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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: July 20, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 14(A)(3)

From: George M. Burgess
County Manager

Subject: Recommendation for Approval to Award Contract Nos. RFP711a and RFP711b: Employee Group Dental Insurance Program (Prepaid) Resolution No. R-821-10

RECOMMENDATION

It is recommended that the Board of County Commissioners approve these contract awards to provide an Employee Group Dental Insurance Program which affords a complement of affordable dental prepaid plans.

CONTRACT NOS: RFP711a and RFP711b

CONTRACT TITLE: Employee Group Dental Insurance Program (Prepaid)

DESCRIPTION: To establish two contracts for an Employee Group Dental Insurance Program consisting of affordable dental prepaid plans for Miami-Dade County and Public Health Trust/Jackson Health System employees and retirees, as well as other covered groups and their dependents.

TERM: The term of the contracts shall be from effective date until December 31, 2013 to provide for three plan years. Thereafter, the contract has three, one-year options-to-renew.

APPROVAL TO ADVERTISE: January 26, 2010

CONTRACT AMOUNT: $7.9 Million for the initial three plan years. The amount is dependent upon enrollment.

USING/MANAGING AGENCY AND FUNDING SOURCE:

Department	Allocation	Funding Source	Contract Manager
General Services Administration	$7.9 Million	Internal Service Fund/Public Health Trust Fund and Employee Funding	Marsha Pascual

DPM AGENT/OFFICER: Maria Carballeira, Department of Procurement Management

METHOD OF AWARD: Awarded to the two recommended responsive, responsible vendors based on the evaluation criteria established in the solicitation. A full and open competitive Request for Proposals process was used. The two highest ranked vendors are recommended for award.

VENDORS RECOMMENDED FOR AWARD:

Vendor	Address	Principal
Metropolitan Life Insurance Company (Non-local vendor)	200 Park Avenue New York, NY 10166	Robert C. Henrickson
Humana Dental Insurance Company (Non-local vendor)	1100 Employers Boulevard Depere, WI 54115	James H. Bloem

VENDORS NOT RECOMMENDED FOR AWARD:

Delta Dental Insurance Company
CIGNA Dental Health, Inc. (non-responsive due to material deviations in proposal)
Dental Benefits Providers, Inc. (non-responsive due to failure to meet minimum qualifications)
Union Security Insurance Company (non-responsive due to material deviations in proposal)

PERFORMANCE DATA: There are no performance issues with the recommended firms.

COMPLIANCE DATA: There are no compliance issues with the recommended firms.

CONTRACT MEASURES: The Review Committee of December 9, 2009, determined that no measures would be applied due to the funding source.

LIVING WAGE: The services being provided are not covered under the Living Wage Ordinance.

USER ACCESS PROGRAM: The 2% User Access Program provision is not included as these services are exempt.

LOCAL PREFERENCE: The Local Preference was applied in accordance with the Ordinance and did not affect the outcome.

ESTIMATED CONTRACT COMMENCEMENT DATE: Ten business days after date adopted by the Board of County Commissioners, unless vetoed by the Mayor.

DELEGATED AUTHORITY: If this item is approved, the County Mayor or designee will have the authority to exercise, at the County Mayor's or designee's discretion, subsequent options-to-renew and other extensions in accordance with the terms and conditions of the contract.

BACKGROUND

The current contracts for the Employee Group Dental Insurance Program (Prepaid) have been in place since October 14, 2004, with insurance coverage beginning Plan Year 2005 (effective January 1 – December 31). The contracts expire on December 31, 2010. The successor contracts must be in place in advance of the employee benefits open enrollment in the Fall 2010.

The County issued a solicitation to obtain proposals for qualified firms in order to establish a fully-insured dental benefit program to be effective January 1, 2011. Six proposals were received in response to the solicitation. Three proposals were deemed non-responsive by the County Attorney's Office *(County Attorney's Office opinion dated March 11, 2010 is attached)*. The remaining three proposals were evaluated by the Evaluation/Selection Committee.

The Evaluation/Selection Committee rated and ranked the proposals. Local Preference was applied in accordance with Section 2-8.5 of the Miami-Dade County Code. All three proposers claimed the Local Preference. In accordance with Section 2-8.5 of the Miami-Dade County Code, if a non-local business is the highest ranked proposer, and the ranking of a local proposer is within five percent of the ranking obtained by the non-local proposer, then the highest ranked local proposer shall have the opportunity to proceed to negotiations with the County. The score of the third ranked proposer, Delta Dental Insurance Company, was within five percent of Metropolitan Life Insurance Company, the highest ranked proposer's score. However, Metropolitan Life Insurance Company did not provide a Local Business Tax Receipt issued by Miami-Dade County to verify eligibility for the Local Preference. Therefore, Metropolitan Life Insurance Company was not initially considered to have met the requirements for Local Preference eligibility. As a result, the Evaluation/Selection Committee recommended negotiations with Humana Dental Insurance Company, the second ranked proposer, and Delta Dental Insurance Company, the third ranked proposer.

The application of Local Preference was reviewed with the County Attorney's Office to ensure consistency with Miami-Dade County Code. The County Attorney's Office opined that Metropolitan Life Insurance Company could be considered for local preference *(County Attorney's Office opinion dated March 25, 2010 is attached)*. However, granting Local Preference to Metropolitan Life Insurance Company was subject to payment verification of the applicable state tax which is collected in lieu of the Miami-Dade County Local Business Tax Receipt. Payment of the applicable state tax was sufficient since Miami-Dade County does not issue a Local Business Tax Receipt in the category of business requested by the solicitation. The County has confirmed that Metropolitan Life Insurance Company paid the applicable state tax. The Committee was reconvened on March 25, 2010 and advised of the results of the review with the County Attorney's Office. The Committee then revised its recommendation as follows: the two highest ranked proposers, Metropolitan Life Insurance Company and Humana Dental Insurance Company, were recommended for negotiations.

The recommended contracts with Metropolitan Life Insurance Company and Humana Dental Insurance Company have the potential of up to $100,000 in annual savings, dependent upon enrollment, over the current contract cost. These contracts provide the County the same level of benefits as the current contracts with the following enhancements:

Metropolitan Life Insurance Company

1) Additional two cleanings per calendar year with a maximum $15 co-payment (in addition to two cleanings already covered by plan)
2) Resin based composite coverage with a maximum $65 co-payment
3) Noble, High Noble metal *(utilized in crowns)* maximum charge capped at $150
4) Porcelain molar restoration maximum charge capped at $75

Humana Dental Insurance Company

1) Oral evaluation and counseling with primary caregiver at no charge (for patients under three years of age)
2) Re-evaluation - problem focused (not post-operative visit) at no charge
3) X-Rays Intraoral - Occlusal Film at no charge
   X-Rays (Bitewing) - Single Film at no charge
   X-Rays (Bitewing) - Three Films at no charge
   Extraoral - each additional film at no charge

The contracts also include performance guarantees that set standards of performance for meeting the implementation schedule, open enrollment deliverables, claims administration, member services, and provider network turnover. These performance guarantees are more favorable than those in the current contracts. The guarantees require payment of penalties to the County for failure to meet the performance standards.

The contract rates are guaranteed for the initial three plan years. The three optional plan year rates will be negotiated within the established not-to-exceed increase caps which vary depending upon the trended loss experience.

Attachments

Assistant County Manager

Memorandum

MIAMI-DADE COUNTY

Date: July 20, 2010

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Supplemental Information for Approval to Award Contract Nos. RFP711a and RFP711b: Employee Group Dental Insurance Program (Prepaid)

This memorandum provides supplemental information regarding the referenced solicitation.

FISCAL IMPACT/FUNDING SOURCE

The allocation will be funded by the Internal Service Fund, Public Health Trust Fund and Employee Funding. The allocation and funding sources have been reviewed and approved by the Office of Strategic Business Management. There is no fiscal impact beyond what is stated in the award recommendation.

Assistant County Manager

Memorandum

MIAMI COUNTY

Date: March 11, 2010

To: Maria Carballeira
Procurement Contracting Officer

From: Oren Rosenthal
Assistant County Attorney

Subject: Responsiveness of Proposals – RFP 711 Employee Group Dental Insurance Program – Prepaid

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You have asked this office if proposals from Dental Benefits Providers, Inc. ("DBP"), CIGNA Dental Health, Inc. ("CIGNA"), and Union Security Dental Company ("Assurant") may be considered responsive to the above referenced Request for Proposals ("RFP"). For the reasons set forth below, we conclude that DBP, CIGNA and Assurant's proposals are non-responsive to the RFP. You also ask this office to identify the proposer for the Humana/CompBenefits Company ("Humana") proposal.

FACTS

We rely on the information provided in your memorandum to this office dated March 5, 2010 (attached hereto), the proposals from the above firms and text of the RFP.

In your memorandum, you identify the following variations from the solicitation:

1. **Dental Benefit Providers, Inc.** You state that DBP failed to provide the required State of Florida Certificate of Authority to solicit for and perform the services requested in the RFP. Instead DBP provided a Certificate of Authority for a listed subcontractor, Solstice Benefits, Inc. DPM Staff researched the State of Florida Office of Insurance Regulation Website, which provides public access to active companies and identifies authorized lines of business. DBP was listed on the State of Florida Office of Insurance Regulation's Website as a Third Party Administrator (TPA). DPM Staff contacted the Office of Insurance Regulation's Customer Service Line and spoke with a customer service representative who stated that TPAs are not authorized to sell dental insurance in the State of Florida. You report that the Office of Insurance Regulation states that TPAs are authorized to administer plans.

2. **CIGNA Dental Health, Inc.** You state that the solicitation provides that the rates must be fixed for the first three years and that the employer contribution rates for the insurance are subject to collective bargaining. As part of its price proposal, CIGNA includes a section titled "Underwriting Caveats" (Financials Tab, Page 95). In that section, CIGNA states that rates "require an employer contribution consistent with current arrangement for the three year period."

3. **Union Security Insurance Company (Assurant)** You state that the solicitation requires the proposer to provide COBRA coverage as part of the price it presents to the County. Assurant included a section in its proposal titled "Deviations" (Exhibit E1). In that section, Assurant

states that it does not administer COBRA but rather utilizes a third party administrator for certain COBRA administration services. Assurant identifies that it currently has other arrangements with a third party administrator to provide COBRA at an additional cost of 4% per rate tier and "will be glad to discuss [a similar arrangement] with the County if we are a finalist."

4. **Humana/CompBenefits Company** You ask for the identity of the proposer listed as CompBenefits Company on Form A-1 of the proposal. You state that Humana's Form A-1 identified the name of the proposer as "CompBenefits Company" but listed the FEIN of HumanaDental Insurance Company. The cover letter included in the proposal states, "Humana/CompBenefits welcomes the opportunity to present our dental plan." A statement provided in Proposer Information, Item No. 2 (Section 1 Tab, Page 1) states that Humana Inc. acquired CompBenefits Corporation in the forth quarter of 2007. You state that DPM Staff researched the State of Florida's Division of Corporations Website and found that HumanaDental Insurance Company (FEIN 39-0714280) and CompBenefits Company (FEIN 59-2531815) are both active corporations in the State of Florida.

DISCUSSION

Based on the facts set forth above, DBP, CIGNA and Assurant's proposals are non-responsive to the RFP. In general, a proposal may be rejected or disregarded if there is a variance between the proposal and the advertisement. *See Robinson Electric Co. v. Dade County*, 417 So.2d 1032, 1034 (Fla. 3d DCA 1982). Proposers who propose impermissible exceptions to invitations to RFPs do so at the risk of those exceptions being deemed material to the proposal and having their proposal rejected as nonresponsive.[1]

For DBP, the failure to provide a State of Florida Certificate of Authority in its own name is fatal. Section 2.3 of the RFP provides the sole Minimum Qualification Requirement: "Selected Proposer shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the services for which the proposal is being submitted for, as of the proposal due date." This requirement is consistent with Florida law which requires a Certificate of Authority to both solicit and perform the requested services. The RFP requests entities which are licensed to sell and administer a dental insurance plan. DBP's attempt to utilize a third party "affiliate" for the sale of insurance is insufficient to meet this requirement. Moreover, DBP's properly licensed subcontractor is neither a signatory to the offer to the

[1] "In determining whether a specific noncompliance constitutes a substantial and hence nonwaivable irregularity, the courts have applied two criteria-first, whether the effect of a waiver would be to deprive the municipality of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition." *Robinson Electric*, 417 So.2d at 1034 (citing 10 McQuillan, Municipal Corporations § 29.65 (3d Ed. rev. 1981)); *Harry Pepper & Associates, Inc. v. City of Cape Coral, 352 So.2d 1190, 1129* (Fla. 2d DCA 1977) ("The test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive nature is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by other bidders"). In some cases, irregularities that are tangential to the actual proposal 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").

County nor would be in privity with the County in any subsequent contract. As such, the proposal is non-responsive.

For CIGNA, the inclusion of an underwriting caveat that conditions their price offer on "an employer contribution consistent with current arrangement for the three year period" is fatal to the offer. Section A, Note No. 7 of the price proposal form requires that "All rates shall be guaranteed for a minimum of 36 months (the initial 3 program years) ... Price shall not be contingent upon minimum participation requirements or the County's acceptance of any exceptions by Proposer." Section 2.5 of the RFP also provides that "The County contribution levels are subject to collective bargaining agreements" which puts the proposers on notice that the contribution levels currently provided may change over the first term of the proposed agreement. As such, this variance both gives CIGNA a material advantage over the other proposals who comply with these requirements by reducing the risk associated with the size of the risk pool and also makes CIGNA's bid illusory by conditioning it price on matters which the County has made clear may change.

For Assurant, its statement that it provides COBRA administration through a third party at an additional charge is fatal to its proposal. Section A, Note No. 4 of the price proposal form requires that "Any quoted premium rates supplied shall be all-inclusive ... no 'add-on' charges for services shall be accepted." Section 2.7.18 also requires that "Selected Proposer shall provide all COBRA administration." This variance is likewise material and may not be waived. Assurant does not provide all of the services requested by the RFP and also does not give a definitive price for the requested services. At best, Assurant's proposal merely invites negotiation of prices on a requested service in the RFP.

