



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Jennifer Schembri
Margaret McCahan

SUBJECT: SEE BELOW

DATE: June 8, 2018

Approved

D-DSL

Date

6/8/18

**SUBJECT: WORKERS' COMPENSATION PROGRAM –
SERVICE DELIVERY EVALUATION**

RECOMMENDATION

It is recommended that the City Council approve the following actions:

- a) Accept the staff report on the service delivery evaluation for administering the City's Workers' Compensation Program.
- b) Approve staff's recommendation to provide all Workers' Compensation Program services for all City employees through a Third-Party Administrator (or "TPA"), with the transition beginning effective July 1, 2018.
- c) Adopt a resolution authorizing the City Manager to negotiate and execute an amendment to the agreement with Intercare Holdings Insurance Services to continue as the Third-Party Administrator for the City's Workers' Compensation Program and to administer the City's entire Workers' Compensation Program, including all workers' compensation claims and related services for all City employees, July 1, 2018, through June 30, 2019, for a total cost not to exceed \$8,470,145.
- d) Eliminate the following positions in the Human Resources Department effective September 8, 2018:
 - a. 1.0 Senior Analyst
 - b. 2.0 Senior Office Specialist
 - c. 4.0 Workers Compensation Claims Adjuster II
- e) Adopt the following 2018-2019 Appropriation Ordinance amendments in the General Fund:
 - a. Decrease the Personal Services appropriation to the Human Resources Department by \$690,000; and
 - b. Increase the Non-Personal/Equipment appropriation to the Human Resources Department by \$690,000.

OUTCOME

Acceptance of the staff report on the service delivery evaluation for administering the City's Workers' Compensation Program would include approval of the staff recommendation to administer the remainder of the Workers' Compensation Program through a Third-Party Administrator (or "TPA"), which would result in the City fully outsourcing the Workers' Compensation Program, including all workers' compensation claims and related services, for all City employees, and would result in City Council choosing not to implement the Public Private Competition Policy under Council Policy 0-29, and not to pursue a managed competition process. This recommendation would also authorize the City Manager to negotiate and execute an amendment to the agreement with Intercare Holdings Insurance Services to continue as the TPA for the City's Workers' Compensation Program and to administer the City's entire Workers' Compensation Program for all City employees through 2018-2019. City staff will also conduct a Request for Proposal (or "RFP") for a Workers' Compensation Program TPA in the fall of 2018 for Fiscal Year 2019-2020.

EXECUTIVE SUMMARY

The City's Workers' Compensation Program exists to provide services to injured City workers. The City is currently using a hybrid model to administer Workers' Compensation claims as part of a Pilot Program with the Police Department claims being handled by in-house Workers' Compensation adjusters and the rest of the City's claims being handled by a TPA. It is recommended that, in order to provide the most effective services to injured City workers, all Worker's Compensation claims administration be handled by a TPA with the transition beginning July 1, 2018.

BACKGROUND

A. Workers' Compensation Program Overview

The City's Workers' Compensation Program is one component of the City's overall health and safety efforts for employees. The City's first goal is to prevent injuries and accidents. Second, the City aims to assist employees who have a work-related injury in receiving appropriate and timely medical care so that they can return to work as quickly as possible.

Addressing workers' compensation costs requires a comprehensive approach beginning with injury prevention, through treatment and return to work, or in certain cases, through the work-related disability retirement process.

Workers' compensation is a State-mandated benefit for workers who are injured on the job. California requires all employers to have workers' compensation coverage (either through an insurance company or a State-approved self-insurance program), for their employees. The State mandates the following benefits:

- Medical Care: Workers injured on the job are entitled to receive all medical treatments, including physician services, hospitalization, prescriptions, x-rays, lab studies and/or dental care reasonably required to cure or relieve the employee from the effects of their work-related injury.
- Payments for lost wages: If an employee is temporarily disabled by a job injury or illness, they can receive benefits for up to 104 weeks of payments within five years from the date of injury (for injuries on or after January 1, 2008). Tax-free temporary disability payments are two-thirds of the employee's average weekly pay, up to a maximum set by State law. Payments are not made for the first three days the employee is injured unless they are hospitalized as an inpatient or unable to work for more than 14 days.
- Public Safety Officers: Labor Code Section 4850 requires that all public safety officers employed at the time of an industrial injury receive full salary in lieu of temporary disability for a period of up to one year. If the public safety officer continues to be disabled after exhausting the one year of full salary, the injured employee will then receive temporary disability at two-thirds of the employee's average weekly wage, up to the maximum set by State law.
- Return to Work: If the injury or illness prevents an employee from returning to the same job, there may be an opportunity for modification of the regular job, alternative employment in another position, or retraining.
- Payments for Permanent Disability: If the injury or illness results in a permanent impairment, the injured employee is entitled to permanent disability benefits.
- Death Benefits: If the injury results in death, a benefit will be paid to surviving dependents. This is a State determined amount and varies depending on the number and type of dependents.

B. Workers' Compensation Costs

The City of San Jose is self-insured for workers' compensation. This means that, when a worker is injured, the City pays the worker's medical expenses, disability payments, and other benefits/costs as mandated under State law.

In the 2017-2018 Adopted Budget, the City budgeted approximately \$22.6 million from all funds for workers' compensation claims and \$3.9 million for claims administration by both the in-house City staff and a TPA. Self-insured employers, such as San Jose, must be State-approved and pay the same benefits to injured employees as employers that contract with a private insurance company to provide workers' compensation insurance.

Workers' compensation claims are primarily budgeted in the City-Wide Expenses section of the General Fund and in selected special funds. Per the [2018-2019 Proposed Operating Budget](#), the total workers' compensation claims costs are forecasted in 2018-2019 to be approximately \$22 million and \$3.8 million for claims administration.

C. Workers' Compensation Pilot Program and Brief History

The City is in the midst of a multi-year Workers' Compensation Pilot Program (or "Pilot Program") where the City's workers' compensation claims are administered through a hybrid model. In this hybrid model, a TPA handles a portion of the City's Workers' Compensation claims administration in addition to handling bill review, utilization review and medical case management for all claims (as has been done since 2002), and the remaining claims administration is handled by in-house staff. Currently, the City's TPA, Intercare Holdings Insurance Services (or "Intercare"), handles all of the City's workers' compensation claims administration except those for the Police Department, which are handled exclusively by in-house City staff.

This Pilot Program began after [April 2009](#) when the City Council accepted the City Auditor's "[Audit of the City of San Jose's Workers' Compensation Program](#)" (or "2009 Audit"), which included several recommendations for improving the program and containing costs.

Subsequently, in [March 2011](#), the City Council approved the City's "[Alternative Service Delivery Evaluation for Workers' Compensation Administration](#)," which included developing a comprehensive program to address the total cost of the Workers' Compensation Program, as well as exploring the use of a TPA, on a pilot basis, to manage a portion of the City's overall Workers' Compensation claims administration and for the City to evaluate the effectiveness of a TPA in managing claims. It is worth noting that for workers' compensation claims administration, of the top ten (10) cities in California (excluding San Jose), 33 percent (3/9) are TPA-administered, 22 percent (2/9) are hybrid, and 44 percent (4/9) are in-house programs (Attachment C). While each agency must assess its distinct programmatic needs, opportunities, and challenges, general considerations when evaluating service delivery models include, but are not limited to: cost, quality of service delivery and claim handling performance, control over the process and results, stakeholder interests and expectations, and risk mitigation.

In [October 2012](#), the City Council approved the [staff recommendation](#) that the City begin the Pilot Program for a TPA to handle a portion of claims administration, as well as bill review, utilization review and medical case management for all claims (as was already being done at the time), and for in-house staff to handle the remaining claims administration. Since then, the City Council approved an [extension](#) of the hybrid Pilot Program for another year to allow additional time to evaluate the performance of the hybrid Pilot Program in [June 2015](#); followed by [another extension](#) in [June 2016](#); and an [extension](#) to June 30, 2018, was granted in [November 2016](#), given the change to the City's current TPA, Intercare.

As of May 23, 2018, the City had 2,989 total claims (not including information only claims). The TPA handles Workers' Compensation claims administration for all departments except the Police Department, which is handled by in-house staff. This equates to approximately 49% of claims currently being handled by the TPA.

D. Workers' Compensation State Audit

The State of California Department of Industrial Relations audits workers' compensation administrators at least once every five years to ensure that injured workers are obtaining appropriate medical care and benefits.

In 2016, the State of California conducted a routine profile audit review of the City's in-house program and its claims handling. The City failed this audit due in part to staffing challenges. It should be noted that the City's TPA at the time passed the same routine audit in 2016.

Based on the audit failure, the State assessed the City: (1) a penalty in the amount of \$142,215; (2) additional disability payments in the amount of \$16,090; and (3) additional medical and medical legal payments of approximately \$16,000. In addition, the City is subject to another targeted audit (or "re-audit") in December 2018. This re-audit will review cases from 2015, 2016, and 2017 that the in-house City staff handled. In addition to the penalties assessed as result of the failed audit in 2016, that same year, the City's in-house operation was also assessed \$120,000 in penalties for failure to properly address Independent Medical Review Appeals in 24 claims, as well as being the subject of a Target Utilization Review Audit resulting in an additional penalty of \$3,000 for three failures to respond to request for medical treatment. In total, the penalties assessed in 2016 were approximately \$297,000.

In order to make our best effort to pass the re-audit given the vacancies in the Workers' Compensation Division, including the Division Manager position, the City has hired an outside consultant to review the claims files that will be subject to the State's re-audit. If the City fails the re-audit, the State could assess not only financial penalties as it did before, but the State could also require the City to immediately outsource claims administration to a TPA. Additionally, at the most extreme, the State could revoke the City's ability to self-insure for workers' compensation. Self-insurance means that the City pays for injured workers' medical expenses, disability benefits, and other claims-related costs as they occur. If the ability to self-insure were revoked, the City would be required to purchase workers' compensation insurance from a private insurance company, and the cost of such insurance is difficult to estimate but are anticipated to be very high.

