


Date: July 8, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Report on the Enforcement and Strict Compliance with the Requirements of Section 2-11.1 of the Code of Miami-Dade County, Regarding Selection Committee Members Requirements - Directive No. 212675

This report is in response to a directive from Commissioner Sosa, which occurred during the discussion for Resolution R-1122-21, sponsored by Commissioner Raquel A. Regalado, and adopted by the Board of County Commissioners (Board) on November 16, 2021. During said discussion, Commissioner Rebeca Sosa directed the County Mayor or County Mayor’s designee to: (1) ensure compliance with the requirements of Section 2-11.1 of the Code of Miami-Dade County, *Conflict of Interest and Code of Ethics Ordinance*; (2) ensure that any individual serving on any Competitive Selection Committee (CSC) provides a written disclosure; and (3) prepare a report every six months identifying all individuals who have served on Competitive Selection Committees and any written disclosures of affiliations and/or associations with any proposer or subcontractor under consideration.

Summary

Miami-Dade County establishes and utilizes Competitive Selection Committees (Committee) that are comprised of fair, impartial, objective and qualified individuals capable of evaluating the subject matter area in a competitive procurement process for the evaluation of offers, proposals, and qualifications submitted by individuals and firms seeking contract award. Each individual, appointed to a Committee signs an affidavit attesting to their neutrality in performing the duties of a Committee member and acknowledge that their service on such committee will be in compliance with the Conflict of Interest and Code of Ethics Ordinance (Sec. 2-11.1). If an individual has a conflict of interest, as defined by Federal, state, county, or other policies, it is reported, managed and/or eliminated.

Background

The Internal Services Department (ISD) Strategic Procurement Division (SPD)’s systematic approach involves the application of Section 2-11.1, specifically subsection (c) and (d) of the Code, Implementing Order 3-34, *titled*, Formation and Performance of Selection Committee, and Resolution No. R-449-14, *titled*, Commission Auditor to Conduct Background Checks on Members Serving on Evaluation Committees (provided as exhibits) to all CSC appointees as follows:

- Training on the role, responsibilities and, applicable legislation for a CSC member;
- Requiring full disclosure via Neutrality Affidavit (reporting) of all interests so that a CSC member and the County are aware of potential conflicts and can act accordingly, as it is a shared responsibly to manage any potential conflict (managing);
- Performing background screening by Office of Commission Auditor of all appointed individuals slated to serve as a CSC member;
- Requiring a Commission on Ethics and Public Trust opinion in the event there is perceived or potential conflict identified by Office of Commission Auditor; and
- Removing the individual with the perceived or actual conflict from the evaluation process (eliminated).

It is important to highlight that procurement staff and enforcement agencies such as the Commission on Ethics and Public Trust, as well as the Office of Commission Auditor collectively make final decisions about the management of perceived or actual conflicts of interest. This collaboration protects the integrity of the competitive process and helps ensure that the most responsible decisions are made. This structured process ensures that any award recommendation presented to the Board or the Mayor or Mayor's designee for approval, is based on adherence to policies and procedures, thereby resulting in a fair and transparent award.

The current process does not allow for any deviations or exceptions from the requirements of Section 2-11.1 of the County Code, Implementing Order 3-34, and Resolution No. R-449-14. Should the Board continue to require the preparation of a report every six months, I will direct my staff to proceed accordingly. However, we respectfully request consideration by the Board to not require the future six months reports as we are already strictly adhering to the current rules, policies and procedures.

This report will be placed on the next available Board Agenda pursuant Ordinance No. 14-65. Should you need further information, please contact Alex Muñoz, Director of the Internal Services Department, at 305-375-5893 or Namita Uppal, Chief Procurement Officer, at 305-375-1574.

Attachments:

- 1 - Implementing Order 3-34, Formation and Performance of Competitive Selection Committees
- 2 – Competitive Selection Committee Member Neutrality/Disclosure Affidavit
- 3 – Conflict of Interest and Code of Ethics Ordinance Section 2-11.1 subsection (c) and (d) of the Code of Miami-Dade County
- 4 – Resolution No. R-449-14, Directing the Commission Auditor to Conduct Background Checks on Members Serving on Evaluation/Selection Committees

c: Geri Bonzon-Keenan, County Attorney
Gerald K. Sanchez, First Assistant County Attorney
Jess M. McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
Department Directors
Alex Muñoz, Director, Internal Services Department
Namita Uppal, Chief Procurement Officer
Yinka Majekodunmi, Commission Auditor
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
Basia Pruna, Director, Clerk of the Board
Eugene Love, Agenda Coordinator

Implementing Order**Implementing Order No.:** 3-34**Title:** FORMATION AND PERFORMANCE OF COMPETITIVE SELECTION COMMITTEES**Ordered:** 5/4/2021**Effective:** 5/14/2021**AUTHORITY:**

Section 1.01 of the Miami-Dade County Home Rule Amendment and Charter and Section 1.01 of the Code of Miami-Dade County.

SUPERSEDES:

This Implementing Order (I.O.) supersedes and replaces previous I.O. 3-34 ordered May 4, 2021 and effective May 14, 2021.

SCOPE:

Notwithstanding any contrary provision of any other Administrative Order (A.O.) or Implementing Order, this Implementing Order establishes procedures for the formation and performance of competitive selection committees (Committees or Committee) in Miami-Dade County's competitive procurement process, including Committees utilized in the acquisition of architectural and engineering (A&E) professional services under Section 287.055 of the Florida Statutes.

POLICY:

The County shall utilize Committees that are comprised of fair, impartial, objective and qualified individuals capable of evaluating the subject matter area in a competitive procurement process for the evaluation of offers, proposals, and qualifications submitted by individuals and firms seeking contract award. The provisions of this Implementing Order address the County's internal administrative processes and are not intended to serve as a basis to challenge the ultimate selection or contract award recommendation in any particular procurement action. This Implementing Order governs all County procurement processes involving such Committees.

All Committee proceedings shall be audiotaped by the County Mayor's designee.

FORMATION OF COMPETITIVE SELECTION COMMITTEES:**Competitive Selection Committee Pool**

A pool consisting of potential County Committee members shall be established and administered by the Small Business Development (SBD) division of the Internal Services

Department or such other County Mayor designee. The pool shall consist of the County's executives, professionals, and subject matter experts within the County or from the private or non-profit sectors, other governmental/quasi-governmental organizations, and retired executives.

Pool members, including members who are not County employees, as well as the non-voting technical advisor shall be required to attend a workshop prior to serving on any Committee facilitated by the Internal Services Department or a County Mayor designee. The workshop shall train pool members on the Committee's role and responsibilities, the pertinent legislation (including Florida's Government in the Sunshine laws, the County's Conflict of Interest and Code of Ethics Ordinance, and County procurement rules and regulations), and provide a forum for discussion regarding membership on a Committee.

A simple majority of the voting members of a Committee shall constitute a quorum necessary to hold meetings and take any action. Unless an exception is made in writing by the County Mayor or County Mayor's designee, all voting members of a Committee shall attend all meetings at which vendor presentations are made and proposals are evaluated. Attendance at Committee meetings through the use of remote media technology, where otherwise permitted by State and County law, shall be permitted provided a physical quorum of voting members of a Committee are present.

Competitive Selection Committee Formation and Appointment

Committees shall be formed as follows:

- A. The County Mayor or County Mayor's designee may determine the composition of each Committee based on the appropriate expertise required for each acquisition. Committee members may be subject matter experts from within the County or from the private or non-profit sectors, other governmental organizations, or retired executives. In forming a Committee to replace an established contract, the County should, when practicable and in the best interest of the County, appoint the County employee charged with managing the existing contract, as a non-voting technical advisor to the Committee. In forming the Committee consideration should be given to appointing County and non-County members with appropriate experience and knowledge and that the Committee membership is balanced in its representation of the Miami-Dade County community with regard to ethnicity and gender. Where possible, County employee Committee members should not be appointed who are in the same department and are direct reports to other members of the Committee.
- B. The Selection Committee Coordinator shall be a non-voting procurement professional employee of the department or agency issuing the solicitation. The

Selection Committee Coordinator shall administer the process and shall not be a member of the Committee.

- C. The County Mayor or County Mayor's designee may appoint non-voting technical advisors to supplement the technical expertise of selection committees. Technical advisors are official members of the Committee but may not cast a vote and are not counted for purposes of quorum.
- D. The County Mayor or County Mayor's designee shall appoint two alternate voting members at the time the Committee is appointed, and will become voting members in the event that substitution of a voting member is required. If the alternate voting member has not attended all prior meetings of the Committee, the substitution will only be allowed before any scoring meeting has occurred.

SBD or such other administrator designated by the County Mayor shall recommend Committee appointments to the County Mayor or County Mayor's designee after consulting with the issuing department or agency.

PERFORMANCE OF COMPETITIVE SELECTION COMMITTEES:

Each individual, including any non-voting technical advisors, appointed to a Committee shall sign an affidavit attesting to his/her neutrality in performing the duties of a Committee member and acknowledge that his/her service on such committee shall be in compliance with the Conflict of Interest and Code of Ethics Ordinance (Sec. 2-11.1). An individual who provides false information may be subject to investigation and prosecution under Florida law. County employees providing false information shall also be subject to disciplinary action up to and including dismissal from County employment. All Committee members shall affirm and acknowledge that service on the Committee is subject to the requirements and prohibitions of the County's Code of Silence Ordinance and the State of Florida's Government in the Sunshine Law.

Moreover, and in accordance with the Resolution No. R-449-14, individuals appointed to the Committee must submit their updated resume, through the Selection Committee Coordinator, to the Commission Auditor. The Commission Auditor shall conduct background checks for all Committee members verifying no family control, financial interest, and/or employment (past or present), with any vendor or proposed subcontractor under consideration by the Committee.

The Committee Auditor shall submit the results of the background check to the issuing department overseeing the competitive process. The Commission Auditor will also submit the results of the background checks to the Commission on Ethics and Public Trust for further review of the findings.

