



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Budget, Planning & Sustainability
Committee

September 28, 2010
2:00 P.M.
Commission Chamber

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

**Legislative Notes
Budget, Planning & Sustainability Committee
Meeting Agenda**

September 28, 2010

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

Item Number(s)

3(H)
3(J) & Supplement
3(M)

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: 3(H)
File Number: 101989
Committee(s) of Reference: Budget, Planning and Sustainability
Date of Analysis: September 28, 2010
Type of Item: Termination of Lease/Leaseback Agreement

Summary

This resolution authorizes the termination of the lease/leaseback agreement with Bank of Hawaii Leasing, Inc. for the Metrorail Control and Passenger Information System (the Leased Asset). Once the agreement is terminated, the County will be the owner of the Leased Asset.

Background and Relevant Legislation

In August 2002, the County entered into a Leveraged Lease transaction with Bank of Hawaii Lease (BOHL). Under Leveraged Lease transactions, the County as a tax-exempt owner or acquirer of a particular capital asset has the option to sell or assign the tax benefits of ownership to a third party (referred to as an equity investor) while retaining ownership and title to the asset. In exchange for receiving the future depreciation tax benefits associated with the asset, the third party equity investor leases the asset back to the County at a lease rate which is lower than the debt rate which would have applied to the purchase of the asset. Under such leaseback transactions, the County may negotiate an early buyout option which permits the County to terminate the leaseback arrangement on a pre-set date.

In this instance, the County has leveraged the Metrorail Control and Passenger Information System as the underlying asset of the lease/leaseback transaction, and has sold or assigned the tax benefits to BOHL. AIG Matched Funding Corporation (AIG) is the County's financial guarantor. The preset lease buyout date for this transaction is January 1, 2018.

Originally rated AAA in 2005, AIG's credit ratings have steadily declined¹. According to the County Manager's memo, as of September 16, 2008, AIG's credit ratings were downgraded to A2 by Moody's and A- by S&P.

Policy Change and Implications

Since September 2008, the County has been in technical default on the BOHL Lease agreement as a result of AIG not maintaining its required credit rating. According to the Finance Department, the

¹ Congressional Research Service, "Ongoing Government Assistance for American International Group (AIG), March 16, 2009.

termination agreement being offered by BOHL is the best course of action given current economic conditions.

Under the current offer the County will pay BOHL the loan obligation of \$37 million, which the County has in a loan deposit account, and a termination fee of \$16.084 million. The \$16.084 million will be paid from the Lease Buy-Out Deposit (\$15.85 million) which was also set up under the original agreement. The remaining out-of-pocket termination costs and transaction fees to be paid to BOHL cannot exceed \$500,000.

Comments

The Board of County Commissioners has several options:

- Deny this resolution, requiring AIG to post additional collateral or replacing AIG as the guarantor for the Lease Buy-out Deposit;
- Deny this resolution and have BOHL declare a default, requiring the County to pay BOHL an additional \$20.95 million in stipulated loss; or
- Approve this resolution to terminate the Lease/Leaseback Agreement, paying no more than \$500,000 in fees.

According to the Finance Department, the IRS has declared that stipulated loss value should not be collected under these defaulted lease agreements; therefore, the County would have to go to court and win to avoid payment of the stipulated loss.

Prepared by: Elizabeth N. Owens and Keith Connor

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(J) and 3(J) Supplement

File Number: 101990 and 102179

Committee(s) of Reference: Budget, Planning and Sustainability

Date of Analysis: September 28, 2010

Type of Item: Medical Transportation Services (Ambulance) – RFP 692

Summary

This resolution rejects all proposals, authorizing parallel negotiations with the two vendors under consideration: (1) Randle-Eastern Ambulance Services, Inc. *d/b/a* American Medical Response (AMR), and (2) the alliance of American Medical Service Inc. and Medics Ambulance Service; and authorizes the County Mayor or his designee to negotiate an agreement which would then be presented to the Board of Miami Dade County for consideration of award, RFP No. 692.

This resolution also waives the requirements of §2-8.3 and §2-8.4 of the Miami-Dade County Code (Code), pertaining to formal bid procedures and bid protests. These sections of the Code may be waived by a 2/3 vote of the Board members present.

