



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Jorge Vital, Selection Committee Coordinator
Strategic Procurement Department (SPD)

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

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

SUBJECT: INQ 2025-38, Voting Conflict of Interest § 2-11.1(v); Appearances of Impropriety

DATE: April 21, 2025

CC: All COE Legal Staff; Reyes, Francela (SPD); DaSilva, Ana (SPD); Uppal, Namita (SPD); Yinka Majekodunmi (OCA); Jannesha Johnson (OCA); Curiel, Juan (WASD)

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 2, 2025, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Water and Sewer Department Request to Advertise for Hydrogeologic, Hydrologic, and Engineering Services for Comprehensive Water Resources Projects including Injection, Production, Monitoring Wells and Aquifer Storage and Recovery Wells – Project No. E24SW05. 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 a member of the selection committee made disclosures on his Neutrality/Disclosure Form that merited submission to the Commission on Ethics for an opinion. Specifically, the memorandum noted the following:

- Juan Curiel, Water and Sewer Department, disclosed on his Neutrality Affidavit that he was employed by NOVA Consulting, Inc., between June 2014 and January 2018. NOVA

Consulting Inc. is a respondent to this solicitation. Mr. Curiel also stated that he had worked very closely with other firms; however, the names of those firms were not mentioned in his Neutrality Affidavit.

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.

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 Mr. Curiel would have a voting conflict of interest under Section (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.

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 since he stopped working for NOVA seven 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.

Ms. Curiel indicated some level of current or past involvement with various respondents of this solicitation due to his County position. 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, even if Mr. Curiel had some interaction with a respondent in his County role, he would not be prohibited from evaluating the respondents to this solicitation. *See* INQ 24-04 and INQ 22-153.

Additionally, as noted above, Mr. Curiel disclosed previous employment for a respondent to this solicitation. As Mr. Curiel's employment at NOVA was even years ago, on an amicable basis, and he has no close business or close social relationship with current employees at the entity, it is our opinion that 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.

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, we see no reason why Mr. Curiel should not serve on this committee. He has no conflict of interest under the County Ethics Code, or grounds to assert an appearance of impropriety created by his service on this committee.

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.

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 these are informal opinions, covered parties that 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.