



COUNTY OF SANTA CRUZ

Personnel Department Risk Management

701 OCEAN STREET, SUITE 310
SANTA CRUZ, CA 95060

TELEPHONE: (408) 454-2600

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May 12, 1998

AGENDA: June 2, 1998

BOARD OF SUPERVISORS
County of Santa **Cruz**
701 Ocean Street
Santa **Cruz**, CA 95060

APPROVE CONTRACT WITH WORKERS' COMPENSATION ADMINISTRATOR

Dear Members of the Board:

Claims Management, Inc. (CMI) has been the claims administrator for the self-insured Workers' Compensation program since May 1986. During this time we have consistently received excellent audits of their work by both State and County-contracted auditors.

This year we interviewed two other claims administration organizations, and compared the services they would provide, to those we have been receiving from CMI. Based on the results of those interviews, and a recent reassignment of claims examiners it was determined that CMI could continue to provide a quality service to the County of Santa **Cruz**.

We were able to negotiate a contract with a savings of over 12%. Our current contract amount is \$193,000. The contract for 1998-99 is for \$172,000 payable in equal monthly installments, with a maximum 4% increase to be negotiated in the second year. We also lowered the maximum number of claims each examiner could handle from 200 to 175. This will allow for more efficient claims handling. All other provisions of the contract remain the same as the current agreement.

It is RECOMMENDED that subject to your Board's approval of the 1998-99 Workers' Compensation Budget (Index Code **515300**), you:

1. Approve the attached contract for workers' compensation claims administration for the period July 1, 1998 through June 30, 1999; and
2. Authorize the Personnel Director to sign the contract with Claims Management Inc.

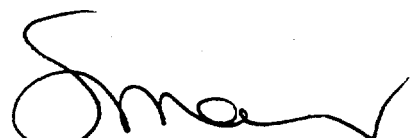
Very truly yours,


Dania Torres Wong
Personnel Director

DTW:JM/jm

Attachment
CC: Auditor

RECOMMENDED:



SUSAN A. MAURIELLO
County Administrative Officer

AGREEMENT FOR WORKERS' COMPENSATION CLAIMS ADMINISTRATION SERVICES

This agreement is entered into this 1st day of July, 1998 between Claims Management, Inc., hereinafter referred to as "CMI", and the County of Santa Cruz, hereinafter called "COUNTY,"

WHEREAS, the COUNTY is permissibly self-insured for the provision of workers' compensation benefits pursuant to the California Labor Code; and

WHEREAS, the COUNTY desires to contract with CMI to administer the provisions of workers' compensation benefits to its employees;

NOW, THEREFORE, the parties agree to the following:

1. TERM

The period of this agreement shall be from July 1, 1998 through June 30, 2001.

2. CONSIDERATION

For all services to be performed pursuant to this Agreement, the COUNTY shall pay CMI as follows:

- A. \$172,000 in equal monthly installments for each year of the term, provided that for each subsequent year, the compensation shall be subject to an increase not to exceed 4%.

3. PROGRAM DEVELOPMENT

CMI shall:

- A. Subscribe to and pay for on behalf of County enrollment in the Index Bureau System and to report to the Index Bureau on each and every indemnity claim.
- B. Consult with COUNTY'S personnel and assist in developing necessary procedures, practices and coordination to maintain the COUNTY'S self-insured workers' compensation program, and to meet legal requirements of the State.
- C. Conduct or assist in conducting periodic meetings for the COUNTY'S personnel involved directly or indirectly in the processing of industrial injury cases.
- D. Provide to the COUNTY information on changes or proposed changes in

statutes, rules and regulations affecting the COUNTY'S responsibility under a legally self-insured workers' compensation program, in a written semi-annual report.

- E. Review with the COUNTY'S representatives program progress, including identification of problem areas and recommended solutions thereto.
- F. Establish and administer procedures and process necessary documentation to provide the payments of workers' compensation benefits, medical costs, legal fees, and other related costs to enable either the COUNTY or CMI to issue checks to cover such expenditures.
- G. Provide to COUNTY all necessary forms for reporting of accidents and supplemental information.

