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OFFICE OF THE CITY CLERK
OAKLAND

2013 OCT 10 PM 5: 01

AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Katano Kasaine
Interim Director, DHRM

SUBJECT: Informational Report Regarding the
Administration's Response to the
Workers' Compensation Contract Audit

DATE: October 10, 2013

City Administrator
Approval

Deanna J. Santana Date

10/10/13

COUNCIL DISTRICT: City-wide

RECOMMENDATION

Staff recommends that the Council accept this informational report regarding the Administration's response to the Workers' Compensation Contract Audit.

EXECUTIVE SUMMARY

On October 1, 2013, the Office of the City Auditor released their report on the Workers' Compensation Administration Performance Audit: FY 2007-08 through 2010-11. The Audit Report made several recommendations stemming from findings made in the course of the audit process. The Administration generally agrees with the majority of the findings contained in the body of the Audit Report and finds that the recommendations are reasonable and consistent with good business practices. The scope of the Audit goes back multiple years, identifying deficiencies that span decades and multiple administrations.

The Administration is in agreement with the final recommendations of the Audit and has already undertaken actions to implement, even before the audit was finalized. For example, the Administration has:

- Required City department directors and top City administrators receive ethics training consistent with the training required of elected officials, including education about City and state gift laws, limits and reporting requirements. Results are posted on the City's website.
- Implemented a project fund within the City's Accounts Payable system that will be used for miscellaneous Workers' Compensation expenditures not associated with a specific Workers' Compensation claim.

Item: _____
Finance and Management Committee
October 22, 2013

- Ensured that this project fund is subject to the City's internal Accounts Payable processing requirements.
- Required that any new service provided by the third-party administrator of the Workers' Compensation Program that is not specifically related to claims will require a contract amendment and expenditure authorization.
- Required that future contracts with a third-party administrator will identify all expected contract costs subject to City Council approval.

Although there may be some difference of interpretation regarding some of the issues identified during this Audit, the Administration generally agrees with the findings and recommendations. We have taken steps to immediately implement the stated changes. The Administration's response to the Auditor's Report is attached for informational purposes of the Council.

BACKGROUND/LEGISLATIVE HISTORY

The Office of the City Auditor engaged in an eighteen month review related to the administration of the Workers' Compensation Third Party Administration contract. Risk and Benefits Division staff worked closely with the Auditor's staff, providing considerable information and access to documents and records and directed the City's Third Party Administrator to cooperate fully with the Auditor's inquiry. After a lengthy process, which included multiple discussions, responses to questions and explanation of industry processes, the Auditor issued a report that identified multiple findings and recommendations. The Auditor's final report (attached) was issued and published on October 1, 2013.

ANALYSIS

The Auditor's Report made several findings regarding the administration of the Workers' Compensation Program, which resulted in multiple recommendations. While the Administration does not fully agree with the "factual findings" of the Auditor's Office, we have taken steps to implement changes and are moving forward to fully implement all the recommendations. We will be in full compliance well before the stipulated compliance dates contained in the conclusion of the Auditor's report. For example, the Administration has:

- Required City department directors and top City administrators receive ethics training consistent with the training required of elected officials, including education about City and state gift laws, limits and reporting requirements. Results are posted on the City's website.
- Implemented a project fund within the City's Accounts Payable system that will be used for miscellaneous Workers' Compensation expenditures not associated with a specific Workers' Compensation claim.

Item: _____

Finance & Management Committee

October 22, 2013

- Ensured that this project fund is subject to the City's internal Accounts Payable processing requirements.
- Required that any new service provided by the third-party administrator of the Workers' Compensation Program that is not specifically related to claims will require a contract amendment and expenditure authorization.
- Required that future contracts with a third-party administrator will identify all expected contract costs subject to City Council approval.

We look forward to improving the program administration through implementation of the Auditor's recommendations.

PUBLIC OUTREACH/INTEREST

This item did not require any additional public outreach other than the required posting on the City's website.

COORDINATION

This informational report has been reviewed by the City Attorney's Office and the Budget Office.

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic opportunities associated with this report.

Environmental: There are no environmental opportunities associated with this report.

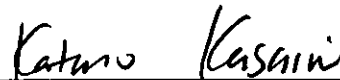
Social Equity: There are no social equity opportunities associated with this report.

CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Deborah Grant, Risk Manager, at (510) 238-7165.

Respectfully submitted,



Katano Kasaine
Interim Director
Department of Human Resources Management

Prepared by:
Deborah Grant, Risk Manager
Risk and Benefits Division

Attachment

Attachment A – Workers' Compensation Administration Performance Audit: FY 2007-08 through 2010-11 (October 1, 2013)

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Finance & Management Committee
October 22, 2013

**City of Oakland
Office of the City Auditor**

October 1, 2013

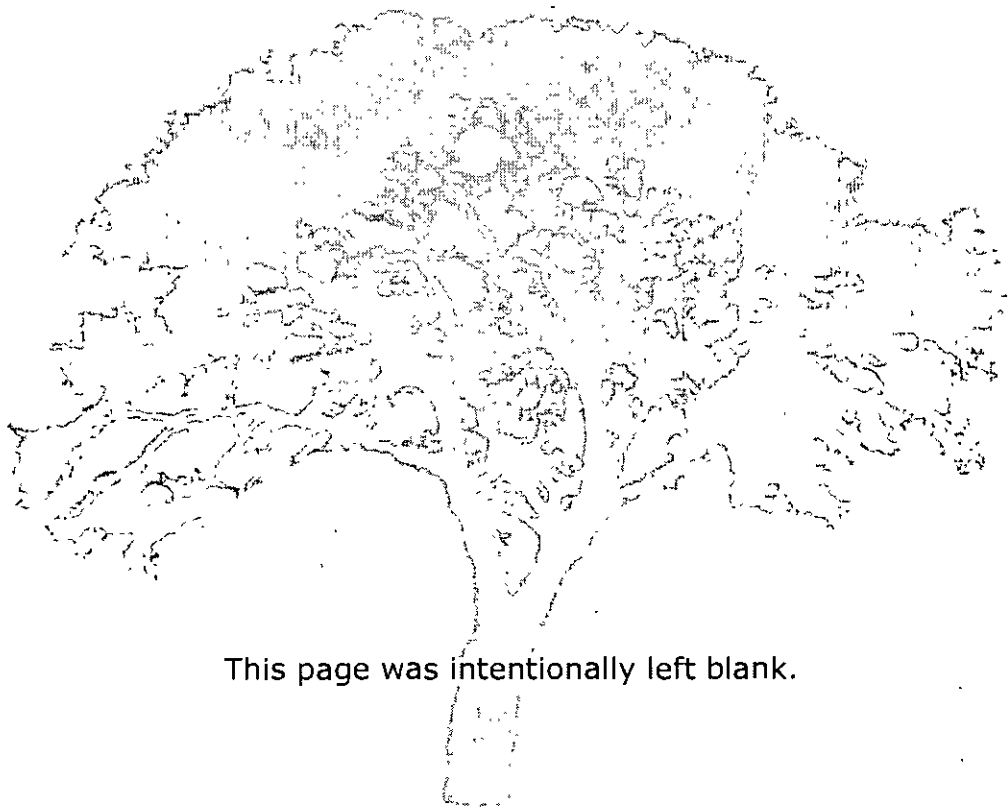
Workers' Compensation Administration
Performance Audit:
FY 2007-08 Through 2010-11

The City lacked controls over some parts of its workers' compensation program, allowing the Risk Division to spend \$10 million over the approved contract amount, accept vendor gifts, and make inappropriate purchases.



City Auditor
Courtney A. Ruby, CPA, CFE

PERFORMANCE AUDIT



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CITY OF OAKLAND



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October 1, 2013

OFFICE OF THE MAYOR
HONORABLE CITY COUNCIL
CITY ADMINISTRATOR
CITIZENS OF OAKLAND
OAKLAND, CALIFORNIA

RE: Workers' Compensation Administration Performance Audit

Dear Mayor Quan, President Kernighan, Members of the City Council, City Administrator Santana, and Oakland Citizens:

Workers' compensation is a necessary cost to any organization. With the City spending more than \$22 million annually for workers' compensation claims and related expenses, the City has a responsibility to our taxpayers to manage this process with the utmost integrity and transparency.

Although workers' compensation is a highly regulated field and regularly audited for compliance with state law, this audit was designed to assess the City's management of the workers' compensation Third Party Administration (TPA) contract and to verify that the TPA is complying with the City's contract provisions.

Positively, the audit determined that the City's TPA (JT2) is generally complying with its contracts. However, the audit found significant issues with the City's administration over some parts of its workers' compensation program, including circumventing the City Council's budget authority, failing to provide public transparency and disregarding City policies and ethics rules.

Over a six year period, the audit found:

- The Risk Division spent \$10 million over the authorized maximum contract amount. The City Council authorized the City to spend approximately \$13.8 million under its workers' compensation contract from FY 2007-08 through FY 2012-13; however, the City spent \$23.9 million

- \$8.4 million of the \$10 million has never been reported to the Council or the public. The nature of many transactions was concealed and there was no mechanism for the City to capture and report all services provided and paid for under the contract
- JT2 received an additional \$3 million dollars over its authorized contract amount. This overage included \$ 1.7 million in additional bill review fees paid to JT2 and \$1.3 million in additional contract services by JT2. The audit found the additional fees were valid; however, the City did not follow its contracting process to cover the full cost of bill review fees or to acquire additional services
- Fourteen City staff inappropriately received an estimated \$23,000 in vendor gifts; including payments for hotel rooms, food, wine, spa services, cooking demos, murder mystery entertainment and a tour of the Monterey Bay Aquarium in 2007 and 2008
- The Risk Division made approximately \$1.4 million in inappropriate or questionable purchases through the workers' compensation bank account, including \$1,296,647 to obtain the services of eight individuals to work in City departments and assist with the City's workers' compensation needs

While the City Council is charged with maintaining a balanced budget, the Risk Division's management of workers' compensation expenses and contracts has placed City Councilmembers in the untenable position, where the City Council is accountable for untracked and unchecked costs and yet has no knowledge that the funds are even being spent.

In response to the audit's recommendations, the City Administration has initiated decisive corrective actions to address these significant issues. The Administration's response is included within the audit report.

Effective oversight begins with a clear understanding of the issue at hand. It is my hope that this audit starts a dialog between the City Council and the Administration on how to better safeguard the taxpayers' dollars as it pertains to workers' compensation costs and to ensure that the City Council's authority is not undermined in the future.

Respectfully submitted,



COURTNEY A. RUBY, CPA, CFE
City Auditor

cc Scott Johnson, Assistant City Administrator

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REPORT SUMMARY

WORKERS' COMPENSATION ADMINISTRATION PERFORMANCE AUDIT: FY 2007-08 THROUGH FY 2010-11

OVERVIEW

The audit found the City lacked controls over some parts of its workers' compensation program, allowing the Risk Division to spend \$10 million over the approved contract amount, accept vendor gifts, and make inappropriate purchases.

Summary

The Office of the City Auditor conducted a performance audit to determine whether or not the Administration effectively managed the workers' compensation Third Party Administration (TPA) contract with JT2 Integrated Resources and whether the TPA complied with contract provisions between fiscal year 2007-08 and fiscal year 2010-11.

Audit Findings

The findings from the audit include:

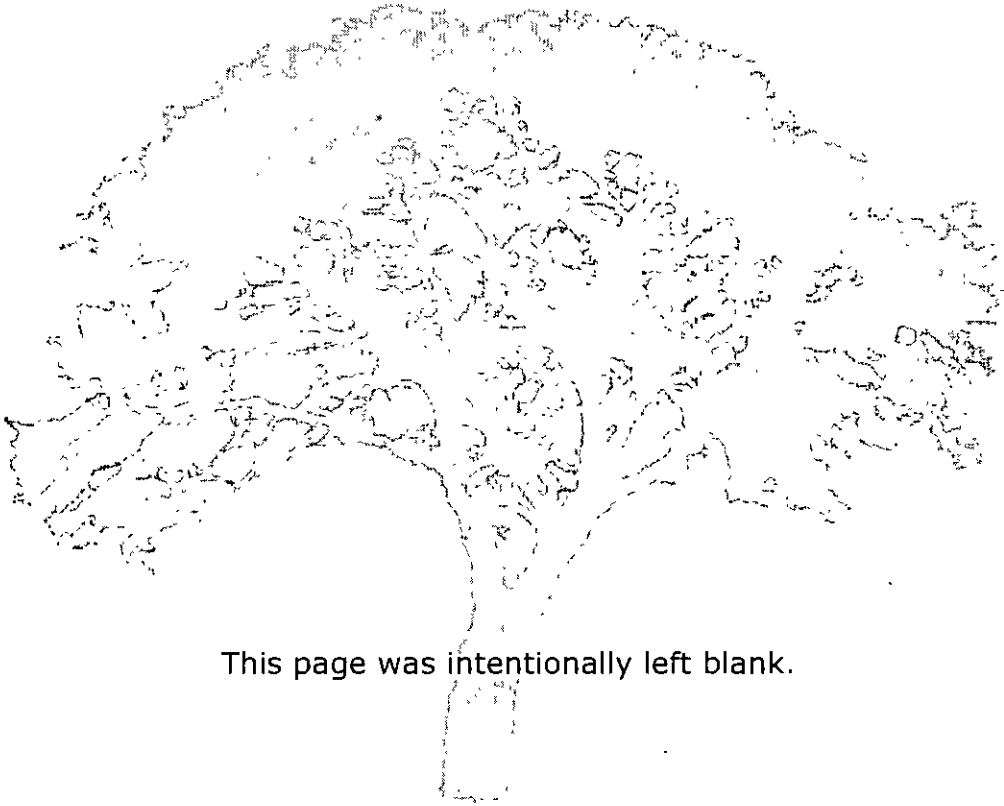
- The Risk Division circumvented City Council budget authority and public transparency
- The Risk Division spent \$10.1 million over the approved contract amount
- Fourteen City staff received an estimated \$23,300 in vendor gifts
- The City lacked sufficient controls over \$8.4 million paid through the City's workers' compensation bank account
- The City made approximately \$1.4 million in inappropriate or questionable purchases through the workers' compensation bank account
- The Risk Division lacked controls over other workers' compensation related processes
- JT2's fraud referral is low and it appears that they may not be referring all potential cases of fraud
- JT2 complied with key provisions of its contract

