



ACCEL
Audit Report 2023

Audits & Materials

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



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

FINAL

Authority for California Cities Excess Liability (ACCEL). BOD- January 17, 2023
c/o Alliant Insurance Services
560 Mission St., 6th Floor
San Francisco, CA 94105

Attn: Conor Boughey
Lorissa Huey
Account Managers

ACCEL

Liability Claims Administration Audit -2023

The enclosed **Audit Reports** are the result of the general/automobile liability audit for the Authority for California Cities Excess Liability (ACCEL) for the 2023 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**FINAL**

ACCEL Liability Claims Administration Audit -2023 Member Summary

2023 Highlights

- *All Members are in general compliance with ACCEL claim handling requirements. New reporting guidelines have prompted additional notices to ACCEL TPA, George Hills Company.*
- GHC as ACCEL TPA continues to provide outstanding claims management.
- Member reportable cases to ACCEL are up (227) from last year (157).
- New onerous ACCEL reporting Guidelines. *This will add significantly to GHC workload. Also, there is a potential for coverage disputes re notice. Should be discussed.*
- Noticeable exposure inflation of older cases in the ACCEL layer. See comments below.
- Settlement *demands* continue with this significant upward trend.
- Introduction of weighted subjective scoring system to the audit process.
- No Member scored lower than 2.2, meaning all are managing claim risk acceptably.
- The City of Bakersfield continues to improve communication between defense counsel and ACCEL.
- New Risk Managers. Staffing changes at the claims handling level.
- Member open claim inventory is up over last year. See chart.
- Generally, very good cooperation between City Attorney Offices and Risk Management. A positive trend over the last several years.
- 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.
- There are a few borderline cases that we have suggested in depth analysis for ACCEL reporting requirements.
- Additional training material has been provided to new RM staff responsible for claim processing.

Preface

The ACCEL audit format is substantially the same as the previous years. We made some minor changes in the Claims Matrix, but these didn't impact any scoring or result in any changes in audit criteria.

Overall, compliance with ACCEL Handling Guidelines has improved over last year. If you recall, two Members were underperforming. That situation has been corrected and both Members are now working above expectations.

Caseloads are trending up over last year. As we discussed, there appears to be a substantial increase in settlement demands. Case settlement evaluations seem likewise to be trending upwards.

While Covid-19 still impacts operations at City Hall, most personnel responsible for claims processing are back working in the office. Most Third-Party Administrators (TPA) adjusters and supervisors are still working remotely. This situation is probably going to be permanent. Along those lines, while speaking with TPA managers, in order to attract qualified adjusters, they usually have to offer remote adjusters to clients.

The details of the individual audits and the most **substantive** information are contained in the Member's Narrative Reports and Claim Matrices. These reports have been provided to the Claims Committee for review before finalizing the Final Audit Report.

The commentary below contains a summation and general comments in the audit criteria pertaining to all Members since processing methodology for claim processing and resolution vary greatly among the Membership. Each Member has their own formal internal guidelines and procedures.

Scoring System

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

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

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

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

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

Audit Focus

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

1. Exposure Recognition

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

2. Claim risk liability to the pool

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

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

Executive Summary

Preliminarily

The 2023 liability claims audit commenced on August 1, 2023, and completed on December 8, 2022.

The audits were performed online and on-site where practical. We provide the Member with the opportunity to select the best option that works for them. Those Members with paper files must be reviewed on site. Generally, the Members being serviced by TPA's are reviewed online with a video wrap up. These sessions usually involved the RM and key staff personnel. The auditor felt it was an important component of the audit process to observe the claim processing operations in person, so on-site was the preferred method.

Each Member was asked to provide a listing of all open claims and current closed claims. We also interviewed key personnel on changes to staff, clerical support and the City Attorney Office (CAO). The auditor then reviewed all the claims and selected the files to be reviewed. We chose files that had potential risk to ACCEL, primarily claims involving public safety, civil rights and EPL claims.

The review was tabulated on an Excel spreadsheet that we named the "Claims Matrix." This contained the data elements for the file review. We made some changes to the form

this year to better capture important elements in the claim handling process. This was noted above.

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

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

Observations/Conclusions

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

Last year, the change of TPA’s at Bakersfield and Salinas has greatly improved underlying claims handling, loss run data tracking and overall performance.

The City of Modesto continues to perform at the *professional* level (4.0). Please recall prior issues from the 2020 and 2021 years.

The City of Ontario changed TPA’s from Carl Warren & Company (CWC) to George Hills Company (GHC). The audit results show some degradation from last year due to the change and ramping up by the new TPA, GHC. Also, the long term Risk Manger has departed.

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

Audit Criteria/Focus

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

1. **Exposure Recognition** - The audit resulted in verification that all cases were reported to GHC. However, there were several cases that we considered “borderline”. On those claims we suggested the Member conduct an in-depth analysis to evaluate exposure. If ACCEL reporting criteria is met, then we advised the Member to report the case. We also identified several problem cases that the Member should do additional workup to determine exposure. These matters were identified on the individual audits and discussed in the wrap up sessions

2. **Risk to Pool** - We did not find any specific claims that fall in this category, but we did point out potential matters in the individual audits. We are primarily concerned with conflicts, application of coverage and potential issues with parties under contract with the Member fulfilling their obligations.
3. **ACCEL/Industry Compliance** - The audit confirms that all Members are in general compliance with ACCEL Guidelines and claim industry standards.

Recall, last year the Cities of Modesto and Salinas were out of compliance. With the changes noted above, both Members are now within ACCEL claim handling expectations.

4. **File Handling** Each Member RM department has a claim file set up for every claim matter filed with the city. Each file has the necessary documents and associated records that we expect to see in a typical public entity *file in the initial claim stage*. This is generally consistent across the board with Members. The level of summaries and analysis *after action on the initial claim* is not consistent across the Membership. The individual audits contain specific recommendations for Members.

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

As in prior years, we continue to see an overuse of informal communication from TPA’s and defense counsel. Typos and non-standard abbreviations degrade file records. While an expeditious method of exchanging information, we often see informal and e-mail strigs as a substitute for regular analysis and summaries.

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

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

Recommendations on file handling are contained in the individual audits.

5. **Reserving Accuracy** –There is no change from the 2022 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 most of the Members, investigations and related analyses are very good. For those Members we have determined to need help, we have provided training material and discussion. We have also advised our availability for "crash courses via Zoom. We observed many claim files that contain no material on alleged facts except those contained on the initial claim form.

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

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

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

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

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

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

GHC introduced a Case Management Evaluation form for defense counsel several years ago. The continued use helps in case evaluation and keeps the defense counsel on track to articulate defense strategy. **Bakersfield** has continued to improve in this area as we saw a number of these reports in the GHC file although they were superficial.

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

City Attorney staffing changes was noted in the 2021 Audit Report. Overall, these have reflected an improvement in the files, especially the summary and analytical reports.

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

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

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

I have spent considerable time interviewing claim staff during the file reviews. I believe this was very helpful to gain an understanding of the level of experience and technical knowledge of the various claim handlers. This will help me assess trends, point out the needs for improvement and recommend training where the

case may be. The wrap up discussions following the individual audits covered my assessment of overall claims knowledge and experience of the RM staff.

