



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

October 17, 2016

The Honorable City Council
Palo Alto, California

Policy and Services Committee Recommendation to Accept the Disability Rates and Workers' Compensation Audit

The Office of the City Auditor recommends acceptance of the Disability Rates and Workers' Compensation Audit. At its meeting on June 14, 2016, the Policy and Services Committee approved and unanimously recommended that the City Council accept the report. The Policy and Services Committee minutes are included in this packet.

Respectfully submitted,

Harriet Richardson City Auditor

ATTACHMENTS:

- Attachment A: Disability Rates and Workers' Compensation Audit (PDF)
- Attachment B: Policy and Services Committee Meeting Minutes Excerpt (June 14, 2016) (PDF)

Department Head: Harriet Richardson, City Auditor



CITY OF PALO ALTO OFFICE OF THE CITY AUDITOR

June 14, 2016

The Honorable City Council
Palo Alto, California

Disability Rates and Workers' Compensation Audit

In accordance with the Fiscal Year 2016 Annual Audit Work Plan, the Office of the City Auditor has completed the Disability Rates and Workers' Compensation Audit. The audit report presents 5 findings with a total of 15 recommendations. The Office of the City Auditor recommends that the Policy and Services Committee review and recommend to the City Council acceptance of the Disability Rates and Workers' Compensation Audit.

Respectfully submitted,

A handwritten signature in cursive script that reads "Harriet Richardson".

Harriet Richardson
City Auditor

ATTACHMENTS:

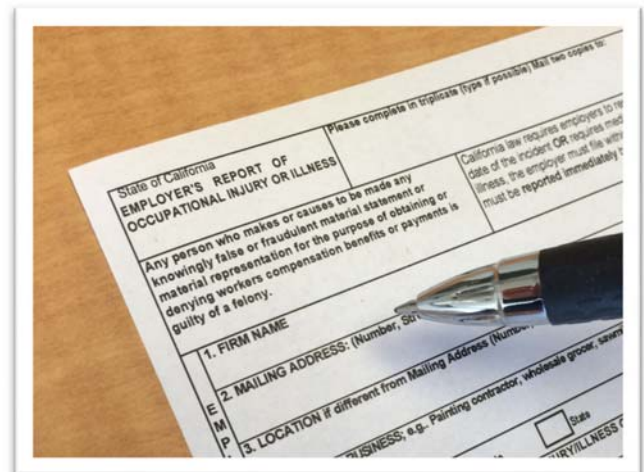
- Attachment A: Disability Rates and Workers' Compensation Audit (PDF)

Department Head: Harriet Richardson, City Auditor



Disability Rates and Workers' Compensation Audit

June 2016



Office of the City Auditor

Harriet Richardson, City Auditor
Yuki Matsuura, Senior Performance Auditor
Lisa Wehara, Performance Auditor II

Page intentionally left blank



OFFICE OF THE CITY AUDITOR

EXECUTIVE SUMMARY: Disability Rates and Workers' Compensation Audit June 2016

PURPOSE OF THE AUDIT

The audit objectives were to determine if the City's Workers' Compensation policies and Injury and Illness Prevention Program are implemented in a manner that minimizes injuries and illnesses and workers' compensation costs.

REPORT HIGHLIGHTS

Finding 1: The City's Injury and Illness Prevention Program (IIPP) is comprehensive but has lost its effectiveness due to the loss of its City Safety Officer (Page 7)

The City has a comprehensive safety manual to help protect City employees from work-related injuries and illnesses. However, the manual has not been updated since 2000, and has lost its effectiveness as its procedures, forms, and tools have become outdated. While the number of workers' compensation claims filed decreased in FY 2015 and has generally decreased since FY 2009, the City may face a future increase in workplace injuries and illnesses if the IIPP remains outdated.

Key Recommendations to the City Manager's Office:

- Allocate sufficient resources to implement and maintain the City's IIPP and to monitor the City's compliance with the program.
- Update the safety manual to redefine the roles and responsibilities and ensure compliance with Cal/OSHA standards and other applicable safety laws.
- Review departmental procedures and safety requirements to ensure they align with the revised IIPP and City policy and procedures.
- Work with York and departments to identify useful safety statistics, appropriate recipients of this information, and establish an automated process for those statistics to be provided.
- Identify training opportunities to minimize common injuries, and coordinate with departments to ensure regular training is provided to employees.

Finding 2: Injured employees' benefit eligibility is not accurately and completely tracked and monitored, resulting in both overpayments and underpayments of workers' compensation benefits (Page 14)

The City does not have an effective process or tools to monitor benefit eligibility and the work status of injured employees, resulting in both overpayments and underpayments of the benefits paid to injured employees. The City's workers' compensation benefit structure is highly complex due to additional City-provided benefits defined by City policy and labor agreements. This complexity also resulted in some disability leave payments being incorrectly reported as compensation to CalPERS. HR staff track eligibility of each injured employee manually because the City's SAP system is not configured to support administration of these benefits. York relies on HR staff to immediately communicate any changes in the work status of injured employees to ensure that benefit eligibility is updated and communicated to the injured employee in a timely manner as required by state law.

The former City Safety Officer used to play a key monitoring role and facilitated communication between the City and York, but roles and responsibilities became unclear as HR was reorganized and the processes changed. Lack of monitoring resulted in multiple instances of benefit overpayment and underpayment.

Key Recommendations to the City Manager's Office:

- Continue working with ASD and CalPERS to address the disability leave benefits that were incorrectly reported as compensation to CalPERS.
- Review the 22 claims that accounted for 87 percent of the additional city benefits in Exhibit 11, and take necessary action to address any errors identified.
- Review the existing disability leave management process in Exhibit 12 and determine the optimal monitoring structure, update the tools and procedures, and allocate sufficient and skilled resources.
- HR work with ASD to ensure that the data necessary for disability leave management is captured through time reporting in SAP to support the process.
- Work with York to identify and train responsible HR staff, and maintain online access to York data for analyzing claims, payment transactions, and trends.

Finding 3: The City has not met the state requirement for timely reporting of its workers' compensation claims to York, potentially causing the cost of claims to increase (Page 24)

California law requires employers to report within five days of their knowledge every occupational injury or illness that results in lost time beyond the date of the incident or requires medical treatment beyond first aid. The City has not met this requirement, which could result in penalties and could also increase the cost of claims. A recent study concluded that claims with more than a two-week delay in reporting involve a longer period before the injured worker can return to work, take longer to close, and are more complex to settle.

Key Recommendations to the City Manager's Office:

- Streamline the workers' compensation reporting process and improve the accuracy and completeness of the claim forms.

Finding 4: The City has not ensured that York met all contract terms (Page 29)

The York contract includes various terms that could help the City reduce its workers' compensation costs, such as cost reduction guarantees and utilization review. While most requirements are met, there are some that the City has not required York to fulfill. The City could better manage its claims and reduce costs by fully using services York is required to provide under the contract.

Key Recommendations to the City Manager's Office:

- Create a list of key contract terms and assign staff to monitor and follow up on York performance against each term
- Work with York to streamline the monthly, quarterly, and annual reporting process by leveraging online access to York data

Finding 5: Workers' compensation revenues, costs, and performance data are not clearly reported for informed decision making (Page 31)

The Workers' Compensation Fund accounts for administration of the City's workers' compensation program, and the revenues and expenditures are reported in the City's comprehensive annual financial report and budget documents. However, the Workers' Compensation Fund does not include all of the City's workers' compensation costs, and the costs presented in the budget documents are difficult to understand the nature and true cost of each line item. Without a clear understanding of the workers' compensation costs, Council and management may not be able to make informed decisions regarding the City's workers' compensation related programs.

Key Recommendations to the City Manager's Office:

- HR work with ASD's Office of Management and Budget to clarify the presentation of the workers' compensation costs in the City's budget documents
- Work with York to identify useful performance measures and establish procedures to ensure reliable reporting of performance data using a consistent methodology.

TABLE OF CONTENTS

Objective.....	1
Background.....	1
Scope	5
Methodology	5
Finding 1:	
The City’s Injury and Illness Prevention Program (IIPP) is comprehensive but has lost its effectiveness due to the loss of its City Safety Officer	7
Recommendations	13
Finding 2:	
Injured employees’ benefit eligibility is not accurately and completely tracked and monitored, resulting in both overpayments and underpayments of workers’ compensation benefits.....	14
Recommendations	22
Finding 3:	
The City has not met the state requirement for timely reporting of its workers’ compensation claims to York, potentially causing the cost of claims to increase	24
Recommendations	27
Finding 4:	
The City has not ensured that York met all contract terms.....	29
Recommendations	30
Finding 5:	
Workers’ compensation revenues, costs, and performance data are not clearly reported for informed decision making	31
Recommendations	34
Appendix 1: The City’s Workers’ Compensation Costs	35
Appendix 2: City Manager’s Response	37

ABBREVIATIONS

4850	California Labor Code Section 4850
ASD	Administrative Services Department
AWW	Average weekly wage
CAL/OSHA	California Occupational Safety and Health Act
CalPERS	California Public Employees' Retirement System
CSAC	California State Association of Counties
DIR	Department of Industrial Relations
EMS	Emergency medical service
FTE	Full-time equivalent
FY	Fiscal year
HR	Human Resources
IIPP	Injury and illness prevention program
MOA	Memorandum of agreement
PD	Permanent disability
RMI	Repetitive motion injury
SEIU	Service Employees International Union
TD	Temporary disability
TPA	Third party administrator

INTRODUCTION

Objective

The audit objectives were to determine if the City's Workers' Compensation policies and Injury and Illness Prevention Program are implemented in a manner that minimizes injuries and illnesses and workers' compensation costs.

Background

California State law requires employers to have workers' compensation insurance, either by purchasing a policy or through self-insurance, and pay workers' compensation benefits. Employees are entitled to receive prompt, effective medical treatment for on-the-job injuries or illnesses regardless of fault and, in return, are prevented from suing employers for those injuries.

The City of Palo Alto is permissibly self-insured for workers' compensation up to \$500,000 per claim, and has a workers' compensation insurance policy through California State Association of Counties (CSAC) Excess Insurance Authority, a joint powers authority, with excess coverage up to the statutory limits set by the state of California.¹ The City's workers' compensation policy states that City employees and elected or appointed public officials are generally covered under workers' compensation, while volunteers are not. The Risk Manager in the City's Human Resources (HR) Department is responsible for administering workers' compensation benefits.

State Oversight

The California State Department of Industrial Relations (DIR), through its Division of Workers' Compensation: 1) administers workers' compensation laws, 2) resolves disputes over workers' compensation benefits, and 3) provides information and assistance about the workers' compensation system. The DIR's Office of Self Insurance Plans is responsible for oversight and regulation of workers' compensation self-insurance in California.

Third Party Administrator (TPA)

The City has contracted with York Risk Services Group (York), a third party administrator, since July 2006 to administer the City's workers' compensation claims. York claims examiners, on behalf of the City, determine what benefits should be paid or rendered under the applicable workers' compensation laws in each reported claim, and pay benefits out of City funds. The City maintains control over authorizing appeals, settlements, awards, and all other decisions related to benefits.

¹ The maximum amount depends on various factors, such as type of benefit, loss date, or nature of injury or illness.

**Workers' Compensation
Claim Types and Benefits**

There are three types of workers' compensation claims:

- First aid – Minor medical treatment only, as defined by state law
- Medical only – Medical treatment only beyond first aid
- Indemnity – Medical treatment and wage support when the employee cannot return to work

Exhibit 1 describes workers' compensation benefits state law requires the City to pay.

**EXHIBIT 1
Workers' Compensation Benefits Required by State Law**

Benefit Category	Benefit Provided by the City
Medical Treatment	All reasonable and necessary medical care and incidental costs, including transportation. The City generally is not liable for the cost of medical treatment obtained by the employee before the City was notified of the injury.
Salary Continuation for Safety Employees (4850)	Eligible public safety employees (e.g., firefighters, police officers) can receive up to 365 days of full salary while on disability leave in accordance with California Labor Code Section 4850.
Temporary Disability (TD)	Employees who are unable to work for more than three days while recovering from injury can receive two-thirds of gross wages tax free up to 104 weeks within five years from the date of injury. There are two types of TD benefits: <ul style="list-style-type: none"> • Temporary Total Disability benefits – payments to an employee who cannot work at all while recovering. • Temporary Partial Disability benefits – payments to an employee who can work part-time while recovering.
Permanent Disability (PD)	When maximum recovery is achieved and a permanent injury remains, the employee may receive a settlement based on the level of permanent disability, type of injury, continuing medical treatment, and the employee's age and occupation.
Death	The dependents receive burial expenses up to \$10,000* and benefit payments up to \$320,000,* depending on the number of dependents.
Supplemental Job Displacement Benefits	A Supplemental Job Displacement Voucher up to \$6,000,* payable to a state accredited training school to assist with retraining, if the City cannot provide modified or alternative work to accommodate permanent work restrictions.

* The maximum benefit set by the state of California for injuries on or after January 1, 2013.

Source: California state laws and City policies

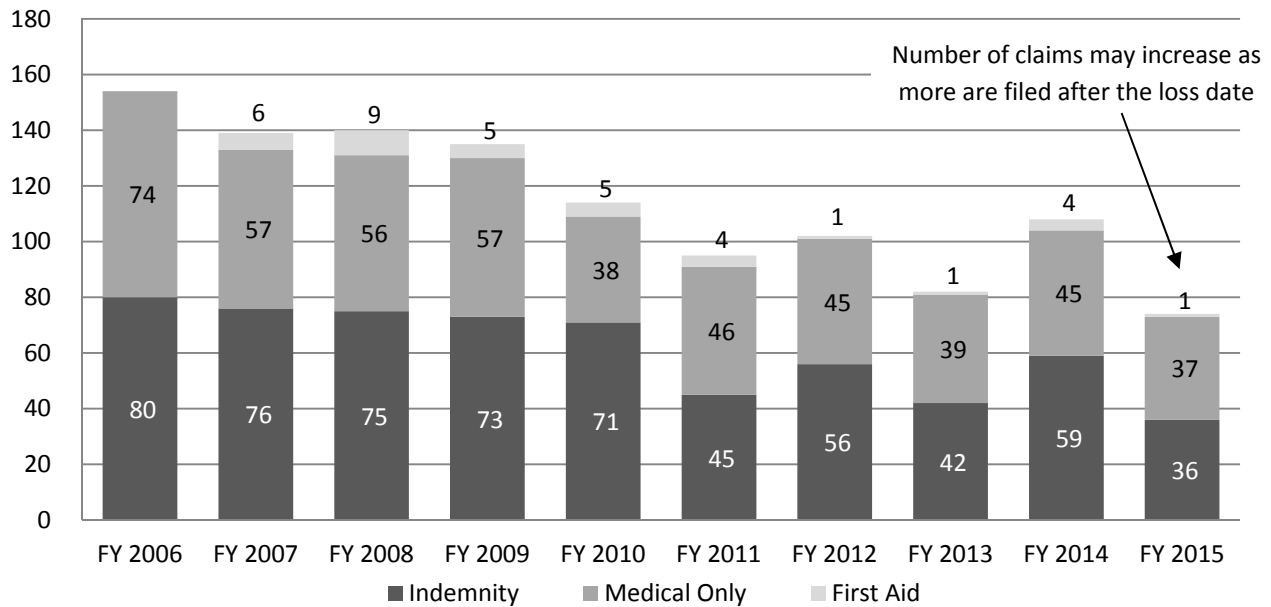
**City's Workers' Compensation
Claims and Costs**

It is difficult to identify trends in the City's workers' compensation claims without understanding the unique nature and severity of individual cases. Exhibit 2 shows that the number of claims filed by City employees has decreased by half in the last decade, from 154 in fiscal year (FY) 2006 to 74 in FY 2015. However, the number of claims does not always correlate with the cost of claims, which is highly dependent on the severity of each case. The FY 2015 number is also

likely to increase as employees sometimes report at a later date their injuries or illnesses that originated in the past.

