Management & Safety, oversees the Liability, Workers Compensation and Safety units with Marlene Kim as the Senior Liability Analyst over the liability unit. 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. There were some changes in CAO staffing since last year's audit. The City will utilize more outside counsel on specialty cases this year. Transparency between the CAO and RM continues to be very good and much improved over the last five 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 *Professionally* 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 transparent working relationship with the CAO and City Departments.

OBSERVATIONS- NO CHANGES FROM LAST YEAR.

- 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 and property damage claims caused by fallen trees/tree limbs.

- 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.
- Files reflect good pre-litigation contact with claimant attorneys and attempts at early resolution.
- RM is now monitoring other potential matters for liability exposure, *i.e.*, Inverse Condemnation, writ actions.

Scoring

Audit criteria-on a percentile basis, Burbank amassed 82% of total points available (696) based on audit criteria below. An excellent achievement. See the Claims Matrix attached.

Scores by file

Category	Score	Files Scored Out of 34 files	Acceptable	Needs Improvement
Factual Development Investigation	3.09	34	X	
Reserving	3.12	33	X	
Litigation Management	3.42	12	X	
Liability Assessments	3.25	20	X	
Damage Evaluation	3.38	13	X	
File Management	3.41	34	X	
Negotiations	4	1	X	
E-File Records	3.52	27	X	
Excess Notification and Interaction	No Exceptions	35	X	
Files				
Overall Score	3.28	34	X	
Outstanding Files	5	34	X	
Exceed Expectations	26	34	X	
Acceptable	3	34	X	
Below Expectations	0	34	X	
Highest Scores	4.0	34	X	
Lowest Score	2.3	34	X	

Scoring System

Many of the files we reviewed were routine files and not ripened to the point where all audit criteria are present, thus the average doesn't really reflect overall handling.

Scores are still based upon subjective criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Lastly, files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Also, routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling.

The system is subjective based upon observation and work experience of the auditor

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:

New this year were electronic files for 2022 and 2023 and 2024. There were only 8 paper files reviewed. The organization is good and follows industry practices. I recommend that Marlene use file notes and a Plan of Action (POA) on each file. I sent a copy of a form she may wish to use last year. File notes are very important and add substantially to file records.

The paper 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) for both paper and electronic files.

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.

RECOMMENDATIONS

- Use of file notes and POA's in each electronic file.
- A sub folder for Summary Reports from Marlene's office and the City Attorney's office.
- Consistent labelling of important file records, defense counsel reports, updates, substantive messages, etc.

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

September 17, 2024

Mathew Braley, Risk Manager
City of Modesto
1010 10th Street
Modesto, CA 95354

Electronic Delivery Only
Sent to: Mathew Braley

Re:

Re: ACCEL/City of Modesto Claim File Review 2024

Audit Date: September 9, 2024, to September 13, 2024
Audit Location: Online via the GHC CXP System
Claims Administration: **TPA**-George Hills Company
Defense Counsel: City Attorney/Select Panel.
Files Reviewed¹: 63 Claims-Open/Closed

Dear Mathew:

2024 Audit highlights: (many are the same as previous year)

- The City of Modesto **continues** with my highest rating designation-*Professionally Managed*.
- Overall Score is **3.25**-among the highest in the ACCEL group.
- All open claims are up to date and fully summarized and analyzed by GHC.
- Litigated files, and some in pre-litigated status, have excellent reports from Mr. Swingle.
- Case volume is up over the previous year.
- Some of the older problem cases are resolved or in the process of resolution.
- Mr. Swingles reports are usually excellent and contain detailed factual and injury analyses.
- Supervision is regular and consistent.
- Loss reserves are analyzed with a high degree of expertise.
- The files reflect excellent and intuitive liability and exposure analyses.
- Files contain good Plans of Action (POA).
- Defense reports are very good and regularly updated. Collaboration with GHC is good.
- See expense reserves recommendations below.

¹ 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.

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.

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 panel 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 defense counsel 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 considering ACCEL's expectations/guidelines.

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based on the 2023 ACCEL Audit, the City of Modesto claim files are *professionally managed*, meets and exceed expectations, industry standards and ACCEL Guidelines.

Overall, the City of Modesto claim program is very good with excellent coordination between the TPA and defense counsel.

We made some changes in the claims matrix and added scores based upon subjective criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

The scoring for this audit overall is: 3.25.

Category	Score	Files Scored Out of 63 files	Acceptable	Needs Improvement
Factual Development Investigation	3.28	25	X	
Reserving	3.0	25	X	
Litigation Management	3.29	17	X	
Liability Assessments	3.35	23	X	
Damage Evaluation	3.47	19	X	
File Management	3.76	25²	X	
Negotiations	3.83	6	X	
E-File Records	3.48	25	X	
Excess Notification and Interaction	All reported			
Files				
Overall Score	3.25	24	X	
Outstanding Files	4	24	X	
Exceed Expectations	15	24	X	
Acceptable	5	24	X	
Below Expectations	0	24	X	
Highest Scores	4.0	24	X	
Lowest Score	2.25	24	X	

1. Scoring summary

Some files are not scored due to the nature of the case. EPL cases are not scored as they take a long time to develop. Newer cases are likewise not scored as there are insufficient records to review. Non-jurisdictional cases and some tendered cases are not scored. Scores are tabulated by occurrence not by suffices.

