



Memorandum

TO: PUBLIC SAFETY, FINANCE, AND
STRATEGIC SUPPORT COMMITTEE

FROM: Caroline H. Krewson

**SUBJECT: WORKERS' COMPENSATION
PROGRAM SEMI-ANNUAL
REPORT**

DATE: March 6, 2018

Approved

Date

3/7/18

RECOMMENDATION

Accept a semi-annual report on the City's efforts to contain workers' compensation costs and reduce claims for the Workers' Compensation Program through the first six months of 2017-2018.

BACKGROUND

The City Auditor's Workers' Compensation Audit Report in 2009 recommended that staff provide the Public Safety, Finance, and Strategic Support Committee (PSFSS) with regular reports on the City's Workers' Compensation Program. Staff now provides this report to the Committee on a semi-annual basis.

In the years since the audit, the City has implemented a number of changes to the Workers' Compensation program. A detailed timeline including prior City Council and Committee direction is provided in Attachment A.

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 (TPA) to handle a portion of claims administration and to also handle bill review, utilization review, and medical case management for all claims.

The Committee accepted the most recent Semi-Annual Report, covering fiscal year 2016-2017, on October 19, 2017. This report included updates on the Pilot Program, which is slated to conclude in June 2018, and the upcoming State Audit of the In-House Workers' Compensation Program.

The Committee directed staff to return in December with an evaluation of the City's options for administering workers' compensation claims, including: (1) bringing the program In-House; (2) administering the program through a Third-Party Administrator; or (3) continuing a Hybrid Model that includes both In-House and Third-Party claims administration (as is currently in place through the Pilot Program). The Committee also asked that staff provide implementation

timelines for each of the alternatives. Additionally, the Committee asked for the implementation analysis to take into consideration risk factors and the timeline related to the 2018 State Audit of San José's In-House Workers' Compensation Program.

At the December 14, 2017 PSFSS meeting, the Committee voted to send the report "Workers' Compensation Program: Evaluation of Service Delivery Options¹" to the City Council for consideration. In the report, staff reviewed the pros and cons of different service delivery options for processing and administering workers' compensation claims. In addition, the report covered the significant risks associated with the upcoming State of California audit of the City's In-House claims administration.

Staff's recommendation to PSFSS was for the Committee to accept the report. Staff planned to bring forward recommendations about a preferred service delivery model in the budget process, which is standard practice. This would allow for more thorough budget and performance analysis and for the service delivery model to be considered in the context of the overall City budget situation.

Instead, the PSFSS Committee voted to recommend the following policy direction to the City Council for consideration:

- (1) Continue the current Workers' Compensation Pilot Program (Hybrid Model) through the completion of the State audit of the In-House program;
- (2) Develop a work plan for bringing the entire workers' compensation program In-House in stages upon successful completion of the State audit; and
- (3) Return through the budget process with funding recommendations for bringing the program In-House in stages beginning in 2019-2020.

The item was placed on the City Council agenda for February 6, 2018. Staff issued a Supplemental Memorandum² on January 19, 2018.

On January 31, 2018, the Rules and Open Government Committee voted to drop the Workers' Compensation Service Delivery Evaluation report from the February 5 agenda and return to Council before June 30.

The Rules Committee directed the City Manager to evaluate and bring forward a recommendation regarding a permanent service delivery model through the budget process. In addition, the Committee directed that:

- The staff presentation included information about the reasons why the City originally pursued the Pilot Project at a time when the program was all in-house;

¹ Staff Report: <https://sanjose.legistar.com/View.ashx?M=F&ID=5705883&GUID=5FC213A7-6938-4E4F-B7B5-4D5C701611A7>

² Supplemental Memorandum: <https://sanjose.legistar.com/View.ashx?M=F&ID=5744599&GUID=5150BB7D-1795-4841-BBAC-271B9519A26C>

- The City Manager conduct further analysis of the costing models, including doing a Request for Qualifications or Request for Information to get data from potential vendors.

The Rules Committee acknowledged that the City Manager had just appointed a new Director of Human Resources and expressed interest in seeing the perspective that the new Director would bring to the issue.

This report to PSFSS is the regularly scheduled semi-annual report regarding performance metrics of the current claims administration pilot program. It covers data from July 1, 2017, through December 31, 2017. In addition, it includes an update on the work plan for the upcoming State audit. Staff's recommendations for a permanent service delivery model will come forward through the budget process as directed.

