THE CITY OF SAN DIEGO

MEMORANDUM

DATE: April 6, 2011

TO: The Honorable Kevin Faulconer, Council President Pro Tem, and Audit Committee Members

FROM: Greg Bych, Risk Management Director

SUBJECT: Follow up to City Auditor's Report

This memorandum is an update of the Risk Management Department's progress in implementing the recommendations made by the City Auditor in September 2010 and references management's response to those recommendations.

The Public Liability division of the Risk Management Department is responsible for three primary functions: Claims against the City, Recovery for damages to City property (subrogation) and Insurance. While the Performance Audit included a review of functions performed within the division, it also looked at functions not currently performed by the division. In total there were 23 recommendations. Management agreed to implement 11, partially agreed to implement 6, and disagreed with 6 of the recommendations that were made.

Management's response included best estimate timelines for implementation of the agreed upon recommendations and acknowledged the need for additional resources for the broader recommendations to implement functions not currently performed by the department, such as a comprehensive, multi-departmental, enterprise risk management program. Management is committed to adhering to the timeline prescribed in its response to the Audit findings.

To date, Risk Management has successfully completed five of the recommendations. Additionally, Risk Management has engaged in a collaborative effort with the Office of the City Attorney to resolve 3 additional recommendations.

Completed recommendations: 4, 6, 9, 19, 23
Recommendations pending actions by the Office of City Attorney: 7, 17, 21

The nine pending agreed upon recommendations are not yet due but management is committed to continue to complete these recommendations within the timeline specified in Risk

Management's response to the Audit report. It is management's goal to have the majority of these items resolved by June 30, 2011.

Pending recommendations not yet due: 1, 2, 3, 10, 11, 12, 13, 14, 16

In summary, management will complete the agreed upon recommendations. Upon the successful implementation of the agreed upon recommendations, management will research the establishment of an Enterprise Risk Management (ERM) approach for the City given current operational demands and available resources.

Valerie Vandewegha

for Greg Bych
Risk Management Director

GB/cc

Attachments: Recommendations Status Update

Cc: Jerry Sanders, Mayor
Jay Goldstone, Chief Operating Officer
Andrea Tevlin, Independent Budget Analyst
Mary Lewis, Chief Financial Officer
Eduardo Luna, City Auditor

Recommendations	Response	Details	Status
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	Partially agree	The Audit makes references to "enhancing practices" but does not fully expand on why these practices were chosen or the methodology used to rate the Risk Management Department against them An "enhancing practice" is not a professional standard Audit staff has indicated that an "enhancing practice" is a practice found elsewhere by the Auditor in their research which they deemed to be superior to the City's practice. However, absent from the comparison is a thorough analysis of how the City's needs, and its corresponding practices, compared to the practice of the other organization using the enhanced practice A concern with this approach is that the sources cited with enhanced practices differ significantly from the structure and risk profile of the City, resulting in findings that are not applicable	Due Date 6/30/11
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	Partially agree	Risk Management disagrees that an annual department survey would be a value added benefit An annual survey would not be the best utilization of limited resources and that would require staff support in the departments Risk Management agrees that analyzing historical claims data and providing department reports on a quarterly basis would be beneficial, and currently applies this practice with enterprise fund departments as they have been the only departments to request such information historically Risk Management agrees with the recommendation of providing data reports to those departments that request it and notes that, absent department resources dedicated to analyze the data provided, the impact of producing the reports may be minimal The funding for additional staff hours needs to be evaluated in light of the significant budgetary reductions in FY 2011 and FY 2012 This cost/benefit analysis will be conducted in the preparation of the FY 2012 budget and results reported in the fourth quarter of FY 2011	Due Date 6/30/11
3 Risk Management, with the assistance of an actuarial consultant, should develop and implement cost allocation methodology for City departments to assess the costs of general liability claims.	Agree	There are additional services that can be obtained from an actuarial consultant Currently, Risk Management limits the usage of such services due to financial constraints. A cost analysis needs to be evaluated in light of anticipated budgetary constraints for FY 2011 and FY 2012 This analysis will be conducted in conjunction with the preparation of the FY 2012 budget and reported in the fourth quarter of FY 2011	Due Date 6/30/11
4. The City Administration should consider actions taken by other cities to limit sidewalk repair responsibility and to take appropriate action to limit the City's liability related to sidewalks.	Agree	However, action to this recommendation falls outside of the span of control for the Public Liability division and can best be directed to the Office of the City Attorney Staff from the City Attorney' Office has advised that they are currently exploring legal options available to limit the City's liability related to sidewalks and expect to present a recommendation to City Council within the next quarter.	Completed. CAO issued a MOL on January 28, 2011.

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	Disagree	A "working group" structure is not the best way to conduct risk mitigation, particularly in an organization with limited resources Each department's operational exposures and risk mitigation strategies are significantly different Risk Management believes that its response to recommendation #2 above best addresses the City's need to maximize risk mitigation across all city departments, by aligning department loss information with the management directly responsible for its mitigation However, as noted under response to recommendation #2, Risk Management notes that, absent department resources dedicated to analyze the data provided, the impact of producing the reports may be minimal	
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 addressing frequently asked questions.	Partially agree	Risk Management already has a detailed safety training curriculum for employees, known as the Injury & Illness Prevention Program (IIPP) However, this program is directed towards employee workplace safety Consistent with Risk Management's response to recommendations #2 and #5, Risk Management believes that the most effective way to maximize risk mitigation across all city departments is by aligning department loss information, including hazard assessment training, with the management directly responsible for its mitigation	Completed. Loss Recovery now has a section in the City's Internet and Intranet under the Risk Mangement Department/ Public Liability
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 000-009 to be consistent with agreed-upon reporting	Agree	Risk Management, in the first quarter of calendar year 2011, will coordinate with the office of the City Attorney to solicit City Council feedback and update Council Policy 000-009 if necessary	Due 3/31/11
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.	Disagree	Upon the completion of 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 000-009 to be consistent with agreed-upon reporting", policy and reporting criteria will be clearly established No additional polices to further detail Council Policy 000-009 are required	
9 Risk Management should formalize and document the claim reserving approach and periodically review it with the City's actuary	Partially Agree	Risk Management already has a formalized claims reserving approach Risk Management agrees to document that methodology and agrees to include a discussion of claim reserving as a part of its annual actuarial review by the end of the calendar year	Completed. Process Narrative submitted to Comptroller's office for review and approval.
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.	Agree	In depth marketing efforts are conducted annually by the City's insurance pool, CSAC (California State Association of Counties). Because of its large size, CSAC relies on extensive buying power for each of their insurance programs. Risk Management will retain documentation of the annual marketing efforts Risk Management does retain historical information on its self-insured retention limits, excess liability coverage and premium costs	Due 6/30/11

