

12/001785

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA

RESOLUTION APPROVING AGREEMENT FOR UNEMPLOYMENT COST MANAGEMENT
REIMBURSER SERVICES AND AUTHORIZING CHAIRMAN TO SIGN SAME

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6) (Reissue 2007), the County has the power to do all acts in relation to the concerns of the county necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103 (Reissue 2007), the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the Sarpy County has a need for unemployment claims management; and,

WHEREAS, TALX Corporation has the experience and ability to provide the services identified within the attached agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS that the attached Agreement for cost management reimbursor services is hereby approved and the Chairman of such Board is hereby authorized to sign the same.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 6th day of November, 2012.

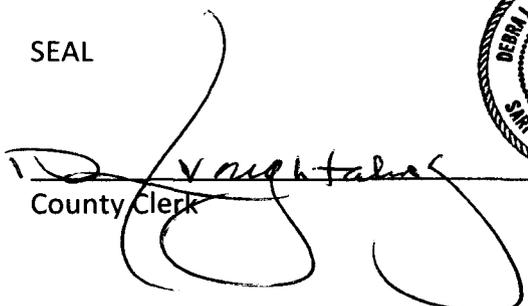


Sarpy County Board Chairman

Attest:

SEAL





County Clerk

Sarpy County Purchasing Department

SARPY COUNTY COURTHOUSE
1210 GOLDEN GATE DRIVE
PAPILLION, NE 68046



Brian Hanson, Purchasing Agent
(402) 593-2349
Debby Peoples, Asst. Purchasing Agent
(402) 593-4164
Beth Garber, Senior Buyer/Contract Administrator
(402) 593-4476
Lois Spethman, Supply Clerk/Purchaser
(402) 593-2102

Memo

To: Sarpy County Board of Commissioners
From: Beth Garber
Re: Unemployment Cost Management Agreement

For several years the County has utilized the services of TALX Corporation (EWS) for unemployment cost management reimbursement services. EWS has agreed to provide the County with unemployment cost control account maintenance and claims administration. For these services, the County will agree to pay \$1,319 annually. This cost has not increased in several years.

This has been placed on the October 30, 2012 County Board agenda and is recommended for approval. Should you have any questions, please feel free to contact me at bgarber@sarpy.com.

October 31, 2012

Beth Garber

Cc: Deb Houghtaling
Mark Wayne
Scott Bovick
Brian Hanson

UNEMPLOYMENT COST MANAGEMENT REIMBURSER SERVICE AGREEMENT

This Unemployment Cost Management Reimbursing Service Agreement (the "Agreement"), effective November 1, 2012 (the "Effective Date"), is entered into by and between TALX Corporation (a provider of Equifax Workforce Solutions), a Missouri corporation ("EWS"), and Sarpy County ("Client") a Nebraska corporation, and is for the performance of comprehensive unemployment cost control services, outlined herein (each, a "Service") in the state(s) of:

Nebraska

I. EWS

EWS shall perform the following account, tax and claims management Services.

Account Management:

A Client Relationship Manager ("CRM") will be assigned as your personal contact with EWS. The CRM will be responsible for implementation and ongoing operation of your unemployment cost control program. The CRM will:

1. Establish channels of communication between Client and EWS.
2. Prepare and distribute program/procedure guide, if required.
3. Provide management reports to identify potential liability, current charges, claims processed and reasons for separation.
4. Provide technical service bulletins concerning legislative changes.

Claims Administration:

EWS will administer the claim process and charge protests for all claims reported to EWS during the term of this Agreement.

- | | |
|--|---|
| <ol style="list-style-type: none">1. EWS will maintain databases pertaining to unemployment compensation claims, and will submit various reports and recommendations as described below.2. EWS will be responsible for complete administration, inception to termination, of the processing of all Client's unemployment insurance claims in each state listed above.3. In addition to the processing of unemployment insurance claims, EWS will perform tasks, including, but not limited to: | <ul style="list-style-type: none">• Review of unemployment insurance claims for determination of eligibility.• Verification of Client liability.• Conduct pre-hearing conferences with staff that you designate. If the circumstances on a particular hearing warrant special care, a EWS hearing representative will be available to attend the hearing with you.• Benefit charges will be audited to final disposition of the charge including their impact on your annual tax rate assignments. |
|--|---|

Endorsement Services:

In addition to the above Services, EWS shall perform the services described in any endorsement to this Agreement, subject to any applicable statutes, regulations and administrative rulings. At no time will EWS render or be required to render any service that could be interpreted as the practice of law or accountancy.

II. Client

Client shall provide all information or data reasonably requested by EWS including, but not limited to (1) copies of quarterly charge statements, (2) claims, hearings, and benefit charge statements not sent directly to EWS by the state agencies, and (3) wage and separation information.

