



# ***ACCEL AUDIT 2021***

*January 20<sup>h</sup>, 2021  
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## FINAL

Authority for California Cities Excess Liability (ACCEL)  
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January 3, 2022

Attn: Conor Boughey  
Lorissa Huey  
Account Managers

## ACCEL

### Liability Claims Administration Audit -2021

The enclosed **Audit Reports** are the result of the general/automobile liability audit for the Authority for California Cities Excess Liability (ACCEL) for the 2021 year.

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

Part 2 -The George Hills Company TPA audit.

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

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

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

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

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

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## PART 1

# ACCEL Liability Claims Administration Audit -2021 Member Summary

### 2021 Highlights

- ***All Members are in compliance and all reportable claims have been noticed to the Third-Party Administrator, George Hills Company***
- The City of Modesto was out of compliance at the conclusion of the audit. That situation was recently corrected, and we are happy to report that the City of Modesto *is now in compliance* with ACCEL handling requirements.
- The City of Salinas's Third-Party Administrator (TPA) was under performing. Since the Risk Manager/auditor intervention this problem has been corrected.
- George Hills Company's TPA role is functioning extremely well. We have met and discussed our 2021 audit results. ACCEL is receiving very good claim handling by the new personnel.
- One RM personnel change-Monterey
- One vacancy-Modesto
- Several cases were tried during the past year. Many resulted in favorable outcomes.
- Many Members are performing at a *Professional Level*. Maturity and expertise in claims matters is apparent.
- Several Members have adopted prior recommendations, particularly the enhanced recognition of the need to analyze injury and its relationship to exposure.
- Overall, with the now corrected situations, Members are managing claims within expectations.
- There are a few borderline cases that we have suggested in depth analysis for ACCEL reporting requirements.
- Discussions with TPA re occurrences and coverage matters on EPL claims.
- We are seeing better communication between City of Bakersfield defense counsel and the TPA. A good development.

Some of these items will be elaborated on during our formal presentation.

## Preface

While Covid-19 measures have affected claims handling, we find many activities are returning to normal. Some trials and mediations are still delayed, but the logjam appears to be clearing.

Case loads overall are down.

Many of the Member's staffs are still working remotely, however, we were able to review all Members files for the 2021 audit. Some Member's made special arrangements for on-site audits despite the closure of City facilities.

Member's staffs are stable for the most part and we note a continued accumulation of handling expertise and claims knowledge. We have many Members working at the Professional Level, meaning very good analysis of claims exposure, good collaboration with defense counsel and city departments.

This is the fourth 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.

We have provided technical reference material to several Member s with new staff personnel.

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.

## 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 be 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 August 2021 and completed on December 10, 2021.

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 current closed claims. The auditor then reviewed all the 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 that we named the "Claims Matrix." This contained the data elements for the file review. We made some changes to the form this year to better capture important elements in the claim handling process.

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

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

### Observations/Conclusions

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

- **The City of Modesto is now in compliance.**
- **The City of Salinas TPA is now in compliance with ACCEL claim management expectations.**

**Audit Criteria/Focus**

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

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

**NOTE: The 2021 Audit showed the Cities of Modesto and Salinas 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.

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

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

E-file records was added as a scoring item on this year’s audit. The main criteria for this category are labelling and the ability to retrieve important records, *i.e.*, defense counsel evaluations and summaries, updates from Member’s re facts and

important strategic decisions. While most Members do an adequate job in this area, many do not.

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

**City of Modesto**-At the conclusion of the 2020 audit we found that the issues from the 2019 audit were resolved. The Member hired a permanent Risk Manager in October 2020. The 2021 audit found numerous discrepancies and major departure from accepted claim management standards. The Member hired GHC as TPA starting in June 2021. The 2021 audit was conducted in late August 2021. We found that the claim records to be deficient. After discussion with Alliant and management at GHC, a plan of action was implemented. A second review of the files in late November 2021 indicated that the previously noted deficiencies were corrected.

**City of Salinas**-Almost identical to the Modesto situation, we found that the TPA was not performing per the contract file handling instructions. After several discussions with senior management at Sedgwick, they implemented corrective action. The auditor received a detailed response (not included here). Accordingly, the TPA is now in compliance.

Recommendations on file handling are contained in the individual audits.

5. **Reserving Accuracy** –There is no change from the 2020 audit. However, three Members have begun analyzing injury exposure more consistently, thus their reserves have higher credibility.

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

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

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

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

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

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

Members should analyze the investigations and follow up as appropriate. Those Members that utilize TPA's have them perform the investigations. Investigations, overall, range from very good (some excellent) to weak. A weak investigation is usually the result of a lack of understanding of the legal components that go into public entity liability. Again, the individual audits contain comments for each one of the Members.

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

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

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

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

GHC introduced a Case Management Evaluation form for defense counsel several years ago. The continued use helps in case evaluation and keeps the defense

counsel on track to articulate defense strategy. **Bakersfield** has continued to improve in this area as we saw a number of these reports in the GHC file although they were superficial.

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

City Attorney staffing changes was noted in the 2020 Audit Report. Overall, these have reflected an improvement in the files, especially the summary and analytical reports.

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

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

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

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

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

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

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

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

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

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

Files that were settled had the customary releases and dismissals. Most contained the Council's briefing and authority. Cases that were closed due to the running of the Statute of Limitations were so documented. We recommended to Monterey that they maintain an open file until the Statute of Limitations runs or there is evidence that the claimant is not pursuing the matter. Currently, they close the case after it is denied. This has no impact on ACCEL and is merely a suggestion to create uniformity among Members.

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

## Recommendations

For Members:

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

## Methodology

A total of 581 open files and 32 closed files were reviewed. 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 a number of low exposure claims, non-tort, land use, writs and contract cases to see how these were handled, investigated, resolved, denied, etc. These claims are often commingled with covered and non-covered claims that may have an impact on ACCEL and require a coverage position.

## Appendix A

Member’s cases reportable to RMS:

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

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

## Appendix B

<b>MEMBER</b>	<b>FILES REVIEWED</b>	<b>AUDIT LOCATION</b>	<b>CLAIMS ADMINISTRATION</b>
Anaheim	19 Open	On-Site	Self Administered
Bakersfield	44 Open/8 Closed	Remote/On-Site	TPA Sedgwick (York)
Burbank	42 Open/5 Closed	On-Site	Self Administered
Modesto	55 Open/Closed	On-Site	Self Administered
	15 Re-checked		
Mountain View	14 Open/Closed	On-Site	Self Administered-GHC for Loss Run
Monterey	11 Open/Closed	On-Site	Self Administered-GHC for some standby investigations (rarely used)
Ontario	25 Open/6 Closed	Remote	Carl Warren & Company
Palo Alto	22 Open/Closed	Remote/On-Site	Self Administered-GHC for BI/PD tort cases and Loss Runs
Salinas	26 Open	Remote	Sedgwick TPA-
	15-Re Checked		
Santa Cruz	20 Open/1 Closed	On-Site	Self Administered
Santa Barbara	25 Open/5 Closed	On-Site	Self Administered
Santa Monica	43 Open/5 Closed	Remote	Self Administered
Visalia	19 Open/2 Closed	On-Site	Self Administered-AIMS for some BI/PD Claim Handling
RMS	160/Open/Closed	Remote	
<b>Totals</b>	581 Open/32 Closed		

Notes: Overall claim volume is down from last year.

