



## AGENDA

**LEGEND:** A - Action may be taken  
I - Information  
1 - Included  
2 - Handout  
3 - Separate  
4 - Verbal

**JPA:** ACCEL CLAIMS COMMITTEE MEETING

**DATE/TIME:** Wednesday, August 30, 2023 at 9:30 AM

**LOCATION:** Teleconference

Link: <https://alliantinsurance.zoom.us/j/94840690136?pwd=Vk1PUVBBSG96a0NndmRUbnFOTGRQZz09>

Meeting ID: 948 4069 0136

Passcode: 766364

Dial: (669) 900-6833

***In accordance with the requirements of the Brown Act, notice of this meeting must be posted in publicly accessible places, 72 hours in advance of the meeting, at the office of ACCEL's Secretary.***

*Per Government Code section 54954.2, persons requesting disability-related modifications or accommodations, including auxiliary aids or services in order to participate in the meeting, are requested to contact Alliant Insurance Services at (415) 403-1400, 24 hours in advance of the meeting. Access to some buildings may require routine provision of identification to building security. However, ACCEL does not require any member of the public to register his or her name, or to provide other information, as a condition to attendance at any public meeting and will not inquire of building security concerning information so provided. See Government Code section 54953.3.*

- MEMBER** • **City of Anaheim**, 201 South Anaheim Blvd., Suite 503, Anaheim, CA 92805  
**LOCATIONS** • **City of Bakersfield**, 1600 Truxtun Ave., 4<sup>th</sup> Floor, Bakersfield, CA 93301  
**VIA TELE -** • **City of Ontario**, 200 North Cherry Ave., Ontario, CA 91764  
**CONFERENCE** • **City of Santa Cruz**, 1200 Pacific Ave., Suite 290, Santa Cruz, CA 95060  
• **City of Santa Monica**, 1685 Main Street, Room 131, Santa Monica, CA 90401

### PAGE

#### **A. CALL TO ORDER**

#### **B. CONSENT CALENDAR**

(A)

3-5

1. Approval of Minutes for the May 30, 2023 Claims Committee Meeting

*The Committee will review these minutes and will take action to approve or give direction.*

#### **C. REPORTS**

##### **1. CLAIMS COMMITTEE'S REPORT**

6

1 a) Election of Claims Committee Chair

(A)

*The Claims Committee annually convenes to elect the Claims Committee Chair. Action may be taken or direction given.*

7-15

1 b) ACCEL's Claims Auditor Renewal Contract

(A)

*The Claims Committee will review the proposed Claims Auditor renewal contract with Robert Powers. Action may be taken to make a recommendation to the Board or direction given.*

16-33

1 c) Proposed Changes: ACCEL Claims Reporting and Handling Policy and Procedure (A)

*The Committee will discuss proposed changes. Action may be taken to provide a recommendation to the Board or direction given.*

34-36

1 d) Member Attorney Rates (A)

*The Committee will review the disclosed attorney rates for reasonableness and may take action or provide direction.*



37-40            1        e) Draft Service Provider Evaluations – Claims Administrators (A)  
*Members will review the question prompts for the draft Claims Administrators Service Provider Evaluations and may make a recommendation to the Board to approve, amend or provide further direction.*

4            f) **CLOSED SESSION – Pursuant to Gov’t Code 54956.95**  
*Members will review the following Closed Session items and may take action or give direction.*

- i.        Bernard v. City of Burbank
- ii.       Argueta v. City of Burbank
- iii.      Vasquez v. City of Burbank

**RECONVENE - DISPOSITION OF CLOSED SESSION ITEMS**

**D. PUBLIC COMMENTS** (I)  
4        *The public is invited at this point to address the Committee on issues of interest to them.*

**ADJOURNMENT**



**MINUTES OF THE  
ACCEL CLAIMS COMMITTEE MEETING**

Item No. B.1  
Claims Committee  
August 30, 2023

**Tuesday, May 30, 2023 at 10:00 AM**

**LOCATION:  
TELECONFERENCE**

Link: <https://alliantinsurance.zoom.us/j/95835729863?pwd=bUNGY3lvdW9laTJLL0JvVmFPWHF5dz09>

Meeting ID: 958 3572 9863

Passcode: 155744

Dial: (669) 900-6833

**MEMBERS PRESENT:**

Tracey Matthews, City of Anaheim (*left at 11:50 AM*)  
Jena Covey, City of Bakersfield (*left at 10:57 AM and re-joined at 11:20 AM*)  
Betsy McClinton, City of Burbank (*joined at 10:16 AM and left at 10:58 AM*)  
Ross Brandon, City of Santa Cruz  
Oles Gordeev, City of Santa Monica

**MEMBERS ABSENT:**

None

**GUESTS AND CONSULTANTS:**

Steven Brower, Brower Law Group (*left at 10:23 AM*)  
Ben Oram, George Hills Company  
David Tratuz, George Hills Company  
Rich Santana, George Hills Company  
Conor Boughey, Alliant Insurance Services  
Lorissa Huey, Alliant Insurance Services

**A. CALL TO ORDER**

Jena Covey called the meeting to order at 10:03 AM.

**B. CONSENT CALENDAR**

**B1. Approval of Minutes for the February 6, 2023 Claims Committee Meeting**

A motion was made to approve the consent calendar.

**MOTION:** Jena Covey      **SECOND:** Ross Brandon      **MOTION CARRIED**



	Tracey Matthews	Jena Covey	Betsy McClinton	Ross Brandon	Oles Gordeev
Aye	X	X		X	X
Nay					
Abstain					

**C. REPORTS**

**C1. CLAIMS COMMITTEE’S REPORT**

**C1a. CLOSED SESSION – Pursuant to Gov’t Code 54956.95**

A motion was made to enter into Closed Session at 10:05 AM.

**MOTION:** Oles Gordeev      **SECOND:** Ross Brandon      **MOTION CARRIED**

	Tracey Matthews	Jena Covey	Betsy McClinton	Ross Brandon	Oles Gordeev
Aye	X	X		X	X
Nay					
Abstain					

A motion was made to come out of Closed Session at 11:56 AM.

**MOTION:** Jena Covey      **SECOND:** Oles Gordeev      **MOTION CARRIED**

	Tracey Matthews	Jena Covey	Betsy McClinton	Ross Brandon	Oles Gordeev
Aye		X		X	X
Nay					
Abstain					

**RECONVENE - DISPOSITION OF CLOSED SESSION ITEMS**

Conor Boughey reported out of closed session that direction was given the Claims Administrators.



### C1b. Proposed Services for Legal Counsel

Conor Boughey reported that at the March 2023 Board Meeting, the Board gave authorization to issue a Request for Proposal (RFQ) for additional legal counsel work. The Program Administrators issued the RFQ and compiled all the solicitation responses as a handout. Legal Counsel is currently under the Underwriting Committee’s purview, but the solicitation being discussed is a Claims Committee related item in response to claims related work. The Claims Committee wants to discuss the responses at the Board level.

A motion was made to recommend to the Board to form an Ad Hoc Committee with Members from the Underwriting and Claims Committees to interview candidates.

**MOTION:** Jena Covey      **SECOND:** Oles Gordeev      **MOTION CARRIED**

	Tracey Matthews	Jena Covey	Betsy McClinton	Ross Brandon	Oles Gordeev
Aye		X		X	X
Nay					
Abstain					

### C1c. ACCEL’s Claims Auditor

This item was deferred to the June 15 and 16, 2023 Board Meeting.

### C1d. Litigation Update

This item was deferred to the June 15 and 16, 2023 Board Meeting.

**D. PUBLIC COMMENTS** - No public comments were made.

### ADJOURNMENT

Jena Covey adjourned the meeting at 12:02 PM.



