

CITY OF OAKLAND
AGENDA REPORT

OFFICE OF THE CITY CLERK
2007 MAR 13 PM 9:08

TO: Office of the City Administrator
ATTN: Deborah A. Edgerly
FROM: Finance and Management Agency
DATE: March 13, 2007

RE: **Informational Report on the Workers' Compensation Program for Fiscal Year 2005-06**

SUMMARY

This informational report provides current expenditures and program data on the City of Oakland's Workers' Compensation Program for Fiscal Year 2005-06.

FISCAL IMPACTS

This is an informational report. It provides information and data regarding the existing program as compared to previous years. No new costs are introduced within this report.

BACKGROUND

Like most public entities, the City of Oakland is self-insured for workers' compensation. The Risk Management Division works with the contracted third-party administrator, JT2, which handles the technical aspects of each claim and with the City's agencies and departments in partnership to ensure that injured workers receive appropriate care as mandated under California's Labor Code.

Each year, the Risk Management Division provides statistical information regarding the administration of the Workers' Compensation Program. These statistics serve as benchmarks by which the City is able to measure its performance and effectiveness of Workers' Compensation program initiatives.

KEY ISSUES AND IMPACTS

Over the last few years, the Risk Management Division has continued to implement program elements introduced in 2004-05 that changed some of the fundamental ways the Workers' Compensation Program was viewed by both management and employees. The attached report reviews these changes in detail, along with claims and expenditure data from fiscal year 2005-06.

Item: _____
Finance and Management Committee
March 13, 2007

As described more fully in the attached report, the City of Oakland enjoyed a number of successes this past year. Highlights for FY 2005-06 include:

- Reductions in sworn disability payments (Labor Code Section 4850) .
- An overall program expense reduction of over \$742,000.
- A savings of \$1.7 million attributable to the Transitional Duty Program.

SUSTAINABLE OPPORTUNITIES

There are no economic, environmental or social equity opportunities associated with this report.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no disability and senior citizen access issues contained in this report.

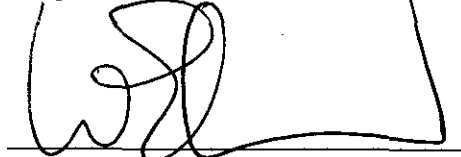
RECOMMENDATION(S) AND RATIONALE

Staff recommends that Council accept the attached workers' compensation report.

ACTION REQUESTED OF THE CITY COUNCIL

Accept the attached workers' compensation report.

Respectfully submitted,

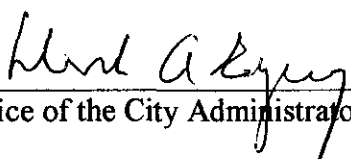


William Noland

Director, Finance and Management Agency

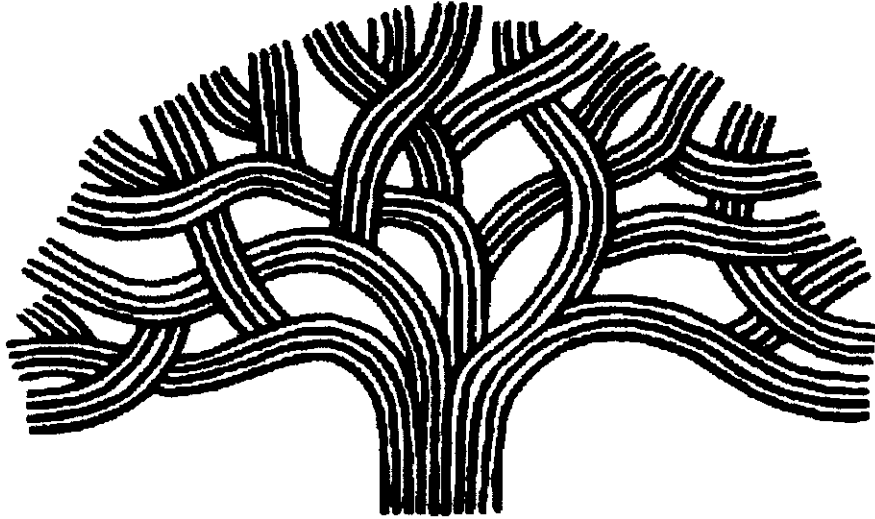
Prepared by
Deborah Grant, Acting Risk Manager
Risk Management Division

