



**Liability Claims Administration  
Audit –  
2013**

for

**Authority for  
California Cities  
Excess Liability**

**June 21, 2013**

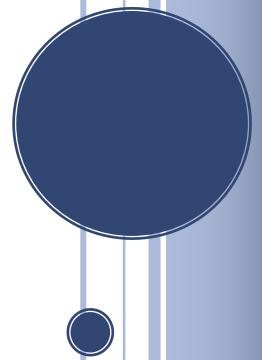
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June 21, 2013

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## **2013 Liability Claims Administration Audit**

This report summarizes the results of an audit of general liability claims for the Authority for California Cities Excess Liability (ACCEL). This report documents FCS's findings of all ACCEL members. This project includes the analysis of the following ACCEL members:

- Anaheim
- Bakersfield\*
- Burbank
- Modesto
- Monterey
- Mountain View
- Ontario
- Palo Alto
- Santa Barbara
- Santa Cruz
- Santa Monica
- Visalia
- ACCEL Administrator (Carl Warren & Company in Glendale)

\*Bakersfield claims were reviewed remotely via access to its administrator's (York) claims management information system.

An individual audit of each ACCEL member was conducted at the member's facility (self-administered), remotely via access to the claims management information system of the member's third-party administrator (TPA) or on site at the TPA.

The claims handling entity for each member was provided with audit results at the conclusion of its specific review. FCS also executed the "Claims Audit Exit Meeting Form" and provided it to each Board

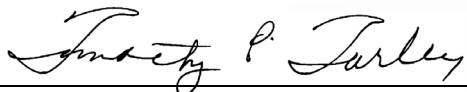
member at the conclusion of their respective audit. Each member or its administrator was encouraged to respond to the findings.

This draft edition may be subject to change before or subsequent to the June 20, 2013 Board of Directors' meeting in Burbank.

FCS appreciates the opportunity to complete this important project for ACCEL.

Respectfully submitted,

**FARLEY CONSULTING SERVICES**

by  \_\_\_\_\_

Timothy P. Farley, CPCU  
President

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## I. Executive Summary

### A. General Observations

The audit of liability claims for ACCEL finds that members and their respective administrators continue to be in general compliance with industry standards for public entity liability claims administration. Key to the success of the administration of ACCEL is the timely and compliant reporting to ACCEL of potentially catastrophic claims that will or could penetrate into ACCEL's coverage layer. Some deficiencies continue in this area. Specific findings for this key category are indicated in Section II.C.7 of this report and documented in Exhibit 6 on page 16.

Consistently timely litigation status updates from defense counsel to the member or the administrator have generated negative findings in past audits. FCS concludes that performance in this key category continues to improve, but significant deficiencies are still evident for the cities of Burbank and Modesto. Exhibit 4 on page 12 provides each member's findings and compares performance observed this year with observations from last year's (2012) audit findings.

Where possible, this report provides a comparison of performance in key claims administration categories with observations presented in the 2012 audit report.

Specific findings and observations are:

1. Many of the individuals assigned to the claims administration function also have other risk management related duties. Nearly all of the members delegate primary claims handling duties to defense attorneys/city attorneys once a claim becomes litigated. FCS recommends a maximum caseload of 180 claims for claims handling technicians on municipal liability exposures. Caseloads for Ontario (Carl Warren) and the ACCEL excess administrator (Carl Warren) are excessive. A list of adjustor caseloads appears in Exhibit 1 – Caseload Analysis on page 6.

The cities of Anaheim, Burbank, and Santa Cruz have had staff changes since the 2012 audit:

- Anaheim – Roger Lambert assumed claims handling responsibilities on 11/26/12.
  - Burbank – Arlene Gallardo replaced Ann Lozano on 3/1/13, just prior to the Burbank site visit for this project (3/20/13).
  - Santa Cruz-Patty Haymond replaced Barbara Choi (interim) on 1/1/13.
2. Case reserves are generally accurate for all member entities. FCS concludes that members and their administrators continue to improve performance in this key area. Exhibit 2 on page 8 lists each member's reserve accuracy and findings and provides a comparison to the findings presented in the 2012 audit report. Modesto and Santa Barbara each had two claims with findings of reserve inaccuracy.

