



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

J. TYLER McCAULEY
AUDITOR-CONTROLLER

March 25, 2003

TO: Supervisor Yvonne Brathwaite Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

FROM: J. Tyler McCauley
Auditor-Controller

David E. Janssen
Chief Administrative Officer

SUBJECT: LITIGATION COST ACCOUNTING PROCEDURES

As directed by the Board, we have reviewed the methods used by the County to budget and account for litigation-related costs (expenditures). The purpose of the review was to identify improvements that could be made to obtain more timely, accurate and meaningful information on these expenditures.

The County has two budget units for litigation expenditures; the Insurance budget and the Judgments and Damages (J&D) budget. The Insurance budget unit is primarily used for medical malpractice, automobile and liability claims/lawsuits that are processed through Third Party Administrators. The J&D budget unit is used for all other types of litigation, excluding workers' compensation. The Insurance budget unit is administered by the Chief Administrative Office (CAO) and the J&D budget unit is administered by County Counsel.

Our review focused on the J&D budget unit where most of the issues arose. Our review disclosed a number of issues that make it difficult for the County to accurately monitor litigation costs. The following are areas where we believe improvements are needed.

- Litigation expenditures are not broken down by department in the J&D budget unit's accounting records on the Countywide Accounting and Purchasing System (CAPS).
- Some J&D related judgments/settlements and litigation expenditures are charged directly to departments and are not recorded in the J&D budget unit.

- County Counsel internal litigation expenditures for some departments are not charged to the J&D budget unit, but instead are charged separately to the departments through County Counsel's operating budget. In addition, some non-litigation outside attorney expenditures (e.g., Marina lease renewals) are charged to the J&D budget unit.
- County departments do not consistently record litigation expenditures in the same CAPS accounts used by County Counsel.
- The amounts charged to departments often do not equal the actual expenditures. The difference between the actual expenditures and what is charged becomes Net County Cost of J&D, rather than the responsible department.

In order to address the problems noted, we recommend that the County adopt the following procedures:

- All judgments/settlements and other litigation expenditures for J&D related litigation for all County departments should be initially charged to the J&D budget unit (posted to the appropriate new level two organization number), then charged to the appropriate department.
- All judgments/settlements and other litigation expenditures for Insurance related litigation for all County departments should be initially charged to the Insurance budget unit (posted to the appropriate new level two organization number), then charged to the appropriate department.
- All County Counsel in-house litigation expenditures (including salaries and employee benefits and departmental overhead) for County departments, should be charged to J&D and subsequently billed to the departments. County Counsel in-house non-litigation expenditures (transactional/advice costs) should not be billed to J&D or Insurance. These charges should be billed to the department from County Counsel's operating budget.
- Outside attorney fees for non-litigation expenditures should not be billed to J&D or Insurance, nor paid through County Counsel's operating budget. These non-litigation fees should be sent to the responsible department for direct payment.
- All J&D related litigation expenditures should be billed from the J&D budget unit to the departments. The same accounts, to be identified by the Auditor-Controller's Accounting Division, should be used for all departments and charges should equal actual expenditures. Litigation expenditures not related to a specific department should continue to not be billed. Litigation expenditures related to more than one department should be allocated to the involved departments.

- All J&D and Insurance fees and costs should be posted to the appropriate minor object code for plaintiff and defendant costs. The litigation costs should be identified separately between plaintiff and defendant costs because these costs are amortized over a different number of years for the Countywide Cost Allocation Plan, which is used to bill the federal and state government when the litigation relates to their programs.
- The J&D accrued liability amount should be clearly differentiated in CAPS from the total cash expenditures for judgments and settlements.

The Auditor-Controller's Accounting Division will assist County Counsel and the CAO develop the new accounting structure and assign minor object codes for litigation expenditures which should reflect consistency with the Risk Management Information System expenditure codes.

It should be noted that prior to fiscal year 2002-03, litigation expenditures for non-County agencies (e.g., Metropolitan Transit Authority and Metrolink) were charged to J&D and then billed to the agencies. Beginning in fiscal year 2002-03, County Counsel stopped charging current year litigation expenditures for non-County agencies to the J&D budget unit. We agree with County Counsel's decision and believe they should continue to keep non-County litigation expenditures out of the J&D budget unit. County Counsel should continue to bill non-County agencies directly for all litigation expenditures.