For Humana, the issue is not one of responsiveness, but of identification of the proposer. Although Humana lists the proposal entity as "CompBenefits Company" in Form A-1 it uses HumanaDental Insurance Company's FEIN and the form is signed by an officer of HumanaDental. Moreover, the proposal is presented with the Humana brand and indicates that CompBenefits Company was wholly acquired by Humana, Inc. in 2007. When viewed in its entirety, it is apparent that the proposal is from HumanaDental Insurance Company and should be evaluated as such.

Oren Rosenthal

Memorandum

MIAMI-DADE COUNTY

Date: March 5, 2010

To: Oren Rosenthal
Assistant County Attorney
County Attorney's Office

From: Maria Carballeira, CPPB
Procurement Contracting Officer
Department of Procurement Management

Subject: Request for Legal Opinion RFP No. 711
Employee Group Dental Insurance Program (Prepaid)

The County issued Request for Proposals (RFP) No. 711 for the Employee Group Dental Insurance Program (Prepaid) on January 27, 2010. On February 26, 2010, six (6) proposals were received and subsequently reviewed. The following issues were identified:

1. **Minimum Qualification Requirement**
   The RFP had the following Minimum Qualification Requirement: *"Selected Proposer shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the services for which the proposal is being submitted for, as of the proposal due date.*

Dental Benefit Providers, Inc. provided documentation in the form of a State of Florida Certificate of Authority for Solstice Benefits, Inc. which is listed as a subcontractor in the proposal. DPM Staff researched the State of Florida Office of Insurance Regulation Website, which provides public access to active companies and identifies authorized lines of business. Proposer was listed on the State of Florida Office of Insurance Regulation's Website as a Third Party Administrator (TPA). DPM Staff contacted the Office of Insurance Regulation's Customer Service Line and spoke with a customer service representative who stated that TPAs are not authorized to sell dental insurance in the State of Florida. TPAs are authorized to administer plans. This appears to be confirmed in Florida Statutes 626.88 and 626.8805 *(attached hereto)* addressing certificate of authority to act as an administrator.

2. **Proposer Identification**

CompBenefits Company submitted Form A-1 in the Proposal and stated Proposer's Name as "CompBenefits Company". In Form A-1, the "Federal Employer Identification Number" CompBenefits Company listed corresponds instead to HumanaDental Insurance Company. The cover letter included in the proposal states, *"Humana/CompBenefits welcomes the opportunity to present our dental plan."* A statement provided in CompBenefits Company's Proposer Information, Item No. 2 (Section 1 Tab, Page 1) states that Humana Inc. acquired CompBenefits Corporation in the forth quarter of 2007. DPM Staff researched the State of Florida's Division of Corporations Website and found that HumanaDental Insurance Company (FEIN 39-0714280) and CompBenefits Company (FEIN 59-2531815) are both active corporations in the State of Florida.

3. **Material Deviations**
   Proposals received were reviewed for any assumptions, deviations or exceptions outlined therein that may materially conflict with any portions of the RFP. The findings are as follow:

a. **CIGNA Dental Health, Inc.**
Underwriting Caveats (Financials Tab, Page 95): Rates require an employer contribution consistent with current arrangement for the three year period.

Vs.

County:
Form B-1 Price Proposal Schedule, Section A, Note No. 7: All rates shall be guaranteed for a minimum of 36 months (the initial 3 program years). Price shall not be contingent upon minimum participation requirements or the County's acceptance of any exceptions by Proposer.

Section 2.5 - Premiums: The County contribution levels are subject to collective bargaining agreements.

b. Union Security Insurance Company:
Deviations (Exhibit E1): We do not administer COBRA. However, Union Security Insurance Company utilizes a third party administrator for certain COBRA administration services with an additional cost of 4% per rate tier which Union will be glad to discuss with the County if we are a finalist.

Vs.

County:
Form B-1 Price Proposal Schedule, Section A. Note No. 4: Any quoted premium rates supplied shall be all-inclusive. No "add-on" charges for services shall be accepted.

Section 2.7.18: Selected Proposer shall provide all COBRA administration.....

Please review these issues and advise whether the proposals submitted by Dental Benefits Provider, Inc., CompBenefits Company, CIGNA Dental Health, Inc. and Union Security Insurance Company are responsive.

Attached, please find the following:

- *RFP 711*
- *Dental Benefits Provider, Inc. Proposal with areas of concern tabbed*
- *CompBenefits Company Proposal with areas of concern tabbed*
- *CIGNA Dental Health, Inc. Proposal with areas of concern tabbed*
- *Union Security Insurance Company Proposal with areas of concern tabbed*

Memorandum

Date: March 25, 2010

To: Maria Carballeira
Procurement Contracting Officer

From: Oren Rosenthal
Assistant County Attorney

Subject: Application of Local Preference Ordinance, Section 2-8.5 of the Code of Miami-Dade County to RFP No. 711 Employee Group Dental Insurance Program (Prepaid)

You have asked this office to review applicability of Section 2-8.5 of the Code of Miami-Dade County to the proposals submitted by the first and second ranked responsive responsible proposers received in response to the above referenced Request for Proposals ("RFP"). For the reasons discussed below we find that both Metropolitan Life Insurance Company ("MetLife") and Delta Dental Insurance Company ("DDIC") may be considered a local business under Section 2-8.5 of the Code of Miami-Dade County.

FACTS

We rely on the information provided in your memorandum to this office dated March 23, 2010, this office's prior opinion regarding the application of the local preference to RFP 673, as well as previous communications with the Tax Collector's Office regarding the Local Business Tax category applicable to this RFP.

You state that both proposals in question claim a local preference. In support of the claimed preference, DDIC provided a local business tax receipt from Miami-Dade County in the category of "Service Business" for the period exceeding one year prior to the proposal submittal date. MetLife, on the other hand, provided a local business tax receipt issued by the City of Coral Gables with a category classification of investments/securities dealer.

You indicate that upon subsequent inquiry MetLife provided multiple local business tax receipts issued by various Miami-Dade and Broward municipalities, as well a copy of a Miami-Dade County 2008 Notice of Ad Valorem Taxes. You also report that staff contacted the Miami-Dade County Business Tax Receipt Office who stated that MetLife does possesses a local business tax receipt for the category of commercial, industrial and office space but that such a local business tax receipt only authorizes the leasing of commercial property owned by MetLife.

In prior inquiry to the Tax Collector's Office, that Office reported that insurance companies "do not need to acquire a Local Business Tax Receipt (formerly named Occupational License)" in accordance with Florida Statutes Chapter 624.506(2) which provides that for insurance companies "the payment and collection of county tax under this chapter shall be in lieu of collection thereof by the respective county tax collectors." The Tax Collector's Office also has opined that the work of processing insurance claims and other work associated with the services purchased through RFP 673 requires a Local Business Tax Receipt in the "Service Business" category.

DISCUSSION

Based on the facts set forth above, DDIC may be considered Local Businesses under Section 2-8.5 of the Code.[1] MetLife may also be considered a Local Business subject to certain further inquiry.

In conjunction with RFP 673, this office issued an opinion dated June 25, 2009 finding that DDIC's submission of a local business tax receipt in the "Service Business" category properly met the definition of a Local Business for that solicitation under Section 2-8.5(1)(c) of the Code. As DDIC submitted a similar local business tax receipt in the instant RFP, DDIC is similarly a Local Business for this procurement.

The prior opinion also dealt with the question of whether a vendor may submit a local business tax receipt of an affiliated entity as well as use the facilities of an affiliated entity to meet the definition of a Local Business. In that opinion, this office found that such an arrangement did not meet the definition of a Local Business. In that case, the vendor reported that it does not have a valid local business tax receipt issued in its own name in Miami-Dade County or Broward County. That issue is distinct from the question presented here by MetLife.

Here, MetLife has submitted a Miami-Dade County local business tax receipt issued in its own name as well as multiple local business tax receipts from municipalities within Miami-Dade County. The County local business tax receipt presented by MetLife, however, was not for insurance but for a category of business not contemplated by the instant RFP.

As noted by the Tax Collector's Office, Miami-Dade County does not offer a local business tax receipt for insurance companies. That is because Florida Statutes Chapter 624.506(2) provides that for insurance companies "the payment and collection of county tax under this chapter shall be in lieu of collection thereof by the respective county tax collectors." Thus, Miami-Dade County does not collect a local business tax for insurance operations in Miami-Dade County based upon this statute.

Thus, the issue presented by MetLife is whether a vendor who possesses a local business tax receipt, has multiple local offices, and who demonstrates verifiable contributions "to the economic development and well-being of Miami-Dade County" is sufficient to meet definition of a Local Business when the County does not issue a local business tax receipt in the category of business requested by the solicitation. As state law provides that the State's collection of the county tax "shall be in lieu of collection" by the County we believe MetLife may meet the definition of a Local Business by demonstrating that it has paid the appropriate state collected tax.

Such an interpretation is consistent with the purpose of requiring a local business tax receipt to demonstrate that a vendor claiming the preference is authorized to and actually does provide the

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[1] Section 2-8.5(1)(c) of the Code defining "local business" for purposes of the preference provides:

> *Local business* means the vendor has a valid occupational license [local business tax receipt] issued by Miami-Dade County at least one year prior to bid or proposal submission to do business within Miami-Dade County that authorizes the business to provide the goods, services or construction to be purchased, and a physical business address located within the limits of Miami-Dade County from which the vendor operates or performs business ... In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way.

requested services within Miami-Dade County. Any other interpretation would result in the untenable proposition that a hypothetical insurance company employing thousands of Miami-Dade County residents would be unable to obtain a local preference because the County does not issue a local business tax receipt for that category of business.

Accordingly, MetLife may properly be considered a Local Business under Section 2-8.5 of the Code of Miami-Dade County if it demonstrates to the County's satisfaction that it has paid the tax referenced in Florida Statutes Chapter 624.506(2), conducts business in Miami-Dade County subject to that tax, and contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way.

Oren Rosenthal

Memorandum

MIAMI-DADE COUNTY

Date: March 31, 2010

To: George M. Burgess
County Manager

Through: Amos C. Roundtree, CPSM
for
Miriam Singer, CPPO
Director
Department of Procurement Management

From: Maria Carballeira, CPPB
Procurement Contracting Officer
Chairperson, Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee for RFP No. 711: Employee Group Dental Insurance Program (Prepaid)

The County issued a solicitation to obtain proposals from qualified firms for the provision of a voluntary fully-insured dental benefit program which offers affordable dental prepaid plans beginning with plan year effective January 1, 2011. The dental insurance program covers County and Public Health Trust/Jackson Health System employees/retirees, as well as other covered groups. The County anticipates awarding up to two contracts for dental prepaid plans.

The Evaluation/Selection Committee has completed the evaluation of proposals submitted in response to the solicitation following the guidelines published in the solicitation.

Committee meeting dates:
February 24, 2010 (kick-off meeting)
March 18, 2010 (evaluation meeting and recommendation, contingent on Local Preference opinion from the County Attorney's Office)
March 25, 2010 (recommendation after consideration of Local Preference legal opinion)

Verification of compliance with contract measures:
Not applicable since the Review Committee did not assign any contract measures to this solicitation.

Verification of compliance with minimum qualification requirements:
The solicitation had minimum qualification requirements which were reviewed by the Chairperson and Hazel Grace-Dansoh of the client department, General Services Administration. The proposal received from Dental Benefit Providers, Inc. did not meet the minimum requirements. Additionally, the proposals received from CIGNA Dental Health, Inc. and Union Security Insurance Company (Assurant) included material deviations that conflicted with a portion of the solicitation. A request for a responsiveness determination on these issues was forwarded to the County Attorney's Office. Per the legal opinion dated March 11, 2010 *(attached hereto)*, the proposals received from Dental Benefit Providers, Inc., CIGNA Dental Health, Inc., and Union Security Insurance Company (Assurant) were deemed non-responsive.

Summary of scores:
The final scores are as follows:

Proposer	Technical Score (max. 4000)	Price Score (max. 1000)	Total Combined Score (max. 5000)	Price Submitted (for three plan years)
1. Metropolitan Life Insurance Company	3412	800	4212	$3,720,079
2. Humana/CompBenefits Company	3362	725	4087	$4,207,982
3. Delta Dental Insurance Company	3316	695	4011	$3,809,005

The Evaluation/Selection Committee decided not to hold oral presentations, as the proposals did not require further clarification.

Local Preference:
Local Preference was considered in accordance with the applicable ordinance and did not affect the outcome.

Other Information:
All three proposers claimed Local Preference. However, Metropolitan Life Insurance Company provided a Local Business Tax Receipt issued by a local municipality, but did not provide a Local Business Tax Receipt issued by Miami-Dade County as required by Section 2-8.5 of the Miami-Dade County Code. Accordingly, Metropolitan Life Insurance Company was considered non-local. In accordance with Section 2-8.5 of the Miami-Dade County Code, if a non-local business is the highest ranked proposer, and the ranking of a local proposer is within five (5%) percent of the ranking obtained by the non-local proposer, then the highest ranked local proposer shall have the opportunity to proceed to negotiations with the County. The third ranked proposer, Delta Dental Insurance Company's score was within five (5%) percent of the highest ranked proposer's score, Metropolitan Life Insurance Company. This application of Local Preference resulted in the Evaluation/Selection Committee recommending negotiations with Delta Dental Insurance Company. The Committee also recommended negotiations with the second ranked proposer, Humana/CompBenefits Company. The Committee was advised that a legal opinion regarding the interpretation of Local Preference would be sought and the Committee would be advised accordingly.

In an abundance of caution, the application of Local Preference was forwarded for review to the County Attorney's Office to ensure consistency with the Miami-Dade County Code. The County Attorney's Office opined that Metropolitan Life Insurance Company had met the Local Preference requirement *(March 25, 2010 opinion attached hereto)*. The Committee was reconvened on March 25, 2010 and advised of the County Attorney's Office Local Preference determination. As all proposers were local, the Committee recommended negotiations with the two highest ranked proposers, in accordance with the solicitation allowing for up to two dental prepaid plans.

