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## FINAL

Authority for California Cities Excess Liability (ACCEL)  
c/o Alliant Insurance Services  
100 Pine Street, 11<sup>th</sup> Floor  
San Francisco, CA 94111

January 21, 2021

Attn: Conor Boughey  
Lorissa Huey  
Michal Simmons  
Account Managers

## ACCEL

### Liability Claims Administration Audit -2020

The enclosed **Audit Reports** are the result of the general/automobile liability audit for the Authority for California Cities Excess Liability (ACCEL) for the 2020 year.

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

Part 2 -The George Hills Company (formerly RMS) 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 gained additional insight this year as we met with each Member, continued to build relationships with their staff and observe the claims operations at each City. This helped us focus on various key areas and enable me to provide ACCEL feedback on how each Member processes, handles and resolves claims and litigation.

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 criticism on the finds, methodology and areas of improvement in future years.

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

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**PART 1****FINAL**

**ACCEL**  
**Liability Claims Administration Audit -2020**  
**Member Summary**

**Preface**

*All Members are in compliance and all reportable claims have been noticed to the Third-Party Administrator, George Hills Company.*

The COVID-19 Pandemic has had a major impact on litigation and claims handling. Trials have been postponed in many cases; important hearings have been delayed and the entire process is on hold in many cases. Member's staffs have been working remotely in many cases. Investigations are delayed and cursory. Even with that said, there has been only a slight decrease in number of claims filed with Member cities.

While many of the Member's staffs are working remotely, we were able to review all Members files for the 2020 audit. Some Member's made special arrangements for on-site audits despite the closure of City facilities.

This is the third year for this auditor. This has enabled us to access trends, monitor staff procedures and development over the years. This has also allowed us to develop more focused insight and provide meaningful feedback to Members.

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.

The commentary below contains a summation and general comments in the audit criteria pertaining to all members since the methodology for claim processing and resolution vary greatly among the Membership.

## ACCEL Liability Claims Audit

### Audit Focus

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

#### 1. Exposure Recognition

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

#### 2. Claim risk liability to the pool

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

#### 3. Verification that Member's files meet acceptable ACCEL and industry standards

### Executive Summary

#### Preliminarily

The 2020 liability claims audit commenced in July 2020 and was completed on December 11, 2020.

The audits were performed online and on-site where practical and didn't violate COVID-19 restrictions. Where the reviews were compiled online, an in-person or video wrap up sessions was provided. 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 currently closed claims. The auditor then reviewed *all open* claims and selected the files to be reviewed. We chose files that had potential, risk to ACCEL, primarily public safety, Civil Rights, and EPL claims.

The review was tabulated on an Excel spreadsheet known as 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.

After 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 Narrative Report and provided to each Member.

### Observations/Conclusions

The audit of liability claims for ACCEL finds that Members, their respective administrators, and the Third-Party Administrator, George Hills Company (formerly RMS) continue to be in **general compliance** with ACCEL claims handling guidelines and industry standards.

### 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, we noted two late reported cases. See Appendix A. Also, the auditor identified several "borderline" claims that do not meet reporting criteria, but in the opinion of the auditor required a more in-depth analysis and evaluation to determine if reporting will be required. The auditor identified a few "bothersome" claims that should be monitored closely for adverse exposure development. These matters were identified on the individual audits and discussed in the wrap-up sessions.
2. **The 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.
3. **ACCEL/Industry Compliance** - The audit confirms that all Members are in general compliance with ACCEL Guidelines and claim industry standards.

**NOTE:** The 2019 Audit showed the City of Modesto out of compliance. That situation has been corrected.

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.

## ACCCEL Liability Claims Audit

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.

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

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

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

Recommendations on file handling are contained in the individual audits.

5. **Reserving Accuracy** –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 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, with only one exception.

6. **Investigations** - In house claims administration rely on Departments for investigations. Member's investigations range from very good to weak. We observed many claim files that contain no material on alleged facts except those contained on the initial claim form.

## ACCEL Liability Claims Audit

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 judgment of those reports.

Member's 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, time and money, 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 arms 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.

One item that we noticed last year, was that the GHC file often contains a great deal more information than that same file at the City RM Department. This is still correct. The converse is also true. I noted a few cases where GHC wasn't aware of important evidentiary activity being performed. GHC wasn't informed. This isn't universal, or a major trend, but did prompt my attention.

GHC introduced a Case Management Evaluation form for defense counsel. This helps in case evaluation and keeps the defense counsel on track to articulate a 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. Santa Monica and Burbank have also shown marked improvement than in years past.

The direction and strategy of a lawsuit aren'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.

## ACCEL Liability Claims Audit

City Attorney staffing changes were noted in the 2019 Audit Report. Overall, these have reflected an improvement in the files, especially the summary and analytical reports. Santa Monica has two new staff attorneys.

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, often taking a defensive posture.

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 improvement needs 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.

The retirement of the RM at the City of Santa Cruz has produced changes in that position as well as staff. Files continue to be well maintained.

I found that Member's in-house staffs have a satisfactory level of industry knowledge, experience, educational background, and technical skill to perform their jobs. I have notice improvement over the last three years as they gain more experience.

Whereas with TPA's, with a few exceptions, there is a shrinking knowledge base within the TPA industry to the point where their file 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 do provide reports to ACCEL.

9. **Diary** - Other than that observation, Member's files were up to date with evidence of active case management regularly. 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 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.

## ACCEL Liability Claims Audit

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.

**Editor's comments (FROM LAST YEAR):** As I review cases I often fall back on my own experience as a claim handler. I see many cases that should be disposed of early on slip into litigation and get caught on the litigation merry-go-round. Settlements usually follow but after much wasted time and expense.

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:

- At the bare minimum, a preliminary investigation of facts beyond the claim itself and Department Reports.
- Analyze Departments reports for relevancy and credibility.
- Identify and analyze the alleged injury and damages.
- Establish reasonable reserves based upon above narrative.
- Look for educational opportunities for staff re PE liability.
- GHC should get immediate notification of Public Safety Claims.
- Member's DC should respond in a timelier manner to requests for meaningful updates.
- Members should not have to be prompted to provide enough records and litigation developments so RMS can analyze risk exposure to pool. At best this is inconsistent. Some cities do this very well, others not so well.
- Educate staff re PE liability and in particular, California Government Code 835, et seq.
- Educate staff re-exposure recognition on civil rights cases.
- Discussion on shrinking knowledgebase of public entity liability experience.

