

LOUISIANA OFFICE OF RISK MANAGEMENT CLIENT INSTRUCTIONS FOR THE ROAD HAZARD UNIT

The client instructions will provide specific requirement for ORM's Third Party Administrator (TPA). Also included are expected general claims handling practices, this is not an all-inclusive list nor does it address all aspects of claims handling. The TPA should continue to use industry standard claim's handling practices, follow applicable state statutes, along with their internal claim's handling procedures in order to provide professional services which protect the interest of the State of Louisiana and offer exceptional customer service to the state agencies.

Road Hazard claims are not an insurable line of coverage nor are they part of the Self Insurance Program. Settlements and judgments on litigated Road Hazards claims are paid via legislative appropriation.

GENERAL ROAD HAZARD CLAIMS INFORMATION

ORM INTERNAL AUTHORITY DESIGNATION AND CONTACT INFORMATION

The primary contact for the ORM Road Hazard (RH) Unit is the ORM Road Hazard Supervisor Rick Lejeune. The ORM RH supervisor is responsible for handling the RSA process, approval of payments in excess of \$25,000 (excluding payments for defense counsel billing via Acuity/Trial Net), review of new and amended lawsuits, attorney appointment request, reserve and budget increases, and responding to claims questions from the TPA. If a submitted request is above the ORM supervisor's authority level, the supervisor will route the request to the appropriate person(s) within ORM. The ORM claims manager, should be copied on all claims related email correspondence. If the ORM supervisor is out of the office, the claims manager will respond to time sensitive requests. Contact information for the Transportation Unit is:

Rick LeJeune – ORM road hazard supervisor	225-342-5441	Rick.Lejeune@la.gov
Rita Major – ORM claims manager	225-342-6059	Rita.Major@la.gov

CLAIM SET UP INFORMATION

All claims should be assigned an ORM claim number based on the following format: Fiscal Year (FY), letter assigned to involved coverage, DOL, first two letters of claimant's last name, and four random numbers. The alleged date of loss on the reported claim or lawsuit determines the FY to be assigned. Assigned coverage letter is R for road hazard claims.

Example: ORM Claim 17R0804SM5825

This is a Road Hazard claim, claimant's last name is Smith, the date of loss is DOL 08/04/2016 (date falls into FY17), and 5825 were the randomly assigned numbers.

The ORM agency location code (Sedgwick's nomenclature is unit #) is a four digit number. A listing of agency location codes is provided via an excel spreadsheet labeled as ORM Master Location Listing – Effective X-XX-XXXXX. This information is updated periodically as agency changes occur. When sitting up a claim, the location code is determined based on the agency that was directly involved in the incident. Road Hazard claims relate to DOTD activities; thus, there are a limited number of agency location codes (ten codes) that will be utilized.

LAWSUIT PROCESSING AND DEFENSE COUNSEL ASSIGNMENT

Lawsuits are usually received at ORM when ORM is served with a lawsuit or when a lawsuit is forwarded to ORM by the AG's office or the agency after they have been served. Upon receipt of the lawsuit, ORM will:

- Review the lawsuit to ensure a State entity and/or State employee has been named as a defendant.

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- Once verified, ORM will check the TPA's claims management system to see if a claim was previously received for this matter.
 - If there is already a claim set up related to the lawsuit, ORM will forward the lawsuit to the TPA advising of its receipt.
 - If there is not a claim set up, then ORM will forward the lawsuit to the TPA for claim set up.
- The TPA should set up the claim immediately and assign an examiner, ORM claim number, and the TPA file number.
- Once the claim is set up is complete, ORM will prepare the required *Attorney General Appointment Form*. The form is submitted to the AG's office for appointment of counsel.
 - AG appointments to in-house Assistant Attorney General do not require concurrence from ORM.
 - AG appointments to contract counsel require concurrence of the ORM Assistant Director for Litigation Management and the State Risk Director.
- If appointment of counsel is made to a contract attorney, the AG's office must also confirm counsel has no conflicts related to the litigation.
- Once defense counsel has been appointed, the examiner will receive a copy of the completed appointment form listing the assigned attorney, start date and required signatures.
- The TPA will send an *Appointment for Professional Legal Services* form and a *Counsel's Acknowledgment and Acceptance of Appointment (CAAA)* agreement to contract counsel. The assigned counsel must acknowledge the appointment by executing and returning the CAAA agreement.
- If the TPA receives a lawsuit directly from the agency, they should immediately forward the lawsuit to ORM-Lawsuits@la.gov and copy the ORM supervisor.
- ORM may receive subsequent copies of the lawsuit as service is made on the various State entities or State defendants. The ORM supervisor will forward these to the TPA to document service made. The examiner must forward the documents to the assigned defense counsel.
- If ORM receives an amendment/supplement to a lawsuit from a State agency, the ORM supervisor will forward the suit to the AG's office and copy the TPA examiner (if the AG sent the amended suit to ORM, there is no need to forward it to the AG's office).
 - If new State defendants were added to the suit, the ORM supervisor will note this in the email and a transmittal will be sent to the AG for a 13:5108.1 determination and review for possible conflict.
 - ◆ If there is a conflict between state defendants, a different attorney will be assigned to defend the newly added defendant.
 - The TPA should review the suit for new allegations or damage claims.

COMMUNICATIONS BETWEEN THE TPA AND ORM

As noted above the claims manager should be copied on all claims related emails. If there is a critical date or some urgency, flag email as high importance. The subject line for all emails should follow the following basic format:

Request being made | Claimant's Full Name | Claim Number | Critical Date (if applicable) or other brief description

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Examples: Expense Reserve Increase | Sam Somebody | 3017XXXXXXX
Budget Increase | Clarence Claimant | 3017XXXXXXX | Roedel & Parson, \$175K
SF-3 RSA | Samantha Somebody | 3015XXXXXXX | 15L0204SOXXX | Critical Date: Trial 08-13-15
PYMT: Client Authority | Carrie Claimant | 3016XXXXXXX
Sean Somebody | 3016XXXXXXX | inquiry or cvg question or follow up

Emails sent with specific inquiries/request should be replied to within the same email thread. If follow up inquiries are made related to the initial inquiry, the initial email thread should be forwarded with the new inquiry. This will keep the email thread on a specific subject intact and easily reviewed.

****Remember, if the email included an attachment, using the forward button will keep the attachment intact in email thread****

CATASTROPHIC CLAIMS

Immediate notification by telephone to the ORM claims administrator shall be made in all cases involving catastrophic injuries or damages.

RESERVES

Initial reserves must be established within seven (7) calendar days of the receipt of the claim. Initial reserves are to be reviewed within 60 days after receipt of the claim, or sooner if more becomes known about the claim. The TPA has total incurred reserve authority of \$250,000. ORM reserve authority is needed to increase reserves with a total incurred reserve of greater than \$250,000.

Reserve requests shall be sent in a specific email format to the ORM supervisor with a copy to the claims manager, refer to email template below. If the reserve request is above the ORM supervisor's authority, it will be routed to the appropriate person within ORM for approval. Reserve increase requests and corresponding ORM approval shall be placed in the TPA's claim management system. A monthly report of all reserve changes and ORM authority must be submitted to ORM at the end of each month for auditing purposes.

