

**OREGON ESSENTIAL WORKFORCE HEALTH CARE FUND
REQUEST FOR PROPOSAL (RFP) #0601
BENEFITS CONSULTANT**

The Oregon Essential Workforce Health Care Fund (“Fund”) is a newly established Taft-Hartley ERISA Trust that desires to provide self-insured health benefits to employees and dependents of eligible long term care employers. Eligible long term care employers can be a long term care facility licensed under ORS 441.020, a residential facility as defined in ORS 443.400, or an in-home care agency licensed under ORS 443.315. Non-union employers are eligible to participate. The Fund’s Board of Trustees are jointly appointed by the long term care employers and the Service Employees International Union (SEIU) Local 503.

The Fund goal is to provide quality, affordable health benefits for primarily low wage workers who are unable to afford their employers’ current plan and are currently or soon to be ineligible for the Oregon Health Plan (Medicaid).

The Oregon Essential Workforce Health Care Fund is requesting proposals from qualified firms to provide benefit consulting services, including:

- Analyze employers’ current health benefits
- Design and implement a new benefit plan for specified employees of participating employers and their dependents in accordance with Trust priorities, including, but not limited to, improvement upon current options, Affordable Care Act (ACA) silver level actuarial value at minimum, improved affordability of out-of-pocket costs for employees, and others as defined
- Manage the RFP for the Administrative Services Only (ASO) contract for network maintenance, claims processing, rate setting, and plan administration
- Manage the RFP for the preferred provider organization (PPO) contract
- Provide ongoing advice and management education on industry trends and legal and regulatory compliance, market benchmarks, best practices, and act as a resource to management in employee training.

The ideal firm will combine depth of knowledge and breadth of services with a special level of intuition and human insight to identify potential solutions and guide competing interests to common goals.

Proposals shall be submitted in a single Microsoft Word or PDF file by e-mail to: katie.coombes@risepartnership.com no later than February 14, 2022 at 9:00 AM PST.

Questions concerning the scope of the bid, bid submittal or bid process should be directed to katie.coombes@risepartnership.com. All questions must be submitted in writing via email no later than 5:00 PM PST on January 28, 2022. Questions received after this deadline will not be answered. Responses to all questions submitted before the deadline will be addressed in an addendum and posted www.risepartnership.com/HealthcareTrustRFP

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I. SCOPE OF SERVICES

A. Introduction

The Oregon Essential Workforce Health Care Fund (“Fund”) is a newly established Taft-Hartley ERISA Trust that desires to provide self-insured health benefits to employees and dependents of eligible long term care employers. Eligible long term care employers can be a long term care facility licensed under ORS 441.020, a residential facility as defined in ORS 443.400, or an in-home care agency licensed under ORS 443.315. Non-union employers are eligible to participate. The Fund’s Board of Trustees are jointly appointed by the long term care employers and the Service Employees International Union (SEIU) Local 503.

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- Manage the RFP for the preferred provider organization (PPO) contract
- Provide ongoing advice and management education on industry trends and legal and regulatory compliance, market benchmarks, best practices, and act as a resource to management in employee training.

The ideal firm will combine depth of knowledge and breadth of services with a special level of intuition and human insight to identify potential solutions and guide competing interests to common goals.

The Fund expects to enter into a Professional Services Agreement with the awarded Service Provider. The Professional Services Agreement will be provided upon award.

B. Objectives & Deliverables

The Fund’s goal is to select the firm who will be the most effective and proactive partner in performing the full range of services related to the design, implementation, maintenance, communication, and ongoing improvement of our benefits plan. These services include, but are not limited to the following:

Overall

- Design and implement a service-focused benefit plan that is cost-effective for employees and their dependents, improves upon existing employer plans, and includes access to benefits networks and administrative services only (ASO) contracts.

Design

- Work with participating employers to understand their existing benefits, including modeling benefits for multiple scenarios of included employees.
- Manage the RFP for the preferred provider organization (PPO) contract
- Work with participating employers on transitioning from current plans to the Fund's plan. Current employer plan years vary.
- Work with Fund to determine Fund priorities relative to benefit design.
- Provide general guidance on trends in benefits offered and eligibility requirements.
- Provide actuarial modeling to establish annual premium rates.

Implementation

- Represent Fund in negotiations, as needed, with providers on a wide range of issues including those related to fees, benefit levels, plan design, and special terms and conditions.
- Lead bid specifications and collaborate with the Fund in the development of solicitations for purchase.
- Review contracts with vendors to ensure accuracy and comprehensiveness of coverage; provide guidance in contract interpretation as needed.
- Assist in drafting and maintenance of Plan Documents, including the preparation of amendments as needed; review for accuracy and appropriateness.
- Assist Fund with the implementation and communication of new programs/benefits and/or changes to existing programs/benefits.

