

# RISK MANAGEMENT: City loss prevention needs a proactive approach

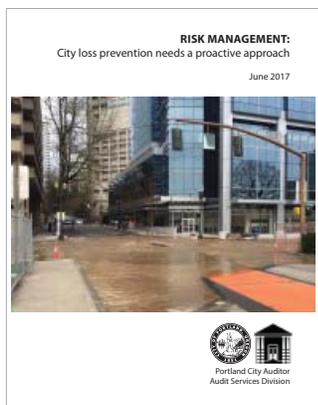
June 2017



Portland City Auditor  
Audit Services Division

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Broken water main in  
downtown Portland



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June 22, 2017

TO: Mayor Ted Wheeler  
Commissioner Chloe Eudaly  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Dan Saltzman  
Tom Rinehart, Chief Administrative Officer

FROM: Mary Hull Caballero, City Auditor

SUBJECT: Audit Report - *Risk Management: City loss prevention needs a proactive approach* (Report #493)

This report makes recommendations to strengthen the City's safety and loss prevention programs and to improve the consistency of liability claims management.

The response letter from the Chief Administrative Officer is included at the end of the report.

We will follow up in one year with the Commissioner-in-Charge and the Chief Administrative Officer for a status report detailing steps taken to address our audit recommendations.

We appreciate the assistance we received from the Office of Management and Finance and Risk Management Division as we conducted this audit.

Mary Hull Caballero  
City Auditor

Audit Team: Drummond Kahn  
Kari Guy  
Elizabeth Pape



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# **RISK MANAGEMENT:**

City loss prevention needs a proactive approach

## **Summary**

Portland's Risk Management Division spends almost \$16 million each year helping City bureaus reduce injuries and loss, and managing and paying claims against the City. We reviewed how Risk Management coordinates its overall loss prevention programs and how it manages general liability claims against the City after an incident occurs.

Overall loss prevention activities need a proactive, Citywide focus. Risk Management does not follow City Code and policy requirements for benchmarking, information sharing, and annual reporting, resulting in a lack of communication to City Council and bureaus about loss prevention activities and loss trends. Without a Citywide focus, City Council and bureaus may not have the information they need to budget for and prioritize risks.

Risk Management usually manages liability claims against the City well, but its approach is inconsistent. Risk Management implemented a new information system, and needs to make better use of the system's capabilities to ensure claims are resolved consistently and on time.

Managing and controlling risk is a Citywide challenge that involves every level from City Council to individual workers. We recommend Risk Management work with City bureaus to establish a proactive, Citywide approach to loss prevention, and update its claims management procedures.

## **Background**

Many of the City of Portland's 6,000 employees are in the community every day, operating heavy equipment to repair water and sewer lines, paving roads, driving police cars or fire trucks to respond to emergencies, or leading classes in recreation centers. There are risks

of worker injuries and accidents inherent in much of the work the City does. A good risk management program would anticipate those risks, design programs to avoid them as much as possible, and have systems in place to resolve incidents when they occur.

In Portland, this responsibility is assigned to the Risk Management Division in the Office of Management and Finance. Risk Management has five primary functions:

- Monitor and coordinate a Citywide safety and loss prevention program
- Manage liability claims against the City when an incident occurs
- Manage workers' compensation claims
- Purchase insurance
- Provide occupational health services

Risk Management's budget was \$15.8 million in fiscal year 2016-17, including funds set aside to pay claims. The City manages and settles claims up to \$1 million for most services, and up to \$2.5 million for claims against the police. Risk Management purchases insurance for claims that exceed those limits.

Rather than bill directly for services, Risk Management's costs, including those for administration, claim payments, and insurance, are paid for by City bureaus based on each bureau's claim history, staffing level, and property insurance costs. That means, for example, that large operational bureaus, such as Police, have higher allocations for Risk Management's costs than bureaus who rarely have claims filed against them.

We audited the first two components of Risk Management's program: monitoring and coordinating the Citywide loss prevention program, and managing the general and fleet liability claims made against the City. Like many functions in the City's Office of Management and Finance, Risk Management uses both centralized and decentralized approaches, depending on the function. Loss prevention follows

a decentralized model, with Risk Management providing technical assistance and coordination while bureaus are responsible for developing and implementing safety programs for their staff. In this audit, we focus on Risk Management's technical assistance and coordination role in helping bureaus reduce general liability and workers' compensation claims.