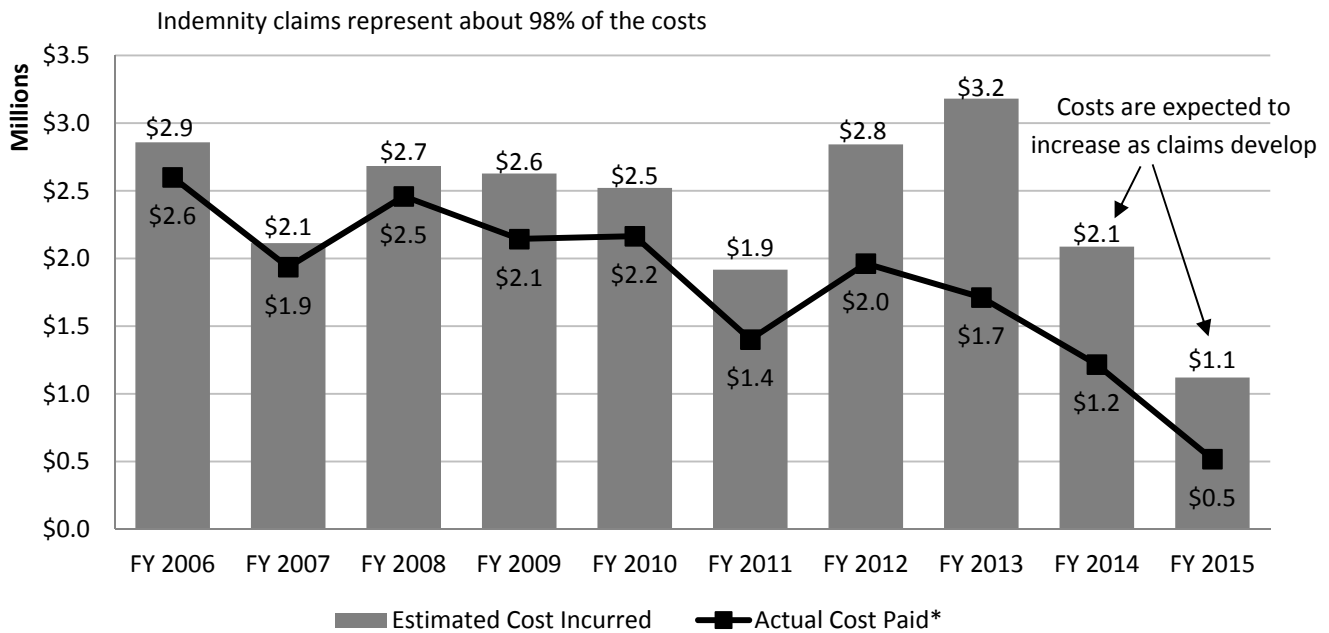
Exhibit 3 shows that indemnity claims comprise the majority of the City's cost for workers' compensation claims, representing more severe injuries and illnesses with higher medical cost, wage support, and in some cases, the cost of litigation and settlement. Although the cost of claims incurred has decreased by 61 percent, from \$2.9 million in FY 2006 to \$1.1 million in FY 2015, the cost of newer claims is expected to increase as claims develop (e.g., a knee injury later requiring surgery). For example, the total cost of FY 2013 claims was \$1 million as of June 30, 2013, but increased to \$3.2 million by June 30, 2015. Spikes in the cost of claims incurred in FY 2012 and FY 2013 were due to two separate claims involving an unusually severe injury or illness that progressed over time.

EXHIBIT 2
Number of Workers' Compensation Claims Filed by Fiscal Year of Loss
As of June 30, 2015



Source: York data

EXHIBIT 3
Cost of Claims Incurred and Paid by Fiscal Year of Loss
Valued as of June 30, 2015



* The actual cost paid as of June 30, 2015, for claims grouped by fiscal year of their loss dates. The difference between the estimated cost incurred and the actual cost paid becomes smaller as the injured employees receive benefits and the older claims are closed.

Source: York data

Injury and Illness Prevention Program (IIPP)

The City’s safety policy requires all employees to comply with all California Occupational Safety and Health Act (Cal/OSHA) standards, all applicable safety laws, and the City’s injury and illness prevention manual (the safety manual). Cal/OSHA requires employers to establish and implement a written injury and illness prevention program (IIPP), and regularly update it to maintain its effectiveness.

According to Cal/OSHA, an effective IIPP must:

- Fully involve all employees, supervisors, and management
- Identify employees’ exposure to specific workplace hazards
- Correct identified hazards in an appropriate and timely manner
- Provide effective training

Modified Duty Program

Helping an injured employee return to work with modified or alternative duty can benefit both the City and the employee in multiple ways. Not only can the City reduce workers’ compensation costs and retain experienced employees, the employees can also avoid financial stress and continue to be productive. Wages will be the same rate of pay the employee received in his/her regular

assignment. City policy limits modified work assignments to 180 days unless there are extenuating medical reasons approved by the Risk Manager.

Scope

We reviewed the City's workers' compensation claims and related financial and operational data for the injuries and illnesses that occurred from FY 2011 through FY 2015. Our analysis focused on indemnity claims involving four departments that represent over 90 percent of the City's indemnity claims cost: Police, Fire, Utilities, and Public Works. We did not review the actual claim files, medical records, or legal records.

Our comparison of the City's data to York's data was limited because:

- We could not obtain the dates of disability leave covered by each York voucher, so we compared the amount of York vouchers that reflected the City's disability leave payments to the actual City payments based on the voucher issuance date. Any vouchers reissued to make adjustments resulted in discrepancies if they covered prior disability leave dates.
- There was not a common unique data field. Although we used the name as a common field, the employee's name in the City's data sometimes differed from the claimant's name in York's data, which required us to visually compare names to identify employees.

Methodology

To accomplish our audit objective, we:

- Interviewed staff from the HR, the Administrative Services Department (ASD), Police, Fire, Utilities, and Public Works departments to understand the City's workers' compensation processes.
- Reviewed California DIR publications, California laws and regulations, City policies and procedures, and labor agreements to understand the laws, regulations, and requirements related to the workers' compensation claims filed by City employees.
- Reviewed the City's Comprehensive Annual Financial Reports, Operating Budget documents, City data, and other departmental records, including safety committee minutes for Fire, Utilities (Water-Gas-Wastewater Field Operations, Electric Field Operations), and Public Works.
- Interviewed York staff, including claims examiners and the account manager, and reviewed York data.
- Identified risks that could prevent achieving the program objectives and procedures implemented to mitigate the risks.

- Mapped relevant processes in coordination with HR and ASD staff.
- Compared the disability leave benefits recorded by York to the benefits the City actually paid to the injured employees from FY 2013 through FY 2015. Selected 22 employees with a difference of \$10,000 or more between York records and City benefit amounts paid, and reviewed their workers' compensation claim data, York check register records, City's financial records, and the employees' timecards. Worked with HR and ASD staff and York staff to identify causes for the differences and determine if the benefits were paid accurately in accordance with state law and City policies.

Data reliability

To assess the reliability of the data needed to answer the audit objective, we reviewed the data for completeness, consistency, and reasonableness, and discussed issues we identified with knowledgeable City and York staff. We also cross-referenced multiple reports generated from the City's SAP system and York's system to further understand the data and related processes.²

Although our assessment identified some discrepancies between the City's data and York data, we were able to understand the sources of discrepancies and isolate them or make manual adjustments to support our audit findings and conclusions. From these efforts, we believe the information is sufficiently reliable for this report.

Compliance with government auditing standards

We conducted this audit of disability rates and workers' compensation in accordance with our FY 2016 Annual Audit Work Plan and generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We would like to thank management and staff in the Human Resources, Administrative Services, Police, Fire, Utilities, Public Works departments and the City Attorney's Office for their time, cooperation, and assistance during the audit process.

² SAP is the City's enterprise resource planning system that supports the City's core business functions, including accounting, purchasing, and utilities.

Finding 1**The City's Injury and Illness Prevention Program (IIPP) is comprehensive but has lost its effectiveness due to the loss of its City Safety Officer**

The City has a comprehensive safety manual to help protect City employees from work-related injuries and illnesses. However, the manual has not been updated since 2000, and has lost its effectiveness as its procedures, forms, and tools have become outdated. While the number of workers' compensation claims filed decreased in FY 2015 and has generally decreased since FY 2009, the City may face a future increase in workplace injuries and illnesses if the IIPP remains outdated.

The City's Injury and Illness Prevention Program is no longer effective

The City Safety Officer is responsible for maintaining an effective IIPP, but the City has not had a City Safety Officer since 2013. HR went through a series of reorganizations beginning in FY 2014, but it did not redefine the roles and responsibilities over the IIPP. As a result, the City Safety Officer's responsibilities went unfulfilled while departments have stopped referring to the manual in favor of their own departmental safety procedures or practices.

The City has not had a City Safety Officer since July 2013 due to HR reorganization

The safety manual assigns the City Safety Officer the responsibility to maintain an effective IIPP by ensuring regulatory compliance and coordinating all City safety activities. However, the City has not had a City Safety Officer since the previous officer retired in July 2013. HR went through a series of reorganizations beginning FY 2014, and implemented a new business partner model where each department was assigned to one of the HR business partner teams that provide a wide range of human-resource related services for their departments.

HR did not revise the safety manual to realign it with the new business partner model

Upon reorganization, HR did not revise the safety manual procedures or redefine the roles and responsibilities over the IIPP to ensure the IIPP remains effective and sufficient resources are allocated to administer the program. Between November 2013 and June 2015, HR hired four Senior HR Administrators to lead each business partner team. However, their involvement in the City's IIPP has been minimal because their job duties cover a wide range of other high priority HR areas, and their workload, as they are trained and learn on the job, has been full with pressing issues and no capacity left for injury and illness prevention efforts. Exhibit 4 shows that HR staffing for the IIPP decreased from 1.75 in FY 2011 to 0.54 in FY 2015, while the department's staffing increased slightly during the same period, from 16.34 in FY 2011 to 16.70 in FY 2015. This indicates that HR

reallocated its resources away from the IIPP to other functions, rather than losing a position due to a budget reduction.

**EXHIBIT 4
HR Staffing and Cost to Administer the IIPP (General Fund)**

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
HR Authorized Staffing – IIPP	1.75	1.00	1.02	0.54	0.54
HR Administration Cost – IIPP	\$190,976	\$155,518	\$93,136	\$75,113	\$85,034

Source: City's financial records

Citywide safety committees have not been established as required

The City is required to establish certain safety committees and hold meetings as specified by its policies and labor agreements. Although departments hold regular safety committee meetings, the citywide committees shown in Exhibit 5 have not been established as required. The Citywide Safety Committee, for example, is designed to monitor departmental safety activities and monitor compliance with safety and occupational health standards and practices, but it has not met for years.

EXHIBIT 5: Safety Committees not Established

Safety Committee	Authority	Composition	Frequency	Functions
Citywide	Policy and Procedures (3-01/HRD) SEIU MOA SEIU Hourly MOA Safety Manual	Ten members with equal union and management membership*	Upon call	Review safety standards, act as an advisory group to the departmental safety committees, and review all departmental safety programs
Civic Center (City Hall)	SEIU MOA Safety Manual	One facilities management, one building inspection, and two union representatives, and the City Risk Manager**	As needed**	Safety matters of the Civic Center (City Hall)
Ergonomics	SEIU MOA	None specified	None specified	Provide management with recommendations on safe ergonomic work practices

* Service Employees International Union (SEIU) Memorandum of Agreement (MOA)

** According to the SEIU MOA. However, the safety manual includes the City Safety Officer, not the Risk Manager, in the composition and requires the meeting to take place at least quarterly.

Source: City policies and procedures and labor agreements

In addition, the responsibilities of the City Risk Manager and City Safety Officer are not consistently defined in the City's policies and procedures, safety manual, and labor agreements. For example, the safety manual states the City Safety Officer is responsible for the

functions of the Citywide committee, while City procedures assign the responsibility to the Risk Manager. HR did not clarify the assignment of responsibility as part of the reorganization.

Ergonomic training workshops have not been provided as required

The SEIU labor agreement also requires that management develop and provide training workshops on safe ergonomic work practices at least twice a year and immediately adopt Cal/OSHA ergonomic standards as part of the IIPP. The Cal/OSHA ergonomics standard requires every employer that had at least two workers report a Repetitive Motion Injury (RMI), as diagnosed by licensed physicians within a 12-month period, to implement a program designed to minimize RMIs. The program must include a worksite evaluation, control of exposures that have caused RMIs, and employee training. Because there were two to four workers' compensation claims involving RMIs in each of the last five fiscal years, the City is subject to this requirement.

Since its reorganization, HR has not had the resources to identify and coordinate ergonomic training that the former City Safety Officer did in the past. While the City increased its annual budget for ergonomic evaluations from \$25,000 to \$55,000 in FY 2016, its current expense is focused on office environments where office furniture and equipment are improperly set up.

Industry specific ergonomic training may prevent certain sprain and strain injuries

Studies show the importance of a comprehensive ergonomics program in preventing sprains, strains, and RMIs.³ Strains and sprains are the highest priority concern for all public safety workers in terms of injury frequency and amount of lost work time, and back injuries are the most common for police and emergency medical service (EMS) responders who often lift and carry injured people when on medical calls.

Exhibits 6 and 7 show that strain and sprain injuries represented more than half of the City's indemnity claims, both in incurred cost (52 percent) and in number of claims filed (59 percent) from FY 2011 through FY 2015. Public safety employees filed more than half (56 percent) of the claims.

While general interventions (e.g., maintaining a healthy body weight and staying physically fit) may have a beneficial effect on activities

³ Preventing Sprains, Strains, and Repetitive Motion Injuries (2012, State Building & Construction Trades Council of California); Occupational Safety and Health for Public Safety Employees (2008, RAND Institute for Civil Justice and Infrastructure, Safety, and Environment).

such as foot pursuits by police officers, specific ergonomic interventions (e.g., training, modification to equipment) are more effective in addressing certain risk factors, such as working in awkward body postures and performing the same or similar tasks repetitively. As part of their negotiated benefits, public safety employees have a wellness or fitness program available.

EXHIBIT 6
Top Five Injuries or Illnesses for Indemnity Claims
From FY 2011 through FY 2015, Valued as of June 30, 2015

Nature of Injury or Illness	Number of Claims Filed	%	Cost Incurred (in millions)	%
Strain	120	50%	\$4.4	40%
Sprain	21	9%	\$1.3	12%
Respiratory Disorders	7	3%	\$2.2	20%
Laceration	6	3%	\$0.6	6%
Cancer	4	2%	\$0.5	4%
Other	80	34%	\$2.0	18%
Total	238	100%	\$10.9	100%

Source: York data

EXHIBIT 7
Number of Indemnity Claims Filed for Strain or Sprain Injury by Body Part
From FY 2011 through FY 2015

Department	Lower Back	Knee	Shoulders	Multiple	Other	Total	%
Fire	6	11	6	4	18	45	32%
Police	11	5	4	6	8	34	24%
Utilities	4	6	3	2	7	22	16%
Public Works	3	2	2	0	13	20	14%
Other	4	2	1	0	13	20	14%
Total	28	26	16	12	59	141	100%

Source: York data

Police, Fire, Utilities, and Public Works departments incur the City's highest workers' compensation costs

Exhibit 8 shows that a majority of the City's indemnity claims (over 80 percent in number and over 90 percent in incurred cost) are filed by employees from four departments: Police, Fire, Utilities, and Public Works. Public safety officers who are charged with protecting the public, such as police officers and firefighters, have a much higher incidence and cost of injuries that result in workers' compensation claims than other public employees. Utilities and Public Works employees also face higher risks of injury due to the nature of their job duties.

EXHIBIT 8
Number of Indemnity Claims Filed, Cost Incurred, and Industrial Disability Retirement
By Department From FY 2011 through FY 2015, Valued as of June 30, 2015

Department	Number of Claims Filed				Cost Incurred		Industrial Disability Retirement	
	Accepted	Denied	Total	%	(in millions)	%	Number	Average Age at Retirement
Fire	54	15	69	29%	\$2.9	26%	6	50
Police	51	13	64	27%	\$4.7*	43%	9**	40
Utilities	32	6	38	16%	\$1.5	13%	0	N/A
Public Works	26	4	30	13%	\$1.3	12%	0	N/A
Others	31	6	37	16%	\$0.6	6%	1	43
Total	194	44	238	100%	\$10.9	100%	16	44

* Includes two claims with unusually high severity filed in FY 2012 and FY 2013, valued at \$0.5 million and \$2.2 million, respectively.

** One of the Police employees was not a safety officer.

Source: York data and City's personnel records

Exhibit 9 shows that employees with one of five job titles comprise 67 percent of the total indemnity claim costs incurred from FY 2011 through FY 2015. During this period, 87 employees with these job titles filed 115 indemnity claims, with 19 employees filing two or more indemnity claims.

EXHIBIT 9
Top Five Job Titles by Cost of Indemnity Claims Incurred
From FY 2011 through FY 2015, Valued as of June 30, 2015

Job Title	Department	Cost Incurred (in millions)	% of City Total	Number of Claims Filed	% of City Total
Police Officer	Police	\$4.3	39%	51	21%
Fire Fighter/Paramedic	Fire	\$1.1	10%	31	13%
Fire Captain	Fire	\$0.8	7%	12	5%
Heavy Equipment Operator	Utilities, Public Works	\$0.7	6%	7	3%
Firefighter	Fire	\$0.6	6%	14	6%
Total		\$7.4	67%	115	48%

Source: York data

16 industrial disability retirements resulted from workers' compensation cases in the last five years

During the last five fiscal years, 16 City employees retired with industrial disability, and 14 of them were safety employees. Safety employees and other eligible members of the California Public Employees' Retirement System (CalPERS) may qualify for an industrial disability retirement if they are unable to return to work because of a job-related injury or illness that is expected to be permanent or last indefinitely. While an employee must be at least

age 50 and have a minimum of five years of service credit to be eligible for a service retirement, there are no age or vesting requirements for an industrial disability retirement. If approved, employees generally receive the greater of:

- 50 percent of the highest average monthly salary within the last three years, tax free; or
- A higher percentage of the salary depending on the years of service credit, but only the first 50 percent is tax free.

