

City of Palo Alto

Office of the City Auditor

April 19, 2005

Honorable City Council
ATTN: Finance Committee
Palo Alto, California

Audit of the City's Workers' Compensation Program

Workers' compensation represents a substantial cost for the City of Palo Alto (City). Over the last five years (fiscal years 1999-00 through 2003-04), the City incurred over \$11.3 million in costs from 803 claims, or an average of over 160 claims and \$2.2 million per year. Program administration costs the City about \$339,000 per year, including expenses in the Human Resources Department (HR) and at Athens Administrators – the City's third party administrator (TPA). In addition, the City paid over \$1.4 million in direct payroll costs as a result of workers' compensation claims (the equivalent of 12.4 FTEs per year) during the two years ended June 30, 2004, plus an undetermined amount of temporary salaries and overtime paid to other employees who filled in for disabled workers.

Palo Alto workers' compensation costs compare favorably to other Northern California cities and other public entities. Rising workers' compensation costs are a statewide problem. Compared to other California jurisdictions and recent medical cost increases, Palo Alto's overall workers' compensation loss history does not appear excessive. Palo Alto's loss rates per \$100 of payroll, the City's average cost per claim, and incident rates generally compare favorably with loss rates in 48 other Northern California cities that are self-insured. However, there are a number of steps that the City can take to further reduce costs, improve program administration, and ensure employee safety as described below.

The City needs to improve the timeliness of handling workers' compensation claims. According to state regulations, the employer has 5 days from the date it learns of the injury or work-related illness to complete the California form 5020 and to forward it to the administrator. Our analysis of claims showed that over 54% of the claims were not submitted to the TPA within the required 5 days. The average was 11 days. Timely response to injuries has been shown to be effective in reducing claims costs overall. We recommend re-emphasizing to supervisors the importance of immediately reporting injuries to the HR Risk Manager.

Workers' compensation costs can be further reduced through alternative work programs. The California State Department of Industrial Relations and City policies and procedures encourage departments to bring employees back to work as soon as possible. This helps the employee recover and holds down the workers' compensation costs. According to HR logs, 48% of cases being monitored showed no light duty work had been assigned to date. To minimize workers' compensation costs, department managers and line supervisors should be looking for light duty assignments for their injured employees, while ensuring the work is compatible with restrictions imposed by the employee's physician.

Workers' compensation costs can be further reduced by enhancing safety programs and ensuring they correlate with common injuries. Most of the City's high-risk departments have established safety committees. However, these committees are not provided complete information on which injuries occurred most frequently within their departments. This information would help ensure that departmental safety committees design safety programs that help reduce injuries. We also recommend better incentives to improve work place safety and to help reduce costs related to worker injuries.

The City should focus efforts on departments with high claims rates. Some departments have higher claims rates than others. Some employees in these departments file multiple claims, are more likely to file for disability retirements, have higher litigation rates, and have higher claims costs. Efforts to reduce workers' compensation costs should focus on these departments.

The City may see benefits from new workers' compensation laws. In 2004, addressing statewide problems in the workers' compensation system, the California Legislature passed several bills that reformed the Workers' Compensation requirements. The new laws changed benefits for medical treatment, temporary and permanent disability injuries, medical-legal procedures, and procedural administrative requirements. The City should proactively address the new changes and disseminate information about the new requirements to City employees, managers, and supervisors so that the City and its staff can take full advantage of the legislation which provides new opportunities for reducing the City's workers' compensation costs.

Our report includes a total of 22 recommendations to help reduce workers' compensation costs and improve administration of the program. I will present this report to the Finance Committee on April 19. Staff has reviewed the information in this report and generally concurs with our recommendations. The City Manager's response is attached.

We thank the staff in the Human Resources, Administrative Services, Fire, Police, Public Works, Utilities, Library, City Attorney, and Community Services Departments for their cooperation and assistance during our audit. We also thank the staff of Athens Administrators for their assistance during this review.

Respectfully submitted,

Sharon W. Erickson
City Auditor

Audit staff: Edwin Young

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INTRODUCTION

In accordance with the City Auditor's FY 2004-05 Work Plan, the City Auditor's Office has completed an audit of the City's Workers' Compensation program. The objective of our audit was to identify opportunities to control claim costs in the face of rising medical costs.

Our audit was conducted between June 2004 and March 2005 in accordance with generally accepted government auditing standards¹. The City Auditor's Office would like to thank Athens Administrators and the Human Resources, Administrative Services, Fire, Police, Public Works, Utilities, Library, City Attorney, and Community Services Departments for their cooperation and assistance during our audit.

Background

Workers' compensation is one of the oldest social insurance programs in California. It was adopted during the second decade of the 20th century as a no-fault system for injured employees. Under the program, an employee may receive limited statutory benefits for an on-the-job injury without having to prove it was the fault of the employer or anyone else. The no-fault system eliminates the need for litigation over whether an employer was negligent in causing the worker's injury.

There are three basic parts to the system:

- The benefit structure provides medical care, temporary and permanent disability benefits, vocational rehabilitation, and death benefits;
- The delivery system is primarily administered by private parties. These include insurance companies or third parties that are authorized by the employer to provide workers' compensation benefits. The California State government prescribes rules and regulations, oversees the provision of benefits, provides information and assistance, and resolves disputes through workers' compensation referees and its seven member Workers' Compensation Appeals Board (WCAB).
- Employers finance the workers' compensation benefits liability through private insurance, state insurance, or through self-insurance. Special funds provide additional benefits.

California law requires employers to have workers' compensation insurance, which is usually sold through insurance agents and brokers who represent more than 300 private insurers licensed to sell policies in California. The largest workers' compensation carrier is State Compensation Insurance Fund (State

¹ Government Auditing Standards require a peer review every 3 years. Palo Alto's Office of the City Auditor is scheduled for a peer review in Fall 2005.

Fund). The State Fund is required to provide coverage to anyone who cannot obtain a policy elsewhere.

Some employers, such as the City of Palo Alto, self-insure for workers' compensation.² As a self-insured employer, the City of Palo Alto has the option of administering its own workers' compensation claims or contracting with a third party administrator (TPA) to provide these services.

The employer, insurers, and TPA are required to comply with the State of California and Federal laws, such as the California Labor Code and the Federal Americans with Disabilities Act. State laws impose time limits for distributing and forwarding forms and impose penalties for time delays in completing the forms or for delaying payments to the employee.

Under California state rules and regulations, once an injury occurs, the TPA is responsible for reviewing the claim, accepting or denying the claim, arranging for medical care, communicating promptly and clearly with the injured employee, paying bills for medical treatment and disability benefits, handling or managing the claim, and setting reserve levels sufficient to cover all of the expenses. State law governs allowable expenses.

The TPA pays medical bills associated with the job-related injury or illness. If an employee is temporarily disabled, the TPA makes payments to help replace lost wages. If an employee is permanently disabled, the TPA makes payments to compensate for the permanent effects of the injury. If the employee is not able to return to work, vocational rehabilitation is provided. In the case of a fatal injury, a death benefit is paid to the survivors. California law determines the amount of all such payments.

Insurance Coverage

The City is self-insured up to a maximum of \$750,000 per claim. The City purchases excess insurance to cover claims over \$750,000 from the California Public Entity Insurance Authority (CPEIA)³. In 2003-04, the City increased its self-insurance amount from \$500,000 per claim to \$750,000 per claim to reduce its excess insurance costs. The excess insurance policy cost \$226,610 in FY 2003-04; \$265,000 in FY 2004-05; and is expected to cost \$317,000 in FY 2005-06.

² California employers may self-insure if they have a net worth of at least \$5 million, net income of \$500,000 per year, post a security deposit, and are approved by the state.

³ The CPEIA and its sister organization, the CSAC Excess Insurance Authority, have been operational since October 1979. Their membership includes 53 of 58 California counties and 90 cities, school districts, special districts, and joint power authorities. The City's insurance coverage for excess workers' compensation includes pooled coverage of at least \$50 million (\$5 million per occurrence plus \$45 million per occurrence through reinsurance) through CPEIA.

Third Party Administrator - Athens Administrators

The City contracts with a TPA, Athens Administrators (Athens), to administer the workers' compensation program at a cost of \$178,500 per year.⁴ The contract includes:

- Claims administration services,
- Processing all workers' compensation claims in accordance with the California Labor Code regulations,
- Retaining services related to the investigation and defense of claims,
- Engaging the services of medical providers,
- Determining what benefits should be paid, and
- Handling all necessary forms for each reported claim in a timely manner as required under the workers' compensation laws.

Athens files monthly and annual reports with the City's Risk Management and Safety Manager in the HR Department. The reports provide detailed data on the status of claims; types of claims; amounts paid, reserved and incurred for each claim; reports on checks issued on behalf of the city; and reports on the types of claims, claims by departments, and claims by type of injury. Annual reports compare the city's performance against other Athens clients.

The HR Risk Management and Safety Manager administers the Athens contract, monitors Athens' performance, and periodically meets with the contractor to provide guidance and direction on behalf of the City.

Workers' Compensation Processes

According to the California State Department of Industrial Relations (DIR) regulations, an employee is required to report an injury or illness to the supervisor the day of the incident. The supervisor must (1) give the employee the California Division of Workers' Compensation (DWC) Form DWC-1, "Employee Claim for Workers' Compensation Benefits", to complete; (2) send the employee to a City designated medical center or the employee's pre-designated doctor; (3) complete the City form, "Supervisor's Report of Injury"; and (4) complete the California Form 5020, "Employer's Report of Occupational Injury or Illness". (See flowcharts in Appendices 1 and 2.)

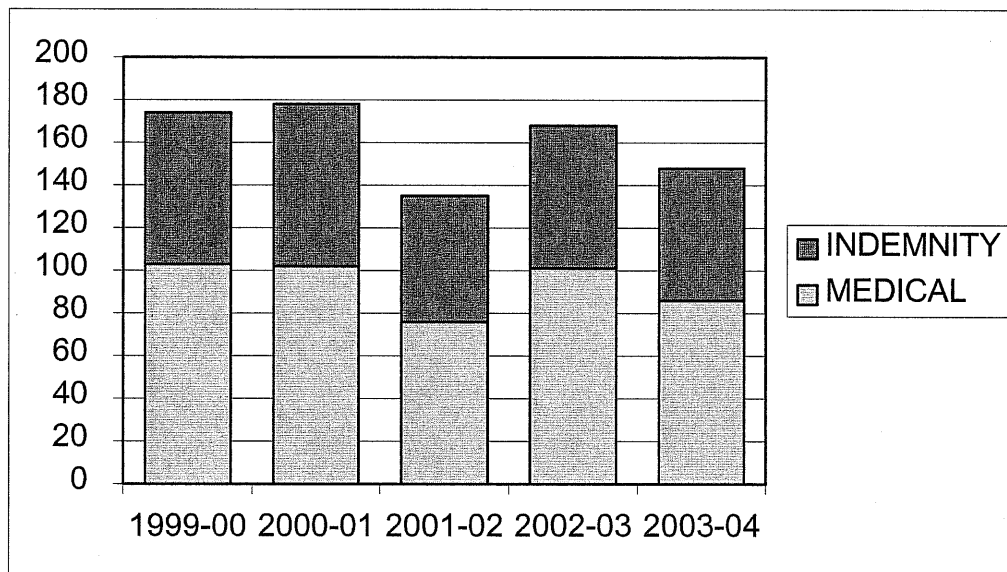
As TPA for the City, Athens investigates, accepts, or denies claims. There are three major categories of claims:

⁴ The contract was awarded through a request for proposals sent to five firms in April 2003. Three firms submitted proposals and an advisory committee consisting of the Human Resources staff and a claims auditor selected Athens Administrators after reviewing each firm's qualifications, public agency experience (particularly with public safety employees under California Labor Code Section 4850 benefits), stability of ownership and experience, ability to innovate programs and services, customer service capability, and other factors. According to CMR:326:03, Athens Administrators was selected because it demonstrated over the last 9 years (since 1994) its ability to provide a high level of quality, service, and results in its claims administration services; was responsive to the City's needs; and assisted the City in significantly reducing its claims costs.

- Medical only claims are claims that involve little or no time lost from work (3 days or less) and no disability payments.
- Indemnity claims that involve temporary disabilities. Temporary disability claims involve payments for 3 or more days lost from work, tend to be more serious injuries, and provide payments for lost wages. Temporary disability claims are divided into total and partial disability claims.
- Indemnity claims also involve permanent disabilities. Permanent disability benefits (either permanent total disability or permanent partial disability) are paid to workers who never recover their full functions after an injury. These claims are further divided into major and minor claims.

As shown in Exhibit 1, medical claims constituted over 58% of the 803 claims filed during the last five fiscal years.

Exhibit 1: Number of Medical and Indemnity Claims by Fiscal Year
(FY 1999-00 to FY 2003-04)



Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

If Athens accepts the medical only claims, it pays the medical claims from the City's bank accounts. If the indemnity claims are accepted, Athens uses the California Labor Code to decide the type of disability, the percentage of disability, the payment amount, and the period of payment. Athens issues payments from the City's bank accounts.

If an employee disagrees with the Athens decision, the employee may request a hearing before a California State DWC referee and/or file an appeal with the California Workers' Compensation Appeals Board (WCAB). The employee may retain a lawyer. A settlement may result from several options. The employee's lawyer may negotiate a settlement; the hearing referee may issue a decision; the WCAB judge may issue a decision on the appeal; or the settlement may result from conferences or post-judgment negotiations. Athens will consult with the

City's Risk Management and Safety Manager when lawyers are needed to defend Athens' decisions and to decide which lawyers to hire.

Doctors issue a work status report for the employee that indicates when the employee may return to work; any work limitations (such as maximum weight that may be lifted, sitting or standing requirements, or other limitations related to the injury); and whether the employee is permitted to perform transitional, modified, or alternative work.⁵

City policy and California Department of Industrial Relations recommend that employers return injured workers back to work as soon as possible because the longer an employee is off work, the less likely the employee will return to work. If an injured worker cannot return to work, the employee may be offered vocational rehabilitation if the injury occurred before January 1, 2004.

City's Workers' Compensation Costs

As of June 30, 2004, the City of Palo Alto had 225 open claims, filed between June 30, 1968 through June 30, 2004. The City's claims history for the last five fiscal years is shown below. Exhibit 2 shows the total number of claims filed by fiscal year, how many of those claims are still open, and how many are now closed. It also shows the dollar amount incurred as a result of those claims, the amount already paid against those claims, and the amount still held in reserve against those claims.

Exhibit 2: Palo Alto Workers' Compensation Costs and Claims
(FY 1999-2004) (as of 11/30/04)

FISCAL YEAR	CLAIMS			AMOUNT		
	OPEN	CLOSED	TOTAL	PAID	RESERVES	INCURRED
1999-00	10	164	174	\$1,425,350	\$167,578	\$1,592,928
2000-01	19	159	178	\$2,167,857	\$630,863	\$2,798,720
2001-02	17	118	135	\$1,410,680	\$633,579	\$2,044,259
2002-03	34	134	168	\$1,566,467	\$1,222,359	\$2,788,825
2003-04	47	101	148	\$825,579	\$1,262,482	\$2,088,062
TOTAL	127 ⁶	676	803	\$7,395,933	\$3,916,861	\$11,312,794

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

Exhibit 3 shows that the total estimated cost of workers' compensation claims and the average cost per full-time equivalent employee (FTE) fluctuate by fiscal year. The total estimated cost of claims averaged over \$2.2 million per year and over \$2,000 per FTE per year.

⁵ The California Department of Industrial Relations through its Division of Workers' Compensation defines return to work categories as follows: Transitional work allows the employee to perform some of the original job; or a different job. Modified work involves changes to the original job that allows the injured worker to perform that position. Alternative work involves moving the worker to another position within the City.

⁶ Excludes claims opened prior to fiscal year 1999-2000.