## ACCEL Liability Claims Audit

### Methodology

A total of 548 open files/closed files were reviewed. Down this year as many files have been reviewed at the TPA site or at City in previous years. Files were selected after reviewing all the open files of the City's Loss Run. The City 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 an 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   | None                 |
| Burbank       | None                 |
| Modesto       | None                 |
| Mountain View | None                 |
| Monterey      | None                 |
| Palo Alto     | None                 |
| Ontario       | None                 |
| Salinas       | None-One late report |
| Santa Cruz    | None                 |
| Santa Barbara | None                 |
| Santa Monica  | None                 |
| Visalia       | None                 |

## ACCEL Liability Claims Audit

### Appendix B

| <b>MEMBER</b> | <b>FILES REVIEWED</b>  | <b>AUDIT LOCATION</b> | <b>CLAIMS ADMINISTRATION</b>  |
|---------------|------------------------|-----------------------|---|
| Anaheim       | 50 Open/Closed         | On-Site               | Self Administered   |
| Bakersfield   | 50 Open/Closed         | Remote/On-Site        | TPA Sedgwick (York)   |
| Burbank       | 43 Open/Closed         | On-Site               | Self Administered   |
| Modesto       | 43 Open/Closed         | On-Site               | Self Administered   |
| Mountain View | 15 Open/Closed         | On-Site               | Self Administered-GHC for Loss Run                                  |
| Monterey      | 18 Open/Closed         | On-Site               | Self Administered-GHC for some standby investigations (rarely used) |
| Ontario       | 31 Open/Closed         | Remote                | Carl Warren & Company   |
| Palo Alto     | 28 Open/Closed         | On-Site               | Self Administered-GHC for BI/PD tort cases and Loss Runs            |
| Salinas       | 16 Open/Closed         | Remote/On-Site        | Sedgwick TPA- <i>Heavily Monitored</i>                              |
| Santa Cruz    | 19 Open/Closed         | On-Site               | Self Administered   |
| Santa Barbara | 30 Open/Closed         | On-Site               | Self Administered   |
| Santa Monica  | 49 Open/Closed         | On-Site               | Self Administered   |
| Visalia       | 19 Open/Closed         | On-Site               | Self Administered-AIMS for some BI/PD Claim Handling                |
| GHC (RMS)     | 137 Open/Closed        | On-Site               | Converted to online this year                                       |
| <b>Totals</b> | <b>548 Open/Closed</b> |                       |   |

### Appendix C

#### Claim Matrix Criteria-Claim Handling Components

##### 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

## ACCEL Liability Claims Audit

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

### File Management Claim Data Organization clarity

All necessary file documents in the file, e.g.:

- FNOL-First Notice of Loss
- Public Entity Claim
- All Notices of action by PE
- Legal records
- Coverage issues (Intentional conduct)
- Reservation of Rights/ Responses
- Correspondence
- Emails
- Statements
- Physical evident
- Notice to insurers and contractors/vendors
- Indemnity HH agreements, Certificates AI Endorsements

## ACCEL Liability Claims Audit

- Tender letters and responses
- Invoices, inclusive of work product
- Department reports/records
- ISO Index
- Summons and Complaints
- Releases
- Dismissals
- Authority Requests
- Authorizations for settlements and expenditures
- Important court rulings
- POA

### **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

## ACCEL Liability Claims Audit

**Record of Report**  
**Acknowledgement by Excess Carrier/Program**  
**Coverage issues addressed**  
**Potential disputes recognized**

**End of Part 1**

**Part 2.****Risk Management Services (RMS) – TPA Liability Claims  
Administration Audit- 2020****Audit Dates-**11/4/2020 to 11/21/2020**Files Audit:** 137 Open/Closed**Review:** Online**Wrap up:**11/23/2020

| Category                                   | Outstanding | Exceeds Expectations | Acceptable | Needs Improvement | Comments   |
|--|-------------|----------------------|------------|-------------------|--|
| <i>Factual Development</i>                 |             | ✓                    |            |                   | <i>Given vagaries of Member updates and long gaps receiving updates.</i>             |
| <i>Reserving</i>                           | ✓           |                      |            |                   | <i>Excellent recognition of exposure and value.</i>                                  |
| <i>Litigation Management</i>               | ✓           |                      |            |                   | <i>On active ACCEL cases.</i>  |
| <i>Liability Assessments</i>               | ✓           |                      |            |                   | <i>Shows a high degree of understanding causation and exposure on complex cases.</i> |
| <i>Damage Evaluation</i>                   | ✓           |                      |            |                   | <i>At the BOD level. WL not part of e-file.</i>                                      |
| <i>File Management</i>                     | ✓           |                      |            |                   | <i>Files are exceptionally well organized.</i>                                       |
| <i>Negotiations</i>                        | ✓           |                      |            |                   | <i>This activity monitored and reported at BOD level. WL activity.</i>               |
| <i>E-File Records</i>                      |             | ✓                    |            |                   | <i>Recent conversion of old files and labelling.</i>                                 |
| <i>Excess Notification and Interaction</i> | ✓           |                      |            |                   | <i>Very active and methodical.</i>   |

**Recommendations**

- ACCEL Members report ACCEL reportable matters upon first notice of claim. This allows TPA to assign counsel and assist in the claims work up when deemed appropriate.
- Members should respond to requests for updates from TPA in a timely matter.
- MEMBERS defense counsel should be required to provide a *timely* Defense Counsel Evaluation (DCE) when requested.
- Standard Preliminary Position Paper (RoR) on all EPL cases re *lost wages*, benefits etc. as excluded.

## ACCEL Liability Claims Audit

**Attached hereto is a CONFIDENTIAL spreadsheet of the reviewed files and comments. This record contains potentially confidential information on matters in pending litigation. This contains the “housekeeping “items for follow up action if deemed necessary.**

**ACCEL continues to receive exceptional claims management of their files from Mr. Maiolini and Ms. Manzoni.**

**Robert E. Powers  
ACCEL Auditor**

*Robert E. Powers*

**This completes the 2020 ACCEL Claims Audit**

# City of Anaheim



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Ms. Tracey Matthews Esq., Risk Manager  
City of Anaheim  
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Anaheim, CA 92805

June 22, 2021

Re: ACCEL/City of Anaheim Claim File Review 2020

Audit Dates: June 19, 2021  
Audit Location: On Site. Wrap up in person.  
Claims Administration: In-House  
Defense Counsel: In-House/Outside/Panel Counsel  
Files Reviewed: 35 Open (Some claims with multiple claimants)

Dear Ms. Matthews

This will summarize the delayed audit for the 2020 fiscal year.

The city is short one claim handling position. Due to the sheer volume of claims and the complexity of pending matters we suggest this position be filled as soon as possible.

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

### **Organization**

Risk Management Division (RM) reports to the Deputy Human Resources Director. Liability claims are managed internally with staff positions. The City Attorney's Office (CA) handles litigation and assigns out some cases to specialty panel counsel. Risk Management has a collaborative working relationship with the City Attorney for litigated and high exposure matters.

The audit only reviewed claim matters in the RM office.

The ACCEL Audit primary focus is:

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

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

The City of Anaheim Risk Management Division (RM) has a highly competent claims management/claim resolution program. 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 Risk Manager and the Claims Manager have a close working relationship that is based on their extensive claims management experience and focused purpose to preserve City resources and assets through self-administration of liability claims.

Overall management of liability risks exceeds ACCEL expectations and industry standards.

