



OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

ADDENDUM NO. 2
ISSUED AUGUST 25, 2021


to

RFP NO. 11-2021
FOR THIRD PARTY ADMINISTRATOR SERVICES
ISSUED AUGUST 13, 2021

PROPOSAL DUE DATE: 5:00 P.M. (EASTERN TIME), SEPTEMBER 9, 2021

ATTENTION OF RESPONDENTS IS DIRECTED TO:
QUESTIONS RECEIVED THROUGH 11:00 A.M. ON AUGUST 25, 2021

Issued by the Ohio Turnpike and Infrastructure Commission through Jennifer L. Stueber, Esq., General Counsel.



Jennifer L. Stueber, Esq.,
General Counsel

August 25, 2021
Date

ANSWERS TO QUESTIONS RECEIVED THROUGH 11:00 A.M. ON AUGUST 25, 2021:

Q#1 Is the agreement for a Life of Claim term (Cradle to Grave) or Life of Contract term?

A#1 The agreement is for the life of the contract term. In other words, the TPA services will only be performed during the time period identified in the agreement. Claims that remain outstanding or open upon expiration of the agreement will be managed by the successor TPA service provider, if any.

Q#2 Is the expectation to handle both New & Take Over (open/existing) claims or New claims only

A#2 The Commission will expect the new TPA service provided to handle and manage all claims, meaning both open/existing claims as well as newly filed claims.

Q#3 Is the Commission seeking 3 or 5 years for the agreement? The sample agreement in Appendix C mentions 3 year agreement whereas the Part 1 Background Information states a 5 year agreement.

A#3 The agreement has been revised to state 5 years. Please see Appendix C which is attached hereto. Redlining in the attached show changes as compared to the Appendix C first issued with the RFP.

End of Addendum No. 2

THIRD PARTY ADMINISTRATION SERVICES AGREEMENT

Relating to Self-Insured Ohio Workers' Compensation Claims

This Third Party Administration Services Agreement (“Agreement”) is entered into effective January 1, 2022 by and between _____, an Ohio corporation/company/LLC with a principal place of business located at _____, _____, Ohio _____ (hereinafter referred to as “TPA”) and **Ohio Turnpike and Infrastructure Commission**, a body politic and corporation pursuant to Ohio Revised Code Chapter 5537 with a principle place of business located at 682 Prospect Street Berea, Ohio 44017 (herein after referred to as the “Employer”).

WHEREAS, Employer maintains a self-insurance program, including workers’ compensation and other benefits, for the benefit of its employees in the State of Ohio; and

WHEREAS, Employer issued a Request for Proposal (“RFP”) on _____, 2021 requesting bids from vendors to provide consultation and administrative services with respect to workers’ compensation self-insurance matters in Ohio;

WHEREAS, TPA provides consultation and administrative services with respect to workers’ compensation self-insurance matters, and in response to the RFP, TPA submitted its proposal on _____, 2021;

WHEREAS, after extensive reviews of all of the proposals received and after careful consideration of all responding companies, the Employer identified TPA as making the most responsive and responsible bid to perform consultation and administrative services with respect to workers’ compensation self-insurance matters; and

WHEREAS, Employer is desirous of contracting with TPA for the performance of consultation and administrative services with respect to its self-insurance program; and

WHEREAS, TPA is desirous of performing such services for Employer.

THEREFORE, in consideration of the foregoing and the mutual promises contained herein, the parties hereby agree as follows:

1. Claims Management and Administration

TPA will provide the following services to administer and manage the Ohio workers’ compensation claims for the Employer:

- a. Administer and manage the self-insured claims in the Employer’s workers’ compensation experience.
- b. Monitor the claims program to assist the Employer in maintaining compliance with the rules of the Ohio Bureau of Workers’ Compensation and Industrial Commission and rules.

