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

Memorandum

MIAMI-DADE COUNTY

Date: September 17, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

Agenda Item No. 8(F)(2)

From: Carlos A. Gimenez
Mayor

Subject: Recommendation for Award: Employee Disability Insurance Program

Resolution No. R-736-13

Recommendation

It is recommended that the Board of County Commissioners (Board) approve award of *Contract No. RFP835, Employee Disability Insurance Program*, to Metropolitan Life Insurance Company (MetLife) for the delivery of an Insured Employee Short-Term, Long-Term, and Premier Long-Term Disability Insurance Program (Program) and related services. This is a completely voluntary program. Employees elect whether or not to participate during the County's annual benefits "Open Enrollment" period or at their initial eligibility date.

While the provisions of the recommended Program mirror the current disability insurance plan, this contract provides several enhancements, including:

- The negotiated rates for all three plans yielded an average of 22 percent savings per plan to employees from the current contract rates. For comparison, an employee currently paying $225 per year for the Long-Term Disability Low Option plan, which is the most commonly elected plan, would be paying $166 per year under the proposed Program.
- Allows all employees to elect the Premier Long-Term Disability Plan, which was previously provided only to executive level employees. The Premier Long-Term Disability Plan is an additional option which provides for a higher monthly benefit, and a shorter waiting period for which the insurer does not pay benefits.

Scope

The impact of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the initial four-year term is approximately $25,000,000. If the County elects to exercise the two, two-year options to renew, the cumulative fiscal impact will be approximately $50,000,000 for eight years. The current contract is for seven years and three months, with a total allocation of $63,000,000. The Program is 100 percent employee-funded.

Department	Allocation	Funding Source	Contract Manager
Internal Services	$25,000,000	Employee Funded	Na'Imah Martin
Total	**$25,000,000**		

Track Record/Monitor

The contract is utilized by the Internal Services Department and the contract manager is listed in the table above. Annie Perez of the Internal Services Department is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise, at their discretion, contract modifications and extensions in accordance with the terms and conditions of the contract.

A Request for Proposals was issued January 28, 2013 under full and open competition to obtain an insurer to provide a Program that enhances the quality of the current employee disability insurance offering while minimizing costs. Seven of the eight proposals were found to be non-responsive by the County Attorney's Office. Negotiations were successful with the sole responsive, responsible vendor, as shown below:

Vendor Recommended for Award

Awardee	Address	Principal
Metropolitan Life Insurance Company (MetLife)	1095 Avenue of the Americas New York, NY	Steven A. Kandarian

Vendors Not Recommended for Award

Proposers	Reason for Not Recommending
Cigna Group Insurance	Proposals were deemed non-responsive by the County Attorney's Office opinion (attached)
Hartford Life and Accident Insurance Company	
Liberty Life Assurance Company of Boston	
The Prudential Insurance Company of America	
Standard Insurance Company	
Symetra Life Insurance Company	
Unum Life Insurance Company of America	

Due Diligence

Due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine Contractor responsibility, including verifying corporate status and that there are no performance or compliance issues. The lists that were referenced include: convicted vendors, debarred vendors, delinquent contractors, suspended vendors and federal excluded parties. There were no adverse findings relating to Contractor responsibility. This information is being provided pursuant to Resolution R-187-12.

Applicable Ordinances and Contract Measures

- Local Preference was applied in accordance with the applicable ordinances.
- The User Access Program, Contract Measures and Living Wage Ordinance do not apply as this is an employee-funded program.

Edward Marquez
Deputy Mayor

Memorandum

MIAMI-DADE COUNTY

Date: March 18, 2013

To: Amos Roundtree & Annie Perez
Internal Services Department

From: Eduardo W. Gonzalez
Assistant County Attorney

Subject: Responsiveness of Late Proposal – RFP 835, Employee Disability Insurance Program

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You have asked this office if a late proposal may be considered responsive to the above referenced Request for Proposal when the proposal was received three (3) calendar days and one (1) business day after the proposal deadline. For the reasons set forth below, we conclude that the County does not have the discretion to accept the late proposal at issue. The proposal at issue is non-responsive.

FACTS

We rely on the information provided in email correspondence dated March 11 and 12, 2013 and a Federal Express ("Fedex") delivery document attached to the email summaries.

Responsive proposals were due to the Clerk of the Board on March 8, 2013 at 2:00 P.M. Symetra Life Insurance Company ("Symetra") submitted a package to the County via Fedex that was received on March 8, 2013 at or around 9:58 A.M. However, this initial submittal package consisted of company brochures and did not include Symetra's actual proposal in response to RFP 835. On March 11, 2013, at or around 10:10 A.M., the County received Symetra's proposal. Based on the review of the Fedex delivery document, Symetra sent the shipment information to Fedex for its proposal on March 8, 2013 at 2:36 P.M., after the proposal deadline. Symetra's proposal was not picked for delivery until 8:05 P.M. on March 8, 2013.

DISCUSSION

In general, a proposal may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. See Robinson Elec. Co. v. Dade County, 417 So.2d 1032, 1034 (Fla. 3d DCA 1982). There is a two part test to determine if a specific noncompliance in a proposal constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a proposer in a position of advantage over other proposers. See id.

This office has consistently advised that proposals submitted after the close of business on the due date are presumptively invalid absent an extraordinary showing. To overcome the presumption of invalidity and demonstrate such an extraordinary showing the vendor would at the least have to

demonstrate that the delay in the County's receipt of the proposal was outside of the proposer's control and the proposer had a reasonable expectation that the proposal would be timely delivered. For example, the County has accepted proposals if the vendor sent the proposal via FedEx "Priority Overnight Delivery" in sufficient time before the deadline and had a reasonable expectation that the proposal would arrive to the Clerk of the Board before the deadline but the proposal arrived late due to unexpected occurrences such as a weather delay.

No such circumstances exist here. The Fedex delivery document indicates that the proposal was not even picked up for delivery until after the proposal deadline. The County does *not* have the discretion to consider Symetra's late proposal. Symetra's proposal is non-responsive.

Eduardo W. Gonzalez

Memorandum

MIAMI-DADE COUNTY

Date: March 28, 2013

To: Annie Perez
Procurement Contracting Officer

From: Oren Rosenthal
Assistant County Attorney

Subject: Responsiveness of Proposal – RFP 835 Employee Disability Insurance Program – Multiple Vendors

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You have asked this office if proposals from Hartford Life and Accident Insurance Company ("Hartford"), Liberty Life Assurance Company of Boston ("Liberty"), Standard Insurance Company ("Standard"), Prudential Insurance Company of America ("Prudential"), and Unum Life Insurance Company of America ("Unum") may be considered responsive to the above referenced Request for Proposals ("RFP"). Your inquiry identifies various deviations from the solicitation in the proposals submitted by Hartford, Liberty, Standard, Prudential, and Unum. While your request identifies a number of different potential issues for each proposer, all of the proposers have failed to guarantee their premiums for a period of four years. As that issue is dispositive for all vendors, this opinion is limited to that issue only and, for the reasons set forth below, we conclude that all of these proposers are non-responsive to the RFP as advertised.

FACTS

We rely on the information provided in your memorandum to this office dated March 25, 2013 (attached hereto), the solicitation, and the proposals for each of these vendors in rendering this opinion.

You note the RFP requires, pursuant to Section 2.3(G), that:

> All premiums shall be guaranteed for the initial contract term of four (4) years, January 1, 2014 through December 31, 2017, independent of actual enrollment or any other premium rate contingencies.

You further note, pursuant to in Section A of Form B-1, Price Proposal Schedule, the RFP requires that:

> Note 1: The Premiums shall be guaranteed for the initial four (4) Plan years. Rates shall not be contingent upon minimum participation requirements. Proposers may confirm optional year guarantee rate commitment as provided for below in Section C. Any extensions pursuant to Article 5 of the Agreement will be at the then current rates, unless the County approves an increase in the rates.
>
> Note 2: Any Price proposal that is conditioned may be deemed non-responsive pursuant to Section 1.3.

You further identify the following deviations from this requirement for the above identified proposers. These deviations are as follows:

1. Hartford – "Our underwriting requires a minimum participation of 25% to maintain the plan's integrity. The Hartford suggests the use of personalized enrollment materials, since they usually increase participation levels to a high level. **If, after an aggressive enrollment campaign minimum participation is still less than 25%, we will negotiate with you to either reduce the rate guarantee period, alter the benefit structure, or re-rate the plan.**" Hartford Proposal, Tab 2, Item 32 (emphasis added).