ANALYSIS

In reviewing its options, the City's intent is to determine a long-term solution for the effective administration of the Workers' Compensation Program to provide the best possible service to the City's injured workers. The current Pilot Program hybrid model was meant to be a short-term solution, highlighted by the number of times it has been extended and amended since its inception in 2012. Nevertheless, the Pilot Program hybrid model will be an integral part of transitioning the administration of the Workers' Compensation Program.

As the City evaluated its Workers' Compensation Program, and whether the entire Workers' Compensation Program should be administered in-house or by a TPA as described below, the ultimate goal and policy decision centered on determining which model of workers' compensation claims administration provides the most effective service to the City's injured workers. During this evaluation, the two options the City reviewed were:

- (1) In-House Model – Bring the entire Workers' Compensation Program and caseload in-house. In this model, the City would no longer contract with a TPA for claims administration though a TPA may still be utilized for bill review, utilization review, and medical case management for all claims (as has been since 2002).
- (2) Third Party Administrator (TPA) Model – Administer the entire Workers' Compensation Program through a TPA, which would result in the City fully outsourcing the Workers' Compensation Program and services to a TPA. While the City would not retain in-house City staff for claims administration in this model, the City would retain a specialized team to continue to manage the program and the contract with the TPA, in addition to focusing on wellness, and health and safety. Because only the Police Department's claims are currently being handled in-house, this model would only require the Police Department's claims to transition to the TPA.

As part of its review, the City noted that [Council Policy 0-41 \(Service Delivery Evaluation\)](#) requires a preliminary business case be conducted to evaluate service delivery changes that could result in the addition, deletion, or reclassification of four or more full-time employees. The Service Delivery Evaluation Analysis (or "SDE") of the City's Workers' Compensation Program determined that the TPA Model is the best fit for meeting the goals of the Workers' Compensation Program. Considerations in support of this determination are summarized in the following table and are explained further below. In addition, the attached Workers' Compensation Administration Business Case Analysis that contains the SDE also provides additional information (Attachment A).

<i>Reprioritize Wellness and Health and Safety</i>			
Issue	TPA	In-House	Comments
<i>Wellness and Health/Safety</i>	✓		<ul style="list-style-type: none"> City's Workers' Compensation Program is but one component of the City's overall health and safety efforts for employees. The City's <i>first</i> goal should be to prevent injuries and accidents. Using a TPA allows the Health and Safety division staff who remain to focus/reemphasize health/safety, and injury prevention and thereby reducing workers' compensation costs City staff can be experts on health/safety and TPA experts on administration. If in-house, resources would need to be added in order to provide better health/safety services.

<i>Utilization of Resources</i>			
Issue	TPA	In-House	Comments
<i>Program Staffing</i>	✓		<ul style="list-style-type: none"> To be successful, in-house staff would need to have the proper support including, consistent management/leadership Historically, this has been difficult for the City Workers' comp is a specialized field and recruitment has and will continue to be a challenge for the City TPAs whose business is workers' compensation administration would have the ability to focus its resources to support/maintain their staff TPAs also have more flexibility with staffing and could easily add resources as needed If bring in-house, 18 additional staff would need to be hired to successfully manage 2,850 cases, in addition to filling the current vacancies (including the Division Manager)
<i>Technology and Infrastructure</i>	✓		<ul style="list-style-type: none"> Since it is their sole business, a TPA has resources to maintain updated technology/resources to keep up with latest technology needs of the field If bring in-house, need to find space for the 18 additional staff with additional costs
<i>Quality of Service</i>			
Issue	TPA	In-House	Comments
<i>Staffing- Recruitment/ Retention</i>	✓		<ul style="list-style-type: none"> TPAs have to perform service regardless of staffing Anytime there is fluctuation in City staffing, impacts the services that can be provided to injured employees This was reflected in customer service concerns from Department on in-house staff
<i>Performance Consistency</i>	✓		<ul style="list-style-type: none"> Department feedback stated issues depended on which in-house adjuster was assigned, and that there was a lack of consistency with how in-house staff handled claims Did not hear same concerns about TPA
<i>Communications</i>	✓	✓	<ul style="list-style-type: none"> Ideally, in-house staff would have more effective communications with employees given that they are local and knowledge of the City's internal processes However, Department feedback was critical of the communications from in-house staff If outsource, will allow HR staff remaining to focus on customer service and act as a liaison between TPA and employees
<i>Conflict of Interest/Bias</i>	✓		<ul style="list-style-type: none"> Although no specific issues have been identified, using a TPA avoids any potential or perceived conflict of interest of City employees making decisions on other City employees' claims

<i>Mitigation of Risks</i>			
Issue	TPA	In-House	Comments
<i>Training/ Continuing Education</i>	✓		<ul style="list-style-type: none"> Since it is their sole business, a TPA has resources to provide continuous training and education to keep employees updated on a complex and evolving field
<i>Future Risks</i>	✓		<ul style="list-style-type: none"> City failed State audit in 2016 while TPA passed its audit – \$297,000 in penalties Risks of future audits and other regulatory compliance issues shifts solely to the TPA
<i>Control/ Flexibility</i>		✓	<ul style="list-style-type: none"> City would have greater control and also flexibility over process if in-house

As previously noted, the City's focus during its review of its Workers' Compensation Program is to determine the best and most effective way to meet the service needs of the City's injured employees. While staffing and resources, as well as mitigation of risk, were considerations in the City's review, neither issue was determinative in and of itself but were part of the multiple factors in support of the City's recommendation. It should be noted that moving to a TPA Model now may not necessarily prevent the 2018 State re-audit, and the City's recommendation is not related to the re-audit scheduled in 2018.

A. Reprioritize Wellness and Health and Safety

As noted above, the City's Workers' Compensation Program is but one component of the City's overall health and safety efforts for employees. The City's *first* goal is to prevent injuries and accidents.

A key to reducing workers' compensation costs is preventing those workplace injuries in the first place, which requires extensive education on injury prevention and employee wellness. In the [2009 Audit](#), the City Auditor stated that their research found that "studies over the prior 15 years that had shown a return on investment of 6.2 to 1 from having a wellness-fitness program in place."

Additionally, in recognition of the need to streamline the workers' compensation process, reduce costs, decrease the number of work related injuries through prevention, and expedite the return to work of those who are injured or ill, the City's [Alternative Pension Reform Framework](#) with the San Jose Police Officers' Association (or "POA") and the San Jose Fire Fighters, IAFF Local 230 (or "IAFF") included an agreement to convene a Public Safety Wellness Improvement Committee to discuss modifications to, or creation of, wellness and/or workers' compensation policies, procedures, and protocols.

If a TPA were to conduct all of the City's Workers' Compensation claims administration, it would allow the City to prioritize wellness and health and safety. The City would be able to allocate more resources and attention to education and injury prevention to contain costs, as

well as addressing the other recommendations in the [2009 Audit](#). As previously noted, the City would retain City employees necessary to continue to manage the Workers' Compensation program as well as the contract with the TPA, in addition to creating capacity to increase the focus on safety and injury prevention which would have an impact on reducing the number of workplace injuries and the costs associated with workers' compensation claims.

For example, the Department of Transportation (DOT) has invested significant resources and time in developing and emphasizing a culture of safety in the Department. This has included extensive safety training of employees, developing a Department Code of Safe Practices for accomplishing safety in practice, as well as creating work groups and committees to communicate and review safety issues. DOT's long term efforts have led to tangible results, such as fewer work injuries, both in number and severity, and it has also allowed the Department to better track trends to adjust their ongoing safety efforts. In 1998, it was estimated the Department typically had in the range of 110 + injuries annually, but the recent years' injury rates have been in the high 20s range, and the severity has been down, with 2017-2018 tracking at less than 20 injuries for the year. The Department also reported that many sections have recently gone a year or more without injuries. DOT's example is one that the City's Human Resources Department (HR) can emulate and extrapolate into a Citywide effort with increased time and resources to focus on safety and injury prevention. Within the last several months the Human Resources Department, through its two health and safety staff, have analyzed and presented data in support of safety work in the Public Works and Parks, Recreation and Neighborhood Services (PRNS) Departments.

B. Utilization of Resources

The City reviewed both staffing and cost issues surrounding the administration of the Workers' Compensation Program.

(i) Program Staffing

Currently, the ongoing budgeted staffing for the in-house Workers' Compensation Program includes a vacant Division Manager position (who also has responsibility for employee health services and health and safety), an Analyst (sworn liaison), a Senior Analyst (claims adjuster supervisor), a Principal Account Clerk, two Senior Office Specialists (claims assistants), and an Office Specialist (file clerk), in addition to temporary staffing. These positions provide management and administrative capacity for seven Claims Adjusters. As noted previously, under the current Pilot Program hybrid model, the City's in-house staff handles workers' compensation claims for the Police Department only, with all other claims administration performed by the TPA, equating to approximately 49% of total claims (as of May 23, 2018).

To bring the entire workers' compensation caseload in-house, management and administrative staffing would need to be increased. Estimates are that an additional Program Manager, four Senior/Office Specialists, two Senior Analysts, as well as an additional eleven

Claims Adjusters, would need to be added to successfully manage 2,850 cases, as shown below.

Position/Function	Current	In-House Model (@ 2,850 cases)
Division Management	Division Manager (1.0 FTE)	Workers' Compensation (.75 FTE) Health and Safety (0.25 FTE)
Program Management		Program Manager (1.0 FTE)
Team Management	Senior Analyst (1.0 FTE) Analyst (1.0 FTE)	Senior Analyst/Analyst (4.0 FTE)
Claims Administration	Permanent Claims Adjuster (4.0 FTE) Temporary (3.0 FTE)	Claims Adjusters (18.0 FTE)
Claims Administration Support	Senior Office Specialist (2.0 FTE) Temporary Office Specialist (1.0 FTE)	Senior/Office Specialist (7.0 FTE)
Fiscal Support	Principal Account Clerk (1.0 FTE)	Principal Account Clerk (1.0 FTE)
Total	14.0 FTE	31.75 FTE

Workers' compensation is a specialized field, and there are staffing shortages throughout the entire industry. In Northern California, the workers' compensation industry is primarily located in the greater Sacramento area, the East Bay, and San Francisco, which means the City may have to attract skilled employees who are willing either to relocate or to commute great distances to retain their current housing situation.

