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September 28, 2022

The Honorable Members of the Board of Supervisors
City and County of San Francisco
1 Dr. Carlton Goodlett Place, Room 244
San Francisco, CA 94102

Subject: Request for Approval to Contract No. SFMTA-2022-31 with Intercare Holdings Insurance Services, Inc. to Provide Workers' Compensation Claims Administration Services to the SFMTA

Honorable Members of the Board of Supervisors:

The San Francisco Municipal Transportation Agency (SFMTA) requests that the San Francisco Board of Supervisors approve Contract No. SFMTA-2022-31 with Intercare Holdings Insurance Services, Inc. (Intercare) to provide workers' compensation claims administration services for a contract amount not to exceed \$33,771,962 for a three-year base term, and two three-year term extension options, for a total term of nine years. The SFMTA Board of Directors approved this contract by Resolution No. 220920-086 at its meeting on September 20, 2022, subject to Board of Supervisors approval. Board of Supervisors' approval is required under Charter section 9.118(b), because expenditures under the proposed contract will exceed \$10 million.

Background

State law requires that every employer in California provide workers compensation benefits to its employees for work-related injuries and illnesses; an employer may either secure workers compensation insurance or may be licensed by the State as a self-insured employer. Cal. Labor Code § 3700(a). The SFMTA is licensed by the State to be a self-insured employer; as such, the SFMTA directly pays injured employees temporary disability, permanent disability, medical treatment and other statutory benefits as operating expenses. The SFMTA's workers compensation claims costs average \$28,962,750 per year (FY 2021 to FY 2022). The SFMTA currently has approximately 1,600 open workers compensation claims, and SFMTA employees submit an average of 550 new claims each year.

State law requires a self-insured employer to manage its employees' workers compensation claims and distribution of benefits itself or by contracting with a licensed workers compensation claims management company. Cal. Labor Code §§ 3700(b), 3700(c). On July 1, 2000, as authorized by Charter Section 8A.104(c), the SFMTA assumed direct responsibility for managing its employees' workers' compensation claims, which the Department of Human Resources (DHR) previously managed. Since 2000, the SFMTA has either directly contracted with a workers compensation claims management firm or has used a joint contract with DHR. In November



2012, the SFMTA and DHR jointly contracted with Intercare for workers compensation claims services, which will expire on October 31, 2022. The SFMTA now seeks to contract directly with a claims management firm, as that direct relationship will provide the SFMTA greater flexibility to respond to claims and cost issues unique to the SFMTA workforce, including physical and verbal assaults, continuous trauma, and collisions.

Selection Process

The SFMTA and DHR issued a joint Request for Proposals (RFP) on May 4, 2022 for workers compensation claims administration services. The agencies contacted 47 claims administration firms to solicit proposals. But only three firms submitted proposals: Innovative Claim Solutions, Tristar, and Intercare. (Several firms that declined to submit proposals later explained that the number and complexity of DHR and SFMTA claims, and a lack of resources and labor necessary to perform the services, prevented them from submitting proposals.) Innovative Claims Solutions' proposal was determined to be nonresponsive, because it did not provide required industry account handling certification and documentation establishing that its staff meets minimum experience qualifications stated in the RFP. A selection panel evaluated the remaining two proposals and ranked Intercare's proposal highest:

Proposer	Total Points
Intercare Holdings Insurance Services	125.42
Tristar	113.20

Scope of Services

Under the proposed new contract, Intercare will provide workers' compensation claims administration services to SFMTA. (Intercare will also provide those services to DHR under a separate contract with similar terms and conditions.) The scope of services that Intercare will perform are similar to the existing contract, including:

- Claims intake, investigation, and eligibility determination
- Management of temporary and permanent disability eligibility and payments
- Management of medical claims, medical services review, and working with SFMTA's medical bill review service
- Coordinating payment to medical service providers and evaluating physicians
- Medical and disability claims management to facilitate employees' return to work
- Management of claims cost reduction programs
- Management of subrogation and third-party claims settlement
- Litigation support to the City Attorney
- OSHA database management
- Medicare injury/incident data reporting



Under the new contract, Intercare will also provide nurse triage and pharmacy benefit management services.

