



**CLAIMS COMMITTEE
MEETING AGENDA**

Downey City Hall
2nd Floor Training Room
1111 Brookshire Ave.
Downey, CA 90241

Wednesday, May 9, 2018
9:30 A.M.

CALL TO ORDER

ESTABLISHMENT OF QUORUM/INTRODUCTIONS

PUBLIC COMMENTS

This time is reserved for members of the public to address the Committee relative to matters of ICRMA that are not on the agenda. Persons wishing to address items on the agenda will be permitted to do so during the discussion of the item. No action may be taken on non-agenda items unless authorized by law. Comments will be limited to five minutes per person, twenty minutes in total.

APPROVAL OF AGENDA AS POSTED OR AMENDED

As a matter of procedure, the Committee should approve the agenda.

CONSENT CALENDAR

If the Committee would like to discuss any item listed, it may be pulled from the Consent Calendar.

- A. Minutes of the March 15, 2018 Claims Committee Meeting.....3
 - B. 2017/18 Claims Committee Attendance Record.....7
 - C. Claim Settlement Disclosure Report.....8
- Action: Approve item A and direct staff to finalize, review and file items B and C.*

OPEN SESSION

As to each agenda item, the Committee may take action and/or receive informational reports as appropriate.

- A. Claims Committee Appointments for Expiring Terms (*Beth*)9
Action: Recommend Board approval of Yvette Abich-Garcia and Sergio Ibarra to serve terms expiring 2021.
- B. Claims Committee 2018-19 Meeting Dates (*Beth*).....10
Action: Review and approve meeting dates for the 2018-19 program year.
- C. Workers’ Compensation Claims Auditor Contract Amendment (*Beth*)11
Action: Authorize the Executive Director to execute a contract amendment for workers’ compensation program claims auditing services at an amount not-to-exceed \$40,000.
- D. Liability Claims Audit Update (*Beth*)12
Action: Review and provide direction.

CLOSED SESSION

The Committee will hold a closed session to discuss any or all claims listed on the agenda. Members are reminded to destroy closed session materials after the meeting.

A. Discussion of Open Claims and Conference with Legal Counsel pursuant to Government Code Section 54956.95(a):

- Khanlian v. Hermosa Beach
- Rojas v. El Monte
- Andrade v. South Gate
- Tellez v. Huntington Park
- Gomez v. South Gate

REPORT FROM CLOSED SESSION

Report from Closed Session: Pursuant to Government Code Section 54957.1, the Committee must report in open session any action taken in closed session.

CLOSING COMMENTS

This time is reserved to identify matters for future Committee business.

ADJOURNMENT

FUTURE MEETING

TBD

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact ICRMA at (949) 349-9879. Notification 48 hours before the meeting will enable ICRMA to make reasonable arrangements to ensure accessibility (28 CFR 35.102.35.104 ADA Title II).



**MINUTES OF THE
CLAIMS COMMITTEE MEETING
March 15, 2018
9:30 A.M.**

A meeting of the Claims Committee was held on March 15, 2018, at City of Downey.

Name	Member	Present	Absent
Vicki Cross	Glendora	x	
Yvette Garcia	Downey	x	
Sergio Ibarra	Bell	x	
Alison Stevens	Hawthorne	x	
Sara Nazir	Inglewood		x

Others in Attendance:

RPA	Beth Lyons
Johnson Schachter & Lewis	Luther Lewis
Carl Warren & Company	Tom Boylan Shari Huff Mary Paydar Gary Phillips Dwight Kunz
Glendora	Christi Giannone

1. CALL TO ORDER

Chair Vicki Cross, Glendora called the meeting to order at 9:36 a.m.

2. ESTABLISHMENT OF QUORUM/INTRODUCTIONS

Introductions took place and it was determined a quorum was present.

3. PUBLIC COMMENTS

There were no public comments.

4. APPROVAL OF AGENDA AS POSTED OR AMENDED

Motion was made by Yvette Garcia, Downey, seconded by Alison Stevens, Hawthorne, to approve the agenda as presented. The motion carried unanimously.

5. CONSENT CALENDAR

A motion was made by Yvette Garcia, Downey, seconded by Alison Stevens, Hawthorne, to approve the minutes of January 10, 2018, and direct staff to finalize. The motion carried unanimously.

6. OPEN SESSION

2017/18 Claims Committee Attendance Record

Pursuant to Section 3.2.5.2 of the Program Bylaws, attendance of committee members is essential to conducting ICRMA's claims management. Further, a committee member missing a maximum of two meetings in a fiscal year shall be subject to the Governing Board's consideration. Sara Nazir (Inglewood) has missed two meetings and was also absent from the March meeting. The Committee values Sara's participation and would like her to continue on the Committee.