4 . CLAIMS HANDLING

CMI shall provide the following workers' compensation claims management for COUNTY:

- A. Review of all reports of injury as defined in the California Labor Code, Sections 3208 and 3208.1, and make contact with injured employees within two days of receiving notice of lost time injury.
- B. Determine for each reported injury those benefits, if any, that should be paid or rendered under the California Workers' Compensation Laws.
- C. Establish and maintain an orderly claims file on each reported claim. Each file shall be available to COUNTY for inspection, with or without prior notice.
- D. Maintain an estimate of the total cost of all reasonably foreseeable benefits and related expenses on each case. Each cost shall be recorded separately in the following categories:
 - 1. Medical
 - 2. Indemnity
 - 3. Allocated
 - 4. Rehabilitation
- E. Prepare and file on behalf of COUNTY all legally required forms with the appropriate agency.
- F. Pay on behalf of COUNTY from COUNTY'S funds, those sums that should reasonably be paid under the California Workers' Compensation Laws for each reported claim. Any settlement must be first be approved by COUNTY.

- G. Refer to attorneys selected by the COUNTY cases where an employee of COUNTY files an Application with the California Workers' Compensation Appeals Board. It is understood that even when an Application has been filed, a substantial effort will be made by CMI to settle the claim file without assigning it to legal counsel.
- H. Proceed in a timely manner against all responsible persons, agencies and/or their agents in subrogation actions in order to recover losses suffered by COUNTY.
- I. Pay on behalf of COUNTY out of COUNTY'S funds all "allocated loss expenses" which are defined to include all fees for attorneys, witnesses, court reporters, photocopies, fee schedule reviews, process servers, independent investigators, any awards of the Workers' Compensation Appeals Board, depositions, or surveillance. Only with COUNTY approval, CMI shall pay on behalf of County, fees in accordance with the necessary engagement of personnel independent of CMI in the handling of any claim subject to the proposed Agreement.
- J. Provide a monthly check register of all claims transactions.
- K. CMI will fully cooperate with all audit requests by COUNTY or other agency.
- L. CMI shall provide to COUNTY and its personnel a toll-free telephone number for COUNTY'S use in contacting CMI.
- M. COUNTY shall make arrangements with CMI for designation of a bank to hold trust account monies for workers' compensation payments.

Upon **CMI's** request, COUNTY shall deposit monies into the trust account to adequately fund all workers' compensation payments.

CMI shall be responsible for all charges for printing of checks for this account.
- N. CMI shall provide at COUNTY'S request narrative reports on major litigated cases.
- O. CMI shall send a personalized card to each injured worker indicating "the County wishes you a speedy **recovery**" and include the name of the appropriate CMI contact person.
- P. CMI shall return all phone/e-mail messages within 24 hours.

- Q. CMI shall provide without charge to County a P.C. (486 processor or better, with 3.5" floppy and CD Rom drives, monitor and keyboard) for the term of this agreement for County's use in maintaining an on line connection with CMI's database.
- R. CMI shall provide upon County's request written claim profiles and payment transaction reports for all open indemnity claims.

5. **STANDARD PERFORMANCE**

In administering claims for COUNTY, CMI shall apply the Claims Administration Guidelines adopted by the CSAC-Excess Insurance Authority, as set forth in *Exhibit A*, attached and incorporated herein by this reference, to the extent that they do not conflict with the terms of this Agreement.