Negotiations:
The Evaluation/Selection Committee recommends that the County enter into negotiations with the two highest ranked proposers, Metropolitan Life Insurance Company and Humana/CompBenefits Company. The following individuals will participate in the negotiations:

Maria Carballeira, Procurement Contracting Officer, Department of Procurement Management
Hazel Grace-Dansoh, Benefits Manager, General Services Administration
Damita Surita-Polanco, Assistant Director of Employee Benefits, Public Health Trust

Consensus Statement:
The Evaluation/Selection Committee determined that the recommended proposers, Metropolitan Life Insurance Company and Humana/CompBenefits Company, possess the required qualifications, experience, technical capacity and member services to provide an Employee Group Dental Insurance Program to meet the needs of the program participants. Furthermore, Metropolitan Life Insurance Company and Humana/CompBenefits Company substantially matched the current prepaid dental plan design currently being offered to County employees, thereby ensuring a seamless transition to plan participants. Both firms have a proven track-record of administering prepaid dental plans for long-term clients including comparable large public entities. Metropolitan Life Insurance Company currently contracts with the Miami-Dade Public Schools District and the State of California. Humana/CompBenefits Company contracts with Broward County and the State of Florida.

In addition, Metropolitan Life Insurance Company has the highest technical score and the lowest proposed price for the initial three plan years. Humana/CompBenefits Company has the second highest technical score and the highest proposed price for the initial three plan years. The Committee further recommended that the County work towards negotiating an agreeable, competitive price with both proposers.

Copies of the score sheets are attached for each Evaluation/Selection Committee member, as well as a composite score sheet.

Attachment(s)

Approved

WDW

George M. Burgess
County Manager

4/7/10
Date

Not Approved

George M. Burgess
County Manager

Date

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: July 20, 2010

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

SUBJECT: Agenda Item No. 14(A)(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**

_____ **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. 14(A)(3)
7-20-10

RESOLUTION NO. R-821-10

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENTS IN THE AMOUNT OF $7.9 MILLION WITH METROPOLITAN LIFE INSURANCE COMPANY AND HUMANA DENTAL INSURANCE COMPANY TO OBTAIN AN EMPLOYEE GROUP DENTAL PROGRAM (PREPAID), AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENTS FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS, AND TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN CONTRACT NOS. RFP711A AND RFP711B

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 the execution of agreements in the amount of $7.9 Million with Metropolitan Life Insurance Company and Humana Dental Insurance Company, in substantially the form attached hereto and made a part hereof, and authorizes the County Mayor or County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise any cancellation and renewal provisions and any other rights contained therein.

The foregoing resolution was offered by Commissioner **Joe A. Martinez**, who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	absent		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Barbara J. Jordan	aye	Joe A. Martinez	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of July, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Oren Rosenthal

Employee Group Dental Insurance Program (Prepaid)

Contract No. RFP711a

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Metropolitan Life Insurance Company, a corporation organized and existing under the laws of the State of New York, having its principal office at 200 Park Avenue, New York, NY 10166 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide an Employee Group Dental Insurance Program (Prepaid), on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 711 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated February 24, 2010, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such Employee Group Dental Insurance Program (Prepaid) for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), Price Schedule (Appendix B), Performance Guarantee Provisions (Appendix C), RFP No. 711 and all associated addenda and attachments, the Contractor's Proposal, the Group Policy, and all other attachments hereto and all amendments issued hereto.

b) The words "Contract Date" to mean the date on which this Agreement is effective.

c) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative designated to manage the Contract.

d) The word "Contractor" to mean Metropolitan Life Insurance Company and its permitted successors and assigns.

e) The word "Days" to mean Calendar Days.

f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.

g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.

h) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.

i) The words "Project Manager" to mean the County Manager or the duly authorized representative designated to manage the Project.

j) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

k) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

l) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

m) The words "Group Policy" shall mean the prepaid dental health services contract (including the evidence of coverage and the schedule of benefits) which, in the form issued, is called a "Group Contract" and will be issued by Contractor or an affiliate of

Contractor prior to the effective date of coverage and approved by the County.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) Appendices to these terms and conditions (the Scope of Service, Price Schedule and Performance Guarantee Provisions), 3) the Miami-Dade County's RFP No. 711 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal. If there is a conflict among the provisions of this Agreement and the Group Policy, the provisions of the Group Policy take precedence.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

b) The Contractor shall issue the Group Policy and shall administer the Group Policy consistent with the terms and conditions thereof and the Scope of Services. The Contractor shall provide full and prompt cooperation with the County in all aspects of the Services performed hereunder.

c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.

e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County that the Contractor is willing and able to perform. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page of this Agreement and shall continue through December 31, 2013. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for three (3) additional years on a year-to-year basis. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County
General Services Administration – Risk Management Division
111 N. W. 1 Street, Suite 2340
Miami, FL 33128
Attention: GSA Risk Management Division Director
Phone: (305) 375-4281
Fax: (305) 375-4255
e-mail: MB16@miamidade.gov
with a copy to: HGRACE@miamidade.gov

and,

b) to the Contract Manager:

Miami-Dade County

Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Metropolitan Life Insurance Company
1200 South Pine Island Road, Suite 770
Plantation, FL 33324
Attention: Kevin Murphy
Phone: 954-626-5169
Fax: 800-576-6576
E-mail: kmurphy7@metlife.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in accordance with Price Schedule, Appendix B, herein. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Plan year prices shall remain firm and fixed for the initial term of the Contract (through December 31, 2013). Any option or extension period prices will be determined pursuant to Price Schedule, Appendix B. However, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The County will remit applicable premiums to the Contractor in arrears on a bi-weekly basis after the County either deducts the employee contributions through its payroll process or receives payment from employees on an updated leave of absence and retirees. The County will remit premium payments based on its records.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature made by a third party arising out of, relating to or resulting from the Contractor's breach of this Agreement or the negligence or willful misconduct by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Department of Procurement Management, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

2. Public Liability Insurance on a comprehensive basis in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**

3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

4. Professional Liability Insurance in an amount not less than $1,000,000.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly address any complaints made by the County regarding any employee, Subcontractor or any other person performing Services hereunder to ensure a high level of service.

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

c) The Contractor agrees that at all times it will employ, maintain and assign to the

performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels as reasonably necessary to address a determination by the County that staffing was insufficient.

d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.

e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.

f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may request the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.

b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any legal proceeding.

d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.

e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

f) Nothing in this Article 14 shall affect the right of Contractor to determine, in its sole discretion, all matters relating to coverage under the Group Policy.

ARTICLE 15. MUTUAL OBLIGATIONS

a) The Group Policy and this Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of no less than three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to approve the award of any subcontract, which approval shall not be unreasonably withheld.

c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn

therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.

b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County.

c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

   i. stop work on the date specified in the notice ("the Effective Termination Date");

   ii. take such action as may be necessary for the protection and preservation of the County's materials and property;

   iii. cancel orders;

   iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services:

   v. take no action which will increase the amounts payable by the County under this Agreement; and

e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article, the Contractor will be compensated as stated in the payment Articles. All premiums payable under the Group Policy shall be accepted by the Contractor in full

satisfaction of all claims against the County arising out of the termination

i. portion of the Services completed in accordance with the Agreement up to the Effective Termination Date; and

ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement but not incorporated in the Services.

f) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

i. the Contractor has not delivered Deliverables on a timely basis.

ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;

iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;

iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

v. the Contractor has failed to obtain the approval of the County where required by this Agreement;

vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;

vii. the Contractor has failed in the representation of any warranties stated herein.

b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:

i. treat such failure as a repudiation of this Agreement;

ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.

c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

a) lost revenues;

b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for reprocurement of Services, including procurement and administrative costs; and,

c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

ARTICLE 28. CONFIDENTIALITY

a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County, unless required by law or, for employee information, unless such disclosure is required to fulfill the services herein. County employee information shall be treated in accordance with all applicable laws and shall be treated with the same care and diligence as Contractor treats all employee information. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the Contractor's breach of any federal, state or local law in regard to the privacy of individuals.

b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain

any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall to the extent feasible, immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County except as necessary for Contractor's record retention requirements. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in

derogation of the County's copyrights or other proprietary rights.

b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.

c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

e) Notwithstanding anything else in this Agreement to the contrary, for any materials developed by Contractor that are the same or similar to materials that Contractor develops for use with its other customers, the County shall have no proprietary interest which would prevent Contractor from using such materials (excluding information unique to the County) with other clients.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following, to the extent applicable to the Contractor:

1. ***Miami-Dade County Ownership Disclosure Affidavit*** (Section 2-8.1 of the County Code)
2. ***Miami-Dade County Employment Disclosure Affidavit*** *(Section 2.8-1(d)(2) of the County Code)*

3. ***Miami-Dade Employment Drug-free Workplace Certification***
(Section 2-8.1.2(b) of the County Code)

4. ***Miami-Dade Disability and Nondiscrimination Affidavit***
(Section 2-8.1.5 of the County Code*)*

5. ***Miami-Dade County Debarment Disclosure Affidavit***
(Section 10.38 of the County Code)

6. ***Miami-Dade County Vendor Obligation to County Affidavit***
(Section 2-8.1 of the County Code)

7. ***Miami-Dade County Code of Business Ethics Affidavit***
(Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)

8. ***Miami-Dade County Family Leave Affidavit***
(Article V of Chapter 11 of the County Code)

9. ***Miami-Dade County Living Wage Affidavit***
(Section 2-8.9 of the County Code)

10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
(Article 8, Section 11A-60 11A-67 of the County Code)

11. ***Subcontracting Practices***
(Ordinance 97-35)

12. ***Subcontractor /Supplier Listing***
(Section 2-8.8 of the County Code)

13. ***Environmentally Acceptable Packaging***
(Resolution R-738-92)

14. ***W-9 and 8109 Forms***
(as required by the Internal Revenue Service)

15. ***FEIN Number or Social Security Number***
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
   - Identification of individual account records
   - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
   - Tax reporting purposes
   - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. ***Office of the Inspector General***
(Section 2-1076 of the County Code)

17. ***Small Business Enterprises***
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. ***Antitrust Laws***
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest
Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services,

and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents

available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.

b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.

c) Environmental Protection Agency (EPA), as applicable to this Contract.

d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

f) Miami-Dade County Code Section 10-38 "Debarment".

g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.

h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required

pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

   i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

   ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and

c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state

insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

ARTICLE 39. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor	Miami-Dade County
By:	By:
Name: DONALD SWANSON	Name:
Title: VP	Title:
Date: 5/21/2010	Date:
Attest: Marilyn K. Franck Corporate Secretary/Notary Public	Attest: Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency
OFFICIAL SEAL MARILYN K. FRANCK Notary Public - State of Illinois My Commission Expires Nov 13, 2010	Assistant County Attorney

SCOPE OF SERVICES

Appendix A

1. INTRODUCTION/BACKGROUND

Miami-Dade County and the Public Health Trust/Jackson Health System, hereinafter referred to as the County, is contracting for a voluntary, fully-insured Employee Group Dental Program on a non-exclusive basis which offers a complement of affordable dental prepaid plans. The Plan effective date shall be January 1, 2011.

The County employs over 40,000 individuals throughout South Florida. Covered groups include employees of Miami-Dade County, Public Health Trust/Jackson Health System, Industrial Development Authority, Miami-Dade Expressway Authority, Town of Miami Lakes, and retirees under and over the age of 65 and their dependents, as well as approximately 100 judges.

Premiums:

The County currently contributes 100% of the single employee plan cost for the standard benefit. The employee pays the full cost for dependent coverage and the incremental cost for the enriched benefit. The premium structure is 1) employee only; 2) employee plus one dependent; and 3) employee plus two or more dependents. Premiums are collected through bi-weekly pre-tax payroll deductions. It is the County's intent to maintain this practice. The County contribution levels are subject to change, at the County's sole discretion, for among other things, a change to collective bargaining agreements.

The Contractor shall provide the prepaid dental plan services for the Employee Group Dental Insurance Program (Prepaid) pursuant to the Contractor's Plan Design as approved by the County, to include the following enhancements:

1) Up to four cleanings per plan year. No charge for twice every calendar year, and a maximum of a $15 co-payment each for two additional cleanings.
2) Coverage with a maximum $65.00 co-payment for Resin based composites.
3) Capping the maximum charge for Noble, High Noble metal at $150.00
4) Capping the maximum charge for porcelain on molar restoration at $75.00.

2. REQUIREMENTS

A. Minimum Requirement

1. Contractor shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the plan services throughout the term of the Agreement, including any renewal and extension options exercised by the County.

B. Preferred Qualifications

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to the satisfaction of the County as follows:

1. Contractor's nationwide current book of business should not be increased by more than 25% by the County's account.

2. Contractor should possess at least five years of experience administering claims and providing similar services to those listed in the Scope of Services, Appendix A, for groups of 5,000 employees or greater.

The County reserves the right to review any firm which Contractor requests contract assignment, pursuant to Article 19, to confirm the assignee meets the Preferred Qualifications.

3. GENERAL REQUIREMENTS AND SERVICES TO BE PROVIDED

The Contractor shall:

3.1 Provide an insured group dental benefits plan that offers coverage for all basic, preventive, restorative, and other necessary dental care for eligible employees, retirees and dependents.

3.2 Provide eligibility for coverage to any full-time County employee who has completed 90 days of employment. Any part-time employee who consistently works at least 60 hours bi-weekly and has completed 90 days of active employment is also eligible. Coverage is effective the first day of the month following, or coincident to 90 days of employment. Executives, as determined by the County, are eligible for first day coverage.

3.3 Accept dependent eligibility definition as follows:

(a) Spouse *(unless also an eligible County employee)*
(b) Domestic Partner *(as defined and set forth in Section 11A-71 of the Code of Miami-Dade County)*
(c) Unmarried natural child, stepchild, foster child, adopted child (including a child who is required to be eligible for membership as an adopted child in conformity to applicable law), child(ren) of a Domestic Partner or a child for whom the employee has been appointed a legal guardian, pursuant to a valid court order and the child is under the limiting age. The eligibility limiting age for an unmarried child is the end of the calendar year in which the child reaches age 19, except as stated below.

