

## PART 1

# ACCEL Liability Claims Administration Audit- 2018 Member Summary

### PREFACE

The **2018 ACCEL Audit Report Member Summary** is different than in years past. The prior audits were deemed weighted toward “Primary” audit criteria, *i.e.* technical claims handling more focused toward exposures well below the ACCEL attachment point of \$1M.

This year’s audit is an “Excess” Audit. That is, reviewing **Members** risk management files from the perspective of risk to the pool and ACCEL expectations for file management.

### AUDIT FOCUS

The ACCEL Audit primary focus is:

1. Exposure recognition
  - Members recognition of claims that require reporting to ACCEL’s TPA.
  - Do the files contain sufficient records to discern ACCEL reporting requirements and guidelines are being followed?
  - Are members complying with ACCEL requirements to forward records, reports and file material to the TPA as required by ACCEL Guidelines?
2. Claim risk liability to the pool
  - Are there any file management issues that would impact the pool?
  - Are there any overall claim management practices/activity that would negatively impact the pool?
3. Review claim files for acceptable ACCEL and industry standards<sup>1</sup>.

## Executive Summary

### Preliminarily

The 2018 liability audit was completed on November 9, 2018. The audit produced two main summary reports:

1. This summary of the Member’s individual audits. Specific details are contained in the **Members** individual reports, including the “Claims Matrix”.

---

<sup>1</sup> The ACCEL RFP for the auditor requires review of file handling and related activity.

2. A separate audit report for Risk Management Services (RMS)<sup>2</sup>.

In addition, the auditor provided each Member a narrative report (12 total) of specific findings and recommendations. Similarly, each **Member** was provided audit detail covering the ACCEL required audit elements in an Excel spreadsheet entitled “Claims Matrix”.

Praxis performed three audits with Robert Powers completing the remaining nine **Member** cities and RMS.

### **Exposure Recognition**

The audit resulted in identifying a few cases that require reporting to RMS. See **Appendix A. (More detail is located in the RMS Audit Report, included herein).**

### **Risk to Pool**

During our file reviews we looked for cases where file management resulted in possible liability risk to the pool. We did not identify any files that fit into this category this year.

### **Industry/ACCEL Compliance**

The audit results confirm that the Members are in general compliance with ACCEL Guidelines and industry claim handling standards. This is consistent with the 2017 Audit. Praxis did not directly make that statement for **Modesto**. The Praxis auditor reviewed Modesto files from an adjuster that had since left the city. This auditor reviewed the audit results and can conclude that **Modesto** is in compliance. A recent communication from **Modesto** indicates they have staff changes in progress.

### **File Handling**

Each Member has a file set up for each claim. They are generally up to date with evidence of active management. Relevant documents, e-mails, reports and notes are part of the file. Prior audits concluded that claim-handling guidelines are consistent among Members. While most of the basics are in the claim files, the level of analysis and summaries is not consistent across the Membership. Some of the TPA’s and Outside Counsel overuse informal communication (E-Mails, Texts) where the relevance of the communication is arcane or inscrutable. These communications are often in the file with no “tag” or “title” to what it means to the file. Conversely, some **Member’s** files are extraordinary in detail and analysis, therefore the comment re consistency.

Recommendations on file handling are contained in the individual audits.

### **Reserving Accuracy**

**Case reserves for those matters where the City believes exposure exists, primarily RMS reported cases, are set appropriately.** This auditor’s experience is that injury is the primary driver of reserves. Reserving is inconsistent on low value claims. Members are generally adhering to their own internal procedures. Some Members require City Counsel approval for higher reserves *e.g.* \$35,000 or above. This often results in significant time delays for setting reserves. Some cities are using ZERO while others are

---

<sup>2</sup> Auditors Contract Requirements

placing very low reserves on small risk cases. Since many of the files we reviewed did not have adequately developed injury information we cannot comment on those cases for the individual audits. Additionally, it would be a significant increase of time for the auditor to review low exposure cases for reserves, especially with the paucity of injury information. We have made specific recommendations to the **Member** cities in the individual audits (Narrative and Matrix). The auditor has provided a number of **Members** with training material and forms on reserving.

### **Investigations**

The most common practice for investigating claims is to ask the appropriate Department for details, records and knowledge of the claim. Some **Members** will engage an outside adjusting firm to investigate the claim and make claimant contact. Some **Member's** investigations are in the very good to excellent category. I did not note any real deficiencies in this regard. Please keep in mind this is an "Excess Audit". High exposure cases usually get considerable attention and are well investigated. Many of the cases we reviewed were in the initial stages with on going investigations. Specific comments to **Members** are contained in the individual audit reports or to RMS as follow-on items.

### **Litigation Management**

City Attorneys and outside defense counsel take over primary claim handling functions and responsibility once a case becomes litigated<sup>3</sup>. We did review some files that were maintained by the City Attorneys Office, but primarily our audit reviewed the RM files only. The **Members** are usually updated with activity either on a periodic basis or a litigation summary for all the cases being handled by the law firm.

By enlarge, the reporting is acceptable, but we do not find many instances where "strategy" is articulated and made a part of the RM file. It may be contained in the CA file, but these files were not reviewed.

Universally, City Councils must be apprised and provide settlement authority on cases. Levels can be as low as \$10,000. The usual level is \$25,000 to \$50,000.

**Bakersfield** litigation status is provided in monthly meetings, but the bulk of lawsuit information is exchanged directly to RMS from the City Attorney or defense counsel. RMS advises that they have the ability to conference case strategy as needed. There is evidence in the claim file of such exchanges.

### **Staffing**

Generally, we find staffing acceptable for the number of active cases the members have in their respective systems. I personally interviewed many of the file handlers and found they have a satisfactory level of industry knowledge, experience, education requirements and technical skill to perform their jobs. Globally, file handlers are aware of ACCEL reporting requirements.

---

<sup>3</sup> The "Rules of Professional Conduct" *require* attorneys to report to their clients on any substantive matter material to the handling of the case. Accordingly, litigation management, strategy, (particulaly) settlements and settlement offers are primarily the responsibility of attorneys assigned the case.

Some Members use in house staff attorneys with many years of experience. These file records show a higher degree of analysis and investigations.

The 2017 audit opined that **Ontario's** TPA, Carl Warren & Co., adjuster was carrying an excessive workload (180)<sup>4</sup>. Praxis made no similar comment this year. **Burbank** is down one position and with a lifting of a hiring freeze hopes to fill this position. No time frame was provided. The current handler is keeping up with workload reasonably well.

**Modesto** replaced the previous "Risk Coordinator" with a new person. This should address the concerns expressed in the Praxis audit report.

### Diary

Overall, I found only a few instances where lateness was an issue. I find no files where "lateness" had an impact on ACCEL's exposure. Prior audits devoted considerable effort to monitor diary action. While this is a very important activity, analyzing each and every missed diary opportunity takes an extraordinary amount of time and is more applicable to a "Primary" audit. This auditor criterion for "diary" control is: active/responsive communication, up to date and reasonable. If evidence of late file handling requirements that were substantive and impacted the financial impact to the city was noted and brought to the RM attention. Praxis noted deficiencies for **Modesto**. This auditor advised **Ontario** that their TPA was slow responding to status requests from RMS.. The same comment was provided to **Modesto** for one case involving outside counsel. Otherwise, I did not find files that were materially deficient.