Any request by County staff to be excused from Committee service must be in writing, delineating serious and legitimate reasons, and must be signed by the Department/Agency

Director and sent to the County Mayor or County Mayor’s designee through Small Business Development or other administrator. In the event that a Committee member is excused from service, an identified alternate shall assume the responsibilities of a voting Committee member.

SCORING GUIDELINES:

Except for Committees procuring “Professional Services” as defined by Section 2-10.4 of the Code of Miami-Dade County, Committee members shall be provided written guidelines and shall use the guidelines in preparing their scores for the evaluation of each criteria identified in the solicitation.

The guidelines shall be in substantially the form provided below:

Rating	Score as a Percentage of Total Available Points for Criteria	Guidelines
Excellent	90-100%	The proposal’s response to the criteria is complete and well defined, providing relevant supporting details and examples. The response to this criteria indicates a high prospect for outstanding performance on the resulting contract. All or a majority of the expectations for this criteria are clearly met or exceeded.
Good	70-89%	The proposal’s response to the criteria is generally complete and well defined, providing reasonably well developed responses with a good amount of relevant supporting details and examples. The response to this criteria indicates a moderate to high prospect for good performance on the resulting contract. Most of the expectations are met for this
Fair	50-69%	The proposal’s response to the criteria is fairly complete, but lacking some definition or clarity. The response is not well developed to address the criteria and provides limited supporting details and examples. The response to this criteria indicates a prospect of achieving satisfactory performance on the resulting contract, but there may also be some risk. Few of the expectations are demonstrated to be met for this criteria.
Poor	49% or below	The proposal’s response to the criteria is not complete or provides minimal information, lacking sufficient details and examples. The response to this criteria indicates a moderate to high risk of not achieving satisfactory performance on the resulting contract. Does not demonstrate ability to meet expectations for this criteria.

During the scoring meeting, the Selection Committee Coordinator shall monitor the points awarded to each vendor by each Committee members. In the event that a Committee members score for a criteria varies in excess of thirty-three percent (33%) of the average score award by all Committee members by criteria, the Selection Committee Coordinator shall request that such Committee member provide a verbal justification in the meeting for the score. The Selection Committee Coordinator should encourage Committee members to discuss this criteria including the justification provided. The Committee members may change their scores based on the specific discussion. Should the variation remain, the Selection Committee Coordinator shall confirm and state on the record the justification provided by the Committee member. This justification shall be included in the Selection Committee Coordinator's report to the County Mayor or County Mayor's designee. Upon review of the such score and the justification, the County Mayor or County Mayor's designee may accept or reject that selection Committee member's score and a report of such decision shall be provided to the Board of County Commissioners for solicitations requiring approval of the Board.

SCORING OF SELECTION COMMITTEES FOR PURCHASE OF PROFESSIONAL ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURAL, AND LAND SURVEYING AND MAPPING SERVICES:

For selection committees procuring "Professional Services" as defined in Section 2-10.4 of the Code of Miami-Dade County, the highest and lowest final score for each firm in the first evaluation tier shall be discarded and not used to compute the final total score of such firm.

EFFECTIVE DATE:

This Implementing Order shall become effective after approval by the Board of County Commissioners, and shall apply prospectively to selection committees appointed after the effective date.

**COMPETITIVE SELECTION COMMITTEE MEMBER
NEUTRALITY AFFIDAVIT**

Solicitation No. and Title: _____

Section 2-11.1 of the Code of Miami-Dade County, *titled* Conflict of Interest and Code of Ethics Ordinance, Implementing Order 3-34, *titled* Formation and Performance of Competitive Selection Committees

ALL COMPETITIVE SELECTION COMMITTEE MEMBERS SHALL COMPLETE PARTS I, II, III AND IV.

PART I – ACKNOWLEDGEMENT

I, _____, as a member of the Competitive Selection Committee (Committee), which is to evaluate proposals for the referenced solicitation, acknowledge that I will comply with Section 2-11.1 of the Code of Miami-Dade County, *titled* Conflict of Interest and Code of Ethics Ordinance. I understand that Section 2-11.1 precludes me from, among other things, soliciting, accepting, or agreeing to accept any gift as a result of my service on the Committee; from exploiting my position to secure special privileges or exemptions for myself or others; and from disclosing confidential information acquired by reason of my Committee service, or utilizing such confidential information for my personal gain or benefit, or for the gain or benefit of any of my Immediate Family Members. I further acknowledge that I understand Implementing Order 3-34, *titled* Formation and Performance of Competitive Selection Committees, requires the completion of a workshop outlining pertinent legislation affecting the selection process. I understand that I will be removed from the Committee if an owner, officer, or employee of any Proposer/Respondent to the solicitation was my immediate supervisor during the preceding eighteen (18) months.

Member's Signature

Member's Title

Date

PART II – CERTIFICATION

I, _____, by my initials below, indicate that I have read and agree to the following statements:

Initials

1. I certify that I have attended the training workshop outlining pertinent legislation, such as the Sunshine Law, F.S. 286.011 and the Cone of Silence, Section 2-11.1(t) of the Code of Miami-Dade County, affecting the selection process, as required by Implementing Order 3-34.

2. I certify that I have read **Attachment A** to the Neutrality Affidavit (*this affidavit*) which identifies the Proposers/Respondents and their Subcontractors/Subconsultants, to fully and accurately make these certifications and respond to the questions below.

3. I certify that I have not been employed by or held a controlling financial interest in any of the Proposers/Respondents or Affiliate of the Proposers/Respondents, during the preceding period of twenty-four (24) months.

4. I certify that I have not provided a reference or recommendation to any of the Proposers/Respondents, including any proposed Subcontractor/Subconsultant, **during** the period covered by the Cone of Silence, for the referenced solicitation.

5. I certify that I have not, and will not, have any communications regarding the referenced solicitation to the extent prohibited by the Cone of Silence, Section 2-11.1(t) of the Code of Miami-Dade County.

6. I certify that I have not had discussions, conversations, offers, agreements, or arrangements for future employment with any Proposer/Respondent, Proposer's/Respondent's entity or Affiliate of such Proposer/Respondent or Proposer's/Respondent's entity under consideration by this Committee, including any proposed Subcontractor/Subconsultant.

Neutrality Affidavit

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Last Name _____

7. I certify that I have not solicited or accepted, nor will I solicit or accept, gratuities, favors or anything of value with respect to the referenced solicitation.

8. I certify that, during the course of my involvement in the referenced solicitation, if any of the conditions listed above should change, I will immediately notify the Committee Coordinator.

PART III – BACKGROUND INFORMATION

Pursuant to Resolution No. R-449-14, the Office of Commission Auditor shall conduct background checks on members serving on the Committees and their Immediate Family Members. The Office of Commission Auditor’s background check will be limited to verifying the response to questions 1 through 3, however, **all** questions (1 through 5) below must be answered.

I certify that the information provided below is accurate. Initials _____

If you are claiming an exemption pursuant to F.S.119.071, please initial _____

FULL LEGAL NAME		
MAIDEN NAME (IF APPLICABLE)	DATE OF BIRTH	GENDER
HOME ADDRESS		

Please initial the appropriate answer for each question.

YES NO

_____ _____

1. Do you, or any of your Immediate Family Members, have control or any direct financial or other interest in any Proposer/Respondent, Affiliate of any Proposer/Respondent, or proposed Subcontractor/Subconsultant of any Proposer/Respondent under consideration by this Committee?

If Yes, please explain:

_____ _____

2. Have any of the owners, officers, or employees of any Proposer/Respondent under consideration by this Committee ever been an immediate supervisor to you or any of your Immediate Family Members during the preceding eighteen (18) months?

If Yes, please explain:

Attachment A

(To be completed by the Committee Coordinator)

Solicitation No. and Title: _____

- **Name of Proposer/Respondent A:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent A
Subcontractor/Subconsultant B: _____ to Proposer/Respondent A
Subcontractor/Subconsultant C: _____ to Proposer/Respondent A

- **Name of Proposer/Respondent B:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent B
Subcontractor/Subconsultant B: _____ to Proposer/Respondent B
Subcontractor/Subconsultant C: _____ to Proposer/Respondent B

- **Name of Proposer/Respondent C:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent C
Subcontractor/Subconsultant B: _____ to Proposer/Respondent C
Subcontractor/Subconsultant C: _____ to Proposer/Respondent C

- **Name of Proposer/Respondent D:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent D
Subcontractor/Subconsultant B: _____ to Proposer/Respondent D
Subcontractor/Subconsultant C: _____ to Proposer/Respondent D

- **Name of Proposer/Respondent E:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent E
Subcontractor/Subconsultant B: _____ to Proposer/Respondent E
Subcontractor/Subconsultant C: _____ to Proposer/Respondent E

- **Name of Proposer/Respondent F:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent F
Subcontractor/Subconsultant B: _____ to Proposer/Respondent F
Subcontractor/Subconsultant C: _____ to Proposer/Respondent F

- **Name of Proposer/Respondent G:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent G
Subcontractor/Subconsultant B: _____ to Proposer/Respondent G
Subcontractor/Subconsultant C: _____ to Proposer/Respondent G

- **Name of Proposer/Respondent H:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent H
Subcontractor/Subconsultant B: _____ to Proposer/Respondent H
Subcontractor/Subconsultant C: _____ to Proposer/Respondent H

- **Name of Proposer/Respondent I:** _____
Subcontractor/Subconsultant A: _____ to Proposer/Respondent I
Subcontractor/Subconsultant B: _____ to Proposer/Respondent I
Subcontractor/Subconsultant C: _____ to Proposer/Respondent I

Sec. 2-11.1. - Conflict of Interest and Code of Ethics Ordinance.