ANALYSIS

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

In 2017-2018, the City budgeted \$22.6 million for workers' compensation claims (all funds). The primary focus of this report and of the Pilot Program with the Third Party Administrator (TPA) is on the administration of those claims. The City's In-House team currently administers Police Department claims, while the TPA administers claims from all other departments.

It is important to note that claims administration is just one component of the City's overall workers' compensation program. To lower workers' compensation costs and improve the program for our employees also requires focus on preventing injuries and lessening the number of claims. In future reports, staff plans to present the Committee with additional information on prevention efforts and best practices to reduce injury rates.

This report presents more detailed information in the following areas:

- Key Components of Claims Costs
- Workers' Compensation Total Costs for City Departments
- Analysis of New Claims
- Comparison of New and Existing Claim Volume
- Comparison of Claims Closing Ratios
- Comparison of Staffing Models
- Department Injury Claims Statistics
- Pilot Program Performance Metrics

Key Components of Claims Costs

Significant components of workers' compensation claims costs include medical and indemnity expenses.

Medical Costs: Medical costs are expenses such as physician office visits, prescription medicines and physical and psychological therapy sessions, chiropractic treatments, acupuncture treatments, mileage for doctor visits, skilled nursing facility, durable medical equipment, surgery, and second opinion evaluations. These costs are budgeted in the General Fund City-Wide Expenses workers' compensation claims appropriations and separate appropriations in selected special funds.

Indemnity Costs: Indemnity costs are as follows:

- Temporary disability (TD) benefits – payments made to the employee for his or her time missed from work due to the occupational injuries. Temporary disability benefits for both public safety officers and non-sworn employees are paid out of departmental personal services budgets.
 1. Public Safety Officers – Labor Code Section 4850 (LC 4850) allows all public safety officers employed at the time of an industrial injury to receive a full salary in lieu of temporary disability for a period up to one year. If the public safety officer continues to be disabled after exhausting one year of full salary, the injured employee will receive temporary disability (TD) pursuant to Labor Code Sections 4653-4657 and 4853 at 2/3 of the employee's average weekly wage or at a statutory maximum rate applicable to the date of claimed injury.
 2. Non-Sworn employees – These employees are not entitled to payment of full salary pursuant to Labor Code Section 4850. Injured employees are to be paid temporary disability benefits at 2/3 of the average weekly wage or at a statutory rate applicable to the date of claimed injury.
- Permanent disability (PD) benefits – payment made to the employee to compensate the employee for injuries that result in permanent disability.
- Life pension benefits – benefits paid, in addition to PD benefits, when permanent disability is determined to equal or exceed 70 percent.
- Supplemental job displacement voucher – compensation for an injured worker with permanent impairment when the employer is unable to provide modified or alternative work to the injured worker.
- Death benefits – payable to eligible families of an employee who is deceased as a result of work-related injury.

Workers' Compensation Total Costs for City Departments

Workers' compensation claims are primarily budgeted in the City-Wide Expenses section of the General Fund and in selected special funds. The Workers' Compensation Pilot Program continues to report consistent cost levels while delivering services to injured employees.

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Workers' compensation claims are budgeted at \$22.6 million (all funds) for 2017-2018. For the period July 1, 2017, through December 31, 2017, costs totaled \$12 million. This compares to \$9.7 million for the period from July 1, 2016 through December 31, 2016. The higher costs reflect the concerted effort to close out claims.

It is important to note that an increase in claims costs for 2017-2018 was included in the Adopted Budget, based on historic trends, and expected increases in medical costs and other factors.

While the total claims expenditures for 2016-2017 (\$19.4 million) were consistent with 2015-2016 claims with a slight decrease of \$37,706, LC 4850 expenditures saw a 41.5 percent increase. In 2016-2017, LC 4850 expenditures totaled approximately \$7.6 million, compared with the 2015-2016 total of \$5.4 million. The increase in LC 4850 expenditures, which are observed in budgets for the Police and Fire Departments, was the result of additional sworn employees being off work for reasonable and necessary medical treatment and recuperation.