## Appendix C

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

#### **Factual Development**

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

#### **Reserving**

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

#### **Litigation Management**

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

#### **Liability Assessment**

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

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

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

**File Management Claim Data Organization clarity**

**Diaries**

- Timely and up to date and consistent

**Notes**

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

**Data Organization**

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

**Timely Negotiations**

Recognize settlement opportunities

Mediation

Informal settlement discussions (1153 & 1154 EC)

Effectiveness of settlements

Contributions

**Appropriateness of Outside /Panel Counsel**

Requirement of trial expertise

Specialty nature of claim (EPL/SH Etc.)

Conflicts

Cost benefit overall

Matching defense attorney to plaintiff attorney expertise.

**Excess Reporting**

Requirement for all layers above Retained Limit

Following reporting requirement guidelines i.e. Injury and reserves

Record of Report

Acknowledgement by Excess Carrier/Program

Coverage issues addressed

Potential disputes recognized

## Part 2 Third Party Administrator Audit

### GHC Liability Claims Administration Audit- 2021

ACCEL Administrator (TPA) – GHC/RMS  
Audit Dates: October 26, 2021- November 10, 2021  
Audit Location: Online-Video wrap-up.  
Files Reviewed: 160

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

**Summary:** This is the first year for the main file coordinator Md. David Trautz. The files are well managed, and all audit criteria compiled with to a high degree. File notes are articulate and insightful. We had an in-person session with Mr. Orem where we discussed all aspects of the ACCEL program.

I believe both individuals will be able to carry on Mr. Maiolini's example of highly professional claims management. I believe ACCEL would benefit with Mr. Maiolini staying on as long as possible to facilitate the transition and mentor the new staff.

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

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

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

#### **Recommendation**

- Standard Preliminary Position Paper (RoR) on all EPL cases re wages and benefits etc., as excluded.
- Advisory to Members on matters involving multiple or singular occurrences.

### Audit Scoring Elements

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

END OF 2021 ACCEL AUDIT

# CITY OF ANAHEIM



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201 South Anaheim Blvd., Suite 503  
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December 3, 2021

Re: ACCEL/City of Anaheim Claim File Review 2021

Audit Dates: December 2, 2021  
Audit Location: On Site. Wrap up in person.  
Claims Administration: In-House  
Defense Counsel: In-House/Outside/Panel Counsel  
Files Reviewed: 20 Open (Some claims with multiple claimants)

Dear Ms. Matthews

This is a brief report of audit results following our file review of December 2, 2021. I last reviewed City of Anaheim files less than six months ago, and find no changes.

### **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. All files are professionally managed. This system has been in place for many years and served the city well. The RM Division is

responsible for a volume of highly complex claims and does an excellent job managing these cases to resolution. The 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.

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

## **OBSERVATIONS**

- Files reflect high competence overall in analysis, insights, and case summaries.
- Files are very well documented and organized for easy review.
- Very good claim resolutions.
- Excellent claim evaluations.
- Routine roundtable discussions with CAO.
- RM is actively involved in claims supervision and direction.
- Claim resolution is effective and timely as noted via excellent settlements/resolution/dismissals on the closed claims.
- Files are up to date with management notes and summary reports.
- One staff position has been filled since the last audit.
- 

## **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. In addition, the files also demonstrate that the Claims Manager conducts highly competent investigations, evaluations and analysis for assigned matters. The addition of a claims examiner should further enhance field investigations and overall claims handling.

### **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**

A RMS would greatly enhance the RM claim program and free up valuable staff time.

**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  
City of Bakersfield  
1600 Truxtun Ave., Fifth Floor  
Bakersfield, CA 93301

September 7, 2021  
Sent via E-Mail

Re: ACCEL/City of Bakersfield Claim File Review 2021

Audit Dates: September 2-6, 2021  
Audit Location: Remote via Sedgwick (York) ViaOne  
Claims Administration: Sedgwick TPA  
Defense Counsel: Outside/Panel Counsel  
Files Reviewed<sup>1</sup>: 52- Various- Open/Closed/Re-Opened.

Dear Jena:

**Notes:**

- While Covid-19 measures have affected claims handling, we find many activities are returning to normal. Some trials and mediations are still delayed, but the logjam appears to be clearing.
- The last three annual audits are similar in most areas since there were no substantive changes in staffing, policy or procedure. 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 her for their help.

In performing this year’s audit, I reviewed the prior audits and determined there are no new handling guidelines or other changes. There are “no exceptions” or areas of concern 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 CAO. The CA provides monthly updates via regularly scheduled meetings. The CA *Suit File* updates provided at the meetings are in the RMS file.

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

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

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

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

The auditor received copies of the Litigation Log from the monthly meetings. The RM files reflect current litigation activity.

The ACCEL Audit primary focus is:

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

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

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

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

### **OBSERVATIONS**

- 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.
- Many of the deficiencies in the e-file records, noted last year, have been corrected. There are still some issues. The old converted “legacy” documents are still, for the most part, unusable. As files are closed and new claims come in, this should not be a major issue in the long run, except where an important record from the past is needed. Retrieval would be difficult to impossible. This is mainly due to the data base conversion assigning confusing numbers to documents instead of a named label.
- An occurrence with multiple claims has a cross reference, but the total financials for the occurrence is still not displayed. This is still a deficiency. This was discussed last year.
- The Adjuster has incorporated many suggestions from last year and the files are much improved, from a continuity perspective.

**Other Observations:**

- File handling is consistent, up to date and actively managed.
- Non litigated files are handled very well.
- Settlements are well documented. These claims are effectively 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. This is an important function that should be maintained. Routine cases are investigated competently, documented with department reports, photographs and related investigation records. Police cases are usually handled internally. Newer files do have some police records in them (redacted accordingly).

The investigation summaries are very good with good analysis of liability causation.

**File Management:**

File maintenance is good with the caveat that this only encompasses the last year, as the prior converted records were cumbersome and unwieldy.

Otherwise, file management is active and acceptable.

### **Supervision**

The Sedgwick protocol is to have a supervisor approve reserve changes above a preset level. I did see some notes from a Sedgwick supervisor, but for the most part did not address the issues presented in the file. I cannot find an example of active peer review and support.

### **Excess Reporting**

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

### **Recommendations**

For this Audit:

- Focus and develop **injury information** and make it part of the claim file and update periodically. It is our experience that injuries drive the claims processes.
- 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, ARM  
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 1, 2021

*Electronic Transmittal Only*

Re: ACCEL/City of Burbank Claim File Review 2021

Audit Dates: September 21, 2021  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed 47 Open/Closed<sup>1</sup>

Dear Ms. McClinton:

**Notes:**

- While Covid-19 measures have affected claims handling, we find many activities are returning to normal. Some trials and mediations are still delayed, but the logjam appears to be clearing.
- The City of Burbank has had some staffing changes. I conducted the audit considering the impact of reduced staff. In any event, I didn't find any concerns or deficiencies overall. In fact, I believe it laudable that the files were current and mostly up to date with only minor delays.

