County of Los Angeles
CHIEF EXECUTIVE OFFICE
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
http://ceo.lacounty.gov

WILLIAM T FUJIOKA
Chief Executive Officer

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

August 21, 2009

To: All Department Heads

From: William T Fujioka
Chief Executive Officer

COUNTYWIDE AND DEPARTMENTAL LEGAL EXPOSURE REDUCTION GOAL ESTABLISHED BY THE LEGAL EXPOSURE REDUCTION COMMITTEE

On November 5, 2008, on motion by Supervisor Molina and as amended by Supervisor Antonovich, the Board of Supervisors (Board) directed the Chief Executive Officer (CEO), County Risk Manager, County Counsel, and other department heads, as appropriate, to create a Legal Exposure Reduction Committee (Committee). One of the Committee's responsibilities was to "establish an annual Countywide and departmental legal exposure reduction goal."

The Committee consists of two co-chairs, the County's Risk Manager and Litigation Cost Manager, and representatives from key departments. Committee members include:

Rocky A. Armfield, Assistant Chief Executive Officer, Chief Executive Office
Steven H. Estabrook, Litigation Cost Manager, County Counsel
Robert G. Splawn, M.D., Interim Chief Medical Officer, Department of Health Services
Lisa M. Garrett, Acting Director of Personnel, Department of Human Resources
Robert B. Taylor, Chief Probation Officer, Probation Department
Philip L. Browning, Director, Department of Public Social Services
Gail Farber, Director, Department of Public Works
Roberta A. Abner, Chief, Sheriff's Department

At their July 23, 2009 meeting, the Committee members agreed to the following goal:

> By June 30, 2011, reduce by five percent, Countywide indemnity and legal costs associated with the County of Los Angeles' claims and litigation, including workers' compensation and tort claims. Departmental risk exposure reduction goals will be specific to each department and may include cost reductions or other aspects of risk management. The five percent cost reduction goal shall be

established based upon the average annual costs of each category over the last three Fiscal Years (2006-07, 2007-08, 2008-09).

Your Board has also directed each department head to create Management Appraisal and Performance Plan (MAPP) goals that will decrease risk in their departments. The Committee endorsed the use of the Risk Exposure Cost Avoidance Plan (RECAP) as one recommendation for department heads to consider when developing their MAPP goals. Developing a RECAP is a method of evaluating areas of potential exposure and identifying specific activities to prevent future claims and lawsuits. This requirement was communicated to Department Heads in a memorandum from the CEO dated May 22, 2009 (attached). The department head risk management MAPP goals will help to support the Countywide cost reduction goal.

If you have any questions, or need additional information, your staff may contact Rocky A. Armfield, County Risk Manager, at (213) 351-5346, or Steven H. Estabrook, Litigation Cost Manager, at (213) 974-1762.

WTF:ES
RAA:SN:ds

Attachment

c: Each Supervisor
Legal Exposure Reduction Committee

ATTACHMENT

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May 22, 2009

To: All Department Heads

From: William T Fujioka
Chief Executive Officer

RISK MANAGEMENT RECOMMENDATIONS FOR DEPARTMENT HEAD MANAGEMENT APPRAISAL AND PERFORMANCE PLAN GOALS

On April 22, 2008, each County of Los Angeles (County) Department Head was directed by the Chief Executive Officer (CEO) to develop a risk management-related Management Appraisal and Performance Plan (MAPP) goal specific—to their department. Additionally, on November 5, 2008, on motion by Supervisor Molina and as amended by Supervisor Antonovich, the Board of Supervisors (Board) directed "each Department Head to create MAPP goals that will decrease risk in their departments. . ." This memorandum serves as a reminder of the Board's directive.

Recommendations for your consideration for the 2009-10 MAPP period include:

1. By June 30, 2010, improve risk management procedures to minimize liability or workers' compensation exposures and reduce the departmental Cost of Risk by a specific percent, for example, three percent, by developing a Risk Exposure Cost Avoidance Plan (RECAP) and beginning implementation of RECAP activity steps (Meets Expectations); implement all activity steps designed to reduce exposures (Exceeds Expectations); and, achieve the cost reduction goal (Far Exceeds Expectations).

   The Legal Exposure Reduction Committee, created by the November 5, 2008 Board motion noted above, has endorsed the use of the attached RECAP template as a tool to evaluate risk exposures and identify and implement activity steps to reduce exposure, which should ultimately result in the cost-reduction goal.