Attachment I is a revised accounting structure that illustrates the proposed new accounting format for the J&D budget unit. Similar issues regarding itemizing expenditures by category and department exist in the Insurance budget unit (see Attachment II).

Attachment III illustrates the recommended budget units and agencies where litigation expenditures should be distributed and recorded. The recommended procedures should result in summary information on litigation expenditures for departments being available in a timely and accurate manner. They will also ensure that all expenditures are billed to the responsible department to strengthen accountability. The use of standardized accounts should improve comparability and accuracy of information. If approved by the Board, these modifications can be incorporated into the 2003-04 County's Final Budget.

Our review only included the operation of the County's centralized accounting and budgeting process. On March 6, 2001, the Board approved the development and implementation of a new Risk Management Information System (RMIS). The main goal of RMIS is to provide an enterprise solution for managing the County's liabilities such as third party liability, litigation and non-litigation matters. RMIS attempts to integrate departments' informational needs across the County into a single system. Presently departments have their own computer systems and data bases that RMIS will bring together into a single, integrated program with a single data base so that departments

can more efficiently share information and communicate with each other using real time data.

The CAO indicated that RMIS will provide the following benefits to the County:

- County-wide Risk Management Reporting

To identify costs from various budgets (Insurance Budget, Judgments & Damages Budget, etc.), including contract law firm fees, legal and other expenses, in-house attorney costs associated with claims, lawsuits and other work billed to departments.

- Department Financial Reporting

To identify where in a department's budget liability related costs are being paid.

- Special Considerations

To accommodate split or multiple funded cases, refunds, subrogation, changes in funding, year-end closing, billing fees to responsible departments, automated check writing capability and tracking of fees, costs, and recovery where the County is the plaintiff.

- Enhanced Report Writing Capabilities

RMIS will produce a wide variety of reports and ad hoc report writing capabilities.

- Electronic Claims and Lawsuit Management

Users of RMIS will have a wide variety of tools to manage the progression and cost of claims and lawsuits.

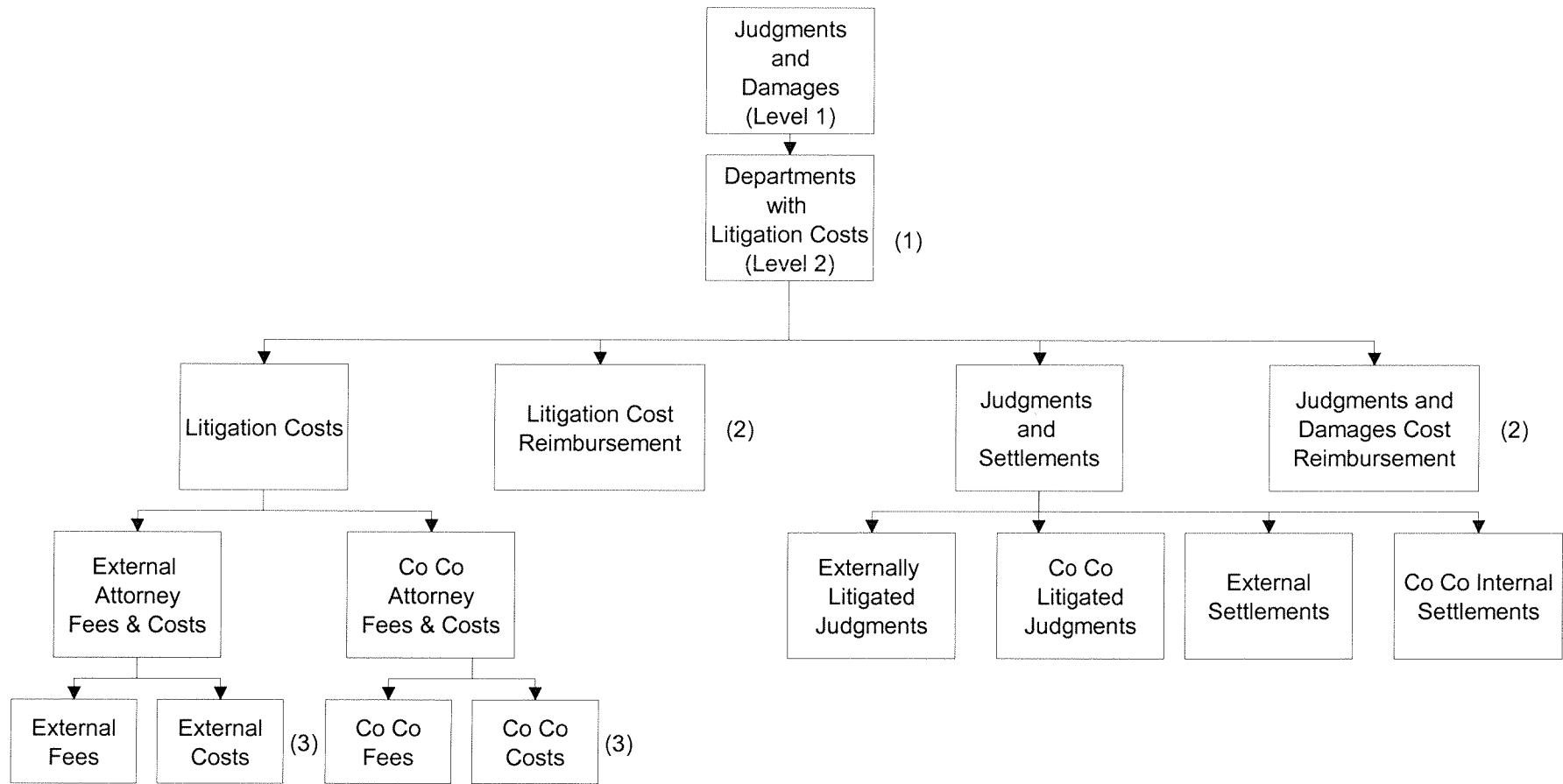
The Auditor-Controller, CAO, Chief Information Office, and County Counsel will work together to ensure the implementation of the recommendations in this report are compatible with RMIS.