**Item No. C.1.a**  
**Claims Committee**  
**August 30, 2023**

### Election of Claims Committee Chair

**ISSUE:** The Claims Committee annually elects a Committee Chair. The Committee Members are:

- Tracey Matthews, City of Anaheim (*Current Chair*)
- Jena Covey, City of Bakersfield (*Current President*)
- Numeya Williams, City of Ontario Alternate
- Ross Brandon, City of Santa Cruz (*Current Vice President*)
- Oles Gordeev, City of Santa Monica (*Past Chair and Current Treasurer*)

**RECOMMENDATION:** Staff recommends the Committee discuss and take action to elect a new Claims Committee Chair.

**FISCAL IMPACT:** No financial impact is expected from the recommended action.

**BACKGROUND:** The Executive Committee annually appoints Members of the Board to serve on Committees in July. Each year the Claims Committee elects a Chair, most recently held by Tracey Matthews. From 2020-21, Oles Gordeev was the Chair. From 2018-20, Betsy McClinton was the Chair. In 2017-18, the Chair was Charlotte Dunn, City of Visalia. Prior to Charlotte, Deb Hossli from the City of Santa Monica served as Committee Chair.

### ARTICLE VI COMPOSITION AND DUTIES OF COMMITTEES

The operation of the Authority shall be overseen by four standing committees: Executive, Underwriting, Finance, and Claims. ACCEL Member Alternates may be appointed to serve as members of the Underwriting, Finance and Claims Committees, but not as Chairperson.

**ATTACHMENT:** None.



**Item No. C.1.b**  
**Claims Committee**  
**August 30, 2023**

### ACCEL'S CLAIMS AUDITOR RENEWAL CONTRACT

**ISSUE:** ACCEL's Claims Auditor is Rob Powers. The 2023 claims audit begins in the second half of the year, and the final report will be presented to the Board at the January 2024 Board Meeting. The 2023 audit will be the last year of the contract.

At the June 2023 Board Meeting, direction was given to direct the Program Administrators to work with Rob Powers on a new contract for a duration of three years at a flat rate.

Rob Power has provided the attached memo and new contract with the same terms and conditions.

**RECOMMENDATION:** It is recommended that the Committee discuss Claims Auditor Renewal Contract and take action to make a recommendation to the Board.

#### Additional Consideration

**In favor:** The proposed action would enter into a new three year contract with the same fees and conditions as the prior contract. Many service providers have been looking to increase fees due to inflationary pressures. Approving this may offer a financial benefit to ACCEL. Rob has worked with ACCEL since 2018 and during the last Service Providers Surveys, the Board provided positive feedback.

**Against:** If the contract is not renewed, ACCEL may engage in a different contract and there may be a fee increase or ACCEL would engage in an RFP process to obtain services from either the incumbent auditor, or a new auditor. The last RFP process yielded few qualified candidates.

**FISCAL IMPACT:** The proposed contract fees are as follow:

#### Annual Fee

2024 - \$57,958  
 2025 - \$57,958  
 2026 - \$57,958

**BACKGROUND:** At the August 29, 2018 Special Board Meeting, the Board authorized a contract with Rob Powers for a three-year duration. Rob stepped into this role, by taking over from Praxis Claims Consulting that same year. In January 2021, the Board authorized a new contract with Rob for another two years with a one-year option to extend. In January 2023,

# ACCEL

## Authority for California Cities Excess Liability

c/o Alliant Insurance Services, Inc.

Corporation Insurance License No. 0C36861

560 Mission Street, 6th Floor, San Francisco, CA 94105



the Board authorized the option to extend for one year in Rob's contract and it will expire at the January 2024 Board Meeting after Rob presents the 2023 audit. The Board requested to discuss the Claims Auditor's agreement and services at the June 2023 Board Meeting, and direction was given that Rob provide a new three-year contract with the same terms and conditions. Tim Farley, Farley Consulting Services was the prior Claims Auditor.

### ATTACHMENT:

1. Memo from Rob Powers
2. Draft: New 2024-2026 Claims Auditor Contract



PO box 3295, Ventura, Calif. 93006-3295  
Voice (805) 647-9835 Fax (805) 981-7021  
rpwrs@pacbell.net

## *Audit Services Proposal*

ACCEL Board of Directors  
C/O Alliant Insurance Services  
Attn: Lorissa Huey

June 29, 2023

Dear Members:

**Background:** R.E. Powers & Company LLC has been performing annual audits for ACCEL Members starting in 2018 for three years (**2018, 2019 and 2020**). Thereafter, a new contract was entered into for two years (**2021-2022**) with an optional third year (**2023**). This option was elected by the Board and covers the current audit (**2023**).

The current audit year (**2023**) will conclude the last contract term.

### **Proposal**

I would like to propose a **new** contract under the same compensation, conditions as the existing contract. The only change would be to add three new years.

**Term** Contract audits for the years of **2024, 2025 and 2026**.

#### **Compensation- No change.**

The current compensation is:

A flat annual fee of \$57,958.00 for the TERM of the contract, based upon the current Membership of thirteen Cities and one Third Party Administrator (TPA). The first payment shall be due once R.E. Powers has begun the scheduling of the Members' audits and completed at least 30% of the audits (\$17,387.40). The second payment would be due upon the completion of the remaining Members and TPA audits and receipt and acceptance of the final audit reports (\$40,570.60). All payments will be invoiced would be payable within 30 days of ACCEL receiving R.E. Powers' invoice.

All other Terms, Conditions, Scope, Agreements and Requirements to be the same as the existing contract.

If this is acceptable and adopted by the Board, Alliant can prepare a new contract based upon the existing contract and send to me for completion and execution.

R. E. Powers & Company, LLC

Robert E. Powers, ARM

**AUTHORITY for CALIFORNIA CITIES EXCESS LIABILITY**  
**R.E. POWERS & Company, LLC- CLAIMS CONSULTING & AUDITING SERVICES**  
**AGREEMENT**

This agreement is made this **XX day of XX 2023**, by and between the Authority for California Cities Excess Liability hereinafter called "ACCEL" and R.E. Powers & Company LLC, hereinafter called "**R.E. Powers.**"

**Recitals**

WHEREAS,

- R.E. Powers has been providing claims auditing services to ACCEL since June 18, 2018 via an assigned contract from Praxis Claims Consulting.
- R.E. Powers and ACCEL wish to incorporate terms and conditions from that contract into an entirely new contract which is contained herein.
- Prior amendments are fully incorporated into this entirely new contract.
- There are no fundamentally different or substantiative changes from the prior existing agreements.
- The parties will consider this agreement as encompassing the entirety of duties and responsibilities of R.E. Powers claims consulting auditing services.
- ACCEL's intent for auditing services is more fully explained in the January 2, 2018 Request for Proposal (RFP) and incorporated herein by reference.

NOW, WHEREFORE,

The parties hereto, intending to be legally bound, hereby agree as follows:

**ARTICLE I- SCOPE**

**R.E. Powers** shall provide, and ACCEL shall be responsible for paying for the following described services: Liability Claims Auditing Services, as more fully described in hereinafter attached as **Exhibit A** for agreed **Scope of Work**.

**R.E. Powers** shall furnish all supervision, technical and professional personnel, labor, materials, machinery, tools, equipment and other services which may be necessary to perform completely all services, to be sold pursuant to this Agreement, all in accordance with the Agreement Documents.

All services to be sold pursuant to this agreement shall satisfy completely each and every specification appearing in the **RFP**, Exhibit A and all other requirements which may appear in this Agreement Document.

## ARTICLE II- CONSIDERATION

A flat annual fee of **\$57,958.00** for the **TERM** of the contract, based upon the current Membership of thirteen Cities and one Third Party Administrator (TPA). The first payment shall be due once **R.E. Powers** has begun the scheduling of the Members' audits and completed at least 30% of the audits (**\$17,387.40**). The second payment would be due upon the completion of the remaining Members and TPA audits and receipt and acceptance of the final audit report(s) (**\$40,570.60**). All payments will be invoiced would be payable within 30 days of **ACCEL** receiving **R.E. Powers'** invoice.

## ARTICLE III- AGREEMENT DOCUMENTS

The Agreement Documents shall consist of the following: all incorporated herein by reference and made part of this agreement:

- A. This agreement
- B. Exhibit A- Scope of Work

The above Agreement Documents form the entire agreement between the parties hereto, any oral understandings or agreements to the contrary notwithstanding.