Maintenance

- Provide monthly and quarterly management reports for Trustee review.
- Provide annual reports outlining the benefit plan and its status, and a market analysis report describing the market conditions. This report will outline suggestions and recommendations for the Fund's strategy and will include the following items:
 - Complete list of policies, carriers, renewal dates, and rates.
 - Evaluation of overall insurance programs compared to similar employers.
 - Forecast of market conditions and forecasted impact to policy renewals.
 - Income and expense for the prior year and a projection for the forthcoming year including projected adequate reserve plan levels.
 - List of contract modifications and recommendations for each benefit.
 - Account history, by benefit, of claims and premiums.
 - Summary of activity on open, ongoing claims.
 - Review of future goals and long-term strategy.
 - Provide answers or guidance to any general or technical benefit questions.
- Assist the administration in the appropriate preparation of any government filing or compliance review.
- Advise the Fund to ensure compliance with laws and regulations related to employee benefits.

- Provide a high level of customer service to Fund to include evaluation of claims data, submission of executive reports and reconciliation of accounts.

C. Plan Information

- **Participating Employers**
The Fund currently has four (4) employer participants, and it is the Fund's intent to provide an opportunity for employers to opt-in or opt-out once the benefit plan is designed.
- **Eligible Employees**
The Fund estimates it will offer benefits to approximately 3500-7000 employees. Benefits are provided for all full and part-time unclassified management, classified, contractual, and full-time hourly employees. Spouses, same-sex domestic partners, and children are covered.
- **Plan Year and Open Enrollment**
The Fund's goal is to begin offering benefits in the third quarter of calendar year 2022. As such, it assumes open enrollment in April/May with an effective date of July.
- **Current Benefit Plans**
Each employer has at least one current benefit plan. The purpose of the RFP is to develop a benefit plan for the Fund to offer. The vendor will work with the Fund to determine a benefit plan that works for the Fund.
- **Plan Funding**
In addition to current employer spending, the Fund will receive supplemental funding to help address affordability for the low-wage long term care workforce receiving benefits from the Fund.

D. Professional's Qualifications

1. A minimum of three (3) years prior experience as a benefits consultant, with preference given to those with experience designing benefit plans for Taft-Hartley multiemployer trusts.
2. Must have similar benefits consulting experience as outlined in this RFP within the last three (3) years with organizations with at least 500 employees.
4. Prior experience with self-funded health and wellness plans.
5. Understanding of, and direct experience with, Oregon demographic area healthcare delivery concerns (e.g. single hospital, limited PPO arrangements, consolidated specialty physicians, etc.) preferred.
6. Experience in evaluating benefit program designs.

II. TIMETABLE

The following is a proposed timetable developed for this RFP and may be subject to change.

Item	Date
Post RFP	January 18, 2022 by 5:00 PM pst
Questions due to RISE	January 28, 2022 at 5:00 PM pst
Submissions due	February 14, 2022 at 9:00 AM pst
Interviews with Fund	Week of February 21st
Final 2-3 Candidate Firms with Trustees	Week of February 28th
Contract Signing	Week of March 7th

III. SUBMITTAL REQUIREMENTS

Proposals shall be limited to fifty (50) pages, excluding sample reports required in attached Questionnaire. The Fund reserves the right to reject any proposal exceeding these limits or omitting any submittal requirement.

1. Completed Vendor Statement, attached and incorporated herein.
2. Submit a copy of your responses to the attached Vendor Questionnaire, incorporated herein. Responses to the Vendor Questionnaire must be arranged and numbered in the same order. Responses will be evaluated according to the criteria annotated in Section V of this RFP.

IV. PROPOSAL GUIDELINES

The Fund assumes no responsibility for liability for any costs firms may incur in responding to this RFP; including attending meetings, interview sessions and/or contract negotiations.

This RFP may be amended and/or revoked at any time prior to final execution of an Agreement with the Fund.

In evaluating the proposals, the Fund may seek information from a Proposer to clarify their proposal. In that event, Proposer must submit written and signed clarifications and such clarifications shall become part of the proposal.

All proposals shall remain subject to initial acceptance ninety (90) days after the day of submittal.

At the option of the Fund, interviews may be conducted for the highest ranked firms following evaluation of written proposals. Firms invited to interview will be requested to interview on a date specified by the Fund. An anticipated timeline is in Section II of this RFP.

V. REVIEW AND ASSESSMENT

Firms will be evaluated using on the following criteria. These criteria will be the basis for review and assessment of the written proposals and optional interview session.