- (a) *Designation.* This section shall be designated and known as the "Miami-Dade County Conflict of Interest and Code of Ethics Ordinance." This section shall be applicable to all County personnel as defined herein, and shall also constitute a minimum standard of ethical conduct and behavior for all municipal officials and officers, autonomous personnel, quasi-judicial personnel, advisory personnel, departmental personnel and employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned. References in the section to County personnel shall therefor be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-27, § 1, 3-20-73)
- (b) *Definitions.* For the purposes of this section the following definitions shall be effective:
- (1) The term "Commissioners" shall refer to the Mayor and the members of the Board of County Commissioners as duly constituted from time to time.
 - (2) The term "autonomous personnel" shall refer to the members of semi-autonomous authorities, boards, and agencies as are entrusted with the day to day policy setting, operation and management of certain defined County functions or areas of responsibility, even though the ultimate responsibility for such functions or areas rests with the Board of County Commissioners.
 - (3) The term "quasi-judicial personnel" shall refer to the members of the Community Zoning Appeals Board and such other boards and agencies of the County as perform quasi-judicial functions.
 - (4) The term "advisory personnel" shall refer to the members of those County advisory boards and agencies whose sole or primary responsibility is to recommend legislation or give advice to the Board of County Commissioners.
 - (5) The term "departmental personnel" shall refer to the Manager, his or her department heads, the County Attorney and all Assistant County Attorneys.
 - (6) The term "employees" shall refer to all other personnel employed by the County.
 - (7) The term "compensation" shall refer to any money, gift, favor, thing or value or financial benefit conferred in return for services rendered or to be rendered.
 - (8) The term "controlling financial interest" shall refer to ownership, directly or indirectly, to ten (10) percent or more of the outstanding capital stock in any corporation or a direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity.
 - (9) The term "immediate family" shall refer to the spouse, domestic partner, parents, stepparents, children and stepchildren of the person involved.
 - (10) The term "transact any business" shall refer to the purchase or sale by the County of specific goods or services for a consideration.
 - (11) The term "Ethics Commission" shall refer to the Miami-Dade County Commission on Ethics and Public Trust.
 - (12) The term "domestic partner" shall mean a person who is a party to a valid domestic partnership relationship as described in section 11A-72(b)(1),(2), (3), (4) and (6) of the Code.
 - (13) The term "contract staff" shall mean any employee and/or principal of an independent contractor, subcontractor (of any tier), consultant or sub-consultant (of any tier), designated in a contract with the County as a person who shall be required to comply with the provisions of Subsections 2-11.1(g), (h), (j), (l), (m), (n) and (o) of the Conflict of Interest and Code of Ethics Ordinance. Prior to determining whether to designate a person as contract staff in a RFP, RFQ, bid or contract, the Mayor or his or her designee shall seek a recommendation from the Executive Director of the Ethics Commission.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-23, § 1, 3-20-73; Ord. No. 86-24, § 3, 4-1-86; Ord. No. 10-48, § 1, 7-8-10)

(c) *Prohibition on transacting business within the County.*

- (1) No person included in the terms defined in subsection (b)(1) through (6) and in subsection (b)(9) shall enter into any contract or transact any business, except as provided in subsections (c)(2) through (c)(6) in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Willful violation of this subsection shall constitute malfeasance in office and shall effect forfeiture of office or position.
- (2) County employees' limited exclusion from prohibition on contracting with the county. Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prevent any employee as defined by subsection (b)(6) [excluding departmental personnel as defined by subsection (b)(5)] or his or her immediate family as defined by subsection (b)(9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.
- (3) Limited exclusion from prohibition on autonomous personnel, advisory personnel and quasi-judicial personnel contracting with county. Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prohibit any person defined in subsection (b)(2), (b)(3) and (b)(4) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the board member or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County. However, any person defined in subsection (b)(2), (b)(3) and (b)(4) is prohibited from contracting with any agency or department of Miami-Dade County subject to the regulation, oversight, management, policy-setting or quasi-judicial authority of the board of which the person is a member.
- (4) Any person defined in subsections (b)(2) through (b)(4) and subsection (b)(6) shall seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust ("the Ethics Commission") prior to submittal of a bid, response, or application of any type to contract with the County by the person or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents. If the Ethics Commission finds that the requirements of this section pertaining to exclusions for persons defined in subsections (b)(2) through (b)(4) and subsection (b)(6) are not met and that the proposed transaction would create a conflict of interest, the person defined in subsections (b)(2), (b)(3), (b)(4) or (b)(6) may request a waiver from the Board of County Commissioners within ten (10) days of the Ethics Commission opinion by filing a notice of appeal to the Ethics Commission. The Ethics Commission shall forward the notice of appeal and its opinion and any pertinent documents to the Clerk of the Board of County Commissioners (the "Clerk") forthwith. The Clerk shall place the request on the commission agenda for consideration by the Board. The Board of County Commissioners may grant a waiver upon an affirmative vote of two-thirds ($\frac{2}{3}$) of the entire Board of County Commissioners, after public hearing, if it finds that

the requirements of this ordinance pertaining to the exclusion for a County employee from the Code have been met and that the proposed transaction will be in the best interest of the County. The Board of County Commissioners may, as provided in subsection (c)(6), grant a waiver to any person defined in subsection (b)(2) through (b)(4) regarding a proposed transaction. Such findings shall be included in the minutes of the board. This subsection shall be applicable only to proposed transactions, and the Board may in no case ratify a transaction entered into in violation of this subsection.

If the affected person or his or her immediate family member chooses to respond to a solicitation to contract with the County, such person shall file with the Clerk a statement in a form satisfactory to the Clerk disclosing the person's interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract at the same time as or before submitting a bid, response, or application of any type to contract with the County. Along with the disclosure form, the affected person shall file with the Clerk a copy of his or her request for an Ethics Commission opinion and any opinion or waiver from the Board. Also, a copy of the request for a conflict of interest opinion from the Ethics Commission and any opinion or waiver must be submitted with the response to the solicitation to contract with the County.

Notwithstanding any provision herein to the contrary, the County and any person or agency acting for Miami-Dade County shall not award a contract to any person defined in subsections (b)(2) through (b)(4) and subsection (b)(6) or his or her immediate family individually or through a firm, corporation, partnership or business entity in which the person or any member of his or her immediate family has a controlling financial interest, unless the Ethics Commission has rendered an opinion that entering the contract would not be a conflict of interest or the Board waives the conflict in accordance with the provisions of this ordinance.

The County Manager is directed to include language in all solicitations for county contracts advising persons defined in subsections (b)(2) through (b)(4) and subsection (b)(6) of the applicable conflict of interest code provisions, the provisions of this ordinance, including the requirement to obtain an Ethics Commission opinion and make disclosure, and the right to seek a legal opinion from the State of Florida Ethics Commission regarding the applicability of state law conflict of interest provisions.

- (5) Nothing herein shall prohibit or make illegal (1) the payment of taxes, special assessments or fees for services provided by County government; (2) the purchase of bonds, anticipation notes or other securities that may be issued by the County through underwriters or directly from time to time; (3) the participation of the persons included in the terms defined in subsection (b)(1) through (6), except for employees of the general services administration and their "immediate family" as defined in (b)(9), in the public auction process utilized by the County for the disposal of surplus motor vehicles; (4) the purchase of surplus personal property, pursuant to administrative order, by persons defined in subsection (b)(1) through (6) and (9); (5) an application for direct assistance from the Miami-Dade County Department of Housing and Urban Development or an application to participate in a program administered by the Department of Special Housing has been submitted by an applicant who is a County person as defined in subsection (b) and who would but for this section be eligible for such assistance from said department; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Department of Housing and Urban Development or the Department of Special Housing who participates in the administration of said programs; or (6) and application to participate in a single-family mortgage loan program sponsored by the Housing Finance Authority of Miami-Dade County, has been submitted by a County person as defined in subsection (b), and would but for this section be eligible for participation in said program; provided, however, that the exception provided in this paragraph shall not extend to an employee of the Miami-Dade County Finance Department who participates in the administration of said single-family mortgage loan program.
- (6) Extension of waiver to county commissioners, autonomous personnel, quasi-judicial personnel, and advisory personnel. The requirements of this subsection may be waived for a particular

transaction only by affirmative vote of two-thirds of the entire Board of County Commissioners, after public hearing. Such waiver may be affected only after findings by two-thirds of the entire Board that:

- (1) An open-to-all sealed competitive bid has been submitted by a County person as defined in subsection (b)(2), (3) and (4), or
- (2) The bid has been submitted by a person or firm offering services within the scope of practice of architecture, professional engineering, or registered land surveying as defined by the laws of the State of Florida and pursuant to the provisions of the Consultants' Competitive Negotiation Act, and when the bid has been submitted by a County person defined in subsection (b)(2), (3) and (4), or
- (3) The property or services to be involved in the proposed transaction are unique and the County cannot avail itself of such property or services without entering a transaction which would violate this subsection but for waiver of its requirements, or
- (4) That the property or services to be involved in the proposed transaction are being offered to the County at a cost of no more than 80 percent of fair market value based on a certified appraisal paid for by the provider, and
- (5) That the proposed transaction will be to the best interest of the County.

Such findings shall be spread on the minutes of the Board. This subsection shall be applicable only to prospective transactions, and the Board may in no case ratify a transaction entered in violation of this subsection.

Provisions cumulative. This subsection shall be taken to be cumulative and shall not be construed to amend or repeal any other law pertaining to the same subject matter. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-24, § 1, 3-20-73; Ord. No. 73-45, § 1, 5-1-73; Ord. No. 75-91, § 1, 11-4-75; Ord. No. 75-119, § 1, 12-16-75; Ord. No. 79-85, § 1, 10-16-79; Ord. No. 80-33, § 1, 5-6-80; Ord. No. 85-84, § 1, 10-1-85; Ord. No. 85-98, § 1, 11-5-85; Ord. No. 87-58, § 1, 9-1-87; Ord. No. 88-102, § 1, 10-18-88; Ord. No. 91-113, § 1, 10-1-91; Ord. No. 00-1, § 1, 1-13-00; Ord. No. 00-151, § 1, 11-28-00)

- (d) *Further prohibition on transacting business with the County.* No person included in the terms defined in subsections (b)(1) through (6) and in subsection (b)(9) shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or any member of his immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. The remaining provisions of subsection (c) will also be applicable to this subsection as though incorporated herein by recitation.