From July 1, 2017-December 31, 2017, LC 4850 expenditures totaled \$2.5 million, and are tracking toward a projected \$5 million by year end. This would represent a favorable 33% reduction from the prior year. As discussed in more detail below, as of August 28, 2017, the HR Department hired an experienced Safety Officer. The new HR Safety Officer and Workers' Compensation Division Manager are evaluating the root cause of recent indemnity claims and collaborating with the Police and Fire Departments to reduce lost time and 4850 costs.

Table 1. Workers' Compensation Total Costs as of December 31, 2017

	Modified 2017-2018 W/C Budget	July – December 2016	July – December 2017 Actuals	Projected 2017-2018 Expenditures	Projected Year-End Variance
Police	\$9,050,000	\$3,087,419	\$5,710,830	\$8,184,327	(\$865,673)
Fire	\$8,300,000	\$4,115,230	\$4,078,829	\$8,043,826	(\$256,174)
DOT	\$500,000	\$430,279	\$202,320	\$394,644	(\$105,356)
PRNS	\$1,100,000	\$603,930	\$504,852	\$988,785	(\$111,215)
Public Works	\$550,000	\$373,745	\$244,662	\$483,651	(\$66,349)
Other Departments	\$1,000,000	\$459,910	\$579,777	\$956,577	(\$43,423)
General Fund Total	\$20,500,000	\$9,070,512	\$11,321,270	\$19,051,810	(\$1,448,190)
Special Funds Total	\$2,131,000	\$657,145	\$704,295	\$1,459,173	(\$671,827)
ALL FUNDS	\$22,631,000	\$9,727,657	\$12,025,565	\$20,510,983	(\$2,120,017)
LC 4850 Benefits ¹	n/a	\$4,509,046	\$2,528,471	\$5,056,942	n/a
Total		\$14,236,703	\$14,554,036	\$25,567,925	

The modified budget reflects the budgeted numbers after mid-year adjustments.

As outlined in Table 1, workers' compensation costs also include "4850 Benefits". These benefits are funded from both the Police and Fire Departments' personal service budgets, consistent with where the cost of the position is budgeted. The Labor Code that provides for these benefits applies specifically to safety officers and provides Police and Fire sworn personnel with full pay for up to one year for each workers' compensation claim. The 4850 benefits are provided to the recipient tax free.

* Source data: FMS (Dollar amounts may vary slightly from Navrisk due to timing).

Analysis of New Claims

When new claims are reported, they are investigated and converted to the proper category as outlined below:

- * Medical Only claims are minor claims with no indemnity benefits such as temporary disability (TD), permanent disability (PD), supplemental job displacement vouchers, life pensions, and/or death benefits.
- * Indemnity claims are more serious claims involving payment of TD, PD, LC 4850 benefits, supplemental job displacement vouchers, life pensions, and death benefits. Indemnity claims also include litigation claims. Litigated claims are claims where an employee, or their attorney, invoke the Workers' Compensation Appeals Board's jurisdiction by filing a legal pleading before the State Board.
- * An Information Only claim is merely a notice of an incident where no medical treatment is sought.

Table 2 details the total number of newly reported claims (as reported for both the in-house administered program and those managed by the TPA). During the period July through December 2017, there were 497 new claims, which represents an increase of 32 claims, or 6.9 percent, from the same period in the prior year. Of those newly reported claims, 196 claims were converted to indemnity claims, 155 were medical only claims, and 146 were information only claims.

Table 2. New Claims*: City of San José (City) In-House Administration and Intercare TPA

	July through December 2016			July through December 2017			+/-
	CSJ	Athens	Total	CSJ	Intercare	Total	
Information Only	60	53	113	66	80	146	+29.2
Medical Only	71	102	173	58	97	155	-10.4
Indemnity	73	106	179	53	143	196	+9.5
New Claims Total	204	261	465	177	320	497	+6.9

* *Claim status may change through the life of the claim. Therefore, prior period reporting may vary from current reporting.*

Comparison of New and Existing Claims Volume

Tables 3, 4, and 5 compare the new and existing claims volume for both the City in-house administered, and Athens/Intercare programs. In November 2016, the HR Department brought on a new Division Manager for Workers' Compensation and, under this leadership, commenced an effort to bring down open claims volume. For the period July 1, 2017 through December 31, 2017, there was a favorable decrease in the total number of open claims of 650, or 18.6 percent, as compared to the same period in the previous year. Reducing claim volume in a timely fashion – especially with the highly sensitive indemnity claims – ensures that employees with the most

severe occupational injuries receive appropriate care and treatment, and that claims are being processed consistent with state law. It also provides a greater opportunity for cost containment.

