



February 8, 2017

To: Finance and Administration Committee

From: Darrell Johnson, Chief Executive Officer

Janet Sutter, Executive Director
Internal Audit Department

Subject: Status of Coach Operator Health and Insurance Benefits Audit

Overview

The Internal Audit Department is unable to conduct a planned audit of Coach Operator Health and Insurance Benefits. The purpose of the audit was to determine whether monies paid by the Orange County Transportation Authority are used in compliance with Article 40 of the Coach Operator Agreement with Teamsters Local 952 and to determine compliance with the Affordable Care Act regarding waiting period limitations. To date, attempts to access records required for audit have been unsuccessful.

Recommendations

- A. Suspend the planned audit of Coach Operator Health and Insurance Benefits Audit pending upcoming negotiations with Teamsters Local 952.
- B. Direct staff to work with Teamsters Local 952 to amend language and requirements in Article 40: Health and Insurance Benefits, to ensure audit provisions extend to the contracted administrators.

Background

The Orange County Transportation Authority (OCTA) and Teamsters Local 952 (Teamsters) operate under Collective Bargaining Agreements (CBA), the most recent of which became effective in May 2013. Article 40 of the CBA requires OCTA to contribute a maximum monthly amount per eligible coach operator for the purpose of purchasing health and life insurance for the coach operator (and his/her spouse and eligible children).

In July 2004, Teamsters directed OCTA to begin making contributions to the Labor Alliance Managed Trust Fund (Labor Alliance) for the purpose of providing coach operators with health and insurance benefits. With that CBA, Article 40 was made operative for the purpose of outlining the requirements and obligations of the parties related to payments, accounting, administration, and provision of benefits. Labor Alliance oversees the benefits plan and utilizes DMC Insurance Administrators (DMC) to administer the plan.

Article 40 states that contribution payments will be made for the purchase of health and life insurance benefits, "...contingent upon the Authority's periodic verification that these contributions have been used exclusively only for the benefit of the bargaining unit employees, their spouses, and eligible children."

Article 40 also requires the administrator (DMC) to, "...keep a separate account of all money received...." and provides that, "...the Authority shall have the right at all times to audit and otherwise review said account in order to determine that all monies paid by the Authority are pursuant to the terms as outlined...."

Discussion

Audit of OCTA Payments by Labor Alliance

After notification of the intent to audit by OCTA, Labor Alliance responded, on July 6, 2016, by notifying OCTA of their intent to audit contribution payments to the Labor Alliance from March 2012 through the present. OCTA immediately complied with this request, provided requested records, and accommodated the audit team during their on-site visit in August 2016. In October 2016, the auditors notified OCTA that no discrepancies were found during the audit.

OCTA Audit Notification and Requests for Documentation

In June and July 2016, the Internal Audit Department (Internal Audit) notified Teamsters, Labor Alliance, and DMC, in writing, of the intent to conduct an audit and requested specific records to be provided. In the ensuing months, numerous phone calls and letters were exchanged between Internal Audit and representatives of Labor Alliance and DMC in an attempt to obtain the records requested. Ultimately, on September 1, 2016, the DMC representative indicated that detailed account records would not be provided because pricing information is proprietary.

Internal Audit notified Teamsters of DMC's refusal to provide records for audit. Subsequently, DMC notified Internal Audit that, subject to the execution of a

Confidentiality Agreement, records would be provided for inspection at their offices in Pleasanton, California. In October 2016, the proposed Confidentiality Agreement was forwarded to Internal Audit. Internal Audit forwarded the proposed agreement to OCTA legal counsel for review.

During November 2016, OCTA legal counsel and Labor Alliance's legal counsel attempted to negotiate language in the Confidentiality Agreement which would allow OCTA to review the pertinent records and provide a report to OCTA's Board of Directors while also addressing the Labor Alliance's concerns for protection of personal information. While initial discussions with counsel for the Labor Alliance indicated that a resolution could be reached, negotiations broke down once questions were raised as to whether a separate accounting is kept for OCTA contributions.

CBA Requirements and Provisions

The CBA provides that "If at any time...adequate information is not provided so a determination can be made (that payments have been used only for the benefit of the bargaining unit employees, their spouses, and eligible children), the Authority may immediately stop contributions to the existing Plan and purchase medical and life insurance benefits from a Provider(s) with substantially equivalent benefits to those provided by the existing plan, provided that there is no adverse impact upon the Bargaining Unit employees...".

While the CBA requires that the administrator keep a "separate account" of monies received, DMC and Labor Alliance legal counsel have indicated that providing records to OCTA internal auditors would result in the auditors having access to information about other employers and employees. Labor Alliance legal counsel has further indicated that there may be disagreement as to the definition of "a separate account of all money received."

While DMC is the administrator referred to in the CBA, they are not a party to the CBA.

Summary

Internal Audit is unable to conduct the planned audit of Coach Operator Health and Insurance Benefits Audit.

Attachment

None.

Prepared by:

A handwritten signature in dark ink, appearing to read 'Janet Sutter', with a long horizontal flourish extending to the right.

Janet Sutter
Executive Director, Internal Audit
714-560-5591