Furthermore, the Supplemental Item provides information on the temporary bridge contract that was issued for a six (6) month term, from March 17, 2010 to September 16, 2010; and the extension of this bridge contract for an additional six (6) months, from September 16, 2010 to March 15, 2011. **The bridge contract and its extension were awarded internally by the Department of Procurement Management (DPM) to the current provider AMR.**

According to the County Manager's memo dated March 3, 2009, AMR paid \$1,221,012 in liquidated damages for not meeting response times under service agreement for Group A.

Background and Relevant Legislation

On December 14, 2004, through Resolution No. 1479-04, the Board of County Commissioners (BCC) authorized execution of agreements with AMR and MCT Express, Inc., *d/b/a* Miami Dade Ambulance Service (MCT) to provide medical transportation services (ambulance). Services under this contract are divided between three (3) agreements. Below is the breakdown of services by agreement:

- Group A – Awarded to AMR for urgent /non-urgent response for County and Municipal Fire Rescue System;
- Group B – Awarded to AMR for urgent/non-urgent response Miami-Dade Corrections and Municipal Police Departments; and
- Group C – Awarded to MCT for urgent/non-urgent community health facilities.

The services provided under Group A and B are at no cost to the County. The Contractor for these services is compensated from sources other than the County, including private payees and/or insurance companies. The services provided under Group C were at a rate of \$27.47 per call (\$24,723 annually based on 75 calls per month).

On March 3, 2009, the current contract was modified under Resolution No. 187-09 to provide Group A - a modification to the liquid damages provision and a time only extension of one (1) year; Group B - a time only extension of one (1) year; and Group C - \$40,000 in additional spending authority and a time extension of one (1) year.

The modification extended the allowable response time of ambulances and adjusted when the penalties were applied. Although Resolution No. 187-09 addressed the issue that AMR was accruing penalties, it did not apply a mechanism to enhance response time.

Fiscal Impacts

Under the extension of the temporary bridge contract, Group C is not extended. According to the County Manager’s Supplemental memo, as of September 13, 2010, all agencies have been notified and have made alternate plans for contractual services. RFP 692 includes proposals for urgent/non-urgent community health facilities (Group C).

The prices submitted by the two vendors for RFP 692 are significantly higher than what the County is currently paying for these services. Currently the services provided under Groups A and B are at no cost to the County and Group C is at \$27.47. In addition, AMR, the highest ranked proposer, submitted prices that are significantly lower than the second ranked proposer, the alliance of American Medical Service Inc. and Medics Ambulance Service (see chart below).

Medical Transportation Services (Ambulance) – RFP 692			
Agreements	Existing Contracts	AMR	The Alliance¹
Group A	\$0	\$98	\$200 ²
Group B	\$0	\$98	\$300
Group C	\$27.47	\$98 ³	\$140

¹ The proposer is an alliance of American Medical Service Inc. and Medics Ambulance Service.

² The proposer offers on an optional basis \$140 per transport – but requires a guarantee of 2,000 transports per month.

³ The proposer is an alliance of AMR and MCT, the two existing contractors.

RFP 692 includes a requirement that the Contractor pay approximately \$50,000 annually to the County to cover the Department of Emergency Management costs to monitor this contract.

Comments / Questions

Temporary Bridge Contract

According to the County Manager's Supplemental memo, the temporary bridge contract eliminated the penalties for response times.

- **If there are no penalties for response times, how is the County able to guarantee that ambulances are arriving within the required time frame?**

Successor Contract and Liquidated Damages

Currently, there is no recommended successor contract. This resolution rejects all proposals for RFP 692 and authorizes the Department of Procurement Management (DPM) to negotiate with the two vendors under consideration. According to DPM, this negotiation would include discussions pertaining to response times and potential liquidated damages.

The response times and potential liquidated damages under RFP 692 are almost identical to those provided under the original contract; however, there are differences which are noted below:

- The original contract applied penalties for Groups A and B to both urgent and non-urgent response requests. Under RFP 692, liquidated damages are applied only to urgent response times for Groups A and B.
- The original contract for Group C did not specify penalties for pre-arranged pick up and/or return times. Under RFP 692, penalties are specified for pre-arranged pick up and/or return times.

