



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Ana DaSilva, 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 2025-26, Voting Conflict of Interest § 2-11.1(v); County Resolution
R-449-14, Appearances of Impropriety

DATE: March 25, 2025

CC: All COE Legal Staff; Kierre Hodges, Architect 2, Miami-Dade Aviation
Department; Malka Rodriguez, Construction Manager 3, Miami-Dade Public
Library System

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 February 25, 2025, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Parks, Recreation and Open Spaces Department Request to advertise for Professional Services for the Ludlam Trail Development – Project No. A23PR03. 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 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. Kierre Hodges, Miami-Dade Aviation Department, disclosed on his Neutrality Affidavit that he had used T.Y. LIN International for Aviation Planning studies at

Miami-Dade Aviation Department. T.Y. LIN International is a sub-consultant for this solicitation.

We conferred with Mr. Hodges. He works as an Architect 2 for the Miami-Dade Aviation Department (“MDAD”). He stated that, in his MDAD position as part of the Aviation Planning section of MDAD, he has interacted with T.Y. LIN International because it was hired as a consultant on various MDAD projects. He clarified that all of his interactions with T.Y. LIN International have been in his capacity as an MDAD employee and that he has not done business with T.Y. LIN International 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 T.Y. LIN International. Finally, Mr. Hodges stated that, regardless of his past professional interactions with T.Y. LIN International, he can be fair and impartial when evaluating the respondents to this solicitation.

- B. Malka Rodriguez, Miami-Dade Public Library Systems, disclosed on her Neutrality Affidavit that she has had previous business relationships with several sub-consultants on other Miami-Dade County projects. However, the projects were of varying types, such as transportation. Ms. Rodriguez did not list the names of those sub-consultants.

We conferred with Ms. Rodriguez. She works as a Construction Manager 3 for the Miami-Dade Public Library System (“MDPLS”). She stated that, in that position, she has interacted with the following companies on County projects: CHA Consulting, Media Relations Group, Nova Consulting, Geosol, Marlin Engineering, WSP, Kimley-Horn, Curtis & Rodgers, and Stantec. She clarified that she has not done any business with any of the above-listed companies or any of the respondents to this solicitation outside of her responsibilities as an MDPLS employee. She added that she does not have any personal, financial, or other relationship with any owner or employee of the above-listed companies or any of the respondents to this solicitation. Finally, Ms. Rodriguez stated that, regardless of her past professional interactions with these companies or any of the respondents to this solicitation, she 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. Hodges’ Appointment to the Selection Committee.

In this case, it appears that Mr. Hodges 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, 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. Hodges does not have any personal or financial relationship with any owner or employee of T.Y. LIN International, or any of the other respondents to this solicitation, and because his interactions with T.Y. LIN International 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.

B. Ms. Rodriguez’s Appointment to the Selection Committee.

In this case, it appears that Ms. Rodriguez 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. Rodriguez does not have any personal or financial relationship with any owner or employee of the respondents to this solicitation, and because those interactions she 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.

Opinion:

Accordingly, consistent with our recommendations in prior ethics opinions, **Mr. Hodges and Ms. Rodriguez do not have a conflict of interest under the County Ethics Code** that would prevent either 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 23-01; INQ 22-37.

However, both Mr. Hodges and Ms. Rodriguez are reminded that the Selection Committee on which they serve operates under the County's Cone of Silence, codified in Section 2-11.1(t) of the County Ethics Code. The Cone of Silence puts significant restrictions on oral communications made by and to County Commissioners, County staff, Selection Committee Members, and prospective contractors, as well as lobbyists and consultants, regarding any procurement matter during the time that the Cone of Silence is in effect. **Thus, Mr. Hodges and Ms. Rodriguez are prohibited from communicating about this solicitation/project with any of the respondents to this solicitation/project, including those with whom they interact as part of their respective County duties.** *See* INQ 22-147.

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.