APPROVED AND FORWARDED TO THE
FINANCE & MANAGEMENT COMMITTEE:


Office of the City Administrator

Item: _____
Finance and Management Committee
March 13, 2007

CITY OF OAKLAND
RISK MANAGEMENT DIVISION



2005-06 WORKERS' COMPENSATION REPORT

March 13, 2007

PREPARED BY:

**DEBORAH GRANT
Acting Risk Manager**

2005-06 WORKERS' COMPENSATION ANNUAL REPORT

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
I. Program Elements	3
II. Workers' Compensation Summary Data	5
III. Expenditures	8
IV. Conclusion and Future Outlook	11

I. Program Elements

The City's Worker's Compensation Program is currently managed within the Finance and Management Agency – Risk Management Division (RMD). It is comprised of several program elements. The highlights of these program elements include:

A. Workers' Compensation Management Program. The City operates under a uniform system with all departments and agencies following strict procedures for departmental workers' compensation claims handling. Adopted in 2002, the Workers' Compensation Management Program standardized claim reporting documentation and processes as well as created a comprehensive transitional duty (early return-to-work) program.

The three key players in the workers' compensation management program are:

1. A designated workers' compensation coordinator in each department;
2. The contracted Third Party Administrator (TPA), JT2 Integrated Resources and its staff, including a Return-to-Work coordinator; and
3. RMD coordination of the combined efforts of the departments and the TPA.

RMD conducts monthly claims review meetings with City departments to address newly filed claims, including identifying cases for investigation and/or transitional duty assignments. Quarterly file reviews with departments address longer term cases, including those that are litigated and focus on defense strategies and case resolution. Department directors, managers, and workers' compensation coordinators are encouraged to attend these meetings to be kept apprised of case progress and to assist in strategy development for defense of the workers' compensation case.

B. Comprehensive Transitional Duty (Early Return-To-Work) Program. Studies have shown that effective return-to-work programs are the single largest factor in controlling workers' compensation claims costs. The City's program continues to provide tangible savings in disability payment that would have otherwise been expended. The estimated savings for Fiscal Year 2005-06 is \$1,765,917 in avoided expenditures.

The Transitional Duty Program returns injured employees to work for the purpose of temporarily performing meaningful tasks that are within their physician's stated physical restrictions as a way to "transition" them back to their "usual and customary" job duties. The program is only for employees who have not received a full release from their doctor to return to their "usual jobs". Key features of the Transitional Duty Program include:

1. A "Return to Work Coordinator" position within the Workers' Compensation TPA's staffing requirements. This position provides coordination and liaison services directly to Agencies and Departments as well as Treating Physicians for the sole purpose of identifying and filling temporary, modified duty assignments.
2. Agencies and Departments must actively participate in returning their injured employees to temporary assignments that are within the limitations of the individual employee. As an incentive to encourage participation, Agencies and Departments who are unable to provide modified work assignments are responsible for indemnity expenses until such time temporary assignments can be provided or the employee

returns to full duty.

3. Employees must also actively participate by accepting temporary assignments while on "restricted duty" and by working within the restrictions established by their treating physician. As an incentive to employees, those who refuse to participate in temporary assignments are no longer eligible for temporary disability/4850 benefits, as is permitted by the State Labor Code, or the City's "free period" salary supplement.

C. Active Partnership with A Third-Party Administrator Focusing on Innovative Claims Management. Commencing in August 2001, JT2 has provided third-party administration services under a six year total agreement, split into three two-year terms, which must be extended each term upon successful audit reports. The TPA is responsible for managing the technical aspects of all of the City's workers' compensation claims and medical treatments. The City reviews the performance of the TPA through an independent audit process, which reviews random claims and tracks procedures in accordance with established performance measures set by the City. This ensures that the TPA is managing claims as tightly as possible and is performing its work as specified under the contract. The annual contract audit is conducted by an independent workers' compensation auditing firm. An 85% or higher rating must be achieved in order to qualify for receipt of retained contract dollars.