## ARTICLE IV- TIME FOR PERFORMANCE

Each year, **R.E. Powers** shall fully perform all of its obligations, and without limitations, of all required services outlined in the RFP, Exhibit A during the period beginning from the signing date of this Agreement. The **TERM** for the contract will be for three (3) years:

- Year 2024
- Year 2025
- Year 2026

**ACCEL** may use this option upon written notice by **ACCEL's** Program Administrators after Board of Directors' action. Either party may terminate the contract upon 60 days written notice.

## ARTICLE V- CONFIDENTIALITY

During the term of this Agreement, **R.E. Powers** will have access to and will be acquainted with various processes and compilations of information, records and specifications, all of which are owned by **ACCEL** and or their members and are regularly used in the operation of **ACCEL's** or their member's business.

All information furnished by **ACCEL** to **R.E. Powers**, including, without limitation, business, technical, financial, operational, administrative, marketing, economic and other information and material (whether in written or oral form or in eye, machine or electronic readable form or any other format currently in existence or hereafter to be developed and whether prepared or presented by **ACCEL** or its authorized representatives) whether or not marked as confidential, that come into **R.E Powers'** possession in any way, and whether or not they contain or constitute

trade secrets owned by **ACCEL**, (collectively the "**Confidential Materials**") are and shall remain the exclusive property of **ACCEL**. **R.E. Powers** agrees to hold in confidence any **Confidential Materials** and not to disclose the same to others, without **ACCEL's** prior written consent.

Any **Confidential Materials** and any copies thereof that may be in **R.E. Powers'** possession must be destroyed/deleted within five working days of the termination of this Agreement and upon written request of **ACCEL**.

#### **ARTICLE VI- INDEMNIFICATION**

- a. Each Party shall indemnify, defend and hold harmless the other Party, and with respect to **ACCEL** and its constituent member municipalities, its officers, employees, directors, affiliated companies and agents from and against any and all third-party claims, actions demands and lawsuits (together "Claims") and all resulting costs, liabilities, damages and expenses including reasonable attorneys' fees (together "Liabilities") arising out of:
  - i. The indemnifying Party's breach of any material term or provision of this Agreement, or violation of any representation, warranty or covenant in this Agreement.
  - ii. Any act or omission by **R.E. Powers** related to the services performed for **ACCEL**; or
  - iii. Any act or omission by **ACCEL** related to the services performed by **R.E. Powers**.
  
- b. The indemnified Party shall give the indemnifying Party prompt written notice of any claim covered by this section and provide reasonable assistance and cooperation (at the indemnified Party's expense). The indemnifying Party shall have the right and duty to assume the control of the defense thereof. The Indemnified Party may take part in its defense at its own expense after the indemnifying Party assumes the control thereof.

#### **ARTICLE VII- INSURANCE**

- **Commercial General Liability:** \$1,000,000 per occurrence.
- **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage.
- **Workers' Compensation:** Workers' Compensation insurance as required by the State of California, with Statutory Limits and Employers' Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease
- **Professional Liability:** Insurance appropriate to the Consultant's profession with a limit of not less than \$1,000,000 per occurrence.

Details more fully explained in the January 2, 2018 Request for Proposal (RFP).

**ARTICLE VIII- ASSIGNABILITY**

This agreement may not be assigned to another provider without written agreement of both parties.

**ARTICLE IX- CONFLICTS**

Parties agree that any conflicts or potential conflicts will be disclosed as soon as possible upon becoming aware of the potential for conflicts.

No officer, member or employee of ACCEL and no member of its governing bodies shall have any financial interest, direct or indirect, in this contract or the proceeds thereof. No consultant or member of the consultant’s family shall serve on a ACCEL board, committee, or hold any such position which either by rule, practice or action nominates, recommends, or supervises the consultant’s operation or authorizes funding to the consultant.

**IN WITNESS WHEREOF**, the parties to this agreement have set their hands to duplicate copies on the day and year herein above written with each copy to be considered an original.

Authority for California Cities Excess  
Liability

R.E. Powers & Company, LLC

By: \_\_\_\_\_

Tracey Matthews  
ACCEL Claims Committee Chair

By: \_\_\_\_\_

Robert Powers  
President

# Exhibit A

## *Scope of Services from ACCEL RFP Liability Claims Auditing Services Dated January 2, 2018*

### Scope of Services

The consultant will annually audit the Claims Administrator and all thirteen Member Cities in accordance with the following work plan:

- ❖ Claims Administrator:
  - Audit all open claims, and all claims closed in the past 12 months with a total incurred of more than \$1 million for compliance with ACCEL's claims administration contract requirements (See Section VII -- RFP Attachments for copy) which address: Claim Set Up and Documentation, Coverage Determinations, Investigations and Reserving, Excess Reporting, Litigation Management, and Reporting to ACCEL Board of Directors; document findings;
  - Review staffing qualifications and caseloads and note any concerns;
  - Monitor and reconcile claims in which ACCEL's Claims Administrator has placed an ACCEL reserve, against each Members' loss run to be sure there is an appropriate Member reserve;
  - Conduct an exit interview at conclusion of audit, and document any follow-up items/Claim Administrator concerns, and forward to Alliant;
  - Summarize keys findings and recommendations in an annual written report due to ACCEL on December 15 of each year; and
  - Present key findings and recommendations to the ACCEL Board in January of each year.
  
- ❖ Member Cities: Anaheim, Bakersfield, Burbank, Modesto, Monterey, Mountain View and Santa Monica:
  - Audit 50% of each Member City's open claim files up to a maximum of 50 focusing on claim files with large reserves, and claim files with descriptions involving potentially costly losses (e.g., excessive force claims, employment claims, etc.);
  - Document findings for each claim file relative to investigation, reserving, litigation management, liability/damage evaluation, file management, timely negotiations, and excess reporting practices using ACCEL's audit form (See Attachment B).
  - Review staffing qualifications and caseloads and note any concerns;
  - Confer with Member City's legal staff to discuss reserving and/or litigation strategy, as appropriate;
  - Reconcile Member Cities loss data with loss data provided to Alliant and note any discrepancies;

- Conduct an exit interview at conclusion of audit, and document any follow-up items/Member City concerns, and forward to Alliant;
  - Summarize keys findings and recommendations in an annual written report due to ACCEL on December 15 of each year; and
  - Present key findings and recommendations to the ACCEL Board in January of each year.
- ❖ Member Cities: Ontario, Palo Alto, Salinas, Santa Barbara, Santa Cruz, and Visalia:
- Audit 35% of each Member City’s open claim files up to a maximum of 35 focusing on claim files with large reserves, and claim files with descriptions involving potentially costly losses (e.g., excessive force claims, employment claims, etc.);
  - Document findings for each claim file relative to investigation, reserving, litigation management, liability/damage evaluation, file management, timely negotiations, and excess reporting practices using ACCEL’s audit form (See Attachment B).
  - Review staffing qualifications and caseloads and note any concerns;
  - Confer with Member City’s legal staff to discuss reserving and/or litigation strategy, as appropriate;
  - Reconcile Member Cities loss data with loss data provided to Alliant and note any discrepancies;
  - Conduct an exit interview at conclusion of audit, and document any follow-up items/Member City concerns, and forward to Alliant;
  - Summarize keys findings and recommendations in an annual written report due to ACCEL on December 15 of each year; and
  - Present key findings and recommendations to the ACCEL Board in January of each year.

The Audit does not include reviewing defense attorney files, the review is intended to be the “Claim File” maintained by the Claims Administrator and or Risk Management.

Further, R.E. Powers agrees to review and provide input on, where appropriate:

Claims handling manuals, file notes, reserve practices, payments/settlements, claims supervision, quality of investigation, litigation management, diaries, internal controls relating to adjuster authority levels, documentation, cost containment programs, excess or reinsurance reporting procedures, third party recovery, settlement practices, and subrogation practices.



**Item No. C.1.c**  
**Claims Committee**  
**August 30, 2023**

### **PROPOSED CHANGES:** **CLAIMS REPORTING AND HANDLING POLICY AND PROCEDURE**

**ISSUE:** At the June 2023 Board Meeting, the Board took action to bind coverage with excess carrier, Great American and Starstone. Great American has added more criteria to its claims reporting requirements. Direction was given to the Claims Committee to review ACCEL's Claims Reporting and Handling Policy and Procedure (P&P).