Risk Management handles general and fleet liability claims centrally. Risk Management analysts consult with safety staff in bureaus, but decisions on claims resolution are made by Risk Management. City Council must approve claims over \$5,000. If a claim is filed in court, the City Attorney works with Risk Management to defend the City's interests and resolve the claim. We focused our audit work on Risk Management's role in claims management.

**Audit Finding:**

**City needs a proactive approach to loss prevention**

An effective loss prevention program has clear program objectives and goals, and uses complete information to evaluate and report on the success of loss prevention efforts. In addition, Oregon state rules require the City to have a loss control program in place because the City insures itself for some losses. Beginning in 1986, City Council adopted City Code requirements and a Loss Prevention Policy that incorporate these best practices.

**Code requirements for loss prevention not followed**

We found that Risk Management does not follow many aspects of the City Code and Loss Prevention Policy:

Loss Control Code and Policy Requirements	Current Actions
Prepare an annual report to Council which communicates activities, results, and areas for improvement.	Not done <i>(After we completed fieldwork, Risk Management provided a draft 2016 Annual Report. This was the first annual report in 10 years.)</i>
Establish Citywide loss prevention benchmarks	Not done
Provide consultation to bureaus in the development of Loss Prevention Plans and develop guidelines, instructions, and a model plan	Not done
Provide technical assistance to bureaus on federal and state mandates	Done: <ul style="list-style-type: none"> <li>• Reviews bureau facilities and programs for compliance with Oregon Occupational Safety and Health requirements</li> <li>• Provides updates to bureaus on federal and state mandates</li> </ul>
Provide statistical information to bureaus	Partially done: <ul style="list-style-type: none"> <li>• Provides data on open and closed claims monthly</li> <li>• Special reports provided on request</li> </ul> <i>but</i> <ul style="list-style-type: none"> <li>• No routine reporting on trends</li> <li>• Injuries related to sworn Police and Fire not included</li> </ul>
Develop a loss-prevention recognition program	Not done

**Risk Management provides other loss prevention services**

Risk managers said they no longer follow City Code requirements for loss prevention due to structural and staff limitations. Instead they provide a catalog of services available to bureaus, including drivers' education, hearing loss prevention, and ergonomic assessments. Risk Management provides technical assistance and safety reviews for bureaus on request. Risk Management also helps organize safety training and surveys City staff on safety issues.

Risk Management coordinates a monthly meeting to share information among the safety managers from the eight bureaus with the highest risk and claim volume. A 2016 Risk Management survey of bureau customers showed that bureaus value Risk Management's services but do not always understand which services are available.

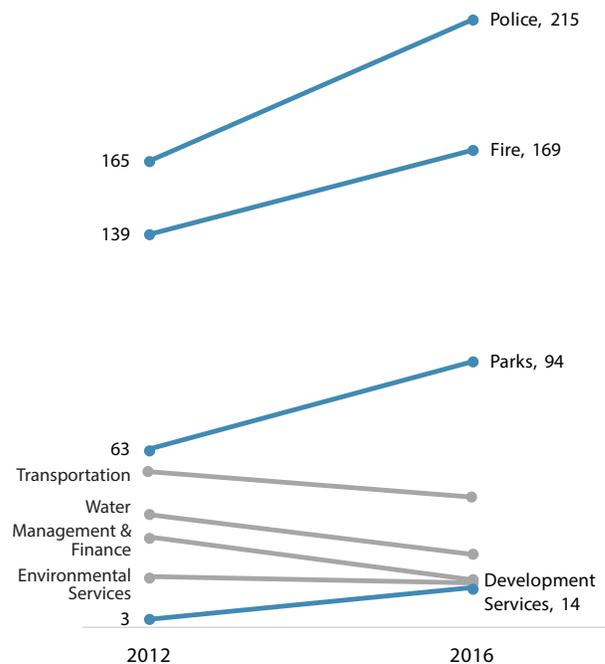
**Lack of information-sharing may hinder City safety programs**

Without following the Code requirements for benchmarking, providing loss information to bureaus, and reporting, Risk Management may not identify or address recurring issues within or across bureaus. We noted a trend showing more injuries in four key City bureaus since 2012.

In 2013, Risk Management implemented a new Risk Management Information System to manage claims. One goal of the system was to provide bureaus with access to claim and loss data. Risk Management has not provided this access.

