TPA AGREEMENT CRITICAL REVIEW

Corvel Enterprise Comp, Inc. | City of Fort Lauderdale

Claims Administration & Medical Bill Review Services

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Executive Summary

This analysis reviews the Agreement for Third Party Workers Compensation Administration & Medical Bill Review Services between the City of Fort Lauderdale ("City") and Corvel Enterprise Comp, Inc. ("Corvel"), dated July 5, 2022. The review is conducted from the perspective of a P&C self-insured risk manager and ERISA/insurance counsel, with the goal of identifying critical gaps, inadequate provisions, and best practices to incorporate into any renewal, amendment, or replacement agreement.

The current agreement is heavily weighted in favor of the City on general contract administration terms (indemnification, insurance, public records) but is critically deficient in the areas most important to workers' compensation TPA performance: claims handling standards, reserving authority, litigation management, data portability, run-off provisions, and performance accountability. These gaps create significant financial and legal exposure for the self-insured.

Additionally, the initial contract term ran from July 1, 2022 through June 30, 2025 with no renewal provisions specified. Any continuation of services beyond that date should be formalized through an amendment that incorporates the recommendations contained herein.

Section 1: Best Practices for Self-Insured TPA Agreements

The following best practices represent the standard of care for self-insured entities entering into TPA agreements for workers' compensation administration. Each practice should be reflected in contract language with defined, measurable standards.

1.1 Handling & Performance Standards

The most significant gap in the Corvel agreement is the complete absence of defined performance standards. A self-insured entity is directly financially exposed to every claims decision made by the TPA. Best-in-class TPA agreements define:

- Claim acknowledgment timeframes (typically 24-48 hours of first notice of loss)
- Initial contact with injured worker within 24 hours of claim assignment
- Compensability determination deadlines aligned with applicable state law (FL: 120 days to deny or pay)
- Reserve adequacy standards with mandatory reserve review at 30/60/90-day intervals
- Claims closure targets expressed as percentage of claims resolved within defined periods
- Litigation management ratios (percentage of litigated claims vs. industry benchmark)

1.2 Reserving Authority & Financial Controls

- Define the TPA's claim settlement authority in tiered dollar thresholds (e.g., under $10K without client approval; $10K-$50K with notification; over $50K requires written approval)
- Require a dedicated reserve adequacy review at least quarterly
- Mandate that reserves be set on an individual claim basis, not aggregate, and comply with GAAP/actuarial standards
- Prohibit the TPA from settling any claim that would create an ongoing periodic payment obligation without explicit written client authorization
- Require the TPA to flag any claim with reserve increases exceeding a defined threshold (e.g., 25% increase or $25,000, whichever is lower) within 24 hours

1.3 Litigation Management Protocols

- Define the process for selection, approval, and oversight of defense counsel
- Require litigation management guidelines (LMGs) to be incorporated by reference
- Establish litigation reserve review frequency and required attorney reporting
- Require prior written approval for any defense costs billing outside the approved litigation budget
- Define mediation and settlement conference participation requirements
- Prohibit assignment of defense counsel without client approval for claims over a defined threshold

1.4 Special Investigation Unit (SIU) & Fraud Protocols

- Require SIU referral protocols with defined triggers (e.g., late reporting, prior claims history, conflicting statements)
- Define documentation standards for fraud investigations
- Require the TPA to maintain a certified fraud examiner on staff or via contracted resources
- Mandate reporting of all SIU referrals and outcomes to the client within defined timeframes

1.5 Subrogation Management

- Require identification of subrogation potential on every claim at initial investigation
- Define subrogation pursuit thresholds and recovery tracking obligations
- Establish reporting requirements for recoveries and potential recoveries
- Define TPA accountability for missed subrogation opportunities

1.6 Medical Management & Cost Containment

- Define medical bill review performance standards (repricing rates, turnaround time, penetration rates)
- Require utilization review (UR) standards compliant with applicable state guidelines
- Define Independent Medical Examination (IME) referral protocols and vendor management
- Specify pharmacy benefit management (PBM) integration requirements and formulary standards
- Require nurse case management triggers and performance standards
- Define return-to-work (RTW) program integration requirements

1.7 Run-Off & Transition Provisions

This is arguably the most neglected area in most TPA agreements, including this one. Self-insured entities that fail to address run-off often find themselves at a significant disadvantage when changing TPAs.