Reducing the number of industrial disability retirements is in the best interest of both the employees and the City. The sooner employees retire, the more contributions the City must make to fund the future obligations of retirement benefits, while the disabled employees face a reduced income with the inability to work. All 16 retirees had filed one or more workers' compensation claims involving a sprain, strain, cumulative, or repetitive motion injury prior to applying for an industrial disability retirement. Preventing these injuries could potentially reduce the number of disability retirements among safety employees.

Departments do not have access to York injury and illness records to better identify and correct hazards

One of the City Safety Officer's responsibilities is to maintain safety statistics on City employees and participate as needed in departmental safety committees, and direct activities of those involved in the daily management of employee safety, including safety training and hazard identification. In the absence of the City Safety Officer, departmental safety committees and safety coordinators have lost access to the workers' compensation statistics, which could have helped them develop better safety programs focused on prevention of high frequency or high cost injuries and illnesses. York staff stated that regular reporting of safety statistics can be customized for each department and automated using their system, as is done for their other clients.

Some of the City's workplace postings are outdated

All employers in California must post information regarding safety rules, regulations, and workers' compensation benefits in areas frequented by employees where it may be easily read during the workday. Although HR annually purchases labor law posters and distributes them to City facilities to meet this requirement, there was outdated information posted in multiple locations, including the names and phone numbers of the City's occupational health service provider and the workers' compensation claims administrator. At City Hall, there was only one poster displayed on the A level, in an area that may not be seen by all employees. Most of the information posted by other departments on other City Hall floors also contained outdated information.

Recommendations

We recommend that:

- 1.1. The City Manager allocate sufficient resources to implement and maintain the City's IIPP and to monitor the City's compliance with the program.
- 1.2. HR update the safety manual, including supplemental tools and guidance posted on the intranet, to ensure:
 - The roles and responsibilities over the IIPP are redefined.
 - The City's IIPP complies with all Cal/OSHA standards and other applicable safety laws.
- 1.3. HR review departmental procedures and safety requirements to ensure they align with the revised IIPP and City policy and procedures.
- 1.4. HR work with York and departments to identify useful safety statistics, appropriate HR and departmental recipients of this information, and reporting frequency, and establish an automated process for those statistics to be provided.
- 1.5. HR identify industry-specific ergonomics and general wellness training opportunities to minimize common injuries, and coordinate with departments to ensure regular training is provided to employees.

Finding 2**Injured employees' benefit eligibility is not accurately and completely tracked and monitored, resulting in both overpayments and underpayments of workers' compensation benefits**

The City does not have an effective process or tools to monitor benefit eligibility and the work status of injured employees, resulting in both overpayments and underpayments of the benefits paid to injured employees. The City's workers' compensation benefit structure is highly complex due to additional City-provided benefits defined by City policy and labor agreements. This complexity also resulted in some disability leave payments being incorrectly reported as compensation to CalPERS. HR staff track eligibility of each injured employee manually because the City's SAP system is not configured to support administration of these benefits. York relies on HR staff to immediately communicate any changes in the work status of injured employees to ensure that benefit eligibility is updated and communicated to the injured employee in a timely manner as required by state law.

The former City Safety Officer used to play a key monitoring role and facilitated communication between the City and York, but roles and responsibilities became unclear as HR was reorganized and the processes changed. Lack of monitoring resulted in multiple instances of benefit overpayment and underpayment, as described below.

The City provides workers' compensation disability leave benefits beyond what is required by state law

City policies and labor agreements provide additional workers' compensation disability leave benefits to City employees beyond the state requirement, as shown in Exhibit 10. The City pays these disability leave payments directly through employees' paychecks. York is contractually required to determine and track benefits to be paid or rendered under the applicable workers' compensation laws, and does not track these additional City benefits. York issues vouchers to record the City's disability leave payments, and in theory, this amount is less than the actual City payments by the amount of additional City benefits.

As shown in Exhibit 11, the City made disability leave payments of \$2.4 million from FY 2013 through FY 2015, which was about \$570,000 more than the amount of vouchers issued by York (\$1.8 million) during the same period.

EXHIBIT 10
City's Workers' Compensation Disability Leave Benefits Direct Payroll Categories

Benefit Category	Payroll Code (Tax Free)	Benefits under State Law	Additional Benefits by the City
Salary Continuation for Safety Employees (Labor Code 4850)	7200	*Full salary up to 365 days	N/A
Salary Continuation for Nonsafety Employees	7200	N/A	*Full salary for the initial 60 calendar days following the injury
Temporary Disability (TD)	7100	**Two-thirds of gross wages lost up to 104 weeks within five years from the date of injury; subject to the weekly maximum amount set by state law	*The greater of the amount determined under state law or two-thirds of full salary regardless of the state weekly maximum (City Policies and Procedures 3-03/HRD, last updated in 2000)
***Medical Appointments	7200	N/A	Can be coded as disability leave on the timecard

* As of the date processed by the City's payroll. The amount of full salary is often different from the average weekly wage (AWW) calculated in accordance with the California Labor Code.

** York determines the AWW by going back one year from the date of injury in accordance with the California Labor Code. The AWW must consider various factors such as overtime and scheduled wage increases.

*** The City Policy and Procedures 3-03/HRD state, "The injured employee is entitled to one day of TD (temporary disability) for each day of wages actually lost when submitting to medical examination at the request of the City or the Workers' Compensation Appeals Board and when off work for a medical examination to prove his/her contested claim.

Source: Auditor's analysis of state law and city policies and procedures

EXHIBIT 11
Summary of Disability Leave Payments

Fiscal Year	Vouchers Issued by York (Benefits Required by State Law)	Additional City Benefits*	City Payroll Payments Made (Includes Additional City Benefits)
2013	\$460,454	\$232,825	\$693,279
2014	\$788,390	\$213,017	\$1,001,407
2015	\$595,236	\$124,060	\$719,297
Total	\$1,844,080	\$569,902	\$2,413,983

* Includes errors the City made in paying disability leave benefits. Quantifying the monetary impact of each case would involve in-depth analysis of the timecard data and case files.

Source: City's financial records and York data

Some disability leave payments have been incorrectly reported to CalPERS as compensation

The California Public Employees' Retirement System (CalPERS) defines reportable compensation that should be included in a member's "compensation earnable" for the purpose of determining the member's retirement allowance. The City has been reporting all workers' compensation disability leave benefits included in Exhibit 11, captured under the payroll codes 7100 and 7200, as

compensation. However, CalPERS confirmed that only salary continuation for safety employees as defined in Labor Code section 4850 is reportable to CalPERS, and other disability leave benefits, including temporary disability and any other salary continuation plans offered by the employer, are not reportable. HR has been aware of this issue and stated that it has been working with ASD and CalPERS to address it.

The City's disability leave payments included errors

The former City Safety Officer used to track benefit eligibility of injured employees and communicate the status to York staff. HR business partners have been tasked with this function since the reorganization, but the change was implemented without the new process being defined or the business partners being fully trained. We reviewed 22 claims that accounted for about \$493,300 (87 percent) of the additional city benefits in Exhibit 11, and identified multiple errors:

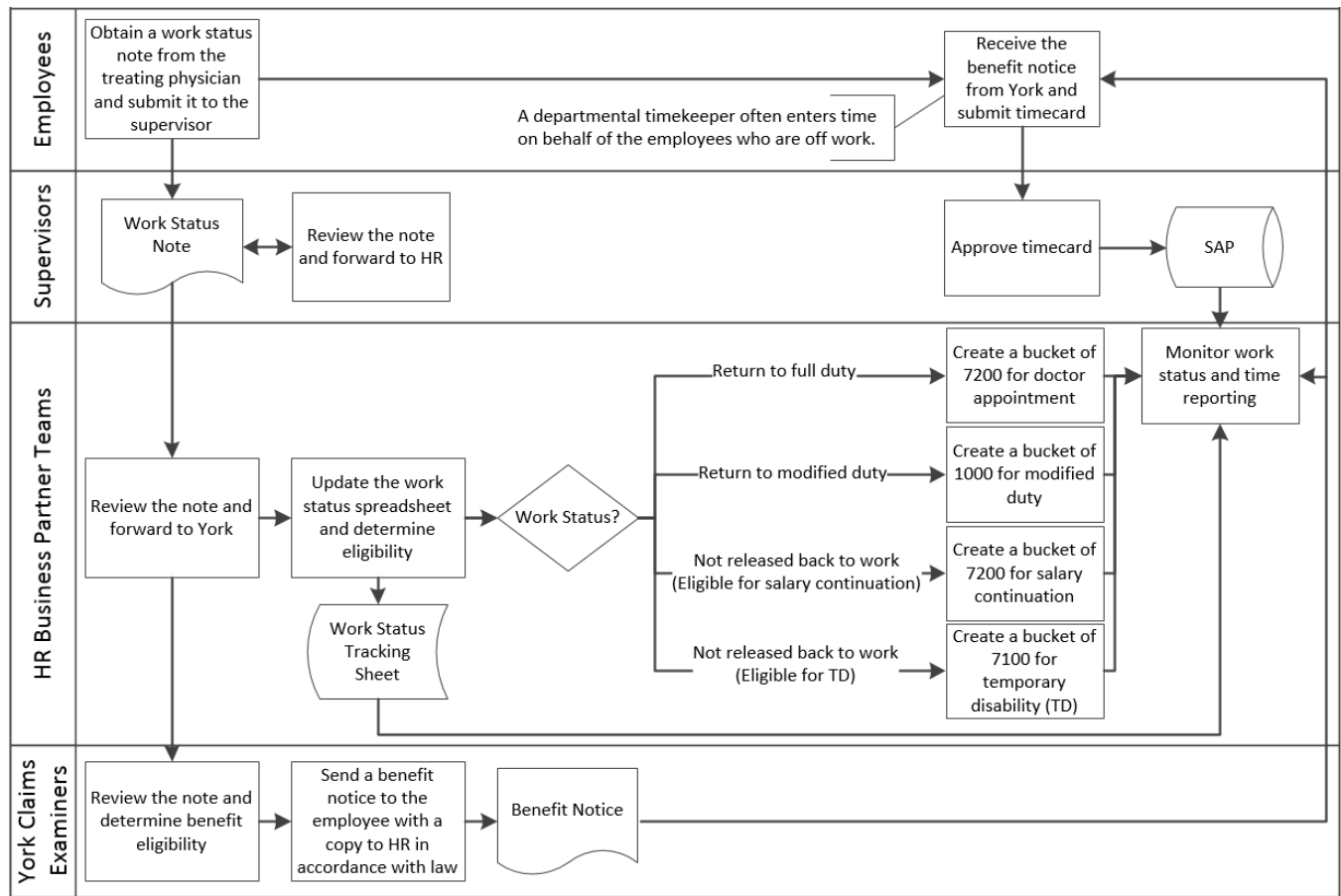
- In 3 cases, the City paid disability leave benefits totaling about \$221,600, before the claims had been accepted and York determined if the employees were entitled to the benefits. One of the claims was later accepted, and the settlement took into account payments made by the City. Estimated overpayments for the other two claims, which were denied, total about \$33,600.
- In 2 cases, the City amended the employee's timecard after a settlement to pay out accrued sick or vacation leave in accordance with City policies and labor agreements but did not take into account the disability leave check that York had already issued. These employees either retired or resigned prior to the settlement and were no longer on the City's payroll. Estimated overpayments total about \$23,900.
- In 8 cases, HR did not track the first 60 calendar days of salary continuation for nonsafety employees in accordance with City policies, resulting in estimated overpayments totaling about \$44,700 to seven employees and an underpayment of about \$3,500 to one employee.
- In 14 cases, York vouchers did not reflect the employee's timecard coding. For example, York issued vouchers after the employee had returned to work, or conversely, York stopped issuing vouchers when the employee was still on disability leave. Quantifying the monetary impact of each case would involve an in-depth analysis of the timecard data and case files.

A highly manual process requires timely communication to work

Exhibit 12 shows that the City's disability leave management process is highly manual because the City's SAP system is not configured to support the process. HR business partners are required to track the injured employees' work status and benefit eligibility by reviewing the work status notes issued by the treating physicians that describe work capacities and restrictions and updating the HR work status tracking sheet.

To limit the use of disability leave payroll codes to eligible employees, HR business partners manually set a limited number of hours, called "buckets," to be charged to disability leave for salary continuation (7200 time code in SAP), temporary disability (7100 time code in SAP), and modified duty (1000 time code in SAP), for each employee based on the work status notes. The HR business partners are also required to periodically run an SAP time report to ensure that employees are coding their timecards appropriately.

EXHIBIT 12
The City's disability leave management process



Source: Auditor's analysis of City policies and procedures.

This process relies heavily on the timely communication of work status through multiple parties:

- Employees obtain and immediately submit the work status note to the supervisor
- Supervisors immediately forward the note to the HR business partner team (sometimes with a copy to York)
- HR business partner teams forward the note to the York claims examiner, determine benefit eligibility, and update the time buckets
- York claims examiners determine and update benefit eligibility and send a notice to the employee with a copy to HR

If any of the individuals in this chain of communication is absent, cannot get to the note, or is not trained to take timely and appropriate action, the process may not work, creating unnecessary delay. Department staff reported that the time buckets often run out even if the work status note had already been submitted, and it prevents the employee from using appropriate disability leave payroll codes on the timecard until the buckets are adjusted. HR staff reported that they do not always receive work status notes timely, and are unable to update the buckets before the payroll period ends.

HR business partners do not have effective tools to monitor work status and time reporting

The former City Safety Officer used to centrally monitor injured employees' work status and facilitate communication between supervisors and York. The HR reorganization decentralized this monitoring function without effective tools being implemented, which left the business partners, most of them newly hired upon the reorganization, unsure of how to use the tools provided. Business partners reported that they do not have the capacity to proactively monitor the work status or time reporting of the employees on workers' compensation due to their demanding workload with other priorities. Without complete and accurate information on the work status of all injured employees, the City is unable to ensure they return to work in a timely manner or determine the true cost of workers' compensation disability leave.

HR work status tracking sheet not a useful tool

Their shared tool, the HR work status tracking sheet, is not designed effectively to track the work status of injured employees. For example, there are no columns to document key dates such as the date released back to modified duty or date returned to full duty. Business partners rely more on their calendar, email, or paper file records to track the status. Most information on the report was either incomplete or inaccurate regarding the employees' work status.

Payroll codes used for time reporting do not fully support the disability leave management process

The business partners also run an SAP time report for monitoring disability leave, but the payroll codes are not structured to capture all information necessary for efficient, systematic monitoring:

- Salary continuation and medical appointments share the same payroll code (7200), and the report cannot distinguish the two. Timecard information does not include the date and type of injury as required by the payroll procedures, and leave is not clearly tracked by specific claims. HR reported that it has been working with ASD to create a separate code for medical appointments.
- The modified duty code (1000) is also used by employees who are on modified duty due to nonwork related injury or illness. These employees are required to note on the timecard that the modified duty is nonindustrial. Only 2 percent of the total modified duty hours was noted as nonindustrial during the 5-year period, but the notes were inconsistent. It is questionable if all employees with nonindustrial injuries enter the notes in SAP or if supervisors review the notes to ensure accurate and complete time recording.
- About 40 percent of the Fire Department's modified duty leave is coded as 24-hour shift (1200), because 24 hours exceeds the daily maximum set for coding modified duty (1000) in the SAP system. HR staff was not aware of these modified duty hours coded as 24-hour shift.

Exhibits 13 and 14 summarize the disability leave and modified duty hours recorded in SAP from FY 2011 through FY 2015.

EXHIBIT 13
Disability Leave Hours* by Department from FY 2011 through FY 2015

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Total	FTE**
Police	7,102	4,300	6,848	7,770	5,872	31,890	18.7
Fire	3,624	4,805	5,015	7,953	6,770	28,168	16.5
Utilities	2,317	1,423	2,632	4,697	4,766	15,833	9.3
Public Works	1,372	2,659	3,428	6,187	1,890	15,536	9.1
Others	501	972	1,095	643	580	3,791	2.2
Total	14,916	14,158	19,017	27,250	19,878	95,219	55.8

* Includes hours coded as disability leave for medical appointments

** Full-time equivalent. Based on the productive time of 1,706 hours (2,080 hours x 82%) used by ASD's Office of Management Budget.

Source: City's financial records

EXHIBIT 14
Modified Duty Hours* by Department from FY 2011 through FY 2015

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Total	FTE**
Police	5,784	5,611	3,121	4,322	4,662	23,500	13.8
Fire***	419	560	972	3,632	1,898	7,481	4.4
Utilities	2,792	1,963	1,765	853	1,199	8,572	5.0
Public Works	3,677	5,648	1,935	2,422	1,821	15,503	9.1
Others	2,754	2,333	159	1,096	893	7,235	4.2
Total	15,426	16,115	7,952	12,325	10,473	62,291	36.5

* Includes modified duty hours resulting from employees' personal injuries.

** Based on the productive time of 1,706 hours (2,080 hours x 82%) established by ASD using a consultant's study.

*** Includes 24-hour modified duty hours coded 1200, which was 41 percent of the total Fire Department modified duty hours.

Source: City's financial records

The Disability Pay section of the City's payroll procedures (2-06/ASD, last updated in 2001) contains outdated instructions for disability time reporting, because procedures were written for the old process involving manual paper timecards, before SAP was implemented.