Exhibit 3: Average Workers' Compensation Costs per FTE

Fiscal Year	Total Amount Incurred	Total FTE (Including Temporary Positions)	Cost Per FTE
1999-00	\$1,592,928	1,049.25	\$1,518.16
2000-01	\$2,798,720	1,087.00	\$2,574.71
2001-02	\$2,044,259	1,112.25	\$1,837.95
2002-03	\$2,788,825	1,123.25	\$2,482.82
2003-04	\$2,088,062	1,094.35	\$1,908.04
TOTAL	\$11,312,794	5,466.10	\$2,069.63
AVERAGE	\$2,262,559	1,093.22	\$2,069.63

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

In total, we estimate workers' compensation claims and their administration cost the City about \$3,470,935 in FY 2003-04 including

- \$2,088,062 in claims costs
- \$178,500 in TPA costs
- \$160,095 in HR budgeted costs⁷
- \$817,668 in estimated disability leave
- \$226,610 in excess insurance policy premium
- Plus an unknown amount of overtime and temporary services to backfill for employees who were off work as a result of the claims.

As of June 30, 2004, the City had over \$5.4 million reserved for workers' compensation claims in its General Benefits and Insurance Fund. The amount of the reserves is determined by actuarial consultants who provide the City actuarial data at least once a year.

Scope and Methodology

To address the audit objectives, we reviewed the reports, databases and case files provided by Athens; analyzed claims data for fiscal years 1999-00 through 2003-04; and interviewed the Athens staff. We did not audit claims for appropriateness; nor did we audit claims payments.

We reviewed case files maintained by the HR Risk Management and Safety Manager; interviewed City staff and department managers responsible for administering workers' compensation and safety programs; and surveyed departmental safety officers. We selected a judgmental sample of 11 cases for detailed review. As of November 2004, the City had incurred workers' compensation costs totaling \$1.47 million for the 11 cases. The employees in these cases had filed a total of 74 workers compensation claims and, individually, some employees had filed as many as 13 claims.

⁷ HR budget for the Workers' Compensation program.

We reviewed State and City laws and regulations; reviewed reports issued by the State and other entities; and compared the City of Palo Alto data with workers' compensation data for other cities and entities.

We performed only limited testing to determine the accuracy and reliability of information in the Athens database. We compared data provided by Athens with data in the HR Risk Management and Safety Manager files and determined that, although errors existed in the database, the data was usable for purposes of the audit. We compared Palo Alto with other data provided by the California Institute for Public Risk Analysis⁸, Capital Actuarial Consultants⁹, and other resources.

⁸ CIPRA is a data gathering committee of the California Association of Joint Powers Authorities (CAJPA). CIPRA's mission is to collect, compile, and disseminate liability, workers compensation, and other risk management related information for the benefit of public agencies.

⁹ Capital Actuarial Consultants is an actuary used by the City to estimate its liability for self-insured losses and loss expenses related to the workers' compensation and liability claims.

Palo Alto Workers' Compensation Costs Compare Favorably with 48 Other Northern California Cities and Other Public Entities

Compared to other California jurisdictions and recent medical cost increases, Palo Alto's overall workers' compensation loss history does not appear excessive. Palo Alto's loss rates, the City's average cost per claim, and incident rates generally compare favorably with loss rates in 48 other Northern California cities that are self-insured. However, there are a number of steps that the City can take to further reduce costs, improve program administration, and ensure employee safety as described below.

Statewide Concerns

Rising workers' compensation costs are a statewide problem. According to one source, in 2002, California ranked first among the 50 states in cost, had the largest system in the nation, and covered injuries and illnesses not recognized as compensable in many other states. The Athens president also reported California indemnity claims ranked seventh in frequency and California was nearly 30% above the average for all states. The number of major permanent partial disability claims more than doubled between 1995 and 2000 to \$1.2 billion and accounted for 61% of the increase in claim costs incurred.

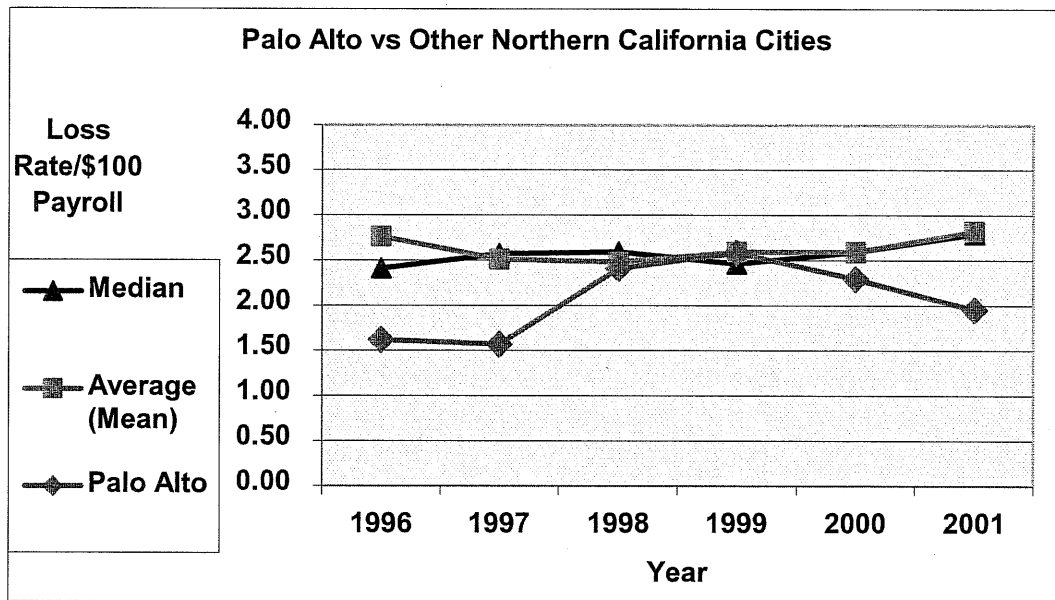
Palo Alto Compares Favorably with Nearby California Cities

In our opinion, compared to other California jurisdictions and recent medical cost increases, Palo Alto's overall workers' compensation loss history does not appear excessive. As shown in more detail in Appendices 3 to 6 and in the exhibits below, Palo Alto's loss rates, average cost per claim and incident rates generally compare favorably with loss rates in 48 other Northern California cities that are self-insured.²

For example, as shown in Exhibit 4, Palo Alto's loss rate per \$100 payroll was lower than the median and mean for other Northern California cities for 5 of the 6 years from 1996 through 2001.

² The source of these comparisons is a California Institute for Public Risk Analysis (CIPRA) report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001. The CIPRA rates and costs are for 3-year periods ending June 30 of the year indicated. According to CIPRA, 90% of cases are closed after 3 years. It should be noted that no other city in California offers a full complement of utility services like Palo Alto.

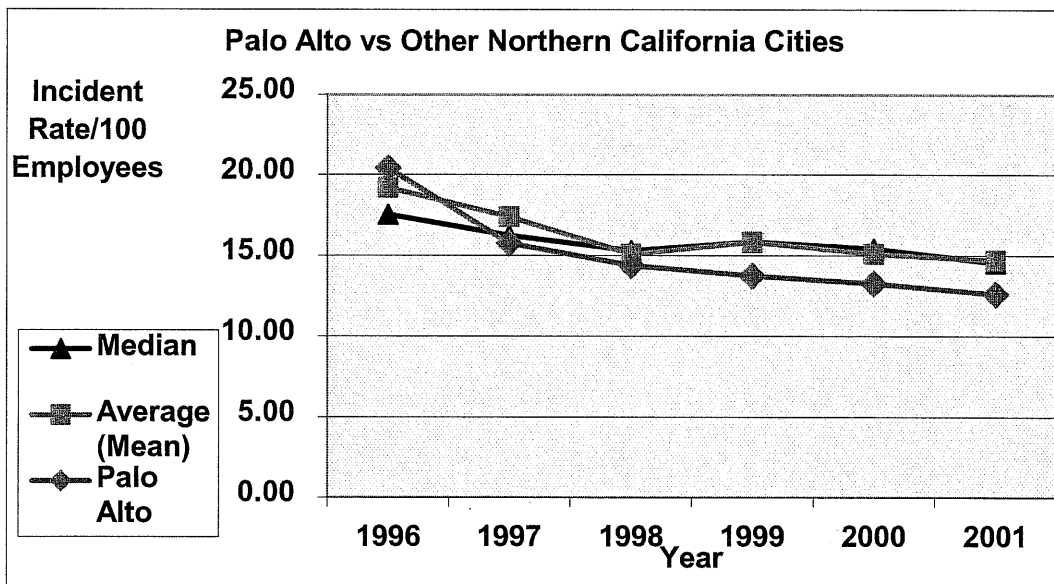
Exhibit 4: Palo Alto Loss Rate versus 48 Other Self-Insured, Northern California Cities (Non-JPA¹⁰)



Source: Auditor analysis of California Institute for Public Risk Analysis data

Similarly, Palo Alto's incident rate per 100 employees was below that of other Northern California jurisdictions from 1997 to 2001, as shown in Exhibit 5.

Exhibit 5: Palo Alto Incident Rate versus 48 Other Self-Insured, Northern California Cities (Non-JPA)

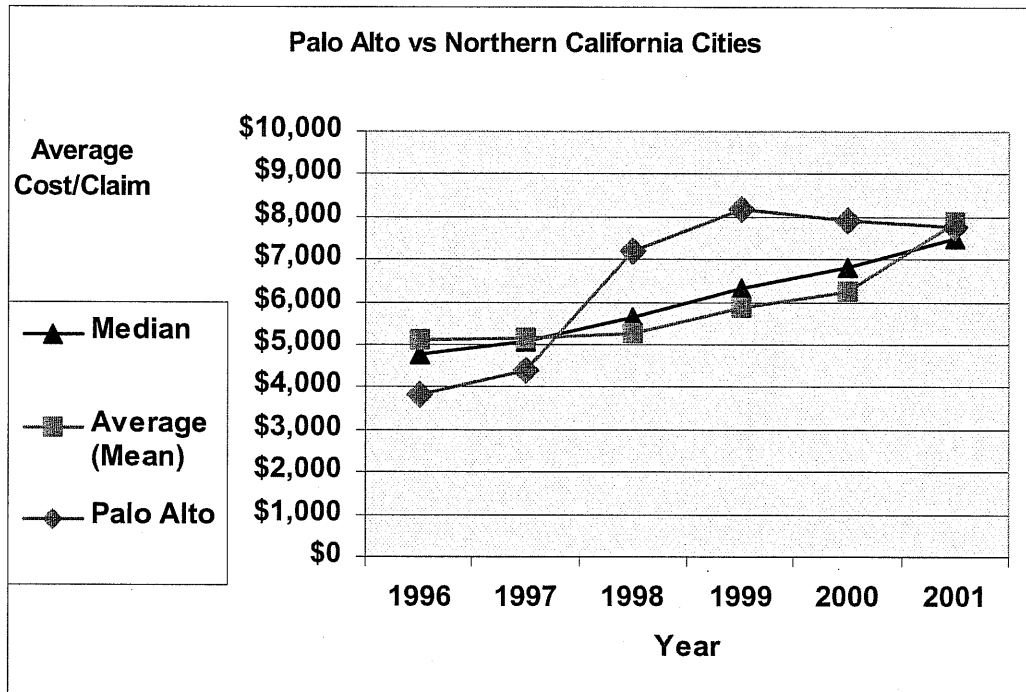


Source: Auditor analysis of California Institute for Public Risk Analysis data

¹⁰ CIPRA compiles data on cities that belong to joint powers authorities (JPA) for administering workers' compensation claims and for non-joint powers authorities (non-JPA) cities. Palo Alto is a non-JPA city. The graphs compare Palo Alto with other non-JPA cities in Northern California.

Palo Alto compared less favorably on average cost per claim – ranking higher than median and mean for 1998 to 2000 as shown in Exhibit 6.

Exhibit 6: Palo Alto Average Cost per Claim versus 48 Other Self-Insured, Non-JPA Cities in Northern California



Source: Auditor analysis of California Institute for Public Risk Analysis data

Athens' Assessment of Palo Alto's Claims History is Favorable.

For fiscal year 2003-2004,¹¹ Athens also reported that Palo Alto's average cost per lost time or indemnity claim averaged 19% below the state average. The average incurred cost per indemnity claim was \$26,593 per claim for 2003. Palo Alto's cumulative closure rate was 82% and ranked number 3 among its clients.

In fiscal year 2002-2003, Athens reported Palo Alto ranked second lowest among 11 clients for average incurred cost per claim despite the high level of police and fire personnel in the City. Among Athens clients, Palo Alto had the third lowest ratio of indemnity to medical only claims (39%) and had the third highest total claim closure rate (83%). Savings in the indemnity claims and lost time claims offset the cost of medical only claims.

¹¹ Source: Athens Administrators' report, "City of Palo Alto Self-Insured Workers' Compensation Program, Annual Program Review, Fiscal 2003/2004". According to Athens Administrators, it had 25 client organizations and 33 housing authorities for a total of 58 clients as of July 2004. The annual report compared Palo Alto against 10 of the 58 clients.

The City Needs to Improve The Timeliness of Handling Workers' Compensation Claims

According to state regulations, the employer has 5 days from the date it learns of the injury or work-related illness to complete the California Form 5020 and to forward it to the administrator. Our analysis of claims showed that over 54% of the claims were not submitted to the TPA within the required 5 days. The average was 11 days. Timely response to injuries has been shown to be effective in reducing claims costs overall. We recommend re-emphasizing to supervisors the importance of immediately reporting injuries to the HR Risk Manager.

City and State Reporting Requirements

The DWC-1 form must be immediately given to the employee or mailed to the worker within 24 hours of the injury. Once the employee returns the completed form, the supervisor has one day to complete the bottom section of the form and to forward it to the City's HR Department. The Risk and Safety Manager in the HR Department must process the form and forward it to the Athens within one day.

The supervisor usually submits the City form, Supervisor's Report of Injury, with the DWC-1 form. The City does not have a time limit for submitting the City form.

According to state regulations, the supervisor has 5 days from the date he or she learns of the injury or work-related illness to complete the California Form 5020 and to forward it to the HR Department. The HR Risk Management and Safety Manager must process and forward the Form 5020 to the TPA within the same 5 days.

Forms Processing Exceeds State Requirements

Our analysis of injuries reported to Athens between July 1999 and June 2004 showed that several departments in the City were not complying with the workers' compensation program timeliness requirements. As shown in Exhibit 7, over 54% of the claims analyzed¹² were not submitted to the TPA within the required 5 days. The Community Services and Library¹³ Departments averaged 22.4 days to submit the required Form 5020 and the Fire, Police and Utilities Departments took 10 or more days on average to complete the Form 5020. The City averaged over 11 days to process and submit the required forms to Athens.

¹² Data for all the claims were not available. Analysis is based on only claims with complete data.

¹³ Community Services and Library departmental data are combined because the losses occurred before the Library and Community Services departments were separated.

Exhibit 7: Time Delays by Department (FY 1999-2004)

Department	Total claims	Average days to submit paperwork to Athens	Median days to submit paperwork to Athens	Processing/ elapsed time >5 days (number of Claims) ¹⁴	Processing/ elapsed time >5 days (% of Claims)
Police	178	10	8	100	63.30%
Utilities	142	10.1	7	77	61.60%
Fire	174	10.7	6	78	52.00%
Public Works	119	6	5.5	52	50.00%
Community Services/Library	130	22.4	5	51	46.40%
Admin Services	26	5.8	3	10	45.50%
Planning	5	7	3	1	20.00%
Other ¹⁵	16	4.1	3	3	27.30%
TOTAL/AVERAGE	790	11.3	6	372	54.31%
CALIFORNIA LAW		5			

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

Our detailed review of case files indicated the time delays were caused by several factors, including:

- Employees not reporting injuries in a timely manner;
- Employees and supervisors not reporting injuries until the employee returned to full duty;
- Workers' compensation forms not given to the injured employee within 24 hours of the injury or illness; and
- Departmental delays in processing claim forms.