The ACCEL Memorandum of Coverage (MOC) also includes claims reporting requirements and falls under the Underwriting Committee's purview. ACCEL and its Members should comply with both ACCEL and Excess Insurer reporting requirements.

**RECOMMENDATION:** The Committee will review and make a recommendation to the Board to adopt the proposed changes or give direction.

#### **Additional Consideration**

**In favor:** The proposed changes to the P&P aim to provide more consistency between ACCEL's Claims Reporting and Handling P&P and the excess carriers on claims reporting requirements. This also helps outline the responsibility of the Members to report to ACCEL's Claims Administrator who then report to the excess carriers.

**Against:** If ACCEL does not want to adopt the proposed changes to the P&P, this would indicate that ACCEL has fewer reporting requirements, but may be risk late reporting a claim to a carrier because a claim was not reported to ACCEL but required reporting to a carrier. A vote against may indicate that the Committee believes ACCEL's reporting requirements do not need to match others and stand on their own.

**FISCAL IMPACT:** No financial impact is expected from the recommended action.

**BACKGROUND:** In January 2023, the Board approved most recent amendments to the P&P as summarized below:

1. New Section, VII. Settlement Authority Process with a three-tiered authority level with stated dollar amounts between the Claims Committee Chair, Claims Committee, and the Board. The language is:  
*"If an opportunity to resolve a claim arises, and the amount is less than the approved reserve, ACCEL authorizes the following levels of authority. If the*

# ACCEL

## Authority for California Cities Excess Liability

c/o Alliant Insurance Services, Inc.  
Corporation Insurance License No. 0C36861  
560 Mission Street, 6th Floor, San Francisco, CA 94105



*claim involves the Chair's own city, the President will have authority to approve.*

- a. *\$1,000,000 to \$2,000,000 - Claims Committee Chair or the Claims Committee in an event there is a conflict situation.*
  - b. *\$2,000,000 to \$5,000,000 - Claims Committee*
  - c. *\$5,000,000 to Authority's Retained Limit - ACCEL Board"*
2. *New statement about prefunding under Section, VIII. Claims Reimbursement Requests: "If a Member requests an advancement on a reimbursement to prefund a large payment, the Claims Committee Chair has the authority to approve the prefunding request. If the claim involves the Chair's own city, the President will have authority to approve."*

**ATTACHMENT:** Claims Reporting and Handling Policy and Procedure – Redlined

# ADMINISTRATIVE POLICY AND PROCEDURE

## SUBJECT: CLAIM REPORTING AND HANDLING

DATE: May 1, 1987

AMENDED DATE: January 19, 2023

REVIEWED DATE: ~~January 9, 2023~~ August 30, 2023

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- VIII. Claims Reimbursement Requests
- IX. Claims Audits
- X. Attachments

#### I. Statement

It is the policy of the Authority for California Cities Excess Liability Joint Powers Authority (hereinafter referred to as “Authority”) that:

1. Each Member Agency will report all occurrences, claims, and lawsuits (hereinafter referred to as “claims”) meeting the Authority’s reporting criteria to its Claims Administrator as soon as possible and in accordance with the Authority’s Memorandum of Coverage (“MOC”).
2. Each Member Agency will assume primary responsibility for managing all reported claims filed against the Member Agency. However, the Authority reserves right to associate in or participate with a Member Agency in the negotiation, investigation, defense, appeal, or settlement of a claim subject to the terms and conditions of the Authority’s MOC.
3. The Authority’s Claims Administrator is responsible for notifying the Authority’s excess insurance carriers of all Member Agency claims with the potential to exceed the Authority’s retained limit in accordance with excess carriers’ claims reporting and handling policies. However, each Member Agency is responsible for notifying and complying with all insurance policies unaffiliated with the Authority, and purchased individually by the Member Agency (i.e., Non-Authority purchased coverage).
4. Should a discrepancy arise between this document and the Authority’s MOC, the MOC will govern.

## **II. Role of Claims Committee**

The Claims Committee is composed of Board Members appointed by the Executive Committee and approved by the Authority; the Committee Chair is selected by Committee members. Committee membership shall not meet or exceed a quorum of the Board. The Claims Committee, with support from the Authority's claims management firm, is responsible for the following activities:

1. Monitoring all claims reported by Member Agencies to the Authority to ensure reserves are adequate, defense strategies are sound, coverage issues are promptly identified and communicated to Member Agencies, and excess carriers are promptly notified of claims with potential to exceed the Authority's retained limit;
2. Reporting key developments and/or concerns regarding active claims to the Authority's Board of Directors;
3. Providing recommendations to the Board of Directors on claims and claims matters requiring Authority action, including, but not limited to, coverage determinations, reserve levels, defense strategies, settlement offers, and decisions to try or appeal lawsuits;
4. When appropriate, soliciting and reviewing coverage opinions and other related coverage matters (e.g. reservation of rights letters). The Claims Committee Chair may approve releasing the coverage statement to the Member, to be ratified at the following Claims Committee Meeting;
5. Overseeing the activities of the Authority's claims management firm; and
6. Assisting with the selection of the Authority's claims management firm and claims auditor.

The Claims Committee will meet at least quarterly to fulfill its designated responsibilities.

## **III. Role of Claims Administrator**

The Authority will retain the services of a claims management firm to oversee all claims reported by its Member Agencies. The claims management firm, in turn, will assign a claims administrator to the Authority. The Claims Administrator will serve as the Authority's point of contact for all reported claims and be responsible for fulfilling the scope of work contained in the service contract between the Authority and the claims management firm. The Claims Administrator will notify the excess carriers of claims in accordance with excess carriers' claims reporting and handling policies.

It is the duty of the Claims Administrator to report any claim or occurrence to each excess carrier, without regard to liability, that meets the reporting requirements in each of the excess policies, (e.g. death, traumatic brain injury, paralysis, burns, and other severe injuries, or a reserve of half or more of the retention) or which meet ACCEL's reporting requirements in Section IV below.

#### IV. Reporting Requirements for Member Agencies

1. Member Agencies will report to the Authority's Claims Administrator as soon as possible all events meeting any of the criteria identified below, without regard to liability:

a. Claims<sup>1</sup> in which the ultimate net loss is estimated to exceed 25% of the Member Agency's retained limit.

b. Claims<sup>1</sup> falling within any of the following classifications,:

- i. Any claim with an assigned a trial date in the next 30 days that has not been otherwise reported.
- ii. Class action suits.
- iii. Law enforcement actions alleging excessing use of force or wrongful conviction.
- iv. Claims involving allegations of harassment, including but not limited to sexual, employment-based or third-party.
- v. Sexual misconduct or molestation – including allegations of assault, misconduct, rape and related offenses.
- vi. Fatalities.
- vii. Spinal cord injuries resulting in any degree of paraplegia or quadriplegia.
- viii. Nerve damage injuries resulting in paralysis or loss of sensation.
- ix. Brain damage claims including; but not limited to, closed head injuries, permanent disorientation, behavior disorder, personality change, seizure, motor deficit or other cognitive disorders.
- x. Burns – Third degree burns involving 10% of the body, or second degree burns involving 30% of the body.
- xi. Amputation – complete or partial.
- xii. Impairment of vision or hearing – 50% or greater.
  - i. Multiple injuries arising out of one occurrence, including but not limited to; massive internal injuries or multiple fractures one or more fatalities;
  - ii. spinal cord injuries (paraplegic or quadriplegic);
  - iii. amputations;
  - iv. loss of sight or hearing;
  - ~~v. xiii. severe burns or disfigurement;~~
  - ~~vi. xiv. serious head injuries;~~
  - ~~vii. serious loss of use of any body part or function;~~
  - ~~viii. allegations of sexual misconduct, molestation or similar;~~
  - xv. long term hospitalization (30 days or more)
    - ~~—any claim with an assigned trial date in the next 30 days that has not been otherwise reported~~
  - ~~ix. law enforcement actions alleging excessing use of force or wrongful conviction of~~
- ~~x. xvi. multiple claims arising out of the same occurrence in which the aggregate ultimate net loss is estimated to exceed 25% of the Member Agency's retained limit.~~

c. Lawsuits or writs involving employment practices liability.