Better data tracking needed to measure the true cost and effectiveness of the modified duty program

Exhibits 13 and 14 also demonstrate the importance of monitoring modified duty hours and the additional staffing impact. From FY 2011 through FY 2015, 158 employees worked a total of about 62,300 hours, or 39 FTEs of modified duty, including six employees whose modified duty exceeded 180 days during the five-year period.⁴ State workers' compensation law requires the rate of pay for modified duty to stay the same as the employee's regular assignment without any impact on benefits or accruals, and the City cannot hire new employees to fill the regular duty positions while employees are out on disability or modified duty.

As a result, those regular duty positions need to be backfilled, often with overtime, unless overstrength positions are available or temporary employees are hired to fill the gap.⁵ The cost of backfilling can be significant. However, there was insufficient information on the timecards to quantify the actual financial impact of overtime charged for filling in for a disabled employee. The Fire Department

⁴ The City's modified duty policy, Policy and Procedures 3-02/HRD, limits modified duty assignments to 180 days unless there are extenuating medical reasons that are approved by the Risk Manager. The Risk Manager confirmed that she approved five of the six cases. The unapproved case involved three separate indemnity claims, and the employee was back on full duty between injuries.

⁵ Overstrength positions are additional positions, over and above the quantity approved in the Table of Organization, authorized to cover temporary shortages in staffing.

reports the number of FTE positions that require backfilling in its quarterly performance report.

Similarly, we could not systematically evaluate whether the City is successful at getting employees back to work as soon as medically appropriate to minimize loss of productivity and disruption of service. Neither the City nor York record when the employee has received a medical clearance from the treating physician, and as mentioned earlier, the HR work status tracking sheet did not accurately and completely capture key dates such as when the employee was released to modified duty or returned to full duty.

HR business partners do not have the technical expertise to determine benefit eligibility and must coordinate with York

Administration of workers' compensation claims is highly complex and technical, involving various laws and regulations. HR business partners do not have prior background in workers' compensation and do not possess York's technical expertise. York makes the initial eligibility determination to accept, delay, or deny the claim within the first 14 days after the City learns about the injury. Throughout the life of the claim, York relies on City staff to immediately communicate any changes in the work status of injured employees so that benefit eligibility is updated and communicated to the injured employee in a timely manner.

HR business partners do not review benefit notices issued by York

York is required by state law to send benefit notices to the claimants with a copy to HR to explain:

- How disability leave payment amounts were determined.
- When and why benefits are delayed, denied, starting, changing, or ending (with a list of all benefits paid).

These notices contain critical information regarding benefit eligibility, and should be closely reviewed to ensure that the work status report and time reporting are consistent with York's eligibility determination. The business partners were not trained to review these notices, and therefore, did not identify discrepancies.

Because York does not track additional City benefits, the notices are based on the benefits as required by state law, and do not always reflect the benefits the employees actually receive from the City. York also provides a monthly Payment Transaction Report, which lists checks and vouchers that York issued on behalf of the City, but the business partners do not review the vouchers to ensure that the information is consistent with the benefits paid through payroll.

For the business partners to be able to effectively monitor employees' benefit eligibility and time reporting, they need to be equipped with better tools and fully trained to:

- Interpret the benefit notices and vouchers issued by York
- Understand eligibility criteria for additional City benefits
- Facilitate communication between York and departments
- Monitor consistency between York records and City records

HR business partners do not have access to York data

The City Safety Officer used to have online access to York's system to view all claims documentation and to export data to analyze claims, payment transactions, and trends. As of December 2015, none of the HR business partners had such access to York data. York recently implemented a new risk management information system that provides a user-friendly interface with graphical information, analytics, and reports. HR stated that it plans to have York provide access to the new system and training to enhance its ability to monitor claims and payment transactions.

Recommendations

We recommend that HR:

- 2.1. Continue working with ASD and CalPERS to address the disability leave benefits that were incorrectly reported as compensation to CalPERS.
- 2.2. Review the 22 claims that accounted for 87 percent of the additional city benefits in Exhibit 11, and take necessary action to address any errors identified.
- 2.3. Review the existing disability leave management process in Exhibit 12 and determine the optimal monitoring structure, update the tools and procedures, and allocate sufficient and skilled resources to ensure:
 - a. Benefit eligibility and work status of injured employees is accurately, completely, and timely tracked including:
 - Start date of disability
 - Date released back to work by the treating physician
 - Date returned to modified duty, including the assignment and payroll code used
 - Date returned to full duty
 - b. Any changes in work status are communicated to York
 - c. Disability leave time buckets are updated as soon as HR is notified of the status change.
 - d. Benefit notices and vouchers issued by York are consistent with the timecards and actual benefits paid through payroll.

- e. Employees comply with the City policy requiring timely submission of work status notes.
- 2.4. Work with ASD to ensure that the data necessary for disability leave management is captured through time reporting in SAP to support the process, including:
 - a. Revising the City's payroll procedures, Policies and Procedures 2-06/ASD, to provide clear instruction for reporting disability leave on SAP timecards.
 - b. Configuring the SAP system to:
 - Track compensation reportable to CalPERS separately.
 - Track medical appointments that qualify as disability leave by creating a separate payroll code.
 - If feasible and cost-effective, limit the number of days each employee can code disability leave or modified duty on their timecard based on their position.
 - 2.5. Work with York to identify and train responsible HR staff, and maintain online access to York data for analyzing claims, payment transactions, and trends. Establish and maintain written procedures for granting, monitoring, and removing access to the York data and appropriate handling and safeguarding of the data.

Finding 3

The City has not met the state requirement for timely reporting of its workers' compensation claims to York, potentially causing the cost of claims to increase

California law requires employers to report within five days of their knowledge every occupational injury or illness that results in lost time beyond the date of the incident or requires medical treatment beyond first aid. The City has not met this requirement, which could result in penalties and could also increase the cost of claims. A recent study concluded that claims with more than a two-week delay in reporting involve a longer period before the injured worker can return to work, take longer to close, and are more complex to settle.⁶

Delays in reporting caused by various reasons, and further affected by HR reorganization

Exhibit 15 shows that only 52 percent of the claims were reported to York within 5 days from the City's knowledge in FY 2015, as compared to 70 percent in FY 2011 and 83 percent in FY 2012. This decline coincides with the loss of the City Safety Officer and the HR reorganization. The City Safety Officer used to support department staff in timely completion of the required forms, but this role has diminished as HR implemented the new business partner model without redefining the reporting process.

EXHIBIT 15

Number of Days from Knowledge to Date Reported to York (Excludes Denied Claims)

Number of Days	FY 2011		FY 2012		FY 2013		FY 2014		FY 2015		Total	
	Claims	%	Claims	%	Claims	%	Claims	%	Claims	%	Claims	%
5 days or less	57	70%	75*	83%	51	68%	49	53%	34	52%	266*	66%
6 to 10 days	14	17%	5	6%	16	21%	16	17%	16	25%	67	16%
11 to 30 days	9	11%	4	4%	5	7%	22	24%	10	15%	50	12%
31 to 60 days	0	0%	2	2%	1	1%	1	1%	3	5%	7	2%
61 days or more	2	2%	4	4%	2	3%	5	5%	2	3%	15	4%
Total	82	100%	90	100%	75	100%	93	100%	66	100%	405	100%

* Includes one claim that was reported to York before the City's knowledge. York set up this claim based on the medical legal evaluator's opinion for an old claim involving a cumulative injury.

Source: York data

City policies are in place to meet the state requirement

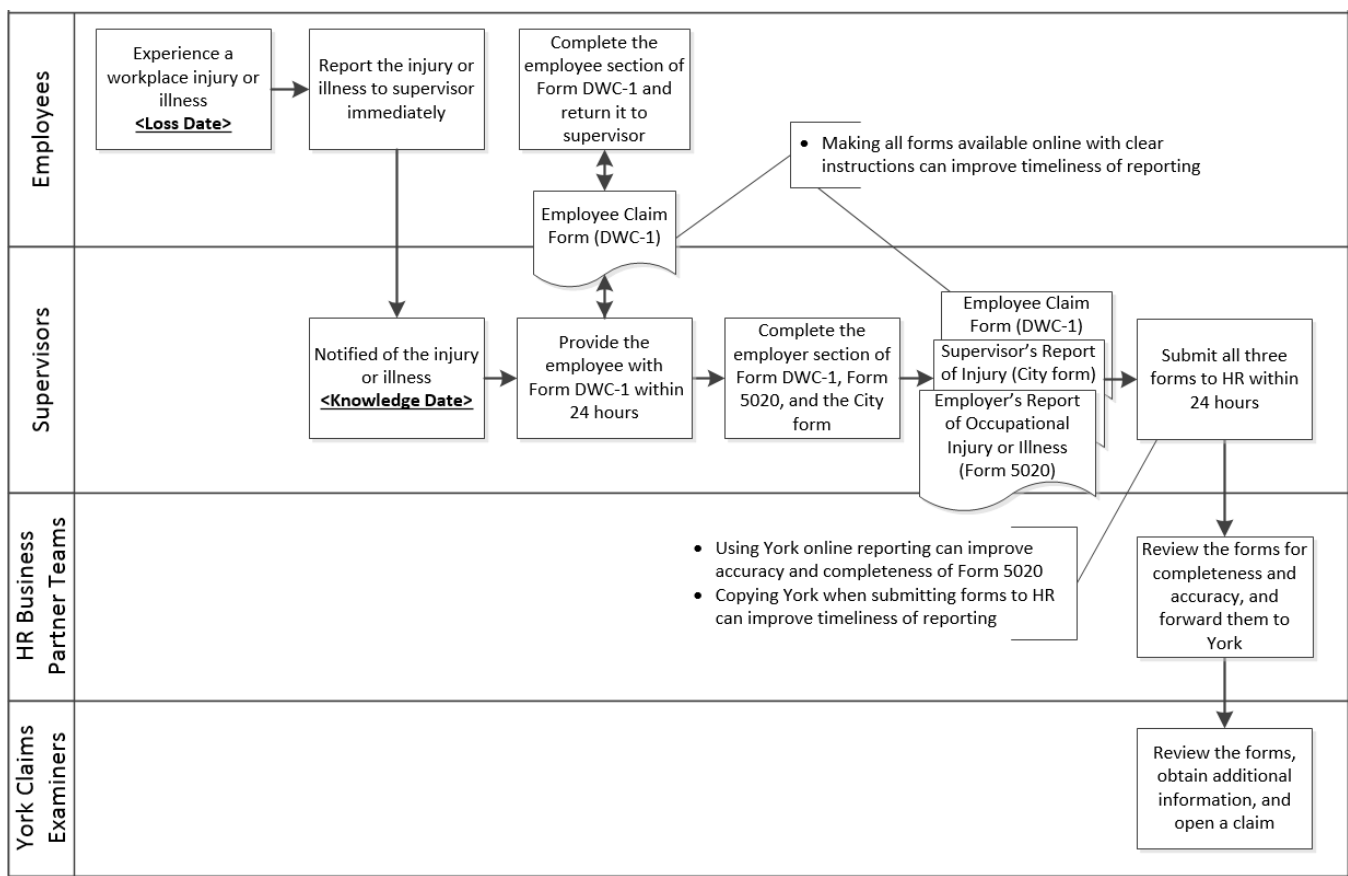
City policies require employees to report all known or even potential work-related injuries to their supervisors as soon as possible.

⁶ The Relationship Between Accident Report Lag and Claim Cost in Workers Compensation Insurance, May 2015, National Council on Compensation Insurance Inc.

Supervisors must immediately provide a copy of the Employee Claim Form (State form DWC-1), to the employee for the employee section to be completed. Once returned, supervisors must complete the employer section of the DWC-1, the Employer's Report of Occupational Injury (State form 5020), and the Supervisor's Report of Injury/Exposure (City form), and forward all three forms to HR within 24 hours. HR then forwards the forms to York, if they are not already copied on the email.

State law requires the City to submit the Form 5020 to the third party administrator within five days from the date the injury is reported by the employee. State law also requires the TPA to decide whether to accept, deny, or delay the claim within 14 days after the employer learns about the injury or illness. The claim can be delayed for 90 days after the injury is reported by the employee if there are any issues requiring investigation or medical evaluation. In such cases, the TPA must send a letter to the injured employee explaining the reason for the delay, what information is needed, and when a decision will be made. If there are unreasonable delays in temporary disability payments, the injured employee could be awarded a total of 25 percent of each late payment, up to \$10,000. Although we did not identify any instances of penalties, If the employer or TPA discovers such delays prior to the employee claiming a penalty, a self-imposed penalty in the amount of 10 percent of the late payment can be paid within 90 days of the date of discovery, in lieu of the 25 percent penalty. Exhibit 16 shows the City's reporting process.

EXHIBIT 16
The City's workers' compensation claim reporting process



Source: Auditor's analysis of City policies and procedures

Manual paper forms cause delays and insufficient or missing information

Until recently, supervisors had to manually complete a hard copy of the required forms. Manual forms cause:

- Delays – If the injured employees were not on site when the injuries were reported, supervisors had to either hand deliver or mail the Employee Claim Forms (DWC-1) to have the employees complete, sign, and return.
- Insufficient information – Some fields, such as a description of how the injury/illness occurred, may not have enough room for the supervisor to provide sufficient detail, requiring the HR business partner team or York claims examiner to follow up. For example, the Police Department does not use the City form and instead documents the required information in a memo because the department policy and procedures require detailed documentation of the incident and description of the injury.
- Missing information – Form 5020 includes fields that may not be readily available to supervisors, such as gross wages, date of hire, and location code, which is different from the codes defined in

SAP. Many supervisors leave these fields blank, expecting the HR business partner team to fill out the missing fields. However, York reported that the forms submitted by the City are often incomplete.

HR recently made electronic, fillable state forms available to employees on the City's intranet and is planning to add the capability to electronically sign and submit.

The state forms require sensitive, confidential information, such as social security numbers, and need to be handled with great care. City policies and procedures provide no additional guidance as to how to obtain or safeguard personnel or payroll information. York stated that it is a common practice for HR staff to complete and submit Form 5020 on behalf of the supervisors, which helps ensure that personnel and payroll information is entered accurately and that sensitive information is safeguarded within the HR department.

Availability of the immediate supervisor or HR staff may cause further delays

Even when the employee immediately reports his or her injury, the supervisor or the responsible HR business partner may be absent or may not get to the forms right away to take necessary action. To address this issue, the Fire Department now requires staff to notify all battalion chiefs of any injury to ensure timely paperwork completion when the direct supervisor is off work. Battalion chiefs are also required to copy both deputy fire chiefs and administrative staff when submitting claim forms to the HR business partner team. Similarly, the Police Department copies York when submitting the forms to HR, which notifies York of the need to follow up on the injury.

Using York's online claims reporting and modified City form can streamline the process and improve accuracy of the claims data

Most fields on the City form are included in the other two state forms, and there is an opportunity to significantly streamline the reporting process. York encourages its clients to use its online claims reporting for the Form 5020 submission, which prevents simple errors with a drop-down list of valid entries and does not allow submission of an incomplete form. As of March 2016, Utilities Electric Operations is the only business unit that consistently uses it. Form 5020 is the source of most of the City's workers' compensation claims data recorded by York. Improving the accuracy and completeness of the Form 5020 could greatly enhance the ability of the York claims examiners to provide their service in a timely manner.

Recommendations

We recommend that HR:

3.1. Streamline the workers' compensation reporting process and improve the accuracy and completeness of the claim forms by:

- Revising the procedures to clarify the roles and responsibilities. This should include determining whether departments should be responsible for completing only the Employee Claim Forms (DWC-1) and Supervisor's Report of Injury and Exposure (City form), with HR staff being responsible for completing the Form 5020.
- Revising the City form for supervisors to complete with necessary information that can be easily copied and pasted to the Form 5020.
- Ensuring the use of York's online claims reporting to submit the Form 5020, and having appropriate and trained staff enter any sensitive personnel or payroll information.
- Making the required forms and procedures available online in one place with clear instructions and adding electronic signature capability, if feasible and cost-effective.
- Regularly reviewing the forms, procedures, and performance to ensure their compliance with state law.

Finding 4

The City has not ensured that York met all contract terms

The York contract includes various terms that could help the City reduce its workers' compensation costs, such as cost reduction guarantees and utilization review.⁷ While most requirements are met, there are some that the City has not required York to fulfill. The City could better manage its claims and reduce costs by fully using services York is required to provide under the contract.

The City could reduce cost of claims by fully using York services

The following contract terms are not fully met:

- Quarterly file review – York is required to coordinate and attend quarterly file review meetings with HR and department staff to discuss strategies to help employees return to work, close claims, and minimize costs. However, these meetings had not been regularly and effectively carried out recently due to staff turnover and scheduling issues on both sides.
- Required reports – York has not provided certain required reports, such as a report of claims with no activity for the previous six months. These reports are readily available from the York system, and can be replaced with HR's direct online access to the system data. As described in Finding 2, York does not track the City's additional disability leave benefits, and its reports do not always reflect the benefits actually paid by the City.
- Indemnity claim closure ratio – The cost reduction guarantee section of the contract requires York to pay \$5,000 to the City if at least 32 percent of the indemnity claims reported during each fiscal year are not closed by the end of that year.⁸ HR was not aware that York did not achieve the required ratio for FY 2013 and had not made the required payment.