According to one study,¹⁶ delays in reporting injuries can increase total costs as much as 18% in just two weeks and continue to climb. The California State Compensation Insurance Fund reports that failure to report injuries promptly can cause denials or delays in providing needed medical treatment, delay the employee's recovery and return to work, and could cause the employer to incur higher actual costs and lower productivity for a longer period. For example, injured employees who do not receive timely care are more likely to seek medical treatment on their own which can result in over-treatment; result in claims that cost 10% to 48% more than if the injuries were reported within one week of the injury; and have a negative impact on the employer's policy rates.

Under California law, delays in processing claims can also result in 10% penalties if claims are not processed within two weeks. The City's contract requires that Athens reimburse the City for any penalties that are the

¹⁴ Total claims and number of claims will not equal because data for all the claims were not available.

¹⁵ Other includes City Clerk, City Manager, City Auditor, City Attorney, and Human Resources.

¹⁶ "The High Cost of Delays, Findings on a Lag-time Study" by Glen-Roberts Pitruzzello. A study of 53,000 permanent partial and temporary total disability claims that occurred between 1996 and 1999. Published by the National Council on Compensation Insurance in Summer 2000.

responsibility of Athens. The City is required to pay for penalties if it is culpable for any delays. To avoid penalties, City departments have to process the required forms in a timely manner.

Recommendation

1. To ensure compliance with City and State requirements, HR should re-emphasize to supervisors the importance of immediately reporting injuries to the HR Risk Manager and completing and forwarding forms to HR in a timely manner.

The Athens contract also includes cost reduction guarantees for the City. Athens must close at least 32% of the indemnity claims reported during a service year and to maintain a closure ratio of 1:1 for indemnity cases in each calendar year. If any of these goals are not attained, Athens must credit the City \$5,000 of the annual service fee for each goal not attained. According to the HR Risk Manager, Athens met neither goal in 1997. In 1998, 1999 and 2003, Athens did not meet the second goal of achieving a 1:1 indemnity claim closure ratio and paid the City \$25,000.

Recommendation

2. Because of the importance of timely processing, HR should strictly enforce the Athens contract provisions regarding the timely closure of claims.

Workers' Compensation Costs Can Be Further Reduced through Alternative Work Programs

The California State Department of Industrial Relations (DIR) and City policies and procedures encourage departments to bring employees back to work as soon as possible. This helps the employee recover and holds down the workers' compensation costs. However, according to HR light duty logs, 48% of cases being monitored at one point in time showed no light duty work was assigned. To ensure workers' compensation costs are minimized, department managers and line supervisors should be looking for light duty assignments for their injured employees, while ensuring the work is compatible with restrictions imposed by the employee's physician.

Return to Work Efforts

The California State Department of Industrial Relations states that helping an injured worker to return to work is one of the most important things an employer can do to help the employee recover and to hold down the workers' compensation costs. Although some ongoing medical care may be needed, most employees are able to return to their jobs soon after an injury, often on the same day. These are called medical-only claims, because three days or less is lost from work.

According to the DIR, about 25% of workers' compensation injuries involve more than 3 days lost from work and tend to be more serious injuries. These workers are eligible for temporary disability payments that help replace their lost wages while they are off work. The DIR encourages employers to help employees get back to work as soon as possible because the longer an employee is off work after an injury, the harder it may be for them to return to work.

Workers who never recover their full function after an injury are eligible for permanent disability benefits (permanent total or permanent partial disability). Even these workers may be helped by a proactive employer with a return to work program.

According to the DIR, when helping an injured employee return to work, close communications are needed between the supervisor, the injured employee, and the treating physician. Those communications are needed to decide: the abilities and limits of the employee after the injury and during the rehabilitation period; what work can be done safely within the work restrictions; and how often the employee's condition should be checked. DIR reports that many job modifications cost the employer less than \$500, but a week of temporary disability payments can cost up to \$602¹⁷. DIR therefore encourages employers to make return to work cost-effective by changing attitudes, being flexible and proactive, and maintaining clear communications.

¹⁷ According to HR staff, the average weekly amount is higher for Palo Alto because the City provides full salary compensation for one year for safety personnel and 60 days for other employees.

City and Athens Back to Work Efforts

The City supplements the California guidelines by encouraging supervisors and City employees to keep in touch with the injured employee and the treating physician, and providing information needed by the employee. When the doctor says the employee is ready to return to work, supervisors are encouraged to help the employee by making modified or part-time work available within the medical restrictions imposed by the doctor.

Athens follows a 3-point contact program for its back-to-work program. Under this program, Athens keeps in touch with the employee and the employee's doctor, but relies on HR to contact supervisors and to follow up on any back-to-work efforts.

Types of Light Duty

The temporary duty assignments may be *transitional work* that allows the employee to perform some of the old job or a different job, *modified work* that involves changes to the original job that allows the injured worker to perform that position; or *alternative work* that involves moving the worker to another position within the City. An injured employee who cannot return to work, may also receive vocational rehabilitation for a new profession if the injury occurred before 2004.

Disincentives to Return to Work

Public safety personnel such as fire fighters and police officers are entitled to California Labor Code Section 4850 benefits. These benefits are non-taxable, allow public safety personnel to receive the equivalent of their full salary tax free, and can be paid for as long as one year. Although department managers have incentives to reduce overtime and keep costs within budget, individual firefighters and other public safety personnel may not have the same incentives when they file for workers' compensation benefits.

According to the HR risk management staff, miscellaneous employees are entitled to receive full salary continuation for 60 days. After 60 days, their pay is reduced to 66 2/3% of their regular salary under the workers' compensation program. The employee receives full pay under the modified duty program. So employees have incentives to file workers' compensation claims.

Direct Payroll Costs Average \$700,000 per Year

In addition to medical and direct claims costs paid through Athens, the City incurs direct and indirect payroll costs as a result of workers' compensation claims. As shown in Exhibit 8, the City paid over \$1.4 million in direct payroll costs as a result of workers' compensation claims, or the equivalent of 24.9 FTEs, during the two years ended June 30, 2004. This does not include indirect payroll costs

such as overtime paid to other employees who were asked to fill in for disabled workers.

Exhibit 8: Summary of Payroll Disability Hours and Cost (by Fiscal Year)

Fiscal year	Disability hours ¹⁸	Payroll cost	FTE
2002-03	23,026.25	\$638,876	11.07
2003-04	28,721.56	\$809,809	13.8
TOTAL	51,747.81	\$1,448,684	24.88
AVERAGE	25,873.90	\$724,342	12.44

Source: Auditor calculations based on City payroll data

As shown in Exhibit 9, losses due to workers' compensation claims hit the Fire and Police Departments the hardest. It should be noted that these two departments have 24 hour, 7 days a week operations with staffing requirements that frequently require overtime to cover missing employees.

For the 2 years ended June 30, 2004, the Fire Department lost about 19,920 hours that cost about \$573,190, and the Police Department lost 6,867 working hours that cost about \$246,530.

Exhibit 9: Disability Leave Hours and Costs by Department
(FY 2002-03 and 2003-04)

Department	FY 2002-03		FY 2003-04	
	Disability Hours	Cost of Disability Leave	Disability Hours	Cost of Disability Leave ¹⁹
Fire	10,625.50	\$304,776	9,294.40	\$268,414
Police	3,640.25	\$130,140	3,226.50	\$116,399
Community Services ²⁰	809.75	\$15,417	860.66	\$19,776
Public Works	4,796.00	\$104,103	6391.75	\$161,378
Utilities	2,377.50	\$68,631	7,802.75	\$214,713
Other ²¹	777.25	\$15,809	1,145.50	\$29,209
TOTAL	23,026.25	\$638,876	28,721.56	\$809,889

Source: Auditor's analysis of ASD payroll data for FY 2002-03 and 2003-04

Previously, the HR Risk Manager physically reviewed and signed off on all timecards coded for disability leave. Since the SAP implementation, hard copy signatures are not required. Under SAP, HR must preauthorize an employee to use disability leave before time can be charged. However, HR does not document its review of the use of disability leave.

¹⁸ SAP paycodes 7100 and 7200.

¹⁹ Estimated based on cost data for the first half of FY 2003-04.

²⁰ Library data included in CSD for FY 2002-03 and included in "Others" for FY 2003-04.

²¹ Other includes City Clerk, City Manager, City Auditor, City Attorney, and Human Resources.

Recommendation

3. HR should document its review of disability leave on SAP bi-weekly payroll reports or timecards.

Staffing impacts

Backfilling for injured staff can be problematic. A department may try to fill in with other staff on overtime, or may try to hire a temporary employee to fill the gap. However, overtime can be costly, and the allowable term of employment for a temporary employee is usually 1,000 hours.

Recommendation

4. HR should work with ASD to determine if there are circumstances under which a position should be backfilled using an “overstrength” position.
5. HR should determine whether a temporary employee category, not subject to the 1,000-hour limitation, could be established to backfill for a disabled employee.

Importance of Early Return to Work

The California State Compensation Insurance Fund (State Fund) advises that numerous studies have shown that injured employees recover faster when they are returned to work. The State Fund further advises that returning the injured employee to work – whether a modified or alternative job – is a key factor in reducing claim costs. The early return to work program can help reduce costs for temporary disability, lower medical expenses, and shorten the claim duration.

According to the State Fund, employers can work with the claims adjuster, the TPA, and the treating physician to consider ways to bring the employee back to the workplace as soon as possible. If the employee cannot perform his or her job, the employer can temporarily modify the job or create a transitional job that will provide meaningful work during the recovery period. The employer does not have to wait for the physician to determine an appropriate job. In many cases, the employer can offer the modified or alternative position prior to receiving work restrictions from the treating physician.²²

For example, if the employee has a foot, ankle, or leg injury, the employer can immediately offer a modified sedentary position. The employer does not have to wait for the physician to issue work restrictions that walking, prolonged standing, or ladder climbing would not be appropriate for the injured employee. In another

²² HR staff report they try to find modified duty or alternative temporary assignments based on physician restrictions and do not wait for the physician to identify an appropriate job.

example, the employer could adjust job tasks, hours worked per day, or the number of days worked per week.

The State Fund advises that it is important for the injured worker to maintain social, physical, and emotional connections to the workplace. When offered a modified or alternative position, it is the employee's responsibility to show up at work. As the employee's capabilities improve, the job should be changed until the physician releases the employee to regular work.

During the course of our review, we found that HR and department staff frequently had to prepare their own work status lists.

Recommendation

6. HR should require Athens to prepare disability reports that can be shared with department managers to monitor the work status of employees and their modified or alternative work assignments.

Nearly Half of the Cases That Were Being Monitored Showed No Light Duty Work

The HR light duty log is an internal working document that Risk Management staff use to track injured employees on temporary disability or modified duty. It does not include all workers' compensation cases. Our analysis of the HR light duty logs, an internal working document, showed over 48% of the workers' compensation cases on the log were not assigned to modified or alternative work. As of March 2005, 33 employees were listed on the light duty logs. Of the 33 employees, 16 (48.4%) were assigned to modified work duty, 16 (48.4%) were not working, and 1 (3.0%) had returned to full duty.

Our detailed review of the case files and claims filed by 11 employees showed that the 11 employees had filed 25 claims between fiscal years 1999 – 2004. Doctors authorized limited or modified duty for 14 of the claims. Light duty was assigned for only 4 of the 14 claims; light duty was not recorded for the remaining 10 claims. In summary, only 29% of the 14 claims resulted in light duty assignments that were documented.

Proactive light duty efforts can benefit both the employee and their departments. For example, an employee in the Police Department broke their arm (on the job) and was not released to return to work by their doctor. The department and HR worked for over 2 months to bring the employee back on light duty by repeatedly asking Athens to follow-up on the employee's status and by repeatedly offering light duty. The direct and indirect communications with the doctor resulted in the doctor releasing the employee back to work sooner than would otherwise have been expected. According to the Police Department, they have also been successful in bringing employees back to work by allowing telecommuting.

Recommendation

7. To the extent possible, HR, department managers and line supervisors should be looking for light duty assignments for their injured employees before the employee is released to work, at the same time ensuring the proposed work is compatible with restrictions that are expected to be imposed by the employee's physician.

Assignments Outside the Department

Presently, the City's Workers' Compensation Modified Duty Policy (Policy and Procedures 3-02/HRD) requires that modified work assignments shall be made in the employee's assigned department and that, generally, employees will not be placed in other departments "unless extraordinary circumstances exist". Some departmental managers have been reluctant to provide light duty assignments for injured individuals. For example, an employee in one department indicated a desire to return to modified work after HR and Athens encouraged the employee to return to work. The departmental manager discouraged HR from returning the employee to the department until the individual was able to return to full work duty.

To maximize the opportunities for returning injured employees back to work, we recommend this policy should be modified so that injured employees can be more easily provided modified duty assignments both inside and outside their departments. The policy changes may require discussions with the employee unions and changes to the union agreements.

Recommendations

8. To maximize the opportunities for modified or alternative work, HR should amend the Workers' Compensation Modified Duty Policy (Policy and Procedures 3-02/HRD) to encourage modified work assignments outside of the employee's home department if work is not available within the employee's home department.
9. HR should compile a listing of potential light duty positions across the City and should work with department managers and line supervisors to find modified or alternative work for injured employees outside their divisions when appropriate.
10. HR should explore the feasibility of using the Executive Staff Approval Committee (ESAC) to assign modified duty across departmental lines.

Fire Department Shift Assignments

Historically, the Fire Department only offered light duty on a 40-hour work week. This may discourage employees who are used to a 56-hour schedule from returning to work. The Fire Chief is interested in establishing a pilot program to

bring injured employees back to work on their regular shift. We agree this could have a beneficial effect on workers' compensation costs.

Recommendation

11. HR should work with the Fire Chief to establish a pilot program that will bring injured Fire Department employees back to work on their regular shift and, to the extent possible, at their home fire station.

Workers' Compensation Costs Can Be Further Reduced by Enhancing Safety Programs and Ensuring They Correlate with Common Injuries

Most of the City's high-risk departments have established safety committees. However, those committees are not provided complete information on which injuries occurred most frequently within their departments. This information would help ensure that departmental safety committees design safety programs that help reduce injuries. We also recommend incentives to improve work place safety and to help reduce costs related to worker injuries.

State Requirements for Safety Programs

California law, through Cal/OSHA, requires every employer to develop and maintain an effective Illness and Injury Prevention Program. The program is supposed to develop a safety culture by looking out for potential hazards at the worksite, going over past injuries, involving the employees, reviewing employee communications and safety training, training supervisors and managers, and assessing special training needs. Employers must post notices that explain the workers' compensation coverage, where to get medical care for work-related injuries or illnesses, inform employees of their rights, and explain reporting procedures.

The City has established a citywide safety program. Many City departments have established safety committees. However, during our interview and survey, safety committee representatives informed us they needed more information on which injuries occurred most frequently within their departments and throughout the City. As a result, departmental safety committee representatives stated they were not aware if their safety programs contributed to the reduction of workers' compensation claims.

Frequent Causes of Injuries

Our analysis of the workers' compensation claims from July 1999 through June 2004 showed the 4 most frequent causes of injuries were related to the lower back area, knee, multiple body, and multiple upper extremities. As shown in the table below, over \$2.9 million was related to lower back area claims; \$1.7 million resulted from knee injuries; and \$1.3 million resulted from multiple body claims. The safety committees did not have this information and therefore were not sure if their safety programs correlated with the most frequent injuries or the highest cost injuries.

Exhibit 10: Frequency of Injuries among Palo Alto Employees

Body Part	Total Claims	Percent	Incurred Costs
Lower Back Area	100	12.6%	\$2,954,071
Knee	66	8.3%	\$1,698,219
Multiple Body	88	11.1%	\$1,321,606
Multiple Upper Extremities	61	7.7%	\$920,465
Shoulder(s)	29	3.7%	\$505,073
Lower Leg	13	1.6%	\$225,981
Lower Arm	26	3.3%	\$194,007
Ankle	26	3.3%	\$176,312
Multiple Lower Extremities	9	1.1%	\$174,922
Foot	18	2.3%	\$164,221
Elbow	15	1.9%	\$132,270
Wrist & Hand	32	4.0%	\$115,257
Hand	34	4.3%	\$112,277
Finger(s)	52	6.6%	\$41,209
Eye(s)	34	4.3%	\$19,006
Other	188	23.9%	\$572,263
TOTAL	791	100.0%	\$9,327,159

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

Data Needed

In our opinion, departmental safety committees should focus their programs on the most frequent and the most expensive causes of on-the-job injuries. However, the safety committee spokespersons reported they do not have access to Athens data regarding injuries. If the data had been available, they could have used the information to develop better safety programs.