Additionally, any increased level of staffing (assuming openings could be timely filled) would have to be maintained despite any challenges the City may face regarding its budget, in order to meet the Workers' Compensation Program goal of providing the most effective service to the City's injured workers. The budgeted positions would also have to be filled to be effective. As seen with the historical fluctuations in the staffing of the Workers' Compensation Program, the City has struggled to provide the optimal level of service to the City's injured workers, as well as meeting its regulatory responsibilities due in part to staffing challenges.

In contrast, TPAs are better positioned to hire and retain highly experienced claims staff and can easily add staff as needed to adapt to changes in the program and to meet the City's needs, and at a much quicker pace than the City. TPAs would also be responsible for any staff scheduling or disciplinary issues that arise. Ultimately, the TPA is responsible for providing the service, regardless of their staffing, where the City would need to fill vacancies and services to City workers would be impacted by such vacancies. A TPA-administered model would maintain a consistent level of resources to manage the City's claims and would further allow the entire program to increase attention to prevention efforts. More time and leadership would be dedicated to implementing and supporting injury reduction and other preventative strategies to further contain costs.

Given the City's recommendation, special attention has been and will continue to be made to staffing concerns. The City's intention is to mitigate if not outright prevent any incumbent

City employee from losing employment with the City, and efforts have already been made to place any employees who may be impacted by moving the Workers' Compensation Program to a TPA into other classifications which match their skills and qualifications. This would include placement of the following permanent staff: three Claims Adjusters, one Senior Analyst, and two Senior Office Specialists. As previously noted, the City employees who remain in HR would not only manage the TPA contract but would also be deployed to provide staff support with a major focus on reemphasizing wellness, and health and safety, to prevent injuries and thus reduce costs associated with workers' compensation. It is anticipated that a team consisting of a modest allocation of 1.0 Division Manager (with 0.75 being allocated to the Workers' Compensation Program and 0.25 being allocated to Health and Safety), 1.0 Analyst, and 1.0 Principal Account Clerk would be retained.

(ii) Cost Comparison

In reviewing the staffing information and in order to provide a cost comparison between the service delivery models, HR conducted a request for information (or "RFI") in April 2018 and received six responses. Two of those responses provided the costing in the format needed for appropriate comparison – Intercare and Sedgwick Claims Management Services, Inc. (or "Sedgwick"). Intercare's submission was lower in cost and was used for the cost comparability analysis. The RFI submission estimated costs for transition to a TPA model at total case levels of 2,850 (the current case level), as well as lower case levels of 2,000 and 2,200. The Intercare Full-Time Equivalent (or "FTE") staffing levels do not reflect additional resources committed to claims administration, including a pool of support staff, managers, a team of IT staff, and client service personnel that is incorporated into the TPA pricing.

An in-house staffing model was also developed, using comparable claims administration staffing levels, current City salary levels, non-personal/equipment budget resources (does not include training or costs to fully upgrade the software system), and estimated one-time costs associated with moving and building out staff space. Currently, there is sufficient physical space to house current HR staff, but any addition to the workers' compensation in-house staff would strain the office space currently available, and additional office space would need to be found and built out to meet the needs of the staff.

It was estimated that transitioning to a full in-house model would require a total of 31.75 positions. This would mean recruiting and hiring an estimated 18 additional staff including 1 Program Manager, 11 additional claims adjusters, 2 Senior Analysts, and 4 Senior/Office Specialists to successfully manage the current 2,850 cases, in addition to filling the current vacancies (including the Division Manager). Lower case load levels of 2,500 and 2,200 with the accompanying lower levels of FTE's at 28.75 and 26.75, respectively, which would be expected over time were also reviewed. A summary of the in-house staffing model can be found in the table below.

Summary of In-House Staffing and Caseload							
Cases	Adjuster ⁽¹⁾	Sr Analyst	Sr OS or OS	Acct Clerk	Program Mgr	Division Mgr ⁽²⁾	Total
2,850	18	4	7	1	1	0.75	31.75
2,500	16	4	6	1	1	0.75	28.75
2,200	14	4	6	1	1	0.75	26.75

⁽¹⁾ Similar to Intercare RFI, assumes all indemnity cases – approximate industry standard
⁽²⁾ Includes 75% Division Manager (with 25% allocated to health and safety) in each model

The comparison of the TPA to an in-house model in the table below shows that the initial transition to an in-house model would be costlier due to one-time space and moving costs and when comparing ongoing costs both models are cost comparable at approximately \$4 million. However, with lower caseloads through injury prevention strategies and intense case management, the TPA model is more cost effective at the 2,500 and 2,200 case load levels.

Ongoing Cost Comparison – TPA (Intercare) vs In-House										
Case Load	Intercare ⁽¹⁾					In-House ⁽²⁾				Difference Ongoing
	FTE	Contract	CSJ Staff	Non-Personal Service	Total Ongoing	FTE	Ongoing	One Time	Total	Intercare vs In-House
2,850	31.7	\$3.85M	\$221K	\$77K	\$4.15M	31.75	\$4.19M	\$698K	\$4.89M	(\$50K)
2,500	29.8	\$3.23M	\$221K	\$77K	\$3.53M	28.75	\$3.89M	\$698K	\$4.59M	(\$360K)
2,200	26.2	\$3.02M	\$221K	\$77K	\$3.32M	26.75	\$3.65M	\$698K	\$4.35M	(\$332K)

⁽¹⁾ CSJ Staff = 0.25 Division Mgr, 1.0 Analyst, 1.0 Principal Acct Clerk. Intercare FTEs do not include a manager, IT team, client services personnel, or general clerks.
⁽²⁾ Ongoing costs include rent, parking, and other non-personal services, but it does not include costs to fully upgrade software system. One time costs include space build out and moving expenses and maintaining the TPA contract for two months for transition.

(iii) Technology and Infrastructure

In addition to the significant investment and resources needed to increase staffing, significant investment and resources would also be needed in technology and additional non-personal/equipment costs, including office space. As previously noted, any such investment would need to be maintained as technology changes and evolves.

Alternatively, TPAs would have more resources available to support claims staff and improve outcomes including, but not limited to, specialized oversight of the program; sophisticated claims management systems with advanced business rules and automation to track performance and deliver quality results, as well as modern claims management systems that include dashboards and advanced data analytics; and Information Technology (IT) teams on staff dedicated to assisting with technology issues specific to the Workers' Compensation Program and developing individualized reports upon request. Unlike TPAs, whose sole business is workers' compensation and who have information technology teams dedicated to administering claims management systems, the City's Information Technology Department

serves a wide variety of City departments and needs, and does not specialize in technology exclusive to the needs of the Workers' Compensation Program.

C. Quality of Service

Workers' Compensation is a complex and specialized field, requiring specific expertise and knowledge. Despite its best efforts, the City has long been faced with challenges in administering the Workers' Compensation Program. TPAs, whose business *is* workers' compensation, are better positioned to navigate and address any issues that arise.

(i) Staffing – Recruitment/Retention

It is well established that the City has a history of staffing challenges in its Workers' Compensation Program. This is a byproduct of the workers' compensation industry and budgetary issues at the City of San José (which impacted all City Departments). It is also important to note that the in-house claims administration failed the 2016 State Audit due in part to these staffing challenges. Most recently, the Division Manager over Workers' Compensation who was spearheading the City's efforts to pass the upcoming State targeted audit left City service in early April 2018, creating a significant challenge for the in-house operation in that the City and HR no longer have a primary expert on workers' compensation issues. This is especially challenging given the timing of the State re-audit and the Workers' Compensation Program/Service Delivery Evaluation. There is also no guarantee that staffing issues will not occur in the future given possible recruitment/retention issues and potential budget issues, subjecting the City to ongoing risks of not being able to provide effective services or comply with State Audit requirements in future years. In contrast, and given their size, TPAs have more flexibility in addressing staff vacancies, and TPAs are not subject to these same risks as they can much more easily increase, replace and/or move around staff as needed to provide the services that are required. Two examples are illustrative of the staffing challenges for the in-house team. A Principal Account Clerk position became vacant in March of 2018 and was not able to be filled until the first week in June, and resulted in an Analyst from the health and safety area being trained in and temporarily assuming those fiscal duties. Additionally, also in March of 2018, a claims adjuster position became vacant and it took two months to find a temporary staffing solution and caused average caseloads to increase from about 160 to 187 (indemnity cases only).

With respect to quality of services, in 2016, the State of California conducted a routine profile audit review of the City's in-house program and its claims handling. The State of California Department of Industrial Relations audits workers' compensation administrators at least once every five years to ensure that injured workers are obtaining appropriate medical care and benefits. The City failed this audit with 567 claims handling violations. While there may be a variety of reasons for these failures, the in-house claims operation will more than likely be impacted by staffing challenges resulting from vacancies. In addition, an in-house program would not be able to compete with the TPA in the areas of technology, training and continuing education, and the changing regulatory environment for the administration of workers' compensation claims given the economies of scale of the TPA.

June 8, 2018

Subject: Workers' Compensation Program – Service Delivery Evaluation

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(ii) Performance Consistency

TPAs that manage clients with caseloads like San José's are specifically designed for workers' compensation claims administration, to successfully manage challenges and can more easily sustain a higher level of quality, responsiveness, and customer service. The City would anticipate that a TPA-administered program would improve the consistency of the services provided to the City's injured workers, particularly with regards to meeting State requirements for timeliness, accuracy, and dependability of benefits, which are areas where in-house staff have previously had challenges. In turn, this would allow the City to provide improved services to its employees by increasing the focus on safety and injury prevention which would have an impact on reducing the number of workplace injuries and the costs associated with workers' compensation claims.

While TPAs do appear to have advantages in navigating the Workers' Compensation Program over in-house City staff, it is worth noting that there remain several aspects where in-house staff have an advantage over the TPA. During the City's outreach with various Departments on this issue, there was a concern that TPAs were not local, and that there was a more personalized touch with having City employees handling workers' compensation claims administration. In addition, a TPA does not have the same access to the City's records as in-house staff which may hinder the services provided to injured workers. Nonetheless, those Departments that responded (Airport; Fire; Information Technology; Parks, Recreation and Neighborhood Services; Public Works; and Transportation) and whose claims administration were handled by a TPA generally provided that experiences with the current TPA, Intercare, were positive and that there have been no issues with Intercare's responsiveness to the City's employees. It is worth noting that the feedback received about Intercare from the bargaining unit representatives were also generally positive. Further, maintaining some workers' compensation staff in HR to manage the program and the TPA contract could also provide the customer service personalized touch to City employees, if needed. Lastly, although no specific issues have been identified, using a TPA avoids any potential or perceived conflict of interest of City employees making decisions on other City employees' claims.