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

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

9. **Diary** - Other than that observation, Member's files 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:

- Focus on developing injury as this drives financial risk and resolution.
- Recognition of the general high inflation value in high exposure claims.
- Continued improvement in risk identification & exposure by early **independent** investigation. Police reports are not evidence and potentially unreliable.
- Periodic summary reports with POA-Plan of Action.
- Recognition that EPL case have very high exposure to defense legal fees, and fee awards to plaintiffs.
- Look for educational opportunities for staff re PE liability.
- Educate staff re exposure recognition on civil rights cases.

Note: I have discussed these recommendations with members staff during the debriefing following the audit. I have also, sent relevant training material as on these topics.

Methodology

A total of 782 (up from 608 last year) were reviewed. Files were selected after reviewing all the open files of the Member's Loss Run. The Member was then provided a listing of selected files for the audit. The sample files were selected by potential risk to the pool: fatalities, cases where there is an exposure to legal fees (primarily civil rights, EPL, law enforcement matters) and potential for significant injury. We selected a number of low exposure claims, non-tort, land use, writs and contract cases to see how these were handled, investigated, resolved, denied, etc. These claims are often co-mingled with covered and non-covered claims that may have an impact on ACCEL and require a coverage position.

Appendix A

Member's cases reportable to RMS:

Anaheim	None
Bakersfield	Three
Burbank	Two
Modesto	Three
Mountain View	None
Monterey	None
Palo Alto	One-Since reported.
Ontario	One
Salinas	One
Santa Cruz	None
Santa Barbara	One
Santa Monica	None
Visalia	Four

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.

Members Open Inventory

1	Bakersfield	269	\$ 13,041,605.00
2	Santa Monica	305	\$ 22,102,697.00
3	Burbank	204	\$ 10,399,361.00
4	Visalia	56	\$ 1,925,750.00
5	Modesto	519	\$ 24,449,208.00
6	Ontario	276	\$ 12,651,162.00
7	Mountin View	75	\$ 1,715,376.00
8	Santa Barbara	90	\$ 2,200,000.00
9	Monterey	46	\$ 1,911,534.00
10	Salinas	157	\$ 3,235,322.22
11	Santa Cruz	63	\$ 5,872,631.73
12	Palo Alto	123	\$ 3,711,967.41
13	Anaheim	504	\$ 15,882,318.00
		2687	\$ 119,098,932.36

Appendix B

<u>MEMBER</u>	<u>FILES REVIEWED</u>	<u>AUDIT LOCATION</u>	<u>CLAIMS ADMINISTRATION</u>
Anaheim	35 Open/Closed/None	On-Site	Self-Administered
Bakersfield	68 Open/Closed	Remote/On-Site	TPA George Hills Company
Burbank	57 Open/Closed	On-Site	Self-Administered
Modesto	77 Open/Closed	Remote	TPA George Hills Company
Mountain View	21 Open/Closed	On-Site	Self-Administered-GHC for Loss Run
Monterey	23 Open/Closed	On-Site	TPA George Hills Company
Ontario	49 Open/Closed	Remote	George Hills Co. Change from CWC
Palo Alto	22 Open/Closed	Remote/On-Site	Self-Administered-GHC for financial only
Salinas	61 Open/Closed	Remote	Carl Warren & Co. (New 7/1/2022)
Santa Cruz	19 Open/2Closed	On-Site	Self-Administered
Santa Barbara	49 Open/Closed	On-Site	Self-Administered
Santa Monica	52 Open/Closed	Remote	Self-Administered
Visalia	26 Open/Closed	On-Site	Self-Administered-AIMS for some BI/PD Claim Handling
RMS	223 Open/Closed	Remote	GHC
Totals	782		

Notes: Overall claim volume up from last year.

Appendix C

Claim Matrix Criteria-Claim Handling Components¹

Factual Development

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

Reserving

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

Litigation Management

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

Liability Assessment

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

¹ What criteria used to complete the “Claims Matrix” Worksheet

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

File Management Claim Data Organization clarity

Diaries

- Timely and up to date and consistent

Notes

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

Data Organization

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

Timely Negotiations

Recognize settlement opportunities

Mediation

Informal settlement discussions (1153 & 1154 EC)

Effectiveness of settlements

Contributions

Appropriateness of Outside /Panel Counsel

Requirement of trial expertise

Specialty nature of claim (EPL/SH Etc.)

Conflicts

Cost benefit overall

Matching defense attorney to plaintiff attorney expertise.

Excess Reporting

Requirement for all layers above Retained Limit

Following reporting requirement guidelines i.e. Injury and reserves

Record of Report

Acknowledgement by Excess Carrier/Program

Coverage issues addressed.

Potential disputes recognized.

END OF PART ONE

Part 2 Third Party Administrator Audit

GHC Liability Claims Administration Audit- 2023

ACCEL Administrator (TPA) – GHC/RMS
Audit Dates: September 20, 2023, to November 6, 2023
Audit Location: Online
Files Reviewed: 223
Supervisor: David Trautz
Primary Claim Handler: Rich Santana
Litigation Manager: Ben Orem

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

Summary: This year David Trautz took over as program supervisor and Rich Santana taking over David's prior role as day-to-day file handler. GHC has maintained overall consistency in all audit components-see attached.

All files are well handled and actively managed/monitored. All audit criteria elements scored at the highest level (4.0). Communication with Members, Member's counsel and file handlers is timely and very good.

Interaction with ACCEL's commercial carriers is exceptional. All requests are dealt with promptly with detailed *insightful* (emphasis added) comments.

Overall, claim efficacy is excellent. There is a high degree of cooperation with Members, Member's CAO, outside counsel offices and underlying staff.

Note: Older ACCEL cases have escalated in value to an alarming degree. We are now seeing demands in the \$20-30M range, well beyond what is considered "Nuclear Verdict Value".

Reportable cases are up this year (223) from last year (157)-ACCEL adopted more stringent reporting guidelines in September 2023.

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

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

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

Recommendations

- None

Comments: I continue to receive positive feedback on the GHC staff from Members claims staff while conducting Member audits, *i.e.*, from Risk Managers, City Attorneys and their respective support staff.

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

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

END OF 2023 ACCEL AUDIT

CITY OF ANAHEIM



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

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

December 26, 2023

Re: ACCEL/City of Anaheim Claim File Review 2023

Audit Dates: December 18, 2023
Audit Location: On Site.
Wrap up: In person.
Claims Administration: In-House
Defense Counsel: In-House/Outside/Panel Counsel
Files Reviewed: 33 Open/Closed

Dear Ms. Matthews

Highlights 2023 Audit

- We instituted a scoring system this year. See below.
- Reports, analyses, and denial letters are very good with detailed comments, discouraging any follow up on unmeritorious claims.
- Audit files were well organized in traditional claims industry fashion.
- All files have notes re claims activity in chronological fashion.
- All files actively managed and up to date.
- Investigations are good with good summary of details.
- Tenders to contractors/vendors are timely and appropriate.
- RM is understaffed given the complexity and volume of claims and suits.
- ACCEL is receiving timely notices of new exposures.

Organization

No change from last year. 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 hard copy paper claim matters in the RM office.