Additionally, no person included in the term defined in subsection (b)(1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary; or (ii) stockholder, bondholder, debtor, or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any person included in the term defined in subsection (b)(1) who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall: (1) announce publicly at the meeting the nature of the conflict before the matter is heard; (2) absent himself or herself from the Commission chambers during that portion of the meeting when the matter is considered; and (3) file a written disclosure of the nature of the conflict with the Clerk of the Board within 15 days after the vote. The filing of the State of Florida form prescribed for written disclosure of a voting conflict shall constitute compliance with this subsection. (Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-45, § 2, 5-1-73; Ord. No. 86-11, § 1, 2-18-86; Ord. No. 86-24, § 1, 4-1-86; Ord. No. 16-47, 5-17-16)

- (e) *Gifts.*

- (1) *Definition.* The term "gift" shall refer to the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration. Food and beverages consumed at a single sitting or meal shall be considered a single gift, and the value of the food and beverage provided at that sitting or meal shall be considered the value of the gift.
- (2) *Exceptions.* The provisions of subsection (e)(1) shall not apply to:
 - a. Political contributions specifically authorized by State law;
 - b. Gifts from relatives or members of one's household;
 - c. Awards for professional or civic achievement;
 - d. Material such as books, reports, periodicals or pamphlets which are solely informational or of an advertising nature;
 - e. Gifts solicited by County employees or departmental personnel on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
 - f. Gifts solicited by Commissioners on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;
 - g. Gifts solicited by Commissioners, or their staff members, on behalf of any nonprofit organization for use solely by that organization where neither the Commissioner, nor his or her staff receives any compensation as a result of the solicitation. As used in this subsection, a "nonprofit organization" shall mean any entity described in section 501(c)(3) of the Internal Revenue Code (the "Code") that is tax exempt under section 501(a) of the Code. As used in this subsection, "compensation" means any money, gift, favor, political contribution, thing of value or other financial benefit.
- (3) *Prohibitions.* A person described in subsection (b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:
 - a. *General prohibition on solicitation and giving of gifts.* A person described in subsection (b)(1) through (6) shall neither solicit nor demand any gift. It is also unlawful for any person or entity to offer, give or agree to give to any person included in the term defined in subsection (b)(1) through (6) or for any person included in the term defined in subsection (b)(1) through (6) to accept or agree to accept from another person or entity, any gift for or because of:
 - i. An official public action taken, or to be taken, or which could be taken;
 - ii. A legal duty performed or to be performed, or which could be performed; or
 - iii. A legal duty violated or to be violated, or which could be violated by any person included in the term defined in subsection (b)(1).
 - b. *Prohibition on gifts and offers on employment to members of competitive selection committees.* In addition to any other prohibition contained in this section, any person, or their immediate family members, appointed to serve on a competitive selection committee for a procurement shall not accept, solicit, or demand any gift of any value from any proposer to such procurement. Proposers to a procurement shall not offer, give, or agree to give any gift of any value or offer future employment to any member of the competitive selection committee for such procurement or to their immediate family members. Any person who has accepted a gift of any value from a proposer to a procurement in the two years preceding the issuance of the solicitation for such procurement shall not be appointed to the competitive selection committee for such procurement; and, if appointed, shall, in addition to any other penalty provided for in this section, be immediately removed from such competitive selection committee. For purposes of this subsection, the term "proposer" shall mean any person, firm

or corporation that submits a response or proposal to a solicitation, including any owners, principals, corporate officers, managers, employees, agents, and lobbyists of such person, firm, or corporation and their immediate family members.

- (4) *Disclosure.* Any person included in the term defined in subsection (b)(1) through (6) shall disclose as provided herein any gift, or series of gifts from any one person or entity, having a value in excess of one hundred dollars (\$100.00). Said disclosure shall be made by filing a copy of the disclosure form required by Chapter 112, Florida Statutes, for "local officers" with the Clerk of the Board of County Commissioner simultaneously with the filing of the form with the Secretary of State.

(Ord. No. 78-82, § 1, 11-21-72; Ord. No. 86-25, § 1, 4-1-86; Ord. No. 87-70, § 1, 10-20-87; Ord. No. 91-62, § 1, 6-4-91; Ord. No. 99-124, § 1, 2-11.1; Ord. No. 99-145, § 1, 10-19-99; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 21-62, § 1, 7-8-21)

- (f) *Compulsory disclosure by employees of firms doing business with the County.* Should any person included in the terms defined in subsections (b)(1) through (6) be employed, either himself or herself or through a member of his or her immediate family, by a corporation, firm, partnership or business entity in which he or she does not have a controlling financial interest, and should the said corporation, firm, partnership or business entity have substantial business commitments to or from the County or any County agency, or be subject to direct regulation by the County or a County agency, then said person shall file a sworn statement disclosing such employment and interest with the Clerk of the Circuit Court in and for Miami-Dade County.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (g) *Exploitation of official position prohibited.* No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (h) *Prohibition on use of confidential information.* No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) shall accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the County, nor shall he or she ever use such information, directly or indirectly, for his or her personal gain or benefit.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 10-48, § 1, 7-8-10)

- (i) *Financial disclosure.*

- (1) All persons and firms included within subsections (a) and (b)(2), (3) and (4) of this section shall file, no later than 12:00 noon of July 1st of each year including the July 1st following the last year that person is in office or held such employment, one (1) of the following:
- a. A copy of that person's or firm's current federal income tax return; or
 - b. A current certified financial statement on a form of the type approved for use by State or national banks in Florida listing all assets and liabilities having a value in excess of one thousand dollars (\$1,000.00) and a short description of each; or

- c. An itemized source of income statement, under oath and on a form approved by the County for said purpose.

Compliance with the financial disclosure provisions of Chapter 112 (Part III), Florida Statutes, as amended, or with the provisions of Article II, Section 8 of the Florida Constitution, as amended by the voters on November 2, 1976, and any general laws promulgated thereunder, shall constitute compliance with this section.

- (2) County and municipal personnel. The following County personnel shall comply with the filing requirements of subsection (i)(1) above: The Mayor and members of the Board of County Commissioners; County Attorney and Assistant County Attorneys; County Manager; Assistant County Manager(s); Special Assistant(s) to the County Manager; heads or directors of County departments and their assistant or deputy department heads; employees of the Miami-Dade Police with the rank of captain, major and chief; Building and Zoning Inspectors. References herein to specified County personnel and Boards shall be applicable to municipal personnel and Boards that serve in comparable capacities to the County personnel and Boards referred to.
- (3) Candidates for County and municipal office. All candidates for County and municipal elective office shall comply with the filing requirements of subsection (i)(1) above at the same time that candidate files qualifying papers.
- (4) Consultants. All persons or firms providing professional services as defined by Section 2-10.4(1)(a) and (b) of the Code of Miami-Dade County, to Miami-Dade County or any municipalities, their agencies, or instrumentalities, shall comply with the filing requirements of subsection (i)(1) above within ninety (90) days of the effective date hereof. All persons or firms subsequent to the effective date of this section, which engage in competitive negotiation with Miami-Dade County or any of its municipalities, their agencies or instrumentalities under and pursuant to Section 2-10.4 of the Code of Miami-Dade County shall comply with the reporting requirements of subsection (i)(1) of this section within thirty (30) days of execution of a contract arising out of said competitive negotiations and prior to any payments from said County, municipalities or other agencies or instrumentalities. Failure to comply with the terms hereof by such persons or firms shall render existing contracts voidable and shall automatically void any contracts negotiated and executed subsequent to the effective date of this section where the required information is not furnished within thirty (30) days of the execution of said contract as noted herein.
- (5) Reports; filing. All documents required to be filed hereunder by County persons or consultants shall be filed with the supervisor of elections. Documents required to be filed hereunder by municipal persons or consultants shall be filed with the municipal Clerk of that entity.
- (6) Public disclosure. All documents filed pursuant to this subsection shall constitute public records within the meaning of Chapter 119, Florida Statutes.
- (7) Construction. The construction of this subsection shall be considered as supplemental to and not in substitution of any requirements of Chapter 112, Florida Statutes, or any rules and regulations promulgated thereunder.

(Ord. No. 77-13, § 1, 3-1-77; Ord. No. 83-18, § 1, 4-19-83; Ord. No. 84-39, § 1, 5-15-84)

- (j) *Conflicting employment prohibited.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 2, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (k) *Prohibition on outside employment.*

- (1) No person included in the terms defined in subsections (b)(5) [departmental personnel] and (6) [employees] shall receive any compensation for his or her services as an officer or employee of the County, from any source other than the County, except as may be permitted by Section 2-11 of this Code of Ordinances.
- (2) All full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, or any of their agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being done pursuant to same and any amount or types of money or other consideration received by the employee from said outside employment. Said County employee's reports shall be filed with the supervisor of elections no later than 12:00 noon on July 1st of each year, including the July 1st following the last year that person held such employment. Municipal employee reports shall be filed with the Clerk of their respective municipalities. Said reports shall be available at a reasonable time and place for inspection by the public. The County Manager or any city manager may require monthly reports from individual employees or groups of employees for good cause.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 3, 3-1-77; Ord. No. 77-79, § 1, 1-11-77; Ord. No. 77-87, § 1, 12-6-77; Ord. No. 83-18, § 2, 4-19-83; Ord. No. 84-39, § 2, 5-15-84; Ord. No. 10-48, § 1, 7-8-10)

- (l) *Prohibited investments.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall have personal investments in any enterprise, either himself, herself, or through a member of his or her immediately family, which will create a substantial conflict between his or her private interests and the public interest.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (m) *Certain appearances and payment prohibited.*

