Audit Report

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August 2010

Performance Audit of Risk Management's Public Liability and Loss Recovery Division

Significant Opportunities for Improvements Exist to Mitigate Public Liability Claims and Maximize Loss Recovery Efforts

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THE CITY OF SAN DIEGO

August 31, 2010

Honorable Mayor, City Council, and Audit Committee Members
City of San Diego, California

Transmitted herewith is an audit report on Risk Management's Public Liability and Loss Recovery Division. This report is in accordance with City Charter Section 39.2. The Results in Brief is presented on page 1. The Administration's response to our audit recommendations can be found after page 62 of the report.

If you need any further information please let me know. We would like to thank Risk Management's staff, as well as representatives from other City departments for their assistance and cooperation during this audit. We also would like to thank officials from the University of California, the City of Sacramento, and other organizations that participated in our audit. All of their valuable time and efforts spent on providing us information is greatly appreciated. The audit staff responsible for this audit report is Toufic Tabshouri, John Teevan, Kyle Elser and Chris Constantin.

Respectfully submitted,

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Results in Brief

Claims against the City cost taxpayers approximately $29 million annually. The Public Liability and Loss Recovery Division (Public Liability) of the Risk Management Department (Risk Management) is responsible for the investigation and settlement of all claims arising from the City of San Diego's (City) operation as a municipality. Its employees provide services to citizens and special event promoters to ensure the public's interests are protected with appropriate insurance, select and purchase risk and excess liability insurance for the City, and recover funds for damages to City assets caused by individuals and corporate entities. The City receives claims for various incidents such as automobile accidents, water main breaks and flooding, sewer main back-ups, vehicle tows and trip and falls. Risk is typically measured in terms of the probability that these types of events would occur and the severity of their impact.

During our audit, we found that Risk Management does not analyze systematic risks or follow Enterprise Risk Management system methodologies or other enhancing practices, nor does it maintain documented processes. Furthermore, the communication and coordination related to risk between Risk Management and other City departments is minimal and episodic, and there is no coordinated City-wide effort to reduce City losses from preventable claims and better manage and mitigate its organizational risk. Risk Management can also improve its reporting to the City Council and other parties to meet the informational needs of the City Council. As a result, the accountability of governing bodies and management is reduced, and departments are deprived of information to respond to systemic risks.

We also noted that the City does not have a formalized and documented standardized claim reserving approach, which can result in inconsistent reserving practices. Consequently, the difficulty of maintaining accurate financial reporting is increased. Moreover, we found that the review and analysis of the cost and adequacy of insurance coverages and limits is informal and not documented. As a result, the City risks purchasing unnecessary or insufficient insurance coverages and paying excessive premiums.

Furthermore, we noted a lack of quality control within Risk Management, including outdated, inadequate or undocumented policies and procedures and underutilized actuarial resources. Risk Management could also maximize the benefits of the loss recovery function to enhance opportunities to collect additional revenue for the City.

Finally, we found that Risk Management can implement changes to manage staffing workloads more effectively and efficiently, such as streamlining the process for handling vehicle tow claims with the San Diego Police Department, requesting increases in settlement authority limits, adopting new technologies, or defining denial criteria for claims.

We provide 23 recommendations for Risk Management to improve its operations. Several of these recommendations impact operational areas in the City that Risk Management is not directly responsible for. Implementing these recommendations will require collaboration and effort between Risk Management and various departments. In their written response, Risk Management agreed or partially agreed with 17 of the recommendations, and disagreed with six recommendations. We did not include the written response in this report due to concerns regarding the appropriateness and timing of the response. We will issue the Department’s response and our rebuttal under separate cover at a later date.

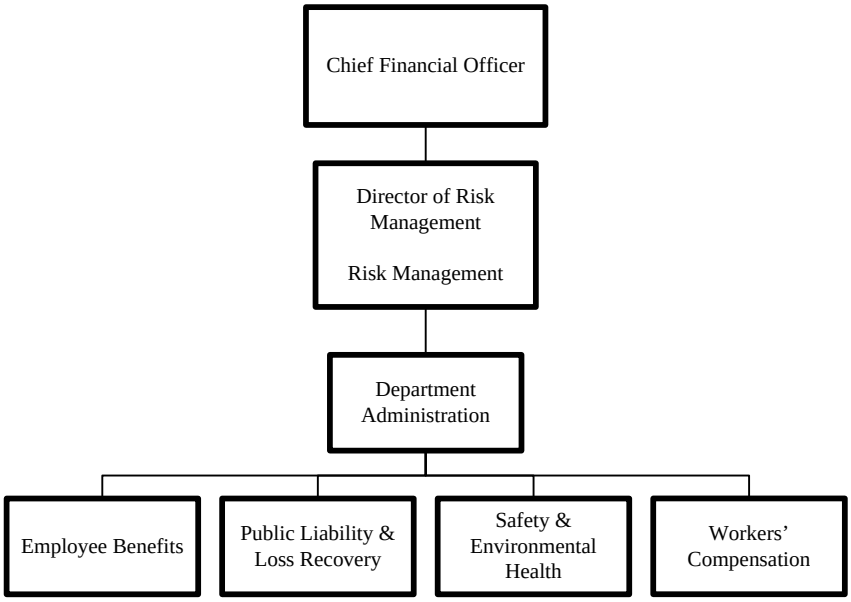
Background

The City is exposed to various risks of loss which include theft of, damage to, and destruction of assets, errors and omissions, injuries to employees, and natural disasters. The San Diego Municipal Code designates the Director of Risk Management as Secretary of the City Council for the purpose of receiving and processing all claims filed against the City of San Diego pursuant to Section 915 of the California Government Code[1] (Government Code). Claims generally shall be presented to the City by delivering or mailing it to the clerk or secretary.

The Risk Management Department (Risk Management) is comprised of five divisions: Administration, Public Liability & Loss Recovery (Public Liability), Workers' Compensation, Employee Benefits and Safety & Environmental Health, represented graphically in the following exhibit:

Exhibit A

Organizational Chart for the Risk Management Department



Source: Auditor generated based on Risk Management Department website information.

According to the department's Fiscal Year 2010 Annual Budget[2], Public Liability is responsible for coordinating "measures intended to forecast and reduce the City's exposure to risks," which includes the handling of claims filed against the City. The total Fiscal Year 2010 budget for Risk Management is approximately $9.1 million, including $6.7 million for personnel and $2.4 million for non-personnel expenses. Public Liability represents approximately $1.7 million of the total departmental budget, and is funded for 17 positions, including a Claims and Insurance Manager (Claims Manager) and a Supervising Claims Representative (Claims Supervisor), as

[1] The Government Code is available at http://www.leginfo.ca.gov/.html/gov_table_of_contents.html.
[2] The Fiscal Year 2010 budget is available at http://www.sandiego.gov/fm/annual/pdf/fy10/34v2riskmgmt.pdf.

well as eight claims representatives, four clerks, and three aides.[3] Exhibit B below shows the average direct costs of public liability for the City over the last three fiscal years.

Exhibit B

Direct Costs of Liability for Fiscal Years 2008 through 2010[4]

Expenditure Category	FY 2008	FY 2009	FY 2010	Average Annual Cost
Public Liability Budget	$ 1,907,775	$ 1,737,571	$ 1,687,488	$ 1,777,611
Payments for Claims, Lawsuits, and Expenses, net	$ 18,837,691	$ 24,294,930	$ 19,467,711[5]	$ 20,866,777
Insurance Premiums	$ 4,971,258	$ 6,716,979	$ 7,072,864	$ 6,253,700
Total	**$ 25,716,724**	**$ 32,749,480**	**$ 28,228,063**	**$ 28,898,088**

Source: Auditor generated from Risk Management data.

To manage public liability and other risks mentioned above, the City has established various self-insurance programs and purchases coverage from various insurance companies to manage excessive risks. The City's self-insurance retention amount, which is the amount the City must pay toward an insured loss before our excess liability coverages will begin to cover the loss, is $4 million. The City also maintains excess liability insurance policies through the California State Association of Counties-Excess Insurance Authority[6] (CSAC-EIA), a statewide joint powers authority, for amounts up to $50 million.

Council Policy for Claims Against the City

The San Diego City Council Policy (Council Policy) 000-09[7] establishes a procedure for the administration of all claims and lawsuits filed against the City for up to $50,000 by delegating authority to allow, deny, or settle all claims up to that amount. Claims for damages will be allowed or negotiated with the following conditions:

1. $5,000 field settlement authority for each Claims Representative with the approval of the Claims Manager;
2. $5,000 to $25,000 settlement authority with the approval of the Director of Risk Management;
3. $25,000 to $50,000 settlement authority with the approval of the City Manager (Mayor).

[3] One claims aide position has been eliminated in the Fiscal Year 2011 budget.
[4] These estimates do not include costs related to the Office of the City Attorney's Civil Litigation Division since the costs specific to public liability claims are not formally identified or reported.
[5] Payments for Fiscal Year 2010 are estimated since the payment data provided was only through March 29, 2010.
[6] Additional CSAC-EIA information is available at http://www.csac-eia.org/.
[7] Council Policy 000-09 for "Claims Against the City" is available at http://docs.sandiego.gov/councilpolicies/cpd_000-09.pdf.

All claims which have a total value in excess of $50,000 from one or any combination of funding sources (including the value of future payments) require approval by City Council resolution. The following exhibits summarize the number of claims filed and settled, claim payment amounts, and the average claim payment over the last three fiscal years:

Exhibit C

The Volume of Claims Filed Against the City Has Decreased Slightly Between Fiscal Years (FY) 2008 and 2010

	FY 2008	FY 2009	FY 2010 *(estimate)*
Number of Claims Filed Against the City	2,354	2,336	2,184
Number of Claims Paid and / or Settled	1,098	1,038	1,032

Source: Auditor analysis of City of San Diego claims management system data.
Note: These estimates are based on actual claims data through March 2010 of 1,638 filed claims and 774 settled claims.

Exhibit D

Payments for Claims Exceeding $50,000 Represent the Significant Majority of the Amount of Public Liability Disbursements in Fiscal Year 2009

	Fiscal Year 2009			
Payment Amount Category	**Number**	**Percent of Total**	**Amount**	**Percent of Total**
Less than $5,000	849	82 %	$ 847,547	3 %
$5,000 to $25,000	108	10 %	$ 1,126,455	5 %
$25,000 to $50,000	25	* 3 %	$ 912,860	4 %
Over $50,000	56	5 %	$ 21,423,652	88 %
Total	1,038	100 %	$ 24,310,514	100 %
Average Amount per Claim	$23,421			

Source: Auditor analysis of City of San Diego claims management system data.
Note: The percentage marked with a "*" has been rounded up from 2.4% for consistency purposes.

Claims for Damage Related to Water and Wastewater Activities

Public Liability claims are generally for property damage or personal injury. The claims process typically starts with the submission of a claim to Public Liability. For water and wastewater related claims, the Public Utilities Department (Public Utilities) usually notifies Public Liability of potential liabilities. Although Public Utilities crews repair water mains and pipes, the City outsources emergency repairs and clean-up of other types of damage to an outside contractor who performs associated work and then bills the City for repairs performed.

Timing Requirements and Overall Process for Filing Claims Against the City

According to Government Code, claimants must file their claims within six months or one year of the date of loss, depending on the type of claim. Claimants complete a form and mail it to Risk Management along with supporting documentation. Clerical staff open the mail and then check to verify that there is not an existing claim. The Claims Supervisor then assigns the claim to a claims representative, and returns it to the clerical staff for scanning and entry into the online claims management system (iVOS)[8].

The claims representative will investigate the claim to determine whether it is supported by sufficient evidence. As part of the investigation, the representative will identify the hazard that caused the claim and notify the department responsible for remediating it. Representatives sometimes take recorded statements from claimants to aid in their investigation or assign this task to a third-party adjuster (TPA). A TPA may visit the scene of an incident and take photographs. The City paid approximately $169,000 to these types of outside investigators between July 2007 and March 2010.

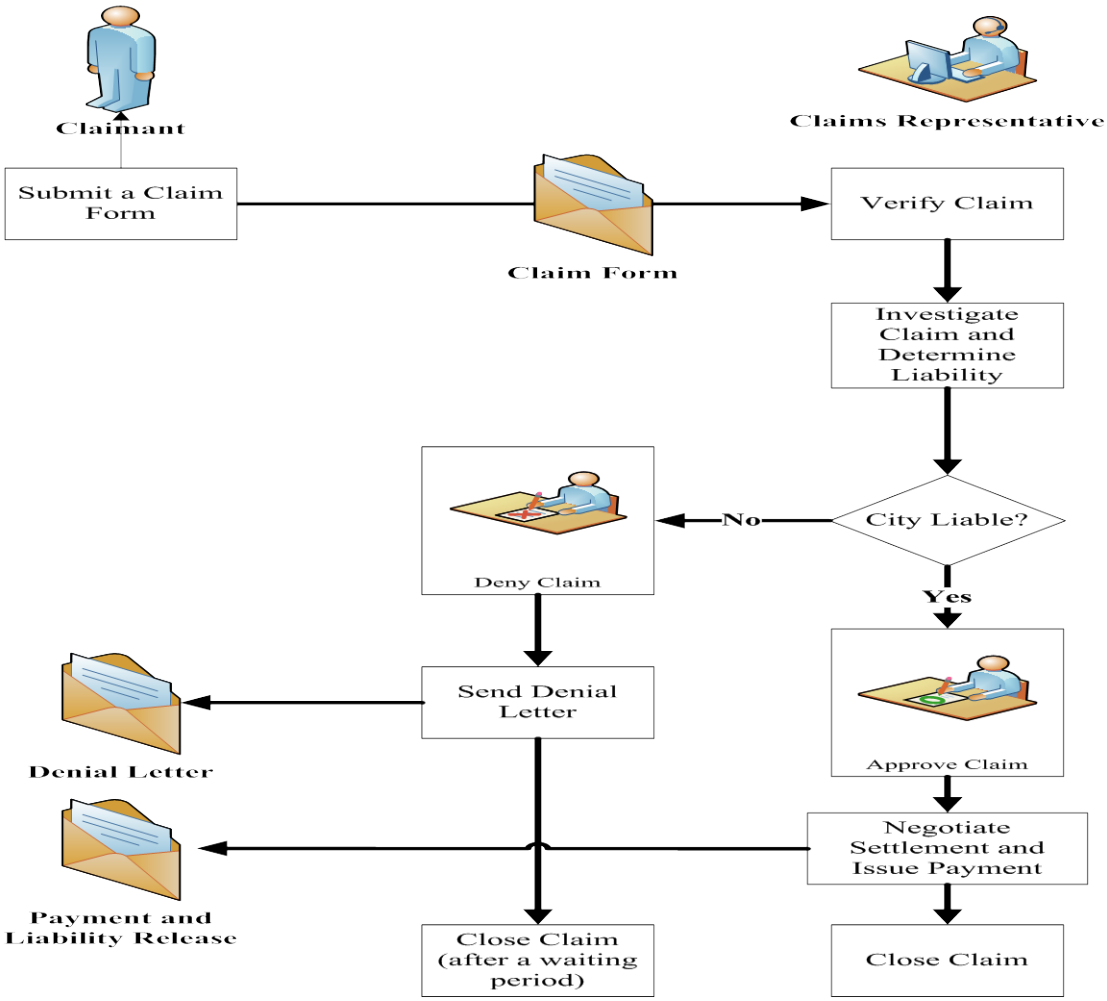
If the representative determines that the City is liable, the representative confirms that the hazard has been remediated when the City settles the claim. For claims that are referred to the City Attorney's Office, the attorneys confirm that remediation has occurred. Claims representatives make a liability decision after completing their investigation. A liability decision represents the representative's conclusion about the validity of the claim based on the evidence collected.

Exhibit E immediately below illustrates the flowchart for the typical claims handling process:

[8] iVOS information is available at http://www.valleyoak.com/products/ivos.html.

Exhibit E

A Flowchart of the Typical Claims Handling Process



Source: Office of the City Auditor.

Denial of Claims Against the City (i.e. When Does the City Deny a Claim?)

There are two ways for a claim to be denied. If Public Liability makes a liability decision and decides to deny a claim, it sends a letter to the claimant informing him or her of the decision. If the City does not respond to the claimant within 45 days of receiving the claim, it is considered denied by operation of the law. However, Public Liability sometimes sends denial letters at the 45 day mark without having made a liability determination. Denial letters may be issued while the claims representative is negotiating with a claimant to maintain the statutory time limit in case the claims representative does not succeed in reaching a settlement.

Failure to send a denial letter within 45 days extends the statute of limitations for litigating the claim. If Risk Management does not respond to the claim within 45 days the claimant has two years to file a lawsuit. If the city issues a denial letter, the time limits are reduced to six months

from the date of the letter. Claims representatives can close the claim in the system six months after issuing a denial letter if no lawsuit has been filed. If the City is negotiating a settlement with the claimant after 45 days of receipt of the claim, a denial letter is not sent.

Settlement of Claims Against the City

Each claim representative determines if the City is liable for a claim. If the representative determines the City is liable, the representative submits the claim decision for supervisory review. Claims settlement decisions are subject to supervisory review as follows:

1. For settlements less than $5,000, the claims representative requests a review from either the Claims Supervisor or Claims Manager, who may discuss the settlement with the requesting representative;
2. For settlements more than $5,000, the claims representative drafts a memo explaining the details of the liability, damages, settlement amount and justification. This memo is then reviewed by either the Claims Supervisor or Claims Manager for accuracy and forwarded to the Director of Risk Management and any other applicable parties based on amount for approval. Consistent with Council Policy 000-09, the supporting documentation and justification for final settlement is reviewed by the Director of Risk Management for amounts up to $25,000, by the Mayor or Chief Financial Officer for amounts up to $50,000, and by the City Council for any amounts in excess of $50,000.

Once approved by the appropriate party, the claim will be processed for payment, with either the Claims Supervisor or Claims Manager reviewing and approving the payment documentation.

Litigation of Lawsuits Against the City

The Assistant City Attorney for the Civil Litigation Division of the City Attorney's Office (City Attorney) manages litigated claims against the City. For these claims, Public Liability provides a hard copy file of all claim documentation to the City Attorney, except for the claims representative's notes, which can be viewed online through iVOS.

The City Attorney maintains close contact with Risk Management staff and provides quarterly reports of new cases and updates of existing cases to Risk Management, and includes an estimate of the probable loss amount based on a judgmental calculation. The Director of Risk Management or his representative accompanies attorneys to Mayor's briefings and City Council meetings for settlement recommendations that require City Council approval.

According to the City Attorney's website, in calendar year 2009, 204 civil cases were filed against the City. The majority of these were bodily injury claims that were handled by the General Litigation Unit of the Civil Litigation Division. Staff attorneys conduct a liability analysis on each new case to determine the exposure to the City, assess the costs of litigating the claim, and formulate a defense strategy. The City Attorney attempts to resolve lawsuits through various legal procedures such as a motion to dismiss or a motion for a summary judgment. If the staff attorney's analysis of a claim indicates that an adverse outcome is likely, then the City Attorney attempts to reach a settlement with the plaintiff.

The City Attorney reports all cases that will likely result in a potential exposure of more than $100,000 to the Director of Financial Reporting at the City Comptroller's Office. The report to the Comptroller's Office contains a range estimate for the possible loss amount for each case. By

comparison, the quarterly report provided to Risk Management includes an estimate of the probable loss amount based on a judgmental calculation. If this estimate changes from the report to Risk Management, a justification for the change is also provided.

Many lawsuits against the City contain claims of dangerous conditions. For example, a sidewalk in disrepair that causes a person to trip and fall and sustain a bodily injury is a dangerous condition. In these cases, the lack of prior notice of the dangerous condition is an absolute defense under the law. However, in some cases filed against the City, the City had previously received notice of the dangerous condition, and it is consequently deprived of this defense.

Tree roots are a common cause of sidewalk damage that generate trip and fall claims. Trip and fall cases can be very expensive, especially if they include a claim of lost income for a person who can no longer work. The Office of the City Attorney has been asked by the Mayor's office to prepare a memo describing ordinances that other large municipalities have enacted concerning sidewalk and tree liability.

Financial Impact of Claims Against the City

The City establishes reserve amounts to account for a potential payout for each submitted claim. Claim representatives set an initial reserve for filed claims using their experience and based on a number of factors such as the amount sought by the claimant, type of injury or damage, likelihood of liability, past payments for similar claims, and expenses associated with claim type. There are three categories of reserves related to Public Liability claims, including: 1) property damage reserves, 2) bodily injury reserves, and 3) expense reserves. Expense reserves represent estimated expenses for handling the claim such as external attorneys, expert witnesses, depositions and copy services.