Qualification	Standard
Scope of Proposal/Deliverable	Does the proposal address all elements of the RFP? Does the proposal show an understanding of the project objectives, methodology to be used and deliverables required by the project? Are there any exceptions to the Scope of Services or Agreement?
Assigned Personnel	Do the persons who will be working on the project have the necessary skills and qualifications? Are sufficient people of the requisite skills and qualifications assigned to the project?
Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required
Cost and Work Hours	Does the proposal included detailed cost break-down for each cost element as applicable and are the costs competitive? Do the proposed cost and work hours compare favorably with the Project Manager's estimate? Are the work hours presented reasonable for the effort required by each project task or phase?
Firm Capability	Does the firm have the resources, capacity and support capabilities required to successfully meet service schedules? Has the firm successfully completed previous projects of this type and scope?

VENDOR STATEMENT

I have read and understand the specifications and requirements for RFP #0601 and I agree to comply with such specifications and requirements. I further agree that the method of award is acceptable to my company. I also agree to complete a Professional Services Agreement, including signing the HIPAA Business Associate Agreement, and submit required insurance certificates to the Oregon Essential Workforce Health Care Fund ("Fund") within fifteen (15) days of notice of award. I understand that if the contract is not completed and signed within 15 days, the Fund reserves the right to cancel and award to the next highest ranked firm.

FIRM NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

EMAIL ADDRESS: _____

PHONE: _____

CONTACT NAME: _____

SIGNATURE: _____

TELEPHONE: _____

VENDOR QUESTIONNAIRE

Scope of Proposal

I. General

A. History and Structure.

1. Legal Name and address of your organization, contact persons including title and address, telephone and fax numbers and e-mail address and all prior names by which your organization has been known and dates thereof. Organization includes subsidiaries, affiliates and predecessors in interest.

Please list the locations of all offices maintained by your organization and the types of services provided at each location.

2. When was your organization founded? (Please include predecessors in interest.) Provide the date your organization began offering administrative services.
3. Explain your organization's present ownership structure, including affiliates and subsidiaries, and explain changes in the ownership structure of your organization structure since its inception and expected changes in the next one to two years.
4. In what state is your company incorporated? Is there a parent company? If your company does not have publicly owned stock, who owns the stock of your company? Describe the types of business ventures in which your organization is involved.

B. Consulting Services.

1. Is providing benefit consulting services currently one of your organization's principal lines of business?
2. What were the revenues attributable to your benefit consulting services practice during your last fiscal year?
3. What percentage of your organization's revenues were attributable to the benefit consulting services practice during your last fiscal year?
4. How is your organization organized to service your accounts?
5. What is the total size of your staff? What is the size of the staff of the primary office serving this account?
6. What is the average number of accounts handled per consultant?
7. Please attach biographical information on your five most senior personnel.
8. Please supply an organizational chart identifying the functions and reporting relationships of the primary individuals who will be directly responsible for services to the Fund.

9. Indicate the extent of the firm's willingness to commit to having the same staff assigned, at a senior level and above, to the Fund for the next two years.
10. Is your organization currently a signatory to a labor agreement covering your employees? If so, identify the union that represents your employees.
11. Please also include any anticipated personnel changes for the next year.
12. Will your organization have to hire additional staff to service this Plan? If so, how many employees in each department will have to be hired?
13. Please describe in detail the facilities used by your organization, whether or not each such facility is owned, leased or furnished by others or subject to other arrangements.

C. Clients.

1. Please provide, on an attachment, a representative list of your benefit consulting services clients.
2. Please describe your experience in providing benefit consulting services to multiemployer welfare plans, including a representative list of clients, listing the name and telephone number of a contact person and the client's total market value of your clients' assets as of the end of last calendar year.
3. Please provide, on an attachment, any SEIU or affiliated Local Union clients.
4. Please list clients that have terminated your organization's services during the past three years. Indicate their reasons for terminating your services. Please identify the number of multiemployer clients gained and lost during the last five years.

D. Insurance

1. Does your organization carry errors and omissions insurance and, if so, the amount of coverage and the identity of your carrier?
2. Please identify the amount and the carrier of your fidelity bond. Include whether a claim has ever been made against your fidelity bond. If so, describe in detail.
3. What other insurance does your organization typically carry with respect to similar clients (i.e., commercial and general liability, business auto, workers' compensation, employer's liability, cyber liability, umbrella)? Please also include the limits for these policies.
4. Does your organization carry malpractice or errors and omissions insurance? If so, please state the amount of coverage and the identity of your carrier. Include whether a claim has ever been made against your malpractice or errors and omissions insurance policy. If so, describe in detail.