**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.

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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.

## Structure

This audit only reviewed the Risk Management (RM) claims files. The RM staff has one Senior Risk Analyst and one assistant (on leave). The City Attorney Office (CAO) is responsible for litigation management, reserve adjustments on litigated matters and case evaluation for the City Counsel. The CAO is short one attorney. The City Attorney's Office also resolves claims and suits, negotiates settlements, and obtains releases and other closings documents. RM handles new matters, investigates, and sets reserves on non-litigated cases and attempts settlements on certain cases deemed appropriate for early resolution.

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

### Audit Criteria

The ACCEL Audit primary focus is:

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

## EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Burbank's files are *professionally* managed, exceeds industry standards and ACCEL's expectations. This is my highest rating. The designation requires highly competent claim processing, analyses, documentation, and most importantly, a good working relationship with the CAO and City Departments.

### OBSERVATIONS

#### NEW

Files reflect a high degree of understanding of causation that trigger liability exposure. Burbank is one of only two ACCEL cities that have adopted my recommendation of developing injury details to determine case "drivers" i.e., reserves, etc.

- 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.
- Excellent department protocols for preserving evidence pre-litigation.
- Very good to excellent inter-departmental coordination of investigation.
- We note efforts to resolve claims pre-litigation.
- RM is now monitoring other potential matters for liability exposure.

From last year,

- A notable increase in effective communication between RM and the CAO.
- 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: SAME AS LAST YEAR)**

### **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**

None

### **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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rpwrs@pacbell.net

## Supplemental Audit Report

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

November 23, 2021

*Electronic Delivery Only*

Sent to: [calger@modestogov.com](mailto:calger@modestogov.com)

Re: ACCEL/City of Modesto Claim File Review 2021

Audit Date: September 1-3, 2021  
Audit Location: Via GHC System Soft  
Claims Administration: In House, Self-Administered until June 2021  
GHC TPA after June 2021  
Defense Counsel: City Attorney/Select Panel cases on some cases.  
Files Reviewed<sup>1</sup>: 55 Open/Closed

Dear Ms. Alger:

George Hills Company (GHC) has taken corrective action on all matters addressed in the accompanying report to Mr. Jiles Smith dated September 22, 2021.

**Accordingly, the City of Modesto is now in compliance with ACCEL handling guidelines and file documentation requirements.**

Following the audit, we had an extensive discussion with Mr. Boughey, Messrs. Tom Baber and Chris Shaffer of GHC to discuss the discrepancies and plan corrective action. Their prompt attention is commendable.

I recently re-checked the files and to verify compliance. We have been assured that GHC will closely monitor the files to make sure they are regularly updated. I have every confidence that they will provide good service as your Third-Party Administrator.

Thank you.

Very truly yours,  
*Robert E. Powers*  
Robert Powers, ARM  
R. E. Powers & Company

<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.



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## PENDING CONDITIONAL AUDIT

Mr. Jiles Smith, Risk Manager  
City of Modesto  
1010 10th Street  
Modesto, CA 95354

September 22, 2021  
*Electronic Delivery Only*  
Sent to: PENDING

Re:

Re: ACCEL/City of Modesto Claim File Review 2021

Audit Date: September 1-3, 2021

Audit Location: Online via the GHC CXP System

Claims Administration: **In House**, Self-Administered until June 2021

**TPA**-George Hills Company-June 2021-Present

Defense Counsel: City Attorney/Select Panel on some cases.

Files Reviewed<sup>1</sup>: 55 Claims- Various Open/Closed

Dear Mr. Smith:

The audit indicates deficiencies in many key areas. However, George Hills Company has committed to correct most of these in the next two months. We expect to revisit the Modesto files at the end of November to monitor progress.

### **Note:**

- The City of Modesto is now out of compliance with ACCEL Guidelines, Expectations and commonly accepted industry standards.
- George Hills Company began handling claims in June 2021. We would expect considerable improvements over current findings.

### **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.

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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.

## Structure

The Risk Manager and Risk Management Office reports to the HR Director. The Risk Manager is the ACCEL Board Member and also is a member of the Claims Committee. Prior to June 2021 the claims were administered in house. Temporary personnel that were in place through 2020 and part of 2019 departed in October 2021. One staff person was involved with some claims tasks but was replaced by a Risk Analyst.

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

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

The ACCEL Audit primary focus is:

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

## EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the 2021 Audit, the City of Modesto is out of compliance with ACCEL Guidelines and Expectations and commonly accepted industry standards.

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

## TECHNICAL REVIEW

**Note: We would expect improvement in all areas with the TPA administered program.**

### **Investigation:**

Litigated files have excellent factual development. However, those records are dated as there was no follow up to update counsel reports. The factual development occurs through legal discovery taking many months to accumulate claim details. This severely impacts reserves and file management.

Such is not the case with non-litigated and new claims. Overall, there are not enough verifiable facts to determine the City's exposure. See recommendations below. For the most part, the RM staff rely on Department Reports and police crime and collision reports. We noted several files with scene investigations. However, files haven't been

updated for many months. Many files had no discernable facts in the record. No follow up or independent verification of accident facts and injury details.

### **File Management:**

There are only a few cases where file management is consistent.

There are many files that need immediate attention.

### **Supervision**

The legacy files do not reflect active supervision. GHC files show some supervisor activity, however, they have not been on the program long enough to show any consistent oversight.

### **Excess Reporting**

I didn't find any reportable cases that need notification to ACCEL, but I did find numerous instances of failure to update ACCEL on important developments.

### **Recommendations**

These have been discussed with GHC and they are aware of the deficiencies and committed to correcting them:

- GHC to triage each file, enter a summary note and adjust reserves. Start with litigated files.
- Verification that all open and pending matters that are ACCEL reportable are reported.
- Verification that ACCEL is getting copied on all updates.
- Update existing ACCEL matters.
- Close files as appropriate. Note activity and why file is closed.
- Update reserves and enter payments.
- Eliminate duplicate records.
- Consolidate multiple claims as single occurrence.
- Index claimants.
- Update ACCEL on important developments.
- Comprehensive review and reserves on the KK matter. This file is troublesome.
- Use industry standard for claimant names, not law firm name.
- Detailed POA on every file.

2020 Audit recommendations should be reviewed.

- **All the individual files linked to the matter 01-20-0197<sup>2</sup> should be consolidated financially as these are all the same occurrences. The reserves and exposure should be carefully evaluated, loss and expense, to determine if ACCEL should be notified. This file is TROUBLESOME.**

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<sup>2</sup> ACCEL doesn't allow us to identify claimants' names. We can only use file numbers.