3. Minor deviations from accepted claims handling standards for investigation are evident for only a few of the cities. There is continued improvement in this key area of claims administration. No particular member exhibits deficiencies that could impact ACCEL's awareness of exposure on the case.

Exhibit 3 – Investigation Deficiency Analysis on page 11 lists the claims exhibiting a specific investigation deficiency for each ACCEL member and provides a comparison of findings presented in 2012.

4. ACCEL members are generally adhering to industry standards for diary, but Burbank exhibited a significant number of claims with excessive gaps in claims handling activity. FCS concludes this is likely due to the transition from Ann Lozano to Arlene Gallardo. Still, Burbank must monitor this quarterly to ensure performance improves. The analysis of diary includes those instances where the claims handling technician failed to respond to file closure potential. FCS deems the failure to adhere to diary as a primary catalyst of the failure to close claims timely. Exhibit 5 – Diary Performance Analysis on page 14 lists the files exhibiting ineffective diary activity for each ACCEL member. Member performance, other than Burbank is similar to 2012 findings.
5. The review concludes that all members are considering important valuation criteria when resolving claims. This includes obtaining and documenting executed releases and dismissals (litigated claims) after claim resolution. This has been a key finding in all past audits.
6. All claims handling entities are generally maintaining organized and clearly documented claim files.
7. The administrators are consistently complying with ACCEL excess reporting guidelines and communicating the perceived significant exposure to the ACCEL administrator (Carl Warren), but deficiencies are apparent when reviewing Burbank and Modesto claims. Claims exhibiting late or absent excess reporting to Carl Warren or claims exhibiting a lack of correspondence from defense counsel to Carl Warren are listed and discussed in Exhibit 6 on page 16.

The review of excess claims at Carl Warren confirms that Carl Warren continues to effectively monitor ACCEL reportable claims and document its files thoroughly.

## **B. Areas of Inconsistency**

With the multiple claims handling arrangements involved in the ACCEL program, FCS believes it is imperative that general claims handling guidelines are consistently followed by all claims handling entities. FCS concludes that claims handling is consistent among all claims handling entities and improvement is evident in all areas, including the timely updating of case status from defense attorneys to the claims handler. Still, the key areas listed below merit discussion and should be a focus of improvement:

- **Litigation Management (Status Updates).** Exhibit 4 on page 12 reveals that most member cities have improved the efficiency of the delivery of updated status reports from counsel to the assigned claims handler, but the cities of Modesto and Burbank are not complying with this standard. The remedy here does not require formal, captioned reports to the claims handler. Rather, simple and concise email correspondence is sufficient.
- **Excess Reporting to ACCEL (Carl Warren).** The audit did not identify a large number of files failing to comply with excess reporting requirements. In fact, FCS concludes that member performance continues to improve, but due to the importance of this category, it is listed as an area of inconsistency. Only complete compliance by all members should be considered acceptable for this category. Exhibit 6 (page 16) lists the files deemed deficient.
- **Diary Maintenance.** The diary deficiency observed at Burbank warrants its inclusion as an area of inconsistency. FCS provided guidance to Ms. Gallardo on how to remedy this. Recommended steps are discussed in more detail in Section II.C.4 on page 13.

These and other results of this study are discussed in more detail in the remainder of this report.

## II. Audit Results

### A. Background

Member audits were conducted from March 18, 2013 (Anaheim) to April 29, 2013 (Santa Cruz). Review of excess and watch list files at Carl Warren was conducted on April 26, 2013.