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

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

The City of Anaheim Risk Management Division (RM) has a highly competent claims management/claim resolution program. This system has been in place for many years and served the city well. The RM Division is responsible for a volume of highly complex claims and does an excellent job managing these cases to resolution. The Claims Manager role remains vacant. While efforts have been made to fill the position, it remains open. Patrice Harris is a recently hired Claims Examiner. She is an experienced adjuster in the private sector but is new to public entity claims handling. Litigation and complex cases are being managed and, in many instances, handled directly by the Risk Manager due to staffing issues. Nevertheless, files reflect active management and preservation of City of Anaheim financial resources.

The City of Anaheim does not reject claims per the Government Code but does issue detailed denial letters which are excellently crafted.

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.

Scoring System

We scored your files as follows:

Mode	Median	Average
3	3	2.85

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

New this year is the scoring system. Scores are still based upon subjective criteria in the category headers:

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

Some files do not lend themselves to scoring, particularly HR/EPL cases as they are slow to develop among other issues. New cases usually do not have enough records to form

opinions. Lastly, files with insufficient records are not scored and noted in the Claims Matrix or Narrative Report.

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

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

OBSERVATIONS (FROM HIGHLIGHTS)

- Consistent and active case management.
- Files reflect high competence overall in analysis, insights, and case summaries.
- Files are very well documented and organized for easy review.
- Very good claim resolutions.
- Excellent claim evaluations.
- RM is actively involved in claims supervision and direction.
- Claim resolution is effective and timely as noted via excellent settlements/resolution/dismissals on the closed claims.
- Files are up to date with management notes and summary reports.

TECHNICAL REVIEW (NO CHANGE FROM THE PRIOR YEARS AUDIT)

Investigation:

The files we reviewed were well investigated, documented accordingly with good analysis, and understanding of causation issues. Analysis of important facts, records and related documentation is quite sophisticated. This is due to guidance provided by Tracey Mathews and her skill as an attorney with many years' experiences. In addition, the files also demonstrate that the Claims Manager conducts highly competent investigations, evaluations and analysis for assigned matters.

The addition of an additional claim examiner should further enhance field investigations and overall claims handling. Also, moving to a paperless claims system would streamline claim documentation and record retention.

File Management:

Files were well organized, up to date with financial data separated from other records. Notes are detailed with claimants and attorney contact details.

Supervision

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

Excess Reporting

We reviewed the GHC ACCEL claims files on their RMS. ACCEL is receiving timely notifications and updates on potential and claims. As advised, at the time of the audit, I had already reviewed the GHC ACCEL claim file records.

Recommendations

- Consider additional staff.

Comments

It was a pleasure to review these highly organized well-documented files.

If we can be assistance on any matter within the scope of our work with ACCEL, please feel free to contact me. We appreciate any feedback or comments on this year's audit.

Thank you.

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

Robert E. Powers

Robert E. Powers, ARM
ACCEL Auditor

CITY OF BAKERSFIELD



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

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

August 15, 2023
Sent via E-Mail

Re: ACCEL/City of Bakersfield Claim File Review 2023

Audit Dates: August 5, 2023, to August 9, 2023
Audit Location: Remote via GHC Spear-Tech RMS
Claims Administration: GHC TPA
Defense Counsel: Outside/Panel Counsel
Files Reviewed: 68 open (out of 269). 5 closed claims from the prior year.

Dear Jena:

2023 Audit Highlights

- Files are up to date with coherent records and file notes.
- E-files are much improved from the Sedgwick years. The Conversion Files from Sedgwick are still part of the older files. However, Laura has been updating the file records so most of the files are current. We would expect continued improvement as the older files are closed out, and not part of the current open file inventory.
- Supervision by GHC personnel is consistent and performed on a regular basis.
- Evidence of continued cooperation between Defense Counsel and ACCEL.
- We reviewed the Bakersfield/ACCEL file on reported cases. Overall, records are up to date with current litigation status.
- Reserves are accurate and regularly updated.
- The City's claim program continues to improve after the speed bumps (Sedgwick years) of late 2021, early 2022.
- Claim intake is up from last year - 269 up from 217.
- GHC is providing excellent support and peer review on files.
- We noted several preventable (probably distracted related) MVAs involving the BPD.

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 aided and commentary on your program/claims during the review. We thank her for their help.

The Third-Party Administrator (TPA) transition from Sedgwick to George Hills Company (GHC) is not without some issues. Administration between December 2021 and the takeover by GHC was a holding action with little effort to effectively manage claims. The data transfer has resulted in records being lost, mired/comingled in the *black hole* of the “Conversion File.” GHC has assigned personnel to relabel file records lumped together as Conversion File. “See comments below.

Structure

This audit reviewed the Risk Management (RM) claims files. From our interview: the City Attorney’s Office (CA) handles Litigation Management, oversight and supervision of outside counsel. Outside counsel reports directly to the CAO. The CAO provides monthly updates via regularly scheduled meetings. The CAO *Suit File* updates provided at the meetings are in the RMS file. The CAO provided the auditor the latest updates and these were reviewed during the audit.

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

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

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

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

The ACCEL Audit primary focus is:

- Exposure recognition and reporting to RMS.

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

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

The city has an established claim processing procedures to review incoming claims and suits, manage, and resolve claims.

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

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

The scoring for this audit overall is: 2.55. This number would be higher, but the TPA has no control over file management on litigated files. There were many files above 3.0 and several at the 4.0 level. No file scored less than 2.0. Averages can be deceiving and do not consider the vagaries of claim file management. Also, the files are still weighted down from the Sedgwick years. As stated above, this will eventually play out as these files close.

Files that Laura handles cradle to grave are very good to excellent.

OBSERVATIONS (SOME OF THESE OBSERVATIONS ARE CARRIED OVER FROM LAST YEARS AUDIT)

- We recommend two new files be reported to ACCEL.
- Electronic files scored 4.0.
- Overall, file records are good.
- File handling is consistent, up to date and actively managed.
- Settlements are well documented. These claims are effectively managed.
- I found no unusual claims, risks or negative trends 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 and DC.
- New claim filings were reviewed with compliance with Government Code filing deadlines; appropriate notices and denials were sent out timely.
- Reserving is excellent.
- Evidence of risk transfer and contribution were observed and properly documented.

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. Sedgwick tried to reign in this activity (probably to save costs). 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 adjuster's investigation reports are thorough with very good analysis of facts and liability causation.

File Management:

File maintenance is back on track. We would expect the prior deficiencies to correct themselves as GHC and Laura update the files.

We have had several discussions with Sedgwick management over the years on significant deficiencies in file record maintenance, lack of supervision and support for the adjuster, insufficient experience with public entities and various related issues. **I believe the City of Bakersfield made the right choice in transitioning to a new TPA.**

Supervision

GHC has experienced and capable supervisors on this account. I have experience with these supervisors, and I am impressed with their knowledge and experience. This is reflected in the claim file records. Supervisor's records are noted in each file.

Excess Reporting

Cases that should be reported if not already done so:

- GHC0050198
- GHC0054033
- 402101537AF Ask CAO if this EPL case needs to be reported.

Otherwise, 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.
- GHC is now using the Plan of Action on files. Make sure these are updated on a routine basis

Comments

We noted continued improvement with the change to GHC last year.

If we can be assistance on any matter within the scope of our work with ACCEL, please feel free to contact me. We appreciate any feedback or comments on this year's audit.