Observations

- All files are up to date and actively managed.
- Expense reserves are low on the files we reviewed.
- All diaries are current.
- File summaries are excellent with expert analysis.
- Injury analysis is excellent.
- Resolution plans are well articulate by DC or the TPA.
- The injury/damage evaluations vis-a -vis causation/liability are excellent.
- Reserving is good to excellent for indemnity.
- Expense reserves are on the low side.
- Files reflect good independent comments and realistic liability exposures.
- There are Plans of Action (POA) in almost all the files. This enables up to monitor progress and strategy going forward

² Occurrences only

TECHNICAL REVIEW

Investigation:

Litigated files have excellent factual and injury 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.

Government Claims are processed in a timely manner with proper notices to claimants.

Supervision

Supervision is regular and overall excellent. Files reflect collaboration between adjuster and supervisor. There are regular documented supervision records in each file.

Excess Reporting

- All ACCEL Files are reported and up to date.
- One file GHC0070281 - doesn't show up in the ACCEL data base, but the file records show a ACCEL first report. This has been brought up to the GHC supervisor for follow up.

Recommendations (same as last year)

Expense reserves are low. I suggest an informal review of fully developed legal fees (closed files) and establish a reserve for typical cases up to trial, probably in the \$25,000 to \$50,000 range.

Also consider,

- Counsel should provide a preliminary budget within 60 days from the commencement of litigation or case assignment.
- Budget revisions when case strategy changes, *i.e.*, experts, MSJ's, trials, onerous discovery, motion practice, etc..
- Monthly updates on defense invoices.

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

Sent to: king@monterey.org

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

November 1, 2024

Re: ACCEL/City of Monterey Claim File Review 2024

Audit Dates: October 28 to October 29, 2024
Audit Location: Online
Claims Administration: George Hills Company.
Defense Counsel: City Attorney/Panel Counsel
Files Reviewed: 13 Open /Closed¹

Dear Ms. King,

2024 Audit Highlight- Some of these are carryover from last year.

- Overall scoring average this year is 3.15.
- Claims handling and documentation is very good.
- Defense counsel is effectively handling suits brought against the City of Monterey. Reports and analytics re excellent.
- Continued good communication between RM, the city attorneys office and George Hills company.
- Claim volume is the same as last year.
- Investigations are good. Department responses on claim matters are timely.
- Claim analyses are articulate and show the claims handlers reasoning on activity, *i.e.*, liability, reserve recommendations, etc.
- Good Plans of Action (POA) in each file.
- Files up to date with regular and timely file notes.
- Many slip/trip fall accident with elderly and infirm out of town visitors.
- Risk Management actively involved with claim processes. Reflected in file records.

The following page contains the scoring summary for files reviewed this year.

¹ 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.

1. Scoring Summary 2024

Category	Score Ave out of 4.00 maximum	Files Scored 13 Out of 113 files	Acceptable	Needs Improvement
Factual Development Investigation	3.15	13	X	
Reserving	3.08	13	X	
Litigation Management	3.63	13	X	
Liability Assessments	3.46	13	X	
Damage Evaluation	3.40	13	X	
File Management	3.62	13	X	
Negotiations	3.50	13	X	
E-File Records	3.69	13	X	
Excess Notification and Interaction	No Exceptions			
Files				
Overall Score	3.15	13		
Outstanding Files	1	13		
Exceed Expectations	12	13		
Acceptable	All	All		
Below Expectations	None	13		
Highest Scores	4.0			
Lowest Score	3.1			

Scoring System

Scores are subjective and based upon observation criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Most routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling.

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. Lisa Cox is now in the Risk Manager position. Lena Bowen is the primary claim handler. Lena is a very experienced claim handler which is evident in the files.

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 2020 through 2023 audits. There are no trends that would cause concerns. This audit confirms overall good file management. The City of Monterey is one of ACCEL'S low risk Members. Although, we have seen a noticeable increase in claim volume. Most claims are trip/fall accidents.

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 CAO manages litigation and uses Staff Attorneys for most cases. Some cases are assigned to outside panel 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 exceed ACCEL expectations and are professionally managed, my highest ranking.

The City Attorney's Office manages litigation and supervises outside panel counsel. Some matters are handled internally, usually matters dealing with municipal law. Tort cases are handled by William Price, who does an *outstanding job* on assigned cases.

TECHNICAL REVIEW

Government Claims Filings

As expected, all government claim filings were handled promptly, timely with proper notices to claimants. The process of filing responses and notices are correct and properly documented.

Investigation: 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.

File Management:

Files were very well organized and contained all the media and industry standard pertinent records 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.

Supervision

The files reflect active collaboration between GHC and RM. Communication is good and on point. The RM reports to the Finance Director. The CAO 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 CAO oversight and collaboration.

Excess Reporting

- All claims that meet ACCEL reporting requirements have been reported.
- RM updates and coordinates with GHC on reportable cases.

