

CITY OF OAKLAND

2011 OCT 27 PM 5:17

AGENDA REPORT

TO: Office of the City Administrator
ATTN: Deanna J. Santana
FROM: Finance and Management Agency / Risk Management Division
DATE: November 8, 2011

RE: **Informational Report Regarding Workers' Compensation Program Administration Strategies Update and Industry "Best Practices"**

EXECUTIVE SUMMARY

This report responds to City Council's directive to provide regular updates of the City's Workers' Compensation Program as administered by the Risk Management Division (RMD). Staff presented detailed program information to the Finance and Management Committee (FMC) on March 8, 2011 and June 14, 2011.

During the June 14, 2011 committee meeting, the committee expressed concern that there is presently no consequence for departments and managers that incur high Workers' Compensation usage. Staff was asked to provide additional statistical information and propose recommended courses of action intended to positively impact the overall performance of the Workers' Compensation Program. Specific items of information requested include:

- Methods of increasing *departmental financial responsibility* for Workers' Compensation expenditures;
- Program statistical information including:
 - Average time employees are out on workers' compensation;
 - Percentage of employees out on workers' compensation for more than 12 months;
- Feasibility of performing "*spot audits*" on *medical clinics* or medical offices that treat employees without providing medical restrictions;
- Feasibility of *investigating employees* who remain off work for an extended period of time.

Since the last report, the Risk Management Division has completed several levels of internal program reviews, developed a draft Administrative Instruction for the Transitional Duty Program, re-instituted a Critical Case Review Team to review problematic cases, conducted a Strategic Planning Retreat and researched alternate funding mechanisms for the overall Workers' Compensation Program. This report will provide more specific detail of each element mentioned above.

Item: _____
Finance & Management Committee
November 8, 2011

FISCAL IMPACT

As reported in our March 8, 2011 Risk Management Annual Report, the overall cost of the Workers' Compensation Program in Fiscal Year 2009-10 was \$22,529,184. This represented an increase of \$1,864,102 over the prior fiscal year. The largest increase was associated with Temporary Disability payments in the form of LC4850 Pay (+ \$1,355,629), Temporary Disability Pay (+\$326,592) and Salary Supplement Pay (+\$98,120), resulting in a 30 percent increase over the prior fiscal year.

LC4850 pay refers to disability payments made to public safety mandated by Labor Code section 4850. LC4850 requires that sworn personnel who are injured on the job receive 100 percent of their salary for up to 12 months.

Of the Temporary Disability payments listed above, only one – Salary Supplement Pay – is not mandated by the State of California Labor Code. *Salary Supplement Pay* is a negotiated benefit that entitles eligible employees to 100 percent of their salary for a period of 60 to 90 days, depending on their date of hire. Other than by Memorandum of Understanding (MOU), the City has no obligation to extend this benefit to City employees.

Attachment A – Workers' Compensation Expenditure Report provides a breakdown of tracked expenditures against the Workers' Compensation Program including the amount of indemnity payments paid for FY 2008-09 and FY 2009-10. Actuarially projected expenditures over the next two years for the total WC program is \$20,118,617 for FY 2011-12 and \$19,816,328 for FY 2012-13, representing an increase of 1.4% and a decrease of 0.1% respectively compared to FY 2009-10 actuals. (Note: The actuarial projections do not include Administrative Expenditures in their projections.)

Beginning June 1, 2011, the City changed the method by which employees eligible for transitional duty assignments were funded. Previously, employees with work restrictions that were not returned to a modified assignment by their department were simply placed back on workers' compensation and funded through Fund 1150 – Workers Compensation Insurance Claims. Now, similarly situated employees are placed in a paid administrative leave status and funded by the department's payroll budget. Since implementing changes to how employees eligible for transitional assignments are funded, the City has experienced a first quarter reduction in overall claim costs of approximately \$340,000 (-5.6 percent); however, it should be noted that this reduction is simply a transfer of funding sources and does not result in an overall savings to the City. The intent of this funding change is to allocate financial responsibility on the department of the injured employee to promote more proactive participation in the return to work process. Staff will continue to track and report on projected/actual cost reductions in the upcoming months.

BACKGROUND

The Risk Management Division (RMD) presented detailed program information to the Finance and Management Committee (FMC) on March 8, 2011 and June 14, 2011. During these presentations, RMD identified that program related medical costs have remained virtually flat, as

Item: _____

Finance & Management Committee
November 8, 2011

have allocated costs. However, the program incurred a significant upward trend of indemnity/salary payments to injured workers.

This increase was not related to an increase in Workers' Compensation claims filed by City employees. In fact, the number of indemnity claims filed by employees remained flat, resulting in 403 indemnity claims filed in FY 2008-09 and 402 indemnity claims filed in FY 2009-10. However, it should be noted that on a per employee basis, the number of claims have increased. For FY 2008-09 an average of 8.24 claims were filed per 100 employees and in FY 2009-10 an average of 8.73 claims were filed per 100 employees; resulting in a 6 percent per employee claims increase.

KEY ISSUES AND IMPACTS

Council has asked that staff return on a regular basis to provide updated information on the Workers' Compensation Program. Specific information was requested in the first of the regular updates. This information included:

- Methods of increasing *departmental financial responsibility* for workers' compensation expenditures;
- *Program statistical information* including:
 - Average time employees are out on workers' compensation;
 - Percentage of employees out on workers' compensation for more than 12 months;
- Feasibility of performing "*spot audits*" on *medical clinics* or medical offices that treat employees without providing medical restrictions;
- Feasibility of *investigating employees* who remain off work for an extended period of time.