5. Does your organization carry cyber liability insurance? If so, please state the amount of coverage and the identity of your carrier. Include whether a claim has ever been made against your cyber insurance policy. If so, describe in detail.
6. Does your organization require agreements with clients to include limitations of liability for error and omissions, or for indemnification? If so, please provide sample language.
7. Will your organization agree to indemnify the Fund and the Trustees for your organization's errors and omissions?

E. Legal

1. Has your organization (including any owner or employee) ever been sued for malpractice, negligence, intentional wrongdoing, or a violation of ERISA or other federal or state laws or regulations? Further, has any principal or manager of your organization ever been prosecuted for a criminal violation? If so, please describe in detail.
2. Please describe any governmental investigation or proceeding which has been completed within the past five years which relates to your organization's performance of auditing and accounting services.
3. Has your organization or any predecessor organization ever been the subject of a petition in bankruptcy?
4. If you are aware of any potential claims that may arise against your organization or any of its professionals in the future, please explain.
5. Has your firm, or any individual employed by your firm, been the subject of any DOL or other governmental or regulatory findings or referrals? If so, please provide details.
6. Please provide a description of any pending contingent liabilities against your organization.
7. To the best of your knowledge, have any key owners, officers, directors, key employees or the organization itself ever been:
 - (a) convicted of any criminal offense; or
 - (b) indicted of any criminal offense; or
 - (c) investigated by a governmental agency or department in connection with any criminal offense; or
 - (d) during the last 10 years, has your organization or any of its officers, directors or employees had any lawsuits or administrative agency claims or charges filed against them concerning the administration of any plan governed by the Employee Retirement Income Security Act of 1974, as amended ("ERISA")?

8. Please confirm that no person will perform services to the Fund who is prohibited from doing so in accordance with ERISA § 411, which precludes individuals who have been convicted of, a variety of crimes, (including, but not limited to, robbery, bribery, extortion and embezzlement, fraud, etc.) from holding certain positions in an ERISA plan.

II. Services

A. General

1. Describe any problems you foresee, if any, in your ability to perform the services described in the RFP. Describe your firm's services offered for plan design modeling.
2. Explain what steps you have taken to become HIPAA compliant and what is your experience in offering HIPAA training to clients?
3. Explain how your firm stays current with change in federal and state laws and how this information will be communicated to the Fund. Describe your firm's practice for communicating and ensuring compliance in these federal and state laws, including but not limited to, HIPAA, PPACA, COBRA, and other federal and state compliance areas.
4. Describe any audit services that you provide for claim audits or dependent eligibility audits.
5. Submit a sample of annual and periodic reports you provide similar clients.
6. Describe any customized or ad hoc reporting capabilities including Internet capabilities.
7. Describe any services provided by your firm for the purposes of employee and management communication and employee and management training.
8. Provide a description of how your firm assists clients in analyzing its self-funded health care plan, along with a sample report you would offer the Fund as part of this contract.
9. What resources do you use for benchmarking?
10. Explain how you will ensure that performance standards for the Fund's benefit related vendors are negotiated and met.
11. What is your firm's experience in dealing with Oregon demographic area healthcare issues? (e.g. single hospital, consolidated specialty physicians, etc.)
12. What is your firm's process to ensure plan design is equitable and accessible across age, race, ethnicity, and geography? How does it tailor plans for a primarily low-wage workforce?
13. What is your experience in bid proposals and negotiating for services of third party administrators, stop loss and other types of insurance?

14. Beyond the stated Scope of Services specified in this RFP, what additional services would you recommend to the Fund? What would be the estimated cost of those additional services?

B. Assigned Personnel & Availability

1. Provide information on the principal consultant who would be responsible for the Fund's account. What is their professional background and experience? Specifically include this consultant's experience dealing with Taft-Hartley Trusts and Multiple Employer Welfare Arrangements (MEWA).
2. Describe the team that would assist the principal consultant and the client. Please list the name of the other personnel who will be responsible for the account of the Fund, and provide detailed biographies of each, including their tenure with your organization and qualifications and experience with Taft-Hartley health trusts and Multiple Employer Welfare Arrangements (MEWA).
3. If the principal consultant were to leave your firm, how would your firm ensure continuity of service? How soon would a new principal consultant be assigned to the Fund's account?
4. What is the principal consultant's experience with self-funded benefit plans?
5. What is the principal consultant's experience with Multiple Employer Welfare Arrangements (MEWA)?
6. How many clients does the principal consultant provide services to? List the five (5) largest clients in which the principal consultant is involved in on an ongoing basis and which the firm can provide as a reference. Provide name of client, contact name, address, telephone number and number of employees.
7. Do you have an in-house benefits attorney? If yes, please provide his/her credentials and the number of years he/she has provided counsel on benefit issues. If not, do you use an external benefits attorney? If so, which firm do you use?
8. Tell us the location of the office(s) from which consulting services would be provided. What is the employee turnover rate among consultants and staff personnel of this office during the past three (3) years? If not located in the Oregon area, how do you envision the relationship developing and taking place on an on-going basis?
9. Does your organization provide each of the services listed in the attachment to this Questionnaire? Please explain if there are any services outlined in the cover letter that your organization is not equipped to provide or will not provide.
10. Please describe your organization's services to assist the Fund in complying with all applicable requirements of the Consolidated Appropriations Act of 2021 (CAA) and the Final Rule on Transparency in Coverage.