No data available to evaluate York performance for returning employees to modified duty

York is also required to aggressively pursue a release to modified duty for all City employees through written and verbal communication with the medical provider. The contract also states that employees on lost time status shall be returned to modified work status within 30 days if an appropriate position is available. As described in Finding 2, HR does not have data necessary to monitor York performance because neither HR nor York track modified duty completely and accurately.

⁷ Utilization review (UR) is a process of reviewing medical treatment recommended by a physician to determine if it is in accordance with the medical treatment utilization schedule. All employers or their workers' compensation claims administrators are required by law to have a UR program.

⁸ The City and York subsequently agreed to revise the contract language to base the closure ratio on claims closed within 12 months from reporting to York.

Recommendations

We recommend that HR:

- 4.1. Create a list of key contract terms and assign staff to monitor and follow up on York performance against each term, including recovery of \$5,000 from York for not meeting the indemnity claim closure ratio for FY 2013.
- 4.2. Work with York to streamline the monthly, quarterly, and annual reporting process by leveraging online access to York data (see recommendations 1.3 and 2.5).

Finding 5
Workers' compensation revenues, costs, and performance data are not clearly reported for informed decision making

The Workers' Compensation Fund accounts for administration of the City's workers' compensation program, and the revenues and expenditures are reported in the City's comprehensive annual financial report and budget documents. However, the Workers' Compensation Fund does not include all of the City's workers' compensation costs, and the costs presented in the budget documents are difficult to understand the nature and true cost of each line item. Without a clear understanding of the workers' compensation cost, Council and management may not be able to make informed decisions regarding the City's workers' compensation related programs.

The City's budget documents do not clearly present workers' compensation costs

There are multiple elements to the City's workers' compensation cost structure, and the City's budget documents do not clearly present those elements to assist Council and management in understanding the complete cost information. Including a simple narrative to assist readers in navigating and understanding the complete cost structure could enhance the City's ability to better allocate its resources.

The City's Workers' Compensation costs are included in separate areas of the budget document

The City's Workers' Compensation Fund does not include:

- Disability leave benefits – Disability leave benefits paid directly by the City through its payroll, which are included in the department budgets.
- HR administration costs – HR staff cost to administer the IIPP and workers' compensation program, which is included in the General Fund.

As shown in Exhibit 17, the actual total cost is much higher than the cost included in the Workers' Compensation Fund. In addition, the estimated self-insured liability fluctuates year over year based on the estimate of unpaid claim costs and expenses developed by an actuarial study. If we exclude this liability, we can see the total workers' compensation cost actually paid by the City in a given year. Different conclusions may be drawn depending on the line item used to evaluate the workers' compensation program.

EXHIBIT 17
The City's Workers' Compensation Cost

Workers' Compensation Fund	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Claims paid*	\$2,269,098	\$2,069,975	\$1,468,630	\$2,451,424	\$2,184,858
Change in estimated self-insured liability**	\$2,527,098	\$1,813,409	\$559,747	\$485,109	(\$1,656,783)
CSAC excess insurance premium	\$285,530	\$263,399	\$398,376	\$454,032	\$461,365
Actuarial services	\$4,850	\$4,750	\$4,750	\$4,750	\$2,375
TPA administration fees	\$238,083	\$294,667	\$226,684	\$232,050	\$230,006
State self-insurance fees	\$45,564	\$52,180	\$69,252	\$45,993	\$93,259***
Workers' Compensation Fund Subtotal	\$5,370,224	\$4,498,379	\$2,727,038	\$3,673,358	\$1,315,080
Disability leave benefits (direct payroll)	\$688,167	\$504,032	\$693,279	\$1,001,407	\$719,297
HR administration cost (General Fund)	\$313,157	\$314,319	\$200,948	\$182,866	\$221,260
Grand Total	\$6,371,548	\$5,316,730	\$3,621,265	\$4,857,631	\$2,255,637
Adjusted Total (excludes change in estimated self-insured liability)	\$3,844,450	\$3,503,321	\$3,061,518	\$4,372,522	\$3,912,420

* Represents checks issued by York on behalf of the City, and does not include disability leave benefits paid directly through the City's payroll.

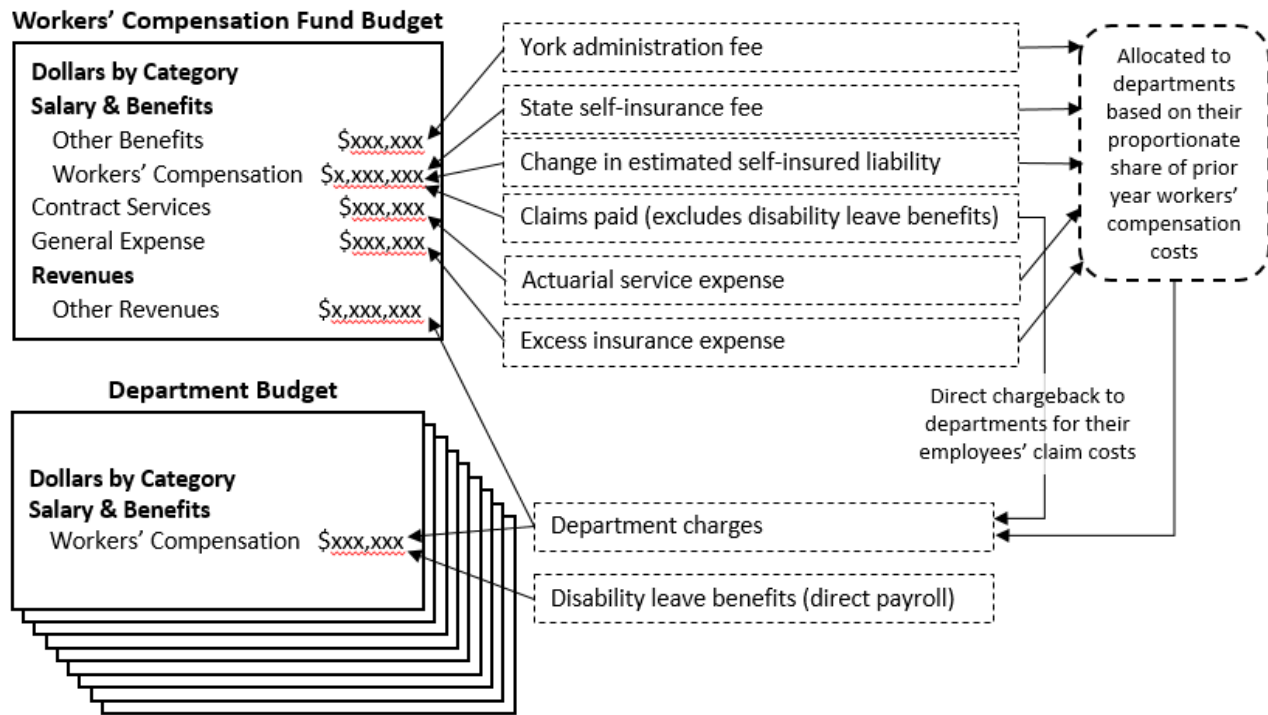
** Determined based on an actuarial study. The City is required to record a liability for the ultimate cost of claims and expenses associated with all reported and unreported claims in accordance with accounting standards.

*** Includes about \$9,300 in ergonomic evaluation expenses that should have been recorded in the General Benefits Fund.

Source: City's financial records

Exhibit 18 shows that the budget line items under the Workers' Compensation Fund do not always represent the underlying costs. For example, administrator fees paid to York and State self-insurance fees are presented as part of salaries and benefits. Without additional explanation, readers may assume salaries and benefits under this fund represent HR staff cost to administer the workers' compensation program, which instead is included in HR's General Fund budget.

EXHIBIT 18
The City's budget presentation of the workers' compensation revenues and costs



Source: Auditor's analysis of the City's financial records

Performance data does not reflect the City's actual performance

Our annual performance report includes performance data for workers' compensation as shown in Exhibit 19. HR provides the numbers based on York data, but as described in Finding 2, York data does not accurately and completely reflect the City's actual performance because York:

- Does not track the additional disability leave benefits provided by the City.
- Does not have accurate and complete records of the injured employees' work status.

As a result, estimated cost and claims paid are generally understated, and days lost to work related illness or injury do not reflect the actual number of days the injured employees were off work on disability as recorded in the SAP timecards.

EXHIBIT 19
Workers' Compensation Performance Data

	Estimated cost incurred ¹ (in thousands)	Claims Paid ¹ (in thousands)	Estimated cost outstanding ¹ (in thousands)	Number of claims filed with days away from work ²	Days lost to work- related illness or injury ³
FY 06	\$2,858	\$2,601	\$258	80	-
FY 07	\$2,114	\$1,937	\$177	76	2,242
FY 08	\$2,684	\$2,460	\$224	75	1,561
FY 09	\$2,628	\$2,145	\$483	73	1,407
FY 10	\$2,521	\$2,165	\$356	71	1,506
FY 11	\$1,918	\$1,402	\$516	45	1,372
FY 12	\$2,843	\$1,963	\$880	56	1,236
FY 13	\$3,182	\$1,713	\$1,469	42	1,815
FY 14	\$2,088	\$1,217	\$871	59	1,783
FY 15	\$1,121	\$518	\$602	36	1,366
Change from:					
Last year	-46%	-57%	-31%	-39%	-
FY 06	-61%	-80%	+134%	-55%	-23%

¹ Estimates of claim costs incurred during each fiscal year, and associated costs paid and outstanding as of June 30, 2015. Costs are expected to increase as claims develop. Prior-year costs were updated to reflect current costs as of June 30, 2015.

² Restated to reflect the number of claims filed during each fiscal year that resulted in days away from work as of June 30, 2015. Numbers may increase as claims develop.

³ Based on calendar days. Federal requirements limit each claim to 180 days.

Source: City of Palo Alto 2015 Performance Report

Recommendations

We recommend that HR:

- 5.1. Work with ASD's Office of Management and Budget to clarify the presentation of the workers' compensation costs in the City's budget documents.
- 5.2. Work with York to identify useful performance measures and establish procedures to ensure reliable reporting of performance data using a consistent methodology.

APPENDIX 1: The City's Workers' Compensation Costs

EXHIBIT 20
The City's Workers' Compensation Cost

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Workers' Compensation Fund					
Claims paid*	\$2,269,098	\$2,069,975	\$1,468,630	\$2,451,424	\$2,184,858
Change in estimated self-insured liability**	\$2,527,098	\$1,813,409	\$559,747	\$485,109	(\$1,656,783)
CSAC excess insurance premium	\$285,530	\$263,399	\$398,376	\$454,032	\$461,365
Actuarial services	\$4,850	\$4,750	\$4,750	\$4,750	\$2,375
TPA administration fees	\$238,083	\$294,667	\$226,684	\$232,050	\$230,006
State self-insurance fees	\$45,564	\$52,180	\$69,252	\$45,993	\$93,259***
Workers' Compensation Fund Subtotal	\$5,370,224	\$4,498,379	\$2,727,038	\$3,673,358	\$1,315,080
Disability Leave Benefits (Payroll)					
Police	\$317,099	\$193,488	\$365,163	\$386,892	\$257,413
Fire	\$250,445	\$181,709	\$164,299	\$258,035	\$238,475
Utilities	\$61,703	\$41,221	\$60,585	\$160,664	\$146,044
Public Works	\$43,921	\$62,048	\$78,557	\$173,007	\$58,813
Others	\$15,000	\$25,566	\$24,675	\$22,809	\$18,552
Disability Leave Benefits Subtotal	\$688,167	\$504,032	\$693,279	\$1,001,407	\$719,297
HR Administration Cost (General Fund)					
Injury and Illness Prevention Program	\$190,976	\$155,518	\$93,136	\$75,113	\$85,034
Worker's Compensation Program	\$122,182	\$158,801	\$107,812	\$107,753	\$136,227
HR Administration Cost Subtotal	\$313,157	\$314,319	\$200,948	\$182,866	\$221,260

* Represents checks issued by York on behalf of the City, and does not include disability leave benefits paid directly through the City's payroll.

** Determined based on an actuarial study, and includes claim costs incurred but not reported.

*** Includes about \$9,300 in ergonomic evaluation expenses that should have been recorded in the General Benefits Fund.

Source: City's financial records

EXHIBIT 21
Number of Indemnity Claims Filed* by Department by Fiscal Year of Loss
As of June 30, 2015

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Total	%
Police	7	18	10	15	14	64	27%
Fire	16	18	6	19	10	69	29%
Utilities	10	3	11	12	2	38	16%
Public Works	3	8	7	7	5	30	13%
Others	9	9	8	6	5	37	16%
Total	45	56	42	59	36	238	100%

* Includes denied claims

Source: York data

EXHIBIT 22
Cost of Indemnity Claims Incurred by Department by Fiscal Year of Loss
Valued as of June 30, 2015

	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	Total	%
Police	\$294,487	\$1,344,485*	\$2,434,200*	\$298,675	\$351,797	\$4,723,643	43%
Fire	\$764,297	\$865,850	\$241,461	\$455,446	\$544,447	\$2,871,501	26%
Utilities	\$440,441	\$5,771	\$140,473	\$826,783	\$42,513	\$1,455,980	13%
Public Works	\$303,986	\$436,044	\$198,444	\$274,319	\$80,530	\$1,293,323	12%
Others	\$85,690	\$144,714	\$139,430	\$180,478	\$53,345	\$603,657	6%
Total	\$1,888,901	\$2,796,864	\$3,154,008	\$2,035,701	\$1,072,632	\$10,948,104	100%

* The FY 2012 increase is due to one Police claim valued at \$0.5 million, and the FY 2013 increase is due to another claim valued at \$2.2 million.

Source: York data

APPENDIX 2 – City Manager's Response

CITY OF PALO ALTO
MEMORANDUM

TO: Harriet Richardson, City Auditor

FROM: James Keene, City Manager

DATE: June 1, 2016


SUBJECT: Disability Rates and Workers Compensation Program Audit

Staff appreciates the assistance from the City Auditor in assessing the City's Workers Compensation program and agrees with the overall findings and recommendations of the Audit.

As the Audit points out, the City has a comprehensive Injury and Illness Prevention Program to support the City's goal of providing a safe and healthy work environment for all City employees. Preventing injuries and illnesses from occurring in first place is key to a successful Safety and Workers Compensation Program and lowering claim costs. Staff believes that the decrease in the number of Workers' Compensation claims over the last ten years is a result of the strong Injury and Illness Prevention Program in place. In Fiscal Year 2015, 74 claims were filed; claims for the current Fiscal Year total 65 claims (as of April 30, 2016), reflecting a stable trend. The cost of claims incurred has also decreased during this ten year period.

Staff agrees that if the Injury and Illness Prevention Program is not updated and continuously reviewed for effectiveness, the City will likely face an increase in Workers' Compensation claims in the future. As stated in the Audit, Workers' Compensation is a technical and complex area. Staffing reductions and changes in assignment in prior years has compromised Human Resources' ability to effectively manage the Workers' Compensation Program. The new Human Resources Director, Rumi Portillo, has requested a dedicated position in FY 17 to administer the Workers' Compensation Program, analyze data to evaluate claim trends and establish processes to ensure an effective Injury and Illness Prevention Program. Furthermore, this new position will be able to focus on communication supporting a safety culture in all departments, in tandem with the City's wellness initiative.

As the Audit points out, there are immediate and near term actions recommended that Staff will initiate as soon as we are able to fill critical vacancies. Action steps have been identified by staff in the attached response to the Audit recommendations. Staff will be prepared to respond to Policy and Services Committee questions when you present your Audit findings in June.


JAMES KEENE
City Manager

The City Manager has agreed to take the following actions in response to the audit recommendations in this report. The City Manager will report progress on implementation six months after the Council accepts the audit report, and every six months thereafter until all recommendations have been implemented.