Key

Recommendations

To address the audit's findings, the report includes 20 recommendations. Some of the key recommendations are that the Administration should:

- Follow the City's standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses
- Establish a signed agreement or contract amendment for each additional service procured under the workers' compensation program and obtain City Council approval on all amounts spent over the workers' compensation contract amount
- Ensure that all City staff are educated on and comply with City gifting policies and State gift laws, including reporting and gift limits
- Establish and implement written policies and procedures that include appropriate controls over the City's workers' compensation bank account. These policies and procedures should address appropriate segregation of duties, monitoring of expenditures, and reporting of expenditures made through the account
- Work with JT2 to evaluate the adequacy of its process for identifying and investigating suspected fraudulent claims and ensure that JT2 refers suspected fraudulent claims to the District Attorney, regardless of claim payment status
- Require both the Risk Division and JT2 to post the workers' compensation fraud hotline number in an easy-to-find location on their respective websites and any workers' compensation promotional materials that are distributed



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Introduction

The City of Oakland's (City) workers' compensation claim related expenses and contract fees cost the City approximately \$22 to 25 million per year. To manage its workers' compensation claims, the City contracts with JT2 Integrated Resources (JT2) to administer the City's workers' compensation claims and benefits. JT2 has held the City's workers' compensation contract for 12 years; the current contract expired on August 31, 2013. The City authorized an extension of the contract for up to one year. To help ensure effective management of the City's workers' compensation program, contract, and taxpayer resources, the Office of the City Auditor (Office) conducted a performance audit of the City's management of Workers' Compensation Third Party Administration (TPA) and the TPA's contract compliance for fiscal year (FY) 2007-08 through fiscal year 2010-11¹.

Background

The City of Oakland has over 4,600 employees and averages approximately 600 reported workers' compensation claims per year. According to the City Administration (Administration), the City has approximately 995 open workers' compensation claims annually; some claims stay open for more than one year.

The State of California requires all employers to provide workers' compensation benefits to employees who get hurt or sick because of work. Workers' compensation insurance provides six basic benefits: medical care, temporary disability benefits, permanent disability benefits, supplemental job displacement benefits or vocational rehabilitation, and death benefits. Employers have three options for providing workers' compensation coverage - private insurance, the State Compensation Insurance Fund, and self-insurance. A self-insured employer has the option of administering its own workers' compensation claims or contracting with a third party administrator to provide these services.

The City is self-insured and since 1977, has used the services of licensed Third Party Administration firms for the delivery of its workers' compensation benefits. For the past 12 years, JT2 has been the TPA for the City. The first contract was awarded to JT2 in 2001 and the second contract was awarded in 2007. Under each contract, the initial contract period was two years and the City had the option to extend the contract twice for a period of two years under each extension. The City exercised these options and extended each contract by the maximum four years per contract. The current contract expired August 31, 2013. As Exhibit 1 shows, over the last six years, the amount approved to be spent under the City's contract with JT2 was approximately \$13.8 million.

¹ To provide context for the audit, information was obtained for FY 2001-02 through FY 2012-13.

EXHIBIT 1: The City's Workers' Compensation Contracts With JT2

Contract Year	Agreement	Approved Contract Amount ^a
2007-09	Contract was awarded to JT2 based on a competitive process	\$4,222,098
2009-11	Contract Extension	\$4,654,863
2011-13	Contract Extension	\$4,887,606 ^b
Grand Total		\$13,764,567
^a Approved contract amount is the amount approved by the City Council via resolutions and includes a flat service fee, adjusted by an annual Consumer Price Index (CPI) increase, and a 3% contract compliance fee ^b This amount was projected to include a 5% CPI adjustment to the prior period contract amount Source: City Council resolutions, staff reports, and the City's contracts with JT2		

The City's workers' compensation program is managed by the Risk and Benefits Division (Risk Division), within the Department of Human Resources Management (Human Resources). The Risk Division is responsible for overseeing the City's workers' compensation contract with JT2 and managing a number of loss prevention programs that promote workplace safety, including the Ergonomics Program, Video Display Terminals eyeglass program, web-based safety trainings, annual Employee Health and Wellness Fairs, and annual Workers' Compensation Educational Training Summits.

The workers' compensation field is a highly regulated area and as such, JT2 is audited regularly. The City hires an outside contractor to conduct an annual claims audit. The claims audit reviews a sample of claims for compliance with industry standards and State regulations. The Risk Division uses the annual claims audit as one oversight tool to help ensure JT2's performance. Additionally, JT2's claim management system is audited to ensure system controls are operating effectively to process clients' claims. Because JT2's compliance with industry standards and State laws is annually audited (the annual claims audit), the Office chose not to review workers' compensation claims or claim compliance with State workers' compensation laws.

Objectives, Scope & Methodology

Audit Objectives

The objectives of the audit were to:

- Assess the Administration's management of the workers' compensation TPA contract
- Determine if JT2 is complying with the provisions of its contract

Audit Scope

The scope of the audit includes the City's workers' compensation contracts with JT2 during FY 2007-08 through FY 2010-11. To provide context for the audit, information from FY 2001-02 through FY 2012-13 was also reviewed.

Audit Methodology

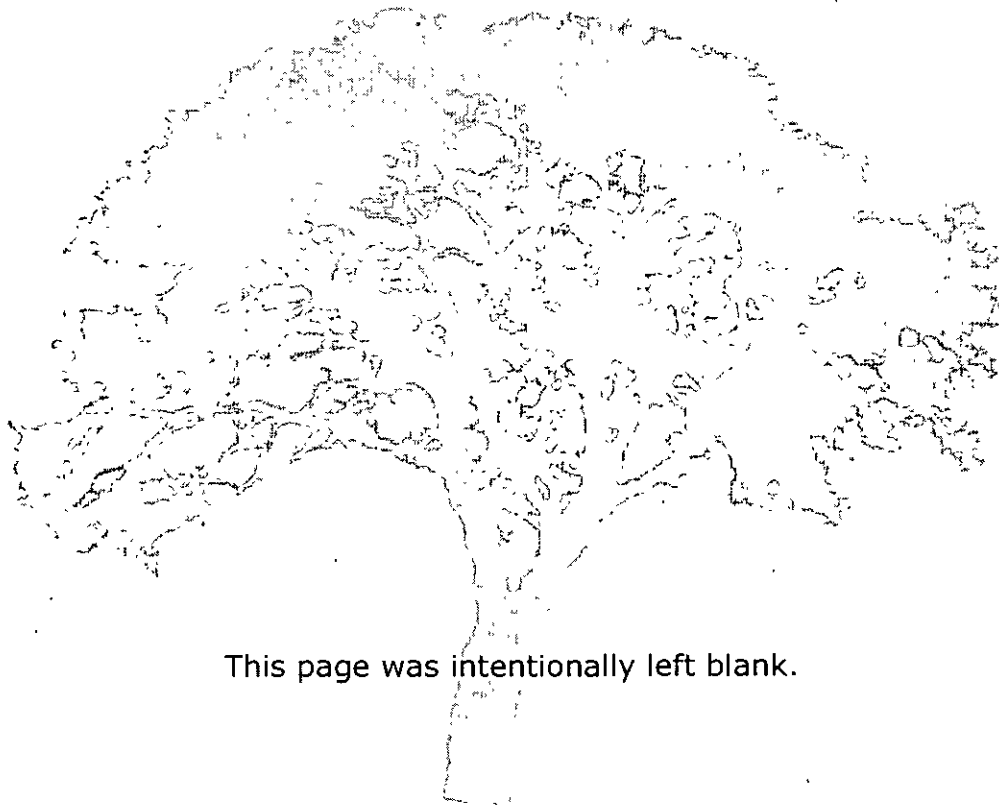
To conduct the audit, the Office:

- Interviewed staff and management from the Risk Division, JT2, and some subcontractors
- Consulted with the City Attorney's Office, the District Attorney, and industry professionals
- Reviewed relevant State and City laws
- Reviewed applicable contracts, staff reports, and memoranda
- Researched workers' compensation benchmarking statistics
- Tested JT2's compliance with its contract provisions, including the accuracy of contract and bill review fee payments, Consumer Price Index (CPI) adjustments, and staffing requirements
- Identified and tested workers' compensation expenditures processed through the workers' compensation bank account². Selected a judgmental sample of these purchases to determine if they were appropriate and in compliance with City policies
- Evaluated internal controls over sample workers' compensation expenditures and expenditure reporting
- Evaluated JT2's workers' compensation fraud hotline logs
- Reviewed Form 700³ filings for select employees for compliance with laws

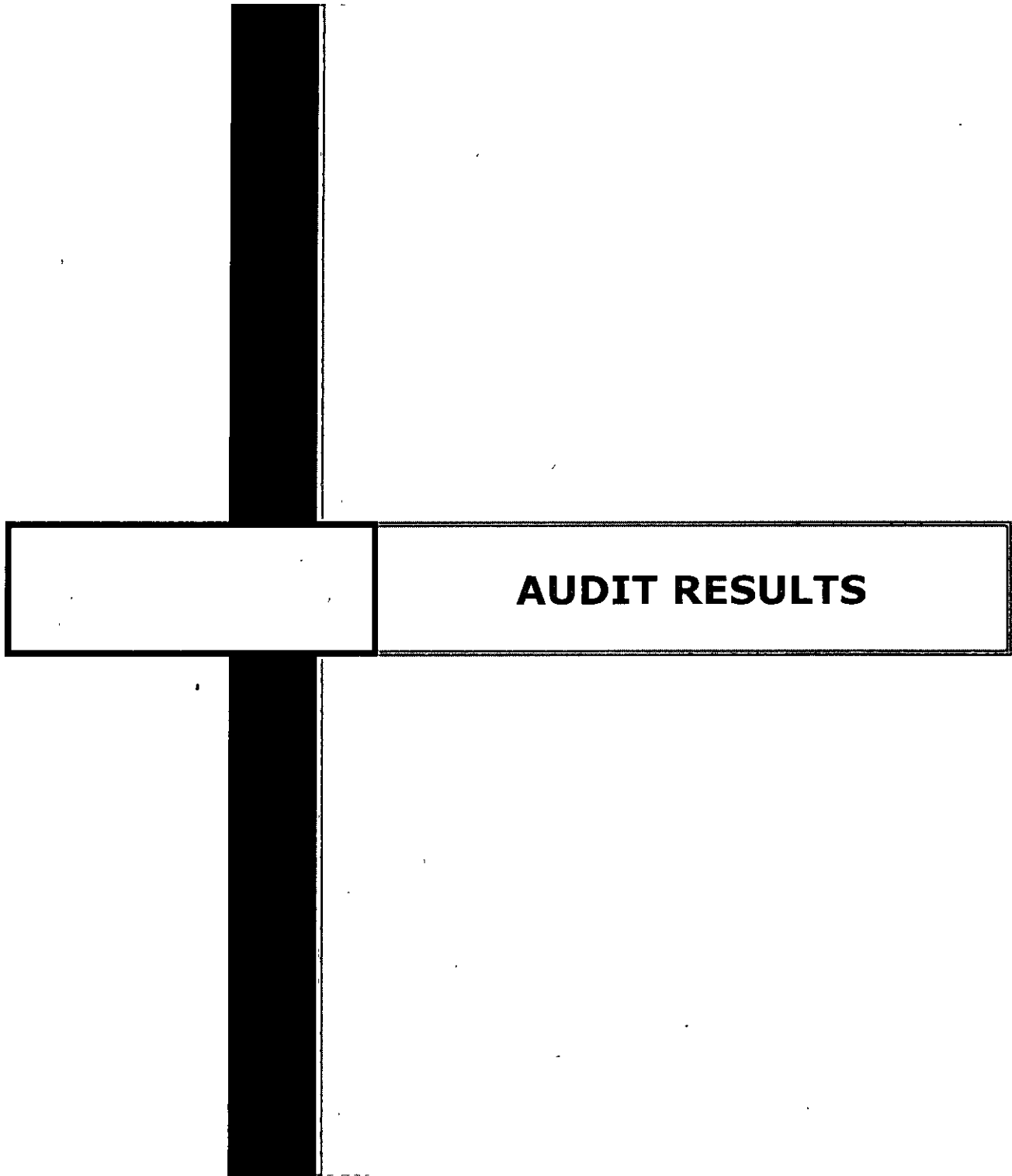
The Office conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the audit's findings and conclusions based on the audit's objectives. We believe that the evidence obtained provides a reasonable basis for the audit's findings and conclusions based on the audit objectives.