- 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.
- 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 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

# CITY OF MONTEREY



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

Sent to: Mandersen@monterey.org

Sarin Roth  
City of Monterey  
735 Pacific Street, Suite A  
Monterey, CA 93940

November 26, 2021

*sent electronically only*

Re: ACCEL/City of Monterey Claim File Review 2021

Audit Dates: November 17, 2021  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: City Attorney  
Files Reviewed: 10 Open /Closed<sup>1</sup>

Dear Michael:

## Preface

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

Below is a summary of findings following the recently completed claim review. The Excel Worksheet that accompanies this letter contains 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 Human Resources 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 – (CONSISTENT WITH LAST YEAR'S AUDIT)**

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

### **TECHNICAL REVIEW**

#### **Government Claims Filings**

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

#### **Investigation:**

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

Investigations are for the most part good.

#### **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 Human Resources Director. The CA oversees and has input in the handling of claims since the City Council approves claim settlements above \$25,000. The files reflect evidence of active CA oversight and collaboration.

**Excess Reporting**

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

**RECOMMENDATIONS**

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

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

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

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

# CITY OF MOUNTAIN VIEW



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

Sent to [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 26, 2021

*Sent Via E-Mail*

Re: ACCEL/City of Mountain View Claim File Review 2021

Audit Dates: November 15, 2021  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Staff Counsel  
Files Reviewed: 14 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**

No changes from last year. The audit reviewed the claims files in the City Attorney's Office. From our interview at the time of the audit: The City Attorney's Office (CA) administers claims and litigation management. The Risk Manager reviews each file on a regular basis and places notes in the CA file. The City uses Staff Attorneys for most cases. Some cases are assigned to outside counsel. Legal support staff maintains the files

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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.

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**

#### **NEW**

- All files had a summary page verifying RM involvement in the claim.
- One case went to verdict with an award of fees.

#### **LAST YEAR**

- 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 year's audit except for the underlined section under Excess Reporting.**

#### **Government Claims Filings**

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

#### **Investigation**

The files are in paper folder format. It was evident in the files reviewed, that claims being brought against the City were investigated, analyzed to determine applicable legal/risk exposure and that proper filing requirements procedure are followed by the claimant/plaintiff in bringing a case against the City.

#### **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.

### **NOTE:**

- **GHC0019312-** Under active settlement discussions. However, if case involves a new trial, the case warrants notice to ACCEL.
- **GHC0029298-** Case requires in depth analysis for injury exposure. If reserves are over 25% of retention, ACCEL requires notice.

### **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 SALINAS



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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

October 18, 2021

Re: ACCEL/City of Salinas Claim File Review 2021

Audit Dates: October 9, 2020  
Audit Location: Remote via Sedgwick Claims System ViaOne  
Claims Administration: Sedgwick Claims Management Services, LTD.  
Defense Counsel: Inside/Outside Panel Counsel  
Files Reviewed: 26 Files

Dear Ms. Combs:

**Note:** Since writing this report we have had two extensive discussions with Sedgwick Senior Management about the concerns and discrepancies expressed below. Ms. Jill Petrarca has committed to administering corrective action. Indeed, the November 12, 2021, Memorandum for Ms. Ahn notes the action taken. I believe this is a positive outcome and expect that we can rely on the commitment.

We do not have the additional time required to do a full audit, but the notes we received certainly address the findings in those files.

**Accordingly, we are correcting our prior conclusion and deem the City of Salinas TPA handling of underlying claim files is acceptable.**

## 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 "ViaOne". 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. This is *due primarily* to Ms. Comb's knowledge, experience and oversight administering GL/Auto liability claim risk.

The 2020 audit and this audit results indicate the TPA working below expectations. However, after two lengthy discussions with Sedgwick Senior Management, we are assured that the concerns and deficiencies noted on the Claims Matrix are being corrected. Further, that Sedgwick will implement a monitoring system to assure compliance that account instructions and claims industry standards are followed.

We believe these changes will reestablish confidence that the Member's TPA is working according to ACCEL expectations and account instructions.

I do not see the File Tracking System for litigation management utilized by Ms. Gordon last year being employed this year. While informal, it did add to the overall claim efficacy.

From the 2020 audit:

**File Tracking** - Via an Excel spreadsheet which was provided to the auditor by the TPA. This in 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.

While TPA records are an improvement over last year, there are many concerns and deficiencies.

## **OBSERVATIONS**

On the positive side:

- 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**:

- TPA is not following the account instructions.
- No independent substantive analyses of facts or injury exposure. Most analyses we saw were few, very brief, informal and lacked supportive rationale.
- Reserves are late and not updated.
- Overall performance is not acceptable, and performance is below other TPA's we audit.
- TPA stresses form over substance, that is, they require the adjuster to regularly update the files. However, these updates are perfunctory and lack substance.

See detail below.

## **TECHNICAL REVIEW**

### **Investigation**

**Same as last year:** The files I reviewed had no independent investigations. For the most part, the only record of facts was a police report or the claim itself. Investigations are late in developing.

There is little to no information or commentary on injury exposure. Injury drives reserves and case resolution. This critical element in claim handling is not dealt with effectively and in most cases ignored.

### **File Management**

**Same as last year:** 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.

The electronic records are consistently updated but lack any substantive material or commentary. 90% of the text records consist of e-mail headers, disclaimers, duplicate E-Mails, or system entries changing data elements that lend nothing to file handling.

Reserves are unrealistic. Obvious exposures have low or no reserves.

## **Supervision**

Comments reserved in that there has been a change in claims supervisors/management. The new supervisors have only been in place a short time before the audit.

The files reflect active collaboration with CAO.

## **Excess Reporting**

All the files with *prima facie* reporting requirements *appear* to be met. However, with the paucity of file records, there are several files that need to be reviewed to determine if they meet ACCEL reporting requirements. The Claims Matrix highlights these files. These are<sup>1</sup>:

- CITS-1464A1
- 4A2109DF16C-0001
- CITT-1581A1

## **RECOMMENDATIONS**

- The CAO should provide a brief summary for the TPA file along the lines of the ACCEL CDE form (Attached).
- Require TPA to bring overall claim handling into acceptable industry norms. This is a weight on the overall CAO risk management efficacy.
- TPA should have the adjuster provide regular summaries, at least every 90 days.
- Review and follow account handling instructions.
- Regular supervisor input and commentary.

Otherwise, we have no other recommendations.

Thank you.

Very truly yours,

*Robert E. Powers*

Robert Powers, ARM

R. E. Powers & Company

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<sup>1</sup> ACCEL only allows file numbers to identify claims.



November 12, 2021

To: Rhonda Combs, Assistant City Attorney (Via email)

Re: Response to Audit Results for City of Salinas

Dear Ms. Combs,

This letter is in response to the City of Salinas's recent audit report conducted by Robert Powers. We noted several deficiencies which we will address below. Although the overall findings were below standards, we note positive findings in that claims were reasonably up to date and that the new claim files were reviewed timely and appropriate notices and denials were sent.

Please note the 2020 audit and most of the time period in 2021 that was audited to were under previous management who is no longer on this account. The new management assigned to this account is committed to adhering to account instructions and handling all matters within the guidelines of Industry standards and Sedgwick's best practices.

