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

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November 13, 2009

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

Robert E. Kalunian
Acting County Counsel

JOINT REPORT OF THE CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND COUNTY COUNSEL LITIGATION COST MANAGER REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2008-09 AND GOALS OF FISCAL YEAR 2009-10 IN SUPPORT OF THE REDUCTION TO THE COUNTY OF LOS ANGELES EXPOSURE TO LITIGATION

Pursuant to an October 16, 2007 motion by Supervisor Molina, your Board instructed the Chief Executive Officer's (CEO) County Risk Manager and County Counsel's Litigation Cost Manager to prepare a joint report identifying specific accomplishments during Fiscal Year (FY) 2007-08 that supported the efforts of risk management and reduction of the County of Los Angeles' (County) exposure to litigation.

Pursuant to the motion, the report is also to identify joint goals and objectives for FY 2008-09. The initial report of the Risk Manager and Litigation Cost Manager was submitted on September 25, 2008, and supplemented on October 30, 2008. This report identifies the joint accomplishments of FY 2008-09 and the joint goals and objectives for FY 2009-10, and demonstrates the continuing, collaborative efforts of the CEO and County Counsel to manage County risks and reduce its litigation exposure.

FISCAL YEAR 2008-2009 ACCOMPLISHMENTS

Legal Exposure Reduction Committee

On November 5, 2008, pursuant to a motion by Supervisor Molina, as amended by Supervisor Antonovich, your Board directed the CEO, County Counsel, and other appropriate departments to create a Legal Exposure Reduction Committee (Committee). In response to the amendment of the motion by Supervisor Antonovich, the CEO and County Counsel presented a joint response on December 12, 2008, describing the projected activities of such a committee, including anticipated outcomes. The first meeting of the Committee, including departmental members, was convened on March 5, 2009. The Committee is chaired by the CEO's County Risk Manager and County Counsel's Litigation Cost Manager. In addition to the Chairpersons, the Committee is comprised of seven other departmental members, including five Department Heads. Various other members of CEO Risk Management, County Counsel, and other involved departments regularly attend the meetings. Although directed by the motion to meet quarterly, the Committee has met on a monthly basis since its initial meeting in March 2009. During this time, the Committee has established an annual Countywide Legal Exposure Reduction Goal and formed several sub-committees, including Classification Studies, Employment Practices, Training, Medical Malpractice, and Workers' Compensation. A more detailed discussion of the activities and progress of the Committee is set forth in its annual report to your Board.

Risk Management Information System

A number of Risk Management Information System (RMIS) enhancements positively impacted the management of the County's litigation and claim processes:

- Completion of the RMIS to eCAPS interface work order allowing most third party administrator and County Counsel payments/warrants to be printed, tracked, and reconciled within eCAPS.
- Enhancements to particular screens of the RMIS system which improve the accuracy and consistency of claim information.
- Development and implementation of new codes to improve reporting capabilities and enhance departmental focus on adverse events.
- Enhancements to the functionality of claim control features, including RMIS Time Billing.
- Improvements to RMIS' security features.

Cognos Claims and Litigation Data

Enhanced reporting capability will facilitate the efforts of County Counsel and the CEO to assist departments in the management of their various risks and exposures. The CEO and County Counsel developed improved RMIS capacity and added a report writing function to assist the departments in their risk management efforts.

Contract Cities Claim Resolution Memorandum of Understanding

In collaboration with County Counsel, the Department of Public Works, and the California Joint Powers Insurance Association, CEO staff began to develop a Memorandum of Understanding (MOU) between the County and the Contract Cities for the resolution of disputes between the County and the Contract Cities, and for claims and lawsuits brought by third parties against the County and Contract Cities.

Risk Exposure and Cost Avoidance Plan

The CEO, in consultation with County Counsel, developed and implemented a departmental risk management planning tool that provides County departments with a methodology to assess departmental exposures and to develop specific performance goals related to risk reduction and loss control. In May 2009, department application of the Risk Exposure and Cost Avoidance Plan (RECAP) was first introduced by the CEO to Department Heads.