Coverage may be extended to the end of the calendar year in which the unmarried child reaches age 25, if the following requirements are met:

(i) the unmarried child is dependent upon the employee for support, **and** is living in the employee's household,

or

(ii) the unmarried child is dependent upon the employee for support, **and** is a full-time

student or part-time student.

or

(iii) a disabled unmarried dependent child who maintains their primary residence in the Service Area and who is and continues to be, incapable of self-sustaining employment by reason of mental or physical disability which commenced prior to the time such Dependent reached their 25th birthday, and is and continues to be dependent upon the employee for support and maintenance. Satisfactory proof of incapacity and financial dependency must be provided to the dental plan by employee within 30 days of each birthday to continue coverage beyond the limiting age. In the event the Dependent ceases to be incapable of self-sustaining employment, eligibility automatically terminates at the end of the pay period in which the child no longer meets the requirements for extended eligibility.

3.4 Accept County employees and retirees enrolled in a County or union sponsored dental plan which becomes insolvent. Contractor shall impose no restrictions on such membership.

3.5 Provide retiring employees an opportunity, at the time of retirement (no later than 30 days from the retirement date), to change their dental plan election in order to allow participation in the benefit option which best meets their retirement needs. Dependents of deceased retirees shall be eligible to continue dental coverage.

3.6 Agree to an annual open enrollment period for retirees and dependents of deceased retirees, if requested by the County.

3.7 Conform to underwriting requirements as mandated by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), where applicable.

(a) Late enrollees who do not incur a HIPAA qualifying event may not enroll until the following annual enrollment period for the next January 1 effective date.

(b) All County employees and dependents enrolled as of December 31, 2010 will be eligible for coverage with no actively at work exclusion.

3.8 Adhere to the County's procedures that apply to the addition/deletion of dependents.

(a) Change of Family Status – A dependent may be added or deleted from the Group Dental Plan Program at anytime during the year in accordance with HIPAA or IRS Section 125 provisions. Payroll changes to add a newborn are processed in accordance with Florida Statute 641.31(9). If the Change in Status (CIS) Form is received by the County's Benefits Administration Unit (BAU) within the first 31 days from birth, the premium is waived for the first 31 days. If the CIS Form is received by the BAU after the first 31 days from birth, but within 60 days, the new premium will be charged retroactive to the date of birth. The same applies when adding an adopted child or child placed for adoption. The premium is waived if the CIS Form is received by the BAU within the first 31 days from the *earlier* of: a) adoption or b) placement for adoption. If the CIS Form is received after the first 31 days, but within 60 days of the event, the new premium will be charged retroactive to the *earlier* of: a) adoption or b) placement for adoption. Payroll changes to add or delete a dependent for other than those events specified in this paragraph, become effective the first day of the pay period following receipt by the County.

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(b) New Dependents - A dependent may be added to the dental plan by submitting an application within 45 days (60 days for newborns, adoptions or placement for adoption) of acquiring the dependent. The employee must enroll the dependent within 45 days (60 days for newborns, adoptions or placement for adoption) after the marriage, registration of Domestic Partnership or birth/adoption of a child. Coverage for a new spouse or Domestic Partner is effective the first day of the month following receipt of the application. Coverage for a newborn, child placed for adoption, or adopted is effective as of the date of birth or earlier of (i) placement for adoption, or (ii) adoption date.

(c) If eligible employees have declined coverage for themselves or their dependents because of other insurance coverage and the other coverage ends, they may request enrollment within 45 days after the other coverage ends.

3.9 Adhere to the County's procedures that apply to the termination of employee membership:

(a) Employee membership terminates the last day of the pay period in which applicable payroll deductions are made after the date the employee ceases active work for any reason other than an approved leave of absence or retirement.

3.10 Comply with Performance Guarantee Provisions. (See Performance Guarantee Provisions Worksheet, Appendix C.)

3.11 Adhere to established system for the consideration and credentialing of network providers.

3.12 Adhere to the County's underwriting rationale and justification for the County's premium rate tier ratios.

3.13 Adhere to plan year effective period: January 1st through December 31st.

3.14 Services rendered on or after the plan year effective date shall be covered.

3.15 Adhere to Contract situs State shall be Florida.

4. ADMINISTRATIVE AND RELATED SERVICES

The Contractor shall perform the following administrative services:

4.1 Provide system interface and data format requirements necessary for accepting initial and ongoing enrollment and eligibility. The County primarily utilizes web enrollment for the annual benefits open enrollment period and ongoing enrollments. Employees unable to utilize online enrollment are provided the opportunity to submit benefit selections on the County's Benefits Election Form. The Contractor shall accept the County's Benefits Election Form for the purpose of completing the enrollment process. The County shall retain final approval authority of the enrollment form.

4.2 Provide enrollment materials, including provider directories (up to 10,000 or as needed), for eligible employees/retirees during initial open enrollment period and subsequent open enrollments (at no additional cost to the County), in addition to, providing a benefits website for the County.

4.3 Provide additional member materials throughout the year as required (at no additional cost to the

County).

4.4 Mail new member materials, including ID cards, to all enrollees within 10 business days of plan effective date (at no additional cost to the County).

4.5 Provide capability of identifying plan participants by Social Security number ***and/or*** employee identification number, as required by the County.

4.6 Distribute communications material to all identified County Departmental Personnel Representatives (***approximately 60***) located at various locations throughout the County.

4.7 Review and suggest revisions to the County's benefit handbook and open enrollment newsletter, if necessary, prior to publication, to ensure accuracy. The County shall retain final approval authority of the benefit handbook and open enrollment newsletter. The County shall approve in writing all booklets and any/all other employee communications prior to printing by the Contractor. The County retains the right to prohibit distribution of any materials that present false or misleading statements, reference any plan other than the Contractor's, or any materials or "give-aways" which the County deems to be inappropriate.

4.8 Accept the use of the County's Status Change Form for changes (e.g., additions and deletions) to the dental plan.

4.9 Provide adequate staffing and plan representatives to attend all initial enrollment period meetings and subsequent open enrollment period meetings on a schedule set by the County. Meeting sites are anticipated to include approximately 40 with Miami-Dade County and 20 with Jackson Health System. The Contractor shall provide personnel to attend meetings scheduled by the County between annual enrollment periods, for which reasonable notice will be given.

4.10 Adhere to an implementation schedule for a January 1, 2011 effective date, with the initial open enrollment scheduled for the Fall of 2010. Adhere to an implementation schedule for subsequent Plan year annual open enrollment.

4.11 Comply with Federal guidelines for Cafeteria Plans pursuant to Internal Revenue Code Section 125, the Age Discrimination in Employment Act (ADEA), American Disabilities Act (ADA), HIPAA, and the Consolidated Omnibus Budget Reconciliation Act (COBRA), as well as, all Florida-mandated benefits.

4.12 Provide, if requested by the County:

<u>Annual Premium vs. Paid Claims Activity Reports</u> which shall be segregated by active employees, retirees, and further categorized with dependents and COBRA beneficiaries identified separately (active and retirees).

4.13 Accept County generated self-billing statements. Dental benefit plan shall be administered on a self-accounting premium rate remittance basis.

4.14 Accept bi-weekly bank wire-transfers of premium payments, in accordance with County paydays. Premiums are remitted in arrears. A grace period of 30 days for active and paid leave status employees shall be provided. Contractor shall provide a 60 day grace period for the bi-weekly remittance of premiums for employees on "leave without pay" status.

4.15 Monitor over-age dependent children status and compliance with Florida Statutes addressing coverage. Contractor shall request satisfactory proof of the eligibility of dependent children over the limiting age of 19. Dependent children losing group coverage due to age must be notified of their COBRA rights.

4.16 Provide all COBRA administration, including mailing of initial COBRA notification after receiving notification of qualifying event from the County. Contractor shall provide a "COBRA-like" (18 months for termination and 36 months for other events) benefit to Domestic Partners and their dependent children involuntarily losing group coverage. These required services include billing of beneficiaries and collection of appropriate premiums.

4.17 Mail HIPAA Notices of Privacy Practices to new enrollees. The Contractor shall also provide HIPAA Certificates of Coverage directly to members losing group coverage, if required by law.

4.18 Assign a designated account representative with full account management capabilities. The account representative shall assist the County in the administration of the plan, facilitating services for employees, obtaining the appropriate resolution of claims issues, and providing any other related and requested services.

4.19 Provide participant the standard grievance procedure for disputes, when services are denied.

4.20 Screen enrollment submissions for dependent eligibility and notify the County of changes, if any, in premium deductions.

4.21 Transfer to the County all data and records necessary to administer the dental plan in the format and media requested by the County within 15 days, if the contract is terminated at any time during the contract period. The Contractor shall pay claims for all covered participants who incurred dental services under contract prior to the termination date.

4.22 Comply with all Federal, State and Local reporting requirements.

4.23 Assume financial responsibility for overpayments due to Contractor errors.

4.24 Establish and maintain necessary resources to promptly answer all telephone and written inquires from participants regarding any aspect of the dental plan.

4.25 Maintain and facilitate on-line claims history for all participants and Miami-Dade County for no less than a three year period.

Appendix B

PRICE SCHEDULE

PREMIUM STRUCTURE:

The following are the monthly rates to provide the Prepaid Dental Plan which includes all services specified in the Scope of Services (Appendix A) in accordance with the tables below.

PREMIUMS - PREPAID PLAN OF BENEFITS

2011 Plan Year (1/1/11-12/31/11)	
Standard	
Tier	**Monthly Rate**
Employee only	$ 8.70
Employee + 1*	$ 14.38
Employee + 2 or More*	$ 22.01
Enriched	
Tier	**Monthly Rates**
Employee only	$ 12.67
Employee + 1*	$ 21.00
Employee + 2 or More*	$ 33.38

2012 Plan Year (1/1/12-12/31/12)	
Standard	
Tier	**Monthly Rate**
Employee only	$ 8.70
Employee + 1*	$ 14.38
Employee + 2 or More*	$ 22.01
Enriched	
Tier	**Monthly Rates**
Employee only	$ 12.67
Employee + 1*	$ 21.00
Employee + 2 or More*	$ 33.38

2013 Plan Year (1/1/13-12/31/13)	
Standard	
Tier	**Monthly Rate**
Employee only	$ 8.70
Employee + 1*	$ 14.38
Employee + 2 or More*	$ 22.01
Enriched	
Tier	**Monthly Rates**
Employee only	$ 12.67
Employee + 1*	$ 21.00
Employee + 2 or More*	$ 33.38

***Tier rates "Employee + 1" and "Employee + 2 or More" includes employee rate.**

Notes:

(1) Compensation to the Contractor shall be based on the actual enrollment of employees in the plan. The County does not guarantee any enrollment figures or participation of covered groups.

(2) The monthly rates are guaranteed and not subject to increase during the initial term of the Contract (through December 31, 2013).

(3) For all plan years, the Contractor shall evaluate the rates by June 30th and advise the County whether there is a potential to reduce rates for the next plan year based on actual utilization. The Contractor shall also advise the County of its recommended reduced rates, if any. If there is a potential to reduce the rates, the Contractor and the County shall negotiate the new reduced rates.

(4) The rates for the optional Plan Years 2014, 2015 and 2016 shall be negotiated with the following stipulations:

a) Provided that the aggregate loss ratio for the previous plan years (effective January 1, 2011) of trended experience is less than 79%, the rates shall remain the same.

or

b) Provided that the aggregate loss ratio for the previous plan years (effective January 1, 2011) of trended experience is 79% or greater, the Contractor may recommend a price increase adjustment capped at the percentage rates listed below:

Incurred Loss Ratios	Rate Increase Cap
79-84%	**up to 7%**
85% or greater	**up to 15%**

The recommended increase, if any, must be provided by the Contractor to the Project Manager by May 1st of the year prior to the start of the effected plan year (i.e., May 1, 2013 for plan year 2014) along with a justification of the Contractor's underwriting/actuarial methodology used to determine the new rates. Supporting claims experience and utilization data shall be provided as requested by the County to facilitate the County's renewal process. If no recommended increase is received by this date, the rates shall remain the same for the next option year. The County reserves the right to negotiate the amount of the increase (up to the cap) with the Contractor.

(5) The rates are all-inclusive; no add-on charges for services are allowed.

(6) Commissions shall not be included in the County rates.

(7) Rates will not be adjusted at anytime during the plan year unless Miami-Dade County requests and agrees to off-anniversary changes in writing.

Appendix C

Performance Guarantee Provisions

These performance guarantee provisions shall be measured on an annual basis utilizing statistical data gathered throughout the plan year by the Contractor. Any payment due to the County in accordance with the performance guarantee provisions shall be made in the form of a check within thirty (30) days of results based on the Contractor's reports. Contractor shall have the ability to self report within forty-five (45) days from plan year end. The reports and administration may be subject to an independent third party audit at the County's discretion. If the County finds it necessary to conduct such an audit, stipulated performance guarantee provisions shall apply to the results of said audit.