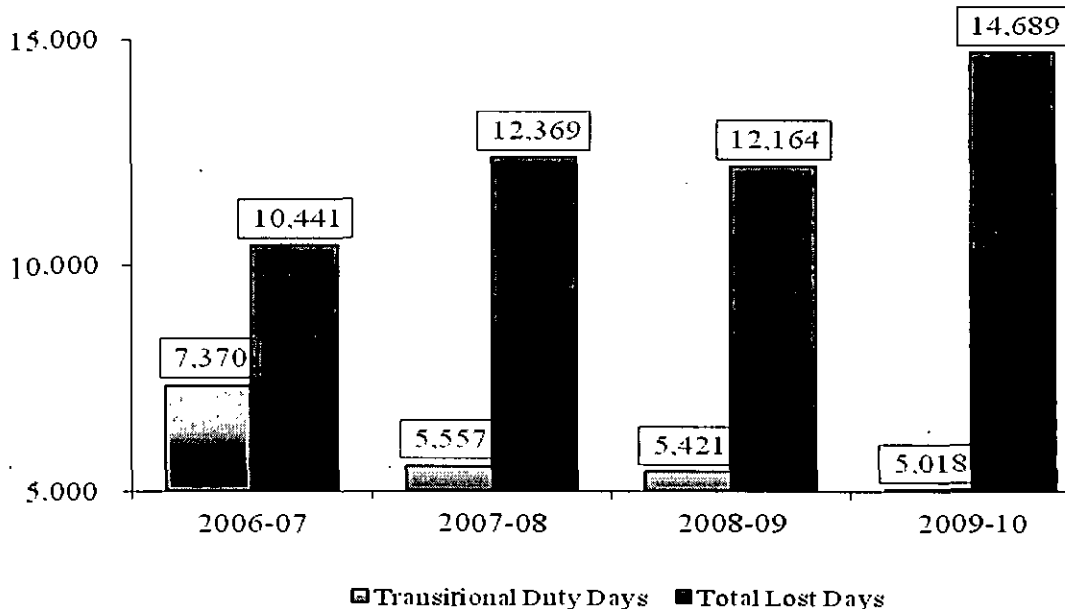
1. *Departmental Financial Responsibility*

Historically, Departments have not been held financially responsible for the burden their injured employees place on the overall Workers' Compensation Program. All expenditures related to Workers' Compensation has been financed solely from Fund 1150 in a non-departmental account. This provides little to no incentive to department directors, managers or employees to make reasonable effort to reduce their department's cost burden on the \$22 million program. With reduced budgets and work force, the little incentive they had dwindles as departments seek alternative sources of funding for their employee payroll and overhead.

The cost factor within the Workers' Compensation Program that is most directly impacted by the department's lack of incentive is the Indemnity expenditures. The increase in indemnity/salary payments was driven by a marked increase in temporary disability days related to a corresponding decrease in departmental participation in the City's Transitional Duty Program.

This reduced participation is reflected in the decline of transitional assignment (TA) days worked by injured employees shown below.

Transitional Duty Days vs. Total Lost Days



By making departments more accountable for the program expenditures they can directly influence, the City creates a larger incentive to departments to expend more effort in reducing their burden on the Workers' Compensation Program. Actions have been taken to influence the departmental incentive to reduce their burden on the indemnity costs.

- Post Work Restriction Funding:** The City has changed how injured employees are funded after receiving work restrictions from their physician. Departments are now to fund employees with work restrictions directly from their department payroll budget. This provides an incentive for departments to return employees to transitional duty more quickly since employees with restrictions are no longer paid through Fund 1150. This modification was implemented after holding meetings with department directors and managers to discuss the changes and introduce new resources available to departments to assist in reducing indemnity costs. Complimenting this funding change are modifications made to the Transitional Duty Program and resources made available to departments to assist in their implementing the program. These program enhancements are discussed in more detail in the Program Description section of this report.

Item: _____

2. WCP Statistical Information

Council requested staff provide a number of statistical items to provide a better understanding of how the Workers' Compensation Program was being utilized throughout the City. This section provides information specifically requested by Council as well as other information meant to provide additional insight into how the Workers' Compensation Program is funded and monies expended.

a. Average time employees are out on workers' compensation --

	FY 2008-09	FY 2009-10	FY 2010-11	FY2011-12 Projected
Open Indemnity Claims	926	866	944	981
Total TD Days	22,213	29,766	38,478	26,088
Ave TD Days per Claim	23.99	34.37	40.76	26.59
Percent Change from prior yr	-	43.3%	18.6%	-34.8%

The number of Temporary Disability (TD) days has increased over the past three years, resulting in an increase of over 43 percent and 18 percent in FY 2009-10 and FY 2010-11 respectively. *However, based on projections for FY 2011-12, if trending remains consistent through the remaining quarters, it appears there should be a significant decline in the average number of TD days per claim.*

b. Percentage of employees out on Workers' Compensation for more than 12 months --

	FY 2008-09	FY 2009-10	FY 2010-11
Total Number of Employees	4894	4604	4714
Number of Employees on LT WC Leave (12 mos or more)	17	21	12
Percentage of Employees on LT WC Leave	0.35%	0.46%	0.25%
Percentage Change from prior year	--	31%	-46%

In some cases, depending on the severity, Workers' Compensation strategies for long-term absence cases involve moving cases to closure and assisting employees with the job reassignment as required under the California Fair Employment and Housing Act (FEHA) and/or the disability retirement process, as appropriate. This usually occurs once a case reaches the point where the employee has permanent medical restrictions and it has been determined that the employee can no longer perform the essential functions of his/her job classification, with or without accommodation. Depending

Item: _____

on the severity of the injury, it takes more than 12 months for this determination to be made. Until this stage is reached, the City is obligated to continue working with the employee and his/her medical provider in returning them to full functionality in their designated job classification. As a result of RMD's collaboration with other City agencies that also have responsibilities in employee disability cases, a majority of the employees that are on the list of long-term leave cases have either returned to work, retired or otherwise separated from the City. The 46 percent reduction reflected in the previous table results in overall savings to the Workers' Compensation Program, as it further limits the amount of indemnity expenditures made on the individual cases.

LONG-TERM WORKERS' COMPENSATION LEAVE COSTS

The following table provides information about the financial impact of Workers' Compensation cases, where the employee has been absent from work for one year or more during FY 2010-11.

DOI	Claim No.	Department	Job Class	Totals PAID Through 6/30/11	Total INCURRED Expenses Through 6/30/11	Status
09/27/08	809002287	OFD	Captain	\$179,383.09	\$266,820.00	TA 10/31/11
03/30/10	1003000607	OFD	Captain	\$156,267.79	\$215,745.39	Retired IDR 10/11
07/12/10	1007001399	OFD	Captain	\$108,285.91	\$118,909.09	Retired 8/11
03/19/10	1003000506	OFD	Engineer	\$226,482.87	\$434,532.00	Off work; surgery pending
05/01/10	1005000837	OFD	Engineer	\$129,103.77	\$207,217.34	Retired IDR 6/11
07/21/10	1007001475	OFD	Engineer	\$111,170.82	\$150,237.00	Working TA
07/02/10	1007001409	OFD	Fire Fighter	\$112,521.52	\$145,790.00	Off work; surgery 3/11
08/31/10	1008001950	OFD	Fire Fighter Paramedic	\$103,841.45	\$210,583.96	Off work
05/04/07	705001251	OFD	Lieutenant	\$204,197.81	\$122,269.44	RTW 8/2/11
03/24/10	1003000561	OFD	Lieutenant	\$161,531.84	\$208,102.00	RTW 6/30/11
08/11/11	808003192	OPD	Police Officer	\$118,384.50	\$204,303.00	Retired 07/2011
10/27/08	810002603	PWA	Sewer Maintenance Leader	\$266,076.06	\$399,794.82	Off work; EOPD referral

- c. **Workers' Compensation Program Utilization by Department** - The City will begin tracking the financial utilization of the Workers' Compensation Program by department. While Workers' Compensation continues to be financed through *Fund 1150*, RMD will begin tracking the usage of fund by department. This will provide

Item: _____

Finance & Management Committee
November 8, 2011

the Administration and the Council with a clearer picture of where the Workers' Compensation Funds are being expended and equip departments with information to assist in developing loss control strategies. This will also tie to the statistical information Council has requested.