Individual bureaus may have their own "shadow" information systems that track claims or accidents for their

**Injuries in some bureaus are increasing**



Source: Employee injury claims, 2012-2016, Risk Management Information System and Fire and Police disability claims, FPDR

programs outside of the Risk Management Information System. Reports from Risk Management, other than monthly lists of opened and closed claims, are available only by request. One bureau manager said collecting complete information from Risk Management on driver safety took three weeks, and after collecting the data once, the bureau discontinued the effort because it took too long. Bureau safety managers we interviewed said direct access to the information system would improve their bureaus' safety programs.

Sharing information on injury trends is more complicated for the Police and Fire bureaus, because Risk Management does not manage worker's compensation for police officers and firefighters. Instead, disability claims are managed by the Fire and Police Disability and Retirement Fund. Police and Fire leadership would have to combine reports from two sources to get a complete picture of injury data for both sworn police officers and firefighters and non-sworn employees.

While there were no clear trends in general liability claims, there were recurring claims in all bureaus. Claims for auto liability – when City vehicles damage cars or property – were among the top three causes of liability claims for six key bureaus.

**Auto liability and discrimination were among the top three claim causes in key bureaus**

	1st	2nd	3rd
Police	Auto liability	Use of Force	Arrest
Transportation	Struck or injured	Transportation infrastructure	Fall or slip
Environmental Services	Sewer infrastructure	Transportation infrastructure	Fall or slip
Water	Water infrastructure	Auto liability	Discrimination
Parks	Auto liability	Discrimination	Outdoor areas
Development Services	Failure to act	Auto liability	Discrimination
Management and Finance	Discrimination	Auto liability	Failure to act
Fire	Auto liability	Discrimination	Failure to act

Source: General and fleet liability claims incurred costs, 2012-2016, Risk Management Information System. Bureaus ranked by total dollar value of claims.

Discrimination was also one of the top three causes of claims for many bureaus. Discrimination cases include employees filing claims against the City for issues such as harassment, retaliation, or discrimination due to protected class. Understanding recurring losses within bureaus, and setting benchmarks and goals for improvement, can help bureaus develop loss prevention programs.

In prior years, Risk Management signed service agreements with key bureaus every two years. Risk Management provided each with information on their top three general liability and workers' compensation claims, helped them prioritize loss prevention activities, and defined specific tasks for each bureau and Risk Management based on those loss trends. Risk Management then reviewed progress quarterly with updated data to keep the bureaus and Risk accountable for progress. Risk Management no longer provides these service agreements.

**Central role for Risk Management is critical for Council**

Together, City Code and the Loss Prevention Policy create a framework for Risk Management to enable employees and City Council to communicate about safety-related issues. According to Code, information about safety should not only be funneled up through safety managers and bureau directors, but also shared through a Loss Control Advisory Committee, made up of City Council and other high-level City officials, including the City Auditor. This Risk Management relationship with City Council is necessary to ensure that Council receives adequate information to make cost-benefit decisions about risk when setting priorities and adopting budgets. While individual bureau directors may bring issues to the attention of commissioners, only Risk Management has the ability to bring a Citywide perspective to the Council and to champion worker safety and loss prevention.

However, the Loss Control Advisory Committee does not currently hold meetings, and we were unable to find records of any prior meetings. With no meetings, and no annual analysis and reporting of losses, City Council receives information about Risk Management activities only when a claim payment must be approved.

## **Recommendations:**

### **Loss Prevention**

To provide for a more proactive approach to loss prevention, we recommend that Risk Management, in consultation with City bureaus:

1. Either follow the City Code and Loss Prevention Policy or develop and follow an alternative. At a minimum, a loss prevention program should include:
  - a. Reporting annually to City Council on prevention activities and loss trends
  - b. Setting benchmarks, goals, and evaluating results
  - c. Assisting bureaus with developing loss prevention plans
2. Provide routine trend information on losses to bureaus, both bureau-specific and Citywide, to assist bureaus in developing their loss prevention programs.
3. Provide bureau access and training for the Risk Management Information System.
4. Either re-introduce biennial service agreements with the eight bureaus with the most claims or more clearly define the services Risk Management will provide and how they will be provided.

**Audit Finding:**

**Liability claims management generally effective**

Effective claims processing should be timely, with claim outcomes clearly documented and communicated. Claims decisions should protect both the City’s financial interest and the interests of those potentially harmed by the City’s actions. Claims information should also inform loss prevention efforts.