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
IMPLEMENTATION	Contractor shall fully implement dental plan for the effective date of January 1, 2011	0.25% of premium	N.A.	N.A.
OPEN ENROLLMENT DELIVERABLES	Contractor shall meet the County's schedule for the distribution of plan materials, attendance at regional meetings, printing, eligibility file updates, and any other deliverables indentified in County's schedule.	0.25% of premium	0.25% of premium	0.25% of premium
PROVIDER NETWORK				
Network Turnover	• Network turnover - less than 15% annually within Contractor's service area (turnover is defined	0.25% of premium	0.25% of premium	0.25% of premium

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Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
	as any withdrawal or removal from the network for reasons other than illness, death, or quality)			
Network Accessibility	• Minimum of 75% of network providers must have open practices within Contractor's geographic area coverage	0.25% of premium	0.25% of premium	0.25% of premium
MEMBER SERVICES				
SATISFACTION	Contractor shall obtain a positive response rate (satisfied or very satisfied) of 75% based on the overall satisfaction question, on County approved specific satisfaction survey conducted at Contractor's expense.	0.25% of premium	0.25% of premium	0.25% of premium
CLIENT SERVICE TEAM STANDARDS (subjective measures as determined by the County, are included in this category)	- Prompt notice of state/federal law changes - Delivery of recommended group plan amendments prior to effective date for review and signature - Attendance at regularly scheduled meetings - Meeting service quality	0.25% of premium	0.25% of premium	0.25% of premium

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Appendix C

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
	- Prompt (within 2 business days) solutions to issues identified by the County			
ID CARDS TO EMPLOYEES AT INITIAL ENROLLMENT	90% mailed within 10 business days from receipt of eligibility file/notice	0.25% of premium	0.25% of premium	0.25% of premium
ID CARDS TO EMPLOYEE FOR CHANGES AND NEW HIRES	90% mailed within 10 business days from receipt of eligibility file/notice	0.25% of premium	0.25% of premium	0.25% of premium
DRAFT BROCHURES FOR COUNTY APPROVAL	45 days prior to scheduled release date	0.25% of premium	0.25% of premium	0.25% of premium
FINAL BROCHURES AND BENEFIT BOOKLETS DISTRIBUTION	5 business-day turn-around after receiving draft back from the County	0.25% of premium	0.25% of premium	0.25% of premium
TELEPHONE RESPONSE ANSWER TIME	90% within 35 seconds	0.25% of premium	0.25% of premium	0.25% of premium

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Appendix C

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
RESPONSIVENESS TO WRITTEN CORRESPONDENCE	99% acknowledged within 5 business days; and 95% resolved within 30 business days	0.25% of premium	0.25% of premium	0.25% of premium
Total Premium at Risk **Notwithstanding the percent of premium at risk, the actual payment to the County shall not exceed the cap indicated**		Percent of premium total: **3%** Capped at annual value not to exceed: $37,359.68	Percent of premium total: **2.75%** Capped at annual value not to exceed: $37,359.68	Percent of premium total: **2.75%** Capped at annual value not to exceed: $37,359.68

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Employee Group Dental Insurance Program (Prepaid)

Contract No. RFP711b

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Humana Dental Insurance Company, a corporation organized and existing under the laws of the State of Wisconsin, having its principal office at 1100 Employers Boulevard, Depere, WI 54115 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide an Employee Group Dental Insurance Program (Prepaid), on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 711 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated February 25, 2010, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor such Employee Group Dental Insurance Program (Prepaid) for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), Price Schedule (Appendix B), Performance Guarantee Provisions (Appendix C), RFP No. 711 and all associated addenda and attachments, the Contractor's Proposal, the Group Policy, and all other attachments hereto and all amendments issued hereto.

b) The words "Contract Date" to mean the date on which this Agreement is effective.

c) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative designated to manage the Contract.

d) The word "Contractor" to mean Humana Dental Insurance Company and its permitted successors and assigns.

e) The word "Days" to mean Calendar Days.

f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.

g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.

h) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.

i) The words "Project Manager" to mean the County Manager or the duly authorized representative designated to manage the Project.

k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.

l) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.

m) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) Appendices to these terms and conditions (the Scope of Service, Price Schedule and Performance Guarantee Provisions), 3) the Miami-Dade County's RFP No. 711 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.

b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.

d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

a) This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives.

b) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.

c) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.

d) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of

the County's Project Manager.

e) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date set forth on the first page of this Agreement and shall continue through December 31, 2013. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for three (3) additional years on a year-to-year basis. The County reserves the right to exercise its option to extend this Contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the Contractor in writing of the extension. This Contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period by mutual agreement between the County and the Contractor, upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County
General Services Administration – Risk Management Division
111 N. W. 1 Street, Suite 2340
Miami, FL 33128
Attention: GSA Risk Management Division Director
Phone: (305) 375-4281
Fax: (305) 375-4255
e-mail: MB16@miamidade.gov
with a copy to: HGRACE@miamidade.gov

and,

b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974

Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Humana Dental Insurance Company
5775 Blue Lagoon Drive, Suite 400
Miami, FL 33126

Attention: Alvaro Hernandez
Phone: 305-812-1508
Fax: 305-370-6398
E-mail: ahernandez20@humana.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Contractor warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Contractor deemed necessary in order to determine the price the Contractor will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services, shall be in accordance with Price Schedule, Appendix B, herein. The County shall have no obligation to pay the Contractor any additional sum in excess of this amount, except for a change and/or modification to the Contract, which is approved and executed in writing by the County and the Contractor.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

ARTICLE 8. PRICING

Plan year prices shall remain firm and fixed for the initial term of the Contract (through December 31, 2013). Any option or extension period prices will be determined pursuant to Price Schedule, Appendix B. However, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The County will remit applicable premiums to the Contractor in arrears on a bi-weekly basis after the County either deducts the employee contributions through its payroll process or receives payment from employees on an updated leave of absence and retirees. The County will remit premium payments based on its records.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees,

agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall furnish to the Department of Procurement Management, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.

2. Public Liability Insurance on a comprehensive basis in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of Miami-Dade County 111 N.W. 1st Street, Suite 1300, Miami, Florida 33128-1974, as the certificate holder, must appear on the certificate of insurance.**

3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage.

4. Professional Liability Insurance in an amount not less than $1,000,000.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the

County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.

c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified

professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.

d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.

e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.

f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, and regulations that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages,

compensation and losses.

b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.

c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.

d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.

e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.

b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of

any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.

c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The County, or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, as applicable, and shall only address those transactions related to this Agreement.

Pursuant to County Ordinance No. 03-2, the Contractor will grant access to the Commission Auditor to all financial and performance related records, property, and equipment purchased in whole or in part with government funds. The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the

Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.

b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.

c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Contractor and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION AND SUSPENSION OF WORK

a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.

b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be debarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:

   i. stop work on the date specified in the notice ("the Effective Termination Date");

   ii. take such action as may be necessary for the protection and preservation of the County's materials and property;

   iii. cancel orders;

   iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services:

   v. take no action which will increase the amounts payable by the County under this Agreement; and

e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:

   i. portion of the Services completed in accordance with the Agreement up to the

Effective Termination Date; and

ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement but not incorporated in the Services.

f) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

i. the Contractor has not delivered Deliverables on a timely basis.

ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;

iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;

iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;

v. the Contractor has failed to obtain the approval of the County where required by this Agreement;

vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;

vii. the Contractor has failed in the representation of any warranties stated herein.

b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the timeframe set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:

i. treat such failure as a repudiation of this Agreement;

ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.

c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable

equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE

If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

a) lost revenues;

b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for reprocurement of Services, including procurement and administrative costs; and,

c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default. The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.

b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.

c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the

Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.

e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

ARTICLE 28. CONFIDENTIALITY

a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.

b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents,

subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledges that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the Contractor will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed

Works" shall become the property of the County.

c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.

d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. VENDOR REGISTRATION AND FORMS/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. In becoming a Registered Vendor with Miami-Dade County, the Contractor confirms its knowledge of and commitment to comply with the following:

1. ***Miami-Dade County Ownership Disclosure Affidavit***
   (Section 2-8.1 of the County Code)
2. ***Miami-Dade County Employment Disclosure Affidavit***
   (Section 2.8-1(d)(2) of the County Code)
3. ***Miami-Dade Employment Drug-free Workplace Certification***
   (Section 2-8.1.2(b) of the County Code)
4. ***Miami-Dade Disability and Nondiscrimination Affidavit***
   (Section 2-8.1.5 of the County Code)
5. ***Miami-Dade County Debarment Disclosure Affidavit***
   (Section 10.38 of the County Code)
6. ***Miami-Dade County Vendor Obligation to County Affidavit***
   (Section 2-8.1 of the County Code)
7. ***Miami-Dade County Code of Business Ethics Affidavit***
   (Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code)
8. ***Miami-Dade County Family Leave Affidavit***
   (Article V of Chapter 11 of the County Code)
9. ***Miami-Dade County Living Wage Affidavit***
   (Section 2-8.9 of the County Code)
10. ***Miami-Dade County Domestic Leave and Reporting Affidavit***
    (Article 8, Section 11A-60 11A-67 of the County Code)
11. ***Subcontracting Practices***
    (Ordinance 97-35)
12. ***Subcontractor /Supplier Listing***
    (Section 2-8.8 of the County Code)

13. ***Environmentally Acceptable Packaging***
(Resolution R-738-92)

14. ***W-9 and 8109 Forms***
(as required by the Internal Revenue Service)

15. ***FEIN Number or Social Security Number***
In order to establish a file, the Contractor's Federal Employer Identification Number (FEIN) must be provided. If no FEIN exists, the Social Security Number of the owner or individual must be provided. This number becomes Contractor's "County Vendor Number". To comply with Section 119.071(5) of the Florida Statutes relating to the collection of an individual's Social Security Number, be aware that the County requests the Social Security Number for the following purposes:
   - Identification of individual account records
   - To make payments to individual/Contractor for goods and services provided to Miami-Dade County
   - Tax reporting purposes
   - To provide a unique identifier in the vendor database that may be used for searching and sorting departmental records

16. ***Office of the Inspector General***
(Section 2-1076 of the County Code)

17. ***Small Business Enterprises***
The County endeavors to obtain the participation of all small business enterprises pursuant to Sections 2-8.2, 2-8.2.3 and 2-8.2.4 of the County Code and Title 49 of the Code of Federal Regulations.

18. ***Antitrust Laws***
By acceptance of any contract, the Contractor agrees to comply with all antitrust laws of the United States and the State of Florida.

b) Conflict of Interest
Section 2-11.1(d) of Miami-Dade County Code requires that any County employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, competing or applying for a contract, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County. Any such contract or business engagement entered in violation of this subsection, as amended, shall be rendered voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter

(1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (I) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under $1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award.***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.

b) Miami-Dade County Florida, Department of Small Business Development Participation Provisions, as applicable to this Contract.

c) Environmental Protection Agency (EPA), as applicable to this Contract.

d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.

e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.

f) Miami-Dade County Code Section 10-38 "Debarment".

g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.

h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at

the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.

b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:

   i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or

   ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.

c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.

d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be

withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and

b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and

c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida. Venue shall be Miami-Dade County.

ARTICLE 39. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor	Miami-Dade County
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Attest: _____ Corporate Secretary/Notary Public	Attest: _____ Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency _____ Assistant County Attorney

SCOPE OF SERVICES

Appendix A

1. INTRODUCTION/BACKGROUND

Miami-Dade County and the Public Health Trust/Jackson Health System, hereinafter referred to as the County, is contracting for a voluntary, fully-insured Employee Group Dental Program on a non-exclusive basis which offers a complement of affordable dental prepaid plans. The Plan effective date shall be January 1, 2011.

The County employs over 40,000 individuals throughout South Florida. Covered groups include employees of Miami-Dade County, Public Health Trust/Jackson Health System, Industrial Development Authority, Miami-Dade Expressway Authority, Town of Miami Lakes, and retirees under and over the age of 65 and their dependents, as well as approximately 100 judges.

Premiums:

The County currently contributes 100% of the single employee plan cost for the standard benefit. The employee pays the full cost for dependent coverage and the incremental cost for the enriched benefit. The premium structure is 1) employee only; 2) employee plus one dependent; and 3) employee plus two or more dependents. Premiums are collected through bi-weekly pre-tax payroll deductions. It is the County's intent to maintain this practice. The County contribution levels are subject to change, at the County's sole discretion, for among other things, a change to collective bargaining agreements.

The Contractor shall provide the prepaid dental plan services for the Employee Group Dental Insurance Program (Prepaid) pursuant to the Contractor's Plan Design as approved by the County, to include the following enhancements at no additional costs:

1) Oral Evaluation For A Patient Under Three Years Of Age And Counseling With Primary Caregiver
2) Re-Evaluation - Problem Focused (Not Post-Operative Visit)
3) X-Rays Intraoral - Occlusal Film
   X-Rays (Bitewing) - Single Film
   X-Rays (Bitewing) - Three Films
   Extraoral - Each Additional Film

2. REQUIREMENTS

A. Minimum Requirement

1. Contractor shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the plan services throughout the term of the Agreement, including any renewal and extension options exercised by the County.

B. Preferred Qualifications

The County has relied on the Contractor's Proposal to determine that Contractor has met the Preferred Qualifications. The Contractor shall maintain such qualifications to satisfaction of the County as follows:

1. Contractor's nationwide current book of business should not be increased by more than 25% by the County's account.

2. Contractor should possess at least five years of experience administering claims and providing similar services to those listed in the Scope of Services, Appendix A, for groups of 5,000 employees or greater.

The County reserves the right to review any firm which Contractor requests contract assignment, pursuant to Article 19, to confirm the assignee meets the Preferred Qualifications.

3. GENERAL REQUIREMENTS AND SERVICES TO BE PROVIDED

The Contractor shall:

3.1 Provide an insured group dental benefits plan that offers coverage for all basic, preventive, restorative, and other necessary dental care for eligible employees, retirees and dependents.

3.2 Provide eligibility for coverage to any full-time County employee who has completed 90 days of employment. Any part-time employee who consistently works at least 60 hours bi-weekly and has completed 90 days of active employment is also eligible. Coverage is effective the first day of the month following, or coincident to 90 days of employment. Executives, as determined by the County, are eligible for first day coverage.

3.3 Accept dependent eligibility definition as follows:

(a) Spouse *(unless also an eligible County employee)*
(b) Domestic Partner *(as defined and set forth in Section 11A-71 of the Code of Miami-Dade County)*
(c) Unmarried natural child, stepchild, foster child, adopted child (including a child who is required to be eligible for membership as an adopted child in conformity to applicable law), child(ren) of a Domestic Partner or a child for whom the employee has been appointed a legal guardian, pursuant to a valid court order and the child is under the limiting age. The eligibility limiting age for an unmarried child is the end of the calendar year in which the child reaches age 19, except as stated below.