- (1) No person included in the terms defined in subsections (b)(1), (5), (6) and (13) [commissioners, the Mayor, departmental personnel, employees and contract staff] shall appear before any County Board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third person, who has applied for or is seeking some benefit from the County or a County agency, in connection with the particular benefit sought by the third person. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the County or a County agency through the suit in question.
- (2) No person included in the terms defined in subsections (b)(2), (3) and (4) [autonomous personnel, quasi-judicial personnel, and advisory personnel] shall appear before the County board or agency on which he or she serves, either directly or through an associate, and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise, or other benefit sought by the third person. Nor shall such person receive compensation, directly or indirectly or in any form, for services rendered to a third party, who has applied for or is seeking some benefit from the County board or agency on which such person serves, in connection with the particular benefit by the third party. Nor shall such person appear in any court or before any administrative tribunal as counsel or legal advisor to a third party who seeks legal relief from the County board or agency on which such person serves through the suit in question. However, this section shall not prohibit an architect serving without compensation on the Miami-Dade County Board of Energy Regulation or on any architectural Board, whose sole function is to pass on the aesthetics of plans submitted, from submitting plans on behalf of a client so long as such member makes known his or her

representation of the applicant and disqualifies himself or herself from speaking or voting or otherwise participating on such application.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-25, § 1, 3-20-73; Ord. No. 73-51, § 1, 5-15-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 79-39, § 1, 6-19-79; Ord. No. 10-48, § 1, 7-8-10)

- (n) *Actions prohibited when financial interests involved.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall participate in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. A financial interest is defined as a special financial interest, direct or indirect, as that term is used in Section 4.03 of the County's Charter; or as a financial interest as defined in Section 769 of the Restatement of the Law of Torts as an investment or something in the nature of an investment. This section shall not prohibit any official, officer, employee or person from taking official action (1) to promote tourism or downtown development or redevelopment within the County or any portion thereof, or (2) to authorize the expenditure of public funds for promoting tourism or downtown development or redevelopment, so long as no such authorized public funds are to be paid to such person or a member of his or her immediate family or any business in which he or she or any member of his or her immediate family has a financial interest.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-50, § 1, 5-15-73; Ord. No. 75-76, § 1, 9-17-75; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (o) *Acquiring financial interests.* No person included in the terms defined in subsections (b)(1) through (6) and (b)(13) shall acquire a financial interest in a project, business entity or property at a time when he or she believes or has reason to believe that the said financial interest will be directly affected by his or her official actions or by official actions by the County or County agency of which he or she is an official, officer, employee or contract staff.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 10-48, § 1, 7-8-10)

- (p) *Recommending professional services.* No person included in the terms defined in subsections (b)(1) through (6) may recommend the services of any lawyer or law firm, architect or architectural firm, public relations firm, or any other person or firm, professional or otherwise, to assist in any transaction involving the County or any of its agencies, provided that such recommendation may properly be made when required to be made by the duties of office and in advance at a public meeting attended by other County officials, officers or employees.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77)

(q) Continuing application after county service.

- (1) No person who has served as an elected county official, i.e., mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee shall, for a period of two (2) years after his or her county service or employment has ceased, lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Additionally, no person who has served as a community council member shall, for a period of two (2) years after his or her county service or employment has ceased, lobby, with regard to any zoning or land use issue, any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, request for ruling, or other

determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect. Nothing contained in this Subsection (q)(1) shall prohibit any individual included within the provisions of this subsection from submitting a routine administrative request or application to a county department or agency during the two-year period after his or her county service has ceased.

- (2) The provisions of this Subsection (q) shall not apply to officials, departmental personnel or employees who become employed by governmental entities, 501(c)(3) non-profit entities or educational institutions or entities, and who lobby on behalf of such entities in their official capacities.
- (3) The provisions of this section shall apply to all individuals as described in Subsection (q)(1) who leave the county after the effective date of the ordinance from which this section derives.
- (4) Any former county officer, departmental personnel or employee who has left the county within two (2) years prior to the effective date of this ordinance and has entered into a lobbying contract prior to the effective date of this ordinance shall, for a period of two (2) years after his or her county service or employment has ceased, comply with Subsection (q) as it existed prior to the effective date of the ordinance from which this section derives and as modified by this Subsection (q)(4) when lobbying pursuant to said contract. No former county officer, departmental personnel or employee who has left the county within two (2) years prior to the effective date of the ordinance from which this section derives shall for a period of two (2) years after his or her county service or employment has ceased enter into a lobbying contract to lobby any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has a direct and substantial interest; and in which he or she participated directly or indirectly as an officer, departmental personnel or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, during his or her county service or employment. As used herein, a person participated "directly" where he or she was substantially involved in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, during his or her county service or employment. As used herein, a person participated "indirectly" where he or she knowingly participated in any way in the particular subject matter through decision, approval, disapproval, recommendation, the rendering of legal advice, investigation or otherwise, during his or her county service or employment. Former county officers, departmental personnel and employees who have left the county within two (2) years prior to the effective date of the ordinance from which this section derives shall execute an affidavit on a form prepared by the Office of the Inspector General prior to lobbying any county officer, departmental personnel or employee stating that the requirements of this section do not preclude said person from lobbying any officer, departmental personnel or employee of the county. The Inspector General shall verify the accuracy of each affidavit executed by former county officers, departmental personnel or employees.
- (5) Any individual who is found to be in violation of this Subsection (q) shall be subject to the penalties provided in either Subsection (u)(1) or Subsection (u)(2).

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 99-2, § 1, 1-21-99)

- (r) *Ethics Commission to render opinions on request.* Whenever any person included in the terms defined in subsection (b)(1) through (6), (b)(9) and (b)(13) is in doubt as to the proper interpretation or application of this Conflict of Interest and Code of Ethics Ordinance as to himself or herself, or whenever any person who renders services to the County is in doubt as to the applicability of the said ordinance as to himself or herself, he or she may submit to the Ethics Commission a full written statement of the facts and questions he or she has. The Ethics Commission shall then render an opinion to such person and shall publish these opinions without use of the name of the person advised

unless such person requests the use of his or her name. Any person included in the term defined in subsection (b)(1) (i.e., Mayor or Commissioner) who is employed or retained by an entity that receives County funds or is under contract with the County shall, within sixty (60) days after (a) being retained or employed by the entity, or (b) becoming aware of the entity's receipt of County funds or of the entity's contract with the County, whichever is later, seek an opinion from the Ethics Commission or the Executive Director of the Ethics Commission regarding the applicability of the Conflict of Interest and Code of Ethics Ordinance. Any person included in the term defined in subsection (b)(1) who is employed or retained by an entity that receives County funds or is under contract with the County and has received an opinion from the Ethics Commission or the Executive Director of the Ethics Commission prior to the effective date of this ordinance regarding the applicability of the Conflict of Interest and Code of Ethics Ordinance to himself or herself shall not be required to seek another opinion from the Ethics Commission.

(Ord. No. 73-26, § 1, 3-20-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 97-105, § 2, 7-8-97; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 12-22, § 1, 4-3-12)

(s) **Principal and Lobbyist Registration.**

(1) *Definitions.*

- (a) *County personnel* means those County officials, officers and employees included in Section 2-11.1(i)(2) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, with the exception of the County Attorney and Assistant County Attorneys; advisory personnel as defined in Section 2-11.1(b)(4); and any employee of a County department or division with the authority to participate in procurement matters, when the communication involves such procurement.
- (b) *Expenditure* means the same as defined in Section 112.3215, Florida Statutes.
- (c) *Government entity* means any political subdivision, including any county, municipality, special district, school district, utility authority, or other authority, or any instrumentality, agency, unit, or department thereof.
- (d) *Lobbying activity* means any attempt to influence or encourage the passage or defeat of, or modification to, governmental actions, including, but not limited to, ordinances, resolutions, rules, regulations, executive orders, and procurement actions or decisions of the County Commission, the Mayor, any County board or committee, or any County personnel. The term "lobbying activity" encompasses all forms of communication, whether oral, written, or electronic, during the entire decision-making process on actions, decisions, or recommendations which foreseeably will be heard or reviewed by County personnel. This definition shall be subject to the exceptions stated in subparagraph (s)(2) below.
- (e) *Lobbyist* means all persons, firms, entities, or corporations that are employed, designated, or retained by a principal, with or without compensation, or that contract with a third-party for economic consideration to perform lobbying activities on behalf of a principal. "Lobbyist" includes the principal that lobbies, as well as any employee that has been designated by the principal to perform lobbying activities on behalf of the principal.
- (f) *Principal* means the person, firm, corporation, or other entity that performs lobbying activity on behalf of itself or that has designated, employed, or retained a lobbyist to lobby on its behalf. The term "principal" also includes the person, firm, corporation, or other entity receiving the benefit of the lobbying effort and on whose behalf the lobbyist is lobbying, even if the lobbyist is retained, engaged, or employed by a third-party for such purposes.
- (g) *Procurement matter* means the County's processes for the purchase of goods and services, including, but not limited to, processes related to the acquisition of: technology; public works; design services; construction, professional architectural, engineering, landscape architecture, land surveying, and mapping services; the purchase, lease, or sale of real property; and the acquisition, granting, or other interest in real property.

- (h) *Encourage* means to influence, promote, support, oppose, or seek to modify, alter, amend, or delay any recommendation, action, or decision of the County Commission, the Mayor, any County board or committee, or any County personnel.
- (2) *Exceptions.* The following persons are specifically excluded from the definition of "lobbyist" and shall not be subject to the requirements of this subsection:
- (a) Any representative of individuals, corporations, or other entities solely during a public hearing on a quasi-judicial matter;
 - (b) Any person who appears only as a representative of a neighborhood association without compensation or reimbursement for the appearance, whether direct, indirect, or contingent;
 - (c) Any person who only appears as a representative of a not-for-profit community-based organization without special compensation or reimbursement for the appearance to request a grant;
 - (d) Any person employed or retained by a principal whose normal scope of employment or retention does not include lobbying activities and who is not engaged in lobbying activities on behalf of said principal;
 - (e) Any expert who is retained for the sole purpose of providing only scientific, technical, or other specialized information or testimony in public meetings;
 - (f) Any public officer, employee, or appointee, appearing in his or her official capacity, to represent a governmental entity;
 - (g) Any person who only appears in his or her official capacity for the purpose of self-representation without compensation or reimbursement, whether direct, indirect, or contingent, to express support or opposition to any item;
 - (h) Any person engaged in following activities involving a procurement matter:
 - 1. Appearance at a pre-bid conference;
 - 2. Submission of a bid or proposal;
 - 3. Submission of a written question or response to a bid or proposal;
 - 4. Presentation by technical experts, or persons employed or retained by a principal whose normal scope of employment does not include lobbying activities, for purposes of explaining or demonstrating characteristics or performance of a procurement matter, provided the presentation does not include any advocacy or recommendations on the procurement matter and is otherwise consistent with the pending procurement matter or guidelines and procedures;
 - 5. Post-award contract management;
 - 6. Participation in market research process;
 - 7. Accessed contracts; and
 - 8. Emergency purchases
- (3) *Registration.* All lobbyists and principals who lobby shall register with the Clerk of the Board of County Commissioners within five (5) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first. Every person required to register shall:
- (a) Register on forms prepared by the Clerk;
 - (b) State under oath his or her name, business address, the name and business address of each person or entity which has, directly or indirectly, designated, retained, or employed said registrant to lobby and the specific issue on which the lobbyist has been designated,

retained, or employed to lobby. If the lobbyist represents a corporation, the corporation shall also be identified.

