



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Brian Spradley, 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 2025-44, Voting Conflict of Interest § 2-11.1(v); Appearances of Impropriety

DATE: May 6, 2025

CC: All COE Legal Staff; Jimenez, Manuel (SPD); Uppal, Namita (SPD); Yinka Majekodunmi (OCA); Jannesha Johnson (OCA); Barcia, Daniel (PROS); Laney, Angus (PROS)

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 25, 2025, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Parks. Recreation and Open Spaces Department Request for Proposals for Collection, Removal, and Disposal of Sargassum and Optional Beneficial Use Services - Project No. EVN0015954. 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:

- Daniel Barcia, Parks, Recreation, and Open Spaces Department, disclosed on his Neutrality Affidavit that he has served on a previous Selection Committee where SFM Services was a proposer. SFM Services, Inc. is a respondent to this solicitation.
- Angus Laney, Parks, Recreation, and Open Spaces Department, disclosed on his Neutrality Affidavit that Beach Raker, LLC is the current supplier of these services to Miami-Dade County under the expiring contract. Mr. Laney is an INFORMS Accounts Payable approver for PROS and has approved payments for SFM Services, Inc. SFM Services, Inc. is a respondent to this solicitation.

We conferred with Mr. Barcia. He is the Chief of Operations for Miami-Dade County Parks, Recreation, and Open Spaces Department (PROS). He has been employed with PROS for twenty-five (25) years. Mr. Barcia indicated in his Neutrality Affidavit that he previously served on a selection committee where SFM Services, Inc., a respondent to this solicitation, was a proposer. Upon further inquiry, Mr. Barcia indicated that he had not been previously employed by any of the respondents to this solicitation, nor did he or any of his immediate family members have any relationship with any respondent to the solicitation. He also has no financial interest in any of the respondents. Furthermore, he has no business or close social relationship with current employees at any respondent entity, which would affect his evaluation of the various respondents to this project. Mr. Barcia believes that he can be fair and impartial when evaluating the various respondents to this project.

We conferred with Mr. Laney. He is the Budget Chief for PROS. He has been employed with the County for twenty-one (21) years with Miami-Dade County, nineteen (19) years with PROS, and eight (8) years in his present position. Mr. Laney indicated in his Neutrality Affidavit that Beach Raker, LLC, a respondent to this solicitation, is the current supplier of the requested services to Miami-Dade County under the expiring contract. Due to his position with the County, he is as an INFORMS accounts payable supervisor approver for PROS and must approve invoice payments as needed. Mr. Laney was unaware of SFM Services, Inc. as a current County servicer, and believing this notation to be an error within the memorandum. Additionally, Mr. Laney indicated that he had not been previously employed by any of the respondents to this solicitation nor did he or any of his immediate family members have any relationship with any respondent to the solicitation. He has no financial interest in any of the respondents. Furthermore, he has no business or close social relationship with current employees at any respondent entity, which would affect his evaluation of the various respondents to this project. Mr. Laney believes that he can be fair and impartial when evaluating the various 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 an appearance of impropriety has been 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 either member would have a voting conflict of interest under Section (v) of the County Ethics Code because neither will be directly affected by the vote, nor does either have any of the enumerated relationships with any entity affected by the vote.

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. Laney indicated some level of current or past involvement with a respondent of this solicitation, albeit tangentially, due to his County position. Mr. Barcia indicated his past service as a selection committee member involving a respondent to the solicitation. 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 though both Mr. Laney and Mr. Barcia had some level of interaction with a respondent, said interaction would not prohibit their evaluation of the respondents to this solicitation. *See* INQ 24-04 and INQ 22-153.

Opinion:

Consequently, we see no reason why Mr. Laney and Mr. Barcia should not serve on this committee. Neither has a conflict of interest under the County Ethics Code, or grounds to assert an appearance of impropriety created by their 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, 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 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.