### **OBSERVATIONS**

- 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.
- One staff position should be filled to maintain the current high level of claim management.

### **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' experience.

#### **File Management:**

Files were well organized, up to date with financial data separated from other records.

#### **Supervision**

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

#### **Excess Reporting**

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

#### **Recommendations**

We have no specific recommendations other than the staff position noted above.

#### **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

Enclosures  
Claims Data Matrix

# City of Bakersfield



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Jena Covey, Risk Manager  
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August 12, 2020

Re: ACCEL/City of Bakersfield Claim File Review 2020

Audit Dates: August 6-August 11, 2020  
Audit Location: Remote via Sedgwick (York) ViaOne  
Claims Administration: Sedgwick TPA  
Defense Counsel: Outside/Panel Counsel  
Files Reviewed<sup>1</sup>: 49 Open/ 1 Closed.

Dear Jena:

**Notes:**

- The Covid-19 measures have curtailed trials and court proceedings until 2021, so there are few new developments on litigated files in this audit.
- I am reviewing TPA files, which contain more litigation records than the RM file. I will supplement this report if there are any significant issues.
- The 2019, 2018 and 2020 audits are similar in some areas since there were no substantive changes in staffing, policy or procedural changes. Many of the files we reviewed were audited last year.

**Preface**

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

In performing this year’s audit, I reviewed the 2016, 2017, 2018 and 2019 audits. Those reports indicated “no exceptions” were found for your City based on audit criteria.

**Structure**

This audit only 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 CA. Counsel Reports are not part of the RM file. The CA does provide monthly updates via regularly scheduled meetings. The

CA Suit File updates from the meetings are in the RMS file. Reserves are a collegiate process with RM and the TPA based upon information gathered through investigation.

CA directs Outside Counsel and provides authority to proceed to trial, resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. Sedgwick will negotiate and settle claims assigned to them by RM.

The ACCEL Audit primary focus is:

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

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

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

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

**OBSERVATIONS** - I was not provided access to the Sedgwick "JurisOne" (sp) system. Files were reviewed on Sedgwick's ViaOne system which is a 'viewing' system only that Sedgwick provides to outside clients.

- The City Attorney manages litigation and takes advantage of a very favorable jury pool in Kern County (State Court) and Fresno County (Federal Court) to manage case exposures and, when appropriate, makes favorable settlements.
- All ACCEL cases were reported with active follow up support.
- York RSG's database was converted to the new system with anticipated issues. That is, many duplicate records, electronically named records that provide no detail on the records we are looking for and in many cases is a degradation of record keeping from last years audit. We discussed my points in the wrap up.
- Sedgwick doesn't report financials by occurrence level in the ViaOne System.. This is a serious deficiency. I asked Sedgwick for a comment on this topic and they failed to reply.
- The conversion's lack of file record labels makes reviewing your files cumbersome, time consuming and wastes valuable time trying to find records.
- Covid-19 issues have delayed all litigation for at least a year.

On the positive side:

- File handling is consistent, up to date and actively managed.
- New cases are actively investigated and have good factual development.
- I found no unusual claims, risks or other issues that would pose potential risk for ACCEL.
- The claim handler is actively documenting the file. Diaries are up to date.
- RM recognizes exposures and potential risk to ACCEL.
- ACCEL is getting regular updates from Laura Harmon.

- The file documentation has the necessary records, reports and documents to allow the auditor to determine 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.
- Reserves are appropriate with the limited amount of information available on litigated cases.
- Evidence of risk transfer and contribution were observed

## **TECHNICAL REVIEW**

### **Investigation:**

The City has an established program that requires the TPA claim handler to respond to the scene of serious accidents 24/7. Routine cases are investigated competently, documented with department reports, photographs and related investigation records. Police cases are usually handled internally. Newer files do have some police records in them (redacted accordingly).

### **File Management:**

The claim files contained all the paper/electronic media pertaining to the claim. However, the “ViaOne (JurisOne)” system is overly cumbersome. Locating a specific record is challenging. Many documents are nothing more than logo images. The system labels each page as a separate document further contributing to the user *un*-friendly aspects of the system.

Otherwise file management is active and acceptable.

### **Supervision**

See above commentary.

### **Excess Reporting**

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

### **Recommendations**

For this Audit:

- The claim handler should summarize important e-mail strings for relevant information. Attach a “Label” to describe important content.
- Label file handler reports, ACCEL reports and DC reports as much as possible.
- Make e-file documentation accuracy and labeling part of job performance or requirements for TPA’s.
- 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.
- The claim file would be enhanced with a brief periodic status updates covering operative facts, those in dispute, injury, specials and “insights” into the claim where appropriate.

**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 years audit.

Thank you

Very truly yours

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

# City of Burbank



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

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

October 5, 2020

*Electronic Transmittal Only*

Re: ACCEL/City of Burbank Claim File Review 2020

Audit Dates: 10/23/2020  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed 43 (some were multi-party claims)<sup>1</sup>

Dear Ms. McClinton:

**Note:** Most of the comments below are similar to observations from last year's audit. I highlighted a few key areas.

## 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.

This will also acknowledge our wrap up session following the file review and those items we discussed re the types of cases that RM should track:

- 42 USC 1983 cases
- Cases where no claim has to be filed prior to litigation
- Inverse Condemnation
- Employment cases, DFEH, EEOC Etc.

---

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

During the coming year, if your office wants to have me look at any of these cases for summary purposes, I would glad to lend assistance.

## **Structure**

This audit only reviewed the Risk Management (RM) claims files. The RM staff has one Senior Risk Analyst and one assistant. 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, investigates and sets reserves on non-litigated cases and attempts settlements on certain cases deemed appropriate for early resolution.

## **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.

Last year, Risk Management has added one staff person. The City Attorney's office had two new attorneys. There are no changes this year.

The claims staff works closely with the City Attorney's office, which acts as the City's defense counsel. The City will utilize outside counsel on specialty cases.

We note efforts to resolve claims pre-litigation.

## **OBSERVATIONS**

- Claim files are very well organized along industry customs and practices.
- Álvaro's scene investigations are very well done and reflects his understanding of causation (this really helps to evaluate liability and case resolution).
- Alvaro's analyses are very good to excellent.
- A notable increase in effective communication between RM and the CAO.
- Chantal continues to gain experience and claims knowledge. Her notes are good.
- Reserves are generally good and up to date.

- The file documentation contains the necessary records, reports and documents to allow the auditor to discern how the case is being handled, both litigated and non-litigated.
- The litigated files have updates on a regular basis. Some CAO reports are very good. Some of the older files should be updated.
- Files reflect good prelitigation contact with claimant attorneys and attempts at early resolution.
- Recommendations from the two prior audit are evident this year.

## **TECHNICAL REVIEW**

### **(NOTE:**

#### **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.

#### **File Management:**

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

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

#### **Supervision:**

The claim staff has regular meetings with the Risk Manager to discuss files, proposed handling, reserves etc. review of important correspondence.