- (c) Registration of all lobbyists shall be required prior to January 15 of each year and each person who withdraws as a lobbyist for a particular client shall file an appropriate notice of withdrawal.
 - (d) The fee for annual registration shall be four hundred and ninety dollars (\$490.00). Every registrant shall be required to state the extent of any business or professional relationship with any current person described in subsection (b). The registration fees required by this subsection shall be deposited by the Clerk into a separate account and shall be expended for the purpose of recording, transcribing, administration and other costs incurred in maintaining these records for availability to the public. Notwithstanding the foregoing, fifteen (15) percent of future funds generated by lobbyist registration fees after the effective date of the [ordinance from which this section derives] shall be deposited into a separate account and shall be expended by the Ethics Commission for the purposes of educational outreach, the rendering of advisory opinions and enforcement of the provisions of Section 2-11.1(s) relating to lobbyists. There shall be no fee required for filing a notice of withdrawal and the Board of County Commissioners may, in its discretion, waive the registration fee upon a finding of financial hardship.
 - (e) Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal, describing the specific issue, agenda item, or procurement matter that is the subject of the lobbying, and identifying all persons holding, directly or indirectly, a five (5) percent or more ownership interest in the corporation, partnership, or trust.
 - (f) The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered, and the lobbyist has not agreed to accept, any contingency or success fees as defined in subparagraph (s)(8).
 - (g) Failure of a principal to file the required forms may be considered in the evaluation of a bid or proposal as evidence that a proposer or bidder is not a responsible contractor.
 - (h) Lobbyists shall file amendments to their registration forms within fifteen (15) days of any change of information required to be set forth on their registration forms.
 - (i) Each lobbyist shall file a form with the Clerk of the Board within thirty (30) days after ceasing all lobbying activities with a principal.
- (4) *Ethics training.*
- (a) Each lobbyist shall, within sixty (60) days after registering as a lobbyist, submit to the Clerk of the Board a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course"). Lobbyists who have completed the initial Ethics Course mandated by the preceding sentence and have continuously registered as a lobbyist thereafter shall be required to complete a refresher Ethics Course every two years. Each lobbyist who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion within sixty (60) days after registering as a lobbyist.
 - (b) The Ethics Course shall include, but not be limited to, a review of the following topics: the Conflict of Interest and Code of Ethics Ordinance; the Sunshine Law; and the Public Records Law.
 - (c) The fee for the Ethics Course shall be one hundred dollars (\$100.00). The registration fees required by this subsection shall be deposited into a separate account and shall be expended by the Ethics Commission for Ethics Courses and related costs.
 - (d) The requirements of this subsection relating to the Ethics Course shall not be applicable to any municipal lobbyist in Miami-Dade County unless said municipality has adopted an

ordinance providing for ethics training of lobbyists and has entered into an interlocal agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection. The Executive Director of the Ethics Commission may waive the Ethics Course requirement for a particular lobbyist when he or she determines that the lobbyist has taken an initial or refresher Ethics Course offered by a municipality which satisfies the requirements of this subsection.

- (5) *Exceptions to registration fee requirement.* The following persons or entities shall register as lobbyists and complete the required ethics training, pursuant to the subparagraphs above, but shall not be required to pay registration fees:
- (a) A principal of any corporation, partnership or other entity who appears as a lobbyist on behalf of that entity, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
 - (b) Any person who only appears as a representative of a not-for-profit corporation or entity (such as a 501(c)(3) organization, a trade association, or trade union), without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
 - (c) Any principal who only appears as a representative of a certified Micro Enterprise, as defined in Section 2-8.1.1.1.1 of the Code, as a representative of a certified Level I Community Small Business Enterprise, as defined in Section 10-33.02 or as a representative of a certified Tier 1 Community Business Enterprise, as defined in Section 2-10.4.01, without special compensation or reimbursement for the appearance, whether direct, indirect or contingent, to express support of or opposition to any item.
- (6) *Affidavit requirement.* The following provisions shall apply to certain individuals who, in procurement matters, participate in oral presentations or recorded negotiation meetings and sessions:
- (a) The principal shall list on an affidavit form, provided by the County, all technical experts or employees of the principal whose normal scope of employment does not include lobbying activities and whose sole participation in a County procurement matter involves an appearance and participation in an oral presentation before a County certification, evaluation, selection, technical review or similar committee, or recorded negotiation meetings or sessions.
 - (b) No person shall appear before any procurement committee or at any procurement negotiation meeting or session on behalf of a principal unless he or she has been listed as part of the principal's presentation or negotiation team pursuant to this subparagraph (s)(6), or has registered as a lobbyist pursuant to subparagraph (s)(3).
 - (c) For the purpose of this subsection (s) only, the listed members of the oral presentation or negotiation team shall not be required to separately register as lobbyists or pay any registration fees.
 - (d) The affidavit required by this subsection shall be filed by County procurement staff with the Clerk of the Board at the time the proposal is submitted or prior to the recorded negotiation meeting or session.
 - (e) Notwithstanding the foregoing, any person who engages in lobbying activities in addition to appearing before a procurement committee to make an oral presentation, or at a recorded procurement negotiation meeting or session, shall comply with all lobbyist registration requirements.
- (7) *Expenditure reports.*
- (a) On July 1 of each year, the lobbyist shall submit to the Clerk of the Board of County Commissioners a signed statement under oath, as provided herein, listing all lobbying expenditures in excess of twenty-five dollars (\$25.00) for the preceding calendar year. The statement shall list in detail each expenditure by category, including food and beverage,

entertainment, research, communication, media advertising, publications, travel, lodging and special events. Even if there are no reportable expenditures during a reporting period, a statement shall be filed so indicating.

- (b) The Clerk of the Board of County Commissioners shall notify any lobbyist who fails to timely file an expenditure report. In addition to any other penalties which may be imposed as provided in subsection (s)(9), a fine of fifty dollars (\$50.00) per day shall be assessed for reports filed after the due date. Where a fine of fifty dollars (\$50.00) per day is assessed, the Ethics Commission shall not impose a fine as provided in subsection (z). Any lobbyist who fails to file the required expenditure report by September 1 shall be automatically suspended from lobbying until all fines are paid unless the fine has been appealed to the Ethics Commission.
 - (c) The Clerk of the Board of County Commissioners shall notify the Commission on Ethics and Public Trust of the failure of a lobbyist or principal to file a report and/or pay the assessed fines after notification.
 - (d) A lobbyist or principal may appeal a fine and may request a hearing before the Commission on Ethics and Public Trust. A request for a hearing on the fine must be filed with the Commission on Ethics and Public Trust within fifteen (15) calendar days of receipt of the notification of the failure to file the required disclosure form. The Commission on Ethics and Public Trust shall have the authority to waive the fine, in whole or part, based on good cause shown. The Commission on Ethics and Public Trust shall have the authority to adopt rules of procedure regarding appeals from the Clerk of the Board of County Commissioners.
- (8) *Contingency fees.*
- (a) No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee.
 - (b) As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on or in any way contingent on the lobbying activities.
- (9) *Lobbyist registration logs.*
- (a) The Clerk shall publish logs on a quarterly and an annual basis reflecting the principal and lobbyist registrations which have been filed in accordance with this subsection (s).
 - (b) All logs shall be prepared in a manner substantially similar to the logs prepared for the Florida Legislature pursuant to Section 11.045, Florida Statutes.
- (10) *Violations.*
- (a) The Ethics Commission shall investigate any person engaged in lobbying who may be in violation of this subsection (s).
 - (b) In the event that a violation is found to have been committed the Ethics Commission may, in addition to the penalties set forth in subsection (z), prohibit such person from lobbying before the County Commission or any committee, board or personnel of the County as provided herein.
 - (c) Every lobbyist who is found in violation of this section shall be prohibited from registering as a lobbyist or lobbying in accordance with the following schedule:
 - 1st violation for a period of 90 days from the date of determination of violation;
 - 2nd violation for a period of one (1) year from the date of determination of violation;
 - 3rd violation for a period of five (5) years from the date of determination of violation.
 - (d) A bidder or proposer shall be subject to the debarment provisions of Section 10-38 of the Code of Miami-Dade County as if the bidder or proposer were a contractor where the bidder

or proposer has violated this section, either directly or indirectly or any combination thereof, on three (3) or more occasions. As used herein, a "direct violation" shall mean a violation committed by the bidder or proposer and an "indirect violation" shall mean a violation committed by a lobbyist representing said bidder or proposer. A contract entered into in violation of this section shall also render the contract voidable. The County Mayor or designee shall include the provisions of this subsection in all County bid documents, RFP, RFQ, CBO and CDBG applications; provided, however, the failure to do so shall not render any contract entered into as a result of such failure illegal per se.

(11) *Diligence requirement; lobbying by unregistered persons; effect on County action.*

- (a) All members of the County Commission, and all County personnel, shall be diligent to ascertain whether persons required to register as lobbyists pursuant to this subsection (s) have complied with the requirement. This diligence requirement may be satisfied if members of the County Commission, or County personnel, maintain a written log that documents all oral lobbying communications or meetings with a lobbyist, held for the purpose of lobbying outside a duly noticed public meeting or hearing, and the log, at a minimum, reflects the name of the lobbyist, the date of the lobbying activity, whether the lobbyist indicates he or she is registered, and the subject matter discussed. Each such log shall be maintained and made available consistent with public record requirements.
- (b) Commissioners or County personnel shall not knowingly permit a person who is not registered pursuant to this subsection to lobby the Commissioner or his or her staff, or the relevant committee, board, or County personnel.
- (c) Notwithstanding the foregoing, and except as otherwise provided herein, the validity of any action or determination of the Board of County Commissioners or County personnel, board, or committee shall not be affected by the failure of any person to register as a lobbyist or otherwise comply with the provisions of subsection (s).