Please note there are number of factors may affect open claim volume, including: success of preventive efforts and reduction in new claims; complexity of the claim; litigation over claims (which can extend the time it takes to resolve a claim); and other issues.

Table 3. Athens Administrators/Intercare New and Existing Claims (July 2016 through December 2016 vs. July 2017 through December 2017)

	July 2016 – December 2016	July 2017 – December 2017	Variance	Percentage Variance
Total Open Claims	1,301	1,541	240	18.4
Total Open Indemnity Claims	1,237	1,446	209	16.9
Total New Claims	261	320	59	22.6
Total New Indemnity Claims	106	143	37	34.9

Table 4. City In-House New and Existing Claims (January 2016 through June 2016 vs. January 2017 through June 2017)

	July 2016 – December 2016	July 2017 – December 2017	Variance	Percentage Variance
Total Open Active Claims	2,203	1,304	-899	-40.8
Total Open Indemnity Claims	2,080	1,119	-961	-46.2
Total New Claims	204	177	-27	-13.2
Total New Indemnity Claims	73	53	-20	-27.4

Table 5. Combined Claims (January 2016 through June 2016 versus January 2017 through June 2017)

	July 2016 – December 2016	July 2017 – December 2017	Variance	Percentage Variance
Total Open Active Claims	3,504	2,845	-650	-18.6
Total Open Indemnity Claims	3,317	2,565	-752	-22.7
Total New Claims	465	497	32	6.9
Total New Indemnity Claims	179	196	17	9.5

Comparison of Claims Closing Ratios

A key element in a successful workers' compensation program striving to contain costs includes the timely resolution of claims. Timely claim resolution ensures the injured employee receives appropriate medical attention, and also ensures the claim is resolved so that future costs are mitigated and the employee may either return to work or find an alternative resolution. For the period July 1, 2017 through December 31, 2017, the Pilot Program reported an overall favorable closure rate of 100.5 percent. The industry standard has a target of 100 percent. Of the 100.5

percent reported, Intercare reported 94 percent closure rate, while City in-house staff reported a favorable 107 percent closure rate. Please note that on May 22, 2017, 300 claims were transferred from the in-house operation to Intercare to reduce workloads with the in-house team and work on backlogged cases. As such, Intercare's closing result is still considered favorable, even though they did not achieve the 100% goal.

Table 6 below summarizes the results for the period from January 2017 – June 2017.

Table 6. In-House Closing Ratios - Intercare versus City

Claims Closing Ratio CSJ vs. TPA			
July 1, 2017-December 31, 2017	City	Intercare	Total
New Claims	177	320	497
Closed Claims (New and Existing)	283	227	510
Closing Rate	107%	94%	100.5%

** Data in Table 6 is controlled to factor in the transfer of cases from the City to Intercare that took place during this time.*

Comparison of Staffing Models – City In-House Administered Workers' Compensation versus TPA

The Pilot Program, adopted by the City of San José to administer workers' compensation claims, commenced with the transfer to Athens of 47 percent of the City's workers' compensation claims, which included all cases from the following departments: Fire, Public Works, Human Resources, Environmental Services, Airport, and Parks, Recreation, and Neighborhood Services. Resultantly, 53 percent of the total claims inventory remained with the in-house workers' compensation staff, who were responsible for handling claims for the following departments and offices: City Auditor, City Clerk, City Manager, Transportation, Finance, Housing, Independent Police Auditor, Information Technology, Library, Office of Economic Development, Planning, Building & Code Enforcement, Retirement, and Police. In the beginning, the funding for claims administration was also divided roughly equally between the in-house program and the TPA.

The in-house workers' compensation staff has struggled with staffing challenges throughout the Pilot Program. These challenges were manifested in excessive caseloads per adjuster, and resulted in a failed State of California workers' compensation program audit. In June 2016, the average caseload per adjuster for in-house staff exceeded 500 cases per adjuster, whereas the average caseload for the TPA was approximately 135 cases per adjuster.

