



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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

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### MEMORANDUM

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**TO:** Marie Williams, Selection Committee Coordinator  
Strategic Procurement Department (SPD)  
  
Yaritza Reina, Sr. Executive Secretary  
Office of the Commission Auditor (OCA)

**FROM:** Susannah Nesmith, Staff Attorney  
Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-83, Voting Conflict of Interest § 2-11.1(v); Appearances of  
Impropriety

**DATE:** May 3, 2024

**CC:** All COE Legal Staff; Namita Uppal, SPD; Pearl Bethel, SPD, Natalya Vasilyeva,  
SPD; Yinka Majekodunmi, OCA; Tiondra Wright, OCA

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

Facts:

We have reviewed your memorandum dated April 19, 2024, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Aviation Department (“MDAD”) Request for Proposals for Janitorial Services – Project No. EVN0000201. The memorandum was prepared in connection with Resolution No. 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 two members of the selection committee made disclosures on their Neutrality/Disclosure Forms that merited submission to the Commission on Ethics for an opinion. A third member declined to provide certain requested information because of her exemption to public records laws. Specifically, the memorandum noted the following:

- Daniel Barcia, Parks, Recreation, and Open Spaces Department, disclosed in his Neutrality Affidavit his business relationship with the current proposer, who provides services for parks under his supervision. The name of the proposer was not disclosed.
- Virginia Carrillo, Miami-Dade Aviation Department, disclosed on her Neutrality Affidavit that she manages the janitorial contracts for Miami-Dade Aviation Department (MDAD) zones 1,2,3, &4. As a result of this, she has developed a business relationship with the current three contractors, C&W Facility Services, Inc., N&K Enterprises, Inc. and SFM Services, Inc. C&W Facility Services, Inc., N&K Enterprises, Inc., and SFM Services, Inc. are respondents to this solicitation. Ms. Carrillo also disclosed that she has a positive relationship with the three referenced respondents and enjoys working with them daily. Although the extent of her relationship with them is strictly business-related, she feels somewhat uncomfortable serving as a Committee Member.
- Jenny Deblois, Miami-Dade Aviation Department, disclosed her concerns about identity theft on her Neutrality Affidavit. Because this is a public record, she will not provide the date of birth for her immediate family information.

Daniel Barcia was contacted. He stated that as Chief of Operations for the Department of Parks, Recreation and Open Spaces, he oversees 235 parks. One of the respondents to this solicitation, Clean Spaces, Inc., is a vendor that services five parks he oversees and has recently won a contract to service two more. Barcia said he does not have a personal relationship with the company or anyone who works for it. He also said he has never worked for any of the respondents in this solicitation and none of his immediate family members have ever worked for them. He said he feels he can be fair and impartial when evaluating the respondents to this project.

Virginia Carrillo, a Special Projects Administrator with MDAD, was contacted. She said that she works at the airport with three of the vendors who have responded to the solicitation, C&W Facility Services, Inc., N&K Enterprises, Inc., and SFM Services, Inc. Although she said the relationship with each one is strictly professional and cordial, she said she has developed a particular affinity for one of the vendors, N&K Enterprises, Inc., and that she would feel personally very bad if that company *in particular* were to lose this contract “because I know how hard they have worked.” She said she has no financial interest or relationship with N&K, or any close personal friendship outside of work with any person who works for N&K, or any other respondent to the solicitation. She also said none of her family members have worked for any of the respondents. However, she questioned her own ability to be fair and impartial in this case, mentioning the N&K is a small, family-run business and that she would “feel bad as a human” if the company were to lose this bid. She also said she would attempt to be fair if she were required to serve on the selection committee, but she doubted her own abilities in this instance.

Jenny Deblois, a Division Director and Chief of Staff to the Deputy Director at MDAD, was contacted. She stated that she has no financial interest in any of the respondents or their listed subcontractors and neither do any of her family members; she has never worked for any of the respondents or any of the listed subcontractors and neither have any of her family members; she has no personal relationship with any of the employees of the respondents or their subcontractors

and neither do her family members. She also said she knows of no reason why she could not be fair and impartial as a member of the selection committee in this solicitation.

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 quasi-judicial personnel or advisory personnel shall not 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 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.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, this agency also opines concerning 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* Section 2-1067, Miami-Dade County Code, and 2.1(b) of the COE Rules of Procedure.

None of the three potential selection committee members have an enumerated relationship with any of the respondents to this solicitation. Thus, there is no reason for an automatic disqualification.

In the case of Ms. Deblois, she has not disclosed any information that might lead to a concern about an appearance of impropriety.

In the case of Mr. Barcia, his disclosure of a professional relationship with one of the respondents also does not raise concern about any appearance of impropriety. The Commission on Ethics 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 22-153, INQ 20-136, INQ 18-230, INQ 18-47, INQ 18-21, INQ 17-286, INQ 16-165, INQ 14-279. 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* INQ 22-153, INQ 20-136, INQ 18-230, INQ 18-47, INQ 18-21.

In the case of Ms. Carrillo, her own disclosure that she fears she would favor one respondent because she has such an affinity for that particular vendor would seem to raise a concern about an appearance of impropriety in this situation. Her candor about her sympathies for one respondent in particular and the fact that they go beyond her feelings about other vendors she deals with,

including two other vendors that responded to this solicitation and with whom she said she has cordial relations, is appreciated.

Opinion:

Consequently, we see no reason why Ms. Deblois and Mr. Barcia should not serve on this committee because they do not have any conflicts of interest under the Ethics Code and there does not appear to be any appearance of impropriety created by them serving on this committee. However, based on Ms. Carrillo's sincerely held affinity with one respondent, we recommend that she be excused from serving on this committee.

Mr. Barcia is reminded that the selection committee, on which he will serve as a voting member, 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 Cone from communicating regarding the solicitation with any of the respondents with which they may currently have interactions regarding ongoing projects.

This opinion is limited to the facts as you presented them to the Commission on Ethics 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 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 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 Ethics Commission 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 this is an informal opinion, covered parties who 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.