

City Manager's Office
Administrative Order No.: 45
Issued: 3/2010



Approved by Marc S. Grisham
City Manager

Subject: Policy Directive Related to Claims Procedures and Risk Management

Purpose:

This claims policy ("Policy") provides City staff a uniform procedure for processing claims filed against the City. The purpose of this Policy is to: 1) Ensure that claims are evaluated in a thorough and efficient manner; and 2) Ensure that the City's rights and interests are protected throughout the claim process, up to and including litigation (if necessary).

Overview:

City is self-insured through the Municipal Pooling Authority ("MPA"), and City's Risk Manager ("Risk Manager") submits claims and investigative reports to MPA as part of the claim evaluation process. Any and all investigative reports generated by City staff are intended to identify the principle cause(s) of the incident in question to assist legal counsel in the event of litigation.

The Risk Manager serves as a liaison between City staff, the City Attorney's office and MPA for purposes of City's claims procedures. The Risk Manager acts as an agent of the City Attorney's office when gathering information related to pending claims, communicating with MPA and City staff related to pending claims and preparing investigative reports.

Investigative reports and open communication between the Risk Manager, MPA and the City Attorney's office are essential to the City's self-insurance program. Any and all investigative reports related to pending claims are created in anticipation of litigation and are protected by applicable laws, including the attorney/client privilege. The investigative reports are used by the City's legal counsel and are designed to be an internal risk and claim assessment profile for the City Attorney's office and MPA.

Compliance with this Policy will ensure that claims against the City are processed in a uniform and efficient manner. If you have questions related to this Policy, please contact the City's Risk Manager.

Risk Manager: The City Manager assigns the Assistant City Manager – Internal Services as the Risk Manager. The Risk Manager is authorized to delegate duties under this policy to others. Legal privileges attached to the Risk Manager also attach to the Risk Manager's designees/assignees.

Submitting a Claim to MPA:

All claims should be submitted to the City Clerk. Upon receipt, the City Clerk's office stamps the claim as received and forwards the claim to the Risk Manager for handling pursuant to this Policy. City's standard claim form is available to the public in the City Clerk's office. Any and all written claims, regardless of form, should be forwarded to the City Clerk and processed pursuant to this Policy.

The Risk Manager:

1. Enters the claim on the City's claim log and designates a City claim number for the incident in question.
2. Scans Liability/Loss Notice Form with any additional documents provided by claimant(s).
3. Emails scanned copy of claim and accompanying documents to MPA (c/o Rick Buys, 1911 San Miguel Drive, Walnut Creek, CA 94596) with carbon copy of email sent to the designee in the relevant City department. The original claim is kept in Human Resources.
4. Files original of the Liability/Loss Notice Form, interoffice memorandum and original claim for future reference.
5. Maintains and updates City claim folder with any and all correspondence associated with claim.

Further Actions:

After a claim has been submitted to MPA and the City Attorney's office, MPA will make a recommendation related to the resolution of the claim. MPA may recommend approval of a settlement, rejection of the claim or notice of late and/or insufficient claim be issued. It is important to comply with all timelines identified by MPA and/or the City Attorney's office related to notices and rejection. In addition, access to the City's claim log must be provided to the employee responsible for tracking liability claims expenses within the Finance Department.

Approval for Settlement: In the event that MPA asks for approval of a settlement, the Risk Manager fills out the settlement approval form and submits to the City Manager for consideration. The City Manager or designee approves/denies approval of requested settlement. Copies of executed settlement approval forms must be delivered to MPA and maintained in City's files. Approval of a settlement should be noted on the City's claims log.

Rejection Letter: In the event that MPA recommends the rejection of a claim, the claim should be scheduled for rejection at the next regular City Council meeting. The Risk Manager adds the claim for rejection by specific claim number on the next City Council agenda (via SIRE). A copy of the Liability/Loss Notice Form and any accompanying documents originally submitted with the claim (not to include any other correspondence or documents not originally submitted by claimant) should be added as an attachment to the agenda item with copy to City Council meeting attachment folder. An email notifying addition of the claim to the agenda should be sent to the City Clerk. Once the claim has

been rejected, the Risk Manager must prepare a notice of rejection pursuant to the direction of MPA. All notices of rejection must be accompanied by a proof of mailing. A scanned copy of the notice of rejection and proof of mailing must be emailed to MPA. A copy of the notice of rejection and the original proof of mailing must be kept in the City's files.

Confidentiality of Reports: Certain claims may require additional investigation or additional involvement/direction from MPA and/or the City Attorney's office. Any and all investigative reports or other materials related to pending claims are created in anticipation of litigation and for use by City's legal counsel in evaluating the claim(s) in question. Access to the content of investigative reports shall be limited to MPA, the Risk Manager and City's legal counsel. Investigative reports shall not be reviewed by any third parties unless at the direction of MPA or the City Attorney's office.

Additional Information Received: In the event that additional information is received from a claimant, designate the City's claim number for the incident for the incident in question on the transmittal form and submit a copy of the information to MPA. Note the receipt of any additional information and the date of submission to MPA on the City's claims log.

Closing Claims: MPA will advise the Risk Manager when to close a claim. Once notified, forward the claim file to the City Clerk's office accompanied by a copy of the confirmation from MPA. The City Clerk shall retain the closed claim file pursuant to the City's records retention schedule.