RECOMMENDATIONS

- Continue to collaborate with Defense Counsel and obtain regular updates.
- 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, ARM

ACCEL Auditor

CITY OF MOUNTAIN VIEW



PO box 3295, Ventura, Calif. 93006-3295

Samhitha Cutshaw, Risk Manager
City of Mountain View
500 Castro Street
Mountain View, CA 94039-7540

November 22, 2024

Sent Via E-Mail

Re: ACCEL/City of Mountain View Claim File Review 2024

Audit Dates: November 15, 2024
Audit Location: On Site
Claims Administration: In-House.
Defense Counsel: Inside Staff Counsel
Files Reviewed: 13 Open/Closed¹

Dear Ms. Cutshaw,

The City of Mountain View has consistently been a top performer among ACCEL Members, earning my *Professionally Managed* designation for the last seven years. The staff, particularly Angela and Margret Butts, provide excellent organization and handling of claim files, with Risk Management summaries providing clear insights into each claim.

The City of Mountain View is in the top tier among the ACCEL Members.

Highlights 2024 Audit- No change from last year.

- Overall Scoring average is 3.37, one of the highest in the ACCEL group.
- Liability risk is managed exceptionally well.
- Overall claims program is mature and functions soundly.
- Transparency between CAO and RM is very good.
- File records are very well organized, probably the best within the ACCEL membership.
- Case commentary is articulate and insightful of liability issues and assessments.
- Well experienced/seasoned staffing at the RM Office and CAO.
- ACCEL files are updated on a regular basis.
- All reportable ACCEL files are duly noticed.
- One older ACCEL monitored cases has been resolved.
- Reserves are updated regularly and reflect exposure.

¹ 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.

Category	Score	Files Scored 12 Out of 13 files	Acceptable	Needs Improvement
Factual Development Investigation	3.25/4.00	12	X	
Reserving	3.22/4.00	12	X	
Litigation Management	3.39/4.00	12	X	
Liability Assessments	3.15/4.00	12	X	
Damage Evaluation	3.20/4.00	12	X	
File Management	3.92/4.00	12	X	
Negotiations	N/A			
E-File Records	N/A			
Excess Notification and Interaction	No Exceptions	13	X	
Files				
Overall Score	3.37	12	X	
Outstanding Files	2	12	X	
Exceed Expectations	10	12	X	
Acceptable	ALL	12	X	
Below Expectations	None	12	X	
Highest Scores	4.0	12	X	
Lowest Score	3.0	12	X	

Scoring System

Scores are subjective and based upon observation criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Most routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling.

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.

To avoid redundancy, this is a brief report capturing only current relevant comments. Most of these are contained in the Claims Matrix and highlighted.

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

A new Risk Manager is on board this year. Mr. Wilgus is now the Sr. Assistant City Attorney overseeing liability claims. 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 (CAO) administers claims and litigation management. The Risk Manager staff reviews each file on a regular basis and places notes in the CAO file. The city uses Staff Attorneys for most cases. Litigated 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.

system.

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.

TECHNICAL REVIEW (No changes from last year).

Government Codes:

It is evident in the files reviewed that each case being brought against the City is analyzed to determine that proper claim reporting procedures are followed to ensure that files are timely and sufficient. The file handler evaluates the applicable government codes and immunities available to the defense.

The initial set-up and contacts are made timely. Claims are evaluated for sufficiency and timeliness. Potential coverage issues are documented and addressed.

File Documentation/Diary:

Throughout the life of the claim or litigated case, the file should contain chronological documentation of activities, and the cause and effect of these activities as they relate to exposure. Received and generated correspondence should be uniformly stored and identified for ease of access.

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. Margaret Butts 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

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

Excess Reporting

Please review the ACCEL reporting guidelines and make sure all cases are reported, especially:

1. All excessive force cases.
2. Demands over \$250K
3. Trials and mediations.

Otherwise,

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

RECOMMENDATIONS

None

Again, I thank the RM staff and the City Attorney's 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

Theresa St. Peter
Acting Risk Manager
City of Ontario
303 East "B" Street
Ontario, CA 91764

September 2, 2024

Sent via E-Mail

RE: CITY OF ONTARIO CLAIM FILE REVIEW

Audit Dates: August 26, 2024, to August 30, 2024
Audit Location: Remote Audit-GHC RMS
Files Audited: 38 Open/Closed

Dear Ms. St Peter,

Highlights 2024 Audit

Note: Last year's audit was conducted during the transition from prior TPA. There were some transition issues that are now resolved.

- Overall handling score is 2.83 which is very good.
- The City of Ontario claims handling exceeds claims industry practices.
- Issues we found last year are mostly resolved.
- Return of seasoned adjusters has improved overall claims efficacy
- Cases are now assigned to defense counsel pre-litigation greatly improves case management.
- Periodic Claim Reviews by GHC staff noted in files. Good practice.
- Cases are up to date with good file notes.
- Supervision is very good.
- We note several very good settlements.
- Cases are resolving quickly due to early assessment of risk.
- One trial resulted in a defense verdict.
- Adjuster insight to causation issues is very good.
- Injuries are identified on earlier than past audits.
- Claim volume is down from last year.

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

Other ACCEL Members use George Hills Company in the primary layer. I am familiar with their best practices. I discuss these with GHC management on a regular basis.

This audit reviewed the claims files in GHC System via their online system. This is one of the better RMS systems being utilized in the industry. The files were converted from CWC resulting in the older records being lumped together as 'Conversion File'. Accordingly, the lack of record labels for specific items, *i.e.*, defense counsel reports/updates, are difficult to locate and very time consuming.

