

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

ACTION ITEM

Item No. 6c

Date of Meeting June 7, 2011

DATE: May 30, 2011

TO: Tay Yoshitani, Chief Executive Officer

FROM: Tammy Woodard, Sr. Manager, Total Compensation
Nora Huey, Director, Central Procurement Office

SUBJECT: Claims Administration Services Contracts for the Port Sponsored Medical and Dental Plans

Amount of This Request: Estimated at \$1,350,000

Source of Funds: Various Operating and Capital Funds

Estimated Jobs Generated: 14

ACTION REQUESTED:

Request that the Port Commission either select Option A or, as an alternative, select Option B:

(A) Exercise its authority under RCW 53.19.020(5) and (1) determine that a competitive solicitation process is not appropriate or cost effective to procure medical claims administration services and dental claims administration services for 2012; and (2) authorize the Chief Executive Officer to enter into new one-year contracts with Premera (for medical claims administration services) and Washington Dental Service (WDS) (for dental claims administration services) from January 1, 2012, through December 31, 2012, with a total cost for both contracts not to exceed \$1,350,000;

OR, AS AN ALTERNATIVE:

(B) Direct Port staff to return the Port sponsored medical and dental plans to fully insured status and secure medical and dental coverage through an insurance product. Insurance products do not require the Request for Proposal (RFP) process so medical and dental insurance products could be selected and put in place by the end of 2011.

SYNOPSIS:

In 2010, the Commission passed Resolution No. 3636 converting the Port sponsored medical and dental plans from fully insured plans to self-insured plans. Cost containment was a key reason for making this change; sponsoring self-insured health plans requires that the Port contract with claims administrators to administer the claims incurred under the self-insured health plans.

The process of selecting claims administrators for the Port sponsored medical and dental plans is far more complex than was originally envisioned. The process of developing the Request for Proposal

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(RFP) materials and preparing for the competitive selection process is also taking much longer than anticipated.

Issuing the RFP through the transparent, public Port process requires publishing all documents related to the selection process on a public web site. The Port must also ensure that the information contained in the RFP complies with Health Insurance Portability Accountability Act (HIPAA). HIPAA requires that protected health information (PHI) not be disclosed, and HIPAA defines PHI very broadly. Through the competitive selection process, the Port must be able to assess the implications of selecting any of the eventual bidders as thoroughly and completely as possible. Balancing these three requirements is requiring the Port's HRD, Legal, and CPO staffs, as well as the Port's benefits consultant, to review options and alternatives to ensure that the RFP is issued in a way that is public and transparent, does not disclose any information that could possibly be considered PHI, and still provides potential bidders with detailed enough information to permit the Port to accurately assess the implications of the proposals on health care costs and availability of network providers to employees covered by the Port sponsored plans.

HRD, Legal, and CPO staff have concluded that the Port will not be able to issue an RFP that meets the above-referenced requirements in time to complete the selection process and allow for sufficient transition time for any new third party administrator to begin administration of the medical and dental self-funded plans in January 2012. Therefore, if the Port wishes to continue with self-funded medical and dental plans in 2012, an exemption from competitive solicitation under RCW 53.19.020(5) is needed so that the Port can contact with Premera and Washington Dental Services for third party administration services while the Port takes the time needed to issue an appropriate RFP and complete the competitive process of selecting providers of such services for 2013.

BACKGROUND:

Beginning in 2011, the Port converted the Port-sponsored non-HMO medical and dental plans from a fully insured model to a self-insured model. Cost containment was a major factor in the decision to convert from fully insured health plans. Self-insured plans are not subject to some of the taxes that insured plans are, and sponsors of self-insured plans have more flexibility in how their plans are designed than fully insured plan sponsors do.

In order to sponsor self-insured medical and dental plans, the Port must retain a claims administrator to process claims, determine appropriate payment to providers, and then pay claims with funds provided by the Port. Selecting a claims administrator through a competitive process is in the best interest of the Port, and employees covered by the Port-sponsored health plans as the competitive selection process will help ensure that the best combination of cost, service, and availability of network providers is available within the Port sponsored plans.

The process of selecting a claims administrator is an intricate and complex process. Benefits consultants often receive bids directly from claims administrators for their clients undertaking a competitive selection process. This permits the consultant to ensure that only fully qualified bidders receive the detailed information necessary to submit a proposal, and the information is often distributed directly from the consultant to pre-qualified bidders. This process ensures that only entities that have a legitimate need for detailed information about claims, provider utilization, employee zip codes, or other information that must be protected are permitted access to the information.

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With the public competitive selection process the Port must utilize, those working to develop the RFPs to select medical and dental claims administrators must find ways to issue the RFPs that honor the Port's process while complying the HIPAA regulations to ensure protected health information is disclosed to any entity that does not understand how to protect it, and also providing sufficiently detailed information for proposals to be accurately evaluated for impacts to the Port and those covered by Port-sponsored plans. Since the processes most other organizations utilize will not meet these somewhat conflicting needs, a new way of approaching this process must be identified.

When we requested the exemption from competition in 2010 for 2011 claims administration services, we believed that the process would require a thorough and detailed RFP. We did not fully appreciate the complexities associated with issuing the RFP in a way that would comply with the varied and almost conflicting requirements, nor did we not realize the amount of time it would take to develop RFP materials that would comply with the various requirements. As we worked to develop the RFP, and became increasingly aware of these different requirements, we developed an appreciation for the complexities and recognized that we need more time to ensure that the RFP will meet all the requirements it must meet.