~~d. Any class action lawsuits.~~

e.d. Demands in excess of \$250,000 arising out of any of the following settings:

- i. Statutory demand;
  - ii. Post closed discovery (not expert) demand;
  - iii. Mandatory Settlement Conference demand;
  - iv. Mediation demand; or
  - v. Arbitration demand.
2. Member Agencies will ensure that the initial report provided to the Claims Administrator contains a brief description of what occurred, along with all available/relevant documents (e.g., claim, investigative reports, photos, medical reports, etc.) and a reserve recommendation.

Member Agencies will provide the initial report and all future reports to the Authority's Claims Administrator:

George Hills Company  
P.O. Box 278  
Rancho Cordova, CA 95741  
Phone: (855) 442-2357  
Attention: Ben Oram / David Trautz  
[Ben.Oram@georgehills.com](mailto:Ben.Oram@georgehills.com) / [David.Trautz@georgehills.com](mailto:David.Trautz@georgehills.com)  
(916) 269-4108 / (747) 282-2810

<sup>1</sup> See page 1 of this policy – the definition of “claim” includes occurrences, claims, and lawsuits.

Once a reported claim is litigated, Member Agencies will promptly advise the Claims Administrator of legal counsel selection and forward a copy of the lawsuit along with any additional relevant documents available that were not provided with the initial report.

3. Member Agencies will ensure that assigned legal counsel provides the Claims Administrator with a case analysis report (“CAR” – sample attached) or equivalent as soon as reasonably possible after receipt of the lawsuit and status reports every ninety days thereafter or when an action occurs that could change the value of a lawsuit, whichever occurs first. Further, Member Agencies will ensure that status reports are complete and contain sufficient information for the Claims Administrator to properly evaluate the lawsuit and keep the Claims Committee informed of key developments that may require its action. If Member Agencies fail to comply with these requirements, the Claims Administrator will promptly alert the Claims Committee and may request intervention.

## **V. Coverage Determinations**

The Claims Administrator will promptly evaluate all reported claims to determine whether coverage is available under the Authority's MOC.

If this review reveals a potential coverage issue(s), the Claims Administrator will send the affected Member Agency a partial disclaimer of uncovered damages and provide a copy to the Program Administrator. Upon further review of claim details, the Claims Administrator will request Claims Committee approval to issue a reservation of rights letter that clearly states the basis and justification for the finding; a copy of the letter will be provided to the Program Administrator and each Claims Committee Member. The Claims Chair has Authority to approve the issuance of a Reservation of

Rights if circumstances dictate that the Claims Committee may not be able to approve. Any Reservations of Rights approved by the Claims Chair will be presented to the Claims Committee for ratification at the next Claims Committee meeting. The Claims Committee, in turn, will apprise the Board of Directors of all reservation of rights letters issued to Member Agencies and will provide regular status updates until matters resolve. All denials of coverage must be approved by the Authority.

Member Agencies can dispute a reservation of rights letter by contacting the Authority's Board President and requesting that an item be placed on the next available Board of Directors meeting agenda to discuss the matter. In the event of a conflict (i.e., the Board President's Member Agency is disputing a reservation of rights letter), the Vice President will assume the Board President's responsibilities.

## **VI. Duty to Disclose a Potential Conflict of Interest**

Members have a duty to disclose a conflict of interest if a conflict of interest or potential conflict exists.

## VII. Settlement Authority Process

As stated in the ACCEL Bylaws Article XI Settlement of Claims:

All claims settlement recommendations shall be presented by the Claims Committee to the Board of Directors for its approval prior to final settlement.

ACCEL's Board will review claims covered by ACCEL's Memorandum of Coverage and take the following steps to review and grant authority to resolve claims:

1. The TPA will review claims for exposure to ACCEL's shared risk layer.
2. Claims which are likely to exceed the member retention and require ACCEL funds to resolve will be brought to the Claims Committee for review.
3. For claims in which an ACCEL reserve is being requested, the claim shall be brought to ACCEL's Board for review and action. If a reserve is approved, the reserve will be posted on ACCEL's loss run and indicates ACCEL's level of approval to resolve the claim.
4. If an opportunity to resolve a claim arises, and the amount is less than the approved reserve, ACCEL authorizes the following levels of authority. If the claim involves the Chair's own city, the President will have authority to approve.
  - a. \$1,000,000 to \$2,000,000 - Claims Committee Chair or the Claims Committee in an event there is a conflict situation.
  - b. \$2,000,000 to \$5,000,000 - Claims Committee
  - c. \$5,000,000 to Authority's Retained Limit - ACCEL Board
5. If a claim resolution exceeds the Board approved reserve, the claim must be brought back to the Board for further discussion and potential action.
6. Any claim involving ACCEL's funds requires a final report to the Board, informing the Board of the claim resolution and financial impact to ACCEL.
7. Claims payments will be processed in accordance with ACCEL's Accounting Guide.

Confirmation of Authority: Prior to attending a settlement conference, the Claims Administrator should provide written notification to the Member Agency and to the Claims Committee of the settlement plan including the details of the mediation or settlement conference, if applicable, the reserves set by ACCEL, confirmation on the potential target settlement value, and where applicable, confirmation that the remainder of the Member Agency SIR may be tendered in the course of finding a resolution.

## VIII. Claims Reimbursement Requests

For claims that fall under the Policy Year 2015-16 and after, the Authority's MOC allows for a Member Agency to seek reimbursement from the Authority.

When seeking reimbursement Member Agencies are required to provide the Authority's Claims Administrator a summary as well as all invoices and documentation to substantiate the exhaustion of the Member SIR and the amount requested in the claim reimbursement.

The statement above does not change any agreement between the Authority and a Member Agency which allows the Member Agency (such as a flat fee agreement) to provide a summary report of the amount requested as part of the claim reimbursement along with a signed affidavit that all bills have been reviewed for accuracy, appropriateness, and reasonableness.

The Authority will reimburse Members or credit their Self-Insured Retentions (SIRs) for reasonable attorney fees and necessary litigation expenses incurred while managing, investigating, defending or litigating covered claims.

ACCEL Members are required to notify the Claims and Program Administrators regarding any claim in which attorney rates are in excess of \$400/hour. The Program Administrators will agendize the claim for the Claims Committee to review rates for reasonableness. The Committee may take action or provide direction.

- 1) Once prior written authorization is given to settle an excess case, or a judgment puts it into the Authority or other excess layers, the Member or its administrator must submit:
  - a) Copies of all settlement documents, including releases, annuity forms (if structured), and properly filed dismissals.
  - b) Copies of all itemized bills from defense attorneys, claims administrators, expert witnesses and any other cost bills. (*see attached sample billing procedures*)
  - c) Copies of valid evidence of payment properly matched to the bills and settlement documents. Valid evidence of payment can take the form of check copies, data processing runs, Member warrant registers, department payment records, TPA claim payment screen printout, identifying the following:
    - a. Check or warrant number
    - b. Issue date
    - c. Payee
    - d. Paid amount
- 2) A cover letter requesting reimbursement of the net amount after deducting the SIR, must be submitted with the above documentation.
- 3) Once the figures are reconciled, a check request will be made to reimburse the Member in the appropriate amount. When issued this check will be mailed to the Member contact person, with a copy to the claims administrator (if applicable).

- 4) If a Member requests an advancement on a reimbursement to prefund a large payment, the Claims Committee Chair has the authority to approve the prefunding request. If the claim involves the Chair's own city, the President will have authority to approve.
- 5) If special circumstances arise, which require exceptions or interpretation, the Program Administrators will agendaize for Committee or Board consideration.

## **IX. Claims Audits**

All Member Agencies are required to complete an annual claims audit. Such audits will be conducted by a qualified outside audit firm recommended by the Claims Committee and approved by the Authority. The cost of the audits will be shared equally by Member Agencies.