According to the City's Comprehensive Annual Financial Report (CAFR), estimated liabilities for public liability (as well as workers' compensation and long-term disability) as of each fiscal year end are determined based on results of independent actuarial evaluations and include amounts for claims incurred but not reported and adjustment expenses. The City most recently received actuarial services from Bickmore Risk Services for the fiscal year ending June 30, 2009. The report provided to the actuary includes various types of information such as claim number, date of loss, department, location of loss, loss code, amount paid and total reserve. Claims liabilities are calculated considering the effects of inflation, recent claim settlement trends including frequency and amount of payouts, and other factors. The City Comptroller's Office adjusts the general ledger reserves based on the direction of Risk Management.

According to the City's Fiscal Year 2009 CAFR, the City maintained an unfunded deficit of approximately $49 million in the Public Liability Fund. This deficit includes an accrued liability for actuarially calculated claims costs, incurred but not reported claims, and allocated and unallocated losses of approximately $59 million, offset with the cash reserves collected in the fund of $10 million. This fund has seen significantly higher claim expenses since Fiscal Year 2005, largely as a result of legal costs and investigations stemming from pension fund underpayment and related financial disclosure issues; however, most of these unusual costs were paid through Fiscal Year 2007 and Fiscal Year 2008.

The current version of the Mayor's Reserve Policy outlines the annual cash reserve funding to achieve 50 percent of the outstanding liability by Fiscal Year 2014. This goal is presently being reassessed given the economic downturn and continued decline in General Fund revenues.

The City experienced a significant increase in the financial amount of new claims and changes in liability estimates during Fiscal Year 2009 and the overall public liability balance as of June 30, 2009. The following exhibit highlights public liability-related claim transactions and fiscal year-end balances between Fiscal Years 2007 and 2009:

Exhibit F

The Total Outstanding Public Liability Fund Balance Has Significantly Increased Between Fiscal Years (FY) 2007 and 2009

	FY 2007	Percent Change	FY 2008	Percent Change	FY 2009
Balance, July 1	$ 85,409,000	22 %	$ 104,224,000	8 %	$ 112,103,000
Add: Claims and Changes in Estimates	$ 50,667,000	(29 %)	$ 35,902,000	60 %	$ 57,357,000
Less: Claim Payments	$ (31,832,000)	(12 %)	$ (28,043,000)	(9 %)	$ (25,588,000)
Balance, June 30	**$ 104,224,000**	**8 %**	**$ 112,103,000**	**28 %**	**$ 143,872,000**

Source: City of San Diego Comprehensive Annual Financial Reports, June 30, 2008 and 2009.
Note: The balances and amounts included in this table may differ from other amounts in this report since they were derived from different sources.

Based on the data provided for claims received during fiscal years 2008 through 2010, the Environmental Services and Police Departments and the Street, Wastewater and Water Divisions represent the majority of claims received against the City, as evidenced in Exhibit G below:

Exhibit G

Five City Departments and Divisions Represent the Significant Majority of Claims Received by the City During Fiscal Years 2008, 2009 and 2010 (through March 18, 2010)

Department	Number of Claims	Percent of Total Number of Claims	Total Amount Paid	Percent of Total Amount Paid
Environmental Services	190	10 %	$ 352,159	4 %
Police	525	28 %	$ 886,777	10 %
Street Division	418	23 %	$ 1,306,257	15 %
Wastewater	229	* 13 %	$ 1,702,266	20 %
Water	246	13 %	$ 2,466,978	29 %
Sub-Total	1,608	87 %	$ 6,714,437	78 %
All Others	245	13 %	$ 1,893,675	22 %
Total Paid and Closed	1,853	100 %	$ 8,608,112	100 %

Source: Auditor analysis of City of San Diego claims management system data.
Note: The percentage marked with a "*" has been rounded up from 12.36% for consistency purposes.

Between July 1, 2007 and March 29, 2010, the City has processed disbursements totaling approximately $57.7 million related to 2,515 claims originally filed during any period of time against the City. According to Risk Management information, that total represents an approximate average cost of $22,956 for each claim comprised of the following general categories in Exhibit H:

Exhibit H

Payments for Settlements and Outside Legal-Related Costs Represent the Majority of Claims-Related Payments Between July 1, 2007 and March 29, 2010

Payment Description / Category	Total	Percent of Total
Claim Payments	$ 6,522,746	11 %
Settlements	$ 17,928,827	31 %
Judgments	$ 3,711,424	7 %
Outside Legal Services	$ 20,108,272	35 %
Contractors, Consultants, Experts, Investigators, etc.	$ 7,141,331	12 %
Other	$ 2,320,804	4 %
Total	**$ 57,733,404**	**100 %**

Source: Auditor analysis of City of San Diego claims management system data.
Note: The amount marked with a "*" has been rounded up from $3,711,423.43 for consistency purposes.

The Revenue and Recovery Function

Public Liability has a dedicated group of three personnel supervised by the Claims Manager to coordinate the recovery of financial losses by the City, referred to as Revenue and Recovery. The primary process documentation for Revenue and Recovery are found in Administrative Regulations (AR) 62.10[9] as well as 45.80[10], which aims to promote a close working relationship between departments sustaining losses, the San Diego Police Department (SDPD), and Revenue and Recovery. Between July 1, 2009 and March 31, 2010, Revenue and Recovery has reported recoveries totaling approximately $1.1 million.

According to Police procedures, City police officers complete the State of California Traffic Collision Report which includes a section to document property damage when they respond to accidents. Police reports that include property damage or loss that relate to City vehicles or property are reviewed by the lead claims representative for assessment and processing. These reports are expected to be forwarded to Revenue and Recovery by the SDPD, and claims representatives determine whether the loss is a public liability claim or a recovery opportunity. If determined to be a potential recovery, the cause of the claim is determined and the related cost is assessed, and insurance information is obtained. The loss recovery invoice is sent to the responsible insurance company or the responsible party (i.e. individual or company) if insurance information is not available. If payment is not received within 45 days, the outstanding account balance is sent to the City Treasurer's Delinquent Accounts Program for collection.

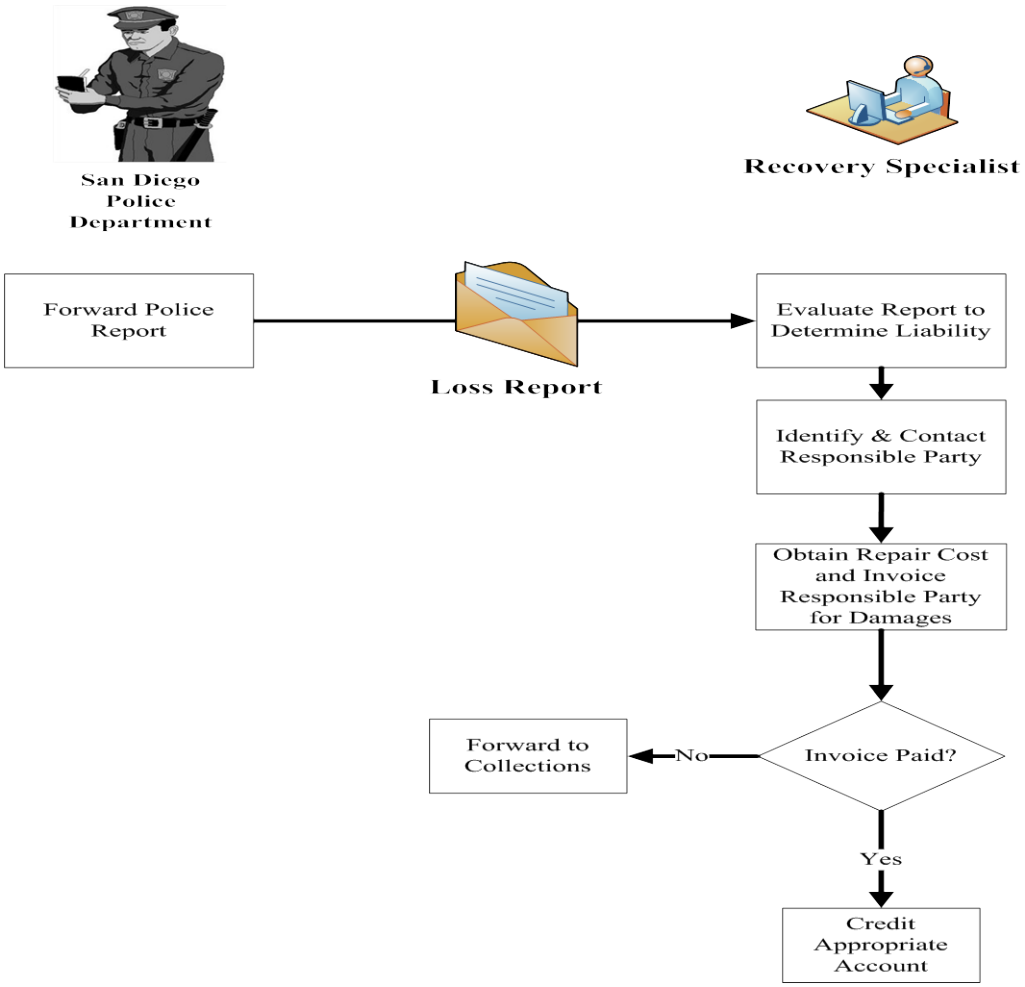
Revenue and Recovery also pursues recoveries for workers' compensation costs related to employee accidents (i.e. vehicular) caused by a third party. They also handle various other cases such as court-ordered restitution from graffiti offenders against City property. According to Revenue and Recovery staff, approximately 25 to 30 invoices are generated each week.

[9] AR 62.10 is titled "Procedure for Processing Personal Injury and Property Damage Claims".
[10] AR 45.80 is titled "Management of Loss to City Property Due to Crimes or Negligence".

Exhibit I below illustrates the flowchart for the typical loss recovery process:

Exhibit I

A Flowchart of the Typical Recovery Process[11]



Source: Office of the City Auditor.

Claims-Related Reporting to the City Council, City Management and Other Parties

Council Policy 000-09 indicates that Risk Management will provide the City Council with "a monthly tort claims statistical report. This report shall reflect the City's claims volume and expense experience in the self-insurance program." Currently, Risk Management provides a weekly expenditure report to the City Council which includes recent claim-based payment activity and available balances for informational purposes.

Council Policy 000-09 also indicates that the City Attorney will report quarterly to the City Council "on the number and manner of cases settled" between $5,000 and $50,000, including the "nature of any significant remedial measurers." Currently, the City Attorney briefs the City Council on specific litigated claims in closed session.

[11] Other City departments besides the San Diego Police Department may also submit loss reports.

AR 45.80 for the "Management of Loss to City Property Due to Crimes or Negligence" also indicates that Risk Management is responsible for the following:

- Maintaining "statistical and cost data and provides necessary loss management analysis to eliminate or reduce the frequency and severity of such losses" and reporting "periodically to the City Manager and affected departments the results of such accumulated data"; and
- "On a consultative basis, assists all Departments and Divisions to implement programs, projects and methods to effect the elimination or reduction of future losses."

Involvement of Other Departments

As noted above, claims representatives will identify claim-related hazards, and notify the department responsible for correcting them. Risk Management maintains a contact list for many departments including:

- Engineering
- Environmental Services
- Facilities Maintenance
- Fire Department
- Park & Recreation
- Police Department
- Real Estate Assets
- Streets Division
- Water/Wastewater

Prior Audit History and Findings

Risk Management activity is audited annually by the City's independent auditing firm as part of the overall audit of the City's financial statements. As part of their audit, the auditors considered the City's internal control over financial reporting as a basis for designing auditing procedures for the purpose of expressing their opinions on the financial statements. The auditors included two internal control findings in their report on internal controls[12] for Fiscal Year ending June 30, 2009:

- A recurring specific internal control finding between 2005 and 2009 related to the inconsistent completion and authorization of a "Request for Action" form (RFA) by a claims adjuster documenting the rationale whenever an adjustment is required. This finding was elevated from a significant deficiency to a material weakness in the Fiscal Year 2009 report. With the implementation of a new information system and other controls in May 2009, management has indicated that they have taken steps to correct this issue;
- The City did not have year-end accrual procedures to follow up with vendors for invoices for legal services to ensure proper accrual. Management has indicated that corrective steps have been taken.

[12] Report is available at http://docs.sandiego.gov/councilcomm_agendas_attach/2010/Audit_100125-1a.pdf.

The following three items were also included in the 2006 Kroll Report[13] that relate to Risk Management, which, with the exception of the first bullet, have been fully remediated according to the Director of Risk Management:

- The original RFA finding, as noted immediately above, which has continued to be a finding through 2009;
- The lack of a timely update of litigated cases due to poor communication between relevant departments, the lack of effective monitoring of all risk, and a decentralized monitoring of litigated and non-litigated claims;
- The City has not properly budgeted sufficient resources for the Public Liability Fund in order for it to meet its annual expenditure requirements.

[13] Kroll Report information is available at http://www.sandiego.gov/mayor/news/kroll.shtml#report.

Objectives, Scope, and Methodology

The City Auditor's Fiscal Year 2010 Audit Work Plan approved by the City Council included a performance audit of the Public Liability & Loss Recovery Division (Public Liability) of the Risk Management Department (Risk Management). The original objective of the audit was to determine if public liability and loss recovery is being properly handled, accounted for, and accurately reported in the City's financial statements, and was expanded to review organization-wide risk rather than just department level risk. Our audit focused on risks that arise from city operations and are, to a large extent, controllable if effective risk management measures are implemented by City departments. We did not evaluate risks arising from external factors such as demographic and economic changes that are largely beyond the control of city officials. After analyzing preliminary information gathered during the audit, we decided to focus our audit efforts on six risk areas that the City faces:

- The efficiency and effectiveness of the processes for receipt, intake, assessment and resolution (i.e. denial, settlement or litigation) of claims received against the City, to include an assessment of the following:
  a. The initial / ongoing estimation of reserves for each claim;
  b. Specific settlement authorization limits;
  c. Coordination of the mitigation / correction of claim-related issues with other City departments;
- The effectiveness, efficiency and overall adequacy of the processes for the City Attorney's Office's communications with Risk Management and Public Liability and reporting expectations (to the City Council, management or otherwise) related to claims and associated litigation against the City;
- The efficiency and effectiveness of the processes for identification, processing and recovery of financial losses to the City;
- The appropriateness of the estimation of liabilities process for public liability as of each fiscal year end for the City's Comprehensive Annual Financial Report (CAFR), including a review and analysis of the actuarial report received by the City and utilized in the annual CAFR audit;
- The appropriateness and adequacy of reporting to City Council, City management or other related parties and consistency with standards and expectations;
- The appropriateness of the City's insurance coverage and self-insurance retention limits and the methodology for funding liability coverage from the General Fund compared to an internal service fund (i.e. departmental budgetary cost allocation);

To accomplish our objectives we performed the following audit procedures:

- Sampled and reviewed 53 claims files and associated documentation; analyzed loss history for 1,853 claims paid and closed;
- Reviewed pertinent laws, policies and regulations related to risk management and public liability;
- Gathered and analyzed information related to Public Liability;
- Identified, collected, and analyzed financial information and management reports related to claims against the City;

- Evaluated current City processes for Risk Management and Public Liability;
- Interviewed management and key staff in charge of managing and monitoring information related to claims filed against the City, various City departments with significant claim volumes and outside organizations;
- Reviewed risk management reports from other public entities including the University of California, the cities of New York, Sacramento and San Jose and the County of Los Angeles to identify enhancing practices for claims handling, risk-related reporting, loss control and other activities;
- Analyzed the quality and effectiveness of the reporting of claims.

We reviewed data from Fiscal Years 2008 through March 2010, unless noted otherwise. We performed limited data reliability testing of the claims and payment data provided to us and which we relied on in this report, and searched for indicators of fraud.

We evaluated the internal controls related to our audit objectives. Our conclusions on the effectiveness of these controls are detailed within the following audit results.

We conducted this performance audit in accordance with 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Results

The City of San Diego's (City) risk exposures, claims handling, legal liabilities, and disbursements require continuous oversight and management. Organizations which manage their risks are more likely to achieve their organizational objectives and minimize their costs. A robust risk management system should promote a culture that encourages open discussion of risks, ensures that risks are adequately considered in the decision-making process, and increase management accountability.

We found that there is no coordinated City-wide effort to reduce City losses due to preventable claims and to better manage and mitigate its organizational risk. We found that Risk Management does not conduct analysis of systematic risks or follow Enterprise Risk Management methodologies or other enhancing practices, nor does it maintain formalized documented processes. Furthermore, the communication and coordination related to risk and resulting claims between Risk Management and other City departments is minimal and episodic.

In addition, we noted that the claim and loss-related reporting to the City Council and other parties is not consistent with the requirements of Council Policy and related administrative regulations. As a result, the accountability of governing bodies and management is reduced, and departments are deprived of information to respond to systemic risks.

We also noted that Risk Management does not have a formalized and documented standardized claim reserving approach, which can increase the difficulty of maintaining accurate financial reporting and correctly identifying areas of specific risk due to inconsistent claim reserve amounts. Moreover, we found that Risk Management is not formally performing and documenting review and analysis of the cost and adequacy of insurance coverages and limits, increasing the risk of unnecessary or insufficient insurance coverages or excessive premium payments.

Furthermore, we noted that Risk Management can remedy its lack of quality internal controls by updating outdated, inadequate or undocumented policies and procedures and taking advantage of available additional actuarial resources. We also found that the loss recovery function is not fully maximized and not adequately emphasized, which can result in missed opportunities to collect additional revenue for the City.

Finally, we found that Risk Management can implement changes to manage staffing workloads more effectively and efficiently, such as informing potential claimants of documentation needed to process their claim, obtaining evidence from the San Diego Police Department (SDPD) for processing vehicle tow claims, requesting increases in settlement authority limits, adopting new technologies, and defining denial criteria for claims.

We noted that the majority of claims representatives have significant experience, and we did not find evidence of fraud or abuse in the handling of claims. Our interaction with Public Liability staff indicates a thoughtful willingness to correct differences and make improvements. As a result, there is a significant opportunity to improve Public Liability's performance of its roles and responsibilities in the resolution of claims against the City. Based on our audit research and communication with other organizations, we believe that implementing our recommendations and investing in risk management efforts can yield significant savings to the City from multiple sources. However, our observations impact operational areas in the City that Risk Management

is not directly responsible for. Making improvements will require collaboration and effort between Risk Management and various other departments.

Risk management represents a significant area for cost savings. By developing competencies in risk analysis, initiating loss control activities, and disseminating risk information, the City could save money through 1) lower insurance premiums, 2) avoided liability, and 3) reduced legal fees. Although investments in risk control will require an initial outlay for consultants and a time commitment from various managers, we believe these investments will be offset by reductions in the time devoted to individual claims and litigation.

Finding 1: The City of San Diego Has Not Developed a Comprehensive Approach to Identify and Manage Risks

The City Does Not Perform Organizational Risk Analysis

We found that Risk Management and several key City departments do not perform organizational risk analysis. Although City regulations require periodic analysis and reporting of losses to City management and affected departments, Risk Management is not consistently adhering to this requirement[14]. We met with representatives from the San Diego Police Department (SDPD), the Public Utilities Department (Public Utilities), and the Street Division who indicated that they communicate with Risk Management regarding specific claims, but that they do not conduct an overall analysis of risk. Public Utilities staff noted that risk is considered as part of the strategic planning process for the department. The SDPD advised us that it fully investigates serious incidents such as officer shootings and incorporates any lessons drawn from them into police training. The Street Division indicated that it knows which streets are in disrepair, damage vehicles, and generate the most claims against the City, and that it prioritizes them for repair and resurfacing as funding becomes available.

Various authoritative sources stress the importance of performing a risk analysis as a necessary prerequisite to making informed decisions about risk, reducing exposures, and preventing losses. A common approach to risk analysis is to list all organizational processes or units and then identify all significant threats. Risk is commonly quantified in terms of the likelihood that a particular threat would materialize and the severity of its impact. Since data regarding actual losses due to claims against the City is available, analyzing it will generate information about the frequency and severity of previous incidents. Sacramento and New York are two cities performing detailed analysis and reporting of claims and loss history. We also noted that San Jose and New York have enacted local laws to limit their municipality's liability in relation to sidewalk-related injuries by making the adjacent property owner responsible for maintenance.

A valid case can be made for assigning the responsibility for performing analysis to various parties. While departments generally have a thorough understanding of their operational risks and can determine the best ways to eliminate or mitigate them, a centralized repository such as Public Liability has the specialized expertise and systems to perform risk analysis efficiently. Public Liability can also detect emerging problems that cross departmental lines, whereas departments are limited to viewing their own claims. For example, a spike in City vehicle accidents may indicate a deficiency in driver training, and can be detected by continuously monitoring Accident Review Committee reports.[15] Many actuarial and claims management firms provide risk and claims analysis as part of their services. We performed a cursory analysis of claims against the City based on the claims data provided to us, which is included in Appendix B.