According to Budget Office, Workers' Compensation Funds have been allocated as shown below for the past three fiscal years. This represents the funds set-aside for each department to fund the workers' compensation program monies:

WORKERS' COMPENSATION EXPENDITURES ACCRUALS			
	FY 2009-10	FY 2010-11	FY 2011-12
01 -- Mayor	\$ 60,705.96	\$ 32,692.53	\$ 30,128.28
02 -- City Council	\$ 116,982.78	\$ 63,904.30	\$ 64,417.92
03 -- City Administrator	\$ 259,279.37	\$ 173,056.90	\$ 167,741.27
04 -- City Attorney	\$ 371,456.07	\$ 226,428.71	\$ 218,595.65
05 -- City Auditor	\$ 35,977.69	\$ 23,628.21	\$ 26,809.48
06 -- City Clerk	\$ 33,582.01	\$ 25,174.80	\$ 24,645.39
07 -- Human Resources	\$ 156,659.95	\$ 100,154.16	\$ 94,899.87
09 -- Office of Communication and Information Services	\$ 328,865.96	\$ 191,075.63	\$ 181,032.48
10 -- Finance and Management Agency	\$ 574,565.50	\$ 381,683.74	\$ 433,250.26
11 -- Police Services Agency	\$ 10,206,540.47	\$ 8,647,464.16	\$ 6,800,907.17
12 -- Fire Services Agency	\$ 6,869,761.16	\$ 6,897,298.35	\$ 7,088,383.14
14 -- Library	\$ 397,346.77	\$ 272,367.02	\$ 387,719.56
15 -- Office of Parks and Recreation	\$ 249,494.29	\$ 173,718.16	\$ 297,372.04
16 -- Department of Human Services	\$ 544,894.45	\$ 395,453.11	\$ 361,975.06
17 -- Public Works Agency	\$ 1,435,392.65	\$ 1,273,012.36	\$ 1,491,320.93
18 -- Community and Economic Development Agency	\$ 1,472,915.08	\$ 641,176.68	\$ 633,079.23
<i>Total Accruals</i>	\$ 23,114,420.16	\$19,518,288.82	\$18,302,277.74

As of September 30, 2011, the City expended \$5.4 million in Fund 1150 for Workers' Compensation costs compared to \$5.6 million for the same period last year, or a 3 percent higher decrease. The table below shows detailed cost (Medical, Indemnity, and Legal) by department.

Table 1: Costs by Department

Department	Adopted W/C Budget (FY 2011-12)	Actual Expenditures 1Q (FY 2010-11)	Actual Expenditures 1Q (FY 2011-12)	Projected Expenditures (FY 2011-12)	Projected Year-End Balance (FY 2011-12)
Police	6,800,907	2,721,338	3,092,646	12,370,584	(5,569,677)
Fire	7,088,383	1,741,345	1,481,780	5,927,120	1,161,263
PWA	1,491,321	485,998	453,079	1,812,316	(320,995)
All Others	2,921,666	652,111	399,110	1,596,440	1,325,226
General Fund (GF) Total	18,302,277	5,600,791	5,426,615	21,706,460	(3,404,183)

**The year-to-date expenditures, shown above, include final settlements related to the 2009 Police Officers Deaths claims in the amount of \$1,840,631. The City was reimbursed for this same amount by our Insurance Pool, CSAC-EIA, since the City was covered by Excess Workers' Compensation when these claims were filed in 2009. Total expenditures minus this amount would adjust the year-to-date totals to \$3.6 million, reflecting a reduction of 28 percent in program expenditures.*

- d. **Indemnity (Disability) Cost Analysis** – Indemnity (Disability) is one of the major Workers' Compensation costs. This cost is paid from Fund 1150 with no financial burden or responsibility placed on departments. As of September 30, 2011, the City expended \$1.8 million in Disability Leave costs as compared to \$1.9 million during the same period last year, representing a 5.76 percentage year-to-date decrease.

Table 2: DL Costs by Department

Department	FY 2010-11 (1Q Actual)	FY 2011-12 (1Q Actual)	Net Change	Percentage Change	Projected Year End
Police	\$ 663,581	\$ 1,055,987	\$ 392,407	59.13%	\$ 4,223,948
Fire	776,133	572,715	(203,418)	-26.21%	2,290,860
All Others	474,637	175,471	(299,166)	-63.03%	701,884
Total	\$ 1,914,350	\$ 1,804,173	\$ (110,177)	-5.76%	\$ 7,216,692

- e. **Significant Components of Cost** – Significant components of Workers' Compensation cost include medical, indemnity, and other (legal fees and rehabilitation). All costs are currently paid from Fund 1150. The table below presents various cost components for the Workers' Compensation Fund by department.

Item: _____

Table 3: Cost Components (Year-To-Date)

Department	Medical ⁽²⁾	Indemnity (Including PD) ⁽³⁾	Other ⁽⁴⁾	Total
Police	\$ 609,005	\$ 4,162,629	\$ 79,269	\$ 4,850,903
Fire	640,714	784,930	37,990	1,463,634
PWA	223,287	191,737	30,254	445,278
All Others	313,690	125,451	34,530	473,671
Total	\$ 1,786,696	\$ 5,264,747	\$ 182,043	\$ 7,233,486

(2) Medical Costs include treatment, diagnostic testing, physical therapy, hospitalizations and prescriptions.

(3) Indemnity includes Labor Code §4850 to sworn police and fire, temporary disability, permanent disability (PD) and claim settlements.

(4) Legal costs, copying, etc.