2. Liberty – "Please note policy is guaranteed for 4 years. However, **the proposed rates are guaranteed for 3 years. If after the first 3 years the STD and LTD Loss Ratios are in excess of 82% and 88% respectively, a 10% increase will be applied to the rates for the final year.**" Liberty Proposal, Form B-1, p 2 (emphasis added).

3. Standard – "Contract Article 8. Pricing: Agreed, provided if the plan is changed by amendment or by law, or **if there is significant change in the size of the group, The Standard reserves the right to re-rate the group.** At renewal, rates are developed using a combination of calculated rates and the group's experience. The group will normally be given 31 days written notice of rate change." Standard Proposal, Supplemental information, p 4 (emphasis added)

4. Prudential – "Prudential will guarantee the quoted rates for four years for LTD, **provided that the covered lives or volume does not fluctuate by 10% or more from what has been reported. We may change any premium rate at any time for reasons that affect the risk assumed, including**...The initial STD rates are for years 1 and 2. We have included a 10% rate cap for Year 3 and a 10% rate cap for Year 4. **We may change any premium rates at any time for reasons that affect the risk assumed, including...[c]overed fluctuate more than 10%, from what has been reported.**" Prudential Proposal, Scope of Services, p 10-11 (emphasis added).

5. Unum – "Unum's offer includes **a three year rate guarantee for Short Term and Long Term Disability.**" Unum Proposal, p 70 (emphasis added).

DISCUSSION

Based on the facts set forth above, the proposals from Hartford, Liberty, Standard, Prudential, and Unum are non-responsive for their failure to comply with the express requirement of the RFP that rates shall be guaranteed for a period of 4 years. 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). Only when a variance is immaterial or "minor" is a bidder permitted to withdraw the variance. *Harry Pepper & Associates, Inc. v. City of Cape Coral, 352 So.2d 1190, 1129* (Fla. 2d DCA 1977) ("a bidder cannot be permitted to change his bid after the bids have been opened, except to cure minor irregularities"). 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.

The determination of whether a variance or irregularity is minor is fact specific and may differ from proposal to proposal. Florida courts have used a two part test to determine if a specific noncompliance in a proposal constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely effect competitive bidding by placing a proposer in a position of advantage over other proposers. *See Glatstien v. City of Miami*, 399 So.2d 1005 (Fla. 3d DCA), rev. denied, 407 So.2d 1102 (Fla. 1981). For the price portion of a proposal, if the irregularity has a clear and demonstrable affect on the amount of the price proposed, it is a material deviation that cannot be waived. *See Harry Pepper*, 352 So. 2d at 1193 ("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, however, 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").

Here, through Section 2.3(G) and Note 1 to Section A of Form B-1 of the RFP, the County has placed a strict limitation on the types of proposals it will consider. As set forth in those provisions, the County is soliciting proposal from vendors that will guarantee premium prices for 4 years. Said another way, the County is asking proposers to assume all risk for the first four years associated with any fluctuation in enrollment, plan utilization, loss ratio, or any of the myriad of factors that will affect the expected cost to the vendor of providing the services. By placing various conditions or limitations on this transfer of risk, Hartford, Liberty, Standard, Prudential, and Unum are all deviating from this material portion of the solicitation. By means of this deviation, these proposers are disavowing responsibility for this risk and are able to offer a materially different price for the plans. These proposers are able to exclude the costs for the additional risk assumption required by the County. This condition thus places the deviating proposers at a material advantage to proposers who, in following the terms of the RFP, have factored into their price proposal the cost of assuming the risk for 4 years. Moreover, these deviations ask the County to make a risk allocation comparison in evaluating responses to this solicitation, an evaluation that the RFP has explicitly declined to do. This is precisely the type of material advantage Florida's competitive procurement laws seek to avoid.

Accordingly, the proposals from Hartford, Liberty, Standard, Prudential, and Unum are non-responsive. In light of the fact that all but one of the vendors submitting proposals for this RFP are not responsive, the County, as always, has the right to reject all bids and re-procure this service through a revised solicitation calculated to obtain the greatest number of responsive proposals by either excluding the long-term rate guarantee as a minimum requirement of the solicitation or by more effectively communicating this requirement to potential proposers.

Oren Rosenthal

Memorandum

MIAMI-DADE COUNTY

Date: April 1, 2013

To: Annie Perez
Internal Services Department

From: Eduardo W. Gonzalez
Assistant County Attorney

Subject: Responsiveness of Cigna Group Insurance Proposal – RFP 835, Employee Disability Insurance Program

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You have asked this office if a proposal Cigna Group Insurance ("Cigna") submitted may be considered responsive to the above referenced Request for Proposal (RFP 835) when Cigna's Price Proposal Schedule (Form B-1) was received by the County on March 14, 2013, six (6) calendar days after the proposal deadline. For the reasons set forth below, we conclude that the County does not have the discretion to accept Cigna's proposal and such proposal is non-responsive.

FACTS

We rely on the information provided in email correspondence dated March 19, 2013 and your attachments to the March 19, 2013 email.

Responsive proposals were due to the Clerk of the Board on March 8, 2013 at 2:00 P.M. Cigna submitted a proposal package on March 8, 2013. But, Cigna's March 8, 2013 proposal package did not include a completed Form B-1, the Price Proposal Schedule. On March 14, 2013 Cigna sent the County an email which attached a completed Form B-1 Price Proposal Schedule. Per the information you have provided us, the March 14 email was the first time Cigna submitted a Price Proposal Schedule to RFP 835.

DISCUSSION

In general, a proposal may be rejected or disregarded if there is a material variance between the proposal and the advertisement. A minor variance, however, will not invalidate the proposal. See Robinson Elec. Co. v. Dade County, 417 So.2d 1032, 1034 (Fla. 3d DCA 1982). There is a two part test to determine if a specific noncompliance in a proposal constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a proposer in a position of advantage over other proposers. See id.

Price is a material element of the solicitation. Here, Cigna failed to include its price proposal with its initial proposal submission. Without the material element of price, Cigna's March 8, 2013 proposal is incomplete and non-responsive. Cigna attempted to cure its incomplete proposal by untimely submitting a price proposal on March 14, 2013, 6 days after the proposal deadline. This office,

however, has consistently advised that proposals submitted after the close of business on the due date are presumptively invalid. Accordingly, Cigna's March 14, 2013 price proposal is late and cannot be considered. Cigna's proposal is non-responsive.

Eduardo W. Gonzalez

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 17, 2013

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

SUBJECT: Agenda Item No. 8(F)(2)

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 Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

✓ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(2)
9-17-13

RESOLUTION NO. R-736-13

RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT IN THE AGGREGATE AMOUNT OF $50,000,000 WITH METROPOLITAN LIFE INSURANCE COMPANY (METLIFE) TO PROVIDE AN EMPLOYEE DISABILITY INSURANCE PROGRAM; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AN AGREEMENT 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 NO. RFP835

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 an agreement in the aggregate amount of $50,000,000 with Metropolitan Life Insurance Company (MetLife), 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 all other rights contained therein.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Audrey Edmonson** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**absent**
Bruno A. Barreiro	**nay**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of September, 2013. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Oren Rosenthal

Employee Disability Insurance Program
Contract No. RFP835

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Metropolitan Life Insurance Company (MetLife), a corporation organized and existing under the laws of the State of New York, having its principal office at 1095 Avenue of the Americas, New York, NY 10036 (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 Disability Insurance Program and related services, on a non-exclusive basis, that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Proposals (RFP) No. 835 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 15, 2013, hereinafter referred to as the "Contractor's Proposal" which is incorporated herein by reference; and,

WHEREAS, the County desires to procure from the Contractor an Employee Disability Insurance Program and related services 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 "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), all other appendices and attachments hereto, all amendments issued hereto, RFP No. 835 and all associated addenda, and the Contractor's Proposal.

