



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Coleen Christie, 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 2024-87, Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety

DATE: May 13, 2024

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

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 24, 2024, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Fire Rescue Department Request for Proposals for Medical Transportation Services – RFP No. EVN0006904. 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 members of the selection committee made disclosures on their Neutrality/Disclosure Form that merited submission to the Commission on Ethics for an opinion. Specifically, the memorandum noted the following:

- Shanti Hall, Miami-Dade Fire Rescue Department disclosed on her Neutrality Affidavit that she will be claiming F.S. 119.071 exemption.

- Miguel Yanes, Miami-Dade Fire rescue Department disclosed on his Neutrality Affidavit that he will be claiming F.S. 119.071 exemption.

Chief Hall was contacted for further inquiry. She indicated that neither she nor any of her immediate family members have any financial interest in any of the listed respondents or subcontractors. She and her family members are also not employed by any of the respondents or listed subcontractors and she and her family members do not have any personal relationships with them. Additionally, she said she was not aware of any reason the proposed procurement would affect her differently from any other County resident. She stated she knew of no reason why she could not be fair and impartial judging the bids this selection committee will review.

Chief Yanes was also contacted for further inquiry. Specifically, he indicated that neither he nor any of family members have any financial interest in any of the listed respondents or subcontractors. He and his family members are also not employed by any of the respondents or listed subcontractors and he and his family members do not have any personal relationships with them. Additionally, he said he was not aware of any reason the proposed procurement would affect him differently from any other County resident. He stated he knew of no reason why he could not be fair and impartial judging the bids this selection committee will review.

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.

Neither of the potential selection committee members have an enumerated relationship with any of the respondents to this solicitation. Therefore, given the fact that both Chief Hall and Chief Yanes have stated that they 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 23-62, INQ 20-136, INQ 18-230, INQ 18-47, INQ 18-21, INQ 17-286, INQ 16-165, and INQ 14-279.

Additionally, Coleen Christie, the Selection Committee Coordinator addressed above confirmed that this procurement is for a medical transportation service that will operate county-wide and will not affect any specific property in Miami-Dade County differently than other properties in the County.

Opinion:

Consequently, we see no reason why Chief Hall and Chief Yanes 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.

They are reminded that the selection committee, on which they 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.

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.