C. Security & Technology.

1. How are your organization's physical work areas secured to protect client data and files?
2. What measures has your organization adopted to address business continuity, disaster recovery, and incident response in the event of a cybersecurity incident?
3. Does your organization conduct risk assessments, independent security assessments, and third party audits of its security controls? How frequently?
4. Describe any past cybersecurity incidents experienced by your organization, your organization's response to the incidents, and measures adopted to avoid future incidents.
5. Describe your disaster recovery protocols, procedures, and backup systems. Will the Fund's records be stored off site? Do you have the ability to rapidly shift phone service to another center, if necessary? Can you rapidly shift check payments to another center, if necessary?
6. Describe the firm's cyber security program, including any:
 - a. Annual risk assessment process.
 - b. Annual third party audit of security controls.
 - c. Periodic cybersecurity awareness training.
 - d. Secure system development life cycle (SDLC) program.
 - e. Business resiliency program addressing business continuity, disaster recovery, and incident response.
 - f. Encryption process for sensitive data, stored and in transit.
 - g. Review and approval process of the cyber security program by senior leadership.
7. Describe whether data stored in a cloud or managed by a third-party service provider is subject to appropriate security reviews and independent security assessments.
8. Describe your ability to conduct services remotely as necessary.
9. Do you agree that the books, files and records of the Fund are always the property of the Fund, used exclusively for the Fund, and at the discretion of the Trustees of the Fund?

III. Cost and Work Hours

A. Proposed cost

1. The anticipated length of the Agreement will be for a period of one (1) year. In addition, at the option of the Fund, the Agreement may be extended for additional one year periods not to exceed four (4) additional one year periods. However, the agreement will be terminable at any time by the Fund with sixty days advance notice. The proposed cost should be all-inclusive (i.e., miscellaneous administrative, travel, etc.).

State the maximum annual consulting cost for the proposed services for each of the anticipated calendar contract years. Do not respond with hourly rates for this annual consulting fee.

Please specify the amount you intend to charge for your services, including all expected sources of remuneration (whether direct or indirect) related to your services to the Fund and indicate whether you intend to charge an initial setup fee.

2. Will your firm guarantee its fees for multiple years? What conditions would be attached to guaranteeing this fee?
3. Are travel expenses or other out-of-pocket expenses included in your fee quotes? If not, please explain your policy for such expenses.
4. Does your organization subcontract any services with outside vendors? List any subcontractors that are proposed to be used in providing the required services; the subcontractor's responsibilities; the subcontractor's form or organization and an indication from the subcontractor of its ability and willingness to carry out its responsibilities. For each portion of the proposed services to be performed by a subcontractor:
 - a. Identify the function the subcontractor would perform.
 - b. Describe the subcontractor's related qualifications and experience.
 - c. Describe how the subcontracting relationships are beneficial to the Fund.
5. Please describe whether your organization is in any way related to any other entity that provides services in the field of benefits, or that in any other way causes a potential conflict of interest.
6. Please state and describe whether your organization will receive fees or other consideration, whether direct or indirect, from any party other than the Fund for, or in connection with, the provision of your services to the Fund.
7. The Fund recognizes that at times various projects and services may develop that are not part of the proposed Scope of Services. State the current hourly billing rates for each level of employee that may be involved in conducting additional services.

PLEASE NOTE: The Fund reserves the right under the terms of this RFP to request duties unrelated to the defined set of consulting services. The scope of these services and related cost will be agreed to by the parties, in writing, prior to the consultant performing the work. Compensation for these services will be based on a "not to exceed" amount.

B. Firm Capability

1. Provide three (3) current clients to which your firm provides similar services referenced in this RFP. For each reference include entity name, length of time as consultant, number of employees, and contact information (name, title, telephone number and email address) of individuals that can be contacted as references for your company.

Business Associate Agreement

OREGON ESSENTIAL WORKFORCE HEALTH CARE FUND

AND

[Provider]

This Business Associate Agreement (the "Agreement") is entered into by and between the Oregon Essential Workforce Health Care Fund (the "Plan") and [Provider] ("Business Associate") (together referred to as the "Parties") effective _____.