Contract Term and Compensation

The base three-year term of the proposed contract will be from November 1, 2022 to October 31, 2025, with two three-year options to extend the term. The total contract amount for full nine-year term of the contract is not to exceed \$33,771,962. That amount includes only the costs of administering SFMTA workers compensation claims, that amount does not include the costs of workers compensation benefits, including temporary and permanent disability support payments, and the cost of medical evaluation and treatment. The SFMTA (as a self-insured employer) pays workers compensation benefits and transactional costs (including claims management costs and fees) out of annual operating funds, which are or will be included in SFMTA budgets for FY2022-2023 through FY2031-2032. Intercare will act as the SFMTA’s agent in processing payment authorizations for those benefits and costs, but those costs are not accounted as expenditures under the contract.

The negotiated administrative fees that the SFMTA would pay Intercare under the proposed contract would be \$3,324,303.76 for the first year, increasing in each subsequent year by three percent. (The current contract annual administrative fee for SFMTA is \$2,970,060.) The negotiated administrative fees are based on the number of claims that Intercare will manage; the contract amount also includes as-needed fees Intercare may charge for additional services authorized by the SFMTA that are outside the scope of the fixed fee services. The proposed fees for the new contract are set out in the following table:

<u>Contract Year</u>	Estimated As-Needed Services	Annual Fixed Fees	Total
Year 1	\$175,000.00	\$3,149,303.76	\$3,324,303.76
Year 2	\$180,250.00	\$3,243,782.87	\$3,424,032.87
Year 3	\$185,658.00	\$3,341,096.35	\$3,526,754.35
Year 4 (1st Ext. Option)	\$191,228.00	\$3,441,329.24	\$3,632,557.24
Year 5	\$196,965.00	\$3,544,569.12	\$3,741,534.12
Year 6	\$202,874.00	\$3,650,906.20	\$3,853,780.20
Year 7 (2nd Ext. Option)	\$208,960.00	\$3,760,433.38	\$3,969,393.38
Year 8	\$215,229.00	\$3,873,246.38	\$4,088,475.38
Year 9	\$221,686.00	\$3,989,443.77	\$4,211,129.77
Total Amount Not to Exceed	\$1,777,850	\$31,994,111.08	\$33,771,961.08



The Annual Fixed Fees (paid monthly) covers all costs for managing SFMTA's workers compensation claims, including claims managers' wages/salaries and benefits, claims handling costs, overhead, profit, contract transition charges, claims personnel retention incentives, travel, lodging, meals, and other direct costs related to managing SFMTA workers compensation claims. The SFMTA will not compensate Intercare any additional costs it may incur in managing claims, but the SFMTA may request additional services under task orders to address claims management issues and requirements that are outside the scope of the fixed-fee general claims services. Task orders will be negotiated using the hourly personnel rates stated in the contract. The Annual Fixed Fees stated in the table above include annual cost increases.

Alternatives Considered

The current contract with Intercare will expire on October 31, 2022. The SFMTA and DHR, with Board of Supervisors approval, could extend the existing contract, but doing so would not accord with City and SFMTA policies that contracts should be put to competitive bid at regular intervals to ensure that the City receives the best services at reasonable prices.

The SFMTA and DHR considered issuing separate RFPs, but the two agencies concluded that issuing a joint RFP and selection process was the more efficient approach. The SFMTA also determined it would be better for the SFMTA to have its own contract with Intercare, to provide it greater flexibility to address workers compensation issues particular to SFMTA employees.

SFMTA Board Approval

On September 20, 2022, the SFMTA Board of Directors approved Resolution No. 220920-086 approving Contract No. SFMTA-2022-31 with Intercare to provide workers' compensation claims administration services for a contract not to exceed \$33,771,962 for a three-year base term and two three-year term extension options, for a total term of nine years, subject to the Board of Supervisors' approval.

Thank you for your consideration of this proposed contract. Should you have any questions or require more information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Jeffrey Tumlin".

Jeffrey Tumlin
Director of Transportation