

# Memorandum



**Date:** October 17, 2017  
**To:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners  
**From:** Carlos A. Gimenez  
Mayor  
**Subject:** Recommendation to Reject All Proposals: Employee Group Life Insurance Program

Agenda Item No. 8(F)(3)

## Recommendation

It is recommended that the Board of County Commissioners (Board) approve the rejection of all proposals received under *Request for Proposals No. RFP-00565, Employee Group Life Insurance Program*, for the Human Resources Department. A rejection is being recommended as the replacement solicitation inadvertently contained information that did not accurately reflect the County's existing group life insurance program. An extension of the current contract is being presented for Board consideration as a separate agenda item to allow the County sufficient time to issue a replacement solicitation.

The County issued a solicitation under full and open competition for the provision of a life insurance program that offers a Basic Life Plan and an Optional Life Plan. Five proposals were received in response to the solicitation, including one "No Bid." During the solicitation process, the County inadvertently provided information to potential proposers that was inconsistent with the County's current employee group life program policy. Specifically, the County did not correctly state its policy with respect to waivers of premiums for employees on a leave of absence. As a result, the pricing submitted varied depending upon whether the proposer relied on the information provided, thus creating a competitive disadvantage. Accordingly, rejection of all proposals is recommended so that a replacement solicitation can be issued.

## Scope

The impact would have been countywide in nature.

## Fiscal Impact/Funding Source

There is no fiscal impact to the County for the rejection of proposals.

## Vendors Not Recommended for Award

Proposer	Reason for Not Recommending
Aetna Life Insurance Company	Reject proposals
Metropolitan Life Insurance Company	
Unum Life Insurance Company of America	
Minnesota Life Insurance Company	Deemed non-responsive by the County Attorney's Office (see attached)
Standard Insurance	No Bid*

\* A "No Bid" means the vendor indicated it would not be submitting an offer in response to the solicitation.

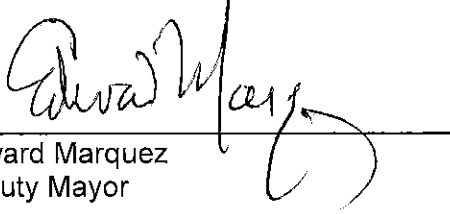
## Applicable Ordinances and Contract Measures

- The User Access Program provision would not have applied due to the funding source.
- The Small Business Enterprise Selection Factor would not apply.

Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners  
Page 2

- Local Preference would have applied.
- The Living Wage Ordinance would not have applied.

Attachment

A handwritten signature in black ink, appearing to read "Edward Marquez", is written over a horizontal line. The signature is cursive and extends below the line.

Edward Marquez  
Deputy Mayor

# Memorandum



**Date:** June 20, 2017

**To:** Michelle Loren Rapaport  
Procurement Contracting Manager  
Internal Services Department

**From:** Oren Rosenthal  
Assistant County Attorney

**Subject:** Responsiveness Determinations on RFP-000565, Employee Group Life Insurance Program

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You have asked this office if the proposals submitted by Metropolitan Life Insurance Company ("MetLife"), and Minnesota Life Insurance Company Humana ("MLIC") can be considered responsive to RFP-000565, Employee Group Life Insurance Program ("Solicitation") for various reasons identified in your request. We conclude that MetLife is responsive and MLIC's proposal is not.

## Discussion

We rely on the information provided in your memorandum dated June 14, 2017 (attached hereto), the Solicitation, and the proposals from MetLife and MLIC.