#### **Excess Reporting**

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

## **RECOMMENDATIONS**

Review these cases for ultimate risk assessment. While they don't currently represent ACCEL cases, they may develop as developments unfold:

1. 19176-Review after more injury information becomes available.
2. 19145-Borderline case - evaluate for reporting.
3. 19121-Case may escalate in value as allegation of injury is serious and liability exposure is possible.
4. We note: 16039-Case is being reported due to recent reserve increase.

**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  
ACCEL Auditor

# City of Modesto



PO box 3295, Ventura, Calif. 93006-3295  
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rnwrs@nachell.net

Christina Alger, MHR, SHRM-SCP  
Director of Human Resources  
City of Modesto  
1010 10th Street  
Modesto, CA 95354

September 16, 2020

*Electronic Delivery Only*  
Sent to: [calger@modestogov.com](mailto:calger@modestogov.com)

Re:

Re: ACCEL/City of Modesto Claim File Review 2020

Audit Date: September 10, 2020  
Audit Location: In Person  
Claims Administration: In House, Self-Administered  
Defense Counsel: City Attorney/Select Panel cases on some cases.  
Files Reviewed<sup>1</sup>: 43 Open/Closed

Dear Ms. Alger:

**Note:** As we advised in our abbreviated debriefing, the City of Modesto is now in compliance with ACCEL guidelines. The City has made major improvements in its Risk Management General Liability/Auto Liability claims program compared to our review last November. Further details are provided below.

## 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.

*The 2019 Narrative Report suggested areas of concern that have now been corrected.*

In early 2020, Modesto's City Manager engaged the services of an independent firm, Management Strategies Group (MSG), to create a Comprehensive Risk Management program and provide best practice recommendations. Fortunately, the GL Audit coincided with this assessment and together, the consultant and I were able to leverage our mutual expertise. Ultimately, the City received a two-year Implementation Plan from MSG that prioritized many actionable items and also reflected the recommendations in the GL Audit. I credit a great deal of improvements this year to the City Manager's

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

awareness of the importance of Risk Management and his HR Director's ability to implement the plan.

## **Structure**

The Risk Manager and Risk Management Office reports to the HR Director. The HR director is the ACCEL Board of Directors representative. The claims handling function is divided between Krisha Lew-Heyden the claim assistant, who handles initial processing of claims, adjusts and settles some property damage claims. She also keeps the claims management system up to date. Ken Minas handles the more complex matters and coordinates with the City Attorney Office (CAO) to keep the claims files up to date with reports and relevant documents and correspondence.

The (Contract) City Attorney's Office (CAO) handles litigation as well as Litigation Management, oversight and supervision of outside counsel. Outside counsel reports directly to the CAO. Counsel Reports are sometimes part of the RM file.

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 2020 Audit, The City of Modesto is now handling their claims program within ACCEL guidelines, expectations and industry standards. This is a major improvement over last years review.

This audit only reviewed claim files and associated records provided by the Risk Management (RM) Department.

The claim records we reviewed were a combination of paper files and electronic records in the *JDI Claims Manager RMS* system<sup>2</sup>.

### **Observations**

- All ACCEL reportable files have been sent to the TPA.
- Closed files, and those that should have been closed, have now been purged from the open claims log. Last year there were over 250 files listed as open. Open claims are now 127.
- File records are up to date. Notes and record keeping are good.
- Diaries are also up to date with follow up action noted.
- The gaps in file oversight noted last year have been corrected.
- Counsel reports are consistent and responsive to requests from RM staff.
- Investigations are acceptable.

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<sup>2</sup> The system is somewhat dated compared to current systems, but otherwise functional.

- Reserves are generally good. See notes on the Claims Matrix worksheet.
- E-File records are acceptable.

## **TECHNICAL REVIEW**

**Investigation:** For the most part, the RM staff rely on Department Reports and police crime and collision reports. We noted several files with scene investigations.

Overall, there are enough verifiable facts to determine the City's exposure. See recommendations below.

### **File Management:**

New claims are placed in a hard copy folder, labeled and evaluated by Krisha Lew-Heyden for Government Code requirements. Appropriate claim notice letters are then sent out. She has access to the CAO for more complicated non-routine claims. She also maintains the JDI system for processing claim payments and legal expenses. She updates the JDI system as appropriate. Some smaller claims with obvious liability are processed for payment. I noted that she has gained experience and knowledge over the last year. This may be attributed to working with experienced staff personal, (Acting RM) Mr. Mitchel an Mr. Minas, who has many years in the Public Entity liability field.

More complex claims and litigated files are overseen by Mr. Ken Minas.

### **Supervision**

The files reflect active supervision and consultation with the HR Director and Mr. Mitchel.

### **Excess Reporting**

Concerns expressed in last years audit are not present this year. Reportable ACCEL cases were properly reported with regular updates.

### **Recommendations**

(Some of these recommendations should be the topic of further discussions on how to implement them.)

- **All the individual files linked to the matter 01-20-0197<sup>3</sup> should be consolidated financially as these are all the same occurrence. The reserves and exposure should be carefully evaluated, loss and expense, to determine if ACCEL should be notified.**
- Defense counsel should consider providing a brief summary pulling relevant facts and details together on a periodic basis when asked by claims staff. We can provide a sample report template.
- The claims staff should likewise provide a summary of investigation and independently verify facts gleaned from official reports.

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<sup>3</sup> ACCEL doesn't allow us to identify claimants' names. We can only use file numbers.

- Focus on developing injury details as the extent of injury drives the reserves and the case resolution.
- A Plan of Action periodically updated.
- Changing to a more robust claim management system (realizing that the costs of changing has significant budget implications).
- Using a Reserve Worksheet to analyze risk exposure.
- Look for staff training opportunities and workshops.
- Regular litigation meetings with CAO to update files.

## COMMENT

I believe the City of Modesto RM office will continue to improve with the current staff arrangements. It is my understanding that the City has requested TPA proposals. These should be evaluated to determine if the costs and benefits provide improvements over the current in-house staff.

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

Enclosure:  
ACCEL 2020 Narrative Report and Claims Matrix

# City of Monterey



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

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Sent to: Mandersen@monterey.org

Michael Andersen  
City of Monterey  
735 Pacific Street, Suite A  
Monterey, CA 93940

November 19, 2020  
*sent electronically only*

Re: ACCEL/City of Monterey Claim File Review 2020

Audit Dates: November 12, 2020  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: City Attorney  
Files Reviewed: 18 Open /Closed<sup>1</sup>

Dear Michael:

## **Preface**

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

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains 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 the 2018 and 2019 audits. There are no trends that would cause concerns. This audit confirms overall good file management.

## **Structure**

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

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

The 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 Monterey files are **handled within acceptable industry standards and ACCEL's expectations.**

### **OBSERVATIONS – (SAME AS IN PREVIOUS YEARS)**

- Files are investigated and actively managed.
- Overall, the files and handling are consistent with prior years.
- Files are up to date and well organized.
- RM collaborates closely with the CAO.
- Claims activity is relatively light.
- The Public Works department conducts good investigations on dangerous condition cases.
- The community is small enough that information about claimant's injuries is readily available. A big plus.