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, Internal Services Department, or the duly authorized representative designated to manage the Contract.

d) The word "Contractor" to mean Metropolitan Life Insurance Company (MetLife) 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 "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 Mayor 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 Services (Appendix A), Price Schedule (Appendix B), Business Associate Agreement (Appendix C) and Performance Guarantees (Appendix D), 3) the Miami-Dade County's RFP No. 835 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 stipulated on the first page herein and shall continue until December 31, 2017. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for two additional two-year option to renew periods. 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
Internal Services Department, Human Resources Division
Attention: Assistant Director
111 N.W. 1st Street, Suite 2100
Phone: (305) 375-1589
Fax: (305) 375-2459

and,

b) to the Contract Manager:

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

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

(2) To the Contractor

Metropolitan Life Insurance Company (MetLife)
1200 S. Pine Island Road, Suite 770
Plantation, Fl 33324
Attention: Jacob Story, Sr., Account Executive
Phone: (954) 626-5169
Fax: (954) 625-1565
E-mail: jstory@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 as stipulated in the Price Schedule (Appendix B). 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

Prices shall remain firm and fixed for the first four insurance Plan years (January 1, 2014 – December 31, 2017). However, the Contractor may offer incentive discounts to the County at any time during the Contract term, including any renewal or extension thereof. Prices for subsequent Plan years shall be negotiated as specified in the Price Schedule (Appendix B).

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The County will remit applicable premiums to the Contractor on a bi-weekly basis for the prior pay period, accompanied by an electronic file of employee salary deductions after the County either deducts the employee contributions through its payroll process or receives payment from employees on an unpaid leave of absence. The County retains the right, at all times, to self-bill. 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 Internal Services Department, Procurement Management Division, 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. Commercial General 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 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 Financial Services 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.

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 ten (10) business days after notification of recommendation to award. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall have an additional five (5) business 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 fifteen (15) business days, the Contractor shall be in default of the contractual terms and conditions and award of the Contract may be rescinded, unless such timeframe for submission has been extended by the County.

The Contractor shall be responsible for ensuring 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 OF THE CONTRACTOR

a) 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.

b) Pursuant to Section 2-2092 of the County Code, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under this contract, shall make good faith efforts as determined by the County to fill a minimum of 50% of its employment needs under this contract through the South Florida Workforce Board, or other designated Referral Agency. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor shall provide quarterly reports to the Referral Agency indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected.

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 Contractor's 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 comply with 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 Mayor 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 Mayor'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 Mayor within 10 days of the occurrence, event or act out of which the dispute arises.

e) The County Mayor 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 Mayor 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 Mayor 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 Mayor 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 Mayor, 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 appendices 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 in the event the County finds the Contractor in breach of this Contract, permitting the County to request completion by the Subcontractor of its performance obligations under the subcontract. The clause shall include an option for the County 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.

d) 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.

e) In the event that the County exercises its right to terminate this Agreement, 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 non-cancelable 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

f) In the event that the County exercises its right to terminate this Agreement, 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. non-cancelable 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.

g) 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 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 the 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 timeframe, the County may:

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

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 re-procurement 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 shall not infringe on any copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights in the performance of the Work.

b) 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 copyrights, trademarks, service marks, trade secrets, patent rights, other intellectual property rights or any other third party proprietary rights.

c) 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.

d) 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).

e) 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.

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 with 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/CONFLICT OF INTEREST

a) Vendor Registration

The Contractor shall be a registered vendor with the County – Internal Services Department, Procurement Management Division, 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 Ethics 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 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, 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 without regard to 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 a 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.

The Contractor shall hold all licenses and/or certifications, obtain and pay for all permits and/or inspections, and comply with all laws, ordinances, regulations and building code requirements applicable to the work required herein. Damages, penalties, and/or fines imposed on the

County or Contractor for failure to obtain and maintain required licenses, certifications, permits and/or inspections shall be borne by the Contractor. The Project Manager shall verify the certification(s), license(s), permit(s), etc. for the Contractor prior to authorizing work and as needed.

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 award 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. INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION and/or PROTECTED HEALTH INFORMATION

Any person or entity that performs or assists Miami-Dade County with a function or activity involving the use or disclosure of "Individually Identifiable Health Information (IIHI) and/or Protected Health Information (PHI) shall comply with the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and the Miami-Dade County Privacy Standards Administrative Order. HIPAA mandates for privacy, security and electronic transfer standards, include but are not limited to:

1. Use of information only for performing services required by the contract or as required by law;
2. Use of appropriate safeguards to prevent non-permitted disclosures;
3. Reporting to Miami-Dade County of any non-permitted use or disclosure;
4. Assurances that any agents and subcontractors agree to the same restrictions and conditions that apply to the Contractor and reasonable assurances that IIHI/PHI will be held confidential;
5. Making Protected Health Information (PHI) available to the customer;
6. Making PHI available to the customer for review and amendment; and incorporating any amendments requested by the customer;
7. Making PHI available to Miami-Dade County for an accounting of disclosures; and
8. Making internal practices, books and records related to PHI available to Miami-Dade County for compliance audits.

PHI shall maintain its protected status regardless of the form and method of transmission (paper records, and/or electronic transfer of data). The Contractor must give its customers written notice of its privacy information practices including specifically a description of the types of uses and disclosures that would be made with protected health information.

ARTICLE 40. FIRST SOURCE HIRING REFERRAL PROGRAM

Pursuant to Section 2-2113 of the Code of Miami-Dade County, for all contracts for goods and services, the Contractor, prior to hiring to fill each vacancy arising under a County contract shall (1) first notify the South Florida Workforce Investment Board ("SFWIB"), the designated Referral Agency, of the vacancy and list the vacancy with SFWIB according to the Code, and (2) make good faith efforts as determined by the County to fill a minimum of fifty percent (50%) of its employment needs under the County contract through the SFWIB. If no suitable candidates can be employed after a Referral Period of three to five days, the Contractor is free to fill its vacancies from other sources. Contractor will be required to provide quarterly reports to the SFWIB indicating the name and number of employees hired in the previous quarter, or why referred candidates were rejected. Sanctions for non-compliance shall include, but not be limited to: (i) suspension of contract until Contractor performs obligations, if appropriate; (ii) default and/or termination; and (iii) payment of $1,500/employee, or the value of the wages that would have been earned given the noncompliance, whichever is less. Registration procedures

and additional information regarding the FSHRP are available at https://iapps.southfloridaworkforce.com/firstsource/.

ARTICLE 41. 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: TERESA THERESA	Name: Carlos A. Gimenez
Title: AVP-Secretary	Title: Mayor
Date: 5-28-13	Date:
Attest: Patricia I Jaquez Corporate Secretary/Notary Public	Attest: Clerk of the Board
Corporate Seal/Notary Seal	Approved as to form and legal sufficiency
OFFICIAL SEAL PATRICIA I JAQUEZ NOTARY PUBLIC - STATE OF ILLINOIS MY COMMISSION EXPIRES:12/06/16	Assistant County Attorney

Appendix A

Scope of Services

1. INTRODUCTION

A. Objective

Miami-Dade County, hereinafter referred to as the "County is contracting for an insured Employee Short-Term Disability (STD) and Long-Term Disability (LTD) Insurance Program (the "Program") and related services. The purpose of this Program is to enhance the quality of the current offerings while minimizing costs.

B. Program Highlights

Listed below are some of the highlights for the Program. An overview of the plan designs is provided in Section 4 below.

1. Eligible employees accrue three or four hours of sick leave per pay period with a maximum accrual of 96 hours per year (subject to collective bargaining agreements).
2. There is no cap on the number of sick leave hours that can be accumulated.
3. Employees may choose to enroll in the regular STD Plan and/or the regular LTD Plan, or enroll in the Premier LTD Plan alone. Enrollment in the Premier LTD plan cannot be combined with the regular STD and LTD plans because the plans are mutually exclusive.
4. Employees pay the full cost of the benefit.
5. An employee can make a separate election as to participation in the STD and LTD Plans.
6. The premiums for the Program shall be paid on a payroll volume basis by the employees who voluntarily elect to take part in the Short-Term Disability Plan (STD), Long-Term Disability Plan (LTD), or Premier Long-Term Disability Plan (Premier LTD).
7. The Contractor shall administer the Program in accordance with all applicable state and federal laws.
8. The Program shall mirror the Plan Year 2013 provisions, except to the extent that the County has agreed to or requested changes herein.
9. The County reserves the right to add a surcharge to the premiums to help defray administrative costs of the Program.
10. All contributions will be made on a post-tax basis.
11. The STD and LTD Plans shall have two options (i.e., levels of benefits per week or month).
12. The premiums shall be paid on a payroll volume basis.

2. QUALIFICATION REQUIREMENTS

A. Contractor shall be licensed by the State of Florida, Office of Insurance Regulation, to provide the plan services.

B. Contractor shall hold a minimum "A" insurance rating from A.M. Best or a comparable financial rating organization (i.e. Moody's, Standard & Poor's or Weiss) and a Financial Classification of "VII" or higher.