If you have any questions, please call Pat McMahon at (213) 974-0729.

JTM:PM:mv
Attachments

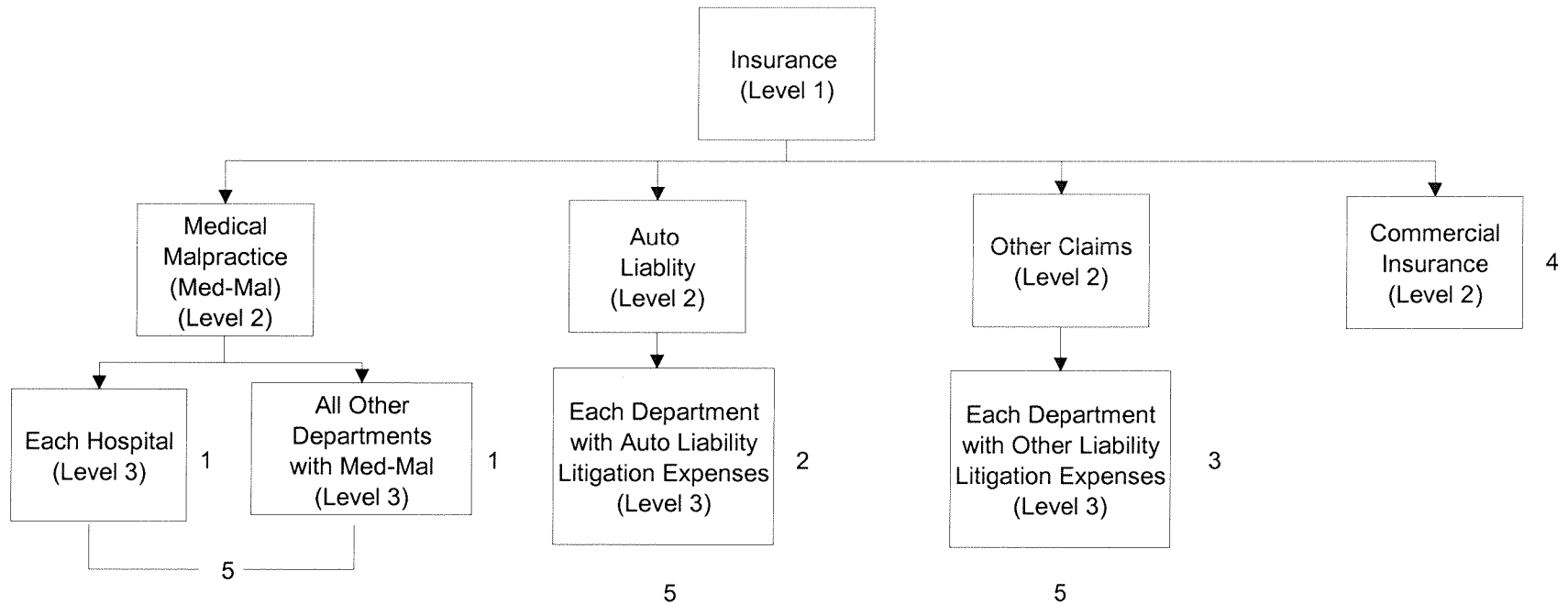
c: Lloyd W. Pellman, County Counsel
Violet Varona-Lukens, Executive Officer
Public Information Office
Audit Committee