Maintaining good data is a prerequisite to conducting any analysis. Although Public Liability has replaced its old mainframe-based claims management system with a modern one (iVOS), its data is not organized to facilitate analysis or querying. For example, the claims file provided to us by

[14] According to City Administrative Regulation 45.80 "Management of Loss to City Property Due to Crimes or Negligence."

[15] City Administrative Regulation 75.12 requires a committee review of City vehicle accidents and the reporting of findings to the Risk Management Safety and Environmental Health Division.

Public Liability contained 6,624 records. The data field that describes the type of claim listed 106 different categories of claims. Of those, only 18 accounted for more than one percent of the number of records, and 45 contained five or fewer records each. By consolidating categories, Public Liability can better identify trends and further target specific areas of risk.

Various reasons explain why the City has not performed analysis of its claims history. Public Liability's previous claims management system was largely paper-based and did not allow for easy analysis or reporting. At the departmental level, managers and budget officers do not have strong financial or non-financial incentives to monitor risk and control their losses, since funding is provided from the General Fund and not an assessment to various departments. As a result, the departments are not impacted by the cost of claims. This removes the incentive for departments to proactively identify and address risks which could lead to future financial losses. We noted that Water and Wastewater claims are paid from the enterprise fund.

The City pays a price for not analyzing its loss history. The price comes from claims and lawsuits that could have been prevented but were not because threats were undetected, and preventative or remedial measures were not applied. While litigation arising from disputes over zoning or fees may be unavoidable, the City can reduce lawsuits arising from physical injuries and employment practices through better risk management. This is particularly true for pedestrian injuries on damaged sidewalks and where obvious hazards are not remediated in a timely fashion. For example, out of the 56 dangerous conditions claims,[16] which represent 24 percent of the 235 litigated claims we reviewed, we found at least ten (18 percent) in which the City had prior notice of a hazard that resulted in an injury to a claimant. The following exhibit highlights the 235 litigated claims generated in various fiscal years:

Exhibit J

Dangerous Conditions, Civil Rights Violations and Property-Related Cases Represent the Majority of Open Lawsuits Against the City

Type of Lawsuit	Number	Percentage
Dangerous Conditions	56	24 %
Employment	23	10 %
Fees or Taxes	14	6 %
Civil Rights Violation	38	16%
Property	45	19 %
All Other	59	25 %
Total	**235**	**100 %**

Source: Auditor analysis of Risk Management documentation.

[16] By law, public entities are not liable for claims arising from conditions which they had no prior knowledge of. Pedestrian falls on damaged sidewalks and bicyclist falls on damaged streets are examples of dangerous conditions claims.

The lack of analysis results in inefficient allocation of loss prevention resources, since managers do not know which areas are in most need of attention. Lastly, without good analysis, reporting, and loss control, the City cannot demonstrate that it is employing good risk management practices, and will be unable to interest prospective insurers in extending the City coverage at more favorable terms. Risk Management should implement processes such as:

- Performing detailed risk analysis consistent with other public sector enhancing practices;
- Conducting an annual survey of the informational needs of City departments and provide relevant reporting based on that feedback and overall analysis of risks;
- Preparing and distributing an annual Risk Management report, such as the example outlined in Appendix C;
- Implementing a process to allocate the costs of liability claims to City departments through annual assessments based on loss experience and other factors.

To develop, formalize and implement City-wide risk mitigation processes, we recommend that Risk Management take the following actions:

Recommendation #1

Risk Management should adopt public sector enhancing practices for collection, analysis and reporting of risk information, and prepare and distribute an annual Risk Management Report. (Priority 3)

Recommendation #2

Risk Management should annually survey City departments about their informational needs and analyze historical claims data and provide departments with reports on a monthly or quarterly basis. (Priority 3)

To develop and implement a City-wide process for liability cost allocation, we recommend that Risk Management take the following actions:

Recommendation #3

Risk Management, with the assistance of an actuarial consultant, should develop and implement a cost allocation methodology for City departments to assess the costs of general liability claims. (Priority 3)

To mitigate the City's liability related to public safety issues due to ongoing sidewalk defects and disrepair, we recommend that City Administration take the following actions:

Recommendation #4

The City Administration should consider actions taken by other cities to limit sidewalk repair responsibility and take appropriate action to limit the City's liability related to sidewalks. (Priority 3)

The City Lacks a Structure to Communicate and Coordinate Risk Information and Responses

The City's current efforts to communicate risk information and coordinate risk management activities are limited. Although the City maintains established communication channels, we found communications are largely confined to discussing litigation settlement and obtaining information necessary to process specific claims.

The Director of Risk Management meets with the City Attorney's Office (City Attorney) periodically to discuss pending litigation and to discuss the best strategy to pursue in defending the City's interests. The City Attorney briefs the City Council on all proposed settlements exceeding $50,000 and which require the Council's approval. Risk Management communicates with the City Attorney on a quarterly basis to reconcile any differences in liability reserve estimates for lawsuits against the City. The Claims Manager may periodically provide informal advice to various City managers related to risk, and Public Liability prepares various ad hoc reports for City departments as requested. During the normal course of their work, claims adjusters contact other City departments to gather information about specific claims that they are handling.

Risk management is a multidisciplinary field that draws on professional knowledge from auditing, actuarial science, insurance, and other disciplines. Risk management practices are more developed in the private sector, where many companies have implemented Enterprise Risk Management[17] systems to formalize their risk management efforts. Enhancing practices from both public and private entities indicate that discussions regarding risk should occur at the highest levels of an organization among senior managers who have a thorough understanding of their functional areas and who have the ability to influence organizational decisions. A proper organizational structure is necessary to facilitate regular and productive communication of risk information. The University of California (UC), which has strong risk management practices, has established a Leadership Council to coordinate risk management efforts across its campuses and medical centers. UC has also outsourced its claims processing activities to an outside provider. The Office of Risk Services at UC provides advisory services to management and supports the efforts of the Leadership Council. These meetings between senior managers allow for information sharing and for communication regarding problems that cross departmental boundaries.

Organizations with good risk management practices do not confine their communications to meetings between senior managers, but conduct extensive training for their employees to raise awareness of risk and safety issues. Training can be general in nature, covering administrative topics such as the proper process for reporting an accident, or it could be targeted to specific areas where the organization wishes to focus its loss control and accident prevention efforts. In addition to training, many organizations provide extensive guidance to their employees about risk and communicate this information via internal websites or pamphlets and brochures.

Like many cities, San Diego has not had a formal structure for communicating risk information across its various departments. Historically, a few individuals such as the Chief Financial Officer

[17] Enterprise Risk Management (ERM) is defined by the Committee of Sponsoring Organizations (COSO) as: "a process, effected by an entity's board of directors, management and other personnel, applied in strategy-setting and across the enterprise, designed to identify potential events that may affect the entity, and manage risk to be within its risk appetite, to provide reasonable assurance regarding the achievement of entity objectives."

have had the primary responsibility for risk management because their jobs provide a broad view of the risks facing the organization as well as the potential financial and operational impact of these risks. However, managers in various departments are typically unaware of risks that are outside the scope of their operations.

The costs of not communicating and coordinating risk information and activities are difficult to quantify, but there is no shortage of examples that highlight them. One pothole damaged three vehicles in three days, costing more than $1,600 in repairs. Damaged pavement caused a bicyclist to crash and sustain multiple injuries, receiving $150,000 in compensation from the City. Dilapidated streets and sidewalks are a reality that most cities have to contend with, and correcting them involves management discussions about scarce resource allocation. But the cost of not correcting hazards should be factored into that discussion, and residents should be allowed to participate in it.

Exhibit K below illustrates a cracked sidewalk that was temporarily repaired by asphalt ramping. It is dangerous to traverse by wheelchair, and has been reportedly used as a launch ramp by teenage skateboarders. It is scheduled for repair in July 2010.

Exhibit K

Uncorrected Known Hazards Increase the City's Liability Risk

Source: Office of the City Auditor.

The high costs of risk become perceptible once an organization begins to improve its risk management activities. Many organizations that implement risk management initiatives report significant reductions in accident rates. For example, the City of New York, as a result of legislation[18] enacted in 2003, limited its liability for injuries due to sidewalk defects, experienced a 43 percent decrease in the number of sidewalk-related claims between fiscal years 1999 and 2008 and disallowed 31 percent of the 2,374 sidewalk claims filed in Fiscal Year 2008. The University of California claims significant savings over the past four years as a result of implementing an Enterprise Risk Management system. Risk Management can strengthen City risk communication and coordination by:

- Instituting a risk management working group with representation from the major City departments and the City Attorney;
- Developing detailed safety training curriculum targeting areas and activities with significant public liability losses.

To develop and formalize the City-wide communication and coordination of risk mitigation efforts with other departments, we recommend that the City Administration take the following actions:

Recommendation #5

The City Administration should establish a risk management working group charged with coordinating Risk Management efforts with membership representation from all the major City departments and the City Attorney's Office. This committee should meet at least quarterly and be chaired by the Director of Risk Management or another senior City official. (Priority 3)

To implement the City-wide communication and coordination of risk mitigation efforts with other departments, we recommend that Risk Management take the following actions:

Recommendation #6

Risk Management should develop a detailed safety training curriculum for City employees and deliver this training on a regular basis. The Public Liability and Loss Recovery Division should develop detailed informational material regarding its services and post it on the City website. Training and informational material should be targeted to areas and activities with high public liability losses and address frequently asked questions. (Priority 3)

[18] Local Law 49 (New York City Administrative Code §7-210) generally limits New York City's liability to sidewalks adjoining City owned property or to owner-occupied residential property having no more than three units. It became effective in September 2003.

Risk and Claims-Related Reporting to City Council is Not Consistent with Council Policy

Risk Management and City Attorney's Office (City Attorney) reporting practices are not consistent with Council Policy requirements. Risk Management has not developed and implemented formalized reporting, information management, and internal control processes and documentation. As a result, the City Council does not have sufficient information to make informed risk-related decisions and effectively guide risk mitigation efforts.

According to Council Policy, Risk Management is responsible for preparing a monthly tort claims statistical report reflecting the City's claims volume and expense experience in the self-insurance program. Council Policy also requires that the City Attorney provide quarterly reporting to the City Council specific to the number and manner of cases settled between $5,000 and $50,000, including the nature of any significant remedial measures. The Council Policy Manual requires each policy to be assigned to a responsible department and it shall be the responsibility of departments to periodically review their assigned policies and offer appropriate revisions as necessary.

Risk Management and City Attorney personnel have not updated current reporting practices for consistency with policies and regulations[19]. For example, the weekly expenditure reports currently prepared and distributed by Risk Management only include total dollar amounts and other aggregate information and do not provide claim volumes by type or other helpful information such as historical trending. Furthermore, Risk Management has not developed and implemented formalized departmental policies and instructions to document the management and reporting of claim information to the City Council, City Administration, and City departments.

Limited communication among City management and departments can create costly inefficiencies and undermine public trust, such as noted significant time delays in the response to and mitigation of poor sidewalk conditions reported by concerned citizens. Disjointed and undocumented processes and communications can delay transactions and related reporting, and result in ineffective business decisions. Risk Management and the City Attorney should report loss data periodically to the City Council, City Administration and affected departments consistent with applicable policies and regulations.

To improve the quality of reporting of Public Liability claims to the City Council and other responsible parties, we recommend that Risk Management take the following actions:

Recommendation #7

Risk Management and the City Attorney should solicit feedback from the City Council on the adequacy and completeness of current public liability claims-related reporting and, as appropriate, facilitate the updating of Council Policy 000-09 to be consistent with the agreed-upon reporting. (Priority 3)

[19] As a result of this observation, the City Attorney has implemented reporting practices consistent with Council Policy 000-09 effective July 2010.

Recommendation #8

Develop additional Risk Management policy and departmental guidance to document the proper reporting of claims compliant with Council Policy 000-09. This guidance should specify report contents to satisfy current reporting requirements and subsequently developed ones. (Priority 3)

Risk Management Does Not Have a Formalized and Documented Standard Claim Reserving Approach

Risk Management does not utilize a standardized reserving approach for claims received against the City to account for actual and potential liabilities. Specifically, current reserve estimates are determined on a claim-by-claim basis by claims representatives based on their experience and other factors.[20] The current City practice widely varies reserves which may negatively impact the liability projected by the City for incurred losses. Consequently, the City is at risk of setting aside more current year reserve for liability than necessary.

Based on our discussions with the City's outside actuary and others, we learned that the overall best method to establish claim reserves is based on an "average cost" approach and using past loss experiences, whereas the City has historically used a "worst case" approach. According to Risk Management staff, they have recently begun updating reserving practices for consistency with California State Association of Counties-Excess Insurance Authority guidelines, which will not immediately exhibit results due to the lag time between receipt and disposition of claims. Reserves are adjusted statistically by actuarial staff based on data provided by the City.

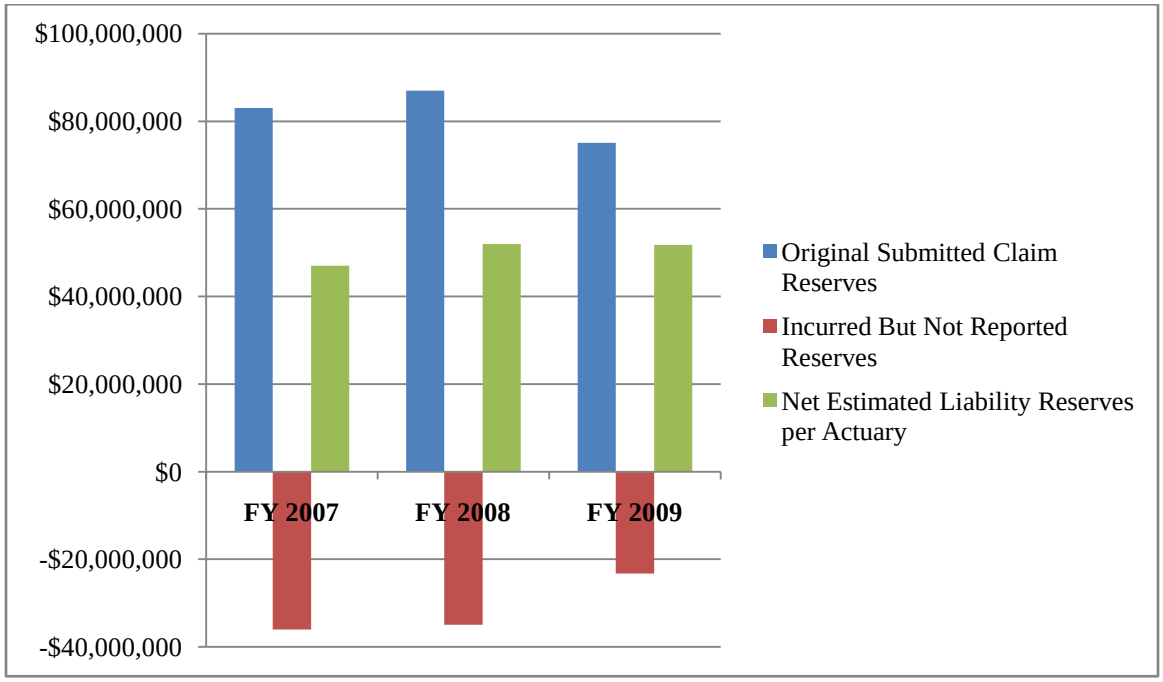
We noted that between fiscal years 2007 and 2009 the City significantly overstated the original submitted claim reserves due to overestimation and variation in reserve estimates. As a result, as displayed graphically in Exhibit L, the City actuary reported a significant reduction to the original City claim reserves in each fiscal year through an "incurred but not reported" (IBNR) reserve[21] to determine a more realistic total net outstanding estimated self-insured retention liability for unpaid loss and loss adjustment expenses. The funding would not have been available for current operations had the City funded the original reserve since the City would have set aside that additional amount for the liability.

[20] The other factors include the amount sought by claimant, type of injury or damage, likelihood of liability, past payments for similar claims, and expenses associated with claim type.

[21] The IBNR reserve represents the amount that must be provided for future payments on insured losses that have occurred but that have not been reported. As a result, this amount should typically be in addition to current reserves.

Exhibit L

The Original Submitted Reserves for Public Liability Claims for the City of San Diego Between Fiscal Years 2007 and 2009 Significantly Exceeded Actuarial Estimates



Source: Auditor analysis of each annual Actuarial Review of the Self-Insured Liability Program.

Subjectively reserving increases the variability of liability estimates and makes it difficult to maintain accurate financial reporting and identify specific risk areas. The overstatement of reserves can result in the City continually setting aside more funding than necessary. Risk Management should implement a standardized reserving approach for typical claims and periodically review their approach with the City's actuary.

To develop, formalize and implement standardized claims reserving techniques, we recommend that Risk Management take the following actions:

Recommendation #9

Risk Management should formalize and document the claim reserving approach and periodically review it with the City's actuary. (Priority 3)

Risk Management Performs a Limited Review of Insurance Coverage Costs and Limits

Risk Management does not perform comprehensive formalized and documented analysis or maintain documentation related to the annual purchase of liability insurance policies and the periodic membership renewal in the California State Association of Counties-Excess Insurance Authority (CSAC-EIA (or CSAC)). Specifically, Risk Management personnel are not formally assessing, reviewing, or documenting the analysis of insurance limits and coverages. Also, Risk Management does not have documented policies, procedures or departmental guidance to detail the processes and expectations in relation to the annual review of insurance coverages and related premiums, as well as the City's membership renewal in CSAC.[22]

The cost of the City's insurance coverage is considerably greater than other California cities, and continues to increase at a significant rate, which, according to Risk Management, is due in part to significant ongoing litigation against the City including the De La Fuente Business Park, De Anza Cove Homeowners Association and Mount Soledad landslide cases. The City of San Diego's excess liability coverage has a current Fiscal Year 2010 self-insurance retention (SIR) of $4 million[23] ($5 million in the two prior fiscal years) and policy limits of $50 million. An entity's self-insurance retention (SIR) is the amount that must be paid toward an insured loss before the excess liability coverages will begin to cover the loss. In general, premiums would be expected to decrease as an entity increases its SIR.

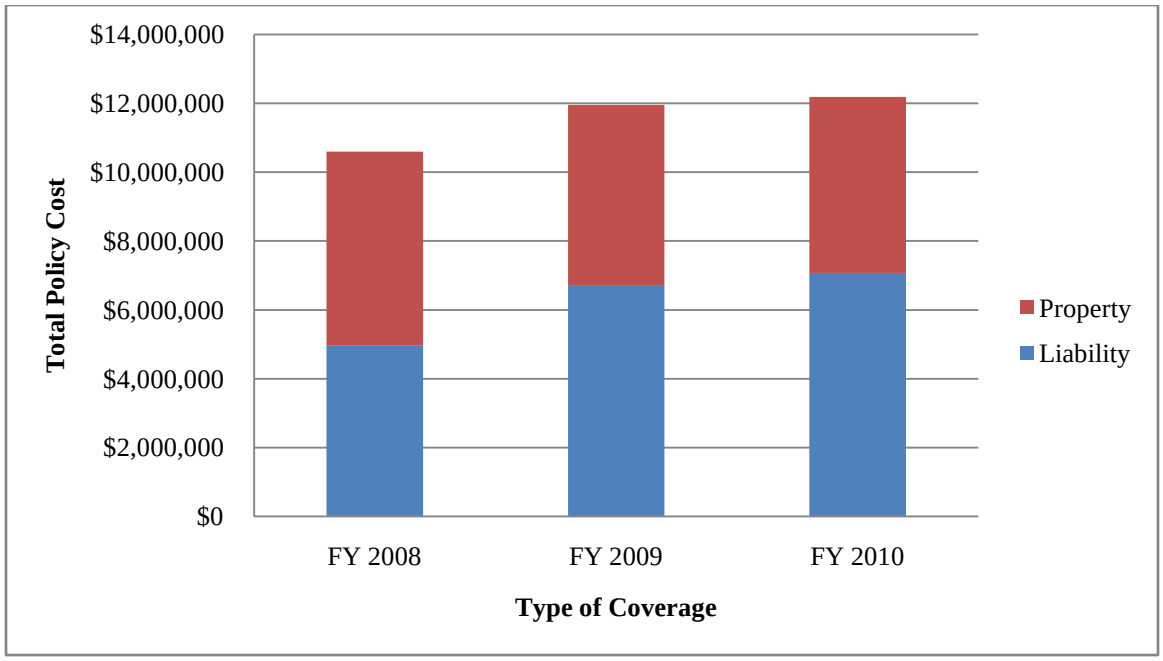
We noted that the City of Sacramento's excess liability coverage[24] with a SIR of $2 million and policy limits of $30 million[25] increased by approximately 7.7 percent from $710,062 to $765,072 over fiscal years 2008 and 2009, respectively. However, by comparison, the City of San Diego's excess liability premiums increased by approximately 42.3 percent from $5.0 million to $7.1 million[26] between fiscal years 2008 and 2010. By comparison, the City of San Diego is approximately three times the size of Sacramento in terms of population and budgeted revenues and expenses. The cost of insurance premiums for San Diego at the rate that Sacramento is being charged would be approximately $2.3 million, or $4.8 million less than current costs.