### Settlements/Payments/Closures

The Members are identifying cases for settlements and where applicable entering into settlement negotiations with claimants/plaintiffs. I did not find many case evaluations for settlements in the RM file<sup>5</sup>. It would appear that those cases were being settled appropriately. **Anaheim** has a number of cases with tolling agreements, which is a very useful tool to settle a case and avoid litigation expense.

Files that were settled had the customary releases and dismissals. Cases that were closed due to the running of the Statute of Limitations were documented. The only exception was **Monterey**. There is no impact to ACCEL. This Member has very few cases and RM staff is on top of developments. The individual audit for this **Member** discusses this issue.

Prior audits comments on **Burbank** re large Incurred Totals in the 2017 audit. The City advised this auditor that those cases were open for complex financial reconciliation and reimbursement. The City advises that the Board is aware of these cases and approved reimbursements recently. The cases will be closed in due course.

---

<sup>4</sup> Caseload is a flexible number based on the degree of complexity of the files, i.e. litigated, non-litigated, routine cases etc. Also, the handler's degree of responsibility should be considered. Using a fixed number like 125 files per adjuster is not a good gauge of caseload. Evidence of excessive caseload is late reporting, being dunned for information etc.

<sup>5</sup> The evaluations could be in the CA files for briefings to the City Counsel, which we did not review

## METHODOLOGY

A total of 550 open files and 44 closed files were reviewed. Files were selected by potential risk exposure after reviewing all the open files on 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 exposure to legal fees (primarily Civil Rights, EPL etc.) and potential for significant injury. We did select a few low exposure claims, non-tort, land use writs and contract cases to see how the cases where handled-investigated, resolved, denied, etc.

Each city audit was preceded with a Pre-Audit Checklist or interview to summarize the City's Risk Management operation, approach to claims handling, staffing and internal procedures. Each city internal risk management claim handling guidelines were reviewed before conducting the audit.

Praxis used a spreadsheet called a "Claims Matrix" listing each claim-handling element as required by the ACCEL RFP. Since Praxis started this methodology it was followed for the remaining cities in order to maintain consistency for the 2018 Audit.

At the conclusion of the individual city's audit, the auditor provided a "wrap-up" discussion going over the findings followed by a narrative report summarizing the results. Each city was provided both the Claims Matrix and the narrative in draft form and asked to comment before a final version was provided.

The 2018 Audit commenced with Praxis Claims Consulting auditing:

- **City of Ontario**
- **City of Santa Monica**
- **City of Modesto**

Robert Powers completed the remaining cities and ACCEL's TPA:

- **City of Santa Barbara**
- **City of Burbank**
- **City of Anaheim**
- **City of Bakersfield**
- **City of Visalia**
- **Risk Management Services (RMS)**
- **City of Palo Alto**
- **City of Mountain View**
- **City of Santa Cruz**
- **City of Monterey**

Additional details are contained in **Appendix B**.

## Recommendations

- Focus and develop injury information as soon as possible and make it part of the claim file and update periodically.
- The claim file would be enhanced with periodic status updates covering operative facts, those in dispute, injury, specials and "insights" into the claim where appropriate. This requires the claim handler to go through a thought process periodically.

## ACCEL Liability Claims Audit 2018

- Notes – File managers often have much more knowledge of a claim than is reflected in the files. We encourage staff to add file notes and observations.
- A Plan of Action (POA) comment re resolution, i.e. trial, settlement, procedural dismissal, etc., or even “still developing a plan”.
- Continued educational training with claims technicians on reserving claim files.
- Monitor cases where an “Additional Insured’s” insurance carrier is providing the City defense and indemnity:
  1. Insist on routine status reports.
  2. Disclosure of erosion of aggregate limits by defense costs and prior claims.
  3. Early disclosure of conflicts or potential conflicts.
  4. Do not cease actively monitoring a case until a release and dismissal is obtained.
  5. Review release language. They must include non-disparagement, non-disclosure<sup>6</sup>, no legal advertising etc.

### Appendix A

Members Cases reportable to RMS:

Member	New Report Required
Anaheim	None
Bakersfield	None
Burbank	None
Modesto	None
Modesto	Praxis identified one case, but did not identify the case. A review of audit material didn't discover the case. The City was so informed to be aware and try to identify the case.
Ontario	None
Mountain View	(No City claim #) Loss Date 11/2/2018-Multi Party
Monterey	None
Palo Alto	Claim - GHC0021260 <sup>7</sup> Hills Claim – L17-0058 City Claim - City-C17-0057 Hills (GHC0018445) Claim L17-0079 -Only after Defense Counsel evaluates fees and costs for defense and exposure to plaintiff's legal fees
Santa Cruz	None
Santa Barbara	Claims-18-092, 18-518,19-002 (3 Cases)
Santa Monica	None
Visalia	Claim 020- (Precautionary) <sup>8</sup>

<sup>6</sup> Recognizing that this doesn't preclude a CPRA Request, but it provides resistance to disclosure and encompasses the intent of the parties.

<sup>7</sup> Outside counsel advised RMS informally, but the City needs a record of report to ACCEL with file documents and other records.

<sup>8</sup> This case doesn't fit reportable criteria. However, high profile plaintiff attorney alleges serious injuries.

**Appendix B**

<b>Member</b>	<b>Files Reviewed</b>	<b>Audit Location</b>	<b>Claims Administration</b>
Anaheim	40 Open/5Closed	On-Site	City self-administration
Bakersfield	59 Open /4 Closed	Remote	TPA-York RSG
Burbank	47 Open/7Closed	On Site	City self-administration
Modesto	50 Open/Closed (Praxis)	Remote	City self-administration
Monterey	13 Open/Closed	On Site	City self-administration
Mountain View	19 Open/4 Closed	On Site	City self-administration
Ontario	32 Open/Closed (Praxis)	Remote	TPA Carl Warren & Company
Palo Alto	24 Open/4 Closed	On Site	City self-administration/GHC
Santa Cruz	16 Open/6 Closed	On Site	City self-administration
Santa Barbara	45 Open/2 Closed	On Site	City self-administration
Santa Monica	51 Open/Closed (Praxis)	On Site	City self-administration
Visalia	17 Open/7 Closed	On Site	City self-administration
RMS	137 Open/5 Closed	On Site	
	550 Open/44		

## PART 2

### Risk Management Services (RMS) – TPA Liability Claims Administration Audit- 2018

ACCEL Administrator (TPA)-Risk Management Services (RMS)-Cotati, CA.

Audit Dates: November 5th and 6<sup>th</sup>, 2018

Audit Location: RMS -On Site

Files Reviewed: 135 Open/Watch List/Pending Closing

**Audit Elements:** (Note: *Auditor Requirements to review and report*): Claim set up, Coverage Determination, Investigations, Reserving, Excess Reporting, Litigation Management and reporting to ACCEL Board, Settlements - (Added).

**Summary:** Risk Management Systems (RMS) provides a consistent, high level of claims management and oversight of the ACCEL Members reportable<sup>9</sup> high-risk claims/suits. The principals, Mr. Maiolini and Sandy Manzoni, administer the reportable claims. Mr. Maiolini is the primary file manager on Watch List Cases including potential high exposure cases and acts as the settlement negotiator. Ms. Manzoni is a highly competent claim examiner and acts as the primary conduit of Member communications (input/output). They have been on the account for over two years and have extensive day to day contact with Member's and Member's staff. Caseloads are acceptable. RMS provides capable clerical support<sup>10</sup> for file set up and record keeping. ACCEL Members are very familiar with the RMS role, staff and reporting requirements. There are no concerns in this area.