The email subject line should be formatted in the following manner:

Reserve Increase | Claimant Name | Claim Number

Reserve Email Template (if one of the reserve buckets is not being increased, write "No increase" next to the appropriate reserve bucket):

Current expense reserve is:

Current damage reserve is:

Increase expense reserve to:

Increase damage reserve to:

If increase is approved the total for all reserves on this claim will be:

Reason for increase request: *provide a brief description for the increase for each "reserve bucket" being increased, e.g. Additional experts (IME and a vocations rehab) are being retained, thus the need to increase the expense reserve; Based on further information received through discover, the liability evaluation has been reconsidered and additional medicals were presented, therefore loss reserves are being increased.*

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ORM reserve authority is not required for the following reserve changes nor should these be included on the monthly reserve report:

- A decrease in the reserve where the total incurred is over \$250,000.
- Funds are shifted from one reserve subcategory to another within a reserve bucket (expense, damages), but the total incurred amount is unchanged.

RESERVES RELATIVE TO AG PAYMENTS ONLY

For the AG payments here is how we need to handle the four scenarios:

1. **Open** claims with current total incurred plus AG payment < \$250k
 - a. Do not enter the payment and send to examiner to review for reserve adjustment and enter payment manually
2. **Open** claims with current total incurred plus AG payment > \$250k
 - a. Do not enter the payment and send to examiner to review for reserve adjustment and enter payment manually
3. **Closed** claims with current total incurred plus AG payment < \$250k
 - a. Automatically update the reserve to cover the payment and then enter the HIS payment.
4. **Closed** claims with current total incurred plus AG payment > \$250k
 - a. Do not enter the payment and send to examiner to review for reserve adjustment and enter payment manually

DENIAL OF CLAIM – NON LITIGATED

After the investigation is complete and a liability determination made, if the TPA finds no liability against the State, then a denial letter should be prepared by the examiner. The examiner should make sure an EV note was entered into the claim file that explains the liability assessment. The denial should be reviewed and approved by examiner's supervisor. Once approved by the TPA supervisor, the denial may be issued to the claimant or claimant's attorney, if claimant is attorney represented.

In the event a denial is appealed by a claimant, the TPA supervisor and TPA unit manager will review all applicable documentation and issue a supplemental letter to the claimant advising them of the final determination. A copy of the claimant's appeal request and the decision should be provided to the ORM supervisor and manager.

If the TPA wishes to discuss the appeal with the ORM, they may do so as needed.

STATUTES AFFECTING ROAD HAZARD CLAIMS

Two statutes that are important to determining liability:

- **Louisiana Revised Statute 9:2800** - The State must have actual or constructive notice of a defect and fail to remedy the defect in a reasonable time before the state can be held liable.
- **Louisiana Revised Statute 9:2798.4** - The State is granted immunity from liability for injuries sustained by persons operating a vehicle under the influence of alcohol or drugs provided that the operator is found to be in excess of 25% negligent and that this negligence was a contributing factor causing the damage.

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CLIENT FUNDING AUTHORIZATION / PAYMENT REQUEST

All request shall be sent to the ORM supervisor with a copy to the ORM manager. The ORM supervisor will route the request to the appropriate ORM personnel, if it is above the supervisor's authority level.

CLIENT FUNDING FOR SETTLEMENT REQUESTS OVER \$25,000

- The claim file should be documented with the appropriate settlement approvals.
- The client funding authorization request should include:
 - Properly completed Client Fund Authorization form.
 - A copy of the approved non-litigated settlement evaluation form (showing signatures), if applicable.
 - If non-litigated settlement, but plaintiff is represented, then an email from plaintiff counsel confirming appropriate payee(s) and amounts.
 - A copy of the final, approved RSA (showing signatures), if applicable
 - If litigated settlement, an email from defense attorney showing whom the payee(s) should be and the check amount for each check needed

CLAIM EXPENSE PAYMENT OVER \$25,000

- The claim file should be documented with the detailed invoice from the vendor and applicable support documentation.
 - A statement, showing an invoice number and amount, is not proper documentation for paying a vendor.
- The client funding authorization request should include:
 - Properly completed Client Fund Authorization form
 - Copy of vendor's invoice; if the invoice is a large file, the DCN number can be listed on the client authorization form in lieu of attaching the invoice.

SPECIFIC CLAIMS HANDLING FOR NON-LITIGATED RH CLAIMS

- Notice of the claim is made by the claimant directly to the appropriate DOTD district office where the incident occurred.
 - If a claimant contacts the TPA to report a RH claim, the TPA should refer the claimant to the appropriate DOTD District office and provide them with an explanation of the claim process.
- Upon receiving notice of a claim, DOTD will complete either a *DOTD Report of Incident Form* for general road hazard claims or a DA2073 (*Vehicle Glass repair / Replacement Loss Notice*) form for glass breakage. DA2073 is only used for claims caused by debris flung by mowers or tractors that crack/break vehicle glass. DOTD will need to send all applicable forms to the TPA to place the TPA on notice of an incident.
- The DOTD Report of Incident form and/or the DA2073 can be found at:
 - <http://www.doa.la.gov/Pages/orm/Road-Hazard-Claim-Reporting.aspx>
 - <http://www.laorm.com/reporting.html>

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- Upon notice of an incident, the TPA will create a “Reporting Purposes Only” claim and will send a *Road Hazard Claim Form* to the claimant. No claim form is necessary on claims reported on a DA2073 (glass only claim).
- If a completed *Road Hazard Claim Form* is not returned by the claimant, then the incident will not be converted to a claim and no further action is required.
- If the *Road Hazard Claim Form* is returned, the incident is converted to a claim and an acknowledgement letter containing the claim number, TPA contact information, the assigned examiner’s name, etc. is sent to the claimant.
- Once a claim is created an appropriate form is sent to DOTD to obtain their records for the area where incident occurred. These include maintenance, complaint and inspection records.
- There are two types of forms used to obtain information from DOTD. A *General Questionnaire* which addresses potholes or debris in the road and a *Paint Checklist* which is used for overspray or wet paint claims. No questionnaire is required on glass breakage claims as this is covered by the DA2073.
- Liability is determined based on a review of information provided by DOTD.
- **Non-litigated** Road Hazard claims are funded and paid within a certain limited budget per fiscal year.
- The TPA must maintain a record of cumulative amounts paid on **non-litigated** Road Hazard claims within each fiscal year.
- Upon ORM’s request a report will be provided which identifies the amount paid per a specific timeframe for non-litigated RH claims.
- A signed *Agreement to Settle Form* will be obtained from the claimant prior to issuance of the settlement check.
- A minimum of two estimates must be obtained from the claimant to establish the cost of repair. A single estimate may be considered if the vehicle is inoperable, unsafe or other extenuating circumstances exist.
- If repairs have been made, paid receipts may be considered if they appear to be reasonable.
- If the damages are greater than \$2,500 or if the vehicle is not drivable, an independent appraiser will be assigned to assess the damage.
 - The TPA does not have to obtain ORM approval to assign an independent auto appraiser.
- A copy of the claimant vehicle registration and proof of insurance will be required.
- The uninsured driver/owner of an auto will be prohibited from recovering the first \$15,000 of bodily injury and the first \$25,000 of property damage, refer to R.S. 32:866 (No Pay No Play). Also review R.S. 9:2798.4, which prohibits recovery when certain levels of alcohol are consumed, and to other statutes as appropriate.
- An injured guest passenger will not be prohibited from making a bodily injury claim even if the driver/owner is uninsured.
- Non-litigated claims that are valued in excess of \$20,000 should be treated as a **large losses**.
- After investigation, if the non-litigated claim should be denied, refer to the Denial of Claim section above for denial instructions.

