

Port of Houston Authority
Group Benefits Funding and Insurance Program Policy
April 2019

- A. The Port Commission of the Port of Houston Authority of Harris County, Texas (the “Port Authority”) may from time to time determine that it is in the best interest of the Port Authority to self-insure some group benefits and to purchase commercial insurance covering other group benefits;
- B. Texas Local Government Code §172.004 permits the Port Authority to provide health and accident coverage for Port Authority employees and retirees (and their dependents);
- C. Texas Water Code Chapter 60, Subchapter B, permits the Port Commission to provide for and administer a retirement, disability, and death compensation fund for district employees and to include hospital and medical benefits for employees as part of the compensation paid to employees; and
- D. Texas Government Code §2259.031 permits the Port Authority to establish a self-insurance fund to protect the governmental unit and its officers and employees from any insurable risk.

NOW, THEREFORE, the Port Authority adopts the following Group Benefits Funding and Insurance Program Policy:

ARTICLE I
DEFINITIONS OF TERMS

Section 1.01. Definitions

The following terms, as used in the Group Benefits Funding and Insurance Program Policy (the “Program”), shall have the following meanings:

1. “Administrative Expenses” means the general or overhead expenses associated with administering the Port Authority’s Program, including, but not limited to, the following:
 - (a) Compensation paid to any:
 - (1) Insurance broker or employee benefits consultant,
 - (2) Third Party Claims Administrator (“TPA”),
 - (3) Professional actuary, or
 - (4) Attorney
 - (b) The cost of all commercial benefits insurance, including any stop-loss coverage.
 - (c) Expenses incurred by the Port Authority resulting from a financing undertaken to provide funding for the Port Authority’s self-insurance Funds or to repay any obligation incurred in the course of such a financing.

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2. “Benefits Board” means the committee of Port Authority executives that administers the Port Authority’s Program.

3. “Chief Financial Officer” means the Port Authority senior manager responsible for the administration of the Port Authority division that contains the treasury department, or his/her designee.

4. “Chief Legal Officer” means the Port Authority senior manager responsible for the administration of the Port Authority legal division, or his/her designee.

5. “Chief People Officer” means the Port Authority senior manager responsible for the administration of the Port Authority division that contains the human resources department, or his/her designee.

6. “Covered Claim(s)” means a claim payable by the Port Authority’s self-insurance Funds.

7. “Director of Human Resources” means the Port Authority Senior Manager responsible for the administration of the Port Authority human resources department, including employment and benefits, or his/her designee.

8. “Eligible Claim Expenses” are expenses for the Covered Claims that are paid by the Port Authority pursuant to any self-funded Group Benefits Plan.

9. “Employee” shall have the meaning set forth in the applicable Group Benefit Plan document or Welfare Program Document.

10. “Executive Director” means the Port Authority Executive Director or his/her designee.

11. “Fund(s)” means those self-insurance funds or accounts as authorized from time to time by the Port Commission to pay claims and expenses under this Program.

12. “Group Benefits Plan(s)” means any Port Authority group benefits plan. As of the date hereof, such Group Benefits Plans include the Port of Houston Authority OPEB Plan and the Port of Houston Authority Group Insurance Plan.

13. “Law” includes the federal and Texas constitutions and statutes, any administrative rules or agency regulations having the force and effect of law, and any controlling judicial decisions applicable to the Port Authority.

14. “Participant” shall have the meaning set forth in the applicable Group Benefits Plan or Welfare Program Document.

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15. “Program” or “Insurance Program” means the Port Authority Insurance Program Policy for Group Benefits, as reflected by this document.

16. “Surplus” means the amount of money in the Funds that is in excess of the amount that, in the opinion of a professional actuary, is required to maintain the Funds on an actuarially sound basis, to the extent reasonably practicable, for the period of time and expected claims for which it is then funded.

17. “Termination Date” means the effective date on which the Port Commission terminates this Program.

18. “Third Party Claims Administrator” or “TPA” means a third-party firm contractually responsible for performing professional claims administration and other ancillary services for the Port Authority.

19. “Welfare Program” means a program of benefits that is offered by the Port Authority under a Group Benefits Plan to provide group health or other welfare benefits coverage to eligible individuals.

20. “Welfare Program Document(s)” means a written arrangement, including (a) a benefits booklet, summary of coverage, plan document or summary plan description, including any amendments, riders or attachments thereto, (b) an insurance contract between the Port Authority and an insurance company, health maintenance organization (HMO), administrative service organization (ASO) or other organization to provide certain group health benefits, including any amendments, endorsements or riders thereto, or (c) a certificate of coverage, schedule of benefits, notice or other instrument under which a Welfare Program is established, operated or maintained.