According to the audit results, JT2 Integrated Resources has exceeded industry standards since the inception of their contract and earned a 94% rating in the 2005-06 contract year. As such, JT2 will continue as the City's TPA through August 2007, minimally. A copy of the auditor's report is available for review in the Risk Management Division offices upon request.

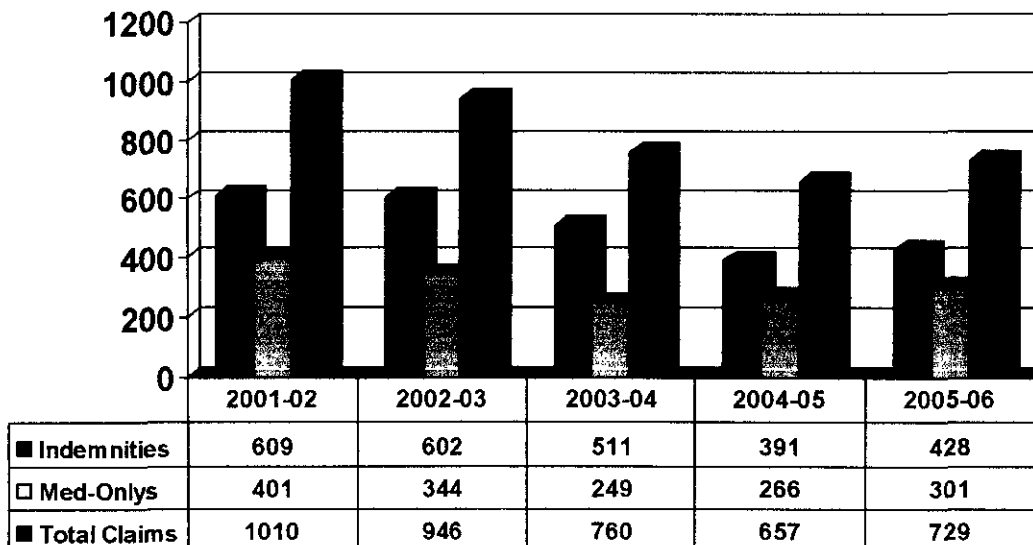
The TPA Services Contract will expire in August, 2007. RMD will conduct a Request for Proposal (RFP) process for TPA Services over the next couple months to select a TPA to provide these same services over the next contract period. Several new initiatives will be incorporated into the TPA Services Contract, based on programmatic changes since the last RFP process. These changes will include:

- Institution of a "hearing representative" program that refers certain cases to professionals other than attorneys to settle claims and represent the City in simple administrative matters. This program has helped to significantly contain increases in legal fees incurred by the City.
- Establishment of a "Return to Work Coordinator" position within the TPA's staffing requirements. This position provides coordination and liaison services directly to agencies and departments as well as treating physicians for the sole purpose of identifying and filling temporary, modified duty assignments.
- Establishment of a nurse case manager position to track difficult medical cases.
- Establishment of a position to work directly with the City's payroll division to track disability notices and to provide check and balances against improper payment of workers' compensation benefits by department payroll clerks.
- Establishment of flexible staffing models that enable the TPA to provide additional resources (as needed) for RMD special projects and initiatives.

- D. Increased Loss Prevention Efforts.** RMD continues to review and analyze claims activity within departments for the purpose of developing loss prevention programs through engineering controls, staff training and protective equipment. Loss prevention efforts have been promoted through the City's Ergonomics Program, targeted Safety and Loss Control Programs, OSHA Compliance Programs and a Defensive Driving Program. Risk Management continues to sponsor annual Safety Training Academies during which City staff participate in multiple safety training sessions. The topics of the training sessions include CalOSHA required safety training, training based on the current loss activity experienced by the City and a number of general health and wellness topics.
- E. Focus On Employee Health.** RMD sponsors Employee Health and Wellness Fairs whereby employees are able to participate in a number of health-related medical screenings such as cholesterol testing, diabetes screening, blood pressure tests, and bone density tests. Flu and Hepatitis B shots are also made available.
- F. Salary Supplement Reconciliation Project.** RMD conducted a comprehensive audit of departmental use of workers' compensation payroll coding. Through this audit, it was discovered that departments did not have a uniform procedure for coding salary supplement payments which led to errors in pay coding. While these errors did not result in overpayments to injured workers, it did result in overcharges to the workers' compensation fund. As a result, Risk Management directed the TPA to create a position with the sole function of monitoring payroll coding against authorized disability payments. In FY 2005-06, the reconciliation program continued to target the Police and Fire Services Agencies. The reduction in overall 4850 expenditures in these departments can be attributed to this added program oversight.