Management Appraisal and Performance Plan

The CEO assisted departments in reducing the County's "Cost of Risk" by working with Department Heads to develop Management Appraisal and Performance Plan (MAPP) goals for department personnel that promote risk management efforts and reduce litigation exposure.

Also, in May 2009, a CEO memorandum required all Department Heads to develop specific risk management goals for the FY 2009-10 MAPP period. A list of potential goals was provided to departments to improve departments' risk management efforts and reduce costs.

Electronic Bill Review System

One of the goals for FY 2008-09 was the assessment of an electronic or e-billing system which would support the submission of electronic invoices to the County by law firms and other legal services vendors. A RMIS-compatible e-billing system will "pre-screen" invoices for adherence to established guidelines and check invoices for appropriate timekeepers and rates, allowable expenses, proper billing periods, and mathematical accuracy. The e-billing system will also permit detailed analysis of invoices and real-time comparisons of actual fees and costs to case budgets. Such a system will provide a more efficient and effective means of reviewing legal invoices, increase productivity, and reduce costs.

A technical consultant was retained to assist in the selection of an e-billing vendor. In conjunction with members of County Counsel, CEO, Auditor-Controller, Internal Services Department (ISD), and Risk Technologies, Inc. (RMIS Vendor), the consultant performed a comprehensive review of the County's e-billing technical requirements, including RMIS compatibility, Cognos reporting requirements, and the accounts payable or eCAPS System. In collaboration with County Counsel, CEO, and ISD, the consultant prepared a Request for Purchase (RFP). The RFP was issued on September 21, 2009, with vendor proposals due by October 28, 2009.

Attorney Invoice Review

A variety of litigated matters, including cases involving medical malpractice, automobile, and general liability, are managed by County Counsel with the assistance of CEO Third-Party Administrators (TPA), Sedgwick CMS and Carl Warren & Company. Invoices from law firms and other vendors regarding these cases are forwarded to the TPAs for review and approval. Historically, such invoices were not reviewed by County Counsel. Commencing this fiscal year, invoices from law firms and other vendors pertaining to the most serious cases being managed by TPAs must also be reviewed and approved by County Counsel attorneys responsible for such cases. This second, legal level review should enhance case management capability and result in stricter financial adherence by outside counsel to case budgets and County Counsel expectations. The implementation of e-billing will also permit a more comprehensive invoice review by County Counsel.

Fiscal Practices

Last fiscal year, additional practices were initiated to better project and monitor costs of litigated matters, including budgeting measures. Commencing in FY 2008-09, and utilizing enhanced RMIS capabilities, periodic reports are generated which identify cases approaching projected budget limits. These reports provide an early warning and enhance the capability of County Counsel to more closely monitor adherence to budgets by outside counsel. Similarly, budgeting restraints and monetary practices were implemented for cases handled by in-house counsel. These restraints promote stricter adherence to projected budgeted amounts in cases handled in-house by County Counsel.

Review of Panel Counsel and Issuance of Billing Guidelines

Panel or contract law firms had not received an increase in hourly compensation for 14 years. In fact, these rates were "reduced" 14 years ago. Given this history, County Counsel conducted a comprehensive review of all outside counsel for the purpose of retaining qualified, responsive, and effective counsel in each specialty area. These areas included medical malpractice, general liability, foster care liability, and law enforcement cases. Beginning August 1, 2008, panel counsel retained to handle cases in these areas received rate increases.