Overall, medical costs account for 25 percent of the total cost and indemnity and other costs account for the remaining 75 percent as show in the table below.

Table 4: Cost Components as a Percentage of Total Cost

Department	Medical as a % of Total	Indemnity as a % of Total	Other as a % of Total
Police	12.55%	85.81%	1.63%
Fire	43.78%	53.63%	2.60%
PWA	47.14%	40.48%	6.39%
All Others	66.23%	26.48%	7.29%
Total	24.70%	72.78%	2.52%

- f. **Claims Analysis** – The total number of new claims as of September 30, 2011 was 136, compared to 144 in the previous year. The following chart projects a total reduction of six percent of claims in FY 2011-12, compared to claims in FY 2010-11.

Table 5: Claims by Department

Department	FY 2010-11	FY 2011-12 YTD	FY 2011-12 Projected	Projected Net Change FY 2010-11 Actual - FY 2011-12 Projected	Projected % Change FY 2010-11 Actual - FY 2011-12 Projected
Police	214	61	244	30	14%
Fire	143	23	92	-51	-36%
PWA	115	33	132	17	15%
CEDA	27	4	16	-11	-41%
FMA	3	2	8	5	167%
All Others	74	13	52	-22	-30%
Total	576	136	544	-32	-6%

- g. **Performance Measures for Workers' Compensation Administration** – Four measures are used to monitor the performance of how claims are administered: closing ratio, timeliness of bill payments, medical utilization review (timeliness and approval rate) and customer's satisfaction with claim administration.

1. **Closing Ratio** – This ratio measures how many claims are closed as compared to newly opened claims over a specific period of time. A closing ratio of greater than one is preferred and indicates that more claims are being closed than opened, thereby reducing the City's total body of open claims (and future liability). The chart below indicates continued positive progress in productivity for the three years reported.

Claims Productivity Ratio by Fiscal Year				
FY Ending	#Claims Closed	# Claims Opened	# Claims Re-Opened	Productivity Ratio
2009	829	650	33	121%
2010	812	592	52	126%
2011	701	568	95	106%

2. **Timeliness of Bills Payment** - This measure monitors the timeliness with which bills are being paid. In FY 2010-11 a total of 19,768 bills were received by the City of Oakland. They were paid according to the timeline below:
- 100 percent were paid within the statutory timeframe of 60 days
 - 87.27 percent were paid within 30 days
 - 71.85 percent were paid within 15 days
3. **Medical Utilization Review** - This measures the approval rate of the requests for medical treatments under the State's Medical Utilization Review (UR) Program, and the timeliness with which requests are addressed and the UR outcomes. In FY 2010-11 there were 1004 UR referrals:
- 99 percent of UR referrals were reviewed with a decision rendered on a timely basis, as required by the State (within 5–14 days, depending on the need for additional information from the provider.)
 - 51 percent of the UR referrals were initially approved
 - 49 percent of the UR referrals were initially denied, modified, or withdrawn from the UR process (28 percent Denied/21 percent Modified)

Item: _____

- 6 percent of the UR referrals, that were initially denied, were appealed. Approximately 58 percent of those were upheld and 42 percent were reversed or modified.
- Ultimately, 82 percent of the UR referrals are approved or modified.

4. **Customer Satisfaction** – Claimants with indemnity claims have historically not been asked to assess their satisfaction with claim administration. In an effort to ensure quality service to both departments and injured employees, RMD will undertake regular customer service surveys of injured employees and departments to determine the level of customer satisfaction.

3. **"Spot Audits" on Medical Clinics**

Staff has reviewed the feasibility of performing "spot audits" on medical offices and clinics that service our accounts. It would be difficult for the City to impose its criteria on non-contracted service providers as the City is not seen as the client by the medical providers who have been selected by the injured employee. The personal treating physicians who service the injured workers usually see their role as being the employee's medical advocate and are unlikely to be swayed by the City, as a single entity, to modify their medical practices and protocols.

As an alternative to this strategy, RMD has authorized an investigation into medical providers who cause the greatest amount of indemnity expenses against the City. For example, one particular medical provider who treats a large number of sworn employees is responsible for over \$800,000 of the City's annual Workers' Compensation costs in FY 2010-11 alone (see table below).

<i>Treatment Activity Audit - Targeted Medical Provider</i>	
Total # of Cases with lost time in FY 2010 to 2011 with Targeted Physician as Primary Treating Physician (PTP)	14
Total costs associated with disability thru 8/19/11	\$ 818,005.34
Total # of lost days thru 8/19/11	3,302
# Cases with lost days over 365 days	3
# Cases with trans duty days	2
# Cases with no trans duty days at all	12
# Cases with continuous lost time until determined QJW/P&S	7
# Cases with continuous lost time until released to full duty	4
# Cases still on TTD as of 8/19/11	3

Of particular interest, this particular medical provider released only two of fourteen injured employees to transitional duty. These two employees were both non-sworn (civilian)

employees. The medical provider did not refer any of the twelve (12) sworn employees being treated for transitional duty.

Our investigators have prepared a Suspected Fraud Referral (FD-1) and referred one case to both the CA Department of Insurance Fraud Division and the Alameda County District Attorney on October 3, 2011. We anticipate making more referrals as the investigation progresses.

4. *Fraud Investigations*

Similar to the investigations into medical providers described above, RMD frequently authorizes investigation into suspicious cases where we believe fraudulent activity may be underway. While it is infrequent for a case to be sufficient to refer to the District Attorney for prosecution, these investigations frequently result in cases being denied or limiting benefits due to the findings of the investigation.

The table below provides the investigation activity for FY 2010-11.

Surveillance	Field Investigation	Fraud Referral (FD-1) Submission	Background Checks	Denied Claims
14	44	6	6	94

The challenge RMD faces is receiving information from departments in a timely manner that would enable the City to take immediate action on suspicious activity. Frequently, we are not informed about the activity until well past the time it was taking place and our investigators have a difficult time proving the alleged fraudulent activity. However, when we do make positive findings, we immediately limit the employee's benefit entitlement and refer the employee back to their department for discipline.

RMD emphasizes the importance of receiving timely information from departments during our monthly claims review meetings with department representatives. A Fraud Referral Hotline, monitored by the Third Party Administrator, has also been established for telephonic referral of suspected fraudulent activity.

Several other programmatic activities have been underway within RMD that are designed to further enhance existing program or improve benefit delivery to employees and departments alike. The next section of this report will provide additional information regarding these program areas.