Structure

The city now utilizes George Hills Company (GHC) for claims processing, investigation, reserving, most settlements and other overall handling. The city uses outside panel counsel for litigation. GHC role is to interface 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 \$150,000 require City Council approval.

GHC Claims staff:

- Chris Hunt-Supervisor
- Samantha Morgan-Primary file handler.
- Kimberly Smith-to be added.

The Risk Management Department monitors claims activity as evident in the GHC 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 **exceeds industry** standards and ACCEL's expectations. Some improvement is warranted as the new TPA ramps up. The process of reviewing new claims, determination if ACCEL reporting is required, reserving and appropriate file documentation was generally evident in the files..

I reviewed 37 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.

We made some changes in the claims matrix and added scores based upon subjective criteria in the category headers.

The scoring for this audit overall is 2.83 up from last year.

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Scoring Table

Category	Score	Files Scored Out of 37 files	Acceptable	Needs Improvement
Factual Development Investigation	2.83	30	X	
Reserving	2.81	31	X	
Litigation Management	3.13	15	X	
Liability Assessments	3.24	24	X	
Damage Evaluation	3.26	19	X	
File Management	2.97	31	X	
Negotiations	3.0	1	X	
E-File Records	3.00	31	X	
Excess Notification and Interaction	None			
Files				
Overall Score	2.99	28	X	
Outstanding Files	1	28	X	
Exceed Expectations	20	28	X	
Acceptable	7	28	X	
Below Expectations	0	37	X	
Highest Scores	4	28	X	
Lowest Score	2.2	28	X	

Some files are not scored due to the nature of the case. EPL cases are not scored as they take a long time to develop. Newer cases are likewise not scored as there are insufficient records to review. Non-jurisdictional cases and some tendered cases are not scored. Scores are tabulated by occurrence not by suffices.

OTHER OBSERVATIONS

- Files are reasonably up to date.
- The City of Ontario is receiving excellent legal representation. However, some attorneys are slow to requests from TPA. 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.

Investigation:

The file investigations are generally good. Files assigned to DC pre-litigation contain excellent analyses. Most files had notes and POA for follow up action.

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 good. The attachments labels could use improvement. **E-File records are good except the document labelling. Scoring would be higher except for this issue.**

Supervision

The files reflect active supervision by GHC. Supervision appears regular and appropriate. Supervision of files is very good, up to date and insightful.

Excess Reporting

ACCEL is changing some reporting requirements. Most HR/EPL cases now require early reporting. All ACCEL cases are regularly updated. All reportable cases have been noticed to ACCEL.

RECOMMENDATIONS

- File notes that "pull together" loose ends.
- The claim file should speak for itself. That is, representative of professional claims management.
- Continued use of DC assignments prior to litigation.
- Continue the in-person file reviews.

Otherwise, we have no other recommendations.

Thank you.

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Robert E. Powers, ARM
ACCEL Auditor

CITY OF PALO ALTO

Sent to Sandra.Blanch@CityofPaloAlto.org

Sanda Blanch,
Asst Director, HR & Risk Management Risk Manager
City of Palo Alto
250 Hamilton Avenue
Palo Alto, CA 94301

November 20, 20234

Electronic Transmission Only

Re: ACCEL/City of Palo Alto Claim File Review 2024

Audit Dates: November 12, 2024
Audit Location: On-Line Remote Via Teams
Claims Administration: In-House/GHC for financial record keeping, some assignments.
Defense Counsel: Inside/Outside Counsel
Files Reviewed: 23 Files

Dear Sandra,

The ACCEL audit was conducted remotely with the assistance of Tricia Runyon, via a TEAMS™ connection. The City of Palo Alto audit is unique in the ACCEL group due to the limited records in the *City Law* data base. That system is being replaced with an updated claims system which will allow for more records available for the file review for future audits.

In order to work around the limited availability of file records, we reviewed the financial records in the GHC system, the ACCEL TPA records (also maintained by GHC) with the remainder records that Tricia obtained. This records were reviewed via a TEAM video session as described above.

We reviewed the file documentation concentrating on ACCEL criteria for claims handling. The records showed that the files were being maintained in an acceptable manner and updated regularly. Our primary focus was to determine if any of the claims needed to be reported to ACCEL and determine if there were any deficiencies. There were none.

Accordingly, the summary below is provided based on the very limited information available, thus the short narrative summary.

With the advent of the new system, we are encouraged that the next audit will fully encompass all city records and enable us to conduct a more traditional and comprehensive audit.

Highlights 2024 Audit

- Claims are handled in an acceptable manner.
- Files are up to date.
- Reserve structure captures liability risk.
- 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 utilizing George Hills Company (GHC) on a limited basis. Otherwise, GHC is keeping the financial records and to a limited degree claim records. Most of the files I selected were considered "in-house" files only.

Structure

There are no changes from last year. This audit reviewed the City Attorney (CAO) 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 claims are handled by George Hills Company under the supervision of the CAO. All litigation matters, including BI, are handled in house with GHC maintaining financial transactions only. PD claims are handled in house with GHC maintaining financial records. 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

1. Please see the above note. We were only able to verify that there were no ACCEL exposures that needed to be reported.
2. GHC is assigned some BI cases for handling. A change from the last three years.