Thank you

Very truly yours

Robert E. Powers

Robert E. Powers, ARM
ACCEL Auditor

CITY OF BURBANK



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

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

September 20, 2023

Electronic Transmittal Only

Re: ACCEL/City of Burbank Claim File Review 2023

Audit Date: September 14, 2023
Audit Location: On Site & Remote via USB Drive
Claims Administration: In-House
Defense Counsel: In-House
Files Reviewed 57 Open /Closed

Dear Alvaro:

Highlights 2023 Audit

- Burbank claim management has earned my **Professionally Managed** designation.
- Marlene Kim is now the Senior Administrative Analyst.
- Cooperation between the City Attorney's Office (CAO), Risk Management (RM) and the Departments is very good.
- Claim files are well handled, up to date and contain very good analyses.
- CAO analyses are excellent. These are mostly mature files with City Council briefs.
- Development of injury details are very good.
- Case summaries are thorough and well written.
- RM has good procedures in place for processing and evaluating liability claims.
- Loss reserves are accurate and reflect exposure.
- We provided some additional training material to staff and discussed general claim handling and procedures.
- Your office is now the ACCEL Board of Directors representative.

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 this report. I greatly

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

Prior audits did not identify any notable exceptions, trends or concerns in the way the RM administers its liability risk program. We do note that cooperation and interaction between the CAO, RM Office and Departments (especially the Police Department) continues to improve over past years. Staff describes cooperation as very good to excellent.

Structure

This audit only reviewed the Risk Management (RM) claims files. Alvaro Valdez, Assistant Management Services Director, Risk Management & Safety, oversees the liability claims and workers compensation units with Marlene Kim as the Senior Liability Analyst. The City Attorney Office (CAO) is responsible for litigation management, reserve adjustments on litigated matters and case evaluation for the City Counsel. The City Attorney's Office also resolves claims and suits, negotiates settlements, and obtains releases and other closings documents. RM handles new matters, investigates, and sets reserves on non-litigated cases and attempts settlements on certain cases deemed appropriate for early resolution.

The claims staff works closely with the City Attorney's office, which acts as the City's defense counsel. There were some changes in CAO staffing since last year's audit. The city will utilize more outside counsel on specialty cases this year. Transparency between the CAO and RM is very good and much improved over the last five years.

Audit Criteria

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Burbank's files are *Professionally* managed, exceeds industry standards and ACCEL's expectations. The designation requires adherence to industry standards, that is, competent claim processing, analyses, documentation, investigation (factual development) and most importantly, a good a transparent working relationship with the CAO and City Departments.

OBSERVATIONS- THESE OBSERVATIONS ARE FROM PREVIOUS YEARS AND STILL APPLICABLE FOR THIS AUDIT.

- Field investigations are very well done with important evidence preserved and documented.
- Claim analyses are very good and detailed.
- The bulk of City claims are slip/trip type accidents.

- Claim files are very well organized along industry customs and practices.
- Excellent department protocols for preserving evidence pre-litigation.
- We note efforts to resolve claims pre-litigation.
- Reserves are generally good and up to date.
- The litigated files have updates on a regular basis. Most CAO reports are very good. Some of the older litigated files should be updated.
- Files reflect good prelitigation contact with claimant attorneys and attempts at early resolution.
- Recommendations from the two prior audits are evident this year.
- RM is now monitoring other potential matters for liability exposure, *i.e.*, Inverse Condemnation, writ actions.

TECHNICAL REVIEW (NOTE: SAME AS LAST YEAR)

Investigation/Claims Intake:

Field investigations along with photographs and other physical evidence was evident in the files I reviewed. Where appropriate, claims were transferred to contractors and other parties. Claims being brought against the City were analyzed to determine applicable legal/risk exposure. Government Claims were analyzed for compliance, timeliness, and sufficiency with the Government Code. Proper notices are being utilized.

File Management:

New this year were electronic files for 2022 and 2023. There were 16 files reviewed in this electronic format. The organization is good and follows industry practices. I made one or two suggestions to Marlene in a follow up message. I recommend that she use file notes and a Plan of Action (POA) on each file. I sent a copy of a form she may wish to use. File notes are very important and add substantially to file records.

The paper files were are well organized in logical fashion and contained all the paper/electronic media we expect to see in a claim file. I scored file management as “exceeds” industry standards and expectations (see Claims matrix) for both paper and electronic files.

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

RM is going to use electronic files and beginning to eliminate the paper files. RM will continue to use *iVos* for financial transactions and Loss Runs.

Supervision:

As stated, Alvaro Valdez will continue to supervise and oversee the liability unit along with his primary duties devoted to the workers compensation program. Evidence of supervision and collaboration was evident in the file records.

Excess Reporting

The reports to ACCEL were timely and contained all the mandatory information that ACCEL requires to be sent to GHC. Due to new ACCEL reporting guidelines we discussed, these two files need to be reported (ACCEL allows us to only use file names and not identify claimants by name):

- 20155-Pending trial
- 23143-New HR/EPL case

RECOMMENDATIONS

- Use of file notes and POA's in each electronic file.
- Consistent labelling of important file records, defense counsel reports, updates, substantive messages, etc.

Comment:

I am available to discuss this report and any related matter. Again, I want to thank the RM staff for the assistance during the file review.

Thank you.

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Robert E. Powers, ARM
ACCEL Auditor

CITY OF MODESTO



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

Christina Alger, Human Resources Director
Derick Holt, Liability Analyst
City of Modesto
1010 10th Street
Modesto, CA 95354

September 21, 2023

Electronic Delivery Only
Sent to: Christina Alger
Derrick Holt

Re:

Re: ACCEL/City of Modesto Claim File Review 2023

Audit Date: September 7, 2023, to September 10, 2023
Audit Location: Online via the GHC CXP System
Claims Administration: **TPA**-George Hills Company
Defense Counsel: City Attorney/Select Panel on some cases.
Files Reviewed¹: 77 Claims-Open/Closed

Dear Christina:

2023 Audit highlights:

- The City of Modesto **continues** with my highest rating designation-*Professionally Managed*.
- All open claims are up to date and fully summarized and analyzed by GHC.
- Litigated files, and some in pre-litigated status, have excellent reports from Mr. Swingle.
- Case volume is up over the previous year.
- GHC has added new file handlers and added bi-lingual adjusters. Work product is still very good.
- Mr. Swingle's reports are usually excellent and contain detailed factual and injury analyses.
- Supervision is regular and consistent.
- Loss reserves are analyzed with a high degree of expertise.
- The files reflect excellent and intuitive liability and exposure analyses.
- Files contain good Plans of Action (POA).
- Mr. Holt's activity is discernable in the claim file. Notes are good.
- Defense reports are very good and regularly updated. Collaboration with GHC is good.
- See expense reserves recommendations below.

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

- ACCEL is adopting more stringent reporting requirements prompting comments below to report new cases.

Preface

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

Structure

The Risk Manager and Risk Management Office reports to the HR Director. The Risk Manager is the ACCEL Board Member. Prior to June 2021 the claims were administered in house. Temporary personnel that were in place through 2020 and part of 2019 departed in October 2021.

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

The (Contract) City Attorney's Office (CAO) handles litigation as well as Litigation Management, oversight, and supervision of outside panel counsel. In the past, outside counsel reported directly to the CAO. While the CAO is responsible for litigation management, we found many examples of direct communication between George Hills and defense counsel office. Counsel Reports are part of the RM file. There appears to be good collaboration between Defense Counsel (DC) and GHC. DC reports are very good to excellent.

