



**MEMORANDUM**

Agenda Item No. 7(D)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** March 6, 2012

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Ordinance codifying User Access Program in County purchases; providing for a percentage deduction from all vendor invoices submitted to the County pursuant to purchase contracts of any County Department; creating exceptions; providing for implementation; creating Section 2-8.10 of the Code

The substitute differs from the original item in the following material respects:

1. It contains an exposition of the history and intent of the ordinance in a series of Whereas clauses.
2. It provides that in those instances where the County invoices and collects the UAP relating to a non-County entity's accessing of a County contract, the County shall retain ninety percent 90% of the fee collected.
3. It clarifies its application to competed and non competed contracts, and limits the exception for federally funded contracts to those where the funding source prohibits or restricts the application of the UAP.
4. It deletes the specific reference to proprietary departments and provides that the Public Health Trust is authorized and directed to implement a UAP.
5. It creates a pilot program for extending the UAP to select construction contracts with the Mayor to report the results of the program to the Board within six months.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.  
County Attorney

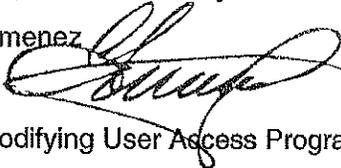
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# Memorandum



**Date:** March 6, 2012

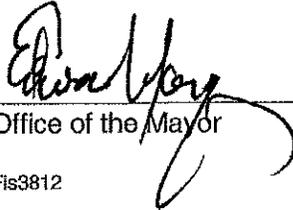
**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Ordinance codifying User Access Program in County purchases

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The proposed ordinance codifying the User Access Program (UAP) for the purchase of goods and services, excluding certain contracts from the UAP, and providing for implementation, will not have a fiscal impact to the County. Should the pilot program be successful and the implementation of this ordinance be applied to all construction contracts and bids do not reflect a pass-through of the UAP surcharge, additional revenue will be generated. It is difficult to estimate that amount at this time.

  
Office of the Mayor

Fis3812



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** March 6, 2012

**FROM:**   
R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Agenda Item No. 7(D)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(D)  
3-6-12

ORDINANCE NO. \_\_\_\_\_

ORDINANCE CODIFYING USER ACCESS PROGRAM IN COUNTY PURCHASES; PROVIDING FOR A PERCENTAGE DEDUCTION FROM ALL VENDOR INVOICES SUBMITTED TO THE COUNTY PURSUANT TO PURCHASE CONTRACTS OF ANY COUNTY DEPARTMENT; CREATING EXCEPTIONS; PROVIDING FOR IMPLEMENTATION; CREATING SECTION 2-8.10 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

>>WHEREAS, commencing with the effective date of Miami-Dade County Budget Ordinance No. 03-192, the County established a User Access Program (“UAP”) providing for a two percent deduction from vendor invoices to help defray the cost of the County’s procurement operations; and

WHEREAS, the UAP has been advantageous to the County in providing the funds necessary for the County to conduct equitable procurement processes; and

WHEREAS, although readopted by budget ordinance every year since 2003, the UAP has not been codified; and

WHEREAS, the codification of this useful County program will provide greater notice and transparency, and will establish more clarity to its intent and application; and

WHEREAS, this Board wishes to evaluate the expansion of the program to the area of construction through select contracts to be designated by the Mayor in a pilot program established in this ordinance,<<<sup>1</sup>

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-8.10 of the Code of Miami-Dade County, Florida, is hereby created to read as follows in its entirety:

**Sec. 2-8.10. User Access Program in County Purchases.**

- (1) A User Access Program (“UAP”) in County purchases is hereby created. Under the UAP, contracts for the purchase of goods and services shall provide that the County will deduct two percent (2%) from each invoice with the amount retained by the County to defray the cost of procurement activities. Contracts shall further provide that in the event a non-County entity accesses a County contract, it shall deduct two percent (2%) from each invoice and remit seventy five percent (75%) of the retained amount to the County to defray the cost of procurement activities. >>In cases where Miami-Dade County invoices and collects the UAP relating to a non-County entity accessing a County contract, the County shall retain ninety percent (90%) of the fee, and the non-County entity will retain ten percent (10%) to defray administrative costs.<<
- (2) The County Mayor or Mayor’s designee is authorized and directed to include UAP provisions, as specified in this Section, in each >>competed and non-competed<< County contract for the purchase of goods and services, including one-time, term, blanket and pool contracts >>and emergency awards<<, regardless of which Department issues the contract. The UAP shall apply to extensions and renewals of existing contracts. The UAP shall also be

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<sup>1</sup> The differences between the substitute and the original item are indicated as follows: words double stricken through and/or [[double bracketed]] shall be deleted, words double underlined and/or »double arrowed« constitute the amendment proposed.

5.

applicable to non-County entities who wish to access contracts procured by the County.

- (3) The following contracts shall be exempt from the UAP: construction, design, design-build, professional service contracts, small purchase orders issued by County departments, ~~[[contracts funded in whole or in part with federal funds]]~~, contracts funded with any funding source >>, including federal, << which prohibits or restricts the application of the credit to the County effected in the UAP, revenue generating contracts, and contracts with rates established by ordinance, resolution or applicable law. In addition, this Board may waive the application of the UAP upon a finding that the waiver is in the best interest of the County.
  
- (4) The County Mayor shall allocate the money retained upon application of the UAP as necessary to defray the cost of procurement activities throughout the County. >>The Public Health Trust is authorized and directed to implement a UAP program consistent with this Section.<< ~~[[Proprietary departments with separate procurement functions including the Airport, Seaport, and the Public Health Trust shall retain any UAP allocation to defray the cost of its procurement functions if performed exclusively by those departments, and shall share the allocation ratably in the event of assistance from other departments.]]~~
  
- (5) The County Mayor shall develop appropriate specifications and contract provisions to give effect to the requirements of this Section.

Section 2. >>A pilot program is hereby established to evaluate the use of the UAP in contracts involving construction. The County Mayor is hereby authorized and directed to select an area of construction contracting where the application of the UAP would be beneficial to the County, develop the appropriate specifications to include the UAP in those contracts, and evaluate the results of the inclusion of the UAP in the award and administration of those contracts. The Mayor shall report the result of the pilot to this Board not later than six months following the effective date of this ordinance.<<

Section ~~[[2]]~~>>3<<. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section ~~[[3]]~~>>4<<. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section ~~[[4]]~~>>5<<. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Hugo Benitez

Prime Sponsor: Commissioner Sally A. Heyman