Client acknowledges that the ability of EWS to provide Services which comply with state laws and procedures is dependent upon the timely information and prompt action by Client. Client agrees to inform EWS of important facts and changes in circumstance and to make its best efforts to attend state hearings and other meetings as appropriate to fulfill the responsibilities of Client as an employer and EWS as an agent of employer.

Transmittal of Personal Data.

EWS's internal policy for securing electronic communications containing confidential information, such as social security numbers, requires email encryption for clients who prefer to use email as their method of communication. The options for email encryption are usage of Transport Layer Security (TLS) on the client email servers or usage of the Voltage secure email application. Both options allow the email to travel over the internet securely and are easy for the client to use when retrieving and sending confidential email. Clients who choose to use Transport Layer Security to send email communications must maintain their TLS certification status on all servers receiving emails from EWS. Clients using email communications who do not use TLS or allow their TLS certification to lapse will be automatically set up to receive secure email using Voltage. Please designate your preferred email method for secure communication below:

- Transport Layer Security Is your certification current Yes No Unknown
- Voltage Secure Email

If no selection is made above, EWS will set your primary communication preference for communicating sensitive data to fax and require a listing of current fax numbers for all contacts.

III. Fee

The fee to be paid to EWS for the Services to be rendered under this Agreement shall be \$1319 per year payable in equal quarterly installments.

The assumption of claims workload is up to 25 annually. A fee of \$0 per claim will apply to claims managed in an agreement year exceeding 100% of the claims workload. Number of claims received shall be defined as (i) any unemployment related claim document officially generated by a state agency, or (ii) in the event an unemployment claim was not managed by EWS, any document or inquiry which requires further case management by EWS.

In the event Client terminates this Agreement prior to the end of an agreement year, EWS will calculate a monthly pro rata threshold for Unemployment Claims and Client will be responsible for a pro rata share of the excess claims for the agreement year in which such early termination becomes effective. The monthly pro rata threshold will be calculated by dividing the annual assumption of claims workload above by 12. The monthly pro rata threshold will then be multiplied by the number of completed months of the agreement year in which the termination becomes effective. The total of this calculation will represent the calculated pro rata threshold. If the total claims processed during the completed months of the terminated agreement year exceed the calculated pro rata threshold, Client will be responsible for paying the excess claim fee stated above for each excess claim. For the avoidance of doubt, this language does not give Client any additional right to terminate this Agreement. Termination provisions are as specified in Section IV below.

Hearings Representation - Pursuant to this Agreement and the Power of Attorney executed by Client authorizing and appointing EWS to represent Client as Client's Agent and Attorney in Fact in unemployment tax and claim related matters, EWS will provide the following non-legal services at Client's election:

EWS or EWS's representative will attend all unemployment hearings with Client for no additional charge.

Attorney Hearing Representation. In addition to Client's election above, and subject to the Limitations on Representation paragraph below, Client may request and authorize EWS, as the Client's Agent and Attorney in Fact, to obtain attorney representation for Client at unemployment hearings where attorney representation is a statutory requirement or otherwise required by law or regulation of the particular state. Client authorizes EWS to invoice Client a fee for attorney representation up to a maximum of \$350 per hearing, which is paid directly to the attorney obtained by EWS for representation of the Client. In the event EWS, as Client's Agent, negotiates a fee on behalf of Client that is less than \$350, EWS shall only bill Client for the amount of the legal fee charged by the attorney. In addition, a fee of \$50 will be due to EWS as Client's Agent for EWS's non-legal services in coordinating and facilitating the attorney's representation, including administration and processing of factual material such as EWS's file on the matter at issue and contact information, and the invoicing and processing of payment to the attorney. EWS does not retain any portion of the fee paid by Client to the attorney, and does not accept referral fees.

Limitations on Representation. EWS's obligation is to assist Client in administrative, unemployment proceedings. Nothing herein shall be construed to obligate or require EWS to provide or otherwise pay for the Client's representation in any subsequent legal proceedings in any State or federal court.

Payment Terms. Invoices are due net thirty (30) days and will be invoiced on the first day of the agreement quarter in which Services are to be performed. Payments not received within forty-five (45) days of invoice will bear interest at a rate of 1.5% per

month. Except to the extent that Client has provided an exemption certificate, direct pay permit or other such appropriate documentation, EWS shall add to each invoice any sales, use, excise, value-added, gross receipts, services, consumption and other similar transaction taxes however designated that are properly levied by any taxing authority upon the provision of the Services, excluding, however, any state or local privilege or franchise taxes, taxes based upon EWS's net income and any taxes or amounts in lieu thereof paid or payable by EWS as a result of the foregoing excluded items.