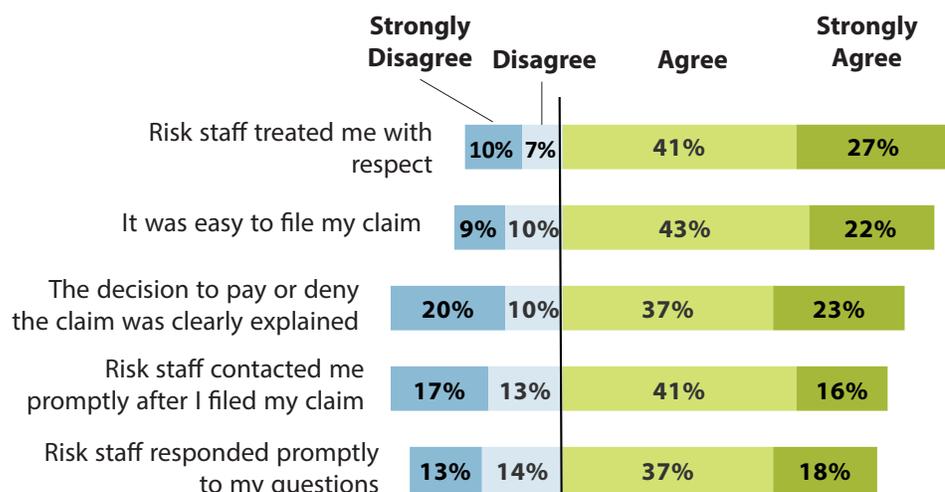
Risk Management takes the following steps in processing claims against the City:

- Responds to claimant promptly when a claim is received
- Sets ‘reserves’ for potential payments, so the City is aware of pending costs
- Investigates the facts of the claim with City bureau assistance
- Determines payment amount, if any, and pays claimant
- Closes claim

**Survey respondents were positive about Risk Management customer service**

We surveyed claimants with closed claims in the last two years to gauge their experiences with the City’s process. Claimants generally rated the services they received from Risk Management staff positively.

**Customer service received the highest marks**



(Neutral responses not included)

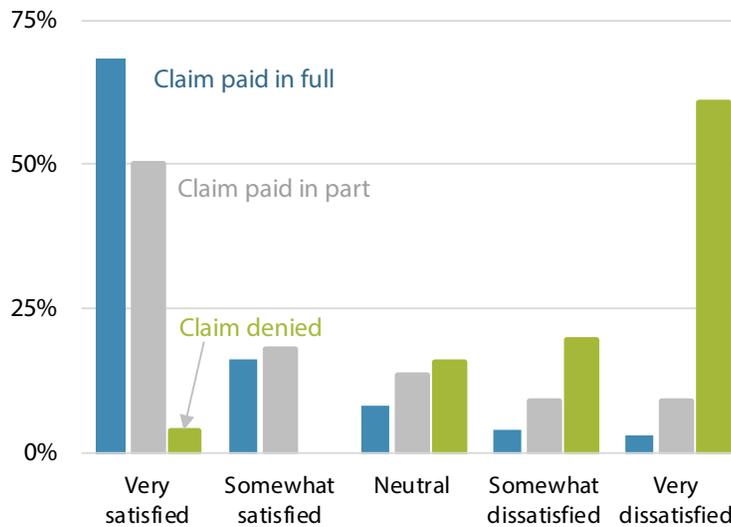
Source: Audit Services survey of claimants

Claimants rated their overall satisfaction with the claims process slightly lower than ratings of customer service. There was a sharp divide in opinion between claimants whose claims were paid and those whose claims were denied.

*"I thought the response of the claims process was going to be somewhat of a hassle to deal with, but it turned out to be very smooth."- Survey response*

*"I was extremely upset with the claim process and felt I was not treated with respect or fairly."- Survey response*

### Overall satisfaction was strongly linked to claim payment



Source: Audit Services survey of claimants

Respondents whose claims were paid, but also had low satisfaction, focused their comments on Risk Management’s lack of timeliness and communication.

*"I was satisfied in that my claim was paid, but unsatisfied it took nearly one year from my filing to do so." – Survey response*

Some respondents noted that they had not yet received answers to their claims. Because we only surveyed claimants whose claims had been closed by Risk Management, all respondents should have known the outcome of their claim.

**Review of claims showed generally positive practices**

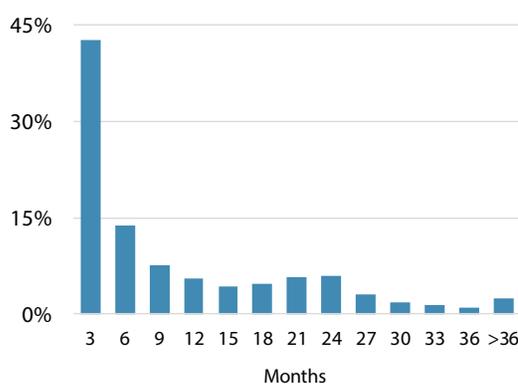
We reviewed a random sample of claim files, and found that Risk Management resolved most claims in a consistent and timely manner. Some claims had unexplained delays or unclear outcomes.