### **TECHNICAL REVIEW**

#### **Investigation:**

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

Investigations are for the most part good.

#### **File Management:**

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

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

#### **Supervision**

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

**Excess Reporting**

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

**RECOMMENDATIONS**

- The recommendations from last years audit have been incorporated into RM handling of claims.
- Case 20006 -Reconcile the reserves with ACCEL- ACCEL notes indicate \$100,000 per claimant.
- Determine if CAO is willing to provide a Defense Counsel Evaluation (DCE) on litigated files. ACCEL will supply the form.

For all Members:

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

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

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

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

**City of  
Mountain View**



PO box 3295, Ventura, Calif. 93006-3295  
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rpwrs@pacbell.net

Sent to [Claudia.Koob@mountainview.gov](mailto:Claudia.Koob@mountainview.gov)

Claudia Koob, Risk Manager  
City of Mountain View  
500 Castro Street  
Mountain View, CA 94039-7540

November 16, 2020

*Sent Via E-Mail*

Re: ACCEL/City of Mountain View Claim File Review 2020

Audit Dates: November 13, 2020  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Staff Counsel  
Files Reviewed: 15 Open/Closed<sup>1</sup>

Dear Claudia:

## **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.

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

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

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

## **Structure**

### **Organization**

This audit reviewed the claims files in the City Attorney's Office. From our interview at the time of the audit: The City Attorney's Office (CA) administers claims and litigation management. The Risk Manager reviews each file on a regular basis and places notes in the CA file. The City uses Staff Attorneys for most cases. Some cases are assigned to

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

outside counsel. Legal support staff maintains the files and process releases and other closing records. George Hills Company is utilized for Loss Runs only.

The ACCEL Audit primary focus is:

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

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

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

### **OBSERVATIONS**

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

### **TECHNICAL REVIEW**

**Note: These are the same as last years audit except for the underlined section under Excess Reporting.**

#### **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.

#### **File Management**

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

#### **Supervision**

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

**Excess Reporting**

All matters that require reporting have been noticed to the ACCEL TPA

Otherwise, cases in the RMS “pipeline” are consistently updated and communication to/from George Hills Company (formerly RMS) is good.

**RECOMMENDATIONS**

Generally, for all Members:

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

Otherwise, we have no other recommendations. Again, I thank the RM staff and the City Attorneys Staff for assistance during the file review.

Thank you

Very truly yours

R. E. Powers & Company, LLC

*Robert E. Powers*

Robert E. Powers

ACCEL Auditor

Enclosures:

2019Audit Narrative

# City of Ontario



PO box 3295, Ventura, Calif. 93006-3295  
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rnwrs@nachell.net

Jeanette Chavez, Risk Manager  
City of Ontario  
303 East "B" Street  
Ontario, CA 91764

August 20, 2020  
*Sent via E-Mail*

## **RE: CITY OF ONTARIO CLAIM FILE REVIEW**

Audit Dates: August 14 to 18, 2020  
Audit Location: Remote Audit  
"Wrap up" 8/24/2019  
Files Audited: 31 Open/Closed out of 121 Open Cases

Dear Jeanette:

### **Notes:**

- The primary adjuster was out on emergency leave in the spring. This created some gaps in the records.
- The Covid-19 measures have curtailed most trials and court proceedings until 2021.
- I added a column to the right of the **Comment Section** in the Claims Matrix that should be reviewed. Further comments below.

## **Preface**

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

In performing this year's audit I reviewed the prior years audits. Last year CWC provided resumes of the file handlers and internal handling guideline. I was advised that the only changes are the staffing changes noted below.

This audit reviewed the claims files in the TPA file via their online system *FileHandler Enterprise*. This is a major upgrade from last year. The system contained all the expected records and documents. This year, I added a column in the Data Matrix that evaluates the use of e-file records, labeling and ease of document retrieval.

## **Structure**

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

CWC Claims staff:

- Kimberly Smith Litigation and higher exposure cases
- Christina Holt Property Damage claims
- Stacy Goopio (NEW) Property damage and Bodily injury claims
- Reta Lewis Supervisor

Adjuster Steve Rolon is no longer working on the account.

The Risk Manager actively monitors claims activity as evident in the CWC files.

The ACCEL Audit primary focus is:

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

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

Based upon the results of the audit, the City of Ontario claim files are managed satisfactorily within industry standards and ACCEL's expectations. The process of reviewing new claims, determination if ACCEL reporting is required, reserving and appropriate file documentation was evident in the files we reviewed.

I reviewed 31 files. I did review the description and reserves in all the open files to select those files that could possibly hit my "radar" (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

## **OBSERVATIONS**

- Some delay in adjuster updates. This is probably due to the primary adjusters leave of absence. It appears the supervisor was picking up the slack. Her notes were very brief.

- Files noted on the Claims Matrix need reserve adjustments and attention.
- Pro-active case management is inconsistent.
- From our perspective, defense counsel is taking the lead on litigation strategy.
- Caseloads appear reasonable. The TPA has the three adjusters assigned to the account:
  - Kimberly Smith-Lead Adjuster /107 pending
  - Stacy Goopio- BI and PD 160/pending
  - Christina Holt-Minor PD 150/pending
- Kimberly Smith provided *very good analytical File Notes.*
- Files are reasonably up to date and possess the necessary documentation to assess claim handling and resolution.

## **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 files reflect reasonable competent investigation. I did find, in many cases, that “operative facts” are merely restatements gleaned from the Police Reports without any independent vetting of information. At least, I didn’t see many comments that reflect independent analysis.

However, I could discern the level of investigation and details of the operative facts sufficient for this “excess” type audit.

### **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, but with inconsistencies. CWC converted files from their old system. This creates a lot of records with no labels making retrieval of important summaries difficult and in some cases impossible.

### **Supervision**

The files reflect active supervision by CWC. The files also reflect that the Risk Manager is in the loop re activity, payments of bills and other important matters, authority/payments and settlements.

### **Excess Reporting**

We didn’t find any cases that lacked reporting. ACCEL was generally updated regularly, but in some cases had to be prompted.

## **RECOMMENDATIONS**

- CWC should follow up on the comments in the Claims Matrix
- Those comments in our informal discussion and wrap up.

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

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

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

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

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

# City of Palo Alto



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

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

Sent to Sandra.Blanch@CityofPaloAlto.org

November 23, 2020

*Electronic Transmission Only*

Re: ACCEL/City of Palo Alto Claim File Review 2020

Audit Dates: November 12, 2019

Audit Location: On-Line

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

Defense Counsel: Inside/Outside Counsel

Files Reviewed: 28 Open<sup>1</sup> / Closed

Dear Sandra,

## **Preface**

Many of the comments and observations are the same as last year.

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 the 2018 and 2019 audits to determine trends and/or changes over that time. There were no other changes or negative trends. Handling guidelines are the same.