WHEREAS, the Plan is a group health plan as defined in Title 45, Parts 160 and 164 of the Code of Federal Regulations (the "Privacy Regulations") and Title 45, Parts 160, 162 and 164 of the Code of Federal Regulations (the "Security Regulations") (together, the "Privacy and Security Regulations") adopted pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");

WHEREAS, Business Associate and the Plan entered into an agreement ("Underlying Agreement") whereby Business Associate will perform services on behalf of the Plan; and

WHEREAS, the Parties wish to set forth their understandings with regard to the use and disclosure of Protected Health Information ("PHI") by Business Associate in performance of its obligations in compliance with the Privacy and Security Regulations; as amended to incorporate Subtitle D of the Health Information Technology for Economic and Clinical Health Act, Title XIII of Public Law 111-005 (42 U.S.C.A. Section 17921et seq., subchapter III, Privacy) ("HITECH").

In consideration of the mutual promises set forth below, the parties hereby agree as follows:

1. Definitions. Capitalized terms shall have the meanings given to them in the Privacy and Security Regulations, which are incorporated herein by reference.

2. Use and Disclosure of Protected Health Information. The Business Associate hereby agrees to comply with the privacy and security requirements of HIPAA, as set forth in the Privacy and Security Regulations. Business Associate shall use and/or disclose PHI only to the extent necessary in furtherance of Business Associate's obligations and duties under the Underlying Agreement with the Plan and as authorized or permitted by the Privacy and Security Regulations. Business Associate shall disclose PHI to other business associates of the Plan to the extent necessary for purposes of the Plan's Payment and Health Care Operations, provided such other business associates have business associate agreements in place with the Plan as required by the Privacy Regulations. Business Associate shall disclose PHI to the Plan Sponsor to the extent necessary for the Plan Sponsor's administration

activities that constitute Payment or Health Care Operations, provided the Plan has been amended as required by the Privacy Regulations. Business Associate may disclose Summary Health Information to the Plan Sponsor for the purpose of: (a) obtaining bids for health or stop loss insurance for the Plan; or (b) modifying, amending or terminating the Plan.

3. Prohibition on Unauthorized Use or Disclosure of PHI. Business Associate shall not use or disclose any PHI received from or on behalf of the Plan, except as permitted or required by the Underlying Agreement, this Agreement, the Privacy and Security Regulations, and as required by law or as otherwise authorized in writing by the Plan. Business Associate shall comply with the applicable provisions of: (a) the Privacy and Security Regulations; (b) state laws, rules and regulations applicable to individually-identifiable health information not preempted by federal law; and (c) the Plan's health information privacy policies and procedures.

4. Business Associate's Operations. Business Associate may use PHI it creates for or receives from the Plan, in its capacity as a Business Associate, to the extent necessary for Business Associate's proper management and administration or to carry out Business Associate's legal responsibilities but only if:

(a) The disclosure is required by law; or

(b) Business Associate obtains reasonable assurance, evidenced by written contract, from any person or organization to which Business Associate shall disclose such PHI that such person or organization shall:

(i) Hold such PHI in confidence and use or further disclose it only for the purpose for which Business Associate disclosed it to the person or organization or as required by law; and

(ii) Notify Business Associate (who shall in turn promptly notify the Plan) of any instance of which the person or organization becomes aware in which the confidentiality of such PHI was breached as soon as possible.

5. Data Aggregation Services. Business Associate may use PHI to provide Data Aggregation Services related to the Plan's Health Care Operations.

6. PHI Safeguards. Business Associate shall develop, implement, maintain and use appropriate administrative, technical and physical safeguards to prevent the improper use or disclosure of any PHI relating to the Plan.

7. Electronic Health Information Security and Integrity. Business Associate represents and warrants that it is compliant with all applicable requirements of the Security Regulations. Business Associate further represents and warrants that it has fully developed and implemented, and maintains and uses appropriate administrative, technical and physical security measures consistent with and in compliance with the Security Regulations to preserve the integrity, confidentiality and availability of all electronic PHI that it creates,

receives, maintains or transmits on behalf of the Plan. Business Associate shall document and keep its security measures current in accordance with the Security Regulations.

8. Protection of Exchanges on in Electronic Transactions. If Business Associate conducts any Standard Transaction for or on behalf of the Plan, Business Associate shall comply, and shall require any subcontractor or agent conducting such Standard Transaction to comply, with each applicable requirement of the Privacy and Security Regulations.