For example, our sample of case files showed two fire fighters suffered injuries after slipping off a fire engine step. Those injuries are expected to cost the City a total of nearly \$300,000 and nearly 2,000 days off work. The data indicated a recurring problem with fire engine steps as early as 1997. During our audit, we were informed discussions had occurred over the past several years regarding particular hazards associated with the new rigs and step off injuries. The Fire Department recently prepared a video to show firefighters how to safely step off a fire engine.

As shown in Exhibit 10 above, lower back injuries caused the City to incur over \$2.9 million in workers' compensation costs over the last five years. Our review of the case files and Athens' reports indicate lower-back injuries are recurring in the Public Works and Fire Departments and are a citywide problem. During our interview, the Public Works safety committee reported the data related to these

and other injuries were not provided to them. As a result, their safety program was not designed to focus on preventing injuries to the lower back. Had the data been shared with them, the Public Works safety committee spokesperson reported it could have placed greater emphasis on preventing lower back injuries and less emphasis on other injuries.

In our opinion, departments need reports that benchmark by department and fiscal years the number and types of injuries, number and types of claims, number of claims filed by employee and by department, days lost, light duty status of each injured employee, light duty assigned each injured employee, the rationale for not assigning light duty to an employee, and the workers' compensation costs incurred by employee and by department. The HR Risk Manager and department managers should use the data in the reports to identify and reduce work related injuries, claims, and program costs by departments.

Recommendation

12. The HR Risk Management and Safety Manager should direct Athens to produce reports with workers' compensation data that can be shared with departmental managers, safety committees, and others to benchmark and evaluate their performance in improving safety programs, reducing injuries, and reducing workers' compensation costs.

Role of HR and Departmental Safety Committees

The HR Department has 3 persons (1.85 FTEs) to address workers' compensation and safety issues. The HR Risk Management and Safety Manager and her staff receive and process workers' compensation claims, monitor and administer the contract with Athens, discuss cases with the TPA and medical experts, attend hearings and appeals, analyze cases, discuss cases with lawyers, promote safety programs, and address safety issues in the workplace. The HR staff stated they aggressively try to reduce workers' compensation costs by monitoring claims costs, disability leave, and departmental safety programs; by investigating questionable claims; and by retaining lawyers to litigate cases.

The FY 2003-04 HR budget for workers' compensation administration and safety totaled about \$358,188 (illness/injury prevention was \$128,543; workers' compensation program was \$160,095, and loss control was \$69,550). According to the HR Risk Management and Safety Manager, the budget did not include any funds for incentives that could be used to reduce injuries in the workplace or to reward reductions in workers' compensation claims.

Most departments have safety committees comprised of management and line personnel. The operations, policies and procedures of the safety committees (per the City's Injury and Illness Prevention Program Safety Manual) serve as a conduit for receiving and addressing employee concerns regarding injuries, hazards in the work place, injury and illness prevention strategies, and other safety and health matters. HR is responsible for monitoring and assisting the

departmental committees. While safety committees are responsible for implementing their departmental safety programs, in our opinion, they need the citywide perspective and coordination that HR can provide.

Recommendations

13. The HR Safety Officer should serve as an advisory member of each departmental safety committee, a resource to facilitate and coordinate departmental safety committee initiatives, and ensure compliance with the quarterly checklist he has drafted.

Accountability and Funding for Safety Programs

HR relies on voluntary compliance to improve work place safety and to reduce costs related to worker injuries. HR does not have formal authority to enforce the return to work program or to enforce the City's safety program. If they see an unsafe act or condition, they can stop work and call a manager to correct the unsafe condition. In our opinion, an HR risk management budget for rectifying problems on the spot and/or providing seed money to correct those problems would improve safety program effectiveness.

Recommendations

14. The HR Director should revise the City's safety policy and procedures to include a system for issuing written citations, commendations, and warnings related to safety in the work place; to formalize safety inspections in the work place; for benchmarking, tracking, monitoring, and evaluating each department's success in implementing corrective actions and improving safety in the work place.
15. Department heads should refer to the written safety citations, commendations, and warnings in employee evaluations.
16. HR should work with ASD to set aside funding for rectifying problems on the spot and/or providing seed money to correct situations that would improve safety program effectiveness.

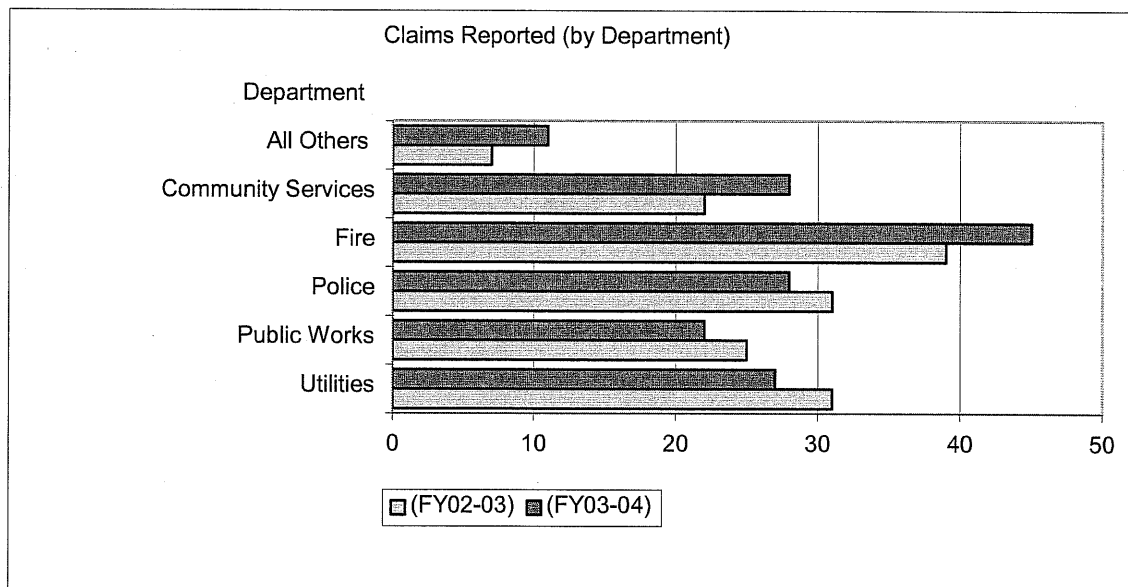
The City Should Focus Efforts on Departments with High Claims Rates

Some departments have higher claims rates than others. Some employees in these departments file multiple claims, are more likely to file for disability retirements, have higher litigation rates, and have higher claims costs. Efforts to reduce workers' compensation costs should focus on these departments.

Some Departments Have Higher Rates of Claims than Others

The most recent annual report from Athens stated that the Fire Department had the highest percentage of claims (55%) that resulted in costly lost time or indemnity claims. In contrast, the Community Services Department had the lowest percentage of indemnity claims (32%). The Fire Department incurred cost was 4 times the cost for Community Services in FY 2002-03 and 2 times the cost in FY 2003-04. Obviously, exposure for injury varies by type of work. However, Police Department costs (also considered a higher risk department) were 65% less than the Fire Department in FY 2003-04. Exhibits 11 to 13 compare the different departments for FY 2002-03 and 2003-04.

Exhibit 11: Palo Alto Workers' Compensation Claims by Department
(Fiscal Years 2002-04)



Source: Auditor's analysis of Athens claims data for the period July 2002 to June 2004.

In FY 2002-03, the Fire Department ranked #1 in claims reported and average incurred cost per claim. As Exhibit 12 shows, the Fire Department accounted for 25% of all claims that year.

**Exhibit 12: Palo Alto Workers' Compensation Claims by Department
(Fiscal Years 2002-03)**

Department	Claims Reported (FY 2002-03)	Percent of Total	Costs Incurred (FY 2002-03)	Percent of Total	Average Incurred Cost/Claim (FY 2002-03)
Fire	39	25%	\$321,531	37%	\$8,244
Police	31	20%	\$250,581	29%	\$8,083
Public Works	25	16%	\$92,910	11%	\$3,716
Community Services	22	14%	\$79,173	9%	\$3,599
Utilities	31	20%	\$106,424	12%	\$3,433
Other ²³	7	5%	\$21,330	2%	\$3,047
TOTAL	155	100%	\$871,949	100%	\$5,625

Source: Auditor's analysis of Athens claims data for the period July 2002 to June 2003.

As Exhibit 13 shows, the Fire Department accounted for 28% of claims reported in FY 2003-04. However, the Utilities Department had a higher average incurred cost per claim that year.

**Exhibit 13: Palo Alto Workers' Compensation Claims by Department
(Fiscal Years 2003-04)**

Department	Claims Reported (FY 2003-04)	Percent of Total	Costs Incurred (FY 2003-04)	Percent of Total	Average Incurred Cost/Claim (FY 2003-04)
Utilities	27	17%	\$468,095	34%	\$17,337
Public Works	22	14%	\$176,958	13%	\$8,044
Police	28	17%	\$128,734	9%	\$4,598
Fire	45	28%	\$365,063	28%	\$8,113
Community Services	28	17%	\$182,113	13%	\$6,504
Other ²³	11	7%	\$41,441	3%	\$3,767
TOTAL	161	100%	\$1,362,404	100%	\$8,462

Source: Auditor's analysis of Athens claims data for the period July 2003 to June 2004.

Percent of Employees Filing Claims

In some departments, a large percentage of employees file workers' compensation claims. We sent surveys to each departmental safety committee in the City and followed up with interviews with survey respondents. Our questionnaire results and discussions with departmental safety representatives indicate some departments encourage employees to file workers' compensation claims. For example, the Fire Department managers stated they encourage employees to file claims whenever an incident occurs in order to protect the

²³ Other includes City Clerk, City Manager, City Auditor, City Attorney, and Human Resources.

employee if the incident results in a disability. In contrast, the Police, Public Works, and other departments, while encouraging employees to follow the law, do not specifically encourage the filing of workers' compensation claims. This may be one reason why some departments, such as the Fire Department, have a higher incidence of claims and incur higher workers' compensation costs than other departments.

Our analysis of the Athens database for all claims filed for FY 1999-2004 confirmed the Fire Department had the highest percentage of employees filing workers' compensation claims. When the number of claims by department was compared against the authorized staffing for each department, the Fire Department had the highest rate for workers' compensation claims. Exhibit 14 below compares the claims rate against each department's authorized full-time equivalent staffing.

Exhibit 14: Percentage of Employees Filing Claims by Department
(Authorized Staff/FTEs) (FY 1999-00 to FY 2003-04)

Department	Total Claims Filed	Total Individuals filing Claims	Total Employees (in FTEs) ²⁴	Percentage of Employees (in FTEs) Filing Claims
Fire	174	101	131	77.1%
Police	178	101	184	54.9%
Utilities	142	94	243	38.7%
Public Works	119	85	227	37.4%
Community Services/ Library	130	95	516	18.4%
Admin Services	26	22	115	19.1%
Planning	5	5	65	7.7%
Other ²⁵	16	14	57	24.6%
TOTAL	790	517	1,538	33.6%

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004 and adopted operating budgets.

As shown in the Exhibit 14, 5 employees out of a total of 65 FTEs in the Planning Department filed claims during the 5-year period we reviewed (FY 1999 to 2004). In contrast, 101 employees in the Fire Department filed 174 claims during the same 5-year period.

Some Employees File Multiple claims

A further review of the claims filed by the Fire Department showed that 1 employee filed 11 claims during his employment with the City; another employee filed 10 claims during his employment; and 2 employees filed 8 claims with the City. One Public Works employee in our sample filed 13 claims.

²⁴ Source: FY 2003-04 operating budget including temporary employee FTE.

²⁵ Other includes City Clerk, City Manager, City Auditor, City Attorney, and Human Resources. These statistics are skewed due to one very large claim filed during this period.

Supervisors are required to meet with the employee after each incident to discuss the incident. In our opinion, if multiple claims have been filed, the supervisor should also be required to discuss the pattern of claims with their manager, with HR, and with the department director to determine the cause of the problems and to resolve potential safety issues. It should be noted that the City investigates claims when warranted.

Recommendations

17. HR should direct Athens to issue periodic reports (via e-mail or in monthly reports) that identify employees who file 3 or more workers' compensation claims within a 3-year period.
18. The City Manager should direct department heads and supervisors to interview employees who file 3 or more workers' compensation claims in a 3-year period, and to identify training issues and address shortcomings related to the implementation and maintenance of the City's Injury and Illness Prevention Program.

Disability Retirements

During the last 5 years, 27 persons retired from the Fire Department. 11 of the 27 (40.7%) were classified as disability retirements. In addition, 11 police officers retired during the same 5-year period. 5 of the 11 police personnel (45.5%) received disability retirements. According to an a recent audit of Los Angeles County safety employee service-related disability retirements, one of the primary incentives in seeking a service-connected disability retirement is the tax-exempt status of the first 50% of the benefit under State and federal laws.

Some Departments Have A Higher Litigation Rate than Others

Our review of the case files indicated that litigation increases the costs of the workers' compensation program. Once litigation starts, the City and its representatives are limited in their ability to communicate directly with the injured employee and must use their lawyers to communicate with the employee's lawyers. As reported by Athens in June 2004, the City incurred legal costs totaling over \$343,800 on cases that were still open.²⁶

The City's Risk Manager is responsible for working with Athens to consider the cost benefits of pursuing protracted claims versus settling the claims as quickly as possible. Many claims involved litigation and attorney expenses that added to the cost of the claims and delayed claim settlements. For example, in one case the cost of litigation exceeded the actual settlement by over \$36,000 and took 10 years to resolve.

²⁶ Athens and City staff were not able to provide the total legal costs for cases that were litigated and closed.

Some departments have a higher rate of litigation than other departments. Exhibit 15 below summarizes the open litigated cases by department and shows that the Public Works and Fire Departments have the highest percentages of litigated claims.

Exhibit 15: Summary of Open Litigated Cases (as of June 2004)
(FY 1999-00 to FY 2003-04)

Department	Litigated Cases	Percentage of Total Litigated Cases	Litigated Cases (% of Depart. claims)
Public Works	14	22.6%	11.8%
Fire	20	32.3%	11.5%
Police	18	29%	10.1%
Admin Services	2	3.2%	7.7%
Utilities	3	4.8%	2.1%
Community Services/ Library	3	4.8%	2.3%
Planning	0	0%	0%
Other ²⁷	2	3.6%	12.5%
TOTAL	62	100%²⁸	7.9%

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

Efforts to Reduce Workers' Compensation Costs

The City Manager has repeatedly reminded the City staff and department managers that workers' compensation costs and claims adversely affect the City's operating costs and impact the City's ability to balance the budget. In our opinion, additional effort should be focused on reducing workers' compensation costs and claims in the departments that file the highest number and severity of claims.

Recommendation

19. The City Manager should direct department heads to attend quarterly workers' compensation claims review meetings with Athens and the HR Risk Management staff. At these meetings, department heads and supervisors should be prepared to discuss current workers' compensation claims, as well as initiatives for reducing claims, corrective actions taken, light duty assignments, and actions taken to bring the employees back to work.

²⁷ Other includes City Clerk, City Manager, City Auditor, City Attorney, and Human Resources. Others statistics are skewed due to one very large claim filed during this period.