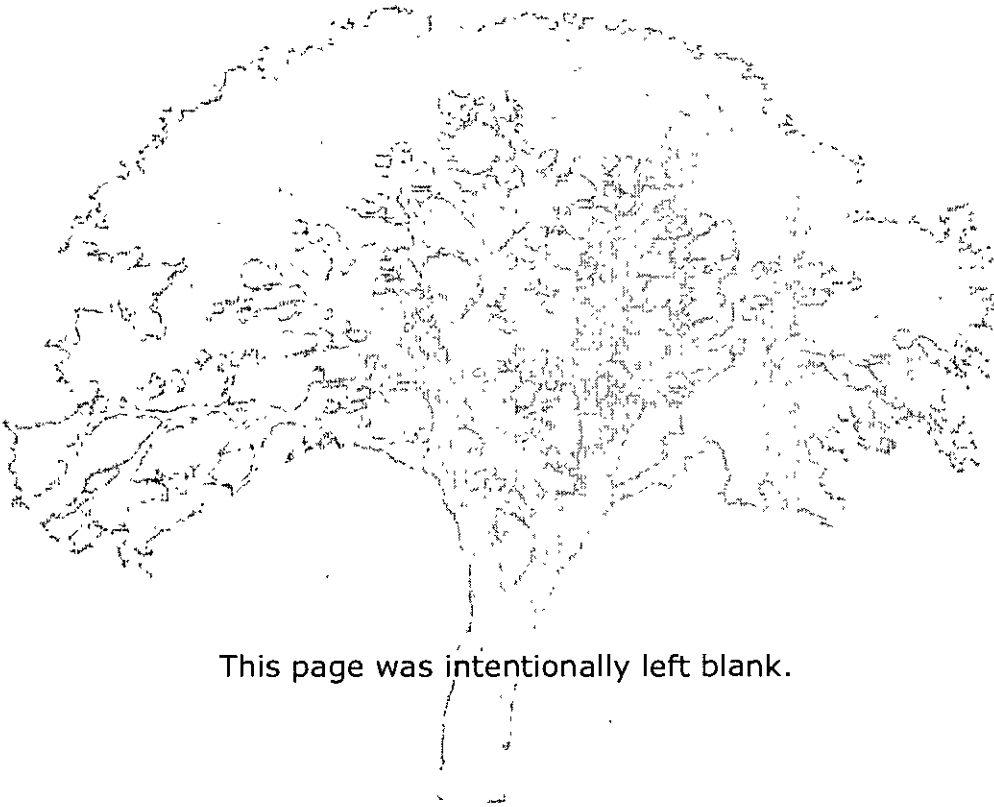
²The workers' compensation bank account was set up by the City's Treasury Department. When checks are cashed, the money is drawn from the City's main checking account.

³Form 700 is the Statement of Economic Interests that the State of California requires designated public employees to file.



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CHAPTER 1

POOR FISCAL MANAGEMENT OF OAKLAND'S WORKERS' COMPENSATION PROGRAM

Summary

The City Council and the public do not have a full picture of the total costs to operate the City's workers' compensation program. The City Council authorized the City to spend approximately \$13.8 million under its workers' compensation contract from FY 2007-08 through FY 2012-13; however, the City spent \$23.9 million. The Risk Division spent \$10.1 million over the maximum authorized contract amount without obtaining the required City Council approval and \$8.4 million in expenditures over the last six years has never been reported to the Council or the public.

Finding 1.1

The Risk Division circumvented the City Council budget authority and public transparency.

Neither the City Council nor the public has a full picture of the City's workers' compensation program costs. The audit found that workers' compensation costs were reported to the City Council in various, separate reports. However, at no time were the total costs of the workers' compensation program reported to the City Council. Further, approximately \$8.4 million in contract fees and non-claim related expenses were never reported to the City Council. See Exhibit 2 below.

EXHIBIT 2: Total Workers' Compensation Program Cost, FY 2007-08 through FY 2012-13

Cost Item	FY 2007-08	FY 2008-09	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	Total
Claim related expenses ⁴	17,742,802	17,899,810	19,833,932	22,546,987	19,420,861	21,948,224 ^a	\$119,392,616
TPA contract fees	2,397,720	2,709,544	2,783,227	2,543,201	2,784,700	2,287,533 ^b	\$15,505,925 ^d
Risk Division expenses ^c	951,911	918,670	896,612	936,774	897,164	918,224 ^b	\$5,519,355
Non-claim expenses ⁵ not reported to Council	1,393,394	1,285,128	1,119,088	1,359,377	1,608,316	1,602,806 ^b	\$8,368,109
Total	\$22,485,827	\$22,813,152	\$24,632,859	\$27,386,339	\$24,711,041	\$26,756,787	\$148,786,005

^a Projected by Risk Division

^b actual through mid-June 2013 based on Oracle and workers' compensation bank account

^c Risk Division's expenses were reported separately to the City Council as part of the City's budget

^d TPA contract fees include annual fiat fees and bill review fees as detailed in Exhibit 3

Annual fee \$12,009,223 + bill review fee \$3,496,702 = Total TPA contract fees \$15,505,925

Source: Oracle and workers' compensation bank account activities, and City Council resolutions

⁴ According to IT2, claim related expenses are expenses tied to specific workers' compensation claims and are reportable to the State. These include disability settlements, claim benefits payments, medical expenses, rehabilitation, investigations, and legal fees.

⁵ According to JT2, non-claim expenses are expenses that cannot be tied to specific workers' compensation claims and are not reportable to the State. Examples include other types of investigations, ergonomic program expenses, and general law office expenses that are not assigned to a specific person's account. Non-claim expenses processed through the City's bank account included temporary employees, office supplies, food, health fair expenses, disability summit expenses, investigations, and ergonomic program expenses, etc.

The Risk Division used the City's workers' compensation bank account, established to pay claim expenses yet operated outside of the City's accounting system, Oracle, to pay for a variety of other expenses and services. As discussed in Chapter 2 of the audit report, the City lacks controls over expenses paid through this account. By using this account to pay for non-claim expenses, the nature of many transactions was concealed and there was no mechanism for the City to capture and report all services provided and paid for under the contract. Thus, \$8.4 million was paid for under the contract but never reported.

Workers' compensation expenditures should be processed as follows:

<u>Workers' Compensation Bank Account</u>	<u>Accounts Payable</u>
<ul style="list-style-type: none"> • Claim related expenses 	<ul style="list-style-type: none"> • Non-claim expenses • TPA contract costs • Risk Division expenses

However, the audit found that the City is processing workers' compensation expenditures as follows:

<u>Workers' Compensation Bank Account</u>	<u>Accounts Payable</u>
<ul style="list-style-type: none"> • Claim related expenses • Non-claim expenses • TPA contract costs • Risk Division expenses 	<ul style="list-style-type: none"> • TPA contract costs • Risk Division expenses

Some of the costs that were paid for through the workers' compensation bank account appear to circumvent the City Council's budget authority. For example, in Finding 2.3, the report discusses that the Risk Division used the workers' compensation bank account to spend approximately ten times its approved office supplies budget. Another example is that the Risk Division decided to pay for a large annual fee through the workers' compensation bank account because the fee was significantly increasing. The annual self-insurance plan assessment fee required by the State of California increased from \$61,371 in 2000 to \$694,368 in 2013. What this means is that the City is paying an annual, large fee that is not part of the City Council's budget balancing process.

Transparency in government is critical to ensure taxpayer funds are spent in the public's view, in compliance with laws and regulations, and economically, effectively, and ethically. Additionally, it is the responsibility of the City Council to appropriate funding during the biannual budget process, ensuring the City is operating a balanced budget that is fiscally responsible to the

needs of the citizenry. It is the auditor's conclusion that not reporting the total cost of the City's workers' compensation program impacts the City's ability to properly manage the program and circumvents the City Council's budget authority.

Recommendation

We recommend that the Administration:

1. Ensure all workers' compensation costs are properly appropriated by the City Council
2. Report the total cost of the City's workers' compensation program to the City Council, Administration, and ultimately, the public
3. Follow the City's standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses

Finding 1.2

The Risk Division circumvented the City Council's contract authority and spent \$10.1 million over the approved contract amount.

The Risk Division overspent the workers' compensation contract without following the City's policies to obtain City Council approval. The contract allowed the City to spend a total of \$13.8 million under its contract with JT2 from FY 2007-08 through FY 2012-13. However, the Risk Division spent \$23.9 million, which is \$10.1 million more than allowed under the contract. See Exhibit 3 below.

EXHIBIT 3: Payments Made under the City's Workers' Compensation Contract, FY 2007-08 through FY 2012-13

Year	Contract annual fee	Contract bill reviews fee	Other payments	Total contract payments	Contract cap	Total amount overspent
FY 2007-08	\$1,832,941	\$564,779	1,393,394	\$3,791,114	\$2,059,560	\$1,731,554
FY 2008-09	\$2,091,219	\$618,325	\$1,285,128	\$3,994,672	\$2,162,538	\$1,832,134
FY 2009-10	\$2,137,761	\$645,466	1,119,088	\$3,902,315	\$4,654,863	\$3,150,030
FY 2010-11	\$1,982,434	\$560,767	\$1,359,377	\$3,902,578	for two years	for two years
FY 2011-12	\$2,162,655	\$622,045	\$1,608,316	\$4,393,016	4,887,606 ^a	\$3,395,749
FY 2012-13	\$1,802,213	\$485,320	\$1,602,806	\$3,890,339	for two years	for two years
Total	\$12,009,223	\$3,496,702	\$8,368,109	\$23,874,034	\$13,764,567	\$10,109,467

^a This amount was projected to include a 5% CPI adjustment to the prior period contract amount

Source: Oracle & workers' compensation bank account activities and City Council resolutions

According to the Risk Division, the contract included provisions for additional services that could be provided under the contract and the Risk Division proceeded with obtaining such services as needed. While the contract does allow the City to obtain additional services, the contract clearly states that the City will need to negotiate terms for additional services. According to the City Attorney's Office, the City needs formal agreements for those services and any amount over the \$13.8 million contract cap required City Council approval.

The Risk Division did not obtain the required City Council approval for additional expenditures over the authorized contract amount nor did it obtain the required written agreements for the additional services provided under the City's workers' compensation contract. As a result, the Risk Division circumvented City Council contracting authority.

Out of the \$10.1 million that was spent over the contract cap, \$1.7 million was paid for contract bill review fees and \$8.4 million was for other services obtained under the contract, such as staffing services, office supplies, food, health fair expenses, educational training summit expenses, investigations, ergonomic program expenses, etc. Bill review fees⁶ are part of the City's workers' compensation contract, however, in this case the contract approved by the Council did not cover the full cost of the bill review fee.

The Risk Division's procurement of additional services under the contract resulted in JT2 receiving an additional \$3 million dollars over its contract amount over six years. The audit did not find any issues with the validity of the additional payments to JT2, however, it is important for the City to follow its contracting processes and to be transparent in how much it is paying its vendors.

Recommendation

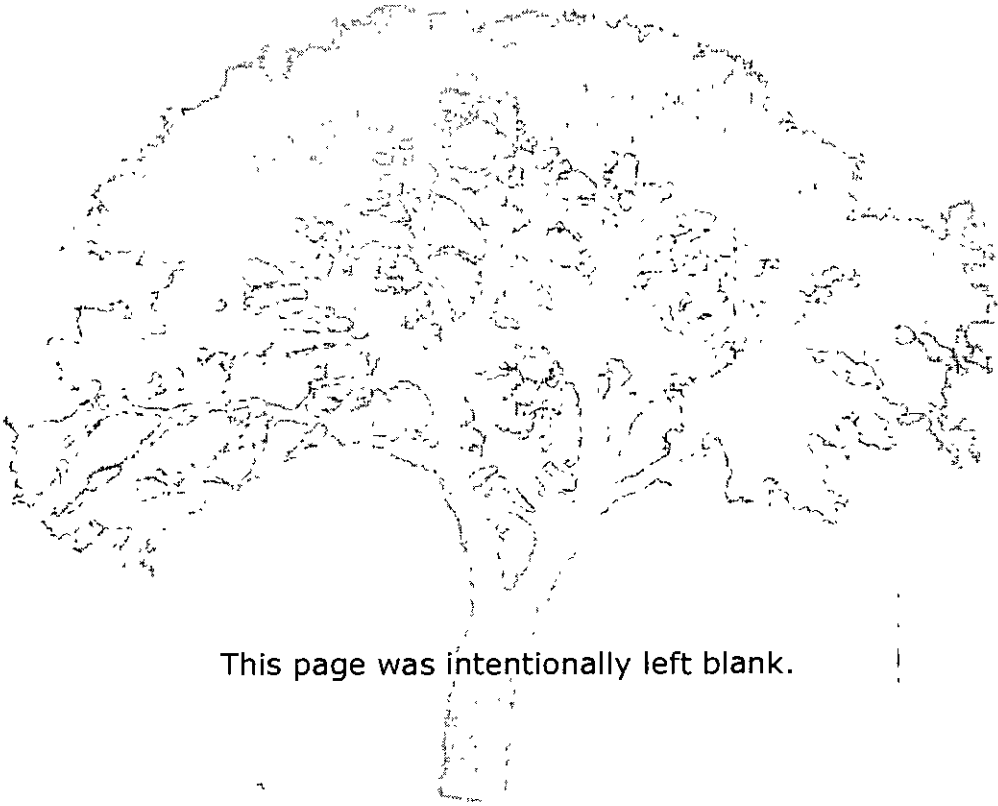
We recommend that the Administration:

4. Establish a signed agreement or contract amendment for each additional service procured under the workers' compensation program
5. Obtain City Council approval on all amounts spent over the workers' compensation contract amount
6. Include all expected contract costs, including bill review fees, in its future workers' compensation contracts

RECOMMENDATIONS: Chapter 1	
We recommend that the Administration:	
Recommendation #1	Ensure all workers' compensation costs are properly appropriated by the City Council
Recommendation #2	Report the total cost of the City's workers' compensation program to the City Council, Administration, and ultimately, the public
Recommendation #3	Follow the City's standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses

⁶ JT2 provides bill review services for all invoices received to ensure doctors are billing their services correctly. JT2 is responsible for reviewing each bill to verify if the correct amount was charged and adjusting the totals according to set standards.