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*¹, analyzed to 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.

Please review the ACCEL reporting guidelines and make sure all cases are reported, especially:

1. All excessive force cases.
2. Demands over \$250K
3. Trials and mediations.

RECOMMENDATIONS-(THE TWO LAST ITEMS ANRE A CARYYOVER FROM LAST YEAR)

- 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.
- I would recommend summary reports that bring the loose ends of the files together on a periodic basis. A sample is attached.
- 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

¹ Based upon limited records available for review.

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

Note
See the two exhibits attached

Claim Summary POA

Description of Loss:
(Examples) Employment, Trip/Fall, Road Design Etc. Causation triggers.

Government Claim: Timely? Notices: (Date Sent)

Sufficient? Yes

Excess - Reportable to whom.

Activity Since Last Report:

Investigation Synopsis:

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

Damages:
Alleged Injury or Property Damage - Describe

Reserve Rationale: Why \$\$ exposure justifies reserves. ALE (defense costs).

Plaintiff Attorney: Example- Reputation, areas of practice

Defense Attorney:

Litigation Plan:

Settlement Strategy/Plan:

Outstanding Items:

CHECKLIST FOR CLAIMS –NON LITIGATED CHECKLIST.

INITIAL CLAIMS SET UP- RECEIPT OF THE TORT CLAIM

- FACESHEET COMPLETED WITH 24-48 HOURS OF RECEIPT OF CLAIM
- FILE SET UP AND CODED PROPERLY IN CPX, BY CORRECT DEPARTMENT, 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 ACKNOWLEDMENT LETTER SENT OUT TIMELY TO CLAIMANT.

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.
- *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).

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

- 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.

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.

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.

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.

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.

These Boxes could be Yes, NO or Not Applicable in review of the Claim. Could be a section for Comments, such as

- Great job on the resolution of the case
- Case denied/rejected and no suit, file properly closed in system

Damage and/or liability analysis documentation should have been in file.

CITY OF SALINAS



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

Sent via e-mail to: rhondac@ci.salinas.ca.us

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

October 28, 2024

Re: ACCEL/City of Salinas Claim File Review 2024

Audit Dates: October 1, 2024 to October 8th, 2024
Audit Location: Remote via Carl Warren & Company FHE System
Claims Administration: Carl Warren & Company, Inc.
Defense Counsel: Inside/Outside Panel Counsel
Files Reviewed: 45 Files

Dear Ms. Combs,

Audit Highlights 2024

- Overall claim efficacy score is 3.05 (see below). Lowest was 2.0 and the highest is 3.88. CWC scored 75% of total points available for the audit categories described on the following page.
- Carl Warren & Company is performing above expectations.
- Claim documentation and summaries are very good.
- Supervision is very good with detailed instructions to the handling staff.
- Supervisor and adjuster analyses are very good with supportive reasoning.
- Early recognition of exposure.
- Reserving is good. Financials are up to date.
- Active case management.
- Observed several cases moving to resolution faster than in prior years.
- Files up to date and monitored on a regular basis.
- Detailed loss summaries.
- Good interaction with defense counsel and CAO.
- Files reflect good cooperation with departments.
- Investigations are detailed and timely.
- Plans of Actions are contained in most files.
- Some minor coding errors were noted to Joyce Farley.
- Legacy issues with Sedgwick are winding down as CWC has completed a full year on board.

The following page contains details of the audit and scoring summary

Category	Score % of available points	Files Scored Out of 45 files	Acceptable	Needs Improvement
Factual Development Investigation	77%	23	X	
Reserving	70%	23	X	
Litigation Management	80%	5	X	
Liability Assessments	78%	18	X	
Damage Evaluation	77%	11	X	
File Management	70%	24	X	
Negotiations	92%	3	X	
E-File Records	76%	24	X	
Excess Notification and Interaction	No Exceptions			
Files				
Overall Score	75%		X	
Outstanding Files	-		X	
Exceed Expectations	17		X	
Acceptable	6		X	
Below Expectations	0		X	
File Highest Scores	3.88			
File Lowest Score	2.00			

1. Table 1 - Scoring Summary

Details

	Facts	\$\$	Lit. Mgt.	Lia.	Damages	File	Neg.	E-Files	Totals
POINTS	71	64	16	56	34	67	11	73	392
FILES	23	23	5	18	11	24	3	24	
AVAILABLE	92	92	20	72	44	96	12	96	524
PERCENTILE	77%	70%	80%	78%	77%	70%	92%	76%	75%

Scoring System

Scores are subjective and based upon observation criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Most routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling.

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 handled by outside private defense firms. The firms handle other public entities in the area and have good reputations as trial lawyers.

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 20233 audit, The City of Salinas claims program *exceed* ACCEL handling guidelines and industry standards. I have reviewed the monthly updates from Carl Warren Company along with the files in their claims system.

TECHNICAL REVIEW

Investigation

I found most investigations were good to very good. Physical evidence and department records are well documented with commentary. Items that need follow up were noted. Later notes were updated with the new information. CWC uses a report that summarizes case status and analyzes liability risks. Follow up items are noted. These reports usually contain a good Plan of Action (POA).

File Management

CW file records follow Commonly Accepted Industry Practices (CAIP).