²⁸ Rounded to 100%

Allocating Workers' Compensation Costs by Department

Athens' data shows that employees in some departments are more likely to file workers' compensation claims than employees in other departments. As shown in Exhibit 16, the City has incurred its highest losses in the Fire, Police, Public Works, and Utilities Departments, in that order, in the last 5 years.²⁹

Exhibit 16: Total and Average Cost Per Employee/Claim
(FY 1999-00 to FY 2003-04)³⁰

Department	Total Claims Filed	Total Department Costs (over 5 years)	5-year Average Cost (per employee)	Average Cost (per claim)
Fire	174	\$2,895,842	\$28,672	\$16,643
Police	178	\$1,957,973	\$19,386	\$11,000
Public Works	119	\$1,651,091	\$19,425	\$13,875
Utilities	142	\$1,420,490	\$15,112	\$10,003
Admin Services	26	\$270,041	\$12,275	\$10,386
Community Services/ Library	130	\$823,788	\$8,671	\$6,337
Planning	5	\$10,644	\$2,129	\$2,129
Other ³¹	16	\$297,290	\$21,235	\$18,581
TOTAL	790	\$9,327,159	\$18,041	\$11,807

Source: Auditor's analysis of Athens claims data for the period July 1999 to June 2004.

In our opinion, workers' compensation costs should be more visible to departments in their financial reports so that departments can see the impact of workers' compensation costs. Currently, departments pay a proportionate share of citywide workers' compensation costs based on the salaries in the department.

Departments directly feel additional costs for overtime and temporary employees who may backfill for an injured employee. However, the majority of workers' compensation costs are allocated to departments in the lump sum "benefits allocation" line item.³²

In our opinion, allocating workers' compensation costs to departments based on departmental experience factors, and showing that cost as a discrete line item in departmental financial reports would provide an incentive for corrective action.

²⁹ Other departments may have lower claims rates and costs because the jobs are less hazardous.

³⁰ Amounts do not equal total due to rounding.

³¹ "Other" includes City Clerk, City Manager, City Auditor, City Attorney, and Human Resources. Statistics for this group are skewed due to one very large claim filed during this period.

³² Long-term disability insurance is coded 30240 in the SAP system, disability leave/workers' compensation is coded 30140, and the workers' compensation cost allocation is coded 30990 as part of the benefits allocation line.

Recommendation

20. The HR Director should work with the Administrative Services Director to begin allocating workers' compensation costs to departments based on departmental experience factors, and showing those costs as a discrete line item in departmental financial reports so that each department will have incentives to reduce workers' compensation costs.

The City May See Benefits From New Workers' Compensation Laws

The California Legislature passed several bills that reformed the Workers' Compensation requirements and benefits. The new laws provide new opportunities for reducing the City's workers' compensation costs.

New Laws

In 2004, the California Legislature passed SB899, SB228 and other bills that reformed the Workers' Compensation requirements. The new laws changed benefits for medical treatment, temporary and permanent disability injuries, medical-legal procedures, and procedural administrative requirements. The City's Risk Management division should proactively address the new changes and disseminate information about the new requirements to City employees, managers, and supervisors so that the City and its staff can take full advantage of the legislation.

For example, while Athens and the City's Risk Manager are primarily responsible for monitoring claims, supervisors can also help employees avoid unnecessary medical expenses and litigation if they know that pre-designated chiropractors are no longer permitted and that only physicians and surgeons selected as the employee's primary care doctor under an employer's group health insurance plan are eligible. The supervisors can help reduce the possibility of appeals or lawsuits if they advise employees that the City and Athens may use medical provider networks to help control medical expenses and that employees may change network physicians, but they must continue treatment within the network selected by the City and Athens. Supervisors also need to know that medical care must be provided within one working day of the presentation of a claim form, and chiropractor or physical treatment for injuries are limited to 24 visits for the life of the claim.

Supervisors should be aware that the City and Athens, under the new laws, can require utilization reviews to determine if the treatments received by the employees are appropriate for the injuries claimed.

Supervisors can augment City and Athens efforts to reduce worker's compensation issues by advising employees that caps are imposed on temporary disability claims. Temporary disability claims within 2 years of the first payment are limited to 104 weeks, and are limited to 240 weeks if the disability involves amputation, severe burns, or other injuries that require extended recuperation time.³³

To avoid misunderstandings, employees should be informed that permanent disability benefits were increased from 9 to 16 weeks for workers who are 70% to

³³ Under the old laws, temporary disability benefits were designed to replace two-thirds of the lost wages, up to a maximum of \$728 per week. The temporary disability benefits were payable every two weeks until the employee was able to return to work or until the employee's condition became permanent and stationary.

99.9% disabled and were reduced for workers with minor permanent disabilities of ¼% to 15%. An injured worker's disability is now based on causation and all permanent disability reports must address what portion of the disability is work related because the employer's liability will be limited to the percentage of permanent disability directly caused by the work injury.

To reduce workers' compensation costs, managers need to know the new laws provide financial incentives and penalties for providing employees "return to work" opportunities. If managers do not offer a return to work program, the City could suffer a 15% increase in permanent disability payments. Otherwise, the law reduces permanent disability payments by 15% if the employee is offered the opportunity to return to work.

Other penalty provisions were introduced. The old penalty was eliminated that allowed 10% of all payments (past, present, and future) to be paid for unreasonable delay or refusal to pay a benefit. Under the new law, the penalty is based on the amount of the late payment and is limited to 25% of the payment, or \$10,000, whichever is less. Claims payers may cure the error before a claimant seeks a penalty by paying the correct amount plus a self-imposed 10% penalty.

Recommendations

21. HR should provide information and flyers to department managers, supervisors and employees that detail the new laws; the new workers' compensation requirements, caps and restrictions; the new incentives for offering light duty; and the penalties the City could incur for not offering opportunities to return to work.
22. HR should use the flyers to familiarize department managers with the new laws; to show them the financial effects and penalties of not complying with the new laws such as the requirement to offer opportunities to return to work; and to show how to use the new laws to reduce workers' compensation costs.

CONCLUSION

Although Palo Alto costs generally compare favorably to other Northern California cities and other public entities, the City needs to comply with California requirements for processing claims. In addition, to reduce workers' compensation costs, the City should increase the use of alternative work programs that allow injured employees to return to work can further reduce workers' compensation costs. In our opinion, establishing safety programs that focus on corrective actions and the most frequent injuries occurring in their departments could reduce injuries. Furthermore, the City should focus on departments with high claim rates to discourage abuses of the workers' compensation system. Finally, new workers' compensation legislation imposes many new requirements that also provide the City opportunities for further reducing workers' compensation costs.

Recommendations

We recommend the following:

1. To ensure compliance with City and State requirements, HR should re-emphasize to supervisors the importance of immediately reporting injuries to the HR Risk Manager and completing and forwarding forms to HR in a timely manner.
2. Because of the importance of timely processing, HR should strictly enforce the Athens contract provisions regarding the timely closure of claims.
3. HR should document its review of disability leave on SAP bi-weekly payroll reports or timecards.
4. HR should work with ASD to determine if there are circumstances under which a position should be backfilled using an "over-strength" position.
5. HR should determine whether a temporary employee category, not subject to the 1,000-hour limitation, could be established to backfill for a disabled employee.
6. HR should require Athens to prepare disability reports that can be shared with department managers to monitor the work status of employees and their modified or alternative work assignments.
7. To the extent possible, HR, department managers and line supervisors should be looking for light duty assignments for their injured employees before the employee is released to work, at the same time ensuring the proposed work is compatible with restrictions that are expected to be imposed by the employee's physician.

8. To maximize the opportunities for modified or alternative work, HR should amend the Workers' Compensation Modified Duty Policy (Policy and Procedures 3-02/HRD) to encourage modified work assignments outside of the employee's home department if work is not available within the employee's home department.
9. HR should compile a listing of potential light duty positions across the City and should work with department managers and line supervisors to find modified or alternative work for injured employees outside their divisions when appropriate.
10. HR should explore the feasibility of using the Executive Staff Approval Committee (ESAC) to assign modified duty across departmental lines.
11. HR should work with the Fire Chief to establish a pilot program that will bring injured Fire Department employees back to work on their regular shift and, to the extent possible, at their home fire station.
12. The HR Risk Management and Safety Manager should direct Athens to produce reports with workers' compensation data that can be shared with departmental managers, safety committees, and others to benchmark and evaluate their performance in improving safety programs, reducing injuries, and reducing workers' compensation costs.
13. The HR Safety Officer should serve as an advisory member of each departmental safety committee, a resource to facilitate and coordinate departmental safety committee initiatives, and ensure compliance with the quarterly checklist he has drafted.
14. The HR Director should revise the City's safety policy and procedures to include a system for issuing written citations, commendations, and warnings related to safety in the work place; to formalize safety inspections in the work place; for benchmarking, tracking, monitoring, and evaluating each department's success in implementing corrective actions and improving safety in the work place.
15. Department heads should refer to the written safety citations, commendations, and warnings in employee evaluations.
16. HR should work with ASD to set aside funding for rectifying problems on the spot and/or providing seed money to correct situations that would improve safety program effectiveness.
17. HR should direct Athens to issue periodic reports (via e-mail or in monthly reports) that identify employees who file 3 or more workers' compensation claims within a 3-year period.
18. The City Manager should direct department heads and supervisors to interview employees who file 3 or more workers' compensation claims in a 3-year period, and to identify training issues and address shortcomings related

to the implementation and maintenance of the City's Injury and Illness Prevention Program.

19. The City Manager should direct department heads to attend quarterly workers' compensation claims review meetings with Athens and the HR Risk Management staff. At these meetings, department heads and supervisors should be prepared to discuss current workers' compensation claims, as well as initiatives for reducing claims, corrective actions taken, light duty assignments, and actions taken to bring the employees back to work.
20. The HR Director should work with the Administrative Services Director to begin allocating workers' compensation costs to departments based on departmental experience factors, and showing those costs as a discrete line item in departmental financial reports so that each department will have incentives to reduce workers' compensation costs.
21. HR should provide information and flyers to department managers, supervisors and employees that detail the new laws; the new workers' compensation requirements, caps and restrictions; the new incentives for offering light duty; and the penalties the City could incur for not offering opportunities to return to work.
22. HR should use the flyers to familiarize department managers with the new laws; to show them the financial effects and penalties of not complying with the new laws such as the requirement to offer opportunities to return to work; and to show how to use the new laws to reduce workers' compensation costs.

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MEMORANDUM

DATE: April 11, 2005
FROM: Frank Benest, City Manager
BY: Sandra Blanch, Risk & Benefits Manager
SUBJECT: Response to City's Workers' Compensation Program Audit

The City Auditor has provided a report on the City's Workers' Compensation Program. Human Resources staff has reviewed the audit recommendations. Staff generally concurs with the recommendations and will implement to the extent feasible all of the recommendations. As noted, Palo Alto workers' compensation costs compare favorably to other Northern California cities and other public agencies. Staff is committed to reducing the City's workers' compensation costs but it is an ongoing organization-wide challenge and requires interdepartmental cooperation. All departments need to continue their efforts with support and direction from HR staff to control workers compensation claim costs.

The audit report contains four key points:

1. The City needs to improve the timeliness of handling workers' compensation claims.
2. Workers' compensation costs can be further reduced through alternative work programs.
3. Workers' compensation costs can be further reduced by enhancing safety programs and ensuring they correlate with common injuries.
4. The City may see benefits from new workers' compensation laws.

Staff would like to respond to some of the issues identified in the audit.

- ***The City needs to improve the timeliness of handling workers' compensation claims.***

Staff agrees that a number of the workers' compensation claims are not sent in to the Risk Management office in a timely manner. During the "Essentials for Managing" sessions in 2004, HR staff reminded supervisors and managers of the importance of this responsibility. The Human Resources department depends upon supervisors to follow through on the reporting of injuries. However it should be noted that a process is in place for injured employees to receive immediate medical treatment. Employees are informed during new employee orientation to seek treatment at the City's occupational clinic or their pre-designated physician and were recently made aware of this procedure during the "Essentials for Staff" training classes held in FY 04-05. Information regarding the injury reporting procedure is also available on the HR Intranet site. Injured employees can receive immediate medical treatment without completing the claim forms beforehand but are instructed to complete forms with their supervisors as soon as possible.

- ***Workers' compensation costs can be further reduced through alternative work programs.***

Alternate work as defined in the audit report involves moving the injured worker to another position within the City. For most cases, departments are able to identify modified duty assignments for an injured employee returning to work. On occasion, especially with field workers, departments are unable to find compatible work within the injured employee's restrictions. In these circumstances, the Risk Management staff will work with departments to identify alternate work outside of the injured employee's department. The most successful alternate work assignments have occurred for injured employees with permanent disabilities. The Utilities department permanently accommodated four employees who moved to different positions. By doing so, the City was able to keep four valuable employees who were also grateful for the ability to continue working for the City.

- ***Workers' compensation costs can be further reduced by enhancing safety programs and ensuring they correlate with common injuries.***

The City has a comprehensive Injury and Illness Prevention Program with an extensive safety training program to meet the needs of a full service city. Unsafe work practices and unsafe conditions are the focus of the City's Injury and Illness Prevention Program. Risk Management staff believes that the attention given to the City's Injury and Illness Prevention Program over the past 10 years is the reason the number of claims filed has decreased by 46%. The following is an example of the depth of safety training and safe work practices implemented: Blood borne Pathogens; Lockout/Tagout; Respiratory Protection; Confined Space Protection; Personal Protective Equipment; Defensive Driving; Noise Exposure; Emergency Planning; Fall Protection; Hazard Communication; Hazardous Waste; and Repetitive Motion Injuries (Ergonomics for multiple body parts).

Repetitive motion injuries are a class of injuries arising from office workstation ergonomic risk factors as well as fieldwork risk factors that result in back injuries. Although back injuries can and do occur in the office environment they are more typically more severe for the field groups. Specialized classes have been held for the Fire, Parks and Golf, and Utilities departments. The Public Works Department as well as other departments include back safety awareness as a regular safety meeting topic. Every manager and supervisor recently received training on the injury and illness prevention program and ergonomic risk factors found in the workplace. Office workstation evaluations help the employees learn how to work safer in office environments by identifying ergonomic risk factors and abatement techniques. During an ergonomic evaluation each applicable risk factor is identified for the employee.

Corrective action is outlined verbally and followed-up with a written report to the supervisor, City Safety Officer and the employee. Follow-up includes revisiting the recommendations to examine what did and did not work.

Employee suggestions can be credited for changing processes and equipment that have reduced ergonomic (multiple body parts) and back injury exposures and injuries. Lift gates have been added to trucks. Hydraulic breaking equipment replaced the heavy jackhammers. Swing out mechanisms have been installed to assist with the raising and lowering of jackhammers when they are needed. Lifts are installed on the trucks to offload the heavy compaction equipment. Aluminum wrenches replaced the heavy and cumbersome cast iron wrenches. Flat-faced shovels are used to alleviate a common back injury risk factor. Electric Operations has changed the electrical conductor used, relocated electrical underground switches and replaced the old process of splicing conductors with a new technique requiring much less force thus reducing injuries and the employee exposure to injuries.

Cumulative hand injury prevention training and analysis was conducted for the Parking Enforcement Officers. Risk factors for hand injuries were identified. Strategies were developed for how best to utilize their equipment without exposure to excessive ergonomic risk factors and research was conducted to learn what alternative equipment might be available. Training on the strategies for injury prevention was conducted for the work group. Risk Management has not received any new claims in this area.

Foot injuries are another cumulative injury. Training sessions were established to offer assistance and guidance on how to prevent foot injuries. The risk factors for injuries were identified and abatement strategies were demonstrated for the employees. Since most field crews are required to wear safety shoes, employees were instructed on what to consider when purchasing the steel-toed safety shoes.

From this it can be said that safety is a priority for the City and much time and effort is devoted to ensuring safe work practices and safety regulation compliance. While department heads and managers have been receiving reports with workers' compensation data this claims data has not been forwarded directly to safety committees. Staff will implement the appropriate action in order to assist safety committees with the goal of further improving safety programs and reducing injuries.