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

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

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

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

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

The scoring for this audit overall is: 3.3.

Observations

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

TECHNICAL REVIEW

Investigation:

Litigated files have excellent factual and injury development. Defense counsel's reports are reviewed by the GHC adjuster and independent comments are duly noted via file notes.

Most files have all the necessary elements we would expect to find re investigation, photographs, departmental records, witness summaries and other physical evidence.

File Management:

Overall file management is excellent. The files are updated on a regular basis with important observations on changing circumstances. Reserves changes are justified with rationale. Projected changes are noted via the POA. Financial transactions are logged in quickly and have the necessary supporting documentation, *i.e.*, indexing, Medicare, etc.

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

Supervision

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

Excess Reporting

ACCEL will be adopting stringent reporting requirements starting in October 2023. Accordingly, these cases now require reporting. (ACCEL allows us to only refer to claim numbers. The files are noted on the claims Matrix):

- GHC0060780
- GHC0058988
- GHC0038792

Recommendations

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

Also consider,

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

COMMENT

I am available to discuss any matter or concern raised in this report and provide recommendations. I believe an ongoing dialogue with the city would be more helpful than trying to articulate other concepts for management correction.

Thank you.

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Robert E. Powers, ARM

CITY OF MONTEREY



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

Sent to: king@monterey.org

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

October 5, 2023

sent electronically only.

Re: ACCEL/City of Monterey Claim File Review 2023

Audit Dates: October 3 to October 4, 2023
Audit Location: Online
Claims Administration: George Hills Company.
Defense Counsel: City Attorney/Panel Counsel
Files Reviewed: 23 Open /Closed¹

Dear Ms. King,

2023 Audit Highlight

- The City of Monterey is receiving very good liability claim handling from George Hills Company with an experienced adjuster.
- Overall claim efficacy is 3.1.
- Interaction with the CAO is much improved over past years.
- Investigations are good. Department responses on claim matters are timely.
- Claim analyses are articulate and show the claims handlers reasoning on activity, *i.e.*, liability, reserve recommendations, etc.
- GHC recognizes indemnity opportunities and risk transfer.
- Good Plans of Action (POA) in each file.
- Claim volume is up over past years.
- Files up to date with regular and timely file notes.
- Many slip/trip fall accident with elderly and infirm out of town visitors.
- City PW quick to respond on falling hazards.
- Risk Management actively involved with claim processes. Reflected in file records.

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

Preface

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. GHC adjuster Colleen Ewert has been replaced with Lena Bowen. Lena is a very experienced claim handler which is evident in the files.

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

In performing this year's audit, I reviewed the 2020 through 2022 audits. There are no trends that would cause concerns. This audit confirms overall good file management. The City of Monterey is one of ACCEL'S low risk Members. Although, we have seen a noticeable increase in claim volume. Most claims are trip/fall accidents.

Structure

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

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Monterey files are handled within acceptable industry standards and ACCEL's expectations.

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

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

The scoring for this audit overall is: 3.1.

TECHNICAL REVIEW

Government Claims Filings

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

Investigation: Claim files are very well investigated with field investigation, departmental comments, photographs, department records and other technical material. The adjuster actively comments on potential third-party involvement, notices to other potential tortfeasors with appropriate follow up.

File Management:

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

These records were regularly updated. All files have evidence of active management. Files reflect responsive communication with claimants and internal staff. Files are organized logically and easy to review.

Supervision

The files reflect active collaboration between GHC and RM. Communication is good and on point. The RM reports to the Finance Director. The CAO oversees and has input in the handling of claims since the City Council approves claim settlements above \$25,000. The files reflect evidence of active CAO oversight and collaboration.

Excess Reporting

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

RECOMMENDATIONS

- Continue to collaborate with Defense Counsel and obtain regular updates.
- Focus and develop **injury information** and make it part of the claim file and update periodically. It is our experience that injuries drive the claims processes.

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

Thank you.

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Robert E. Powers, ARM

ACCEL Auditor

**CITY OF
MOUNTAIN
VIEW**



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

[Sent to: derek.rampone@mountainview.gov](mailto:derek.rampone@mountainview.gov)

Derek Rampone, Finance Director
City of Mountain View
500 Castro Street
Mountain View, CA 94039-7540

November 22, 2023

Sent Via E-Mail

Re: ACCEL/City of Mountain View Claim File Review 2023

Audit Dates: November 15, 2023
Audit Location: On Site
Claims Administration: In-House.
Defense Counsel: Inside Staff Counsel
Files Reviewed: 21 Open/Closed¹

Dear Mr. Rampone:

The City of Mountain View continues to be in the top tier of audited ACCEL Members, earning my *professionally managed* designation. This is the sixth year I have reviewed the City's claim files. I have made these comments in each of those years. The staff does an outstanding job organizing and handling the claim files. Special thanks to Angela and Lynette for keeping the files updated with activity, reserves, and future action plans. *Especially helpful are the Risk Management summaries that succinctly capture the gravamen of the claim.*

Highlights 2023 Audit

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

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

Preface

The audit results are mostly identical to the comments from last year's file review. There have been no substantive changes in the GL/Auto claim-handling program this year.

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

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

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

Structure

Organization

The Risk Manager departed recently, and the position is currently not filled. Otherwise, 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 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.

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

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

The scoring for this audit overall is: 3.5

Files that do lend themselves to scoring (usually HR/EPL or new cases) are not factored into the average score as they are not developed enough to evaluate in this subjective system.

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

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

TECHNICAL REVIEW

Government Codes:

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

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

File Documentation/Diary:

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

A properly documented claim file or litigated case, as applicable, should contain at a minimum:

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

The files I reviewed reflect adherence to these Commonly Accepted Claims Industry Practices (CACIP).

Investigation

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

is very good. Investigations include pictures and technical details from the involved department. Police reports are part of the claim file.

File Management

Files were very well organized and contained all the paper media pertaining to the claim. Angela Apitz regularly updates the files with a status sheet. 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

CAO 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 timely.

RECOMMENDATIONS

None

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, ARM

ACCEL Auditor

CITY OF ONTARIO



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

Jeanette Chavez, ACCEL Board Member
Assistant Human Resources/Risk Management Director
City of Ontario
303 East "B" Street
Ontario, CA 91764

Sept 28, 2023

Sent via E-Mail

RE: CITY OF ONTARIO CLAIM FILE REVIEW

Audit Dates: September 13, 2023, to September 17, 2023
Audit Location: Remote Audit-GHC RMS
Files Audited: 49 Open/Closed

Dear Mrs. Chavez:

Note: Comments and observations below should be viewed considering the change of Third-Party Administrators (CWC to GHC).

Most of the observations are attributed to the concerns stemming from the handling issues from the prior TPA. Current TPA is still in the process of correcting prior deficiencies.

We would expect improvement in all areas as the year develops. I review GHC on other accounts and find their work product, generally, to be very good.