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NON LITIGATED SETTLEMENTS

A receipt and release **must be secured** on all bodily injury claims and third-party damage claims upon settlement regardless of the settlement amount (excluding “glass only” when damage is less than \$500).

- The TPA has authority to settle non-litigated claims up to and including \$25,000 per claimant without State approval (ORM or DOJ).
- “Glass only” damage claims of up to \$500 do not require a release. If there is property damage other than glass, i.e. auto body damage, paint damage, etc., then it is not a “Glass only” claim and a release must be obtained.
- All non-litigated settlement requests over \$25,000 must be approved by ORM and the AG. A settlement evaluation and recommendation form must be completed and sent to ORM for approval. ORM will then forward to the AG for final approval.
 - Refer to the payment section for procedures for requesting and issuing a payment over \$25,000
- Settlement requests above \$250,000 require approval by ORM, the Commissioner of Administration, and the Attorney General.
- Settlement Requests of \$500,000 and above require the approval of ORM, the Commissioner of Administration, the Attorney General and the Joint Legislative Subcommittee on the Budget.

ROAD HAZARD INVESTIGATION FOR LARGE AND/OR LITIGATED LOSSES

ORM’s TPA is responsible to perform a thorough investigation of all claims. Claims should be investigated to allow for assessment of coverage and/or liability and to accurately document the claim file in order to support settlement or denial of non-litigated third party claims.

A denial of a claim does not preclude a suit being filed, thus documentation of the incident, statements and contact information (personal and work contact) of the involved parties and witnesses, photographs, surveillance video, diagrams, etc. are crucial.

A claim received in a litigated status does not negate the TPA’s responsibility to investigate the claim and obtain needed documentation - identify involved parties and witnesses, discuss loss with agency representative and involved employees, etc. The TPA must be actively involved in the management of a litigated claim, as discussed further under the Litigation Management caption.

An example of investigative steps may include, but are not limited to:

- Scene photos
- Diagram and measurements of the accident scene
- Recorded statements or depositions of the claimant and all witnesses where there is injury or where liability is questionable
 - Failure to obtain a recorded statement must be explained in the claim file notes.
- Agency reports
- Police reports, B.A.C. test results, autopsy reports, toxicology reports, etc.

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- Weather data
- Data on previous claims at accident site
- Claimant BI indexing
- Proof of claimant liability insurance
- All investigation requested by ORM or the assigned defense counsel
- The bulk of the investigation should be completed within 60 days of receipt of the claim.
- Medical releases and copies of all pertinent medical records should be requested and evaluated by the TPA.
- The TPA will utilize the services of an economist expert to evaluate the claims for future wage loss.
- The ORM supervisor will notify the TPA examiner if an LSP Accident Reconstruction Report was prepared and provide a copy.
- The examiner should consider the potential value of an expert's testimony at trial when establishing a plan of action. See the Experts section for further details on retaining an expert.
- Expert witnesses are frequently needed to establish technical information, such as, road conditions, design and construction, as well as blood alcohol levels and toxicology findings.

USE OF INVESTIGATIVE SERVICE VENDORS

All claims involving significant bodily injury and/or property damage or questionable liability should be considered for independent investigation assignment. **ORM should be consulted with and approval issued before assignment to a vendor**, e.g. site/scene investigations, surveillance, skip traces, etc. Rule of thumb, if the services will result in a charge to the claim, approval must be obtained.

The TPA should email the request to the ORM supervisor requesting, this includes the TPA's subsidiaries or "in-house" SIU if a cost will be incurred for the services.

The request should include the name of the firm to be used, the reason for the request and what is to be done, and the estimated budget for the activity(ies).

A copy of the vendor's report(s) should be sent to the ORM supervisor upon their receipt. The name of the actual company that is investigating the claim should be provided. Therefore, if the assignment was given to SIU and SIU assigned the claim to a third-party, the name of the third-party company should be provided.

Please note this process does not include the use of experts, such as accident reconstructionist, physicians, etc. in a litigated case. Please refer to the Expert section under the Litigation Management caption.

LITIGATION MANAGEMENT

Examiners should be thoroughly engaged in the management of litigation and should work closely with defense counsel to bring about a prompt resolution of the claim.

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- Upon notification of the assigned defense counsel, the examiner should provide counsel with the examiner's name and contact information.
- The examiner should contact counsel within seven (7) working days to discuss the case, develop an initial plan of action for defending the allegations contained in the petition, and establish if counsel needs the use of an IA or other investigative services to obtain information (e.g. gather documents from agency, find witnesses, photograph/diagram scenes, etc.).
- The TPA will receive a Coverage Determination Notice from the AG's office, often referred to as a 5108.1 review. This review relates to whether or not the entity or individual named is a "covered individual" according to LA RS 13:5108.1. Upon receipt of the 5108.1 review, the examiner should attach and properly label it into the claim file. It is recommended this notice is labeled as "5108.1 Review" to help prevent confusion as to the type of coverage determination, i.e. an ORM policy/coverage determination or a 13:5108.1 determination.
 - Although an individual may be a "covered individual" under LA RS 13:5108.1, that determination is not a determination related to coverage and/or indemnity under the Self-Insurance Fund's insurance policy.
 - If a suit is amended naming a new individual defendant, a 5108.1 review should be received for the new defendant.
- **TEAM MEETINGS** – Defense and strategy meeting
 - A team meeting (strategy meeting) shall be held within 90 days of the case assignment, or as soon as practicable thereafter, but no later than 30 days before the six month case assessment is due
 - ◆ The team meeting does not negate the examiner's responsibility to contact the assigned attorney within 7 days (as noted above) or to discuss what needs to be done by both parties prior to the team meeting.
 - Attendees shall include the defense counsel, the TPA examiner and the DOJ section chief. The ORM supervisor and manager should receive an invite to the team meeting; their attendance is at their discretion. Invites should be sent to any other AG personnel as requested by an assigned AAG or as dictated by the AG when contract counsel is assigned.
 - The purpose of the team meeting will be to discuss a strategy for aggressively defending the case, including discovery to be conducted, available affirmative defenses, possible immunities, the need for and the retaining of experts, and the potential for dispositive motions.
 - The TPA examiner shall schedule and coordinate the meeting.
 - The TPA examiner will document the strategy (action plan) agreed upon and will send an email to each attendee confirming the action plan. Specific dates or date range for the accomplishment of activities should be set.
 - Unless otherwise determined by the DOJ section chief and ORM supervisor, the team meetings will be held via teleconference.
 - Additional team meetings shall be held as determined by the DOJ section chief or the ORM supervisor.
- The Team Meeting is an "initial" strategy meeting, the examiner must continue with the oversight, management, and follow up on the case until resolution.
- Examiners should make certain that answers were properly filed, written discovery (interrogatories, requests for production of documents, and requests for admissions) are propounded (sent) to plaintiff

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counsel very early in the life of a case. They should monitor this aspect of the defense and communicate directly with counsel to make certain it is done.