9. Subcontractors and Agents. Business Associate shall require each of its subcontractors or agents to whom Business Associate may provide PHI on behalf of the Plan to agree to written contractual provisions that impose at least the same obligations to protect such PHI as are imposed on Business Associate by this Agreement and the Privacy and Security Regulations. Business Associate shall maintain a list of all subcontractors and agents to which it provides the Plan's PHI, and it will provide the list to the Plan upon request.

10. Access to PHI. Business Associate shall provide access to PHI in a Designated Record Set to an Individual to meet the requirements under Title 45, Section 164.524 of the CFR or applicable state law. Business Associate shall provide access in the time and manner set forth in the Plan's health information privacy policies and procedures.

11. Amending PHI. Business Associate shall make any amendment(s) to PHI in a Designated Record Set that the Plan agrees to pursuant to Title 45, Section 164.526 of the CFR at the request of the Plan or an Individual in the time and manner set forth in the Plan's health information privacy policies and procedures.

12. Accounting for Disclosures of PHI.

(a) Business Associate shall document all disclosures of PHI and information related to such disclosures as would be required for the Plan to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Section 164.528 of the CFR.

(b) Business Associate agrees to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with Title 45, Section 164.528 of the CFR. Business Associate shall provide the accounting directly to an Individual upon request by the Plan, with a copy to the Plan.

13. Access to Books and Records. Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from or on behalf of the Plan available to the Plan and to DHHS or its designee for the purpose of determining the Plan's compliance with the Privacy Regulations.

14. Reporting. As described below, Business Associate shall report to the Plan in writing any "Event".

(a) Definition. For purposes of this Agreement, "Event" shall mean any use or disclosure of PHI not permitted (1) under the Privacy Regulations, including events that rise to the level of a Breach, (2) under this Agreement, or (3) by law, or that is a Security Incident.

(b) Event Reporting. Business Associate shall provide written notice to the Plan's Privacy Official of any Event within three business days after any Event of which it has reasonable suspicion or discovers. This notice shall identify a contact person with whom the Plan may correspond regarding the Event. Within ten (10) days from the date of initial notice, Business Associate shall provide the Plan a written report identifying or describing: (i) the affected Individual whose Unsecured PHI has been or is reasonably believed to have been accessed, acquired or disclosed; (ii) the incident, including the date of the Event and the date of the discovery of the Event, if known; (iii) who made the unauthorized use and/or received the unauthorized disclosure; (iv) the types of Unsecured PHI involved in the Event; (v) any specific steps the affected Individual should take to protect him or herself from potential harm related to the Event; (vi) what the Business Associate is doing to investigate the Event, to mitigate losses and to protect against further Events; (vii) contact procedures for how the affected Individual can obtain further information from the Business Associate; (viii) a recommended plan of notifications to affected Individuals, HHS and/or the media, as may be appropriate or required by

law; and (ix) the risk assessment analysis prepared by the Business Associate. Business Associate shall conduct the risk assessment analysis to determine whether a Breach occurred and

inform the Plan of its determination. The risk assessment analysis shall include a review of at least the following factors: (i) the nature and extent of the protected health information involved,

including the types of identifiers and the likelihood of re-identification; (ii) the unauthorized person who used the protected health information or to whom the disclosed was made; (iii) whether the protected health information was actually acquired or viewed; and (iv) the extent to which the risk to the protected health information has been mitigated.

(c) Notification of Breach. If the Business Associate determines that the incident qualifies as a Breach, the Business Associate shall carry out the appropriate notification responsibilities, after the Plan has reviewed the Business Associate's recommended plan of notifications. Business Associate shall require all of its subcontractors and agents who experience an Event related to the Plan to report the Event to the Business Associate in such a time so that the Business Associate shall comply with the notification requirements described in this section.

15. Sale of PHL Business Associate shall not receive direct or indirect payment in exchange for any PHI relating to the Plan or its Individuals, unless Business Associate receives authorization by all affected Individuals, except as permitted under the Privacy Regulations, including 45 CFR Part 164.

16. Marketing. Business Associate shall not receive direct or indirect payment for marketing communications which include PHI relating to the Plan or its Individuals without authorization from the affected Individuals unless such communication is permitted under the Privacy Regulations, including 45 CFR Part 164.

17. Restrictions on Uses, Disclosures and Requests.

(a) Business Associate will limit all uses, disclosures and requests of PHI, including electronic PHI, to the Limited Data Set to the extent possible or, if that is not sufficient, then to the minimum necessary to accomplish the intended purpose of such use, disclosure or request, to the extent required by the Privacy Regulations. Business Associate shall maintain a written policy delineating the standards it will use in determining the minimum necessary information for its uses and disclosures of PHI in accordance with standards set forth in the Privacy Regulations.

(b) Upon the request of an Individual, Business Associate will not disclose such Individual's PHI for purposes of Payment or Health Care Operations if the Individual paid in full out of pocket for the health care item or service to which the PHI relates, in accordance with 45 CFR section 164.522.