3. REQUIREMENTS AND SERVICES TO BE PROVIDED

A. Call Intake/Customer Service

The Contractor shall:

1. Accept incoming calls from employees and others (i.e., County representatives, family members, physician, or supervisor).

2. Provide a Call Intake System that has an "automated call distribution" feature with message capability for after hours. Return calls shall be made within 24 hours.
3. Provide customer service in English, Spanish and Creole during the County's normal business hours (8:00 a.m. to 5:00 p.m. Eastern Time).

B. Clinical Support Services

The clinical and vocational aspects of disability claims require significant detailed medical data – in addition to discussions with attending physicians. Therefore, the Contractor shall:

1. Provide clinical review by an appropriate medical professional, including initial claim determination approval/denial and determination of levels of impairment;
2. Coordinate with healthcare providers to obtain objective clinical information;
3. Contact and discuss with the County's departmental personnel representative the claimant's job duties and functional requirements, etc.;
4. Provide expert testimony by the appropriate medical professional, when necessary, to support claim decisions; and
5. Provide telephone interaction with other appropriate healthcare and vocational vendors.

C. Claims Administration and Management

The Contractor shall:

1. Assume full risk on the Plan effective date for all lives effective on or after the Plan effective date;
2. Pay benefits on a "no loss – no gain" basis as provided in Florida Statutes whereby no one will lose coverage due to a change in provider (Note: A pre-existing condition clause shall not apply to any employee enrolled for LTD or Premier LTD as of December 31, 2013);
3. Maintain a file to support payments, denials, Social Security activities, appeals, and vocational assistance;
4. Conduct claimant interviews, if deemed appropriate;
5. Allow an independent claim management audit by a third-party selected by the County, if requested by the County;
6. Maintain an internal audit program;
7. Process payments and negotiate settlements, when appropriate;
8. Provide tax reporting in accordance with the Federal tax code;
9. Provide vocational/occupational and rehabilitation services to claimants, if appropriate;
10. Maintain database for the management of each claimant;
11. Provide implementation assistance to the County including internal training, communication materials, and an administration manual;
12. Administer a written appeals process, for reconsideration of any benefit denial;
13. Resolve all appeals within 30 calendar days of receipt of completed documentation;
14. Maintain all required forms and authorization guidelines such as employer and employee statements, attending physician statements, and authorizations to release information statements;
15. Accept Evidence of Insurability directly from employees through the provision of return envelopes, facsimile or online submission;
16. Provide appropriate level of personnel to attend employee meetings; and
17. Accept the use of the current Miami-Dade County Enrollment Form and/or use of County's on-line enrollment process.

If, at some date in the future, it becomes necessary to terminate the contract, the Contractor shall transfer to the County or the County's new Program provider, within 30 days of termination, all data and records necessary to administer the Program.

D. Financial Reporting & Records

At the County's request, the Contractor shall provide to the County, at a minimum, the following reports separately for each of the Plans:

1. A quarterly account reconciliation of cost components within 30 days of the close of each quarter. The components should include areas such as the number of new submissions, date tracking to assure initial determination and ongoing medical reviews are occurring at the required times, the number of open files, and the number of closed files. The latter must denote reasons for case termination.
2. A quarterly Utilization Report for each disability income benefit plan with the following year-to-date data, within 30 days of the end of each quarter and plan year reporting periods:
   a) Earned premium
   b) Administrative charges
   c) Paid claims
   d) Open reported (pending) claims
   e) Change in Incurred But Not Reported (IBNR) reserve
   f) Cost/premium ratio
   g) Claims denied
3. An Annual Savings Report including comparison of actual, approved, and benchmark durations by diagnosis within 60 days following the close of the reporting period.
4. A Semi-annual Summary Report of claims activity by reported diagnosis within 60 days following the close of the reporting period.
5. Annual reporting of the status of each claim, within the Social Security process, to the County within 45 days following the close of the reporting period.

E. Fiduciary Protection

In addition to the other insurance requirements stated in the Contract, the Contractor shall provide indemnification and liability protection for the clinical and non-clinical administration components of this Program. The Contractor shall indemnify and hold the County harmless from any clinical, professional, or administrative decisions made by the Contractor rendering services, including the administration of the appeals process.

F. Performance Standards

The Contractor shall comply with the Performance Standards Provisions included in **Appendix D, Performance Guarantees.** Compliance of Performance Standards shall be measured annually at the end of each Plan Year and any non-compliance shall be assessed as liquidated damages. The Performance Standards shall remain in effect for the duration of the contract.

G. Premium Rate Guarantee

All premium rates shall be guaranteed for the initial contract term of four (4) years, January 1, 2014 through December 31, 2017, independent of actual enrollment or any other premium rate contingencies. The Contractor shall provide the renewal rates for the first two year option period by May 1st 2017, and by May 1st 2019 for the second two-year option period. The renewal rates are subject to negotiations and acceptance by the County.

H. Guaranteed Issue

For all Plans, the Contractor shall guarantee issue for an employee's first time enrollment in any of the Plans (including current enrollees and new enrollees, applying within their initial eligibility period). If an employee wishes to enroll at a subsequent enrollment, the Contractor may require medical underwriting. Medical underwriting shall be performed for subsequent enrollments only.

I. **Actively at Work Provision**
For all Plans, employees must be actively at work with the County in order for their coverage to become effective. However, should the effective date be a non-work day for an employee, insurance will still become effective on that date if the employee is otherwise actively-at-work and performed in his/her customary manner all of the regular duties of his/her employment or occupation on the last preceding scheduled work day and is not disabled.

If an employee is not actively at work with the County on the date when their coverage would otherwise become effective, the coverage would become effective on the date of their return to active work with the County. However, coverage shall be offered on a "no-loss, no-gain" basis, whereby no employee will lose coverage related to the change in insurance carriers.

J. **Pre-existing Conditions Clause**
For the LTD and Premier Plans, a pre-existing condition means a sickness or injury for which the insured received medical treatment, consultation, care or services including diagnostic measures, or had taken prescribed drugs or medicines for in the three months prior to the effective date of coverage of the insured person. The above pre-existing condition clause shall not apply once the person has been insured under the Plan for 12 consecutive months. The County's STD Plan does not include a pre-existing condition clause.

K. **Premium Remittance**
The County shall provide a bi-weekly remittance, for the prior pay period, accompanied by an electronic file of employee salary deductions to the Contractor for all Plans.

The Contractor shall take into its underwriting consideration the need for a sixty (60) day grace period for payment. The County provides for the collection of premiums from employees on leave of absence.

The Contractor shall allow retroactive premium adjustments and honor claims that are incurred within 120 days of reporting for eligible employees who are inadvertently and incorrectly excluded from employer remittance files.

L. **Master Contracts/Certificates of Coverage**
The Contractor shall duplicate the requested benefit plan design provisions. The Certificates of Coverage for all Plans shall be provided to the County no later than December 13, 2013. The Contractor shall mail the approved Certificates of Coverage to members' homes within 60 days of the beginning of the initial plan year and to subsequent members upon enrollment.

M. **Year-end Accounting**
The Contractor shall deliver to the County a final year-end accounting which includes, but is not limited to, premiums, claims and reserves, if applicable no later than 90 days following the close of each calendar year.

4. PLAN DESIGNS

- The plans shall be fully insured plans.
- The effective date of all benefits shall be January 1, 2014.
- Benefits are 100% employee-paid. Employees are eligible for coverage on the first day of the month following 60 days of employment.
- Employees must work 60 hours bi-weekly to be eligible.
- No minimum participation requirements shall be included.
- Variations in actual enrollment shall have no effect on the rate.

- For the LTD and Premier Plans, a pre-existing condition means a sickness or injury for which the insured received medical treatment, consultation, care or services including diagnostic measures, or had taken prescribed drugs or medicines in the three months prior to the effective date of coverage of the insured person. The above pre-existing condition clause shall not apply once the person has been insured under the Plan for 12 consecutive months.
- The County's STD Plan does not include a pre-existing condition clause.
- At the 2013 open enrollment for the Plan Year 2014, all employees will be eligible without evidence of insurability (guaranteed issue).
- A single provider shall underwrite both the STD and LTD plans.
- High-level summaries of the plan designs are indicated below. Other parameters not noted will be consistent with the 2013 plans.