Highlights 2023 Audit

- Change of Third Part Administrator (TPA) (CWC to GHC) has resulted in some transition continuity issues. See below.
- Claim volume is up over last year.
- The data base of claim files still needs some "clean up".
- New file handlers still getting up to speed on some files.
- Cases flagged on the Claim Matrix need attention.
- Defense attorneys are slow to respond for updates from TPA.
- A number of files need reserve adjustments.
- The older CWC files are difficult to search for important records.
- File document labelling could be better.
- Lots of typing errors created confusion in some records.
- ACCEL is going to establish new reporting guidelines resulting in cases that now need initial reports.
- I would expect, as the year develops, we will see better files records and notes.

- Noted the items we discussed in the wrap up.

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

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

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

Structure

The city now utilizes George Hills Company (GHC) for claims processing, investigation, reserving, most settlements and other overall handling. The city uses outside panel counsel for litigation. GHC role is to interface with defense counsel to update the file and participate in most settlements. The TPA sets reserves. The RM has \$25,000 settlement authority with a stair step up to the Assistant HR/Risk Management Director, Executive HR/Risk Management Director and City Manager. Cases over \$150,000 require City Council approval.

GHC Claims staff:

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

The Risk Management Department monitors claims activity as evident in the GHC files.

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Ontario claim files meet industry standards and ACCEL's expectations. Some improvement is warranted as the new TPA

ramps up. The process of reviewing new claims, determination if ACCEL reporting is required, reserving and appropriate file documentation was generally evident in the files..

I reviewed 49 files. I reviewed the description and reserves in all the open files to select those files that could possibly hit my “radar” (mostly police, civil rights and EPL). These were evaluated for inclusion in my selection of files to be reviewed.

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

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

The scoring for this audit overall is: 2.5

OBSERVATIONS

- From our perspective, defense counsel is taking the lead on litigation strategy. This is due to the adjusters not articulating a clear POA. See recommendations.
- Caseloads are up this year.
- File notes are not as good as last year.
- Files are reasonably up to date. Some files need reserve adjustments.
- The City of Ontario is receiving excellent legal representation. However, some attorneys are slow to requests from TPA. The defense attorneys are seasoned professionals with trial experience.
- There are a few looming large exposure cases.

TECHNICAL REVIEW

The attached Claims Matrix has comments on the technical aspect required in the audit. Generally, all the file records that ACCEL requires are evident.

Investigation:

The file investigations are generally good. However, as noted, the records are lumped as ‘Conversion Files’ so the investigations (from CWC) are not in logical order and not easily accessible.

File Management:

Generally good and what we would expect from the city’s TPA. This follows standard industry standards. The e-file records are generally good. All the necessary records are present, but some file notes are perfunctory and lacking in independent quality analysis (called “top sheeting”) -same as last year.

We note many typos that are confusing to decrypt.

Supervision

The files reflect active supervision by GHC. Supervision appears regular and appropriate. I would like to see more point-by-point review and specific recommendations to the primary file handler **that moves the file forward**. Active RM claim management is reflected in files.

Excess Reporting

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

- Case 3008264

RECOMMENDATIONS

Interestingly, I made these recommendations last year and they are still applicable this year.

- GHC should follow up on the comments in the Claims Matrix
- The files should reflect proactive case management.
- 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.
- A POA in every file.
- More in-depth investigations and summaries. Independent analysis of facts and official reports.
- Update files on current activity.
- File notes that “pull together” loose ends.
- The claim file should speak for itself. That is, representative of professional claims management.

(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 **detailed** Plan of Action (POA) comment re resolution, *i.e.* trial, settlement, procedural dismissal, etc., or even “still developing a plan”. The current POA’s lack substance.

Otherwise, we have no other recommendations.

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

Robert E. Powers, ARM
ACCEL Auditor

CITY OF PALO ALTO



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

Sent to Sandra.Blanch@CityofPaloAlto.org

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

November 22, 2023

Electronic Transmission Only

Re: ACCEL/City of Palo Alto Claim File Review 2023

Audit Dates: November 15, 2023
Audit Location: On-Line/On-site
Claims Administration: In-House/GHC for financial record keeping only.
Defense Counsel: Inside/Outside Counsel
Files Reviewed: 22 Open / Closed

Dear Sandra,

I was only able to review a limited number of records in the selected audit files. As you are aware, George Hills Company (GHC) only records financial transactions. Claim records are housed in the **City Law** database. Tricia planned for computer access, but, unfortunately, this was not available for the audit. Tricia sat with me, and I was able to review enough records to satisfy minimum audit requirements.

Of the files selected, I was able to review claims reported to ACCEL. Those files were well documented from claim inception to current activity. I provided Tricia with the new reporting guidelines. This will increase the number of cases that must be reported to ACCEL.

Accordingly, many of the categories listed below do not have enough files records to comment on.

Tricia advised that the City of Palo Alto (COPA) is considering an updated RMS which would be a major improvement over **City Law**. That RMS isn't structured for typical public entity claim processing, record keeping etc. Since COPA is handling most claims in house, a more robust system would be a major improvement over **City Law**.

While file records are probably acceptable from an internal perspective, they are inadequate for auditing purposes. We hope to see improvement with a new system.

If the City of Palo Alto does acquire a traditional claim system, I would recommend that the file records are set up and maintained along traditional claim industry standards. I would be glad to assist the COPA in that regard.

Highlights 2023 Audit

- Claims are handled in an acceptable manner.
- Files are up to date.
- Reserve structure captures liability risk.
- No concerns or negative trends
-

Preface

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

In performing this year's audit, I reviewed prior audits to determine trends and/or changes over that time. There were no changes or negative trends. Handling guidelines are the same, except that the city is not utilizing George Hills Company (GHC) on any 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. Bodily Injury and PD claims are handled in house with GHC maintain financial transactions only. The city uses outside panel counsel for most cases. A new Chief Assistant City Attorney is now on board. Payment recommendations require City Council approval for settlements above \$35,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements, and obtains the releases and other closings documents.

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Palo Alto's files are handled in an acceptable manner. This conclusion is based on the *limited records* reviewed during the audit, the financial records maintained by GHC and the ACCEL files maintained by GHC as TPA for ACCEL.

OBSERVATION

Please see the above note. We were only able to verify that there were no ACCEL exposures that needed to be reported.

TECHNICAL REVIEW

Investigation: Based upon the limited records available for this audit, it appears that claims being brought against the City were investigated to a *limited degree*¹, analyzed to determine applicable legal/risk exposure. Government claims appear to be handled properly.

File Management:

See above note.

Supervision

The CAO oversees the in-house claims handling program. Again, few records were available for this audit. The e-mails, that I was unable to view, probably had the interaction with CAO staff, but without access, I am not able to comment any further.

Excess Reporting

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

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 complete access and would enable us to perform a more in-depth analyses of claim handling.
- I would recommend summary reports that bring the loose ends of the files together on a periodic basis..
- I am enclosing a claim handling checklist of traditional commonly accepted industry standards for your review.

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

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

Robert E. Powers

Robert E. Powers, ARM
ACCEL Auditor

Note
See the two exhibits attached

¹ Based upon limited records available for review.