Concurrent with these rate increases, new Billing Requirements were issued by County Counsel. The purpose of these Billing Requirements was to provide all outside counsel handling litigated matters with a comprehensive, yet concise, single source of billing requirements for all litigated matters. A component of these Billing Requirements included a modification of previously reimbursable cost items. These items included such costs as document reproduction and scanning, postage, telephone charges, facsimile/telecopier charges, local transportation costs, and on-line computer-assisted research. Under the revised rate schedule for outside counsel, a per hour adjustment was implemented. As a result of the adjustment, panel counsel is no longer reimbursed for such costs. The elimination of these reimbursable cost items streamlined invoice review and reduced County Counsel clerical time necessary to process such charges.

FISCAL YEAR 2009-10 GOALS

Legal Exposure Reduction Committee Goals

The establishment of the Committee provides an effective forum for the discussion of priorities, areas of concern, and corrective initiatives which should be considered and implemented in support of reducing the County's exposure to litigation and the cost of such litigation. We refer you to the Committee's Status Report, which was submitted concurrently with this report. The Status Report discusses several initiatives for FY 2008-09, developed by County Counsel and the CEO designed to reduce the exposure to and cost of litigation. Several additional joint goals, not incorporated into the Legal Exposure Reduction Committee Status Report, follow as part of this report.

Risk Management Information System

A number of RMIS enhancements are currently in progress to provide County Counsel, the CEO's liability claim TPAs, and CEO staff better tools to effectively manage the County's tort liability claims/litigation processes. The following enhancements will be completed by August 2010:

- Enhancements to the RMIS/eCAPS Time Collection Interface;
- A system-wide upgrade, employing the latest Microsoft.NET architecture, providing significant improvement in system productivity, performance, reliability, and deployment;
- Implementation of enhanced report writing and information communication functionality to empower users with the ability to create, modify, and deploy sophisticated reports;
- Implementation of the Federally-required Medicare Secondary Reporting Program enhancement;
- Implementation of the County Counsel e-billing enhancement and software; and
- Development of a work order to further enhance claim reserving and budget forecasting.

Cognos Claims and Litigation Data

As committed in last year's objectives, CEO and County Counsel are on track to provide County departments with additional assistance utilizing a new software report writing tool, Cognos. In addition, during the next reporting period, the CEO and County Counsel will continue to develop specific liability reports and performance dashboards utilizing this new software application.

Contract Cities Claim Resolution Memorandum of Understanding

The County and Contract Cities MOU for the resolution of disputes is targeted for implementation by June 2010.

Risk Exposure and Cost Avoidance Plan

In September 2009, the CEO mandated the development and submission to the CEO of a specific RECAP form for each department to develop goals related to risk reduction and loss control and to assist County Counsel with its litigation management efforts.

Electronic Bill Review System

The period available for vendor submissions of proposals concluded on October 28, 2009. Upon receipt of the vendors' proposals, an evaluation committee will be convened, and pursuant to specific functional and technical criteria, the vendors' proposals will be evaluated. It is anticipated that a vendor will be selected in the third quarter of FY 2009-10. The proposal evaluation process and contract negotiation with the selected vendor will provide the necessary information to establish the implementation schedule.

Invoice Review Training Program

The County Counsel Litigation Cost Manager, in collaboration with County Counsel management attorneys, will develop and conduct an invoice review training program for County Counsel staff, targeting not only general principles of invoice review, but also particular areas of concern. Post training reviews will be conducted to ensure the implementation of the training techniques and methodologies, including the use of the e-billing system.

Contract Cities Agreements

Working with the CEO, County Counsel will review the existing contract cities agreements, including the associated indemnity agreements, and make appropriate recommendations regarding updating and standardizing the provisions of the agreements regarding liability, defense, and indemnification, including the payment of settlements, judgments and defense costs. The procedures by which the agreements are periodically reviewed will be analyzed and recommendations will be made regarding necessary changes such that approved standardized provisions are consistently incorporated in contract cities agreements.

If you have any questions or need additional information, please call Rocky A. Armfield, County Risk Manager, at (213) 351-5346, or Steve Estabrook, Cost Litigation Manager, at (213) 974-1762.

WTF:ES
RAA:JS:sg

c: All Department Heads