



**City of Cincinnati Retirement System
Benefits Committee**

**February 5, 2009 10:00 AM
Centennial II – Meeting Room A
AGENDA**

Members:

Michael Rachford – Chair
Brian Pickering – Vice Chair
Don Beets
Michael Fehn
Bryan Schmitt

Call to Order

Guests

- Troy Hicks – service purchase

Approval of Minutes:

- January 8, 2009

New Business:

Pending Business:

- Defining Disability
- Eligible family members:
 - Eligible Recipients of Retiree Health Coverage
 - IRS Issue regarding taxation of healthcare benefits
- Pending List

Disability Report

- Angela Franklin: Application Denied
- Elizabeth Christie: Application Denied
- Willie Smith: Appeal Denied

Adjournment

Next Meeting: February 26, 2009: 12:00PM / City Hall – Committee Room B

I move that in the instance that a retiree, spouse and or any dependent of a retiree and or beneficiary receiving medical, pharmaceutical, dental and eye care coverage paid for by the Cincinnati Retirement System having such other medical, pharmaceutical, dental and eye care coverage that the medical, pharmaceutical, dental and eye care coverage paid for by the Cincinnati Retirement System, shall become secondary.

Donald C. Cook
1-08-09

I move that the Cincinnati Retirement System authorize the submission of a "insurance coverage form" annually to every retiree and or beneficiary receiving a retirement pension.

Said insurance coverage form shall require the retiree and or beneficiary to completely fill out such form and return within 14 days.

Such form shall require the retiree and or beneficiary to provide the complete legal name, gender, age, relationship and the name of any other coverage for medical, pharmaceutical, dental and eye care of every person receiving medical, pharmaceutical, dental and eye care coverage paid for by the Cincinnati Retirement System.

Failure to return the insurance coverage form, may result in the temporary suspension of medical, pharmaceutical, dental and eye care coverage paid for by the Cincinnati Retirement System, as determined by the CRS Board or authorized representative.

Falsification of the insurance coverage form, may result in the temporary suspension or reduction in benefits of medical, pharmaceutical, dental and eye care coverage paid for by the Cincinnati Retirement System, as determined by the CRS Board or authorized representative

Donald C. Cook
1-8-09

I received your request to assist in developing a standardized definition of "disability" for CRS. Below I have provided the standard definitions used for Social Security, ADA and FMLA. We can use any one of these, or merge these or others in a way that fits your needs. Let me know what you think and whether you are already familiar with these definitions. The actual definition will need to be crafted to meet the purposes of CRS. Let me know if you have questions. Thanks, Deb

**Deborah Wyler Allison
Assistant City Solicitor
801 Plum Street, Room 214
Cincinnati, Ohio 45202
(513) 352-3337
(513) 352-1515 (fax)
deborah.allison@cincinnati-oh.gov**

Social Security Disability Definition - 42 U.S.C. 416i(1)

...the term "disability" means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months...

Americans with Disabilities Act ("ADA") Definition - 42 USC 12102(2)

The term "disability" means, with respect to an individual means-

- (A) a physical or mental impairment that substantially limits one or more of the
- (B) major life activities of such individual;
a record of such an impairment; or
- (C) being regarded as having such an impairment.

Family Medical Leave Act ("FMLA") Definition – PL 103-3 Section 101

The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves

- inpatient care in a hospital, hospice, or residential medical care facility;
or
- continuing treatment by a health care provider.

CRS Health Insurance Benefits for Eligible Retiree Dependant Family Members

Enrollment for Health Insurance by the Effective Date of Retirement

1. If you are eligible to receive a monthly age and service or disability benefit, only the following Dependents as defined and in accordance with the Ohio Administrative Code 145-4-09, Ohio Revised Code 3109.19, and Internal Revenue Code Section 152 may be enrolled for health insurance purposes by effective date of retirement:
 - a. Your legal spouse: this must be a person of the opposite gender and you must have a valid marriage certificate recognized by Ohio law;
 - b. Your biological or legally adopted pre-retirement children.
2. In order for a child to be eligible for coverage the child must be under 19 or under age 25, never married and attending an accredited school on a fulltime basis for at least 7 months of the calendar year.
3. Coverage shall be extended if the child is permanently and totally disabled (as per OAC 145-4-09 A2aiii) prior to the limiting age listed above and maintains his/her residence within the household of the retiree. This means the child is not able to work in any substantial gainful activity because of a physical or mental impairment, which has lasted or is expected to last for at least 12 months. Evidence of the incapacity shall be required, and shall be subject to approval by the CRS Board.