Recommendation #4	Establish a signed agreement or contract amendment for each additional service procured under the workers' compensation program
Recommendation #5	Obtain City Council approval on all amounts spent over the workers' compensation contract amount
Recommendation #6	Include all expected contract costs, including bill review fees, in its future workers' compensation contracts



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CHAPTER 2

LACK OF STRUCTURAL CONTROLS RESULTED IN SOME CITY EMPLOYEES IMPROPERLY RECEIVING GIFTS FROM VENDORS AND THE RISK DIVISION MAKING INAPPROPRIATE OR QUESTIONABLE PURCHASES

Summary

The City's workers' compensation program lacked structural controls over purchases that were processed under the workers' compensation contract but were not claim related payments. Because of the lack of sufficient controls, the audit found some City employees improperly accepted gifts from City vendors. The City did not have adequate controls over \$8.4 million in expenditures processed through the workers' compensation bank account designated for workers' compensation claim related payments. As a result, over \$1 million in inappropriate or questionable purchases were made with taxpayer dollars. The Risk Division also lacked controls over other workers' compensation related processes.

Finding 2.1

Fourteen City staff received an estimated \$23,000 in vendor gifts.

The audit found City directors, managers, and staff inappropriately accepted an estimated total of \$23,300 in vendor gifts in 2007 and 2008, from two City vendors, JT2 and Concentra, during the first two annual educational training summits. It appears the City did not accept gifts as part of its educational training summits in 2009 and 2010. During 2007 and 2008, JT2 provided an estimated \$14,700 in gifts to City employees, and Concentra provided an estimated \$8,600. The gifts included payments for hotel rooms, food, wine, spa services, cooking demos, murder mystery entertainment, and a tour of the Monterey Bay Aquarium. According to JT2, it did not perceive contributing to the educational training summit as a gift to City staff.

The Risk Division, agency directors, managers, and staff from the Finance and Management Agency (FMA), Human Resources, Oakland Police Department (OPD), and the Equal Opportunity Program attended these educational retreats and by not paying for the services, improperly received gifts. However, it is unclear if most of these employees knew they were receiving gifts. The audit could only confirm that the Risk Division knew that its vendors were contributing to the annual educational training summit. Exhibit 4 below shows the breakdown of costs paid by vendors during the City's 2007 and 2008 educational retreats.

EXHIBIT 4: Vendor Gifts at the 2007 and 2008 Educational Training Summits

Gifts by Type	Total Amount Paid by Vendors	Estimated % Spent on City Staff ^a	Estimated Gifts Received by City Staff
2007 Workers' Compensation Educational Training Summit, Napa, CA			
Lodging	\$8,352	54.29%	\$4,534
Spa	\$3,258	48.15%	\$1,569
Food	\$10,776	54.29%	\$5,850
Audio visual	\$582	48.15%	\$280
		Subtotal	\$12,232
2008 Workers' Compensation Educational Training Summit, Monterey, CA			
Lodging & Food	\$11,443	69.95%	\$8,004
Wine	\$315	66.67%	\$210
Tours	\$600	66.67%	\$400
Murder Mystery	\$3,750	66.57%	\$2,500
		Subtotal	\$11,114
Grand Total	\$39,076		\$23,347

Concentra paid approximately \$8,603

JT2 paid approximately \$14,744

^a The audit used the number of overnight stays when estimating the City's percentage for food and lodging and used the number of attendees when estimating the City's percentage for other expenses such as spa services and entertainment. For the 2007 summit, the City paid only \$750 of the entire cost of the retreat. That amount is not included in the calculation of the gift amount received by City staff. For the 2008 summit, the City paid \$16,607; this included the deposit for the hotel, lodging for panelists invited to participate in the retreat, and supplies.

Source: Workers' Compensation Educational Training Summit documentation and vendor invoices

The City of Oakland has clear guidelines and policies that employees should not accept gifts from persons doing business with the City. According to the City of Oakland purchasing guidelines, "Every employee of the City is required to keep free of obligation by refusing to accept entertainment or gifts if offered by vendors or their representatives. Therefore, vendors shall not offer any type of gift or gratuity." Additionally, City policy prohibits City employees from accepting gifts from persons or firms doing business with the City of Oakland.

The Risk Division sponsored its first workers' compensation educational training summit in 2007. According to the Risk Division, the Administration was aware of how the Risk Division funded these retreats and the City only had vendors pay for expenses (such as entertainment) that the City would not cover. Later, the Risk Division stated that it was an accounting error that vendors paid for City staff's food and lodging. However, this error occurred two years in a row. These explanations demonstrate a significant lack of understanding regarding the City's gifting policies.

By accepting gifts from vendors, some employees may also have violated State laws. According to State law, certain government employees are not

allowed to accept over \$390 annually in gifts from a single source and all gifts received need to be reported on the State's Form 700 Schedule D, which is an annual financial interest disclosure required by state law. Nine of the 14 City attendees⁷ – including FMA, OPD, and Human Resources directors – were required to disclose gifts received. However, the audit found that the nine staff likely exceeded the gift limit but none of the staff reported the gifts received during the summits. It is possible that eight of the nine employees who were required to report did not know that vendors paid for their expenses at the summits.

The Risk Division still hosts annual workers' compensation educational training summits; however, for the 2009 and 2010 summits the audit did not find evidence that vendors provided gifts to City staff.

Recommendation

We recommend that the Administration:

7. Ensure that all City staff, in particular, directors, are educated on and comply with City gifting policies and State gift laws including reporting and gift limits
8. Work with the City Clerk's Office to submit a revised Form 700 for 2007 and 2008 for those staff who were required to file
9. Make the City's gifting policy clear in its contracts with vendors

Finding 2.2

The City lacked sufficient controls over \$8.4 million paid through the City's workers' compensation bank account

The City lacked oversight over the Risk Division's use of the City's workers' compensation bank account that was established for workers' compensation claim related payments. As a result, over the last six years the City paid an additional \$8.4 million under its workers' compensation contract for services that were acquired without appropriate accountability, oversight, approval, tracking, or reporting.

The City has purchasing and accounts payable processes that are designed to ensure that all purchases are appropriate, approved, and supported. The City's workers' compensation bank account was set up to allow JT2 to make timely claim related payments. However, the only control over payments made from the account is that the Risk Division approves payments over \$10,000. Any other types of non-claim related expenditures that are processed through the workers' compensation bank account are only subject to minimal control before being paid with City money. In most cases for non-claim expenses, the Risk Division both requested and approved purchases, some of which were found to be an inappropriate use of taxpayer dollars, as discussed in Finding 2.3. The lack of controls over the City's workers' compensation bank account increases the likelihood that taxpayer dollars will not be spent effectively or appropriately.

⁷ In accordance with the California Political Reform Act, the City of Oakland has a conflict of interest code to determine properly designated positions that are required to file the Form 700.

The audit noted the following lack of controls for purchases made through the City's workers' compensation bank account:

- No segregation of duties. The Risk Division approves its own purchases
- No oversight over the appropriateness of expenditures. It appears no City departments monitor the account activities for appropriateness. According to the Controller, all checks made through the workers' compensation bank account are verified for signature accuracy, but how the money is being used is not monitored. As a result, in one instance, the Risk Division erroneously approved duplicate payments to one vendor from both the Accounts Payable process and the workers' compensation bank account. Since there is little monitoring of the workers' compensation bank account, the Risk Division was unaware of the error until the vendor notified it of the duplicate payments and refunded the overpaid amount
- As noted in Findings 1.1 and 1.2, not all purchases that are processed through the workers' compensation bank account are reported to the City Council

The lack of controls over purchases made through the workers' compensation bank account resulted in inappropriate purchases. Additionally, on three occasions, the Risk Division used the workers' compensation bank account to make three monthly contract payments of \$200,000 to JT2, which circumvented the City's standard process for making contract payments through the City's accounting system, Oracle. According to the Risk Division, it decided to process the three contract payments through the workers' compensation bank account to ensure that the payments were timely. Since the City also processed the same monthly contract amounts through the City's accounts payable system, JT2 was paid twice each time then reimbursed the City for the payments made through the workers' compensation bank account once the payment was made through Oracle. The City has an established process to rush payments when needed and the Risk Division should have used this process rather than paying through the workers' compensation bank account. Making contract payments through both the workers' compensation bank account and Oracle is inappropriate and increases the likelihood that duplicate payments will go unnoticed or that timely repayment will not occur. In one instance, JT2 took 1.5 months to pay back the duplicate payment, essentially resulting in a 1.5 month, interest-free loan.

Recommendation

We recommend that the Administration:

10. Establish and implement written policies and procedures that include appropriate controls over the City's workers' compensation bank account. These policies and procedures should address appropriate segregation of duties, monitoring of expenditures, and reporting of expenditures made through the account
11. Limit the Risk Division's use of the City's workers' compensation bank account for claim related expenditures. If non-claim expenditures are to be allowed through the workers' compensation bank account, the Administration should regularly monitor the non-claim expenditures that are made under the workers' compensation program

Finding 2.3

The Risk Division made approximately \$1.4 million in inappropriate or questionable purchases through the workers' compensation bank account.

Based on a tested sample of non-claim expenditures that were made through the City's workers' compensation bank account, the Risk Division made approximately \$1.4 million in inappropriate or questionable purchases under the workers' compensation contract. The audit selected a sample of 158 transactions out of 5,185 to review in detail. The sample was a judgmental selection of expenditures paid to various vendors that appeared questionable (e.g., hotels and restaurants) or that were either frequent or in large amounts. Based on the tested sample, the audit identified \$32,918 that was an inappropriate use of public money and \$1,339,505 to \$1,342,232 that was questionable as to its appropriateness. According to the Risk Division, the workers' compensation bank account has been used as a "go to" account for a number of departments, City management, and staff. Exhibit 5 below lists the inappropriate or questionable expenditures by type and amount that were paid through the City's workers' compensation bank account.

EXHIBIT 5: Sample Results of Inappropriate or Questionable Expenditures, FY 2007-08 through FY 2012-13

Vendor	Items Purchased	Amount
<i>Inappropriate expenditures</i>		
<ul style="list-style-type: none"> Aramark Robert Leitao 	Ongoing, monthly coffee machine rental & coffee purchased for Human Resources because they provide front desk service for the Risk Division	\$16,529
<ul style="list-style-type: none"> Kimball Office 	Office furniture for former FMA director	\$13,267
<ul style="list-style-type: none"> Steve Weiss Music, Inc. The Z Shop Basic Living, LLC 	154 musical instruments for participants of the City's 2010 educational training summit, including rasping frogs, ganzas, leaf pod shakers, Conga drums, gourd huiros	\$1,845
<ul style="list-style-type: none"> La Cucina Italiana Spun Sugar Fountain Café 	Catering for holiday and other staff parties, gingerbread house kits	\$1,182
<ul style="list-style-type: none"> City Bloom Incorporated 	Miscellaneous plants delivered to the Risk Division	\$95
	Subtotal	\$32,918
<i>Questionable expenditures</i>		
<ul style="list-style-type: none"> Staples 	Office supplies including printer cartridges, computer accessories, food, kitchen supplies, cleaning supplies, emergency supplies, batteries, calendars, and furniture. The Risk Division also made office supply purchases through Oracle.	\$25,058
<ul style="list-style-type: none"> Cairdea and other accessory vendors 	Excessive health fair trinkets and staff shirts	\$17,803 to \$20,527
<ul style="list-style-type: none"> JT2 Quality Staffing Office Team 	The Risk Division used the workers' compensation bank account to obtain the services of eight individuals to work in City departments and assist with the City's workers' compensation needs. At least two of the eight individuals were obtained because departments' budgets were cut or positions were not funded. As of June 2013, this has continued as an ongoing expense.	\$1,296,647

	Subtotal	\$1,339,508 to 1,342,232
Grand Total		\$1,372,426 to 1,375,150
Source: City's workers' compensation bank account activities and vendor invoices		

The Risk Division used the workers' compensation bank account to pay for at least \$32,918 in inappropriate expenditures including food and drinks, musical instruments to give to attendees at the workers' compensation educational training summits, furnishing the FMA Director's office with non-ergonomic furniture, and purchasing monthly coffee service for another City division in barter for them to provide front desk service to the Risk Division, a service which is part of the front desk's standard job duties. The Risk Division also used the workers' compensation bank account to pay for \$1,339,505 to \$1,342,232 in questionable expenses, including purchasing excessive health fair trinkets⁸, paying for individuals to work in City departments, and paying for additional office supplies that exceeded the Risk Division's office supplies budget. Out of the \$1,296,647 spent to obtain individuals to work in City departments, the audit identified at least two instances, totaling \$416,172, where there is evidence that a department's budget was cut and the Risk Division purposefully used the workers' compensation bank account to fund eliminated positions.

Exhibit 6 below shows how the Risk Division's use of the workers' compensation bank account to purchase additional office supplies caused them to exceed their approved office supply budget by a total of \$23,222 for FY 2008-09 through FY 2010-11⁹, which is approximately ten times the budget that was approved.

EXHIBIT 6: Risk Division's Total Office Supplies Purchases, FY 2008-09 through 2010-11				
Fiscal Year	Approved Office Supply Budget	Office Supplies Purchased in Oracle	Office Supplies Purchased in Workers' Compensation Bank Account	Amount Spent Over Approved Budget
2008-09	\$800	\$532	\$7,105	\$6,837
2009-10	\$800	\$0	\$8,553	\$7,753
2010-11	\$800	\$32	\$9,400	\$8,632
Grand Total	\$2,400	\$564	\$25,058	\$23,222
Source: Oracle financial reports and workers' compensation bank account purchases				

⁸ During the years of FY 2007-08 through FY 2010-11, the Risk Division ordered excessive trinkets in relation to the total attendance for the employee health fairs. The Risk Division stated that it orders larger quantities of trinkets in order to take advantage of bulk discounts and that it stores leftover trinkets for future health fairs. However, the audit found that the Risk Division's trinkets purchases have not declined over the years. Further, the audit found that overall health fair expenditures are not budgeted, tracked, or approved.