## **Structure**

There are no changes from last year. This audit reviewed the City Attorney (CA) claims files 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 assigned to George Hills Company (GHC). The City uses outside panel counsel for most cases. Chief Assistant City Attorney Terrence Howzell oversees and supervises claim management activities. Payment recommendations require City Council approval for above \$35,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents.

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

George Hills Company will obtain authority, negotiate and settle claims assigned to them by CA.

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 Palo Alto's files meet industry standards and ACCEL's expectations.

### **OBSERVATION**

- GHC only handles assigned BI/PD cases. It establishes a record of CA in-house cases (mostly EPL, law enforcement and other civil rights type cases) to track expenses. It has no other duties on those files. *This means the CA has the responsibility to notice GHC (formerly RMS) on potential ACCEL cases (emphasis added).*
- Comments are from reviewing the GHC files only. City Law files are attorney work product and not commented on. These files were reviewed to determine ACCEL reporting only. Ms. Hoover uses a standard ACCEL Reporting Letter on assignment to outside counsel on most cases. See our recommendations below.

#### **From last year's audit and still applicable**

- Files are up to date.
- Reserving and payment tracking are good.
- GHC electronic files do not contain a great deal of analysis or formal reports. I observed a little more analyses this year over last year.
- Most GHC communication comes via e-mail exchanges.
- The file documentation has the necessary records, reports and documents to allow the auditor to determine how the case is being handled, both litigated and non-litigated.
- The CA uses the "City Law" System to track claims/litigation activity. I reviewed those non-assigned GHC cases on this system via remote access.

## **TECHNICAL REVIEW**

### **Investigation:**

Claims being brought against the City were investigated to a *limited degree*, 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.

### **File Management:**

Files were organized and contained all the media records pertaining to the claim. I was provided access to the GHC Claims System and reviewed their electronic records online.

These were regularly updated. George Hills provides investigation results and comments on potential liability on claims. Please see our recommendations below.

### **Supervision**

CA supervises the claim process internally and the activity performed by GHC. There is evidence that the CA actively oversees the GHC files and communication on a regular basis. Not all the GHC electronic files had evidence of GHC supervisor's input.

### **Excess Reporting**

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

### **RECOMMENDATIONS**

- Send 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.

#### **(From Last Years Audit):**

- GHC should make a specific comment in every file on the nature and extent of injury. Periodic status updates covering operative facts, those in dispute, injury, specials and "insights" into the claim where appropriate. This requires the claim handler to go through a thought process periodically.
- A Plan of Action (POA) comment re resolution, *i.e.*, trial, settlement, procedural dismissal, etc., or even "still developing a plan".
- The claim handler should summarize important e-mail strings for relevant information.

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  
ACEL Auditor

# City of Salinas



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

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

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

December 4, 2020

Re: ACCEL/City of Salinas Claim File Review 2020

Audit Dates: October 9, 2020  
Audit Location: Remote via Sedgwick Claims System (YCE-B)  
Claims Administration: Sedgwick Claims Management Services, LTD.  
Defense Counsel: Inside/Outside Panel Counsel  
Files Reviewed: 16 Files

Dear Ms. Combs:

This is a follow-up and will summarize details discussed in our recent audit “Wrap-Up” session.

## 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 “Claims Connect” (YCE-B). 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 Sedgwick 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.

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 in light of ACCEL's expectations/guidelines.

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

Based upon the results of the audit, the City Salinas files are managed acceptably and generally meet industry standards and ACCEL's expectations. This is *due primarily* to Ms. Comb's knowledge, experience and oversight administering GL/Auto liability claim risk.

There appears to be two levels of case management being employed.

1. **File Tracking** - Via an Excel spreadsheet which was provided to the auditor by the TPA. This is an interactive collaborative activity with the Assistant City Attorney.

At the beginning of each month, the Sedgwick supervisor goes through the open active files, notes the latest activity, and tracks it under the open-active tab on the Excel spreadsheet. Rejected claims are tracked under a separate tab and then closed out upon expiration of the suit filing Statute of Limitations. Litigation status and reserve updates are requested every 90 days and tracked under the litigation tab on the spreadsheet. The supervisor reviews all of the open active and open litigation each month in preparation for the report. It is unclear what records are being reviewed. There are some notes in the claim file that reflect some of this activity. Otherwise, these records do not have an easily discernable audit trail.

2. **Files in the Sedgwick Claims System**- The TPA is under-performing. See comments below.

## **OBSERVATIONS**

- Files were reasonably up to date with all the pertinent records labeled appropriately.
- New claim filings were reviewed for compliance with Government Code filing deadlines; appropriate notices and denials were sent out timely.
- Ms. Combs is actively involved with file direction and oversight.

These comments are being passed on as observations of underlying TPA claim handling **contained in the Sedgwick Claim system**:

- Sedgwick quit using Case Management Reports (CMR) to summarize file activity. This was a good practice that tied in the "loose ends" of the file. The current files suffer as a result of the cessation of use of this report. There are no summary reports in the files I reviewed. Ms. Gordon advised this practice may only involve more mature investigations.

- Ms. Gordon advised reserves are only set after liability is determined. Most files I reviewed were open for many months without any factual development.
- TPA is not following the account instructions.
- No independent analysis of facts or injury exposure. Most analyses we saw were few, very brief, informal and lacked rationale.
- The TPA's claim system is obsolete due to use of Microsoft Internet Explorer (IE). The TPA's claim system "Claims Connect" is built on extensions in this (dated) Microsoft web browser. Due to known security vulnerabilities, Microsoft does not recommend IE usage any longer. They have recommended users switch over to Microsoft "Edge". Accordingly, Sedgwick is moving clients to "Juris" which is a workers compensation system and not compatible with a general liability claims environment.
- One file had a Government Claim notice out of compliance. This is noted on the claim matrix.

## **TECHNICAL REVIEW**

### **Investigation**

The files I reviewed had no independent investigations. For the most part, the only record of facts was a police report.

### **File Management**

Labeling of electronic documents is generally good. All the necessary functions of file management were evident but lacked any substantive details that move case resolution forward. Most of the activity I observed was "reactive" versus proactive.

### **Supervision**

The TPA claim files have regular notes from the claim's supervisor. As noted above, the supervisor has regular exchanges, via the Excel spreadsheet noted above. The City reviews this spreadsheet for accuracy and concurrence. We do not see where the supervisor engaged or direction in peer review of the underlying adjuster's work product.

### **Excess Reporting**

The Claims Matrix highlights a file that should be reported.

## **RECOMMENDATIONS**

- File CITS-1518A1 was slow in reporting. Police shooting incidents should be reported as soon as possible before a formal claim is presented. ACCEL guidelines do not have guidelines re timeliness of reports, but the TPA encourages Members to report as soon as possible so they can engage experts and appoint defense counsel with special knowledge on public safety claim.
- Matters we discussed recently re claim handling by TPA.

Otherwise, we have no other recommendations. I thank the RM's staff and the George Hills staff for assistance during the file review.