The Claims Auditor will issue a written report summarizing the findings and recommendations for each Member Agency. This report will be presented and approved by the Authority's Board of Directors at a regular Board meeting. The Authority may require a Member Agency to formally respond to an audit finding contained in the report. A Member Agency shall submit its response to the Authority within sixty days of the request.

## **X. Attachments**

- 1) Sample CAR and Budget Form
- 2) Sample Billing Procedures

**APPENDIX 1  
CASE ANALYSIS REPORT**

**Caption of Lawsuit:** \_\_\_\_\_

**Court:** \_\_\_\_\_

**Court Case Number:** \_\_\_\_\_

**Date Suit Filed:** \_\_\_\_\_

**Date of Service:** \_\_\_\_\_

**Fast Track?** \_\_\_\_ Yes \_\_\_\_ No

**Excess TPA Claim Number:** \_\_\_\_\_

**Date of Loss:** \_\_\_\_\_

**Primary TPA Claim Number:** \_\_\_\_\_

**I. PARTIES**

**A. Plaintiffs:**

**B. City and City-Related Defendants:**

**C. Third-Party and Other Defendants:**

**II. TRIAL DATE AND OTHER IMPORTANT DATES**

**III. JURISDICTION AND EVALUATION**

**IV. TRIAL JUDGE AND EVALUATION**

**V. EVALUATION OF COUNSEL**

**A. Plaintiff's Attorney's Name and Evaluation:**

**B. City's Defense Attorney's Name:**

**C. Co-Defendants' Attorneys' Names and Evaluations:**

**VI. STATEMENT OF FACTS**

**VII. INJURIES**

**VIII. SPECIAL DAMAGES**

**A. Medical Expenses:**

**1. Past:**

**2. Future:**

**B. Loss of Earnings:**

**1. Past:**

**2. Future:**

**C. Other (specify);**

**IX. LIABILITY ALLEGATIONS**

- A. Plaintiff's Contentions:**
- B. Defenses:**
  - 1. Legal Defenses:**
  - 2. Factual Defenses:**
- C. Plaintiff's Expert Witnesses and Opinions:**
- D. Defense Expert Witnesses and Opinions:**

**X. VERDICT EXPOSURE**

- A. Chances of Defense Verdict:**  
[Note: a percentage number shall be provided.]
- B. Gross Verdict Range as to all Defendants:**
- C. Potential Offsets and Credits:**
- D. Net Verdict Range to City after Offsets, Credits and Allocation of Fault:**
- E. Plaintiff's Attorney's Fees (if applicable):**
- F. Punitive Damages (if applicable):**

**XI. SETTLEMENT HISTORY**

- A. Last Demand:**
- B. Last Offer:**
- C. History of Settlement Negotiations:**

**XII. RECOMMENDATIONS OF COUNSEL**

- A. Reasonable Settlement Value:**
- B. Proposed Litigation Strategy:**
- C. Other Recommendations:**

**XII. BUDGET**

- A. Fees and Costs Invoiced to Client as of the Date of this Report:**
- B. Fees and Costs from this Date to Trial:**
- C. Fees and Costs of Trial:**
- D. Initial Case Budget:**
- E. Experts' Fees and Costs to Date:**

**F. Experts' Fees and Costs through Trial:**

**G. Litigation Budget Summary Form (see Attachment 1):**

**XIII. MISCELLANEOUS**

**A. Does Complaint Conform to the Tort Claim Filed?**

**(If not, specify differences)**

**B. Is Indemnification, Subrogation, or Contribution Available?**

**(If so, specify by whom, and in what amounts)**

**Attachment**

**1 – Litigation Budget Summary Form**

# ATTACHMENT 1 -- LITIGATION BUDGET SUMMARY FORM

Name of Attorney: \_\_\_\_\_ Case Name: \_\_\_\_\_

**Est Hrs / Cost**

1. **Preliminary Activity**  
(Review File, Interview Witnesses, Case Analysis, Litigation Plan, Budget)
2. **Initial Pleadings**  
(Answer, Cross-Complaint, Demurrer)
3. **Fact Finding – Information Gathering**  
(Document Review, Research, Strategy Development, Sub Rosa, Travel)
4. **Discovery**  
(Interrogatories, Depositions [by individual], Other Requests)
5. **Law & Motion and Pre-Trial Activity**  
(Motions [specify], Arbitrations, Settlement Conferences, Mediations, Court Hearings, Pre-Trial Reports)
6. **Experts**  
(Identify Each Expert [if known] and Area of Expertise)
7. **Documentation – Administrative Support**  
(Correspondence, Copies, Faxes, Other Costs)
8. **Trial Activity**  
(Trial Preparation, Trial Attendance, Briefings, Exhibits, Post-Trial Report)

**TOTAL** \_\_\_\_\_

**BUDGET SUMMARY:**

1. Preliminary Activity	\$
2. Initial Pleadings	\$
3. Fact Finding-Information Gathering	\$
4. Discovery	\$
5. Law & Motion and Pre-Trial Activity	\$
6. Experts	\$
7. Documentation – Administrative Support	\$
8. Trial Activity	\$

**TOTAL**

\$ \_\_\_\_\_

**SUBMITTED BY:**

**Defense Counsel:**

\_\_\_\_\_ Date: \_\_\_\_\_

Signature

\_\_\_\_\_

Printed Name

## **SAMPLE DEFENSE COUNSEL GUIDELINES – Billing Procedures**

### **BILLING PROCEDURES**

All invoices are to be submitted on a [monthly/quarterly] basis and directed to [name of person or position to whom invoices should be sent]. Billings that do not comply with the billing guidelines will not be paid. Payment of any bill by the [entity name and/or the TPA] does not constitute a waiver of the [entity name's] right to question, dispute, obtain reimbursement, compromise, or request repayment or future credit, for any bill or invoice previously paid.

Invoices for counsel fees and expenses should be submitted [monthly/quarterly], within thirty (30) days of the end of the billing period. Final invoices should be submitted within thirty (30) days from receipt of a filed Dismissal. Defense Counsel is responsible for obtaining all outstanding invoices from outside vendors, including experts, before submitting the final bill. Receipts must be submitted for all travel and other expenses.

Firm staffing on all cases should be as limited as possible. Absent prior approval, the [entity name] will not pay for more than one (1) attorney performing the same task. For example, the [entity name] will not pay for two (2) or more attorneys to attend the same deposition. Work should be assigned to those individuals who are most appropriate for the task in terms of their competency and experience.

There should be no more than two (2) attorneys and one (1) paralegal performing work on a case at any given time. Other firm personnel may occasionally have to work on a case due to job departures, vacations, illnesses, schedule conflicts, etc., but this is the exception, not the rule. [Entity name] will not pay for “training” time for new attorneys or “learning” time or “orientation” time as new billers become involved in a matter and are learning the facts and issues. If a firm has summer associates, their time should not be billed to a case without first being approved by the [entity name and/or TPA]

#### **A. Invoices**

Invoices should accurately itemize, in detail, all work performed on a matter. Each invoice must include the following:

- Law firm name and address
- Date of the bill
- Law firm tax identification number
- The TPA and/or entity claim number
- Plaintiff(s) name(s)
- Each billing entry must state the name or initials of the timekeeper who performed the work, the date the work was performed, the hours billed, a detailed description of the services performed, and the total amount billed for that entry
- Attorneys and paralegals should bill actual time spent in increments, no greater than 1/10<sup>th</sup> of an hour for each entry
- Summarize at the end of the bill, the number of hours for each specific biller

- Summarize at the end of the bill the totals for fees, costs, and experts
- Narrative or block/bundled billing is not permitted
- Final bills should be clearly marked
- Invoices must reflect activity for only one (1) case
- Billing entries should be listed chronologically in order of occurrence and not sub-divided by individual or task
- If a number of different tasks are undertaken in one day, each task must be separately identified with a specified time for performing that task, e.g., “telephone conference with John Doe (.30); Attend conference with Jane Doe (1.20), etc.”
- Entries regarding telephone conferences must specify the participants and the subject matter discussed

Vague descriptions such as “work on file,” “telephone call,” “conference,” and “research,” without further explanation, are not acceptable.

