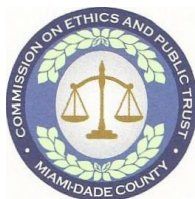


## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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June 12, 2023

Edmundo Rodriguez, PE  
Green Dade, Inc.  
7220 SW 12th St.  
Miami, FL 33144

**Delivered via e-mail to: [edmundo.rodriquez@greendade.com](mailto:edmundo.rodriquez@greendade.com)**

RE: INQ 2023-69, Section 2-11.1(c), Miami-Dade Conflict of Interest and Code of Ethics Ordinance, *Prohibition on transacting business within the County*

Dear Mr. Rodriguez:

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest concerning your company's participation in Miami-Dade County's Small Business Enterprise ("SBE") Certification Programs and potential future County contracts.

### Facts

You advised that you are an electrical engineer by trade. Records maintained by the Florida Department of Business and Professional Regulation reflect that you are a licensed Professional Engineer with special qualifications in 1) Electrical and Computer Engineering, and 2) the Florida Building Code, Seventh Edition.

You own and operate a Florida for-profit corporation named Green Dade, Inc. ("GDI"). You advised that GDI provides architectural and electrical engineering services. Specifically, you advised that your primary specialties include designing electrical infrastructure for public utilities, such as water treatment plants, pump stations, airports, ports, and commercial buildings, as well as designing transportation-related systems for street corridor and highway systems. You further advised that you are the sole owner of GDI, and your responsibilities with regard to GDI involve every aspect of the business, from looking for business to contract negotiation, electrical design, and inspection. You advised that GDI would like to apply to participate in the County's SBE Certification Programs. You further advised that GDI would like to contract with the County in the future.

You are not employed by Miami-Dade County. However, your spouse, Ms. Lisel Suarez Toledo, is employed by the Miami-Dade County Water and Sewer Department (“WASD”) as a Professional Engineer. As a Professional Engineer for WASD, Ms. Suarez Toledo’s job responsibilities primarily include managing engineering projects on behalf of WASD as a Project Manager. Ms. Suarez Toledo’s WASD position does not include any oversight or administration of the County’s SBE Certification Programs.

Miami-Dade County’s SBE Certification Programs were created for any business entity providing construction, architectural, engineering, goods, services, and aeronautical support services. The SBE Certification Programs are gender and race neutral. The County’s SBE – Architecture and Engineering (“A/E”) Certification Program is designed to provide contracting opportunities for independent firms that meet the following criteria: (a) must have a Miami-Dade County Local Business Tax (“LBT”) Receipt issued for at least one year; (b) must have an actual location in Miami-Dade County and perform a commercially-useful function; (c) the personal net worth for each owner cannot exceed \$1.5 million; (d) the last three years’ average gross receipts must not exceed \$6.5 million for architectural services and \$8 million for engineering services; (e) business license holder and qualifier (if applicable) must own at least twenty-five percent of the applicant’s issued stocks or otherwise have at least a twenty-five percent ownership interest; and, (f) the business owner alone, or as a member of a group, shall own or control only one certified SBE at a time.<sup>1</sup> The County’s SBE – Services Certification Program is designed to provide contracting opportunities for independent firms that meet the following criteria: (a) must have a Miami-Dade County Local Business Tax (“LBT”) Receipt issued for at least one year; (b) the personal net worth for each owner cannot exceed \$1.5 million; (c) the last three years’ average gross receipts must not exceed \$8 million; (d) the business license holder and qualifier (if applicable) must own at least ten percent of the applicant’s issued stocks or otherwise have at least a ten percent ownership interest; and, (e) the business owner alone, or as a member of a group, shall own or control only one certified SBE at a time.<sup>2</sup> SBE Certification is valid for a three-year period.

### Issue

Whether there is a prohibited conflict of interest that would prevent Green Dade, Inc., your privately owned business, from participating in the County’s SBE Certification Programs and then contracting with the County.

### Analysis

This inquiry involves several sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance (“County Ethics Code”), each of which is analyzed in turn below:

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<sup>1</sup> See *Architecture & Engineering (A/E)*, SMALL BUSINESS CERTIFICATION PROGRAMS, <https://www.miamidade.gov/global/business/smallbusiness/certification-programs.page> (last visited June 9, 2023).