I reviewed all open files including several that were in the closing stages. Without exception, the files are well organized, neat and up to date. Important records are flagged with notes. Ms. Manzoni keeps good notes, diary is consistent, and she has a very good understanding of causation and legal issues that trigger reporting above/below the ACCEL layer. Communication with the Members is consistent, timely, well worded and salient; likewise, with her communication with the commercial carriers. We found no instance where RMS had to be prompted by the commercial carriers for status reports. The only delays noted were from Members slow responses.

Mr. Maiolini's negotiation skill is evident in the files. ACCEL reporting documentation for closed sessions is excellent with important key legal questions presented in an easily discernable format. Risk issues, evaluation criteria and briefing documents are clearly laid out. Criteria for "Watch List Cases" and "Watch List Reserved Cases" are accurately assessed. The auditor agrees with reserves set by RMS on "Watch List Reserved" Cases. Mr. Maiolini collaborates with Members on reserves for high exposure

---

<sup>9</sup> Reportable claims per ACCEL guidelines.

<sup>10</sup> This is an area many TPA's have cut back or eliminated.

cases. He has good formal and informal relationships with Members staff, legal personnel and outside defense counsel.

Succinctly, RMS's TPA duties for ACCEL are performed very well and exceed industry standards.

### **Coverage**

There are not many cases in the RMS system that present coverage issues. Claims that *do* pose coverage limitations or exclusions are noted<sup>11</sup>, a coverage letter with a reservation rights (RoR) language is sent to the Member. We observed one case where a formal coverage opinion was issued: *City of Monterey claim #16038*).

### **Investigation**

Factual development is a key element for claim management. RMS relies on Member's to investigate and provide relevant documents and records in accordance with ACCEL Guidelines and Litigation Management requirements. The files reflect RMS asking for additional investigation material, records and documents. By enlarge the Members provide competent investigations. The Member's individual audits reflect comment on investigation follow up.

Cases that trigger the "Watch List Cases" and "Watch List Reserved Cases " category are worked up well from a factual standpoint. Obviously, any deficit in factual development translates into higher settlement value or trial risk.

### **Reserving**

The "Watch List" cases are monitored closely. Reserves are properly set. Any recommendations from the auditor after the **Member's** audit had already been made by the time of this review. (See follow up listing). Generally, reserving for large exposure cases is a highly subjective process requiring high degree of experience. RMS credentials handling other Public Entities high exposure cases is an asset for ACCEL.

### **Excess Reporting (From Members)**

(See Exhibit)

### **Litigation Management/Reporting to ACCEL/ACCEL Excess Commercial Carriers**

The ACCEL TPA's major responsibility is managing litigation that impacts the ACCEL Pool or commercial carriers above the pool limits. The ACCEL Claims Committee generally performs this function via collaboration/input/oversight with RMS. RMS initiates a "Closed Session" report with a supportive narrative. Key legal issues, causative facts and case value for reserving and settlements are laid out very well. The auditor particularly likes the presentation format. This briefing document is also provided to the excess commercial carriers. The auditor did not find any of the commercial carriers asking for more details or a formal evaluation document.

---

<sup>11</sup> These usually involve allegation of intentional conduct, land use or other uninsurable conduct.

### Settlements:

Those cases that pierce the ACCEL pool attachment level were managed well for settlement purposes. Settlements are good and reflect RMS skill in resolving large cases. It is very important, if not crucial, that the ACCEL TPA maintain good credibility as a negotiator in front of judges and mediators. This is a small “world” where word gets around quickly about those sitting on the other side of the negotiation table. One of the first things a plaintiff attorney does is get the “book” on the “insurance” representatives they are sitting down with to settle their cases.

### RMS Loss Runs

The RMS Loss Run now has a column for members Total Incurred (TI). Generally, reconciling RMS reserves with member’s Loss Runs is impractical, or nearly impossible, due to differences in authority levels, time delays and some inconsistent reserving practices among the Membership.

Members Cases reportable to RMS:

Member	New Report Required
Anaheim	None
Bakersfield	None
Burbank	None
Modesto	None
Ontario	None
Mountain View	(No City claim #) Loss Date 11/2/2018-Multi Party
Monterey	None
Palo Alto	Claim - GHC0021260 <sup>12</sup> Hills Claim – L17-0058 City Claim - City-C17-0057 Hills (GHC0018445) Claim L17-0079 -Only after Defense Counsel evaluates fees and costs for defense and exposure to plaintiff’s legal fees
Santa Cruz	None
Santa Barbara	Claims-18-092, 18-518,19-002 (3 Cases)
Santa Monica	None
Visalia	Claim 020- (Precautionary) <sup>13</sup>

<sup>12</sup> Outside counsel advised RMS informally, but the City needs a record of report to ACCEL with file documents and other records.

<sup>13</sup> This case doesn’t fit reportable criteria. However, high profile plaintiff attorney alleges serious injuries.

# City of Anaheim



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

Final

Mr. David Nunley, Risk Manager  
City of Anaheim  
201 South Anaheim Blvd., Suite 503  
Anaheim, CA 92805

November 12, 2018

Re: ACCEL/City of Anaheim Claim File Review 2018

Audit Dates: October 17, 2018  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House/Outside/Panel Counsel  
Files Reviewed: 40 Open 9 Closed (Some claims with multiple claimants)

Dear David:

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. We thank you and your staff, particularly Tracey Mathews, for their assistance and time.

**PRELIMINARILY**

- In performing this year's audit I reviewed the 2016 and 2017 audits.
- This will acknowledge our wrap up session on October 17, 2018 where we discussed the file review. Minor items were discussed informally.
- This audit only reviewed the Risk Management (RM) claims 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**

The City of Anaheim Risk Management Division (RM) has a highly competent claims management/claim resolution program. This system has been in place for many years and served the city well.

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

### **OBSERVATIONS**

- RM works closely with the City Attorneys Office (CA) to evaluate liability claim risk: reserving, investigation, documentation, financial accounting, liability evaluation and resolution (or trial).
- We are pleased to see tolling agreements where settlement is pending. This practice prevents unnecessary litigation, especially where compromise settlements are in order. While we often see such claims resolved during litigation this is not a good use of city resources when it is obviously a claim for settlement.
- Where it is obvious that the claim/suit is not being pursued reserves could probably be reduced. We discussed this during the wrap up session. Anaheim advises that once a reserve is posted and the matter remains litigated on appeal, if the reassessed risk remains within the range of the posted reserve, the reserve will be left in place until final resolution. This is within the City's discretion of course.

### **TECHNICAL REVIEW**

#### **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 Tracey Mathew's skill as an attorney with many years experience.

#### **File Management:**

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

#### **Supervision**

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

#### **Excess Reporting**

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

**Recommendations**

The files we discussed with possible RMA reserve adjustments have already been made.

Otherwise, we have no specific recommendations.

**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 years audit.

Thank you

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Enclosures

Claims Data Matrix

**City of  
Bakersfield**



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

FINAL

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

October 18, 2018

Re: ACCEL/City of Visalia Claim File Review 2018

Audit Dates: Sept 17th, 18th, 19th 2018  
Audit Location: Remote via York "Claims Connect" RMS  
Claims Administration: York TPA  
Defense Counsel: Outside/Panel Counsel  
Files Reviewed: 59 Open/ Closed.

Dear Jena:

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. Laura Harmon provided assistance and commentary on your program/claims. We thank her for this help.

