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April 10, 2013

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

From: William T Fujioka
Chief Executive Officer

John F. Krattli
County Counsel

LEGAL EXPOSURE REDUCTION COMMITTEE COLLABORATION WITH COUNTY DEPARTMENTS

Creation and Development of the Legal Exposure Reduction Committee

Following the presentation by the Chief Executive Office's (CEO) County Risk Manager and the County Counsel's Litigation Cost Manager of their separate and joint annual reports at the March 5, 2013 Board meeting, Supervisor Molina asked that we report back on how the Legal Exposure Reduction Committee (LERC) is collaborating with County departments in regard to the County's risk management. This memorandum provides a summary of the creation and evolution of LERC, the manner in which it interfaces with County departments, and some of the major initiatives that LERC has undertaken in an effort to address pervasive liability issues.

On November 5, 2008, based on a motion by Supervisor Molina, as amended by Supervisor Antonovich, the Board directed the CEO, County Counsel, and other appropriate departments to create LERC. In response, CEO and County Counsel presented a joint report on December 12, 2008, describing LERC's projected activities, including anticipated outcomes. A series of preliminary meetings were then conducted by the CEO Risk Management Branch and County Counsel to formulate LERC's general operating structure, consider such issues as attorney-client privilege, and to identify and recruit appropriate department members. LERC's first meeting was convened on March 5, 2009 with CEO's County Risk Manager and County Counsel's Litigation Cost Manager, serving as co-chairpersons. In addition to the co-chairpersons, LERC's membership was initially comprised of five Department Heads and various other members of the CEO Risk Management Branch, County Counsel, and other departments.

Since its inception, LERC has grown to include representation from more than one-third of the County's departments. Although directed to meet on a quarterly basis, LERC initially met on a monthly basis. During that time, LERC established an annual Countywide legal exposure reduction goal of five percent and formed several sub-committees, including Classification Studies, Employment Practice Liability, Medical Malpractice, Training and Communication, Vehicle Liability, and Workers' Compensation and Return-To-Work. After careful deliberation, LERC narrowed its focus to address issues that cut across all departments, specifically employment, vehicle liability, and workers' compensation. This renewed focus gave rise to a streamlined process for ensuring that recommendations generated by LERC members, County Counsel, CEO Risk Management Branch, and others that have Countywide application, are shepherded from inception to implementation (see attached LERC Recommendation Protocols).

During Fiscal Year 2011-12, LERC met seven times, where the following items were discussed and implemented:

Vehicle Liability

Driver Training. LERC facilitated the launch of a modular vehicle driver training program based on the Department of Health Services' program. The training program is now offered on the Learning Net and is available for all County departments to access.

Pull Notice Program. LERC's Vehicle Liability Sub-Committee met with several County departments and Union Officials to discuss regularly monitoring the Department of Motor Vehicles' (DMV) records of employees who drive their own vehicles and/or County-owned vehicles while conducting County business. As a result of these meetings, several departments have developed policies and standards that not only address basic driver safety, but also penalize employees' reckless driving.

Workers' Compensation and Return-To-Work

Several Workers' Compensation initiatives associated with Return-To-Work were presented. These include:

- *Excluding Former Employees.* Coding of Human Resources Payroll/Time collection to identify former employees who are not eligible for rehire after separation from County service.

- *Light Duty Desk Reassignment.* Presenting the Fire Department's successful "Light Duty Desk" model to other departments for consideration. The model reassigns injured employees who can no longer perform the specific physical tasks associated with the job for which they were hired.

- *Promotional Campaign.* Developing a promotional campaign, in collaboration with the Department of Human Resources, that encourages injured employees to return to work quickly. The anticipated launch date for this campaign is FY 2012-13.

- *Online Training.* Launching LERC's one-day workshop presented through the collaborative efforts of the CEO, County Counsel, Office of Affirmative Action Compliance, and the Department of Human Resources. The workshop covers current issues involving Americans with Disabilities Act/Fair Employment and Housing Act (ADA/FEHA), performance management basics, and the interactive process for reasonable accommodation. This course is now available online.

Employment Practice Liability

Risk Management Staffing. The LERC Classification Studies Sub-Committee conducted evaluations of incident data and departmental exposures to assess risk, correlated to risk management staffing levels, and communicated the results of their evaluations to departments for consideration during the budgeting process. As a result, departments have requested additional funds to create or improve their risk management staff levels. There is now a uniform Countywide staffing strategy as it relates to safety.