- Discovery propounded by defense counsel is to be promptly answered. If plaintiff does not respond promptly, the examiner should discuss the possibility of filing a motion to compel with defense counsel. Defense counsel is to provide a copy of the discovery responses to the examiner.
- Generally, written discovery should be propounded and answered by the plaintiff prior to plaintiff being deposed. Receipt of this information beforehand will assist defense counsel in preparing for the deposition.
 - The timing of a plaintiff's deposition is important. Plaintiff should not be deposed too early, in order to allow for the gathering of information related to the incident and alleged injuries.
 - It is often desirable for the injuries to mature to a degree (time for plaintiff to receive a diagnosis, treatment and, hopefully, a prognosis) before deposing.
 - In most cases, a deposition should be taken from 8 to 12 months from filing suit, if not earlier (depending on how long after the incident suit was filed).
 - If plaintiff's deposition has not been scheduled within an appropriate timeframe, the examiner should discuss the need for and the scheduling of plaintiff's deposition with defense counsel. The examiner should dialogue with counsel to find out if there is a legitimate reason the deposition has not been conducted and what activity needs to occur so the deposition can take place.
 - If there is a disagreement or continued delay on the part of our defense counsel, the examiner should notify the TPA management team, as well as the ORM transportation management team.
 - The TPA examiner should not approve payment for the deposition until the deposition has been received and attached to the claim file.
- The examiner should ensure a copy of all pleadings, discovery, depositions, etc. are received and attached to the claim file. Each document should be separately attached and properly labeled.
 - Labeling examples: MSJ – Lack of Notice (State); MSJ – Liability (Pltf); Exception – Improper Venue (State); Depo – John Doe (DOTD employee); Depo – Sam Somebody (Plaintiff)
- The examiner should read, understand, and refer to the attorney's Case Handling Guidelines and Billing Procedures. This document may answer questions the examiner has regarding authority and/or procedures for specific actions the attorney wishes to perform, such as, attendance of out of state depositions; more than one attorney to attend trials, depositions, hearings; retaining experts. It will provide information regarding allowable billing practices and charges of contract counsel.
- During the life of the case, the examiner may have concerns that certain aspects of the case are not being addressed, such as filing of an MSJ, use of an IME, etc. These concerns should be discussed with defense counsel. Asking counsel, *rather than directing or instructing*, about these issues, may allow for better communication and results. If the examiner remains concerned about the direction defense counsel is taking or the lack of specific activities, he/she should notify their supervisor and the ORM supervisor to discuss. The ORM supervisor will escalate the issue, if needed.
- When defense counsel is faced with an adverse ruling or judgment and a decision on whether to appeal or to seek a writ, or to waive the taking of same is in order. A SF-6 form (DOJ/ORM Request for Writ or Appeal) must be submitted. This form shall be used for both supervisory writs and for writs of certiorari, whether it is interlocutory or involves a monetary award.

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- Contract counsel shall submit the completed form to the appropriate DOJ Section Chief.
 - ◆ The section chief shall electronically transmit the form with their written recommendations to the LP/DOJ Director and to the ORM Assistant Director for Litigation Management.
- LP/DOJ staff attorney shall submit the SF-6 to either the Section Chief or Regional Chief, whichever is applicable.
 - ◆ The Regional Chief transmits the SF-6 with their written recommendations to the appropriate Section Chief.
 - ◆ The Section Chief will forward the SF-6 with their written recommendations to the LP/DOJ Director and to the ORM Assistant Director for Litigation Management.
- Once the LP/DOJ Director and the ORM Assistant Director for Litigation Management have made a determination, the TPA examiner will receive a copy of the completed SF-6.

LITIGATION DIARY

Litigated claims must be maintained on a continuous diary to obtain reports from the defense counsel defining the status of the litigation and the plan for resolution of the litigation.

Specific diaries should be established for the following items:

- Initial Case Assessment (ICA) – 60 days from date of assignment acceptance by counsel
- Six Month Case Assessment (SMCA) – 180 days from date of counsel assignment
- Status Update Reports (SUR) – submitted as needed to report significant changes in the status of the case. TPA supervisor approval needed prior to an examiner requesting an updated status report.
- Trial SF3 RSA – 90 days before trial

RESERVATION OF RIGHTS LETTER

When it has been determined that there are alleged causes of action, or requested damages, in a lawsuit that are not covered under the policy, it is the responsibility of the TPA to send a reservation of rights letter to the following persons advising them as to the reason for non-coverage:

- The “head” of the insured state entity, agency or department named as a defendant in the petition or complaint
- Also, any individual state employee named as a defendant in the petition or complaint
- A courtesy copy should be sent to the general counsel of the state entity, agency or department named as a defendant in the petition or complaint.
- Finally, a copy should be sent to the assigned defense counsel.

The reservation of rights letter should be sent out no more than sixty (60) days from service of the original/amended-supplemental petition or complaint on the state agency, entity, or department and no more than sixty (60) days from receipt of the 13:5108.1 coverage letter for an individual defendant. **The reservation of rights letter must be sent by certified mail, return receipt requested. All ROR letters and documentation (certified receipt) must be attached in the Claims Management System file.** The TPA Supervisor will establish a diary system to confirm that the signed return receipt is returned and attached to the Claims Management System file.

In the event one hundred and eighty (180) days or more have elapsed since the service of the pleading on the state agency, entity, or department or the receipt of the 13:5108.1 coverage letter for an individual defendant, and a ROR letter is appropriate but has not yet been sent, the examiner shall submit a request for approval to send the late ROR letter. This request shall be sent via email along with a copy of the respective pleading(s) to the ORM Supervisor

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with a copy to the respective ORM Manager and State Risk Administrator – Claims. The email request must also contain the following information:

1. Is this letter for a state agency, entity, or department or a named individual?
2. What triggered the need for this recipient to receive an ROR letter? If triggered by a pleading, please state the date the pleading was served.
3. If this letter is for an individual please answer the following:
 - a. Was the individual served?
 - b. Was a 13:5108.1 determination letter received and in claim file? Please state the date the 5108.1 coverage letter was received.
 - c. Where is letter being mailed (i.e. home, agency where employed)?
4. What is the trial date, if any?
5. What are the upcoming case deadlines, if any?
6. What is the status of discovery?
7. Has a dispositive motion been filed in the case?