- Define the TPA's obligations for claims handling during the wind-down period
- Require the TPA to maintain a claims team dedicated to run-off claims for a defined period post-termination
- Address data migration: all claim files, notes, reserves, diaries, and financial records must be transferred in a defined format within 30 days of termination
- Establish a transition fee cap or define that transition services are included in base compensation
- Require the TPA to cooperate with the incoming TPA during transition, including participation in a joint file review
- Define the handling of claims where the statute of limitations or benefit period extends beyond the contract term

1.8 Data Ownership, Portability & Technology

- Explicitly state that all claim data, files, analytics, and reports are the property of the self-insured entity
- Require the TPA to provide data in industry-standard formats (e.g., IAIABC EDI) upon request
- Define client access rights to the TPA's claims management system, including real-time access
- Address system migration and historical data preservation obligations
- Define cybersecurity standards with specific reference to NIST or SOC 2 frameworks beyond just requiring insurance
- Require annual security assessments and prompt notification of any data breach or unauthorized access

1.9 Key Personnel & Staffing Standards

- Define the right to approve or reject the assigned account manager and lead adjuster
- Require minimum years of experience and licensure for claims personnel
- Define adjuster-to-claim ratios to ensure adequate attention to each file
- Require notification of any change in key personnel within a defined period (e.g., 5 business days)
- Reserve the right to request personnel changes if performance standards are not met

1.10 Excess/Stop-Loss Carrier Coordination

- Define the TPA's obligation to coordinate with the self-insured's specific excess workers' compensation carrier
- Require timely notice to excess carriers when claims approach attachment points
- Define reporting obligations to excess carriers and incorporate excess carrier requirements into the TPA's claim handling protocols
- Establish accountability for missed excess carrier notice requirements that result in coverage denial

1.11 Performance Reporting & Benchmarking

- Define a minimum set of standard reports: loss runs, reserve adequacy reports, payment registers, litigation status reports, and medical cost containment savings reports
- Establish report delivery schedules (monthly, quarterly, annual)
- Require annual benchmarking against industry standards (NCCI, WCRI data)
- Include an annual stewardship meeting obligation with defined agenda requirements
- Require the TPA to provide quarterly claims reviews with the client's risk management team

1.12 TPA Fiduciary Responsibility & Bad Faith Exposure

When a self-insured entity uses a TPA to administer workers' compensation claims, the TPA is acting in a quasi-fiduciary capacity. Failure to adequately handle claims can expose the self-insured to bad-faith liability, particularly in jurisdictions with broad bad-faith statutes.

- Include an explicit acknowledgment that the TPA is acting as agent for the self-insured
- Require the TPA to indemnify the self-insured for any bad faith judgment arising from the TPA's negligent or intentional failure to comply with claims handling standards
- Define the TPA's obligation to act in good faith on every claim decision
- Require the TPA to maintain E&O coverage specifically covering workers' compensation claims administration (not just general professional liability)

Section 2: Contract Clause Checklist

The table below identifies specific contract provisions, their current status in the Corvel agreement, and the recommended corrective action. Status categories: PRESENT = adequately addressed; INADEQUATE = present but needs strengthening; MISSING = not addressed.

Category	Contract Provision	Status	Priority	Recommended Action
Claims Handling	Claim acknowledgment timeframes	**MISSING**	**CRITICAL**	Add SLA: 24 hrs. FNOL acknowledgment; 48 hrs. initial contact with claimant
Claims Handling	Compensability determination deadlines	**MISSING**	**CRITICAL**	Require FL statutory compliance + internal timeline (30-day target)
Claims Handling	Claims handling standards / best practices	**MISSING**	**CRITICAL**	Incorporate by reference an exhibit with defined claims handling guidelines
Claims Handling	Adjuster qualifications & licensing	**MISSING**	**HIGH**	Require FL-licensed adjusters with a minimum 5 yrs WC experience
Claims Handling	Adjuster-to-claim ratio standards	**MISSING**	**HIGH**	Define maximum open claims per adjuster (suggest 125 indemnity)