RPA staff was directed to follow-up with Sara to determine her interest in continuing Committee membership. If the newly adopted Bylaws allow it, the Committee also asked staff to solicit additional interest in Committee participation through email to the Board and by placing an item on the Board April agenda.

2018-19 Liability Memorandum of Coverage Review

The Liability Memorandum of Coverage (MOC) was reviewed by RPA staff, John Beringer (Carl Warren), liability program manager, Susan Blankenburg (ICRMA broker), and Luther Lewis (Coverage Counsel and interim General Counsel). Attached is a redline version which contains proposed revisions to the MOC. Many of the revisions are presented for "cleanup" or clarification provisions. Two more substantive recommended changes were discussed with the Committee.

Language was added to the cooperation clause to offer some degree of flexibility. Coverage may still be denied altogether in the discretion of the Board. But the Board may also exercise its discretion to impose a lesser remedy. If an actual monetary detriment can be calculated or reasonably estimated, then the Member's Retained Limit (MRL) for that claim may be increased by that amount. The Claims Committee or the Board would itself determine whether a monetary detriment to the pool can be reasonably estimated or calculated, based on information and recommendations from the Liability Program Manager, Coverage Counsel, defense counsel and/or the Member, or whatever other information or sources the Claims Committee or the Board wishes to consider.

It is often the case that a monetary detriment for a failure to fully cooperate is not amenable to calculation or reasonable estimate. In that event, the Board "shall" impose a monetary remedy of increasing the MRL, by some number from 1% to 25%. Note, the intent is that in the event the Board finds a failure to fully cooperate, there must be some form of monetary remedy, even if only a 1% increase in the MRL. If the failure to cooperate is more egregious, the Board in its discretion could increase the MRL by up to 25%.

Similar substantive changes were also recommended to the notice provisions with the goal of offering the Claims Committee and the Board more flexibility. As currently written, in the event of a failure to give timely notice of a claim, the MOC gives discretion to either accept or deny coverage. Most instances of late notice are not so egregious that the Claims Committee or the Board has exercised discretion to deny coverage altogether. The current MOC then requires that in the event coverage is accepted, the MRL “shall result” in an increase to the MRL of 25%.

With the suggested changes, the Claims Committee and then ultimately the Board still have discretion to deny coverage altogether. But if coverage is accepted, then under the suggested new language the Claims Committee or the Board would have further discretion. First, it would be ascertained whether the failure to give timely notice has resulted in a monetary detriment to the pool that can be reasonably estimated or calculated. If so, then the MRL would be increased by that amount. Again, the Claims Committee or the Board would itself determine whether a monetary detriment to the pool can be reasonably estimated or calculated, based on information and recommendations from the Liability Program Manager, Coverage Counsel, defense counsel and/or the Member, or whatever other information or sources the Claims Committee or the Board wishes to consider.

However, as is often the case, it may be difficult to reasonably calculate or estimate a monetary detriment to the pool. In that event, the Claims Committee or the Board has further discretion, within limits, as to how much to increase the MRL. The Claims Committee or the Board still must increase the MRL, but has discretion as to how much. The increase can be 1%, or 25%, or by some percentage in between. The Committee agreed a monetary consequence of at least 1% should be applied for a failure to timely report to ensure members pay sufficient attention to the notice requirements.

A motion was made by Yvette Garcia, Downey, seconded by Alison Stevens, Hawthorne, to recommend the Board adopt the changes noted to the Liability Memorandum of Coverage with an effective date of July 1, 2018. The motion carried unanimously.

2018-19 Workers’ Compensation Memorandum of Coverage Review

Mr. Luther Lewis (Johnson Schachter & Lewis), Coverage Counsel and interim General Counsel, and Mr. Robert Tran (Carl Warren), Workers’ Compensation Manager, and RPA staff completed a review of the Workers’ Compensation Memorandum of Coverage (MOC). The Committee reviewed the redline version of the document, which included date changes to reflect the correct coverage year and the Board-approved member retained limit changes for two members.

A motion was made by Sergio Ibarra, Bell, and seconded by Yvette Garcia, Downey, to recommend the Board adopt the revisions noted to the Workers’ Compensation Memorandum of Coverage with an effective date of July 1, 2018. The motion carried unanimously.

Carl Warren & Company Staffing and Contract Update

Carl Warren will be transitioning staff assigned to the ICRMA Liability Program and would like to ensure a smooth transition and succession planning. Carl Warren plans to have several non-

dedicated resources available to the account along with two dedicated staff. With that in mind, Carl Warren introduced three staff members to the Committee: Shari Huff, Mary Paydar, and Gary Phillips.

After lengthy discussion with the Committee, Carl Warren proposed Dwight Kunz serve as the Liability Program Manager and Rose Nuno serve as the Senior Claims Examiner. Rose will oversee claims not anticipated to exceed the MRL and provide assistance to Dwight in terms of collecting information. Both will be dedicated to the account.