In performing this year's audit I reviewed the 2016 and 2017 audits. Those reports indicated "no exceptions" were found for your City based on audit criteria.

This will also acknowledge our wrap up session on October 5, 2018 where we discussed the file review. Your city recently went out for a RFP for third party claims administration. *If a change does take place, I would be happy to assist you developing file documentation/handling guidelines.*

This audit only reviewed the Risk Management (RM) claims files. From our interview: the City Attorneys Office (CA) handles Litigation Management. Outside counsel reports directly to the CA. Reports are generally not part of the RM file. The CA provides monthly updates via regularly scheduled meetings. The CA Suit File updates from the meetings are in the RM (Claims Connect) file. Reserves are a collegiate process with RM and the TPA based upon information gathered through investigation.

Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. York RSG will negotiate and settle claims assigned to them by RM.

The ACCEL Audit primary focus is:

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

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

Based upon the results of the audit, the City of Bakersfield files are competently managed and meet or exceed industry standards and ACCEL's expectations.

The city has an established 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**

- 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.
- I found no unusual claims, risks or other issues that would pose potential risk for ACCEL.
- Evidence of risk transfer and contribution were observed.
- File documentation is maintained in the York RSG claim system called "Claims Connect". The claim handler is required to put *all* communication, i.e. e-mails, reports, correspondence, police reports, pictures, etc. in the system. Accordingly, the file has an unwieldy mass of records that presents a significant challenge for the auditor.
- York RSG peer review and supervision is not evident in the claim files.
- York has miss-coded some files and incorrectly set up new claims that should have been set up as a supplement to the main occurrence.

## **TECHNICAL REVIEW**

### **Investigation:**

The City has an established program that requires the TPA claim handler to respond to the scene of serious accidents 24/7. Routine cases are investigated competently, documented with department reports, photographs and related investigation records. Police cases are usually handled internally.

### **File Management:**

Files were contained all the paper/electronic media pertaining to the claim. However, the "Claims Connect" system is cumbersome. Locating a specific record is challenging. Otherwise file management is active and acceptable.

### **Supervision**

See above commentary

### **Excess Reporting**

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

### **Recommendations**

Thank you

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

Robert E. Powers

**City of  
Burbank**



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

Ms. Betsy McClinton, Risk Manager  
City of Burbank  
275 E. Olive Ave  
Burbank, CA 91510

October 31, 2018  
*Electronic Transmittal Only*

Re: ACCEL/City of Burbank Claim File Review 2018

Audit Dates: 9/28/2018  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed 48 (some were multi-party claims)

Dear Ms. McClinton:

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

In performing this year's audit I reviewed the 2016 and 2017 audits. It appears there is improvement from prior years.

This will also acknowledge our wrap up session following the file review and those items we discussed. I provided the material we discussed in a separate message.

This audit only reviewed the Risk Management (RM) claims files. The City Attorney Office (CA) is responsible for litigation management, reserve adjustments on litigated matters and case evaluation for the City Council. The City Attorneys Office also resolves claims and suits, negotiates settlements and obtains releases and other closings documents. RM reserves on non-litigated cases.

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.

We also want to assist the City Risk Manager in any area that contributes to improvement, education and staff development.

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

Based upon the results of the audit, the City of Burbank's files are competently managed and meet or exceed industry standards and ACCEL's expectations.

The claims staff works closely with the City Attorneys office, which acts as the City's defense counsel.

### **OBSERVATIONS**

- The files were generally up to date with good communication between the CA office and RM.
- 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.
- There is good cooperation between CA and RM. The litigated files have updates on a regular basis.
- Alvaro is well aware of necessity to keep ACCEL/RMS updated. He has good understanding of case values and exposures that need to be reported.
- Alvaro is handling in accordance with the City's own internal policies and procedures.
- Alvaro's investigations are good and his requests for department records are well reasoned and show his understanding of what he needs to evaluate the liability in a case. His background in other City departments (PW & Parks) is an asset.
- Claims that should be tendered were done so in a timely fashion.

### **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.

#### **File Management:**

Files were well organized and contained all the paper/electronic media pertaining to the claim.

#### **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 RMS. (Recognizing that the CA has primary duties to keep RMA updated)

**RECOMMENDATIONS**

- RM staff should focus and develop injury information and make it part of the file updates periodically and independent from the CA office.
- Obtain analyses from CA on exposure to legal fees on cases involving a civil rights component to determine exposure to ACCEL (Case Number 16039).
- CA sets reserves on litigated matters and RM reserves for non-litigated files. These appear to be adequate, but should be reviewed and updated as appropriate, and especially as a trial date approaches. Probably no less than once per year or when new information is received to change the reserves, *i.e.* worse than anticipated injury, high specials, etc.
- It would be beneficial to see the CA rationale on some of the larger reserves. On most cases it is obvious, but others not readily so.
- The CA is providing regular updates. However, it would augment the RM file if a Plan of Action (POA), evaluation or strategy to resolve (*i.e.* settlement, trial or dismissal) were provided.
- The RM files contain the responses departments are providing pursuant to CPRA. The CA reviews CPRA responses.
- Expose RM staff to information/training provided by PARMA and CAJPIA, *i.e.* legislative updates, new cases and evolving trends re municipal litigation.
- Encourage Alavaro to keep notes and updates re case strategy, case developments, contacts with claimants, CA and other departments. (Note-he is already doing this to some extent).

**Comment:**

Alvaro has good working knowledge of his cases: facts, causation and exposure. He has a keen interest in his job. It has been my experience managing claims personnel that the organization benefits when the claim handler takes ownership of their file.

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

# City of Modesto



---

36 East Mountain Road  
Peterborough, NH 03458  
Mobile: (603) 785-6001  
Toll free & Fax: (877) 785-6001  
[www.praxisclaims.com](http://www.praxisclaims.com)

Annette Ulibarri  
Risk and Loss Control Coordinator, WCCP  
City of Modesto Risk Management Division

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

Audit Dates: August 1-8, 2018  
Audit Location: Remote Audit

Dear Ms. Ulibarri:

This will serve as the formal report of findings following the remote audit of claim files being handled by the City of Modesto.

**EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS**

Praxis submits the following observations and recommendations:

**Observations:**

- Several files review were off diary.
- Several files reviewed were lacking defense counsels case analysis.
- In some files it was impossible to determine exposure
- One file appeared to be significantly under reserved.

**Recommendations:**

- Litigation Management Guidelines should be incorporated to govern expectations and communication with defense counsel.

- All files off diary should be reviewed and brought up to date.
- One file reviewed, will most likely need a \$100,000 reserve increase.
- Implement the utilization of a formal reserve evaluation process to provide a detailed rationale for loss and legal/expense reserves.

## **AUDIT LOGISTICS**

Access to the JDI Claims Manager system was coordinated through Vincent Leal. Praxis reviewed 50 claim files remotely. The files were reviewed by Brian Stiefel, CPCU of Praxis. The pre-audit questionnaire sent on has not been returned as of August 27<sup>th</sup>.

### **Claims Handling**

Most of the files reviewed were primarily handled by the prior adjuster who has since left the cities employment.

## **TECHNICAL REVIEW**

### **Investigation:**

Two files reviewed were noted as lacking in investigation.

### **File Management/ Documentation:**

Several files reviewed were off diary and many did not contain enough documentation or files notes to be able to determine the current status of the claim or it's potential exposure.

### **Excess Reporting:**

ACCEL requires that any occurrence, offense, or wrongful act in which the amount incurred has reached 25 percent of their individual self-insured retention be reported.

