

Financial Services
Richard H. Hinds, Chief Financial Officer

SUBJECT: 401(k) PLAN ADMINISTRATION CONTRACT

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

**LINK TO STRATEGIC
FRAMEWORK: FINANCIAL EFFICIENCY/STABILITY**

At the Board meeting of December 9, 2009, the School Board authorized amending the existing contract for 401(k) administrative services with Fringe Benefits Management Company (FBMC) to include a termination provision whereby either party can terminate the contract with advance notice of 180 days.

The Board also authorized staff, in conjunction with the Board Attorney's Office and outside benefits/taxation counsel, to work on a comprehensive strategy to analyze the fiduciary liability issue of the 401(k) program, as well as formulation of a Request For Proposal (RFP) for 401(k) Administrative Services, with specific recommendations to be brought back to the Board at its April, 2010 meeting.

Staff is pleased to inform the Board that it has been successful in negotiating the termination provision with FBMC consisting of advance notification of termination of the agreement of no less than 180 days. A major component of this negotiated arrangement is that in the event the Board puts FBMC on notice of its intent to cancel the agreement, the Fiduciary Liability of the 401(k) Plan immediately reverts back to the School Board, while FBMC continues to be the contractor for plan services.

As outlined in the December, 2009 item, it is crucial for staff to fully understand the implications of assuming the Fiduciary Liability at the time the cancellation provision of the contract becomes effective, and to determine how moving forward with this additional liability should be handled. It is anticipated that in today's marketplace, a re-marketing of the administration of the plan will require the School Board to retain all Fiduciary Liability moving forward. Additional time is required to meet with outside benefits/taxation counsel to identify options for the Board to consider when and if it cancels its existing contract. Those recommendations will be brought back to a subsequent Board meeting once all information is fully vetted.

A copy of the proposed Amendment to the 401(k) Administrative Agreement is being sent to the Board as supplemental information.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida authorize the First Amendment to the 401(k) Administrative Agreement whereby either Fringe Benefits Management Company (FBMC) or the Board may cancel the agreement, subject to 180 days notice of termination and upon notification of termination by the Board, the Board will assume all responsibility for the selection of investment options and the investment managers and other service providers, under the 401(k) plan

RHH:sc