For MetLife, you indicate that MetLife has submitted two Form 1s with their proposal. These Form 1s are identical except as they relate to the basic life premium rate summary for retirees over the age of 65. On the first Form 1 submitted MetLife broke down a monthly premium as requested into the three age brackets set forth in the Solicitation Form 1 – retirees aged 65 to 69; retirees aged 70 to 74; and retirees aged 75 and above. The monthly total extended price for retirees is quoted at \$85,385 in the first Form 1. The second submitted Form 1 deviated from the Solicitation Form 1 and broke down the monthly premium into five age brackets – retirees aged 65 to 69; retirees aged 70 to 74; retirees aged 75 to 79; retirees aged 80 to 84; and retirees aged 85 and above. In addition to the non-conforming age breakdown, the premiums offered in the first two categories for retirees aged 65 to 69 and retirees aged 70 to 74 differ from the premiums offered in the first Form 1 submitted. The monthly total extended price for retirees is quoted at \$88,982 in the second Form 1. Moreover, you state that the proposal response requires proposers to submit responses "in the manner stated herein" but do not point to any prohibition on filing multiple Form 1 price proposals, providing alternative proposals, or submitting multiple proposals in response to the solicitation.

For MLIC, you identify two conditions that the proposer has placed on its quote: (1) MLIC states that its "quote is valid for 90 days" when the Solicitation is Section, in Section 1.3, does not permit withdrawal of the proposal until "180 calendar days after the opening of the proposal;" and (2) MLIC states its proposed quotes are conditioned upon "the replacement of existing supplemental life plan(s) and that this will be the only supplemental life plan offered." Although not identified, a review of MLIC's proposal reveals that MLIC conditions its proposed quote by reserving "the right to review and modify the rates as necessary" if "actual enrollment or plan design differs materially." The Solicitation Form F1, however, requires that the proposed quote "not be made contingent on any assumptions or proposed restriction," that premiums "shall not be adjusted at any time during the plan year," and that "[a]ll rates shall be firm and fixed for the initial five (5) Plan years."

## DISCUSSION

Based on the facts set forth above, the proposal from MetLife is responsive and may be evaluated and the proposal from MLIC is non-responsive and may not be evaluated.

The public purpose in competitive procurement is "best served by construing the bid requirements, if at all reasonable, in a way that would give all bidders an opportunity to bid." *Air Support Servs. Int'l, Inc. v. Metropolitan Dade County*, 614 So. 2d 583 (Fla. 3d DCA 1993). Generally, a proposal may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. A variance is material if (1) effect of the variance would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders. See *Robinson Elec. Co. v. Dade County*, 417 So.2d 1032, 1034 (Fla. 3d DCA 1982); *Harry Pepper & Associates, Inc. v. City of Cape Coral*, 352 So.2d 1190, 1129 (Fla. 2d DCA 1977) ("a bidder cannot be permitted to change his bid after the bids have been opened, except to cure minor irregularities"). When irregularities are tangential to the actual proposal they may not be considered material if they do not adversely affect the interests of the County. See *Tropabest Foods, Inc. v. State, Dept. of Gen. Services*, 493 So.2d 50, 52 (citing the Florida Administrative Code's provisions that a minor irregularity is one which "does not affect the price of the bid, or give the bidder an advantage or benefit not enjoyed by other bidders or does not adversely impact the interests of the agency").

For MetLife, the proposal of two separate Form F1s, one compliant with the proposal requirement and one non-complaint with the proposal requirements, is not fatal to its binding offer to negotiate a contract as required by the Solicitation. Section 1.3 of the Solicitation does not request a firm offer from any proposer. Rather, the Solicitation requires "a good faith commitment by the Proposer to negotiate a contract with the County in substantially similar terms to the proposal offered and ... enter into a contract substantially in the same terms as set forth herein." Solicitation at p. 3.

MetLife submitted a fully compliant Form F1 that may form the basis of evaluation and negotiation with the County and is therefore responsive. The addition of a non-compliant Form 1 that was neither requested nor expressly prohibited does not alter this analysis. Unlike solicitations which request a firm offer that may be accepted without negotiation where the addition of superfluous information may call into question the actual quote provided, this solicitation merely asked for a proposal that will form the start point of negotiations with the County. The addition of a non-compliant higher cost proposal to the proposal packages does not change the offer to negotiate on the compliant Form F1 and does not provide MetLife with the type of material advantage prohibited by the law. The compliant Form 1 offered the County a lower overall cost of service and is the only Form F1 that may be evaluated. Should MetLife proceed to negotiation as the highest ranked proposer, any negotiation must use the proposal in the compliant Form F1 as the basis of the offer.<sup>1</sup>

Unlike MetLife, MLIC placed conditions upon its proposal that are expressly prohibited by the terms and conditions of the Solicitation which may not be waived. This is particularly true for the different


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<sup>1</sup> Should MetLife refuse to honor its commitment to negotiate based on the complaint Form F1, the County may proceed to the next highest ranked proposer and consider MetLife's failure to honor its proposal in any subsequent solicitations.