CITY OF SALINAS



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

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

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

October 27, 2023

Re: ACCEL/City of Salinas Claim File Review 2023

Audit Dates: October 9th to 11th, 2023
Audit Location: Remote via Carl Warren & Company FHE System
Claims Administration: Carl Warren & Company, Inc.
Defense Counsel: Inside/Outside Panel Counsel
Files Reviewed: 61 Files

Dear Ms. Combs,

Audit Highlights 2023

- Overall claim efficacy score is 3.14 (see below). Lowest was 2.4 and the median is 3.25.
- Carl Warren & Company is performing above expectations.
- Claim documentation and summaries are very good.
- Supervision is very good with detailed instructions to the handling staff.
- Supervisor and adjuster analyses are very good with supportive reasoning.
- Early recognition of exposure.
- Reserving is good. Financials are up to date.
- Active case management.
- Observed several cases moving to resolution faster than in prior years.
- Files up to date and monitored on a regular basis.
- Detailed loss summaries.
- Good interaction with defense counsel and CAO.
- Files reflect good cooperation with departments.
- Investigations are detailed and timely.
- Plans of Actions are contained in most files.
- Some minor coding errors were noted to Joyce Farley.
- Legacy issues with Sedgwick are winding down as CWC has completed a full year on board.

Preface

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

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

Structure

This audit reviewed the claims files in the Third-Party Administrator (TPA) system called File Handler Enterprise (FHE). No City Attorney files were audited. Risk Management is part of the City Attorney's Office (CAO) administered and overseen by Assistant City Attorney Rhonda Combs. Accordingly, the City Attorney's Office administers claims and litigation management. The Assistant City Attorney actively oversees and supervises Carl Warren & Company who acts as the City's TPA. The CAO handles most litigation in house with a few specialty cases, such as excessive force cases, assigned to outside counsel. We note that the CAO has a vacancy, and some lawsuits are be handled by outside private defense firms. The firms handle other public entities in the area and have good reputations as trial lawyers.

This is an "Excess Audit." The ACCEL Audit its primary focus points are:

- Exposure recognition and reporting to George Hills Company (formerly RMS).
- Claim risk liability to the pool.
- Overall claims handling considering ACCEL's expectations/guidelines.

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the 20233 audit, The City of Salinas claims program *exceed* ACCEL handling guidelines and industry standards.

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

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

The scoring for this audit overall is: 3.14

OBSERVATIONS

(See highlights)

This is the first year we have seen files handled on a consistent basis with good records and generally excellent file documentation. Call out to CWC supervisor Joyce Farley

who has taken “ownership” of the account and provided good industry standard claim management.

TECHNICAL REVIEW

Investigation

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

File Management

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

What we look for:

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

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

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

Supervision

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

I spoke to Joyce after our wrap up. I passed along your comments from our wrap up call.

Excess Reporting

One file probably needs reporting after CWC discusses with ACCEL TPA, GHC.

- 3037163 (ACCEL allow us to only refer to claim numbers and not individual names.

Otherwise, CWC regularly updates the ACCEL file with status and current defense counsel reports. They are responsive and timely with ACCEL status requests.

RECOMMENDATIONS

- I passed along to CWC that government claims with a real property component have a one-year statute for filing.
- Importance of providing monthly litigation updates to your office.

COMMENT

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

Thank you.

Very truly yours,

Robert E. Powers

Robert Powers, ARM

ACCEL Auditor

•

**CITY OF
SANTA
BARBARA**



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

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

October 2, 2023
Sent electronically only.

RE: ACCEL/City of Santa Barbara Claim File Review 2023

Audit Dates: 9/26/2023
Audit Location: On Site/GHC Remote (three files)
Claims Administration: In-House
Defense Counsel: In-House
Files Reviewed: 49 Open/Closed

Dear Mark:

Highlights 2023 Audit

- The City of Santa Barbara claims continue to be professionally managed. My highest rating.
- Overall claim efficacy is **3.36**.
- George Hills Company is handling files on an assignment basis.
- Highly experienced staff notes and analyses are reflected in file records.
- Office claims procedures are highly developed. File investigation records are obtained promptly after claim filing.
- Very good claim exposure recognition.
- Communication between RM, CAO and Departments is excellent.
- File investigations are excellent. Physical evidence preserved and well documented.
- Plan of Action documentation is very good.
- Staff identifies claims for early settlements.
- Report generation and follow up is very good.
- Record keeping is excellent.
- Clearly articulated Plans of Action (POA).
- Department record keeping is excellent. See below.
- Files are updated regularly. Timely reports to ACCEL.

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.

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

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

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

OBSERVATIONS

- The initial set-up and contacts are made timely.
- Claims are evaluated for sufficiency and timeliness.
- I observed many good settlements this year.
- Liability risk analyses on complex matters are very good.
- Files were well documented and contain all the records we expect to see in claim files.
- Cases were pro-actively managed and up to date.
- Injury cases were indexed.
- Injury exposure is recognized and regularly documented.
- Diaries are up to date.
- Files were regularly updated.
- Good file notes and action plans. Articulate and insightful analyses.
- Files were easy to review, and I was able to find important records easily.
- Marissa has advanced understanding of liability issues and understanding of injury potential. This reflects her industry background.
- Cases are flagged for early resolution.

TECHNICAL REVIEW

1. Investigation/Factual Development:

Claim files are very well investigated with field investigation, departmental comments, photographs, department records and other technical material. The adjuster actively comments on potential third-party involvement, notices to other potential tortfeasors with appropriate follow up. The investigation is updated when new information becomes available. Ms. Kahn actively communicates with claimants directly and through their attorneys.

2. File Management:

All files are in electronic format on the city server. Files were well organized and contained all the paper/electronic media pertaining to the claim. Records are consistently updated along industry standards. Government Code filings are processed, evaluated with proper notices. The adjuster will seek CAO input on unusual matters. Important records are properly labelled and easily retrieved. We reviewed two files assigned out to George Hills Company. These are noted on the Claim Matrix.

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

3. Supervision:

The claim adjuster has regular meetings with the Risk Manager to discuss files, proposed handling, reserves etc. The staff also has regular meeting with the City Attorney's Office

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

I noted active supervisor input on files.

4. Excess Reporting

ACCEL has changed some reporting requirements. A copy of the new guidelines was provided. Most HR/EPL cases now require early reporting. Only one new case fit this new criterion. ACCEL only allows us to use file number and not identify claimant by name.

- 22-00000290

Recommendations

None.

Comment:

The City of Santa Barbara is well served by an experienced staff. Marissa Kahn has an excellent understanding of legal liability and causation triggers on claims. The files are well documented and handled effectively. The City of Santa Barbara has earned my highest rating on overall claims handling for the past five years.

I would appreciate any feedback that will assist or enhance the audit process for ACCEL.

Thank you.

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

Robert Powers

Robert E. Powers ARM
ACCEL Auditor

CITY OF SANTA CRUZ



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

Sent to rbrandon@cityofsantacruz.com

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

November 20, 2023

Re: ACCEL/City of Santa Cruz Claim File Review 2023

Audit Dates: November 14, 2023
Audit Location: On Site
Claims Administration: In-House.
Defense Counsel: Inside Counsel (Contract City Attorney)
Files Reviewed: 19 Open/Closed¹

Dear Ross:

Highlights 2023 Audit

- Files up to date and well documented.
- Reserves reflect exposure.
- The one ACCEL case is prepping for trial.
- Files well organized.
- Only a few cases pose any liability risk.
- No changes in RM/CAO structure from last year.
- One case should be reported if suit is filed.

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.

