



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Ana Da Silva, Selection Committee Coordinator
Miami-Dade Strategic Procurement Department

Yaritza Reina, Executive Secretary
Office of the Commission Auditor

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2024-85; Section 2-11.1(v), Voting Conflict of Interest; County Resolution R-449-14, Appearances of Impropriety

DATE: May 6, 2024

CC: All COE Legal Staff; John Wong, Assistant Director, Miami-Dade Department of Solid Waste Management; Ravi Kadambala, Director of Technical Services and Environmental Affairs Division, Miami-Dade Department of Solid Waste Management.

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 April 23, 2024, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Department of Solid Waste Management Request to Advertise for Professional Engineering Services for Department of Solid Waste Management’s South Dade Landfill Cell 4 Closure – Project No. E23SW01. The memorandum was prepared in connection with Resolution Number R-449-14, directing the Office of the Commission Auditor 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 Affidavits/Disclosure Forms that merited submission to the Ethics Commission for an opinion. The memorandum noted that:

- A. John Wong, Department of Solid Waste Management, disclosed on his Neutrality Affidavit his brother's employment with HDR Engineering, Inc. based in Chicago, IL. Mr. Wong's brother is the Vice President of Global Sales. HDR Engineering, Inc. is a respondent to this project. Mr. Wong also disclosed the Department of Solid Waste has current projects with SCS Engineers, Kimberly Horn and Associates, and HDR Engineering, Inc.

We conferred with Mr. Wong. He is the Assistant Director of the Technical Services and Environmental Affairs Division of the Miami-Dade Department of Solid Waste Management ("DSWM"). Mr. Wong confirmed that his brother works as Vice President of Global Sales for HDR Engineering, Inc., ("HDR"), and further clarified that his brother works on HDR projects in the transportation sector, not on projects in the solid waste management sector. As such, Mr. Wong advised that it is his understanding that his brother is not involved in HDR's response to this solicitation. Finally, he acknowledged that his brother likely has some ownership stake in HDR via stocks or stock-options.

Regarding his interactions with SCS Engineers ("SCS"), Kimberly Horn and Associates, and HDR insofar as those companies have current County contracts overseen by DSWM, he stated that he is in the chain of command supervising the project managers whose responsibilities include overseeing those companies' County contracts. He further acknowledged that he sometimes participates in project meetings with his subordinate project managers and those companies.

Finally, Mr. Wong affirmed that he can be fair and impartial when evaluating each of the respondents to this solicitation.

- B. Dr. Ravi Kadambala, Department of Solid Waste Management, disclosed on his Neutrality Affidavit his prior employment with SCS Engineers from November 2014 – June 2019, SCS Engineers is a respondent to this project.

We conferred with Dr. Kadambala. He is the Director of DSWM's Technical Services and Environmental Affairs Division. Dr. Kadambala confirmed that he previously worked for SCS. He stated that he does not have any ownership or other financial interest in SCS. He further stated that he does not have any business, close social, or other personal relationship with any current employee of SCS beyond the cordial relationship shared by past colleagues. Finally, Dr. Kadambala stated that, regardless of his past employment with SCS, he can be fair and impartial when evaluating the respondents to this solicitation.

Discussion:

The Ethics Commission conducts a review of issues arising under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code"), which governs conflicts by members of County advisory and quasi-judicial boards. The Ethics Commission also considers whether the circumstances presented create an appearance of impropriety and makes recommendations based on Resolution No. 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.

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 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* Miami-Dade County Code § 2-1067; Ethics Commission Rules 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).

A. Mr. Wong’s Appointment to the Selection Committee.

In this case, it does not appear that Mr. Wong has a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because he will not be directly affected by the vote, nor does he have any of the enumerated relationships with any entity affected by the vote. *See* INQ 23-01.

However, as noted above, due to the sensitivity of the procurement process, the Ethics Commission also opines concerning whether there may be an appearance of impropriety. *See* Miami-Dade County Code § 2-1067; Ethics Commission Rules of Procedure § 2.1(b). Additionally, no County advisory personnel, which includes members of County selection committees, “shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest.” County Ethics Code § 2-11.1(n). Sibling is included in the definition of “immediate family.” *See* County Ethics Code § 2-11.1(b)(9).

