


## MEMORANDUM

TO: The Honorable Chair and Members of City Council

FROM: John C. Wolfe, City Attorney 

DATE: August 19, 2010

RE: Office Depot Settlement Offer

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The City has received the attached "OFFICE DEPOT SETTLEMENT OFFER, NOTICE, RELEASE AND CERTIFIED CLAIM FORM" (hereinafter referred to as the "RELEASE")

The RELEASE states in part that:

*From January 2006 until March 2009, customers in Florida who purchased under the lead agency contracts available through the U.S. communities Government Purchasing Alliance could choose between two price plans for non-core items. Those price plans were referred to as "Option 1" and 'Option 2.' Office Depot is offering a settlement payment to customers in Florida who were on the 'Option 2' price plan and paid more than they would have paid under the 'Option1' plan, provided such customers certify that they: (1) did not know that there was potential cost difference between the 'Option 1' and 'Option 2' price plans; (2) did not otherwise want to be on the 'Option2' price plan; and (3) have not already received compensation from Office Depot relating to 'Option2' pricing.*

The City of St Petersburg was one of the Cities affected by the unknown switch from option 1 to option 2. A Settlement Administrator is administering the distribution of money (approximately 4.5 Million dollars) received by the Florida Attorney General, on behalf of customers of Office Depot in Florida, in a settlement of a lawsuit against Office Depot. The City has been unable to receive a binding statement from the Settlement Administrator, as to how much money the City would be entitled to if the City signs the attached RELEASE. The City has received the following email from the Settlement Administrator:

*Whether your organization is entitled to any settlement payment depends on whether it meets the eligibility requirements. However, assuming that it does meet the eligibility requirements, it is expected that your organization would be entitled to a payment of approximately \$90,802.46. It is important to note that this information is tentative and not final. A final determination of the amount, if any, your organization is eligible to receive can take place only after it submits a claim form.*

A preliminary audit of Office Depot's records indicate that the \$90,802.46 is sufficiently close to the approximate loss the City would be likely to be able to prove should the audit continue.

However, to continue the audit would require a great deal of work and energy on the part of the Audit Services Department which could be better spent on other matters. Also, completion of the audit and collection of the money could involve a time consuming lawsuit.

Once the RELEASE is executed and the funds received, the City will have no other right to pursue its claim against Office Depot. Even though there is no guarantee that the City will receive the exact amount specified in the email, the City Administration recommends that the Mayor, or the Mayor's designee, be authorized to execute the attached RELEASE. I concur with that recommendation. A resolution is attached for your approval.

Attachments

Office Depot Florida AG Matter  
Settlement Administrator  
PO Box 4068  
Portland, OR 97208-4068

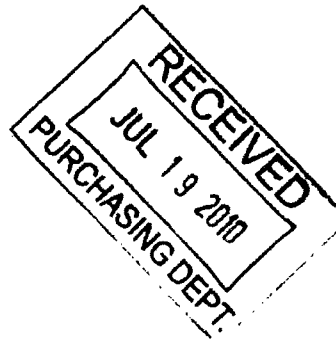


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CITY OF ST PETERSBURG  
LOUIS MOORE  
PO BOX 2842  
SAINT PETERSBURG FL 33731-2842



**OFFICE DEPOT SETTLEMENT OFFER**  
**NOTICE, RELEASE, AND CERTIFIED CLAIM FORM**

This is to inform you that in connection with a settlement agreement reached with the Florida Attorney General, Office Depot is offering a settlement payment to Florida contract customers who purchased from Office Depot under certain circumstances. Your organization may be entitled to receive a settlement payment.

From January 2006 until March 2009, customers in Florida who purchased under the lead agency contracts available through the U.S. Communities Government Purchasing Alliance could choose between two price plans for non-core items. Those price plans were referred to as 'Option 1' and 'Option 2.' Office Depot is offering a settlement payment to customers in Florida who were on the 'Option 2' price plan and paid more than they would have paid under the 'Option 1' plan, provided such customers certify that they: (1) did not know that there was a potential cost difference between the 'Option 1' and 'Option 2' price plans; (2) did not otherwise want to be on the 'Option 2' price plan; and (3) have not already received compensation from Office Depot relating to 'Option 2' pricing.

Office Depot's records indicate that your organization purchased under the 'Option 2' price plan for at least part of the time that price plan was being offered. If your organization believes it qualifies for a settlement payment, you must fill in the information required below, sign this document, and submit it to the Settlement Administrator at the following address:

**Office Depot Florida AG Matter**  
**Settlement Administrator**  
**PO Box 4068**  
**Portland, OR 97208-4068**

To submit a claim, this document must be filled out completely and sent in by November 15, 2010. Once a claim is received by the Settlement Administrator, a determination will be made whether your organization qualifies to receive a settlement payment. If you have any questions about the process, including the amount your organization potentially may be entitled to, you may contact the Settlement Administrator at 1-888-288-9640.







A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. PETERSBURG AUTHORIZING THE MAYOR OR THE MAYOR'S DESIGNEE TO EXECUTE OFFICE DEPOT SETTLEMENT OFFER, NOTICE, RELEASE AND CERTIFIED CLAIM FORM ("RELEASE"); AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Attorney General alleged in a lawsuit that from January 2006 until March 2009, customers in Florida who purchased under the lead agency contracts available through the U.S. communities Government Purchasing Alliance paid more than they had originally agreed to pay by contract; and

WHEREAS, the Attorney General and Office Depot agreed upon a settlement which resulted in approximately 4.5 million dollars being paid into a fund to compensate customers in Florida, including the City of St Petersburg, who were allegedly overcharged; and

WHEREAS, the distribution of the aforementioned funds is being handled by a Settlement Administrator and that a settlement with the City has been proposed by the Settlement Administrator which requires the execution of the RELEASE prior to a firm dollar amount being assured to be paid to the City; and

WHEREAS, the City has been unable to receive a binding statement from the Settlement Administrator as to how much the City would be entitled to if the City signs the RELEASE; and

WHEREAS, the City has received an email from the office of the Settlement Administrator in which it is stated that a final determination of the funds the City is entitled to can only take place after it submits a claim form which is included within the RELEASE; and

WHEREAS, the office of the Settlement Administrator has indicated that their preliminary finding is that City may be entitled to payment in the amount of \$90,802.46; and

WHEREAS, the preliminary City audit indicates that the \$90,802.46 is sufficiently close to the approximate loss that a complete audit would reveal and that the completion of an audit and the collection of the exact amount that the City is entitled to would involve excessive amounts of staff time which could be better spent on other matters; and

WHEREAS, the City Administration and the Legal Department recommend that the Mayor, or the Mayor's designee be authorized to execute the RELEASE in this matter.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of St. Petersburg that the Mayor or the Mayor's designee is hereby authorized to execute the Office Depot Settlement Offer, Notice, Release and Certified Claim Form (RELEASE) on behalf of the City of St. Petersburg.

This resolution shall become effective immediately upon its adoption.

Approved as to form and content:

  
City Attorney