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	Partially agree	Risk Management currently performs reviews of the self-insured retention limit, excess liability limits, and related premiums on an annual basis to assess the best limits to maintain and validate the reasonableness of insurance costs This is typically done in conjunction with the preparation of the City's annual budget and the city's annual renewal of its insurance Risk Management will continue its practice of annual insurance reviews and in conjunction with the FY 2012 budget development will document this process by the fourth quarter of FY 2012	Due 6/30/11
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.	Agree	Risk Management will document the process associated with the annual renewal, mid-year changes and other periodic reviews of insurance coverage by the end of FY2011	Due 6/30/11
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 best practices. These processes should incorporate formalized communication about and advertisement of the loss recovery function, including on the internal and external Risk Management websites	Agree as discussed under response to recommendation #6	Risk Management will also review processes and will document the loss recovery function to ensure compliance with Administrative Regulation 45 80 in the second quarter of FY 2012.	Due 12/31/11
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	Partially agree	As discussed under response to recommendation #3, Risk Management will conduct a cost analysis to evaluate budgetary constraints for FY 2011 and FY 2012 This analysis can be conducted in the fourth quarter of FY 2011	Due 6/30/11

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; b Any internally or externally developed reports or analysis including, but not limited to, risk control, cost allocations and claims reviews; and, c Claim reserving practices developed, formalized and implemented	Disagree	With respect to the annual actuarial process, Risk Management has procedures in place that have been reviewed and documented by the City's external auditor, Macias Gini & O'Connell. The actuarial results are provided to the City Comptroller for use in the City's CAFR. As discussed in the response to recommendation #3, there are additional services that can be obtained from an actuarial consultant and included as part of the City's annual actuarial review. As discussed in the response to recommendation #9, Risk Management already has a formalized claims reserving approach.	
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	Agree	As discussed in the response to recommendations #7 and #13. Further, Risk Management is part of the citywide effort to update administrative regulations and is consistent with the assigned time lines designated per department. Completion of updates is expected by the first quarter of FY 2012	Due 3/31/12
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.	Agree	However, compliance with this recommendation will require actions by the Office of The City Attorney as they will need to issue a legal opinion and present possible changes to the City Charter. Changes to the City Charter require a public vote. Risk Management staff will immediately request an opinion from the Office of the City Attorney	The City Attorney's Office is currently workinng on this item. DCA Cathy Bradley.
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.	Disagree	Risk Management's process for receipt, handling and resolution of public liability claims is governed by the California Government Code. Risk Management staff currently abides by and adheres to specifications as dictated by the Government Code.	
19 Risk Management should obtain or develop formalized staffing and workload benchmarking to monitor workload levels, measure staff performance and substantiate future budgetary requests.	Agree and have already completed	Documentation is now on file from the City's insurance pool. Industry standards reflect an average caseload of 125-150 claims per adjuster. The Public Liability division adjusters currently carry a caseload averaging 250 claims per adjuster. These workloads are documented as the Risk Management department requests permission to fill departing vacancies, however no new additional resources have been requested given ongoing year over year budget reductions.	Completed. Process Narrative submitted to Comptroller's office for review and approval.

20: Risk Management should develop and implement legally defensible documentation standards for claimants that would permit the rapid denial of claims lacking sufficient evidence Documentation requirements should be included on the City's claim form and / or Risk Management's external website.	Disagree	As previously mentioned under response to recommendation #18, claims handling is strictly governed by the California Government Code. With the exception of a "notice of insufficiency," the Government Code does not provide the legal basis for a "rapid" denial due to lack of evidence Additionally, the Risk Management website currently does provide thorough information regarding the City's claim process and the documentation needed to support a claim	
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	Agree	Risk Management will include an assessment of current authorization limits in conjunction with the review of Council Policy 000-009 in the first quarter of calendar year 2011	This item is with the City Attorney's Office. DCA Joe Cordileone.
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	Disagree	Adjusters must be able to rely on their ability to objectively evaluate the merits of each claim and draw on their experience before reaching a conclusion in the outcome of a claim. Predetermining a claim outcome based on one factor is not a legitimately defensible position.	
23: The City Administration should transfer the responsibility for vehicle post-storage hearings being performed by Risk Management to the San Diego Police Department		Management agrees to review the current process and division of labor in handling post storage hearings Since both Risk Management and the Police Department are responsible for this function, a review of the rationale for splitting the duties and the potential to streamline and maximize staff resources is worthwhile Risk Management will immediately begin discussions with the Police Department, and a determination of the appropriate work flow and departmental responsibilities for post storage hearings will be completed by January 2011.	Completed. Effective date of transfer to PD was 1/31/11.

Agree= 11
Partially Agree= 6
Disagree= 6