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Office of the Inspector General

Miami-Dade County

Cover Memorandum & Final Report

To: Honorable Alex Penelas, Mayor

Honorable Chairperson, Barbara Carey-Shuler, Ed.D
and Members, Board of County Commissioners

From: Christopher Mazzella
Inspector General

Date: November 14, 2003

Re: OIG Final Report regarding the Departure Incentive Program (DIP)

During the summer of 2003, amidst the growing concerns of a budgetary shortfall and the inevitable reality of fiscal belt-tightening, several public officials called for a re-examination of a variety of County programs and expenditures in an effort to identify areas of potential cost-savings. One of the programs identified was the Departure Incentive Program (DIP). Having some awareness that the Program was no longer being administered as intended by the Board of County Commission (BCC), the Office of the Inspector General (OIG) initiated a review of the history and current status of the program.

Subsequently, the OIG prepared a Draft Memorandum relative to DIP, which is reprinted herein. In its current form, DIP participants can choose between receiving a monthly cash supplement or the continuation of full county health insurance coverage, including coverage for dependents, until they become eligible for Medicare or have received a minimum of eight (8) years of benefits, whichever comes later. But the OIG concluded that the present form of DIP (where the County Manager has the discretionary authority to offer the program to eligible group 1 and group 2 executives) is markedly different from the program approved by the BCC in June 1995 and in effect through January 31, 1996.

On October 31, 2003, by way of memorandum to the Mayor and the BCC, the County Manager provided an Updated Departure Incentive Program (attached as Exhibit 1). In essence, the Manager concluded "that the program itself is appropriate when applied in accordance with the original intent – that is, to provide an incentive for high level executives (groups 1 and 2) to leave their position when their departure is deemed to be in the best interest of the County" (emphasis in original). According to the County Manager's memorandum, under his tenure, DIP will only be granted in "situations where it can be demonstrated that savings accrue to the County through the departure of the executive and the departure makes sound business and operational sense for the County."

The County Manager lays out three examples wherein DIP benefits may be given:

1. When there is the elimination of the position being vacated;
2. When there is a budgetary commitment to hold the position vacant for an extended period of time at least equal to the associated DIP costs; or
3. When an individual at a lower salary level fills the position being vacated.

It is noted by the OIG that the County Manager's memorandum did not limit future DIP eligibility to only these three scenarios. Additionally, the County Manager scales back the program by imposing a twelve (12) year maximum cap, however, the eight (8) year minimum is not affected. The County Manager also declares that: "Employees that have entered the DROP will not be eligible for DIP."

While the OIG recognizes that the changes imposed by the County Manager go a long way in scaling back the largess that DIP was transformed into under previous administrations, the OIG remains concerned that these well intentioned reforms do not go far enough in addressing the core deficiencies inherent in this type of program as administered. As such, our position is that this program should be done away with in its entirety.

Our concerns are two-fold. First, the OIG is concerned about the lack of transparency in the administration of DIP. As this program, as applied to the Group 1 and 2 executive classes, has always been at the discretionary authority of the county manager, there does not appear to be any reporting requirement to the Board or any other division of the County. As this incentive program is expected to be applied selectively and only where there is a demonstrable savings to the County, the OIG would expect that, at a minimum, there be imposed a periodic reporting requirement. The report should include the details justifying DIP benefits, including how savings are achieved and which of the three criteria, outlined above, applies.

Second, we are troubled with the way DIP has evolved into a very a costly benefits program for senior executives that rests solely in the discretion of the County Manager. In 1997, when former County Manager Vidal decided that it would be in the "best interest of the County to have discretionary authority to offer [DIP]," it was justified as facilitating the replacement of directors and deputy directors in a manner deemed mutually acceptable (Exhibit 2). Due to former County Manager Vidal's pronouncement, at least 27 former County senior executives are now receiving DIP benefits, which is currently costing taxpayers over $200,000 per year, and these costs will continue to escalate significantly based on the rising costs of health insurance. Further, the manner in which this "discretionary" benefits program has been administered amounts to a de facto entitlement program where 72 additional senior executives are now in line to receive DIP upon separating from County service, potentially costing the County millions. Finally, and perhaps most distressing, is the fact that almost all the 27 DIP beneficiaries mentioned above separated from County service not because of any incentive created by DIP but rather received DIP upon separation as a benefits entitlement. We do not believe that this result is in line with the original intent of the BCC when it authorized DIP in 1995.

The justifications being advocated presently are really no different from those of the past. The rhetoric is the same – that this will be used as a tool on a case-by-case basis where it can be demonstrated as being in the County's best interest.