APPENDIX C

- c. Review workers' compensation claims and provide guidance on issues involving the Employer's obligation to pay workers' compensation benefits to injured workers.
- d. Monitor the treatment rendered by the medical provider to insure the delivery of quality medical care that is in the best interest of the injured worker and the Employer.
- e. Identify any claims that may not be compensable and develop appropriate defense of the claim.
- f. Coordinate questions of compensability and defense of the claim with the defense attorney and the Employer.
- g. The TPA account manager will be assigned to the Employer's account to assist with the management of the claims.
- h. TPA will process Employer's injured employee's claims which will be paid in compliance with State Rules and Regulations.
- i. Initiate and complete necessary forms as required to be in compliance with State workers' compensation rules for self-insured employers, including but not limited to the annual filing of the form SI-40 and the form SI-7 for the renewal application for the Employer to maintain its status as self-insured.
- j. Based on the approval of the Employer, develop a payment authorization procedure, utilizing a checking account, which complies with the Employer's fiscal policies, procedures and state requirements.
- k. Upon Employers' prior approval, TPA coordinates independent medical examinations when necessary.
- l. Maintain and update reserve estimates, as to the anticipated future costs on all open claims.
- m. Work with the Employer to report appropriate claims to the Excess Insurance Company (if any).
- n. Meet with the Employer at regularly scheduled intervals to review claims status and reserving.
- o. Permit and facilitate web-based access to the TPA database of information relating to Employers' workers compensation claims.

2. Compliance with Laws

The services provided by TPA pursuant to this Agreement shall be in compliance with the rules and regulations of the State of Ohio and shall specifically exclude any services, which now or in the future may be deemed to be the practice of law.

3. Medicare Section 111 Reporting

TPA provides regular submission of basic information on self-insured Workers' Compensation claims to Medicare to determine Medicare eligible claimants. Once reportable claims are identified, TPA will prepare the claims for submission. On a quarterly basis, reportable claims will be submitted to CMS by TPA on behalf of the Ohio Turnpike and Infrastructure Commission.

Ongoing tracking of settlements, claimant deaths and statute dates are tracked so as to keep CMS informed of the most current claim information.

4. Hearing Representation

a. TPA will coordinate the defense of claims scheduled for hearing before the Industrial Commission of Ohio with the legal firm of the Employer's choice.

b. If requested by Employer, TPA will assign an experienced workers' compensation attorney to defend the Employer's interest at these hearings. The fee for attorney representation at hearings will be billed at cost to the claim file.

c. Fees for other attorney services will be agreed to by the Employer.

5. Management Information Systems

a. TPA shall maintain a database for losses of the Employer's workers' compensation claims. Said database system will compile and report IRS 1099 information on behalf of the Employer. Employer's data be maintained separately in its own virtual environment and not commingled with other TPA client data. During the term of the Agreement, TPA shall maintain a backup system for said database consistent with computer-security industry standards for maintaining the confidentiality of personal identifiable information. Employer's information in the database shall be stored within the State of Ohio unless approved in writing by the Employer.

b. TPA acknowledges that the copies of the database are stored in the following locations:

i. _____

ii. _____

Back up location:

i. _____

ii. _____

c. TPA will provide Employer real-time access to all data in said database containing a record of all of the Employer's workers' compensation claims and supporting documentation as well as any filings which have been made on Employer's behalf for workers' compensation reporting, including but not limited to applications and reports filed with CMS and OBWC. 24-hour access will be provided via on-line login directly into said database.

d. Upon becoming aware of a breach of security or compromise of electronic security protections of the database where Employer's data is stored, TPA will immediately notify Employer of such breach or compromise of the security system of the database containing Employer's employees' files. TPA agrees to cooperate with Employer in identifying the source

of the breach, identifying data that was compromised or stolen, preventing further disclosure of Employer's data, and restoring Employer's data as quickly as possible.

e. On a calendar quarterly basis, TPA will provide to Employer an electronic copy of all records of all of Employer's data, including but not limited to workers' compensation claims and supporting documentation, filings made with CMS and any and all other applications, reports, filings, notices or other correspondence filed with OBWC on Employer's behalf.

f. Upon expiration or termination of this Agreement, Employer will receive an electronic copy of all records of all of Employer's data, including but not limited to workers' compensation claims and supporting documentation, filings made with CMS and any and all other applications, reports, filings, notices or other correspondence filed with OBWC on Employer's behalf. TPA will make all reasonable efforts to deliver the required electronic copy of all Employer's data in less than 30 days from the date of expiration or termination of this Agreement. Upon written notification from the Employer, TPA will destroy all copies of the database, including any and all back-up copies of the database.