Please find below the status of the following claims addressed to be deficient in this audit:

**CITS-1524A1**

Auditor's comment- Need update from DC reserves unrealistic for exposure and haven't been updated or commented on for 1 year.

Response: Claims Assistant Manager Jill Petrarca called Attorney Katie Hogan for a status on 11/8/2021. Ms. Petrarca also asked for a return call to discuss the potential exposure of this case to properly address the reserves. Attorney Hogan sent a status of this matter on November 8, 2021, which is now in the file. Reserves were also discussed and have been increased to \$100,000 based on Attorney Hogan's recommendation and based on total potential exposure.

The city attorneys have not consistently been providing timely status reports to Sedgwick. Sedgwick will do a better job requesting reports, but Sedgwick would also like to have a conversation with you and the city attorneys to ensure timely reports are received on litigated matters.

**4A2109G0G0C-0001**

**CITS-1582A1**

**CITS-1582B1**

Auditor's comment- Non-jurisdictional claim- description inappropriate

The loss detail section has been updated to reflect the true facts of the case on these three cases.

Response: A transit bus collided with the claimant's vehicle resulting in injury to the driver and passengers. The transit bus is not operated by the city and is not under the city's jurisdiction. These claims were properly rejected on that basis.

#### **CITT-1586A1**

Auditor's comment- no investigation, no police report. TPA doesn't understand causation factors.

Response: A claim status report has been completed and placed in the file. This claim alleges that a police chase resulted in a fleeing driver hitting 14 patrons seated in front of Gino's Italian Restaurant who illegally installed outside seating without permitting by the City. The fleeing suspect struck a passing vehicle which then lost control and spun into the outdoor dining area. The fleeing suspect was charged with 18 criminal charges as a result of their fleeing a traffic stop. City staff confirmed that Gino's had not requested a permit to install the outdoor dining structure and was not permitted to have outdoor diners sit in the unpermitted structure. We have reviewed the matter and determined the pursuit was within policy. As soon as the fleeing suspect started driving at a high rate of speed on City streets the pursuing officers disengaged. The claim was rejected on 5/24/2021. The statute of limitations runs 11/ 24/2021. Claim reporting requirements will be adhered to on future claims.

#### **CITT-1598A1**

Auditor's comment- Only record in file is rejection notice. Some facts, but no investigation or summary.

Response- This claim involves an allegation that the officer hassled the claimant while checking to see if the children were sexually abused by a family member. When the claim was reported to us, there is an email from the CAO informing the adjuster to "sit on this one for a minute" as he needs to touch base with Chris "about how we want the claim to be reviewed in light of the rules regarding the disclosure of documents and information related to child sexual abuse investigations." The adjuster then speaks with CAO and discusses the matter and CAO authorized the adjuster to send a Notice of Rejection. The claim outcome was proper. The claims examiner should have had more explanation in the file notes to comply with Sedgwick's best practice standards. This has been addressed with the examiner.

#### **4A2109DF16C- 0001**

Auditor's comment- New case, only record is claim and proposed S/C, serious allegations, report to ACCEL.

Response: A claim status report has been completed and placed in the file. Claimant, who is an employee, is alleging sexual harassment, failure to prevent sexual harassment in the workplace, dangerous condition on public property, and intentional infliction of emotional distress. The claimant is represented by B. James Fitzpatrick in Salinas, CA. Katie Hogan of the City Attorney's Office has spoken with the claimant's attorney. The City attorney's office did not wish to engage in negotiations with the claimant. Attorney Hogan instructed us to reject the claim for lack of merit. A notice or rejection was sent 9/22/2021. The statute of limitations expires 3/22/2022. The claim was reported to ACCEL on 11/10/2021. Claim reporting requirements will be adhered to on future claims.

#### **CITS-1540A1-**

Auditor's comment- No reserves, no investigation, TPA out of compliance with account instructions for handling.

Response: A claim status report has been completed and placed in the file. The claimant's attorney alleges that his client was walking within the crosswalk when she encountered a portion of the roadway surface pavement which was cracked and elevated, causing her to trip and fall and injure herself. The claimant suffered two broken arms requiring surgery with approximately \$16,000 in medical expenses. This case settled in the amount of \$35,000. Reserves have been increased accordingly. Claim reporting requirements will be adhered to on future claims.

#### **CITT-1562A1-**

Auditor's comment- Road Design case, loss description inadequate, No investigation beyond police report. Injury?? Sparse details.

Response: A claim status report has been completed and placed in the file. The plaintiff, through her attorney, is alleging she got struck by a vehicle while crossing the street in the pedestrian crosswalk. The allegations in this claim are that street design, traffic signals/signage, and pedestrian facilities are negligently designed & maintained. This matter was reported to excess on 2/17/2021. Salinas Police Report 20-080006 indicated that Enrique Mendez was operating a 1998 Mitsubishi SUV and struck Plaintiff while she was crossing the street in a crosswalk. The plaintiff complained of left hip and left leg pain and was transported via ambulance. Our investigation has determined no liability on the City. Driver Mendez failed to yield to a pedestrian in a marked crosswalk. The claim was insufficient, and the insufficiency was never remedied. The loss description has been updated. A lawsuit was filed on 1/26/202. The suit alleges one

count of dangerous condition of public property. This matter is being defended by the City attorney's office. Claim reporting requirements will be adhered to on future claims.

### **CITT-1581A1**

Auditor's comment- Claims \$70K in meds, review and report to ACCEL- Only record is the claim from claimant. No active case management.

Response- Injuries alleged are radial head fracture with specials of \$70K. A notice of insufficiency was sent 4/1/21 due to lack of identification of the exact location of loss. No Amended Claim was filed; therefore, a notice of rejection was sent 4/19/21. The claim was then monitored until the statute of limitations expiration date. The statute of limitations expired on 10/19/21. No lawsuit was presented. The file is now closed. This claim was supervised by the previous Team Lead who is no longer over this account. The current Team Lead has addressed with the claim examiner to insure they understand the excess reporting requirements. As the reporting requirement is to report a loss exposure at 25% of SIR, this should have been reported. As the statute of limitations has expired, we will not report at this time.

### **CITT-1584A1**

Auditor's comment- Some notes that suggests investigation and tender. Overall, below par handling.

Response- A claim status report has been completed and placed in the file. The plaintiff's attorney alleges his client tripped and fell due to a dangerous condition of the street, injuring his neck, head, shoulders, arms, back, hips and legs. We have since discovered that plaintiff was on-duty as a security officer at Salinas High School and alleges he tripped and fell as a result of an unidentified pavement deviation. The claim was insufficient as no loss location was provided. As we did not have the location of the deviation, we could not obtain records of notice of any prior complaints. Plaintiff's attorney failed to remedy the insufficiency and the claim was rejected on 5/10/2021 prior to litigation being filed with the court on 5/21/2021. The plaintiff has been treated under Workers' Compensation and had an unspecified neck surgery and has been on temporary disability since January 2021. The plaintiff's attorney alleges \$100,000 in medical expenses, however, no specifics or liens have been provided to the City attorney's office. There is no tender opportunity as the loss is for a street pavement deviation. It is a City street, therefore there is no tender opportunity. The reserves have been increased to \$150,000 after discussions with the handling city attorney. Claim reporting requirements will be adhered to on future claims.