To address these challenges, in the 2016-2017 Adopted Budget, one-time funding of \$300,000 was added to increase the third party administrator contract for claims administration services and continue one-time funding of \$93,000 for a temporary Workers' Compensation Claims Adjuster to address the backlog of claims processing. The 2017-2018 Adopted Budget includes additional one-time funding of \$330,720 to continue 3.0 Workers' Compensation Adjuster II temporary positions in the Workers' Compensation Unit through June 30, 2018 to manage caseloads and allow staff to focus on program compliance issues in response to 2016 State Audit

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findings. In addition, funding for the TPA has been increased by approximately \$1.0 million, which reflects the additional caseload transferred to the TPA as well as the increased costs of the new TPA.

With respect to staffing, there are currently no vacancies in the In-House program. The in-house team is seeing improvement in outcomes now that the four permanent positions are filled, as well as with the transfer of cases to the TPA and implementation of a proactive plan to address case inventory and manage backlog.

Tables 7 and 8 provide an overview of staffing models and the ratio of assigned claims to staff. For the period July 1, 2017 through December 31, 2017, the TPA had 9 adjusters handling 1,541 claims; 7 adjusters handled 1,036 regular claims (148 each) while 2 adjusters handled 504 future medical claims (252 each). Please note that approximately 300 claims were transferred to Intercare from the In-House Program on May 22, 2017.

For the period July 1, 2017 through December 31, 2017, the In-House Program had 7 adjusters handling 1,304 active claims; of these, 6 adjusters handled 954 regular claims (159 each) and 1 adjuster handled 350 active future medical claims.

The Council-approved recommendation to select Intercare as the new workers' compensation TPA was implemented in January 2017 and, as of May 22, 2017, all non-Police workers' compensation cases were transferred to the new TPA. The In-House team kept only the Police Department claims in-house to reduce workloads.

Table 7. Intercare (TPA) Staffing Model – TPA for the period 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	
TOTAL			15	Average for Regular Claims Examiner -148**

** Average 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 8. City of San José In-House Administration 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	Average for Regular Claims Examiner - 159*

** Average does not account for clerical staff. On May 22, 2017, the department transferred 300 cases to Intercare.

Department Injury Claims Statistics

During the timeframe July 1, 2017-December 31, 2017, claims injury data indicates that approximately 81.4 percent of the injury claim costs are in the Fire and Police departments (as compared to approximately 74 percent for FY 2016-2017).

Pilot Program Performance Metrics

Pursuant to the November 2016 Approval of the Continuation of the Hybrid Service Delivery Model, the City Council approved the following metrics to compare the in-house workers' compensation program with that of the TPA. The City Council also directed staff 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. It is too early to present such data as this reporting period covers six months of services from Intercare, however, this information will be presented in future reports and in the final analysis of the Pilot Program.

Performance Measures

The following metrics compare the City of San Jose In-house Program vs. Intercare TPA for the period July 1, 2017 – December 31, 2017.

- **Cost – covers the period from July 1, 2017 – December 31, 2017.**
 - Claims Administration - comparison of cost data for claim administration and claim handling results

Administration Cost:

1. TPA (Intercare): \$1,067,904*
2. In-house City Team: \$734,851**

**TPA costs increased with the shift of cases from the City team to the TPA as well as the implementation of the new TPA on January 1, 2017.*

*** City costs include personal costs only (salaries, benefits, retirement) and do not include team costs for non-personal, office space, equipment, overhead, etc. that will need to be included in the final analysis of the pilot program.*

Claims Cost:

1. TPA (Intercare): \$6,314,735* (Average cost per claim of \$4,098)
2. In-house City Team: \$5,710,830** (Average cost per claim of \$4,379)

*Data was sourced from the TPA's claims management systems.

**Data was sourced from FMS.

• **Customer Service**

- Customer Service Survey - Comparison of results from a Customer Service Survey completed regarding the quality of customer service.

1. TPA – 53 surveys issued. Responses received – 19. Responses were overall favorable.
2. In-house City Team – 86 surveys issued. Responses received - 36. Responses were overall favorable.

• **Cycle Time**

- Claim Closing Results – Closing Result of 100 percent. Percentages above 100 percent are favorable. A key element in a successful workers' compensation program striving to contain costs includes the timely resolution of claims. Timely claim resolution ensures the injured employee receives appropriate medical attention, and also ensures the claim is resolved so that future costs are mitigated and the employee may either return to work or find an alternative resolution. Note: on May 22, 2017, 300 claims were transferred from the In-house program to Intercare. As such, Intercare's closing result is still considered favorable, even though they did not achieve the 100% goal.