There are three reservations of rights “form” letters available to the TPA. These letters were crafted by the ORM Assistant Director of Litigation Management. There may be times when these letters may require slight changes or additions to align with the claim. Should changes be required, the TPA should make the needed changes before submitting the letter for approval and ensure the changes are denoted in the submission.

- ROR A – This form is to be used when the primary claims asserted in the petition/complaint sound in tort. This letter provides the option of the defendant allowing the AG/ORM appointed
- ROR B – This form is to be used when the primary claims asserted in the petition/complaint **do not** sound in tort. This letter **does not** provide the option of the defendant allowing the AG/ORM appointed counsel to defend all claims asserted (in this instance, the tort allegations are incidental to the non-tort demands; for example, as when the primary allegations sound in contract, etc.). **Here, the defendant must retain its own attorney to defend the non-tort allegations.**
- ROR C – This form is to be issued when our involvement is limited to “monitoring” for a potential attorney fee award under 42 USC 1988 or other covered federal statute or if the claim is being defended due to an OCP policy and the State needs to monitor due to the possibility of a judgment exceeding the OCP policy limits.

MEDICAID LIENS

- The TPA examiner or defense counsel (if case is in litigation) must obtain information as to whether or not the claimant is a Medicaid recipient.
- The TPA examiner must complete the online Medicaid request submission.
- The TPA examiner should provide defense counsel with the Medicaid information as it is received.
- Determination of the plaintiff’s status as a Medicaid recipient and/or liens should be performed early on in the case. An RSA should not be received where the plaintiff’s Medicaid status and/or liens is “unknown”.

MEDICARE

- TPA is responsible to verify Medicare Liens
- Medicare’s interest **must be protected** as they are considered a Secondary Payor.
- Medical bills paid by Medicare must be considered for reimbursement in any settlement.

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- When the claim is **first** received the examiner should request the claimant's date of birth and Social Security Number or HICN from the plaintiff attorney or pro se' plaintiff.
- If the needed information is not voluntarily provided, the information should be obtained by counsel through discovery.
- An RSA should not be received where the plaintiff's Medicare status and/or lien status is unknown or not determined.

FUTURE MEDICAL CARE FUND (FMCF)

- Settlements and judgments on bodily injury claims may include an award for future medical care. R.S. 39:1533.2 authorizes that the funds be paid directly to the medical provider as the expenses are incurred pursuant to R.S. 13:5106(B) (3) (c). Specific language should be included in all settlements and judgments that reference amount allocated for future medicals.
- Once the agreement is reached or there is a final judgment, the TPA examiner handling the claim will send a letter to the plaintiff attorney with instructions as to the handling of future medicals that are payable from the date of settlement forward.
- The TPA has copies of the standard letter regarding payment from the Future Medical Care Fund.
- TPA handles all future medical payments. A separate future medical care fund claim must be set up by TPA and assigned to TPA examiner for handling. Ensure the ORM claim number assigned is properly formatted to denote it is Future Medical Care Fund claim.
- The TPA should assign a specific examiner to handle all future medical payments. A copy of the settlement or judgment and information regarding the injuries involved should be sent to the designated person.
 - Only those medical payments that are necessitated due to the subject accident should be paid from the claim.

CASE/SCHEDULING NOTIFICATIONS – TRIAL AND MEDIATION ATTENDANCE

The TPA examiner must obtain a copy of the scheduling order and attach it to the file. As soon as the trial or mediation date is set, the examiner must notify the ORM supervisor of the date.

TPA must maintain a calendar of all scheduled mediations and trials. A reminder notification must be made to the ORM supervisor thirty (30) days prior to all trials and mediations.

Examiners must attend trials and mediations, as well as meetings of the Joint Legislative Subcommittee on the Budget.

The email template shown below should be utilized when notifying ORM of the scheduled date. The email's subject line should be formatted in the following manner:

Claimant Name | Claim Number | Trial date notification
Or
Claimant Name | Claim Number | Mediation date notification

Email Template:

Claimant:
Defense Counsel:
Plaintiff Counsel:

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Trial Date and Time:

Jury or Bench Trial:

Length of Trial:

Venue:

Docket:

Judge:

Mediation Date and Time:

Location:

Mediator:

TPA File:

TPA Examiner:

EXPERTS

When the assigned defense counsel needs an expert/consultant, they will complete the current *Request for Expert/Consulting Services Form* and submit it to the assigned TPA examiner for review and approval. The TPA examiner should be actively involved in determining the need for and selection of experts and consultants. Examples of experts/consultants that may be needed are for an AMO/IME, vocational rehabilitation, or a radiologist to read/evaluate images. An engineer, accountant, economist, accident reconstructionist, hydrologist are further examples of experts that might be needed. The TPA examiner will ensure that defense counsel completes all questions and attaches the fee schedule, curriculum vitae and W-9 to the request. The form is available on the website. The TPA will notify defense counsel if the request is approved or rejected.

Invoices for services rendered by the expert/consultant will be paid by the examiner as an expense to the claim file. The examiner should ensure the expert/consultant billed according to the agreed upon fee schedule. If any invoice amount is reduced by the examiner, an explanation needs to be provided to the vendor and properly noted in the claim file.

Please note the use of a Sedgwick nurse reviewer, private investigator, independent adjuster, or to have a social media check, background check, or asset check performed does not require the attorney to complete the Expert/Consulting Services Form. Refer to the caption Use of Investigative Service Vendors for further details.

STAFFINGS

A staffing may be requested by defense counsel, ORM or the AG to discuss a plan of action on a case. The TPA examiner should attend the staffing and document the names of those who attended and the outcome of the staffing. The TPA should take notes which include the plan of action that states the subsequent steps in the defense of the case that were decided in the staffing. The notes must be attached to the claim file within 3 working days. The examiner is to follow up to ensure that defense is proceeding with plan of action.

RSA PROCESS

All assigned defense attorneys shall submit an RSA in accordance with the guidelines established by the Litigation Program of the Department of Justice and ORM, refer to the Attorney's Billing and Case Handling Guidelines. In the event of exigent circumstances, the RSA must be submitted to ORM in sufficient time for ORM to evaluate and take action on the request.

- RSA's prepared by an AAG

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- Must be submitted to the AAG's office chief (if applicable) and the section chief for their review, comments, and signature prior to submission to the TPA.
- RSA's prepared by contract counsel will be sent to the assigned examiner and to LitigationRSA@ag.louisiana.gov.

Upon receipt of an RSA the examiner will closely review the RSA to ensure that all important elements of the claim and the defense are thoroughly covered, all sections of the RSA are properly completed, and the current version of the RSA is being used by the defense attorney.

If the information in the RSA is incomplete, incorrect or lacking certain elements:

- The TPA examiner will communicate directly with the assigned defense counsel about the needed information.
- The examiner should follow up communication with defense counsel by way of an email confirming the communication and information needed. The returned RSA should be sent to defense counsel and LitigationRSA@ag.louisiana.gov with the ORM supervisor and manager copied.
- Should a critical date be looming soon after the receipt of an RSA needing either correction or supplementation, the examiner is to forward the deficient RSA to ORM.
 - The email should indicate that further information has been requested but due to the approaching critical date the deficient RSA is forwarded to put ORM on alert and allow commencement of review in light of the critical date.