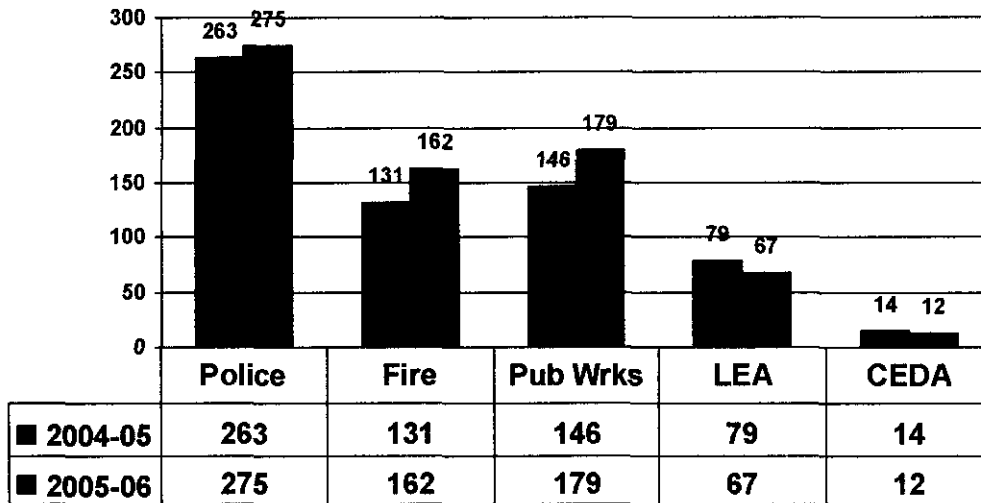
II. Workers' Compensation Data Summary

A. Total Claims Received - Five Year Results



Reported injuries in the City of Oakland has shown a steady decrease since 2001 for both indemnity and medical-only cases, with the total number of claims received down by nearly 28% over the past five years. Indemnity cases are those cases in which an employee lost some amount of work time of over one day. Med-only cases are those in which the employee lost no time from work. The decrease in claims has been demonstrated across department lines.

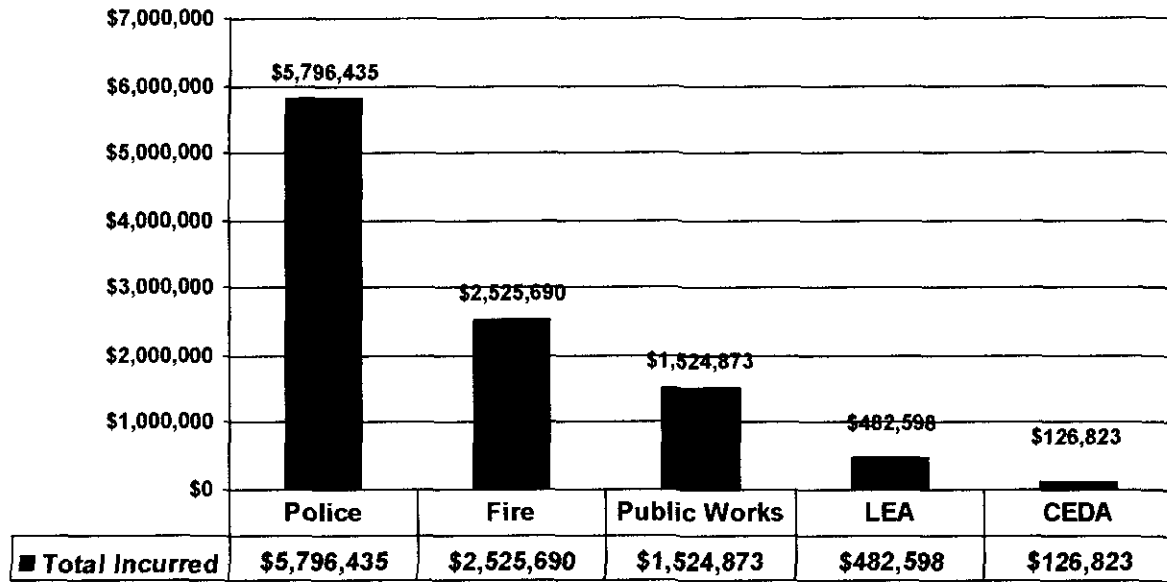
B. Greatest Frequency of Claims by Department