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

Structure

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

The ACCEL Audit primary focus is:

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

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

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

The scoring for this audit overall is: 3.2

Files that do lend themselves to scoring (usually HR/EPL or new cases) are not factored into the average score as they are not developed enough to evaluate in this subjective system.

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

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

The number of files for audit selection is low, thus only 19 cases needed review.

OBSERVATIONS

Observations from the last three audits are still relevant. File records indicate:

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

Investigation

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

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

File Management

(Note: No change from prior years) Files were very well organized and contained all the paper records pertaining to the claim. These records were regularly updated. All files have evidence of active management. Files reflect response communication with claimants and internal staff. Files are organized logically and easy to review. Reserves are not established until the case is actively pursued. Other matters, such as municipal litigation and not subject to ACCEL coverage, are part of the *overall* RM budget.

Supervision

The RM reports to the Finance Director and works closely with the contract City Attorney's Office. The Risk Manger has authority to settle claims up to \$5,000; to \$20,000 with approval of the Finance Director; to \$50,000 with approval of the City Manager. The City Council authorizes settlements greater than \$50,000. The CA oversees litigated claims and has input in the handling of non-litigated claims.

Excess Reporting

- Claim Number² 2023-160 will need reporting due to reserves at \$500K.

RECOMMENDATIONS

None

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

² ACCEL wants claims referenced by file number only.

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 4th Street, Suite 250
Santa Monica, CA 90401

August 31, 2023

Electronic Transmission Only

Re: ACCEL 2023 Liability Claims Audit

Audit Dates: August 24th, 2023, to August 27th, 2023
Audit Location: Remote Via CSM Orgami System
Wrap Up-/Video Conference
Files Reviewed: 52 Open/Closed

Dear Mr. Gordeev:

Highlights 2023 Audit

- Risk management claim files are *professionally* managed, our highest rating.
- Continued excellent case handling by the City Attorneys' Office (CAO) under Deputy City Attorney Kathy Kelly. Case analyses of facts, liability, injury and overall litigation management is exceptional.
- Files are regularly updated with timely status reports.
- Claims and lawsuit resolutions are very good.
- Reserving is excellent. A bit on the high side, but I would not recommend any changes as reserves versus payouts flattens out over time.
- Coordination and collaboration between RM, CAO and city departments is very good. (Especially BBB)
- Review of plaintiff attorney background is highly relevant and adds considerable depth to the claims analysis.
- Files are flagged for early resolution.
- Overall, from cradle to grave, claim and suit handling are outstanding.
- Files were easy to review, organized well.
- CAO analyses are clear and articulate future litigation strategy (plan of action-POA).
- We reviewed many newer cases. Initial handling and investigations are good.
- Claim in take volume is down from last year (open versus open).
- Positive review of newer attorneys in CAO office.

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.

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.

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

The ACCEL Audit primary focus is:

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

This report should be viewed from that perspective.

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 Liability Unit is the same as it has been for the last ten years with no change in duties.

The city is utilizing outside counsel for some matters. CAO in-house attorneys are providing excellent factual detail, liability analysis and injury details. The reports are updated on a regular basis with new developments. I particularly like the reserve rationale for adjustments.

We found no trends that would cause any area of concern; likewise, prior audits did not note any handling deficiencies. One attorney left the CAO Office and was recently replaced.

OBSERVATIONS (SAME AS LAST YEAR).

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

Prior Audit observations are still relevant:

- Files were evaluated for liability exposure, investigated and analyzed for possible resolution. Handling is timely. Good knowledge of Public Entity liability exposures/risk. There is recognition of equitable and contractual liability of other parties.
- ACCEL reporting requirements are recognized.
- Files are updated regularly. Litigated files have status reports from the CAO and outside counsel.
- Reserving is generally good and timely overall.
- Good staff culture, *i.e.* defined roles, motivated staff, communication and knowledge of RM policies. Most staff personnel have been on board for many years.
- Closed files generally contained the necessary records.

TECHNICAL REVIEW

Investigation:

Files were investigated early and contained enough information to evaluate liability for denial or resolution. Field investigations were good, contained pictures and other technical information. The files reflect departmental reports and comments. Third party and contracts were obtained and tendered where applicable. Claim intake and action on government claims is well documented. The files contain pictures and other physical evidence and are clearly labeled.

File Management:

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

Supervision

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

Excess Reporting

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

RECOMMENDATIONS

None.

Again, I thank the RM staff for assistance during the file review.

Thank you.

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Robert E. Powers, ARM

ACCEL Auditor

CITY OF VISALIA



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

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

September 6, 2023

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

Re: ACCEL/City of Visalia Claim File Review 2023

Audit Dates: August 30, 2023

Audit Location: On Site

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

Defense Counsel: Outside Counsel

Files Reviewed: 26 Open/Closed.

Draft

Dear Ms. Dunn:

Audit Highlights 2023

- Most of the comments below are similar to observations from last year's audit.
- Four cases are reportable to ACCEL. One case if suit is filed. See below.
- New Risk Manager for retiring Charlotte Dunn (recent change).
- Case reserves have been updated to match exposure.
- Discussed with Andrew re electronic files and documentation.
- Suggest defense counsel use the DCE attached on selected cases-files that need reporting or updates to ACCEL.

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 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 between Risk

Management, the contract City Attorney's Office (CAO) and long term outside counsel. Reserves require City Council approval for settlements above \$30,000. Outside Counsel receives authority and resolves litigated claims and suits, negotiates settlements and obtains the releases and other closings documents. AIMS, an outside adjusting firm, will negotiate and settle claims assigned to them by RM.

The ACCEL Audit primary focus is:

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

EXECUTIVE SUMMARY, OBSERVATIONS AND RECOMMENDATIONS

Based upon the results of the audit, the City of Visalia's files are competently managed and meet industry standards and ACCEL's guidelines.

Draft

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

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

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

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

The scoring for this audit overall is: 2.60.

OBSERVATIONS (NEW)

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

OBSERVATIONS STILL APPLICABLE FROM PRIOR AUDITS.

- 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

Draft

Investigation:

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

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

File Management:

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

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

Supervision

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

Excess Reporting - (See items highlighted on the Claims Matrix spreadsheet).

ACCEL will be changing reporting guidelines in October. According, several cases now on the Loss Run need to be reported. ACCEL only allows us to refer to file numbers and not mention claimants by name. These are:

- Files: 35, 63, 20 - These meet the new guidelines.
- Files 21 & 22 (same occurrence)-Since trial is scheduled for the end of September 2023.

- File 19 - This case probably doesn't trigger coverage since it is a wage/salary issue. Reporting to ACCEL will prompt a Reservation of Rights (RoR) from the TPA. However, there may be covered claims within the allegations. Accordingly, reporting is a precaution if this case becomes more involved, i.e., legal expenses and unfavorable rulings on pending motions.

RECOMMENDATIONS

- Suggest defense counsel use the Defense Counsel Evaluation (DCE) form on selected cases. Sample attached.
- This is a general recommendation for all Members. RM staff should focus and develop injury information and make it part of the file and update periodically. It is our experience that injuries drive the claims processes.

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

Draft

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

Very truly yours

R. E. Powers & Company, LLC

Robert E. Powers

Robert E. Powers, ARM
ACCEL Auditor

Attachment:

Defense Counsel Evaluation Form (DCE)

ACCEL Members Narrative Reports