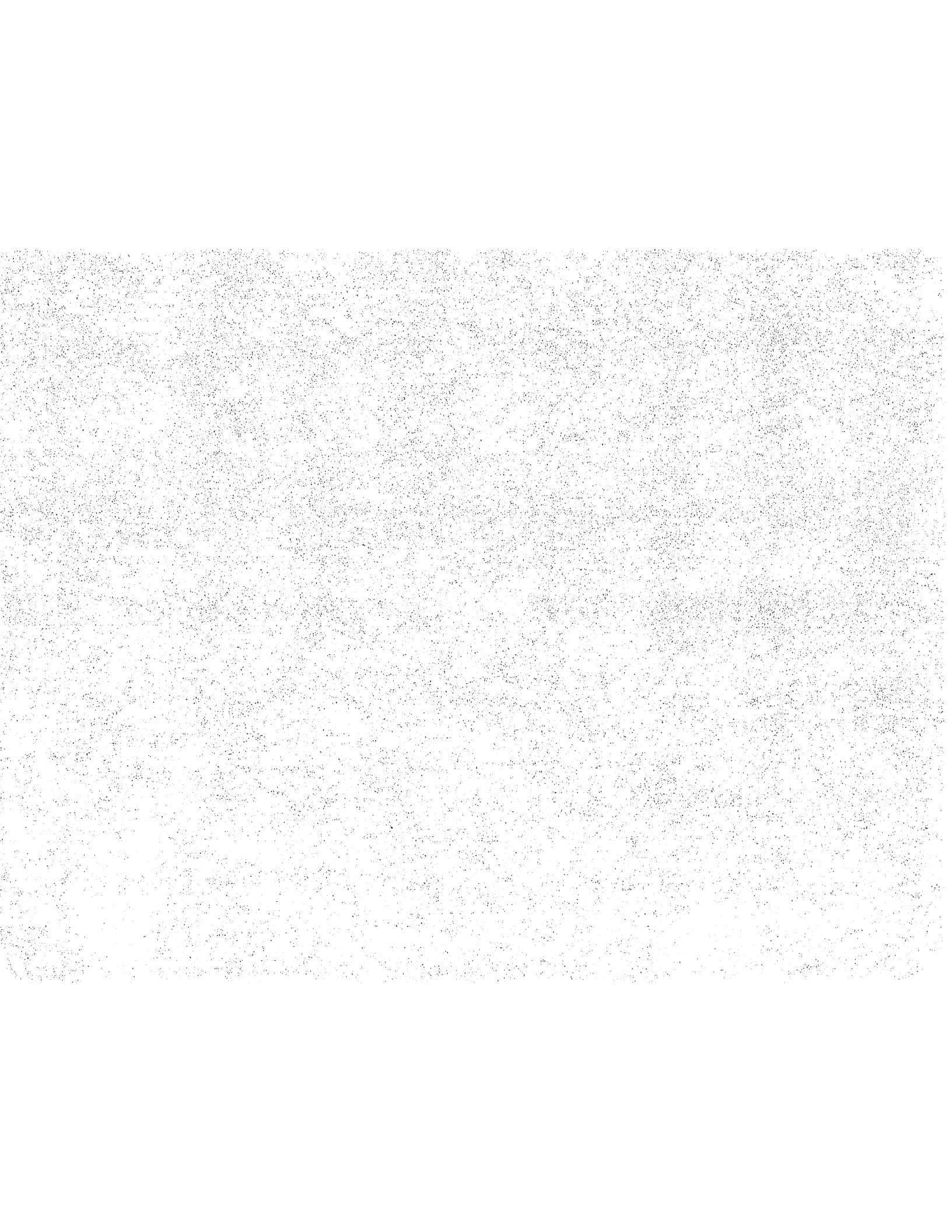
Thank you.

Very truly yours,

*Robert E. Powers*

Robert Powers

R. E. Powers & Company



**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

Sept. 14, 2020  
Sent electronically only

RE: ACCEL/City of Santa Barbara Claim File Review 2020

Audit Dates: 9/3/2020  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed: 30 Open/Closed

Dear Mark:

**Note:** The 2020 Audit is similar in most areas with prior audits since there were no substantive changes in staffing, policy or procedural changes. Some of the files we reviewed were audited last year. Most of the comments below are similar to observations from last year's audit. Also, in performing this year's audit I reviewed the prior audits to determine trends. Prior audits did not identify any exceptions, trends or concerns in the way the RM administers its liability risk program.

## Preface

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

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

## Structure

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

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

The ACCEL Audit primary focus is:

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

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

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

The high degree of cooperation and collegiate approach to claim and litigation management with the CAO contributes to the effectiveness of the RM program.

We did see where the file handler Melisa Kahn has incorporated our recommendation from last year re injury assessment into her files. We saw a number of very good injury analyses.

### **OBSERVATIONS (Same as last year)**

- Files were well documented and contain all the records we expect to see in claim files.
- Cases were actively managed and up to date.
- Injury cases were indexed.
- Diaries are up to date.
- Files were regularly updated
- Good file notes
- Files were easy to review, and I was able to find important records easily
- Marissa has a very good understanding of liability issues and understanding of injury potential. This reflects her industry background.

## **TECHNICAL REVIEW**

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

Claim files are well investigated with departmental comments, photographs 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. She actively communicates with claimants directly and through their attorneys.

**2. File Management:**

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

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

**3. Supervision:**

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

**4. Excess Reporting**

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

## **Recommendations**

We have no specific recommendations at this time. We do acknowledge the informal discussion on several claims that have no bearing on this audit's results.

## **Comment:**

Marissa is well conversant on her files with a very good understanding of facts, causation, liability triggers, and RM risks. Overall, her experience and expertise has increased in the three years I have reviewed her files.

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  
ACCEL Auditor

**City of  
Santa Cruz**



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

Mr. Ross Brandon,  
Principal Management Analyst Risk and Safety.  
City of Santa Cruz  
333 Front St, Suite 200  
Santa Cruz, Ca 95062

November 18, 2020

Re: ACCEL/City of Santa Cruz Claim File Review 2020

Audit Dates: November 10, 2020  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Counsel (Contract City Attorney)  
Files Reviewed: 19 Open/Closed<sup>1</sup>

Dear Ross:

## **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 RMS. 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.

In performing this year’s audit, I reviewed the 2017 and 2018 audits in order to determine any changes or trends. I am available to discuss any item contained in the attached Claims Matrix or this report.

## **Structure**

This audit reviewed the claims files in the Risk Management Office (RM). From our interview at the time of the audit: RM administers claims and actively collaborates with the City Attorney’s Office (CA). The City Attorney’s office manages and directs litigation. Some matters are assigned to outside counsel.

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

The ACCEL Audit primary focus is:

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

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

Based upon the results of the audit, the City of Santa Cruz files are well managed and, in many areas, exceed industry standards and ACCEL's expectations.

