



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Franklin Gutierrez, Selection Committee Coordinator  
Strategic Procurement Department (SPD)

Yaritza Reina, Sr. Executive Secretary  
Office of the Commission Auditor (OCA)

**FROM:** Loressa Felix, General Counsel  
Commission on Ethics and Public Trust

**SUBJECT:** INQ 2025-23 **AMENDED**, Voting Conflict of Interest § 2-11.1(v); Appearances of Impropriety

**DATE:** March 21, 2025

**CC:** All COE Legal Staff; Namita Uppal, SPD; Yinka Majekodunmi OCA; Jannesha Johnson, OCA; Billie Jo McCarley, WASD; Juan Curiel, WASD; Zahkia Allen, WASD; Ernesto Beltre, MDAD; Francis Barbeito, WASD

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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 January 28, 2025, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade Water and Sewer Department Request to Advertise for Engineering Services for Capacity Management, Operation, and Maintenance Services Related to the Consent Decree Projects – Project No. E24WS03 (Substitution). 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 Forms that merited submission to the Commission on Ethics for an opinion. Specifically, the memorandum noted the following:

- Billie Jo McCarley, Water and Sewer Department, disclosed on her Neutrality Affidavit, as an employee of Miami-Dade County's Water and Sewer Department, she has worked with all the consultants listed and has developed a professional relationship with them.
- Juan Curiel, Water and Sewer Department, disclosed on his Neutrality Affidavit that he had been previously employed by Nova Consulting, Inc., from June 2014 through January 2018. Mr. Curiel restated his employment and added that he has worked closely with other respondents to this solicitation. Nova Consulting, Inc. is a respondent to this solicitation.
- Zahkia Allen, Water and Sewer Department, disclosed on her Neutrality Affidavit that she was previously employed by Woolpert, Inc. from October 6, 2011, through August 16, 2013. Woolpert, Inc. is a respondent to this solicitation.
- Ernesto Beltre, Miami-Dade Aviation Department, disclosed on his Neutrality Affidavit that his spouse is an Ardurra Group, Inc. employee from December 6, 2021, through the Present. Ardurra Group, Inc. is a respondent to this solicitation.
- Francis Barbeito, Water and Sewer Department, disclosed on her Neutrality Affidavit that her spouse had been employed by 300 Engineering Group, LLC from 2014 through 2017. 300 Engineering Group, LLC is a respondent to this solicitation.

We conferred with Ms. McCarley. She is the Deputy Director of Operations for Miami-Dade Water and Sewer Department (WASD). She has been employed with WASD since April 2023. Ms. McCarley advised that she previously worked as the Director of Construction for the Knoxville Utilities Board (KUB). However, Ms. McCarley has clarified that KUB is not a respondent to this solicitation. She further advised that she has no current ownership interest or other financial interest in any of the respondents to this solicitation. She also does not have any business, close social, or other relationship with any in any of the respondents to this solicitation. Ms. McCarley did note that in her County role she is currently managing a project involving Woolpert, a respondent to this solicitation, but does not believe that her supervision of this project will impact her ability to be fair and impartial.

We conferred with Mr. Curiel. He is the Assistant Director of Utility Construction for WASD. He has been employed with WASD for about six years. Mr. Curiel also noted that he is currently managing and has managed projects in his County role which involved several respondents of this solicitation, but does not believe that his supervision of these projects will impact his ability to be fair and impartial. He confirmed that he previously worked for NOVA Consulting, Inc. (NOVA), a respondent to this solicitation, as an Engineer. Mr. Curiel worked for NOVA from June 2014 until January 2018. He indicated that the termination of his employment with NOVA was amicable. Mr. Curiel has no current ownership interest or other financial interest in the company. Mr. Curiel mentioned that he still has a retirement account from when he worked with NOVA, but it is managed by an outside company. He also does not have any business, close social, or other relationship with any current employee at the company. He indicated that he believes he can be fair and impartial when evaluating the respondents to this project.

We conferred with Ms. Allen. She is the EAMS Division Manager for WASD. She has held her current role since 2021 and has worked for WASD since 2013. Ms. Allen advised that she previously worked as a subconsultant for WoolPert, a respondent to this solicitation. She worked for WoolPert from October 6, 2011 until August 16, 2013. She indicated that the termination of her employment with WoolPert was amicable. She has no current ownership interest or other financial interest in the company. She also does not have any business, close social, or other relationship with any current employee at the company. She indicated that she believes she can be fair and impartial when evaluating the respondents to this project.

We also conferred with Mr. Beltre. He is the Division Director 3 for the Miami-Dade Aviation Department (MDAD). He has been employed with MDAD for over seventeen years. He advised that his spouse is currently employed by Ardurra, a respondent to this solicitation, and currently holds the position of Chief Project Development Engineer. Mr. Beltre noted that he has no current ownership interest or other financial interest in any of the respondents to this solicitation. However, he noted that his wife has a financial interest in Ardurra. Mr. Beltre has no business, close social, or other relationship with any current employee of the respondents to this solicitation. Mr. Beltre believes he can be fair and impartial when evaluating the respondents to this project.