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way it chose to price its quote. Unlike the other proposers MLIC's proposal transfers the risk of changes in plan enrollment from the proposer to the County. Said another way, the County asked proposers to assume all risk for the first five years associated with any fluctuation in enrollment. By placing conditions or limitations on this transfer of risk, MLIC is deviating from this material portion of the solicitation. By means of this deviation, MLIC is disavowing responsibility for this risk and is able to offer a materially different price for the plan. This condition thus places MLIC at a material advantage to other proposers who, in following the terms of the RFP, have factored into their price proposal the cost of assuming the risk for five years. The condition also prevents the selection committee from comparing prices in the manner intended, as MLIC is pricing a different risk. This is precisely the type of material advantage Florida's competitive procurement laws seek to avoid. As a result, MLIC's proposal is non-responsive.



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Oren Rosenthal

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## MEMORANDUM

**TO:** Oren Rosenthal  
Assistant County Attorney  
County Attorney's Office

**DATE:** June 14, 2017

**FROM:** Michelle Loren Rapaport  
Procurement Contracting Manager  
Internal Services  
Department

**SUBJECT:** Request for Responsiveness  
Determination on RFP No. 00565 – Employee  
Group Life Insurance Program

On May 25, 2017, proposal packages were received for the subject Solicitation and subsequently reviewed for responsiveness. The following concerns were identified during the review of the following submittal packages:

Metropolitan Life Insurance Company (MetLife)

- The Solicitation requested that Form 1 – Price Proposal Schedule be submitted with the proposal response and “in the manner stated herein.”
  - o MetLife submitted two (2) Form 1s with their proposal with different totals. Specifically, it differs as it pertains to Basic Life – Retirees over age 65 Monthly Premium Rate Summary by changing the age groups originally requested.

Minnesota Life Insurance Company

- A proposal terms and conditions page was submitted with Minnesota Life's proposal, that appears to conflict with Section 1.3, General Proposal Information, of the Solicitation.
  - o It states “quote is valid for 90 days.”
  - o Additionally, “requires the replacement of existing supplemental life plan(s) and that this will be the only supplemental life plan offered.”

The total value of the award will be over \$1 million.

Attached you will find the RFP, addenda and proposals referenced in this request.

If you have any questions or if I may provide additional assistance to expedite this request, please contact me at (305) 375-4029. Thanks for your attention to this matter.

Reviewed By: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Comments:

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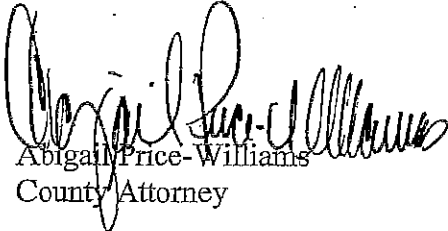


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**DATE:** October 17, 2017

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 8(F)(3)

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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor'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. 8(F)(3)  
10-17-17

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING REJECTION OF ALL PROPOSALS RECEIVED IN RESPONSE TO REQUEST FOR PROPOSALS (RFP) NO. 00565 FOR EMPLOYEE GROUP LIFE INSURANCE PROGRAM FOR THE HUMAN RESOURCES DEPARTMENT

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves rejection of all proposals received in response to RFP-00565 for an employee group life insurance program for the Human Resources Department. A copy of the solicitation document and the rejection of proposals received in response to it are on file with and available upon request from the Internal Services Department, Procurement Management Services Division.

The foregoing resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote, the vote was as follows:

Esteban L. Bovo, Jr., Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	



The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of October, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Oren Rosenthal