Coverage may be extended to the end of the calendar year in which the unmarried child reaches age 25, if the following requirements are met:

(i) the unmarried child is dependent upon the employee for support, **and** is living in the employee's household,

or

(ii) the unmarried child is dependent upon the employee for support, **and** is a full-time student or part-time student.

or

(iii) a disabled unmarried dependent child who maintains their primary residence in the Service Area and who is and continues to be, incapable of self-sustaining employment by reason of mental or physical disability which commenced prior to the time such Dependent reached their 25th birthday, and is and continues to be dependent upon the employee for support and maintenance. Satisfactory proof of incapacity and financial dependency must be provided to the dental plan by employee within 30 days of each birthday to continue coverage beyond the limiting age. In the event the Dependent ceases to be incapable of self-sustaining employment, eligibility automatically terminates at the end of the pay period in which the child no longer meets the requirements for extended eligibility.

3.4 Accept County employees and retirees enrolled in a County or union sponsored dental plan which becomes insolvent. Contractor shall impose no restrictions on such membership.

3.5 Provide retiring employees an opportunity, at the time of retirement (no later than 30 days from the retirement date), to change their dental plan election in order to allow participation in the benefit option which best meets their retirement needs. Dependents of deceased retirees shall be eligible to continue dental coverage.

3.6 Agree to an annual open enrollment period for retirees and dependents of deceased retirees, if requested by the County.

3.7 Conform to underwriting requirements as mandated by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), where applicable.

(a) Late enrollees who do not incur a HIPAA qualifying event may not enroll until the following annual enrollment period for the next January 1 effective date.

(b) All County employees and dependents enrolled as of December 31, 2010 will be eligible for coverage with no actively at work exclusion.

3.8 Adhere to the County's procedures that apply to the addition/deletion of dependents.

(a) Change of Family Status – A dependent may be added or deleted from the Group Dental Plan Program at anytime during the year in accordance with HIPAA or IRS Section 125 provisions. Payroll changes to add a newborn are processed in accordance with Florida Statute 641.31(9). If the Change in Status (CIS) Form is received by the County's Benefits Administration Unit (BAU) within the first 31 days from birth, the premium is waived for the first 31 days. If the CIS Form is received by the BAU after the first 31 days from birth, but within 60 days, the new premium will be charged retroactive to the date of birth. The same applies when adding an adopted child or child placed for adoption. The premium is waived if the CIS Form is received by the BAU within the first 31 days from the *earlier* of: a) adoption or b) placement for adoption. If the CIS Form is received after the first 31 days, but within 60 days of the event, the new premium will be charged retroactive to the *earlier* of: a) adoption or b) placement for adoption. Payroll changes to add or delete a dependent for other than those events specified in this paragraph, become effective the first day of the pay period following receipt by the County.

(b) New Dependents - A dependent may be added to the dental plan by submitting an application within 45 days (60 days for newborns, adoptions or placement for adoption) of acquiring the dependent. The employee must enroll the dependent within 45 days (60 days for newborns, adoptions or placement for adoption) after the marriage, registration of Domestic Partnership or birth/adoption of a child. Coverage for a new spouse or Domestic Partner is effective the first day of the month following receipt of the application. Coverage for a newborn, child placed for adoption, or adopted is effective as of the date of birth or earlier of (i) placement for adoption, or (ii) adoption date.

(c) If eligible employees have declined coverage for themselves or their dependents because of other insurance coverage and the other coverage ends, they may request enrollment within 45 days after the other coverage ends.

3.9 Adhere to the County's procedures that apply to the termination of employee membership:

(a) Employee membership terminates the last day of the pay period in which applicable payroll deductions are made after the date the employee ceases active work for any reason other than an approved leave of absence or retirement.

3.10 Comply with Performance Guarantee Provisions. (See Performance Guarantee Provisions Worksheet, Appendix C.)

3.11 Adhere to established system for the consideration and credentialing of network providers.

3.12 Adhere to the County's underwriting rationale and justification for the County's premium rate tier ratios.

3.13 Adhere to plan year effective period: January 1st through December 31st.

3.14 Services rendered on or after the plan year effective date shall be covered.

3.15 Adhere to Contract situs State shall be Florida.

4. ADMINISTRATIVE AND RELATED SERVICES

The Contractor shall perform the following administrative services:

4.1 Provide system interface and data format requirements necessary for accepting initial and ongoing enrollment and eligibility. The County primarily utilizes web enrollment for the annual benefits open enrollment period and ongoing enrollments. Employees unable to utilize online enrollment are provided the opportunity to submit benefit selections on the County's Benefits Election Form. The Contractor shall accept the County's Benefits Election Form for the purpose of completing the enrollment process. The County shall retain final approval authority of the enrollment form.

4.2 Provide enrollment materials, including provider directories (up to 10,000 or as needed), for eligible employees/retirees during initial open enrollment period and subsequent open enrollments (at no additional cost to the County), in addition to, providing a benefits website for the County.

4.3 Provide additional member materials throughout the year as required (at no additional cost to the County).

4.4 Mail new member materials, including ID cards, to all enrollees within 10 business days of plan effective date (at no additional cost to the County).

4.5 Provide capability of identifying plan participants by Social Security number ***and/or*** employee identification number, as required by the County.

4.6 Distribute communications material to all identified County Departmental Personnel Representatives (***approximately 60***) located at various locations throughout the County.

4.7 Review and suggest revisions to the County's benefit handbook and open enrollment newsletter, if necessary, prior to publication, to ensure accuracy. The County shall retain final approval authority of the benefit handbook and open enrollment newsletter. The County shall approve in writing all booklets and any/all other employee communications prior to printing by the Contractor. The County retains the right to prohibit distribution of any materials that present false or misleading statements, reference any plan other than the Contractor's, or any materials or "give-aways" which the County deems to be inappropriate.

4.8 Accept the use of the County's Status Change Form for changes (e.g., additions and deletions) to the dental plan.

4.9 Provide adequate staffing and plan representatives to attend all initial enrollment period meetings and subsequent open enrollment period meetings on a schedule set by the County. Meeting sites are anticipated to include approximately 40 with Miami-Dade County and 20 with Jackson Health System. The Contractor shall provide personnel to attend meetings scheduled by the County between annual enrollment periods, for which reasonable notice will be given.

4.10 Adhere to an implementation schedule for a January 1, 2011 effective date, with the initial open enrollment scheduled for the Fall of 2010. Adhere to an implementation schedule for subsequent Plan year annual open enrollment.

4.11 Comply with Federal guidelines for Cafeteria Plans pursuant to Internal Revenue Code Section 125, the Age Discrimination in Employment Act (ADEA), American Disabilities Act (ADA), HIPAA, and the Consolidated Omnibus Budget Reconciliation Act (COBRA), as well as, all Florida-mandated benefits.

4.12 Provide, if requested by the County:

<u>Annual Premium vs. Paid Claims Activity Reports</u> which shall be segregated by active employees, retirees, and further categorized with dependents and COBRA beneficiaries identified separately (active and retirees).

4.13 Accept County generated self-billing statements. Dental benefit plan shall be administered on a self-accounting premium rate remittance basis.

4.14 Accept bi-weekly bank wire-transfers of premium payments, in accordance with County paydays. Premiums are remitted in arrears. A grace period of 30 days for active and paid leave status employees shall be provided. Contractor shall provide a 60 day grace period for the bi-weekly remittance of premiums for employees on "leave without pay" status.

4.15 Monitor over-age dependent children status and compliance with Florida Statutes addressing

coverage. Contractor shall request satisfactory proof of the eligibility of dependent children over the limiting age of 19. Dependent children losing group coverage due to age must be notified of their COBRA rights.

4.16 Provide all COBRA administration, including mailing of initial COBRA notification after receiving notification of qualifying event from the County. Contractor shall provide a "COBRA-like" (18 months for termination and 36 months for other events) benefit to Domestic Partners and their dependent children involuntarily losing group coverage. These required services include billing of beneficiaries and collection of appropriate premiums.

4.17 Mail HIPAA Notices of Privacy Practices to new enrollees. The Contractor shall also provide HIPAA Certificates of Coverage directly to members losing group coverage, if required by law.

4.18 Assign a designated account representative with full account management capabilities. The account representative shall assist the County in the administration of the plan, facilitating services for employees, obtaining the appropriate resolution of claims issues, and providing any other related and requested services.

4.19 Provide participant the standard grievance procedure for disputes, when services are denied.

4.20 Screen enrollment submissions for dependent eligibility and notify the County of changes, if any, in premium deductions.

4.21 Transfer to the County all data and records necessary to administer the dental plan in the format and media requested by the County within 15 days, if the contract is terminated at any time during the contract period. The Contractor shall pay claims for all covered participants who incurred dental services under contract prior to the termination date.

4.22 Comply with all Federal, State and Local reporting requirements.

4.23 Assume financial responsibility for overpayments due to Contractor errors.

4.24 Establish and maintain necessary resources to promptly answer all telephone and written inquires from participants regarding any aspect of the dental plan.

4.25 Maintain and facilitate on-line claims history for all participants and Miami-Dade County for no less than a three year period.

Appendix B

PRICE SCHEDULE

PREMIUM STRUCTURE:

The following are the monthly rates to provide the Prepaid Dental Plan which includes all services specified in the Scope of Services (Appendix A) in accordance with the tables below.

PREMIUMS - PREPAID PLAN OF BENEFITS

2011 Plan Year (1/1/11-12/31/11)	
Standard	
Tier	**Monthly Rate**
Employee only	$ 7.99
Employee + 1*	$ 13.23
Employee + 2 or More*	$ 20.23
Enriched	
Tier	**Monthly Rates**
Employee only	$ 13.70
Employee + 1*	$ 22.75
Employee + 2 or More*	$ 36.14

2012 Plan Year (1/1/12-12/31/12)	
Standard	
Tier	**Monthly Rate**
Employee only	$ 7.99
Employee + 1*	$ 13.23
Employee + 2 or More*	$ 20.23
Enriched	
Tier	**Monthly Rates**
Employee only	$ 14.80
Employee + 1*	$ 24.57
Employee + 2 or More*	$ 39.03

2013 Plan Year (1/1/13-12/31/13)	
Standard	
Tier	**Monthly Rate**
Employee only	$ 8.23
Employee + 1*	$ 13.63
Employee + 2 or More*	$ 20.84
Enriched	
Tier	**Monthly Rates**
Employee only	$ 15.98
Employee + 1*	$ 26.53
Employee + 2 or More*	$ 42.16

***Tier rates "Employee + 1" and "Employee + 2 or More" includes employee rate.**

Notes:

(1) Compensation to the Contractor shall be based on the actual enrollment of employees in the plan. The County does not guarantee any enrollment figures or participation of covered groups.

(2) The monthly rates are guaranteed and not subject to increase during the initial term of the Contract (through December 31, 2013).

(3) For all plan years, the Contractor shall evaluate the rates by June 30th and advise the County whether there is a potential to reduce rates for the next plan year based on actual utilization. The Contractor shall also advise the County of its recommended reduced rates, if any. If there is a potential to reduce the rates, the Contractor and the County shall negotiate the new reduced rates.

(4) The rates for the optional Plan Years 2014, 2015 and 2016 shall be negotiated with the following stipulations:

a) For the first option to renew year (through December 31, 2014), the prices shall be as follow: 1) provided that the aggregate loss ratio for the previous plan years (effective January 1, 2011) of trended experience is 82% or less, the rates shall remain the same, or 2) provided that the aggregate loss ratio for the previous plan years of trended experience is greater than 82%, the Contractor may recommend price increase adjustment to be capped at 5% of the previous plan year rates.

b) For the second option to renew year (through December 31, 2015), the prices shall be as follow: 1) provided that the aggregate loss ratio for the previous plan years (effective January 1, 2011) of trended experience is 83% or less, than the rates shall remain the same, or 2) provided that the aggregate loss ratio for the previous plan years of trended experience is greater than 83%, the Contractor may recommend price increase adjustment to be capped at 5% of the previous plan year rates.

c) For the third option to renew year (through December 31, 2016), the prices shall be as follow: 1) provided that the aggregate loss ratio for the previous plan years of trended experience is less than 85%, the rates shall remain the same, or 2) provided that the aggregate loss ratio for the previous plan years of trended experience is greater than 85%, the Contractor may recommend price increase adjustment to be capped at 5% of the previous plan year.

The recommended increase, if any, must be provided by the Contractor to the Project Manager by May 1st of the year prior to the start of the effected plan year (i.e., May 1, 2013 for plan year 2014) along with a justification of the Contractor's underwriting/actuarial methodology used to determine the new rates. Supporting claims experience and utilization data shall be provided as requested by the County to facilitate the County's renewal process. If no recommended increase is received by this date, the rates shall remain the same for the next option year. The County reserves the right to negotiate the amount of the increase (up to the cap) with the Contractor.

(5) The rates are all-inclusive; no add-on charges for services are allowed.

(6) Commissions shall not be included in the County rates.

(7) Rates will not be adjusted at anytime during the plan year unless Miami-Dade County requests and agrees to off-anniversary changes in writing.

Appendix C

Performance Guarantee Provisions

These performance guarantee provisions shall be measured on an annual basis utilizing statistical data gathered throughout the plan year by the Contractor. Any payment due to the County in accordance with the performance guarantee provisions shall be made in the form of a check within thirty (30) days of results based on the Contractor's reports. Contractor shall have the ability to self report within forty-five (45) days from plan year end. The reports and administration may be subject to an independent third party audit at the County's discretion. If the County finds it necessary to conduct such an audit, stipulated performance guarantee provisions shall apply to the results of said audit.