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
Finding 1: The City's Injury and Illness Prevention Program (IIPP) is comprehensive but has lost its effectiveness due to the loss of its City Safety Officer.			
1.1. The City Manager allocate sufficient resources to implement and maintain the City's IIPP and to monitor the City's compliance with the program.		Concurrence: Agree Target Date: December 1, 2016 Action Plan: The Human Resources Department requested a new dedicated position (1 FTE) in FY17 Budget. As soon as the position is approved and can be filled this position will review and update the City's IIPP to ensure effective program compliance.	
1.2. HR update the safety manual, including supplemental tools and guidance posted on the intranet, to ensure: <ul style="list-style-type: none"> • The roles and responsibilities over the IIPP are redefined. • The City's IIPP complies with all Cal/OSHA standards and other applicable safety laws. 		Concurrence: Agree Target Date: March 2017 Action Plan: Once appropriate staff resources are in place, the roles and responsibilities can be reestablished to ensure the safety manual (IIPP) is reviewed and updated as necessary. While a few safe work practices have been updated, such as the Heat Stress Prevention Guidelines in July 2014, a thorough review will be conducted and any necessary updates will be completed.	
1.3. HR review departmental procedures and safety requirements to ensure they align with the revised IIPP and City policy and procedures.		Concurrence: Agree Target Date: December 15, 2016 Action Plan: HR is in process of securing a safety specialist to conduct periodic inspections of City facilities for hazard assessment. This comprehensive evaluation will include	

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
		determining if any corrections need to be completed, including updating or implementing work procedures.	
1.4. HR work with York and departments to identify useful safety statistics, appropriate HR and departmental recipients of this information, and reporting frequency, and establish an automated process for those statistics to be provided.		<p>Concurrence: Agree</p> <p>Target Date: December 16 , 2016</p> <p>Action Plan: HR will work with York to identify useful reports that identify injury and illness trends and implement an automated process for those reports to be emailed to department representatives.</p>	
1.5. HR identify industry-specific ergonomics and general wellness training opportunities to minimize common injuries, and coordinate with departments to ensure regular training is provided to employees.		<p>Concurrence: Agree</p> <p>Target Date: September 16, 2016</p> <p>Action Plan: HR will coordinate industry-specific ergonomic training, similar to training provided to Parks maintenance employees in 2010 and Library employees in 2014. We agree industry-specific ergonomic training serves as a reminder for example, that the best way to prevent back injuries is to develop habits that reduce the strain placed on the back.</p>	
Finding 2: Injured employees' benefit eligibility is not accurately and completely tracked and monitored, resulting in both overpayments and underpayments of workers' compensation benefits.			
2.1. HR continue working with ASD and CalPERS to address the disability leave benefits that were incorrectly reported as compensation to CalPERS.		<p>Concurrence: Agree</p> <p>Target Date: February 2017</p> <p>Action Plan: HR worked with Payroll to identify wage codes and required corrections needed to fix CalPERS payroll report.</p>	

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>2.2. HR review the 22 claims that accounted for 87 percent of the total additional city benefits difference in Exhibit 11, and take necessary action to address any errors identified.</p>		<p>Concurrence: Agree Target Date: July 2016 Action Plan: HR working on timecard amendments to address errors with 2 Public Safety officers whose claims were initially delayed when claims first submitted and final determination resulted in denial and non-acceptance.</p>	
<p>2.3. HR review the existing disability leave management process in Exhibit 12 and determine the optimal monitoring structure, update the tools and procedures, and allocate sufficient and skilled resources to ensure:</p> <ol style="list-style-type: none"> a. Benefit eligibility and work status of injured employees is accurately, completely, and timely tracked including: <ul style="list-style-type: none"> • Start date of disability • Date released back to work by the treating physician • Date returned to modified duty, including the assignment and payroll code used • Date returned to full duty b. Any changes in work status are communicated to York c. Disability leave time buckets are updated as soon as HR is notified of the status change. d. Benefit notices and vouchers issued by York are consistent with the timecards and actual benefits paid through payroll. 		<p>Concurrence: Agree Target Date: December 16, 2016 Action Plan:</p> <ol style="list-style-type: none"> a. HR is exploring better methods to track temporary disability and return-to-work status accurately, completely and timely. b. HR will also improve process of maintaining timely communication with York. c. HR staff will explore how to improve management of disability leave buckets in SAP. d. HR will explore how to audit benefit notices and vouchers issued by York to ensure they are consistent with timecards. This would be a manual process that may not be able to be supported. e. HR will work with supervisors to ensure employees comply with City policy requiring timely submission of work status notes. f. HR will explore options for improved disability leave management and 	

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>e. Employees comply with the City policy requiring timely submission of work status notes.</p>		<p>tracking as part of the SAP replacement RFP process.</p>	
<p>2.4. HR work with ASD to ensure that the data necessary for disability leave management is captured through time reporting in SAP to support the process, including:</p> <p>a. Revising the City's payroll procedures, Policies and Procedures 2-06/ASD, to provide clear instruction for reporting disability leave on SAP timecards.</p> <p>b. Configuring the SAP system to:</p> <ul style="list-style-type: none"> • Track compensation reportable to CalPERS separately. • Track medical appointments that qualify as disability leave by creating a separate payroll code. • If feasible and cost-effective, limit the number of days each employee can code disability leave or modified duty on their timecard based on their position. 		<p>Concurrence: Agree</p> <p>Target Date: February 2017</p> <p>Action Plan:</p> <p>a. HR following up with ASD Payroll on feasibility to revise City payroll procedures; otherwise, will include steps in City's Workers Compensation policy.</p> <p>b. ASD and HR have determined how to code public safety temporary disability as "PERSable" and non-public safety temporary disability as "non-PERSable" by using different SAP codes.</p> <ul style="list-style-type: none"> - A separate timecard code (7600) is being developed to track medical appointments. - Limiting the number of hours each employee can code disability leave can be accomplished when disability leave bucket is established; may not be feasible for modified duty and requires further review. 	
<p>2.5. HR work with York to identify and train responsible HR staff, and maintain online access to York data for analyzing claims, payment transactions, and trends. Establish and maintain written procedures for granting, monitoring, and removing access to the York data and appropriate handling and safeguarding of the data.</p>		<p>Concurrence: Agree</p> <p>Target Date: December 2016</p> <p>Action Plan: Training will be provided to HR staff newly assigned to oversee workers compensation.</p>	

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>Finding 3: The City has not met the state requirement for timely reporting of its workers' compensation claims to York, potentially causing the cost of claims to increase.</p>			
<p>3.1. HR streamline the workers' compensation reporting process and improve the accuracy and completeness of the claim forms by:</p> <ul style="list-style-type: none"> • Revising the procedures to clarify the roles and responsibilities. This should include determining whether departments should be responsible for completing only the Employee Claim Forms (DWC-1) and Supervisor's Report of Injury and Exposure (City form), with HR staff being responsible for completing the Form 5020. • Revising the City form for supervisors to complete with necessary information that can be easily copied and pasted to the Form 5020. • Ensuring the use of York's online claims reporting to submit the Form 5020, and having appropriate and trained staff enter any sensitive personnel or payroll information. • Making the required forms and procedures available online in one place with clear instructions and adding electronic signature capability, if feasible and cost-effective. • Regularly reviewing the forms, procedures, and performance to ensure their compliance with state law. 		<p>Concurrence: Partially Agree</p> <p>Target Date: February 2017</p> <p>Action Plan: HR agrees the reporting process needs to be improved and streamlined. HR will determine if using York's online claim reporting to submit the Form 5020 is most efficient process. As an alternative, HR will evaluate ability to create DocuSign Form 5020 which Department would initiate, completing facts related to employee filing claim and details regarding injury or illness. DocuSign Form 5020 could then be submitted by departments to HR staff who would complete salary data. HR staff could then submit DocuSign form to York.</p>	

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
Finding 4: The City has not ensured that York met all contract terms.			
4.1 HR create a list of key contract terms and assign staff to monitor and follow up on York performance against each term, including recovery of \$5,000 from York for not meeting the indemnity claim closure ratio for FY 2013.		<p>Concurrence: Agree</p> <p>Target Date: July 29, 2016</p> <p>Action Plan: HR will create a list of key contract terms that require follow-up. New HR staff assigned to administer workers compensation program will monitor and follow up with York regularly on contract terms.</p>	
4.2. HR work with York to streamline the monthly, quarterly, and annual reporting process by leveraging online access to York data (see recommendations 1.3 and 2.5).		<p>Concurrence: Partially Agree</p> <p>Target Date: August 30, 2016</p> <p>Action Plan: The York data is readily available, currently 8 reports are provided to HR monthly. However the contract calls out for reports that are no longer in use. This can be cleaned up in next contract RFP and in any future contracts. HR will review reporting capabilities to determine how to improve use of data.</p>	
Finding 5: Workers' compensation revenues, costs, and performance data are not clearly reported for informed decision making.			
5.1. HR work with ASD's Office of Management and Budget to clarify the presentation of the workers' compensation costs in the City's budget documents.		<p>Concurrence: Agree</p> <p>Target Date: December 16, 2016</p> <p>Action Plan: HR staff will meet with Budget Manager to clarify presentation for workers compensation costs for FY18 Budget and determine changes or improvements.</p>	
5.2. HR work with York to identify useful performance measures and establish procedures to ensure reliable reporting of performance data using a consistent methodology.		<p>Concurrence: Partially Agree</p> <p>Target Date: January 2017</p> <p>Action Plan: HR will explore best practice performance measures and establish procedure to ensure reliable reporting.</p>	

Special Meeting
June 14, 2016

Chairperson DuBois called the meeting to order at 6:10 P.M. in the Community Meeting Room, 250 Hamilton Avenue, Palo Alto, California.

Present: DuBois (Chair), Kniss, Scharff

Absent: Berman

Agenda Items

1. Disability Rates and Workers' Compensation Audit.

Chair DuBois: I guess we'll go on to Item 1, which is disability rates and workers' compensation audit.

Council Member Kniss: I'll be listening. I'm going to grab some tea.

Harriet Richardson, City Auditor: I know that you're not feeling well, so I'm going to try and get through this first item.

Council Member Kniss: How did you know that?

Ms. Richardson: Beth told us that we might lose a quorum. I'm going to try and get through the first item (crosstalk) ...

Council Member Kniss: I'll make it for a little while.

Ms. Richardson: ... little more time for the second item. Harriet Richardson, City Auditor, here to present the audit of disability rates and workers' compensation. Yuki Matsuura was the Senior Auditor on this, and she can't be here tonight. Lisa Wehara, who worked on this audit, is right over here in the audience.

Vice Mayor Scharff: Welcome.

Ms. Richardson: I'm assuming you've read the audit. Instead of going through the normal process, I have a PowerPoint that talks about the— (inaudible) the PowerPoint—audit scope objectives and the findings and the recommendations. What I really want to do is just skip over to the main finding, which is Finding Number 1, and spend a little bit of time on that. If

you have questions, we also have Sandra Blanch here from Human Resources (HR), who works as the Risk Manager for the City. We also have a representative from York Risk Services Groups. Sherri is—where'd she go—right back here, in case you have any questions for her. York is our third-party administrator for workers' compensation. The main finding is that the City's injury and illness prevention program has lost its effectiveness, and there's several reasons for that. The main one is that when the previous City Safety Officer left the City, that position was cut. His duties were distributed among all of the different Staff, the Senior HR Analysts in People Strategy and Operations (PSO). PSO reorganized; they redistributed the Staff, but yet they did not provide appropriate training to those people on workers' compensation. They've been working with an outdated safety manual that describes how to do things in a way other than what they currently do. There's also been a lack of Citywide safety committee meetings. There's also been insufficient City employee training throughout the City on safe, economic work practices, which increases the risk that you're going to have more repetitive motion injuries. Our recommendations really focus a lot on making sure that adequate resources are provided to the workers' compensation program. Right now, we have not seen an increase in injuries or costs since that loss. As that position remains unfilled, the risk increases that you're going to have more costs because people don't know how to adequately monitor the programs to minimize those costs. That's really what I wanted to focus on for this first audit. I think Suzanne wanted to make some comments regarding the audit.

Suzanne Mason, Assistant City Manager: I just wanted to comment that our response is in the audit. I really appreciate Sandra's work on responding. I do think with reduced resources and dedicated resources to a program such as injury prevention and workers' compensation monitoring, there's a loss. You can't take a job and divide it among five people and make sure that every day you're staying on top of the program, making sure training is happening. Last night in the budget, you adopted the budget that included a dedicated position focused on workers' comp funded through our insurance fund. I think that's going to pay dividends and that we will be able to focus. I do think we are also working on securing the services of a Safety Officer on a contractual basis for the City. The Utilities Department does have a Safety Officer and does a very good job. They're a significant part of our workforce. It is important that we have someone providing our safety inspection. Finally, I know that—Sandra has shared with me and York that York does have a computer solution that can help us address the timeliness on some of the issues. We've been using a manual process. The computer system that's recently been updated by York will allow us to do immediate reporting from departments directly to York and Human Resources simultaneously. That will dramatically improve some of the findings addressed in this report. I don't

want to spend a lot of time going into detail; we can respond to detail. I do think the dedicated position in combination with the contracted Safety Officer functions and then the new computerized system that we'll be implementing Citywide, that York's providing, will address most of this audit.

Ms. Richardson: From our perspective, the dedicated resources were really the big concern here. As Suzanne said, you start splitting up those tasks and you start losing the effectiveness because people don't know exactly what their responsibilities are and the law, what the law requires them to do.

Council Member Kniss: Tom, could I ask a quick question? Just a little ...

Chair DuBois: I was just going to say could we just go straight to questions.

Council Member Kniss: Just to inform us on this. You didn't include any measurements, data or so forth. Is it in here somewhere and I didn't see it?

Ms. Richardson: You mean comparisons with other jurisdictions?

Council Member Kniss: Also percentage-wise what's happened with us. You said it's costing us more, right?

Ms. Richardson: The risk is that it will cost us more. When you look at Exhibits 2 and 3 on Packet Pages 12 and 13, you see some fluctuation and you see '14 and '15 actually look like they've gone down, but what happens a lot of times is the full cost of the claims is not known within a short period of time. Those costs will continue to go up for the recent years until those claims are fully closed. If you go back to our Performance Report, which isn't part of this, you'll see that there's some open claims pretty far back. Part of that is because some of these costs continue over a period of years. Right now, our number of claims did go down. Fiscal Year (FY) '13 is where we lost the City Safety Officer. You're still seeing some of the effect of what that person did. Now as we start seeing in the program in the day-to-day operations some of the things that are happening, we can see that it's likely that those costs are going to start going up because they don't know how to administer the ...

Council Member Kniss: What we should do is take this way back to 2006? Is this a good judge of what that person did?

Ms. Richardson: I think from 2006 ...

Vice Mayor Scharff: What page are you on?

Ms. Richardson: Packet Page 12 and 13. Exhibits 2 and 3.

Chair DuBois: Do you know how it's accounted for in a particular year? When expenses come in for 2014, do they hit our books this year or do they go back?

Ms. Richardson: I'm not certain on that.

Sandra Blanch, Assistant Director of Human Resources: Yes, they do.

Chair DuBois: The expense is actually incurred in this year even though it was a claim from 2014?

Ms. Blanch: Right.

Ms. Richardson: You track the claims also by year.

Ms. Blanch: By year.

Council Member DuBois: Your file.

Ms. Richardson: Yeah. From an accounting perspective, it's different than from a claims perspective.

Chair DuBois: Why don't we just go to broad questions? Do you want to continue?

Council Member Kniss: That's fine. We'll just kind of keep chiming in, I think.

Vice Mayor Scharff: Are you happy with the City Manager's response?

Ms. Richardson: Yes. There were two that they indicated that they partially agreed.

Vice Mayor Scharff: We're back on page ...

Ms. Richardson: It's Packet Page 51, which is going to be your Page 42. They said they partially agreed with Recommendation 3.1 and, on the next page, with 4.2. When I read those, they actually sounded like they agreed. I wasn't sure why they said partially agree on those.

Vice Mayor Scharff: What Suzanne said sounded slightly different, which was you were going to recreate their form in DocuSign. Have you decided now to use the York form directly?

Ms. Mason: I think we are going to use the York form. They've just improved their system, and it sounds like it's going to work for us.

Vice Mayor Scharff: Are you going to update that partially one.

Ms. Mason: No, we just met recently.

Ms. Blanch: Yes. I think the auditor had recommended for HR to do all of the entry. We would disagree with that mandate. The department would do part of the entry, and HR would finish the entry.

Ms. Mason: The idea is you're in a department, and someone comes in injured. You go right into the system and enter, which is a best practice. It immediately goes to HR and York, so we're all in a more timely basis.

Vice Mayor Scharff: Sounds good. You're good with that? It sounds good to me.

Ms. Richardson: Yes.

Vice Mayor Scharff: Were there any other partially agrees?

Ms. Richardson: Just those two.

Vice Mayor Scharff: That's the first one. The second one was ...

Ms. Richardson: 4.2. It's on the quarterly reporting. Monthly, quarterly and annual reporting.

Ms. Mason: Basically what we wanted to say is that we think that we need to—we are getting reports, but we need to work on tailoring those. For the most part, some of the reports that were originally in the contract are not as useful. We need to work together—we do get information, and they do report to us. We do have a good working relationship; there's regular telephonic meetings, but we do need to make sure we're looking at the right data.

Council Member Kniss: Is anyone from York here?

Ms. Mason: Yes.

Council Member Kniss: I missed the introduction.

Sherri Adams, York Risk Services Group: I'm Sherri Adams. I'm the Senior Account Manager.

Council Member Kniss: Thank you.

Vice Mayor Scharff: Sherri, since we've mentioned you, do you have any comments on any of this, of how we could streamline it better, or do you agree with the auditor's recommendation?

Ms. Adams: I do.

Council Member Kniss: Why don't you come join us?

Vice Mayor Scharff: Come sit down at the mike.

Ms. Adams: I do agree with the findings. We worked really closely with Lisa and Yuki, providing the information, the Claims Examiner, the Unit Manager. When we talk about the reports and some of the items that were in the contract, the original contract is from 2006. We've updated processes. Things have changed here at the City. I think it's just revising those, seeing what we can use. Loss of the Safety Officer, I think some of those reports got lost in the that shuffle as well. I've been on the account for 1 1/2 years and have been here multiple times to meet and try and come up with new and creative ways to help. It truly is a partnership. I think there's a lot of things that we can help the City with as we move forward. Like I said, we're here as a partner.