⁹ The Risk Division was only able to work with the City's current vendor Staples to provide the transaction history for FY 2008-09 through FY 2010-11 because the City's prior vendor no longer exists.

Recommendation

We recommend that the Administration:

12. Clarify to the Risk Division what types of purchases are acceptable to be made through the workers' compensation program and ensure all purchases are within the City Council's authorized biannual budget process

Finding 2.4

The Risk Division lacked controls over other workers' compensation processes.

The audit identified two other internal control issues related to purchases made through the City's workers' compensation bank account. The Risk Division did not appropriately budget for or monitor health fair expenditures and the Risk Division did not have appropriate controls over inventory it purchased.

The Risk Division has no set budget for the health fairs. According to the Risk Division, it looks for the most cost effective ways to conduct the health fairs and verbally informs the Administration what they are doing ahead of time so the Administration can redirect them, if needed. The lack of controls over health fair expenditures, including not establishing event budgets, may have contributed to the excessive spending identified in Finding 2.3. Public funds should be managed effectively to ensure efficient, economical, and appropriate use.

The Risk Division did not have appropriate inventory controls over items purchased for the workers' compensation program, including trinkets for the health fairs and office chairs. For example, the Risk Division stores its health fair trinkets in locked storage but has no mechanism to track the usage of the trinkets or to identify if any trinkets go missing. Previously, the Risk Division would purchase ergonomic office chairs in bulk and store them in the Corporate Express warehouse in Newark, CA. However, the Risk Division did not have a mechanism in place to consistently track and manage the chair inventory and did not always know who received the chairs. However, in November 2010 the Risk Division implemented a process to better manage and track its chair inventory.

Recommendation

We recommend that the Administration:

13. Establish written procedures that will implement appropriate controls over the City's health fair spending. These procedures should address appropriate budgeting, tracking, and reporting of health fair expenditures
14. Establish written procedures that will implement appropriate controls over all inventory purchased through the workers' compensation contract, including health fair trinkets, to ensure that all City assets are properly managed and safeguarded

RECOMMENDATIONS: Chapter 2

We recommend that the Administration:

Recommendation #7	Ensure that all City staff, in particular, directors, are educated on and comply with City gifting policies and State gift laws including reporting and gift limits
Recommendation #8	Work with the City Clerk's Office to submit a revised Form 700 for 2007 and 2008 for those staff who were required to file
Recommendation #9	Make City's gifting policy clear in its contracts with vendors
Recommendation #10	Establish and implement written policies and procedures that include appropriate controls over the City's workers' compensation bank account. These policies and procedures should address appropriate segregation of duties, monitoring of expenditures, and reporting of expenditures made through the account
Recommendation #11	Limit the Risk Division's use of the City's workers' compensation bank account for claim related expenditures. If non-claim expenditures are to be allowed through the workers' compensation bank account, the Administration should regularly monitor the non-claim expenditures that are made under the workers' compensation program
Recommendation #12	Clarify to the Risk Division what types of purchases are acceptable to be made through the workers' compensation program and ensure all purchases are within the City Council's authorized biannual budget process
Recommendation #13	Establish written procedures that will implement appropriate controls over the City's health fair spending. These procedures should address appropriate budgeting, tracking, and reporting of health fair expenditures
Recommendation #14	Establish written procedures that will implement appropriate controls over all inventory purchased through the workers' compensation contract, including health fair tickets, to ensure that all City assets are properly managed and safeguarded

Summary

Overall, the audit found that JT2 complied with key provisions of its contract with the City. However, JT2's fraud referral rate is low and it appears they may not be referring all potential cases of fraud. While the City has a workers' compensation hotline for people to call and report potential fraud, the audit found that the hotline phone number is not posted on JT2's or the Risk Division's websites, which has likely impacted the number of fraud tips received.

Finding 3.1

JT2's fraud referral rate is low and it appears they may not be referring all potential cases of fraud.

JT2's fraud referral rate is low and it appears they may not be referring all potential fraud cases to authorities as required. The California Code of Regulations Section 2698.37 requires that government agencies or their TPAs refer suspected fraud to the State's Fraud Division and the District Attorney when the facts and circumstances create a reasonable belief that a person or entity may have committed or is committing insurance fraud. California Insurance Code section 1877.3(b)(1) also states that when the insurer "knows or reasonably believes" a fraud has occurred, it "shall notify the local district attorney's office." The regulation allows government agencies and TPAs to interpret what they consider to be suspected fraud that must be referred to the District Attorney.

JT2 refers fraud to the District Attorney when there is evidence of a fraudulent act (e.g. lying while under oath). According to JT2, it is not fraud if a claim is denied before a benefit payment is made and JT2 does not distinguish between claims denied because of an intentional misrepresentation versus other reasons. This appears to indicate that JT2 is unclear on fraud referral requirements. According to the District Attorney, an intentional misrepresentation with a material expectation, whether paid or not, is still considered criminal fraud and should be referred. Referring claims to the District Attorney increases the potential consequences for those attempting to defraud the City and will likely act as a greater fraud deterrent.

Of the City's 1,893 total claims made from July 1, 2008 to June 30, 2011, JT2 referred a total of 165 cases (or 8.7%) to its Special Investigation Units (SIU)¹⁰ for investigation. Only two claims (or 0.105%) were referred to the District Attorney as suspected to be fraudulent¹¹. According to the Risk Division, of the 165 claims sent for investigations, 68 (or 41%) were denied. According to JT2, it does not distinguish between claims that are denied because of intentional misrepresentation versus other reasons.

¹⁰ The SIUs are hired by insurance companies to conduct civil investigations into claims that are suspected to be fraudulent. SIUs are usually comprised of former law enforcement or claims employees turned investigator who have had additional training. They have no law enforcement powers.

¹¹ JT2 did not provide the referrals data for FY 2007-08 to the Office. Additionally, the second investigation was referred to the DA in July 2011, after the audit scope of July 1, 2008 to June 30, 2011.

JT2's 2011 claims audit conducted by North Bay Associates also noted some issues with JT2's investigations. Specifically, the audit found that of the 39 claims referred for investigation, four claims were not appropriately investigated. The claims audit recommended emphasis on timely and thorough investigations of suspect claims.

In addition, the City's fraud referral rate may be low because neither the Risk Division nor JT2 posted the fraud hotline number – (866) 372-8342 – for reporting workers' compensation fraud tips on their websites, which makes it harder for people to report suspected fraud. A review of JT2's fraud hotline logs found that there were no fraud tips left from October 2010 through June 2012.

Lastly, under the TPA contract, JT2 is required to obtain approval from the Risk Division prior to initiating investigations. It is the auditor's conclusion that including the Risk Division in decisions on how to proceed with fraud investigations increases the risk of collusion occurring between the Risk Division and City workers.

Recommendation

We recommend that the Administration:

15. Work with JT2 to evaluate the adequacy of its process for identifying and investigating suspected fraudulent claims and ensure that JT2 refers suspected fraudulent claims to the District Attorney, regardless of claim payment status
16. Require both the Risk Division and JT2 to post the workers' compensation fraud hotline number in an easy-to-find location on their respective websites and any workers' compensation promotional materials that are distributed
17. Review the costs and benefits of including the Risk Division as decision makers in the TPA's fraud investigation process. If the City decides to keep the Risk Division involved in the decision-making process, it should establish additional procedures and controls

Finding 3.2

JT2 complied with key provisions of its contract.

The audit found that, overall, JT2 complied with the key provisions of its contract with the City. As required by its contract, JT2 is providing claim administration, claim database management, early intervention, transitional work services, managed care services, claim reporting, preferred provider organization network, and bill review services. Annual claims audits conducted by independent consultants found that, in general, JT2 is handling the City's workers' compensation claims in compliance with industry standards and State regulations.

The audit also found that:

- The Risk Division correctly paid bill review fees to JT2 during FY 2008-09 and FY 2009-10. There was a minor overpayment of \$906 during FY 2010-11. According to JT2, they are in the process of issuing the City a refund of \$906

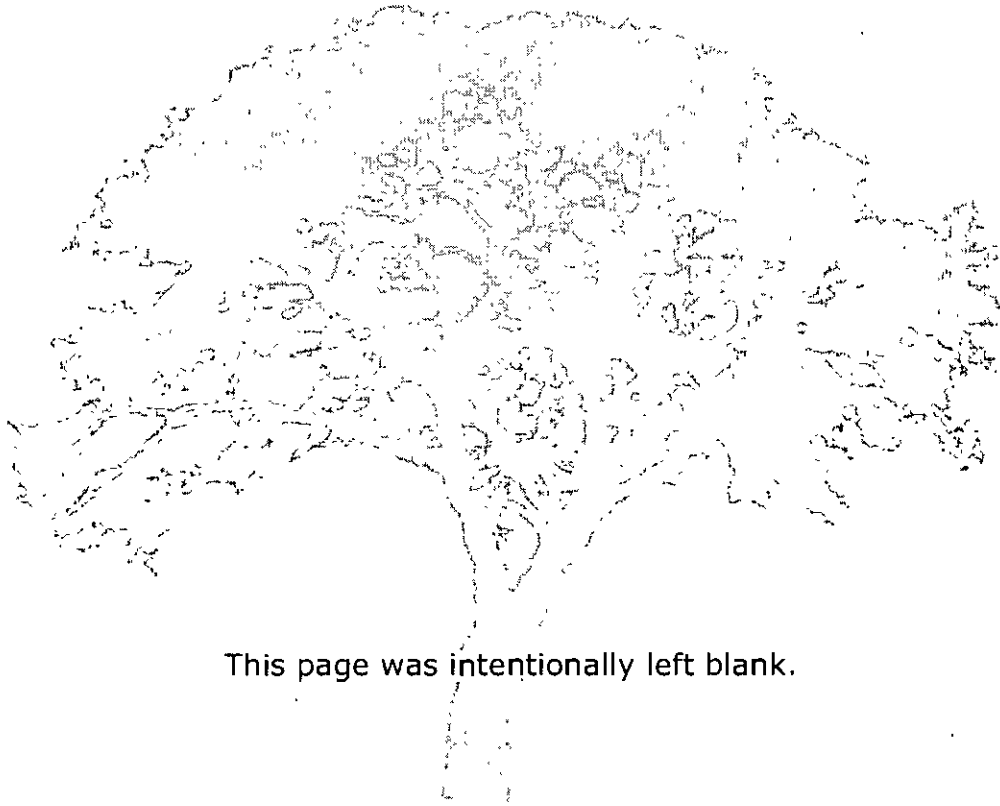
- The Risk Division appropriately adjusted contract payments per the Consumer Price Index (CPI), but the adjustment provision in the contract could be improved by including the base amount subject to escalation, which CPI rate should be used, and when the CPI adjustment should be applied
- JT2 appears to have met caseload, staffing, and exclusivity requirements per its contract. However, while JT2's overall staffing appears to meet the overall contract requirement, JT2 lacked documentation to show that it used one of its surplus supervisors to cover its shortage in claims examiners

Recommendation

We recommend that the Administration:

18. Collect a \$906 refund from JT2 for contract year 2009-10 and ensure all future bill review fees are reviewed and paid correctly
19. Clearly define the terms of the adjustment provisions in future contracts, including the base amount that is subject to escalation, which CPI rate to use, and when CPI adjustments should be applied
20. Require JT2 to have documentation to fully support compliance with contract staffing and caseload requirements

RECOMMENDATIONS: Chapter 3	
We recommend that the Administration:	
Recommendation #15	Work with JT2 to evaluate the adequacy of its process for identifying and investigating suspected fraudulent claims and ensure that JT2 refers suspected fraudulent claims to the District Attorney, regardless of claim payment status
Recommendation #16	Require both the Risk Division and JT2 to post the workers' compensation fraud hotline number in an easy-to-find location on their respective websites and any workers' compensation promotional materials that are distributed
Recommendation #17	Review the costs and benefits of including the Risk Division as decision makers in the TPA's fraud investigation process. If the City decides to keep the Risk Division involved in the decision-making process, it should establish additional procedures and controls
Recommendation #18	Collect a \$906 refund from JT2 for contract year 2009-10 and ensure all future bill review fees are reviewed and paid correctly
Recommendation #19	Clearly define the terms of the adjustment provisions in future contracts, including the base amount that is subject to escalation, which CPI rate to use, and when CPI adjustments should be applied
Recommendation #20	Require JT2 to have documentation to fully support compliance with contract staffing and caseload requirements