Employee Short-Term Disability		
	Option 1	**Option 2**
Funding	Fully Insured	Fully Insured
Plan Eligibility	Active full-time employees; part-time employees consistently working 60 or more hours on a bi-weekly basis	Active full-time employees; part-time employees consistently working 60 or more hours on a bi-weekly basis
Contributions	100% Employee Paid	100% Employee Paid
Benefit Elimination Period, in Days	Greater of 14 days or expiration of all sick and annual leave or sick leave pool donations (unless the employee requests in writing to waive annual leave)	Greater of 14 days or expiration of all sick and annual leave or sick leave pool donations (unless the employee requests in writing to waive annual leave)
Pre-Ex Conditions Limit	None	None
Guaranteed Issue	Yes	Yes
Coverage type	Non-occupational	Non-occupational
Definition of Disability	Regular Occupation	Regular Occupation
% of Salary available for Benefit	60%	60%
Maximum Benefit Per Week	$500	$1,000
Benefit Duration (in weeks)	26 weeks	26 weeks

Employee Long-Term Disability		
	Option 1	**Option 2**
Funding	Fully Insured	Fully Insured
Plan Eligibility	Active full-time employees; part-time employees consistently working 60 or more hours on a bi-weekly basis	Active full-time employees; part-time employees consistently working 60 or more hours on a bi-weekly basis
Contributions	100% Employee Paid	100% Employee Paid
Benefit Waiting Period, in Days	Greater of 180 days or expiration of all sick and annual leave or sick leave pool donations (unless the employee requests in writing to waive annual leave)	Greater of 180 days or expiration of all sick and annual leave or sick leave pool donations (unless the employee requests in writing to waive annual leave)
% of Salary available for Benefit	60%	60%
Minimum Benefit Per Month	Greater of $100 or 10% of monthly benefit before deductions	Greater of $100 or 10% of monthly benefit before deductions
Maximum Benefit Per Month	$2,000	$4,000

Benefit Duration	To Normal Retirement Age as defined by the federal Social Security Administration, or later, depending on age when disabled	To Normal Retirement Age as defined by the federal Social Security Administration, or later, depending on age when disabled
Pre-Ex Conditions Limit	3/12 limitation for new participants only (as further specified above)	3/12 limitation for new participants only (as further specified above)
Guaranteed Issue	Yes	Yes
Coverage Type	Occupational and Non-occupational	Occupational and Non-occupational
Definition of Disability	Own Occupation for 24 months	Own Occupation for 24 months

Premier Long-Term Disability	
	Option 1
Funding	Fully Insured
Plan Eligibility	Active full-time employees; part-time employees consistently working 60 or more hours on a bi-weekly basis
Contributions	100% Employee Paid
Benefit Waiting Period, in Days	Greater of 90 days or expiration of all sick and annual leave or sick leave pool donations (unless the employee requests in writing to waive annual leave)
% of Salary available for Benefit	66 2/3%; Commissioners receive a flat amount of $7,000 regardless of salary
Minimum Benefit Per Month	Greater of $100 or 10% of monthly benefit before deductions
Maximum Benefit Per Month	$7,000
Benefit Duration	To Normal Retirement Age as defined by the federal Social Security Administration, or later, depending on age when disabled
Pre-Ex Conditions Limit	3/12 limitation for new participants only (as further specified above)
Guaranteed Issue	Yes
Coverage Type	Occupational and Non-occupational
Definition of Disability	Own Occupation for 24 months
Additional Plan Features	COLA @ 2%; Survivor Benefit; 2 year Survivor Income Benefit

APPENDIX B

Price Schedule

A. Rates

The rates for providing the Program and all services as stated the Scope of Services (Appendix A), shall be as stipulated below. Rates are provided on a **bi-weekly** basis.

EMPLOYEE SHORT-TERM DISABILITY (STD)

Plan Design	Bi-weekly Rate Per $100 of Weekly Benefit
Option 1 – ($500 maximum benefit per week)	$1.20
Option 2 – ($1,000 maximum benefit per week)	$1.20

EMPLOYEE LONG-TERM DISABILITY (LTD)

Plan Design	Bi-weekly Rate Per $100 of Covered Monthly Payroll
Option 1 – ($2,000 maximum benefit per month)	$.192
Option 2 – ($4,000 maximum benefit per month)	$.23

PREMIER LONG-TERM DISABILITY

Plan Design	Bi-weekly Rate Per $100 of Covered Monthly Payroll
Option 1 – ($7,000 maximum benefit per month)	$.32

APPENDIX B

Notes:

1. The rates shall be guaranteed for the initial four (4) Plan years (through December 31, 2017).
2. Compensation to the Contractor shall be based on the actual enrollment of employees and the actual volume of insurance in the Plans. The County does not guarantee any enrollment figures or participation.
3. Rates shall not be contingent upon minimum participation requirements.
4. The rates for the two, two year option-to-renew (OTR) periods (OTR No. 1 Plan Years 2018 and 2019, and OTR No.2 Plan Years 2020 and 2021) for STD, LTD, and Premier LTD, shall be negotiated with the following stipulations:

A. OTR No. 1 for Plan Years 2018 and 2019

1. SHORT TERM DISABILITY OPTIONS 1 & 2

Provided that the aggregate paid loss ratio for the previous four Plan Years (effective January 1, 2014) of experience is less than 85%, the rates shall remain the same.

Provided that the aggregate paid loss ratio for the previous four Plan Years (effective January 1, 2014) of experience is 85% or greater, the Contractor may recommend a rate increase adjustment capped at the percentage rates listed below:

Paid Loss Ratios	Rate Increase Cap
Paid loss ratio of 85% to 90%:	**5%**
Paid loss ratio of 90% to 95%:	**10%**
Paid loss ratio of 95% to 100%	**12%**
Paid loss ratio of 100% or more:	**15%**

2. LONG TERM DISABILITY OPTIONS 1 & 2 and PREMIER LTD

Provided that the aggregate incurred loss ratio for the previous four Plan Years (effective January 1, 2014) of experience is less than 90%, the rates shall remain the same.

Provided that the aggregate incurred loss ratio for the previous four Plan Years (effective January 1, 2014) of experience is 90% or greater, the Contractor may recommend a rate increase adjustment capped at the percentage rates listed below:

Incurred Loss Ratios	Rate Increase Cap
Incurred loss ratio of 90% to 95%:	**5%**
Incurred loss ratio of 95% to 100%:	**10%**
Incurred loss ratio of 100% to 120%:	**15%**

For LTD incurred loss ratio greater than 120%, the Contractor may recommend a rate increase adjustment greater than 15%.

APPENDIX B

B. OTR No. 2 for Plan Years 2020 and 2021

1. **SHORT TERM DISABILITY OPTIONS 1 & 2**

   Provided that the aggregate paid loss ratio for the previous six Plan Years (effective January 1, 2014) of experience is less than 85%, the rates shall remain the same.

   Provided that the aggregate paid loss ratio for the previous six Plan Years (effective January 1, 2014) of experience is 85% or greater, the Contractor may recommend a rate increase adjustment capped at the percentage rates listed below:

Paid Loss Ratios	Rate Increase Cap
Paid loss ratio of 85% to 90%:	**5%**
Paid loss ratio of 90% to 95%:	**10%**
Paid loss ratio of 95% to 100%	**12%**
Paid loss ratio of 100% or more:	**15%**

2. **LONG TERM DISABILITY OPTIONS 1 & 2 and PREMIER LTD**

   Provided that the aggregate incurred loss ratio for the previous six Plan Years (effective January 1, 2014) of experience is less than 90%, the rates shall remain the same.

   Provided that the aggregate incurred loss ratio for the previous six Plan Years (effective January 1, 2014) of experience is 90% or greater, the Contractor may recommend a rate increase adjustment capped at the percentage rates listed below:

Incurred Loss Ratios	Rate Increase Cap
Incurred loss ratio of 90% to 95%:	**5%**
Incurred loss ratio of 95% to 100%:	**10%**
Incurred loss ratio of 100% to 120%:	**15%**

   For LTD incurred loss ratio greater than 120%, the Contractor may recommend a rate increase adjustment greater than 15%.

The recommendation for a rate 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 years (i.e., May, 1, 2017 for plan years 2018-19) along with a justification of the Contractor's underwriting/actuarial methodology used to determine the new rates. Supporting loss ratio claims experience data shall be provided as requested by the County to facilitate the County's renewal process. If the recommendation for a rate increase is not received by the set date, the rates shall remain the same for the two year option period. The County reserves the right to negotiate the amount of the rate increase with the Contractor. Any extensions pursuant to Article 5 of the Agreement will be at the then current rates.

B. CONVERSION

There is no premium rate increment for Premier LTD conversion upon termination of coverage.