Additionally, the Member shall give the Authority immediate written notice for any claims or suits which the Member becomes aware of that include injury of the following types:

- Death
- Paralysis, paraplegia, quadriplegia
- Loss of eye(s), or limbs
- Spinal cord or brain injury
- Dismemberment or amputation
- Sensory organ or nerve injury or neurological deficit
- Serious burns
- Severe scarring

- Sexual assault or battery including but not limited to rape, molestation or sexual abuse
- Substantial disability or disfigurement
- Any class action
- Any claim or suit in which the Authority is named as a defendant; or
- Any injury caused by lead.

One file that appeared to qualify for excess reporting, did not appear to have been reported. More the member will need to review and respond to the file identified.

### **Liability/Damage Evaluation:**

Several files lacked the documentation needed to determine liability and potential exposure. Many of these files were off diary so the latest developments were unknown.

### **Reserves**

Overall, files reviewed seemed to be appropriately reserved. One file appears to have been close to a \$200,000 settlement but the plaintiff withdrew the settlement offer. This file is reserved at \$100,000 but most likely will resolve somewhere at or above \$200,000

Praxis recommends that the City utilize a formal reserve evaluation worksheet to provide a detailed rationale for loss and legal/expense reserves. In litigated files this could/should be addressed in the case assessments and/or comprehensive evaluation reports.

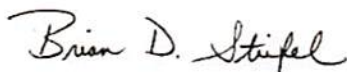
### **Litigation Management/Timely Negotiations:**

Several files have been identified as needing updates from defense counsel.

### **Wrap-up Discussions:**

On August 8<sup>th</sup> Brian Stiefel and Annette in which our observations and recommendations were discussed. The audit review worksheet was provided to Annette provider her the opportunity to reviewed and respond.

Sincerely,



Brian D. Stiefel, CPCU  
Praxis Claims Consulting  
[Brian@Praxisclaims.com](mailto:Brian@Praxisclaims.com)

cc: ACCEL  
City of Modesto

**City of  
Monterey**



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

Final  
Michael Anderson, Risk Manager  
City of Monterey  
735 Pacific Street, Suite A  
Monterey, CA 93940

January 3, 2019

Re: ACCEL/City of Monterey Claim File Review 2018

Audit Dates: November 9, 2018  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: City Attorney  
Files Reviewed: 13 Open /Closed.

Dear Michael:

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

In performing this year's audit I reviewed the 2016 and 2017 audits. I also reviewed your Risk management Manual. I am available to discuss any item contained in the attached Claims Matrix or this report. Per our wrap up session, I will send you material on reserving we discussed.

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 Attorneys 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.

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**

- Files are investigated and actively managed.
- RM collaborates closely with the CA.
- Claims activity is relatively light.
- The Public works department conducts good investigations on dangerous condition cases.

## **TECHNICAL REVIEW**

### **Investigation:**

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

Investigations are for the most part good.

### **File Management:**

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

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

### **Supervision**

The RM reports to the Finance Director. The CA oversees and has input in the handling of claims since the City Counsel approves claim settlements above \$25,000.

### **Excess Reporting**

- Good and in compliance.
- The one case in the RMS “pipeline” is consistently updated and communication with RMS is good.

## **RECOMMENDATIONS**

- Some consideration should be given to placing “nominal” reserves on cases of no liability or when they are denied. This is consistent with insurance industry standards.
- Cases should be open where denied until the Statute of Limitations has run for filing of lawsuit.

(Note: The following three recommendations are not specific to the City of Mountain View 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.
- The claim file would be enhanced with periodic status updates covering operative facts, those in dispute, injury, specials and “insights” into the claim where appropriate. This requires the claim handler to go through a thought process periodically.
- A Plan of Action (POA) comment re resolution, *i.e.* trial, settlement, procedural dismissal, etc., or even “still developing a plan”.

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

**City of  
Mountain  
View**



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

DRAFT

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

November 26, 2018

Re: ACCEL/City of Mountain View Claim File Review 2018

Audit Dates: November 8, 2018  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Staff Counsel  
Files Reviewed: 19 Open and 4 Closed.

Dear Claudia:

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

In performing this year's audit I reviewed the 2016 and 2017 audits. I also reviewed the material provided in the Pre-Audit Checklist. We provided Ms. Apitz a brief account of the audit results in your absence. I am available to discuss any item contained in the attached Claims Matrix or this report.

This audit reviewed the claims files in the City Attorney's Office. From our interview at the time of the audit: the City Attorneys Office (CA) administers claims and litigation management. The Risk Manager reviews each file on a regular basis and places notes in the CA file. The City uses Staff Attorneys for most cases. Some cases are assigned to outside counsel. Legal support staff maintains the files and process releases and other closing records. George Hills Company is utilized for Loss Runs only.

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to 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 Mountain View files are well managed and in many areas exceed industry standards and ACCEL's expectations.

### **OBSERVATIONS**

- The files are meticulously maintained with important records tabbed and highlighted
- Consistent review by RM staff is evident with commentary.
- 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**

#### **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. 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**

This file needs to be reported to RMS:

- Harvey et al- This case is already in the RMS system for Palo Alto, but technically needs to be reported even though contractors insurance is handling the matter.

Otherwise, cases in the RMS "pipeline" are consistently updated and communication to/fro RMS is good.

## **RECOMMENDATIONS**

(Note: The following three recommendations are not specific to the City of Mountain View 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.
- The claim file would be enhanced with periodic status updates covering operative facts, those in dispute, injury, specials and “insights” into the claim where appropriate. This requires the claim handler to go through a thought process periodically.
- A Plan of Action (POA) comment re resolution, *i.e.* trial, settlement, procedural dismissal, etc., or even “still developing a plan”.

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

**City of  
Ontario**



---

36 East Mountain Road  
Peterborough, NH 03458  
Mobile: (603) 785-6001  
Toll free & Fax: (877) 785-6001  
[www.praxisclaims.com](http://www.praxisclaims.com)

## **Final**

### **SENT VIA E-MAIL**

City of Ontario  
303 East "B" Street  
Ontario, CA 91764

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

Audit Dates: July 21-22, 2018  
Audit Location: Remote Audit

?????:

This will serve as the formal report of findings following the remote audit of claim files being handled for the City of Ontario. The claims are handled by Carl Warren & Company, a third-party administrator.

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

Based upon the results of the audit, the claims adjuster from Carl Warren & Company has the technical expertise, experience and sophistication necessary to competently handle claims generated by the City's liability exposures. Praxis submits the following observations and recommendations:

#### **Observations:**

- File set-up and initial member contact is timely and complete.
- Coverage evaluations were comprehensive and well documented.
- The claim adjuster considered applicable governmental immunities, statutes, and case law in liability evaluations.
- Consistent evidence of supervisory involvement in files specific to reserving, evaluation, and reinsurance reporting.

- Diaries were actively managed and timely.
- Initial reporting to excess is timely and ongoing reports appropriate.
- The adjuster recognizes the potential for contribution, including liability apportionments.
- Investigations are conducted timely and were thorough.
- Claim file documentation did not always provide sufficient detail as to liability and damages evaluation. CITY RESPONSE: Some claims are indeterminable for this observation until the end of the files (life).
- Overall, reserves were appropriate, timely posted and adjusted as necessary.
- There were a number of instances where reporting by defense counsel was untimely.