The primary objectives for this audit are:

- To assure all ACCEL members that claims are effectively adjusted according to industry standards.
- To identify inconsistencies in fiscal and technical procedures that could impact the efficiency of the ACCEL program, particularly the timely and accurate reporting of high exposure claims that may penetrate into ACCEL's layer of coverage.
- To assess similarities and differences in reserving practices among the members.
- To ensure that all ACCEL claims handling requirements are complied with.
- To reconcile loss data maintained by Alliant Insurance Services (Alliant) utilized for ACCEL's retrospective rating calculation with loss data maintained by each member. The results of this reconciliation will be provided to Alliant by the end of May 2013.

The table below lists the ACCEL members audited, the number of files reviewed for each member, and the claims handling entity where the files were reviewed.

#### ACCEL Audit Composition and Facility – 2013

ACCEL Member	Number of Files Reviewed	Claims Handling Entity (Audit Site)
Anaheim	36 open claims	City self-administered
Bakersfield	21 open claims	York Insurance Services (York)-Oxnard (audit was completed remotely)
Burbank	21 open claims; 4 closed claims	City self-administered
Modesto	22 open claims; 5 closed claims	City self-administered
Monterey	13 open claims; 5 closed claims	City self-administered
Mountain View	12 open claims; 5 closed claims	City self-administered
Ontario	21 open claims; 5 closed claims	Carl Warren & Co.-Placentia
Palo Alto	20 open claims	City self-administered
Santa Barbara	21 open claims	City self-administered
Santa Cruz	12 open claims; 4 closed claims	City self-administered
Santa Monica	25 open claims; 5 closed claims	City self-administered
Visalia	12 open claims; 2 closed claims	City self-administered
ACCEL Excess and Watch List	26 open, including all 16 Watch List files	Carl Warren-Glendale

All members and/or their claims handling entity either provided a list of open liability claims from which a sample could be selected or made all open claims available while on site. All claims with incurred costs of \$50,000 or more were reviewed for each member.

FCS also reviewed the loss description of **all** open claims regardless of the amount of incurred costs and augmented each member's audit sample by selecting claims that, by description, could develop into reportable claims. Fatalities and civil rights claims were primary candidates for inclusion in the audit sample. Claims clearly representing no potential exposure to ACCEL (e.g., pothole/tire damage claims or tree limb property damage claims) were not reviewed.

ACCEL directed FCS to evaluate the claims handling performance of each member and the excess administrator to verify compliance with generally accepted industry standards for public entity liability claims handling. Recommendations for improvements are incorporated into the report.

## **B. Staffing/Caseloads**

The recommended maximum caseload for an individual handling liability claims, including litigated cases similar to those incurred by ACCEL members, is 180. This recommended caseload maximum requires the claims handling entity to assign member claims only to technicians with at least five years of experience adjusting public entity claims. However, this recommend maximum also assumes the technician will be actively involved in the claims administration process until case resolution, even if the claim is litigated. That is not the case with most of the ACCEL claims handlers. Adjustors are routinely relieved of all claims handling responsibilities once the claim becomes litigated. Accordingly, it was either necessary to discuss claim status with defense counsel/City Attorneys or discuss the status with the claims handler at many of the members.

Many of the individuals assigned to the claims administration function also have other risk management related duties. Caseloads for Ontario (Carl Warren) and the excess administrator (Carl Warren) are excessive. A list of adjustor caseloads appears in Exhibit 1 on page 6.

The caseloads listed for Carl Warren (Ontario and excess/watch list) and York (Bakersfield) in Exhibit 1 are the individual's total caseload, including assignments from other non-ACCEL clients.