This table reflects the number of injury claims filed within the agencies/departments with the highest number of injures. The increased frequency in Public Works can be attributed to a single incident involving an accidental fumes exposure which resulted in approximately 30 claims being filed by Public Works employees. The Fire Department increase appears to be associated with the re-institution of the Agility Test Program where participants incur injury during the test or in preparation for the test. The increase in the Police Department is not significant and not attributable to any single incident or activity. Despite these increases in the number of claims, the overall cost per claim continued to decline.

C. Incurred Costs For Claims Received in FY 2005-06

Incurred costs are the total estimated “lifetime” cost of a claim. This graph shows the total estimated cost for claims incurred during FY 2005-06.



III. Expenditures

Workers' Compensation Expenditures Report

	2002-03	2003-04	2004-05	2005-06	Percent Change since 2002-03
<u>INDEMNITY</u>					
Permanent Disability	\$ 3,014,729	\$ 3,656,534	\$ 4,272,337	\$ 3,592,032	19%
Temporary Disability	\$ 1,544,491	\$ 1,458,597	\$ 1,222,042	\$1,833,183	
Civilian - Salary Supplement	\$ 852,728	\$ 657,413	\$ 683,739	\$681,679	
Total Non-4850 Pay ⁽¹⁾	\$ 2,397,219	\$ 2,116,010	\$ 1,905,781	\$ 2,514,862	5%
Sworn - OPD - 4850 Pay	\$ 2,714,530	\$ 3,383,319	\$ 3,412,969	\$2,735,571	
Sworn - OFD - 4850 Pay	\$ 3,382,992	\$ 2,014,153	\$ 2,081,130	\$1,884,324	
Total 4850 Pay ⁽²⁾	\$ 6,097,522	\$ 5,397,472	\$ 5,494,099	\$ 4,619,895	-24%
Sub-Total Indemnity	\$ 8,494,741	\$ 7,513,482	\$ 7,399,880	\$ 7,134,757	-16%
<u>ALLOCATED</u>					
Rehabilitation	\$ 510,843	\$ 526,867	\$ 554,730	\$440,119	
Investigative Claims Expense	\$ 335,692	\$ 375,833	\$ 265,919	\$272,107	
Legal	\$ 284,999	\$ 395,036	\$ 444,312	\$673,970	
10% Penalties	\$ 41,859	\$ 66,169	\$ 70,473	\$79,925	
Sub - Total Allocated	\$ 1,173,393	\$ 1,363,905	\$ 1,335,434	\$ 1,466,121	25%
<u>MEDICAL</u>					
City Physician (Concentra)	\$ 375,393	\$ 326,179	\$ 233,575	\$298,937	
All Others	\$ 6,275,137	\$ 7,337,374	\$ 5,042,149	\$5,150,445	
Sub - Total Medical	\$ 6,650,530	\$ 7,663,553	\$ 5,275,724	\$ 5,449,382	-18%
<u>SUB-TOTAL OPERATIONS</u>					
Third Party Recovery - Refunded to the City	\$ (331,090)	\$ (236,541)	\$ (143,799)	\$ (139,326)	
TOTAL OPERATIONS	\$ 19,002,303	\$ 19,960,933	\$ 18,139,576	\$ 17,502,966	-8%
<u>ADMINISTRATIVE EXPENDITURES</u>					
Claims Administrator Contract	\$ 1,570,027	\$ 1,656,855	\$ 1,726,250	\$1,615,482	
Bill Review Expense	\$ 628,162	\$ 708,721	\$ 515,137	\$501,335	
TOTAL ADMINISTRATIVE	\$ 2,198,189	\$ 2,365,576	\$ 2,241,387	\$ 2,116,817	-4%
<u>TOTAL WORKERS' COMPENSATION EXPENSE</u>					
	\$ 21,200,492	\$ 22,326,509	\$ 20,380,963	\$ 19,619,783	-7%

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

2. 4850 pay is the total amount paid to Sworn employees (Police and Fire) required by the State of California Labor Code 4850.