PROGRAM DESCRIPTION

Since our last report, RMD has undertaken a number of efforts to develop and implement cost reduction strategies. The remainder of this report will address the major efforts and courses of action.

- A. **Transitional Duty Program:** In addressing the issue of the indemnity increase, RMD implemented changes to the existing Transitional Duty Program. These changes consisted of modifying the funding method for injured employees with work restrictions and the provision of additional resources to departments to assist them in making transitional duty assignments available to employees with restrictions. Specifically, departments are now responsible for funding employee compensation upon receipt of medical restrictions. Prior to these changes, departments had the *option* to return employees to work upon receipt of restrictions and if departments chose not to have the employees return to work, they were placed back on Workers' Compensation and paid from the Workers' Compensation fund. Essentially, departments had no incentive to actively participate in the transitional duty program. All Workers' Compensation costs were paid through *Fund 1150*, which is funded based on a percentage calculation of different department's payroll expenditures. The specific percentages are fixed each year after analysis by Finance and Management Agency - Controller's Office. These funds are not considered a contribution by departments to *Fund 1150*.

Under the current program, departments still have the option to have employees return to work, however, should they choose not to, the employee is placed on paid leave (other than accrued leaves) funded by their department. This should result in a reduction in indemnity costs overall, as departments now have a greater incentive to return employees to work in order to avoid administrative leave expenditures. These program changes were phased in starting in April 2011 with City-wide implementation in June 2011.

Along with the change in how employees with work restrictions are funded, RMD made resources available to departments to assist them in developing transitional duty assignments. Frequently, departments stated that they did not have work for injured employees to perform or that they didn't have the ability to design assignments that resulted in beneficial work to the department. By utilizing the consulting services, departments are now able to design multiple transitional duty assignments and return employees to work more promptly upon receipt of employee's work restrictions.

Since its inception, our records show modified duty participation increased by nearly 300 percent for the months of June through August resulting in an estimated indemnity savings of \$323,660 (an increase of 187 percent over last year for the same period.) During this period, 84 employees were returned to modified duty whereas only 22 had been returned for the same period in the prior year. **Attachment B** provides a comparison of the Transitional Duty Program Participation by department for the period of June 1 through August 15, 2011.

- B. **Workers' Compensation Program Review:** During the summer of 2011, RMD engaged Bickmore Risk Services (BRS) to conduct an independent "Best Practices" review of the internal Workers' Compensation service delivery. This review goes beyond the annual performance audit that focuses on the claims administration services provided by the

City's Third Party Administrator, JT2 Integrated Services. The areas included in the scope of work for this programmatic review are:

- Current Workers' Compensation claims program practices compared to those of similar cities (Long Beach, San Diego, Sacramento, and San Jose);
- Internal Claims Intake Procedures, including:
 - methods of communicating claim reporting requirements to department personnel;
 - tools available for claims reporting accessible to personnel responsible for meeting claim reporting requirements; and
 - claims data available to determine claim reporting lag time for performance assessment by department annually.
- Process for investigation of claims and determination of whether the claim is evaluated for settlement or denied;
- Process for determining a litigation strategy and budget;
- City loss history;
- Comparison of City experience with similar cities; and
- Areas of roles and responsibility in claims management.

During the data gathering phase of this project, BRS met with several key personnel within several departments (Police, Fire, Public Works, City Administrator - EOPD, Finance Management Agency-Payroll Division) to discuss their interactions with RMD and the Workers' Compensation Program. They were asked about their perception of how Workers' Compensation functioned and flowed between their department(s), RMD and the various service providers under contract with the City or the Third Party Administrator. They were also asked about their "wish list" for services that they felt should be provided by RMD.

BRS also reviewed programs in other "benchmark" cities and compared their practices with those of the City of Oakland. **Attachment C** is the Executive Summary of the BRS program review with their various recommendations and estimated costs for each recommendation. While BRS found that the City compared favorably with the "benchmarking partners", several recommendations for program enhancements were made and are currently being evaluated by staff for implementation (**See Attachment C**).

In addition to the program review performed by Bickmore Risk Services, RMD has recently conducted informal meetings with the executive management of PWA, OPD, and OFD to discuss perceptions of the level of service provided by RMD and the vendors servicing the Workers' Compensation Program. Common themes rising from these meetings are centered on:

- Communication responsiveness of the Third Party Administrator to injured employees;
- Reasonableness of medical treatment authorizations;

Item: _____

Finance & Management Committee
November 8, 2011

- The impact on the Department's payroll budget when Return to Work is delayed;
- The impact of offering salary supplement payment to civilians; and
- The need for a cross-jurisdictional team to review and strategize on resolving critical cases involving employees with long-term disabilities.

Additional meetings will be held with the executive management team of the three big departments to offer further clarification regarding the concerns raised, gain additional insight and suggestions, and where needed, modify or correct program processes.

- C. **Strategic Planning Retreat:** On September 1, 2011, a Strategic Planning Retreat was held to address a number of program areas internal to RMD. Key City personnel were invited to attend the retreat to solicit their input on how to improve program implementation. The Retreat provided a venue to meet and have an open discussion with the contracted vendors that provide Workers' Compensation services as an extension of RMD. The invitees were selected based on their programmatic expertise and operational jurisdiction.

The intent of the retreat was to have internal City experts and department representatives along with all WC service providers together in a setting that would allow for direct and open discussion of the current condition of the Workers' Compensation Program (WCP) and discuss strategies on how to contain the cost of indemnity benefits being paid through the City's WCP.

A number of topics were discussed including:

- Transitional Duty Program Quarterly Review;
- Critical Claims Review Process;
- Physician Liaison – Working with Doctors who don't cooperate with the Transitional Duty Program;
- Internal Workers' Compensation Process Review;
- Workers' Compensation Best Practices;
- Telephonic Claims Reporting/24 hr. Nurse Triage; and
- Webhosting of Claims Forms

Based on the preliminary discussions from these varied topics, RMD will develop program changes to further enhance the City's management of Workers' Compensation costs. Some examples of program enhancements that are being developed include:

- Department Workers' Compensation Coordinator Educational Summit – to provide department personnel with information and resources to assist them in managing departmental Workers' Compensation responsibilities;
- Quarterly Critical Claims Review meetings with key service providers – to strategically plan various phases of claims management on specific "problem" cases;

Item: _____

Finance & Management Committee
November 8, 2011

- Review of specific physician performance – to determine if physicians are acting fraudulently and/or negligently in their provision of medical services to City employees;

The development and progress of these program enhancements will be reported in future Workers' Compensation Update reports.