(Ord. No. 86-24, § 1, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 00-19, § 1, 2-8-00; Ord. No. 01-93, § 1, 5-22-01; Ord. No. 01-162, § 1, 10-23-01; Ord. No. 10-03, § 1, 1-21-10; Ord. No. 10-04, § 1, 1-21-10; Ord. No. 10-34, § 1, 6-3-10; Ord. No. 10-56, § 1, 9-21-10; Ord. No. 12-10, § 1, 3-6-12; Ord. No. 12-63, § 1, 9-6-12; Ord. No. 21-73, § 1, 7-20-21)

(t) *Cone of Silence.*

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.
 - (a) "Cone of Silence" is hereby defined to mean a prohibition on:
 - (i) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff;
 - (ii) Any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff;
 - (iii) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee therefor;
 - (iv) Any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefor;

- (v) Any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and
- (vi) Any communication regarding a particular RFP, RFQ, or bid between any member of the County's professional staff and any member of the selection committee therefore.

The County Manager and the Chairperson of the selection committee may communicate about a particular selection recommendation, but only after the committee has submitted an award recommendation to the manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change as well as the reasons for such change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to:

- (i) Competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management;
 - (ii) Communications with the County Attorney and his or her staff;
 - (iii) Communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs;
 - (iv) Communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure;
 - (v) Duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the County Manager makes his or her written recommendation;
 - (vi) Any emergency procurement of goods or services pursuant to Administrative Order 3-2;
 - (vii) Communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;
 - (viii) Communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and
 - (ix) Consultations by employees of the Department of Procurement Management with professional procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.
- (b) Procedure.
- (i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager or his or her designee shall provide for public notice of the Cone

of Silence. The County Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Clerk of the Board, with a copy thereof to each Commissioner, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.

- (ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be reimposed until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Section 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars (\$100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the expenditure of over \$25,000 up to \$100,000; or (iii) at the time the award recommendation is issued in accordance with Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of \$25,000 or less.
 - (iii) While the Cone of Silence is in effect, County Staff shall create a written record of any oral communications with potential vendor, service provider, bidder, lobbyist, or consultant related to or regarding a solicitation, bid, proposal, or other competitive process. The record shall indicate the date of such communication, the persons to whom staff communicated, and a general summation of the communication. This subsection applies to all communications made while the Cone of Silence is in effect for a particular solicitation.
- (c) Exceptions.
- (i) The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees duly noticed as a public meeting, recorded contract negotiations and contract negotiation strategy sessions in compliance with the exemption in Florida Statutes Section 286.0113, any portion of a meeting discussing an unsolicited proposal in compliance with the exemptions in section 255.065, Florida Statutes, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communication in writing at any time with any County employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.
 - (ii) The provisions of this ordinance shall also not apply to oral communications at briefings held by county commissioners and the County Mayor or his designee, after the selection committee or other evaluating group makes its recommendation to the County Manager, provided that the briefings are not intended to influence the outcome of the selection committee or other evaluating group's recommendation to the County Manager; provided, however, that this exception shall not apply to outside groups such as lobbyists or representatives of the responding or bidding companies or entities.
2. Audit and IPSIG contracts.
- (a) "Cone of Silence" is hereby defined to mean a prohibition on: (a) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (b) any oral communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member

of the County's professional staff including, but not limited to, the County Manager and his or her staff. Notwithstanding the foregoing, the Cone of Silence shall not apply to (a) communications with the County Attorney and his or her staff; (b) communications between a potential vendor, service provider or bidder and employees of the Department of Procurement Management or other department identified in the solicitation document as the issuing department; and (c) consultations by employees of the Department of Procurement Management with professional procurement colleagues in determining an appropriate approach or option involving a solicitation in progress.

- (b) Except as provided in Subsections 2(c) and 2(d) hereof, a Cone of Silence shall be imposed upon each RFP, RFQ and bid for audit and IPSIG services after the advertisement of said RFP, RFQ or bid. At the time of the imposition of the Cone of Silence, the County Manager or his or her designee shall provide for the public notice of the Cone of Silence. The Cone of Silence shall terminate when the County Manager executes a particular audit or IPSIG contract.
 - (c) Nothing contained herein shall prohibit any bidder or proposer: (i) from making public presentations at duly noticed pre-bid conferences or before duly noticed selection committee meetings; (ii) from engaging in recorded contract negotiations in compliance with the exemption in Florida Statutes Section 286.0113; or (iii) from communicating in writing with any County employee or official for purposes of seeking clarification or additional information from, subject to the provisions of the applicable RFP, RFQ or bid documents. Any recordings made pursuant to this section shall be made available, as a public record, upon the conclusion of the selection committee or negotiation meetings notwithstanding the elapsed time from bid or proposal opening. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to the general public upon request.
 - (d) Nothing contained herein shall prohibit any lobbyist, bidder, proposer or other person or entity from publicly addressing the Board of County Commissioners during any duly noticed public meeting regarding action on any audit or IPSIG contract. The County Manager shall include in any public solicitation for auditing or IPSIG services a statement disclosing the requirements of this ordinance.
3. Penalties. In addition to the penalties provided in subsections (s) and (v) hereof, violation of this subsection (t) by a particular bidder or proposer shall render any RFP award, RFQ award or bid award to said bidder or proposer voidable. Any person who violates a provision of this ordinance shall be prohibited from serving on a Miami-Dade County competitive selection committee. In addition to any other penalty provided by law, violation of any provision of this ordinance by a Miami-Dade County employee shall subject said employee to disciplinary action up to and including dismissal. Additionally, any person who has personal knowledge of a violation of this ordinance shall report such violation to the State Attorney and/or may file a complaint with the Ethics Commission.
 4. The requirements of Section 2-11.1(t) shall not apply to any municipality in Miami-Dade County that has adopted an ordinance providing that the cone of silence shall not apply to that municipality. Any municipality that opts out of the requirements of Section 2-11.1(t) shall provide the Ethics Commission with a copy of the ordinance.
 5. Within thirty days of a recommendation from a selection committee, the County Mayor or his designee shall either appoint a negotiation committee or take other affirmative action with respect to the solicitation, including but not limited to rejection of proposals or recommendation for award. In the event that negotiations have not commenced within thirty days, or if such other affirmative action has not been taken within thirty days, the County Mayor or his designee shall report such event, and the reasons therefore, to the Board of County Commissioners. Additionally, the County Mayor or his designee shall present the Clerk of the Board with a recommendation for award, or a recommendation to reject proposals, within ninety days from the date a selection committee makes a recommendation. In the event that the County Mayor or his designee has not provided such recommendation to the Clerk of the Board within ninety days, the County Mayor or his

designee shall provide a report on the status of the solicitation to the Board of County Commissioners, including the reasons for any delay.

(Ord. No. 98-106, § 1, 7-21-98; Ord. No. 99-1, § 1, 1-21-99; Ord. No. 00-149, § 1, 11-28-00; Ord. No. 01-149, § 1, 9-25-01; Ord. No. 01-150, § 1, 9-25-01; Ord. No. 02-3, § 1, 1-29-02; Ord. No. 04-77, § 1, 4-27-04; Ord. No. 08-111, § 1, 10-7-08; Ord. No. 17-94, § 3, 12-5-17)

- (u) *Prohibition on certain business transactions.* No person who is serving as an elected county official or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager or department director shall enter into a business transaction with any person or entity that has a contract with Miami-Dade County or any shareholder, partner, officer, director or employee of said contractor, unless said business transaction is an arm's length transaction made in the ordinary course of business. The provisions of this subsection (u) shall not apply to a business transaction between an elected county official, a member of the staff of an elected county official, the county manager, a senior assistant to the county manager or a department director and a not-for-profit entity. As used herein, a "shareholder" shall mean any person owning ten (10) percent or more of the outstanding capital stock of any corporation. As used herein, "elected county official" shall mean the mayor, county commissioners and community council members. As used herein, "business transaction" shall mean any contract wherein persons either sell, buy, deal, exchange, rent, lend or barter real, personal or intangible property, money or any other thing of value, or render services for value.
- (v) *Voting Conflicts.* Members of Advisory and Quasi-Judicial Boards. No person included in the terms defined in subsections (b)(3) (quasi-judicial personnel) and (b)(4) (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) stockholder, bondholder, debtor or creditor.
- (w) *Prohibition on acceptance of travel expenses from county vendors.* Notwithstanding any other provision of this section, no person included in subsections (b)(1)(Mayor and Commissioners), (b)(5)(departmental personnel) or (b)(6) (employees) shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provider, bidder or proposer. The Board of County Commissioners may waive the requirements of this subsection by a majority vote of the Commission. The provisions of this subsection (w) shall not apply to travel expenses paid by other governmental entities or by organizations of which the County is a member if the travel is related to that membership.
- (x) *Prohibition on county employees and departmental personnel performing contract-related duties.* No person included in subsections (b)(5)(departmental personnel) and (b)(6) (employees), who was previously employed by or held a controlling financial interest in a for-profit firm, partnership or other business entity (hereinafter "business entity") shall, for a period of two years following termination of his or her prior relationship with the business entity, perform any county contract-related duties regarding the business entity, or successor in interest, where the business entity is a county bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), "contract-related duties" include, but are not limited to: service as a member of a county certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.
- (y) *Powers and jurisdiction of Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance. Jurisdiction of the Ethics Commission shall automatically extend to Commissioners, the Mayor, autonomous personnel, quasi-judicial personnel, departmental personnel, employees, contract staff, advisory personnel, immediate family, lobbyists as defined in subsections

(b) and (s) who are required to comply with the Conflict of Interest and Code of Ethics Ordinance; proposers as defined in subsection (e) that are required to comply with the Conflict of Interest and Code of Ethics Ordinance; and any other person required to comply with the Conflict of Interest and Code of Ethics Ordinance including, but not limited to, contractors, consultants and vendors. In the event that the Ethics Commission does not assume jurisdiction as provided in the preceding sentence, the Ethics Commission may refer the complaint to the State Attorney for appropriate action. Notwithstanding the foregoing, the Ethics Commission shall not have jurisdiction to consider an alleged violation of subsection (c) if the requirements of subsection (c) have been waived for a particular transaction as provided therein.