Enrollments for Health Insurance After Effective Date of Retirement

4. You may enroll the retiree's biological child/ren born after the effective date of retirement subject to paragraphs 2 and 3 of this document and paying 100 % of the full Premium.
5. A legal spouse: this must be a person of the opposite gender and you must have a valid marriage certificate recognized by Ohio law: may be added by paying 100 % of the full cost of the Premium.

6. Legally adopted child/ren, stepchild/ren, and /or minor grandchild if the minor grandchild is born to an unmarried, un-emancipated minor child of the Retiree may be added by paying 100 % of the full cost of the Premium.

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For All Children

7. You must be allowed to claim this child as a dependent on your federal tax return in accordance with 152 of the Internal Revenue Code. The child cannot provide more than 50% of his or her own support for the calendar year. The child must reside with you for more than 50% of the calendar year (unless residing at school) with the following exceptions:
 - a. You are divorced, legally separated, separated under a written separation agreement, or are living apart at all time during the last 6 months of the calendar year and you are the parent;
 - b. The child is in the custody of you and his/her parent for more than 50% of the calendar year;
 - c. You provide over 50% of the child's support, subject to the provisions of section 152 of the Internal Revenue Code regarding multiple support agreements.

Additional Items

8. If you receive a monthly benefit as an optionee of a deceased retiree of the CRS, you may enroll only the biological children of the retiree, subject to paragraphs 2 and 3 of this policy.
10. If you have not selected a payment option that covers dependants, CRS Medical Insurance coverage for your dependant spouse and eligible biological or legally adopted dependant children terminates upon death of Retiree.
11. It is your responsibility to notify the CRS, in writing, within 30 days of the date your dependent fails to meet eligibility requirements. Failure to notify CRS may result in overpaid health care claims for which you shall be responsible.
12. The CRS maintains the right to conduct compliance-related audits of dependent eligibility and to impose penalties for non-compliance. Penalties for non-compliance with the rules for health insurance eligibility may include termination of retiree's health insurance.

Questions

1. Starting on the effective date of approval for new retirees only. Is this only choice?
2. **Retro-active to all retirees as of the effective date of approval i.e. must respond to compliance audit for dependence as outlined in this document and comply with new policy from this day forward. Can we legally do this ?**
3. **Do we need to wait 365 day before implementation so that one open enrollment cycle passes for people who choose to get into another health plan have time to do so?**
3. **Please check for compliance with CMC Sections 203-43,44,49, and 63 and any other relevant Sections, rule, and /or regulations.**

Please find included my research documents

Thank you

Mike Fehn 352-1911 office
615-8449 cell

**SAMPLE CONTRACT WITH TERMS AND CONDITIONS THAT ARE EXPECTED TO APPEAR
IN THE FINAL CONTRACT WITH THE SERVICE PROVIDER**

CONTRACT NO. _____

PROFESSIONAL SERVICE CONTRACT

THIS AGREEMENT is made by and between the City of Cincinnati, Ohio, (hereinafter referred to as "City") and Service Provider, address (hereinafter referred to as "Contractor").

NOW, THEREFORE, for and in consideration of the promises, covenants and agreements herein contained, the parties mutually agree as follows:

1. SCOPE OF SERVICES

The Contractor shall, in a satisfactory and proper manner as determined by the City Manager of the City, perform all the necessary services under this Agreement in connection with the purpose of the project as outlined by the ***** Department in its Request for Proposals. The Contractor shall perform the services as outlined in Exhibit A.

2. TERM

The services of the Contractor are to commence upon execution of this Agreement by both parties hereto, and shall be completed by *****, 200_. By mutual consent of the City and the Contractor, this Agreement may be renewed for three additional twelve-month periods ending *****, 200_. This option shall be automatically exercised unless written notice to the contrary is filed with either party not later than the first business day (Monday through Friday) of the calendar month in which the current agreement period expires. Such notice shall be transmitted by registered or certified mail.

3. COMPENSATION AND METHOD OF PAYMENT

a. Compensation.

b. Method of Payment. The City shall make payment under this Agreement in accordance with the payment schedule as established in Exhibit B, upon submission of a requisition for payment (City Form No. 37 - Claim Voucher/Invoice) specifying that the required services have been performed, accompanied by data satisfactory to the City to document entitlement to payment.

c. Prompt Payment System. This Agreement is subject to and the Contractor shall comply with the provisions of Chapter 319 of the Cincinnati Municipal Code that provide for a Prompt Payment System.

4. SUBCONTRACTS, SUCCESSORS, AND ASSIGNS

a. Subcontracts – The Contractor agrees that none of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

- b. **Assignment** – The Contractor shall not assign or transfer Contractor's interest in this Agreement without the prior written consent of the City.

