



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

**Health, Public Safety & Intergovernmental
Committee**

January 14, 2010
2:00 P.M.
Commission Chamber

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Miami, Florida 33128
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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Legislative Notes
Health, Public Safety & Intergovernmental Committee
Meeting Agenda**

January 14, 2010

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

2(D)
3(A)
3(D)

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:

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**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 2D

File Number: 093089

Committee(s) of Reference: Health, Public Safety & Intergovernmental

Date of Analysis: January 12, 2010

Type of Item: Resolution; 5% Reduction in Lobbyists' Pay

Prime Sponsors: Commissioners Rebeca Sosa and Sally A. Heyman

Commission Districts: Countywide

Summary

This resolution directs the County's federal contract lobbyists, including subcontractors and lobbyists hired under work orders, to accept a 5% reduction in the remaining contract amounts over the current contract term and any renewal terms.

Background and Relevant Legislation

On November 3, 2009, the Board of County Commissioners (BCC) passed Resolution No. 1293-09 requesting that the County's state contract lobbyists accept a 5% reduction in remaining contract amounts in consideration of the County's fiscal crisis. The pending resolution imposes a similar directive of the federal lobbyists hired to provide representation and consulting services on behalf of the County before the executive and legislative branches of the federal government.

If adopted, this will require Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas, LLP, which presently serve as the County's federal lobbyists and consultants, to each accept \$5,000 less pay. This will also require Cardenas Partners, LLC, as the assignee who may assume the obligations of Tew Cardenas, LLP to accept \$5,000 less in pay.

On December 10, 2009, the Health, Public Safety & Intergovernmental Committee favorably voted to exercise the County's option to extend the term of an existing federal lobbyist contract with Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas, LLP. The existing firms' contracts will expire on February 5, 2010. The extended period will allow the Administration to advertise for proposals from qualifying replacement firms, and to ultimately recommend which firms should be awarded the successor contracts.

Under the extension (which is pending consideration by the full BCC), the 3 firms will provide services on a month-to-month basis up to 6 months beyond the current contract period; and will be compensated in an amount not to exceed \$100,000 per firm.

In addition, at the December 10, 2009 committee meeting, the committee favorably voted to grant a supplemental agreement to the existing Tew Cardenas, LLP lobbying contract, acknowledging and assenting to the assignment of the federal lobbying contract to Cardenas Partners, LLC, who, subject to the approval of the full BCC, will assume the obligations of Tew Cardenas, LLP retroactive to July 1, 2009.

Accordingly, Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas LLP, or Cardenas Partners LLC, as the prospective assignee, would be subject to accept a 5% reduction in fees provided the 6-month contract extension and supplemental assignment agreement are adopted by the full BCC.

Policy Change and Implication

In general, the pending directive does not constitute a new policy by virtue of the BCC's passage of Resolution No. 1293-09 directing the County's state lobbyists to accept a 5% reduction in any remaining contract amounts. It, however, does raise certain implications as to the mechanics of implementation.

Under RFQ 685 for federal lobbying, which includes boilerplate terms and conditions of the County's federal lobbying contract, all prices are to remain "firm and fixed for the term of the contract, including any option or extension periods." (RFQ 685, Art. 8, Pricing). Other provisions governing payment for services specify that a change or modification to the total compensation is to be approved and executed in writing by the County and the Contractor. (RFQ 685, Art. 7, Payment for Services/Amount Obligated). Based on these terms and stipulations, it appears that a supplemental agreement with the 3 firms which presently serve as the County's federal lobbyists, and with Cardenas Partners, LLC, as a separate lobbying entity slated to assume Tew Cardenas, LLP's obligations, may be required to enforce the directive.

Budgetary Impact

A 5% reduction to each firm's contract collectively would constitute a \$15,000 savings to the County on the federal lobbying contracts valued at \$300,000 in total.

Prepared by: Lauren Young-Allen

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(A)
File Number: 093358
Committee(s) of Reference: Health, Public Safety and Intergovernmental Committee
Date of Analysis: January 13, 2010
Type of Item: Execution of Agreements

Summary

This resolution regards a Federal Communication Commission (FCC) mandate and the acquisition of a new radio system. It enacts the following:

Bid Waiver: Waives the formal bidding procedures for the execution of the two (2) agreements.

Settlement Agreement with Nextel South Corporation (Nextel): Executes the Frequency Reconfiguration and Settlement Agreement with Nextel as required by the FCC mandate. This resolves the issue of adjacent commercial bands interfering with the County's emergency radio frequency. Under the FCC order, Nextel's obligation is to pay for the cost to re-band existing equipment to operate in the new frequencies. In the event that there is equipment that cannot be re-banded, then Nextel's obligation is to provide radio terminal equipment.