### **CITT-1589A1**

Auditor's comment- Supposedly state-owned property-NOT SO SURE without more details re right of way agreement with State. (State often defers to City re sw maintenance)

Response- The claim examiner was advised by the city that the area where the trip and fall occurred abuts Highway 68 and is under the jurisdiction of the state, not the city. The city streets maintenance manager also measured the lift and found it to be 1/4 " which is a trivial defect. The claim was rejected as non-jurisdictional on 7/16/2021. The claim outcome was proper. The claims examiner should have had more explanation in the file notes to comply with Sedgwick's best practice standards. This has been addressed with the claims examiner.

### **CITT-1556A1**

Auditor's comment- cursory investigation only, no comment on tree ownership/control.

Response- This loss involves a trip and fall on a sidewalk deviation. The claims examiner conducted appropriate investigation by requesting information regarding the City's records of sidewalk complaints, repairs at subject location prior to the date of loss. The city streets maintenance manager responded that there was no notice as to the lift in the sidewalk. Additionally, the city advised it was a private property tree, not a city tree, that caused the lift on the sidewalk. Accordingly, a notice of rejection was sent. Suit was filed in April 2021 and litigation was managed by the City attorney's office. The case settled for \$5500 in October 2021. The Claim outcome was proper. The claims examiner should have had more explanation in the file notes to comply with Sedgwick's best practice standards. This has been addressed with the claims examiner.

### **CITT-1596A1**

Auditor's comment- Weak understanding of GC 835 et seq

Response-The claims examiner contacted the city streets maintenance manager who inspected the scene and measured the lift in the sidewalk. He advised the lift was 1 1/2". The threshold for the city to make temporary repairs is 3/4". A temporary repair was made and the sidewalk was added to the permanent sidewalk repair list. The city streets maintenance manager also advised the city was not placed on notice of the condition of the sidewalk prior to the date of loss. The claim was properly rejected on 7/21/2021. The claims examiner should have had more explanation in the file notes to comply with Sedgwick's best practice standards. This has been addressed with the claims examiner.

### **CITS-1513A1**

Auditor's comment- No reserves, no investigation, TPA out of compliance with account instructions for handling. Makes comment re "Serious Nature" of case, but says not excess case?? No basis or rationale for comments.

Response- A claim status report has been completed and placed in the file. The plaintiff's attorney alleges his client was walking in a crosswalk going Northbound when she was struck and injured by a vehicle turning Eastbound from Capitol onto W. Alisal. Our investigation determined there has been one other accident, a hit and run, in the subject intersection. The claim was rejected on 7/29/2020. Suit was filed 2/3/2021 and is being handled by the City attorney's office. The suit alleges a dangerous condition of public property against the city. The claim was reported to excess on 11/12/2021. Reserves have been increased to \$20,000. Claim reporting requirements will be adhered to on future claims.

In addition to the above noted deficiencies, the following was noted by Mr. Powers:

All the files with *prima facie* reporting requirements appear to be met. However, with the paucity of file records, there are several files that need to be reviewed to determine if they meet ACCEL reporting requirements. The Claims Matrix highlights these files. These are<sup>1</sup>:

- CITS-1464A1
- 4A2109DF16C-0001
- CITT-1581A1
  
- Response: CITS-1464A1 - This does not appear to be excess reportable. A claim status report has been completed and placed in the claim file.
- Response: 4A2109DF16C-0001- This claim was reported to excess on 11/10/2021.
- Response: CITT-1581A1- This claim should have been reported to excess. As this claim was rejected and the statute of limitations has run, it will not be reported at this time.

To remedy deficiencies noted in this claims audit and bring claims handling into compliance as expeditiously as possible, we have instituted the following:

- We will ensure that account instructions are followed on all claim matters. This will be monitored by management.
- Claims examiner will complete reports as outlined in the client account instructions. All reports are to be reviewed by management.

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<sup>1</sup> ACCEL only allows file numbers to identify claims.

- Claims examiner will complete file activity/file note documentation as required by Industry standards and Sedgwick's best practice standards. Management will monitor for adherence.
- Supervisor will review files and add input on a regular basis as required by Sedgwick's best practice standards.
- Claims examiner is to regularly (at least every 90 days) reach out to the CAO for status and update the claim file accordingly.
- Claims examiner will obtain detailed information regarding the nature and extent of the injuries to properly assess exposure and set reserves appropriately. Reserves will be addressed throughout the handling of the file as outlined in Sedgwick's best practice standards. This will be monitored by management.
- Exposure will be reviewed to identify claims that meet the excess reporting requirements. All warranted claims will be reported to Excess timely. This will be monitored by management.

We appreciate our partnership with the City of Salinas very much and are dedicated in our commitment to provide excellent claims handling. You should note immediate compliance as outlined above. Please let us know if you have any questions or need additional information. If you would like to discuss this response, please advise.

Sincerely,

Jaeran Ahn, Claims Team Lead

cc: , Claims Assistant Manager  
Rhonda Hankey, Client Services Manager

# CITY OF ONTARIO



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

Mindy Decker, ACCEL Board Member  
Senior Human Resources Analyst  
City of Ontario  
303 East "B" Street  
Ontario, CA 91764

August 24 ,2020  
*Sent via E-Mail*

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

Audit Dates: August 20 to 22, 2021  
Audit Location: Remote Audit  
"Wrap up" 8/30/2021  
Files Audited: 25 Open 6 Closed out of 94 Open Cases

Dear Ms. Decker:

**Notes:**

- While Covid-19 measures have affected claims handling, we find many activities are returning to normal. Some trials and mediations are still delayed, but the logjam appears to be clearing.
- Carl Warren & Company staffing and claims handling have also return to normal. Covid-19 measures caused disruption of normal claims handling during the 2020 audit cycle.
- 

**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 Carl Warren & Company's assistance provided during the file review. I am available to discuss any item contained in the attached Claims Matrix or this report.

In performing this year's audit, I reviewed the prior year's audits. I also reviewed current CWC staffing work guidelines and the current TPA *Best Practices*. There were some staffing changes, but the main adjuster and supervisor are the same as last year. See below.

This audit reviewed the claims files in the TPA file via their online system *FileHandler Enterprise*. This is one of the better RMS systems being utilized in the industry. The system contained all the expected records and documents. This year, I added a column in

the Data Matrix that evaluates the use of e-file records, labeling and ease of document retrieval.

## Structure

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

CWC Claims staff:

- Kimberly Smith Litigation and higher exposure cases
- Christina Holt Property Damage claims
- Stacy Goopio Property damage and Bodily injury claims  
Appears to be assigned more complex higher value claims
- Reta Lewis Supervisor

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 *Professionally* managed and exceed 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

- TPA performance last year was impacted by COVID -19. Performance this year is much improved.
- Pro-active case management is improved over last year, same caveat.