2. By June 30, 2010, improve the department's application of Corrective Action Plans (CAP) and/or Summary Corrective Action Plans (SCAP) by documenting departmental conformance with all existing CAP/SCAP action items (Meets Expectations); develop CAP/SCAPs during the claim process prior to a lawsuit being filed, particularly for claims that County Counsel has identified as "Priority One" cases or where indemnity reserves exceed $20,000 (Exceeds Expectations); and, implement a CAP/SCAP effectiveness review process to regularly assess on-going departmental implementation and efficacy of CAP/SCAP steps (Far Exceeds Expectations).

3. By June 30, 2010, improve risk management activities by consulting with the CEO Risk Manager and staff, if needed, to identify and prioritize the department's risk management training needs and coordinate with the Department of Human Resources and CEO Risk Management, departmental staff, and/or vendors to begin training (Meets Expectations); complete the training for all affected employees (Exceeds Expectations); and, assess the efficacy of the training and modify the training as needed (Far Exceeds Expectations).

4. By June 30, 2010, enhance the department's Long-Term Leave and Return-To-Work management programs, to reduce by a specific amount, for example, ten percent, the number of employees on long-term leave by returning them to work or removing them from County service through retirement, medical release, or termination of employment (Meet Expectations); enhance the program and achieve a decrease in the number of employees on long-term leave by December 31, 2009 (Exceeds Expectations); and, implement enhancements of the program and achieve a ten percent reduction in the number of employees on long-term leave (Far Exceeds Expectations).

If you have any questions or would like assistance developing an appropriate risk management MAPP goal, please contact Rocky A. Armfield, County Risk Manager, at (213) 351-5346.

WTF:ES
RAA:SN:sg

Attachment

c: Each Supervisor
Legal Exposure Reduction Committee

Purpose

The Risk Exposure Cost Avoidance Plan (RECAP) is intended to provide County of Los Angeles (County) departments' management with an objective method to evaluate its risk management program, including liability claims, occupational safety, and workers' compensation claim performance. In addition, RECAP will provide County departments with a systematic risk management planning process. The program involves the development and implementation of an annual risk management and occupational safety/liability loss control planning and objective completion tracking tool.

General Information

RECAPs are prepared each fiscal year, consisting of three principal parts: 1) Overview of Department Risk Management Program; 2) Statistical Goals; and 3) Risk Management Objectives, including project descriptions with target completion dates.

The following should be considered when preparing an annual RECAP:

- Critical risk management issues that result in liability or employee-related loss. Departments should utilize information provided in the department's Risk and Needs Assessment prepared by the Chief Executive Office (CEO) Risk Management Branch.
- Five to seven objectives with appropriate, clearly defined project activity description(s).
- Solving the risk management issues within the department.
- Statistical goals must demonstrate plan effectiveness to be evaluated according to the successful completion of these objectives.
- Do not focus on routine or maintenance-type projects/activities (i.e., monthly inspections, monthly safety meetings, etc.) unless there is a need to restructure the project activities to improve performance.
- Senior management should approve each plan and conduct mid-year performance reviews versus plan objectives.
- Submit an annual RECAP plan to the CEO Risk Management Branch by the end of each fiscal year (June 30). In addition, all departments are required to submit both mid- and year-end status reports to the CEO Risk Management Branch.
- CEO Risk Management Branch staff is available for assistance in completing RECAPs.

RECAP

Risk Management Cost Reduction Planning Program

Fiscal Year:

Department:

APPROVALS:

Risk Management Coordinator	Signature	Date
Department Head	Signature	Date

RECAP

Overview of Department Risk Management Program

Fiscal Year:

Attach additional pages if necessary.

RECAP

Performance Data and Statistical Goals/Trends

Fiscal Year (FY) [ ]

1. Liability Claim Performance

Measure	Actual FY ( )	Actual FY ( )	Actual FY ( )	3-Year Average
Total number of all claims.[1]				
Number of General Liability claims.				
Total indemnity (OC) paid[2] for General Liability claims.				
Total legal fees and costs (SS) paid[2] for General Liability claims.				
Number of Automobile Liability claims.				
Total indemnity (OC) paid[2] for Automobile Liability claims.				
Total legal fees and costs (SS) paid[2] for Automobile Liability claims.				
Number of Medical Malpractice claims.				
Total indemnity (OC) paid[2] for Medical Malpractice claims.				
Total legal fees and costs (SS) paid[2] for Medical Malpractice claims.				
Total indemnity (OC) paid[2] for all claims.				
Total legal fees and costs (SS) paid[2] for all claims.				
Total Outstanding Liability (total reserves) for all claims.				