Gary, Shari, and Mary will serve as non-dedicated resources on the account. For succession planning purposes, Gary will work with Dwight and Rose and participate in ICRMA mediations as well as attend ICRMA Board & Claim Committee meetings. Shari will serve as the lead regarding ICRMA process and policy issues. The Committee expressed support for the proposed staffing model.

The contract with Carl Warren was also discussed. RPA staff reported a meeting was scheduled with Carl Warren after the Committee meeting to jointly redline the contract.

To facilitate approval of the contract revisions, and in the interest of time, the Committee gave direction to the Executive Director and general counsel to finish contract negotiations with Carl Warren for presentation to the Board at the April meeting.

7. CLOSED SESSION

The Committee convened in closed session at 12:00 noon.

8. REPORT FROM CLOSED SESSION

The Committee convened in open session at 12:19 p.m. Interim General Counsel Luther Lewis reported no action was taken.

9. CLOSING COMMENTS

There were no closing comments.

10. ADJOURNMENT

The meeting was adjourned by general consensus at 12:19 p.m.



Subject: 2017/18 Claims Committee Attendance Record

Action for consideration: Review and file

Background:

The Claims Committee (Committee) Attendance Record is presented for review. Pursuant to Section 3.2.5.2 of the Program Bylaws, attendance of Committee members is essential to conducting the Authority’s claims management, and a Committee member missing a maximum of two meetings in a fiscal year (July 1 to June 30), shall be subject to review by the Governing Board concerning forfeiture of his/her membership on the Committee. Committee members may not appoint a delegate to attend the meetings in his/her place.

Member	City	7/12/2017	9/20/2017	11/8/2017	1/10/2018	3/15/2018	5/9/2018	% Attendance
Vicki Cross	Glendora	Canceled	X	X	X	X		100%
Yvette Abich Garcia	Downey	Canceled	X	X	X	X		100%
Sergio Ibarra	Bell	Canceled	X	X	X	X		100%
Alison Stevens	Hawthorne	Canceled	X	X	X	X		100%
Sara Nazir	Inglewood	Canceled	X	Absent	Absent	Absent		33%

Ms. Nazir’s attendance was discussed by both the Committee (March) and the Board (April). Ms. Nazir expressed interest in continuing Committee membership, and the Committee and Board expressed support for Ms. Nazir’s continued participation as well as appreciation for her service.

Prepared by: Jennifer Achterberg, Project Coordinator



Subject: Claim Settlement Disclosure Report

Action for consideration: Review and file

Background:

Government Code Section 54957.1. states the legislative body of any local agency shall publicly report any action taken in closed session and the vote or abstention on that action. The Government Code specifically includes settlement approval given for pending litigation. If the legislative body accepts a settlement offer signed by the opposing party, the body shall report its acceptance and identify the substance of the agreement in open session at the public meeting during which the closed session is held.

If final approval rests with some other party to the litigation or with the court, the local agency shall disclose that approval and identify the substance as soon as the settlement becomes final.

Following are the claims that were approved since the last report for which settlement is final:

Date of occurrence	Date Approved	Member agency	Claimant Name	Substance	Settlement Amount
<i>Liability Claims</i>					
6/20/2014	4/18/18	El Monte	Medina	Personal/Bodily Injury	\$525,000
4/15/2014	6/23/17	San Fernando	Coughlin	Personal/Bodily Injury	\$185,000
6/28/2013	10/24/16	Monterey Park	Kitahara	Personal/Bodily Injury	\$1,350,000
<i>Workers' Compensation Claims</i>					
None to report					

Attachments: None

Prepared by: Jennifer Achterberg, Project Coordinator



Subject: Claims Committee Appointments for Expiring Terms

Action for consideration: Recommend Board approval of Yvette Abich-Garcia and Sergio Ibarra to serve terms expiring 2021, and provide direction regarding Claims Committee vacancies.

Background:
Per the Bylaws taking effect on July 1, 2018, the composition and appointments guidelines are detailed in Article IX, Section B.3:

- a The Claims Committee consists of twenty (20) to forty (40) percent of the Board up to a maximum of seven (7) members.
- b The Claims Committee recommends Directors to its available seats, making efforts to include:
 - i A balanced mix of Members from in each program, and
 - ii At least one (1) individual working in each of the following: Risk Management, Finance, Legal, Human Resources, and Administration.
- c The Board approves Committee appointments ensuring that no Member holds more than one representative appointee to the Committee at any given time.