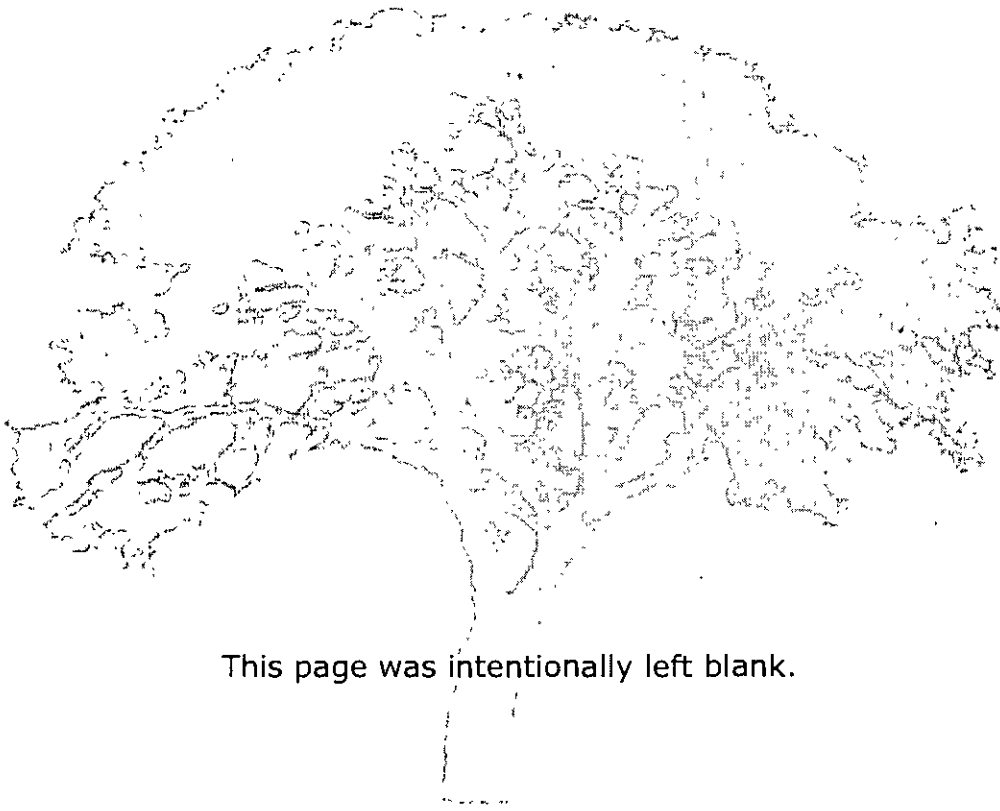


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FINDINGS

The audit found the following:

Finding 1.1	The Risk Division circumvented the City Council's budget authority and public transparency
Finding 1.2	The Risk Division circumvented the City Council's contract authority and spent \$10.1 million over the approved contract amount
Finding 2.1	Fourteen City staff received estimated \$23,000 in vendor gifts
Finding 2.2	The City lacked sufficient controls over \$8.4 million paid through the City's workers' compensation bank account
Finding 2.3	The Risk Division made approximately \$1.4 million in inappropriate or questionable purchases through the workers' compensation bank account
Finding 2.4	The Risk Division lacked controls over other workers' compensation related processes
Finding 3.1	JT2's fraud referral rate is low and it appears they may not be referring all potential cases of fraud
Finding 3.2	JT2 complied with key provisions of its contract



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RECOMMENDATIONS: Chapter 1

We recommend that the Administration:

Recommendation #1	Ensure all workers' compensation costs are properly appropriated by the City Council
Recommendation #2	Report the total cost of the City's Workers' Compensation Program to the City Council, Administration, and ultimately, the public
Recommendation #3	Follow the City's standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses
Recommendation #4	Establish a signed agreement or contract amendment for each additional service procured under the workers' compensation program
Recommendation #5	Obtain City Council approval on all amounts spent over the workers' compensation contract amount
Recommendation #6	Include all expected contract costs, including bill review fees, in its future workers' compensation contracts

RECOMMENDATIONS: Chapter 2

We recommend that the Administration:

Recommendation #7	Ensure that all City staff, in particular, directors, are educated on and comply with City gifting policies and State gift laws including reporting and gift limits
Recommendation #8	Work with the City Clerk's Office to submit a revised Form 700 for 2007 and 2008 for those staff who were required to file
Recommendation #9	Make City's gifting policy clear in its contracts with vendors
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Recommendation #12	Clarify to the Risk Division what types of purchases are acceptable to be made through the workers' compensation program and ensure all purchases are within the City Council's authorized biannual budget process
Recommendation #13	Establish written procedures that will implement appropriate controls over the City's health fair spending. These procedures should address appropriate budgeting, tracking, and reporting of health fair expenditures
Recommendation #14	Establish written procedures that will implement appropriate controls over all inventory purchased through the workers' compensation contract, including health fair trinkets, to ensure that all City assets are properly managed and safeguarded

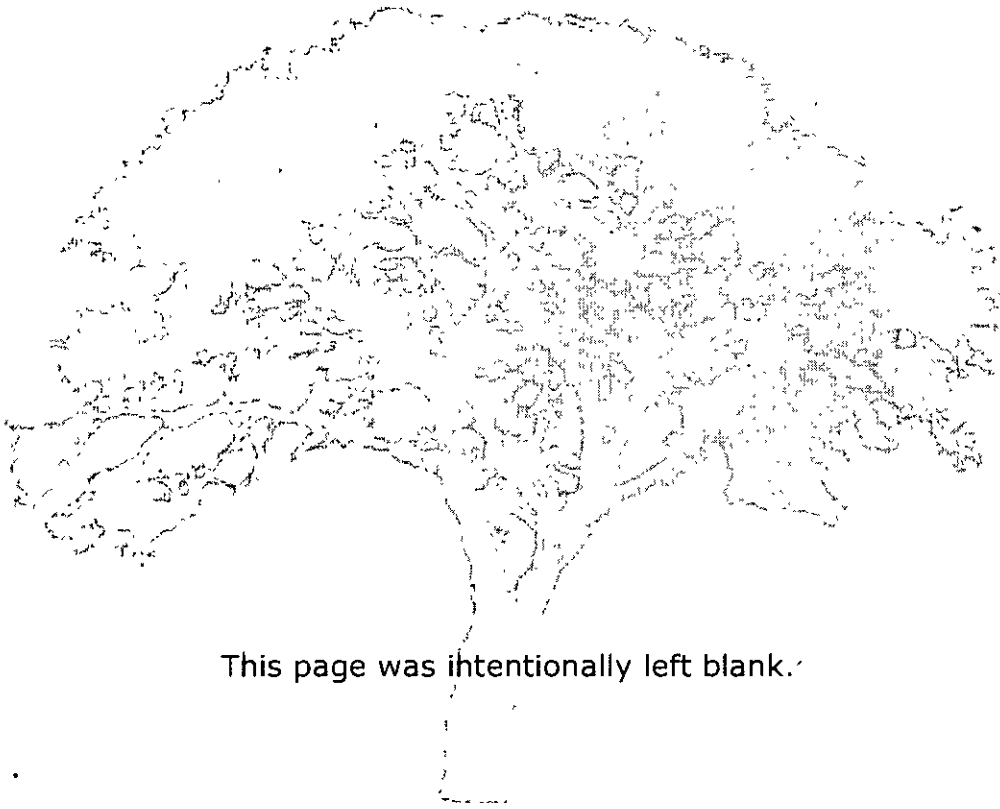
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Recommendation #18	Collect a \$906 refund from JT2 for contract year 2009-10 and ensure all future bill review fees are reviewed and paid correctly
Recommendation #19	Clearly define the terms of the adjustment provisions in future contracts, including the base amount that is subject to escalation, which CPI rate to use, and when CPI adjustments should be applied
Recommendation #20	Require JT2 to have documentation to fully support compliance with contract staffing and caseload requirements



**ADMINISTRATION'S
RESPONSE**



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September 17, 2013

Ms. Courtney Ruby
City Auditor
City of Oakland
1 Frank H. Ogawa Plaza, 4th Floor
Oakland, CA 94612-2007

RE: Response to Workers' Compensation Contract Audit

Dear City Auditor Ruby,

Thank you for the thoroughness and due diligence of the City Auditor's Office in providing the Administration with an internal audit on the City's Workers' Compensation Program. As I entered the organization two years ago, I personally requested that the City Auditor's Office conduct an internal audit on the City's risk management program. Separately, I have also initiated several investigations regarding certain aspects of this Program.

Indeed, as I suspected, this Program has significant management issues that span decades of practice which have not been properly administered over time. Gone unmonitored over the years, these practices have resulted in significant findings and expenditure of public funds. The Administration is prepared to focus on corrective action and improve management; this is why I asked for this review and I appreciate the thorough work of the City Auditor's Office.

The Audit began during my first year as City Administrator, and we have been eager to receive the results so we could begin our work to address any shortcomings, deficiencies or flawed management practices. Although much more work has been necessary than what was originally anticipated, shortly after receiving preliminary feedback during the Audit, the Administration began working to correct identified problems.

As the Audit indicates, the scope of the Audit goes back multiple years, prior to this Administration, and most of the deficiencies and findings identified have been long-standing practices within the City's Workers' Compensation Program, in some cases, going back decades. Unfortunately, the findings and deficiencies identified in this Audit are similar to other deficiencies that existed prior to our Administration, which also sometimes spanned decades and multiple administrations. Through several of your prior audits and the work this Administration has done over the past two years, we have identified a

number of places where weak management controls--or the absence of management controls--that occurred in prior years have necessitated corrective action plans that have since been implemented.

This City Administration takes good government practices and its fiduciary responsibilities very seriously, especially the safeguarding of City assets and resources. It is important to acknowledge deficiencies identified during any Audit and make a firm commitment to take corrective action. This Administration continues to demonstrate its willingness to identify and address any deficiencies – in processes, internal controls or policies – in a transparent and public manner, and when problems or shortcomings are identified, we are committed to taking immediate corrective action. My office and the Interim Human Resources Director, Controller and Budget Director have begun a corrective action plan. In addition, our new Interim Human Resources Director has the right instincts to delve further and has already taken appropriate measures. For example, prior to receiving your final audit recommendations, the Administration has:

- Required City department directors and top City administrators receive ethics training consistent with the training required of elected officials, including education about City and state gift laws, limits and reporting requirements. Results are posted on the City's website.
- Implemented a project fund within the City's Accounts Payable system that will be used for miscellaneous Workers' Compensation expenditures not associated with a specific Workers' Compensation claim.
- Ensured that this project fund is subject to the City's internal Accounts Payable processing requirements.
- Required that any new service provided by the third-party administrator of the Workers' Compensation program that is not specifically related to claims will require a contract amendment and expenditure authorization.
- Required that future contracts with a third-party administrator will identify all expected contract costs subject to City Council approval.

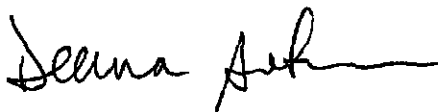
Although there may be some difference of interpretation regarding some of the issues identified during this Audit, the Administration generally agrees with the audit findings and recommendations. The attached detailed audit responses summarize the Administration's actions that have been implemented to date, as well as our commitment to necessary future improvements. We agree with the majority of the recommendations presented by the Auditor and have already implemented a number of programmatic changes prior to the release of the final audit report that we believe will effectively comply with the Auditor's recommendations.

While the Administration does agree with most of the "factual findings" presented by the Auditor's Office, we have provided considerable information to demonstrate the misrepresentations or misinterpretations of some of the Auditor's findings; however, overall we believe the recommendations are reasonable and consistent with good business practices. As such, this response will focus on how the Administration will conduct business going forward, rather than rehashing the documentation that has been provided to the Auditor's office up to this point, since much of what is noted as areas to improve are practices that were in place in the past, under different administrations.

We welcome fair and impartial performance audits conducted cooperatively to improve the efficiencies, effectiveness and transparency of City government which reflect professional and contemporary management practices. In keeping with our ongoing commitment to good government, this Administration is focused on managing the public's business with transparency, being accountable to the people we serve, continuously improving our service delivery and striving to enhance the public's trust in their city government.

Attached to this cover letter is the City's detailed response on Audit recommendations and process. I look forward to working with your office to target key issues identified in the Audit process that could result in ways to improve the Workers' Compensation Program.

Sincerely,



Dearna J. Santana
City Administrator

C: Jean Quan, Mayor
Scott P. Johnson, Assistant City Administrator
Katano Kasaine, Interim HR Director
Osborn Solitei, Controller
Donna Hom, Budget Director
Deborah Grant, Risk Manager

WORKERS' COMPENSATION AUDIT RESPONSE TO CITY AUDITOR'S RECOMMENDATIONS

1. Key Recommendations

Recommendation #1: Ensure all workers' compensation costs are properly appropriated by the City Council

Response #1: We agree with this recommendation. The Administration has already implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds will be subject to the City's internal Accounts Payable processing requirements.

Recommendation #2: Report the total cost of the City's Workers' Compensation Program to the City Council, Administration, and ultimately, the public

Response #2: We agree with this recommendation. However, it should be noted that this is already accomplished as part of the City's biennial budget, the total cost of the Workers' Compensation Program is already reflected as part of the fringe benefits component of the labor cost (similar to medical and retirement cost). Funding adjustments are recommended as appropriate. In addition, the total cost and liability of the workers' compensation program are already included in the City's Comprehensive Annual Financial Report (CAFR). For the FYE 2012 CAFR, the information is on page 100 in which the total cost and liability is presented in the footnotes to the financial statements.

Recommendation #3: Follow the City's standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses

Response #3: We agree with this recommendation. The Administration has already implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds are subject to the City's internal Accounts Payable processing requirements.

Recommendation #4: Establish a signed agreement or contract amendment for each additional service procured under the workers' compensation program

Response #4: We agree with this recommendation. Any new non-claim specific service provided by the TPA after the inception of the "master" contract will be accompanied with a contract amendment that authorizes the expenditure of non-claim funds for the new service.

Recommendation #5: Obtain City Council approval on all amounts spent over the workers' compensation contract amount

Response #5: We agree with this recommendation. Future contracts will identify all expected contract costs and have those amounts included in the Council authority to enter into contract with the TPA.

Recommendation #6: Include all expected contract costs, including bill review fees, in its future workers' compensation contracts

Response #6: We agree with this recommendation. Future contracts will include specific contract language that identifies all expected contract costs, with those costs factored into the total contract fee amount.

Recommendation #7: Ensure that all City staff, in particular, directors, are educated on and comply with City gifting policies and State gift laws including reporting and gift limits

Response #7: We agree with this recommendation. The Administration has already required City department directors and top City administrators to receive ethics training consistent with the training required of elected officials, including education about City and state gift laws, limits and reporting requirements. Results are posted on the City's website.