The cost of the City of San Diego's property insurance coverage with a $25 million policy limit decreased by 9.1 percent over that same period. The change in coverage costs over those periods is presented graphically below in Exhibit M:

[22] The CSAC renewal process occurs every five years.
[23] The City is agreeing to self-insure and self-defend for smaller claims, and to file only for liability claims that exceed $4 million.
[24] Per the City of Sacramento, Human Resources Department, Division of Risk Management, Annual Report, Fiscal Year Ending June 30, 2008.
[25] The policy limits were $25 million in Fiscal Year 2008, and were increased to $30 million for Fiscal Year 2009.
[26] Per City staff, the City of San Diego's insurance coverage is significantly more expensive than other cities like Sacramento due to several factors, including size, loss history and liability exposures.

Exhibit M

Total Costs for Excess Liability Insurance Coverage Have Increased Significantly for the City of San Diego Between Fiscal Years 2008 and 2010 Relative to the City's Property Insurance Coverage



Source: Auditor analysis of City of San Diego insurance premium invoice information.

Effective policies and procedures should include analytical reviews to determine the reasonableness of financial data. Furthermore, the elements of a comprehensive framework of internal control should include the continuing assessment of risk, the design, implementation and maintenance of control-related policies and procedures and the effective communication of information.

City staff have not recently been performing analysis or documenting externally-provided analysis of excess liability insurance coverages to determine the overall reasonableness and effectiveness of City insurance coverages. For example, we noted a prior Report to the City Council issued August 19, 2003 by the Assistant City Manager referred to as "Buy-down of City's Self-Insured Retention, Excess Liability." This report included historical City excess liability insurance limits, claim costs and discussion about whether or not to modify our limits or self-insured retention amount.

Omitted analysis, undocumented policies, processes, and related internal controls can result in costly and uninformed business decisions related to our excess liability insurance policy coverages and related premiums . The City Council and City Administration benefit from being fully informed of insurance costs and options in order to better direct risk management resources and efforts. Risk Management should:

- Retain the annual insurance premium marketing effort documentation;
- Prepare periodic reviews of historical premiums, actual losses and City reimbursements.

To improve the quality of information used in the review, purchase and cost-effectiveness of City general liability insurance coverage, we recommend that Risk Management take the following actions:

Recommendation #10

Risk Management should properly document and maintain each annual marketing effort in relation to insurance premiums to retain historical self-insured retention limits, excess liability coverages and available premiums. (Priority 3)

Recommendation #11

Risk Management should prepare formalized annual reviews of historical premiums, actual losses and reimbursements. These reviews would include the self-insured retention limit, excess liability limits, and related premiums to assess the best limit to maintain and validate the reasonableness of insurance costs. (Priority 3)

Recommendation #12

Risk Management should develop additional policy, procedure and departmental guidance to detail the process and expectations related to the periodic internal and external reviews of insurance coverages and premiums, and the documentation thereof. (Priority 3)

Finding 2: The Internal Controls Over Public Liability and Recovery Processes Can Be Improved to Maximize Opportunities to Recover on City Losses and Reduce the City's Risk from Future Losses

Opportunities Exist For the City to Increase Loss Recoveries

Risk Management has not developed and implemented formalized comprehensive loss recovery processes. Specifically, Risk Management does not regularly communicate and interact with other City departments to evaluate detailed historical trends and identify opportunities to generate loss recoveries. As a result, Risk Management does not have the information or analysis necessary to identify and effectively mitigate the cause of unrecovered losses.

According to City regulations, Risk Management is responsible for communication, coordination, identification, and reduction of losses. Further, Risk Management is required to maintain methods and procedures to assure City-wide compliance with administrative regulations, promote close working relationships with departments sustaining losses, and ensure appropriate action to recover losses.

Risk Management does not have formalized and documented processes for identifying and recovering financial losses caused by external parties to the City. For example, a recent loss recovery opportunity was discovered only after an insurance company contacted Risk Management to resolve an open claim for their policyholder who damaged City property during an accident. Further, Risk Management has not developed processes to maintain loss data, provide loss management analysis and consultation to reduce future losses, and report periodically to the City administration and affected departments.

Risk Management should:

- Maintain statistical and cost data and sufficient loss management analysis to eliminate or reduce the frequency and severity of losses;
- Report periodically to City administration and affected departments the results of analysis; and
- Assist other departments and divisions in implementing programs, projects and methods to effect the elimination or reduction of future losses.

To improve the efficiency and effectiveness of the loss recovery function, we recommend that Risk Management take the following actions:

Recommendation #13

Risk Management should review documented and undocumented processes for current reporting, practices, roles and responsibilities to ensure that Risk Management has a strong documented loss recovery function in compliance with Administrative Regulation 45.80 and enhancing practices. These processes should incorporate formalized communication about and advertisement of the loss recovery function, including on the internal and external Risk Management websites. (Priority 3)

The City is Not Maximizing the Potential Benefits of Available Actuarial Resources, Services and Techniques

Risk Management is not effectively employing actuarial techniques and analysis to better identify, mitigate and account for City risk and related financial estimates. Specifically, the analysis currently performed by the City's actuary is limited and is primarily used for financial reserving and related disclosures in the City's Comprehensive Annual Financial Report. The analysis is also not formally reviewed for identification of other significant risks for the City. Furthermore, the City does not capitalize on other relatively inexpensive services available through the actuary which would strengthen Risk Management and minimize additional workload for staff. Additionally, formalized departmental policies and instructions have not been developed and implemented to document any resulting reporting of actuarial-based information to the City Council, City Administration, and City departments.

According to its regulations, the City aims to reduce the frequency and severity of losses by establishing effective preventive programs, and Risk Management is responsible for maintaining the loss management effort. Also, the elements of a comprehensive framework of internal control include the continuing assessment of risk.

Risk Management has not been routinely reviewing the reasonableness of existing processes with available actuarial techniques. For example, based on discussions with the City's outside actuary and other organizations, the following services are readily available and appropriate for the City:

1. *Risk control:* analysis prepared to reduce the frequency and severity of accidents and add value by identifying loss reduction opportunities and areas of improvement;

2. *Claim cost allocation studies:* analysis prepared to develop an appropriate allocation model which allocates the cost of claims by department within entities and by members within risk retention groups with the goal of incentivizing departments to identify and mitigate risks;

3. *Periodic claims reviews:* to provide independent, objective evaluations and recommendations that are practical and technically sound.

Inadequately performed or absent actuarial analysis can result in unreliable estimates and lead to ineffective business decisions. Moreover, inaccurate financial information makes it increasingly challenging to properly identify specific areas of risk and to maintain accurate financial reporting. Risk Management should:

- Identify and develop additional actuarial analysis or reviews to assist in loss management processes and the implementation of loss prevention programs; and
- Use any newly created and existing actuarial analysis as an element of any developed periodic reporting to City Council, City Administration and affected departments.

To develop, formalize and implement useful actuarial techniques, we recommend that Risk Management take the following actions:

Recommendation #14

Risk Management should seek additional actuarial analysis or reviews for risk control, cost allocations, and claims reviews to assist with loss management processes and the implementation of loss prevention programs. Any newly created and existing actuarial analysis should be incorporated into the proposed annual reporting that we separately recommended Risk Management prepare. (Priority 3)

Recommendation #15

Risk Management should develop, document and implement policy, procedure and departmental guidance to detail the actuarial analysis process and expectations to include the following:

a. **Receipt and analysis of the results of the annual actuarial review, including any impact on the recommended annual Risk Management reporting; and**
b. **Any internally or externally developed actuarial analysis or reports including, but not limited to, risk control, cost allocations and claims reviews. (Priority 3)**

Policies and Procedures are Outdated, Inadequate or Not Documented

We found that existing Public Liability controlling guidance documentation, including relevant Council Policies, Administrative Regulations and applicable forms, is not regularly updated to reflect existing processes or reviewed for overall reasonableness. We also noted that formalized departmental policies, instructions, or other internal control guidance have not been developed and implemented for the proper handling of claims against the City to document and formalize existing standard practices. As a result, Risk Management and the City are at risk of the inappropriate handling of claims which could produce significant litigation which may have been otherwise avoidable.

An essential element of a comprehensive framework of internal control is monitoring, which includes the verification by management that policies and procedures have been updated to adequately address new challenges identified by ongoing risk assessments. Furthermore, according to City procedures, departments like Risk Management are encouraged to develop and issue Department Instruction Manuals for specific policies and procedures for their department.

City staff have not been routinely reviewing, updating, internal controls documentation for completeness, accuracy, consistency with supporting documentation and existing processes and overall reasonableness. For example, the claim form[27] expected to be used by claimants against the City has not been updated since 2000, and includes inaccurate references to California law, which can result in a misunderstanding of the impact to a potential claimant for filing a false claim against the City. In another exhibit in Appendix D we have included additional observations related to outdated controlling documentation which can result in unclear or undefined roles, responsibilities and standard practices, such as the inconsistency between the Government Code and the City Charter related to the timeline for filing claims against the City.[28]

[27] The claim form is available at http://www.sandiego.gov/riskmanagement/pdf/claim.pdf.
[28] Section 911 of the Government Code provides a six month timeframe for the filing of claims compared to Section 110 of the San Diego City Charter which establishes a shorter deadline of 100 days.

Undocumented and outdated policies and related internal controls and processes result in unclear roles and responsibilities and lead to the improper handling of claims against the City. Risk Management should maintain an ongoing review of its guidance documentation, including Council Policies, Administrative Regulations, forms, and any departmental policies or procedures for consistency with current processes and organizational structure.

To improve the effectiveness and efficiency of claims-related internal controls, we recommend that Risk Management take the following actions:

Recommendation #16

Risk Management should review and update claim-related City Council Policies, Administrative Regulations and forms to ensure consistency with current processes, organizational structure and overall expectations, and periodically perform ongoing reviews of those documents for accuracy. (Priority 3)

Recommendation #17

Risk Management should resolve the discrepancy between the California Government Code and Section 110 of the City Charter regarding the time limit for submitting claims against the City. (Priority 3)

Recommendation #18

Risk Management staff should also document, formalize and implement detailed policies and related procedures and departmental instructions to specify the current process and documentation requirements regarding the receipt, handling and resolution of public liability claims. (Priority 3)

Finding 3: Risk Management Has Several Opportunities for Improvement to Better Manage Staff Workloads

We found that Risk Management has opportunities to improve the management of staffing workloads and reducing claim volumes. On average, claims adjusters were assigned 362 new claims each fiscal year, a number which has decreased slightly over the last two fiscal years. According to Risk Management, the current claims workload is straining their limited staff resources. As a result, this increases the risk that a claim filed against the City will be improperly handled and unnecessarily result in a significant liability.

Risk Management does not benchmark or monitor claims adjuster workloads based on historical data, and has not taken advantage of available actuarial services mentioned previously in the report such as risk control, cost allocation, and claims reviews which could reduce the volume of claims. This is the case with claims of improper tow and impound.

We noted that Public Liability has not established criteria that specify the minimal evidentiary requirements for validating each type of claim. By establishing such criteria and communicating it to claimants, Public Liability staff could more rapidly reject claims that do not meet its minimal requirements and shorten the processing time for the claims that do. For example, if an individual submits a trip and fall claim, documentation submitted could include the following expected documents, or else it is considered for rejection prior to processing:

- identifiable photographic evidence of the site of the trip and fall;
- photographic evidence of the injured body part (if feasible);
- copies of applicable medical records and related invoices or receipts, redacted as necessary;
- signed witness statements (if indicated on the claim form); and
- any police reports, if applicable.

In addition to a lack of formal criteria, the information available on the City's external website[29] is limited in usefulness to guide a potential claimant through the process of filing a claim. That informational webpage, the City's claim form and other documents do not make specific reference to essential documentation or provide information that might preclude a claimant from filing upon realizing that their claim is not valid or supportable.

Furthermore, the current settlement authority for each Claims Representative is $5,000 with the approval of the Claims Manager or Claims Supervisor. That amount is based on the settlement authorization limits documented in the Council Policy 000-09, which have not been significantly changed since at least 1993.[30] The claims adjuster limit is significantly below the small claims court dollar limit of $7,500.

Moreover, we found there is a lack of formal coordination to address improperly towed and impounded vehicles, which represent the largest category of claims.[31] A claim against the City

[29] "Frequently Asked Questions - General/Claim" at http://www.sandiego.gov/riskmanagement/services/faqg.shtml.
[30] Council Policy 000-09 was updated in November 2002, but only to increase the Director of Risk Management's settlement authority from $20,000 to $25,000.
[31] Between July 1, 2007 and March 18, 2010, we noted that approximately 18 percent of filed claims relate to towed or impounded vehicles, the single largest category.

for an improperly towed or impounded vehicle represents an allegation that a vehicle was removed without proper authority. Government Code Section 22650 makes it unlawful for any peace officer to remove any unattended vehicle except as provided. Since a claim implies improper activity by a peace officer, the San Diego Police Department's Internal Affairs Division (Internal Affairs) becomes responsible and should investigate all improper tow and impound claims filed against the City. If an Internal Affairs investigation substantiates the claim against the City, the documentation would then be forwarded to Risk Management for processing and payment.

Finally, we noted that Risk Management personnel have historically also been charged with performing certain vehicle post-storage hearings. However, the release of a vehicle as a result of these hearings still requires the authorization of San Diego Police Department personnel, which Risk Management personnel has indicated can be a very time consuming process when added to the staff's claim workload. Because the Police Department is responsible for the tows and has authority to release vehicles to registered owners, the Police Department is in the best position to administer all post-storage hearings.

A main function of management is to use available resources efficiently and effectively to accomplish objectives. Developing performance standards, conducting workload studies, and establishing and monitoring employee workload levels are necessary steps for determining the amount of work and corresponding resources needed to handle it. City staff have not implemented personnel benchmarking and incorporated standards in departmental processes and employee performance reviews. Benchmarking standards would aid in managing claim volumes and identifying potential duplicative effort such as improper tow and impound claims.

Heavy caseloads for claims adjusters can increase the chance of errors and ineffective or inappropriate decisions in claims handling. Moreover, without obtaining or developing benchmarking standards, the department cannot determine its appropriate staffing and workload levels. Risk Management should:

- Perform staffing and workload benchmarking studies to assess and monitor appropriate staffing levels;
- Develop and implement claim documentation criteria;
- Update settlement authorization limits;
- Deny or reject all tow and impound related claims that have not been reviewed and substantiated by the San Diego Police Department previously; and
- Transfer the responsibility for vehicle post-storage hearings currently being performed by Risk Management personnel back to the San Diego Police Department.

To improve the efficiency and effectiveness of available staffing resources, we recommend that Risk Management take the following actions:

Recommendation #19

Risk Management should obtain or develop formalized staffing and workload benchmarking to monitor workload levels, measure staff performance and substantiate future budgetary requests. (Priority 3)

Recommendation #20

Risk Management should develop and implement legally defensible documentation standards for claimants that would permit the rapid evaluation and / or rejection of claims lacking sufficient evidence. Documentation requirements should be included on the City's claim form and / or Risk Management's external website. (Priority 3)

Recommendation #21

Risk Management should review and, where appropriate, request an update of the authorization limits indicated in section IV of Council Policy 000-09 as appropriate to allow greater efficiency in claims handling as well as consistency with the jurisdiction of the small claims court (claims up to $7,500) and the organizational structure of the Public Liability & Loss Recovery Division. (Priority 3)

Recommendation #22

Risk Management should deny or reject all tow and impound related claims that have not been reviewed and substantiated by the San Diego Police Department's Internal Affairs . (Priority 3)

To improve the efficiency and effectiveness of post-storage hearings, we recommend that the City Administration take the following actions:

Recommendation #23

The City Administration should transfer the responsibility for vehicle post-storage hearings being performed by Risk Management to the San Diego Police Department. (Priority 3)

Conclusion

Managing risk exposures for the City of San Diego (City), mitigating liabilities, and processing claims and disbursements are ongoing activities that impact the financial stability of the City and require continuous attention from management. Given the current economic instability and uncertainty, it is important for the City to ensure that the limited resources available are used in the most effective and efficient manner.

The City has not developed a comprehensive approach to identify and manage risks, the internal controls over public liability and loss recovery processes can be improved to maximize opportunities to recover on City losses and reduce the City's risk from future losses, and Risk Management has several opportunities for improvement to better manage staff workloads.

Based on our audit findings, we recommend that Risk Management develop, formalize, and implement City-wide risk mitigation processes, communicate and coordinate risk mitigation efforts with other departments, and improve the quality of reporting of Public Liability claims to the City Council and other responsible parties. We also recommend that Risk Management develop, formalize and implement standardized claims reserving processes, conduct annual assessments of general liability insurance coverages and limits, and strengthen claims-related internal controls. Finally, we recommend that Risk Management seek available actuarial resources, and improve the efficiency and effectiveness of the loss recovery function and its staffing resources.

Quantifying the City's potential savings from improved risk management is difficult because many variables can impact the City's loss experience. However, by thoroughly analyzing its risks and exposures, implementing strong loss control measures, remediating hazards, and disseminating risk information, the City can reduce its insurance premiums, avoid lawsuits, and lower its legal fees. The City can also avoid indirect costs that are not currently allocated to risk such as the time that City Attorney staff spend on avoidable civil litigation. We estimate that, after the introduction of new risk management efforts, the City can achieve savings in excess of $800,000 per year, all other things being equal. Other public entities that have implemented risk initiatives have realized a financial return. The University of California (UC) reported significant savings over the past four years as a result of implementing an Enterprise Risk Management system and a Risk Management Information System. While fully adopting an Enterprise Risk Management system may not be feasible for the City at this time, potential savings justify investments in risk management efforts.

By making these changes, the City could improve its oversight and efficiency in managing public liability claims and the mitigation thereof. However, these changes can impact operational areas in the City that Risk Management is not directly responsible for. Making improvements will require collaboration and effort between Risk Management and various other departments.