### **Recommendations:**

- Similar to the initial format utilized in most files, Praxis recommends the implementation of a standard action plan file note that is documented by the claims adjuster every 60 days or upon material developments in the claims file. The action plan would contain information regarding coverage, liability exposure/damages, investigation, plan of action, and reserves. CITY RESPONSE: Some claims are indeterminable for this observation until the end of the files (life).
- In coordination with the City of Ontario, Carl Warren & Company should require defense counsel to submit initial case evaluations and ongoing status reports within 30 days of request and/or upon material developments in claim files. Sample language for litigation management guidelines can be supplied upon request. Auditor will provide.

### **AUDIT LOGISTICS**

The scheduling of the audit and access to the MyCarlWarren system access was coordinated through Carl Warren & Company. Praxis reviewed 31 claim files remotely. The files were reviewed by Brian D. Stiefel, CPCU, of Praxis.

### **CARL WARREN & COMPANY**

#### **Staffing**

The adjuster assigned to City of Ontario claim files for Carl Warren & Company is Joe Klecansky, CRM.

## **TECHNICAL REVIEW**

### **Government Codes:**

It was evident in the files reviewed; that any case being brought against the City was analyzed to determine applicable immunities and that proper procedure is followed by the claimant/plaintiff in bringing a case against the City. Many cases reviewed, reflected that the initial claim was rejected and eventually denied citing applicable immunities.

### **File Documentation/Diary:**

Throughout the life of the file, the adjuster's notes should contain chronological documentation of activities, and the cause and effect of these activities as they relate to exposure. Received and generated correspondence should be uniformly stored and identified for ease of access.

The documentation of claim files is accomplished through the use of the MyCarlWarren system.

Similar to the initial format utilized in most files, Praxis recommends the implementation of a standard action plan file note that is documented by the claims adjuster every 60 days or upon material developments in the claims file. The action plan would contain information regarding coverage, liability exposure/damages, investigation, plan of action, and reserves. CITY RESPONSE: Some claims are indeterminable for this observation until the end of the files (life).

### **Supervision:**

Files that required supervisory review or involvement were found to contain either notes confirming review or direction being given to the adjuster. We found no issues in this area.

### **Reporting to Member and Excess Carriers:**

ACCEL requires that any occurrence, offense, or wrongful act in which the amount incurred has reached 50 percent of their individual self-insured retention be reported.

Additionally, the Member shall give the Authority immediate written notice for any claims or suits which the Member becomes aware of that include injury of the following types:

- Death
- Paralysis, paraplegia, quadriplegia
- Loss of eye(s), or limbs
- Spinal cord or brain injury

- Dismemberment or amputation
- Sensory organ or nerve injury or neurological deficit
- Serious burns
- Severe scarring
- Sexual assault or battery including but not limited to rape, molestation or sexual abuse
- Substantial disability or disfigurement
- Any class action
- Any claim or suit in which the Authority is named as a defendant; or
- Any injury caused by lead.

All files reviewed that qualified for excess reporting, have been reported. There were no issues identified in this area.

#### **Liability & Reserve Adequacy:**

Overall, files reviewed were appropriately reserved and reflected exposure based on liability and damages. In cases that were being defended, reserves were established that realistically reflected potential adverse development.

There were a couple of files reviewed that reserve adequacy could not be evaluated based upon the level of documentation in the claims system.

#### **Contribution/Subrogation:**

For those files with subrogation potential or potential of tender to another party, Carl Warren & Company appropriately handled each matter reviewed.

#### **Litigation Management:**

In the litigated cases reviewed, defense counsel's initial case analysis and litigation budget were not always received timely. There were a number of files where status reports were delayed by months despite multiple requests from the adjuster.

Counsel generally outlined the case status, reviewed potential defenses, discussed possible early motions and, when able, commented on potential exposure. Immunities available were discussed and analyzed.

In coordination with the City of Ontario, Carl Warren & Company should require defense counsel to submit initial case evaluations and ongoing status reports within 30 days of request and/or upon material developments in claim files. Sample language for litigation management guidelines can be supplied upon request.

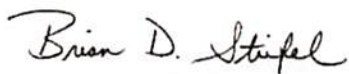
**Wrap-up Discussions:**

Brian Stiefel and Jeanette Chavez had a call to discuss the results of the audit. City Response: Not all the items mentioned in the narrative were discussed at the wrap-up. Generally, the issue of counsel being behind on case evaluations and stuatu reports.

**CONCLUSION:**

The Carl Warren & Company adjuster has the technical expertise, experience and sophistication necessary to properly handle the current open inventory of claims to conclusion. File set-up, initial contact, and initial investigations are timely and well organized. Coverage is reviewed and addressed early on, and exceptions are discussed and resolved. Diary and file activity notes are current.

Sincerely,



Brian D. Stiefel, CPCU  
Praxis Claims Consulting  
[Brian@Praxisclaims.com](mailto:Brian@Praxisclaims.com)

cc: ACCEL  
Carl Warren & Company

**City of  
Palo Alto**



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

FINAL

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

January 16, 2019

Re: ACCEL/City of Palo Alto Claim File Review 2018

Audit Dates: November 7, 2018  
Audit Location: On Site  
Claims Administration: In-House/GHC for investigations, some settlements.  
Defense Counsel: Inside/Outside Counsel  
Files Reviewed: 24 Open and 2 Closed.

Dear Sandra

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

In performing this year's audit I reviewed the 2016 and 2017 audits and the City of Palo Alto Claim File Guidelines.

This will also acknowledge our wrap up session with Stacy Lavelle following the file review and those items we discussed.

This audit reviewed the City Attorney (CA) paper claims files and the on-line files of George Hills Company. From our interview: claim management and litigation management is administered by the City Attorneys Office (CA). Bodily Injury claims are assigned to George Hills Company (GHC). The City uses outside panel counsel for most cases. Chief Assistant City Attorney Terrence Howzell oversees and supervises claim management activities. Payment recommendations require City Council approval for above \$35,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. 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 are competently managed and meet industry standards and ACCEL's expectations.

### **OBSERVATIONS**

- There are three cases that require reports to ACCEL's TPA Risk Management Services. One case is in the potential category. These are noted below.
- GHC should review ACCEL reporting guidelines.
- GHC is a little slow posting claims payments and adjusting reserves.
- GHC electronic files do not contain a great deal of analysis or formal reports. They may have paper or other electronic media not accessed by the auditor.
- Most GHC communication comes via e-mail exchanges. The GHC system doesn't appear to be used to its full potential.
- 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

### **TECHNICAL REVIEW**

#### **Investigation:**

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 organized and contained all the paper media pertaining to the claim. I was provided access to the GHC Claims System and reviewed their electronic records on line<sup>1</sup>. These were regularly updated. George Hills provides investigation results and comments on potential liability on claims. Please see our recommendations below.

#### **Supervision**

CA supervises the claim process internally and the activity performed by GHC. Not all the GHC electronic files had evidence of supervisors input. The GHC claim system may have precluded/limited access to supervisor notes as many TPA systems do. The paper claim files did not contain all the records from the CA office. It is our understanding that the CA office is moving to a new electronic management system, which will contain more information for next years audit.

---

### **Excess Reporting**

These meet ACCEL reporting requirements.

- Claim GHC0021260-Reported informally to RMS by outside counsel, but requires formal notice from City.
- Claim L17-0058
- Claim C17-0079 GHC0018445

This case doesn't technically meet reporting requirements, but there is possible exposure to the pool lay in the opinion of the auditor.