**Exhibit 1 – Caseload Analysis**

Claims Handling Entity	ACCEL Member	Primary Claims Handler	Caseloads (as of the entity's specific audit date)
York Insurance Services-Bakersfield (files were reviewed remotely via access to the York Claims Connect system)	Bakersfield	Laura Harmon	Approximately 200; roughly 1/3 of these are record keeping only
Carl Warren & Co. – Glendale	ACCEL excess/watch list claims	Keyan Aghili	220 (plus approximately 400 subrogation files)
Carl Warren & Co.-Placentia	Ontario	Joe Klecansky	220 (121 are for City of Ontario)
Self-Administered	Anaheim	Dave Nunley	111
		Roger Lambert	68
		Yasmin Lopez	6
	Burbank	Arlene Gallardo	149
	Modesto	Mary Akin	122
	Monterey	Rhonda Combs	21
	Mountain View	Lynn Dobsen Assistant City Attorney Nicole Clemens	120 open claims split roughly evenly. Ms. Dobsen assumes handling of claims when litigated.
	Palo Alto	Janet Billups with Stacey Lavelle supervision; bodily injury claims handled by George Hills' San Jose	93
	Santa Barbara	John Forner	84
	Santa Cruz	Patty Haymond Tanya Malko	35; Ms. Malko assists Ms. Haymond with claim intake and filing activity.
	Santa Monica	Michael Mack	60
		Carol Tang	4 plus 35 subrogation claims
		Deb Hossli	222-mostly rejected claims awaiting statute expiration. Eighty are monitoring of lawsuits.
	Visalia	Charlotte Dunn	22
Mary Sharp		Ms. Sharp is responsible for claim intake activity and conducts necessary communication with departments.	

## C. Claims Handling Components

Specific claims handling activities are analyzed for this section of the report. The objective for this section is to provide ACCEL with general observations of the particular component for the entire program. Individual ACCEL members' findings are detailed in exhibits contained within this section of the report.

### 1. Reserves

All liability case reserves should be based primarily on:

- Anticipated extent of damages/injuries sustained.
- Degree of liability attributable to the ACCEL member.
- Existence of additional tortfeasors (responsible parties that may share in the application of liability).
- Application of statutory defenses or immunities available to ACCEL and its members.
- History of settlement trends of the involved venue.

All ACCEL claims administration entities are utilizing these criteria when establishing and amending case reserves. Exhibit 2 lists each member, the member's claims requiring reserve adjustment, and FCS's analysis as to why adjustment is needed.

The exhibit also lists the number of claims requiring reserve adjustment identified during last year's audit for comparison.

### 2. Investigation

Proper investigation of ACCEL member liability claims includes:

- Making prompt contact with the injured claimant.
- Verifying the extent of the ACCEL member's liability.
- Accounting for injury history to determine any pre-existing condition or concurrent causation.
- Canvassing for possible witnesses to the incident.
- Obtaining recorded or written statements regarding the incident from the claimant and witnesses, when possible.
- Follow-up contact with medical providers to gain a clear understanding of the severity of the injury.

**Exhibit 2 – Claims Requiring Reserve Adjustment in 2013**

ACCEL Member (Administrator)	Claim Number	Reserve Adjustment Analysis		Deviation from Accuracy (net reserve change required)	Claims Requiring Reserve Adjustment in 2012
		Current Reserve	Recommended Reserve (Rationale)		
Anaheim (self-administered)	9744	\$57,000 (bodily injury)	\$0 (bodily injury) The City indicated this claim has actually been closed for a number of years. Its appearance on the loss run with an open reserve is apparently a data error.	\$57,000 over-reserved	2
Bakersfield (York)	CBAF-20136A	\$119 (expense)	\$5,000 (expense) The claim is actively litigated. Discussions with the City and York confirm that defense counsel is providing service on a capped contract basis. Still, the reserve seems inadequate.	\$4,881 under-reserved	0
	CBAH-010135A	\$81 (expense)	\$5,000 (expense) See above explanation	\$4,919 under-reserved	
Burbank (self-administered)	No adjustments necessary	n/a	n/a	n/a	3
Modesto (self-administered)	13-0146	\$0 (bodily injury); \$0 (expense)	\$10,000 for each category The employee alleges a hostile work environment. The case is litigated with a case management conference scheduled for July 2013. Clearly, precautionary reserves are required.	\$20,000 under-reserved	0
	13-0148	\$0 (bodily injury)	\$5,000 (bodily injury) The claimant tripped and fell. Liability will likely rest with the property owner, but the City has received a formal claim. Some precautionary reserve is warranted.	\$5,000 (under-reserved)	
Monterey (self-administered)	No adjustments necessary	n/a	n/a	n/a	0
Mountain View (self-administered)	MV 110085	\$0 (loss)	\$10,000 (loss) This is a claim for wrongful termination. The City has indicated it will not establish a reserve due to lack of liability and a large volume of data pertaining to good employment practices. The recommended reserve is precautionary and is a standard industry reserving policy.	\$10,000 under reserved	1
Ontario (Carl Warren-Placentia)	1754658	\$100,000 (bodily injury)	\$55,000 (bodily injury) The claimant alleges a violation of civil rights. The claim was settled for \$55,000.	\$45,000 over-reserved	1
Palo Alto (self-administered)	No adjustments necessary	n/a	n/a	n/a	0