Appendix C

HIPAA BUSINESS ASSOCIATE ADDENDUM

This HIPAA Business Associate Addendum ("Addendum") supplements and is made a part of the Agreement by and between the Miami-Dade County, Florida ("County"), and Metropolitan Life Insurance Company (MetLife), Business Associate ("Associate").

RECITALS

A. As part of the Agreement, it is necessary for the County to disclose certain information ("Information") to Associate pursuant to the terms of the Agreement, some of which may constitute Protected Health Information ("PHI").

B. County and Associate intend to protect the privacy and provide for the security of PHI, including but not limited to, ePHI, disclosed to Associate pursuant to the Agreement in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws.

C. The purpose of this Addendum is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Sections 164.308(b), 164.314(a), 164.502(e) and 164.504(e) of the Code of Federal Regulations ("CFR"), as the same may be amended from time to time.

In consideration of the mutual promises below and the exchange of information pursuant to the Agreement, the parties agree as follows:

1. **Definitions.** Terms used, but not otherwise defined, shall have the same meaning as those terms in 45 CFR Sections 160.103, 164.304 and 164.501.

a. "Business Associate" shall have the meaning given to such term under the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103.

b. "Covered Entity" shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 160.103.

c. "Protected Health Information" or "PHI" means any information, whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to 45 CFR Section 160.103. [45 CFR Parts 160, 162 and 164]

d. "Electronic Protected Health Information" or "ePHI" means any information that is transmitted or maintained in electronic media: (i) that relates to the past, present or future physical or mental condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual. and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual, and shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including, but not limited to 45 CFR Section 160.103. [45 CFR Parts 160, 162 and 164]

e. "Electronic Media" shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including but not limited to, 45 CFR Section 160.103.

f. "Security incident" shall have the meaning given to such term under HIPAA and the HIPAA Regulations, including but not limited to, 45 CFR Section 164.304.

Appendix C

2. Obligations of Associate.

a. Permitted Uses and Disclosures. Associate may use and/or disclose PHI received by Associate pursuant to the Agreement ("County's PHI") solely in accordance with the specifications set forth in the Scope of Services, Appendix A. In the event of any conflict between this Addendum and Appendix A, this Addendum shall control. [45 CFR § 164.504(e)(2)(i)]

b. Nondisclosure. Associate shall not use or further disclose County's PHI other than as permitted or required by law. [45 CFR § 164.504(e)(2)(ii)(A)]

c. Safeguards. Associate shall use appropriate safeguards to prevent use or disclosure of County's PHI in a manner other than as provided in this Addendum. [45 CFR § 164.504(e)(2)(ii)(B)] Associate shall maintain a comprehensive written information security program that includes administrative, technical and physical safeguards appropriate to the size and complexity of the Associate's operations and the nature and scope of its activities. Appropriate safeguards used by Associate shall protect the confidentiality, integrity, and availability of the PHI and ePHI that is created, received, maintained, or transmitted on behalf of the County. [45 CFR § 164.314(a)(2)(i)(A)] County has at its sole discretion, the option to audit and inspect, the Associate's safeguards at any time during the life of the Agreement, upon reasonable notice being given to Associate for production of documents and coordination of inspection(s).

d. Reporting of Disclosures. Associate shall report to the County's Project Manager, any use or disclosure of the County's PHI in a manner other than as provided in this Addendum. [45 CFR § 164.504(e)(2)(ii)(c)] Associate shall report to the County through the County's Project Manager, any security incident of which it becomes aware within forty-eight (48) hours of discovery of the incident. [45 CFR § 164.314(a)(2)(i)(C)]

e. Associate's Agents. Associate agrees and shall ensure that any agents, including subcontractors, to whom it provides PHI received from (or created or received by Associate on behalf of) the County, agrees in writing to the same restrictions and conditions that apply to Associate with respect to such PHI and that such agents conduct their operations within the United States. Associate agrees and shall ensure that any agents, including subcontractors, to whom it provides ePHI received, created, maintained, or transmitted on behalf of the County, agrees in writing to implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of that ePHI. [45 CFR § 164.314(a)(2)(i)(B)] In no case may Associate's Agents reside and operate outside of the United States.

f. Documentation of Disclosures. Associate agrees to document disclosures of the County's PHI and information related to such disclosures as would be required for the County to respond to a request by an individual for an accounting of disclosures of PHI. Associate agrees to provide the County or an individual, in a time and manner designated by the County, information collected in accordance with the Agreement, to permit the County to respond to such a request for an accounting. [45 CFR § 164.528]

g. Availability of Information to County. Associate shall make available to the County such information as the County may require to fulfill the County's obligations to provide access to, provide a copy of, and account for, disclosures of PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Sections 164.524 and 164.528. [45 CFR § 164.504(e)(2)(ii)(E) and (G)]

h. Amendment of PHI. Associate shall make the County's PHI available to the County as may be required to fulfill the County's obligations to amend PHI pursuant to HIPAA and the HIPAA Regulations, including, but not limited to, 45 CFR Section 164.526 and Associate shall, as directed by the County, incorporate any amendments to the County's PHI into copies of such PHI maintained by Associate, and in the time and manner designated by the County. [45 CFR § 164.504(e)(2)(ii)(F)]

i. Internal Practices. Associate shall make its internal practices, books and records relating to the use and disclosure of the County's PHI (or PHI created or received by Associate on behalf of the County) available to the County and to the Secretary of the U.S. Department of Health and Human Services in a time and manner designated by the

County or the Secretary for purposes of determining Associate's compliance with HIPAA and the HIPAA Regulations. [45 CFR § 164.504(e)(2)(ii)(H) and 45 CFR Part 64, Subpart C.]

j. Mitigation. Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Associate of a use or disclosure of the County's PHI by Associate in violation of the requirements of this Addendum.

k. Associate's Insurance. Associate agrees to maintain the insurance coverage provided in the Agreement.

l. Notification of Breach. Associate shall notify the County within twenty-four (24) hours, and shall provide written notice no later than forty-eight (48) hours of any suspected or actual breach of security, intrusion or unauthorized disclosure of PHI and/or any actual or suspected disclosure of data in violation of any applicable federal or state laws or regulations. Associate shall take (i) prompt corrective action to cure any such deficiencies, and (ii) any action pertaining to such unauthorized disclosure required by applicable federal and state laws and regulations.

m. Expenses. Any and all expenses incurred by Associate in compliance with the terms of this Addendum or in compliance with the HIPAA Regulations shall be borne by Associate.

n. No Third Party Beneficiary. The provisions and covenants set forth in this Agreement are expressly entered into only by and between Associate and the County and are intended only for their benefit. Neither Associate nor the County intends to create or establish any third party beneficiary status or right (or the equivalent thereof) in any other third party nor shall any other third party have any right to enforce or enjoy any benefit created or established by the provisions and covenants in this Agreement.

3. **Audits, Inspection and Enforcement.** From time to time, after reasonable notice, upon any breach of this Addendum by Associate, the County may inspect the facilities, systems, books and records of Associate to monitor compliance with this Addendum. Associate shall promptly remedy any violation of this Addendum and shall certify the same to the County in writing. The fact that the County inspects, or fails to utilize its right to inspect, Associate's facilities, systems, books, records, and procedures does not relieve Associate of its responsibility to comply with this Addendum, nor does the County's (i) failure to detect or (ii) detection, but failure to notify Associate or require Associate to remedy such breach, constitute acceptance of such practice or a waiver of the County's enforcement rights under this Addendum.

4. **Termination.**

a. Material Breach. A breach by Associate of any provision of this Addendum, shall constitute a material breach of the Agreement and shall provide grounds for immediate termination of the Agreement by the County. [45 CFR § 164.504(e)(3) and 45 CFR § 164.314(a)(2)(i)(D)]

b. Termination for Cause - Reasonable Steps to Cure Breach. If the County recognizes a pattern of activity or practice of Associate that constitutes a material breach or violation of the Associate's obligations under the provisions of this Addendum and does not terminate the Agreement pursuant to Section 4a, above, the County may provide an opportunity for Associate to end the violation or cure the breach within five (5) days, or other cure period as may be specified in the Agreement. If Associate does not cure the breach or end the violation within the time period provided, the County may immediately terminate the Agreement.

c. Judicial or Administrative Proceedings. The County may terminate the Agreement, effective immediately, if (i) Associate is named as a defendant in a criminal or administrative proceeding for a violation of HIPAA, or (ii) a finding or stipulation that Associate has violated any standard or requirement of the HIPAA Regulations (or other security or privacy law) is made in any administrative or civil proceeding.

d. Effect of Termination. Upon termination of the Agreement for any reason, Associate shall return or destroy as directed by the County all PHI, including but not limited to ePHI, received from the County (or created or received by Associate on behalf of the County) that Associate still maintains in any form. This provision shall also apply to County PHI that is in the possession of subcontractors or agents of Associate. Associate shall retain no copies of such PHI or, if return or destruction is not feasible, Associate shall provide to the County notification of the conditions that

make return or destruction infeasible, and shall continue to extend the protections of this Addendum to such information, and limit further use or disclosure of such PHI to those purposes that make the return or destruction of such PHI infeasible. [45 CFR § 164.504(e)(2)(ii)(I)]

5. **Indemnification.** Associate shall indemnify and hold harmless the County and its officers, employees, trustees, agents, and instrumentalities (the indemnified parties) from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, trustees, 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 Addendum by Associate or its employees, agents, servants, partners, principals, or subcontractors. Associate 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 any of the indemnified parties, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Associate expressly understands and agrees that any insurance protection required by this Addendum, or otherwise provided by Associate, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the indemnified parties as herein provided. This paragraph shall survive the termination of the Agreement.