- ***The City may see benefits from new workers' compensation laws.***

Staff with the assistance from its workers' compensation third-party administrator, Athens Administrators has aggressively implemented the legislation passed in 2003 and 2004. The information about these new laws and the impact on an injured employee's workers' compensation claim was presented to all managers and supervisors at the "Essentials for Managing" sessions in 2004. This information is also being presented to all employees in the "Essentials for Staff" training sessions in progress.

Risk Management has already experienced value in a few of the laws implemented such as Utilization Review for medical treatment. On the other hand some employees have not been satisfied with this new process and were immediately driven to seek attorney representation. Staff is beginning to receive initial reports on changes that became effective and will monitor for cost savings and program effectiveness.

Conclusion

The Human Resources Department would like to acknowledge the extensive work done by the City Auditor, and commends the auditing staff for their considerable contribution toward our common goal of containing costs, ensuring employee safety, and forthrightly addressing the complex issues related to workers' compensation. Furthermore, the Human Resources Department recognizes its key role within the organization as a facilitator and monitor for performance improvement in this important area. Accordingly, the department is committed to addressing the recommendations made by the Auditor through the implementation plan herein attached, and will continue to explore new avenues for furthering the audit objectives of the workers' compensation program for the City of Palo Alto.

Recommendation	Response
1. To ensure compliance with City and State requirements, HR should re-emphasize to supervisors the importance of immediately reporting injuries to the HR Risk Manager and completing and forwarding forms to HR in a timely manner.	Risk Management staff recognizes the auditor's findings and will strive to communicate the importance of timely reporting.
2. Because of the importance of timely processing, HR should strictly enforce the Athens contract provisions regarding the timely closure of claims.	The Risk and Benefits Manager will reiterate these contract provisions with Athens management at its next file review meeting.
3. HR should document its review of disability leave on SAP bi-weekly payroll reports or timecards.	Risk Management staff will create a method to document its review of SAP disability leave buckets by June 30, 2005.
4. HR should work with ASD to determine if there are circumstances under which a position should be backfilled using an "overstrength" position.	HR will discuss with ASD during next six months.
5. HR should determine whether a temporary employee category, not subject to the 1,000-hour limitation, could be established to backfill for a disabled employee	HR staff checked with CalPERS in June 2004 and determined that CalPERS does not allow exceptions to the 1,000-hour limitation.
6. HR should require Athens to prepare disability reports that can be shared with department managers to monitor the work status of employees and their modified or alternative work assignments.	Athens currently prepares quarterly reports that are shared with department managers to provide claim updates as well as work status.
7. To the extent possible, HR, department managers and line supervisors should be looking for light duty assignments for their injured employees before the employee is released to work, at the same time ensuring the proposed work is compatible with restrictions that are expected to be imposed by the employee's physician.	Risk Management staff will continue to remind department managers and line supervisors to proactively look for light duty assignments for injured employees.
8. To maximize the opportunities for modified or alternative work, HR should amend the Workers' Compensation Modified Duty Policy (Policy and Procedures 3-02/HRD)	Risk Management staff will amend Policy & Procedure 3-2 before June 30, 2005.

Recommendation	Response
to encourage modified work assignments outside of the employee's home department if work is not available within the employee's home department.	
9. HR should compile a listing of potential light duty positions across the City and should work with department managers and line supervisors to find modified or alternative work for injured employees outside their divisions when appropriate.	HR currently has a short list of potential light duty positions within various City departments but will work on expanding this list.
10. HR should explore the feasibility of using the Executive Staff Approval Committee (ESAC) to assign modified duty across departmental lines.	Staff concurs with this recommendation.
11. HR should work with the Fire Chief to establish a pilot program that will bring injured Fire department employees back to work on their regular shift and, to the extent possible, at their home fire station.	Staff highly supports the establishment of this pilot program. Risk Management staff will work with the Fire department to inform Fire department shift employees regarding this change immediately.
12. The HR Risk Management and Safety Manager should direct Athens to produce reports with workers' compensation data that can be shared with departmental managers, safety committees, and others to benchmark and evaluate their performance in improving safety programs, reducing injuries, and reducing workers' compensation costs.	Athens currently prepares reports which include workers' compensation data identified and has shared it with department managers. Risk Management will begin to share these reports with the safety committees as well.
13. The HR Safety Officer should serve as an advisory member of each departmental safety committee, a resource to facilitate and coordinate departmental safety committee initiatives, and ensure compliance with the quarterly checklist he has drafted.	The City Safety Officer will draft a quarterly checklist by December 1, 2005.

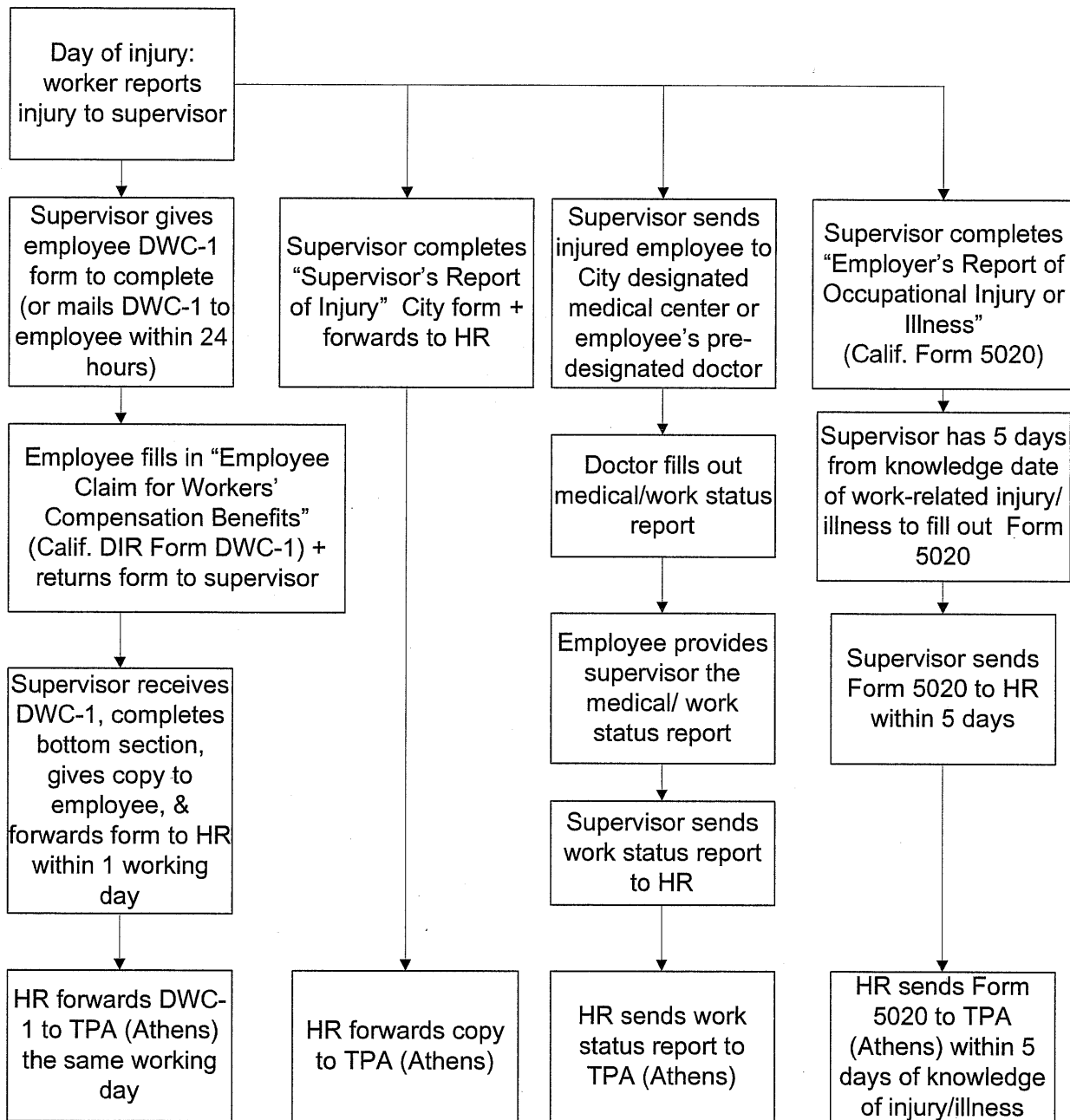
Recommendation	Response
14. The HR Director should revise the City's safety policy and procedures to include a system for issuing written citations, commendations, and warnings related to safety in the work place; to formalize safety inspections in the work place; for benchmarking, tracking, monitoring, and evaluating each department's success in implementing corrective actions and improving safety in the work place.	Staff concurs with this recommendation. The HR Director will revise the City's safety policy and procedures by December 1, 2005.
15. Department heads should refer to the written safety citations, commendations, and warnings in employee evaluations	HR staff highly supports this recommendation.
16. HR should work with ASD to set aside funding for rectifying problems on the spot and/or providing seed money to correct situations that would improve safety program effectiveness.	Staff concurs with this recommendation.
17. HR should direct Athens to issue periodic reports (via e-mail or in monthly reports) that identify employees who file 3 or more workers' compensation claims within a 3-year period.	The Risk and Benefits Manager will direct Athens to immediately produce such a report on a monthly basis.
18. The City Manager should direct department heads and supervisors to interview employees who file 3 or more workers' compensation claims in a 3-year period, and to identify training issues and address shortcomings related to the implementation and maintenance of the City's Injury and Illness Prevention Program.	Staff concurs with this recommendation.
19. The City Manager should direct department heads to attend quarterly workers' compensation claims review meetings with Athens and the HR Risk Management staff. At these meetings, department heads and supervisors should be prepared to discuss current workers' compensation claims, as well as initiatives for reducing	Staff concurs with this recommendation.

Recommendation	Response
claims, corrective actions taken, light duty assignments, and actions taken to bring the employees back to work	
20. The Human Resources Director should work with the Administrative Services Director to begin allocating workers' compensation costs to departments based on departmental experience factors, and showing those costs as a discrete line item in departmental financial reports so that each department will have incentives to reduce workers' compensation costs.	HR will work with ASD to develop this allocation of workers' compensation costs in FY 06-07.
21. The HR department should provide information and flyers to department managers, supervisors and employees that detail the new laws; the new workers' compensation requirements, caps and restrictions; the new incentives for offering light duty; and the penalties the City could incur for not offering opportunities to return to work.	The new law information was provided at the "Essentials for Managing" sessions in 2004. The information will be posted on the HR Intranet site.
22. HR should use the flyers to familiarize department managers with the new laws; to show them the financial effects and penalties of not complying with the new laws such as the requirement to offer opportunities to return to work; and to show how to use the new laws to reduce workers' compensation costs.	The new law information was provided at the "Essentials for Managing" sessions in 2004. The information will be posted on the HR Intranet site.

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APPENDIX 1

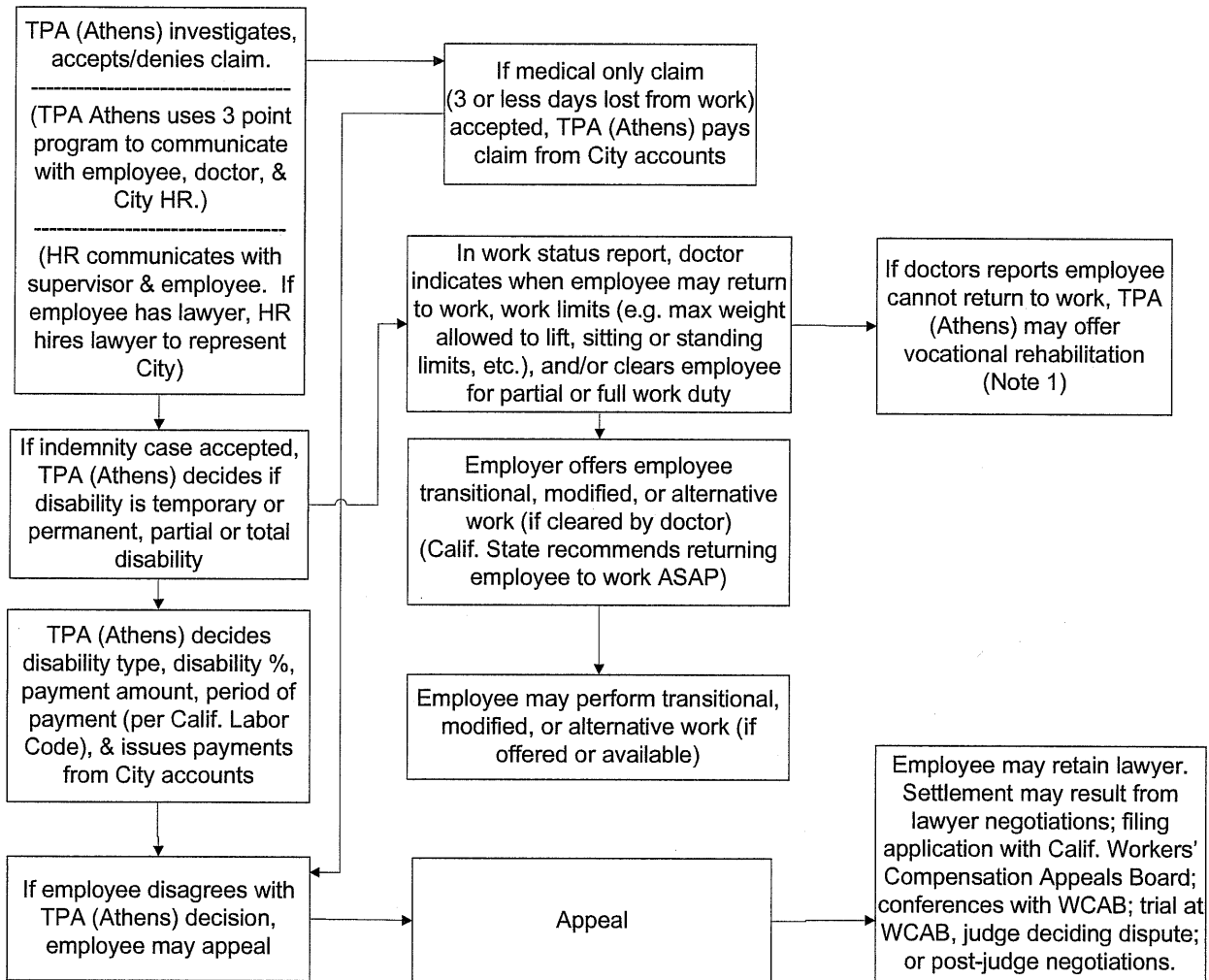
Workers' Compensation Claim Reporting Procedures (Simplified)



Source: Auditor's Office

APPENDIX 2

Third Party Administrator (Athens) Processes for Workers' Compensation Claims (Simplified)