ACCEL Member (Administrator)	Claim Number	Reserve Adjustment Analysis		Deviation from Accuracy (net reserve change required)	Claims Requiring Reserve Adjustment in 2012
		Current Reserve	Recommended Reserve (Rationale)		
Santa Barbara (self-administered)	1744075	\$10,000 (loss)	\$0 (loss) The claimant was hit by a falling newspaper vending machine. The City has tendered liability for the claim to the newspaper, which has accepted the tender. The loss reserve can be eliminated.	\$10,000 over-reserved	0
	1595818	\$17,500 (loss)	\$0 (loss) The City received a defense verdict at trial in February and was awarded its costs to defend the claim	\$17,500 over-reserved	
Santa Cruz (self-administered)	No adjustments necessary	n/a	n/a	n/a	1
Santa Monica (self-administered)	12-1029	\$1,000 (property damage)	\$6,400 (property damage) The City is liable for a motor vehicle accident. The claimant sustained \$6,400 in property damage. The City has received a subrogation demand from the claimant's insurer in that amount.	\$5,400 under-reserved	2
	13-0028	\$1,000 (bodily injury)	\$25,000 (bodily injury) The claimant is an elderly woman who fractured her kneecap when she slipped and fell at a library. Liability is still being determined, but the severity of the injury warrants a reserve increase.	\$24,000 under-reserved	
Visalia (self-administered)	No adjustments necessary	n/a	n/a	n/a	1
ACCEL excess/watch list (Carl Warren)	No adjustments necessary	n/a	n/a	n/a	0

- Obtaining police accident reports when the damage or injury is the result of a traffic accident.
- Obtaining photographs of accident scenes, when applicable. This requires the documentation and description of vital accident scene photographs to the file. Photographs stored on a disc are not sufficient.
- Aggressive pursuit of additional responsible parties to offset the member's contribution to damage/injury awards.
- Obtaining signed releases, including court approved releases when minors are involved, prior to final claim resolution.
- Invoking risk transfer devices available to the members (e.g., hold harmless, indemnification, or additional insured agreements).

ACCEL member files exhibit thorough investigation activity. Still, minor investigation deficiencies unique to specific claims are evident.

Exhibit 3 lists the claims exhibiting a specific investigation deficiency for each ACCEL member. Numbers appearing in parentheses are the number of deficiencies identified in the 2012 audit. Blank categories indicate there were no findings in either 2013 or 2012.

### **3. Litigation Management**

The control of litigation activity and its associated expense is vital to the fiscal performance of any public entity.

A primary performance measure for litigation management is the timeliness and clarity of information provided by handling counsel in status reports to the claims handler. Exhibit 4 lists the files exhibiting late litigation status reports or no status reports at all from defense counsel. The number in parentheses is the number of deficiencies identified in the 2012 audit.

Industry standards require some status update from counsel at least every 90 days on actively litigated claims. These litigation status updates need not be elaborate or inclusive of discovery documentation such as deposition transcripts or interrogatory responses. A simple written status (e.g., email) is sufficient.

FCS has identified this as a point of concern in every audit it has conducted for ACCEL (beginning in 2006).