Category	Contract Provision	Status	Priority	Recommended Action
Reserving & Authority	Claim settlement authority limits	**MISSING**	**CRITICAL**	Define tiered settlement authority: <$25K TPA; $25K-$100K notify; >$100K written approval
Reserving & Authority	Reserve adequacy standards	**MISSING**	**CRITICAL**	Require individual claim reserves; 30/60/90-day mandatory review cycle
Reserving & Authority	Reserve change notification	**MISSING**	**HIGH**	Define threshold for mandatory notification (e.g., 25% or $25K increase)
Reserving & Authority	Periodic payment (structured settlement) authority	**MISSING**	**CRITICAL**	Require explicit written client authorization before any structured settlement
Litigation Management	Defense counsel selection & approval	**MISSING**	**CRITICAL**	Client retains right to approve panel counsel; define process
Litigation Management	Litigation management guidelines	**MISSING**	**CRITICAL**	Attach LMG exhibit; require TPA compliance with approved guidelines
Litigation Management	Litigation budget requirements	**MISSING**	**HIGH**	Require defense cost budgets; prior approval for overruns >15%
Litigation Management	Settlement authority in litigation	**MISSING**	**CRITICAL**	Define litigation settlement authority with tiered approval thresholds
Medical Management	Medical bill review performance standards	**MISSING**	**HIGH**	Define repricing targets, penetration rates,

Category	Contract Provision	Status	Priority	Recommended Action
				and turnaround time SLAs
Medical Management	Utilization review protocols	**MISSING**	**HIGH**	Require UR standards compliant with FL workers' comp statutes
Medical Management	IME referral protocols	**MISSING**	MODERATE	Define triggers, vendor selection process, and documentation standards
Medical Management	Pharmacy benefit management integration	**MISSING**	MODERATE	Define PBM coordination obligations and formulary standards
Medical Management	Nurse case management standards	**MISSING**	MODERATE	Define triggers and performance standards for NCM referrals
Medical Management	Return-to-work program integration	**MISSING**	MODERATE	Require RTW coordinator role and defined communication protocol
Fraud / SIU	SIU referral protocols	**MISSING**	**HIGH**	Define mandatory SIU referral triggers and investigation standards
Fraud / SIU	Fraud reporting requirements	**MISSING**	**HIGH**	Require periodic SIU activity reports; define referral-to-resolution tracking
Subrogation	Subrogation identification & reporting	**MISSING**	**HIGH**	Require subrogation flag on all claims; quarterly recovery report
Subrogation	Subrogation pursuit thresholds	**MISSING**	MODERATE	Define minimum recovery threshold for

Category	Contract Provision	Status	Priority	Recommended Action
				active pursuit vs. file-and-close
Data & Technology	Explicit claim data ownership clause	**INADEQUATE**	**CRITICAL**	Current Section I covers 'documents' but does not expressly address claims system data, electronic records, and analytics
Data & Technology	Data portability/migration on exit	**MISSING**	**CRITICAL**	Define data format, transfer timeline, and cooperation obligation at termination
Data & Technology	Real-time system access rights	**MISSING**	**HIGH**	Define client's right to access TPA claims system in real time
Data & Technology	Cybersecurity standards (beyond insurance)	**INADEQUATE**	**HIGH**	Cyber Liability required but no operational security standards defined; add SOC 2 / NIST requirement
Data & Technology	Data breach notification timelines	**MISSING**	**CRITICAL**	Section 2.49 (Security Breach) variance was REJECTED -- define specific breach notification protocol in body of agreement
Run-Off & Transition	Run-off claims handling obligations	**MISSING**	**CRITICAL**	Define TPA's obligations for open claims at contract end; minimum 24-month run-off period

Category	Contract Provision	Status	Priority	Recommended Action
Run-Off & Transition	Transition cooperation clause	**MISSING**	**CRITICAL**	Require TPA to cooperate with successor TPA; joint file review obligation
Run-Off & Transition	Transition fee cap	**MISSING**	**HIGH**	Define that data transfer and transition support are included in base fees or cap transition costs
Key Personnel	Account manager / adjuster approval rights	**MISSING**	**HIGH**	Client retains right to approve and request removal of key personnel
Key Personnel	Personnel change notification requirement	**MISSING**	MODERATE	Require 5-business-day notice of changes in key personnel
Key Personnel	Background check / credential verification	**MISSING**	MODERATE	Require background checks and licensure verification for all claim handlers
Reporting & Oversight	Defined reporting deliverables	**MISSING**	**HIGH**	Attach reporting exhibit: loss runs, reserve reports, payment registers, litigation status, cost containment savings
Reporting & Oversight	Stewardship / performance review meetings	**MISSING**	MODERATE	Require quarterly claims reviews and annual stewardship meetings
Reporting & Oversight	Claims file audit rights (specific)	**INADEQUATE**	**HIGH**	General audit rights exist (Section J), but no specific claims file audit protocol; add claim file review