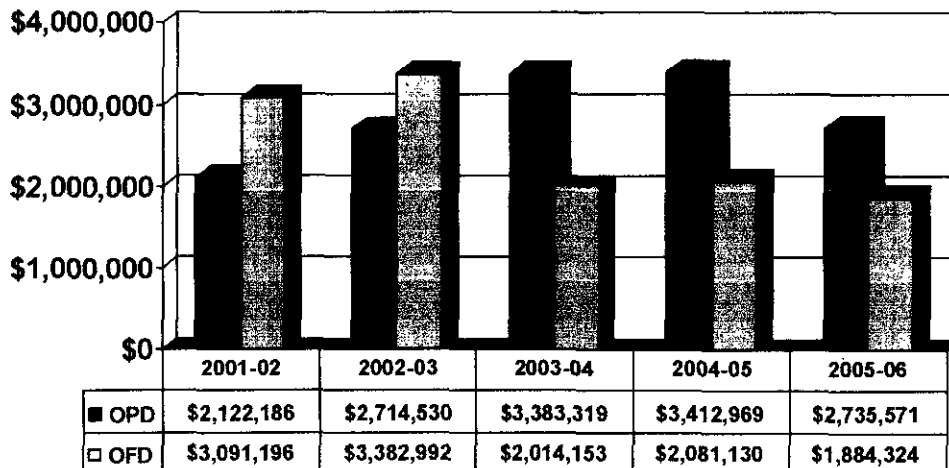
3. Summary of Expenditures Comparison 2004-05 to 2005-06

Category	Amount Paid 2004-05	Amount Paid 2005-06	Total Variance	Percent Change
Indemnity	\$ 7,399,880	\$ 7,134,757	\$ (265,123)	-4%
Allocated	\$ 1,335,434	\$ 1,466,121	\$ 130,687	10%
Medical	\$ 5,275,724	\$ 5,449,382	\$ 173,658	3%
Administrative	\$ 2,241,387	\$ 2,116,817	\$ (124,570)	-6%
Total	\$ 20,380,963	\$ 19,619,783	\$ (761,180)	-4%

1. Indemnity Expenses

Indemnity expenses continue to decline from previous years. Indemnity expenses include all temporary disability, permanent disability and salary supplement expenses. These include Labor Code 4850 payments, which is the special salary supplement sworn employees receive which allow an injured worker to receive up to a full year of salary, tax-free, upon a doctor's order to stay off work. These payments represent the City's largest single workers' compensation expense, apart from medical payments. Other cost drivers in the indemnity expense category are directly linked to State-mandated disability rates and negotiated increases in civilian salary. In January 2005, the State of California increased its maximum weekly rate for temporary disability payment from \$728 to \$840 per week. This impacts the "temporary disability" line item on the Workers' Compensation Expenditure Report. Fiscal Year 2005-06 expenditures reflects the first full year effect of that increase.

Five Year 4850 Benefit Payment History



One major factor that contributed to the City's drop in indemnity (4850) payments was the continued success of the City's return-to-work program (transitional duty). Since the program's formal inception in 2002, the number of days spent on transitional duty, as opposed to days off work due to injury, has resulted in considerable savings.

	2002-03	2003-04	2004-05	2005-06
Transitional Duty	7,222	7,620	7,704	8,448
Total Lost Days	12,804	11,200	9,500	10,987
Indemnity Savings	\$1,303,747	\$1,118,125	\$1,509,291	\$1,765,917

In FY 2005-06, both the Police and Fire Departments had substantial increases in the number of transitional duty days worked by sworn employees.

Fiscal Year	# of Transitional Days by Police Employees	# of Transitional Days by Fire Employees
2003-04	3,101	209
2004-05	3,531	337
2005-06	4,158	881

Risk Management continues to fund two full-time positions assigned solely for the purpose of managing OPD's workers' compensation claims at the department level. These positions are responsible for making payroll corrections for 4850 payments which should not have been made and to correctly administer the injured employee benefits. The incorrect payments are identified by a specially established JT2 position to work directly with the City Payroll Division.