- Claim L17-0079 -Only after Defense Counsel evaluates fees and costs for defense and exposure plaintiff's legal fees.

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

### **RECOMMENDATIONS**

(Note: The following three recommendations are not specific to the City of Palo Alto 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.
- The claim file would be enhanced with periodic status updates covering operative facts, those in dispute, injury, specials and "insights" into the claim where appropriate. This requires the claim handler to go through a thought process periodically.
- A Plan of Action (POA) comment re resolution, *i.e.* trial, settlement, procedural dismissal, etc., or even "still developing a plan".

For this Audit:

- The claim handler should summarize important e-mail strings for relevant information.

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

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

Robert E. Powers

**Thank you**

City of  
Santa  
Barbara



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

Final

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

Sept 17, 2018

RE: ACCEL/City of Santa Barbara Claim File Review 2018

Audit Dates: 9/13/2018 and 9/14/2018  
Audit Location: On Site  
Claims Administration: In-House  
Defense Counsel: In-House  
Files Reviewed 45 (some were multi-party claims)

Dear Mark:

Below is a summary of findings following the recently completed claim review. If there are any specific recommendations, these are detailed at the end of the report.

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

Based upon the results of the audit, the City of Santa Barbara files are competently managed and meet or exceed industry standards. I have many years prior experience with the City's claim management program. The City has a well-developed system in place for claims intake, review of Claim Filing Requirements, handling, evaluation and resolution, if required.

The claims staff works closely with the City Attorneys office, which acts as the City's defense counsel. This relationship serves the City well and contributes to the overall well managed Risk management Program.

### **OBSERVATIONS**

I have no specific recommendations other than what will be discussed in our wrap up session. The files were well organized, contained comprehensive documentation, and were up to date with evidence of active handling.

I have sent you my audit worksheet with some observations. We will complete this worksheet for the final report.

## **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.

### **File Management:**

Files were well organized and contained all the paper/electronic media pertaining to the claim.

### **Supervision:**

The claim staff has regular meetings with the Risk Manager to discuss files, proposed handling, reserves etc. The staff also has regular meeting with the City Attorneys Office on litigated and potential litigation.

### **Excess Reporting**

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

## **RECOMMENDATIONS**

No formal recommendations at this time. Marisa advised that the City is switching to a new RMS. I discussed with Marisa a few items that would make the auditors review easier, and she advised that the new system should capture this information.

### **Comment:**

Marisa has good working knowledge of her cases: facts, causation and exposure.

Thank you

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

Robert E. Powers

**City of  
Santa Cruz**



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

DRAFT

Patty Haymond, Risk Manager  
City of Santa Cruz  
877 Cedar Street, Suite 100  
Santa Cruz, CA 95060

November 26, 2018

Re: ACCEL/City of Santa Cruz Claim File Review 2018

Audit Dates: November 8, 2018  
Audit Location: On Site  
Claims Administration: In-House.  
Defense Counsel: Inside Counsel  
Files Reviewed: 16 Open and 6 Closed.

Dear Patty:

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

In performing this year's audit I reviewed the 2016 and 2017 audits. I am available to discuss any item contained in the attached Claims Matrix or this report.

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 Attorneys Office (CA). The City uses Staff Attorneys for most cases. Some cases may be 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.

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

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

## **OBSERVATIONS**

- A veteran City Hall insider actively manages claims/suit files.
- Files are very well organized.
- The Risk Manager closely scrutinizes claim activity.
- The City of Santa Cruz is a low risk entity. It is small enough that the RM and departments will know of any matter that would create risk/exposure to the City.
- The Departments are responsive to inquiries re investigation, records etc.
- RM has excellent understanding of factual causation leading to possible City liability exposure.

## **TECHNICAL REVIEW**

### **Investigation:**

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

Investigations are good and if the exposure warrants, excellent. RM has extensive background with technical City Planning activities and understands design immunity very well.

### **File Management:**

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

### **Supervision**

The RM reports to the Finance Director. The CA oversees and has input in the handling of claims since the City Counsel approves claim settlements above \$10,000.

### **Excess Reporting**

- Good and in compliance.
- The one case in the RMS "pipeline" is consistently updated and communication to/fro RMS is good.

## **RECOMMENDATIONS**

- Some consideration should be given to placing "nominal" reserves on cases of no liability or when they are denied. This is consistent with insurance industry standards.

(Note: The following three recommendations are not specific to the City of Mountain View 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.

- The claim file would be enhanced with periodic status updates covering operative facts, those in dispute, injury, specials and “insights” into the claim where appropriate. This requires the claim handler to go through a thought process periodically.
- A Plan of Action (POA) comment re resolution, *i.e.* trial, settlement, procedural dismissal, etc., or even “still developing a plan”.

Otherwise we have no other recommendations. Again, I thank the RM 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  
R. E. Powers & Company, LLC

Robert E. Powers

**City of  
Santa Monica**



---

36 East Mountain Road  
Peterborough, NH 03458  
Mobile: (603) 785-6001  
Toll free & Fax: (877) 785-6001  
[www.praxisclaims.com](http://www.praxisclaims.com)

## **FINAL**

Deb Hossli  
Risk Manager  
City of Santa Monica  
1717 4<sup>th</sup> Street, Suite 250  
Santa Monica, CA 90401

### **RE: CITY OF SANTA MONICA CLAIM FILE REVIEW**

Audit Dates: August 1-6, 2018  
Audit Location: Remote Audit

Dear Ms. Hossli:

This will serve as the formal report of findings following the remote audit of claim files being handled by the City of Santa Monica.

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

Based upon the results of the audit, the City of Santa Monica has the technical expertise, experience and sophistication necessary to competently handle claims generated by the City's liability exposures. Praxis submits the following observations and recommendations:

#### **Observations:**

- File notes confirmed the recognition of potential coverage issues.
- Liability evaluations take into consideration governmental immunities, statutes, case law, etc.
- Fact investigations were timely and complete.
- In certain circumstances investigations were done by the City Attorney's office to evaluate and address issues.

- Files were on diary and reporting was current.
- Documents/attachments were clearly named and identifiable.
- Damage evaluations were completed by defense counsel, City Attorney's office, and/or risk management analyst.
- In litigated matters handled by the City Attorney's office, many files were lacking in depth liability/damages analysis.
- Exposure was evaluated both before and after coverage and liability were applied.
- Settlements occurred on a number of litigated files with doubtful or questionable liability without documented analysis or rationale.
- While no significant reserve changes were identified, a number of litigated files did not provide reserve rationale.

### **Recommendations:**

- Utilize Case Assessments or Comprehensive Evaluation Reports from defense counsel to outline liability evaluation and damages of each claim file. Litigation Management Guidelines should be incorporated to govern expectations and communication with defense counsel.
- The City of Santa Monica utilizes an initial comprehensive file note that outlines coverage, liability, damages, investigation, reserves, subrogation, and plan of action. Praxis recommends that the City utilize this type of note every 60-90 days. This will provide a consistent method of documenting material actions and developments of files.
- Claim file documentation contains correspondence with legal counsel which at times references other claimant names and details. Moving forward, Praxis recommends "redacting" references to other claims when placing correspondence in the claims system.
- Implement the utilization of a formal reserve evaluation worksheet to provide a detailed rationale for loss and legal/expense reserves.

### **AUDIT LOGISTICS**

The scheduling of the audit and access to the Origami claims system access was coordinated through ACCEL. Praxis reviewed 50 claim files remotely. The files were reviewed by Brian D. Stiefel, CPCU, of Praxis.