We anticipate we will need another two to three months to ensure the RFP meets all requirements and issue it. From the time the RFP is issued, it will take a minimum of six months to complete the selection process, and the process could take eight or nine months. If the process results in new claims administrators being selected, we estimate it will take an additional six to eight months to complete the conversion to new claims administrators. The conversions to new claims administrators must be integrated with open enrollment and budget processes. This means we will need to convert at the beginning of a calendar year, have the administrator selected and all information about changes communicated to employees by September of the preceding year.

Because of the time required to facilitate a change, we will need another year to develop a fully compliant RFP, thoroughly complete the selection process, and potentially transition to new claims administrators.

JUSTIFICATION FOR THE EXEMPTION FROM COMPETITION SOLICITATION UNDER RCW 53.19.202(5):

The proposed contracts with Premera for medical claims administration and Washington Dental Service for dental claims administration for the above-described services are subject to Chapter 53.19 RCW, which requires "open competition for all personal service contracts entered into by port districts unless specifically exempted under this Chapter [53.19]". Unless the proposed contracts with Premera and Washington Dental Service fall under one of the five exemptions in RCW 53.19.0290, these contracts would be subject to "competitive solicitation" – defined as "a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria, in which criteria other than price may be the primary basis for consideration."

RCW 53.19.020 lists five exemptions from competitive solicitation. The fifth exemption is for "[o]ther specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the commission when it has been determined that a competitive solicitation process is not appropriate or cost-effective", RCW 53.19.020(5).

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For the proposed contracts to fall under the exemption in RCW 53.19.020(5), the Commission must make a reasoned determination that the competitive solicitation process would not be appropriate or cost effective if the Port wishes to initiate a self-funded benefit program in 2011. In making the determination as to whether the proposed contracts are exempt from competitive solicitation requirements, the Commission can avoid acting arbitrarily and capriciously by noting and discussing relevant facts and circumstances.

We are requesting that the Commission consider the following circumstances and make the determination that subjecting the proposed contracts to competitive solicitation requirements would not be cost-effective or appropriate for calendar year 2012:

1. A competitive process is still the goal for selecting claims administrators for the Port sponsored medical and dental plan claims. We anticipate initiating this process in July or August of 2011, having a service agreement fully executed by July 2012 and the transition completed by the end of 2012. Thus, the exemption is requested for one year, through December 31, 2012.
2. An additional year to complete the competitive selection process will permit the Port to ensure the issued RFP will comply with the multiple requirements of this solicitation and that sufficient information is obtained to make a well-informed selection. It will also help ensure that the RFP is issued in a way that does not disclose any protected health information and therefore does not expose the Port to any HIPAA liability.
3. Claims administration services are essential to self-funded health plans. Without claims administrators, the Port cannot maintain self-insured health plans as there would be no way to administer claims incurred under the plan. Without the requested additional time to complete the claims administration RFPs and selection processes, the Port would be required to secure medical and dental coverage through an insurance product.
4. The requested additional year to complete the RFP will permit the Port to maintain self-insured status and continue toward the cost containment goal that was a key component of the decision to self-insure the Port sponsored health plans. Self-insured health plans produce an estimated 5% to 10% cost savings over similarly designed insured health plans so the Port would expect to see health plan costs increase by 5% to 10% beyond whatever rate increase the self-insured plans will realize for 2012.

PROGRAM COST:

The estimated cost for one year is (1) \$1,200,000 for medical claims administration services in 2012; and (2) \$150,000 for dental claims administration services for 2012. The Port pays claims administration fees on a per employee per month basis so the actual cost will partially depend on the total number of employees and retirees covered by the Port's self-funded medical and dental benefit plans.

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SOURCE OF FUNDS:

The general Port budget will provide funds for these fees.

ALTERNATIVES CONSIDERED/RECOMMENDED ACTION:

1) Continue with Premera and WDS as claims administrators for the Port's self-insured medical and dental plans through 2012 and complete competitive selection processes in 2012 with the selected claims administrators assuming the role in 2013 under multi-year contracts. **This is the recommended alternative.**

2) Return the Port sponsored health plans to fully insured status beginning in 2012. While medical and dental insurance products could be in place to take effect by January 2012, there is not sufficient time to conduct a thorough review available alternatives so for 2012, the Port would very likely purchase insurance products from Premera for medical coverage and WDS for dental coverage that would be very similar to the current self-insured plans.

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

January 12, 2010: Briefing of the Commission on a Port self-funded program

January 12, 2010: Commission authorization of a two-year contract with a benefits consulting firm, with the option to renew annually thereafter for three more years.

April 27, 2010: Updated briefing of the Commission on a Port self funded benefit program.

May 4, 2010: First Reading of Resolution No. 3636 authorizing the Port to transition to a self-funded medical and dental benefit plan.

May 11, 2010: Second Reading of Resolution No. 3636.

May 11, 2010: Determination that a competitive solicitation process was not appropriate or cost-effective for third party medical and dental claims administration services in 2011 and that contracts for these services were exempt from the requirements of Chapter 53.19 RCW, and authorization to execute one year contracts with Premera for medical claims administration services and with Washington Dental Services for dental claims administration services.

January 25, 2011: Authorization for the Chief Executive Officer to execute contract for medical claims administration services for up to five years.

January 25, 2011: Authorization for the Chief Executive Officer to execute contract for dental claims administration services for up to five years.