1. TPA: 94%
2. In-house City Team: 107%

- **Quality**

- Claim Audits - The TPA and the in-house program will randomly audit 2 claims per claims adjuster per month based on the following performance metrics. Note: not all metrics will apply to each audited claim.

1. TPA: 162 claims audited
2. In-house City Team: 168 claims audited

- 3 Point Contacts – Timely completion of 3 Point Contacts. (Pass/Fail)

1. TPA: 52 pass/55 claims audited – 94.5%
2. In-house City Team: 58 pass/62 claims audited – 93.5%

- Causation Analysis – Timely causation decision within 90 days. (Pass/Fail)

1. TPA: 43 pass/43 claims audited – 100%
2. In-house City Team: 36 pass/36 claims audited – 100%

- Plans of Action – Plan of Action in the claims notes every 90 days. (Pass/Fail)

1. TPA: 64 pass/65 claims audited – 98.5%
2. In-house City Team: 81 pass/ 83 claims audited – 97.6%

- Benefit Payments – Timely and accurate payment of benefits. (Pass/Fail)

1. TPA: 48 pass/48 claims audited – 100%
2. In-house City Team: 71 pass/71 claims audited – 100%

- State Compliance – State compliance focuses on the following four areas and these same metrics will be used in the ongoing evaluation of the workers' compensation program:

- Temporary disability payment compliance –

1. TPA: 42 pass/42 claims audited – 100%
2. In-house City Team: 54 pass/54 claims audited – 100%

- Permanent disability & death benefits payment compliance -

1. TPA: 31 pass/31 claims audited – 100%
2. In-house City Team: 49 pass/49 claims audited – 100%

- Subsequent indemnity payment compliance –

1. TPA: 26 pass/26 claims audited – 100%

2. In-house City Team: 38 pass/38 claims audited – 100%
- Agreed Medical Examiner/Qualified Medical Examiner notices compliance -
 1. TPA: 51 pass/51 claims audited – 100%
 2. In-house City Team: 67 pass/67 claims audited – 100%

Additional Performance Improvements

Although there are many factors that aid in containing costs in the workers' compensation program, the most important is understanding where the high cost, high volume, and/or high severity claims are, and taking steps to help reduce or prevent them in the future.

On August 28, 2017, the HR Department hired an experienced Senior Safety Analyst (Safety Officer). The Human Resources Department is responsible for the safety needs of 16 Departments and various Citywide safety initiatives. The HR Senior Safety Analyst and Division Manager are conducting a comprehensive safety analysis of the assigned 16 Departments, to include, but not limited to, root cause analysis of all work injuries for the past three years, site inspections, evaluation of current safety protocols and emergency procedures, and development of effective safety training programs. The new HR Safety Officer is also collaborating with other safety personnel in key departments to better understand injury drivers, and share knowledge across departments.

Total open claims decreased 18.6 percent from July 2017 – December 2017 as compared to the same period in 2016. This can be attributed primarily to proactive claims management practices implemented at the In-House Program and the TPA. In addition, caseloads for the in-house claims team are now averaging 159 claims per regular claims examiner. This is down from over 250 claims per regular claims examiner less than a year ago.

State Audit Work Plan

In 2016, the City's in-house Worker's Compensation Program failed two audits conducted by the State of California's Department of Industrial Relations. As a result, the State assessed penalties totaling approximately \$297,000.

This was the first time the in-house team failed the California State audit and, according to State auditors, a primary factor was that various staffing vacancies had caused excessive caseloads in the City's Workers' Compensation Program. In the prior State audits (in 2006 and 2011), the in-house team passed. It should be noted that, as part of the 18-month pilot continuation, a realignment of cases reviewed by the in-house staff and those handled by the TPA has occurred. In-house staff has retained only Police Department cases. As of May 22, 2017, the TPA assumed responsibility for all non-Police cases.

The City is subject to re-audit in approximately December 2018. Passage of the next audit is necessary for the City to continue to self-insure its employees. Failure to pass could result in the State requiring the City to purchase workers' compensation insurance coverage for its

employees, which would be significantly more expensive than self-insuring, and also would likely result in additional penalties.