The OIG does not dispute that County management should have tools to encourage separation from County service, even for the professional class of exempt executives. In comparing "early retirement" incentive packages utilized by corporations to the tools available to the County, the Manager states that for county government "[he] believes such incentives should be limited to leave payouts and insurance benefits only." But the County already has an Executive Early Retirement Incentive Program (Exhibit 3), which has been offered since 1989. The program's main two elements are an increase of regularly established (vested entitlements) of leave payouts and the availability of continued county medical and dental group insurance coverage. These are the same two incentives -- leave payouts and insurance coverage -- identified by County Manager Burgess in his memorandum justifying the retention of DIP.

The OIG inquired about the participation levels in this program, which is also available to Group 3 executives, unlike DIP. We were advised that participation levels are very low and that participants are mainly Group 3 executives. This reality is predictable given the previous automatic application of DIP benefits to Group 1 and 2 executives.[1] However, this program is truly structured as an "early retirement" incentive program. The eligible employee must either choose the program within a specified period of time after becoming eligible to retire or lose out on the opportunity to receive its benefits.

Again, as previously expressed, the OIG is encouraged by this County Manager's stated modifications to DIP, especially the exclusion of executives who have entered the DROP program, which in itself signals the individual's resignation from county service. However, as easily as previous administrations modified DIP, this too is only a modification. "As a result, I [the County Manager] have modified the program to restore its intent and eliminate its use as an entitlement program." (See Exhibit 1, previously referenced.) It was also the former County Manager's intention not to establish an automatic entitlement to any employee. (See Exhibit 2, previously referenced.) We cannot predict how future county managers may again modify the program.

[1] Our research revealed only one eligible executive who retired since 1997 did not receive DIP. When we asked her, this former Group 1 executive replied that she was not aware of DIP benefits, but had she known, she would have requested DIP.

As the original Departure Incentive Program required this Board's approval, and the various modifications to DIP have been presented to this Board in the form of memorandum of action already taken by the County Manager, it is the OIG's opinion that the Board should reexamine the policy of DIP.

This Board may wish to consider whether this program continues to serve a useful function, and at what cost compared to other incentives that may be available, including the Executive Early Retirement Incentive Program (EERIP). As opposed to maintaining two variations of an executive incentive program, DIP and EERIP, the latter could be modified in its period of eligibility/window of opportunity to encourage more takers of the program. Should this Board determine that DIP, in its previous form or newly modified form, is in the best interests of the County, then the OIG would recommend that at a minimum, the Board approve the eligibility criteria and require periodic reports detailing the justification and/or demonstrable cost saving to the County.

cc: Mr. George Burgess, County Manager
Mr. Robert A. Ginsburg, County Attorney
Clerk of the Board (copy filed)

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Miami-Dade County

Memorandum

To: The Honorable Alex Penelas, Mayor

The Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

From: Christopher Mazzella
Inspector General

Date: December 3, 2003

Re: Departure Incentive Program (DIP)

On November 14, 2003, the Office of the Inspector General (OIG) issued its final report on the above-captioned matter. By way of clarification, the report failed to reflect the fact that the OIG's inquiry into DIP was initiated upon the request of Chairperson Barbara Carey-Shuler. At a meeting on July 22, 2003, Chairperson Shuler requested the Inspector General to review the program and provide her with appropriate recommendations. During the course of this inquiry, the OIG provided the Chairperson and the County Manager with a copy of the draft memorandum dated August 25, 2003, which is alluded to in the final report.

cc: Mr. George Burgess, County Manager
Mr. Robert A. Ginsburg, County Attorney

Clerk of the Board (copy filed)

During early 1995, County Manager Armando Vidal instructed the Organizational Review Team (ORT) to review the County's organizational structure and to issue a report of its findings and recommendations on the streamlining of County departments.

On May 1, 1995, County Manager Armando Vidal provided the Board of County Commissioners with the ORT report containing recommendations concerning potential reorganizations and streamlining of County departments. One of ORT's major concerns regarding this organizational process was its impact on County employees. As a result of this concern, one of ORT's recommendations was the implementation of an early retirement program, which was named the Departure Incentive Program (DIP) (Exhibit 4).

The following is a chronology of events regarding DIP:

May 1, 1995

- ORT designed DIP primarily for employees who were eligible for an unreduced pension benefit from the Florida Retirement System (FRS) on or before January 31, 1996, and for employees who would have completed twenty years of FRS creditable service with the County by the same date.

- ORT determined through discussions with labor organizations that health insurance was the overwhelming preference of retirement incentives that would best address the needs of the majority of their members. Therefore, the DIP was based on the continuation of health coverage for those who elected to participate.