If the received RSA is ready for processing then:

- After the TPA examiner has reviewed the RSA, the examiner must complete a Settlement Review Form with the examiner's and the team lead's recommendations.
- The email from defense counsel with the RSA shall be forwarded (with the RSA and the Settlement Review Form attached) to the ORM supervisor with the ORM manager copied.
- The submission to ORM should be within 10 working days of the TPA's receipt of an RSA.
 - However, if there is a critical date that will occur prior to the ORM submission date or very shortly thereafter, then the TPA examiner should immediately forward the RSA to ORM and began review of the RSA.
 - The email to ORM should indicate the examiner's review is underway and the Settlement Review Form will follow, but due to the approaching critical date the RSA was forwarded to allow commencement of review.
 - Although the usual manner of processing RSA's is "reviewed in the order they are received", there will be instances where the examiner should triage the RSAs. An RSA may need to be "moved to the front of the line" if a trial or tentative mediation date is looming and the authority requested will require a claims council meeting or additional approvals such as the Commissioner of Administration and/or the JLCB. As these additional approvals increase the processing time, the RSA must be evaluated and submitted as soon as possible.
- After the ORM review process, the ORM's decision form, the RSA, and the TPA's Settlement Review form will be emailed by ORM to the AG at LitigationRSA@ag.louisiana.gov, for the AG's concurrence process.

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- If the ORM settlement authority was greater than \$250,000, approval from the Commissioner of Administration is required. ORM will seek the Commissioner's approval prior to the RSA being forwarded to the AG's office.
- Once ORM sends the RSA to the AG's office, the appropriate authority level at the AG's office will review the RSA, provide comments, concurrence, and signature.
- After completion of the AG's review and concurrence, the AG will email the TPA and ORM the completed RSA package.
- REMINDER: Once settlement authority has been approved by ORM and the AG has concurred, the reserves should be set accordingly.
- If the authority approved is less than \$500,000 then the examiner will notify contract counsel of the approved amount and action(s). The examiner should make the notifications as follows.
 - The TPA examiner should notify defense counsel of settlement authority when there is no mediation involved via email **using the following verbiage**.
 - Per the authority granted by ORM and concurred upon by the Attorney General's Office, you now have settlement authority in the amount of ...*(describe monetary authority granted, as well as any non-monetary authority granted: this would include any authority regarding individual plaintiff offers, Medicare and other liens, Medicaid reimbursement claims, future medical expenses payable through the Future Medical Care Fund, stipulations as to the existence of a duty and a breach thereof, waiver of a jury trial, participation in mediation, proceeding to trial, etc...)*

Unless particular circumstances or your granted authority dictate otherwise, please extend an offer in a timely manner. You must advise and update your examiner of any offers or counter-offers extended, counter-offers received or reasons for withholding any offers, as negotiations progress but in any case, no later than 30 days from receipt of this email. It is vital that all offers, counter-offers and settlements are reported to the examiner as negotiations progress. This information is critical to the completion of ORM's bi-annual reports to the Legislature. Your cooperation is appreciated.
 - The TPA examiner should notify defense counsel of settlement authority when mediation is involved via email using the **following verbiage**.
 - ◆ Per the authority granted by ORM and concurred upon by the Attorney General's Office, you now have settlement authority in the amount of ...*(describe monetary authority granted, as well as any non-monetary authority granted: this would include any authority regarding individual plaintiff offers, Medicare and other liens, Medicaid reimbursement claims, future medical expenses payable through the Future Medical Care Fund, stipulations as to the existence of a duty and a breach thereof, waiver of a jury trial, participation in mediation, proceeding to trial, etc..)*

Please inform the examiner of the mediation date, time, and location as soon as the date is set. Your cooperation is appreciated.
 - Settlements of \$500,000 or greater approved by ORM, the Commissioner of Administration, and the AG are not final until approval has been granted by the Joint Legislative Committee on the Budget (JLCB). The examiner will need to communicate with defense counsel the settlement authority and actions that have been approved thus far, but still require final approval from the JLCB. Defense counsel will need to attempt settlement with plaintiff contingent above that final approval.

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- ORM will coordinate scheduling with the JLCB and will inform the TPA and defense counsel when the meeting with the JLCB is set.
- Attendance by TPA representative(s) at the subcommittee meeting is mandatory.
- If approved by the JLCB, ORM will forward the signed documentation to the examiner for upload to the claim file when it is received. Upon receiving the final approval, it will be the TPA's responsibility to notify counsel that the approval from the JLCB has been received.

ORM CLAIMS COUNCIL

- The processing of some RSAs will require authorization from ORM Claims Council.
- An ORM Claims Council consist of at least three voting members.
- Settlement requests over \$200,000 require the approval of the ORM Claims Council. The examiner may present the case in person or by telephone.
- The following items require Claim Counsel approval with participation by Joe Roussel and written concurrence of the DOJ Senior Counsel to the Attorney General:
 - Bifurcation of trial wherein liability and damages will be tried separately (RSA)
 - Requests for stipulation to liability (RSA)
 - Requests to waive a jury trial (RSA)
 - Authority to proceed to trial without any monetary authority
 - Response to plaintiff's Offer of Judgment (RSA)
- If the settlement amount requires approval from the Attorney General or other parties, ORM will coordinate that approval process and notify the TPA of the final settlement authority.

ABANDONMENT

- An action is abandoned if the parties fail to take any step in its prosecution or defense in the trial court for a period of three years.
- Refraining from actively defending a suit with the hope that plaintiff may not prosecute his claim for such an extended period is not a favored course of action, as it allows for the unnecessary accrual of interest, allows for the memory of a witness to fade (making his testimony less reliable), and creates the risk that physical evidence may be altered, destroyed, misplaced or become otherwise unusable. It is for these reasons that all cases must be aggressively defended.
- The claims examiner must actively monitor the file, stay in communication with defense counsel, and request status updates at the appropriate times. The examiner is responsible for ensuring that the defense of the case is progressing and maturing. This limits the opportunity for possible abandonment to be considered as an option.
- While electing to halt the active defense of a case (in the hope of potential abandonment) may be appropriate in some instances, such a strategy is the exception, not the norm. The following process should be utilized for all cases:
 - Cases assigned to in-house DOJ attorneys: The defense counsel within the Attorney General's Office, through the proper channels, must initiate a request for abandonment. If the Director of the Attorney General's Litigation Division determines that abandonment may be in the best interest of the

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litigation, the Director will forward the request to the Assistant Director for Litigation Management at ORM for consideration. Only the Director of the Litigation Division may make a recommendation to ORM for abandonment. Any final decision shall be communicated to the defense counsel, his supervisors, the examiner, and the examiner's supervisor. The examiner should forward this communication to the ORM supervisor and manager.