According to the State, transferring claims administration to a TPA would cause the audit to be canceled, as was discussed at the PSFSS meeting in December.

To prepare for the December 2018 re-audit, specialized workflows, training, and oversight have been implemented for the in-house claims team. Multiple trainings have been provided by the Division Manager and directly from the State Audit Unit to improve claim handling.

Additionally, a specialized pre-audit workflow was developed by the Division Manager to thoroughly review all claims that might be subject to the December 2018 re-audit and address any outstanding issues.

Staff will identify and bring forward through the budget process any additional resources needed to ensure passage of the audit.

CONCLUSION

The City is currently in a multi-year pilot program to evaluate service delivery models for providing workers' compensation benefits to employees. The pilot is scheduled to conclude in June 2018, and consistent with that timeframe, the Administration will make a final recommendation for a permanent service delivery model as part of the City's Operating Budget Cycle for 2018-2019. As discussed in the December 2017 memorandum, the Administration's recommendation will be brought to Council for implementation in a timeframe that would take into consideration the pending December 2018 State Audit.

/s/

Caroline H. Krewson
Director of Human Resources

Attachment A: Timeline of Worker's Compensation Pilot and Past Council Direction

For questions, please contact Howard Stiskin, Workers' Compensation, Health & Safety Division Manager, at (408) 975-1418.

Attachment A: Timeline of Workers' Compensation Pilot and Council Direction

Workers' Compensation Actions	
Date	Action
April 8, 2009	City Auditor released "Audit of the City of San José's Workers' Compensation Program ³ " with seven recommendations for improving the program and containing costs.
March 8, 2011	City Council ⁴ directed the Administration to develop a comprehensive program to address the total cost of the Workers' Compensation program and to assist injured employees with receiving appropriate and timely medical care so that they are able to return to work.
June 14, 2011	Council adopted the Mayor's June Budget Message ⁵ , which stated: <i>"Workers' Compensation Reforms: The Cost of the City's Workers' Compensation Program is higher than comparable California cities and counties. There is potentially \$10-12 million in savings related to workers' compensation reform. In addition, the City Council has approved achieving reforms as recommended by the City Auditor. The City Manager shall accelerate consideration of changes including contracting the entire process to Santa Clara County, which has a much better record than we do."</i> It was directed that City Administration provide to the Public Safety, Finance, and Strategic Support (PSFSS) Committee a Workers' Compensation Reform plan and strategy and to provide monthly progress reports for implementation.
December 15, 2011	The Public Safety, Finance, and Strategic Support Committee accepted staff's report regarding the Workers' Compensation Reform Plan and recommended the same to the City Council. This Plan included exploring an alternative service delivery model that was different than the City's current in-house administration service delivery model.
March 20, 2012	Staff released a Request for Proposals (RFP) for comprehensive Workers' Compensation Services including: claims administration; bill review; utilization review; and medical case management.
October 30, 2012	The City Council approved staff's recommendation ⁶ that the City engage in a two-year pilot program using a Third Party Administrator (TPA) to handle a portion of claims administration and to also handle bill review, utilization review and medical case management for all claims.
May 21, 2013	The City Council approved an agreement ⁷ with Athens Insurance Services, Inc. DBA Athens Administrators to handle a portion of

³ Audit Report: <http://www.sanjoseca.gov/DocumentCenter/View/3262>

⁴ Item 3.3: "Status Report on the Alternative Service Delivery Evaluation for Workers' Compensation Administration and Employee Health Services."

http://www3.sanjoseca.gov/clerk/Agenda/20110308/20110308_0303.pdf

⁵ Budget Message: http://www3.sanjoseca.gov/clerk/Agenda/20110614/20110614_0901.pdf.

⁶ Item 3.3, "Workers' Compensation – Alternative Service Delivery Evaluation Analysis," http://www.sanjoseca.gov/clerk/Agenda/20121030/20121030_0303.pdf.

⁷ Staff report: <http://sanjoseca.gov/DocumentCenter/View/16988>

Attachment A (continued)

	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 our 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 help.
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 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.
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) ⁸ and to replace the Third Party Administrator (Athens) with Intercare ⁹ . 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.

⁸ 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

⁹ 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 A (continued)

	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.
May 22, 2017	Intercare assumes responsibility for all non-Police cases.