- D. ***Departmental Workers' Compensation Meetings*** – RMD hosts four ***Monthly Workers' Compensation Meetings*** to discuss specific workers' compensation cases. Three of the four meetings are dedicated to the high volume departments (OPD, OFD and PWA) with the fourth meeting open for all other departments that have lower case volume. In attendance are representatives from each department who were appointed by director, RMD Workers' Compensation and Employee Safety staff as well as representatives from the TPA.

The intent of these meetings is to ensure departments remain informed to the current activity on their department's Workers' Compensation cases. Information is provided that would enable the department representative to return to their respective departments and inform their directors and managers of the status of the various cases discussed. The Workers' Compensation meetings serve as an opportunity for departments to provide "real time" information about the injured employees to ensure benefits are being properly and promptly administered. Participants in these meetings include Risk Management's Workers' Comp and employee safety coordinators, representatives from the Third Party Administrator. Every third meeting (once a quarter), the agenda is modified to address the more severe, difficult or long term cases, to discuss more technical aspects of case management and employment matters.

In addition to the monthly Workers' Compensation meetings, RMD hosts ***Monthly Safety Meetings*** where designated safety representatives from each department discuss common safety and loss prevention issues and new regulatory requirements. Through this forum, RMD promotes the use of Safety and Loss Prevention programs and training to assist departments in reducing the frequency of their employee injuries.

On an annual basis, RMD hosts a ***Workers' Compensation Summit*** which targets department workers' compensation representatives, human resource representatives, upper management and directors. The summit provides current information and education on workers' compensation issues impact departments. It provides an opportunity for department representatives to discuss recent changes to their department case trends and seek clarification on disability related issues from the technical and legal experts in attendance.

To promote healthy living and inform employees of personal wellness related issues, RMD hosts an annual ***Employee Health and Wellness Fair***. Through the health fair, employees can receive health screenings, flu shots, obtain wellness information and

Item: _____

attend a variety of wellness related short classes that are meant to encourage them to stay fit and well. Participation in the health fairs have increased over the years and we currently anticipate at least 15 – 20 percent of the employee population to partake in some portion of the event.

E. Other Cities' Program Audits

RMD reviewed audit reports from other public entities to determine if lessons could be learned from their successes and failures. Specifically, audit reports for the City of San Jose and the City of Berkeley were reviewed and compared to Oakland's Workers' Compensation Program. Additional review is necessary to determine whether the recommendations garnered the expected beneficial results for the respective programs. Based on the findings, staff will propose further modifications or programmatic enhancements where appropriate and advisable.

F. Critical Case Review Team

Many of the issues related to long term workers' compensation cases cross over into other jurisdictional areas that are monitored and managed by departments/division outside of Risk Management. The Administration is re-instituting a Critical Case Team with the objective of joining staff from different departments under a common cause of resolving long-term and problematic employee cases. The CCRT will be made up of members from the City Administrator's Office, DHRM, RMD, and City Attorney's Office. Jointly, this team will work together to strategically plan and resolve cases as well as to discuss updating or creating policy centered on case resolution.

G. Future Liabilities Financial Transfer Options

Similar to the General Liability program, the Workers' Compensation Program incurs expenditures based on open claims. A function of the third party administrator is to reserve the expected total amount to be expended on the claim. Based on the reserved amount, the City then assesses the size of the program and project future expenditures. As of June 30, 2011, the City had a total of 970 open and active claims. Of these claims, the actuary has projected future liabilities in the amount of \$70,345,184.

Staff is working with the City's Risk Management Actuaries and Insurance Brokers to determine if a long-term solution may be viable to reduce the financial burden of the Workers' Compensation Program. Options being explored are: whether it is feasible/advisable to fully insure the Workers' Compensation Program; whether a portion of the City's claim portfolio can be sold to an insurance in a process referred to as "loss portfolio transfer"; or whether to create an aggregate protection program that would cap the amount spent by the city and purchase insurance for any amounts in excess of the cap. This would create a guaranteed known cost that can be budgeted. Any of these options would have a large initial investment; however, over the long-term, the cost of the program would be stabilized and possibly be reduced.

Item: _____

Finance & Management Committee
November 8, 2011

SUSTAINABLE OPPORTUNITIES

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

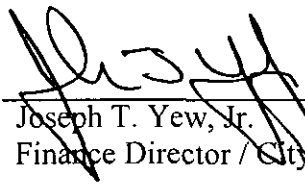
Environmental: There are no environmental opportunities associated with this report.

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

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that Council accept this informational report.

Respectfully submitted,



Joseph T. Yew, Jr.
Finance Director / City Treasurer

Prepared by:
Deborah Grant, Risk Manager
Risk Management Division

APPROVED AND FORWARDED TO THE
FINANCE COMMITTEE:



Office of the City Administrator

ATTACHMENT A
Workers' Compensation Expenditures Report
FY 2008-09 through FY 2009-10

*SOURCE: Risk Management Annual Report
Fiscal Year 2009-10, Appendix C*

	2008-09	2009-10 ⁽¹⁾	Percentage Change
OPERATIONS EXPENDITURES			
INDEMNITY / SETTLEMENT			
Permanent Disability	\$ 4,567,441	\$ 5,036,106	10%
INDEMNITY / SALARY⁽²⁾			
Non-4850⁽³⁾			
Temporary Disability	\$ 1,045,350	\$ 1,371,942	
Civilian - Salary Supplement	\$ 428,485	\$ 526,605	
Total Non-4850 Pay	\$ 1,473,835	\$ 1,898,547	29%
4850⁽⁴⁾			
Sworn - OPD - 4850 Pay	\$ 1,726,011	\$ 2,654,322	
Sworn - OFD - 4850 Pay	\$ 2,577,212	\$ 3,104,520	
Total 4850 Pay	\$ 4,403,123	\$ 5,758,852	31%
Subtotal - Indemnity / Salary	\$ 5,877,058	\$ 7,657,399	30%
ALLOCATED			
Rehabilitation	\$ 88,391	\$ 23,955	
Investigative Claims Expense	\$ 443,300	\$ 403,961	
Legal	\$ 1,023,725	\$ 1,180,255	
10% Penalties	\$ 18,587	\$ 7,864	
Subtotal -- Allocated	\$ 2,574,003	\$ 2,616,035	3%
MEDICAL			
City Physician (Concentra)	\$ 403,931	\$ 187,662	
All Others	\$ 5,906,908	\$ 6,158,683	
Subtotal -- Medical	\$ 6,320,839	\$ 6,346,345	1%
SUB-TOTAL OPERATIONS EXPENDITURES	\$ 18,329,341	\$ 20,655,885	13%
THIRD PARTY RECOVERY - REFUNDED TO CITY	\$ (329,531)	\$ (821,953)	
TOTAL OPERATIONS EXPENDITURES	\$ 17,999,810	\$ 19,833,932	10%
ADMINISTRATIVE EXPENDITURES			
Claims Administrator Contract	\$ 2,082,888	\$ 2,112,868	
Bill Review Expense ⁽⁵⁾	\$ 582,384	\$ 582,384	
SUBTOTAL - ADMINISTRATIVE EXPENDITURES	\$ 2,665,272	\$ 2,695,252	1%
TOTAL WORKERS' COMPENSATION EXPENSE	\$ 20,665,082	\$ 22,529,184	9%