- Cases assigned to contract attorneys: Contract counsel should direct their requests for abandonment to the Director of the Attorney General's Litigation Division and the Assistant Director for Litigation Management at the Office of Risk Management via email. Such requests will be reviewed by the Director of the Attorney General's Litigation Division and ORM's Assistant Director for Litigation Management. Any final decision shall be communicated to the defense counsel, the examiner, and the examiner's supervisor. The examiner should forward this communication to the ORM supervisor and manager.
- In the event the time delay lapses and abandonment occurs, defense counsel must file a motion to dismiss on the grounds of abandonment and obtain a formal judgment from the court. Defense counsel should also inform the examiner of the anticipated court costs.
- No request for abandonment is required for automatic stays pursuant to the Prison Litigation Reform

Act. However, at the end of the three-year period of abandonment, a motion to dismiss on the grounds of abandonment must be filed and a judgment of abandonment must be obtained, as previously noted.

SUBROGATION

- The TPA must ensure that they protect the State's subrogation interest on all claims.
- Filing of suit to interrupt prescription or filing of suit to recover the State's interest should be requested by the examiner at least ninety (90) days prior to prescription.
- All requests for the appointment of an AAG staff attorney to handle a subrogation matter will be submitted to ORM to the attention of Richard LeJeune along with a Subrogation Summary. If approved, ORM will prepare the Attorney Appointment Form and submit it to the AG for assignment. AG will notify the TPA and ORM as to the name of the appointed attorney/law firm.

For transportation claims, authorization to waive less than 50% of our subrogation interest can be obtained from the designated ORM supervisor. **Authorization to waive more than 50%** of our interests will require an RSA and submission to ORM Claims Council. These requests shall be directed to Rick LeJeune at Rick.Lejeune@la.gov.

NEGOTIATION TRACKING

The TPA shall create a 30-day diary to follow-up on the e-mail and add additional diaries to obtain the latest information on negotiations until the case is resolved, or negotiations are discontinued.

The examiner shall enter all offers, counter-offers and settlements in the Litigation Offer section in the claims management system. This information is critical to the completion of ORM's bi-annual reports to the Legislature.

LITIGATED SETTLEMENTS/JUDGMENTS

- All litigated claims require the submission of an SF3 RSA to ORM.
- Settlement request of \$250,000 or below requires approval by ORM and the AG.
- Settlement requests above \$250,000 require approval by ORM, the Commissioner of Administration and the AG.

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- Settlement Requests of \$500,000 and above require the approval of ORM, the Commissioner of Administration, the AG, and the Joint Legislative Subcommittee on the Budget.
- The TPA will be notified in writing of the decision on the requested authority once all approvals are issued by all applicable approval levels.
- Settlements and judgments on litigated Road Hazards claims are paid via legislative appropriation.
- All settlements must be reduced to a Consent Judgment. Trial court judgments are Considered Decrees.
 - Both must be submitted to the legislature for appropriation on an individual basis for payment (funding).
- In the case of settlements that require reduction to Consent Judgments, the examiner should instruct our defense counsel to prepare a draft Consent Judgment. This draft must be forwarded to the ORM supervisor for review and approval. No Consent Judgment should be signed by defense or plaintiff counsel until the draft is approved by ORM.
- **Examiners must promptly notify the ORM supervisor of all finalized settlements or judgments.**
 - All required fields within the claims management system should be completed, e.g. Judgment Type, Judgment Date, etc.
- Plaintiffs are responsible for obtaining legislative sponsorship for the introduction of an appropriation bill to fund payment of the settlement/judgment.
- The ORM supervisor or designee will track and coordinate the payment of the appropriations as the legislation session progresses each year.
- The ORM supervisor will provide the TPA with a list of Road Hazards judgments appropriated in the regular legislative session by July 15th each year.
- The TPA will enter into their claims management system a “Legislative Appropriation Date” on each appropriated claim. This date will be June 30th of the year in which the appropriation is made.

In order to facilitate the payment process if legislative approval is issued for RH claims, the examiner shall provide a packet containing the following documentation to the ORM supervisor once a judgment or settlement is final. The documentation should be legible, the pages in the correct orientation, and in chronological order.

- Copy of the petition and any amending petitions
- Copy of appeals due to a trial award
- If a determination was made to forego the appeal, include the final SF-6 with signatures
- Copies of any orders setting court costs, expert fees, etc.
- Copies of succession documents, if applicable
- Copies of documentation regarding authority to settle on behalf of minors including copies of court approved minor settlements, if applicable
- Information on all plaintiff attorneys who may have a financial interest in the settlement or judgment
- Lien documentation, if applicable
- Any information regarding the status of liens and Medicare/Medicaid reimbursement claims
- Affidavit of Finality, if available

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This information should be sent to the ORM supervisor as soon as the Consent Judgment or Considered Decree has been signed and filed.

PAYMENT OF RH JUDGMENTS THROUGH APPROPRIATIONS

Each year as the legislative session begins, ORM monitors the house and senate bills that are filed for those seeking to have their RH judgment appropriated. ORM works with the legislature and treasury to ensure all needed information is provided and amounts are properly calculated in order to issue payments if all or part of the filed HB/SB are appropriated and signed into an Act by the Governor.

Once signed into an Act the payment process with Treasury begins. When Treasury is in agreement that the document provided to them from ORM is correct, the ORM RH Unit will provide the appropriation package to ORM Accounting. ORM Accounting will issue a manual warrant and send it to the Treasurer's Office. Treasury will write check(s) and forward the checks to ORM for disbursement.

ORM will provide information to the TPA to allow for proper data entry into and file documentation for the claims management system of the Treasury's payments.

BUDGET – LEGAL SERVICES

A budget is required for the services of the assigned attorney. The budget procedures differ between legal services provided by outside counsel and legal services provided by the Office of the Attorney General.

DOJ/Office of the Attorney General Staff

The Office of Risk Management has an Interagency Agreement with DOJ/Office of the Attorney General for the legal services provided by the attorneys in the Litigation Division. It will not be necessary for TPA to request approval of defense budgets on cases being handled by AG staff attorneys. The AAG should submit an initial budget with the ICA. The budget will provide the estimated hours required to perform the task as broken down by category on the budget form. The examiner may and should request an updated budget from the AAG, if the initial budget will be surpassed. The examiner should review the billing for services rendered for any excessive charges and ensure that they have received adequate documentation for their files.

Outside Counsel

Contract counsel is appointed by the AG and concurred upon by ORM. Outside counsel will be required to read the *Appointment for Professional Legal Services* and sign the *Counsel's Acknowledgment and Acceptance of Appointment* (CAAA). Contract counsel must utilize Acuity (also referred to as TrialNet), which is a litigation management service. Contract counsel's invoicing, budget information, etc. is performed utilizing this service.

The **TPA examiner will set an initial budget** based on the current information, type of case, etc. in order to allow for initial payments via Acuity until counsel provides his/her initial budget. As per the Attorney's Case Handling Guidelines and Bill Procedures, counsel is to prepare a budget within 60 days of the assignment. Budgets and invoicing is made through Acuity-TrialNet.