Vice Mayor Scharff: We're going to be making changes to the York contract, is that part of it or not? I was confused about that.

Ms. Mason: Really the primary amendment would be what reports they're providing to us and what frequency.

Vice Mayor Scharff: Will there be a cost associated with that or not?

Ms. Adams: No.

Chair DuBois: It sounded like some departments were already dual reporting to York and HR at the same time.

Ms. Richardson: Only Utilities.

Chair DuBois: You're saying now everybody's going to do that?

Ms. Mason: Basically it would streamline this. Their new addition to the system streamlines it, so that Utilities puts in and it goes directly to (inaudible).

Chair DuBois: I think Utilities was already doing that, but other departments weren't.

Ms. Blanch: We would work with ...

Chair DuBois: Are all departments going to be?

Ms. Blanch: Correct. We would work with all departments to get them to enter the report into the system.

Chair DuBois: Then York would automatically get it?

Ms. Blanch: Right.

Council Member DuBois: I have a few questions here.

Ms. Mason: It would shorten the timeframe.

Chair DuBois: In the text, it said there were some State laws that we're not in compliance with. Are those just reporting timeliness or ...

Ms. Richardson: It's primarily reporting timeliness. There's a risk that you could get fined if an employee doesn't report the injury—if the City doesn't report the injury within five days of the date of knowledge. In discussion with Suzanne, she indicated that she's not aware of the State actually having fined anyone. York may be from their experience. We haven't experienced any fines, so we did add that to the report, that we haven't experienced a fine but the risk is there.

Ms. Mason: We want to be in compliance. That's one of the reasons for this change.

Chair DuBois: How long do employees have to report an injury? It sounded like sometimes that takes a while. Do they have to report within some ...

Ms. Mason: They're supposed to report it immediately. The common story is "I tripped. I thought I was fine. Two weeks later, I'm not feeling fine. I'm not getting better the way I thought I would." That's always ...

Chair DuBois: There was also some talk—I guess we had a comprehensive safety manual, and then it said departments have their own manuals. I guess the question is are those department manuals comprehensive and do they include the general information.

Ms. Richardson: I believe the department manuals are pretty comprehensive, particularly the four departments that Yuki and Lisa looked at. With the Citywide manual not being completely up-to-date, we've requested as one of our recommendations that the City update the Citywide manual and then make sure that the department manuals align with that. We want to make sure there's some consistency in how the departments are doing things.

Chair DuBois: I see Police Chief Burns here. I actually had a question about Police. It looks like about 40 percent of our costs are in the Police Department.

I was wondering do you guys do anything extra or different about training for safety in general?

Ms. Mason: Sit here so you have the microphone.

Council Member Kniss: Maybe you can weave firefighters in at the same time. As I recall, Police and Fire are usually the high numbers.

Dennis Burns, Police Chief: Dennis Burns from the Police Department. We have a pretty robust kind of wellness program, which includes strengthening, endurance, diet. We get training on that on a regular basis. That's intended to be a preventative method. We also have a number of policies in place. The nature of police work, a lot of it involves safety. Officers are evaluated on that on an annual basis. We hold safety very serious. I think one of the reasons that some of the numbers were so high this year is we had two very unusual cardiac cases, where the officers will ultimately retire. A large chunk of the City's monies were paid on these two claims. I think Fire is similar. They really have a very strong wellness program. Again, it's focused on flexibility, strength and endurance. Their folks are evaluated regularly on their safety procedures. They're taken offline in the event that they show that they can't comport with these policies.

Chair DuBois: Thanks.

Mr. Burns: You bet.

Chair DuBois: Do you have something?

Vice Mayor Scharff: It seems like everyone's in agreement. There doesn't seem like there's any ... I guess I had some, I guess, questions. I was confused. Are we hiring a person in the budget to do this or are we contracting out for this person?

Ms. Mason: No. We are actually hiring someone in HR to facilitate and monitor the program and get people back to work, make sure everything's being processed, to make sure training is taking place. There's many suggestions in this report. We added back a dedicated position that had been removed. It's being paid through the Insurance Fund. The reduction should pay for that position.

Vice Mayor Scharff: When you say it's added to the Insurance Fund, every department is assessed something for the Insurance Fund. Correct?

Ms. Mason: Right.

Vice Mayor Scharff: Do we expect the Insurance Fund to then not go up because there's—every department, if you have more people in the Police, are the Police assessed more? Is that how that works or is it everyone gets assessed the same?

Ms. Mason: It's based on experience and exposure. It's a combination.

Vice Mayor Scharff: On a department basis, right?

Ms. Blanch: Yes.

Ms. Mason: They get allocated, yes.

Vice Mayor Scharff: Got it.

Council Member Kniss: Just back to the Chief for a minute. As we look at these, I'm just looking at the numbers on Packet Page 12. Maybe there's a better one for us to look at. Looking at this, if we take it as 100 percent, what would you guess, Dennis, is the number of Police and Fire in that and ...

Chair DuBois: Police were 40 percent of the total in terms of money.

Council Member Kniss: It doesn't give it in terms of people.

Chair DuBois: In terms of claims.

Ms. Richardson: In terms of people ...

Council Member Kniss: Yeah, claims. Are we going to figure claims equals people?

Ms. Richardson: You might want to look at Exhibit 8, Packet Page 20. That might be more helpful to what you're asking.

Council Member Kniss: If we look at—there are all kind of figures here, though. I don't think there's just one that I can pull everything from. Overall from looking at this, because I can remember from the County that Fire was often a big issue. I'm guessing it probably is here as well. That's the kinds of physical types of things that happen if you're in a fire or even in a paramedic job. You're more likely to get claims that cost. What this doesn't tell me here, unless I go through and analyze it, is what the overall price is. This is saying to me that you're about 1 1/2 times what Fire is. Is that right?

Mr. Burns: I think for the use ...

Council Member Kniss: Because these are all stats, I know they're misleading. That's why I'm asking. Say more about this.

Ms. Richardson: I think I can answer what she's asking. If you're referring to Exhibit 8, if you look at the \$4.7 million, is that what you're referring to as the one?

Council Member Kniss: Yeah.

Ms. Richardson: As Chief Burns mentioned a little bit ago, there's two injuries that comprise a good portion of that. That's in the footnote. If you subtract those out, then it's \$2 million for them. When you have an individual case that is really expensive, it's going to ...

Council Member Kniss: You mean unusually high severity, is that what you're talking about?

Ms. Richardson: Yes. You're going to have a higher cost that's disproportionate to the rest of your injuries.

Council Member Kniss: I understand that. Maybe Dennis wants to just expand on that a little. Police and Fire are almost always where the cost lies or lays. Which one is it?

Mr. Burns: Fire typically is ahead of Police or is more expensive than Police, because it's much more a—it's kind of labor intensive, almost like a blue collar job where there's a lot of lifting and twisting and pulling. There's just more opportunities with all the equipment that they're pulling and grabbing from their engines and their truck. There's just more opportunity ...

Council Member Kniss: And lifting heavy people.

Mr. Burns: Lifting people on the gurneys, exactly. Police officers tend to have a lot of repetitive motion injuries from getting in and out of cars or bending over and lifting different types of things. Some involving wrestling with people. Typically we see knees, backs and shoulders are going to be the most common injuries that you'll see from both Police and Fire. Again, we have two outlier cases that are very unique. Unique that they're similar and unique that they happened at the same time and that they were so expensive and so severe. Other than that, I think we're somewhat stable. I'd love to get them lower, but the reality of it is, as you know, flesh and blood and we break every now and then.

Council Member Kniss: The other thing, Harriet, you talked about just briefly was how we compared with other jurisdictions that are similar.

Ms. Richardson: We didn't specifically put that in here, but we were pretty comparable. We did look at it, but we didn't put it in the report. Maybe we should have.

Council Member Kniss: Just always this ...

Ms. Richardson: We do have a chart that we could send to you, if you want to see that.

Council Member Kniss: The reason I'm asking is sometimes there's something to be learned from other police and fire departments, not that our Police or Fire need to learn anything from anybody else, Dennis. Just because there are those times. Sunnyvale has the combination safety. It would be interesting to know how those are, but they have interchangeable roles, which is kind of fascinating.

Chair DuBois: I think under Finding 1 you mention that we have outdated information that's posted. I didn't really see any of the recommendations address that. Is that included?

Ms. Richardson: We tried to keep the recommendations somewhat high level. It's part of updating the whole manual and making sure that everything is the way it's supposed to be. When you update the manual, you look at the ...

Chair DuBois: That was included.

Ms. Richardson: It's meant to be included. The audit team actually went around to different facilities and looked at what was posted. There is quite a bit of outdated information posted. For example, in this building, it's on the A level, and not everyone goes down to that level and sees those posters. There should be something in each of the work areas that's visible to where people (crosstalk).

Chair DuBois: Does anyone read the posters?

Ms. Richardson: I don't know, but you are required to make sure that (crosstalk) ...

Chair DuBois: If you're going to post it, it might as well be read.

Vice Mayor Scharff: I'm not saying that. I just (crosstalk).

Ms. Richardson: If you get injured, it helps you know what you're supposed to do.

Ms. Mason: I think it's also reflective of needing an update, because it really needs to be right on our computers, intranet site, so wherever you're at, you could access it, even if you're not at a bulletin board.

Council Member Kniss: Since we have York here, I wonder if as we go along, whether there are things that you want to add to what our discussion is. You have the expertise in this.

Ms. Adams: My only comment on the Police and Fire is they do have presumptions. When they do have certain injuries, there's a perception that they're accepted. That drives costs as well. Sometimes they're not rebutted, which means they're given that benefit. That can drive ...

Vice Mayor Scharff: I saw that. It seemed like a lot of police officers and firefighters make claims that are denied. It's hard to deny police and firefighters, which means they must have been completely specious.

Ms. Adams: We work through that with the City. We don't just flat deny a claim. The examiners work with the City. Sometimes there has to be an investigation, and there's some things that we need to find out. Sometimes they will deny a claim.

Mr. Burns: On the Police side, every workers' comp claim or injury is investigated by the supervisor that day or ideally within the next couple of days.

Vice Mayor Scharff: If you make an egregious claim—obviously there are things that are on the line. If you make one that's totally not true and fabricated, you look at it and say are there repercussions for doing such a thing?

Mr. Burns: Sure. The District Attorney's Office has got a special unit that is funded by insurance companies that will go after, quite frankly, folks that are abusing the workers' comp process.

Ms. Adams: We work with Probe Investigations. They are a highly respected, highly motivated group of folks who have prosecuted many, many cases. They've (crosstalk).

Council Member Kniss: Highly motivated must be the ...

Ms. Adams: They truly believe in what they do. We have a mini conference once a year. They come and present and let us know what they've collected during the year and returned to counties, cities and other public entities. Yes, there is a fraud unit that will investigate. There are specific things that they

look at when it's sent to them to determine whether it's being prosecuted or not.

Ms. Blanch: These denials—I don't want you to get the wrong impression.

Vice Mayor Scharff: No, I'm not (crosstalk).

Ms. Blanch: These denials essentially were not found to be work-related; they weren't industrial injuries or illnesses.

Ms. Adams: We also delay claims which allows 90 days for investigation to happen to see if it's truly a workers' comp injury.

Council Member Kniss: That brings up a worse discussion. You can answer it or not, Dennis. If you find that somebody is making a claim that it's work-related, and yet it's discovered that it isn't, do we have a process that we go through?

Mr. Burns: Sure. I don't think that we've had one of these cases. There's doing nothing, and then there's taking the case to the District Attorney's Office. In between it would be a policy violation or an internal affairs investigation where we would go ahead and see if we could prove, beyond a preponderance in an internal affairs investigation, did this person falsify some documentation or commit a fraud. Even though we don't think it's going to be provable at the "beyond a reasonable doubt" level, we could pursue that.

Council Member Kniss: Thanks. I don't want to keep pushing on that, but I know that has to be an issue.

Vice Mayor Scharff: That's the standard, a preponderance of evidence, for internal affairs and then beyond a reasonable doubt for the ...

Mr. Burns: For a criminal. Typically and in most internal affairs investigations, you're going to want more clear and convincing before you're going to be taking somebody's property rights.

Ms. Blanch: We would work with York to do an investigation. We wouldn't have our own Police Department doing the investigation. We have done those type of presentations to the District Attorney; it's been some time. They have the resources to take cases to the District Attorney.

Mr. Burns: They're rather difficult cases, I think, for the District Attorney (DA) to prove. You could have somebody on video doing some sort of activity, and they could have a claim that they injured their back or their knee or something like that. Their response would be, "I was having a good day that day. I felt good," or "I felt good for the last few days." This is not my area of expertise,

but soft tissue injuries are difficult. You're going to get conflicting opinions from doctors in a court of law.

Chair DuBois: Switching gears. I just wondered if we could make a note. One of the recommendations was to update SAP. It sounds like we're going to do that, but I wonder if we could capture a note that we also, when we move to the new Enterprise Resource Planning (ERP) process, design this process. Just to capture that, since it's coming up pretty soon.

Ms. Richardson: IT is getting started. August 4th starts the first kickoff meeting on discussing requirements for the new ERP.

Chair DuBois: On Packet Page 42, it talks about the performance reporting and not getting accurate data. It sounded like the SAP data (inaudible) were more accurate. I wondered if we could use the more accurate data in that report.

Ms. Richardson: The difference there is that the State has a limit on the number of days that have to be reported. That's what's been going into the Performance Report. It doesn't truly capture when someone's been off longer than 180 days, because we stop counting based on (crosstalk).

Chair DuBois: I'm asking can we switch that, use the better data. Don't you put together the Performance Report?

Ms. Richardson: Right now we do. That's our next topic.

Ms. Blanch: Based on data that we provide to the Auditor's Office. I think it's been a footnote in the data that says it's capped at the Federal limit.

Ms. Richardson: Right, but we don't ever say what the total is.

Vice Mayor Scharff: One other question. When did we get rid of the safety person?

Ms. Richardson: 2013. What happened was he got sick and retired, I believe.

Vice Mayor Scharff: He went on disability and retired.

Ms. Richardson: The position was eliminated in the budget cycle.

Vice Mayor Scharff: Why did we eliminate the position? What was our thinking? Was our thinking we'd save money? What was our thinking about that, and why has that thinking changed?

Ms. Mason: I was not here.

Vice Mayor Scharff: It's easier that you weren't here, because you'd be more—there's no investment. You can say it was a bad decision. What was the reasoning behind it?

Ms. Blanch: The reasoning was there were other areas that needed focus, and we changed to a business partner model rather than a functional area model. The thought was you could spread out the work amongst various Staff. Workers' compensation is so technical, that the Staff really couldn't focus on recruitment, employee relations issues and learn workers' comp all at the same time.

Ms. Mason: This is just one of the things I've been working with Sandra and Rumi, as Rumi's approaching HR and restructuring. I think the business partner model, which you see often, has been ...

Vice Mayor Scharff: What is the business ...

Ms. Mason: I will share it.

Vice Mayor Scharff: It'd be great (inaudible).

Ms. Mason: It's the idea that you take specialized positions and you convert them to generalized positions assigned to departments. They become the end-all for that assigned department or departments.

Vice Mayor Scharff: What do you mean the end-all?

Chair DuBois: Each department has an HR person.

Ms. Mason: You call me, Suzanne Mason, and I'm going to take care of everything. You have a one-stop shop. The problem with this—it's something that HR professionals really have been struggling with. I just have to say the (inaudible) that I've dealt with, if you expect that person to be your person dealing with labor, person dealing with workers' compensation (comp), recruiting all your vacancies, it is very hard, number one, to have an individual who has specialized knowledge, who has the ability to respond quickly, within five days of, making sure paperwork is moving. Rumi's coming in and working with Sandra. We are switching back to a more specialized focus. In dedicating this position as well, I do think this position will be dedicated, but some of the Safety Officer functions, the "in the field" functions, we're probably going to be contracting for. It's going to be a combination. It's really putting a specialized knowledge base and training around that person. Sometimes you feel like it may be more efficient and more customer-friendly to go with a more generalized approach. I think it's challenging.

Council Member DuBois: I'm sensitive to Liz here. Do we have a Motion on this?

Vice Mayor Scharff: I'll move we accept the Audit Report.

Council Member Kniss: Second.

Vice Mayor Scharff: That's what you're looking for, right?

Chair DuBois: Yep. (crosstalk) Council.

MOTION: Vice Mayor Scharff moved, seconded by Council Member Kniss to recommend the City Council accept the Disability Rates and Workers' Compensation Audit.

Ms. Richardson: Did you want to make the Motion to have them modify those two recommendations before we forward it to—their response to those two recommendations before forwarding it to Council?

Vice Mayor Scharff: You're fine with that?

Ms. Richardson: It was the two we talked about, 4. ...

Ms. Mason: You mean the partially?

Ms. Richardson: Yes. There would be new responses.

Ms. Mason: I think there's reasons that we feel it's partially. I think that some of the reason around some of the report changes was because we wanted them to change. Yes, I guess if it's technical that they're not providing the same, exact reports that were in the contract. I think it was done on purpose. It wasn't a mistake.