Judgments & Damages Accounting Structure



1. A level-two organization level should be established to account for all litigation costs and judgments/settlements by department. Specifically, level-two organization levels should be established for all general-fund departments (e.g. Sheriff, Parks and Recreation, etc.) and all non-general fund departments (e.g. Public Works, Fire Department, etc.). A separate level-two organization level should also be established for accrued liabilities.
2. The J&D budget unit on CAPS already has adequate cost reimbursement detail for litigation costs and judgments/settlements.
3. Separate minor object codes (lowest level of expenditure detail on CAPS) should be established for each type of litigation cost (e.g. jury per diem fees, photocopies, depositions, investigations, etc.).

Insurance Accounting Structure



1. A separate level-three organization level should be established to account for all litigation costs and judgments/settlements by hospital related to Med-Mal. Separate level-three organization levels should also be established to account for any other department with Med-Mal expenses.
2. Separate level-three organization levels should be established to account for all auto litigation costs and judgments/settlements by dept.
3. A separate level-three organization level should be established to account for all other litigation costs that are not Med-Mal or auto.
4. A level-two organization level should be established to account for all expenses initially paid from the insurance program. Separate level-two accounts should be established for Med-Mal, auto, other claims, and commercial insurance.
5. The following are examples of expenses that should roll-up to each level-3 hospital/department:

Services & Supplies:

- Attorney fees & costs
- Third-Party Administrator (TPA) fees

Other Charges:

- Judgments
- Settlements

Recommended Litigation Expenditure Distribution (Charges and Billings)

| | Charged to Judgments & Damages (1) | Charged to Insurance (1) | Charged to County Counsel (CC) Budget Unit (1) | Billed Directly to Agency |
|---|--|-----------------------------|--|------------------------------|
| General Fund (excluding Medical Malpractice and Auto Liability): | | | | |
| In-House Attorney Litigation Fees and Costs | X | | | |
| Outside Attorney Litigation Fees and Costs | X | | | |
| O/S Attorney Transactional/Advice | | | | X |
| Judgments/Settlements | X | | | |
| Special Fund (excluding Medical Malpractice and Auto Liability): | | | | |
| In-House Attorney Litigation Fees and Costs | X | | | |
| Outside Attorney Litigation Fees and Costs | X | | | |
| O/S Attorney Transactional/Advice | | | | X |
| In-House Transactional/Advice Costs | | | | X |
| In-House Transactional/Advice Fees | | | X | |
| Judgments/Settlements | X | | | |
| Medical Malpractice (fees, costs, judgments/settlements) (2) | | X | | |
| TPA Processed Claims (fees, costs, judgments/settlements) (2) | | X | | |
| Auto Liability (fees, costs, judgments/settlements) (2) | | X | | |
| MTA/Metrolink Beginning FY 02-03 | | | | |
| In-House Attorney Litigation Fees | | | X | |
| In-House Attorney Litigation Costs | | | | X |
| Outside Attorney Litigation Fees and Costs | | | | X |
| O/S Attorney Transactional/Advice | | | | X |
| Judgments/Settlements | | | | X |

(1) Costs charged to the J&D, Insurance and the CC budget units will be billed to responsible departments/agencies.

(2) For cases processed by the Third Party Administrators (TPA).