6. **Limitation of Liability.** Nothing in this Addendum shall be construed to affect or limit the County's sovereign immunity as set forth in Florida Statutes, Section 768.28.

7. **Amendment.**

a. Amendment to Comply with Law. The parties acknowledge that state and federal laws relating to the security and privacy of PHI, including electronic data, are rapidly evolving and that amendment of this Addendum may be required to provide for procedures to ensure compliance with such developments. The parties specifically agree to take such action as is necessary to implement the standards and requirements of HIPAA, the HIPAA Regulations and other applicable laws relating to the security or confidentiality of PHI. The parties understand and agree that the County must receive satisfactory written assurance from Associate that Associate will adequately safeguard all PHI that it receives or creates pursuant to this Agreement. Upon the County's request, Associate agrees to promptly enter into an amendment to the Agreement embodying written assurances consistent with the standards and requirements of HIPAA, the HIPAA Regulations or other applicable laws. The County, in addition to any other remedies including specific performance, may terminate the Agreement upon five [5] days' written notice in the event Associate does not enter into said amendment to the Agreement providing assurances regarding the safeguarding of PHI that the County, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA and the HIPAA Regulations. Notwithstanding Associate's failure to enter into an amendment, Associate shall comply with all provisions of the HIPAA laws.

b. Amendment of Appendix C. In addition to amendments described in 7a above, Appendix C may otherwise be modified or amended by written mutual agreement of the parties without amendment of the remainder of this Agreement."

8. **Assistance in Litigation or Administrative Proceedings.** Associate shall make itself, and any subcontractors, employees or agents assisting Associate in the performance of its obligations under this Agreement, available to the County at the County's convenience upon reasonable notice, at no cost to the County, to testify as witnesses, for document production, or otherwise, in the event of litigation or administrative proceedings being commenced against the County, its trustees, officers, agents or employees based upon claimed violation of HIPAA, the HIPAA Regulations or other laws relating to security and privacy, except where Associate or its subcontractor, employee or agent is a named adverse party.

9. **Effect on Agreement.** Except as specifically required to implement the purposes of this Addendum, or to the extent inconsistent with this Addendum, all other terms of the Agreement shall remain in force and effect. In the event of any conflict between this Addendum and Agreement, this Addendum shall control.

10. **Interpretation.** This Addendum and the Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA Regulations and applicable Florida laws. The parties agree that any ambiguity in

this Addendum shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA Regulations.

11. **Jurisdiction**. Any litigation between the parties regarding the terms of this Addendum shall take place in Miami-Dade County, Florida.

Appendix D

PERFORMANCE GUARANTEES

CATEGORY	STANDARD	MEASUREMENT	AMOUNT AT RISK
Financial Accuracy	99.0%	Dollars in sample paid correctly ÷ dollars in sample.	STD - .20% of annual premium LTD - .15% of annual premium
Decisional Accuracy	98.5%	Have accepted proper liability for claim and correct decision made on meeting disability criteria.	STD - .15% of annual premium LTD - .10% of annual premium
Procedural Accuracy	95.0%	Effective application of disability management tools and initiatives, and accuracy of file documentation.	STD - .10% of annual premium LTD - .10% of annual premium
Statistical Coding Accuracy	97.0%	Accuracy in coding date of disability, ICD9 Code, Social Security Number, Hire date, Birth date, Salary, Social Security Code, Claim Status Code, etc.	STD - .10% of annual premium LTD - .10% of annual premium
Claim Acknowledgement	STD - Average of 2 business days LTD - Average of 5 business days	Number of business days from date of claim receipt to first contact with employee/employer.	STD - .10% of annual premium LTD - .10% of annual premium
Initial Decision	STD: Average of 2 business days LTD: Average of 5 business days	STD - Number of business days from receipt of all necessary information to make initial decision. LTD – Number of business days from receipt of all necessary information to make initial decision.	STD - .15% of annual premium LTD - .15% of annual premium
Social Security Initiation	95.0%	LTD - Initiate Social Security pursuit within 14 business days from claim approval.	.05% of annual premium
Follow up on Social Security Denials or Appeals	95.0% within 5 days	LTD - Days from receipt of Social Security denial or appeal information to follow-up action.	.05% of annual premium
Any Occupation Decision	95.0%	LTD - For plans with Own Occupation to Any Occupation transition, decision made on or before transition date.	.10% of annual premium
Telephone Response Time	Answer 80.0% of calls within 20 seconds	Ave rage speed to answer as measured by our Customer Response Center operation for all MetLife disability claim offices.	STD - .10% of annual premium LTD - .05% of annual premium
Abandonment Rate	No greater than 3.0% abandonment rate	Call abandonment rate as measured by our Call Center operation for all MetLife disability claim offices.	STD - .10% of annual premium LTD - .05% of annual premium

Memorandum

MIAMI-DADE COUNTY

Date: April 23, 2013

To: Lester Sola
Director
Internal Services Department

Thru: Miriam Singer, CPPO
Assistant Director
Internal Services Department

From: Annie Perez
Procurement Contracting Manager
Chairperson, Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee for RFP No. 835, Employee Disability Insurance Program

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The County issued a solicitation to obtain proposals from qualified firms to provide an insured Employee Short-Term Disability (STD) and Long-Term Disability (LTD) Insurance Program and related services.

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

Committee meeting dates:
March 21, 2013 (kick-off meeting)
April 17, 2013 (evaluation meeting and scoring)

Verification of compliance with contract measures:
Not applicable since no contract measures were assigned to this solicitation.

Verification of compliance with minimum qualification requirement:
The solicitation had a minimum qualification requirement which was reviewed by the Chairperson and Hazel Grace-Dansoh and Na'Imah Martin of the client department, Internal Services Department, Risk Management Division. The sole responsive proposer met the requirement.

Local Certified Service-Disabled Veteran's Business Enterprise Preference:
Veteran's Preference was considered in accordance with the applicable ordinance. The sole responsive proposer did not qualify for the preference.

Summary of scores:
The final scores are as follows:

Proposer	*Technical Score*	*Price Score*	*Total Combined Score*	*Total Four Year Premium Submitted*
	(max.3,500)	*(max.1,500)*	*(max. 5,000)*	
1. Metropolitan Life Insurance Company	3,399	1,240	4,639	$20,898,749

The Committee decided not to hold oral presentations, as the proposal did not require further clarification.

Local Preference:
Local Preference was considered in accordance with applicable ordinance, but did not affect the outcome, as there was only one responsive proposer.

Other information:
The proposal received by Symetra Life Insurance Company was received three (3) calendar days and one (1) business day after the proposal due date. A request for a responsiveness determination was forwarded to the County Attorney's Office. Per the legal opinion dated March 18, 2013 (attached hereto), the proposal was deemed non-responsive.

The proposals received from Hartford Life and Accident Insurance Company, Liberty Life Assurance Company of Boston, Standard Insurance Company, The Prudential Insurance Company of America, and Unum Life Insurance Company of America 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 28, 2013 (attached hereto), the proposals were deemed non-responsive.

Additionally, the proposal received by Cigna Group Insurance on the proposal due date, did not include the Price Proposal Schedule (Form B-1). Form B-1 was received by the County via e-mail from Cigna Group Insurance six (6) calendar days after the proposal deadline. A request for a responsiveness determination was forwarded to the County Attorney's Office. Per the legal opinion dated April 1, 2013 (attached hereto), the proposal was deemed non-responsive.