ARTICLE II GENERAL PROVSIONS

Section 2.01. Program Not Applicable to Workers’ Compensation and Indemnification of Commissioners and Employees

This Program is not applicable to (a) the payment of any medical expenses, indemnity benefits, or other expenses for which the Port Authority is responsible due to claims pursuant to the Texas Workers’ Compensation Act or (b) the indemnification of Port Commissioners and employees for claims arising from the performance of their duties or employment by the Port Authority, both of which are addressed in the Port Authority’s Second Amended Insurance Program and Indemnification Policy, as it may be amended from time to time.

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Section 2.02. Effective Date of Amendments

This document shall become effective as of April 1, 2019 at 12:01 a.m.

Section 2.03. Amendment or Termination

This Program does not limit the discretion of the Port Commission, which may amend the terms of or terminate this Program at any time.

Section 2.04. Status Reports

The Chief People Officer or Chief Financial Officer shall annually report to the Executive Director on the status of the Program for the previous year, to include the Port Authority's self-insurance experience, the scope and cost of the Port Authority's commercial benefits insurance, the status of the self-insurance Funds, and any recommended amendment to the Program. Port Authority staff shall provide a similar annual report to the Port Commission or an appropriate Port Commission committee or task force.

Section 2.05. Risk Retention Policy

It is the policy of the Port Authority to self-insure against Covered Claims through self-insurance Funds, to provide for contributions to those Funds in amounts that are based on actuarial analysis of Covered Claims, and to purchase commercial benefits insurance when appropriate and cost-effective. The implementation of this policy may be amended from time to time due to changes in the commercial benefits insurance markets, the Port Authority's loss experience, and budgetary constraints.

Section 2.06. No Waiver of Immunity or Admission of Liability

The Port Authority's Program is a nonbinding statement of intent, which does not create a property interest in any person, does not constitute a contractual obligation of the Port Authority, and does not waive any of the Port Authority's immunities under law, including the Port Authority's immunity from suit and its immunity from liability. The Port Authority reserves the right to assert every defense to any claim that is available to it under law.

ARTICLE III

ADMINISTRATION OF THE PORT AUTHORITY'S GROUP BENEFITS FUNDING AND INSURANCE PROGRAM

Section 3.01. Benefits Board

- (a) The Benefits Board shall oversee the Program and interpret and apply this document, subject to review and oversight by the Port Commission.

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- (b) The Benefits Board shall be composed of the following five members: (i) the Executive Director, or his/her designee, as Chairman; (ii) the Chief Legal Officer, or his/her designee; (iii) the Chief People Officer, or his/her designee; (iv) the Director of Human Resources, or his/her designee; and (v) the Chief Financial Officer or his/her designee.
- (c) The Benefits Board may exercise the powers and shall perform the duties and functions prescribed for it by the Program and by any other written Port Authority policy.
- (d) The Benefits Board may establish rules governing the conduct of its affairs.

Section 3.02. Director of Human Resources

The Port Authority's Director of Human Resources is responsible for the implementation of the Program, including its self-insurance and commercial benefits insurance components, subject to any necessary approvals by the Port Commission, the Benefits Board, the Executive Director, or any other senior Port Authority officer.

Section 3.03. Director of Human Resources Duties

The Port Authority Director of Human Resources shall:

- (a) Plan and budget the Program, including but not limited to, risk assumption, risk reduction, risk retention, and risk transfer, and which may include the purchase of commercial benefits insurance.
- (b) Implement a benefits information system to manage benefits cost information, including information concerning Administrative Expenses, withdrawals from the self-insurance Funds, and commercial benefits insurance premiums.
- (c) Periodically assess whether the Port Authority's self-insurance is to the Port Authority's economic advantage, and the relative advantages and disadvantages of self-insurance and commercial benefits insurance.

Section 3.04. Advice of Outside Professionals

The Port Authority Director of Human Resources may:

- (a) Retain the services of a professional actuarial firm and obtain annual actuarial reviews to suggest the funding amounts necessary to pay the estimated ultimate costs of claims payable by the Port Authority's benefits self-insurance and to assist in assessing the sufficiency or surplusage of the Port Authority's benefits self-insurance Funds; and
- (b) Retain services of a professional insurance broker and/or employee benefits consultant to provide an independent evaluation of the Program, the Program's anticipated costs and liabilities, the required amount of funding of the self-insurance Funds, and other related benefit issues.

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Section 3.05. Establishment of Self-insurance Funds

- (a) The Chief Financial Officer shall establish and maintain accounts for the Funds related to the self-insurance program for benefits.
- (b) Permissible uses of Surplus include: absorbing large losses; managing or stabilizing levels of annual funding; funding changes in individual or aggregate stop-loss coverage; or expanding Program coverage. Surplus may not be used for purposes unrelated to the Port Authority's group benefits programs.