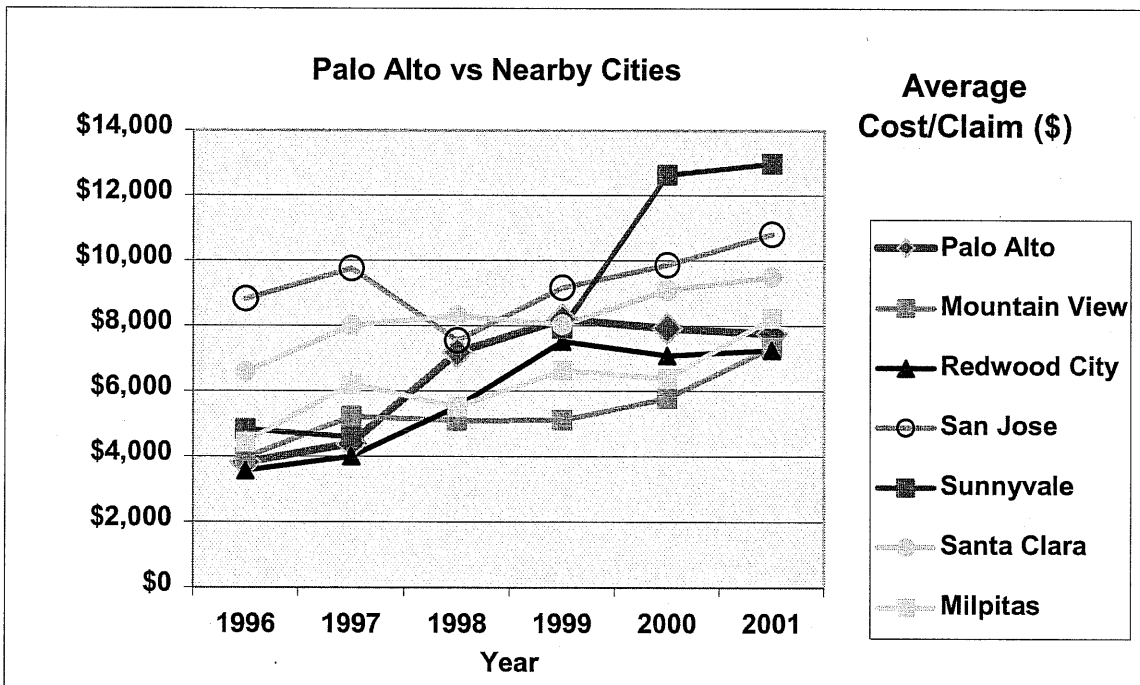
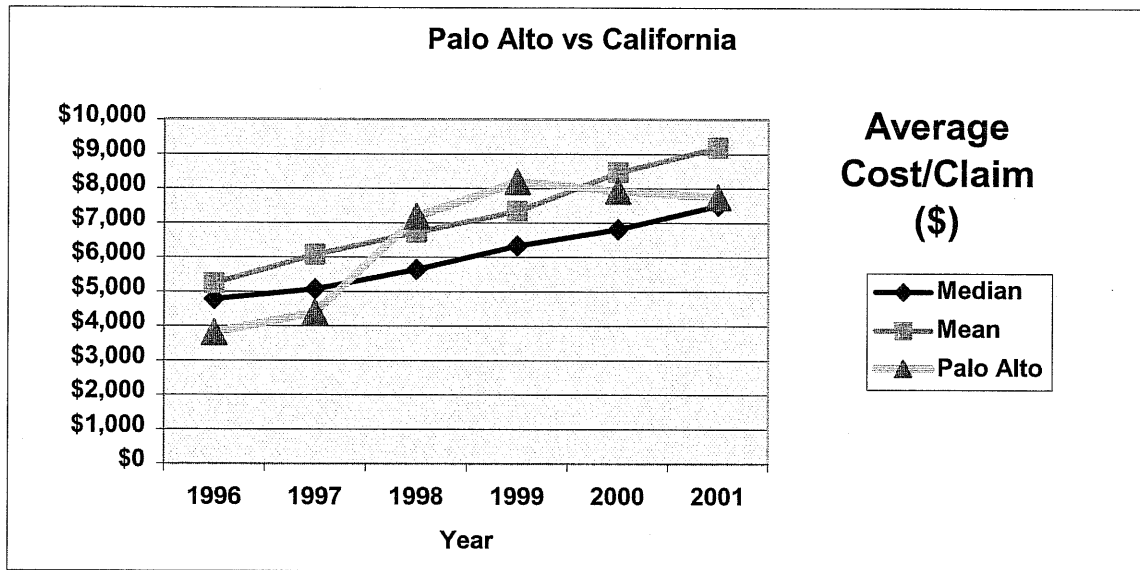


Source: Auditor's Office

Note 1: For injuries after 1/1/04, the law provides no vocational rehabilitation benefit.

APPENDIX 3

Cost Per Claim Comparisons (Palo Alto versus Other California Cities)



Source: California Institute for Public Risk Analysis report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001. The CIPRA rates and costs are for 3-year periods ending June 30 of the year indicated. According to CIPRA, 90% of cases are closed after 3 years. It should be noted that no other city in California offers a full complement of utility services like Palo Alto.

Cost per Claim Comparisons (Note 1)

Public Entity	Average Cost per Claim					
	1996	1997	1998	1999	2000	2001
Belmont	\$14,050	N/A	N/A	N/A	N/A	N/A
Daly City	\$5,850	\$6,584	N/A	N/A	N/A	N/A
Pleasanton	\$6,383	\$5,377	\$4,693	\$5,065	\$7,069	N/A
Piedmont	\$5,780	\$4,161	\$4,346	\$4,526	\$6,035	\$23,684
Brisbane	N/A	N/A	N/A	N/A	N/A	\$16,572
Emeryville	\$4,994	\$7,020	\$7,332	\$12,752	\$14,088	\$15,584
Richmond	\$8,666	\$9,036	\$13,870	\$12,728	\$12,221	\$14,796
Sunnyvale	\$4,823	\$4,595	N/A	\$7,919	\$12,630	\$12,979
Vacaville	\$3,495	\$7,002	\$5,594	\$6,478	\$8,052	\$12,758
Alameda	\$3,575	\$4,428	\$4,530	\$11,594	\$10,279	\$11,880
Pacifica	\$4,905	\$3,884	\$5,439	\$4,157	\$9,169	\$5,017
Hayward	\$5,707	\$5,272	\$7,159	\$8,841	\$10,274	\$11,072
San Jose	\$8,815	\$9,758	\$7,550	\$9,159	\$9,862	\$10,812
Burlingame	\$7,760	\$6,769	\$3,442	\$7,509	\$7,345	\$10,284
Oakland	\$6,480	\$8,053	\$9,320	\$9,822	\$9,933	\$9,918
Gilroy	\$5,125	\$5,185	\$5,374	\$5,446	\$5,283	\$9,531
Santa Clara	\$6,583	\$8,006	\$8,307	\$8,026	\$9,093	\$9,495
Union City	\$4,871	\$5,206	\$4,479	\$7,405	\$8,074	\$9,481
San Mateo	\$4,763	\$4,955	\$7,234	\$6,848	\$6,150	\$9,303
San Leandro	\$3,230	\$5,959	\$6,460	\$8,591	\$6,697	\$8,875
Los Gatos	\$2,778	\$2,693	\$3,976	\$5,901	\$6,702	\$8,349
Berkeley	\$3,826	\$4,332	\$4,156	\$3,857	\$3,915	\$8,320
Milpitas	\$4,442	\$6,217	\$5,522	\$6,627	\$6,384	\$8,234
Fairfield	\$5,194	\$4,806	\$5,669	\$5,665	\$7,176	\$8,165
Stockton	\$4,138	\$5,006	\$5,089	\$5,852	\$7,627	\$8,072
San Bruno	\$8,429	\$6,159	\$4,632	\$3,970	\$7,358	\$7,919
Sacramento	\$7,055	\$5,848	\$6,515	\$6,857	\$8,307	\$7,825
Palo Alto	\$3,812	\$4,392	\$7,184	\$8,198	\$7,922	\$7,749
Mountain View	\$3,961	\$5,222	\$5,091	\$5,101	\$5,779	\$7,334
Redwood City	\$3,566	\$4,002	\$5,526	\$7,516	\$7,085	\$7,255
Vallejo	\$5,376	\$6,231	\$7,081	\$6,318	\$5,697	\$6,953
Fremont	\$3,297	\$2,864	\$2,884	\$3,755	N/A	\$6,945
Concord	\$4,281	\$5,000	\$7,351	\$6,347	\$4,050	\$6,639
Santa Cruz	\$2,954	\$3,659	\$3,613	\$3,691	\$3,758	\$6,543
Roseville	\$8,893	\$6,986	\$5,932	\$6,456	\$7,375	\$6,054
Benicia	\$8,830	\$14,063	\$13,531	\$4,385	\$7,183	\$6,036
Petaluma	\$4,062	\$4,891	\$5,720	\$3,796	\$3,988	\$5,252
Los Altos	\$3,379	\$2,468	\$3,927	\$3,950	\$4,389	\$5,233
Napa	\$2,773	\$2,795	N/A	\$3,425	\$3,724	\$5,167
So. San Francisco	\$4,680	\$6,131	\$6,530	\$6,624	\$5,175	\$4,954
Lodi	\$5,401	\$5,209	\$5,002	\$5,340	\$4,573	\$4,937
Livermore	\$3,439	\$4,746	\$6,194	\$7,722	\$6,734	\$4,626
Morgan Hill	\$3,360	\$3,946	\$5,403	\$4,627	\$3,373	\$4,602
Santa Rosa	\$4,532	\$3,938	\$4,760	\$3,096	\$3,719	\$4,348
Walnut Creek	\$5,271	\$4,111	\$4,181	\$4,258	\$3,575	\$3,546
Watsonville	\$4,268	\$4,682	\$4,366	\$4,825	\$4,738	\$3,537
Millbrae	\$3,356	\$2,675	\$4,389	\$4,896	\$6,445	\$3,526
Cupertino	\$4,617	\$3,618	\$3,266	\$2,763	\$917	\$1,957

Cost per claim comparison with 48 nearby cities						
Median (Note 2)	\$4,763	\$5,006	\$5,522	\$5,901	\$6,734	\$8,072
Average (Mean) (Note 2)	\$5,121	\$5,165	\$5,263	\$5,889	\$6,248	\$7,882
Cost per claim comparison with all California Non-JPA cities						
Median (Note 3)	\$4,778	\$5,068	\$5,639	\$6,332	\$6,804	\$7,505
Average (Mean) (Note 3)	\$5,244	\$6,079	\$6,725	\$7,330	\$8,463	\$9,188

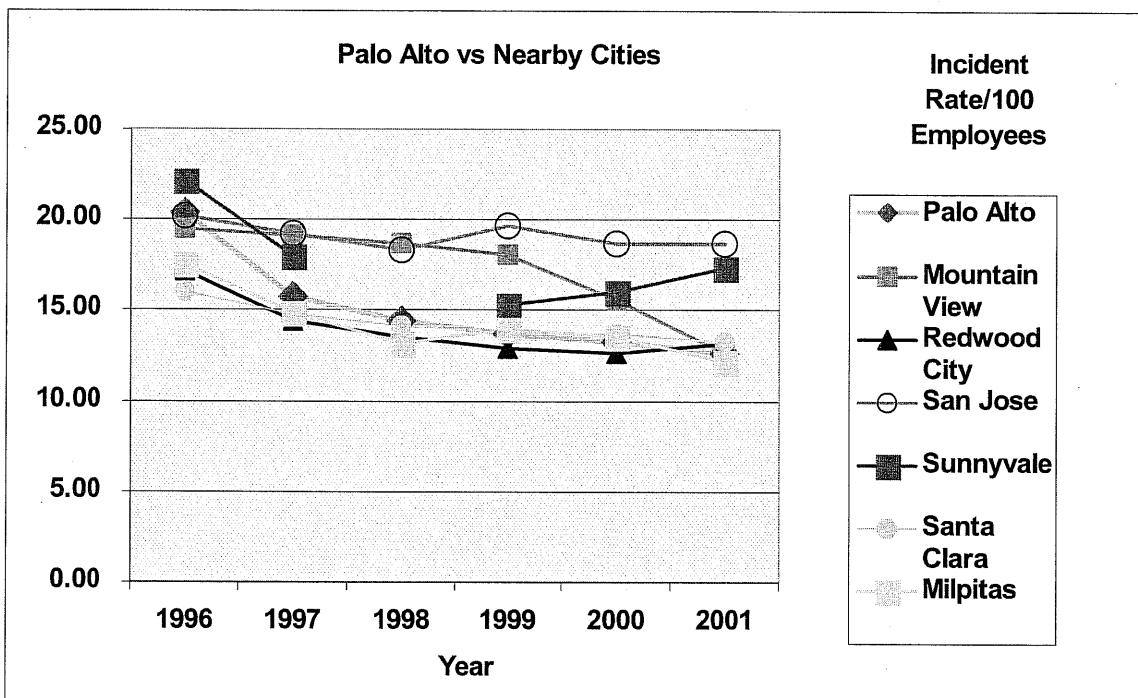
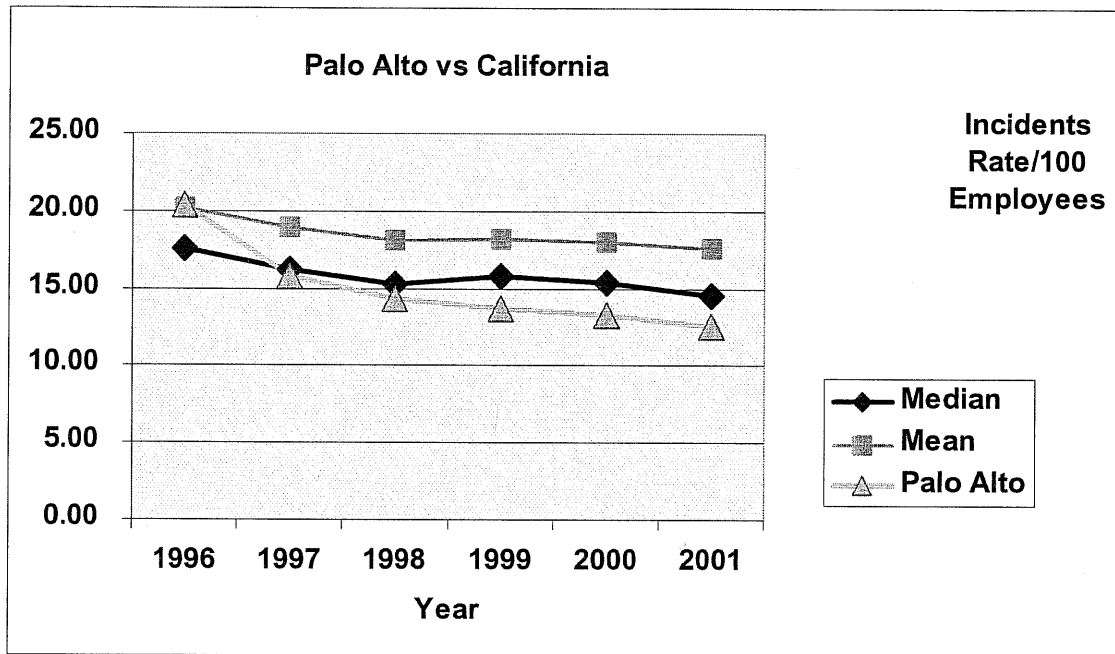
Source: California Institute for Public Risk Analysis report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001.

Note 1: Rates and costs are for 3-year periods ending June 30 of the year indicated in the column title. According to CIPRA, 90% of cases are closed after 3 years. "N/A" indicates incomplete or missing information.

Note 2: Median and mean is for 48 nearby non-joint powers authorities (JPA) cities in California.

Note 3: Median and mean is for all CIPRA non-joint powers authorities (JPA) cities in California (170 cities).

APPENDIX 4 **Incident Rates per 100 Employees** **(Comparison Palo Alto to Other California Cities)**



Source: California Institute for Public Risk Analysis report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001. The CIPRA rates and costs are for 3-year periods ending June 30 of the year indicated. According to CIPRA, 90% of cases are closed after 3 years. It should be noted that no other city in California offers a full complement of utility services like Palo Alto.