Ms. Richardson: What I'm saying is that what you've written here is different than what you said tonight (crosstalk) ...

Ms. Mason: You mean on the computer system.

Ms. Richardson: ... and after having spoken with York about what you're actually going to be doing.

Ms. Mason: With the computer system? We can also do that.

Vice Mayor Scharff: There were two things. There were two partially agrees. The first one, I thought ...

Ms. Richardson: 3.1 and ...

Vice Mayor Scharff: 3.1, I thought you said that your opinion has changed on that. Was I incorrect?

Ms. Mason: I'm sorry. I meant our action plan, not our opinion. Our action plan is a little bit different. We have found that York's system with some of the modifications they recently made, might be a more effective way of doing this than the DocuSign system.

Chair DuBois: Which was the recommendation from Audit. It sounds like you've agreed instead of partially agreed.

Ms. Mason: We need to improve the reporting timeliness.

Vice Mayor Scharff: Wait. You went through that too fast. I'm not sure. They still partially agree.

Ms. Mason: We still partially agree.

Vice Mayor Scharff: The part you partially agree—the part you don't agree with is which one under 3.1?

Ms. Mason: Let me go through this again.

Vice Mayor Scharff: I thought you were agreeing, so I'm confused.

Ms. Mason: Their specific recommendations are about how we do it. We are saying we are going to do it differently than the specific recommendations.

Vice Mayor Scharff: How are you going to do it differently?

Ms. Blanch: In the first bullet, at the end of the sentence, it says with HR Staff being responsible for completing the Form 5020. We're proposing that the department will initiate the Form 5020.

Ms. Mason: On the computer system.

Ms. Blanch: On the computer system. HR will receive it or at the same time, complete the salary portion and submit to York.

Ms. Mason: We think there's a computerized solution where this was suggesting a manual process. I feel partially agree—we agree the process needs improvement, but we are not agreeing on the way to do it.

Ms. Richardson: I think you actually are, and maybe just the way the recommendation is worded isn't quite clear. I think the third bullet, I think, clarifies that we're saying that trained Staff, which could be PSO Staff, enter

the sensitive personnel or payroll information. When you look at it as a whole, I think you're actually agreeing with it.

Vice Mayor Scharff: I don't think we should wade into that fight. I do think that what would be really helpful—I don't know if you guys agree. You can say partially agree, but then in the action plan, if Council's interested, you call out exactly what you're going to do differently than what it says in 3.1. That way any Council Member can look at it, who hasn't been on this Committee, because this goes on Consent. That way it's no confusion. I can't read your action plan and understand why you're partially agreeing after this discussion today.

Ms. Mason: It's just a different process we're proposing to use.

Vice Mayor Scharff: That's fine. Just say that. Say what that—just address the different bullets about what's different.

Ms. Mason: If you want us to put agree—I guess where we're at is ...

Vice Mayor Scharff: No, I don't. No, no. I do not want you to put agree. I want clarity. Remember I'm a lawyer. I look at the document, and I say, "I want you to match what's written here and say we are not doing the HR Staff, we're doing this." I want you to take each bullet and tell me what you're doing differently. That's what I want. I just want clarity. I actually think it's great if you don't agree. That's fine. That doesn't bother me one way or the other. I just want to know what you don't agree on and what you're doing.

Ms. Mason: If you look at each of the bullets, they are not all that—they're sort of one process that looks to be pretty manual. We are suggesting that we think using the online claims reporting process is a better process.

Chair DuBois: When I read it, it says ensure the use of York's online forms. You said you disagree; we're going to use DocuSign. Now it sounds like you've changed your mind and you're going to use York's online forms. That was my confusion.

Ms. Mason: We'll redo it.

Council Member Kniss: Could I ask one more subjective question? Do we find that this is more about saving money or about accurate reporting or about something else that maybe I can't define?

Vice Mayor Scharff: Safety.

Council Member Kniss: Yes, of course.

Ms. Richardson: I would say it's a mix. I think that by dedicating a resource you will save money in the long term. If you don't have people who are implementing an effective illness and injury prevention program, you're going to have more injuries. By having someone who's focused on that effort, you can keep your costs down. There's the accurate reporting just to make sure that we're compliant with State law and don't get fined.

Council Member Kniss: Yes. That, of course ...

Chair DuBois: We need another Motion. You're asking to change 3.1. Is that it?

Vice Mayor Scharff: Yes, I'm asking her to change 3.1 and 4.2, that you stand by what you had here. You partially agree with what you wrote in this one. That's what I understood from the comments previously.

INCORPORATED INTO THE MOTION WITH THE CONSENT OF THE MAKER AND SECONDER to add to the Motion, "including changes to Audit Findings 3.1 and 4.2 which will outline the related Action Plans that will be implemented by Staff."

MOTION AS AMENDED RESTATED: Vice Mayor Scharff moved, seconded by Council Member Kniss to recommend the City Council accept the Disability Rates and Workers' Compensation Audit, including changes to Audit Findings 3.1 and 4.2 which will outline the related Action Plans that will be implemented by Staff.

Council Member Kniss: Ready to vote.

Chair DuBois: Yep. All in favor. Thank you, guys.

MOTION PASSED: 3-0 Berman absent

Council Member Kniss: Thanks. Thank you for coming from York.

Ms. Adams: Yes, you're welcome. My pleasure.

**CITY OF PALO ALTO
MEMORANDUM**

TO: HONORABLE CITY COUNCIL

FROM: CITY AUDITOR

AGENDA DATE: OCTOBER 17, 2016 **ID# 7351**

SUBJECT: Revised Human Resources Response to the Workers' Compensation Audit

Attached is the revised Human Resources response to recommendations 3.1 and 4.2 of the Disability Rates and Workers' Compensation Audit that was presented to the Policy and Services Committee on June 14, 2016. The response was directed as a part of the Policy and Services Committee motion to accept the report.

Harriet Richardson

HARRIET RICHARDSON
City Auditor

APPENDIX 2 – City Manager’s Response

The City Manager has agreed to take the following actions in response to the audit recommendations in this report. The City Manager will report progress on implementation six months after the Council accepts the audit report, and every six months thereafter until all recommendations have been implemented.

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
Finding 1: The City’s Injury and Illness Prevention Program (IIPP) is comprehensive but has lost its effectiveness due to the loss of its City Safety Officer.			
1.1. The City Manager allocate sufficient resources to implement and maintain the City’s IIPP and to monitor the City’s compliance with the program.		Concurrence: Agree Target Date: July 1, 2016 Action Plan: The Human Resources Department requested new position (1 FTE) in FY17 Budget. Training would be implemented over FY17 in order to be fully functioning in role.	Status: Completed. Council approved additional position in HR for FY17 to update and effectively monitor and maintain the City’s IIPP.
1.2. HR update the safety manual, including supplemental tools and guidance posted on the intranet, to ensure: <ul style="list-style-type: none"> • The roles and responsibilities over the IIPP are redefined. • The City’s IIPP complies with all Cal/OSHA standards and other applicable safety laws. 		Concurrence: Agree Target Date: March 2017 Action Plan: Once appropriate staff resources are in place, the roles and responsibilities can quickly be reestablished to ensure the safety manual (IIPP) is reviewed and updated as necessary. While a few safe work practices have been updated, such as the Heat Stress Prevention Guidelines in July 2014, a thorough review will be conducted and any necessary updates will be completed.	Status: Not started
1.3. HR review departmental procedures and safety requirements to ensure they align with the revised IIPP and City policy and procedures.		Concurrence: Agree Target Date: November 2016 Action Plan: HR is in process of securing a safety specialist to conduct periodic inspections of City	Status: On-going Currently, the following components of an effective IIPP are ongoing:

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
		facilities for hazard assessment. This comprehensive evaluation will include determining if any corrections need to be completed, including updating or implementing work procedures.	<p>Accident Investigation: supervisors investigate all accidents, injuries and near-misses and make appropriate changes to minimize recurrence.</p> <p>Hazard Correction: Supervisors correct conditions that are discovered during their monthly inspections or after an injury or accident to prevent reoccurrence.</p> <p>Training: Supervisors are responsible for ensuring their employees are trained to perform work safely.</p> <p>Documentation: Safety training sign-in sheets and investigation reports are maintained.</p> <p>Communication: Employees know how to inform management about health and safety matters.</p>
1.4. HR work with York and departments to identify useful safety statistics, appropriate HR and departmental recipients of this information, and reporting frequency, and establish an automated process for those statistics to be provided.		<p>Concurrence: Agree</p> <p>Target Date: October 31, 2016</p> <p>Action Plan: HR will work with York to identify useful reports that identify injury and illness trends and implement an automated process for those reports to be emailed to department representatives.</p>	<p>Status: In progress</p> <p>HR has requested sample reports that York can provide to departments on a monthly basis.</p>
1.5. HR identify industry-specific ergonomics and general wellness training opportunities to minimize common injuries, and coordinate with departments to ensure regular training is provided to employees.		<p>Concurrence: Partially agree</p> <p>Target Date: March 2017</p> <p>Action Plan: HR will coordinate industry-specific ergonomic training, similar to training provided to Parks maintenance employees in 2010 and Library employees in 2014. We agree industry-specific ergonomic training serves as a reminder</p>	<p>Status: In progress</p> <p>Wellness Specialist is working on researching options for industry-specific ergonomic training.</p>

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
		for example, that the best way to prevent back injuries is to develop habits that reduce the strain placed on the back. Even so, it is a challenge to minimize this common injury to backs as many of the City employee occupations, it is unavoidable to repetitively lift heavy equipment, parts, patients, suspects, etc.	
Finding 2: Injured employees' benefit eligibility is not accurately and completely tracked and monitored, resulting in both overpayments and underpayments of workers' compensation benefits.			
2.1. HR continue working with ASD and CalPERS to address the disability leave benefits that were incorrectly reported as compensation to CalPERS.		Concurrence: Agree Target Date: February 2017 Action Plan: HR worked with Payroll to identify wage codes and required corrections needed to fix CalPERS payroll report.	Status: In Progress SAP Functional is configuring correction to CalPERS report. Due to long-term vacancy and challenge hiring Sr Business Analyst, this project has been delayed.
2.2. HR review the 22 claims that accounted for 87 percent of the total additional city benefits difference in Exhibit 11, and take necessary action to address any errors identified.		Concurrence: Agree Target Date: November 30, 2016 Action Plan: HR working on timecard amendments to address errors with 2 Public Safety officers whose claims were initially delayed when claims first submitted and final determination resulted in denial and non-acceptance.	Status: HR has completed review of 22 claims. HR will communicate action plan to department and employees. In progress. No other action necessary.

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>2.3. HR review the existing disability leave management process in Exhibit 12 and determine the optimal monitoring structure, update the tools and procedures, and allocate sufficient and skilled resources to ensure:</p> <p>a. Benefit eligibility and work status of injured employees is accurately, completely, and timely tracked including:</p> <ul style="list-style-type: none"> • Start date of disability • Date released back to work by the treating physician • Date returned to modified duty, including the assignment and payroll code used • Date returned to full duty <p>b. Any changes in work status are communicated to York</p> <p>c. Disability leave time buckets are updated as soon as HR is notified of the status change.</p> <p>d. Benefit notices and vouchers issued by York are consistent with the timecards and actual benefits paid through payroll.</p> <p>e. Employees comply with the City policy requiring timely submission of work status notes.</p>		<p>Concurrence: Agree</p> <p>Target Date: February 2017</p> <p>Action Plan:</p> <ul style="list-style-type: none"> a. HR is exploring better method to track temporary disability and return-to-work status accurately, completely and timely. b. HR will also improve process of maintaining timely communication with York. c. HR staff will explore how to improve management of disability leave buckets in SAP. d. HR will explore how to audit benefit notices and vouchers issued by York to ensure they are consistent with timecards. This would be a manual process that may not be able to be supported. e. HR will work with supervisors to ensure employees comply with City policy requiring timely submission of work status notes. 	<p>Status: Not started</p>
<p>2.4. HR work with ASD to ensure that the data necessary for disability leave management is captured through time reporting in SAP to support the process, including:</p> <p>a. Revising the City's payroll procedures, Policies and Procedures 2-06/ASD, to</p>		<p>Concurrence: Agree</p> <p>Target Date: February 2017</p> <p>Action Plan:</p> <ul style="list-style-type: none"> a. HR following up with ASD Payroll on feasibility to revise City payroll 	<p>Status: In progress</p> <p>a. Not yet started</p>

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<p>provide clear instruction for reporting disability leave on SAP timecards.</p> <p>b. Configuring the SAP system to:</p> <ul style="list-style-type: none"> • Track compensation reportable to CalPERS separately. • Track medical appointments that qualify as disability leave by creating a separate payroll code. • If feasible and cost-effective, limit the number of days each employee can code disability leave or modified duty on their timecard based on their position. 		<p>procedures; otherwise, will include steps in City's Workers Compensation policy.</p> <p>b. ASD and HR have determined how to code public safety temporary disability as "PERSable" and non public safety temporary disability as "non-PERSable" by using different SAP codes.</p> <ul style="list-style-type: none"> - A separate timecard code (7600) is being developed to track medical appointments. - Limiting the number of hours each employee can code disability leave can be accomplished when disability leave bucket is established; may not be feasible for modified duty and requires further review 	<p>b. Good progress has been made to accomplish configuration changes to SAP system. Work will continue to finalize these projects.</p> <p>UPDATE: New SAP payroll code has been created by ASD and tested by HR to track medical appointments separately from disability leave. An email communication was distributed to city staff on use of new code.</p>
<p>2.5. HR work with York to identify and train responsible HR staff, and maintain online access to York data for analyzing claims, payment transactions, and trends. Establish and maintain written procedures for granting, monitoring, and removing access to the York data and appropriate handling and safeguarding of the data.</p>		<p>Concurrence: Agree</p> <p>Target Date: December 2016</p> <p>Action Plan: Training will be provided to HR staff newly assigned to oversee workers compensation.</p>	<p>Status: In progress</p>
<p>Finding 3: The City has not met the state requirement for timely reporting of its workers' compensation claims to York, potentially causing the cost of claims to increase.</p>			
<p>3.1. HR streamline the workers' compensation reporting process and improve the accuracy and completeness of the claim forms by:</p>		<p>Concurrence: Partially Agree</p> <p>Target Date: February 2017</p>	<p>Status: In progress</p>

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
<ul style="list-style-type: none"> Revising the procedures to clarify the roles and responsibilities. This should include determining whether departments should be responsible for completing only the Employee Claim Forms (DWC-1) and Supervisor's Report of Injury and Exposure (City form), with HR staff being responsible for completing the Form 5020. Revising the City form for supervisors to complete with necessary information that can be easily copied and pasted to the Form 5020. Ensuring the use of York's online claims reporting to submit the Form 5020, and having appropriate and trained staff enter any sensitive personnel or payroll information. Making the required forms and procedures available online in one place with clear instructions and adding electronic signature capability, if feasible and cost-effective. Regularly reviewing the forms, procedures, and performance to ensure their compliance with state law. 		<p>Action Plan: HR agrees the reporting process needs to be improved and streamlined. HR will work with York to implement use of online claim reporting to submit the state-required Form 5020, Employee Report of Injury and Illness.</p>	
<p>Finding 4: The City has not ensured that York met all contract terms.</p>			
<p>4.1 HR create a list of key contract terms and assign staff to monitor and follow up on York performance against each term, including recovery of \$5,000 from York for not meeting the indemnity claim closure ratio for FY 2013.</p>		<p>Concurrence: Agree Target Date: December 31, 2016 Action Plan: HR will create a list of key contract terms that require followup. New HR staff assigned to administer workers compensation program will</p>	<p>Status: In progress York credited City \$5000.</p>

Recommendation	Responsible Department(s)	Agree, Partially Agree, or Do Not Agree and Target Date and Corrective Action Plan	Status
		monitor and follow up with York regularly on contract terms.	
4.2. HR work with York to streamline the monthly, quarterly, and annual reporting process by leveraging online access to York data (see recommendations 1.3 and 2.5).		<p>Concurrence: Partially Agree</p> <p>Target Date: October 31, 2016</p> <p>Action Plan: The York data is readily available, currently 8 reports are provided to HR monthly. However the contract calls out for reports that are no longer in use. This can be cleaned up in next contract RFP and in any future contracts. HR will review reporting capabilities to determine how to improve use of data.</p>	Status: Not started
Finding 5: Workers' compensation revenues, costs, and performance data are not clearly reported for informed decision making.			
5.1. HR work with ASD's Office of Management and Budget to clarify the presentation of the workers' compensation costs in the City's budget documents.		<p>Concurrence: Agree</p> <p>Target Date: December 2016</p> <p>Action Plan: HR staff will meet with Budget Manager to clarify presentation for workers compensation costs for FY18 Budget and determine changes or improvements.</p>	Status: Not started
5.2. HR work with York to identify useful performance measures and establish procedures to ensure reliable reporting of performance data using a consistent methodology.		<p>Concurrence: Partially Agree</p> <p>Target Date: January 2017</p> <p>Action Plan: HR will explore best practice performance measures and establish procedure to ensure reliable reporting. HR is not certain York can assist with identification of useful performance measures and may need to explore other resources.</p>	Status: Not started