This Agreement will be amended as mutually agreed by EWS and Client in the case of additional state unemployment accounts and additional claims activity due to acquisitions, mergers, or reorganizations of Client.

Optional Services (Client Initials to Authorize Service)

Client Initials N/A

Training Materials.

EWS will provide access to ___ license(s) for the web-based modules providing training on unemployment claims management ("Training Materials"). Additional licenses will be available for \$___ per user.

Grant, Ownership, and Covenants: EWS grants Client the use of the web-based modules for unemployment claims training ("Training Materials"), and Client shall use the Training Materials solely for its internal business purposes and not for distribution, resale, or on behalf of any service bureau or third parties. Client acknowledges that EWS owns all right, title, and interest in and to any derivative works of the Training Materials, and any modifications, changes, conversions or improvements to the Training Materials. Client further acknowledges that it shall gain no right, title or interest in the Training Materials by this Agreement and has only a non-exclusive, non-transferable right of access to the Training Materials as expressly granted herein. EWS reserves all rights in and to the Training Materials and the intellectual property not expressly granted herein.

IV. Term and Termination

This Agreement shall be for an initial term of five (5) years ("Initial Term"), commencing on the Effective Date stated above. Either party may terminate this Agreement if the other party has materially breached the Agreement, provided that the party claiming breach must give the other party written notice and at least thirty (30) days in which to cure the breach before terminating the Agreement. Either EWS or Client may terminate this Agreement with or without cause at any time upon ninety (90) days prior written notice to the other. This Agreement shall automatically renew for successive one-year terms ("Successive Terms") unless either party provides the other with notice of termination at least ninety (90) days preceding the ending date of the Initial Term or the ending date of any Successive Term.

V. Confidentiality

The parties agree that the following will be treated as "Confidential Information": (i) all employment and income data ("Data") provided by or on behalf of Client to EWS; (ii) all information provided by EWS to Client pertaining to the Services; and (iii) all information which is labeled as such in writing and prominently marked as "Confidential," "Proprietary" or words of similar meaning by either party. Any Confidential Information acquired or received by either party in the course of this Agreement will not be disclosed or transferred to any person or entity other than to employees of a party and, as to EWS, (i) for the purpose of performing its obligations under this Agreement, and (ii) to perform analytics, modeling and/or demographic studies utilizing depersonalized Client Data. Depersonalized Client Data shall not include any information that individually, or collectively, could be used to specifically identify either Client or Client's employees. Confidential Information received under this Agreement will be treated with the same degree of care and security as each party uses with respect to its own Confidential Information, but not less than a reasonable degree of care. The parties agree to use Confidential Information only for the purpose of performance of this Agreement and to make no copies except as necessary for performance of this Agreement. This Section shall survive the termination of this Agreement.

VI. Assignment

Neither party may assign this Agreement or any right or obligation under this Agreement without the express written consent of the other party, which consent shall not be unreasonably withheld or denied. In the event assignment is necessitated by a business reorganization, either party may assign this Agreement, provided that they provide the other party with written notice. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their permitted successors and assigns.

VII. Indemnification/Limitation of Liability

Each party agrees to indemnify, defend and hold harmless the other party and its affiliates, and their directors, officers and employees (each, an "Indemnified Party"), from and against any and all third party claims, demands, liabilities, suits, damages, expenses and costs (including reasonable attorneys', experts' and investigators' fees and expenses) incurred by the Indemnified Party arising from or related in whole or in part to the Indemnifying party's, or its affiliates', or its directors', officers' or employees' (i) breach Section II or Section V of this Agreement, (ii) infringement on the intellectual property rights of third parties and/or (iii) intentional wrongful act or omission.

IN NO EVENT SHALL DAMAGES BY EITHER PARTY HEREUNDER EXCEED THE GREATER OF (A) THE TOTAL FEES PAID BY CLIENT DURING THE TWELVE MONTHS PRIOR TO THE ACT OR OCCURRENCE WHICH GIVES RISE TO THE CLAIM, OR (B) THE SUM OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

ANY OTHER TERM OR PROVISION OF THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, IN NO EVENT SHALL EITHER PARTY, OR ITS AFFILIATES, THEIR DIRECTORS, OFFICERS OR EMPLOYEES, BE LIABLE FOR LOSS OF PROFITS OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THE PERFORMANCE OF THIS AGREEMENT, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Sarpy County

Signature: *Rusty Hike*
Printed Name: Rusty Hike
Title: Chairman
Date: 11-6-12

TALX Corporation,
provider of Equifax Workforce Solutions

Signature: *David N. Meinert*
Printed Name: David N. Meinert Director
Title: UC Business Analysis
Date: 11-12-12

Approved As To Legal Form

DMH
Initials

11-12-12
Date