Recommendations

To develop, formalize and implement City-wide risk mitigation processes, Risk Management should take the following actions:

1. Risk Management should adopt public sector enhancing practices for collection, analysis, and reporting of risk information, and prepare and distribute an annual Risk Management Report. (Priority 3)
2. Risk Management should annually survey City departments about their informational needs and analyze historical claims data and provide departments with reports on a monthly or quarterly basis. (Priority 3)

To develop and implement a City-wide process for liability cost allocation, we recommend that Risk Management take the following actions:

3. Risk Management, with the assistance of an actuarial consultant, should develop and implement a cost allocation methodology for City departments to assess the costs of general liability claims. (Priority 3)

To mitigate the City's liability related to public safety issues due to ongoing sidewalk defects and disrepair, we recommend that City Administration take the following actions:

4. The City Administration should consider actions taken by other cities to limit sidewalk repair responsibility and take appropriate action to limit the City's liability related to sidewalks. (Priority 3)

To develop and formalize the City-wide communication and coordination of risk mitigation efforts with other departments, the City Administration should take the following actions:

5. The City Administration should establish a risk management working group charged with coordinating Risk Management efforts with membership representation from all the major City departments and the City Attorney's Office. This committee should meet at least quarterly and be chaired by the Director of Risk Management or another senior City official. (Priority 3)

To implement the City-wide communication and coordination of risk mitigation efforts with other departments, Risk Management should take the following actions:

6. Risk Management should develop a detailed safety training curriculum for City employees and deliver this training on a regular basis. The Public Liability and Loss Recovery Division should develop detailed informational material regarding its services and post it on the City website. Training and informational material should be targeted to areas and activities with high public liability losses and address frequently asked questions. (Priority 3)

To improve the quality of reporting of Public Liability claims to the City Council and other responsible parties, Risk Management should take the following actions:

7. Risk Management and the City Attorney should solicit feedback from the City Council on the adequacy and completeness of current public liability claims-related reporting and,

as appropriate, facilitate the updating of Council Policy 000-09 to be consistent with the agreed-upon reporting. (Priority 3)

8. Develop additional Risk Management policy and departmental guidance to detail the steps for the proper reporting of claims compliant with Council Policy 000-09. This guidance should specify report contents to satisfy current reporting requirements and subsequently developed ones. (Priority 3)

To develop, formalize and implement standardized claims reserving processes, we recommend that Risk Management take the following actions:

9. Risk Management should formalize and document the claim reserving approach and periodically review it with the City's actuary. (Priority 3)

To improve the quality of information used in the review, purchase and cost-effectiveness of City general liability insurance coverage, Risk Management should take the following actions:

10. Risk Management should properly document and maintain each annual marketing effort in relation to insurance premiums to retain historical self-insured retention limits, excess liability coverages and available premiums. (Priority 3)
11. Risk Management should prepare formalized annual reviews of historical premiums, actual losses and reimbursements. These reviews would include the self-insured retention limit, excess liability limits, and related premiums to assess the best limit to maintain and validate the reasonableness of insurance costs. (Priority 3)
12. Risk Management should develop additional policy, procedure and departmental guidance to detail the process and expectations related to the periodic internal and external reviews of insurance coverages and premiums, and the documentation thereof. (Priority 3)

To improve the efficiency and effectiveness of the loss recovery function, Risk Management should take the following actions:

13. Risk Management should review documented and undocumented processes for current reporting, practices, roles and responsibilities to ensure that Risk Management has a strong documented loss recovery function in compliance with Administrative Regulation 45.80 and enhancing practices. These processes should incorporate formalized communication about and advertisement of the loss recovery function, including on the internal and external Risk Management websites. (Priority 3)

To develop, formalize and implement useful actuarial techniques, Risk Management should take the following actions:

14. Risk Management should seek additional actuarial analysis or reviews for risk control, cost allocations, and claims reviews to assist with loss management processes and the implementation of loss prevention programs. Any newly created and existing actuarial analysis should be incorporated into the proposed annual reporting that we separately recommended Risk Management prepare. (Priority 3)
15. Risk Management should develop, document and implement policy, procedure and departmental guidance to detail the actuarial analysis process and expectations to include the following:

a. Receipt and analysis of the results of the annual actuarial review, including any impact on the recommended annual Risk Management reporting; and
b. Any internally or externally developed reports or analysis including, but not limited to, risk control, cost allocations and claims reviews. (Priority 3)

To improve the effectiveness and efficiency of claims-related internal controls, Risk Management should take the following actions:

16. Risk Management should review and update claim-related City Council Policies, Administrative Regulations and forms to ensure consistency with current processes, organizational structure and overall expectations, and periodically perform ongoing reviews of those documents for accuracy. (Priority 3)
17. Risk Management should resolve the discrepancy between the California Government Code and Section 110 of the City Charter regarding the time limit for submitting claims against the City. (Priority 3)
18. Risk Management staff should also document, formalize and implement detailed policies and related procedures and departmental instructions to specify the current process and documentation requirements regarding the receipt, handling and resolution of public liability claims. (Priority 3)

To improve the efficiency and effectiveness of available staffing resources, Risk Management should take the following actions:

19. Risk Management should obtain or develop formalized staffing and workload benchmarking to monitor workload levels, measure staff performance and substantiate future budgetary requests. (Priority 3)
20. Risk Management should develop and implement legally defensible documentation standards for claimants that would permit the rapid evaluation and / or rejection of claims lacking sufficient evidence. Documentation requirements should be included on the City's claim form and / or Risk Management's external website. (Priority 3)
21. Risk Management should review and, where appropriate, request an update of the authorization limits indicated in section IV of Council Policy 000-09 as appropriate to allow greater efficiency in claims handling as well as consistency with the jurisdiction of the small claims court (claims up to $7,500) and the organizational structure of the Public Liability & Loss Recovery Division. (Priority 3)
22. Risk Management should deny or reject all tow and impound related claims that have not been reviewed and substantiated by the San Diego Police Department's Internal Affairs. (Priority 3)

To improve the efficiency and effectiveness of post-storage hearings, we recommend that the City Administration take the following actions:

23. The City Administration should transfer the responsibility for vehicle post-storage hearings being performed by Risk Management to the San Diego Police Department. (Priority 3)

Appendix A: **Definition of Audit Recommendation Priorities**

DEFINITIONS OF PRIORITY 1, 2, AND 3
AUDIT RECOMMENDATIONS

The Office of the City Auditor maintains a classification scheme applicable to audit recommendations and the appropriate corrective actions as follows:

Priority Class[32]	**Description**[33]	**Implementation Action**[34]
1	Fraud or serious violations are being committed, significant fiscal or equivalent non-fiscal losses are occurring.	Immediate
2	A potential for incurring significant or equivalent fiscal and/or non-fiscal losses exist.	Six months
3	Operation or administrative process will be improved.	Six months to one year

[32] The City Auditor is responsible for assigning audit recommendation priority class numbers. A recommendation which clearly fits the description for more than one priority class shall be assigned the higher number.

[33] For an audit recommendation to be considered related to a significant fiscal loss, it will usually be necessary for an actual loss of $50,000 or more to be involved or for a potential loss (including unrealized revenue increases) of $100,000 to be involved. Equivalent non-fiscal losses would include, but not be limited to, omission or commission of acts by or on behalf of the City which would be likely to expose the City to adverse criticism in the eyes of its residents.

[34] The implementation time frame indicated for each priority class is intended as a guideline for establishing implementation target dates. While prioritizing recommendations is the responsibility of the City Auditor, determining implementation dates is the responsibility of the City Administration.

Appendix B: **Analysis of Claims**

This appendix presents aggregate claims data for the City for the past three fiscal years.[35] During this period, 1,853 claims with payments totaling $8,608,112 were paid and closed. We first present two exhibits listing the types and common causes of claims closed during this period of time, and the departments or divisions responsible for them. We then present three exhibits showing the number, total amount and average cost of claims paid by department or division, and three additional exhibits listing the number, total amount, and average cost of claims paid by type of claim. Finally, a more detailed breakdown of claims is presented by cost range in 28 exhibits.

Exhibit B-1: Common Types and Causes of Claims

Type of Claim	Common Causes
Employment	Sexual harassment or discrimination in the workplace.
Golf balls	Windshield damage to parked vehicles.
Pothole	Tire and wheel damage to vehicles.
Sewer	Property damage from sewer main or lateral breaks or backups.
Construction	Property damage due to construction in the right of way.
Tow & Impound	Improper vehicle tow and impound.
Trip & Fall	Pedestrian injuries from falls on damaged sidewalks or other City property.
Vehicle Accident	Collision with a City vehicle.
Water	Flood damage from water main or lateral breaks.

Exhibit B-2: Typical Claims for City Departments or Divisions

Department or Division	Typical Claims
Engineering and Capital Projects	Property damage or personal injury related to dangerous road and intersection conditions, inadequate lighting or capital improvement project activities.
Environmental Services	Vehicle collisions with and property damage from waste collection vehicles.
Police	Police operations such as police use of force, arrests, shootings and tows & impounds.
Street Division	Pedestrian injuries from falls on damaged sidewalks, tire and wheel damage to private vehicles from potholes, and tree root damage to private property from City-owned trees.
Wastewater	Property damage from sewer main or lateral breaks or backups, vehicle collisions.
Water	Flood damage from water main or lateral breaks, vehicle collisions.

[35] These exhibits are based on data provided by Risk Management personnel from their claim information system (iVOS) for claims received between July 1, 2007 and March 18, 2010, which were subsequently paid and closed in that period of time.

Exhibit B-3: Number of Claims Paid and Closed, Classified by Department or Division

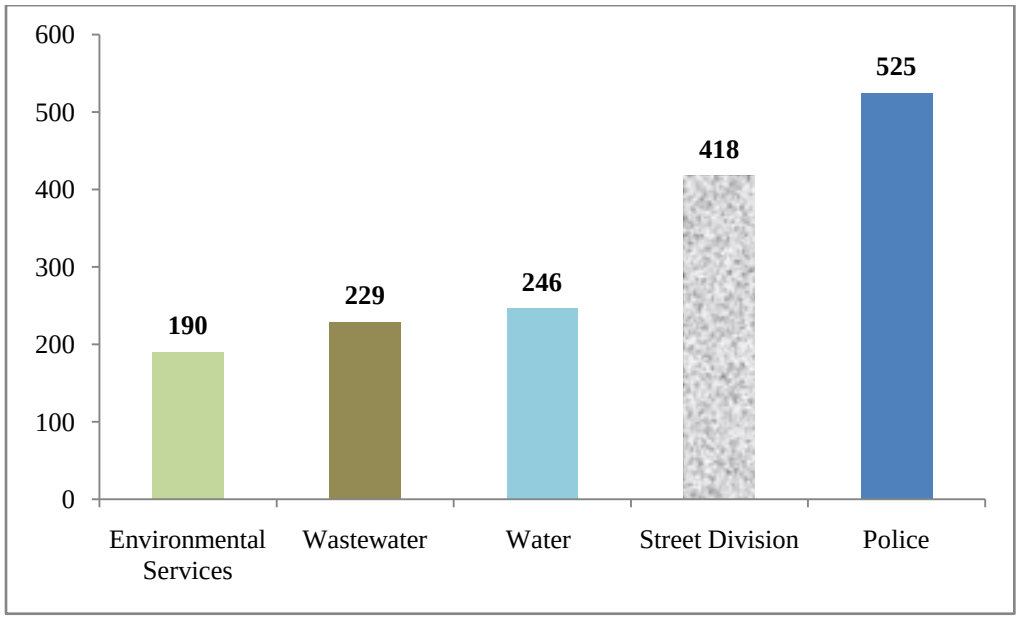


Exhibit B-4: Total of Claims Paid and Closed, Classified by Department or Division

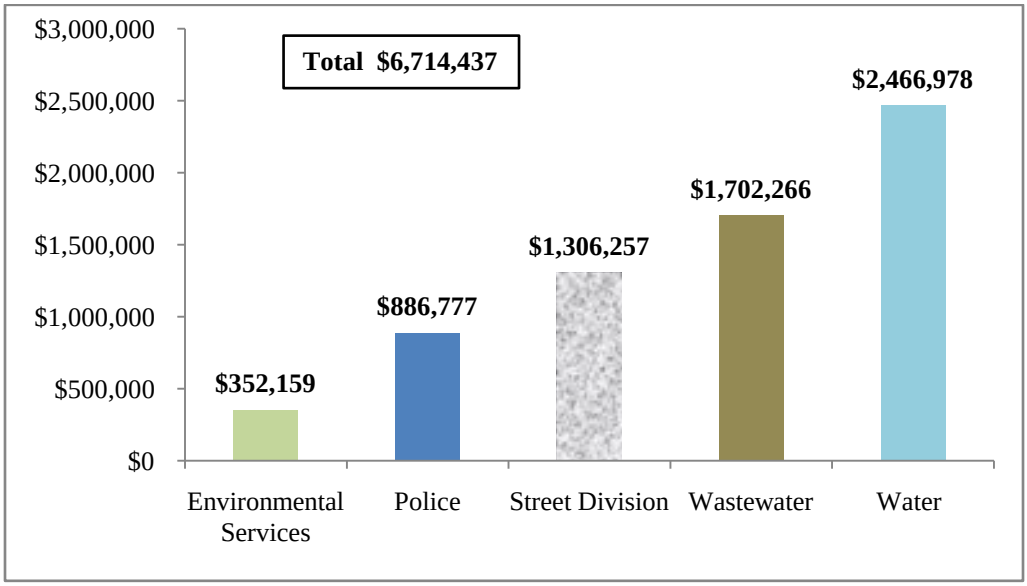


Exhibit B-5: Average Cost of Claims Paid and Closed, Classified by Department or Division

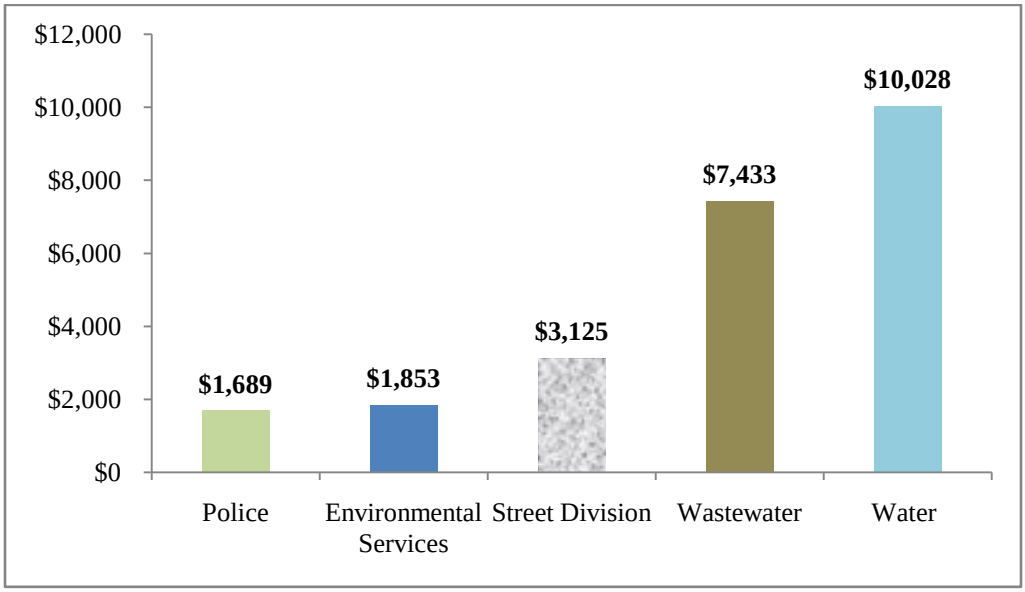


Exhibit B-6: Number of Claims Paid and Closed, Classified by Type of Claim

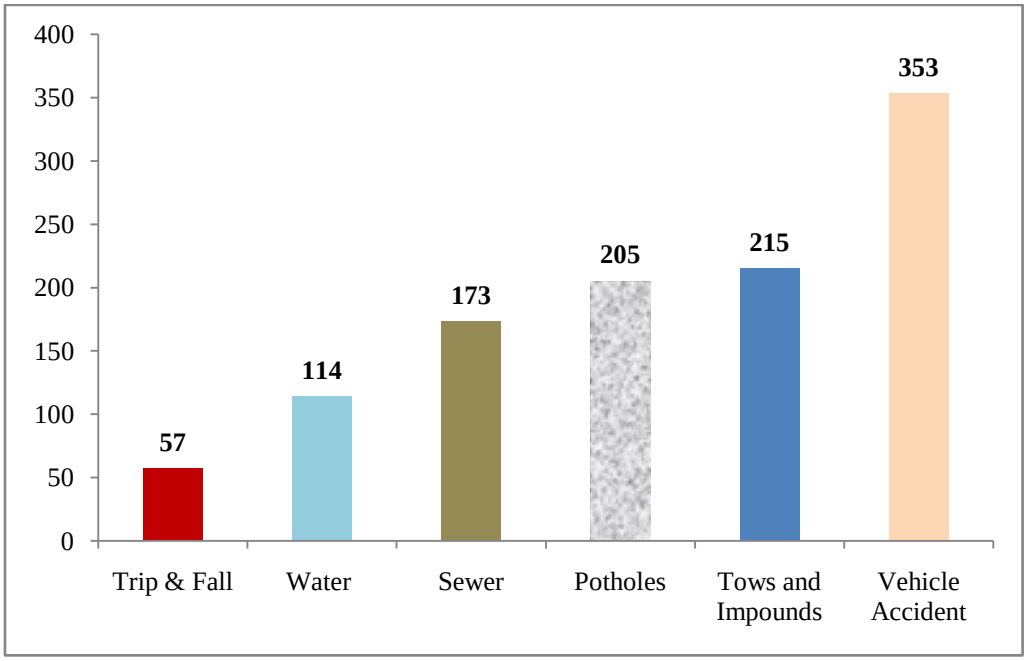


Exhibit B-7: Total of Claims Paid and Closed, Classified by Type of Claim

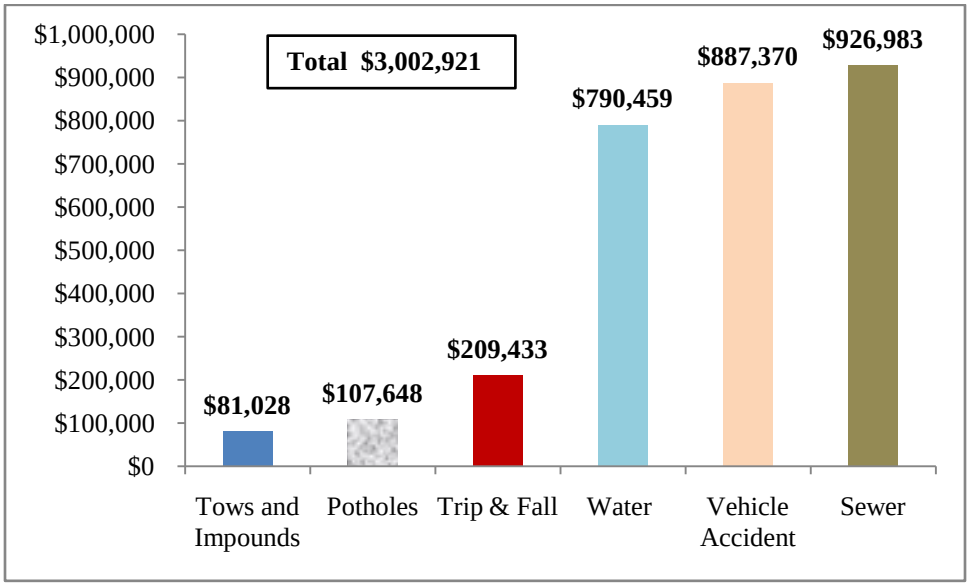
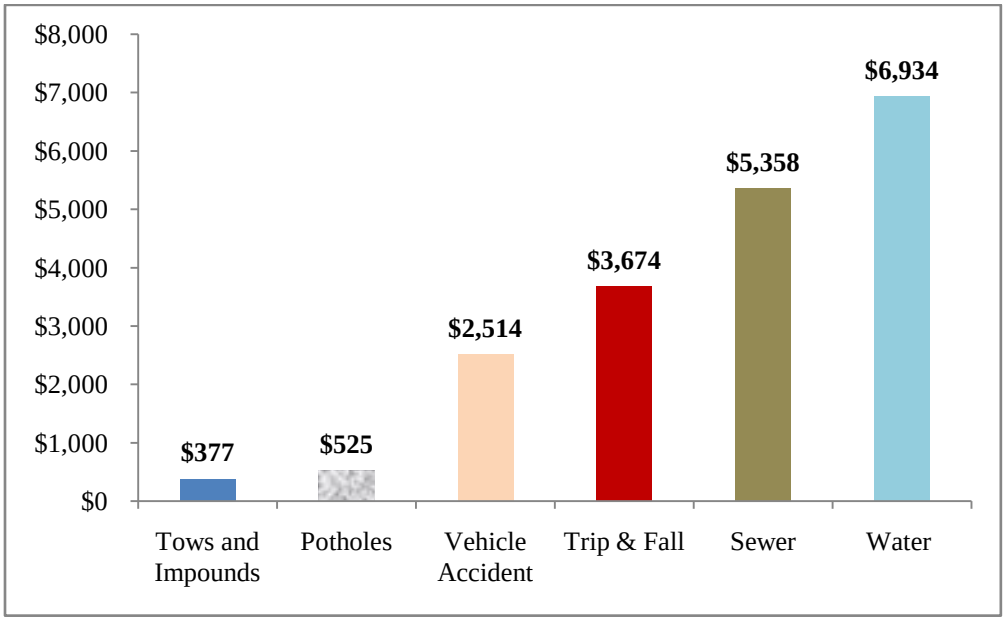


Exhibit B-8: Average Cost of Claims Paid and Closed, Classified by Department or Division



Claims Paid and Closed with Total Costs between $1 and $500, Classified by Department or Division

