SUMMARY STATEMENT


COMMITTEE:

Finance

COMMITTEE MEETING DATE: November 10, 2015

BOARD ACTION DATE: November 18, 2015

PROPOSAL: That the Board authorizes staff to bind the renewal of the DRPA/PATCO Public Officials and Employment Practices Liability policy with AIG. This policy is placed by our Broker/Consultant, Turner Surety & Insurance Brokerage (TSIB).

Pursuant to DRPA-15-062, TSIB is paid a fixed annual service fee of not-to-exceed $141,000 payable in quarterly installments. Pursuant to the terms of the Broker/Consultant Service Agreement, TSIB understands that no commissions shall be paid on any insurance policies placed on DRPA’s behalf. Therefore, the proposed policy premium is net of commission.

Pursuant to DRPA-13-075, the Authority’s former broker Aon, marketed this coverage extensively during the 2013-2014 policy term to 17 insurance companies in order to secure the most competitive premium. AIG was the only quoting carrier willing to offer defense costs in addition to the limit of liability. At the 2014 renewal strategy meeting, Aon advised that since this coverage was marketed the previous policy year, it was not beneficial to the Authority to obtain quotes from these same niche markets that will only quote defense limits inside the limits of liability thereby reducing coverage. Therefore, Aon approached the incumbent, AIG to provide a renewal quote. By DRPA-14-086, the board authorized the renewal of the AIG Public Officials and Employment Practices Liability policy for the extended 18-month policy term from 8/1/2014 to 2/1/2016.

This year, TSIB marketed the Authority’s Public Officials and Employment Practices Liability policy to several insurance companies to secure the most competitive premium.

TSIB marketed the coverage to the following carriers:

• AIG - quoted $127,659 (Incumbent)
• RSUI - declined due to loss history
• Western World - declined, unable to provide required limits
SUMMARY STATEMENT

Renewal of DRPA/PATCO Public Officials and Finance 11/10/2015 Employment Practices Liability Policy

PURPOSE: To protect the DRPA and PATCO and its appointed public officials, including directors, officers and employees, from third-party claims against these insured persons/organization for wrongful acts of errors, omissions, misstatements, neglect or breach of duty.

The policy also provides coverage to the DRPA and PATCO against claims brought by employees for alleged wrongful employment practices. Accordingly, staff seeks to renew the DRPA Public Officials and Employment Practices Liability Policy.

BACKGROUND: The incumbent carrier is AIG. The premium for the 18-month term 8/1/2014 to 2/1/2016 is $169,541. The policy will expire on February 1, 2016.

In order to have a concurrent expiration date with the balance of the Traditional Property & Casualty insurance policies, staff requested that TSIB seek from AIG, an 11-month renewal quote for the policy term 2/1/2016 to 12/31/2016. As part of the renewal underwriting process, after gathering information from the Finance, HRS, and the Legal departments, staff submitted a completed but unsigned, AIG application to TSIB.

AIG’s renewal indication includes the same policy terms, conditions and limits as expiring; except that the volunteer members of the Citizens Advisory Committee (CAC) will be added as insureds under the renewal policy. This addition is subject to DRPA’s written confirmation that DRPA will defend and indemnify the advisory committee members. AIG will include the CAC endorsement at no additional cost to DRPA. Many markets declined to offer a quote for management liability for the CAC.

The proposed renewal indication premium for the 11-month policy has increased due to an overall increase in DRPA expenditures between 2014 and 2015 from $229.7 million to $276 million – a 20.1% increase. AIG uses expenditures as a key factor in the rating process for the premium for Public Official Liability policies. The 11-month proposed renewal indication premium from 2/1/2016-12/31/2016 is $127,659 (including the NJ PLIGA tax). This is an increase of 23.2% or $24,051 over the premium for an equivalent 11-month policy term of the current policy.

The current policy has an annual aggregate limit of $10 million, and the following sub-limits:

- $10 million for Public Officials Liability (“POL”); and
- $10 million for Employment Practices Liability (“EPL”)
**SUMMARY STATEMENT**

**Renewal of DRPA/PATCO Public Officials and Employment Practices Liability Policy**

- $5 million sublimit for bond coverage

AIG does not provide a separate limit for EPL claims. The sub limits are subject to the annual policy aggregate of $10 million. AIG will not offer a reinstatement of aggregate endorsement.