Bakersfield, Santa Barbara, and Santa Monica have improved performance in this area significantly since the 2012 audit.

**Exhibit 3 – Investigation Deficiency Analysis**

ACCEL Member	Number of Files Exhibiting Deficiency Numbers in parentheses are 2012 findings (blank categories mean no deficiencies in either 2012 or 2013)						
	Failure to Index	Failure to Obtain Statement	Failure to Obtain Police Report	Failure to Document Photographic Evidence	Failure to Obtain Release	Failure to Invoke Risk Transfer	Failure to Obtain Estimates
Anaheim	-	-	-	1 (0)	-	-	-
Bakersfield	-	-	1 (0)	-	-	-	-
Burbank	-	-	-	-	-	1 (0)	-
Modesto	-	-	-	1 (0)	-	-	-
Monterey	-	-	-	-	-	-	-
Mountain View	-	-	-	1 (1)	-	-	-
Ontario	-	-	-	-	-	-	-
Palo Alto	-	-	-	-	-	-	-
Santa Barbara	-	-	-	1 (0)	-	-	-
Santa Cruz	-	-	-	-	-	-	-
Santa Monica	-	-	-	-	-	-	-
Visalia	-	-	-	-	-	-	-
Excess/watch list	-	-	-	-	-	-	-

**Anaheim**

- Claim number 11843: The claim file contains no photographs of the accident scene where a pedestrian was killed.

**Bakersfield**

- Claim number CBAH-010370A

**Burbank**

- Claim number 10194: The file exhibits no response to a November 2010 subrogation demand until May 2012.

**Modesto**

- Claim number 13-0135: This is a wrongful death claim resulting from a single-vehicle accident. The claimant alleges the City created a dangerous condition that caused the accident. The file contains no photographs of the accident scene.

**Monterey**

- No investigation deficiencies

**Mountain View**

- Claim number 120067: The claimant alleges a dangerous condition caused this motor vehicle accident fatality. There are no photographs of the accident scene in the claim file.

**Ontario**

- No investigation deficiencies

**Palo Alto**

- No investigation deficiencies

**Santa Barbara**

- Claim number-1761694: The claimant was struck by a vehicle while in a crosswalk. The claimant alleges the City created a dangerous condition due to the design of the accident area. Mr. Forner requested photographs of the scene in September 2012 and has still not received them.

**Santa Cruz**

- No investigation deficiencies.

**Santa Monica**

- No investigation deficiencies

**Visalia**

- No investigation deficiencies

**Exhibit 4 – Litigation Status Report Analysis**

ACCEL Member	Files Lacking Status Reports or Exhibiting Late Status Reports from Defense Counsel		2012
	2013		
Anaheim	2	9.5% of the litigated files reviewed	3
Bakersfield	No deficiencies identified		10
Burbank	7	29.2% of the litigated files reviewed	5
Modesto	5	31.3% of the litigated files reviewed	2
Monterey	No deficiencies identified		0
Mountain View	No deficiencies identified		0
Ontario	1	6.7% of the litigated files reviewed	1
Palo Alto	No deficiencies identified		0
Santa Barbara	No deficiencies identified		4
Santa Cruz	No deficiencies identified		1
Santa Monica	2	10.5% of the litigated files reviewed	5
Visalia	No deficiencies identified		1
Watch list/excess	No deficiencies identified		0

#### 4. Diary/File Closure

Industry standards require documented adjusting activity every 30 days on open active cases. The failure to adhere to an aggressive, timely diary routinely results in the failure to respond to settlement/resolution opportunities and the failure to close claims timely.

Certain files may maintain a longer diary. For example, claims that have been rejected and for which the only remaining activity is the monitoring for potential receipt of legal action may maintain a six-month diary. FCS considered these criteria when evaluating diary performance.