Vendor invoices (e.g. experts, mediators, photocopy services, court reporters, and others) in an amount up to [insert amount here] dollars (\$XXXX) per case should be paid by the law firm and included with the monthly attorney billing. Defense Counsel must review and approve all vendor invoices.

## **B. Maximum Allowable Charges and Travel**

The following guidelines are provided regarding maximum allowable charges:

- The [entity name] will only pay the actual cost incurred for reasonable expenses without any markups.
- A firm may conduct necessary and appropriate research up to five (5) hours per case without prior approval by the [entity name and/or its TPA].
- Photocopy costs should not exceed ten cents (\$0.10) per page. Firms are expected to limit the making of photocopies and, wherever cost effective, to use the resources of designated copy services. Billing entries for photocopies must provide the number of copies made, the per page rate, and the total amount billed.
- Mileage should be billed at the applicable Federal rate at the time of travel. The invoice should state the number of miles actually driven.
- Telephone and Fax: Actual long distance charges only. No charges for an incoming fax and no per-page fax charge.
- Air travel is limited to coach or economy rate. Receipts for airfare should allow a reviewer to identify the fare as economy/coach class.
- Rental cars are acceptable only if such vehicles are the most economical means of accomplishing necessary business. Reimbursement is limited to the mid-size class.
- Incidentals, such as movies, alcohol, and entertainment are not allowed.
- Travel time shall be pro-rated if the travel includes time spent on non-[entity name] business.

### **C. Disallowed Charges**

In addition to items listed above in sections A and B, the [entity name] will not reimburse for the following:

- Local telephone calls and all cellular phone charges.
- Routine postage, such as the U.S. Postal Service rates for letters. Any necessary extraordinary postage charges (such as certified mail, overnight service, or oversized packages) must be delineated on the bill with an explanation of the nature and purpose of the charge. Any postage charges that are not explained will not be reimbursed.
- File opening, file organization, or other administrative charges.
- Interoffice conferences between members of the firm, including assigning files or tasks to members of the firm.
- Case administration (e.g. reviewing status of assignments given to associates and paralegals; directing associates, paralegals, or secretaries; preparing or reviewing bills).
- Clerical tasks (e.g. transcription, pulling files, photocopying documents, arranging for copying, labeling documents for production, communication with court clerks, updating master case caption, preparing proofs of service, indexing pleadings, faxing).
- Meals, except in conjunction with out-of-town travel (alcohol will not be reimbursed in conjunction with any travel).
- Routine legal research, including issues considered to be common knowledge among reasonably experienced counsel in the local jurisdiction.
- All work customarily performed by secretaries and other administrative personnel including but not limited to, photocopying, date stamping documents, scanning documents, transcription, retrieving files, indexing pleadings, updating case captions, making travel arrangements, calendaring, and preparing bills/invoices.
- Subscription services (e.g. Westlaw, Lexis-Nexis, or other legal database charge).
- Responding to requests from [entity name and/or TPA] and/or their auditors relating to case file management and/or billing issues.



**Item No. C.1.d**  
**Claims Committee**  
**August 30, 2023**

### **Member Attorney Rates**

**ISSUE:** ACCEL revised the Claims Handling Policy and Procedure to include a Member requirement to notify the Claims Committee (CC) when defense fees are in excess of \$400 per hour.

There are two Members that have provided a letter to ACCEL for the CC review for approval:

1. City of Bakersfield
  - This is the third year that the City has submitted a letter regarding its contract with Marderosian and Cohen to the CC for its review and consideration. ACCEL has requested the city to submit a letter annually.
2. City of Burbank
  - This is the first time the City has requested a CC review.
  - The City also provided its contract with Hanson Bridgett. The rates for the Committee's review are \$400 per hour and \$435 per hour.

**RECOMMENDATION:** Staff recommends the Claims Committee review the disclosed defense attorney rates for reasonability and take action or provide direction.

### **Additional Consideration**

**In favor:** The proposed acceptance of the letter indicates that the Committee has reviewed for reasonableness and may request the City to file a letter annually for ACCEL's consideration.

**Against:** The Committee may vote against accepting these rates as reasonable defense costs. This would lead to further discussions between the Member and ACCEL. This has never occurred, and next steps would be discussed on a case by case basis.

**FISCAL IMPACT:** No financial impact is expected from the recommended action. The policy and procedure asks members to disclose rates in excess of \$400 per hour. Rates at this level or higher will quickly erode a member's self-insured retention, but Bakersfield has agreed not to seek reimbursement from ACCEL for defense costs. If claims penetrate the excess insurance layers, there could be issues with excess carriers regarding appropriate defense fees.

**BACKGROUND:** ACCEL's Claims Reporting and Handling Policy and Procedure, VII. Claims Reimbursement Requests, page 5 of 14 states:

# ACCEL

## Authority for California Cities Excess Liability

c/o Alliant Insurance Services, Inc.  
 Corporation Insurance License No. 0C36861  
 560 Mission Street, 6th Floor, San Francisco, CA 94105



The Authority will reimburse Members or credit their Self-Insured Retentions (SIRs) for reasonable attorney fees and necessary litigation expenses incurred while managing, investigating, defending or litigating covered claims.

ACCEL Members are required to notify the Claims and Program Administrators regarding any claim in which attorney rates are in excess of \$400/hour. The Program Administrators will agendize the claim for the Claims Committee to review rates for reasonableness. The Committee may take action or provide direction.

The City of Bakersfield is the first Member to request a Claims Committee review. The first time this was reviewed was at the August 31, 2021 Claims Committee Meeting. As a result of that meeting, ACCEL sent a letter to the City of Bakersfield, signed by the Program Administrators, with the Claims Committee Chair carbon copied stating ACCEL accepts the letter and requests the City to file a letter annually for ACCEL's consideration.

The City of Bakersfield provided another letter in September 2022 outlining the rates for Marderosian and Cohen, which exceed this hourly rate. The City of Bakersfield also provided its contract with Marderosian and Cohen, which includes the defense of all law enforcement cases (up to 30 annually) for a flat annual fee. The rates for Committee review are \$600 per hour for Mick Marderosian and \$500 per hour for Heather Cohen.

These costs will erode the City of Bakersfield's retention with ACCEL, but the City does not intend to recover costs from ACCEL, in essence this caps the defense costs at \$1,000,000 regardless of the expenses associated to the claim.

**ATTACHMENT:** 2021 ACCEL Claims Committee letter to City of Bakersfield

**SEPARATE:**

1. City of Bakersfield's 2023 letter to ACCEL with current outside counsel rates
2. City of Burbank's 2023 letter to ACCEL with current outside counsel rates



[www.accelpool.org](http://www.accelpool.org)

### PROGRAM ADMINISTRATORS

September 21, 2021

Daniel J. Howell  
Conor L. Boughey  
Marcus Beverly  
(415) 403-1400

Jena Covey, Risk Manager  
City of Bakersfield, 5th Floor  
1600 Truxtun Avenue  
Bakersfield, CA 93301

### MEMBERS

Anaheim  
Bakersfield  
Burbank  
Modesto  
Monterey  
Mountain View  
Ontario  
Palo Alto  
Salinas  
Santa Barbara  
Santa Cruz  
Santa Monica  
Visalia

Dear Jena,

This letter is in response to the City of Bakersfield letter to ACCEL on July 8, 2021 regarding the disclosure of defense fees to comply with ACCEL's Claims Handling Policy and Procedure.

At the August 31, 2021 Claims Committee Meeting, the Committee reviewed and took action to accept the City's letter for FY 21-22 for the firm Marderosian & Cohen. The Committee requests the City file this request annually for ACCEL's consideration.

If you have any questions or concerns, please contact Conor Boughey at Alliant or ACCEL's Claims Committee Chair Tracey Matthews.

Sincerely,

A handwritten signature in blue ink that reads "Conor Boughey".