What we look for:

- A clear, detailed description of the claim being made.
- An initial analysis of coverage and any applicable immunities.
- Known facts and unknown information needed.
- An initial plan of action.
- A prompt and detailed initial investigation with documented results.
- An assessment of that investigation as it relates to liability and damages.
- A detailed documented rationale supporting the loss reserve and as needed, expense reserves.

Overall, their e-file records are rated above expectations. Most are very good. Scoring in this area is excellent. Files are documented in a regular, consistent manner along claims industry best practices. Notes are good and updated regularly.

Government Claims are properly reviewed for timeliness and sufficiency. All notices are properly documented and follow established protocols.

Supervision

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

I spoke to Joyce prior to the audit. We discussed the program and any any changes since last yeas audit.

Excess Reporting

All ACCEL reportable cases were properly noticed to GHC with follow up updates on a regular basis.

RECOMMENDATIONS

None

COMMENT

Overall, this year's results far exceed prior years. Recall, last year CWC had just been on board a few months. Prior issues with Sedgwick were still being addressed. If CWC maintains the same staff, I would expect next year's audit to look the same as this year's. You have a good team in place. I found Joyce responsive and eager to provide professional claims management.

Thank you.

Very truly yours,

Robert E. Powers

Robert Powers, ARM
ACCEL Auditor

**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 16, 2024
Sent electronically only.

RE: ACCEL/City of Santa Barbara Claim File Review 2024

Audit Dates: 10/10/2024 to 10/16/2024
Audit Location: On Site/GHC Remote (three files)
Claims Administration: Online via GHC RMS System
Defense Counsel: In-House
Files Reviewed: 44 open file

Dear Mark:

Highlights 2024 Audit

- The City of Santa Barbara claims continue to be professionally managed. My highest rating.
- Overall claim efficacy score is 3.10 (see below). The highest is 4.0 and the lowest was 2.33 and. COSB scored 80% of total points available for the audit categories described on the following page.
- **Claim volume and total incurred values are considerably higher than last year. 2023 had 90 open files with \$2.2M in incurred values. 2024 has 157 open files with \$4.1 incurred values. See recommendations.**
- We reviewed a number of files with excellent settlements.
- Files involved with CMADRESS were resolved favorably.
- George Hills Company is handling some files on an assignment basis. We reviewed one case where they were handling.
- Highly experienced staff notes and analyses are reflected in file records.
- Very good claim exposure recognition.
- Communication between RM, CAO and Departments is excellent.
- File investigations are generally excellent with newer cases somewhat lagging. Physical evidence preserved and well documented.
- Staff identifies claims for early settlements.
- Record keeping is generally good.
- Most files had clearly articulated Plans of Action (POA).
- Department record keeping is excellent.
- Files are updated regularly. Timely reports to ACCEL.

Category	Score % of available points	Files Scored 30 Out44 files	Acceptable	Needs Improvement
Factual Development Investigation	80%	27	X	
Reserving	74%	30	X	
Litigation Management	86%	11	X	
Liability Assessments	79%	23	X	
Damage Evaluation	85%	15	X	
File Management	79%	33	X	
Negotiations	94%	9	X	
E-File Records	80%	33	X	
Excess Notification and Interaction	No Exceptions			
Files				
Overall Score	80%	30	X	
Outstanding Files	2	30	X	
Exceed Expectations	17	30	X	
Acceptable	12	30	X	
Below Expectations	0	30	X	
File Highest Scores	4.0	30	X	
File Lowest Score	2.33	30	X	

Details

	Facts	\$\$	Lit. Mgt.	Lia.	Damages	File	Neg.	E-Files	Totals
POINTS	86.5	88.5	38	72.5	51	104	34	105	579.5
AVAILABLE	108	120	44	92	60	132	36	132	724
FILES	27	30	11	23	15	33	9	33	
PERCENTILE	80%	74%	86%	79%	85%	79%	94%	80%	80%

Scoring System

Scores are subjective and based upon observation criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Most routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling.

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 specific comments on claims. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated Ms. Kahn’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 \$25,000 authority to settle claims. The RM has \$75,000 settlement authority. The Finance Director has \$90,000 authority and the City Administrator has up to \$100,000 authority. The City Council approves settlements above \$100,000.

Ms. Kahn 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 has taken on other duties in the RM office. Newer files are taking longer to work up. Additional staff or assistance from GHC is warranted and recommended.

There were no substantive changes in staffing, policy, or procedural changes. There are no concerns or exceptions from expected industry accepted management principles. Overall, claims handling has been very good and consistent over the last five years.

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

The city has assigned some cases out to George Hills Company for handling. These assignments are usually claims with more labor-intensive requirements.

STAFFING

The current open case inventory is well above the level for a one person claims staff. Especially, if they have duties outside the role as primary claim handler. In the not-too-distant past, the claims industry considered 125 open files as the maximum workload for one adjuster. The current claims environment has changed considerably. The sheer volume of information that comes in that must be reviewed, digested, evaluated, dealt with etc. is **overwhelming**, mostly due to electronic media in use today.

The City of Santa Barbara would be well served using Ms. Kahn as a supervisor and complex file handler and download the day-to-day claim function to a TPA. She is far too experienced to get bogged down in routine claims handling.