Lastly, we also conferred with Ms. Barbeito. She is the Pump Station Compliance Section Chief for WASD. She has been employed with WASD since 1995. She advised that she had not been previously employed by any of the respondents to this solicitation nor did she or any of her immediate family members have any relationship with any respondent to the solicitation. However, Ms. Barbeito indicated that she does maintain a personal or business relationship with an employee of 300 Engineering, a respondent to this solicitation, and she believed that her personal friendship or business relationship would affect how she evaluated the various respondents of 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 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.

It does not appear that any of the proposed selection committee members have a voting conflict of interest under Section (v) of the County Ethics Code because none 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.

Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, 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. This section would not apply to Mr. Curiel or Ms. Allen since he stopped working for NOVA seven years ago, and she stopped working for WoolPert twelve years ago. *See* INQ 24-41, INQ 22-39, INQ 20-136, INQ 18-229, and INQ 17-183.

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.

Mr. Curiel and Ms. McCarley indicated some level of current or past involvement with respondents of this solicitation due to their County positions. The Ethics Commission 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 14-279, INQ 16-165, INQ 17-286, INQ 18-21, INQ 18-47, INQ 18-230, INQ 20-136, and INQ 22-153. 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 18-21, INQ 18-47, INQ 18-230, INQ 20-136, and INQ 22-153. Thus, interactions with a respondent by Ms. McCarley or Mr. Curiel in their County roles would not prohibit their evaluation of the respondents to this solicitation. *See* INQ 24-04 and INQ 22-153.

Additionally, as noted above, Ms. Allen and Mr. Curiel disclosed previous employment for respondents to this solicitation. As Ms. Allen's employment at WoolPert ended over twelve years ago and Mr. Curiel's employment at NOVA seven years ago, both on an amicable basis, and neither have any close business or close social relationship with current employees at the entity, it is our opinion that Ms. Allen and Mr. Curiel's prior employment with respondents of this solicitation would not 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 20-73, INQ 18-202, INQ 17-69, INQ 20-136, INQ 22-39, and INQ 23-76.

However, Ms. Barbeito expressed concern regarding her impartiality due to a close personal and/or professional relationship with an employee of 300 Engineering, a respondent to this solicitation. Therefore, it is recommended that Ms. Barbeito be excused from service as a selection committee member. *See* INQ 22-87 (Selection committee member had no voting conflict but expressed apprehension and concern regarding his impartiality concerning a respondent to the solicitation and the Ethics Commission recommended that the member be excused from service); *see also* INQ 24-93, INQ 24-42, and INQ 19-03.

Mr. Beltre indicated that his spouse is currently employed by Ardurra, a respondent to this solicitation and has a financial interest in the company. In prior informal opinions, the COE has recommended that a County employee should not serve on a selection committee, even though not specifically prohibited by the County Ethics Code, when there is a close personal relationship between the County employee and an individual that has either a) an ownership interest in one of the responding firms, or b) a managerial position in one of the responding firms and involvement in the project. *See* INQ 22-52; *see also* INQ 24-99; INQ 21-29, and INQ 17-131.

Lastly, Mr. Curiel noted that he held a retirement account from his prior employer which is managed by an outside company. The COE has previously held that as long as the selection committee member received no financial or special benefit as a result of his or her service on the committee through accounts held with a respondent, his or she was not barred from serving on the committee. *See* INQ 21-61 (members of the selection committee for an Affordable Housing Trust Fund Board Request for Proposals, could serve on the selection committee even though they had accounts with the sole respondent to the solicitation, because they will receive no financial benefit through this solicitation and no special benefit will come to them as a result of their service on this committee); *see also* INQ 17-193 (the disclosures made by the three selection committee members regarding having accounts with DCFCU, a respondent to the solicitation, did not create a conflict under the Ethics Code. The three selection committee members had no ownership interest in DCFCU; they are not currently seeking any type of loan, forbearance, or financial benefit from DCFCU; and they do not have any business, or close social relationship with current employees at the entity). Here, the retirement account in question is not held with the respondent, but with an outside entity and was only acquired while Mr. Curiel worked for NOVA. Thus, Mr. Curiel will receive no financial or special benefit as a result of his service on this committee.

#### Opinion:

Consequently, consistent with the COE's holding in prior ethics opinions, we see no reason why Mr. Curiel, Ms. Allen, and Ms. McCarley should not serve on this committee because they have no conflict of interest under the Ethics Code and there does not appear to be any appearance of impropriety created by their service on this committee.

However, it is recommended that Ms. Barbeito be excused from her service as a selection committee member due to her concern regarding her impartiality. Lastly, it is recommended that Mr. Beltre also be excused from his service as a selection committee member due to his spouse's financial interest in a respondent to the solicitation.

However, members are reminded that the selection committee, for which they will serve, 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 with any of the responding entities to this solicitation 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.

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*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.*