6. **STAFFING**

- A. CMI agrees to provide Self-Insurance Plans certified claims examiners. Examiners shall have the certificate at the time of appointment.
- B. At no time shall a claims examiner's caseload exceed 175 indemnity claims at one time without prior consent of COUNTY. In the event the caseload exceeds 175 for three or more consecutive months or portion of months, the following penalty provisions shall apply. The compensation provided for in this agreement, on a monthly pro-rata basis, shall be reduced for each month or portion of month that the caseload limits have been exceeded. The percentage reduction in monthly pro-rata compensation shall be the same percentage by which the average daily caseload exceeds the caseload limits.
- C. In the event that COUNTY, at any time during the term of this agreement, is dissatisfied with any claims person assigned to the account, COUNTY will notify the CMI Claims Manager of the dissatisfaction. If after 60 days from notification COUNTY is still dissatisfied, CMI shall remove said person assigned immediately upon receiving written notice from COUNTY of the desire for the removal of such person.

7. **MEDICAL CONTROL SERVICES**

CMI shall:

- A. Select, with COUNTY'S approval, a panel of physicians, dentists, chiropractors and practitioners for the initial treatment of injured employees and recommend a panel of such specialists as may be required for long-term

or other disabilities requiring special treatment.

- B. Arrange for medical-legal opinions in disputed cases, conferring with medical examiners and COUNTY representatives, when necessary.
- C. Consult frequently with County in those cases where injury residual may involve restriction and/or retirement potential.
- D. Refer medical bills for review against relative value studies. COUNTY shall pay a fee of 20% of documented savings for this service. The fee shall be paid as a medical expense of the individual claim files. CMI shall not refer bills that obviously would not be reduced by audit. CMI shall provide a monthly listing of all review transactions, to include claimant name, medical provider, amount billed, amount paid, audit fee, and amount saved.

8. REPORTS

- A. CMI shall provide to COUNTY the following reports on a monthly basis:

Claims register which lists claimants by department, and lists all claim information, including cause, nature and site. This register shall list established cases, paid amounts and balances in the reserve categories and show claims costs per fiscal year and for the current period; subrogation reports; and a budget projection report.

- B. CMI shall provide to COUNTY on a quarterly basis the following reports:

Loss analysis reports which provide analysis by cause of injury, nature of injury and body site. The reports will include number of claims with injury dates in the quarter, number of indemnity and medical-only, amount incurred, amount paid to date, and average incurred for each type of analysis. The reports will incorporate loss/causal data codes as reported by COUNTY.

- C. CMI shall provide to COUNTY on a semi-annual basis the following:

Claims register for all open and closed claims, sorted (1) alphabetically and (2) by department, which includes claim number, claimant name, claim type, date of injury, date opened, date closed, total cost, paid to date, reserves and SIR at time of injury.

- D. CMI shall provide to COUNTY on an annual basis the following:

Completion of the annual report for self-insurance plans.

- E. CMI shall provide all necessary Federal Information Returns, Form 1099 reports, to the IRS and any and all other documents and reports now or in the future required by the State of Federal government or any other agency associated with County's self-insured Worker's Compensation program.

9. PENALTIES

The COUNTY will be advised of the assessment of any penalty for delayed payment and the reason therefore and CMI's plans for the payment of such penalty within five (5) days of assessment.

CMI will be liable for all penalties, except those that are the responsibility of COUNTY which are listed below:

- A. Failure by COUNTY to provide an Employee Claim Form within one (1) working day upon request of the injured workers or his/her agent.
- B. Failure by COUNTY to provide CMI with an Employer's Report within eight (8) days of the date of injury.
- C. Failure by COUNTY to advise CMI of subsequent periods of disability after a worker returns to work.
- D. Failure by COUNTY to advise CMI of the conclusion of salary continuation.

10. OBLIGATIONS OF COUNTY

COUNTY shall be responsible for the following:

- A. COUNTY shall at all times provide funds adequate for the payment of qualified claims or losses and of allocated loss expenses. COUNTY shall deposit such funds in a bank account or accounts established by COUNTY at a bank selected by it, and shall have full responsibility for the care, custody, and control of such account or accounts. CMI shall provide to COUNTY a monthly accounting of all expenditures and requests for reimbursement to the trust account for those sums. CMI shall request from COUNTY approval for any single payment over \$5,000.
- B. COUNTY shall be responsible for all allocated loss expenses, which shall mean all costs, charges or expenses of third parties incurred by CMI which are properly chargeable to a qualified claim or loss, including without limitation, court costs, fees and expenses of attorneys, investigators, experts and witnesses, and fees for obtaining diagrams, reports, documents and photocopies. Services performed by employees of CMI shall not be considered allocated loss expenses.