Integrated Risk Management Goals. The Department of Human Resources was provided with language that integrates risk management goals and practices, as part of the employee performance evaluation process.

Risk Management Collaboration

LERC has stimulated continuing collaboration between and among CEO, County Counsel, and County departments on a number of projects aimed at reducing the County's risk exposure and controlling litigation expenses. CEO has embedded risk management into the fabric of its operations. To that end, the following events, meetings, and accomplishments were conducted in FY 2011-12:

Risk Management Planning. A strategic risk management planning event was held with all departments which further enhanced the County's strategic risk initiates.

Corrective Action Plan Triage. Early Corrective Action Plan triage was established to identify and track priority incidents, as they are presented to the County, allowing for immediate interdiction, where needed.

RECAP. A Risk Exposure Cost Avoidance Plan (RECAP) was submitted by each department in collaboration with the CEO Risk Management Branch.

Risk Management Presentations. Departmental risk management presentations to Clusters were started in 2012 and continue today. These presentations outline each department's plan to identify, prevent, and manage risk in their area of influence.

Risk Management Collaboration (Continued)

Return-to-Work Quarterly Training. CEO Risk Management Branch staff conducted quarterly seminars which trained 349 department coordinators, managers, and human resources personnel.

Claim Reviews and Consultation. CEO Risk Management Branch reviewed and consulted with County Counsel, departments, and Third Party Administrators on more than 120 Return-to-Work claims last fiscal year. Additionally, CEO Risk Management Branch staff participated in 597 liability claim reviews with County Counsel, departments, and Third Party Administrators last fiscal year.

System Upgrades. County Counsel and CEO Risk Management Branch are collaborating on the redesign of the liability claims system. This is the first phase of the system upgrades in Workers' Compensation, Return-To-Work, and liability claims.

Quarterly Risk Management Meetings. CEO Risk Management Branch staff meets quarterly with departments' Risk Management Coordinators for training and collaboration on pertinent changes in law and best risk management practices.

During its evolution, LERC has provided guidance and encouraged departments to assess their level of risk and create strategies to mitigate that risk. To that end, departments have shared risk management "best practices" and have set litigation expense reduction goals.

Risk management requires vigilance and a continuous reassessment of exposure measured against priorities. As risk management evolves, so should the County. In the near future, it is anticipated that the LERC function may evolve as the County becomes more risk-aware and as new leadership takes this collaborative body into a new direction.

For additional information, your staff may contact Steven T. Robles, County Risk Manager, at (213) 351-5346, or Steven H. Estabrook, Litigation Cost Manager, at (213) 974-1762.

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STR:SHE:sg

Attachment

LEGAL EXPOSURE REDUCTION COMMITTEE (LERC)

RECOMMENDATION PROTOCOLS

All recommendations that emanate from the LERC Sub-Committees will be presented to the full Committee for consideration and adoption within 120 days. The recommendations will include specific goals, a set of actions geared toward achieving those goals, suggestions on how to implement the recommendations, the feasibility, practicality, and cost-effectiveness of the recommendations, and a mechanism for measuring the effectiveness or success of the recommended courses of action. If the recommendations meet this threshold test, within ninety (90) calendar days, the CEO will work with County Counsel to ensure that there are no adverse legal ramifications associated with the recommended courses of action. During that same period, the CEO will, in conjunction with the affected departments, determine whether the departments have sufficient existing resources to implement the actions necessary to address the recommendations and develop an implementation plan and schedule. The CEO will issue implementation instructions to departments within sixty (60) calendar days of determining that sufficient resources are available. If departments do not have sufficient resources, they will need to submit a request to the CEO for the needed resources to be addressed in an upcoming phase of the budget or a budget status report. The CEO, in conjunction with the affected departments, will issue implementation instructions and begin implementation of the appropriate actions within sixty (60) calendar days of receiving the necessary resources. The CEO County Risk Manager will monitor departmental implementation based on the implementation plan. Within six months of the implementation of the actions, the CEO County Risk Manager will evaluate the effectiveness of the actions. An implementation status will be included in the biannual County Counsel and CEO Joint Report of Goals and Objectives.

See "Legal Exposure Reduction Committee and County Counsel Recommendations – Response to February 21, 2012 Board Motion – Part II" dated June 22, 2012.