Based on the Bylaw provisions and the current size of the Board, the Claims Committee may have up to six members. Yvette Abich-Garcia’s and Sergio Ibarra’s terms expire in June 2018. Both have expressed willingness to serve another term expiring 2021. As stated above, the Board approves Committee membership. The Committee selects its chair and vice chair. Current members and terms are:

Member	Representing	Area of Experience	Term Expiration
Vicki Cross, Chair	Glendora	HR/ Risk Mngt.	June 2020
Yvette Abich-Garcia, Vice Chair	Downey	Legal	June 2018
Sergio Ibarra	Bell	HR/ Risk Mngt.	June 2018
Alison Stevens	Hawthorne	Legal	June 2020
Sara Nazir	Inglewood	Risk Mngt.	June 2019
<i>Vacant</i>			<i>June 2019</i>

In March, the Claims Committee asked RPA staff to contact the membership to solicit interest in the Committee in the hopes of encouraging participation and filling the committee vacancy. RPA sent an email to the ICRMA Board of Directors on March 26, 2018, and also included a memo in the April 12 Board meeting agenda packet. The submission deadline was April 27, 2018. Unfortunately RPA did not receive any submissions of interest in serving on the Committee.

Attachments: None

Prepared by: Jennifer Achterberg, Project Coordinator



Subject: Proposed 2018-19 Claims Committee Meeting Dates

Action for consideration: Review and approve the meeting dates for the 2018-19 program year.

Background:

In the past, the Claims Committee traditionally met on the first Thursday of odd-numbered months from 9:30 a.m. to 1:30 p.m. For its meeting dates in program year 2017/18, the Committee adopted meeting dates on the second Wednesday of odd-numbered months. Committee meetings are typically held at Downey City Hall 2nd Floor Training Room, 11111 Brookshire Ave., Downey 90241.

RPA staff prepared two proposed date options for Committee review for the 2018/19 program year.

Thursdays – 2018-19

July 12, 2018*
September 6, 2018
November 1, 2018
January 10, 2019*
March 7, 2019**
May 2, 2019

Wednesdays – 2018-19

July 11, 2018
September 5, 2018*
November 14, 2018
January 9, 2019
March 13, 2019
May 8, 2019

**Noted change to avoid holiday/conference conflicts*

***AGRiP: March 3-6, 2019 in St. Louis, MO*

Attachments: None

Prepared by: Jennifer Achterberg, Project Coordinator



Subject: Workers' Compensation Claim Auditor Contract Amendment

Action for consideration: Authorize the Executive Director to execute a contract amendment for workers' compensation program claims auditing services at an amount not-to-exceed \$40,000.

Background: Workers' Compensation program claim audits are performed every other year in the even years. In 2015 ICRMA issued a request for proposals (RFP) for both liability and workers' compensation claims auditing services. In 2015 the Claims Committee selected claim auditor North Bay Associates and entered into a contract for workers' compensation program auditing services. North Bay Associates completed the program audits and reported to the Claims Committee and Board in the spring of 2016.

The auditing contract included two audits: 2016 and 2018.

- 2016: \$51,800 was paid for the audit. This amount equates to approximately \$4,317 per member for the 12 participating members.
- 2018: The contract includes compensation of \$56,000 for the audit. The auditor was amenable to decreasing the total audit compensation to reflect decreased membership in the program. Pending Claims Committee approval, the auditor agreed to compensation of \$40,000 in an effort to keep the pricing approximately the same per member as in 2016 with a 3% increase. This amount would enable to auditor to review 200 indemnity claims in 2018. The audit would begin in October 2018.

Pursuant to the Bylaws, the Claims Committee has authority to negotiate and approve contracts within its scope of responsibilities, that are \$50,000 or less, and that fall within the approved budget appropriations. Thus the Claims Committee is asked to provide direction regarding the 2018 workers' compensation program audit.

Attachments: None

Prepared by: Beth Lyons, Executive Director



Subject: Liability Claim Audit Update

Action for consideration: Review and provide direction.

Background:

The Liability audit began in March 2018. Risk Management Services (RMS) emailed a Member Pre Audit Questionnaire to member city staff contacts and their respective city attorneys. RMS requested that both contacts complete a Member Pre Audit Questionnaire. The due date for responses was March 12, 2018. The auditor requested the two contacts complete the questionnaire because the various positions involved in the liability claims may have different perspectives regarding claims handling and management. RMS then sent two reminder emails to the members requesting completion of the questionnaire.

Last week RMS informed RPA only one member had both the city contact and city attorney completed the requested information. Half of the members' main contacts have not responded, and a majority of the city attorneys have not completed the requested forms. The auditor requested RPA forward the Member Pre Audit Questionnaire to each individual that has not responded to ask that the survey be completed. RPA sent a follow-up email and requested that the surveys be completed by 4 pm. May 11.

RPA recommends the auditor proceed with the audit after that date, regardless of the responses received, so the audit may be presented to the Committee at its July meeting and to the Board in August.

Attachments: None

Prepared by: Beth Lyons, Executive Director