Through the course of the case, should the budget near exhaustion, then counsel should provide an updated budget. Counsel will submit an email or letter to the TPA examiner outlining the **future tasks**, which require the need for a budget increase. The email should be reviewed by the examiner and their supervisor for agreement. If there are concerns, they should address this with counsel. The TPA has budget approval authority up to \$75,000.

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When the budget request exceeds \$75,000 but is less than \$200,000, the TPA will forward a budget increase request email to the ORM supervisor for approval. If in order, ORM will provide an approval email. If not in order, ORM will return for corrections or additional information. The format for the email request is shown below. The email request should have:

- A copy of the current case assessment, which must have been prepared within six months of the request or an RSA that has been prepared within six months of the request.
- The attorney's explanation for the budget increase attached.
- Budget amounts should be rounded off, e.g. \$135,000, \$98,500.
- The Acuity budget in Excel format with the spreadsheet columns correctly totaled.
 - The spreadsheet should not have negative numbers, if it does this should be corrected before submitting to ORM.
 - The Acuity budget should match the amount being requested.

If the budget request is for \$200,000 or greater, Counsel and examiner must follow the same steps as listed above with two exceptions. The email request template does not need to be used, instead a Budget Memorandum is required. Both the email template and the Budget Memorandum are shown below. If possible, the memo should not exceed two pages. The TPA should ensure the Memorandum is clear and concise. It should be reviewed for spelling and grammar errors before submitting to ORM. The formatting (font, style, justification, etc.) **must** be as shown below. The Memorandum must be in Microsoft Word document and should be placed on the TPA's letterhead (lined up and properly formatted). The TPA will forward the budget increase request to the ORM supervisor. The request must include the Memorandum and the attachment items listed above. The ORM supervisor will review. If in order, the ORM supervisor will route the request to the appropriate personnel within ORM to obtain the required signatory approvals. Once the process is complete, the TPA will be notified and approved copies provided for attachment to the file. If not in order, ORM will return for correction and resubmission.

Email template for budget request less than \$200,000:

Request for Budget Increase

Firm Name:

Current Budget Amount:

Total Amount Paid to Date:

Amount of Pending Payments:

Requested Budget Amount:

Reason for Increase Request:

The opening section should provide a brief description of the loss and what legal action has been accomplished. The next section should explain the needs for a budget increase, including the additional action required and note critical dates (hearing, trial, mediation, etc.).

Budget Memorandum for budget request of \$200,000 or greater:

Microsoft Word formatting will be as follows:

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- Veranda 12-point font (font size may be reduced to 11 in order to fit request within two pages)
- Modified Block Style
- Justified paragraphs
- The title “MEMORANDUM” must be in uppercase, bold, underscored and centered.

A blank form of the Budget Memorandum with instructions follows on the next page.

TO: Melissa Harris
State Risk Director

FROM: XXXXXXXXXXXX
Claims Examiner

DATE: XX/XX/XXXX

RE: **Request for Budget Increase**
Claimant:
ORM Claim Number:
TPA Claim Number:
Firm Name:
Current Budget Amount:
Requested Budget Amount:

The first paragraph should be a brief description of the loss and what legal action has been accomplished.

Second paragraph should include additional action required as well as note critical dates (hearings, trial date, etc.).

The final paragraph should include the total amount paid to the attorney, the total amount of outstanding invoices, and a statement recommending that the budget be increased from \$XXX.XX to \$XXX.XX.

APPROVED BY:

Melissa Harris

Date

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State Risk Director

Joseph M. Roussel
Assistant Director for Litigation Management

Date

Ann D. Wax
State Risk Administrator – Claims

Date

PERFORMANCE EVALUATIONS – DEFENSE ATTORNEYS

The handling examiner will complete interim and final performance evaluations of the defense counsel on all litigated cases. If the evaluation is for an outside attorney, the Firm Name and the Assigned Attorney fields should reflect the name of the law firm and name of assigned defense attorney. If the evaluation is for an AG staff attorney, the Firm Name should be listed as DOJ/AG Litigation Program with the name of the AAG in the Assigned Attorney field.

Interim Performance Evaluation – Legal (IPEL) form

The IPEL form is completed once a year on ongoing cases. On a monthly basis, each Sedgwick examiner will be provided with a list of all cases that requires the completion of an Initial Performance Evaluation – Legal form. This listing will note the cases that were assigned one year ago. The second section of questions, which relate to work tasks, requires that comments be made if the answer to a question is “NO”. The TPA examiner will be responsible for contacting the assigned attorney in order to obtain written responses to questions answered with “NO”. Forms must be signed by the handling examiner and their supervisor. This form should be submitted to Ann Wax at ann.wax@la.gov.

Performance Evaluation – Legal (PEL) form

The PEL form must be completed upon the conclusion of the case or in the event the case is reassigned to different counsel. The Total Defense Costs Paid field represents the attorney and legal expenses paid, not just the amount we paid the attorney for his professional services. The evaluation must be signed by the handling examiner and their supervisor. This form should be emailed to Ann Wax at ann.wax@la.gov.

ADDITIONAL INFORMATION / RESOURCES

RESOURCES:

PPM List – <http://www.doa.la.gov/Pages/osr/ppm/ppm.aspx>

After clicking on the link you will arrive at a DOA web page with a Policy and Procedure Memoranda (PPM) listing. The listings are hyperlinks which will allow you to view the specific PPM.

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ORM Insurance Information Notices (IIN) - <http://www.doa.la.gov/Pages/orm/Insurance-Information-Notice.aspx>

Insurance Information Notices are emailed to agencies and posted on the ORM website. The notices provide updates and clarifications. IINs can be viewed at the link provided.

Road Hazard reporting forms - <http://www.laorm.com/reporting.html> and <http://www.doa.la.gov/Pages/orm/Road-Hazard-Claim-Reporting.aspx>

Both websites provide the DOTD Report of Incident form and Vehicle Glass Form (DA2073), etc. Additionally, the various DOTD districts and phone numbers are listed and there is a DOTD districts map.

Louisiana State Legislature - <http://www.legis.la.gov/legis/LawSearch.aspx>

Louisiana statutes can be found at this site. Statutes can be looked up by specific title and section or key word searches can be performed.

Louisiana State Bar Association (LSBA) - <https://www.lsba.org/Public/MembershipDirectory.aspx>

LSBA membership directory provides current contact information for members of the LSBA.

NOAA | SPC Storm Reports - <https://www.spc.noaa.gov/climo/reports/today.html>

This site provides preliminary storm data for tornado, hail, and high winds.

The Old Farmer's Almanac - <https://www.almanac.com/weather>

Another source to look up weather data. Middle of this web page has a weather history search using data from NCDC.

US Naval Observatory (USNO) | Astronomical Applications Department | Complete Sun and Moon Data for One Day - http://aa.usno.navy.mil/data/docs/RS_OneDay.php

Provides rise, set, and transit times for the sun and moon; civil twilight beginning and end times, etc.