18. Mitigation. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

19. Termination for Cause. As required by the Privacy Regulations, if the Plan becomes aware that the Business Associate has engaged in a material breach ("Breaching Party"), then the Plan shall:

(a) Provide an opportunity for the Business Associate to cure the breach. If the Business Associate does not cure the breach or end the violation within the time specified by the Plan, then the Plan shall have the right to terminate this Agreement and the Underlying Agreement, if termination is feasible.

(b) Immediately terminate this Agreement and the Underlying Agreement if cure is not possible and if termination is feasible.

20. Return or Destruction of Health Information.

(a) Except as provided in Section 20(b) below, and subject to any record retention provisions of the Underlying Agreement, upon termination, cancellation, expiration or other conclusion of this Agreement and the Underlying Agreement, Business Associate shall return to the Plan or destroy all PHI created or received by Business Associate relating to the Plan. This provision shall also apply to PHI that is in the possession of subcontractors or agents of Business Associate.

(b) In the event that the Parties mutually determine that returning or destroying the PHI is infeasible, Business Associate shall retain the PHI, extend the protections of this

Agreement to such PHI and maintain the confidentiality of all such PHI, and shall limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI. The obligations of Business Associate under this Section 20(b) shall survive termination of this Agreement and the Underlying Agreement.

21. Obligations of Plan.

(a) The Plan shall provide Business Associate a copy of the Plan's Notice of Privacy Practices.

(b) The Plan shall notify Business Associate of any restriction to the use or disclosure of PHI that the Plan has agreed to (and any revocation of such a restriction), to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(c) The Plan shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Regulations if done by the Plan, except as permitted in Sections 4 and 5 above.

22. Automatic Amendment. Upon the effective date of any amendment to the Privacy and Security Regulations and any applicable regulations thereunder with respect to PHI, the Agreement shall automatically be deemed to be amended to incorporate such amendment to the Privacy and Security Regulations and applicable regulations so that Business Associate and the Plan remain in compliance with the Privacy and Security Regulations and applicable regulations.

23. Hold Harmless. Business Associate shall indemnify and hold the Plan and its affiliates, employees, Trustees and agents harmless from and against all obligations, liabilities, penalties, taxes, costs, damages, losses or expenses (including reasonable attorneys' fees) of any sort which may be imposed on or incurred by the Plan in connection with, or arising out of, a Breach by Business Associate or any of its subcontractors or the performance or breach of Business Associate's or any of its subcontractors' responsibilities and obligations under the Privacy and Security Regulations or this Agreement.

24. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

25. Independent Contractor. The Parties are and shall remain independent contractors throughout the term of this Agreement. Nothing in this Agreement or otherwise shall be construed to constitute Business Associate and the Plan as partners, joint ventures, agents or anything other than independent contractors.

26. Facsimile Signature. Signature pages may be transmitted by facsimile, e-mail or other electronic means. Upon delivery via facsimile, e-mail or other electronic means, a signature shall be deemed an original and shall be admissible in evidence.

27. Interpretation. Any ambiguity in this Agreement shall be resolved to permit the Covered Entity to comply with the Privacy Rule

28. Notice. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to be effective only if delivered to the parties at their respective addresses set forth below, or to such other address as each party may specify by written notice to the other from time to time in accordance with the terms of this paragraph. Such notices, requests, demands, and other communications hereunder shall be deemed to have been duly given upon receipt thereof.

If to the Business Associate:

[address]

If to the Covered Entity:

Board of Trustees

Oregon Essential Workforce Health Care Fund

525 NE Oregon Street

Portland, OR 97232

29. Severability. If any provision hereof shall be deemed to be unenforceable by law, the remaining provisions of this Agreement shall be enforceable as if this Agreement had been executed with the invalid provision thereof eliminated. In the event of any conflict between this Agreement and any other agreement between the Business Associate and the Fund, this Agreement shall control.

30. Successors. The rights created by this Agreement shall inure to the benefit of and the obligations created hereby shall be binding upon, the successors, heirs, and assigns of the respective parties hereto.

31. Final Agreement. This Agreement supersedes all prior Business Associate Agreements between the parties with respect to the Underlying Agreement.

IN WITNESS WHEREOF, each of the undersigned has caused this Agreement to be duly executed in its name and on its behalf, effective immediately.

IN WITNESS WHEREOF, the Funds have caused this Agreement to be signed by their respective authorized agents, whose signatures appear below.

**Oregon Essential Workforce
Health Care Fund**

Date

Union Trustee

Date

Employer Trustee

[PROVIDER]

Date

Signature

Title