



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Franklin Gutierrez, A/E Consultant Selection Coordinator
Miami-Dade Strategic Procurement Department

Yaritza Reina, Executive Secretary
Office of the Commission Auditor

FROM: Nolen Andrew Bunker, Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2025-14, Voting Conflict of Interest § 2-11.1(v); County Resolution R-449-14, Appearances of Impropriety

DATE: February 11, 2025

CC: All COE Legal Staff; Joachim Perez, Construction Manager 3, Miami-Dade Aviation Department (“MDAD”); Jorge Perez, Senior Registered Architect, Miami-Dade Water and Sewer Department; Judy Santos, Architect 2, MDAD; Stefania Barigelli, Cultural Affairs Construction Project Manager, Miami-Dade Department of Cultural Affairs; Vivian Alfonso, Architect 3, Miami-Dade Seaport Department; Ahmed Rasheed, Senior Professional Engineer, Miami-Dade Department of Transportation and Public Works

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 January 21, 2025, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Aviation Department Request to Advertise for Facilities Design and Construction Inspection Services – Project No. A24AV01. The memorandum was prepared pursuant to 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 four members and two alternate 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. Joachim Perez, Miami-Dade Aviation Department, disclosed on his Neutrality Affidavit that while employed at Miami-Dade Aviation Department, he has worked alongside several of the respondents. He stated that the relationship between himself and the listed firms has been between owner representatives, himself as the project manager for MDAD, and consultants/subconsultants. R. Perez also disclosed that he has not directly worked for any of the firms listed, nor has any of them employed him. The listed firms are M.C Harry and Associates, Inc., Laura Llerena & Associates, Inc., Mobio Architecture, Inc., Gartek Engineering Corporation, Introba, Inc., Hammond & Associates, Inc., Alleguez Architecture, Inc., Fraga Engineers, LLC, Vic Thompson Company, Bermello Ajamil & Partners, LLC, TY Lin International, Nifah & Partners Consulting Engineers, Woolpert Inc. and Eastern Engineering Corporation. All the above firms are respondents to this solicitation.

We conferred with Mr. Joachim Perez. He works as a Construction Manager 3 for the Miami-Dade Aviation Department (“MDAD”). He stated that all of the interactions detailed in his Neutrality Affidavit, and described above, with respondents to this solicitation were in his capacity as an MDAD employee. Mr. Joachim Perez clarified that he has not done business with any of the respondents to this solicitation outside of his responsibilities as a County employee. He further clarified that he does not have any personal, financial, or other relationship with any owner or employee of the respondents to this solicitation. Finally, Mr. Joachim Perez stated that, regardless of his past professional interactions with any of the above-referenced respondents to this solicitation, he can be fair and impartial when evaluating the respondents to this solicitation.

- B. Jorge Perez, Water and Sewer Department, disclosed on his Neutrality Affidavit that as a Project Manager for WASD, he has been conducting technical reviews of projects developed by the following proposers: Wolfgang Alvarez & Partners, Jacobs Engineering, Inc., and Bermello Ajamil & Partners, LLC. The above firms are respondents to this solicitation.

We conferred with Mr. Jorge Perez. He works as a Senior Registered Architect for the Miami-Dade Water and Sewer Department (“WASD”). He stated that all of the interactions detailed in his Neutrality Affidavit, and described above, with respondents to this solicitation were in his capacity as a WASD employee. Mr. Jorge Perez clarified that he has not done business with any of the respondents to this solicitation outside of his responsibilities as a County employee. He further clarified that he does not have any personal, financial, or other relationship with any owner or employee of the respondents to this solicitation. Finally, Mr. Jorge Perez stated that, regardless of his past professional interactions with any of the above-reference respondents to this solicitation, he can be fair and impartial when evaluating the respondents to this solicitation.

- C. Judy Santos, Miami-Dade Aviation Department, disclosed on her Neutrality Affidavit that M.C. Harry and Associates, Inc. is an MDAD consultant on the Airport Wayfinding & Signage Design Service ISD Project No. A16-MDAD-04. M.C. Harry and Associates, Inc. is a respondent to this solicitation.

