



Monterey County

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Board Report

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- a. Receive a report on the General Liability and Workers' Compensation programs for Fiscal Year Ending 2015-16 and
- b. Approve the recommended 70% Confidence Level Funding Allocations for FY 2017-18.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Receive a report on the General Liability and Workers' Compensation programs for Fiscal Year Ending 2015-16 and
- b. Approve the recommended 70% Confidence Level Funding Allocations for FY 2017-18.

SUMMARY

Attached is the PowerPoint overview of the General Liability (GL) and Workers' Compensation (WC) programs for Fiscal Year Ending (FYE) 2015-16 and annual funding level for FY 2017-18. This report is in response to the Board of Supervisor's request for a semi-annual update on the trends of claim frequency and severity for General Liability and Workers' Compensation.

DISCUSSION:

The County of Monterey is a certified State of California Self-Insured Public Entity. Pursuant to the State Controller's guidelines for self-insured California Counties, Risk Management contracts with an independent actuarial firm, Bickmore Risk Services, to conduct annual studies and provide reports for both the General Liability and Workers' Compensation programs.

These independent actuarial reports determine and reflect:

- The County's liabilities for current and future claims;
- The Internal Service Fund's assets available to pay these liabilities; and
- The cost allocations to be charged to each department, in order to fund liabilities at the 70% confidence level.

The 70% level of funding is considered "marginally acceptable" by the County's actuarial company. The State Controller's Office and the County's independent actuarial company, however, recommend that after 10 years of operation these two programs should move to an 80% confidence level of funding. At this time, due to the significant increase in claims and severity, we recommend continuing the funding at 70% to mitigate the overall cost of the programs to the county.

Insurance:

Insurance placement and binder for FY 2017-18 is in the beginning stages of the renewal process. The estimated costs for the premiums are expected to increase:

- California State Association of Counties - Excess Insurance Authority (CSAC-EIA) - Excess Workers' Compensation premium estimated to increase 20%
- CSAC-EIA - Property Insurance premium is estimated at a 20% increase, however the FY 2016 -17 actually increased 22.8%
- Marsh Risk & Insurance - General Liability Excess Insurance premium initially estimated an increase of 20%, as the carrier was able to hold the line on increasing the FY 2016-17 premium,

it is not expected that we will be able to continue that trend with the increase in claims and severity of claims

- Carriers are pushing for a higher Self-Insured Retention (SIR) than our current \$1.5 million

General Liability (GL):

As of July 1, 2016, the GL Program has a new Third Party Administrator (TPA), Intercare Holdings Insurance Services, Inc., for managing the claims as a result of an independent audit of the GL Program. Intercare is currently in the process of triaging all open claims for the current status, reserves, and Recoverable versus Non-Recoverable. Expenditures for Non-Recoverable claims cannot be passed through to State or Federal level for funding purposes.

With that being said, the requested allocations for FY 2017-18 will continue at the current 70% confidence level (considered marginally acceptable) with allocations set by the Actuarial at \$10.4 million. This is an increase of \$1.8 million or 20% over FY 2016-17 allocations of \$8.6 million. It should be noted that the GL program will end with a \$4.7 million deficit for FY 2016-17 with the confidence level at 70%.

As of the close of FY 2015-16:

- 137 new claims had been filed, with an average Incurred Cost of \$7,305/claim
 - 21 of the new claims have been identified as potential Non-Recoverable with an average Incurred Cost of \$6,429/claim
- 170 claims were closed through dismissal, settlement or verdict with an average Incurred Cost of \$15,996/claim
 - 14 of the claims closed have been identified as potential Non-Recoverable with an average Incurred Cost of \$83,585/claim
- 101 claims are still in the open/pending status at an average Incurred Cost of \$79,529/claim, which likewise continues to exclude costs relating to the Hernandez claim
 - 32 of the claims in open/pending status have been identified as potential Non-Recoverable at an average Incurred Cost of \$201,856/claims

The Incurred Cost of a claim includes legal expenses (e.g. filing fees, court reporting fees, attorney fees, etc.) and potential or actual cost of final resolution and settlement costs.

FY 2015-16 GL program ended with a deficit of \$4.1 million per the actuarial reports, which takes into account the removal of the Hernandez (aka "Jail Litigation") claim from the Actuarial study during the FY 2014-15 study, but not removed from the ISF. Removal of the Hernandez claim was considered appropriate because it is considered a non-reimbursable claim (the cost cannot be passed on for State and Federal funding purposes).

We previously reported that the Hernandez claim, due to the Non-Reimbursable status, needed to be removed from the GL ISF. However, with the increasing frequency and severity of new Non-Recoverable claims being filed against the County, we believe the time has arrived that the County should separate the General Liability into two different ISFs to keep the County in compliance and prevent the passing of Non-Recoverable Claim costs through for State and Federal Funding. We requested that the Actuarial Company, Bickmore, complete two separate studies of the Recoverable and Non-Recoverable claims to start the process. A plan will be brought back for your consideration at a future date to designate how the GL ISF will be separated. The Total Cost Allocation amount of \$10.4 million is the current combined total.

When we last reported, in the FY 2015-16 Mid-Year review, it was advised that the Board of Supervisors entertain the option of converting the GL program to an 80% confidence level for the FY 2017-18 allocations. In as much as we were unable to make that recommended change for the FY 2016-17 allocations (and coupled with the increase in severity of claims), it is now cost prohibitive for the County to make a change in its GL funding confidence level policy as the increase would be double that for the 70% confidence level noted above, or a 40% increase. We believe at this point in time, it would be more appropriate to separate the two types of claims, rather than increase the confidence level.

Workers' Compensation:

FY 2017-18 requested allocations will continue at 70% confidence level (considered marginally acceptable) with allocations set by the Actuarial at \$18.7 million. This is an increase of \$1.8 million or 11% over FY 2016-17 allocation of \$16.9 million funded at 70% confidence level.

As of the close of FY 2015-16:

- 574 new claims were filed, at an average Incurred Cost of \$8,199/claim
- 608 claims were closed, at an average Incurred Cost of \$11,551/claim
- 853 claims are still in open/pending status, at an average Incurred Cost of \$130,926/claim

The incurred cost of a Workers' Compensation claim includes all medical costs, legal costs, temporary disability payments and potential or actual cost of final resolution and settlement costs.

It was mentioned in our FY 2015-16 Mid-Year Review, that the Board of Supervisors should consider changing the Workers' Compensation program to an 80% confidence level for the FY 2017-18 Allocations. In as much as we were unable to make that recommended change for the FY 2016-17 allocations (and coupled with the increase in number and severity of claims), it is now cost prohibitive for the County to make a change in its WC funding confidence level policy as the increase would be double that for the 70% confidence level noted above, or a 20% increase.

Return-to-Work program:

The Budget Committee directed that a robust Return-to-Work program be developed to mitigate Workers' compensation expenses. The department is working with Human Resources to research successful programs developed in other counties, and to identify vendors that may help in the initial development of our own program. We will report to the Board on the progress of program development.

Filling vacant positions:

The Risk Management Division has a number of vacancies in key positions, including that of a Workers' Compensation Manager. The Budget Committee directed that these positions be filled as expeditiously as possible. The department is working actively to fill all key positions, and interviews for the WC Manager position are proceeding.

OTHER AGENCY INVOLVEMENT:

The Auditor-Controller's Office supports and has been involved with regards to the Non-Recoverable ISF. Received and supported by the Budget Committee on October 26, 2016.

FINANCING:

Accepting this oral report and presentation has no funding impact to FY 2016-17.

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Attachments: PowerPoint Presentation - FYE 2015-16