6. **Standard Reports**

a. TPA's processing of claims shall include the following:

- i. Submit loss reports to Employer in a format already established by TPA;
- ii. Submit weekly and monthly check registers to Employer;
- iii. Submit SI-40 reports annually to Employer prior to February 15 of each calendar year to ensure a filing with OBWC on or before February 28 of each calendar year.

7. **Indemnity Agreements**

a. TPA agrees to defend, indemnify and hold harmless the Employer with respect to any actions, proceedings, claims, demands, costs, damages and expenses asserted as a result of any negligent error or omission, or any intentional tort on the part of TPA or its employees, unless the complained action of TPA was taken at the specific direction of the Employer. TPA shall not be liable hereunder, however, for loss damage or expense based on a decision by TPA to decline payment or in settlement of a claim, unless said decision was unreasonable, reckless, malicious, or negligent.

b. The Employer agrees to pay for any loss, liability, or expense, which arises out of or relates solely to the Employer's actions or omissions regarding its obligations under this Agreement, where a final determination of liability on the part of the Employer is established by a court of law or where settlement has been agreed to in writing by the Employer. This provision may not be construed to limit the Employer's rights, claims, or defenses which arise as a matter of law or under any other provision of this Agreement. This provision may not be construed to limit the sovereign immunity of the Employer or establish any third-party beneficiary rights.

8. Relationship of Parties

This Agreement calls for the performance of services by TPA as an independent contractor and TPA will not hold itself out to be and will not be considered an employee, partner, or joint venture of the Employer for any purposes.

9. Insurance

The following insurance provision shall apply:

- a. Professional Liability. TPA shall maintain professional liability insurance covering the conduct of its business in the minimum amount of \$2,000,000.00 by a carrier reasonably acceptable to the Employer. On or before January 1, 2022, TPA shall submit to the Employer certificates of insurance identifying the Employer as the Certificate Holder, as an additional insured on the General Liability. TPA's certificates of insurance shall note that the policies are primary and non-contributory.
- b. Workers' Compensation. TPA shall maintain Workers' Compensation coverage in compliance with the applicable governmental laws.

10. Term of Agreement

The term of this ~~Master~~-Agreement shall commence on January 1, ~~2019-2022~~ and remain in effect thereafter for a period of ~~three-five (53)~~ years or until terminated. Either party may terminate this Agreement with or without cause by providing the party with at least sixty (60) days written notice to the other party. Upon termination of this Agreement, all hard copies and electronic files and database information shall be returned to employer, or destroyed upon employer's request.

11. Management Fees

a. Employer agrees to pay to TPA an annual service fee of \$_____, which shall be payable monthly in advance beginning on January 1, 2022. The fee for TPA's services under this Agreement will be billed monthly/quarterly at the start date of this Agreement. All fees are payable within thirty (30) days of the billing date.

b. Employer agrees to reimburse TPA for all out-of-pocket expenses incurred by TPA in connection with the processing of workers' compensation claims, including but not limited to nurse care management, vocational rehabilitation services and attorneys' fees. TPA shall not incur any expense in connection with the services provided to the Employer pursuant to this Agreement without the prior approval of the Employer.

12. Governing Law and Venue

This Agreement shall be governed and construed under the laws of the State of Ohio. The parties hereby consent and agree that jurisdiction and venue for any claim or cause of action arising or related to this Agreement shall be properly and exclusively in the State or Federal court located in

Cuyahoga County, Ohio and expressly waive any and all rights which they may have or which hereafter arise to contest the propriety of such choice or jurisdiction in venue or to involve the doctrine of *Forum Non Conveniens*.

13. Counterparts

The Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

14. Non-Assignment

This Agreement and the services provided hereunder shall not be assigned by TPA without the prior written consent of Employer.

(signatures on following page)

APPENDIX C

This Agreement was executed and delivered by the undersigned parties to each other on the date written below the signature block.

[_____], Inc./LLC

**OHIO TURNPIKE AND
INFRASTRUCTURE COMMISSION**

By: _____
[NAME],
Its President

By: _____
Ferzan M. Ahmed, P.E.,
Its Executive Director

Date: _____

Date: _____

APPROVED AS TO FORM:

General Counsel