1. Number of claims is the total of all claims (including all suffixes) entered into the Risk Management Information System (RMIS) during the fiscal year.
2. Total paid is based on transaction dates within each fiscal year as listed in RMIS.

2. Workers' Compensation Claim Performance

Measure	Actual FY ( )	Actual FY ( )	Actual FY ( )	3-Year Average
Number of new Workers' Compensation claims filed during the period.				
Number of open and re-opened Workers' Compensation claims as of June 30.				
Total Workers' Compensation expense paid during the period.				
Total paid for Salary Continuation/Labor Code 4850 during the period.				
Number of employees[1] as of June 30.				
Workers' Compensation Claim Report Rate (number of claims reported per 100 employees) for the period.				

1. Number of employees is the sum of currently filled full-time and part-time positions.

3. Occupational Safety and Health Performance

Measure	Actual CY[1] ( )	Actual CY ( )	Actual CY ( )	3-Year Average
Total number of cases with days away from work[2].				
Total number of cases with job transfer or restriction[2].				
Total number of other recordable cases[2].				
Total number of days of job transfer or restriction[2].				
Total number of days away from work[2].				
Number of deaths[2].				
Total OSHA Incident Rate. (Incidence Rate for all recordable cases of injury and illness1)[3].				
Lost Workday Incident Rate.				

1. The OSHA recordkeeping process is based on Calendar Year (CY).
2. This information is available from the Departmental OSHA 300 log(s).
3. Can be calculated using the Cal/OSHA Form Calculating Injury and Illness Incidence Rates.

4. Vehicle and Fleet Safety Performance

Measure	Actual FY ( )	Actual FY ( )	Actual FY ( )	3-Year Average
Number of Department-owned vehicles.				
Total number of vehicle accidents involving Department-owned vehicles.				
Number of **preventable** vehicle accidents involving Department-owned vehicles.				
Number of **non-preventable** vehicle accidents involving Department-owned vehicles.				
Total cost paid for damage involving Department-owned vehicles (not including third party claim/damage cost).				
Number of Department permitee drivers as of June 30.				
Number of permittee miles driven during period.				
Total number of vehicle accidents involving permittee drivers.				
Number of **preventable** vehicle accidents involving permittee drivers.				
Number of **non-preventable** vehicle accidents involving permittee drivers.				
Total cost paid for damage involving vehicles driven by permittee drivers (not including third party claim/damage cost).				

5. Department Cost of Risk

Measure	Actual FY ( )	Actual FY ( )	Actual FY ( )	3-Year Average
Department operating budget.				
Total Workers' Compensation expense paid during the period.				
Total Liability cost paid during the period.				
Total Salary Continuation/Labor Code 4850 cost paid during the period.				
Total Workers' Compensation, Liability, and Salary Continuation/Labor Code 4850 cost paid during the period.				
Cost of Risk (% total paid/operating budget).				

6. Department Cost Reduction Goal

Reduction goal category:

The cost reduction goal category is based on a reduction in: 1) Total liability cost paid; 2) Total workers' compensation cost paid; or 3) Total Cost of Risk.

Measure	Percentage Cost Reduction Goal	Cost Reduction Goal
Far Exceeds Expectations		
Exceeds Expectations		
Meets Expectations		

7. Performance Data and Statistical Goal Definitions

Liability Claim: A document submitted by a third party in accordance with statutory requirements, and alleging personal injury, bodily injury, property damage, or other losses sustained due to the acts or omissions of the County, its employees, officers, or agents. This is the total number of open/closed claims that were filed during the period. A claim includes all lawsuits and claims, but does not include incident reporting, unless a claim is opened as a result of the incident report.

General Liability Claim: Claim arising when negligent acts and/or omissions result in bodily injury and/or property damage on the premises of a business, when someone is injured as the result of using the product manufactured or distributed by a business, or when someone is injured in the general operation of a business.

Automobile Liability Claim: Claim arising from negligent operation of a motor vehicle involving third party damage to property and/or people.

Medical Malpractice Claim: Claim arising from professional negligence by act or omission by a health care provider in which care provided deviates from accepted standards of practice in the medical community and causes injury *or death* to the patient.

Indemnity Cost (OC): Amount of money paid to compensate claimant and/or plaintiffs for damages, including their attorney fees and cost. Cost listed as OC in RMIS.

Legal Fees and Costs (SS): Amount of money paid for defense counsel (in-house and/or panel attorney) for a claim. Cost listed as SS in the Risk Management Information System.