2. Medical Expenses

During this past year, the City experienced an increase in medical expenditures. This is attributed to a number of variables including recent legislative changes in the management of workers' compensation claims and more aggressive medical management and monitoring on the part of the City's TPA. Despite the modest increase since 2004-05, medical costs have declined a total of 18% since 2002-03.

Medical costs have, historically, been driven by an injured workers seemingly limitless access to medical services to "cure and relieve" an illness or injury; all of which was paid by the employer. In addition, the system operated under medical treatment guidelines specifically geared toward "work-related" illness or injury. This invariably meant a lengthier period of disability than if the same illness or injury was treated pursuant to non-work-related guidelines. Legislation which went into effect January 1, 2004 and January 1, 2005 was designed to help employers meet the ongoing challenge of cost containment in the workers' compensation arena.

Prior to this legislation, changes in workers' compensation legislation were on a going forward basis only. The new treatment guidelines apply regardless of date of injury. This is important to employers because now all injured workers are subject to:

- limits on the number of physical therapy visits;
- limits on the number of chiropractic treatments; and
- mandatory Utilization Review processing for all requests for treatment, diagnostic tests and surgery from medical service providers.

The Utilization Review process is a State-provided service whereby independent, state licensed medical reviewers provide oversight and authorization of treatment protocols recommended by workers' compensation medical service providers on all cases. For example, if an employee's treating physician wants to perform a non-routine medical procedure related to an accepted workers' compensation claim, they must obtain approval from the Utilization Review body of the State before the procedure is authorized; and payment for the procedure is limited to the State mandated reimbursement rate. Utilization Review must be consistent with the American College of Occupation and Environmental Medicine (ACOEM) treatment guidelines.

These sweeping changes to medical care, which were intended to result in medical cost savings for employers, came a benefit for the injured workers. Effective January 1, 2005, employers are now required to expend, up to \$10,000, in medical costs for claims that are delayed for investigation, and even those which may ultimately be denied. As a result of this legislative change in FY 2005-06 the City of Oakland incurred \$478,597 in related costs.

3. Allocated Expenses

The legislative tightening of control over medical care for compensable workers' compensation claims has resulted in increased litigation costs. The City incurs legal costs when required to defend the City before the Workers' Compensation Appeals Board.

Allocated expenses include expenses such as legal fees and investigation. The City of Oakland has established protocols to investigate and litigate suspicious claims and to utilize investigators to determine eligibility for compensation and uncover potential fraud. These costs reflect monies paid for defense attorneys, witness fees, depositions, arbitrators and interpreters.

IV. Conclusion and Future Outlook

The City continues to reap benefits from the workers' compensation law reform bill, SB 899. Some of the benefits include the requirement that all medical expenses undergo scrutiny by a third party. This process, called "Utilization Review" ("UR"), did not begin until July 1, 2004. The immediate outcome of this process is reflected by a marked reduction in medical expenditures. Other changes include a revised permanent disability schedule, which should decrease the City's expenses, strict limits on physical therapy and a cessation of the vocational rehabilitation process.

However, the City still struggles with attempts to control the costs attributed to Labor Code 4850, which governs workers' compensation benefits for sworn personnel. This Labor Code Section guarantees generous benefits to sworn employees and includes up to a year of tax-free salary for each injury. This benefit forms the largest cost center for the City of Oakland's workers' compensation program. Risk Management will continue to work closely with the Police and Fire Departments to devise methods and strategies of containing workers' compensation losses.

In the immediate future, Risk Management will conduct a Request for Proposal process to identify a Third Party Administrator to assist the City in the management of its Workers' Compensation Program and further contain the associated costs. Risk Management anticipates introducing new cost reduction programs as part of the upcoming TPA contract. These new programs will be developed in recognition of the fact that workers' compensation continues to be a difficult-to-manage system, with many external sources propelling the program's cost drivers.

In this constantly evolving system, Risk Management looks forward to considering various innovative options that will keep the City on the leading edge of workers' compensation program management.