



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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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  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-98, Voting Conflict of Interest § 2-11.1(v); Appearances of  
Impropriety

**DATE:** May 28, 2024

**CC:** All COE Legal Staff; Namita Uppal, SPD; Yinka Majekodunmi, OCA; Pearl  
Bethel, SPD; Natalya Vasileyeva, SPD; Tiondra Wright, OCA; Jannesha  
Johnson, 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 29, 2024, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade Aviation Department Request for Transportation Screening Equipment and Services – Project No. EVN0000402. 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:

- John Pokryfke, Broward County Aviation Department, disclosed on his resume his employment with Broward County Aviation Department. Broward County Aviation is not a respondent to this request.
- Carolina de la Horra, TGA Consulting LLC, disclosed on her resume that she is the Principal for TGA Consulting Firm. TGA Consulting LLC is currently the consultant for various projects for the Miami-Dade Aviation Department. TGA Consulting LLC is not a respondent to this request.

Mr. Pokryfke was contacted for further inquiry. He indicated that neither he nor any of his immediate 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 does not have any personal relationship with them. Additionally, he stated he knew of no reason why he could not be fair and impartial judging the bids this selection committee will review.

Ms. De la Horra was also contacted for further inquiry. She is a consultant to the Miami-Dade Aviation Department and technical adviser to the selection committee. She indicated that she participated in discussions with Analogic, one of the respondents, regarding the scope of the solicitation. **We have learned that the solicitation is for equipment that has been approved by the Transportation Security Administration, but is not limited to vendors approved by the agency.** Ms. De la Horra indicated that neither she nor any of her 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 not does have any personal relationship with them. Additionally, she said she knew of no reason why she could not be fair and impartial in advising this selection committee.

#### 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.

It does not appear that either of the proposed selection committee members have a voting conflict of interest under Section (v) of the County Ethics Code because neither of them will be directly affected by the vote, nor do they have any of the enumerated relationships with any entity affected by the vote.

Mr. Pokryfke and Ms. De la Horra both indicated they have no relationship with any respondent to this solicitation. Therefore, given the fact that Mr. Pokryfke indicated he could be fair and impartial when evaluating the various respondents to this project, and Ms. De la Horra indicated she could be fair in advising the committee, there are no facts to demonstrate a potential conflict or appearance of impropriety for either of them. *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.

Opinion:

Consequently, we see no reason why Mr. Pokryfke and Ms. De la Horra 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.

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.