Recommendation #8: Work with the City Clerk's Office to submit a revised Form 700 for 2007 and 2008 for those staff who were required to file

Response #8: We agree with this recommendation. Staff will be advised to submit revised Form 700 for 2007 and 2008 based on our final assessment of the "gift" portion of the events.

Recommendation #9: Make City's gifting policy clear in its contracts with vendors

*Response #9: We agree with this recommendation. The Administration will require all subject staff to participate in annual FPPC ethics training. **NOTE A more thorough response to Recommendation #9 is provided on page 39*

Recommendation #10: Establish and implement written policies and procedures that include appropriate controls over the City's workers' compensation bank account. These policies and procedures should address appropriate segregation of duties, monitoring of expenditures, and reporting of expenditures made through the account

Response #10: We agree with this recommendation. The Administration has already implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds are subject to the City's internal Accounts Payable processing requirements.

Recommendation #11: Limit the Risk Division's use of the City's workers' compensation bank account for claim related expenditures. If non-claim expenditures are to be allowed through the workers' compensation bank account, the Administration should regularly monitor the non-claim expenditures that are made under the workers' compensation program

Response #11: We agree with this recommendation. The Administration has already implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds are subject to the City's internal Accounts Payable processing requirements.

Recommendation #12: Clarify to the Risk Division what type of purchases are acceptable to be made through the workers' compensation program and ensure all purchases are within the City Council's authorized biannual budget process

Response #12: We agree with this recommendation. The Administration has already implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds are subject to the City's internal Accounts Payable processing requirements.

Recommendation #13: Establish written procedures that will implement appropriate controls over the City's health fair spending. These procedures should address appropriate budgeting, tracking, and reporting of health fair expenditures

Response #13: We agree with this recommendation. The Administration has implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds will be subject to the City's internal Accounts Payable processing requirements. An event expense plan will be established each year to ensure expenditures are monitored and controlled. An inventory

management procedure will be put in place to ensure proper tracking of all items purchased through these funds.

Recommendation #14: Establish written procedures that will implement appropriate controls over all inventory purchased through the workers' compensation contract, including health fair trinkets, to ensure that all City assets are properly managed and safeguarded

Response #14: We agree with this recommendation. The Administration has already implemented a project fund within the City's Accounts Payable system that will be used for the workers' compensation miscellaneous expenditures that are not associated with a specific workers' compensation claim. These project funds are subject to the City's internal Accounts Payable processing requirements. An event expense plan will be established each year to ensure expenditures are monitored and controlled. An inventory management procedure will be put in place to ensure proper tracking of all items purchased through these funds.

Recommendation #15: Work with JT2 to evaluate the adequacy of its process for identifying and investigating suspected fraudulent claims and ensure that JT2 refers suspected fraudulent claims to the District Attorney, regardless of claim payment status

Response #15: We agree with this recommendation. The Administration will undertake a review of the Fraud Investigation Process to review current practices as compared to Workers' Compensation industry best practices and implement procedures to ensure proper controls are in place. In addition, City staff will be attending JT's annual fraud training, presenting by Probe and the District Attorney's office. Probe has some contacts with the District Attorney's office in Alameda County. Staff from the District Attorney's office has been invited to the training to discuss the City's role as well as the District Attorney's role in the fraud detection process.

Recommendation #16: Require both the Risk Division and JT2 to post the workers' compensation fraud hotline number in an easy to find location on their respective websites and any workers' compensation promotional materials that are distributed

Response #16: We agree with this recommendation. Fraud Prevention and Reporting information will be generate and posted throughout the City within the next 90 days. Announcements will be issued through the Citywide email announcement system and through OakNetNews. Fraud Hotline information will be posted on the City's website.

Recommendation #17: Review the costs and benefits of including the Risk Division as decision makers in the TPA's fraud investigation process. If the City decides to keep the Risk Division involved in the decision-making process, it should establish additional procedures and controls

Response #17: We agree with this recommendation. The Administration will undertake a review of the Fraud Investigation Process to review current practices as compared to Workers' Compensation industry best practices and implement procedures to ensure proper controls are in place.

Recommendation #18: Collect a \$906 refund from JT2 for contract year 2009- 10 and ensure all future bill review fees are reviewed and paid correctly

Response #16: We agree with this recommendation. Receipt of this reimbursement has been received and deposited into the Fund 1150.

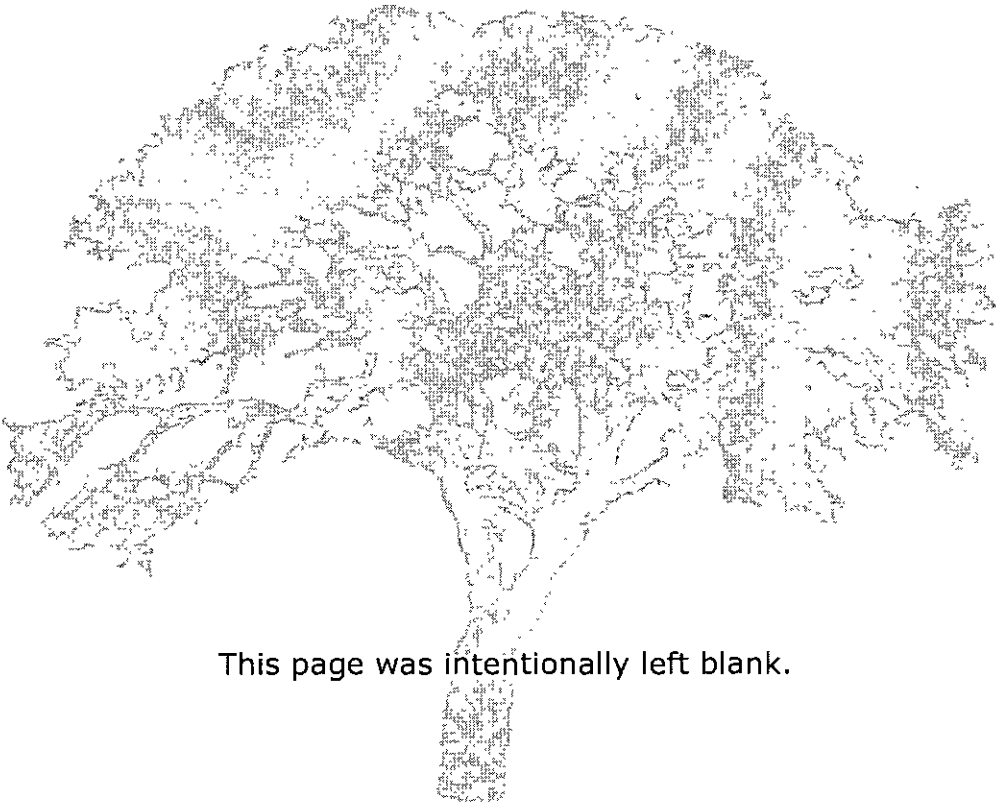
Recommendation #19: Clearly define the terms of the adjustment provisions in future contracts, including the base amount that is subject to escalation, which CPI rate to use, and when CPI adjustments should be applied

Response #19: We agree with this recommendation. The CPI adjustment provisions will be clearly defined in future contractual agreements for TPA services, including defining the CPI rate and timing of the CPI increase.

Recommendation #20: Require JT2 to have documentation to fully support compliance with contract staffing and caseload requirements

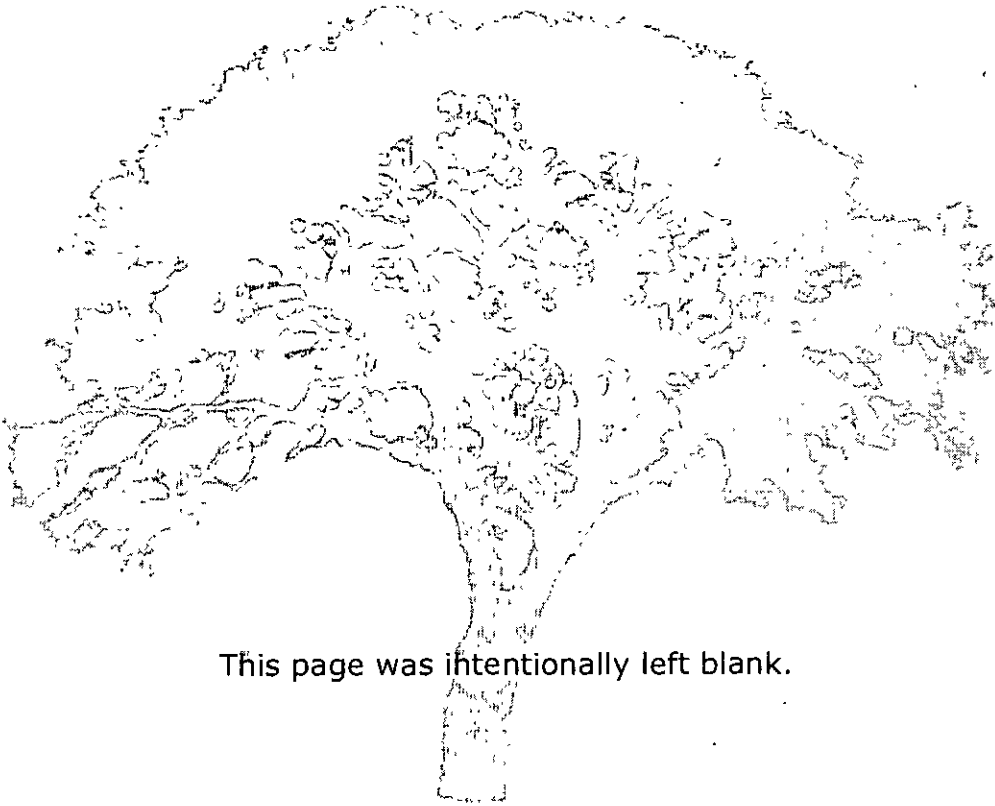
Response #20: We agree with this recommendation. This element will be included in future claims audits as one of the information deliverables.

***Addition to Response #9: The Administration will review and update existing Administrative Instructions 112 and 1052 as they pertain to the City gifting policy. Policies will include a subsection related to event planning protocols, expenditure tracking and management/monitoring of potential donations/gifts made by vendors for events attended by City employees. Staff will be trained on the updated policies and will be required to participate in annual FPPC ethics training.*



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JT2'S RESPONSE



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September 18, 2013

Courtney Ruby
City Auditor
Office of the City Auditor
One Frank H. Ogawa Plaza, 4th Floor
Oakland CA 94612

RE: FINAL CONFIDENTIAL DRAFT REPORT OF THE WORKERS' COMPENSATION
THIRD PARTY ADMINISTRATION AUDIT

Dear Ms. Ruby:

Thank you for your letter dated September 6, 2013 wherein you discussed the above mentioned audit. You have asked for a written response from JT2.

JT2 would like to thank you and your team for their diligent work and for allowing us the opportunity to review the initial draft report and provide our feedback both during the process and now that the final report has been issued.

On page one of the letter, bullet point #3, it is noted that the fraud section of the report (Finding 3.1) was corrected and clarified. JT2 continues to disagree with many aspects of the findings in this section.

- ⑤ → • Investigations are not the same as fraud. The North Bay Associates audit report concerning investigations was misstated as a representation of a problem in our fraud referrals.
- ② → • The inference that we only refer fraud on cases wherein there was lying under oath is incorrect.
- ⑤ → • The statement that we do not identify why a claim is denied is also incorrect
- ⑤ → • In addition, it still remains clear to JT2 that there is a fundamental lack of understanding of the workers' compensation system as it pertains to fraud.
- ⑤ → • And, finally, we believe that the continued indication that the City should not be involved in the decision process surrounding investigations is a major mistake. A cost/benefit analysis must be made for each investigation – not just monetarily but politically as well.

However, JT2 is happy to follow the recommendations in the report and our specific response to each recommendation is attached.

- ⑥ → • Finally, JT2 would like to make a small note in regards to the ninth bullet point on page 2 of your letter. JT2 has internal procedures and controls in regards to the security and accuracy of claims payments below \$10,000. We were not asked for our procedures in this area. We require no less than 2 signatures on every request for payment. We require a third person to enter the payment. And, all checks over

\$5,000 require a second signature. An annual SSAE 16 audit is performed to verify the procedures are followed.

Our staff found your team to be polite, thorough and professional. The input provided by your team is valuable and we continually wish for the program to be an industry leader. We will work with City administration to make the changes as listed in the audit to achieve the results desired by the City.

Sincerely,

Theresa Fernandez
Chief Operations Officer

Cc: John Casas, President, JT2
Jeff Sandford, Chief Executive Officer, JT2
Deb Grant, Risk Manager, City of Oakland
Deanna Santana, Oakland City Administrator

Finding 3.1: JT2's fraud referral rate is low and it appears they may not be referring all potential cases of fraud.

JT2 and the Auditor have conflicting interpretations of the fraud guidelines and the practical application of fraud as it has developed in the industry. In addition, the audit appears to meld together the issues of investigations, fraud and denials which are really all separate components of the workers compensation system. However, we agree with the approach of working together to find solutions that are agreeable to both the City and JT2. The recommendations of the Auditor will be followed and have begun already as noted below.

RECOMMENDATIONS: We recommend that the Administration:

15. Work with JT2 to evaluate the adequacy of its process for identifying and investigating suspected fraudulent claims and ensure that JT2 refers suspected fraudulent claims to the District Attorney, regardless of claim payment status

JT2 has discussed the referral of fraud cases with the Risk Management department. A bi-annual fraud meeting is being implemented to review the fraud program of the City.

16. Require both the Risk Division and JT2 to post the workers' compensation fraud hotline number in an easy-to-find location on their respective websites and any workers' compensation promotional materials that are distributed

JT2 will post the fraud hotline on our website. We will also allow fraud to be reported via our website.