ACCEL members are generally adhering to industry standards for diary. The analysis of diary includes those instances where the claims handling entity failed to respond to file closure potential. FCS deems the failure to adhere to diary as a primary catalyst of the failure to close claims timely. Exhibit 5 lists the files exhibiting ineffective diary activity for each ACCEL member for both this year's audit and the 2012 audit.

There is a clear deficiency in this category at Burbank. Nine of the 21 open claims reviewed (43%) exhibit extensive gaps in claims handling activity. Arlene Gallardo assumed claims handling responsibilities just three weeks before this review. It is not unusual for a transition in claims handling personnel to result in a temporary deterioration in performance.

#### Recommended Remedy

FCS recommended that Ms. Gallardo perform a purge of all open claims, review each claim's status, and conduct some claims handling activity on each claim within the next 90 days.

#### 5. Payments/Settlement

FCS concludes that ACCEL members and their claims handling entities are generally considering the following important criteria when resolving claims:

- The extent of liability attributable to the ACCEL member.
- The existence of additional tortfeasors.
- The existence of risk transfer devices (e.g., indemnification language or contractual hold harmless agreements) that allow the member to tender the responsibility to the responsible party.

The evaluation also seeks to confirm that claims handling entities are securing and documenting release/dismissal correspondence in instances when a claim settlement is reached.

This area of claims handling also exhibits general compliance with industry standard. This has been a conclusion in all past audits.

**Exhibit 5 – Diary Performance Analysis**

ACCEL Member	Files Exhibiting Diary Deficiency	
	2013	2012
Anaheim	0	1
Bakersfield	1	0
Burbank	9	2
Modesto	1	0
Monterey	0	0
Mountain View	0	0
Ontario	0	0
Palo Alto	1	0
Santa Barbara	1	0
Santa Cruz	0	1
Santa Monica	0	2
Visalia	0	0
Watch list/excess	0	1

Anaheim

- No deficiencies identified

Bakersfield

- CBAH-010356A

Burbank

- 09164
- 09151
- 10028
- 10165
- 10144
- 12031
- 09170
- 09137
- 10145

Modesto

- 10-0276

Monterey

- No deficiencies identified

Mountain View

- No deficiencies identified

Ontario

- No deficiencies identified

Palo Alto

- L10026

Santa Barbara

- 1752244

Santa Cruz

- No deficiencies identified

Santa Monica

- No deficiencies identified

Visalia

- No deficiencies identified

Watch List/excess

- No deficiencies identified

## 6. File Organization and Documentation

FCS encourages the consistent and chronologically accurate documentation of claim files. This ensures that the file will be clearly interpreted upon review by a party other than the handling adjustor. It also ensures that important documents such as settlement demands, release/dismissal documents, and important investigation items are not misplaced.

All claims handling entities are maintaining clearly documented claim files.

Minor documentation deficiencies such as unsecured or disorganized file contents exist in a small percentage of the files.

## 7. Excess Reporting

This is a vital element of this study. The very nature of this project and the composition of ACCEL as an excess pool make the timely and consistent reporting of serious claims to the excess provider a main indicator of efficiency.

When selecting audit samples for each member, FCS focused primarily on higher valued claims (e.g. cases with incurred costs of \$25,000 or more), since these would logically have the greatest potential for excess exposure. All claims reaching this threshold were reviewed for each member.

The audits confirm that most ACCEL members are consistently complying with ACCEL excess reporting guidelines and communicating the perceived significant exposure to ACCEL and the Watch List administrator (Carl Warren). Burbank, Modesto, and Ontario (Carl Warren-Placentia) had multiple deficient excess reporting findings.

The review of Watch List and other excess files at Carl Warren confirms that Carl Warren is effectively monitoring these claims. Exhibit 6 displays claims that were either not reported to Carl Warren timely – even though it appears that claim characteristics qualify for excess reporting – or lack timely follow-up correspondence from the member or defense counsel. These findings were presented to the particular member or the member and its administrator after that member’s audit.