5. COMPLIANCE WITH LAWS, REGULATIONS, AND PROGRAMS

- a. **Generally** – The Contractor in the performance of services under this Agreement shall comply with all applicable statutes, ordinances, regulations, and rules of the Federal Government, the State of Ohio, the County of Hamilton, and the City of Cincinnati.
- b. **Equal Employment Opportunity Program** - This Agreement is subject to the City's Equal Employment Opportunity Program contained in Chapter 325 of the Cincinnati Municipal Code. Said chapter is hereby incorporated by reference into this Agreement.
- c. **Small Business Enterprise Program**
 - i. This Agreement is subject to the provisions of the Small Business Enterprise Program contained in Chapter 323 of the Cincinnati Municipal Code. Section 323-99 of the Cincinnati Municipal Code is hereby incorporated into this Agreement.
 - ii. Details concerning this program can be obtained from the Office of Contract Compliance, Two Centennial Plaza, 805 Central Avenue, Suite 234, Cincinnati, Ohio 45202, (513) 352-3144.
 - iii. The Contractor shall utilize best efforts to recruit and maximize the participation of all qualified segments of the business community in subcontracting work, including the utilization of small, minority, and women business enterprises. This includes the use of practices such as assuring the inclusion of qualified Small Business Enterprises in bid solicitation and dividing large contracts into small contracts when economically feasible.

6. CERTIFICATION AS TO NON-DEBARMENT

The Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in the transaction covered by this Agreement. The Contractor acknowledges and agrees that if he or it or its principals is/are presently debarred then he/it shall not be entitled to compensation under this Agreement and that he/it shall promptly return to the City any funds received pursuant to this Agreement. In such event, any materials received by the City pursuant to this Agreement shall be retained as liquidated damages.

7. CONTRACTOR'S INSURANCE AND INDEMNIFICATION

- a. **Workers' Compensation** – The Contractor shall secure and maintain such insurance as will protect the Contractor from claims under the Workers' Compensation Laws.
- b. **General Liability Insurance** - The Contractor shall secure and maintain such general liability insurance as will protect the Contractor from claims for bodily injury, death, or property damage which may arise from the performance of the Contractor's services under this Agreement, with a combined single limit for bodily injury and property damage liability of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the aggregate. The City shall be named as an additional named insured, and the policy shall contain a provision prohibiting the insurer from canceling any policy without notifying the City in writing at least ninety (90) days prior to cancellation.

- c. **Errors And Omissions Insurance** – The Contractor shall secure and maintain during the entire Agreement period errors and omissions insurance with a combined single limit of One Million Dollars (\$1,000,000.00) per occurrence with a maximum deductible not to exceed Twenty Five Thousand Dollars (\$25,000.00) for each occurrence.
- d. **Indemnification of the City** - The Contractor shall indemnify, defend and save the City, its agents, and employees harmless from and against any and all losses, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character in connection with or arising directly or indirectly out of errors or omissions or negligent acts by the Contractor including by the Contractor's employees and agents in the performance of this Agreement.

8. NON-PERFORMANCE

- a. If through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the covenants or agreements of this Agreement, the City shall have the right to terminate this Agreement by giving written notice to the Contractor specifying the effective date of the termination, at least five (5) days before such effective date. In such event, all finished or unfinished documents, data, studies, reports, and/or information prepared by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work satisfactorily completed at the date of termination.
- b. Any periodic payments from the City specified in this Agreement will be contingent upon performance of contractual obligations to date, including the proper receipt of supporting receipts, invoices, reports, statements, or any other supporting information as required by the City in this Agreement. Failure to satisfactorily meet any one of the Agreement obligations by the Contractor may result in the City not approving periodic payments to the Contractor and/or filing liens as may be necessary against the Contractor's assets or future assets, until the Contractor satisfactorily fulfills its obligations under the Agreement or satisfactorily reimburses the City for any prior payments. The City also reserves the right to seek any other legal financial remedies as necessary pursuant to any damages the City may have encountered through the Contractor's default on any of the Agreement obligations until all or part of the City's prior payments have been recouped as the City deems appropriate but not to exceed the total amount of any prior payments. The City also reserves the right in the event of non-performance of this Agreement to prohibit any future or limited contractual relationships with the Contractor either directly or indirectly.

If the Contractor terminates this Agreement after the work has begun, the City shall not be required to compensate the Contractor for services/work not fully completed.

9. OWNERSHIP OF PROPERTY

The Contractor agrees that at the expiration or in the event of any termination of this Agreement that any Memoranda, Maps, Drawings, Working Papers, Reports, and other similar documents produced in connection with this Agreement shall become the property of the City and the Contractor shall promptly deliver such items to the City. The Contractor may retain copies for the Contractor's record.