Section 3.06. Commercial Benefits Insurance

- (a) The Port Authority's Director of Human Resources shall oversee and coordinate the Port Authority's procurement of commercial benefits insurance, which may include the following:
 - (1) First-dollar coverage;
 - (2) Individual and/or aggregate stop-loss coverage;
 - (3) Excess coverage; and
 - (4) Insurance necessary to meet the requirements of law or contracts entered into by the Port Authority.
- (b) The Director of Human Resources may coordinate the selection of an insurance broker of record, subject to approval by the Port Commission.
- (c) Agents or brokers providing brokerage or related services to the Port Authority (1) shall be retained only on a fee basis paid by the Port Authority and (2) may not directly or indirectly receive any other remuneration, compensation, or other form of payment from any other source for the placement of insurance.
- (d) Commercial benefits insurance shall be obtained from sources determined to serve the best interests of the Port Authority. Whenever possible, cost effective and appropriate coverage shall be obtained from insurance companies authorized to do business in the State of Texas, with an A.M. Best rating of A- or better, and/or otherwise acceptable to the Director of Human Resources.

Section 3.07. Cost Allocation Program

- (a) The Director of Human Resources shall develop and implement a departmental cost allocation program to aid in budgeting, funding decisions for the self-insurance Funds, the procurement of commercial benefits insurance, and the management of administrative expenses and ancillary benefits services.

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ARTICLE IV USE OF SELF-INSURANCE FUNDS

Section 4.01. Authorized Withdrawals from the Funds

- (a) Amounts may be withdrawn from the Funds only for the following purposes:
 - (1) To reimburse the Port Authority for Administrative Expenses;
 - (2) To provide the Port Authority's Third-Party Claims Administrator with sufficient funding to pay Covered Claims;
 - (3) To pay any Fund Surplus to the Port Authority;
 - (4) To retire (by scheduled payment, prepayment, defeasance, or otherwise) any obligation of the Port Authority incurred in connection with providing funding for the Funds; or
 - (5) After the Termination Date, to establish a reserve, in an amount approved by the Port Commission, for the payment of unsatisfied Eligible Claim Expenses made or asserted prior to the Termination Date, and to pay the balance into the Port Authority's general funds.
- (b) No withdrawal from the Funds is permitted except in accordance with this Program.
- (c) Amounts may not be withdrawn from the Funds to make any payment that, in lieu of payment from the Port Authority's Funds, can be paid from:
 - (1) the proceeds of any commercial insurance carried by the Port Authority, including any first-dollar, stop-loss, or excess coverage;
 - (2) any fund, reserves, or other source of payment available to the Port Authority that has been designated or otherwise set aside for such use; or
 - (3) the proceeds of any insurance, bond, fund, collateral, letter of credit, indemnity, or other security provided, posted, or maintained by a third party at the request or for the benefit of the Port Authority.

Section 4.02. Control of Withdrawals from Funds

Subject to the restrictions and limitations provided by the Program, the determination of whether amounts in the Funds are to be withdrawn is at the discretion of the Benefits Board or its designee.

Section 4.03. Method of Withdrawal from Funds

Withdrawals from the Funds may be made, upon the direction of the Benefits Board or its designee, by check, draft, or electronic transfer.

Section 4.04. Withdrawal of Funds Surplus

A Funds Surplus may be withdrawn from the Funds no more than once a year in accordance with the terms of the Program.

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Section 4.05. Limits on Amount of Withdrawals for Covered Claims

Withdrawals from the Funds shall not exceed the lesser of (1) the funds authorized to be paid by the Port Commission or (2) the available cash balance of the Funds.

Section 4.06. Investment of Funds

Money in the Funds may be invested in investments that are lawful investments of the public funds of the Port Authority, as directed by the Chief Financial Officer or any investment officer appointed by the Port Commission to handle investment of Port Authority funds.

ARTICLE V CLAIMS MANAGEMENT

Section 5.01. Professional Claims Administration Services

- (a) A TPA may perform professional claims administration services on behalf of the Port Authority. The Director of Human Resources shall oversee the TPA in its performance of such claims administration services. Claims will be administered as required by applicable state law or rule.
- (b) The TPA shall comply with the claims management policies and procedures established or approved by the Benefits Board, Director of Human Resources, and the underlying Welfare Program Documents.

Section 5.02. Payment of Non-Covered Claims

Any claim that the Port Authority is legally obligated to pay that is not a Covered Claim or, if a Covered Claim, that is in excess of the amount permitted under the Program to be withdrawn from the Funds, may be paid by the Port Authority from other sources of payment permitted by law.

ARTICLE VI REVIEW AND ADOPTION

This Policy was adopted by the Port Commission on March 26, 2019, as evidenced by Minute No. 2019-0326-38, to be effective April 1, 2019. The Port Authority shall review this Policy at least annually and confirm its continuance without amendment or adopt an amended Policy.

Policy Owner: Director, Human Resources

Policy Version: 1.0