**Exhibit 6 – ACCEL Excess Reporting Analysis**

Member	Claim Number	Discussion
Anaheim	11455	Carl Warren not copied on correspondence from defense counsel.
Bakersfield	All excess reportable claims reported timely	
Burbank	09163	This is a claim for wrongful termination/civil rights. Carl Warren has not been notified.
	12032	This is a relatively minor motor vehicle accident. The City should not have reported this to Carl Warren.
	12117	This relatively minor motor vehicle accident allegedly resulted from City negligence. Its reporting to Carl Warren is not warranted.
Modesto	11-0244	The claimant alleges excess force resulting from a police shooting incident. There is no indication the claim was reported to Carl Warren and Carl Warren has not been copied on legal correspondence.
	12-0135	This is a wrongful death claim alleging dangerous condition. The claim has not been reported to Carl Warren. It should be reported immediately.
	13-0135	This is a motor vehicle accident fatality alleging dangerous condition. The claim has not been reported to Carl Warren. It should be reported immediately.
Monterey	There are no currently active claims that qualify for excess reporting.	
Mountain View	All excess reportable claims reported timely	
Ontario	1754945	This is a claim resulting from a fatal shooting by City police. It should have been reported to Carl Warren upon receipt (May 2012).
	1814288	The claimant died after being tased. Liability is doubtful, but the claim should have been reported to Carl Warren upon receipt (December 2012).
Palo Alto	L97090	This is a claim alleging excess force. The claim was reported to Carl Warren timely, but defense counsel is not consistently copying Carl Warren on correspondence.
Santa Barbara	All excess claims reported timely.	
Santa Cruz	All excess reportable claims reported timely; one prospect being watched	
Santa Monica	All excess reportable claims reported timely	
Visalia	All excess reportable claims reported timely	

## **8. Risk Management Information System (RMIS)**

The objective here is to confirm that loss data captured by the member entities are accurate, allowing ACCEL to assess the potential excess exposure.

FCS was provided a list of all open claims as well as a specific list of open claims with incurred costs of \$25,000 or more for all members. A separate loss run of all open and closed claims with incurred costs of \$25,000 or more that occurred in ACCEL membership years was also provided and was used to reconcile the Loss Stratification Report used for ACCEL's retrospective rating calculation.

Many of the cities utilize Carl Warren or George Hills to document loss data and generate periodic loss run documents.

Loss information generated generally reconciles with financial information documented in the claim files. No significant RMIS deficiencies are identified. Exhibit 7 on page 18 lists the observed deficiencies.

**Exhibit 7 – ACCEL Loss Data Reconciliation Analysis**

Member	Claim Number	Discussion
Anaheim	9744	File notes indicate costs have exceeded the City's retention of \$1,000,000, but the loss run records payments of only \$670, 816.
	10505	This claim appears to have been closed more than a year ago, yet the loss run provided shows outstanding reserves of \$400,000 for loss and \$50,000 for legal expense.
Bakersfield	No RMIS deficiencies identified	
Burbank	09164	The claim was dismissed in June 2012. It is not clear why it is still listed as open.
	12112	The loss run records a loss reserve of \$50,000, but a recent excess report to Carl Warren indicates a reserve of \$100,000.
Modesto	The implementation of the City's new claims information system has resulted in old claims with multiple claim numbers. The City is aware of this and will remedy it within the next year.	
Monterey	12024	This claim has incurred costs exceeding \$184,000, but does not appear on the list of claims exceeding \$25,000 in incurred costs provided by the City.
Mountain View	No RMIS deficiencies identified	
Ontario	No RMIS deficiencies identified	
Palo Alto	No RMIS deficiencies identified	
Santa Barbara	No RMIS deficiencies identified	
Santa Cruz	No RMIS deficiencies identified	
Santa Monica	12-0239	The loss run provided records no loss payments, but the file documents a payment warrant of \$1,172 in May 2012.
Visalia	No RMIS deficiencies identified	
Watch List	Carl Warren's loss run lists an inaccurate date of loss on 4 of the 26 files reviewed. The loss run also consistently lists litigated claims as "not litigated."	