Of the top ten (10) cities in California (excluding San Jose), 33 percent (3/9) are TPA-administered, 22 percent (2/9) are hybrid, and 44 percent (4/9) are in-house programs. Each agency must assess its own programmatic needs, opportunities, and challenges, general considerations when evaluating service delivery models include but may not be limited to cost; quality of service delivery and claim handling performance; control over the process and results; stakeholder interests and expectations; and risk mitigation. However, this is illustrative that any decision the City makes to outsource its full Workers' Compensation Program to a TPA is not necessarily uncommon for a similarly sized agency.

D. Mitigation of Risks

As previously noted, workers' compensation is a specialized field. Workers' compensation involves a continually evolving regulatory environment. This requires research to understand changes, designing and implementing new workflows, and training of staff. Moreover, budgetary flexibility can be needed to effectively manage these changes, which could require additional staff or an upgrade to the electronic claims management system.

(i) Training/Continuing Education

Each adjuster must meet State requirements, including passing an exam, obtaining State certification, and meeting annual continuing education requirements. Workers' Compensation adjusters also require monthly training to maintain State certification and to remain current on changes in the regulatory framework. Developing quality internal training resources requires consistent staff resources and funding.

Training is currently the responsibility of the Division Manager which is currently vacant, a model that does not allow for the variety or robustness of the educational opportunities that TPAs can regularly offer their employees. Unlike the City, most TPAs have a dedicated unit to design and deliver effective training on a consistent basis, ensuring that employees stay current with State certification requirements, keep up with the latest developments and best practices in the workers' compensation industry, and to continually build expertise.

(ii) Future Risks

In addition, the workers' compensation system involves a complex and continually changing regulatory framework. Successfully managing and navigating this framework is burdensome and costly. As previously noted, the City's in-house staff has struggled with compliance for a variety of reasons, including limitations on available resources, which led to a failed 2016 State audit and a target audit (or "re-audit") scheduled in 2018. It is worth noting that it is possible that the State may go through with the re-audit regardless of what the City Council decides to do regarding service delivery, and, therefore, the City's recommendation is not related to the State re-audit scheduled in 2018.

However, by moving exclusively to a TPA model, any risks associated with compliance issues fall exclusively on the TPA, not the City. Future audits of the Workers' Compensation Program would be handled by the TPA.

E. Conclusion

In making the determination to recommend that the City's entire Workers' Compensation Program be administered through a TPA, resulting in the City fully outsourcing the Workers' Compensation Program and services to a TPA, it is with the ultimate goal and policy objective to provide the most effective service to the City's injured workers, and to acknowledge the realities that there are ongoing limitations and challenges with the City's

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ability to provide the necessary service. Having a TPA administer the City's entire Workers' Compensation Program appears to be the best solution. The City assumes much less risk under a TPA model and would be subject to less disruption in the future as a result of budget, staffing, and program administration challenges. Based on all the factors, it is unlikely that an In-House Model would be as successful as the TPA Model in providing the best services possible to injured employees.

In the face of this objective, the City acknowledges the staffing placement issues that would arise if the program is administered by a TPA, and the City is committed to mitigating any such impacts to our incumbent staff. As previously noted, there will be permanent positions that would remain to provide management oversight over the TPA, as well as staff support, with a major focus on reemphasizing wellness and health and safety to prevent injuries and thus reduce costs. Some of the positions in the City's in-house claims administration are currently vacant, and other classifications are Citywide classifications used throughout the organization, including Senior Analyst and Senior Office Specialist. Incumbents in such positions would be reassigned to vacancies within the organization or, alternatively, remain in temporary positions until they could be permanently placed in vacant positions. The City anticipates that there would be placement opportunities for employees in alternative classifications and that layoffs would be avoided.

EVALUATION AND FOLLOW-UP

The City will begin the process of transferring the entire Workers' Compensation Program administration to its current Third Party Administrator (or "TPA"), Intercare, which would result in fully outsourcing the Workers' Compensation Program and services to the TPA effective July 1, 2018, with a goal of completing the transition by August 31, 2018.

In light of the staffing implications of outsourcing the Workers' Compensation Program, this is subject to the meet and confer process with the impacted bargaining units representing employees in the City's in-house staff. Upon approval of this memorandum, the City will commence the meet and confer process.

The City will negotiate and execute an amendment to the agreement with Intercare to continue as the Third Party Administrator of the City's Workers' Compensation Program and to begin to administer the entire Workers' Compensation Program, including claims and services, for all City employees for the period of July 1, 2018, through June 30, 2019, with the transition beginning effective July 1, 2018, and a goal of completing the transition by August 31, 2018.

The City will conduct a Request for Proposal (or "RFP") process in fall 2018 for a Third-Party Administrator to provide all services related to the City's Workers' Compensation Program, and will return to City Council for the required approvals. The new agreement would be in place for the 2019-2020 fiscal year

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website in advance of the June 19, 2018 Council Meeting.

COORDINATION

This memorandum was coordinated with the City Manager's Office, the Office of Employee Relations, and the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

COST SUMMARY/IMPLICATIONS

As discussed above, staff compared the costs of the in-house and out-source service delivery models for workers' compensation claims administration and found that ongoing costs would relatively comparable at approximately \$4 million in 2018-2019 based on the estimated case load of 2,850. If the caseload drops to 2,500, the estimated out-source model cost drops to \$3.5 million, while the in-house model is estimated at \$3.9 million. The in-house model also has one-time costs estimated at almost \$700,000.

With program transition, the recommended out-source model results in a 2018-2019 cost of \$4.4 million. This figure is above the \$3.8 million assumed in the 2018-2019 Proposed Budget for the current hybrid model. Additional funding of \$650,000 is recommended in Manager's Budget Addendum #29, *Recommended Amendments to the 2018-2019 Proposed Operating and Capital Budgets*, for the administration of this program. This funding would be used in either the in-source or out-source model. If the program is in-sourced, the funding would address office lease and set-up costs to prepare for the transition in 2019-2020. If the program is outsourced, the funding would allow some staff overlap during the transition to a TPA and would fund additional contractual TPA costs for claims administration in 2018-2019.

Currently, under the hybrid model, there are ten budgeted positions in the Human Resources Department. Under the assumed out-source model, seven positions (1.0 Senior Analyst, 2.0 Senior Office Specialist, and 4.0 Workers Compensation Claims Adjuster II) are recommended to be eliminated effective September 8, 2018. The savings from the position eliminations in the amount of \$690,000 would be reallocated to the Human Resources Department's Non-Personal/Equipment appropriation for additional costs related to the implementation of the out-source model. The out-source model would allow the TPA to administer the City's entire Workers' Compensation Program, including all workers' compensation claims and related services for all City employees. This funding would also allow some staff overlap during the

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transition to the TPA and would fund additional contractual TPA costs for claims administration in 2018-2019. The remaining three budgeted positions would manage and oversee the TPA contract and would also be deployed to provide staff support with a major focus on reemphasizing wellness, and health and safety, to prevent injuries and thus reduce costs associated with workers' compensation.

BUDGET REFERENCE

The table below identifies the fund and appropriations of the recommended budget actions included as part of this memorandum.

Fund	Appn	Appn Name	Total Appn	Rec. Budget Action	2018-2019 Proposed Operating Budget Page*	Last Budget Action (Date, Ord. No.)
001	0481	Human Resources – Personal Services	\$5,716,133	(\$690,000)	III-20	N/A
001	0482	Human Resources – Non-Personal/Equipment	\$3,916,446	\$690,000	III-20	N/A

* The 2018-2019 Proposed Operating Budget is scheduled to be adopted by City Council on June 19, 2018.

CEQA

Not a Project, File No. PP10-069(b), Personnel Related Decisions.



Jennifer Schembri
Acting Director of Human Resources



Margaret McCahan
Budget Director

For questions, please contact Jennifer Schembri, Acting Director of Human Resources, at (408) 535-1285.

Attachment A: Workers' Compensation Administration Business Case Analysis

Workers' Compensation Administration
Business Case Analysis
June 2018

Background and Overview

Workers' Compensation

The City's Workers' Compensation Program is one component of the City's overall health and safety efforts for employees, with the City's first goal being to prevent injuries and accidents. Workers' compensation is a State-mandated benefit for workers who are injured on the job. California requires all employers to have workers' compensation coverage (either through an insurance company or a State-approved self-insurance program), even if they have only one employee. The State mandates the following benefits:

- Medical Care: Workers injured on the job are entitled to receive all medical treatments including physician services, hospitalization, prescriptions, x-rays, lab studies and/or dental care reasonably required to cure or relieve the employee from the effects of their injury.
- Payments for lost wages: If an employee is temporarily disabled by a job injury or illness, they can receive benefits for up to 104 weeks of payments within five years from the date of injury (for injuries on or after January 1, 2008). Tax-free temporary disability payments are two-thirds of the employee's average weekly pay, up to a maximum set by State law. Payments are not made for the first three days the employee is disabled unless they are hospitalized as an inpatient or unable to work for more than 14 days.
- Public Safety Officers: Labor Code Section 4850 requires that all public safety officers employed at the time of an industrial injury receive full salary in lieu of temporary disability for a period of up to one year. If the public safety officer continues to be disabled after exhausting the one year of full salary, the injured employee will then receive temporary disability at two-thirds of the employee's average weekly wage, up to the maximum set by State law.
- Return to Work: If the injury or illness prevents an employee from returning to the same job, there may be an opportunity for modification of the regular job, alternative employment in another position, or retraining.
- Payments for Permanent Disability: If the injury or illness results in a permanent impairment, the injured employee is entitled to permanent disability benefits.
- Death Benefits: If the injury results in death, a benefit will be paid to surviving dependents. This is a State determined amount and varies depending on the number and type of dependents.