(1) Figures are for the period July 1, 2008 through June 30, 2010 (as of July 28, 2010)

(2) Indemnity / Salary is in Fund 1250.

(3) Non-4850 pay is the amount paid to Civilian employees required by the State of California labor code for workers' compensation benefits plus the negotiated salary supplement contained in the City of Oakland memorandum of Understanding for each labor unit.

(4) 4850 pay is the total amount paid to Sworn employees (Police and Fire) required by the State of California Labor Code § 4850.

(5) Bill Review saved the City an additional \$11,322,373 in FY 2009-10.

Note: Officer deaths (March 21, 2009) resulted in unexpected expenses in the amount of \$173,619, and increased future reserves of \$3.5 Million.

Attachment B

**Comparison of Transitional Duty Program for period of June 1 to August 15 for FY 2010 and 2011
City of Oakland**

CITY-WIDE	FY 2010	FY 2011	Difference	% Increase
# Cases	22	84	62	282%
# Transitional Days	521	2,035	1,514	291%
Savings	\$112,867.81	\$323,659.65	\$210,791.84	187%

POLICE	FY 2010	FY 2011	Difference	% Increase
# Cases	10	35	25	250%
# Transitional Days	225	877	652	290%
Savings	\$57,711.12	\$170,736.48	\$113,025.36	196%

FIRE	FY 2010	FY 2011	Difference	% Increase
# Cases	4	17	13	325%
# Transitional Days	104	284	180	173%
Savings	\$37,582.14	\$64,706.58	\$27,124.44	72%

PUBLIC WORKS	FY 2010	FY 2011	Difference	% Increase
# Cases	5	24	19	380%
# Transitional Days	126	686	560	444%
Savings	\$12,800.86	\$69,063.09	\$56,262.23	440%

OTHERS	FY 2010	FY 2011	Difference	% Increase
# Cases	3	8	5	167%
# Transitional Days	66	188	122	185%
Savings	\$4,773.69	\$19,153.51	\$14,379.82	301%

FY 2010 - Based on start date of transitional duty

FY 2011 - Based on eligible start date of transitional duty

I. Executive Summary

Project Purpose

The City of Oakland's Risk Management Department (RMD) strives to provide workers' compensation services to the City of Oakland's (City) departments and employees meeting or exceeding „industry best practices". The purpose of this project is to assess how well this objective is being met, considering the practices of similar cities.

Project Approach

To evaluate the specific issues discussed below, we:

- Analyzed claims data received from the third party administrator (TPA), JT2 Integrated Resources, Inc. (JT2), Professional Dynamics, Inc., Norm Peterson Associates/Return to Work Specialists, and the Office of Self-Insurance Plans.
- Interviewed key workers' compensation program contacts, including:
 - ✓ The City's Risk Manager, Disability Benefits Coordinator, and Safety Coordinator.
 - ✓ The City's Fire Department (FD): Administrative Services Manager/Departmental Workers' Compensation Coordinator.
 - ✓ The City's Police Department (PD): Deputy Director and Departmental Workers' Compensation Coordinator (employed by JT2).
 - ✓ The City's Public Works Agency (PWA): Administrative Services Manager/PWA Personnel and Departmental Workers' Compensation Coordinator. The City's Equal Opportunity Programs Division (EOPD), two Equal Opportunity Specialists.
 - ✓ The City's Accounting/Payroll Division: Human Resources Operations Technician.
 - ✓ JT2's, Vice President of Claims Services, two Claims Supervisors, Early Intervention/Return-to-Work Coordinator, and return-to-work coordination subcontractor, Norm Peterson and Associates (NPA).
 - ✓ Risk Managers of benchmarking partners: Cities of Long Beach, Sacramento, San Diego, and San Jose (Long Beach, Sacramento, San Diego, and San Jose).

Recommendations Summary

The City compares favorably with benchmarking partners for initiating strategies to promote cost savings while providing injured workers appropriate workers' compensation (WC) claim benefits. A summary of our recommendations to promote benefit cost reduction is provided in Table I-1. Detailed findings and recommendations are provided in Chapter II, Review Results.

Table I-1
Recommendations with Cost Estimate

Specific Issue	Estimated Cost	Parties to Take Action	Recommendations
Claims In-Take	<p>Increased usage of Nurse Triage Service is likely to cost \$94,200.</p> <p>Developing the Intranet-based electronic first report of injury is likely to cost between \$144,000 and \$216,000.</p>	RMD and JT2	<ul style="list-style-type: none"> ✓ Use the JT2 claims information system (CIS) to track lag time between knowledge of injury and receipt of injury report by JT2 to keep the Department Workers' Compensation Coordinators informed of reporting timeliness. ✓ Set the performance objective for the City to submit claims to JT2 at a maximum of five (5) calendar days from the department's knowledge date. ✓ Stimulate city-wide use of a nurse triage service to include use of JT2secure.com to ensure immediate receipt of new claims by JT2. ✓ Consider developing an Intranet-based electronic first report of injury with a secure link to the Human Resources database to use in populating employee information and department information fields. Links to feed information for upload to the JT2 CIS may also be considered. As an alternative to uploading information to the JT2 CIS, information may be transferred to JT2 and RMD in PDF format by automated E-mail attachment. This approach would require continuation of the manual claim set up into the CIS currently used by JT2.
Keeping City Departments Involved	Cost is estimated at \$250 to \$1,500 annually	RMD, Department WC Coordinators, and JT2	<ul style="list-style-type: none"> ✓ Update procedures to guide adjusters to provide Department WC Coordinators with E-mail transmission of DWC benefit notices rather than service by U S Postal Service. ✓ Schedule a city-wide Department WC Coordinator retreat annually to allow departments to receive training, share problems, and develop solutions.