- From our perspective, defense counsel is taking the lead on litigation strategy. This is due to the adjusters not articulating a clear POA. We find that adjusters, generally, store much more information in their head than appears as file notes. A universal practice in the industry. See recommendations.
- Caseloads appear reasonable. The TPA has the three adjusters and one supervisor 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.
- The City of Ontario is receiving excellent legal representation. The defense attorneys are seasoned professionals with trial experience. We are particularly impressed with Mr. Roberts and Ms. Feld.

## **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:**

Improvement over last year. The files reflect reasonable complete and competent investigations. Ms. Smith has an excellent, clear way of writing. Her analyses are good to excellent.

### **File Management:**

Generally good and what we would expect from the City's TPA. This follows standard industry standards. The e-file records are generally very good.

### **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. Supervision appears regular and appropriate. Peer review is good.

### **Excess Reporting**

We didn't find any cases that lacked reporting. ACCEL was generally updated regularly. The Claims Examiners are cognizant and follow ACCEL reporting guidelines.

## **RECOMMENDATIONS**

- CWC should follow up on the comments in the Claims Matrix
- Complex files should have a regular periodic summary pulling loose ends together. This would apply to any file with reserves over \$50K, EPL, Civil Rights and Public Safety liability claims.

- Challenge defense counsel on justification for demurrers and MSJ on routine tort case. While effective on EPL and civil rights cases, they are of dubious value on routine tort cases.
- ISO Index inside the RMS system. They are currently using the External ISO website
- Case 1984728 should have a coverage letter from ACCEL. I cannot locate one. I looked several times. There is a companion case where it may reside, but it needs to be associated with this file. (I will stand corrected if this record is located.)
- Case 3018957-One to watch-see Claims Matrix, evaluate for ACCEL reporting, claim of eye injury and possible concussion.

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

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

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

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

*Robert E. Powers*

Robert E. Powers  
ACCEL Auditor

Exhibit 1

*Audit  
Components  
Detail*

Claims Reviews Completed	
Open	25
Closed	6
Incurred	\$5,770,480.88

**Overall Rating: Professional**

**Claims Audit Component Grading**

Matrix Component	Claims	Range Lo/Hi/Mode	Impression
<i>Factual Development/Investigation</i>	31	2-4 Mode- 3 <sup>1</sup>	Meets-Outstanding
<i>Reserving</i>	31	2-4 Mode-3	Meets-Outstanding
<i>Litigation Management</i>	19	2-4 Mode-3	Meets-Outstanding
<i>Liability Assessment</i>	23	2-4 Mode-3	Meets-Outstanding
<i>Liability Damage Assessments</i>	23	3-4	Exceeds- Outstanding
<i>File Management</i>	31	3	Exceeds
<i>Claim resolution/POA</i>	19	2-3 Mode-3	Meets-Outstanding
<i>E-File Records</i>	31	3	Exceeds
<i>ACCEL</i>	31	3	Exceeds

**Exceptions**

Matrix Component	Claims	Exceptions	Comments/Suggesti ons
<i>Factual Development/Investigation</i>	31	None	<i>See Narrative and Claims Matrix One file where ACCEL may owe member a coverage letter- See narrative.</i>
<i>Reserving</i>	25	None	
<i>Litigation Management</i>	19	None	
<i>Liability Assessment</i>	31	None	
<i>Liability Damage Assessments</i>	31	None	
<i>File Management</i>	31	None	
<i>Claim resolution/POA</i>	31	None	
<i>E-File Records</i>	31	None	
<i>ACCEL</i>	19	None	

<sup>1</sup> The mode is the value that appears most often in a set of data values.

# 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 29, 2021

*Electronic Transmission Only*

Re: ACCEL/City of Palo Alto Claim File Review 2021

Audit Dates: November 15, 2021  
Audit Location: On-Line/On-site  
Claims Administration: In-House/GHC for BI investigations, some settlements.  
Defense Counsel: Inside/Outside Counsel  
Files Reviewed: 22 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 prior audits to determine trends and/or changes over that time. There were no changes or negative trends. Handling guidelines are the same, except that the City is not utilizing George Hills Company (GHC) on many cases. All the files I selected were considered "in-house" files only. GHC current primary function is record keeping and financial.

## Structure

There are no changes from last year. This audit reviewed the City Attorney (CA) claims files via "City Law" software and the on-line files of George Hills Company. The City Attorney's Office (CAO) administers claim management and litigation management. Some 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

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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.

resolves litigated claims and suits, negotiates settlements, and obtains the releases and other closings documents.

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).*
- CA office has taken over many of the duties re non-litigated claims normally assigned to GHC.
- Comments are from reviewing the GHC files City Law files. ***City Law files are attorney work product and not commented on, thus not scored on the Claims Matrix.*** 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.
- The outside counsel agreement places that attorney as the party responsible for reporting to ACCEL. While I believe defense counsel recognize risk exposure, they often misjudge their own legal fees and ultimate loss reserves.
- ***City Law*** files contained all the necessary records but is not organized along the lines of a standard Risk management Database system.
- ***City Law*** is quirky, and not user friendly. There are better RM systems currently on the market.
- Defense counsels provide updates and activity summaries, however, there are no traditional RM type notes.
- Non litigated claims, that in the past were assigned to GHC, were handled appropriately with damage commentary, releases, and payments.

### **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 at City Hall.

## **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 is primarily in a record keeping role and rarely utilized in a traditional TPA claims adjusting role.

### **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**

- Make sure the ACCEL Reporting Letter that Tricia Hoover uses on *ANY* case assigned to outside counsel, particularly the ones where GHC is only keeping financial records. I believe this is being done, but added here to stress the importance since there are few safeguards otherwise.
- From an auditor’s perspective, a better RM system that allows for easy access would enable us to perform a more in-depth analyses of claim handling since GHC is not being fully utilized.

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  
SANTA  
BARBARA**



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

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

Sept. 14, 2021

Sent electronically only

RE: ACCEL/City of Santa Barbara Claim File Review 20201

Audit Dates: 9/10/2021  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed: 30 Open/Closed

Dear Mark:

**Note:** This year's audit is comparable to prior years. The liability claim handling efficacy continues at a high level, garnering my highest rating. Most of the comments below are similar to previous years.

## Preface

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

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

## Structure

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

Ms. Khan coordinates reporting between CAO and RM, reports cases to ACCEL, and overall, maintains the files. Non-tort cases are referred to the City Attorney's Office (CAO) for handling.

The CAO advises on litigated and non-tort case reserves and is actively involved in the early stages of claims. They also provide technical advice if requested. The CAO staff attorney is the primary defense counsel.

The ACCEL Audit primary focus is:

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

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

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

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

- Good claim resolution.
- Articulate files notes.
- File records laid out in logical fashion.
- Good summaries.
- Accurate assessment of liability risk, i.e., injury investigated and analyzed.

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

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

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

### **OBSERVATIONS (NEW)**

- I observed many good settlements this year.
- Ms. Kahn actively documenting injury information. This is a continuing suggestion with audited cities. The COSB is one of the few ACCEL Members following this suggestion.
- Liability risk analyses on complex matters are very good.