The City of San Jose is self-insured for workers' compensation. This means that, when a worker is injured, the City pays the worker's medical expenses, disability payments, and other benefits/costs as mandated under State law.

Pilot Program

The City of San José is currently in a multi-year Pilot Program to evaluate service delivery models for administering workers' compensation claims when an employee is injured on the job. This includes managing medical bills, approving treatment plans, making temporary disability payments, and other activities related to managing the workers' compensation claims process.

In [April 2009](#), the City Council accepted the City Auditor's "[Audit of the City of San Jose's Workers' Compensation Program](#)," which included several recommendations for improving the program and containing costs. In the years since the City Auditor's report, the City has implemented several changes to the Workers' Compensation program as outlined in [Attachment 1](#). Most notably, the City is currently in the midst of a multi-year Pilot Program in which the City is contracting with a Third-Party Administrator (or "TPA") to not just handle a portion of workers' compensation claims administration, but to also handle bill review, utilization review, and medical case management for all claims.

Subsequently, in [March 2011](#), the City Council approved the City's "[Alternative Service Delivery Evaluation for Workers' Compensation Administration](#)," including developing a comprehensive program to address the total cost of the Workers' Compensation Program, as well as exploring the use of a TPA on a pilot basis to manage a portion of the City's overall Workers' Compensation claims administration and to evaluate the effectiveness of a TPA in managing claims.

The City began the current hybrid model as a Pilot Program in [October 2012](#) when the City Council approved the [staff recommendation](#) that the City begin to utilize a TPA to handle a portion of claims administration as well as bill review, utilization review and medical case management for all claims (as was being done at the time), and for in-house staff to handle the remaining claims administration. Since then, the City Council approved an [extension](#) of the hybrid Pilot Program for another year to allow additional time to evaluate the performance of the hybrid Pilot Program in [June 2015](#); followed by [another extension](#) in [June 2016](#). Finally, an [extension](#) to June 30, 2018, was granted in [November 2016](#), given the change to the City's current TPA, Intercare Holdings Insurance Services (or "Intercare"), from the initial TPA when the Pilot Program began, Athens Administrators. As of *May 23, 2018*, all non-Police Department claims were transferred from the City's in-house team to Intercare (with the In-House Team only handling claims for the Police Department). This equates to approximately 49% of claims currently being handled by the TPA.

The in-house team and the contract with the TPA is overseen by a Division Manager over Health and Safety in the Human Resources Department. After various transitions, the City filled the Division Manager in November 2016 and Intercare and the Division Manager developed new workflows and strategies to address the 2009 City Auditor recommendations and contain costs while maintaining quality service delivery for our employees. It should be noted that the Division Manager who was working closely to manage the Intercare contract left City service in April 2018 and the position is currently vacant.

State Audit

The State of California Department of Industrial Relations audits workers' compensation administrators at least once every five years to ensure that injured workers are obtaining appropriate medical care and benefits. In 2016, the State of California conducted a routine profile audit review of the City's in-house program and its claims handling. The City failed this audit while the City's TPA at the time passed the same routine audit in 2016. Based on the audit failure, the State assessed the City: (1) a penalty in the amount of \$142,215; (2) additional disability payments in the amount of \$16,090; and (3) additional medical and medical legal payments of approximately \$16,000. In addition, the City is subject to another targeted audit (or "re-audit") in December 2018. This re-audit will review cases from 2015, 2016, and 2017 that the in-house City

staff handled. In addition to the penalties assessed as result of the failed audit in 2016, that same year, the City’s in-house operation was also assessed \$120,000 in penalties for failure to properly address Independent Medical Review Appeals in 24 claims, as well as being the subject of a Target Utilization Review Audit resulting in an additional penalty of \$3,000 for three failures to respond to request for medical treatment. In total, the penalties assessed in 2016 were approximately \$297,000. In order to make our best effort to pass the re-audit given the vacancies in the Workers’ Compensation Division, including the Division Manager position, the City has hired an outside consultant to review the claims files that will be subject to the State’s re-audit.

Current Service Model

As noted above, the City is currently in a Pilot Program with a hybrid service delivery model for providing workers’ compensation benefits to employees. The workers’ compensation claims are split between an in-house team of City employees (or “In-House Team”) and Intercare, a Third-Party Administrator (or “TPA”). Currently, the In-House Team handles claims from the Police Department while all other claims are handled by Intercare.

As of *December 31, 2017*, the staffing and open claims data comparison for the TPA and In-House Team were as follows:

Table 1. Intercare (TPA) Staffing Model for July 1, 2017 – December 31, 2017

Claim Type	Number of Open Claims as of 12/31/17	Employee Type	Number of Staff	Average Caseload
Indemnity, Medical Only and Future Medical	1,541	Senior Claims Examiner	7	148
		Future Medical/Medical Only Examiner	2	252
		Clerical and Support	6	0
TOTAL	1,541		15	

Note: Industry standard for caseloads range from 150-175. Average caseload does not account for clerical staff. Claim totals do not include information only claims. Additionally, 300 claims were transferred from CSJ to Intercare on May 22, 2017.

Table 2. City of San José In-House Staffing Model for July 1, 2017 – December 31, 2017

Claim Type	Number of Open Claims as of 12/31/17	Employee Type	Number of Staff	Average Caseload
Active Indemnity, Medical Only and Future Medical	1,304	Workers’ Compensation Claims Adjuster II	6	159
		Future Medical Examiner	1	350
		Clerical and Support	3	0
TOTAL	1,304		10	

Note: Industry standard for caseloads range from 150-175. Average does not account for clerical staff. On May 22, 2017, the department transferred 300 cases to Intercare. The In-House Team has three current vacancies, including the recent loss of the Division Manager. A recent adjuster vacancy has resulted in several of the remaining adjusters slightly over the 175 threshold.

Workers' Compensation Program Costs

Workers' compensation claims are primarily budgeted in the City-Wide Expenses section of the General Fund and in selected special funds.

In 2017-2018, the City budgeted \$3.9 million for claims administration by both the In-House Team and the TPA and \$22.6 million (all funds) for workers' compensation claims as shown in Tables 3 and 4 below. For 2017-2018, it is anticipated that total projected expenditures will total \$22.1M compared to a modified budget of \$22.6M (all funds). For the Police Department, costs have exceeded expectations due, in part, to the close-out of older cases.

Table 3: Fiscal Year 2017-2018 Claims Administration Budget

Item	2017-2018 Adopted Budget	2017-2018 Modified Budget	2018-2019 Proposed
Personnel (In-House Team: City staff salaries, retirement, benefits)	\$1,184,780	\$1,184,780	\$1,201,940
Non-Personal/Equipment (supplies + contract)	\$240,910	\$240,910	\$250,321
Third-Party Administrator (Intercare contract)	\$2,177,991	\$2,177,991	\$1,944,897
Sub-Total Ongoing Costs	\$3,603,681	\$3,603,681	\$3,397,158
One-Time Temporary Staff (In-House Team)	\$330,720	\$330,720	\$400,950
Total Costs	\$3,934,401	\$3,934,401	\$3,798,108

Further details about the City's annual costs for claims are shown below. The total claims budget for 2017-2018 was \$22.6 million and for the proposed 2018-2019 budget is approximately \$22 million.

Table 4. Workers' Compensation Claims Costs

	Modified 2017-2018 W/C Budget*	Projected 2017-2018 Expenditures	Proposed 2018-2019 Budget
Police	\$9,050,000	\$9,903,716	\$8,000,000
Fire	\$8,300,000	\$7,783,426	\$8,023,000
DOT	\$500,000	\$511,607	\$1,000,000
PRNS	\$1,100,000	\$1,255,046	\$1,350,000
Public Works	\$550,000	\$539,060	\$773,000
Other Departments	\$1,000,000	\$735,440	\$966,600
General Fund Total	\$20,500,000	\$20,728,294	\$20,112,600
Special Funds Total	\$2,131,000	\$1,323,961	\$1,937,700
ALL FUNDS	\$22,631,000	\$22,052,255	\$22,050,300

*The modified budget reflects the budgeted numbers after mid-year adjustments. Further adjustments are recommended in the 2017-2018 Year-End Clean-Up Memorandum on the June 19, 2018 City Council agenda.

Alternative Service Delivery Models

Two service delivery models were evaluated by the City to determine a long-term solution for the effective administration of the City's Workers' Compensation Program whose ultimate goal is to provide the best possible service to the City's injured workers. The current hybrid Pilot Program model provided the opportunity to test the different delivery models, but it is not recommended as a long-term option for administration of the City's Workers' Compensation Program.

The two service delivery models evaluated by the City were as follows:

(1) Returning the entire program completely in-house (In-House Model).

In this model, all claims would be handled by an in-house staff of City employees (or "In-House Team"), and the City would no longer contract with a TPA to handle a portion of the claims administration. Under this model, all the claims from departments outside of the Police Department would be transferred to the In-House Team from the TPA as the TPA currently handles these.

It should be noted that an In-House Model would not be able to begin immediately given the staffing and infrastructure challenges that would need to be addressed. It may take up to two years to fully staff the program. It is also important to note that the City may not have the option to implement this model if the City fails the State targeted audit, or re-audit, in 2018.

The City would continue to contract for bill review, utilization review, and medical case management for all claims, as has been done since 2002.

(2) Administering the entire program through a Third Party Administrator (TPA Model).

In this model, the entire program is outsourced to a TPA in 2018-2019 with no In-House Team of City employees to handle claims. It is important to note that this model would transfer the claims from the Police Department to the TPA as those are the only claims currently being handled by the In-House Team. A TPA Model will require modification of the existing contract with the current TPA, Intercare, to transition the cases they are not already handling, the claims from the Police Department. It is anticipated that an RFP would then be conducted in fall 2018 for a new contract execution starting for the 2019-2020 fiscal year.