- C. COUNTY shall have full and complete settlement authority. CMI will request from COUNTY authorization for any settlement of workers' compensation claims.

11. FILES AND SUPPORTING DOCUMENTS

- A. All claim files, records, reports, computer tapes and other documents pertaining to COUNTY'S claims shall be the property of COUNTY.
- B. All files closed for six (6) months or more will be placed in storage or returned to COUNTY at COUNTY'S option. COUNTY shall bear the cost of storage or shipping.
- C. If for any reason CMI ceases to provide claims administration services for COUNTY, CMI shall return all open files, computer runs, and any other documentation pertaining to COUNTY'S claims to COUNTY or its designee. All such materials shall be returned to COUNTY within thirty (30) days of termination of services. In the event of non-renewal, CMI agrees to cooperate with COUNTY and to respond to any and all reasonable requests by COUNTY.

12. INSPECTION OF RECORDS

- A. COUNTY or its staff shall be permitted to inspect claim files, reports, books, documents and records of CMI relating to the servicing of COUNTY at any reasonable time.
- B. All claim files, records, reports and other documents and material pertaining to COUNTY'S claims shall be the property of COUNTY and shall be available at any reasonable time for inspection and audit by COUNTY or its representative. CMI agrees not to release any report or portion thereof, or any result of an investigation it may undertake on behalf of COUNTY to any outside person or agency without the express written consent of COUNTY, except as provided by law or in this agreement. If a claim or report contains confidential or sensitive information, the release of which may expose CMI to legal action, CMI agrees to release that information to a mutually agreed upon (agreed upon by CMI and COUNTY) party or parties upon written request from COUNTY to release the information.

13. INDEMNITY AGREEMENT

CMI agrees that it will defend and indemnify COUNTY, its officers, employees and agents against all claims, demands, proceedings, actions, damages, costs and expenses to which it may be subjected as a consequence of the willful misconduct

or negligent acts or omissions of CMI, its employees or agents in connection with fulfilling its obligations under this Agreement, but excluding damages arising out of the sole negligence or willful misconduct of COUNTY.

1 4 . INSURANCE

CMI, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects COUNTY and any insurance or self-insurance maintained by COUNTY shall be excess of CMI'S insurance coverage and shall not contribute to it.

A. Types of Insurance and Minimum Limits:

1. Workers' Compensation in the minimum statutorily required coverage amounts.
2. Automobile Liability Insurance for each of **CMI's** vehicles used in the performance of this Agreement, including owned , non-owned (e.g., owned by **CMI's** employees), leased or hired vehicles, in the minimum amount of \$500,000 combined single limit per occurrence for bodily injury and property damage.
3. Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$1 ,000,000 combined single limit, including coverage for: (a) bodily injury, (b) personal injury, © broad form property damage, (d) contractual liability, (e) cross-liability and (f) products and completed operations.
4. Professional Liability Insurance in the minimum amount of \$1 ,000,000 combined single limit.

B. Other Insurance Provisions

1. If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CMI agrees to maintain the required coverage for a period- of three (3) years after the expiration of this Agreement thereof. CMI may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, at a cost not exceeding 100% of the last annual policy premium during the term of the Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.

2. All required Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clause:

“The County of Santa Cruz, its officials, employees, agents and volunteers are added as an additional insured as respects the operations and activities of, or on behalf of, the named insured performed under Agreement with the County of Santa Cruz.”