### **(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 very well investigated with field investigation, 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.

I noted active supervisor input on files.

### 4. Excess Reporting

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

## Recommendations

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

## Comment:

Marisa is well conversant on her files with a very good understanding of facts, causation, liability triggers, and RM risks. I have listened to her discuss matters with claimants on the

phone. The COSB is very well represented. Overall, her experience and expertise has increased markedly in the four 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 23, 2021

Re: ACCEL/City of Santa Cruz Claim File Review 2021

Audit Dates: November 15, 2021  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Counsel (Contract City Attorney)  
Files Reviewed: 20 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 GHC as ACCEL’S TPA. If there are any recommendations, these are detailed at the end of the report. I greatly appreciated you and your staff having the files organized and the assistance provided during the file review.

## Structure

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

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.
- Claim risk liability to the pool.

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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.

- Overall claims handling in light of ACCEL's expectations/guideline

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

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

### **OBSERVATIONS**

#### New this year

- Files contain excellent summaries and analysis.
- Files are very well organized, tabbed and in chronological/logical order.
- Files were up to date and contained all the records we expect to find in a claim file.
- Investigations are good to very good.
- Continued accumulated claim expertise. Staff development is good.
- RM actively involved in litigated matters.
- Cases properly tendered via contract.

#### From last year

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

### **TECHNICAL REVIEW**

#### **Government Code Requirements**

In order with all claims in compliance with proper notices.

#### **Investigation**

The files are in paper format. Files are well organized. The City's claims were investigated, analyzed to determine legal/risk exposure and that proper filing requirements procedure are followed by the claimant/plaintiff in bringing a case against the City.

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

#### **File Management**

Files were very well organized and contained all the paper records pertaining to the claim. These records were regularly updated. All files have evidence of active management. Files reflect response communication with claimants and internal staff. Files are organized logically and easy to review. Reserves are not established until the case is actively pursued. Other matters 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 Manger has authority to settle claims up to \$5,000; to \$20,000 with approval of the Finance Director; to \$50,000 with approval of the City Manager. The City Council authorizes settlements greater than \$50,000. The CA oversees litigated claims and has input in the handling of non-litigated claims.

### **Excess Reporting**

- ACCEL reported cases are routinely updated.
- All ACCEL reportable matters have been noticed.

### **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 your staff for assistance during the file review. And again, I am available for discussion on any matter in this narrative summary of the recent audit.

Thank you.  
Very truly yours,

*Robert E. Powers*

Robert E. Powers, ARM  
ACCEL Auditor

# CITY OF SANTA MONICA



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

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

September 3, 2021

*Electronic Transmission Only*

Re: ACCEL 2021 Liability Claims Audit

Audit Dates: August 26, 2021 to August 28, 2021  
Audit Location: Remote/Video Conference  
Files Reviewed: 43 Open, 6 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 Claims Matrix 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 Spenelli’s assistance provided during the file review. The electronic files were organized for easy access. As advised, we see Mr. Spenelli’s role as the lynchpin for the GL claims program. His expertise keeping all the pieces running smoothly contributes greatly to the overall high score. Staff claim handling and assistants continue to gain knowledge and experience. This is reflected in the files.

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

## **Structure**

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

litigated and non-tort case reserves. The city uses Staff Attorneys for most cases. Some cases are assigned to outside counsel.

The ACCEL Audit primary focus is:

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

This report should be viewed from that perspective.

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

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

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

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

The City has is 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. One attorney left the CAO Office and was recently replaced.

## **OBSERVATIONS**

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

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

- Files were evaluated for liability exposure, investigated and analyzed for possible resolution. Handling is timely. Good knowledge of Public Entity liability exposures/risk. There is recognition of equitable and contractual liability of other parties.

- ACCEL reporting requirements are recognized.
- Files are updated regularly. Litigated files have status reports from the CAO and outside counsel.
- Reserving is generally good and timely overall.
- Good staff culture, *i.e.* defined roles, motivated staff, communication and knowledge of RM policies. Most staff personnel have been on board for many years.
- Closed files generally contained the necessary records.

## **TECHNICAL REVIEW**

### **Investigation:**

Files were investigated 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.

(Note: The following recommendation is not specific to the City of Santa Monica Audit, but general recommendation 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

## Exhibit 1

Audit  
Components  
Detail

Claims Reviews Completed	
Open	43
Closed	5
Incurred	5,243,917.83

Overall Rating: **Professional (+)**

### Claims Audit Component Grading

Matrix Component	Claims	Range Lo/Hi/Mode <sup>1</sup>	Impression
<i>Factual Development/Investigation</i>	40	(2) 3-4 (3)	Superior
<i>Reserving</i>	36	2-4 (3)	Exceeds-Outstanding
<i>Litigation Management</i>	33	2-3 (3)	Superior
<i>Liability Assessment</i>	39	2-3 (3)	Superior+
<i>Liability Damage Assessments</i>	29	2-3 (3)	Superior+
<i>File Management</i>	38	3-4 (3)	Superior++
<i>Claim resolution/POA</i>	30	3-4 (3)	Superior +
<i>E-File Records</i>	48	3 (3)	Superior+
ACCEL	9		Superior

### Exceptions

Matrix Component	Claims	Exceptions	Comments/Suggestions
<i>Factual Development/Investigation</i>	39	None	<i>See Narrative and Claims Matrix One file where ACCEL may owe member a coverage letter- See narrative. Notes One borderline case Question on one</i>
<i>Reserving</i>	39	None	
<i>Litigation Management</i>	33	None	
<i>Liability Assessment</i>	39	None	
<i>Liability Damage Assessments</i>	29	None	
<i>File Management</i>	38	None	
<i>Claim resolution/POA</i>	30	None	
<i>E-File Records</i>	48	None	
ACCEL	9	None	

<sup>1</sup> The mode is the value that appears most often in a set of data values.

# CITY OF VISALIA



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rpwrs@pacbell.net

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

September 20, 2021  
Sent via e-Mail to: [Charlotte.Dunn@visalia.city](mailto:Charlotte.Dunn@visalia.city)

Re: ACCEL/City of Visalia Claim File Review 2021

Audit Dates: September 15, 2021  
Audit Location: On Site  
Claims Administration: In-House/AIMS for investigations, some settlements.  
Defense Counsel: Outside Counsel  
Files Reviewed: 17 Open/Closed.

Dear Ms. Dunn:

**Note:** 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 appreciate 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 (NEW)**

- A number of problem cases from last year have been favorably resolved.
- Exposures are correctly identified and dealt with effectively.
- I did not review any files with AIMS involvement.
- We discussed one case that met ACCEL requirements, and this has been reported.

### **(These are same as the 2020 Audit)**

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

## **TECHNICAL REVIEW**

### **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**

- This is a general recommendation for all Members. RM staff should focus and develop injury information and make it part of the file and update periodically. It is our experience that injuries drive the claims processes.

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

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

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

***Robert E. Powers***

Robert E. Powers, ARM  
ACCEL Auditor