### **Claims Handling**

Michael Mack is the City's primary Liability Adjuster and has a pending caseload of 107 claims. He reports directly to the Risk Manager.

Carol Tang, Risk Management Technician, is responsible for all subrogation claims and supporting the Liability Claims Unit and has a pending caseload of 12 claims. She also reports directly to the Risk Manager.

The Risk Manager is Deb Hossli. She is responsible for monitoring litigation, approving all claims payments up to \$15,000, and overseeing the Liability Unit. She has almost 20 years of risk management experience.

## **TECHNICAL REVIEW**

### **Investigation:**

It was evident in the files reviewed; that any case being brought against the City was analyzed to determine applicable immunities and that proper procedure is followed by the claimant/plaintiff in bringing a case against the City. Many cases reviewed, reflected that the initial claim was rejected and eventually denied citing applicable immunities.

### **File Management/ Documentation:**

Throughout the life of the file, the adjuster's notes should contain chronological documentation of activities, and the cause and effect of these activities as they relate to exposure. Received and generated correspondence should be uniformly stored and identified for ease of access.

The documentation of claim files is accomplished through the use of the Origami claims system.

Similar to the initial format utilized in most files, Praxis recommends the implementation of a standard action plan file note that is documented by the claims adjuster every 60-90 days or upon material developments in the claims file. The action plan would contain information regarding coverage, liability exposure/damages, investigation, plan of action, and reserves.

Claim file documentation contains correspondence with legal counsel which at times references other claimant names and details. Moving forward, Praxis recommends "redacting" references to other claims when placing correspondence in the claims system.

### **Supervision:**

Files that required supervisory review or involvement were found to contain either notes confirming review or direction being given to the risk management analyst. We found no issues in this area.

### **Excess Reporting:**

ACCEL requires that any occurrence, offense, or wrongful act in which the amount incurred has reached 25 percent of their individual self-insured retention be reported.

Additionally, the Member shall give the Authority immediate written notice for any claims or suits which the Member becomes aware of that include injury of the following types:

- Death
- Paralysis, paraplegia, quadriplegia
- Loss of eye(s), or limbs
- Spinal cord or brain injury
- Dismemberment or amputation
- Sensory organ or nerve injury or neurological deficit
- Serious burns
- Severe scarring
- Sexual assault or battery including but not limited to rape, molestation or sexual abuse
- Substantial disability or disfigurement
- Any class action
- Any claim or suit in which the Authority is named as a defendant; or
- Any injury caused by lead.

All files reviewed that qualified for excess reporting, have been reported. There were no issues identified in this area.

#### **Liability/Damage Evaluation:**

Non-litigated files had appropriate liability and damage evaluations. Litigated files would benefit from the utilization of case assessments and/or comprehensive evaluation reports completed by legal counsel.

There were a couple of files reviewed where the liability/damage evaluation could not be assessed based upon the level of documentation in the claims system.

#### **Reserves**

Overall, files reviewed were appropriately reserved. While no significant reserve changes were identified, a number of litigated files did not provide an outlined reserve rationale.

Praxis recommends that the City utilize a formal reserve evaluation worksheet to provide a detailed rationale for loss and legal/expense reserves. In litigated files this could/should be addressed in the case assessments and/or comprehensive evaluation reports. Praxis can provide samples/templates.

#### **Contribution/Subrogation:**

For those files with subrogation potential or potential of tender to another party, the City appropriately handled each matter reviewed.

**Litigation Management/Timely Negotiations:**

The City uses in-house attorneys to handle a vast majority of lawsuits. There are six full-time attorneys who are overseen by the chief of the unit, Lance Gams. Mr. Gams is also generally assigned to the City's high-profile lawsuits; currently 9 lawsuits.

Settlements occurred on a number of litigated files with doubtful or questionable liability without documented analysis or rationale. Praxis recommends that the City utilize Case Assessments or Comprehensive Evaluation Reports from defense counsel to outline liability evaluation and damages of each claim file. Litigation Management Guidelines should be incorporated to govern expectations and communication with defense counsel.

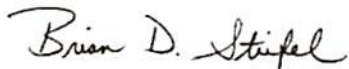
As to internal settlement practices:

- For claims less than and equal to \$15,000- The Liability Adjuster settles the claim and forwards the claim file, along with the settlement release, to the Risk Manager for approval.
- For claims over \$15,000- The Liability Adjuster obtains the Risk Manager and City Attorney's approval; the City Attorney, in turn, presents the claim to the City Council for approval.

**Wrap-up Discussions:**

On August 8<sup>th</sup> Brian Stiefel and Deb Hossli had a call to discuss the results of the audit. A copy of Praxis claim file worksheet has been provided MS. Hossli.

Sincerely,



Brian D. Stiefel, CPCU  
Praxis Claims Consulting  
[Brian@Praxisclaims.com](mailto:Brian@Praxisclaims.com)

cc: ACCEL  
City of Santa Monica

# City of Visalia



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

Final

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

October 11, 2018

Re: ACCEL/City of Visalia Claim File Review 2018

Audit Dates: October 4, 2018

Audit Location: On Site

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

Defense Counsel: Outside Counsel

Files Reviewed: 17 Open and 5 Closed.

Dear Ms. Dunn:

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 you having the files organized and the assistance provided during the file review.

In performing this year's audit I reviewed the 2016 and 2017 audits. I noted that the 2017 report listed some very minor issues that would be more relevant in a primary versus excess audit. One comment deserves mention, *i.e.* the matter of a very high reserve on a death in an ambulance incident (Claim 17-010). Liability was highly questionable and did not take into account causation that would trigger exposure to the City.

This will also acknowledge our wrap up session following the file review and those items we discussed. I provided the material we discussed in a separate message.

This audit only reviewed the Risk Management (RM) claims files. From our interview: Litigation Management is a collaborative process with Risk Management, the City Attorneys Office (CA) and outside counsel. Reserves require City Council approval for adjustments above \$30,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. AIMS 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 expectations.

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**

- The files were generally up to date with good communication between RM Counsel and AIMS.
- Evidence of continuous monitoring of claims activity. Responses from attorneys and City departments are up to date.
- RM recognize exposures and potential risk to ACCEL
- The file documentation has the necessary records, reports and documents to allow the auditor to discern how the case is being handled, both litigated and non-litigated.
- New claim filings were reviewed with compliance with Government Code filing deadlines; appropriate notices and denials were sent out timely.
- The City recently reported two new matters as a precaution to RMA.
- 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.

#### **File Management:**

Files were well organized and contained all the paper/electronic media pertaining to the claim. There were regular updates from Counsel. AIMS provides investigation results and comments on potential liability on claims.

## **Excess Reporting**

ACCEL is receiving timely notifications on potential claims.

## **RECOMMENDATIONS**

- 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.
- Formal tender letters, signed and on letterhead, should be utilized instead of e-mails. These are more effective recovering legal fees and costs later on.
- The RM file would be enhanced with periodic status updates from AIMS where appropriate.
- The (Claim 020) should be monitored closely. It may be a serious injury. As we discussed, it would be our recommendation to check on the reputation of the law firm. If they only take significant cases, then this matter may pose high risk to the City. It doesn't require ACCEL notice at this point unless there is a very serious injury with significant specials or permanent injury. One to watch.
- Next years audit should include a brief review of the AIMS file.
- Brief file notes on information not captured on your Excel Spreadsheet or Counsels litigation reports.

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.

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