3. All required insurance policies shall be endorsed to contain the following clause:

“This insurance shall not be canceled until after thirty (30) days prior written notice has been given to:

Risk Manager
County of Santa Cruz
701 Ocean Street, Room 310
Santa Cruz, CA 95060.”

4. CMI agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide COUNTY on or before the effective date of this Agreement with Certificates of Insurance for all required coverages. All certificates of Insurance shall be delivered or sent to:

Risk Manager
County of Santa Cruz
701 Ocean Street, Room 310
Santa Cruz, CA 95060

5. Blanket Fidelity Bond with limit of \$500,000 to:
 - a. Protect COUNTY from loss due to the actions of CMI, its agents, owners, officers and employees.
 - b. Apply the total bond limit separately to COUNTY.

15. INDEPENDENT CONTRACTOR

CMI and COUNTY have reviewed and considered the principal test and secondary factors below and agree that CMI is an independent contractor and not an employee of COUNTY. CMI is responsible for all insurance (workers' compensation, unemployment, etc.) and all payroll-related taxes. CMI is not entitled to any employee benefits. COUNTY agrees that CMI shall have the right to control the manner and means of accomplishing the result contracted for herein.

PRINCIPAL TEST: CMI rather than COUNTY has the right to control the manner and means of accomplishing the result contracted for.

SECONDARY FACTORS: (a) The extent of control which, by agreement, COUNTY may exercise over the details of the work is slight rather than substantial; (b) CMI is engaged in a distinct occupation or business; © In the locality, the work to be done by CMI is usually done by a specialist without supervision, rather than under the direction of an employer; (d) The skill required in the particular occupation is substantial rather! than slight; (e) CMI rather than COUNTY supplies the instrumentalities, tools and work place; (f) The length of time for which CMI is engaged is of limited duration rather than indefinite; (g) The method of payment of CMI is by the job rather than by the time; (h) The work is part of a special or permissive activity, program or project, rather than part of the regular business of COUNTY; (I) CMI and COUNTY believe they are creating an independent contractor relationship rather than an employer-employee relationship; and (j) COUNTY conducts public business.

It is recognized that it is not necessary that all secondary factors support creation of an independent contractor relationship, but rather that overall there are significant secondary factors which indicate that CMI is an independent contractor.

By their signatures to this Agreement, each of the undersigned certifies that it is his or her considered judgment that CMI, engaged under this Agreement, is in fact an independent contractor.

16. EQUAL OPPORTUNITY

CMI will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical status, sex, sexual orientation, age (over 40), veteran status or any other no-merit factor unrelated to job duties. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection of training including apprenticeship. CMI agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

CMI will state that it is an equal opportunity employer in all solicitations or advertisements for employees placed by or on behalf of CMI, and ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sex, sexual orientation, age (over 40), veteran status or any other non-merit factor unrelated to job duties.

CMI will comply with all provisions of Executive Order 11246, as amended, and of the rules, regulations and orders of the Secretary of Labor, which include furnishing required information and reports.

In the event of CMI'S non-compliance with the non-discrimination clauses of this agreement or with any of the said rules, regulations or orders, CMI may be declared ineligible for further contracts with the COUNTY.

CMI shall furnish information and reports in the prescribed reporting format (PER4012) identifying the sex, race, disability and job classification of its employees to the Equal Employment Opportunity Division of the Personnel Department.

17. TERMINATION

This agreement may be terminated by either party anytime during the contract period, provided that written notice of such termination is received by the other party not later than sixty (60) days prior to the termination date. All claims files, records, reports, computer tapes, and other documents and materials pertaining to COUNTY'S claims shall be the property of COUNTY and shall be considered confidential and shall be delivered to COUNTY or its designee upon termination of this Agreement.

