

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, October 26, 2016 2:27 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Scott Mendelsberg, Assistant Director, MDRF, Conflict/Conflicting employment prohibited (j); INQ 16-242

[INQ 16-242 Mendelsberg](#)

From: Perez, Martha D. (COE)
Sent: Wednesday, October 26, 2016 2:23 PM
To: Mendelsberg, Scott (MDRF) <Scott.Mendelsberg@miamidade.gov>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>
Subject: Scott Mendelsberg, Assistant Director, MDRF, Conflict/Conflicting employment prohibited (j); INQ 16-242

Dear Mr. Mendelsberg,

You inquire whether you may have a conflict of interest serving in a negotiation committee where the representative of one of the recommended proposers is a personal friend.

Background

You are the Assistant Director of the Miami-Dade County Fire Rescue Department (MDRF). You served in the Evaluation/Selection Committee for Contract No. RFP673 regarding the employee group dental insurance selection of indemnity and pre-paid plans dental program. The selection process consisted of scoring and ranking submitted proposals with no oral presentations conducted. Consequently, a negotiation committee was selected to engage in negotiations with the recommended proposer(s). The Selection Committee recommended that the County enter into negotiations with one of the proposers- Delta Dental Insurance Company (DDI).

Prior to the initiation of the negotiation phase of this RFP, a meeting was held with the proposers. In attendance at the meeting were the lobbyists representing the ranked firms: Miguel de Grandy, Sergio Pereira, Dusty Melton and the representative for DDI (Respondent). The individuals representing these firms were not known to you at the evaluation/selection phase, but rather, the lobbyists' identities became known to you *after* the selection process took place.

You advise that you have been friends with Respondent for 35 years. You were fraternity brothers at the University of Miami and you are still both involved with your fraternity's alumni association. You presently socialize with Respondent. You indicated that you have no affiliation- business, financial or otherwise, with DDI.

Analysis

A negotiation committee formed by a County department may be considered to be an advisory board of the County for purposes of assessing a conflict under Section 2-11.1(v) of the County Ethics Code. That section requires, for purposes of determining a voting conflict, that the member be directly affected by the action and that the member have any of the prohibited relationships with any person appearing before the board (committee): officer, director, partner, of counsel, consultant, employee, fiduciary, beneficiary, stockholder, bondholder, debtor or creditor. Consequently, it does not appear that you would have a conflict under this section as there is no direct impact on you personally, nor any of the required prohibited relationships with the Respondent that could create such a conflict.

As a member of a County negotiation committee, however, you are subject to Section 2-11.1(j) of the County Ethics Code, which prohibits County personnel from engaging in activities which would impair his or her independence of judgment in the performance of his or her public duties. Consequently, County employees who serve as negotiation committee members cannot participate in negotiations where their private interests outweigh their faithful discharge of responsibilities to the County. *See* INQ 12-217.

In assessing the private interests involved in any given activity, emphasis is given to the relationship between the committee member and the proposer entity. In this instance, you do not maintain a current employment, financial or business relationship with Respondent or DDI, nor do you have any personal interest in the contract itself, thus, your service in the negotiation aspect of this RFP does not present a conflict of interest under the County Ethics Code. *See* INQ 15-206

However, as in all procurement matters, where appearances of integrity and fairness are paramount, “there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence... [which] may require a higher standard of ethics...” INQ 14-242. In light of your concern over a perceived conflict of interest, your close social relationship with Respondent suggests that you should consider withdrawing from the negotiation committee. *See* INQ 14-246; 15-206

This opinion is based on the facts presented. If any of these facts change, please contact me.

Sincerely,

Martha D. Perez
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