Exhibit B-9: Number of Claims

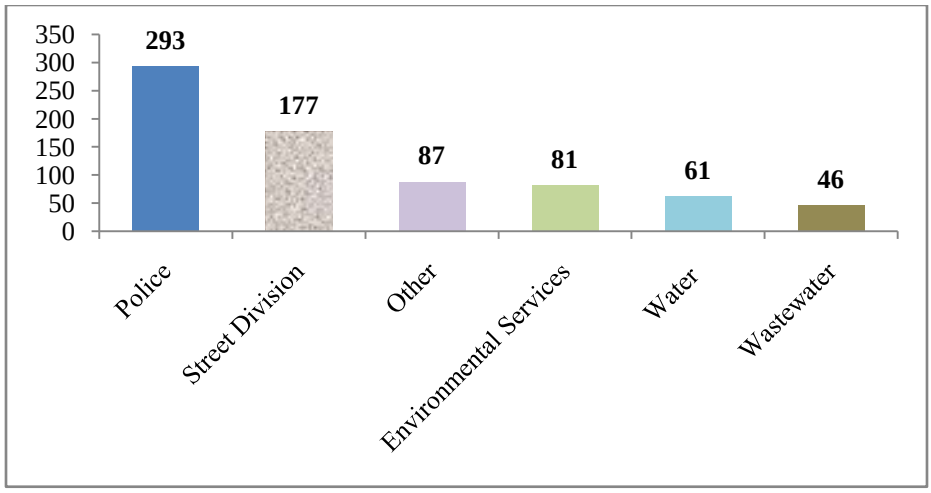
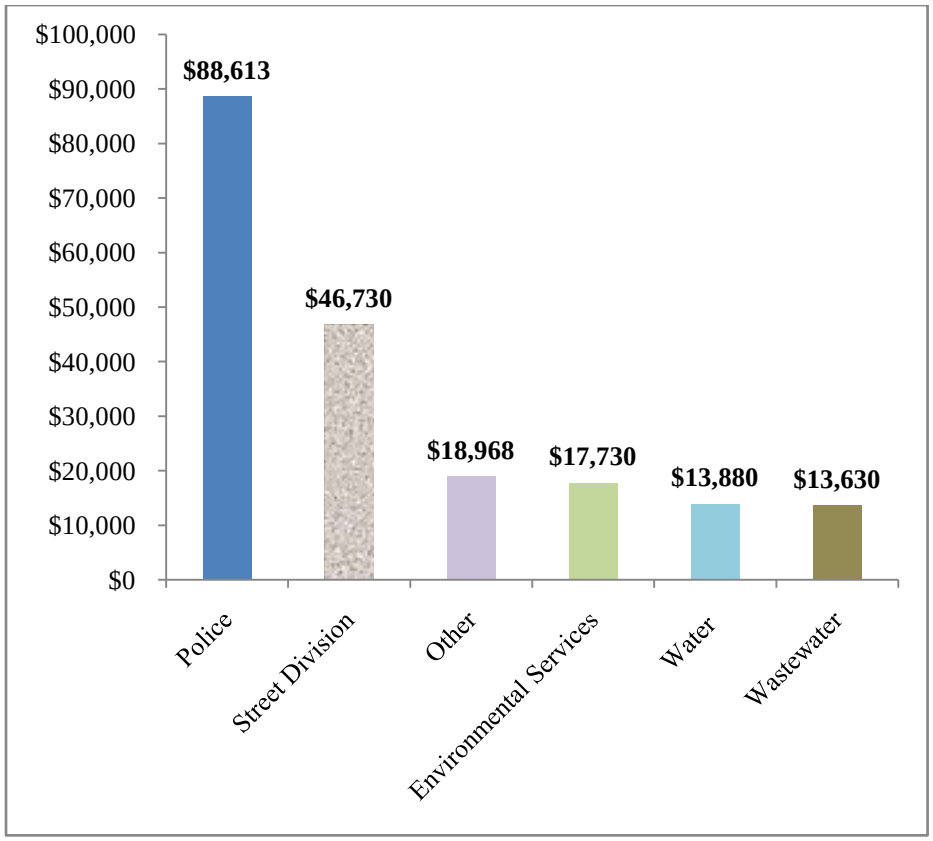


Exhibit B-10: Total Amounts Paid



Claims Paid and Closed with Total Costs between $1 and $500, Classified by Type of Claim

Exhibit B-11: Number of Claims

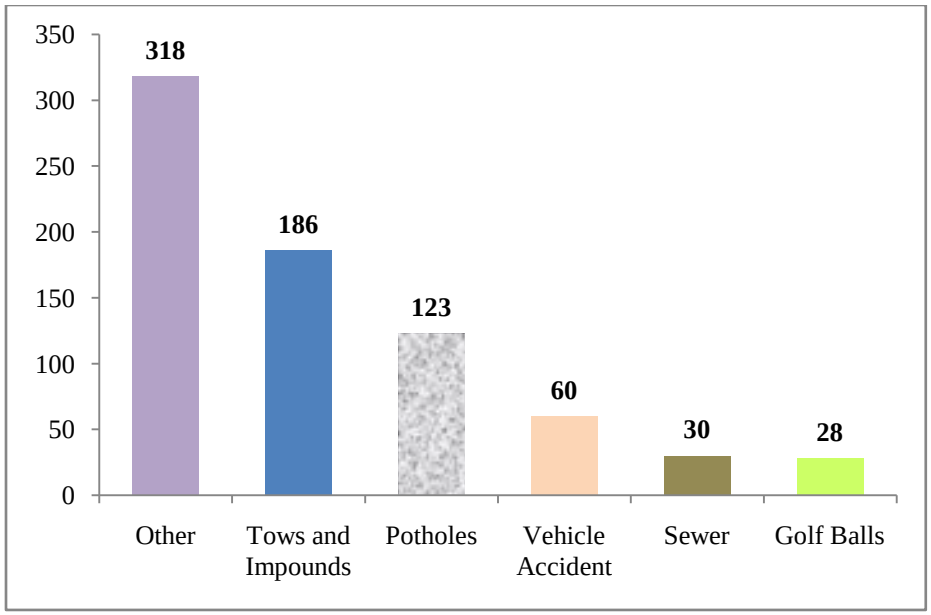
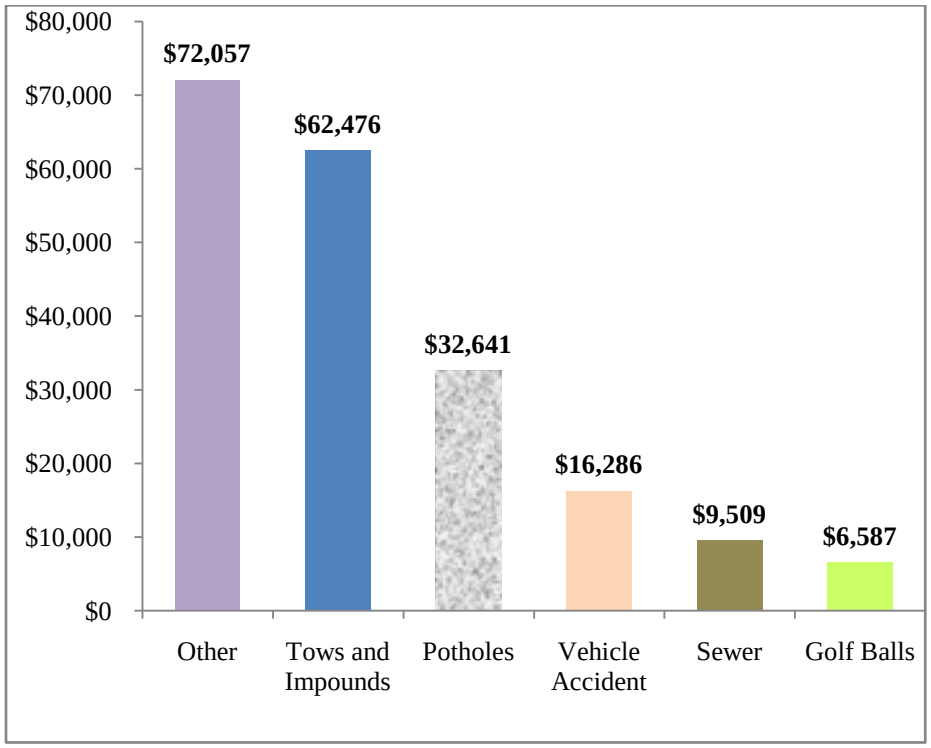


Exhibit B-12: Total Amounts Paid



Claims Paid and Closed with Total Costs between $500 and $1,000, Classified by Department or Division

Exhibit B-13: Number of Claims

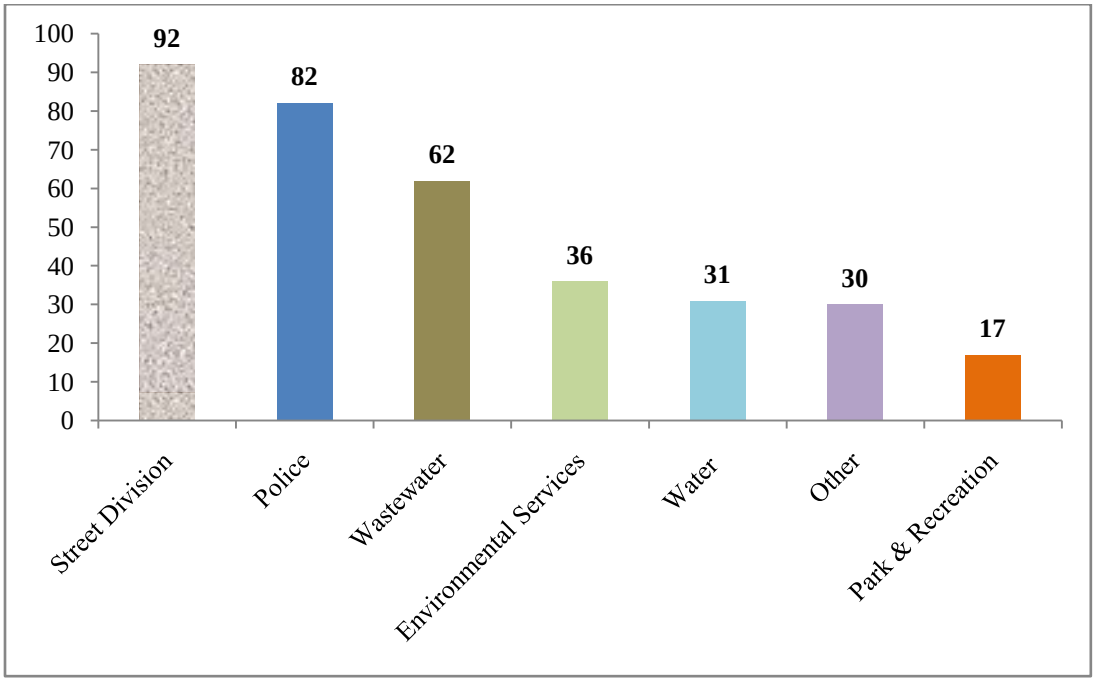
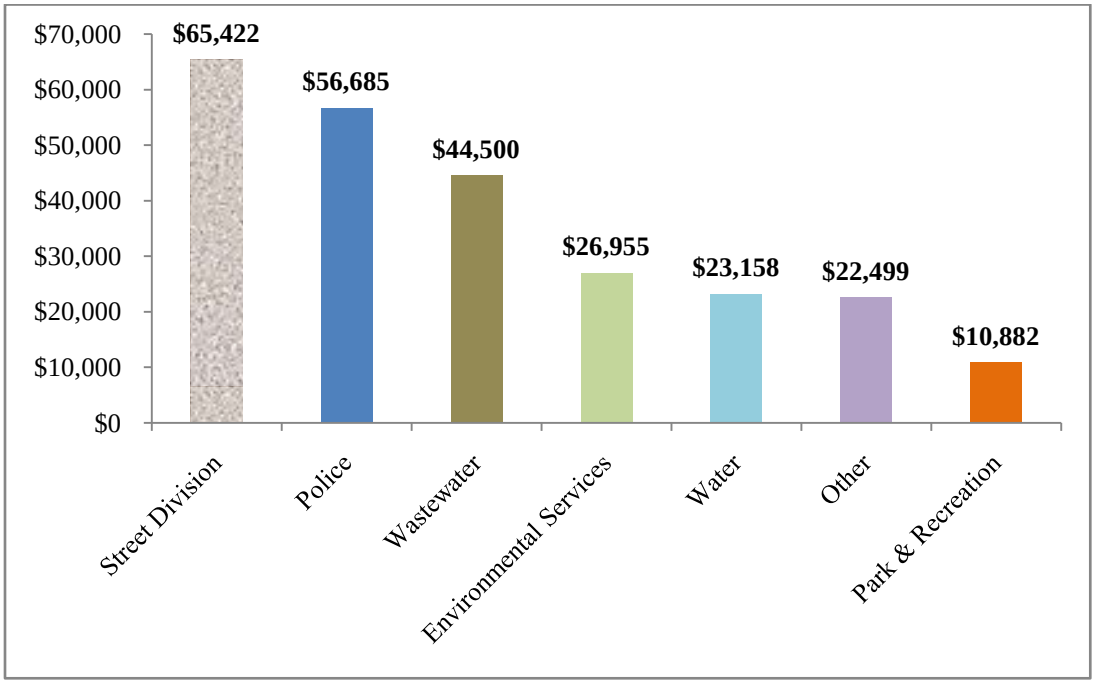


Exhibit B-14: Total Amounts Paid



Claims Paid and Closed with Total Costs between $500 and $1,000, Classified by Type of Claim

Exhibit B-15: Number of Claims

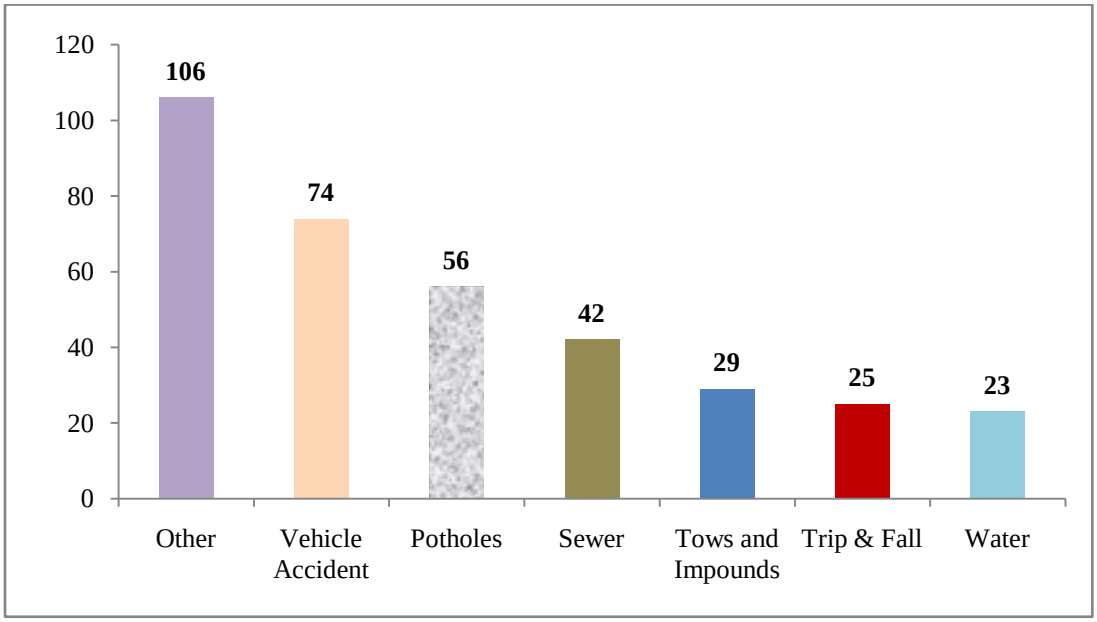
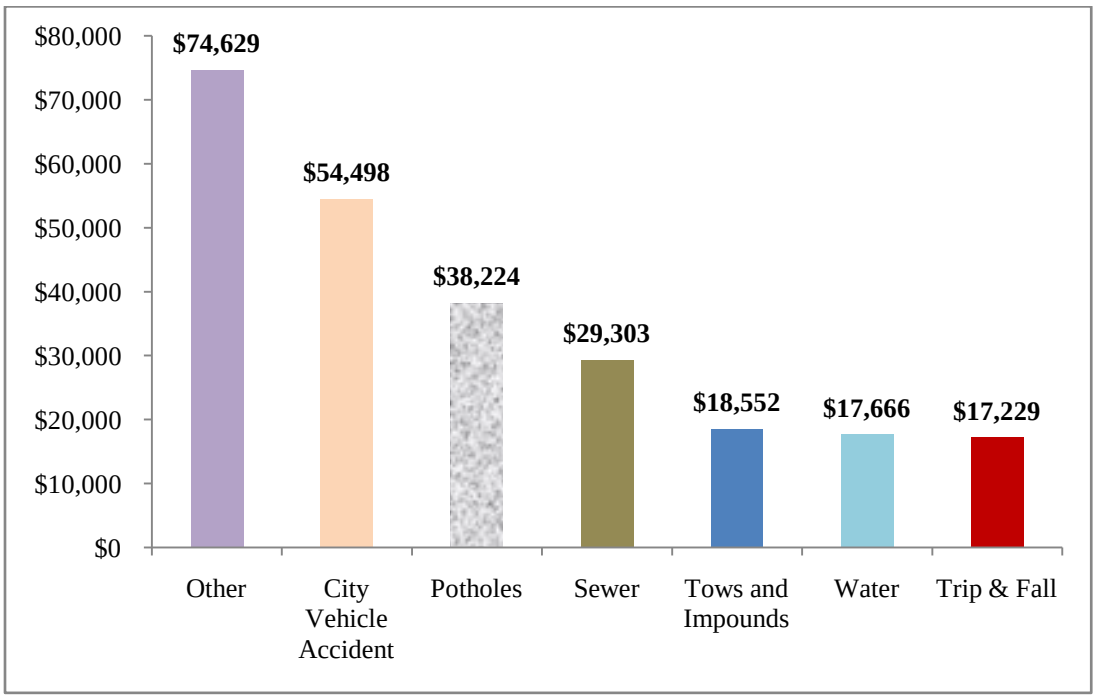


Exhibit B-16: Total Amounts Paid



Claims Paid and Closed with Total Costs between $1,000 and $2,000, Classified by Department or Division

Exhibit B-17: Number of Claims

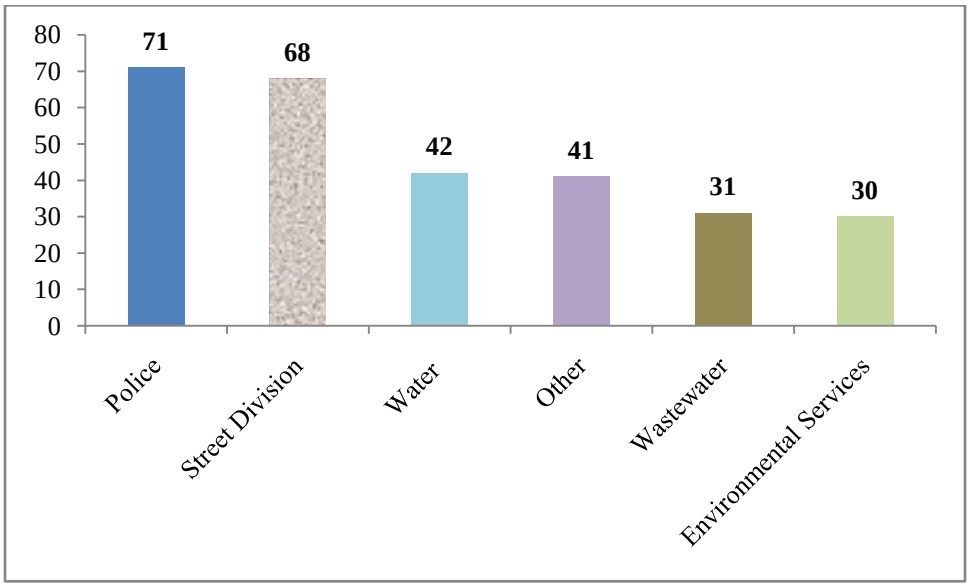
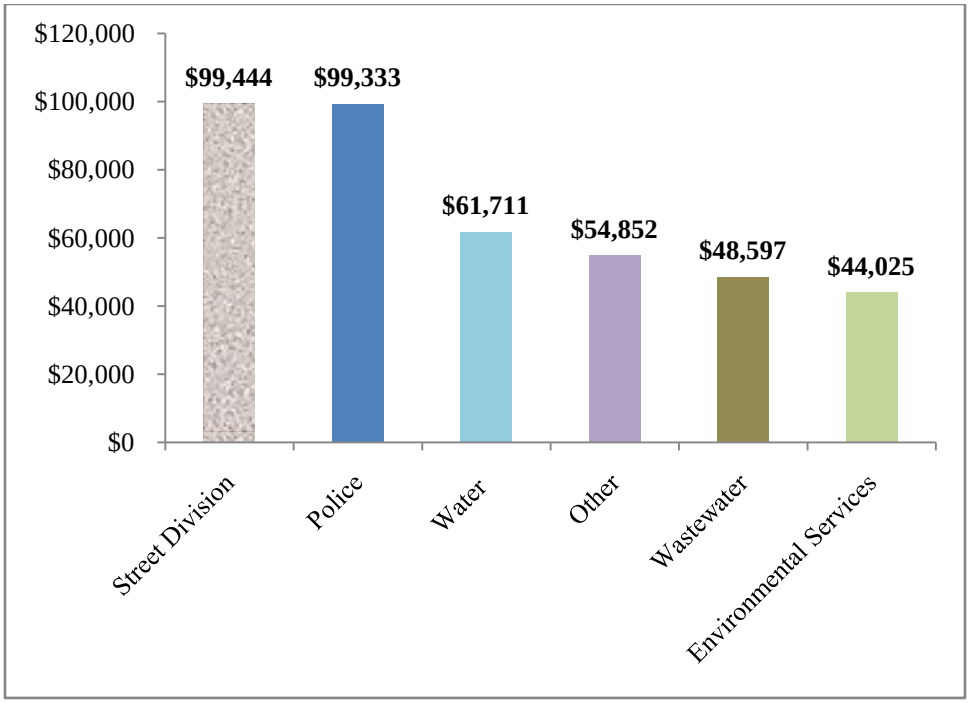