- ORT also recommended that the County Manager appoint a Departure Incentive Committee (the Committee) to work with individual employees with regards to DIP. The authority of the Committee included, but was not limited to, adjusting eligibility windows and assisting employees in accessing savings in deferred compensation accounts. The authority of the Committee also included authorizing leave payments and maintaining current pay status for employees close to eligibility for unreduced benefits.

- ORT recommended eligibility criteria for employees and groups 1, 2 and 3 executives who:

    - Would have completed ten years or more of full-time continuous County service and are eligible for an unreduced FRS benefit on or before 1/31/96;

        - or -

- Employees with twenty years or more of full-time continuous County service on or before 1/31/96;

  - or -

- Groups 1, 2 and 3 executives who would have completed twenty years or more of creditable FRS service with a minimum of ten years of County service on or before 1/31/96.

- ORT recommended full payment of the County's cost of single health coverage in a County approved group health plan or a $300 per month cash supplement until the employee or executive becomes eligible for Medicare. Groups 1, 2 and 3 executives with dependent health coverage in a County approved group health plan would qualify for full payment of the County's cost of two person health coverage in a County approved group health plan or a $500 per month cash supplement until the executive becomes eligible for Medicare.

- ORT recommended that employees and executives be eligible for a <u>minimum</u> of eight (8) years of benefits.

- ORT recommended an implementation window of thirty days following the actual plan offering for employees and executives to submit an irrevocable application, which required their separation from County service on or before 1-31-96.

<u>May 12, 1995</u>

- By letter to all County employees, County Manager Armando Vidal introduced the departure incentive plan, as a County workforce reduction measure in light of the following year's fiscal budget, which recommended an elimination of 1,500 County positions. The letter advises all County employees that the plan still required Board approval, and that further information would be forthcoming (Exhibit 5).

<u>June 6, 1995</u>

- County Manager Armando Vidal submitted a DIP report containing the above noted recommendations to the Board of County Commissioners for approval. The Board of County Commissioners approved the Departure Incentive Program on June 6, 1995 (Exhibit 6).

- The program, as approved by the Board, was in essentially the same form as was recommended in the ORT report, in that the incentive was for those eligible employees to depart from County service on or before January 31, 1996.

- The program, as approved by the Board, established the Departure Incentive Committee to work with individual employees and to assist in the other matters of program implementation as outlined above.

September 8, 1995

- ORT Chairman, David Morris, provided County Manager Armando Vidal with a DIP update report containing the following information and decisions made by the Committee (Exhibit 7):

  - 970 employees and executives applied for and accepted DIP during the window of application, which commenced on July 18, 1995 and continued through August 28, 1995.

  - Beneficiaries of an employee who applied for the DIP and who died prior to beginning participation in the DIP would be permitted to receive the eight-year minimum of monthly cash supplement payments. (See Exhibit 7, paragraph 5.)

  - Beneficiaries of a participant who died after eight years or more of participation would be provided a grace period of two months of the monthly benefit. (See Exhibit 7, paragraph 6.)

  - The departure date was extended to February 11, 1996 to coincide with the County's pay periods. (See Exhibit 7, paragraph 12.)

  - DIP participants who will attain full Florida Retirement System pensions during the 1995/1996 fiscal year, were allowed to use accrued annual and holiday leave, after February 11, 1996, to avoid taking an early retirement penalty. (See Exhibit 7, paragraph 13.)

  - "Employees who occupy exempt Executive Group 1 and group 2 level positions who are eligible for the DIP were permitted to enroll and participate in the DIP through January 31, 1997, when it is in the best interest of the County, as determined by the County Manager. (See Exhibit 7, paragraph 10.)

Thus, by decisions enacted by the Committee, the new departure dates for eligible employees was extended to February 11, 1996 for all employees, and January 31, 1997 for all Group 1 and 2 executives.

December 18, 1997

- County Manager Armando Vidal submitted a one-page memorandum dated 12/16/97 to the Board of County Commissioners, detailing policy changes that he has taken governing DIP. The submission appeared on the Board of County Commissioner's Agenda as a report item (Exhibit 2, previously referenced).

- In his memorandum, County Manager Vidal states that: "[He has] determined that it is in the best interest of the County to have the discretionary authority to offer Departure Incentive Program benefits to eligible executives in executive benefit groups 1 and 2." He states that his policy change would be retroactive to January 31, 1997, and justifies the discretionary authority as facilitating the replacement of department directors and deputy directors.