<sup>2</sup> See *Goods and Services*, SMALL BUSINESS CERTIFICATION PROGRAMS, <https://www.miamidade.gov/global/business/smallbusiness/certification-programs.page> (last visited June 9, 2023).

A. Contracting with the County

Regarding GDI's participation in the County's SBE Certification Programs, GDI **may participate in the County's SBE Certification Programs**. However, it may do so only so long as WASD is not involved in any way in processing, administering, overseeing, or enforcing the SBE Certification Programs. *See* INQ 20-117 (a company owned by the spouse of the Director of the Miami-Dade County Department of Transportation and Public Works ("DTPW") may participate in the County's SBE Certification Program so long as the DTPW does not enforce, oversee, or administer the SBE Certification Programs). This includes the condition that your spouse may not participate in determining or awarding the SBE Certification. Additionally, none of your spouse's job responsibilities or job descriptions may require her to be involved in the SBE Certification Programs in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n).

Regarding contracting with the County generally, sections 2-11.1(c) and (d) of the County Ethics Code restrict the ability of County employees and their immediate family members<sup>3</sup> to contract with the County. A County employee and his or her immediate family members are permitted to transact business with the County only if the contract does not interfere with the full and faithful discharge of the County employee's duties, the County employee does not participate in negotiating or awarding the contract, and the County employee's job duties will not require him or her to be involved with enforcing or overseeing the contract. *See* County Ethics Code §§ 2-11.1(c), (d). Additionally, the County Ethics Code prohibits a County employee and his or her immediate family members from transacting business with the County department for which the County employee works. *See* County Ethics Code § 2-11.1(c)(2); INQ 23-03 (a private company may not contract with WASD where the company owner is a Division Chief for WASD).

Here, you have indicated that GDI is interested in contracting with the County. Generally, this means that neither you nor GDI may enter into contracts with WASD. Separately you have indicated that GDI would like to work as a *subcontractor* to a County contractor as part of a bid response to pending and forthcoming WASD projects – those matters will be addressed in a forthcoming opinion.<sup>4</sup> You are otherwise encouraged to request further ethics guidance when GDI submits a bid on any pending County solicitation or request to quote, bearing in mind that neither you nor GDI may contract with WASD. *See id.*

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<sup>3</sup> The term "immediate family" includes spouses and domestic partners. *See* County Ethics Code § 2-11.1(b)(9).

<sup>4</sup> *See* RQO 18-02 (an immediate family member of a County employee may contract with a County vendor as a *subcontractor* to a County project because the subcontracting firm does not contract directly with the County, provided that the County employee does not oversee or administer the contract); INQ 21-125 (a company owned by the parent of a County employee may *subcontract* with a firm that may be awarded a County project with the County employee's employing department because the County employee does not and will not have any direct or indirect involvement in the solicitation/project and the parent's firm would not be directly transacting business with the County; rather, the parent's company would be in privity of contract with the Prime Contractor of the project).

B. Lobbying

Your spouse, Ms. Suarez Toledo, may not lobby the County. In this case, it means that your spouse may not contact anyone within the County in an attempt to influence a decision about GDI's application to participate in the County's SBE Certification Programs. *See* County Ethics Code § 2-11.1(m)(1).

C. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that your spouse, Ms. Suarez Toledo, may not use her County position to secure any special privilege or exemption with respect to GDI's application to, and ultimate participation in, the County's SBE Certification Programs, or to any other County certification programs to which you or GDI may apply.

Opinion


Based on the facts presented here and discussed above, GDI's participation in Miami-Dade County's Small Business Certification Programs does not appear to give rise to any prohibited conflict of interest, subject to the limitations discussed above. Additionally, GDI may not contract directly with WASD and GDI's potential future business with the County will otherwise require further evaluation once a specific County solicitation or contract is contemplated.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

***Please submit this memorandum to the Small Business Development Division of the Internal Services Department ("ISD"). The Commission on Ethics does not submit it on your behalf.***

Sincerely,



Nolen Andrew Bunker  
Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

CC: All Commission on Ethics and Public Trust Legal Staff; Lisel Suarez Toledo, Professional Engineer, Miami-Dade Water and Sewer Department

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Commission on Ethics or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.