Prepared by: Elizabeth N. Owens

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(M)
File Number: 102172
Committee(s) of Reference: Budget, Planning and Sustainability
Date of Analysis: September 28, 2010
Type of Item: Bid Waiver Package

Summary

This resolution waives formal bid procedures for specified purchases, authorizing the County Mayor or his designee to award such contracts, with authority to exercise subsequent options-to-renew (OTR). This Bid Waiver Package is comprised of four (4) contracts authorizing a total of \$3,042,000 including subsequent OTRs.

Background and Relevant Legislation

Pursuant to § 2-8.1 of the Miami-Dade County Code and § 5.03(D) of the Home Rule Charter, the Board of County Commissioner’s (BCC) approval is required to award these contracts.

Policy Change and Implication / Budgetary Impact

- **One (1) Sole Source Contract:**

Item 2.1 – Airfield Lighting System Upgrade

This contract allows Miami-Dade Aviation Department (MDAD) to purchase Airfield Lighting System upgrades and maintenance services provided by ADB Airfield Solutions. This contract applies only to Miami International, Homestead and Tamiami Airports.

Item No.	Contract Title	Contract Term & Amount	Vendor’s Performance Record
2.1	Airfield Lighting System Upgrade	5 years with 5, 1-year OTRs Initial 5 years is valued at \$1,726,000. Total Contract Amount: \$2,555,000	There are no performance / compliance issues with ADB Airfield Solutions, a non-local vendor.

- **(1) Emergency Purchase:**

Item 3.1 – Uniforms and Accessories for Miami-Dade Transit

This contract waives formal bid procedures and ratifies an emergency contract awarded on July 16, 2010 by Miami-Dade Transit (Transit) for the purchase of uniforms.

Item No.	Contract Title	Contract Term & Amount	Vendor's Performance Record
3.1	Uniforms and Accessories for Miami-Dade Transit	July 16, 2010 to Oct. 25, 2010 6 months with 1, 6 month OTR \$150,000 for initial 6 months and \$150,000 for OTR period Total Contract Amount = \$300,000	There are no performance / compliance issues with Monica Manufacturing, Corp., a local vendor.

Comments / Questions:

The original contract under Resolution No. 1093-07, awarded to vendor RDH Quest in the amount of \$387,243 (\$274,943 in MDT operating funds and \$112,300 in PTP funds) was terminated in April 2010, due to outstanding back orders for uniforms. Under the original contract, \$17,439.12 was released to the vendor leaving a balance of \$369,803.88.

On July 20, 2010, under Resolution No. 811-10, the County ratified an emergency contract awarded for purchase of uniforms for MDT to Monica Manufacturing, Corp in the amount of \$112,000. The MDT uniforms awarded under the July 20th ratification are for the same type of uniform requested under this request; however, this request provides a further breakdown of cost, charging a higher cost for larger sizes in certain items.

The July 20th ratification will run concurrently with this item, and both include an OTR period.

- Why was this request not included with the July 20th ratification?
- This allocation in the amount of \$150,000 along with the July 20th allocation in the amount of \$112,000 total \$262,000 without authorizing the subsequent OTRs. Both items have the same funding source, MDT operating funds. Will the County utilize the unreleased balance in MDT operating funds under the original contract to fund the emergency contracts?

- **Two (2) Confirmation¹ (Unauthorized) Purchases**

Item 5.1 – Food Catering Services

This contract ratifies a confirmation purchase in the amount of \$113,000 for meals for the elderly program served by the Department of Human Services (DHS) Elderly, Disability and Veterans Services Bureau from February 28 to March 31, 2010.

Item 5.2 – Emergency Barricades for Dadeland North Parking Garage

This contract ratifies a confirmation purchase in the amount of \$74,000 for unauthorized barricade rental for MDT's Dadeland North Metrorail Parking Garage from March 1 to June 16, 2010.

Prepared by: Elizabeth N. Owens

¹ According to the Department of Human Services, a confirmation purchase is a ratification action that approves an unauthorized purchase – a purchase or commitment by an employee that does not have the authority to do so, or a purchase or commitment of funds by an authorized employee, but not in accordance with the County legislation or the procedures prescribed by A.O. 3-38. The A.O. establishes that the payment for any unauthorized purchase may be deemed the responsibility of the employee that made the purchase or commitment, and shall subject said employee to disciplinary action up to and including termination.