The City recommends an appropriate management team to manage the TPA and provide appropriate customer service to injured workers and City departments, and to also provide staff support with a major focus on reemphasizing wellness, and health and safety, to prevent injuries and thus reduce costs associated with workers' compensation. This would include a team consisting of a modest allocation of 1.0 Division Manager (with 0.75 being allocated to the Workers' Compensation Program and 0.25 being allocated to Health and Safety), 1.0 Analyst, and 1.0 Principal Account Clerk. If a TPA were to conduct all of the City's Workers' Compensation claims administration, it would allow the City to prioritize wellness and health and safety of our City employees. The City would be able to allocate

these resources towards education and injury prevention as the employees who would be retained would not only continue to manage the workers' compensation program and contract with the TPA, but also create capacity to increase the focus on safety and injury prevention which would have an impact on reducing the number of workplace injuries and the costs associated with workers' compensation claims.

Effective management of any TPA requires reviewing contract terms and ensuring compliance, tracking TPA performance measures, advocating for process improvements based on department feedback, supporting two-way communication with departments and the TPA, leading claim reviews with departments and the TPA, coordinating settlements with the Attorney's Office, processing bank account reconciliation, monitoring payments through the City's financial system, and monitoring payments through claims files to ensure no over payments are made. City Departments have reported positive customer service feedback and effective case management with the management of the current TPA Model.

Service Delivery Evaluation Decision-Making Criteria

Pursuant to the [Service Delivery Evaluation Policy \(Council Policy 0-41\)](#):

1. What is the potential impact on public employees currently providing the service and on the workforce in general with respect to issues such as workload, productivity, diversity, and availability of measures to mitigate negative impacts?

Adoption of the TPA model to administer the City's Workers' Compensation Program would result in a reduction of filled positions in the City's Human Resources Department. However, the City anticipates mitigating any impacts to staff through placement and redeployment efforts.

The current Pilot Program hybrid model is currently staffed with 14 in-house positions, including 10 permanent positions and 4 temporary positions. Of the 10 permanent positions, only 8 are currently filled. These positions include:

- 1.0 permanent Division Manager (vacant),
- 1.0 permanent Senior Analyst,
- 1.0 permanent Principal Account Clerk,
- 1.0 permanent Sworn Liaison Analyst,
- 2.0 permanent Senior Office Specialists (Claims Assistants),
- 4.0 permanent Workers' Compensation Claims Adjusters (1.0 vacant; vacancy is currently being back filled by a temporary Claims Adjuster), and
- 3.0 temporary Workers' Compensation Claims Adjusters.
- 1.0 temporary Office Specialist (File Clerk),

If the program is administered by a TPA:

- It is anticipated that 3 of the 10 permanent positions would remain to provide management oversight and staff support, with a major focus and emphasis on customer service and health/safety and wellness, including the Division Manager (which is currently vacant), an Analyst, and the Principal Account Clerk.
- 1 vacant position of Claims Adjuster would be eliminated.
- Of the remaining 6 filled permanent positions, 3 are in Citywide classifications, including the Senior Analyst and two Senior Office Specialist positions. Incumbents in these positions would be reassigned to vacancies within the organization or, alternatively, remain in temporary positions until they could be placed in vacant positions.
- As of May 29, 2018, there are 10 vacant Senior Analyst and 11 vacant Senior Office Specialist positions throughout the organization.

The 3.0 filled Claims Adjuster positions would not be able to be placed in the same classification as there are no other positions within this classification in the City. These employees would be subject to the layoff and redeployment process if the City were to pursue the TPA-administered model. Under this process, the Administration would work with the incumbents to offer appointments into new classification(s) for which the employees are qualified. The City anticipates that there would be placement opportunities for employees in alternative classifications and that layoffs would be avoided.

The City's Workers' Compensation Program is but one component of the City's overall health and safety efforts for employees. The City's *first* goal is to prevent injuries and accidents. A key to reducing workers' compensation costs is preventing those workplace injuries in the first place, which requires extensive education on injury prevention and employee wellness. This was acknowledged both in the [2009 Audit](#) where the City Auditor stated that their research found that "studies over the prior 15 years that had shown a return on investment of 6.2 to 1 from having a wellness-fitness program in place," as well as in the City's [Alternative Pension Reform Framework](#) with the San Jose Police Officers' Association (or "POA") and the San Jose Fire Fighters, IAFF Local 230 (or "IAFF"). In recognition of the need to streamline the workers' compensation process, reduce costs, decrease the number of work related injuries through prevention, and expedite the return to work of those who are injured or ill, the City, POA, and IAFF agreed to convene a Public Safety Wellness Improvement Committee to discuss modifications to, or creation of, wellness and/or workers' compensation policies, procedures, and protocols.

If a TPA were to conduct all of the City's Workers' Compensation claims administration, it would allow the City to focus on wellness and health and safety. The City would be able to allocate more resources and attention to education and injury prevention to contain costs, as well as addressing the other recommendations in the [2009 Audit](#). As noted above, the City would retain City employees necessary to continue to manage the workers' compensation program as well as the contract with the TPA, in addition to creating capacity to increase the focus on safety and injury prevention which would have an impact on reducing the number of workplace injuries and the costs associated with workers' compensation claims.

This proposal focuses on the following organizational values:

- **Excellence:** The TPA Model is anticipated to be more effective in managing the City's Workers' Compensation Program and better positioned to effectively meet the needs of injured City employees. Given their size and the fact that the core of their business is workers' compensation, TPAs can adjust to changing service demands and staff turnover in a timely manner, shifting resources as necessary. This flexibility is expected to improve claims management and consistency in customer service.
- **Innovation:** As improvements in service delivery or changes in regulatory requirements occur in the industry, particularly the use of technology, a TPA can best take advantage of those innovations and improvements on behalf of our employees. The TPA Model would allow for improved leadership within the City where the focus on reducing injuries for our employees can be reemphasized, including steering resources towards health and safety as well as more attention to education and injury prevention.

2. *Is it practical for City staff to provide the proposed service (versus being precluded by proprietary, supply chain, or other factors)?*

Not at this time.

As previously noted, the City's In-House Team currently provides only some of the services of the Workers' Compensation Program. The City's In-House Team handles only those claims emanating from the Police Department, while the current TPA, Intercare, handles all other claims.

In the past, the claims administration function was fully staffed in-house, and if the City were to return to this model and bring the entire workers' compensation caseload in-house, management and administrative staffing would need to be increased and would have to be consistently maintained despite any challenges the City may face regarding its budget or recruitment and retention issues with the positions, in order to meet the Workers' Compensation Program goal of providing the most effective service to the City's injured workers.

It is well established that the In-House operation has a history of staffing challenges. This is a byproduct of the workers' compensation industry and budgetary issues at the City of San José (which impacted all City Departments). It is critical to note that the In-House operation failed the 2016 State Audit due in part to these staffing challenges.

Several recent examples of the staffing challenges with maintaining sufficient in-house staff include the Division Manager over Workers' Compensation who was spearheading the City's efforts to pass the upcoming State re-audit left City service in early April 2018, and the City lost its primary expert on workers' compensation issues. In addition, a Principal Account Clerk position became vacant in March of 2018 and was not able to be filled until the first week in June, and resulted in an Analyst from the health and safety area being trained in and temporarily assuming those fiscal duties. Also in March of 2018, a Claims Adjuster position became vacant and it took two months to find a temporary staffing solution and caused average caseloads to increase from about 160 to 187 (indemnity cases only).

There is no guarantee that staffing issues will not occur given future budget constraints and in light of current recruitment/retention issues, subjecting the City to ongoing risks of not being able to provide the necessary services to the City's injured workers or comply with its regulatory responsibilities.

In contrast, and given their size, TPAs have more flexibility in addressing staff vacancies and TPAs are significantly better positioned to manage these risks as they can easily increase/replace staff as needed. In addition, TPAs are large enough to have in-house training programs to keep employees current on technology and compliance issues. Having these services provided by a TPA also removes the burden from the City in handling staffing issues such as disciplinary matters and coverage due to any leaves of absence. The TPA is responsible for providing the service, regardless of their staffing, where the City would need to fill vacancies and any services would be adversely impacted by such vacancies. In addressing the "personal touch" that in-house staff may be able to better provide, the City would seek to retain staff in-house to not only provide oversight of the TPA, but will ensure customer service needs of the City are regularly assessed and improvements addressed with a TPA. As noted below, City staff were hesitant to have a TPA that was not local, however, departments have reported that it has not been an issue because the current TPA has been responsive via phone, email and mail.

3. *Is there limited market competition for the service or other reasons that the City directly providing CSJ the service would protect public interests from default or service interruption?*

No. The workers' compensation industry appears to be a competitive and robust market. More than 70 TPAs are authorized by the State of California to provide claims administration to self-insured employers.

4. *Is there currently a City staff unit capable of and interested in developing a managed competition proposal?*

No. Pursuing the managed competition path would be challenging for the staff in this unit because their regular work does not generally require the skills necessary for such an effort. The managed competition process allows for staff training to develop these skills; however, this would require a significant effort. This would involve costs for managed competition training for staff, costs for consultant services, and costs for lost staff time due to training for and participation in the managed competition effort. The costs for such a managed competition process would be paid by the General Fund and no funds are allocated for such an effort. In addition, conducting the managed competition process while handling day-to-day claims administration and managing the upcoming State re-audit would negatively impact customer service to injured workers or require significant funding to avoid those impacts.

5. *Is the workload sufficiently steady to support a permanent workforce (versus episodic)?*

Yes. The City of San José Workers' Compensation Program currently has approximately 2,850 open active claims, and there are approximately 1,000 new claims per year. Even with improvements in safety and injury prevention, the anticipated volume of new claims merits the permanent, ongoing allocation of either City staff or contracted vendors to address workers'

compensation claims administration, bill review, medical management, and Medical Provider Network (MPN) services.

6. *Is a city interest served by being a long-term direct service provider, such as avoiding futures costs?*

No. Ultimately, the goal of the Workers' Compensation Program is to provide the most effective service to the City's injury workers. For a variety of reasons, it has been a longstanding challenge for the City to be the provider of the necessary services.

In addition to historical and ongoing issues with staffing, there are also infrastructure considerations that the City is not equipped to meet on a consistent level versus a TPA. For example, TPAs, whose sole business is workers' compensation, would have an Information Technology team dedicated to administering claims management systems whereas the City's IT Department serves a wide variety of City departments and needs, and does not specialize in technology exclusive to the needs of the Workers' Compensation Program.