For <b>most</b> claims the process went smoothly:	For <b>some</b> claims we observed problems:
<ul style="list-style-type: none"> <li>• Claimants were contacted promptly after notice</li> <li>• Reserves were set within 30 days of notice</li> <li>• Claims investigation was documented</li> <li>• The claim was resolved in a timely manner</li> </ul>	<ul style="list-style-type: none"> <li>• Documentation was missing or inconsistent</li> <li>• Reserves were not updated to reflect changes in claim information</li> <li>• There were unexplained delays</li> <li>• Claimants were not informed of decisions</li> </ul>

While many of the total claims closed in 2015 and 2016 were closed in the first three months after filing, other claims remained unresolved for years. If a claim was in litigation this would be expected, but in the sample of claims we reviewed we also saw some delays that appeared to be caused by Risk Management.

Risk Management supervisors review financial transactions and payments for all claims, but do not review overall claims handling or monitor timeliness. The result is that claims with no action can get lost.

**Many claims are resolved in three months; some take years**



Source: Risk Management Information System, closed claims 2015-2016

We identified examples of claim delays. In one case, a simple claim was delayed for a year before being reassigned and resolved. In another case, Risk Management asked the claimant to wait while the analyst researched the

cause of a sewer backup. Risk Management later closed the claim for lack of activity, but did not send a denial letter to the claimant.

In some of the claim files we reviewed, it was unclear why Risk Management closed a claim because of inconsistent record keeping between Risk Management analysts and the inconsistent use of electronic files. Risk Management has not updated its claims processing policies and procedures manual since it implemented the new Risk Management Information System in 2013, and the manual does not reflect current practice.

Risk Management staff are working to improve use and accuracy of information in the Risk Management Information System. During our audit, we noted Risk Management making improvements to the system. The system has capabilities, such as the use of 'Tasks' to set automatic deadlines and notices, that could be used to ensure timeliness and consistency in the claims process. Risk Management does not have updated guidelines or a formal training program to standardize use of the new system, so each analyst has a different approach to record-keeping.

**Threshold for Council review of claims needs attention**

In 1976, voters added a provision to City Charter to require that "payment exceeding \$5,000 for any claim must be authorized by an ordinance." There is no provision in the Charter to increase this limit based on inflation, and that amount may no longer be appropriate to trigger Council's approval. If adjusted for inflation, the \$5,000 limit would now be closer to \$21,000. Risk Management analysts told us that seeking Council approval for claims is time consuming for both staff and claimants, and they may encourage claimants to settle for \$5,000 or less to avoid a delay in payment. The closed claims we reviewed showed a large number of payments of exactly \$5,000.

We also noted a few payments of more than \$5,000 for claims that were not approved by Council. Risk Management managers said that when a claim has separate payments for injury and for property damage, they assume each payment may reach \$5,000, even if the total exceeds \$5,000. For example, if a car is hit by a City vehicle, Risk may pay up to \$5,000 for medical bills and \$5,000 for damage to the car

without seeking Council approval. Similarly, if joint property owners make a claim (for example, for a flooded basement) Risk Management may pay each person \$5,000 without informing Council. There is no documentation of this practice to split payments.

### **Claims information not used for prevention**

Risk Management's claims management program seems disconnected from overall loss prevention in the City. Risk Management does not perform routine analysis of claim trends to inform loss prevention activities, and bureau safety staff don't have access to the Risk Management Information System.

*"The event that generated our claim in the first place was completely unnecessary. Prevention would have been so much better than payment all round." – Survey response*

### **Recommendations:**

#### **Liability claims management**

To ensure consistent and timely handling of general and fleet liability claims, we recommend that Risk Management:

5. Update the general and fleet liability claims policies and procedures manual to address:
  - a. Supervisory review of claims
  - b. Staff training
  - c. Consistent record-keeping and use of Risk Management Information System
  - d. Benchmarks and goals for service responsiveness
6. Request the next City Charter Review Commission consider raising the dollar limits for Council approval of claims. In the meantime, document and get Council approval for the current split-payment approach.

