

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

Date: May 24, 2010

To: The Budget and Finance Committee

From: Miguel A. Santana, City Administrative Officer *MSK/*
MSN

Subject: **EXPANDED USE OF THIRD PARTY ADMINISTRATOR (TPA) FOR CIVILIAN WORKERS' COMPENSATION**

Summary

The Fourth Financial Status Report (FSR) (C.F 09-0600-s203) recommended that the Personnel Department be authorized to negotiate and execute a contract with the Los Angeles County Third Party Administrator for workers compensation to administer the City's Civilian Workers Compensation Program. The Council referred this item back to your Committee and requested that the additional information be provided concerning the City's ability to use a contractor to provide this service if there are City employees available to perform this work.

The recommendations contained in the FSR were the outgrowth of a proposal to transition the administration of Civilian Workers' Compensation from existing City staff to a TPA comparable to the current practice with Sworn Workers' Compensation claims. These recommendations developed in response to the impact of the Early Retirement Incentive Program (ERIP) and the need to restructure the City's work force as a result of declining General Fund revenues. The Mayor's Proposed Budget for 2010-2011 included the elimination of 96 fulltime positions, of which 80 were filled and the transfer of monies from the Personnel Department's budget to the Human Resources Benefits Fund in order to provide funding for a contract with Los Angeles County Third Party Administrator to administer the civilian claims workload.

The City Council has modified the Mayor's Proposed Budget to restore direct funding in the amount of \$4,173,915, \$1,873,920 for related costs and position authority for the 80 filled positions staffing the Civilian Worker's Compensation Program in the Personnel Department. Funding in the amount of \$1 million was provided to fund a contract with a TPA to manage the claims workload created as a direct result of ERIP and attrition. Importantly, use of a contractor has not and will not result in a layoff of employees currently doing the work and will be limited to augmenting reduced staffing after ERIP and attrition.

Two groups of employees would be impacted by proposed subcontracting of Civilian Workers' Compensation: Coalition-represented employees and EAA-represented employees. For Coalition employees, the decision to contract out Coalition work is subject to a meet and consult process, which includes expedited advisory arbitration. This process does not apply to contracts required by bona fide emergencies. Disputes over the impacts of the contracting out decision are subject to the Coalition's MOU grievance procedures, but need not be resolved prior to implementation of the contract.

For EAA employees, the issue of contracting out is not addressed in the EAA Memoranda of Understanding. However, under these circumstances, applicable case law indicates that both the decision to contract out EAA work, and the practical impacts thereof, are subject to the meet and confer process under the Employee Relations Ordinance.

Based on the City's recent declaration of a financial emergency (see Emergency Resolution adopted by City Council May 17, 2010), the City may take action to temporarily subcontract the Civilian Workers Compensation function prior to completing the bargaining process. (See Gov't Code section 3504.5(b) and Los Angeles Administrative Code section 4.850(b).) Such action is further justified by the inadequacy of current staffing levels to timely process workers compensation claims within the statutory timeframes.

In light of the City's Financial Emergency Declaration, it is appropriate to proceed to use the services of a contractor to process pending claims when current staffing levels are not adequate to timely process pending claims when a 1022 determination concludes that the use of a contractor is more financially viable.

The City should notify the affected bargaining units of its intention to contract, offer to meet and consult or meet and confer as appropriate within a specified window of time, implement the plan following the expiration of that timeframe regardless of whether agreement is reached and offer to resume negotiations as soon as practicable thereafter.

Use of a contractor may not result in a layoff of employees currently doing the work and should be limited to augmenting reduced staffing after ERIP and other attrition. Such utilization would not be in violation of the Coalition of City Unions Agreement or language that may exist in respective Memoranda of Understanding.

The Personnel Department has expressed concerns that the current case load per claims analyst has increased from the industry standard of 125 claims per analyst to approximately 160-175 cases per analyst. The Personnel Department is proposing to contract with a TPA administer the civilian claim workload created as a result of ERIP attrition. The Department proposed to utilize the services of a TPA to manage the 1,000 Police and Fire civilian claims. The TPA team handling these claims will be used to benchmark TPA performance against City performance on similar claims. The benchmarking will be based on workers' compensation performance metrics that have been utilized for the existing program over the past three years. This will assist in determining it is more economic or feasible to contract for additional claims management as further attrition occurs.

The Personnel Department is also requesting staff and funding as follows to ensure that the all the legal requirements for the administration of the Civilian Workers Compensation Program are maintained:

Class Code	Class Title	Number of Positions	W&C Salary (less 5% salary savings)	Total Salary
1769	Senior Workers' Compensation Analyst	3	\$78,723	\$236,169
1774	Workers' Compensation Analyst	3	\$67,410	\$202,230
Total Positions		6		\$438,399

This Office would support the restoration of the six positions as resolution authorities. It is recommended that funding for the additional positions be provided from the Human Resources Benefits Fund. The Personnel Department has indicated that additional savings will be generated through the use of case management and utilization review of the civilian claims. This Office will work with the Personnel Department to monitor the savings and report to the Budget and Finance Committee as part of the Financial Status Report and will recommend transfers as necessary.

The Personnel Department has also requested a blanket exemption to the Managed Hiring Process for the Workers' Compensation Division. Our Office will work with the Department and the Managed Hiring Committee to expedite the review of any positions required for the Workers' Compensation Division. A blanket exemption is not recommended at this time.

Recommendations

That the Council:

1. Authorize the General Manager of the Personnel Department or designee to negotiate and execute a contract with a Third Party Administrator for the civilian workers compensation caseload created as a result of ERIP and attrition;
2. Instruct the Personnel Department to report back to the Budget and Finance and Personnel Committees with quarterly status reports relative to the performance of the TPA and Workers Compensation Division.

That the Council, subject to the approval of the Mayor:

1. Authorize by resolution authority the following positions within the Personnel Department for the period July 1, 2010 through June 30, 2011:

Class Code	Class Title	Number
1769	Senior Workers Compensation Analyst	3
1774	Workers Compensation Analyst	3

Fiscal Impact Statement

There will be no additional impact on the General Fund at this time. Funding in the amount of \$5,173,915 is provided in the 2010-2011 budget for 80 positions in the Workers Compensation Division and for a contract with a TPA for the management of the claims workload created as a result of ERIP and further attrition. Funding for the additional positions will require \$438,399 in direct costs. Funding will be provided from savings generated within the Human Resources Benefits Fund from case management and utilization review for civilian claims. The savings will be monitored through the Financial Status Report with transfers recommended as necessary.

MAS: MTS: 08100302