Further, the workers' compensation system involves a complex and continually changing regulatory framework. Successfully managing and navigating this framework is burdensome and costly. Unlike the City, most TPAs have a dedicated unit to design and deliver effective training to its adjusters on a consistent basis, ensuring that their employees stay current with State certification requirements, keep up with the latest developments and best practices in the workers' compensation industry, and to continually build expertise. Conversely, the training of the City's staff falls on the individual Division Manager (currently vacant), a model that does not allow for the variety and robustness of training needed by in-house employees.

7. *Is the service model likely to improve the quality, customer satisfaction, and/or responsiveness for the same or lower cost, with focus on the General Fund?*

Yes. The TPA-administered program is expected to improve the consistency of services provided to injured workers, particularly with regards to meeting State requirements for timeliness, accuracy, and dependability of benefits, which are areas that the In-House program has had challenges with. The remaining in-house staff would increase the focus on safety and injury prevention, an area which has not seen the level of focused attention that has been placed on the Workers' Compensation Program in recent years. This effort is expected to reduce employee injuries which will, in turn, reduce overall workers' compensation claims costs. In addition, remaining in-house staff will manage the contract with the TPA, serving in an oversight role and assisting with resolving issues with cases. In addition, the remaining in-house staff can provide a "personal touch" and ensure that the customer service needs of the City and the employees are regularly assessed and needed improvements are addressed with a TPA.

a. Costs:

Based on initial research, it appears that ongoing costs between the In-House Model and the TPA Model are essentially comparable at a 2,850 case load level. The comparison of the TPA (Intercare) to the In-House Model in the table below shows that the initial transition to an in-house model would be costlier due to one-time space and moving costs and when comparing ongoing costs both models are cost comparable at approximately \$4 million. However, with lower caseloads through injury prevention strategies and intense case management, the TPA model is more cost effective at the 2,500 and 2,200 case load levels.

Table 5. Ongoing Cost Comparison.

Ongoing Cost Comparison – TPA (Intercare) vs In-House										
Case Load	Intercare ⁽¹⁾					In-House ⁽²⁾				Difference Ongoing
	FTE	Contract	CSJ Staff	Non-Personal Service	Total Ongoing	FTE	Ongoing	One Time	Total	Intercare vs In-House
2,850	31.7	\$3.85M	\$221K	\$77K	\$4.15M	31.75	\$4.19M	\$698K	\$4.89M	(\$50K)
2,500	29.8	\$3.23M	\$221K	\$77K	\$3.53M	28.75	\$3.89M	\$698K	\$4.59M	(\$360K)
2,200	26.2	\$3.02M	\$221K	\$77K	\$3.32M	26.75	\$3.65M	\$698K	\$4.35M	(\$332K)

(1) CSJ Staff = 0.25 Division Mgr, 1.0 Analyst, 1.0 Principal Acct Clerk. Intercare FTEs do not include a manager, IT team, client services personnel, or general clerks.

(2) Ongoing costs include rent, parking, and other non-personal services, but it does not include costs to fully upgrade software system. One time costs include space build out and moving expenses and maintaining the TPA contract for two months for transition.

b. Quality of Service/Customer Satisfaction:

To learn more about the customer service experience with the TPA and the in-house program, the Human Resources Department conducted an informal survey of City departments in January 2018 requesting the information in the following questions. Eight departments responded, including: Airport; Fire; Information Technology; Parks, Recreation and Neighborhood Services; Police; Public Works; and Transportation.

(i) *What experiences have you or your employees had with services associated with the workers' compensation program? (please describe the timeframe that applies to the experience).*

Of the departments that responded, the primary concerns regarding the In-House Team were:

- A department's experiences with the In-House Team were dependent on the assigned claims adjuster since some "were more organized, prepared during the monthly meetings, knew the details of each claim, reported to the department the status of the claims timely, communicated with the workers' comp physicians as

needed to find out additional information regarding claims, and communicated well with both our HR team and the injured workers. Other adjusters that were assigned to the department were not as organized, not well informed of the cases/claims, did not have timely updates, and did not have a good connection with everyone involved;”

- Adjusters were not responsive to phone call or emails, and were only communicating with Payroll on pay issues that departments also needed to be aware of.

In contrast, those Departments who have claims currently handled by Intercare provided the following feedback:

- “We have had only positive experiences. They (Intercare) have been responsive to our inquiries and thorough in their reports...All aspects of the claims have been run smoothly;”
- Current Intercare contacts were “very helpful and easy to work with;”
- Intercare “appears to be more timely and responsive;”
- “Our overall experience has been positive. Intercare has been cooperative and timely in addressing issues” of department personnel.
- However, it is worth noting that a department “(m)issed having a City program administrator to go to in person,” and that another department was “initially concerned that Intercare was not local, however, (we) have not heard any negative feedback about the lack of office hours and availability to meet with adjusters in person,” and that “it has not been an issue because they have been responsive via phone, email and mail with the injured workers.”

Regarding the Workers’ Compensation Program for both In-House and the TPA, there were general concerns about the lack of timeliness. A department “felt that speed of the process was lacking – time for approving doctor’s appointments or to get approval for a specialist was very long,” while another department voiced frustrations with the entire process for “(n)ot getting timely approvals for surgery, physical therapy, etc.,” or “(n)ot getting approvals for claims in a timely manner,” or “(n)ot getting the bills paid to the ambulance companies or doctors.”

(ii) What suggestions do you have to improve the employee experience with worker’s compensation services?

Of the departments that responded, recommendations generally involved improving the following:

- Education and Training – A couple of departments emphasized the need for improving and enhancing preventative measures either through education and training or more proactive communications. One of these departments provided that

the “most appreciated gains are on the safety side to improve practices and prevent injuries.” The other department provided that the intensive advance communications they did with their employees during the transition to Intercare made the transition smoother, and that they recommended that the City and HR have Citywide communications about any changes “in advance so that all of our employees have more time to understand the change and ask questions.”

- Streamlining Process – One of the departments recommended that the TPA have access to the City’s records in the hope it would “help to provide a more seamless service/program for everyone,” while another department asked that the process be streamlined to avoid delays in authorizing the necessary medical treatments for the injured employees. Another department recommended that the system used for the Workers’ Compensation program be able to communicate with the City’s payroll system.
- Reduce Case Load of In-House Employees – The San José Police Department, which has its claims handled by the In-House team, stated that the “adjusters need fewer cases. We have found the adjusters to be overwhelmed with the many cases they are handling, not only for current employees but past employees as well...Being readily available to the employees is a necessity...Being able to answer their questions and/or concerns would help. By lowering their caseload, this could be accomplished.”

(iii) Employees Have Similar Concerns as Departments

On or about January 29, 2018, the City met with representatives of the various bargaining units to get their input on the Workers’ Compensation Program. During the meeting, bargaining unit representatives provided similar concerns as department leadership with respect to the In-House Program. These concerns included a lack of responsiveness and the lack of timeliness in providing needed approvals for treatment and care.

Bargaining unit representatives raised similar concerns regarding responsiveness and timeliness with the TPA, although the cases cited and the concerns raised were regarding the previous TPA and did not involve the current TPA, Intercare. The feedback received about Intercare was generally positive.

8. Do local, state and federal laws, regulations, and funding guidelines restrict the method of service delivery, and if so can these restrictions be changed?

Yes. The Workers’ Compensation system is created and governed by State law in California. Any employer having one or more employees must provide workers’ compensation insurance for workplace injuries or be self-insured for workers’ compensation. Self-insured programs are certified by the State Department of Industrial Relations, Office of Self-Insured Programs.

The Department of Industrial Relations, Division of Workers' Compensation, monitors and regulates the administration of workers' compensation claims, and provides administrative and judicial services to assist in resolving disputes that arise about claims for workers' compensation benefits. In addition, any model for administering workers' compensation benefits must be certified by the Division of Workers' Compensation. Claims Examiners also have certification and annual training requirements. Other than ensuring compliance with various laws and regulations, there is nothing that prescribes a model or prohibits an agency from using a TPA- administered model. Attachment 2 provides information showing that different California agencies use a variety of models, including the TPA-administered model.

As noted above, after the City failed the State Audit in 2016, one of the risks of failing the State targeted audit in 2018 is that the State would require the City to use a TPA for all claims administration. It is also possible that the City receive the more severe penalty of not being allowed to be self-insured. If the ability to self-insure were revoked, the City would be required to purchase workers' compensation insurance from a private insurance company and the cost of such insurance is difficult to estimate but are anticipated to be very high.

9. *What risks to the City and public do the service delivery models present, and how would these risks be managed?*

The greatest risk to the City with an In-House Model is a failure to pass the State targeted audit (or re-audit) in 2018 as a result of failing the 2016 State Audit. This re-audit will review cases from 2015, 2016, and 2017 that the in-house City staff handled. Failing an audit a second time would result not only in monetary penalties, but could also require outsourcing to a TPA immediately; however, it should be noted that moving to a TPA Model now may not necessarily prevent the 2018 re-audit, and the recommendation by the Administration does not take this into account. At the most extreme, an audit failure could result in revocation of City's ability to self-insure. Further, the risks associated with future audits would remain a burden of the City with the In-House Model.

In 2016, the State of California conducted a routine profile audit review of the City's In-House program and its claims handling. The State of California Department of Industrial Relations audits workers' compensation administrators at least once every five years to ensure that injured workers are obtaining appropriate medical care and benefits. The City failed this audit and the conditions leading to the failed audit may not be sufficiently addressed.

Based on the 2016 audit failure, the State assessed the City: (1) a penalty in the amount of \$142,215; (2) additional disability payments in the amount of \$16,090; and (3) additional medical and medical legal payments of approximately \$16,000. In addition to the penalties assessed as result of the failed audit in 2016, that same year, the City's in-house operation was also assessed \$120,000 in penalties for failure to properly address Independent Medical Review Appeals in 24 claims, as well as being the subject of a Target Utilization Review Audit resulting in an additional penalty of \$3,000 for three failures to respond to request for medical treatment. In total, the penalties assessed in 2016 were approximately \$297,000.