Exhibit B-18: Total Amounts Paid



Claims Paid and Closed with Total Costs between $1,000 and $2,000, Classified by Type of Claim

Exhibit B-19: Number of Claims

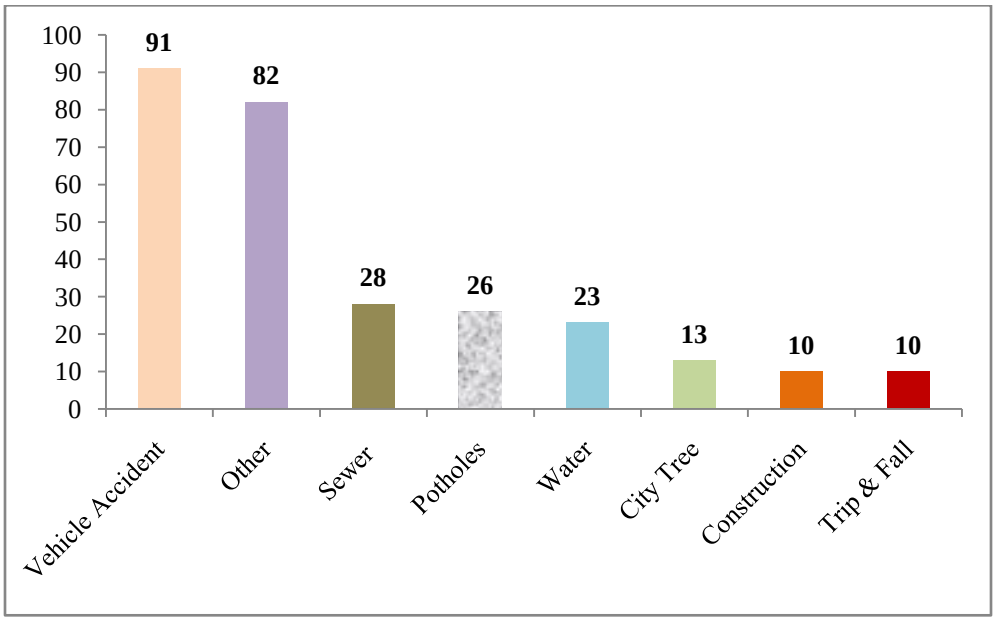
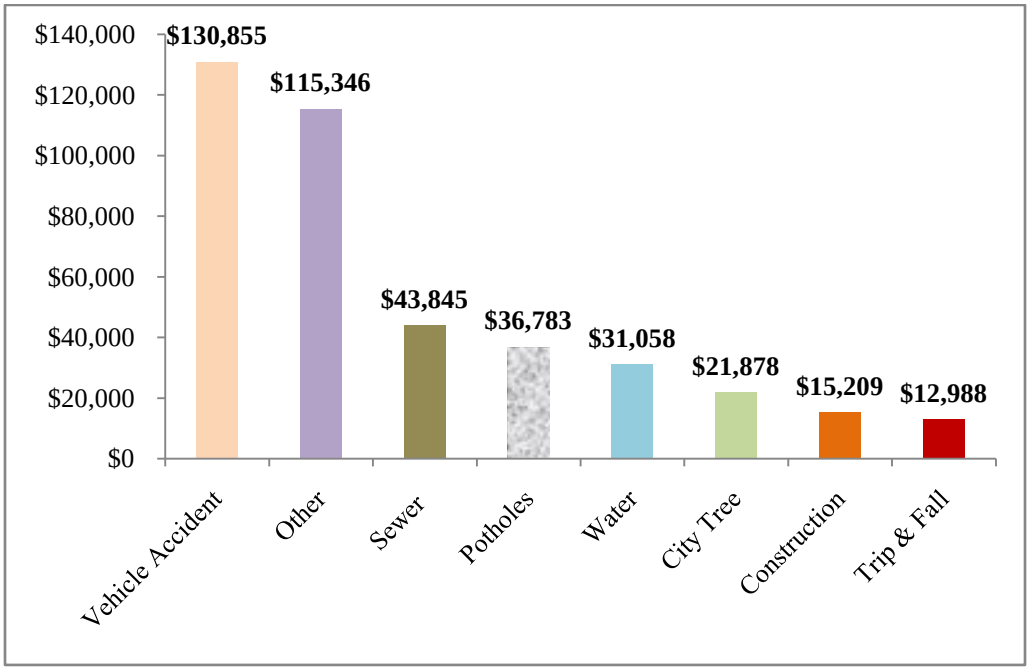


Exhibit B-20: Total Amounts Paid



Claims Paid and Closed with Total Costs between $2,000 and $5,000, Classified by Department or Division

Exhibit B-21: Number of Claims

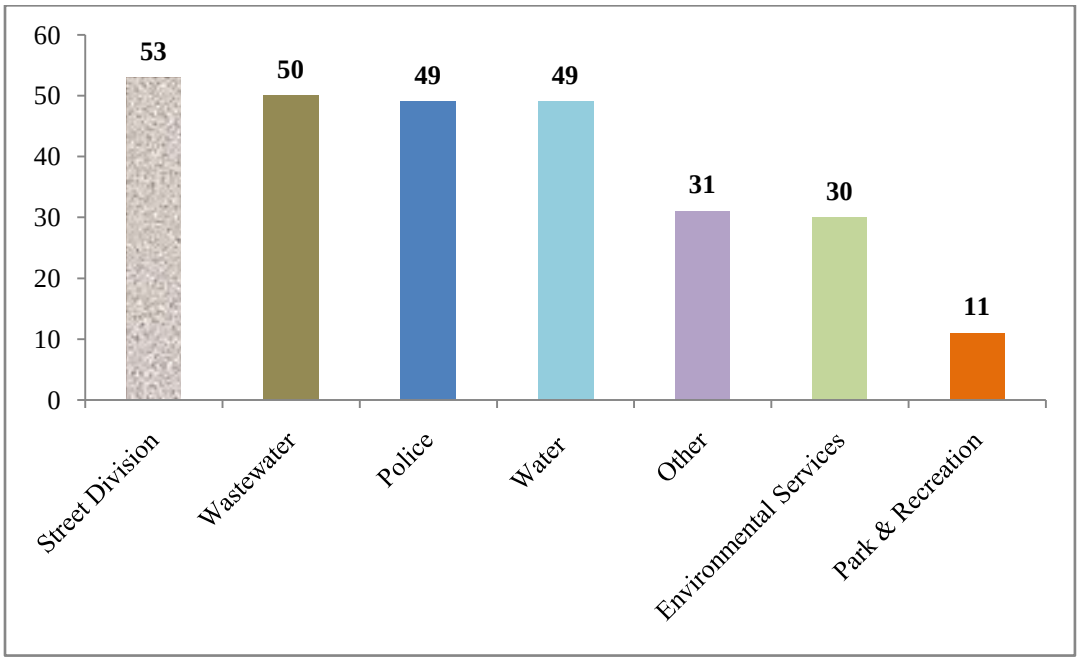
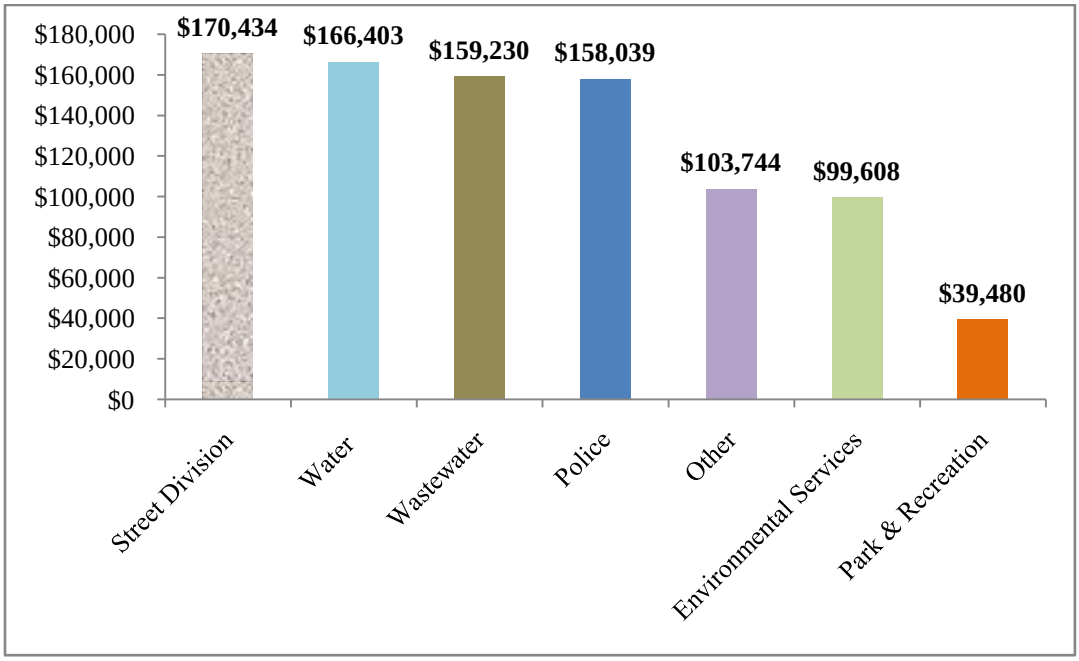


Exhibit B-22: Total Amounts Paid



Claims Paid and Closed with Total Costs between $2,000 and $5,000,

Classified by Type of Claim

Exhibit B-23: Number of Claims

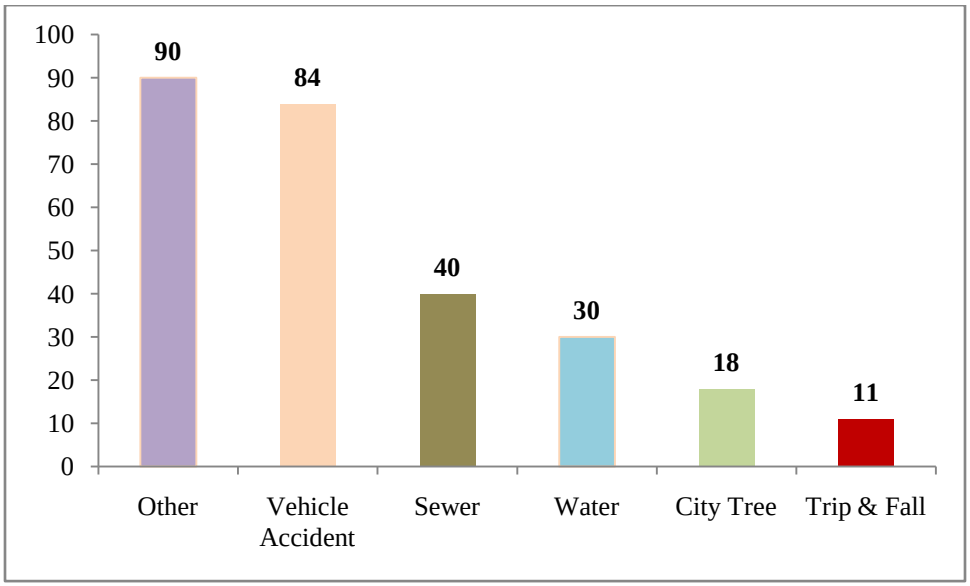
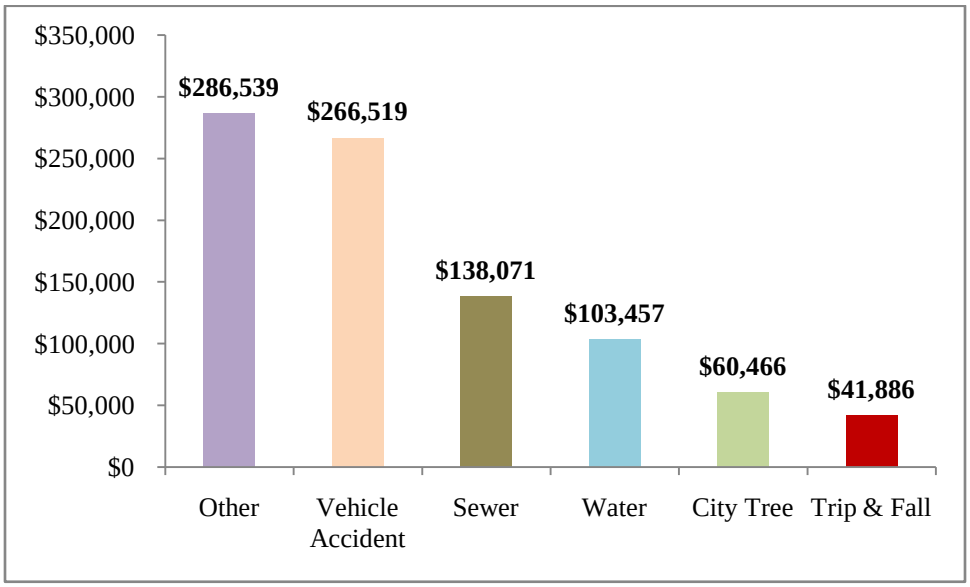


Exhibit B-24: Total Amounts Paid



Claims Paid and Closed with Total Costs between $5,000 and $10,000, Classified by Department or Division

Exhibit B-25: Number of Claims

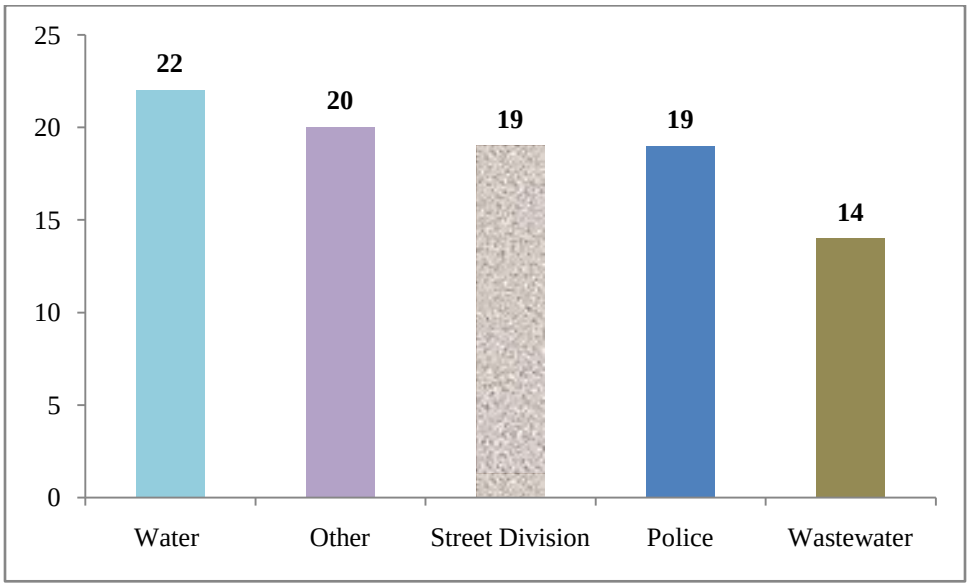
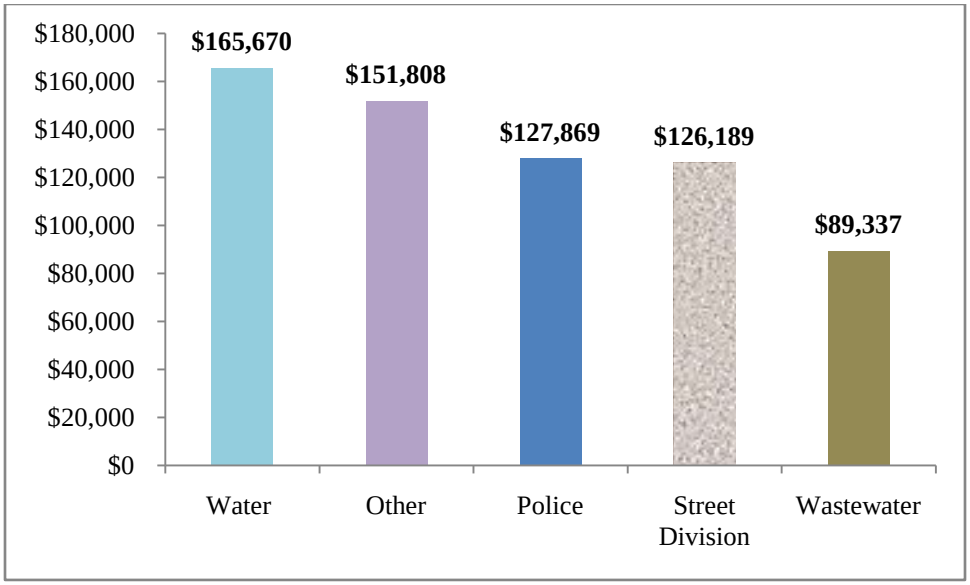


Exhibit B-26: Total Amounts Paid



Claims Paid and Closed with Total Costs between $5,000 and $10,000, Classified by Type of Claim

Exhibit B-27: Number of Claims

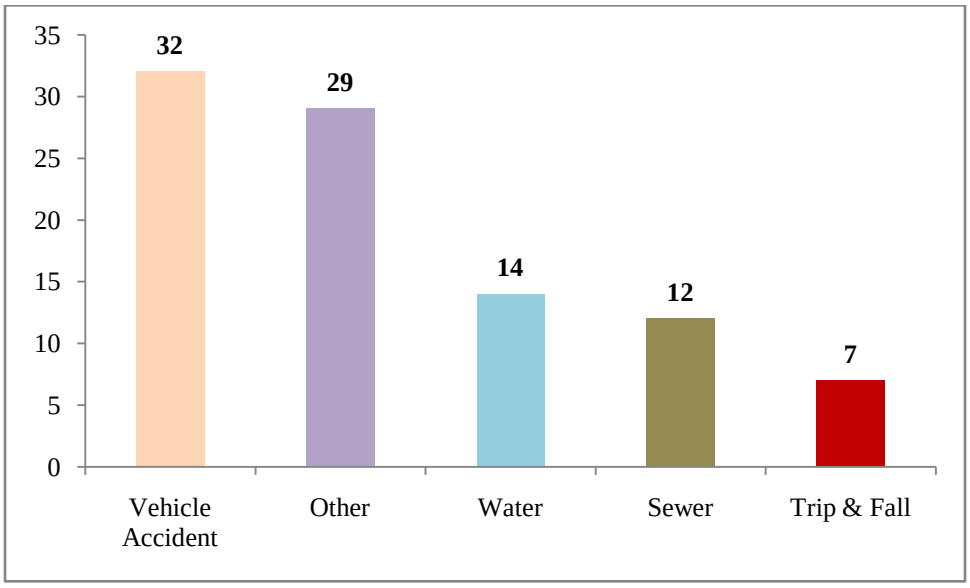
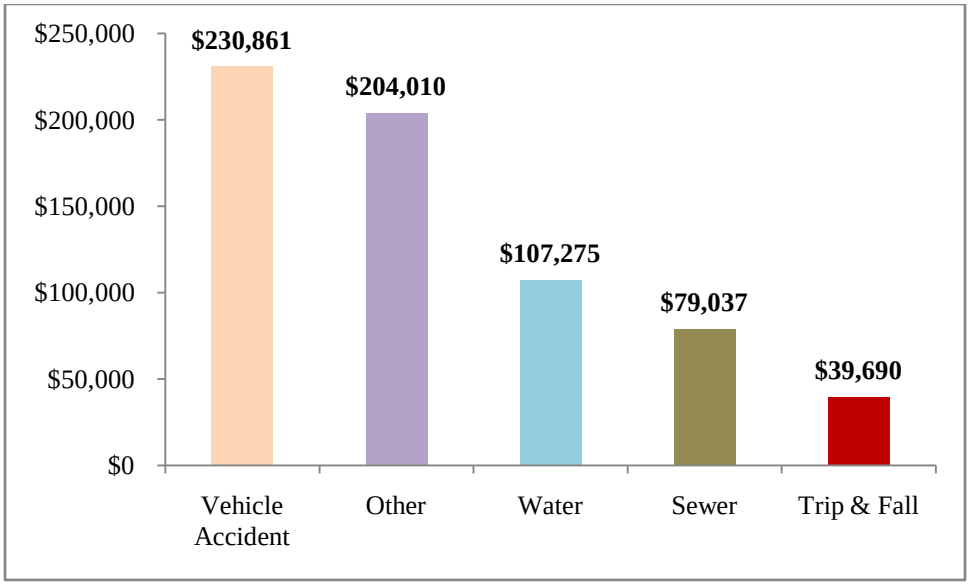


Exhibit B-28: Total Amounts Paid



Claims Paid and Closed with Total Costs between $10,000 and $50,000, Classified by Department or Division