System Purchase and Implementation Agreement with Harris: Executes the Radio Communication System Purchase Contract with Harris Corporation.

Background

Nextel's wireless network interfered with Public Safety 800 MHz systems. FCC studied the problem four (4) years, issuing a Report and Order in 2004 requiring that all 800 MHz licensees in the affected band move to new channels. The FCC process to implement this change is as follows:

- 1st – Develop a Planning Funding Agreement (PFA) with Nextel to support the reconfiguration of the 800 MHz radio communication infrastructure and for Nextel and Miami-Dade County to enter into voluntary negotiations;
- 2nd – If the parties fail to reach voluntary negotiations, they must enter into mediation;
- 3rd – If mediation fails, they must each submit a Proposed Resolution Memorandum (PRM) for FCC's consideration and ruling; and

4th – If FCC ruling is not satisfactory to either party, the procedures provide for arbitration.

Relevant Legislation

Report (File No. 020526)	On March 12, 2002, the Board accepted a report regarding cellular phone devices interfering with the County's emergency radio frequencies.
FCC Report and Order	On August 6, 2004, the FCC issued a report and order to modify its rules governing the 800 MHz band in order to minimize the harmful interference to public safety radio communications systems operating in this frequency band. FCC mandated that those commercial users with frequency bands adjacent to 800 MHz frequencies such as Nextel pay for the cost of reconfiguring public safety and radio system in order to decrease interference into the County's system. Miami-Dade County has fifty-two (52) 800 MHz frequencies used in support of public safety and general government operations.
Resolution No. 570-06	On May 9, 2006, the Board directed the County Manger to develop a plan to improve the County's emergency communications infrastructure for effective communication during disasters.
Report (File No. 061876)	<p>On July 6, 2006, the Board accepted a report on the emergency communications infrastructure. This report discussed the re-banding/radio interoperability and the FCC's order to reconfigure operations by engaging in a frequency "swap" with Nextel to eliminate interference experienced in the 800MHz band. This report also noted the following:</p> <ul style="list-style-type: none">• 50% of the radio infrastructure will not be affected by the re-banding effort. The re-banding effort provides an opportunity to also upgrade this equipment. According to this report, conducting the upgrade to this equipment, in conjunction with the re-banding effort, will result in savings and efficiencies that will not be available if the two projects are not implemented concurrently. The upgrade standards known as Project 25 (P-25).• P-25 upgrade is estimated to cost between \$20 million and \$30 million.
Resolution No. 905-07	On July 24, 2007, the Board authorized the execution of a Planning Funding Agreement (PFA) with Nextel - the initial step in the reconfiguration process.
Resolution No. 1037-09	On July 21, 2009, the Board authorized the advertisement and subsequent award of a solicitation to acquire specialized professional services on an as-needed basis, to support the County in negotiations with Nextel. This item was due to the breakdown of voluntary negotiations.

On October 2, 2008, all parties entered into negotiations under FCC processes supervised by the Transition Administrator (TA), assigned by the FCC to mediate the negotiations.

By the end of July 2009, the parties reached an agreement; therefore, the professional services under Resolution No. 1037-09 are not presently needed.

FCC Suspends Mediation End of July 2009 until Present – FCC suspended mediation in order for the Settlement Agreement included in this item to go before the Board to finalize and execute the agreements prior to January 29, 2010.

Policy Change and Implication

Settle Agreement with Nextel

Under this Agreement, Nextel provides the County 24,000 radios, including portable, mobile and control station units. These units meet the open standard radio communication protocol for P25 which the Department of Homeland Security supports as a standard to improve radio communication between first responders from diverse agencies. The radios work on both the existing Harris proprietary infrastructure owned by the County, as well as the new infrastructure that will be deployed over the five year implementation period. According to the County Manager's memo, these radios, which are being received at no charge to the County, have a market value that exceeds \$90 million.

System Purchase and Implementation Agreement with Harris

Harris is the proprietary manufacturer of the County's existing 800 MHz radio system, and provides parts, components, maintenance and support services required to keep the system operational. Under this Agreement, Harris will supply and install the matching P25 infrastructure equipment for a new radio system, over a period estimated to take 5 years, at a cost of \$25 million. According to the County Manager's memo, in the absence of the agreement with Nextel, the County could be expected to pay approximately \$75 million for the same equipment and services to replace the 15 year old radio communication infrastructure.