18. ADDITIONAL CONDITIONS

- A. Neither party shall assign this Agreement or any part hereof without the written consent of the other party.
- B. The services to be performed by CMI shall specifically exclude any services which, now or in the future, could be deemed to be the practice of law.
- C. CMI will insure that COUNTY'S claims files shall at all times be managed by a certified claims administrator or as required by the State of California, Department of Self-Insurance.
- D. Notices to COUNTY shall be directed to:
 Risk Manager
 County of Santa Cruz
 701 Ocean Street, Room 310
 Santa Cruz, CA 95060
 Notices to CMI shall be sent to:
 Claims Management, Inc.
 P. O. Box 3042
 Sacramento, CA 95812-3042

19. PRESENTATION OF CLAIMS

Presentation and processing of any or all claims arising out of or related to this

Agreement shall be made in accordance with the provisions contained in Chapter 1.05 of the Santa Cruz County Code, which by this reference is incorporated herein.

20. ENTIRE AGREEMENT

This Agreement, together with any attachments, constitutes the entire Agreement between CMI and COUNTY. Any modifications may be made only in writing duly signed by the parties hereto. No waiver by CMI or COUNTY of any breach of this Agreement shall be deemed a waiver of any preceding or succeeding breach. This Agreement and its terms and conditions shall be binding upon CMI and COUNTY and their assigns or successors in interest. Should any provision of this Agreement be held by any court to be invalid, void or unenforceable, the remaining provision shall continue in full force and effect.

21. ATTACHMENTS

This Agreement includes the following attachment:

Exhibit A - CSAC-EIA Claims Administration Guidelines.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first written above.

COUNTY OF SANTA CRUZ

CLAIMS MANAGEMENT, INC.

By _____

Date _____

By *[Signature]* PRESIDENT
Date 5/14/98

APPROVED AS-TO FORM:

By *[Signature]*
County Counsel

APPROVED AS TO INSURANCES:

By *[Signature]* 5-11-98
Risk Management

COUNTY OF SANTA CRUZ
REQUEST FOR APPROVAL OF AGREEMENT

88

TO: Board of Supervisors
County Administrative Officer
County Counsel
Auditor-Controller

FROM: Risk Management (Dept.)
Dania Luis Wuy (Signature) 5-13-98 (Date)

The Board of Supervisors is hereby requested to approve the attached agreement and authorize the execution of the same.

1. Said agreement is between the County of Santa Cruz (Agency)
and Claims Management, Inc. (CMI) P. O. Box 3042, Sacramento, CA 95812-3042 (Name & Address)

2. The agreement will provide third party claims administration services for the County's
Workers' Compensation Program.

3. The agreement is needed because the County cannot provide these services

4. Period of the agreement is from July 1, 1998 to June 30, 1999

5. Anticipated cost is \$ 172,000 (XXXXXXXXXXXXXXXXXXXX Not to exceed)

6. Remarks: _____

7. Appropriations are budgeted in, 515300 (Budget) 3525 (Account)

NOTE: IF APPROPRIATIONS ARE INSUFFICIENT, ATTACH COMPLETED FORM AUD-74

Appropriations are available and have been encumbered. Contract No. 80194 Date 5/14/98
will be will be
GARY A. HUNTSON, Auditor - Controller
By Dania Luis Wuy Deputy

Proposal reviewed and approved. It is recommended that the Board of Supervisors approve the agreement and authorize the
_____ to execute the same on behalf of the _____

(Agency).

Remarks: _____

(Analyst)

County Administrative Officer
By Bob Wuy Date May 18, 1998

Agreement approved as to form. Date _____

Distribution:

Bd. of Supv. - White
Auditor-Controller - Blue
County Counsel - Canary
Co. Admin. Officer - Canary
Auditor-Controller - Pink
Originating Dept. - Goldenrod

To Orig. Dept. if rejected.

State of California)
County of Santa Cruz) ss

I, _____ ex-officio Clerk of the Board of Supervisors of the County of Santa Cruz,
State of California, do hereby certify that the foregoing request for approval of agreement was approved by
said Board of Supervisors as recommended by the County Administrative Officer by an order duly entered
in the minutes of said Board on _____

_____ 19 _____ By _____ Deputy Clerk