OBSERVATIONS

- The initial set-up and contacts are made timely.
- Claims are evaluated for sufficiency and timeliness.
- I observed many good settlements this year via the court system.
- 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.
- Some newer cases were lagging in development in key areas.
- Injury cases were indexed.
- Injury exposure is recognized and regularly documented.
- Most files were regularly updated. Some were behind.
- Good file notes and action plans. Articulate and insightful analyses.
- Files were easy to review, and I was able to find important records easily.
- Marisa has advanced understanding of liability issues and understanding of injury potential. This reflects her industry background.
- Cases are flagged for early resolution.

TECHNICAL REVIEW

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 for this audit were in the GHC RMS system. 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. We reviewed two files assigned out to George Hills Company. These are noted on the Claim Matrix.

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. Notes on CAO updates are part of the files. The file record shows active supervision by the RM and CAO staff attorney.

I noted active supervisor input on files.

4. Excess Reporting

ACCEL has changed some reporting requirements last year. Most HR/EPL cases now require early reporting. Only one new case fit this new criterion. ACCEL only allows us to use file number and not identify claimant by name.

One new matter will have to be reported. It is in the initial stage and not yet a claim. When it ripens it will need reporting.

- GHC0075251

Recommendations

- Consider restructuring claims staff and use a TPA for routine claims handling as described above. Use Ms. Kahn as a supervisor and complex claim handler.
- Continued use of the GHC POA screen to keep file up to date with new developments.

Comment:

The City of Santa Barbara is well served by an experienced staff. Marisa 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

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

November 25, 2024

Re: ACCEL/City of Santa Cruz Claim File Review 2024

Audit Dates: November 14, 2024
Audit Location: On Site
Claims Administration: In-House.
Defense Counsel: Inside Counsel (Contract City Attorney)
Files Reviewed: 19 Open

Dear Ross:

Highlights 2024 Audit

- Overall Score is 2.86
- Files up to date and actively managed.
- Reserves reflect exposure.
- Files well organized.
- Claim intake has been about the same over the last few years.
- One case needs a report to ACCEL. See below.
- No changes in RM/CAO structure from last year.

Scoring System

Scores are highly subjective and based upon observation criteria in the category headers:

- Outstanding = 4.0
- Exceeds Expectations = 3.0
- Acceptable = 2.0
- Below Expectations = 1.0

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form opinions. Files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

Most routine cases are generally scored at the *Acceptable* level unless there was some element of outstanding handling. Scores are provided for comparison purposes and do not necessarily reflect overall quality of claims management.

Category	Score	Files Scored 13 Out of 19 files	Acceptable	Needs Improvement
Factual Development Investigation	2.77	13	X	
Reserving	2.67	9	X	
Litigation Management	3.29	7	X	
Liability Assessments	2.82	11	X	
Damage Evaluation	3.29	7	X	
File Management	2.92	13	X	
Negotiations			X	
E-File Records	N/A	N/A	X	
Excess Notification and Interaction	No Exceptions.	13	X	
Files				
Overall Score	2.86	12	X	
Outstanding Files				
Exceed Expectations	5	12		
Acceptable	7	12		
Below Expectations	0	12		
Highest Scores	3.83	12		
Lowest Score	2.00	12		

Note:

My overall impression of claims management: *Professionally Managed.*

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.

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 (contract) City Attorney's Office (CAO). 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 considering 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 19 cases needed review.

OBSERVATIONS

Observations from the last three 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.
- CAO 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

(Note: No change from prior years) 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

- Claim Number¹ 2023-1605 will need reporting due to reserves at \$500K.

Please review the ACCEL reporting guidelines and make sure all cases are reported, especially:

1. All excessive force cases.
2. Demands over \$250K
3. Trials and mediations.

RECOMMENDATIONS - NONE

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.

Thank you.
Very truly yours,

Robert E. Powers

Robert E. Powers, ARM
ACCEL Audito

¹ ACCEL wants claims referenced by file number only.

CITY OF SANTA MONICA



PO box 3295, Ventura, Calif. 93006-3295

Phone: (805) 647-0005 Fax: (805) 647-0006

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

August 16, 2024

Electronic Transmission Only

Re: ACCEL 2024 Liability Claims Audit

Audit Dates: August 5th, 2024, to August 9th, 2024
Audit Location: Remote Via CSM Orgami System
Wrap Up-/Video Conference
Files Reviewed: 49 - open with some in closing stages.

Dear Mr. Gordeev:

Highlights 2024 Audit- Some of these comments are carried over from last year.

- Risk management claim files are *professionally* managed, our highest rating.
- **Overall scoring average is 3.45, among the highest in the ACCEL group. Other details can be found on page 4.**
- Continued excellent case handling by the City Attorneys' Office (CAO) under Deputy City Attorney Kathy Kelly. Case analyses of facts, liability, injury and overall litigation management is exceptional. Mr. Bagg is now dedicated to BBB cases.
- More cases are now assigned out to panel counsel firms. This is up from last year.
- Claim in take volume is up from last year (open versus open).
- Files are regularly updated with timely status reports.
- Claims and lawsuit resolutions are very good.
- Reserving is excellent. A bit on the high side, but I would not recommend any changes as reserves versus payouts flattens out over time.
- Coordination and collaboration between RM, CAO and city departments is very good. (Especially BBB)
- Files are flagged for early resolution.
- Overall, from cradle to grave, claim and suit handling are outstanding.
- Files were easy to review, organized well.
- CAO analyses are clear and articulate future litigation strategy (plan of action-POA). Evaluation form is regularly updated with current activity.

