

Office of Human Resources
Paul M. Cholak, Chief Personnel Officer

**SUBJECT: RECOMMENDATION FOR AUTHORIZATION TO CONTRACT
WITH LAW FIRMS FOR WORKERS' COMPENSATION
DEFENSE**

COMMITTEE: INNOVATION, EFFICIENCY & GOVERNMENTAL RELATIONS

The law firm of Valdes & Villaverde, P.A. has been providing workers' compensation defense to the Board since 1995. The present agreement with the firm was effective March 1, 2000. Previously, one of the partners, Joan Valdes, Esquire, provided workers' compensation defense to the Board for three years while working for the law firm of Peters, Robertson, Lax, Parsons & Welcher, PA.

The School Board of Miami-Dade County, Florida was accepted by the State of Florida as an approved self-insured employer for workers' compensation claims, including the cost of defense, in 1974. Since then, the Board has paid claims, including wage replacement, medical care and defense costs out of its general fund, while purchasing excess coverage to respond in the event of catastrophic claims. The Board contracts with Gallagher Bassett Services, Inc., as its third party administrator, and with Corvel Corporation as the Board's managed care provider for purposes of claims handling. Based upon the ongoing multi-year claims audits being conducted by Deloitte Consulting, LLC, the Board entered into a five year contract with both firms, effective July 1, 2004, with a very aggressive flat annual fee structure for both vendors.

Upon becoming self-insured, the Board contracted with selected law firms which specialize in workers' compensation defense. Currently eight firms provide workers' compensation defense to the Board, utilized because of their specific defense expertise, as well as having been approved by the Board's excess insurance carrier. As workers' compensation defense has become more complicated over the past several years, the Board's defense counsel have worked hand in hand with the Board Attorney's Office, and other contracted firms representing the Board in the area of liability, in the defense of American with Disabilities Act (ADA), Equal Employment Opportunity Commission (EEOC), and most recently in Indoor Air Quality (IAQ) claims.

E-68

Effective July 1, 1974, the Board began paying its workers' compensation defense counsel \$75/hour. That remained in force until the Board increased the hourly rate, effective March 1, 2000 to \$90/hour for legal services, including \$50/hour for paraprofessional services and law clerks. Approved costs of defense are included in the defense contracts and will be provided to the Board as back-up information to this item.

The Office of Risk and Benefits Management has specific expertise in the area of workers' compensation claims handling by virtue of the Risk and Benefits Officer having spent the bulk of his career prior to coming to work for the Board, handling workers' compensation cases for insurance companies and third party administrators for major employers including BFI Industries, Sweetheart Cup Corporation, and numerous national hospital chains. As a result of this expertise, the Office of Risk and Benefits Management has successfully managed the Board's self insured workers' compensation program, including the supervision of outside counsel. The Office of Management and Compliance Audits conducts an annual audit of both Risk Management and the Board Attorney's Office for the approval and payment of workers' compensation and liability defense bills, respectively. All audits have been completed with no findings.

On March 1, 2005 the partners of the firm of Valdes & Villaverde, P.A. sent a letter addressed to Mr. Scott B. Clark, Risk and Benefits Officer, as well as Ms. Naomi Kuker, Supervisor, Gallagher Bassett Services, Inc., informing both that the firm of Valdes & Villaverde, PA was going to split into two firms which included the Law Office of Joan I. Valdes, PL and Villaverde & Martinez, PLLC. The letter listed the 72 files currently assigned to the firm and asked for the Board to let them know how the files would be assigned under the new structure of the two new firms. After various meetings with the two partners, the recommendation is being made to put both new firms under contract, with each attorney retaining the files they were currently working on under the two new firms of the Law Office of Joan I. Valdes, PL and Villaverde & Martinez, PLLC. Both firms will receive additional oversight and scrutiny from the Board's third party administrator, as well as the Board's excess carrier to determine the capacity for future new assignments, along with other firms representing the Board for workers' compensation defense.

Both firms are willing to sign the Board's standard defense contract, which includes the stated remuneration schedule, as well as providing the Board proof of Professional Liability Insurance.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

1. cancel its current contract with the law firm of Valdes & Villaverde, P.A., effective May 19, 2005; and
2. contract with the law firms of the Law Office of Joan I. Valdes, PL and Villaverde & Martinez, PLLC, respectively, to provide workers' compensation defense, pursuant to the provisions incorporated in the Board's standard defense contract, subject to the fee structure approved at the Board meeting of February 9, 2000, whereby legal defense is provided at a rate of \$90/hour, including paraprofessional services and law clerks to be paid at a rate of \$50/hour, effective May 19, 2005.

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