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
IMPLEMENTATION	Contractor shall fully implement dental plan for the effective date of January 1, 2011	0.05% of premium	N.A.	N.A.
OPEN ENROLLMENT DELIVERABLES	Contractor shall meet the County's schedule for the distribution of plan materials, attendance at regional meetings, printing, eligibility file updates, and any other deliverables indentified in County's schedule.	0.20% of premium	0.20% of premium	0.20% of premium
PROVIDER NETWORK				
Network Turnover	• Network turnover - less than 15% annually within Contractor's service area (turnover is defined	0.15% of premium	0.15% of premium	0.15% of premium

Appendix C

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
	as any withdrawal or removal from the network for reasons other than illness, death, or quality)			
Network Accessibility	• Minimum of 75% of network providers must have open practices within Contractor's geographic area coverage	0.20% of premium	0.20% of premium	0.20% of premium
MEMBER SERVICES				
SATISFACTION	Contractor shall obtain a positive response rate (satisfied or very satisfied) of 75% based on the overall satisfaction question, on County approved specific satisfaction survey conducted at Contractor's expense.	0.20% of premium	0.20% of premium	0.20% of premium
CLIENT SERVICE TEAM STANDARDS (subjective measures as determined by the County, are included in this category)	- Prompt notice of state/federal law changes - Delivery of recommended group plan amendments prior to effective date for review and signature - Attendance at regularly scheduled meetings - Meeting service quality	0.15% of premium	0.15% of premium	0.15% of premium

Appendix C

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
	- Prompt (within 2 business days) solutions to issues identified by the County			
ID CARDS TO EMPLOYEES AT INITIAL ENROLLMENT	90% mailed within 10 business days from receipt of eligibility file/notice	0.20% of premium	0.20% of premium	0.20% of premium
ID CARDS TO EMPLOYEE FOR CHANGES AND NEW HIRES	90% mailed within 10 business days from receipt of eligibility file/notice	0.15% of premium	0.15% of premium	0.15% of premium
DRAFT BROCHURES FOR COUNTY APPROVAL	45 days prior to scheduled release date	0.15% of premium	0.15% of premium	0.15% of premium
FINAL BROCHURES AND BENEFIT BOOKLETS DISTRIBUTION	5 business-day turn-around after receiving draft back from the County	0.15% of premium	0.15% of premium	0.15% of premium
TELEPHONE RESPONSE ANSWER TIME	90% within 35 seconds	0.20% of premium	0.20% of premium	0.20% of premium

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Appendix C

Performance Criteria	Performance Standards	Plan Year 2011	Plan Year 2012	Plan Year 2013 and all options to renew /extensions
		Premium at Risk Liquidated Damages as percentage of total premium for the years		
RESPONSIVENESS TO WRITTEN CORRESPONDENCE	99% acknowledged within 5 business days; and 95% resolved within 30 business days	0.15% of premium	0.15% of premium	0.15% of premium
Total Premium at Risk		Percent of premium total: **1.95%**	Percent of premium total: **1.90%**	Percent of premium total: **1.90%**

RFP NO. 711
Employee Group Dental Insurance Program (Prepaid)
EVALUATION OF PROPOSALS

COMPOSITE

SELECTION CRITERIA / PROPOSERS	Maximum Points Per Member	Maximum Total Points (5 members)	Delta Dental Insurance Company	Humana/CompBenefits Company	Metropolitan Life Insurance Company (MetLife)	[redacted]
Proposer's relevant experience, qualifications, and past performance	150	750	605	650	643	
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	50	250	202	201	203	
Proposer's approach to providing the services requested in this Solicitation	100	500	434	414	392	
Members Services	100	500	428	392	457	
Quality Assurance/Utilization Management	200	1000	845	846	855	
Employee Access	200	1000	802	859	862	
Total Technical Points *(Total of technical rows above)*	800	4000	3316	3362	3412	
Veteran's Preference *(5% of the technical points earned on the technical portion)*	5%	[redacted]	0	0	0	
Total Price Points	200	1000	695	725	800	
TOTAL POINTS *(Technical + Price)*	1000	5000	4011	4087	4212	

SIGNATURE: M Carballeira 3/22/2010
Chairperson

PRINT NAME: Maria Carballeira

[illegible] 3/24/10
Reviewed By

Amado Gonzalez

3/20/2010

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RFP NO. 711
Employee Group Dental Insurance Program (Prepaid)
EVALUATION OF PROPOSALS

BARBARA DUNLOP (GSA)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Delta Dental Insurance Company	Humana/CompBenefits Company	Metropolitan Life Insurance Company (MetLife)
Proposer's relevant experience, qualifications, and past performance	150	125	135	145
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	50	35	40	43
Proposer's approach to providing the services requested in this Solicitation	100	90	90	95
Members Services	100	90	95	100
Quality Assurance/Utilization Management	200	165	175	190
Employee Access	200	160	185	187
Total Technical Points *(Total of technical rows above)*	800	665	720	760
Veteran's Preference *(5% of the total technical points earned on the technical portion)*	5%	0	0	0
Proposer's Price Schedule	200	180	165	190
TOTAL POINTS *(Technical + Price)*	1000	845	885	950

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RFP NO. 711
Employee Group Dental Insurance Program (Prepaid)
EVALUATION OF PROPOSALS

HAZEL GRACE-DANSOH (GSA)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Delta Dental Insurance Company	Humana/CompBenefits Company	Metropolitan Life Insurance Company (MetLife)
Proposer's relevant experience, qualifications, and past performance	150	120	140	130
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	50	30	35	40
Proposer's approach to providing the services requested in this Solicitation	100	85	75	70
Members Services	100	80	70	90
Quality Assurance/Utilization Management	200	150	160	145
Employee Access	200	145	170	160
Total Technical Points *(Total of technical rows above)*	800	610	650	635
Veteran's Preference *(5% of the total technical points earned on the technical portion)*	5%	0	0	0
Proposer's Price Schedule	200	170	160	150
TOTAL POINTS *(Technical + Price)*	1000	780	810	785

[redacted]

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RFP NO. 711
Employee Group Dental Insurance Program (Prepaid)
EVALUATION OF PROPOSALS

LUIS GONZALEZ (SEAPORT)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Delta Dental Insurance Company	Humana/CompBenefits Company	Metropolitan Life Insurance Company (MetLife)	[redacted]
Proposer's relevant experience, qualifications, and past performance	150	140	145	145	
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	50	50	45	45	
Proposer's approach to providing the services requested in this Solicitation	100	95	100	90	
Members Services	100	95	95	95	
Quality Assurance/Utilization Management	200	200	200	180	
Employee Access	200	185	195	190	
Total Technical Points *(Total of technical rows above)*	800	765	780	745	
Veteran's Preference *(5% of the total technical points earned on the technical portion)*	5%	0	0	0	
Proposer's Price Schedule	200	190	180	200	
TOTAL POINTS *(Technical + Price)*	1000	955	960	945	

RFP NO. 711
Employee Group Dental Insurance Program (Prepaid)
EVALUATION OF PROPOSALS

DAMITA SURITA-POLANCO (Public Health Trust)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Delta Dental Insurance Company	Humana/CompBenefits Company	Metropolitan Life Insurance Company (MetLife)
Proposer's relevant experience, qualifications, and past performance	150	100	120	130
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	50	50	50	50
Proposer's approach to providing the services requested in this Solicitation	100	90	75	75
Members Services	100	100	75	100
Quality Assurance/Utilization Management	200	180	180	200
Employee Access	200	180	190	200
Total Technical Points *(Total of technical rows above)*	800	700	690	755
Veteran's Preference *(5% of the total technical points earned on the technical portion)*	5%	0	0	0
Proposer's Price Schedule	200	75	70	90
TOTAL POINTS *(Technical + Price)*	1000	775	760	845

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RFP NO. 711
Employee Group Dental Insurance Program (Prepaid)
EVALUATION OF PROPOSALS

LORNA MARTIN SPENCER (SBD)

SELECTION CRITERIA / PROPOSERS	Maximum Points	Delta Dental Insurance Company	Humana/CompBenefits Company	Metropolitan Life Insurance Company (MetLife)
Proposer's relevant experience, qualifications, and past performance	150	120	110	93
Relevant experience and qualifications of key personnel, including key personnel of subcontractors, that will be assigned to this project, and experience and qualifications of subcontractors	50	37	31	25
Proposer's approach to providing the services requested in this Solicitation	100	74	74	62
Members Services	100	63	57	72
Quality Assurance/Utilization Management	200	150	131	140
Employee Access	200	132	119	125
Total Technical Points *(Total of technical rows above)*	800	576	522	517
Veteran's Preference *(5% of the total technical points earned on the technical portion)*	5%	0	0	0
Proposer's Price Schedule	200	80	150	170
TOTAL POINTS *(Technical + Price)*	1000	656	672	687

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Memorandum

MIAMI-DADE COUNTY

Date: March 11, 2010

To: Maria Carballeira
Procurement Contracting Officer

From: Oren Rosenthal
Assistant County Attorney

Subject: Responsiveness of Proposals – RFP 711 Employee Group Dental Insurance Program – Prepaid

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You have asked this office if proposals from Dental Benefits Providers, Inc. ("DBP"), CIGNA Dental Health, Inc. ("CIGNA"), and Union Security Dental Company ("Assurant") may be considered responsive to the above referenced Request for Proposals ("RFP"). For the reasons set forth below, we conclude that DBP, CIGNA and Assurant's proposals are non-responsive to the RFP. You also ask this office to identify the proposer for the Humana/CompBenefits Company ("Humana") proposal.

FACTS

We rely on the information provided in your memorandum to this office dated March 5, 2010 (attached hereto), the proposals from the above firms and text of the RFP.

In your memorandum, you identify the following variations from the solicitation:

1. **Dental Benefit Providers, Inc.** You state that DBP failed to provide the required State of Florida Certificate of Authority to solicit for and perform the services requested in the RFP. Instead DBP provided a Certificate of Authority for a listed subcontractor, Solstice Benefits, Inc. DPM Staff researched the State of Florida Office of Insurance Regulation Website, which provides public access to active companies and identifies authorized lines of business. DBP was listed on the State of Florida Office of Insurance Regulation's Website as a Third Party Administrator (TPA). DPM Staff contacted the Office of Insurance Regulation's Customer Service Line and spoke with a customer service representative who stated that TPAs are not authorized to sell dental insurance in the State of Florida. You report that the Office of Insurance Regulation states that TPAs are authorized to administer plans.

2. **CIGNA Dental Health, Inc.** You state that the solicitation provides that the rates must be fixed for the first three years and that the employer contribution rates for the insurance are subject to collective bargaining. As part of its price proposal, CIGNA includes a section titled "Underwriting Caveats" (Financials Tab, Page 95). In that section, CIGNA states that rates "require an employer contribution consistent with current arrangement for the three year period."

3. **Union Security Insurance Company (Assurant)** You state that the solicitation requires the proposer to provide COBRA coverage as part of the price it presents to the County. Assurant included a section in its proposal titled "Deviations" (Exhibit E1). In that section, Assurant

states that it does not administer COBRA but rather utilizes a third party administrator for certain COBRA administration services. Assurant identifies that it currently has other arrangements with a third party administrator to provide COBRA at an additional cost of 4% per rate tier and "will be glad to discuss [a similar arrangement] with the County if we are a finalist."

4. **Humana/CompBenefits Company** You ask for the identity of the proposer listed as CompBenefits Company on Form A-1 of the proposal. You state that Humana's Form A-1 identified the name of the proposer as "CompBenefits Company" but listed the FEIN of HumanaDental Insurance Company. The cover letter included in the proposal states, "Humana/CompBenefits welcomes the opportunity to present our dental plan." A statement provided in Proposer Information, Item No. 2 (Section 1 Tab, Page 1) states that Humana Inc. acquired CompBenefits Corporation in the forth quarter of 2007. You state that DPM Staff researched the State of Florida's Division of Corporations Website and found that HumanaDental Insurance Company (FEIN 39-0714280) and CompBenefits Company (FEIN 59-2531815) are both active corporations in the State of Florida.

DISCUSSION

Based on the facts set forth above, DBP, CIGNA and Assurant's proposals are non-responsive to the RFP. In general, a proposal may be rejected or disregarded if there is a variance between the proposal and the advertisement. *See Robinson Electric Co. v. Dade County*, 417 So.2d 1032, 1034 (Fla. 3d DCA 1982). Proposers who propose impermissible exceptions to invitations to RFPs do so at the risk of those exceptions being deemed material to the proposal and having their proposal rejected as nonresponsive.[1]

For DBP, the failure to provide a State of Florida Certificate of Authority in its own name is fatal. Section 2.3 of the RFP provides the sole Minimum Qualification Requirement: "Selected Proposer shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the services for which the proposal is being submitted for, as of the proposal due date." This requirement is consistent with Florida law which requires a Certificate of Authority to both solicit and perform the requested services. The RFP requests entities which are licensed to sell and administer a dental insurance plan. DBP's attempt to utilize a third party "affiliate" for the sale of insurance is insufficient to meet this requirement. Moreover, DBP's properly licensed subcontractor is neither a signatory to the offer to the

[1] "In determining whether a specific noncompliance constitutes a substantial and hence nonwaivable irregularity, the courts have applied two criteria-first, whether the effect of a waiver would be to deprive the municipality of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders or by otherwise undermining the necessary common standard of competition." *Robinson Electric*, 417 So.2d at 1034 (citing 10 McQuillan, Municipal Corporations § 29.65 (3d Ed. rev. 1981)); *Harry Pepper & Associates, Inc. v. City of Cape Coral, 352 So.2d 1190, 1129* (Fla. 2d DCA 1977) ("The test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive nature is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by other bidders"). In some cases, irregularities that are tangential to the actual proposal 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").

County nor would be in privity with the County in any subsequent contract. As such, the proposal is non-responsive.

For CIGNA, the inclusion of an underwriting caveat that conditions their price offer on "an employer contribution consistent with current arrangement for the three year period" is fatal to the offer. Section A, Note No. 7 of the price proposal form requires that "All rates shall be guaranteed for a minimum of 36 months (the initial 3 program years) ... Price shall not be contingent upon minimum participation requirements or the County's acceptance of any exceptions by Proposer." Section 2.5 of the RFP also provides that "The County contribution levels are subject to collective bargaining agreements" which puts the proposers on notice that the contribution levels currently provided may change over the first term of the proposed agreement. As such, this variance both gives CIGNA a material advantage over the other proposals who comply with these requirements by reducing the risk associated with the size of the risk pool and also makes CIGNA's bid illusory by conditioning it price on matters which the County has made clear may change.

For Assurant, its statement that it provides COBRA administration through a third party at an additional charge is fatal to its proposal. Section A, Note No. 4 of the price proposal form requires that "Any quoted premium rates supplied shall be all-inclusive ... no 'add-on' charges for services shall be accepted." Section 2.7.18 also requires that "Selected Proposer shall provide all COBRA administration." This variance is likewise material and may not be waived. Assurant does not provide all of the services requested by the RFP and also does not give a definitive price for the requested services. At best, Assurant's proposal merely invites negotiation of prices on a requested service in the RFP.