CONTRACT AMOUNT: Total contract amount with subsequent options to renew (OTR) is \$38.6 million (based on a fixed amount of \$1.2 million per OTR term). The contract includes:

- \$25 million for the infrastructure;
- An option of \$3 million to acquire a new microwave infrastructure to support the new P25 radio system and replace the existing 15 year old system;
- An option of \$4 million for a new OpenSky communication system for MDT (OpenSky will serve as a comprehensive single communication link for MDT projected new CAD/AVL system); and

- \$3 million subject to budget appropriations to support the current system as necessary during the implementation and transition to the new system, including emergency services, through the five year term of the contract.

CONTRACT TERM: 5 years with 3, 2-year OTRs.

FUNDING SOURCE: Capital and Internal Service Funds. The replacement radios will be on a pay-as-you-go basis over the next five years. Future funding will be sought from proprietary departments and municipalities to replace radios assigned to those entities.

PERFORMANCE / COMPLIANCE: No performance or compliance issues with Harris Corporation.

Questions / Comments

The FY 2009-10 Adopted Budget Ordinance allocates \$4.833 million to the Public Safety Communications Replacement Project.

Why is Nextel agreeing to go above and beyond the FCC obligation (which would make them responsible to provide only 10,000 radios at an approximate cost of only \$35 million) and provide 24,000 radios with an estimated market value of \$90 million?

Will the Harris contract have additional costs that are not specified in this item?

Prepared by: Elizabeth N. Owens

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Legislative Notes

Agenda Item: 3D
File Number: 100010
Committee(s) of Reference: Health, Public Safety & Intergovernmental
Date of Analysis: Revised January 12, 2010
Type of Item: Resolution to Approve Bylaw Amendments
Sponsor/ Requester: Public Health Trust

Summary

Under the proposed resolution, the Public Health Trust (PHT) is seeking the Board of County Commissioners' (BCC) approval of 3 amendments to its Bylaws. The amendments (1) incorporate a common practice of recessing during summer months and year-end holidays, (2) establish a Public Affairs Committee which will examine and recommend funding options, and (3) establish a Human Resources Committee which will oversee the administration of personnel and labor matters.

Background and Relevant Legislation

Under Chapter 25A-3(f) of the County Code, PHT is required to submit any and all amendments to its Bylaws, and rules or regulations regarding the Board of Trustees' governance to the BCC for approval and consistency with County ordinances. Accordingly, the proposed Bylaw amendments set forth in this item are presented for BCC consideration.

Previously, in October 2009, the Board of Trustees submitted to the Health, Public Safety & Intergovernmental Committee 4 amendments to its Bylaws. The 4th amendment, now omitted, would have allowed, in the event of extraordinary circumstances, telephonic participation of trustees at committee meetings provided a committee quorum is actually physically present. It is understood that the withdrawn amendment is being delayed for further review by the Board of Trustees. In the interim, the Trustees have elected to proceed with the remaining 3 amendments. (Resolution attachment, handwritten pp. 5, 6, 8).

Policy Change and Implication

In prior resolutions adopted by the BCC, the BCC has considered and approved similar amendments to the PHT's Bylaws (R-153-99). Therefore, this proposed resolution is consistent with prior BCC practices. A review of the County Code does not disclose any inconsistency between the proposed amendments

and Code ordinances. Accordingly, the proposed amendments are not contrary to existing County policy or laws.

In addition, a review of Florida Statutes does not disclose any inconsistency between the withdrawn amendment regarding telephonic participation at meetings and state law. Pursuant to § 120.54(5)b)(2) Fla. Stat. governing meetings of state boards and state agencies, telephonic participation is permissible. The statute reads in pertinent part:

Section 120.54 Rulemaking.

(b) The uniform rules of procedure . . . pursuant to this subsection shall include, but are not limited to:

2. Uniform rules for use by each state agency that provide procedures for conducting public meetings, hearings, and workshops, and for taking evidence, testimony, and argument at such public meetings, hearings, and workshops, in person and by means of communications media technology. The rules shall provide that all evidence, testimony, and argument presented shall be afforded equal consideration, regardless of the method of communication As used in this subparagraph, "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

If the withdrawn amendment is presented in the near future to the BCC for approval and consistency with governing law, it should be noted that the amendment may be subject to debate. There are differing legal opinions as to whether the state provision is applicable to the Public Health Trust Board of Trustees. (Compare County Attorney Memo entitled "Permissibility of Public Health Nominating Council to Speak Via Speaker Telephone," dated 5/27/09 with Florida Attorney General Opinion AGO-98-28).

Budgetary Impact

With the creation of the Public Affairs Committee, additional funding for PHT hospitals and health care programs may be provided.

Prepared by: Lauren Young-Allen