17. Review the costs and benefits of including the Risk Division as decision makers in the TPA's fraud investigation process. If the City decides to keep the Risk Division involved in the decision-making process, it should establish additional procedures and controls.

Investigations are extremely costly. A cost vs. benefit analysis should be utilized for both investigations and fraud referrals. Unlike insurance wherein all claim activities are paid via a one-time premium that is directed by the insurance carrier, the City of Oakland is self insured for workers' compensation. JT2 must have input from the City as to the appropriate use of the City's finances.

In addition, the implementation of an investigation may have legal, media and political consequences to the City. Those potential issues need to be determined by the City itself. We will work with the City to develop the appropriate protocols that will achieve a balance between independence and spending authority.

Finding 3.2: JT2 complied with key provisions of its contract

RECOMMENDATIONS: We recommend that the Administration:

18. Collect a \$906 refund from JT2 for contract year 2009-10 and ensure all future bill review fees are reviewed and paid correctly

JT2 has refunded the \$906 overpayment to the City.

19. Clearly define the terms of the adjustment provisions in future contracts, including the base amount that is subject to escalation, which CPI rate to use, and when CPI adjustments should be applied

JT2 will work with the City to correctly and clearly state the rates that are CPI based.

20. Require JT2 to have documentation to fully support compliance with contract staffing and caseload requirements

JT2 will keep an ongoing spreadsheet as to the caseload and staffing on the City program.

RESPONSE TO JT2'S RESPONSE

The Office of the City Auditor (Office) provided a draft report to the City Administration (Administration) and JT2 for review and comment. The Administration and JT2's comments regarding the actions it has taken or plans to implement in response to the report's recommendations have been included in the previous section of the audit report. This section of the report provides clarification to JT2's responses.

The Office maintains that the audit report findings and conclusions are accurate based on the information provided by the Administration and JT2.

Below is the Office's clarification to JT2's responses. The reference numbers in the left column correspond directly to the reference numbers placed in JT2's response.

Reference	JT2's Response	The Office's Response
3	Investigations are not the same as fraud. The North Bay Associates audit report concerning investigations was misstated as a representation of a problem in our fraud referrals.	<p>In 3 years, JT2 referred 2 cases to the District Attorney as suspected fraud. Investigations are not the same as fraud. However, investigations are part of the process for identifying suspected fraud.</p> <p>Investigations can cover surveillance, background investigation to suspected fraud investigation, with the purpose of being able to obtain more information to confirm that the workers' compensation claim is correct. Because JT2's fraud referral is low, the Office reviewed JT2's investigations between July 1, 2008 and June 30, 2011. Out of the City's 1,893 claims, JT2 investigated 165 (8.7%) claims but referred only two claims (0.105%) to the District Attorney as suspected frauds.</p> <p>As noted on page 24 of the report, JT2's 2011 claims audit conducted by North Bay Associates found that four of the 39 sampled claims were not appropriately investigated. The claims audit recommended emphasis on timely and thorough investigations of suspect claims.</p>
3	JT2 disagrees with the inference that they only refer fraud on cases wherein there was lying under oath is incorrect.	JT2's response is inconsistent with what was communicated to the Office during the audit fieldwork.
3	JT2 disagrees that they do not identify why a claim is denied.	JT2's response is inconsistent with what was communicated to the Office during the audit.
3	It still remains clear to JT2 that there is a fundamental lack of understanding of the workers' compensation system as it pertains to fraud.	The Office conferred with the Alameda County District Attorney with regards to its understanding of workers' compensation fraud and referral requirements.

<p style="text-align: center;">6</p>	<p><i>We believe that the continued indication that the City should not be involved in the decision process surrounding investigations is a major mistake. A cost/benefit analysis must be made for each investigation – not just monetarily but politically as well.</i></p>	<p>To clarify, on page 24 of the report, the audit recommends that the Administration review the costs and benefits of including the Risk Division as decision makers in the TPA's fraud investigation process. If the City decides to keep the Risk Division involved in the decision-making process, it should establish additional procedures and controls. Investigations should be conducted impartially and objectively without political influence.</p>
<p style="text-align: center;">6</p>	<p><i>JT2 has internal procedures and controls in regards to the security and accuracy of claims payments below \$10,000. We were not asked for our procedures in this area. We require no less than 2 signatures on every request for payment. We require a third person to enter the payment. And, all checks over \$5,000 require a second signature. An annual SSAE 16 audit is performed to verify the procedures are followed.</i></p>	<p>Chapter 2 of the audit discusses that the City's inadequate controls over the workers' compensation bank account resulted in some inappropriate or questionable payments. JT2's internal procedures and controls do not address whether payments are appropriate in accordance with City policies, as such the finding and recommendation are directed to the Administration.</p>

SUMMARY OF ACTIONS NECESSARY TO CLOSE THE REPORT

The "Summary of Actions Necessary to Close the Report" provides our analysis of the City Administration's (Administration) proposed actions required to close the report. The Administration has agreed to implement 20 out of 20 recommendations (100 percent) that were provided in the report.

<p><u>Recommendation #1</u></p> <p>The Administration should ensure all workers' compensation costs are properly appropriated by the City Council.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses.</p> <p>To close this recommendation, the Administration should provide evidence that all workers' compensation costs are appropriated by the City Council to the Office of the City Auditor (Office) by March 26, 2014.</p>
<p><u>Recommendation #2</u></p> <p>The Administration should report the total cost of the City's Workers' Compensation Program to the City Council, Administration, and ultimately, the public.</p>	<p>Resolved – The Administration agrees with this recommendation and stated this is already accomplished as part of the City's biennial budget.</p> <p>To close this recommendation, the Administration should provide evidence that the total cost of the workers' compensation program is reported to the City Council, Administration, and the public. This information should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #3</u></p> <p>The Administration should follow the City's standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses.</p> <p>To close this recommendation, the Administration should provide evidence that the City is following standard purchasing process when procuring goods and services and only use the workers' compensation bank account for paying workers' compensation claim related expenses. This documentation should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #4</u></p> <p>The Administration should establish a signed agreement or contract amendment for each additional service procured under the workers' compensation program.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that any new service provided by the TPA after the inception of the master contract will be accompanied with a contract amendment. The Administration should consult with the Office of the City Attorney to determine if a contract amendment needs to be established for past services procured under its TPA contracts from 2007 - 2013.</p> <p>To close this recommendation, the Administration should provide a signed contract amendment for each additional service under the TPA contract. This documentation should be provided to the Office by March 26, 2014.</p>

<p><u>Recommendation #5</u></p> <p>The Administration should obtain City Council approval on all amounts spent over the workers' compensation contract amount.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that future contracts will have all expected contract costs included in the Council authority. The Administration should consult with the Office of the City Attorney to determine if it needs to obtain Council approval on amounts overspent under its TPA contracts from 2007 - 2013.</p> <p>To close this recommendation, the Administration should provide evidence of City Council approval on all amounts spent over the authorized contract amount to the Office by March 26, 2014.</p>
<p><u>Recommendation #6</u></p> <p>The Administration should include all expected contract costs, including bill review fees, in its future workers' compensation contracts.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that future contracts will identify all expected contract costs with those costs included in the total contract fee amount.</p> <p>To close this recommendation, the Administration should provide a copy of the new TPA contract that includes all expected costs within the total contract fee amount to the Office by March 26, 2014.</p>
<p><u>Recommendation #7</u></p> <p>The Administration should ensure that all City staff, in particular, directors, are educated on and comply with City gifting policies and State gift laws including reporting and gift limits.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has already required City department directors and top City administrators to attend ethics training, including education about gifting laws.</p> <p>To close this recommendation, the Administration should provide evidence of training provided to City employees on gifting policies and laws. This documentation should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #8</u></p> <p>The Administration should work with the City Clerk's Office to submit a revised Form 700 for 2007 and 2008 for those staff who were required to file.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that staff will be advised to submit revised Form 700.</p> <p>To close this recommendation, the Administration should provide evidence of staff submitting revised Form 700s for 2007 and 2008. This information should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #9</u></p> <p>The Administration should make City's gifting policy clear in its contracts with vendors.</p>	<p>Resolved – The Administration agrees with this recommendation and stated it will review and update existing Administrative Instructions 112 and 1052 as they pertain to the City's gifting policy. Policies will include a subsection related to even planning protocols, expenditure tracking and management/monitoring of potential donations/gifts made by vendors for events attended by City employees. Staff will be trained on the updated policies and will be required to participate in annual FPPC ethics training.</p> <p>To close this recommendation, the Administration should provide evidence that it has made its gifting policy clear to its vendors. This documentation should be provided to the Office by March 26, 2014.</p>

<p><u>Recommendation #10</u></p> <p>The Administration should establish and implement written policies and procedures that include appropriate controls over the City's workers' compensation bank account. These policies and procedures should address appropriate segregation of duties, monitoring of expenditures, and reporting of expenditures made through the account.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses.</p> <p>To close this recommendation, the Administration should provide written policies and procedures governing the City's workers' compensation bank account. This information should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #11</u></p> <p>The Administration should limit the Risk Division's use of the City's workers' compensation bank account for claim related expenditures. If non-claim expenditures are to be allowed through the workers' compensation bank account, the Administration should regularly monitor the non-claim expenditures that are made under the workers' compensation program.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses.</p> <p>To close this recommendation, the Administration should provide evidence showing that the City's workers' compensation bank account is limited to claim related expenses. This information should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #12</u></p> <p>The Administration should clarify to the Risk Division what types of purchases are acceptable to be made through the workers' compensation program and ensure all purchases are within the City Council's authorized biannual budget process.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses.</p> <p>To close this recommendation, the Administration should provide evidence, including policies and procedures, showing purchases made through the workers' compensation program are appropriate and within the City Council's biannual budget process. This documentation should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #13</u></p> <p>The Administration should establish written procedures that will implement appropriate controls over the City's health fair spending. These procedures should address appropriate budgeting, tracking, and reporting of health fair expenditures.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses. The Administration also stated that an event expense plan will be established each year to monitor and track expenditures.</p> <p>To close this recommendation, the Administration should provide written procedures for the City's health fair spending to the Office by March 26, 2014.</p>

<p><u>Recommendation #14</u></p> <p>The Administration should establish written procedures that will implement appropriate controls over all inventory purchased through the workers' compensation contract, including health fair trinkets, to ensure that all City assets are properly managed and safeguarded.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has implemented a project fund within the City's Accounts Payable system that is used for the worker's compensation non-claim related expenses. The Administration also stated that an inventory management procedure will be established to track items purchased through these funds.</p> <p>To close this recommendation, the Administration should provide written procedures for inventory purchased through the workers' compensation contract. This information should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #15</u></p> <p>The Administration should work with JT2 to evaluate the adequacy of its process for identifying and investigating suspected fraudulent claims and ensure that JT2 refers suspected fraudulent claims to the District Attorney, regardless of claim payment status.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it will undertake a review of the fraud investigation process against industry best practices to ensure proper controls are in place.</p> <p>To close this recommendation, the Administration should provide the evaluation of its fraud investigation process to the Office by March 26, 2014.</p>
<p><u>Recommendation #16</u></p> <p>The Administration should require both the Risk Division and JT2 to post the workers' compensation fraud hotline number in an easy-to-find location on their respective websites and any workers' compensation promotional materials that are distributed.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that fraud prevention and reporting information will be posted throughout the City and that fraud hotline information will be posted on the City's website. JT2 also stated that it will post the fraud hotline on its website.</p> <p>To close this recommendation, the Administration should provide evidence that the workers' compensation fraud hotline number is posted on the City's and JT2's websites and in its promotional materials. This documentation should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #17</u></p> <p>The Administration should review the costs and benefits of including the Risk Division as decision makers in the TPA's fraud investigation process. If the City decides to keep the Risk Division involved in the decision-making process, it should establish additional procedures and controls.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it will undertake a review of the fraud investigation process against industry best practices to ensure proper controls are in place.</p> <p>To close this recommendation, the Administration should provide the evaluation of its fraud investigation process to the Office by March 26, 2014.</p>
<p><u>Recommendation #18</u></p> <p>The Administration should collect a \$906 refund from JT2 for contract year 2009-10 and ensure all future bill review fees are reviewed and paid correctly.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that it has already collected \$906 from JT2.</p> <p>To close this recommendation, the Administration should provide evidence that a \$906 refund from JT2 has been collected. This information should be provided to the Office by March 26, 2014.</p>

<p><u>Recommendation #19</u></p> <p>The Administration should clearly define the terms of the adjustment provisions in future contracts, including the base amount that is subject to escalation, which CPI rate to use, and when CPI adjustments should be applied.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that CPI adjustment provisions will be clearly defined in future TPA contracts.</p> <p>To close this recommendation, the Administration should provide evidence that CPI adjustment provisions are clearly defined in the new TPA contract. This information should be provided to the Office by March 26, 2014.</p>
<p><u>Recommendation #20</u></p> <p>The Administration should require JT2 to have documentation to fully support compliance with contract staffing and caseload requirements.</p>	<p>Resolved – The Administration agrees with this recommendation and stated that this element will be included in future claim audits as one of the deliverables.</p> <p>To close this recommendation, the Administration should provide evidence that JT2 fully complies with contract staffing and caseload requirements. This documentation should be provided to the Office by March 26, 2014.</p>

Unresolved status indicates no agreement on the recommendation or the proposed corrective action. Implementation of proposed corrective action is directed in the City Auditor's Analysis and Summary of Actions Necessary to Close the Report.

Partially Resolved status indicates partial agreement on the recommendation or the proposed corrective action. Implementation of the proposed corrective action is clarified in the Analysis and Summary of Actions Necessary to Close the Report.

Resolved status indicates agreement on the recommendation and the proposed corrective action. Implementation of the proposed corrective action forthcoming from the auditee.