For Humana, the issue is not one of responsiveness, but of identification of the proposer. Although Humana lists the proposal entity as "CompBenefits Company" in Form A-1 it uses HumanaDental Insurance Company's FEIN and the form is signed by an officer of HumanaDental. Moreover, the proposal is presented with the Humana brand and indicates that CompBenefits Company was wholly acquired by Humana, Inc. in 2007. When viewed in its entirety, it is apparent that the proposal is from HumanaDental Insurance Company and should be evaluated as such.

Oren Rosenthal

Memorandum

MIAMI-DADE COUNTY

Date: March 5, 2010

To: Oren Rosenthal
Assistant County Attorney
County Attorney's Office

From: Maria Carballeira, CPPB
Procurement Contracting Officer
Department of Procurement Management

Subject: Request for Legal Opinion RFP No. 711
Employee Group Dental Insurance Program (Prepaid)

The County issued Request for Proposals (RFP) No. 711 for the Employee Group Dental Insurance Program (Prepaid) on January 27, 2010. On February 26, 2010, six (6) proposals were received and subsequently reviewed. The following issues were identified:

1. **Minimum Qualification Requirement**
   The RFP had the following Minimum Qualification Requirement: *"Selected Proposer shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the services for which the proposal is being submitted for, as of the proposal due date.*

Dental Benefit Providers, Inc. provided documentation in the form of a State of Florida Certificate of Authority for Solstice Benefits, Inc. which is listed as a subcontractor in the proposal. DPM Staff researched the State of Florida Office of Insurance Regulation Website, which provides public access to active companies and identifies authorized lines of business. Proposer was listed on the State of Florida Office of Insurance Regulation's Website as a Third Party Administrator (TPA). DPM Staff contacted the Office of Insurance Regulation's Customer Service Line and spoke with a customer service representative who stated that TPAs are not authorized to sell dental insurance in the State of Florida. TPAs are authorized to administer plans. This appears to be confirmed in Florida Statutes 626.88 and 626.8805 *(attached hereto)* addressing certificate of authority to act as an administrator.

2. **Proposer Identification**

CompBenefits Company submitted Form A-1 in the Proposal and stated Proposer's Name as "CompBenefits Company". In Form A-1, the "Federal Employer Identification Number" CompBenefits Company listed corresponds instead to HumanaDental Insurance Company. The cover letter included in the proposal states, *"Humana/CompBenefits welcomes the opportunity to present our dental plan."* A statement provided in CompBenefits Company's Proposer Information, Item No. 2 (Section 1 Tab, Page 1) states that Humana Inc. acquired CompBenefits Corporation in the forth quarter of 2007. DPM Staff researched the State of Florida's Division of Corporations Website and found that HumanaDental Insurance Company (FEIN 39-0714280) and CompBenefits Company (FEIN 59-2531815) are both active corporations in the State of Florida.

3. **Material Deviations**
   Proposals received were reviewed for any assumptions, deviations or exceptions outlined therein that may materially conflict with any portions of the RFP. The findings are as follow:

a. **CIGNA Dental Health, Inc.**
   Underwriting Caveats (Financials Tab, Page 95): Rates require an employer contribution consistent with current arrangement for the three year period.

Vs.

County:
Form B-1 Price Proposal Schedule, Section A, Note No. 7: All rates shall be guaranteed for a minimum of 36 months (the initial 3 program years). Price shall not be contingent upon minimum participation requirements or the County's acceptance of any exceptions by Proposer.

Section 2.5 - Premiums: The County contribution levels are subject to collective bargaining agreements.

b. **Union Security Insurance Company:**
Deviations (Exhibit E1): We do not administer COBRA. However, Union Security Insurance Company utilizes a third party administrator for certain COBRA administration services with an additional cost of 4% per rate tier which Union will be glad to discuss with the County if we are a finalist.

Vs.

County:
Form B-1 Price Proposal Schedule, Section A. Note No. 4: Any quoted premium rates supplied shall be all-inclusive. No "add-on" charges for services shall be accepted.

Section 2.7.18: Selected Proposer shall provide all COBRA administration.....

Please review these issues and advise whether the proposals submitted by Dental Benefits Provider, Inc., CompBenefits Company, CIGNA Dental Health, Inc. and Union Security Insurance Company are responsive.

Attached, please find the following:

- *RFP 711*
- *Dental Benefits Provider, Inc. Proposal with areas of concern tabbed*
- *CompBenefits Company Proposal with areas of concern tabbed*
- *CIGNA Dental Health, Inc. Proposal with areas of concern tabbed*
- *Union Security Insurance Company Proposal with areas of concern tabbed*

Memorandum

Date: March 25, 2010

To: Maria Carballeira
Procurement Contracting Officer

From: Oren Rosenthal
Assistant County Attorney

Subject: Application of Local Preference Ordinance, Section 2-8.5 of the Code of Miami-Dade County to RFP No. 711 Employee Group Dental Insurance Program (Prepaid)

You have asked this office to review applicability of Section 2-8.5 of the Code of Miami-Dade County to the proposals submitted by the first and second ranked responsive responsible proposers received in response to the above referenced Request for Proposals ("RFP"). For the reasons discussed below we find that both Metropolitan Life Insurance Company ("MetLife") and Delta Dental Insurance Company ("DDIC") may be considered a local business under Section 2-8.5 of the Code of Miami-Dade County.

FACTS

We rely on the information provided in your memorandum to this office dated March 23, 2010, this office's prior opinion regarding the application of the local preference to RFP 673, as well as previous communications with the Tax Collector's Office regarding the Local Business Tax category applicable to this RFP.

You state that both proposals in question claim a local preference. In support of the claimed preference, DDIC provided a local business tax receipt from Miami-Dade County in the category of "Service Business" for the period exceeding one year prior to the proposal submittal date. MetLife, on the other hand, provided a local business tax receipt issued by the City of Coral Gables with a category classification of investments/securities dealer.

You indicate that upon subsequent inquiry MetLife provided multiple local business tax receipts issued by various Miami-Dade and Broward municipalities, as well a copy of a Miami-Dade County 2008 Notice of Ad Valorem Taxes. You also report that staff contacted the Miami-Dade County Business Tax Receipt Office who stated that MetLife does possesses a local business tax receipt for the category of commercial, industrial and office space but that such a local business tax receipt only authorizes the leasing of commercial property owned by MetLife.

In prior inquiry to the Tax Collector's Office, that Office reported that insurance companies "do not need to acquire a Local Business Tax Receipt (formerly named Occupational License)" in accordance with Florida Statutes Chapter 624.506(2) which provides that for insurance companies "the payment and collection of county tax under this chapter shall be in lieu of collection thereof by the respective county tax collectors." The Tax Collector's Office also has opined that the work of processing insurance claims and other work associated with the services purchased through RFP 673 requires a Local Business Tax Receipt in the "Service Business" category.

DISCUSSION

Based on the facts set forth above, DDIC may be considered Local Businesses under Section 2-8.5 of the Code.[1] MetLife may also be considered a Local Business subject to certain further inquiry.

In conjunction with RFP 673, this office issued an opinion dated June 25, 2009 finding that DDIC's submission of a local business tax receipt in the "Service Business" category properly met the definition of a Local Business for that solicitation under Section 2-8.5(1)(c) of the Code. As DDIC submitted a similar local business tax receipt in the instant RFP, DDIC is similarly a Local Business for this procurement.

The prior opinion also dealt with the question of whether a vendor may submit a local business tax receipt of an affiliated entity as well as use the facilities of an affiliated entity to meet the definition of a Local Business. In that opinion, this office found that such an arrangement did not meet the definition of a Local Business. In that case, the vendor reported that it does not have a valid local business tax receipt issued in its own name in Miami-Dade County or Broward County. That issue is distinct from the question presented here by MetLife.

Here, MetLife has submitted a Miami-Dade County local business tax receipt issued in its own name as well as multiple local business tax receipts from municipalities within Miami-Dade County. The County local business tax receipt presented by MetLife, however, was not for insurance but for a category of business not contemplated by the instant RFP.

As noted by the Tax Collector's Office, Miami-Dade County does not offer a local business tax receipt for insurance companies. That is because Florida Statutes Chapter 624.506(2) provides that for insurance companies "the payment and collection of county tax under this chapter shall be in lieu of collection thereof by the respective county tax collectors." Thus, Miami-Dade County does not collect a local business tax for insurance operations in Miami-Dade County based upon this statute.

Thus, the issue presented by MetLife is whether a vendor who possesses a local business tax receipt, has multiple local offices, and who demonstrates verifiable contributions "to the economic development and well-being of Miami-Dade County" is sufficient to meet definition of a Local Business when the County does not issue a local business tax receipt in the category of business requested by the solicitation. As state law provides that the State's collection of the county tax "shall be in lieu of collection" by the County we believe MetLife may meet the definition of a Local Business by demonstrating that it has paid the appropriate state collected tax.

Such an interpretation is consistent with the purpose of requiring a local business tax receipt to demonstrate that a vendor claiming the preference is authorized to and actually does provide the

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[1] Section 2-8.5(1)(c) of the Code defining "local business" for purposes of the preference provides:

> *Local business* means the vendor has a valid occupational license [local business tax receipt] issued by Miami-Dade County at least one year prior to bid or proposal submission to do business within Miami-Dade County that authorizes the business to provide the goods, services or construction to be purchased, and a physical business address located within the limits of Miami-Dade County from which the vender operates or performs business ... In addition to the foregoing, a vendor shall not be considered a "local business" unless it contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way.

requested services within Miami-Dade County. Any other interpretation would result in the untenable proposition that a hypothetical insurance company employing thousands of Miami-Dade County residents would be unable to obtain a local preference because the County does not issue a local business tax receipt for that category of business.

Accordingly, MetLife may properly be considered a Local Business under Section 2-8.5 of the Code of Miami-Dade County if it demonstrates to the County's satisfaction that it has paid the tax referenced in Florida Statutes Chapter 624.506(2), conducts business in Miami-Dade County subject to that tax, and contributes to the economic development and well-being of Miami-Dade County in a verifiable and measurable way.

Oren Rosenthal

Memorandum

MIAMI-DADE COUNTY

Date: January 5, 2010

To: Those Listed Below

From: George M. Burgess
County Manager

Subject: Evaluation/Selection Committee for the General Services Administration Department Request for Proposals for Employee Group Dental Insurance Program (Prepaid Plan) – RFP No. RQGS0900087

In accordance with Administrative Order 3-34, I am hereby appointing those listed below as the Selection Committee for the General Services Administration Department Request for Proposals for Employee Group Dental Insurance Program (Prepaid Plan) – RFP No. RQGS0900087:

Selection Committee
Maria Carballeira, DPM, Non-Voting Chairperson
Barbara Dunlop, GSA
Hazel Grace-Dansoh, GSA
Luis Gonzalez, Seaport
Damita Surita-Polanco, Public Health Trust
Lorna Martin Spencer, SBD
Yvette Colbourne, DSWM (Alternate)

The Selection Committee will meet to review written or printed material regarding the qualifications of each of the certified firms as it relates to the requirements defined in the advertised document. If required, the Selection Committee will select several candidate firms meeting the published criteria, to make oral presentations at a properly noticed public hearing to the full Selection Committee.

The Selection Committee shall be responsible for evaluating, rating and ranking the proposals by each Committee member, based on the criteria and procedure contained in the advertised document. The Evaluation/Selection Committee will first evaluate and rank responsive proposals on the Technical (Quality) criteria. If responsive proposers are invited to make oral presentations, the Committee may re-rate and re-rank the proposals based upon the written documents combined with the oral presentation. You may utilize staff of the issuing department and the using agency to conduct a preliminary review of the proposals for responsiveness to the technical requirements. All requests for specific determinations shall be made in writing to the County Attorney's Office.

You are directed to assist me in the selection process considering the factors delineated in the advertised document. These factors may include methodology and management approach, qualifications and experience of principals and staff, financial stability, proposer's past performance of similar scope and size, proposer's detailed plans to meet the objectives of each task, activity, etc., pursuant to any schedule, proposer's previous County experience, history and experience of the firm or individual(s), understanding of the project and the County's objectives, responsiveness to the established requirements, and Cost/Revenue (normally separate and sealed). When the document requires the proposer to provide cost/revenue in a separate sealed envelope, cost/revenue will be considered separately and after the other criteria have been evaluated.

If you are unable to participate in the Selection process, contact this office through Small Business Development (SBD) by memorandum documenting the reason why you cannot participate. Only in cases of **dire** urgency may you be excused from participation.

The alternate committee member will serve only in the event of an approved substitution. No substitution of committee members shall be allowed after the first official meeting of the committee. The Department of Procurement Management's (DPM) RFP Unit may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

Following the oral presentation, or upon completion of the review process, the Committee shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the top recommended firm(s) based upon the reasoning and mathematical formula, if utilized, and attach supporting documentation and a summary sheet which MUST include the following information:

Name of firm(s)
Quality Rating Score
Price
Adjusted Score (if applicable)
Committee's Overall Ranking

This report should be submitted to me through the SBD for review and consideration for further recommendation to the Board of County Commissioners.

As a matter of administrative policy and to maintain a fair and impartial process, all individuals appointed to the Selection Committee (including the Chairperson) and staff are instructed to refrain from discussing the solicitation with prospective lobbyists and/or consultants. Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, they are prohibited from having any communication with potential respondents and/or their representatives. Violation of this policy could lead to termination.

All questions must be directed to the staff contact person(s) designated by the issuing department.

c: Miriam Singer, Director, DPM
Wendi Norris, Director, GSA
Bill Johnson, Director, Seaport
Kathleen Woods-Richardson, Director, DSWM
Penelope Townsley, Director, SBD

Selection Committee
Maria Carballeira, DPM, Non-Voting Chairperson
Barbara Dunlop, GSA
Hazel Grace-Dansoh, GSA
Luis Gonzalez, Seaport
Damita Surita-Polanco, Public Health Trust
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