Negotiations:
The Committee recommends that the County enter into negotiations with the remaining proposer, Metropolitan Life Insurance Company (MetLife). The following individuals will participate in the negotiations:

Annie Perez, Procurement Contracting Manager, Internal Services Department
Michael Anderson, Senior Human Resources Manager, Public Housing Community Development
Daniel Cullen, Risk Management Director, Internal Services Department
Na'Imah Martin, Benefits Manager, Internal Services Department

Consensus Statement:
The Committee determined that the recommended proposer, Metropolitan Life Insurance Company, provided a comprehensive proposal and has the required qualifications, experience, and technical capacity to provide an Employee Disability Insurance Program to meet the needs of the County and program participants. The firm has a proven track-record of administering disability insurance programs for long-term clients including comparable large public and private entities such as the Pinellas County Schools, City of Jacksonville, and the State of New York. Metropolitan Life Insurance Company has past experience in providing quality assurance administration, innovative technology for participant access, and quality customer service, as demonstrated by its employee disability insurance experience with Miami-Dade County for the past seven (7) years.

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

Attachments

Approved

Lester Sola
Director

4/23/13
Date

COMPOSITE

RFP NO. 835

EMPLOYEE DISABILITY INSURANCE PROGRAM

EVALUATION OF PROPOSALS

SELECTION ↓ PROPOSERS CRITERIA →	Maximum Points Per Member	Maximum Total Points (5 members)	Metropolitan Life Insurance Company (MetLife)
Proposer's experience, qualifications, and past performance in providing these types of services, including experience of key individuals and subcontractors assigned to this project	200	1000	980
Proposer's approach and service capabilities to providing these services	100	500	490
Proposer's Proposed Plan Design	200	1000	960
Claims Office and Customer Service	200	1000	969
Technical Points *(Technical rows above)*	700	3500	3399
Proposer's Proposed Price	300	1500	1240
Technical and Base Rent Points *(Total of Technical & Base Rent rows above)*	1000	5000	4639
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)			
TOTAL POINTS	1000	5000	4639

SIGNATURE: PRINT NAME: DATE:

Chairperson Annie Perez 4/23/13

Reviewed By Pearl P. Bethel 4/23/13

EVALUATION OF PROPOSALS

RFP NO. 835

EMPLOYEE DISABILITY INSURANCE PROGRAM

MICHAEL ANDERSON (PHCD)

SELECTION CRITERIA ↓ PROPOSERS →	Maximum Points	Metropolitan Life Insurance Company (MetLife)
Proposer's experience, qualifications, and past performance in providing these types of services, including experience of key individuals and subcontractors assigned to this project	200	200
Proposer's approach and service capabilities to providing these services	100	100
Proposer's Proposed Plan Design	200	200
Claims Office and Customer Service	200	195
Technical Points *(Total of technical rows above)*	700	695
Proposer's Proposed Price	300	200
Total Technical and Base Rent Points *(Technical & Base Rent rows above)*	1000	895
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	35	0
TOTAL POINTS	1035	895

EVALUATION OF PROPOSALS

RFP NO. 835

EMPLOYEE DISABILITY INSURANCE PROGRAM

DANIEL CULLEN (ISD)

SELECTION CRITERIA ↓ PROPOSERS →	Maximum Points	Metropolitan Life Insurance Company (MetLife)
Proposer's experience, qualifications, and past performance in providing these types of services, including experience of key individuals and subcontractors assigned to this project	200	200
Proposer's approach and service capabilities to providing these services	100	100
Proposer's Proposed Plan Design	200	200
Claims Office and Customer Service	200	200
Technical Points *(Total of technical rows above)*	700	700
Proposer's Proposed Price	300	200
Total Technical and Base Rent Points *(Technical & Base Rent rows above)*	1000	900
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	35	0
TOTAL POINTS	1035	900

EVALUATION OF PROPOSALS

RFP NO. 835

EMPLOYEE DISABILITY INSURANCE PROGRAM

MARTIN LUCIA (OMB)

SELECTION CRITERIA ↓ PROPOSERS →	Maximum Points	Metropolitan Life Insurance Company (MetLife)
Proposer's experience, qualifications, and past performance in providing these types of services, including experience of key individuals and subcontractors assigned to this project	200	190
Proposer's approach and service capabilities to providing these services	100	95
Proposer's Proposed Plan Design	200	190
Claims Office and Customer Service	200	184
Technical Points *(Total of technical rows above)*	700	659
Proposer's Proposed Price	300	240
Total Technical and Base Rent Points *(Technical & Base Rent rows above)*	1000	899
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	35	0
TOTAL POINTS	1035	899

EVALUATION OF PROPOSALS

RFP NO. 835

EMPLOYEE DISABILITY INSURANCE PROGRAM

MICHELLE SIFONTES (PWWM)

SELECTION CRITERIA ↓ PROPOSERS →	Maximum Points	Metropolitan Life Insurance Company (MetLife)
Proposer's experience, qualifications, and past performance in providing these types of services, including experience of key individuals and subcontractors assigned to this project	200	190
Proposer's approach and service capabilities to providing these services	100	95
Proposer's Proposed Plan Design	200	170
Claims Office and Customer Service	200	190
Technical Points *(Total of technical rows above)*	700	645
Proposer's Proposed Price	300	300
Total Technical and Base Rent Points *(Technical & Base Rent rows above)*	1000	945
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	35	0
TOTAL POINTS	1035	945

EVALUATION OF PROPOSALS

RFP NO. 835

EMPLOYEE DISABILITY INSURANCE PROGRAM

MIKE SNYDER (ISD)

SELECTION CRITERIA ↓ PROPOSERS →	Maximum Points	Metropolitan Life Insurance Company (MetLife)
Proposer's experience, qualifications, and past performance in providing these types of services, including experience of key individuals and subcontractors assigned to this project	200	200
Proposer's approach and service capabilities to providing these services	100	100
Proposer's Proposed Plan Design	200	200
Claims Office and Customer Service	200	200
Technical Points *(Total of technical rows above)*	700	700
Proposer's Proposed Price	300	300
Total Technical and Base Rent Points *(Technical & Base Rent rows above)*	1000	1000
Veteran's Preference (5% of the Total Technical Points on the Technical Portion)	35	0
TOTAL POINTS	1035	1000

Memorandum

MIAMI-DADE COUNTY

Date: February 4, 2013

To: Those Listed Below

From: Carlos A. Gimenez
Mayor

Subject: Appointment of Selection Committee for Miami-Dade Internal Services Department Request for Proposal (RFP) for Employee Disability Insurance Program – RFP No. 835.

In accordance with Administrative Order 3-34, I am hereby appointing those listed below as the Selection Committee for Miami-Dade Internal Services Department Request for Proposal (RFP) for Employee Disability Insurance Program – RFP No. 835.

Selection Committee
Annie Perez, ISD (Non-Voting Chairperson)
Daniel Cullen, ISD
Mike Snyder, ISD
Michelle Sifontes, PWWM
Martin Lucia, OMB
Michael Anderson, PHCD
Cecilia Brewer-McDuffie, WASD (Alternate)

You are directed to assist me in the selection process considering the factors delineated in the solicitation. If you are unable to participate in the selection process, contact this office through Small Business Development (SBD) by memorandum from your department director documenting the reason why you cannot participate. Only in cases of **dire** urgency may you be excused from participation.

Each Selection Committee member shall be responsible for evaluating, rating and ranking the proposals based on the criteria and procedure contained in the solicitation. The Selection Committee will meet to review the written proposals. If required, the Selection Committee will select firms to make oral presentations to the Selection Committee at a properly noticed public hearing. If proposers are invited to make oral presentations, the Selection 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. All requests for responsiveness determinations shall be made in writing by the issuing department to the County Attorney's Office.

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 Internal Services Department (ISD) may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

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Upon completion of the evaluation process, the Selection Committee Chairperson shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the recommended firm(s) with attach supporting documentation 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 ISD for review and consideration.

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 lobbyist and/or consultants. Selection Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, they are restrictions on communications regarding the solicitation with potential proposers, service providers, lobbyists, consultants, or any member of the County's professional staff. Violation of this policy could lead to termination of County service.

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

c: Lester Sola, Director, ISD
Kathleen Woods-Richardson, Director, PWWM
Jennifer Moon, Director, OMB
Gregg Fortner, Director, PHCD
John Renfrow, Director, WASD
Jack Osterholt, Deputy Mayor/Director, RER
Mario Goderich, Assistant Director, Business Affairs/RER

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