We conferred with Ms. Santos. She works as an Architect 2 for MDAD. She stated that, in that position, she has interacted with M.C. Harry and Associates, Inc., when they were consultants working on the above-named County project. She clarified that all of the interactions with M.C. Harry and Associates, Inc., were in her capacity as an MDAD employee and that she has not done business with any of the respondents to this solicitation outside of her responsibilities as a County employee. She added that she does not have any personal, financial, or other relationship with any owner or employee of M.C. Harry and Associates, Inc. Finally, Ms. Santos stated that, regardless of her past professional interactions with M.C. Harry and Associates, Inc., she can be fair and impartial when evaluating the respondents to this solicitation.

- D. Stefania Barigelli, Department of Cultural Affairs, disclosed on her Neutrality Affidavit that EAC Consulting, Inc., DDA Engineers PA, Nova Consulting, Inc., Eastern Engineering Group Company, Praga Engineers, LLC, and FOHZyscovich, LLC are currently working on a few of their Capital Projects. All the firms listed are respondents to this solicitation.

We conferred with Ms. Barigelli. She works as a Cultural Affairs Construction Project Manager for the Miami-Dade Department of Cultural Affairs. She stated that, in that position, she has interacted with the above-named respondents to this solicitation. She clarified that her interactions with these respondents were only in her capacity as a Cultural Affairs employee. Ms. Barigelli further clarified that she has not done business with any of the respondents to this solicitation outside of her responsibilities as a County employee. She added that she does not have any personal, financial, or other relationship with any owner or employee of the respondents to this solicitation. Finally, Ms. Barigelli stated that, regardless of her past or current professional interactions with the respondents to this solicitation discussed above, she can be fair and impartial when evaluating the respondents to this solicitation.

- E. Vivian Alfonso, Seaport Department, disclosed on her Neutrality Affidavit that she is assigned to Team 13, and the firm is Bermello Ajamil and Partners, LLC. The business relationship with the firm is as an owner's representative in her role as an employee of the Miami-Dade County Seaport Department. Bermello Ajamil and Partners LLC is a respondent to this solicitation.

We conferred with Ms. Alfonso. She works as an Architect 3 for the Miami-Dade Seaport Department ("PortMiami"). She stated that, in that position, she has interacted with Bermello Ajamil, and Partners, LLC, when they were consultants working on a County project. She clarified that all of the interactions with Bermello Ajamil, were in her capacity as a PortMiami employee. Ms. Alfonso further clarified that she has not done business with any of the respondents to this solicitation outside of her responsibilities as a County employee. She added that she does not have any personal, financial, or other relationship with any owner or employee of Bermello Ajamil.

Finally, Ms. Alfonso stated that, regardless of her past professional interactions with Bermello Ajamil, she can be fair and impartial when evaluating the respondents to this solicitation.

- F. Ahmed Rasheed, Department of Transportation and Public Works, disclosed on his Neutrality Affidavit that he would be claiming F.S. 119.071 exemption.

We conferred with Mr. Rasheed. He works as a Senior Professional Engineer for the Miami-Dade Department of Transportation and Public Works. He stated that he did not withhold any information from his Neutrality Affidavit pursuant to any exemption under Florida's public records laws and that he mistakenly checked the box on the form that indicated an exemption. Mr. Rasheed added that he does not have any personal, financial, or other relationship with any owner or employee of any respondent to this solicitation. Finally, Mr. Rasheed stated that 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 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).

Additionally, absent some other factor, the mere fact that a selection committee member has interactions with a respondent in connection with the member's County duties would not create an

appearance of impropriety that could affect the public trust in the integrity of the procurement process. *See* INQ 23-01; INQ 22-147; INQ 20-136; INQ 18-230. In fact, it may be valuable to have an individual on the 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 22-147; INQ 18-230; INQ 18-21.

A. Mr. Joachim Perez's Appointment to the Selection Committee.

In this case, it appears that Mr. Joachim Perez does not have 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 22-37.