Specific Issue	Estimated Cost	Parties to Take Action	Recommendations
Using Medical Experts	<p>Cost for the first recommendation is expected to be offset by current expenses. Negotiating and putting the pre-approved AME "Carve-Out" list is expected to cost less than litigating one case, or \$5,000 to \$30,000.</p>	RMD, FD, JT2, City Attorney	<ul style="list-style-type: none"> ✓ Use of nurse triage in conjunction with physician peer review. We estimate costs to be flat, with current UR and nurse triage services to be replaced rather than duplicated. The advantage is the use of established relationships to influence outlier PDPs to conform to the ACOEM guides for treatment plans and disability evaluation. ✓ Explore whether the unions are interested in negotiating a „Carve Out“ to include, at a minimum, a pre-approved AME list to use in medical dispute resolutions. The California Commission of Health and Safety and Workers" Compensation has published "Practical Advice for Unions and Employers" on its website. Starting with the FD is recommended as dissatisfaction with the current PQME/ AME process is voiced. The dissatisfaction stems from the fire fighters" desire to obtain dispute resolution quickly and obtain adequate guidance from providers for work capacity and treatment planning. Where a successful "Carve Out" is agreed upon with one union and implemented successfully, other unions tend to become interested.

Specific Issue	Estimated Cost	Parties to Take Action	Recommendations
<p>RTW Coordination</p>	<p>Continuing the NPA Bridge program is expected to cost \$320,000 annually.</p>	<p>RMD, JT2, NPA, Department WC Coordinators</p>	<p>Continue:</p> <ul style="list-style-type: none"> ✓ Providing the Ergonomic services to assist departments and employees in preventing injuries, minimizing injury severity, and promoting a "stay at work" message. Have Risk Management's Safety Coordinator review implementation by departmental personnel. ✓ Providing the NPA Bridge program to assist departments to coordinate early return to work. Enhance the effectiveness of this program by: ✓ Having JT2 personnel work with NPA personnel and the Department WC Coordinators to streamline workflow by: ✓ Getting the communicating parties to pay attention to the source of E-mails received to avoid returning the documentation to the initiating party unnecessarily. ✓ Having the JT2 CIS business rules updated to allow NPA to review claim notes and have limited claim note entry for specific claim note categories. The new business rules are planned to allow NPA to attach a medical report obtained to the JT2 CIS. NPA will also be able to view the check register, new claims and closings by examiner. These CIS usage allowances will eliminate the need to make numerous follow-up phone calls and e-mails. Information developed will be entered to the CIS where the Examiner is able to review it during scheduled follow up. ✓ Requesting NPA to provide targets for obtaining work capacity as soon as information on the target is available rather than simply delivering the work capacity notice. It is realized advance targets availability may be limited.

Specific Issue	Estimated Cost	Parties to Take Action	Recommendations
Annual Report to the Office of Self-Insurance Plans	No additional cost.	RMD, JT2	Request JT2 to clarify the instructions for submitting the Annual Report to the Office of Self-Insurance Plans to include or exclude Labor Code (LC) 4850 benefits and update the information technology (IT) program used to extract claim information from the CIS for reporting purposes accordingly. If exclusion is allowed, amend prior Annual Reports and request reimbursement of overpaid indemnity assessments.
Annual Comparison of Expenditures	No additional cost	RMD, JT2	<p>Improve the comparison of expenditures by updating the report to include:</p> <ul style="list-style-type: none"> ✓ Recoveries received from subrogation and excess insurance carriers. ✓ Premiums paid for excess insurance (noting the self-insurance retention). ✓ Calculation of expense ratio (allocated and unallocated expenses divided by expenditures for benefits and supplemental payments by departments). ✓ Number of open claims in litigation. ✓ Identification of the number of injured employees displaced from City employment including early retirement.
Total:	\$661,700		

We recommend using the „delta“ or difference in the City’s average incurred cost per claim and that of the next lower benchmarking partner as discussed in Chapter II, under the Severity discussion on Page 23, and illustrated in Appendix B, to assess the reasonableness of the cost to implement changes. The portion of the \$5,156,264 „delta“ that is appropriate to spend in an effort to decrease the average incurred cost per claim may range from 5% to 15% (\$257,814 to \$773,440).

We recommend reading our report in its entirety.

II. Review Results

Our findings and recommendations for each specific issue included in the scope of work for workers' compensation program review are discussed in the following sections. Our recommendations focus on strengthening the City's processes supporting claims management to promote post injury return to work and healing as illustrated in Appendix C.

A. Claims Program Practices

Current workers' compensation claims program practices are compared to those of similar benchmarking cities, including:

- City of Long Beach (Long Beach);
- City of Sacramento (Sacramento);
- City of San Diego (San Diego); and
- City of San Jose (San Jose).

Appendix A "Interviews of Benchmarking Partners" provides a summary of our discussion with the Risk Manager of each city. The City contracts with a TPA. The benchmarking partners are self-administered.

The results of our program review, based on analysis of data and discussions with key workers' compensation program contacts, are presented below.

Staffing and Workloads

The City recognizes the staffing guidelines recommended by the risk retention pool CSAC-EIA. The City has belonged to CSAC-EIA since August 1, 2004. The guidelines require a ratio of one examiner to each caseload of 150 to 175 indemnity claims (two medical only claims are considered equivalent to one indemnity claim). However, the City contractually requires JT2 to maintain each caseload at 125 indemnity claims per examiner.

The cities of San Diego, Sacramento, and Long Beach have similar caseloads for indemnity claims. Long Beach assigns responsibility for a medical only caseload of 400 to 550 claims to one examiner. The examiner is successfully managing this caseload. The capacity to manage this caseload exceeding the guideline relates to two factors.

- First, most of the employees treat with the in-house medical staff.
- Second, Police and Fire have negotiated a WC "Carve Out". The "Carve Out" agreement requires dispute resolution involving medical opinions through examination by a predetermined list of agreed medical examiners (AMEs). The Unions approached the City and the "Carve Out" agreement has been in place since 2007. It was renewed by a unanimous union and City Council vote in 2010.

San Jose has an in-house physician who is responsible for pre-employment and fitness for duty examinations. Minimal time is available for treating injured workers. However, the in-house physician is available for claim reviews and to answer medical questions. Caseloads are 400 claims to each examiner. Periodically, San Jose reevaluates continuing the self-administered approach by soliciting proposals from TPAs to verify the current approach is cost effective.