10. CONFLICT OF INTEREST

- a. Employee Or Agent Of City** – The Contractor agrees that no officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of the program, nor any immediate family member, close business associate, or organization which is about to employ any such person, shall have any personal financial interest, direct or indirect, in the Contractor or in this Agreement and the Contractor shall take appropriate steps to assure compliance with this provision.
- b. Subcontractors** – The Contractor agrees that it will not contract with any subcontractor in which it has any personal financial interest, direct or indirect. The Contractor further covenants that no person having any conflicting interest shall be employed in the performance of this Agreement.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform all work and services described herein as an independent contractor and not as an officer, agent, servant, or employee of the City. The Contractor shall have exclusive control of and the exclusive right to control the details of the services and work performed hereunder and all persons performing the same and shall be solely responsible for the acts and omissions of its officers, agents, employees, contractors, and subcontractors, if any. Nothing herein shall be construed as creating a partnership or joint venture between the City and the Contractor. No person performing any of the work or services described hereunder shall be considered an officer, agent, servant, or employee of the City, nor shall any such person be entitled to any benefits available or granted to employees of the City.

12. TERMINATION OF AGREEMENT

The City may terminate this Agreement at any time for any reason upon seven (7) days written notice to the Contractor. In the event of termination not due to the fault of the Contractor, the Contractor shall be paid the Contractor's compensation for services performed up to the termination date. In the event of termination due to the fault of the Contractor, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the City from the Contractor is determined.

13. NOTICES

Service - This Agreement requires that all notices shall be personally served or sent by U.S. mail, postage prepaid, addressed to the parties as follows:

- i. To the City:
- ii. To the Contractor:

14. WAIVER

This Agreement shall be construed in a manner that a waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provisions, nor shall any failure to enforce any provision hereof operate as a waiver of such provision or of any other provision.

15. LAW TO GOVERN

This Agreement is entered into and is to be performed in the State of Ohio. The City and the Contractor agree that the law of the State of Ohio shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and shall govern the interpretation of this Agreement.

16. FORUM SELECTION

The Contractor and its successors and assigns acknowledge and agree that all state courts of record sitting in Hamilton County, Ohio, shall be the exclusive forum for the filing, initiation, and prosecution of any suit or proceeding arising from or out of, or relating to, this Agreement, or any amendment or attachment thereto, including any duty owed by the Contractor to the City in connection therewith.

17. AMENDMENT

This Agreement may be modified or amended only by a written contract duly executed by the parties hereto or their representatives.

18. ENTIRETY

This Agreement and the Exhibits attached hereto contain the entire contract between the parties as to the matters contained herein. Any oral representations or modifications concerning this Agreement shall be of no force and effect.

19. SEVERABILITY

This Agreement shall be severable, so if any part or parts of this Agreement shall for any reason be held invalid or unenforceable by a court of competent jurisdiction, all remaining parts shall remain binding and in full force and effect.

20. CONFIDENTIALITY

The Contractor, its agents, and its employees will keep and retain any and all information and records generated under this Agreement in strictest confidence and will neither use such information or records nor disclose such information or records to anyone without the explicit written permission of the City through the Department or Division Director. The Contractor warrants that it has and will continue to have safeguards in place to assure that the Contractor, its agents, and its employees keep such information and records confidential.

21. REPORTS, INFORMATION, AND AUDITS

The Contractor, at such time and in such form as the City may require, shall furnish the City such reports as may be requested pertaining to the services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this Agreement. The Contractor shall retain all financial and administrative records for a minimum of three years following completion of the Agreement, and shall permit the City or any of its representatives or auditors access to such records.

22. PROPRIETARY MATERIALS

The City of Cincinnati acknowledges that in the course of performing services, the Contractor may use products,

materials, or proprietary methodologies. The City of Cincinnati agrees that it shall have or obtained no rights in such proprietary products, materials, and methodologies except pursuant to a separate written agreement executed by the parties.

The Contractor acknowledges that in the course of performing services for the City of Cincinnati, the materials and information obtained, used, and/or produced for the City of Cincinnati are the exclusive properties of the City of Cincinnati and may not be disseminated in any manner without prior written approval of the City of Cincinnati.

IN WITNESS WHEREOF, the City has executed this Agreement on

_____, 200_, and the Contractor has executed this Agreement on
_____, 200_.

Contractor's Name

City of Cincinnati

By: _____

By: _____

Print Name: _____

Print Name: Milton Dohoney, Jr.

Its: _____

Its: City Manager

Date: _____, 2009

Date: _____, 2009

RECOMMENDED BY:

APPROVED FOR COMPLIANCE

[Fill in Name]

[Fill in Title]

Contract Compliance Officer

APPROVED AS TO FORM

Assistant City Solicitor