Further, as noted above, due to the sensitivity of the procurement process, the Ethics Commission 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, because Mr. Joachim Perez does not have any personal or financial relationship with any owner or employee of the respondents to this solicitation, and because his past interactions with some of the respondents have been in his capacity as a County employee, those interactions he has had would not give rise to any appearance of impropriety related to his service on this Selection Committee. *See* INQ 23-01; INQ 22-147.

B. Mr. Jorge Perez's Appointment to the Selection Committee.

In this case, it appears that Mr. Jorge Perez does not have 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 22-37.

Further, as noted above, due to the sensitivity of the procurement process, the Ethics Commission 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, because Mr. Jorge Perez does not have any personal or financial relationship with any owner or employee of the respondents to this solicitation, and because those interactions he has had with some of the respondents have been in his capacity as a County employee, his interactions would not give rise to any appearance of impropriety related to his service on this Selection Committee. *See* INQ 23-01; INQ 22-147.

C. Ms. Santos' Appointment to the Selection Committee as an Alternate.

In this case, it appears that Ms. Santos, if called upon to serve on this Selection Committee as an alternate, does not have a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because she will not be directly affected by the vote, nor does she have any of the enumerated relationships with any entity affected by the vote. *See* INQ 22-37.

Further, as noted above, due to the sensitivity of the procurement process, the Ethics Commission 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, because Ms. Santos does

not have any personal or financial relationship with any owner or employee of M.C. Harry and Associates, Inc., or any of the other respondents to this solicitation, and because her interactions with M.C. Harry and Associates, Inc., have been in her capacity as a County employee, her interactions would not give rise to any appearance of impropriety related to her potential service on this Selection Committee. *See* INQ 23-01; INQ 22-147.

D. Ms. Barigelli's Appointment to the Selection Committee.

In this case, it appears that Ms. Barigelli does not have a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because she will not be directly affected by the vote, nor does she have any of the enumerated relationships with any entity affected by the vote. *See* INQ 22-37.

Further, as noted above, due to the sensitivity of the procurement process, the Ethics Commission 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, because Ms. Barigelli does not have any personal or financial relationship with any owner or employee of the respondents to this solicitation, and because those interactions he has had with some of the respondents have been in her capacity as a County employee, her interactions would not give rise to any appearance of impropriety related to her service on this Selection Committee. *See* INQ 23-01; INQ 22-147.

E. Ms. Alfonso's Appointment to the Selection Committee.

In this case, it appears that Ms. Alfonso does not have a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because she will not be directly affected by the vote, nor does she have any of the enumerated relationships with any entity affected by the vote. *See* INQ 22-37.

Further, as noted above, due to the sensitivity of the procurement process, the Ethics Commission 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, because Ms. Alfonso does not have any personal or financial relationship with any owner or employee of Bermello Ajamil, or any of the other respondents to this solicitation, and because her interactions with Bermello Ajamil have been in her capacity as a County employee, her interactions would not give rise to any appearance of impropriety related to her service on this Selection Committee. *See* INQ 23-01; INQ 22-147.

F. Mr. Rasheed's Appointment to the Selection Committee as an Alternate.

In this case, it appears that Mr. Rasheed does not have 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 22-37.

Further, as noted above, due to the sensitivity of the procurement process, the Ethics Commission 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, because Mr. Rasheed fully completed his Neutrality Affidavit and does not have any personal or financial relationship with any owner or employee of any of the Respondents to this solicitation, he does not have any prohibited appearance of impropriety related to his potential service on this Selection Committee. *See* INQ 24-172 (finding no conflict of interest or appearance of impropriety where an exemption under Chapter 119, Florida Statutes, is mistakenly claimed by a selection committee member); INQ 24-163 (same).

Opinion:

Accordingly, consistent with our recommendations in prior ethics opinions, **Mr. Joachim Perez, Mr. Jorge Perez, Ms. Santos, Ms. Barigelli, Ms. Alfonso, and Mr. Rasheed do not have a conflict of interest under the County Ethics Code** that would prevent any of them from serving on this Selection Committee because they will not be directly affected by the vote, they do not have any enumerated relationships with an entity affected by the vote, and their service on the Selection Committee would not otherwise give rise to an appearance of impropriety for the reasons discussed above. *See* INQ 24-172; INQ 23-01; INQ 22-37.

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 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.