- Additionally, the County Manager determined that it would be appropriate to add a third benefit option to the program, consisting of a $600 per month cash supplement or the County's cost of full dependent group health insurance coverage until age 65, for a minimum of eight (8) years. This specific policy change was made effective December 3, 1997.

- **Current** monthly benefit cost information from the County's Benefits Administration reveals that the County's cost of this added third option for full dependent group health for a County Executive 1 or 2 is as much as **$1041.09** monthly.

- County Manager Vidal stated in his memorandum that: "[He] shall reserve [the] discretionary authority to grant those benefits to eligible executives to cases where the County's best interests are being served and it is not [his] intention to establish an automatic entitlement to any employee."

- The Board of County Commissioners, at its December 18, 1997 meeting, accepted County Manager Vidal's DIP memorandum (report item). A review of the videotape of this Commission meeting shows no discussion on this item.

- Apparently, County Manager Vidal interpreted the Board's previous approval of establishing DIP as granting him the authority to make policy revisions to the Program and to extending the departure date indefinitely with respect to Group 1 and 2 executives, within the County Manager's discretion. This discretionary authority has apparently been passed on to County Managers who succeeded County Manager Vidal.

Number of Group 1 and 2 Executives Approved for DIP After Original January 31, 1997 Expiration Date

- From February 1, 1997 to December 16, 1997 (date of the former County Manager's Memorandum making the new policy retroactive), two executives were added to DIP.

- Since December 16, 1997 to present, twenty-five (25) additional Group 1 and 2 executives were granted DIP benefits at the discretion of various County Managers.

- The OIG has learned that a recently retired Executive 1, who met the DIP eligibility criteria, was not made aware of the DIP when she retired from the County in June 2003. She stated that if she had known about the DIP, she would have requested approval from the County Manager to participate.

- The OIG requested information from the County's Benefits Administration regarding the number of DIP criteria eligible executive (groups 1 and 2) who have retired since February 1, 1997. It appears that out of the 28 criteria eligible executives who have retired, 27 are receiving DIP benefits, and that the one individual noted above is the only criteria eligible executive who is not receiving the benefit.

- The OIG has further learned through credible sources that there are a small number of current County executives who are holding DIP participation memorandums that were approved by now departed County Managers.

- Additionally, the OIG is aware that former County Manager Steve Shiver, who does not meet the eligibility criteria for the DIP, was approved by the County Mayor to participate in the DIP for a period of one year after the expiration of benefits provided to him in his severance agreement (Exhibit 8).

DIP Participation Data and Cost to the County

- According to data provided by the County's Benefits Administration, approximately **911** former County executives, employees and/or beneficiaries are currently receiving monthly DIP benefits, at a monthly cost of approximately **$298,670** to the County.

- Because DIP is premised on an eight (8) year minimum, not one participant has completed the full minimum term of eight (8) years, even though a significant number of participants are over age 65.

- According to data provided by the County's Benefits Administration, approximately seventy-two (72) current Group 1 and 2 executives are additionally eligible to be granted DIP benefits at the discretion of the County Manager. The minimum, and most conservative estimated increase in costs to the County for granting DIP benefits to the aforementioned group of County employees would be at least **$21,600** per month.

Conclusion

- The DIP was originally designed primarily for eligible County employees and executives as an early retirement incentive. The program was designed as an incentive for those eligible employees to depart from County service by January 31, 1996. The County was facing a recommended elimination of 1500 County jobs, and DIP was seen as a measure to voluntarily reduce the workforce.

- The DIP benefit eligibility window for County employees and Group 3 executives expired on or before February 11, 1996. The DIP benefit eligibility window for Group 1 and 2 executives was extended by the Committee to expire on or before January 31, 1997.

- Subsequently, former County Manager Vidal unilaterally revised the policy of DIP to indefinitely extend the departure date for Group 1 and 2 executives. Former County Manager Vidal gave himself, and thereby subsequent county managers, the discretion to approve DIP benefits to Group 1 and 2 criteria eligible employees. Since February 1, 1997, all but one eligible Group 1 or 2 executives who retired has received DIP benefits.

- Currently, the County's 2002-2003 Pay Plan (2nd edition) includes an Executive Benefit Program that reads:

  > *Executive benefits, including the County's Departure Incentive Program, may be provided to incumbents occupying positions deemed eligible by the County Manager or the County Attorney to participate in the County's Executive Benefit Program. The County Manager or County Attorney may review this program periodically and implement any changes that are deemed appropriate to further the purpose of the program*.

- The recently distributed Executive Benefits 2004 booklet contains a description of a program called the Executive Early Retirement Incentive Program, which is different than the Departure Incentive Program (DIP) as discussed in this report (see Exhibit 3, previously referenced).