

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

467



FROM: Human Resources Department

SUBMITTAL DATE:
October 12, 2010

SUBJECT: Authority to Bind the County to the Terms of the Early Retirement Reinsurance Program Plan Sponsor Agreement

RECOMMENDED MOTION: That the Board of Supervisors authorize the Asst. County Executive Officer/Human Resources Director to sign and bind the County to the terms of a Plan Sponsor Agreement with the U.S. Department of Health & Human Services (Attachment A), in order to receive federal funds through the Early Retirement Reinsurance Program, which assists employers who provide medical benefits to certain retirees.

BACKGROUND: The Early Retirement Reinsurance Program (ERRP), which was established under the Patient Protection and Affordable Care Act (PPACA), reimburses participating employers, retirement systems and other retiree health plan sponsors for a portion of the costs for providing health coverage to early retirees. The application requires the County to designate a representative to bind the County to the terms of the Plan Sponsor Agreement, included as Attachment A. The recommended motion designates the Asst. County Executive Officer/Human Resources Director as that representative.

Barbara A. Olivier
Asst. County Executive Officer/Human Resources Dir.

FINANCIAL DATA	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year: 2010/11

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY:
Elizabeth J. Olson

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Tavaglione and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: October 19, 2010
xc: HR

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy

Prev. Agn. Ref.: | District: | Agenda Number:

3.28

BACKGROUND continued:

The ERRP provides organizations like the County to apply for reimbursement for medical claims for retirees and their dependents who are ages 55 and older and are not eligible for Medicare. Reimbursements will be available for 80 percent reimbursement of costs between \$15,000 and \$90,000 for a covered individual (including spouse, surviving spouse or dependent). Reimbursements are contingent upon County plans' use of cost-saving procedures for chronic and high-cost conditions. In addition, reimbursement may only be used to reduce retiree costs (such as premiums, coinsurance or deductibles) and may not be treated as general revenue.

However, the PPACA limits the Program's funding to \$5 billion and gives the Secretary of Health & Human Services (HHS) discretion to stop accepting applications based on the projected or actual availability of funding. Due to the number of potential applicants and claims dollars that are eligible for reimbursement under the Program, we anticipate that the application window may be extremely short.

PART IV. Plan Sponsor Agreement

1. **Compliance:** In order to receive program reimbursement(s), Plan Sponsor agrees to comply with all of the terms and conditions of Section 1102 of the Patient Protection Act (P.L. 111-148) and 45 C.F.R. Part 149 and in other guidance issued by the Secretary of the U.S. Department of Health & Human Services (the Secretary), including, but not limited to, the conditions for submission of data for obtaining reimbursement and the record retention requirements.
2. **Reimbursement-Related and Other Representations Made by Designees:** Plan Sponsor may be given the opportunity to identify one or more Designees (i.e., individuals the Sponsor will authorize to perform certain functions on behalf of the Sponsor related to the Early Retiree Reinsurance Program, such as individual(s) who will be involved in making program reimbursement requests). Plan Sponsor certifies that all individuals that will be identified as Designees will have first been given authority by the Plan Sponsor to perform those respective functions on behalf of the Plan Sponsor. Plan Sponsor understands that it is bound by any representations such individuals make with respect to the Sponsor's involvement in the Early Retiree Reinsurance Program, including but not limited to the Sponsor's reimbursement under, the program.
3. **Written Agreement:** Plan Sponsor certifies that, prior to submitting a Reimbursement Request, it has executed a written agreement with its health insurance issuer or employment-based plan regarding disclosure of information, data, documents, and records to HHS, and the issuer or plan agrees to disclose to HHS, on behalf of the Plan Sponsor, at a time and in a manner specified by the HHS Secretary in guidance, the information, data, documents, and records necessary for the Plan Sponsor to comply with the requirements of the Early Retiree Reinsurance Program, as specified in 45 C.F.R. 149.35.
4. **Use of Records:** Plan Sponsor understands and agrees that the Secretary may use data and information collected under the Early Retiree Reinsurance Program only for the purposes of, and to the extent necessary in, carrying out Section 1102 of the Patient Protection Act (P.L. 111-148) and 45 C.F.R. Part 149 including, but not limited to, determining reimbursements and reimbursement-related oversight and program integrity activities, or as otherwise allowed by law. Nothing in this section limits the U.S. Department of Health & Human Services' Office of the Inspector General's authority to fulfill the Inspector General's responsibilities in accordance with applicable Federal law.
5. **Obtaining Federal Funds:** Plan Sponsor acknowledges that the information furnished in its Plan Sponsor application is being provided to obtain Federal funds. Plan Sponsor certifies that it requires all subcontractors, including plan administrators, to acknowledge that information provided in connection with a subcontract is used for purposes of obtaining Federal funds. Plan Sponsor acknowledges that reimbursement of program funds is conditioned on the submission of accurate information. Plan Sponsor agrees that it will not knowingly present or cause to be presented a false or fraudulent claim. Plan Sponsor acknowledges that any excess reimbursement made to the Plan Sponsor under the Early Retiree Reinsurance Program, or any debt that arises from such excess reimbursement, may be recovered by the Secretary. Plan Sponsor will promptly update any changes to the information submitted in its Plan Sponsor application. If Plan Sponsor becomes aware that information in this application is not (or is no longer) true, accurate and