If the City fails the re-audit, the State could assess not only financial penalties as it did before, but the State could also require the City to immediately outsource claims administration to a TPA. Additionally, at the most extreme, the State could revoke the City's ability to self-insure for workers' compensation. Self-insurance means that the City pays for injured workers' medical expenses, disability benefits, and other claims-related costs as they occur. If the ability to self-insure were revoked, the City would be required to purchase workers' compensation insurance from a private insurance company, and the cost of such insurance is difficult to estimate but are anticipated to be very high.

The risk to the public is that being unable to self-insure may result in additional (and unknown) costs for the City to be able to meet its responsibilities for its Workers' Compensation Program. As noted above, if the City is required to purchase workers' compensation insurance from a private insurance company, the cost of such insurance is difficult to estimate but are anticipated to be very high.

With a TPA Model, the City mitigates any risks associated with regulatory compliance since all such risks are passed onto the TPA. In addition, the City can require State audit performance as a contract requirement for the TPA, as well as use it as a qualifier in future procurement processes for TPAs. It should be noted that the City's current and prior TPAs have passed their most recent State audits.

10. Is the City able to cost effectively maintain the specialized skills, technology, and equipment needed for the service?

No. Several significant aspects of an effective and high quality workers' compensation program are better served through a TPA-administered model:

a. Infrastructure and Economies of Scale

TPAs have more resources available to support claims staff and improve outcomes, including, but not limited to:

- Specialized oversight of the program.
- Training Units devoted to keeping claims staff current on the latest developments/best practices in the workers' compensation industry.
- Sophisticated claims management systems with advanced business rules and automation to track performance and deliver quality results. Modern claims management systems also include dashboards and advanced data analytics.
- TPAs have IT teams on staff dedicated to assisting with technology issues and developing individualized reports on request.
- TPAs are positioned to hire and retain highly experienced claims staff and can easily add staff as needed to adapt to changes in the program. Moreover, TPAs allow the City to request replacement of any staff that is not performing.

b. Technology Costs

In 2016, the Council approved upgrading the In-House team's 1990s-era legacy claims management system to the vendor's current Navrisk system, with a goal of quickly achieving productivity improvements through automated workflow, use of sophisticated business rules, and enable better compliance with best practices. Staff has discovered several challenges with this new system that need to be resolved. Bringing the full program in-house likely will require investment in a more robust claims management system. Unlike TPAs, whose sole business is workers' compensation and who have information technology teams dedicated to administering claims management systems, the City's Information Technology (IT) Department serves a wide variety of City departments and needs, which could delay implementation of the necessary system upgrades.

c. Training and Continuing Education

Workers' Compensation Claims Adjusters require monthly training to maintain State certification and to remain current on changes in the law. Developing quality internal training resources requires staff resources and funding. Currently, in-house training is the responsibility of the Division Manager, a model that does not allow for the variety or robustness of the educational opportunities that TPAs can regularly offer their employees. In contrast, most TPAs have a dedicated unit to design and deliver effective training on a consistent basis, ensuring that employees stay current with State certification requirements and to continually build expertise.

d. Complex Regulatory Framework

The workers' compensation system involves a complex and continually changing regulatory framework. Successfully managing this framework is burdensome and costly. The In-House Team has struggled with compliance given the limitations on available resources, culminating in a failed State Audit in 2016. With a TPA, the outside vendor would be responsible for all regulatory compliance issues, thus allowing the City to focus on addressing the 2009 City Auditor recommendations and containing costs through wellness and health and safety.

11. Does the service delivery model maximize the leveraging of prospective non-City resources (such as sponsorships and donations)?

This question is not applicable to this Service Delivery Evaluation.

12. Is there management and administration capacity to support the in-house workforce or contract oversight needed?

Currently, the budgeted staffing for the In-House Program includes: a vacant Division Manager (who also has responsibility for the employee health services and health and safety), an Analyst (sworn liaison), a Senior Analyst (claims adjuster supervisor), Principal Account Clerk, two Senior Office Specialists (claims assistants), and an Office Specialist (file clerk), in addition to temporary staffing, provide management and administrative capacity for seven claims adjusters managing about 1,350 cases. To bring the entire caseload in-house, the Division

would need to increase management and administrative staffing. Estimates are that an additional Program Manager, four Senior/Office Specialists, and two Senior Analysts, as well as an additional eleven Claims Adjusters, would need to be added to successfully manage 2,850 cases.

Under a TPA-administered model, the City would potentially require a modest allocation of 1.0 Division Manager (with 0.75 being allocated to the Workers' Compensation Program and 0.25 being allocated to Health and Safety), 1.0 Analyst, and 1.0 Principal Account Clerk to manage the TPA contract and ensure the TPA is providing quality claims management service to injured City employees. This model would further allow the entire program to increase attention to prevention efforts. The Division Manager could allocate significantly more time and leadership to implementing and supporting injury reduction and other preventative strategies. In addition, these positions would now have capacity to focus on customer service and acting as a liaison between the TPA and the employees.

TABLE 6. Staffing.

Position	Current	In-House Model (@ 2,850 cases)
Division Manager	1.0 FTE	0.75 FTE (Workers' Compensation) 0.25FTE Health and Safety
Operational Management	Senior Analyst 1.0 FTE	Program Manager 1.0 FTE
Analyst	Analyst 1.0 FTE	Analyst 4.0 FTE
Claims Adjuster	Permanent Claims Adjuster (4.0 FTE) Temporary (3.0 FTE)	Claims Adjusters (18.0 FTE)
Senior Office Specialist/ Office Specialist	Senior Office Specialist (2.0 FTE) Temporary (1.0 FTE file clerk)	Senior/Office Specialist (7.0 FTE)
Account Clerk	Account Clerk (1.0 FTE)	Account Clerk (1.0 FTE)
Total	14.0 FTE	31.75 FTE

Public/Private Competition Policy (Policy 0-29)

Based on an assessment of the services that a Third-Party Administrator (or "TPA") can provide given the resources available to them, it is determined that the best way to provide the most effective services to the City's employees is to have a TPA administer the City's entire Workers' Compensation Program, including all workers' compensation claims and related services for all City employees. As it currently stands, this means transitioning claims from the Police Department to the TPA who already handles all other claims. Accordingly, it is recommended that the Mayor and City Council choose not to implement the [Public Private Competition Policy \(Council Policy 0-29\)](#).

Attachment 1 – Workers’ Compensation Actions

Dates	Notable Actions
May 21, 2013	The City Council approved an agreement ¹ with Athens Insurance Services, Inc. DBA Athens Administrators to handle a portion of claims administration and all City bill review, utilization review, medical case management, and provide an option to use a Medical Provider Network for the period of June 1, 2013-June 30, 2015 for a total amount not to exceed \$4.6 million. During this Pilot, the City was able to implement the Medical Provider Network (MPN). With the help of Athens Administrators, the City was able to secure a partnership with MedEx to provide a streamlined approach to physicians when an employee is injured. The MPN provides a list of qualified doctors who have gone through an extensive application/background review to ensure they are qualified doctors for injured workers.
June 10, 2014	As part of the 2014-2015 Adopted Operating Budget, a dedicated liaison for sworn employees was also added to closely monitor and assist the needs of the City’s public safety officers. This position was filled in the latter part of 2014 and is the sworn officers’ one point of contact for workers’ compensation/benefits questions and support.
June 23, 2015	The City Council approved a one-year extension of the Athens Administrators’ contract through June 30, 2016 to allow additional time to evaluate performance of the Pilot Program. The total amount was not to exceed \$6.9 million.
October 1, 2015	The MedEx Medical Provider Network was replaced by the Anthem/Blue Cross Medical Provider Network as Anthem/Blue Cross offered a more comprehensive network of medical facilities. The transition was accomplished to better meet the needs of City of San José employees.
June 21, 2016	The City Council approved a final contract extension with Athens Administrators through December 31, 2016 to provide staff time to further evaluate the program and conduct an RFP for these services. Compensation was increased by \$1.4 million, with an amount not to exceed \$8.3 million.
July 12, 2016	Staff released a new RFP for Third-Party Administrator services.
November 17, 2016	The PSFSS Committee heard and accepted the “Workers’ Compensation Semi-Annual Report.”
November 29, 2016	The City Council voted to extended the Pilot program for an additional 18 months (through June 30, 2018) ² and to replace the Third-Party Administrator (Athens) with Intercare ³ . After completion of the pilot, and based on the outcome of the Pilot Program, Council directed staff to return to Council to approve an option to extend the agreement with Intercare if appropriate, rather than allow for the Administration to solely exercise any options related to the agreement. Staff was further directed to return to Council with a standard set of measurement for outcomes on criteria for a cost per closed case and the legal settlement comparisons of the TPA legal process versus the City legal process. Council also approved the purchase of a cloud-based workers’ compensation software system (Navrisk Vision) to replace the existing legacy system (Renaissance).
January 1, 2017	New phase of Pilot Program begins with Intercare as Third-Party Administrator.

¹ Staff report: <http://sanjoseca.gov/DocumentCenter/View/16988>

² Item 3.7, “Approval of the Continuation of a Hybrid Service Delivery Model for Administration of the Workers’ Compensation Program.” Staff report: http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2660&meta_id=603045

³ Item 3.8, “Report on RFP and Actions Related to Workers’ Compensation Comprehensive Services.” Staff report: http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2660&meta_id=603047. Supplemental memorandum: http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2660&meta_id=603484.

Attachment 2 - Largest 10 Cities In California		
No	City	Model
1	Los Angeles	Hybrid: Civilian In-House Police TPA (Tristar) Fire TPA (AIMS)
2	San Diego	In-house
3	San Jose	Hybrid (not included in totals below)
4	San Francisco	Hybrid: 2/3 In-House 1/3 TPA (Intercare)
5	Fresno	TPA (RISICO)
6	Sacramento	In-House
7	Long Beach	In-House in City Attorney's office
8	Oakland	TPA (JT2 Integrated Resources)
9	Bakersfield	TPA (AIMS)
10	Anaheim	In-House
	Total	TPA: 3 of 9 (33%) In-House: 4 of 9 (44%) Hybrid: 2 of 9 (22%) <i>Excluding San Jose</i>