### **OBSERVATIONS**

- Files are very well organized.
- Files were up to date and contained all the records we expect to find in a claim file.
- Investigations are good.
- CA analyses are very good & helpful to the review process.
- The Risk Manager closely scrutinizes claim activity.
- The City of Santa Cruz is a low-risk entity. It is small enough that the RM and departments will know of any matter that would create risk/exposure to the City.
- The Departments are responsive to inquiries re investigation, records etc.
- RM has excellent understanding of factual causation leading to possible City liability exposure.

### **TECHNICAL REVIEW**

#### **Investigation**

The files are a combination of paper/electronic media format. 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.

Investigations are good and if the exposure warrants, excellent.

#### **File Management**

Files were very well organized and contained all the paper/electronic media 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 are part of the *overall* RM budget.

#### **Supervision**

The RM reports to the Finance Director and works closely with the City Attorney's Office. The Risk Manager has authority to settle claims up to \$5,000; to \$20,000 with approval of the Finance Director; to \$50,000 with approval of the City Manager. The City

Council authorizes settlements greater than \$50,000. The CA oversees litigated claims and has input in the handling of non-litigated claims.

### **Excess Reporting**

- ACCEL reported cases are routinely updated.
- Case 2020-0827 is a probable Non-Jurisdictional claim but should be reported to ACCEL as a precaution.

### **RECOMMENDATIONS**

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

Otherwise, we have no other recommendations. Again, I thank the 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  
ACCEL Auditor

**City of  
Santa Monica**



PO box 3295, Ventura, Calif. 93006-3295  
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rpwrs@pacbell.net

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

July 14, 2020

*Electronic Transmission Only*

Re: ACCEL 2020 Liability Claims Audit

Audit Dates: July 8,9,10, 2020  
Audit Location: Remote/Video Conference  
Files Reviewed: 44 Open, 5 Closed

Dear Mr. Gordeev:

This is a follow-up and will summarize details discussed audit “Wrap-Up” session.

## **Preface**

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

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

## **Structure**

This audit reviewed the claims files in the Risk Management Office (RM). From our interview at the time of the audit: RM receives new claims, processes them into the claim system, sets initial reserves and handles tort cases. Cases are reviewed for potential liability and handled accordingly with staff adjusters. RM has \$15,000 settlement authority. Mr. Mack is the primary handler. Michael Spennelli coordinates reporting between CAO and RM, reports cases to ACCEL and overall, maintains the files. Non-tort cases are referred to the City Attorney’s Office (CAO) for handling. The CAO advises on litigated and non-tort case reserves. The City uses Staff Attorneys for most cases. Some cases are assigned to outside counsel.

The ACCEL Audit primary focus is:

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

This report should be viewed from that perspective.

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

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

Based upon the results of the audit, the City of Santa Monica *exceeds* ACCEL Claim Handling Requirements /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.

The City has begun utilizing outside counsel for some matters.

We found no trends that would cause any area of concern; likewise, prior audits did not note any handling deficiencies. The RM Department is now under Oles Gordeev with the retirement of Ms. Deb Hossli. There were two additions to CAO staff with good credentials in the kind of litigation facing the City of Santa Monica. Long-term City Attorney Staff member Carol Ann Rohr retired last fall.

### **OBSERVATIONS**

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

These comments from last years audit are still evident:

- Files were evaluated for liability exposure, investigated and analyzed for possible resolution. Handling is timely. Good knowledge of Public Entity liability exposures/risk. There is recognition of equitable and contractual liability of other parties.
- ACCEL reporting requirements are recognized.
- Files are updated regularly. Litigated files have status reports from the CAO and outside counsel.
- Reserving is generally good and timely overall.

- Good staff culture, *i.e.* defined roles, motivated staff, communication and knowledge of RM policies. Most staff personnel have been on board for many years.
- Closed files generally contained the necessary records.

## **TECHNICAL REVIEW**

These comments from last years audit still apply:

### **Investigation:**

Files were investigated and contained enough information to evaluate liability for denial or resolution. Field investigations were good, contained pictures and other technical information. Third party and contracts were obtained and tendered where applicable.

### **File Management:**

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

### **Supervision**

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

### **Excess Reporting**

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

## **RECOMMENDATIONS**

No new recommendations this year.

It appears most of the recommendations from last year's audit have been implemented. These were:

- The RM file would be enhanced with more consistent analysis by the CAO.
- RM staff should factor in exposure to legal fees (Civil Rights type cases) when evaluating whether case reserves warrant notice to ACCEL. Some of the reserve recommendations from the CAO didn't address this risk factor. Two cases we reviewed had plaintiffs represented by high profile attorneys

that obviously were looking to earn high fees. Courts are awarding up to \$1,100 per hour on these cases. Large six figure awards are common.

- As the City continues to moves all paper files into electronic files, careful labeling of electronic files is important to retrieve reports, documents and other records.

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

- I would still like to see early investigation of injury: type (soft tissue vs. impact injuries), extent, medical specials and potential damages. 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.

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

***Robert E. Powers***

Robert E. Powers  
ACCEL Auditor

# City of Visalia



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

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

September 18, 2020  
Sent via e-Mail to: [Charlotte.Dunn@visalia.city](mailto:Charlotte.Dunn@visalia.city)

Re: ACCEL/City of Visalia Claim File Review 2020

Audit Dates: September 9, 2020  
Audit Location: On Site  
Claims Administration: In-House/AIMS for investigations, some settlements.  
Defense Counsel: Outside Counsel  
Files Reviewed: 19 Open/Closed.

Dear Ms. Dunn:

**Note:** The 2020 is similar to last year's audit since there were no substantive changes in staffing, policy or procedural changes. Many of the files we reviewed were audited last year. Most of the comments below are similar to observations from last year's audit.

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

## Structure

This audit only reviewed the Risk Management (RM) claims files. From our interview: Risk Management (RM) is a part of the Administrative Services Department. RM processes all new claims, sends out notices and handles claims prior to litigation. Litigation Management and initial claim handling is a collaborative process with Risk Management, the City Attorney's Office (CAO) and long term outside counsel. Reserves require City Council approval for settlements above \$30,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. AIMS, an outside adjusting firm, will negotiate and settle claims assigned to them by RM.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to 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 Visalia's files are competently managed and meet or exceed industry standards and ACCEL's guidelines.

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

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

### **OBSERVATIONS (These are same as the 2019 Audit)**

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

## **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

contained photographs and other relevant investigative material: i.e., statements, medical records etc.

**File Management:**

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

**Supervision**

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

**Excess Reporting**

ACCEL is receiving timely notifications on potential claims.

**RECOMMENDATIONS**

- **All Files related to the matter described in the 027 file should be consolidated for financial reporting as these files are one occurrence. The risk should be analyzed for ultimate exposure and possible reporting to ACCEL.**
- This is a general recommendation for all Members- RM staff should focus and develop injury information and make it part of the file and update periodically. It is our experience that injuries drive the claims processes.

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

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

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

***Robert E. Powers***

Robert E. Powers  
ACCEL Auditor