	complete, Plan Sponsor agrees to notify the Secretary promptly of this fact.
6.	Data Security: Plan Sponsor agrees to establish and implement proper safeguards against unauthorized use and disclosure of the data exchanged under this Plan Sponsor application. Plan Sponsor recognizes that the use and disclosure of protected health information (PHI) is governed by the Health Insurance Portability and Accountability Act (HIPAA) and accompanying regulations. Plan Sponsor certifies that its employment-based plan(s) has established and implemented appropriate safeguards in compliance with 45 C.F.R. Parts 160 and 164 (HIPAA administrative simplification, privacy and security rule) in order to prevent unauthorized use or disclosure of such information. Sponsor also agrees that if it participates in the administration of the plan(s), then it has also established and implemented appropriate safeguards in regard to PHI. Any and all Plan Sponsor personnel interacting with PHI shall be advised of: (1) the confidential nature of the information; (2) safeguards required to protect the information; and (3) the administrative, civil and criminal penalties for noncompliance contained in applicable Federal laws.
7.	Depository Information: Plan Sponsor hereby authorizes the Secretary to initiate reimbursement, credit entries and other adjustments, including offsets and requests for reimbursement, in accordance with the provisions of Section 1102 of the Patient Protection Act (P.L. 111-148) and 45 C.F.R Part 149 and applicable provisions of 45 C.F.R. Part 30, to the account at the financial institution (hereinafter the "Depository") indicated under the Electronic Funds Transfer (EFT) section of the Plan Sponsor application. Plan Sponsor agrees to immediately pay back any excess reimbursement or debt upon notification from the Secretary of the excess reimbursement or debt. Plan Sponsor agrees to promptly update any changes in its Depository information.
8.	Policies and Procedures to Detect Fraud, Waste and Abuse. The Plan Sponsor attests that, as of the date this Application is submitted, has in place policies and procedures to detect and reduce fraud, waste, and abuse related to the Early Retiree Reinsurance Program. The Plan Sponsor will produce the policies and procedures, and necessary information, records and data, upon request by the Secretary, to substantiate existence of the policies and procedures and their effectiveness, as specified in 45 C.F.R. Part 149.
9.	Change of Ownership: The Plan Sponsor shall provide written notice to the Secretary at least 60 days prior to a change in ownership, as defined in 45 C.F.R, 149.700. When a change of ownership results in a transfer of the liability for health benefits costs, this Plan Sponsor Agreement is automatically assigned to the new owner, who shall be subject to the terms and conditions of this Plan Sponsor Agreement.
	<p>Signature of Plan Sponsor Authorized Representative</p> <p>I, the undersigned Authorized Representative of Plan Sponsor, declare that I have legal authority to sign and bind the Plan Sponsor to the terms of this Plan Sponsor Agreement, and I have or will provide evidence of such authority. I declare that I have examined this Plan Sponsor Application and Plan Sponsor Agreement. My signature legally and financially binds the Plan Sponsor to the statutes, regulations, and other guidance applicable to the Early Retiree Reinsurance Program including, but not limited to Section 1102 of the Patient Protection Act (P.L. 111-148) and 45 C.F.R. Part 149 and applicable provisions of 45 C.F.R. Part 30 and all other applicable statutes and regulations. I certify that the information contained in this Plan Sponsor Application and Plan Sponsor Agreement is true, accurate and complete to the best of my knowledge and belief, and I authorize the Secretary to verify this information. I understand that, because program</p>



reimbursement will be made from Federal funds, any false statements, documents, or concealment of a material fact is subject to prosecution under applicable Federal and/or State law.

*Signature: _____