Exhibit B-29: Number of Claims

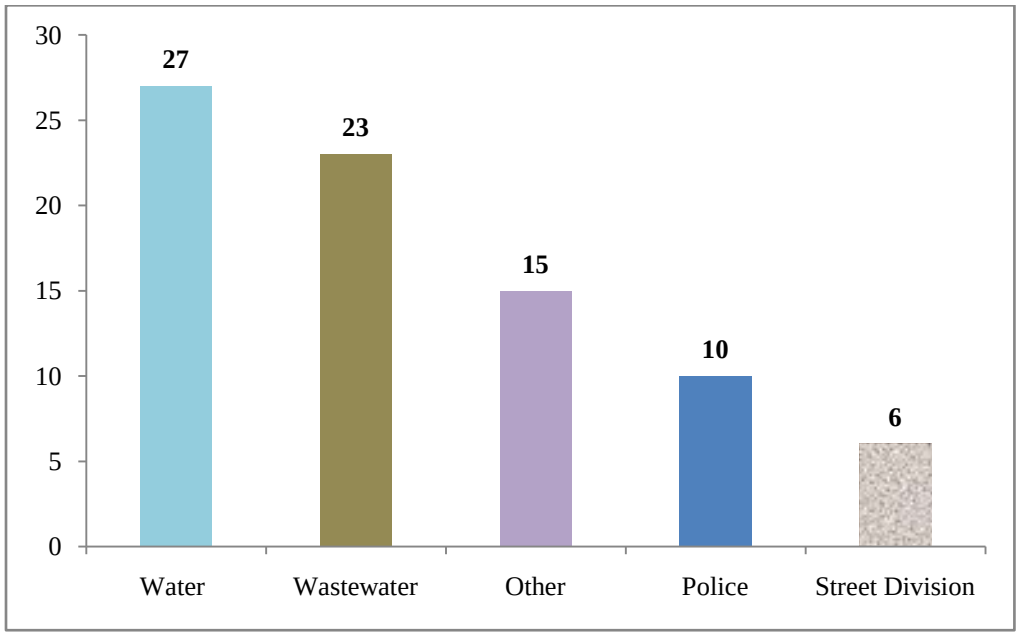
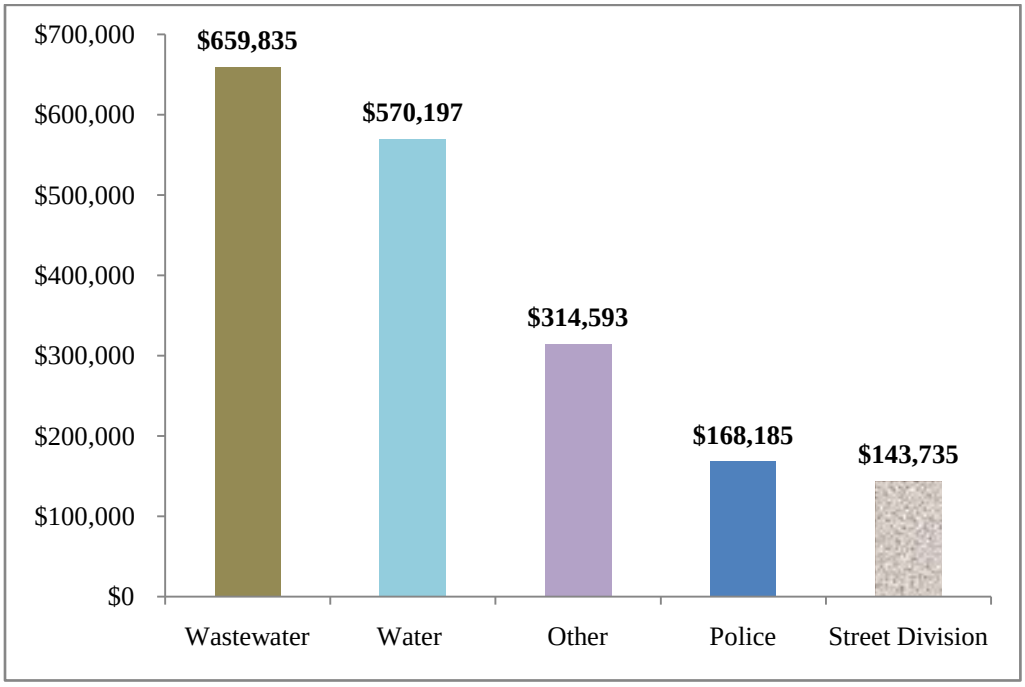


Exhibit B-30: Total Amounts Paid



Claims Paid and Closed with Total Costs between $10,000 and $50,000,

Classified by Type of Claim

Exhibit B-31: Number of Claims

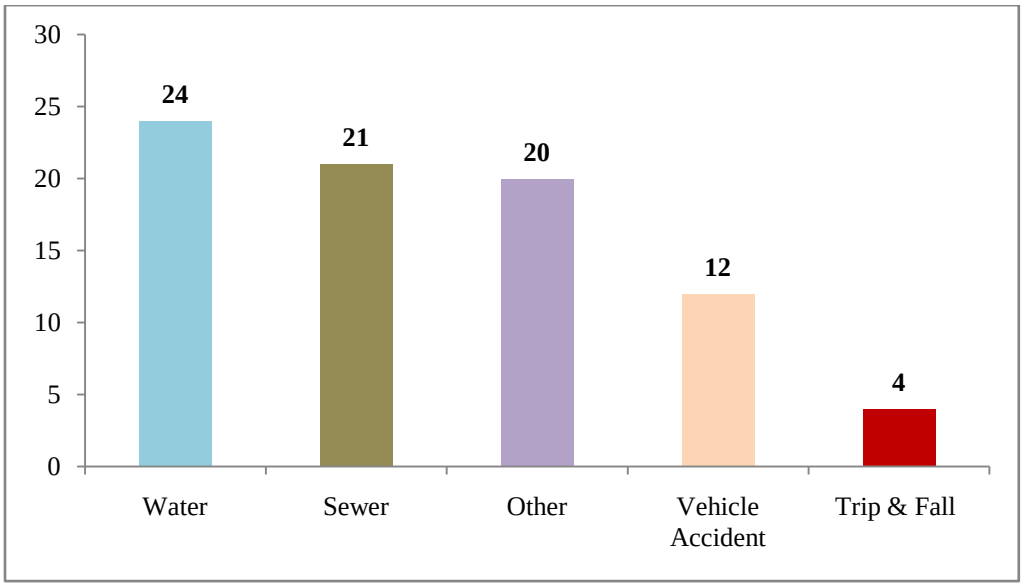
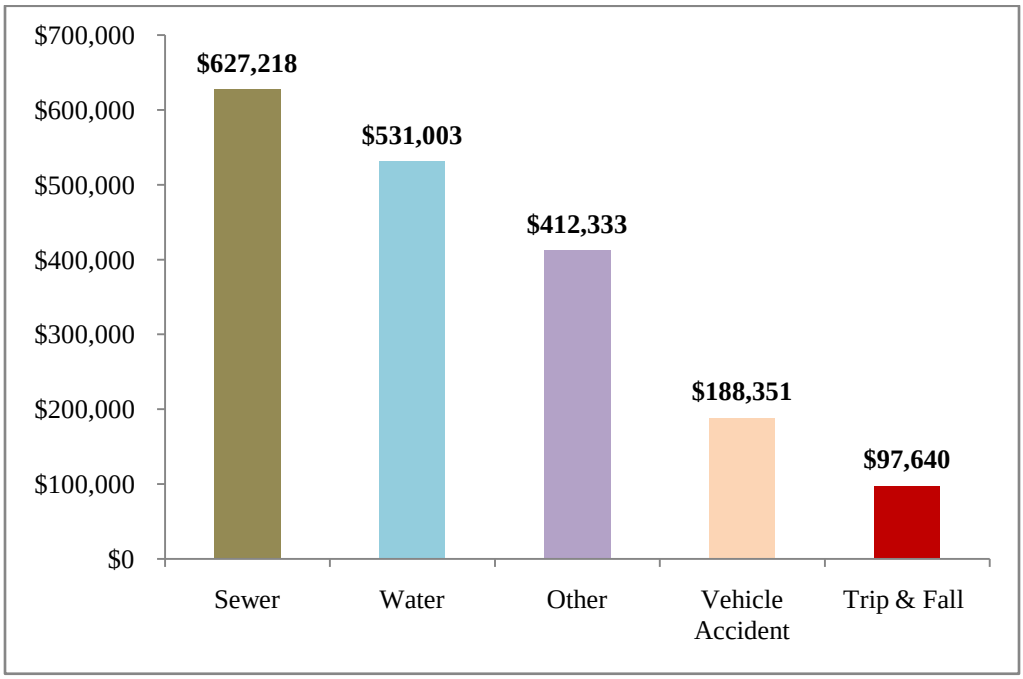


Exhibit B-32: Total Amounts Paid



Claims Paid and Closed with Total Costs over $50,000, Classified by Department or Division

Exhibit B-33: Number of Claims

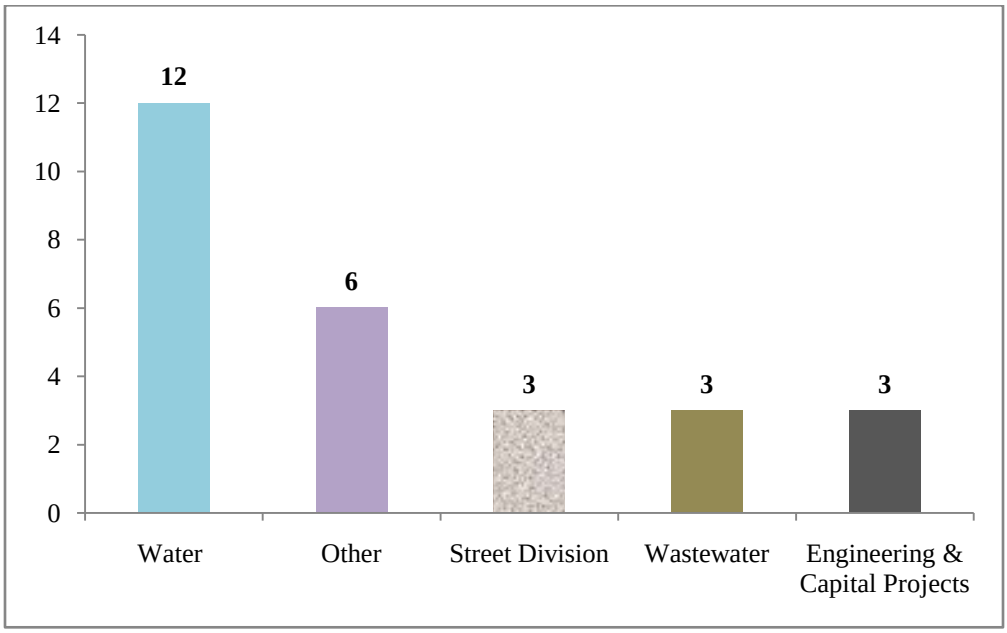
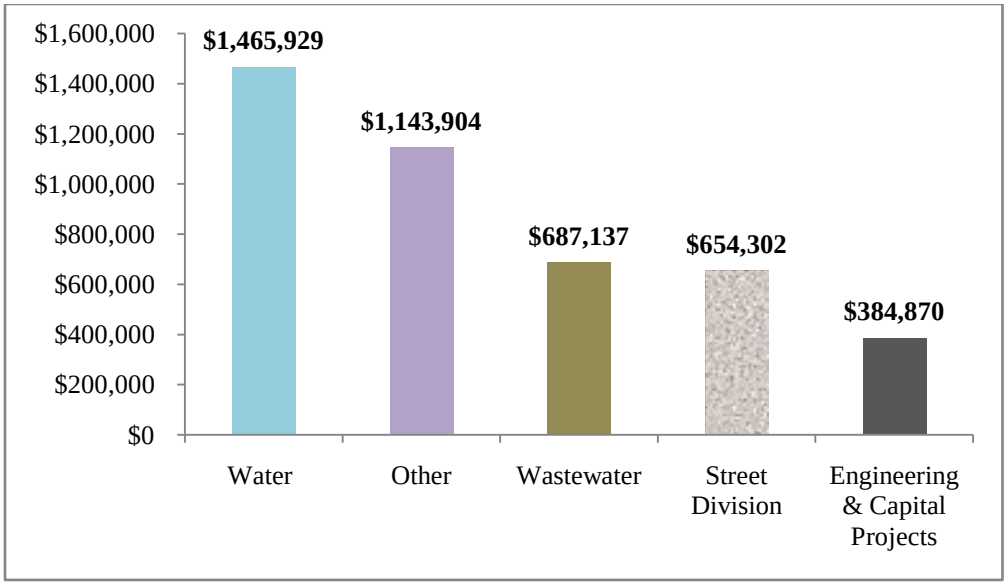


Exhibit B-34: Total Amounts Paid



Claims Paid and Closed with Total Costs over $50,000, Classified by Type of Claim

Exhibit B-35: Number of Claims

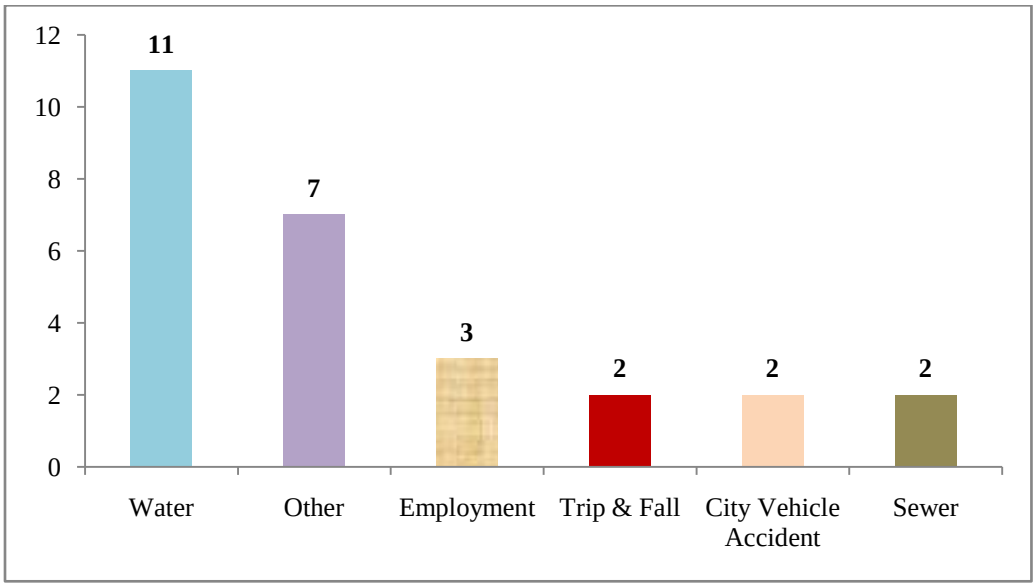
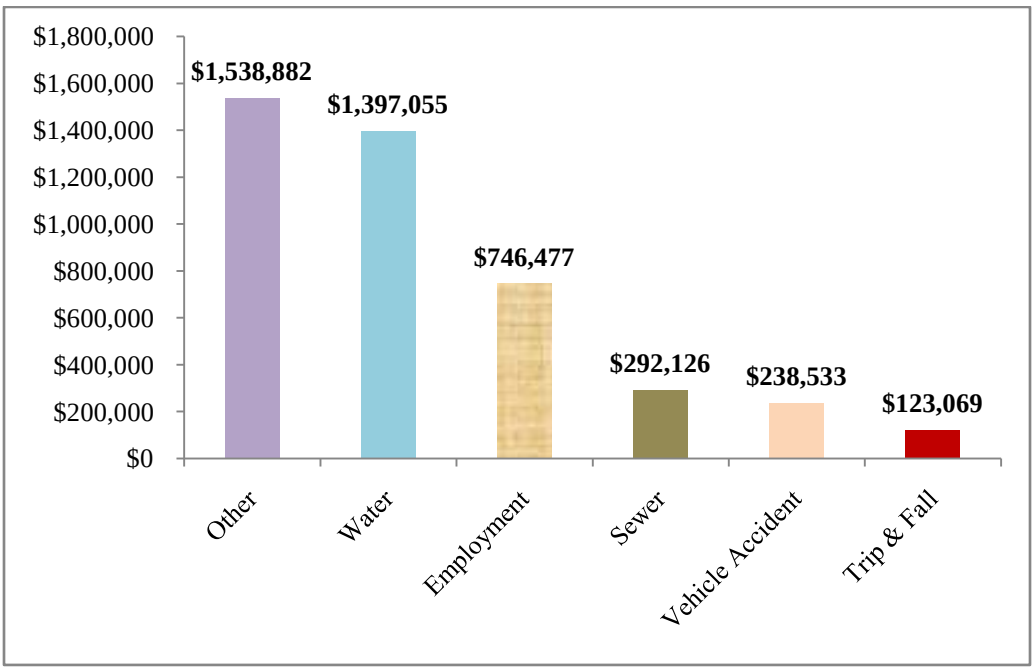


Exhibit B-36: Total Amounts Paid



Appendix C: **Suggested Contents for a Risk Management Report**

Report transmittal letter

I. Introduction or executive summary.
II. Mission statement, vision statement, authority and responsibilities for the risk management function.
III. Structure, budget, staffing, organizational chart and other relevant administrative information for the risk management function.
IV. Snapshot of risk position, including liabilities, available funding and a schedule of coverages
V. Summary of current fiscal year results
VI. Summary of significant issues from actuarial reports
VII. Claims statistics – detailed tables and charts
    a. Workload figures (number of claims per adjuster, average time to process a claim, etc.)
    b. Number, total cost, and average cost of claims by department
    c. Number, total cost, and average cost of claims by type of claim (for example, "trip-and-fall" or "employment discrimination")
    d. Number, total cost, and average cost of claims by type and department
    e. Number, total cost, and average cost of claims by geographic area or location
    f. Number, total cost, and average cost of claims by cause (i.e. hazard, such as "pot hole" or "open trench")
    g. Number, total cost, and average cost of claims by type of coverage (i.e. worker's compensation, general liability, etc.)
    h. Historical trending (three to five years) of all the above data.
    i. Narrative discussion of high-dollar, outlier claims
    j. Forecasting of anticipated or possible changes in claims trends based on economic, legal, or other environmental changes.
VIII. Recovery and subrogation efforts
    a. Total amounts recovered by department
    b. Total amounts referred for collection
    c. Potential opportunities for recovery
    d. Historical trending
IX. Reporting of all fraud-related findings
X. Discussion of loss control activities, including the cost and value of such activities and the estimated savings resulting from them
XI. Cost of risk
    a. Comprehensive cost (insurance premiums, self-retention, claims processing, loss control, and other costs)
    b. Cost per unit driver (examples of unit driver can be a resident, employee, city vehicle or some composite)
    c. Narrative discussion of changes and trends
XII. Discussion of planned risk management initiatives

Appendix D: **Summary of Observations Related to Outdated Public Liability Policies, Administrative Regulations and Other Documents**

1. The settlement authorization limits documented in the Council Policy 000-09 have not been significantly changed since at least 1993. Claims adjusters have a field settlement authority of $5,000, with the approval of the Claims Manager or Supervisor, which does not take into consideration the small claims court dollar limit of $7,500;
2. The Council Policy 400-10[36] was last updated in 1985, and has not been subsequently reviewed for completeness and accuracy with current processes;
3. Administrative Regulation (AR) 62.10[37] and AR 63.10[38] were last updated in 1970, and include references to subsequently renamed or absorbed departments and divisions. They also include references to other concurrently repealed or subsequently renamed ARs;
4. Section 911 of the California Government Code (Government Code) provides a six month timeframe for the filing of claims against a government entity consistent with current Public Liability processes. However, Section 110 of the San Diego City Charter, which is not referenced in Public Liability controlling guidance, establishes a shorter deadline of 100 days. Preliminary guidance from the City Attorney's Office has indicated that Section 911 of the Government Code supersedes Section 110 of the San Diego City Charter, but this clarification is not included in Public Liability policies or procedures, and could result in confusion of or misinterpretation by staff;
5. The claim form[39] expected to be used by claimants against the City, and advertised as such on the City's website, has not been updated since approximately April 2000, and includes inaccurate California law code references. It refers to "Insurance Code §556.1," which does not appear to exist in the current version of the Insurance Code, and should instead be §1871. The form also does not make reference to the Government Code §12650 which specifically is referred to as the "False Claims Act." As the primary tool used by claimants, this form should be accurate and complete with the correct Insurance and Government Code sections to ensure the appropriate understanding of the impact to a potential claimant for filing a false claim against the City.

[36] Council Policy 400-10 for "Claims Related to Water Main Breaks and Sewer Backups" is available at http://docs.sandiego.gov/councilpolicies/cpd_400-10.pdf.
[37] AR 62.10 is titled and relates to the "Procedure for Processing Personal Injury and Property Damage Claims."
[38] AR 63.10 is titled and relates to the "Recovery of City Costs for Employee Absences Caused by Other Persons."
[39] The claim form is available at http://www.sandiego.gov/riskmanagement/pdf/claim.pdf.