## **Objectives, Scope, and Methodology**

Our audit objectives were to evaluate the effectiveness of the City's loss prevention programs and the City's general and fleet liability claims management. We focused our audit on current loss prevention activities and general and fleet liability claims open as of December 31, 2016 or closed during 2015 and 2016.

To accomplish our audit objectives, we:

- Interviewed Risk managers and staff and safety managers and directors from key bureaus
- Researched City and State laws, prior audits, program reviews, and best practices related to loss prevention programs and claims handling
- Documented roles and responsibilities
- Analyzed claims history and City injury data
- Reviewed the cost allocation model
- Reviewed records related to the loss prevention program including program policies, self-insured audits, safety meeting agendas and notes, safety reviews, and safety survey information
- Surveyed 770 claimants with recently closed claims; received 221 responses for a 29 percent response rate
- Reviewed a random sample of 50 closed and 20 open general and fleet liability claims

The Audit Services Division answers directly to the elected City Auditor, who is charged by City Charter to conduct performance audits in accordance with generally accepted government auditing standards. Those standards require auditors to be independent of the audited organization to avoid an actual or perceived relationship that could impair the audit work. According to City Code, the City Auditor serves on the City's Loss Control Advisory Committee. Because that committee does not meet, we do not believe the City Auditor's membership on the committee constitutes an impairment to our independence.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



## RESPONSE TO THE AUDIT



### CITY OF PORTLAND OFFICE OF MANAGEMENT AND FINANCE

Ted Wheeler, Mayor

Tom Rinehart, Chief Administrative Officer  
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To: Drummond Kahn, Director of Audit Services  
Kari Guy, Senior Management Auditor  
Elizabeth Pape, Senior Management Auditor

From: Tom Rinehart, Chief Administrative Officer 

Date: June 19, 2017

Subject: Audit of City risk management

Thank you for the opportunity to review and to comment on your audit of City risk management. It's important at the outset of a discussion about risk management to distinguish between the roles and responsibilities of the Risk Management Division within the Office of Management and Finance, and the roles and responsibilities of City Council and City bureaus to identify and manage risk on a bureau- and enterprise-wide basis.

As you indicate in the audit, the focus of the audit was on two of five primary functions performed by the Risk Management Division: monitoring and coordinating a Citywide safety and loss prevention program, and managing the general and fleet liability claims made against the City.

#### Loss prevention

The audit comments that the City needs a proactive approach to loss prevention. OMF agrees with this statement, and we believe that the City does have a proactive approach. That said, we also agree there is opportunity for individual bureaus to strengthen their loss prevention efforts, and for the Risk Management Division to improve how it provides consultation, information, and support to bureaus for their respective loss prevention programs.

We agree with the audit's finding that the City Code and City's loss prevention policy are in need of review and revision, and OMF will undertake a process to bring Code and policy into alignment with current and best practices. OMF also agrees on the importance of providing bureaus with information that will be useful to their developing and managing effective loss prevention programs in their respective bureaus. The third recommendation of the audit, to provide bureau access to and training in the Risk Management Information Systems, is something that OMF can undertake once the system is fully operational and Risk Management Division staff are adequately trained in its operations. Finally, OMF disagrees with the recommendation to reinstate service level agreements per se, but agrees there is a need for a better understanding between bureau staff (bureau directors, safety professionals, and so on) and the Risk Management Division of the risk management services being provided by the Division.

#### Liability claims management

OMF is pleased the audit determined that the liability claims management performed by the Risk Management Division was generally effective; survey respondents were positive about the Risk

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#### ***An Equal Opportunity Employer***

*To help ensure equal access to programs, services and activities, the Office of Management & Finance will reasonably modify policies/procedures and provide auxiliary aids/services to persons with disabilities upon request.*

## RESPONSE TO THE AUDIT

Management Division's customer service; and the review of claims evidenced positive practices.

We concur with the recommendation that the Risk Management Division should update its policies and procedures manual relating to general and liability claims. We defer to City Council as to the recommendation regarding a change of City Charter for the dollar limits.

Thank you for your interest and recommendations aimed at improving the risk management practices of the City of Portland bureaus and Council, and the Risk Management Division of the Office of Management and Finance.

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*Risk Management: City loss prevention needs a proactive approach*

Report #493, June 2017

Audit Team: Kari Guy, Elizabeth Pape

Mary Hull Caballero, City Auditor  
Drummond Kahn, Director of Audit Services

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*Portland's Financial Condition: Funding infrastructure should be high priority (#490, April 2017)*

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