Conor Boughey, ARM  
Program Administrator for Authority for California Cities Excess Liability  
[cboughey@alliant.com](mailto:cboughey@alliant.com)

cc: Tracey Matthews, Claims Committee Chair



**Item No. C.1.e**  
**Claims Committee**  
**August 30, 2023**

### **DRAFT SERVICE PROVIDER EVALUATIONS - CLAIMS ADMINISTRATORS**

**ISSUE:** ACCEL has paused its annual Service Provider Surveys for 2022/23. After numerous discussions, the Board decided to only evaluate the Program Administrators and Claims Administrators each year at the October Board Meeting in person each year, and delegated to the Executive Committee to create new metrics for the Program Administrators, and to the Claims Committee to create new metrics for the Claims Administrators. There will be time allocated on the October Board Meeting's agenda for the Board to complete.

Today's purpose is to review the draft Service Provider Evaluations for the Claims Administrators: *George Hills*.

After this meeting, the Program Administrators will schedule an Executive Committee to review the Program Administrators Service Provider Evaluations to ensure that there is consistency.

**RECOMMENDATION:** The Claims Committee is to discuss a new format and may take action to provide a recommendation to the Board or give direction.

**FISCAL IMPACT:** There is no expected fiscal impact.

**BACKGROUND:** At the October 2018 Board Meeting, the Board discussed creating surveys for all the ACCEL Service Providers:

- Actuary (*Finance Committee*)
- Claims Administrator (*Claims Committee*)
- Claims Auditor (*Claims Committee*)
- Financial Auditor (*Finance Committee*)
- Investment Manager (*Finance Committee*)
- Legal Counsel (*Underwriting Committee*)
- Program Administrators (*Executive Committee*)

The Board agreed to send all the surveys at once year every year on November 1<sup>st</sup> with a deadline of December 1<sup>st</sup>. The system that is used for the surveys is Survey Monkey. The results are presented at the January Board Meeting. At the March 2019 Board Meeting, the Board agreed to that only one reminder will be sent to the Board to complete before the 30-day deadline.

The Program Administrators coordinated with each Committee Chair on what questions and responses should part of the survey for the Service Provider that fall under their Committee's purview. Since each Committee wanted to have a survey sent out for a Service Provider, it is best

# ACCEL

## Authority for California Cities Excess Liability

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to send ALL the surveys once a year, even though it may not be the year the Committee conducts Performance Evaluations of a particular Service Provider.

In the past, these surveys were handled by Alliant staff, Mary Lendaris, who then provided the results to the ACCEL President to distribute to the Board because the intent was to keep the results private. At the March 2022 Board Meeting, the Board decided to allow the Program Administrators solely handle the surveys to streamline the process. Therefore, Board Members will see an email from Lorissa Huey on November 1st with the survey links.

In October 2022, the Board requested that we hold off on the surveys this year and develop new Service Provider Evaluations. The Board delegated authority to the Executive Committee. The goal is to complete by June 2023.

The EC met in January 2023 and decided to continue Service Provider Evaluations every year for only the Program Administrators and Claims Administrators. If Members have issues with the other Service Providers, they are directed to bring it up with the Committee that governs each. In addition, the Program Administrators will create a fillable form on the ACCEL Website for Members who wish to provide immediate feedback on any reportable issues. This will be brought to the EC for discussion. If a Member is uncomfortable with the Program Administrators receiving the feedback, the Member could direct it to the Secretary.

For the EC meeting, Tracey Matthews, City of Anaheim provide a sample of what the City uses for its vendors. The sample provided is an Excel spreadsheet and was converted to a PDF file so it can be included in that meeting's agenda packet.

The EC has delegated authority to the Finance Committee to create a new Policy and Procedure (P&P) that provides Members with a Credit if they have completed the Service Provider Evaluation. At the March 2023 Board Meeting, the Board did not want to adopt the new Policy and Procedure. The direction was to allocate time on the October Board Meeting Agenda for 30 minutes, where Members can fill out a single page form drafted by the Program Administrators to guide the discussion. This will allow the Board to complete the evaluations at the same time.

### **ATTACHMENT:**

1. Draft Service Provider Evaluation for Claims Administrators
2. Sample Service Provider Evaluation from City of Anaheim



**Service Provider Evaluation:**  
**Claims Administrators – George Hills**

<b><u>Review Criteria:</u></b>	<b><u>Feedback:</u></b>	<b><u>Follow up Required/ Responsible Party:</u></b>
1. Closed session write ups contain accurate and useful information?		
2. Claims Administrator’s Board presentation and interaction?		
3. Claims Administrator’s individual interaction with Member Agencies?		
4. Claims Administrator’s general understanding and knowledge of Public Entity JPAs and large claims?		
5. Are the reserve recommendations for claims reasonable?		
6. Other areas that may use improvement or any other comments?		

**SAMPLE Review FY 2021-2022**

Excellent:	90-100
Good:	80-89
Fair:	70-79
Poor:	0-69

**BROKER - PERFORMANCE EVALUATION - 2020-2021**

CATEGORY	EXPECTED POINTS	WEIGHT	WEIGHTED POINTS	SCORED POINTS	WEIGHTED SCORE	COMMENTS
<b>CORPORATE PROGRAMS</b>						
<b>1.0 - BACK OFFICE SUPPORT - 300 weighted points</b>						
1.1 - ACCURACY	90.00	1.00	90.00	90.00	90.00	
1.4 - COMMUNICATION	85.00	1.00	85.00	98.00	98.00	
1.5 - QUALITY COMMITMENT	90.00	1.00	90.00	90.00	90.00	
Sub-Total	265.00	3.00	265.00	278.00	278.00	
Percent	88.33		88.33%	92.67	92.67%	
<b>2.0 - DELIVERY - 350 weighted points</b>						
2.1 - ADVISE OF COVERAGE GAPS AND UNINSURED EXPOSURES	90.00	1.00	90.00	100.00	100.00	
2.3 - COMMUNICATION	85.00	1.00	85.00	100.00	100.00	
2.4 - CLAIMS MANAGEMENT	85.00	0.50	42.50	100.00	50.00	
2.5 - INNOVATIVE RISK MANAGEMENT SOLUTIONS	90.00	1.00	90.00	100.00	100.00	
Sub-Total	350.00	3.50	307.50	400.00	350.00	
Percent	87.50		87.86%	100.00	100.00%	
<b>3.0 - RENEWAL - 640 weighted points</b>						
3.1 - PRE-RENEWAL: Timely estimated renewal costs for budgeting; Establish timeline and action items	90.00	1.00	90.00	100.00	100.00	
3.2 - Provide market analysis and development at beginning of renewal process, including any new or strengthened underwriting requirements	90.00	1.50	135.00	100.00	150.00	
3.3 - Timely, quality strategy sessions: concerning outstanding wording issues, conditions, etc.	85.00	1.20	102.00	100.00	120.00	
3.4 - Negotiations and underwriting outcomes	90.00	1.50	135.00	100.00	150.00	
3.5 - POST-RENEWAL: Timely Binding, billing, and policy distribution (hard copy and/or soft copy), policy numbers for certificates	90.00	1.20	108.00	95.00	114.00	
Sub-Total	445.00	6.40	570.00	495.00	634.00	
Percent	89.00		89.06%	99.00	99.06%	
<b>4.0 - SERVICE - 400 weighted points</b>						
4.1 - ACCOUNT MANAGEMENT	90.00	1.50	135.00	100.00	150.00	
4.2 - USE OF BROKER RESOURCES	90.00	1.50	135.00	100.00	150.00	
4.3 - FLEXIBILITY	90.00	1.00	90.00	90.00	90.00	
Sub-Total	270.00	4.00	360.00	290.00	390.00	
Percent	90.00		90.00%	96.67	97.50%	
<b>TOTAL ACTUAL POINTS</b>	1,330.00		1,654.50	1,463.00	1,652.00	
<b>TOTAL POSSIBLE POINTS</b>	1,500.00		1,690.00	1,500.00	1,690.00	
<b>TOTAL ACTUAL PERCENTAGE</b>	88.67%			97.53%	97.75%	
<b>TOTAL WEIGHTED PERCENTAGE</b>			97.90%			