In practice, an Architecture and Engineering Consultant Selection Coordinator for the Miami-Dade Office of Capital Improvements (“OCI”) whose husband worked for a firm that frequently responded to County solicitations issued by the OCI could not serve as the Selection Committee Coordinator on any project where her husband’s employer responded to the solicitation. *See* RQO 11-11. Similarly, an employee of the Miami-Dade Water and Sewer Department whose son worked for a respondent to the solicitation should not serve on a selection committee where his son’s employer is a respondent to the solicitation in order to avoid any appearance of impropriety because of the close familial relationship and, “in all procurement matters, appearances of integrity and fairness are paramount” *See* INQ 18-258; *see also* INQ 22-13 (a member of a County

Selection Committee should not serve on said Selection Committee because his cousin with whom he had a close familial bond held a high-level position with a respondent firm).

Accordingly, in this case, due to the sensitivity of the procurement process and the need to sustain public confidence in it, Mr. Wong should be excused from service on this selection committee because a close familial relation – his brother – is employed by HDR, one of the respondents to this solicitation, as its Vice President of Global Sales, a high-level position in the company. Additionally, while not a controlling financial interest, in addition to being employed in a high-level position by HDR, Mr. Wong’s brother also has a financial stake in the company through his ownership of stocks or stock options. *See* RQO 11-11; INQ 22-13; INQ 18-258.

B. Dr. Kadambala’s Appointment to the Selection Committee as an Alternate.

In this case, it does not appear that Dr. Kadambala has a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because he will not be directly affected by the vote, nor does he have any of the enumerated relationships with any entity affected by the vote. *See* INQ 23-01.

Additionally, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, which bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, would not apply to Dr. Kadambala since he stopped working for SCS approximately five years ago. *See* RQO 17-04; RQO 10-05; INQ 20-136.

Furthermore, as noted above, due to the sensitivity of the procurement process, the Ethics Commission also opines concerning whether there may be an appearance of impropriety. *See* Miami-Dade County Code § 2-1067; Ethics Commission Rules of Procedure § 2.1(b). Here, as noted above, Dr. Kadambala was previously employed by SCS, which is a respondent to this solicitation. As Dr. Kadambala’s employment with SCS ended approximately five years ago and he does not have any business or close social relationship with any current employee of the company, it does not appear that Dr. Kadambala’s prior employment with SCS would create an appearance of impropriety or in any way detract from the County’s conducting a fair and objective evaluation for this project. *See* INQ 24-08 (finding that past employment with a respondent to a solicitation where there are no longer any financial or close personal ties to the respondent does not give rise to a prohibited conflict of interest or appearance of impropriety that would prevent service on the selection committee).

Accordingly, there does not appear to be any voting conflict or appearance of impropriety that would in any way detract from Dr. Kadambala’s ability to conduct a fair and objective evaluation of this solicitation.

Opinion:

Accordingly, consistent with our holdings in prior ethics opinions, **we recommend that the Miami-Dade Strategic Procurement Department excuse Mr. Wong from service on this Selection Committee** because his service on the Selection Committee could give rise to an

appearance of impropriety due to his brother's employment in a high-level position with, and holding a financial interest in, one of the respondents to the solicitation – HDR Engineering, Inc. *See* RQO 11-11; INQ 22-13; INQ 18-258. **We emphasize that there has been no issue raised concerning Mr. Wong's personal integrity, with his candor and honesty in this matter appreciated.**

Furthermore, we conclude that **Dr. Kadambala does not have a conflict of interest under the County Ethics Code** that would prevent him from serving on this Selection Committee because he will not be directly affected by the vote, he does not have any enumerated relationship with an entity affected by the vote, and his service on the Selection Committee would not otherwise give rise to an appearance of impropriety. *See* INQ 24-08; INQ 23-01.

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 an interpretation of the County Ethics Code only and is not intended to interpret state laws. 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/>

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 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.