The $10 million aggregate policy is subject to the following Self-Insured Retention (SIR) levels:

- $50,000 SIR for Public Officials; and
- a separate $250,000 SIR for Employment Practices claims; and
- a separate $100,000 SIR for bond-related claims

Unless otherwise directed by DRPA, AIG has the right to assign counsel from their approved panel of attorneys for any claims against DRPA/PATCO. Elliot Greenleaf, located in Bluebell PA is on the DRPA’s qualified counsel list. As such, because Elliot Greenleaf (Bluebell PA office) is also on AIG’s approved panel, AIG specifically endorsed the policy scheduling Elliot Greenleaf as assigned counsel to DRPA/PATCO with maximum rates of $180/$170/$80. While the appointment of Elliot Greenleaf is not a conflict, the appointment may raise concerns for some. This specific counsel appointment by endorsement to the policy will remain in effect unless the DRPA submits their choice of counsel to AIG for their approval. The approval submission requires copies of the firm’s bios, a list of success stories with former cases and the name and professional bio of the lead attorney for any future assignments in New Jersey or Pennsylvania, for either Public Officials or Employment Practices claims.

TSIB recommends that staff accept the proposed renewal indication from AIG for the 11-month policy term from 2/1/2016-12/31/2016 for the estimated premium of $127,659 (including NJ PLIGA tax) for the Public Officials and Employment Practices Liability, which will include coverage for the volunteer members of the CAC.

Prior to binding the coverage, AIG will require the previously submitted application to be dated and signed by the CEO and written confirmation by DRPA that the advisory committee members are indemnified by DRPA. The proposed renewal indication is strictly conditional upon no material changes in the previously submitted application (and attachments) occurring between 9/28/2015 (the date of the quote) and 2/1/2016, the inception date of the proposed renewal policy. In the event of any change in risk, AIG may in its sole discretion, whether or not this indication has been already accepted by the Authority, modify and/or withdraw this renewal indication. The renewal indication will remain open until 02/01/2016.
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<thead>
<tr>
<th>SUMMARY:</th>
<th>Amount:</th>
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<tbody>
<tr>
<td></td>
<td>Approximately $127,659, 11-month premium,</td>
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<td></td>
<td>(including NJ PLIGA tax)</td>
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<td>Source of Funds:</td>
<td>Revenue and General Funds</td>
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<td>Capital Project #:</td>
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<td>Operating Budget:</td>
<td>DRPA Risk Mgt. C/E #8</td>
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<td>PATCO Admin. C/E Insurance &amp; Claims</td>
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<td>Master Plan Status:</td>
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<td>Other Fund Sources:</td>
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<tr>
<td>Duration of Contract:</td>
<td>2/1/2016-12/31/2016</td>
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<td>Other Parties Involved:</td>
<td>Turner Surety &amp; Insurance Brokerage and AIG</td>
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RESOLUTION

RESOLVED: That the Board of Commissioners authorizes staff to bind the DRPA/PATCO Public Officials & Employment Practices Liability Insurance Policy with AIG, including coverage for the volunteer members of the CAC, for an 11-month policy term for the 11-month renewal indication premium of approximately $127,659 (including the NJ PLIGA tax), effective February 1, 2016 to December 31, 2016; which represents an increase of 23.2% or $24,051 (on an annualized basis) as a result of an increase in DRPA expenditures between 2014 and 2015 from $229.7 million to $276 million; and be it further,

RESOLVED: That the Chairman, Vice Chairman and the Chief Executive Officer must approve and are hereby authorized to approve and execute all necessary agreements, contracts, or other documents on behalf of the DRPA. If such agreements, contracts, or other documents have been approved by the Chairman, Vice Chairman and Chief Executive Officer and if thereafter either the Chairman or Vice Chairman is absent or unavailable, the remaining Officer may execute the said document(s) on behalf of DRPA along with the Chief Executive Officer. If both the Chairman and Vice Chairman are absent or unavailable and if it is necessary to execute the said document(s) while they are absent or unavailable, then the Chief Executive Officer shall execute such documents on behalf of DRPA.

SUMMARY:

Amount: Approximately $127,659, 11-month premium, (including NJ PLIGA tax)
Source of Funds: Revenue and General Funds
Capital Project #: N/A
Operating Budget: DRPA Risk Mgt. C/E #8
                      PATCO Admin. C/E Insurance & Claims
Master Plan Status: N/A
Other Fund Sources: N/A
Duration of Contract: 2/1/2016-12/31/2016
Other Parties Involved: Turner Surety & Insurance Brokerage and AIG