Total Paid:	This is the actual amount of money paid on a claim during the reporting period. This is not the amount agreed to or discussed in settlement, but the actual amount of money disbursed on the claim, to include both indemnity (OC) and legal fees and costs (SS).
Total Outstanding Liability:	Total outstanding cost (reserves) for all liability claims at a point in time.
Workers' Compensation Claim:	Claim filed by Department employee for injury and/or illness that arose out of the course and scope of employment and provides compensation and medical care for employees who are injured in the course of employment, in exchange for mandatory relinquishment of the employee's right to sue his or her employer for the tort of negligence.
Salary Continuation/Labor Code 4850:	Supplemental salary replacement benefits paid in excess of indemnity benefits provided by the workers' compensation system according to County Code or State of California law.
OSHA Recordable Injury:	Occupational injury or illness that requires medical treatment, more than simple first aid, which must be reported on the OSHA 300 log.
OSHA Lost Workday Injury:	The number of workdays (consecutive or not) on which the employee would have worked but could not because of occupational injury or illness.
OSHA Total Incident Rate:	Number of recordable injuries and illnesses occurring among a given number of full-time workers (usually 100 full-time workers) over a given period of time (usually one year).
Lost Workday Incident Rate:	Number of injuries and illnesses resulting in lost workdays occurring among a given number of full-time workers (usually 100 full-time workers) over a given period of time (usually one year).
Vehicle Accident:	An accident involving a Department-owned vehicle and/or a permittee-owned vehicle that resulted in damage or any other type of loss to persons, property, etc.
Department-Owned Vehicles:	Vehicles driven by County employees owned by the Department or County. These are not the drivers' personal vehicles.
Number of Miles Driven During Period:	Actual number of miles driven by Departmental drivers for County-related activity (course and scope of work).
Permittee Driver:	County employee who is participating in the County permittee driver program and is certified/approved to drive a non-Department-owned vehicle for work purposes.
Risk Management Information System (RMIS):	The County's risk management and claims administration management system with ad-hoc reporting capabilities, which supports Contractor (TPA) and County claims administration, financial, statistical, and loss prevention functions.
Cost of Risk:	Percentage of Total Paid/Department Operating Budget.

Preventable Accident:	A preventable accident is defined as an accident in which the driver did not use all reasonable precautions in attempting to prevent the accident, regardless of any legal rights. Failure to report mechanical defects, when known, is cause for finding an accident preventable. If an accident results, even indirectly, from a violation of the California Vehicle Code, it is classified as preventable.
Non-preventable Accident:	A non-preventable accident is one in which the employee exercised good judgment and used every reasonable means to avoid the accident. No violations of defensive driving practices must have been involved, and there must have been proper use of the vehicle as prescribed by the California Vehicle Code and County and departmental policies.

Department:

RISK MANAGEMENT OBJECTIVES	PROJECT ACTIVITY DESCRIPTION (INCLUDE RESPONSIBLE INDIVIDUAL)	PROJECT COMPLETION DATE

RECAP
Department A
FY 2009-10

SAMPLE RISK MANAGEMENT OBJECTIVES

RISK MANAGEMENT OBJECTIVES	PROJECT ACTIVITY DESCRIPTION (INCLUDE RESPONSIBLE INDIVIDUAL)	PROJECT COMPLETION DATE
Establish a risk management performance data collection process.	Department Risk Management Coordinator will work with department finance and operations management to develop, track, and report key risk management data to executive management on a monthly basis. Performance data to include safety, workers' compensation, liability claims, and vehicle safety measures.	Monthly report will be developed, approved, and distributed by **December 1, 2009** (for October 2009 period).
Develop and conduct supervisor/manager risk management training for all departmental supervisors and managers.	Department Risk Management Coordinator will work with CEO Risk Management, County Counsel, and the Department of Human Resources to implement system-wide risk management training for all effected supervisors and managers.	Initial training (20% of identified participants) will be conducted by **January 1, 2010,** with 80% of the identified participants trained by **May 31, 2010.**
Conduct a comprehensive risk management staffing/function evaluation.	Assigned departmental manager (Administrative Deputy or Chief Deputy) will work with CEO Risk Management to draft a staffing review scope and conduct a detailed evaluation of departmental risk management resources.	Study will be completed and reported to Department Director and Deputy Chief Executive Officer by **April 1, 2010.**
Develop and implement a comprehensive fleet safety program within the department.	Assigned manager will evaluate the departmental vehicle/fleet exposure and draft/implement a department-wide fleet safety program.	Fleet safety program will be drafted and approved by Department Head by **November 1, 2009.** Approved program will be implemented for affected drivers by **June 30, 2010.**