(Ord. No. 10-48, § 1, 7-8-10; Ord. No. 21-62, § 1, 7-8-21)

- (z) *Prohibition on participation in settlement negotiations.* Neither the Mayor, a County Commissioner nor any member of their staff shall participate in settlement negotiations of claims or lawsuits, including but not limited to contract scope or compensation adjustments involving the County without prior approval of the Board of County Commissioners.
- (aa) *County Attorney's Office participation in contract adjustments.* County staff shall request the participation of the County Attorney's Office to provide legal advice regarding scope or compensation adjustments which increase by more than one million dollars (\$1,000,000.00), the value of a construction contract or a contract involving the purchase of goods or services.
- (bb) *Affidavit and Ethics Course.* Each person who is elected to serve as a member of the Board of County Commissioners or as Mayor of Miami-Dade County shall execute an affidavit, on a form prepared by the Ethics Commission, stating that he or she has read the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance and agrees to comply with the provisions of said ordinance. Each elected official covered by the requirements of this subsection shall file the required affidavit with the Ethics Commission prior to being sworn into office. Each elected official, as defined in subsection (b)(1), shall, within ninety (90) days after being sworn into office, submit to the Clerk of the Board a certificate of completion of an ethics course offered by the Miami-Dade County Commission on Ethics and Public Trust ("Ethics Course"). Each employee of the County, as defined in subsections (b)(5) and (b)(6), shall within one hundred and eighty (180) days of the effective date of this ordinance or within sixty (60) days after being hired by the County, submit to the Clerk of the Board a certificate of completion of an Ethics Course offered by the Miami-Dade County Commission on Ethics and Public Trust. Employees shall be required to complete a refresher Ethics Course every two years thereafter. Each employee who has completed a refresher Ethics Course shall submit to the Clerk of the Board a certificate of completion. The Ethics Course shall include, but not be limited to, a review of the following topics: the Conflict of Interest and Code of Ethics Ordinance; the Sunshine Law; the Public Records Law and the Citizens' Bill of Rights. The requirements of this subsection (bb) relating to the Ethics Course for employees shall not be applicable to any municipality in Miami-Dade County unless said municipality has adopted an ordinance providing for the Ethics Course, and has entered into an interlocal agreement with the County authorizing the Ethics Commission to provide the Ethics Course provided for in this subsection.

(Ord. No. 12-11, § 1, 3-6-12; Ord. No. 13-50, § 1, 6-4-13)

- (cc) *Penalty.*
 - (1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of five hundred dollars (\$500.00) for the first such violation and one thousand dollars (\$1,000.00) for each subsequent violation. Where the Ethics Commission finds that a person has intentionally violated this section and determines that a fine is appropriate, said person shall be subject to a fine of one thousand dollars (\$1,000.00) for the first such violation and two thousand dollars (\$2,000.00) for each subsequent violation. Actual costs incurred by the Ethics Commission, in an amount not to exceed five hundred dollars (\$500.00) per violation, may be assessed where the

Ethics Commission has found an intentional violation of this section. The Ethics Commission may also order the person to pay restitution when the person or a third party has received a pecuniary benefit as a result of the person's governed by an administrative order adopted by the County Commission and rules of procedure promulgated by the Ethics Commission.

- (2) *Prosecution by State Attorney in State court.* Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment in the County Jail for not more than thirty (30) days, or by both such fine and imprisonment.

(Ord. No. 72-82, § 1, 11-21-72; Ord. No. 73-26, § 1, 3-20-73; Ord. No. 77-13, § 4, 3-1-77; Ord. No. 86-24, § 2, 4-1-86; Ord. No. 91-22, § 1, 2-19-91; Ord. No. 92-27, § 1, 4-21-92; Ord. No. 95-21, § 1, 2-7-95; Ord. No. 97-105, § 2, 7-8-97; Ord. No. 98-73, § 1, 6-2-98; Ord. No. 98-76, § 1, 6-2-98; Ord. No. 98-106, § 1, 7-21-98; Ord. No. 98-125, § 1, 9-3-98; Ord. No. 99-150, § 1, 11-2-99; Ord. No. 00-46, § 1, 4-11-00; 00-149, § 1, 11-28-00; Ord. No. 01-199, § 1, 12-4-01; Ord. No. 03-73, § 1, 4-8-03; Ord. No. 03-107, § 1, 5-6-03; Ord. No. 03-140, § 1, 6-3-03; Ord. No. 04-55, § 1, 3-16-04; Ord. No. 04-119, § 1, 6-8-04; Ord. No. 04-204, § 1, 12-2-04; Ord. No. 05-71, § 1, 4-5-05; Ord. No. 06-148, § 1, 10-10-06; Ord. No. 10-11, § 1, 2-2-10; Ord. No. 10-48, § 1, 7-8-10; Ord. No. 13-53, § 1, 6-4-13; Ord. No. 14-96, § 1, 10-7-14)

Editor's note— Ord. No. 72-82, § 1, amended this Code by repealing former § 2-11.1 relative to County officers and employees transacting business with the County and enacted in lieu thereof a new § 2-11.1 as herein set out. Former § 2-11.1 was derived from Ord. No. 59-44, §§ 2—5, adopted Dec. 1, 1959.

Annotations—AO 7-1; CAO's 76-8, 76-32, 76-36, 76-39, 76-43, 76-46, 76-50, 76-55, 77-1, 77-9, 77-14, 77-16, 77-19, 77-26, 77-33, 77-37, 77-40, 77-41, 77-44, 77-52, 77-53, 77-56, 77-63, 77-68, 78-2, 78-10, 78-11, 78-12, 78-17, 78-25, 78-33, 78-44, 78-47, 78-53, 78-54, 79-6, 79-7, 79-12, 79-16, 79-19, 79-32, 79-37, 80-3, 80-4, 80-11, 80-21, 80-24, 80-25, 80-28, 80-29, 81-4, 81-13, 81-18, 81-22, 81-31, 81-38, 82-1, 82-10, 82-13, 82-19, 82-24, 82-25, 82-28, 82-29, 83-2, 83-6, 83-11, 83-22, 85-8.

State Law reference— Code of ethics for public officers and employees, F.S. § 112.311 et seq.

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(15)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

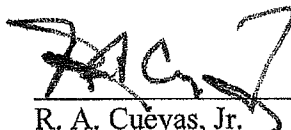
DATE: May 6, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the
Commission Auditor to conduct
background checks on members
serving on evaluation/selection
committees

Resolution No. R-449-14

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: May 6, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 11(A)(15)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor

Agenda Item No. 11(A)(15)

Veto _____

5-6-14

Override _____

RESOLUTION NO. R-449-14

RESOLUTION DIRECTING THE COMMISSION AUDITOR
TO CONDUCT BACKGROUND CHECKS ON MEMBERS
SERVING ON EVALUATION/SELECTION COMMITTEES

WHEREAS, this Board is committed to encouraging a competitive, fair and impartial process in awarding County contracts; and

WHEREAS, Miami-Dade County regularly uses selection and evaluation committees in its competitive solicitations for the award of County contracts; and

WHEREAS, when Miami-Dade County uses selection and evaluation committees to award contracts it is imperative that the selection or evaluation committee members themselves are fair, impartial, objective and free from any business or other ethical conflicts of interest,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The Board directs the Commission Auditor to conduct background checks of all individuals appointed to a selection or evaluation committee for any contracts that are to be awarded by this Board. Such background checks shall be limited to verifying that: (1) the selection and/or evaluation committee member or member of his or her immediate family (spouse, domestic partner, parents, stepparents, children and stepchildren) does not control or direct any financial or other interest in any vendor, affiliate of any vendor, or proposed subcontractor of any vendor under consideration by the committee he or she is appointed to; (2) none of the owners, officers, or employees of the proposing vendors was an immediate supervisor of the appointed selection or evaluation committee member during the preceding eighteen (18) months; (3) the selection or evaluation committee member or members of his or

her immediate family (spouse, domestic partner, parents, stepparents, children and stepchildren) are not currently employed or were previously employed by any vendor, affiliate of any vendor, or proposed subcontractor of any vendor under consideration by the committee he or she is appointed to. The Commission Auditor shall submit the results of the background checks to the Internal Services Department or other County department overseeing and administering the competitive solicitation and contract award that used the selection and/or evaluation committee members at issue and to the Commission on Ethics.

Section 2. The Commission Auditor is further directed to develop a questionnaire for prospective selection committee members to provide the Commission Auditor the necessary information to perform the review set forth in this Resolution. In addition to the questionnaire and the vendor registration information from prospective vendors on the solicitation, the Commission Auditor shall use whatever other means that are reasonably available such as reviewing public records and/or other public sources of information, in print, on the internet, or other means of communication.

The Prime Sponsor of the foregoing resolution is Chairwoman Rebeca Sosa. It was offered by Commissioner **Rebeca Sosa**, who moved its adoption. The motion was seconded by Commissioner **Esteban L. Bovo, Jr.** and upon being put to a vote, the vote was as follows:

	Rebeca Sosa, Chairwoman	aye	
	Lynda Bell, Vice Chair	aye	
Bruno A. Barreiro	aye	Esteban L. Bovo, Jr.	aye
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Sally A. Heyman	nay	Barbara J. Jordan	nay
Jean Monestime	aye	Dennis C. Moss	aye
Sen. Javier D. Souto	aye	Xavier L. Suarez	aye
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of May, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS



HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "EWG".

Eduardo W. Gonzalez