

Business Operations  
Ofelia San Pedro, Deputy Superintendent

**SUBJECT:                   REQUEST FOR AUTHORIZATION TO CONTRACT WITH  
BENCOR, INC. FOR ADMINISTRATION OF THE  
TERMINAL LEAVE RETIREMENT PLAN (TLRP)**

**COMMITTEE:               INNOVATION,   EFFICIENCY   &   GOVERNMENTAL  
RELATIONS**

**LINK TO DISTRICT        IMPROVE FINANCIAL SERVICES  
STRATEGIC PLAN:**

At the Board meeting of May 10, 2006, the Board authorized a one year extension of its existing contract with Bencor, Inc. (Bencor) to provide administrative services for the Board's Terminal Leave Retirement Plan (TLRP), effective May 15, 2006, pursuant to the provisions contained within RFP# 082-CC10. This extension was requested due to the fact that the Board was notified and authorized staff to take necessary steps to suspend the §401(a) portion of the TLRP until such time as the Internal Revenue Service (IRS) provided a determination letter with respect to whether or not the plan provides for substantial and recurring contributions. This determination letter was sought following receipt of information from the Internal Revenue Service (IRS) that in order for the §401(a) portion of the TLRP to continue, it would need to be proven that the contributions to the plan were substantial and recurring.

For the past four years the program has been in place to provide employees who are separating from service as a result of retirement, or entering into or continuing their participation in the Deferred Retirement Option Program (DROP), the opportunity to invest their accrued annual leave or terminal sick leave into a tax-favored retirement plan. These payments which are unilaterally contributed to a tax sheltered annuity program in lieu of cash payments allow employees to defer Federal income tax until funds are withdrawn in the future, subject to Internal Revenue Service (IRS) maximum contributions, as well as Social Security Tax (FICA). The benefit to the Board is the savings of FICA match (7.65%) on these funds.

A response from the IRS was received by the Office of Risk and Benefits Management and the law firm of Greenberg, Traurig, P.A., which was authorized by the Board to seek the necessary determination and private letter rulings letters on behalf of the Board on March 5, 2007. This letter states that the Board's request for a determination letter is "off cycle" and that the Board may submit a new request between February 1, 2008 and December 31, 2009. The law firm of Greenberg, Traurig, P.A., is continuing to pursue additional clarification; however, it does not look like the IRS will provide any specificity with regard to the §401 (a) portion of the TLRP.

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Staff was hopeful that some clarification would be received from the IRS in order to prepare a new RFP to seek competitive proposals for its administrative services contract on the TLRP. That did not occur and the Board's current contract with Bencor will expire effective May 15, 2007. The School Board of Broward County, Florida did issue an RFP seeking competitive proposals for administrative services for their TLRP contract, which was awarded to Bencor at the Broward County School Board meeting of March 19, 2007.

The Board's TLRP plan is very similar to the plan that Broward County Public Schools has had in place since 1996. In addition to Broward, 55 of Florida's 67 school districts have implemented the Bencor plan including Palm Beach, Duval, Orange, Hillsborough, and Pinellas. The University of Florida, Florida State University, the University of Central Florida and most of the Florida Community colleges utilize the Bencor plans as well.

State Board Rule 6A-1.012(5), Florida Administrative Code, enables school boards to make purchases in contracts awarded by other school boards when the bidder awarded a contract by another entity defined herein will permit purchases by a school board at the same terms, conditions, and unit prices awarded in such contract, and such purchases are to the economic advantage of the school board. Staff is recommending that the Board utilize this authority and enter into a new contract with Bencor, Inc. as the district's TLRP Administrator, pursuant to the terms and provisions of Broward County School Board's RFP#28-00IV, Retirement Plan Administration and Investment Management Services, which was awarded at the Broward School Board meeting of March 19, 2007.

Broward County School Board's contract provides for four separate components as part of the TLRP program including a §401(a), §403(b), §457, and FICA alternative programs. Miami-Dade County School Board currently has suspended its §401(a) until a determination letter is received from the IRS authorization investment in this program, but has continued its §403(b) program. Miami-Dade County Public Schools has a separate contract for administration of its §457 program with ICMA Retirement Corporation, and has never entered into a FICA alternative program. Therefore, authorization is being sought to have Bencor, Inc. serve as the district's TLRP plan administrator for its current §403(b) offering, pursuant to the provisions of Broward County Schools RFP# 28-00IV. If in the future, a determination letter authorizing the §401(a) plan to resume is received, then the Broward contract under which Miami-Dade County is contracting will provide for that.

The recommended term of the contract pursuant to Broward's RFP 28-00IV is for a five year period from May 15, 2007 to May 15, 2012. No new plan documents are required and the following provisions will enhance Miami-Dade County's existing contract:

- Guaranteed Pooled Fund interest rates are guaranteed for each year and for calendar year 2007 are currently 4.15%, with a minimum interest rate for the Guaranteed Pooled Fund for the term of the new contract (5 years) of 3%. (Previously the term of the guaranteed minimum interest rate was limited to 3 years).
- Investment products are provided by Diversified Investment Advisors and Transamerica Financial Life Insurance Company with two new mutual funds including Fidelity Contrafund and the T.Rowe Price Capital Appreciation Fund, both of which are rated 5-star by Morningstar Rating Service.
- Participating employees pay no administrative fees to Bencor, all fees are paid by Diversified Investment Advisors and Transamerica Financial Life Insurance Company (previously employees paid a management and expense fee of .95%).
- There is no cost to the Board. The Board, however does save its portion of FICA expenses for all terminal leave monies paid by the Board on behalf of employees.
- Bencor will provide an annual fee to Miami-Dade County Public Schools of \$55,000 to offset administrative support costs in the Office of Risk and Benefits Management (this represents an increase from \$50,000 annually).

**RECOMMENDED:** That The School Board of Miami-Dade County, Florida contract with Bencor, Inc. as the district's Terminal Leave Retirement Plan Administrator (TLRP), pursuant to the provisions of State Board Rule 6A-1.012(5) wherein Miami-Dade County Public Schools is purchasing such administrative services pursuant to the provisions of Broward County Public Schools RFP 28-00IV, and Bencor, Inc.'s proposal as approved by Broward County School Board at its meeting of March 19, 2007, inclusive of all terms, conditions, fees and administrative support costs, effective May 15, 2007 to May 15, 2012.

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