Category	Contract Provision	Status	Priority	Recommended Action
				rights with defined frequency
Reporting & Oversight	Industry benchmarking requirement	**MISSING**	MODERATE	Require annual benchmarking vs. NCCI / WCRI state data
Excess WC Coordination	Excess carrier notice obligations	**MISSING**	**CRITICAL**	Define mandatory reporting to excess carrier when claims approach attachment point; define TPA liability for missed notices
Excess WC Coordination	Excess carrier coordination protocol	**MISSING**	**HIGH**	Require TPA to comply with excess carrier claims handling requirements
Fiduciary & Bad Faith	TPA fiduciary / agency acknowledgment	**MISSING**	**CRITICAL**	Add explicit acknowledgment that TPA acts as agent for self-insured; define good faith obligations
Fiduciary & Bad Faith	Bad faith indemnification	**INADEQUATE**	**CRITICAL**	General indemnification (Section A) exists but does not specifically address bad faith claims arising from negligent claims handling
Fiduciary & Bad Faith	E&O coverage for WC administration	**INADEQUATE**	**HIGH**	E&O required but not specifically tailored to WC claims administration; confirm coverage scope

Category	Contract Provision	Status	Priority	Recommended Action
General Terms	Indemnification	**PRESENT**	MODERATE	Adequate, but should be supplemented with bad faith-specific language
General Terms	Insurance requirements	**PRESENT**	MODERATE	Adequate; confirm E&O scope covers WC administration
General Terms	Termination for cause/convenience	**PRESENT**	MODERATE	Adequate for general termination; supplement with run-off provisions
General Terms	Audit rights	**PRESENT**	MODERATE	Adequate, but should add a specific claims file audit protocol
General Terms	Independent contractor status	**PRESENT**	LOW	Adequate; add agency language for claims handling context
General Terms	Governing law/venue	**PRESENT**	LOW	Adequate
General Terms	Limitation of City liability ($1,000)	**PRESENT**	MODERATE	Note: City limits its own liability to $1,000 but places no cap on TPA claims-related errors

Section 3: Priority Action Items

Based on the analysis above, the following actions should be taken immediately, in order of urgency.

Immediate Actions (Before Any Extension or Renewal)

1. **Execute a Contract Amendment** that incorporates a Claims Handling Standards Exhibit, a Reporting Requirements Exhibit, and a Run-Off / Transition Exhibit. These three additions address the most financially significant gaps in the current agreement.

2. **Define Settlement & Reserving Authority** in writing via an amendment. Until this is documented, the TPA has effectively unlimited authority to settle claims against the self-insured's financial interest.
3. **Add an Explicit Data Ownership and Portability Clause** covering all electronic claim files, reserve histories, payment records, and analytics. This is critical for any future TPA transition.
4. **Address Data Breach Notification Protocol** as the negotiated variance rejecting Section 2.49 (Security Breach) leaves the self-insured without contractual notification rights in the event of a data breach involving employee health or claims data.
5. **Obtain Written Excess Carrier Coordination Protocol** from the TPA. Missed excess notice obligations can void coverage and result in significant uninsured loss exposure.
6. **Define Litigation Management Guidelines** and incorporate them into the agreement by reference. The absence of any litigation management framework is a significant financial risk for a self-insured municipality.

Short-Term Actions (Within 90 Days)

- Issue an RFP for TPA performance audit to establish a baseline against which future performance can be measured
- Schedule a joint stewardship meeting with Corvel to present performance expectations going forward
- Request a full data extract in standardized format as a baseline for future transition planning
- Verify that Corvel's E&O policy specifically covers workers' compensation claims administration, not just general professional liability
- Implement a quarterly claims review protocol with the Corvel account team

Longer-Term Actions (Contract Renewal)

- Develop a comprehensive TPA RFP that incorporates all best practices identified in this analysis
- Require all responding TPAs to submit a sample SLA exhibit, claims handling standards document, and transition plan
- Consider benchmarking current TPA performance against two or three other qualified TPAs during the procurement process
- Engage an independent TPA audit firm to conduct a claims file review prior to any renewal decision

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Important Disclosures

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