



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Princess Brown, Selection Committee Coordinator
Strategic Procurement Department (SPD)

Yaritza Reina, Senior Executive Secretary
Office of the Commission Auditor (OCA)

FROM: Loressa Felix, General Counsel
Commission on Ethics and Public Trust

SUBJECT: INQ 2024-175, Voting Conflict of Interest § 2-11.1(v); Appearances of Impropriety

DATE: December 24, 2024

CC: All COE Legal Staff, Namita Uppal, SPD; Yinka Majekodunmi OCA; Jannessa Johnson, OCA; Leonard Thompson, Jr., SAO; Patrick Calvo, MDPD

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding the following proposed transaction.

Facts:

We have reviewed your memorandum dated December 4, 2024, which was prepared in connection with the Appointment of Selection Committee for State Attorney’s Office of the Eleventh Judicial Circuit Request for Proposals for Misdemeanor Diversion Services – Project No. EVN0008779. The memorandum was prepared in connection with Resolution Number R-449-14, directing the Office of the Commission Auditor (“OCA”) to conduct background checks on members serving on evaluation/selection committees.

The memorandum noted that members of the selection committee made disclosures on their Neutrality Affidavit/Disclosure Form that merited submission to the Ethics Commission for an opinion. The memorandum noted that:

- Leonard Thompson, Jr., Miami-Dade State Attorney’s Office, disclosed in his Neutrality Affidavit that Court Options, Inc., and Advocate Program, Inc., are the current providers the

State Attorney's Office uses. Court Option, Inc., and Advocate Program, Inc., are respondents to this solicitation.

- Patrick Calvo, Miami-Dade Police Department, is claiming exemption status pursuant to F.S. 119.071.

We conferred with Mr. Thompson. He is an Assistant State Attorney, Chief of County Court, for the Miami-Dade County State Attorney's Office (SAO). He has been in his current role since 2017. Mr. Thompson indicated that he had not been previously employed by any of the respondents to this solicitation nor did he or any of his immediate family members have any relationship with any respondent to the solicitation. He also has no financial interest in any of the respondents. Furthermore, he does not have any business or close social relationship with current employees at any respondent entity that would affect his evaluation of the various respondents to this project. However, Mr. Thompson noted that Court Options, Inc. and Advocate Program, Inc. are current service providers to the SAO for diversion programs. Mr. Thompson does believe that he can be fair and impartial when evaluating all respondents to this project despite his interaction with the two respondents in his current role at the SAO.

We also conferred with Mr. Calvo. Mr. Calvo is a Police Lieutenant for the Miami-Dade County Police Department (MDPD). He has worked for MDPD for 21 years. Mr. Calvo indicated in his Neutrality Affidavit that he was claiming an exemption pursuant to F.S. 119.071. Upon further inquiry, Mr. Calvo indicated that he had not been previously employed by any of the respondents to this solicitation nor did he or any of his immediate family members have any relationship with any respondent to the solicitation. He also has no financial interest in any of the respondents. Furthermore, he does not have any business or close social relationship with current employees at any respondent entity that would affect his evaluation of the various respondents to this project. Mr. Calvo believes that he can be fair and impartial when evaluating the various respondents to this project.

Discussion:

This agency conducts reviews of these issues under the County Ethics Code, which governs conflicts by members of County advisory and quasi-judicial boards. We also consider whether there is an appearance of impropriety created and make recommendations based on R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

Specifically, Section 2-11.1(v) of the County Ethics Code states that no quasi-judicial personnel or advisory personnel shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary or (ii) stock holder, bondholder, debtor or creditor.

In this case, it does not appear that either Mr. Thompson or Mr. Calvo will have a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because they will not be directly

affected by the vote, nor does either have any enumerated relationships with any entity affected by the vote. *See* INQ 24-42; INQ 22-100; INQ 20-84; INQ 20-79.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, the Ethics Commission also opines on whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of an appointed selection committee. *See* Miami-Dade County Code § 2-1067; Ethics Commission Rule of Procedure § 2.1(b). “In all procurement matters, appearances of integrity and fairness are paramount, [as there is a] ‘need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence . . . [which] may require a higher standard of ethics’” INQ 17-131 (quoting INQ 14-242).

Mr. Calvo has indicated no relationship with any respondent to this solicitation. Therefore, given that Mr. Calvo has stated that he could be fair and impartial when evaluating the various respondents to this project, there are no facts to demonstrate a potential conflict or appearance of impropriety. *See* INQ 24-41; 23-62, INQ 20-136, INQ 18-230, INQ 18-47, INQ 18-21, INQ 17-286, INQ 16-165.

Additionally, the Ethics Commission has indicated in various informal opinions that, absent some other factor, the mere fact that a selection committee member has interactions with a respondent in connection with the member’s public duties would not create an appearance of a conflict that could affect the public trust in the integrity of the procurement process. *See* INQ 24-93; INQ 22-153; INQ 20-136; and INQ 18-230. The Commission’s opinions note that, in fact, it may be valuable to have an individual on a selection committee who is personally familiar with the work of one or more of the responding firms, particularly where the member also has some special expertise in the services that are being sought by the County. *See id.*

Here, Mr. Thompson’s current involvement with the listed respondents would not create an appearance of impropriety because his interactions are limited to those required through the duties of his public position. *See* INQ 24-04 and INQ 22-153. Moreover, since Mr. Thompson has no close personal relationships with any of the respondent entities and no ownership or other financial interest in the respondents, his interactions would not give rise to any appearance of impropriety related to his service on this Selection Committee. *See* INQ 23-146; INQ 22-147; *cf.* INQ 21-126. Notably, Mr. Thompson has indicated that despite his interactions, he could remain impartial when evaluating the respondents to this solicitation.

Opinion:

Consequently, we see no reason why Mr. Thompson or Mr. Calvo should not serve on this committee because neither has a conflict of interest under the Ethics Code and there does not appear to be any appearance of impropriety created by their service on this committee.

However, the members are reminded that the selection committee on which they will serve operates under the County’s Cone of Silence, Section 2-11.1(t) of the County Ethics Code. The Cone of Silence puts significant restrictions on oral communications made by Commissioners, County staff, selection committee members, and prospective contractors, as well as their lobbyists and consultants, regarding any procurement matter during the time that the Cone is in effect. All

selection committee members will therefore be prohibited under the Code from communicating with any of the responding entities to this solicitation with which they may currently have interactions regarding ongoing projects.

This opinion is limited to the facts as you presented them to the Ethics Commission and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Ethics Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

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