Incident Rate Comparison Detail

	Incident Rate per 100 Employees					
	1996	1997	1998	1999	2000	2001
Belmont	21.30	N/A	N/A	N/A	N/A	N/A
Daly City	11.38	9.20	N/A	N/A	N/A	N/A
Pleasanton	12.47	10.62	9.58	10.88	11.82	N/A
Emeryville	15.00	14.18	15.34	17.60	26.29	35.44
Vallejo	34.41	33.47	32.52	32.67	31.11	28.83
Santa Rosa	22.74	24.51	26.34	25.84	26.21	25.66
Hayward	30.17	27.58	26.02	25.44	25.22	24.19
Petaluma	29.64	26.86	25.33	25.85	24.38	24.13
Berkeley	24.09	20.56	20.11	25.16	24.22	22.99
Richmond	32.55	29.69	26.87	26.61	24.79	22.50
Napa	17.89	17.55	N/A	19.77	22.49	22.29
Millbrae	27.39	23.34	21.15	25.41	23.80	20.15
Stockton	20.23	19.64	19.05	16.24	19.84	20.03
Burlingame	17.24	18.97	19.23	20.99	19.11	18.78
San Jose	20.16	19.18	18.30	19.68	18.68	18.70
San Bruno	18.40	16.29	15.23	17.38	18.56	17.46
Sunnyvale	22.14	17.94	N/A	15.30	16.00	17.31
Oakland	19.90	20.32	18.70	19.83	18.81	17.12
Fairfield	17.13	16.85	15.64	16.94	16.45	17.00
Lodi	16.89	14.13	14.44	16.35	16.82	16.77
Fremont	30.01	27.46	24.51	21.75	N/A	16.75
Sacramento	28.05	23.20	18.87	16.02	15.34	15.59
Alameda	18.88	17.25	14.03	14.38	13.99	15.40
Los Altos	16.95	13.83	12.62	11.15	13.47	14.78
Santa Cruz	22.53	18.79	16.40	15.44	15.42	14.33
Morgan Hill	28.06	31.03	21.54	20.60	16.91	14.31
Watsonville	18.01	17.62	16.77	17.03	15.48	13.70
San Leandro	16.76	14.07	13.34	14.33	15.69	13.30
Santa Clara	16.04	14.76	14.13	13.79	13.68	13.25
Redwood City	17.21	14.43	13.49	12.89	12.60	13.19
Pacifica	10.08	10.24	10.75	9.81	8.70	8.04
San Mateo	14.20	13.10	10.29	14.45	14.19	12.75
Mountain View	19.46	19.13	18.72	18.10	15.61	12.63
Palo Alto	20.41	15.76	14.37	13.74	13.26	12.60
Gilroy	12.69	14.21	16.24	17.09	14.48	12.48
Milpitas	17.54	14.82	13.21	13.95	13.52	12.20
Vacaville	14.99	14.09	13.81	15.95	15.73	11.88
Union City	22.05	20.18	17.75	13.79	12.98	11.83
Walnut Creek	12.37	12.75	11.82	13.65	13.07	11.82
Benicia	18.29	15.03	14.03	11.85	13.73	11.70
Livermore	17.20	15.11	16.01	14.39	13.33	11.32
Los Gatos	13.33	13.67	12.26	10.03	10.72	11.08
Piedmont	11.15	12.70	11.15	8.29	8.40	9.24
Concord	12.21	11.68	10.32	9.25	8.58	8.67
Roseville	13.81	13.63	12.68	11.76	10.29	8.61
So. San Francisco	11.76	13.45	11.56	11.64	8.88	8.58
Cupertino	23.81	22.30	14.47	11.76	7.86	8.47
Brisbane	N/A	N/A	N/A	N/A	N/A	2.78

Incident Rate Comparison with 48 nearby cities						
Median (Note 2)	18.01	17.55	16.01	16.02	15.61	14.33
Average (Mean) (Note 2)	19.19	17.39	15.07	15.84	15.09	14.70
Incident Rate Comparison with all California Non-JPA cities						
Median (Note 3)	17.54	16.23	15.29	15.83	15.41	14.53
Average (Mean) (Note 3)	20.17	18.96	18.11	18.17	18.02	17.54

Source: California Institute for Public Risk Analysis (CIPRA) report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001.

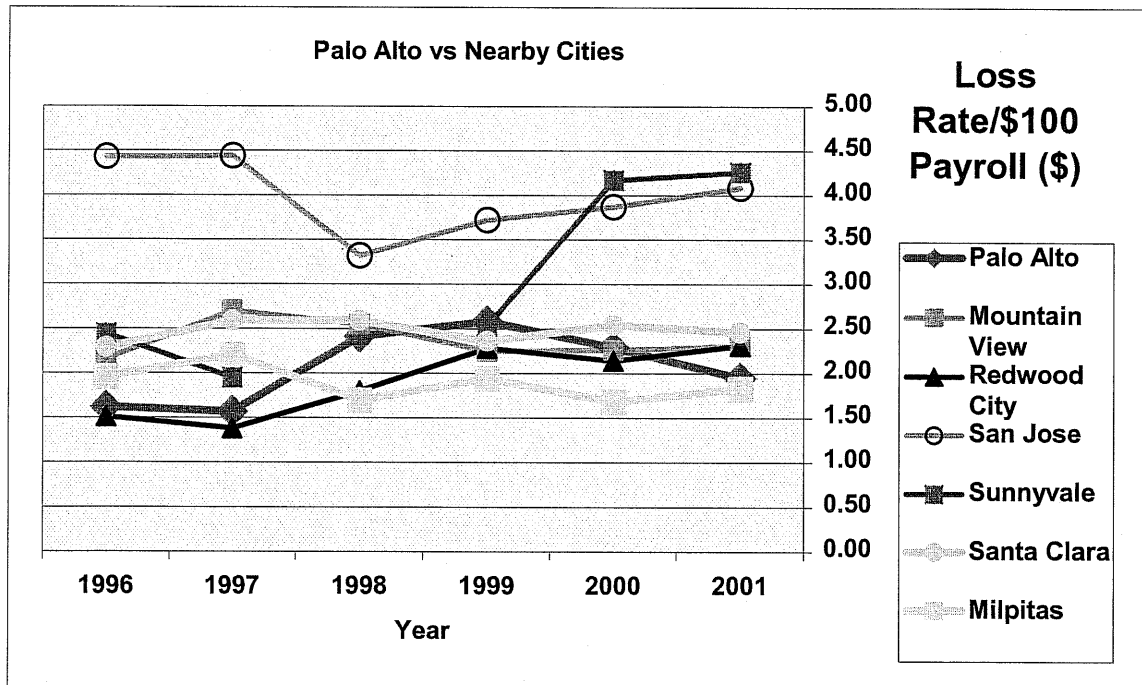
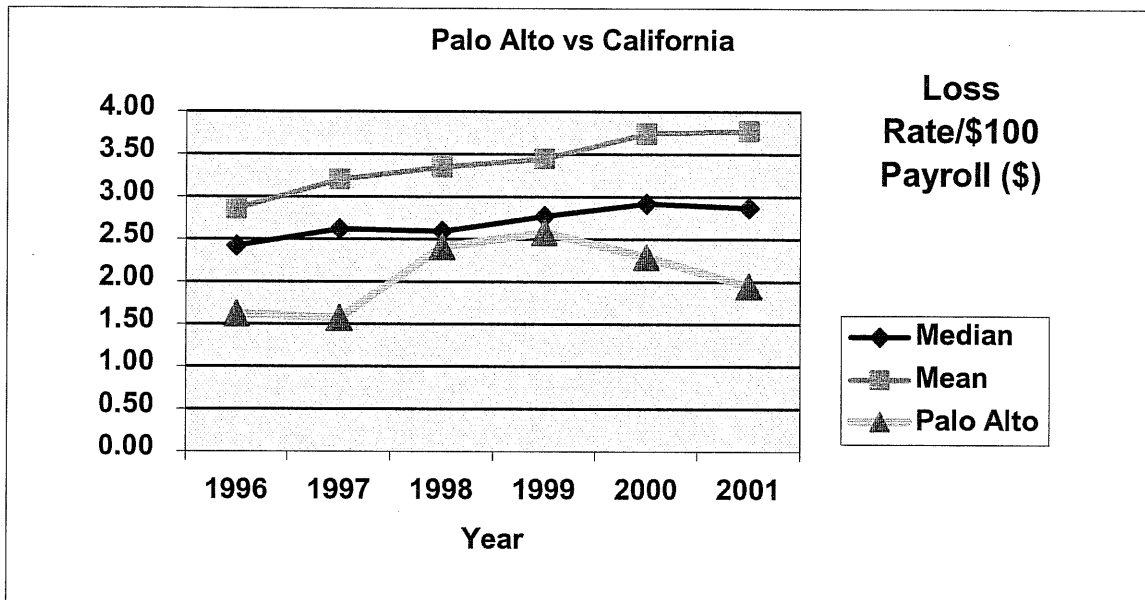
Note 1: Rates and costs are for 3-year periods ending June 30 of the year indicated in the column title. According to CIPRA, 90% of cases are closed after 3 years. "N/A" indicates incomplete or missing information.

Note 2: Median and mean is for 48 nearby non-joint powers authorities (JPA) cities in California.

Note 3: Median and mean is for all CIPRA non-joint powers authorities (JPA) cities in California (170 cities).

APPENDIX 5

Loss Rates per \$100 Payroll (Comparison Palo Alto to Other California Cities)



Source: California Institute for Public Risk Analysis (CIPRA) report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001. The CIPRA rates and costs are for 3-year periods ending June 30 of the year indicated. According to CIPRA, 90% of cases are closed after 3 years. It should be noted that no other city in California offers a full complement of utility services like Palo Alto.

Loss Rate Comparison Detail (Note 1)

Public Entity	Loss Rate per \$100 Payroll					
	1996	1997	1998	1999	2000	2001
Belmont	\$7.33	N/A	N/A	N/A	N/A	N/A
Pleasanton	2.60	\$1.89	\$1.60	\$1.79	\$2.48	N/A
Daly City	1.73	1.50	N/A	N/A	N/A	N/A
Richmond	7.47	7.08	9.59	8.31	7.58	\$8.53
Emeryville	2.06	2.64	2.86	5.07	6.89	7.50
Piedmont	2.59	1.91	1.70	1.25	1.59	7.04
Hayward	3.33	2.80	3.45	5.57	5.96	5.92
Berkeley	2.44	2.44	2.33	2.56	2.61	4.94
Burlingame	3.83	3.62	1.79	3.75	3.25	4.58
Oakland	3.88	5.00	5.94	5.50	5.03	4.28
Vacaville	2.38	4.11	3.03	3.43	3.84	4.27
Sunnyvale	2.44	1.95	N/A	2.53	4.17	4.26
Stockton	2.26	2.61	2.59	2.49	3.93	4.08
San Jose	4.43	4.44	3.32	3.72	3.87	4.08
Fairfield	2.99	2.92	3.29	3.14	3.56	3.72
Alameda	1.80	1.99	1.77	4.38	3.51	3.71
Sacramento	6.46	4.58	4.32	3.63	3.89	3.56
Vallejo	3.40	3.79	4.25	3.77	3.21	3.41
Union City	2.66	2.89	2.35	3.08	3.11	3.05
Santa Cruz	2.72	2.97	2.63	2.27	2.05	3.05
San Bruno	4.87	3.27	2.28	1.88	3.21	2.95
Gilroy	2.14	2.19	2.36	2.09	1.84	2.88
San Leandro	1.36	2.57	2.74	3.55	2.62	2.82
San Mateo	1.92	1.82	2.06	2.46	2.11	2.79
Petaluma	2.81	2.99	3.32	2.19	2.14	2.76
Napa	1.55	1.49	N/A	1.71	1.92	2.48
Fremont	2.41	1.92	1.72	1.86	N/A	2.48
Santa Clara	2.29	2.59	2.59	2.36	2.54	2.46
Lodi	3.66	3.26	3.37	3.48	2.64	2.41
Redwood City	1.51	1.38	1.80	2.28	2.14	2.31
Mountain View	2.16	2.70	2.55	2.25	2.26	2.31
Los Altos	1.56	0.97	1.46	1.38	1.93	2.26
Santa Rosa	2.84	2.33	2.61	1.62	1.81	2.11
Palo Alto	1.62	1.57	2.41	2.58	2.29	1.95
Los Gatos	1.16	1.08	1.37	1.43	1.61	1.93
Concord	1.90	2.10	2.90	2.37	1.30	1.86
Milpitas	1.96	2.21	1.70	1.94	1.68	1.83
Roseville	3.97	2.92	2.24	2.53	2.68	1.77
Benicia	4.81	6.79	5.80	1.66	2.43	1.77
Watsonville	2.55	2.64	2.32	2.54	2.34	1.58
Millbrae	2.19	1.31	1.86	2.46	3.24	1.47
Brisbane	N/A	N/A	N/A	N/A	N/A	1.36
So. San Francisco	2.12	2.71	2.66	2.59	1.67	1.33
Walnut Creek	2.22	1.87	1.74	1.80	1.42	1.29
Pacifica	1.98	1.57	2.12	1.43	2.59	1.27
Morgan Hill	2.53	3.02	2.60	2.13	1.18	1.21
Livermore	1.43	1.73	2.17	2.33	1.85	1.08
Cupertino	2.25	1.56	1.24	1.05	0.26	0.53

Loss Rate per \$100 Payroll Comparison with 48 nearby cities						
Median (Note 2)	\$2.41	\$2.57	\$2.59	\$2.46	\$2.59	\$2.79
Average (Mean) (Note 2)	2.76	2.51	2.48	2.59	2.59	2.82
Loss Rate per \$100 Payroll Comparison with all California Non-JPA cities						
Median (Note 3)	\$2.42	\$2.62	\$2.59	\$2.77	\$2.92	\$2.87
Average (Mean) (Note 3)	2.86	3.20	3.35	3.45	3.74	3.77

Source: California Institute for Public Risk Analysis (CIPRA) report on data compiled from annual self-insured reports filed with the California State Department of Industrial Relations from June 1993 through June 2001.

Note 1: Rates and costs are for 3-year periods ending June 30 of the year indicated in the column title. According to CIPRA, 90% of cases are closed after 3 years. "N/A" indicates incomplete or missing information.

Note 2: Median and mean is for 48 nearby non-joint powers authorities (JPA) cities in California.

Note 3: Median and mean is for all CIPRA non-joint powers authorities (JPA) cities in California (170 cities).

APPENDIX 6: Highlights of New Workers' Compensation Program Laws

Highlights of Senate Bill 899 include the following:

- Employers or their insurance carriers must begin to provide medical care within one working day of the presentation of a claim form, pay up to \$10,000 in medical fees, and provide treatment that is consistent with published guidelines of the American College of Occupational and Environmental Medicine (ACOEM).
- Medically necessary treatment was redefined and refers to the ACOEM standards for medical utilization reviews.
- Effective January 1, 2005, employers and insurers may use medical provider networks to help control medical expenses. The networks are required to follow ACOEM guidelines. Employees may change network physicians, but must continue treatment within the network.
- Pre-designation of chiropractors are no longer permitted. Only physicians and surgeons selected as the employee's primary care doctor under an employer's group health insurance plan are eligible.
- New rules apply to the resolution of disputed medical issues. Separate processes are provided for workers with and without attorneys, but both sets of directives are designed to hasten dispute resolution through selection of a Qualified Medical Evaluator (QME).
- Caps are imposed on temporary disability claims. Temporary disability claims within 2 years of the first payment are limited to 104 weeks. If the disability involves amputation, severe burns, or other injuries that require extended recuperation time, the limit is 240 weeks.
- Employers are encouraged to provide "return to work" opportunities and financial incentives are provided for returning employees back to work. Employers who do not offer a return to work program would suffer a 15% increase in permanent disability payments. The law reduces permanent disability payments by 15% if the employee is offered the opportunity to return to work.
- Permanent disability benefits will be changed for injuries occurring after January 1, 2005. Permanent disability benefits will increase from 9 to 16 weeks for workers who are 70% to 99.9% disabled and reduced for workers with minor permanent disabilities of ¼% to 15%.
- An injured worker's disability will be based on causation and all permanent disability reports must address what portion of the disability is work related. The employer's liability will be limited to the percentage of permanent disability directly caused by the work injury.
- As of June 1, 2004, new provisions for penalties were introduced. The old penalty was eliminated that allowed 10% of all payments (past, present, and future) to be paid for unreasonable delay or refusal to pay a benefit. Under the new law, the penalty is based

on the amount of the late payment, and is limited to 25% of the payment or \$10,000, whichever is less. Claims payers may cure the error before a claimant seeks a penalty by paying the correct amount plus a self-imposed 10% penalty.

Highlights of Senate Bill 228 and Assembly Bill 227 include the following:

- ACOEM guidelines apply. Employers have 10 days to object to spinal surgery.
- Every carrier must have an utilization review process.
- Chiropractor or physical treatment for injuries are limited to 24 visits for the life of the claim.
- As of January 1, 2004, medical treatment is rendered according to a new fee schedule and objections to medical bills must occur within 45 working days.