- We reviewed many newer cases. Initial handling and investigations are good.

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.

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

No change from prior years.

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 Spenelli 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.

Cathy Kelly is now in charge of the civil liability unit. She still handles some cases. We reviewed cases by staff attorneys, Molly Ford, Samantha Brown, Alice Chung, and Robert Bagg. All appear to be experienced litigators. The reports I reviewed were all very good.

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.

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 increase in claim intake should not impact current staff workload.

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 PRIOR 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.

1. Santa Monica Scoring Summary 2024

Category	Score	Files Scored Out of 49 files	Acceptable	Needs Improvement
Factual Development Investigation	3.39	48	√	
Reserving	3.44	48	√	
Litigation Management	3.72	39	√	
Liability Assessments	3.66	44	√	
Damage Evaluation	3.68	31	√	
File Management	4.0	49	√	
Negotiations	4.0	7	√	
E-File Records	4.0	49	√	
Excess Notification and Interaction	No Exceptions	49	√	
Files				
Overall Score	3.45	49	√	
Outstanding Files	14	49	√	
Exceed Expectations	48	49	√	
Acceptable	1	49	√	
Below Expectations	0	49	√	
Highest Scores	4.0	49	√	
Lowest Score	2.8	49	√	

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

Primary day-to day oversight of claims is provided by Mr. Spinelli. Case direction is very good, consistent, and timely.

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

- Watch for claim intake to continue upwards.

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

Andrew Guzman, Risk Manager
City of Visalia
220 N. Santa Fe Street
Visalia, CA 93292

September 9, 2024

Sent via e-Mail to: andrew.guzman@visalia.city

Re: ACCEL/City of Visalia Claim File Review 2024

Audit Dates: September 6, 2024

Audit Location: On Site

Claims Administration: In-House/AIMS for investigations, some settlements.

Defense Counsel: Outside Counsel

Files Reviewed 15 Open

Dear Andrew:

Audit Highlights 2024

- Overall coring is 2.53
- Defense Counsel (DC) reports should be modified along defense industry standards.
- Risk Management would benefit from a more formalized structure of reporting case developments from DC. Most of the records we reviewed were informal, and often difficult to discern defense strategy and developments.
- One suit involved a city contractor. DC hasn't opined on tender or culpability of contractor or recovery of fees.
- The DC updates to City Counsel haven't been updated with recent activity.
- Suggest defense counsel use the DCE attached on selected cases and files that need reporting or updates to ACCEL.
- Reserve accuracy would be enhanced with the DC recommendations above.
- AIMS cases are well handled.
- ACCEL reporting/updates follow guidelines.

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 your office having the files organized and the assistance provided during the file review.

The city follows 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 between Risk Management, the contract 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. See recommendations below.

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.

File reviews show 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.

We made some changes in the claims matrix this year and added scores based upon subjective criteria in the category headers:

- **Outstanding = 4.0**
- **Exceeds Expectations = 3.0**
- **Acceptable = 2.0**
- **Below Expectations = 1.0**

The scoring for this audit overall is 2.53

SCORING SUMMARY 2024

Category	Score	Files Scored Out of 14 files	Acceptable	Needs Improvement
Factual Development Investigation	2.58	12	X	
Reserving	2.4	10	X	
Litigation Management	3.0	2	X	
Liability Assessments	2.75	4	X	
Damage Evaluation	3.0	3	X	
File Management	2.33	12	X	
Negotiations	3	1	X	
E-File Records				
Excess Notification and Interaction	No exceptions	15	X	
Files				
Overall Score	2.53	15		
Outstanding Files	0	15		
Exceed Expectations	3	15		
Acceptable	9	12		
Below Expectations	0	15		
Highest Scores	3.0	15		
Lowest Score	2.0	15		

OBSERVATIONS (NEW)

- Several files were referred to AIMS for handling. Case investigations were thorough and well developed.
- AIMS reports are comprehensive.
- We discussed several cases that now met ACCEL requirements
- A few files could use updates from Defense Counsel. See claims matrix.

OTHER OBSERVATIONS

- The files were generally up to date.
- 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.
-
- Files contained police and other departmental reports as part of the investigation.

TECHNICAL REVIEW

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 assigned to AIMS contained photographs and other relevant investigative material: i.e., statements, medical records etc. Their reports are good, captioned reports.

File Management:

Files were well organized and contained all the paper/electronic media pertaining to the claim. DC communication is informal e-mails. **The monthly updates from counsel are dated.** Records and updates are part of the file. Last year we recommended more file notes, and we did observe notes in various files.

Files would be enhanced with file notes and Plan of Action (POA) from RM staff. We discussed possible use of electronic files, going forward. I would be interested in assisting setting up a new file system.

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).

- All ACCEL reportable cases were properly reported with regular updates.

RECOMMENDATIONS

- More formalized reports from DC.
- More structured for Defense Counsel along industry standards.
- Suggest defense counsel use the Defense Counsel Evaluation (DCE) form on selected cases. Sample attached.
- 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. 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

Attachment:
Defense Counsel Evaluation Form (DCE)