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December 19, 2002

Roberto Smith  
MGE Architects  
150 Alhambra Circle  
Suite 700  
Coral Gables, FL 33134

**RE: REQUEST FOR ADVISORY OPINION 02-147**

Dear Mr. Smith:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on December 18, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding MGE Architects ability to bid on a supplemental Architectural and Engineering contract for the South Terminal program at Miami International Airport.

In your letter, you advised the Commission that MGE Architects has served as the architectural and engineering firm for Concourse J at Miami International Airport since 1996. Concourse J is one of the components of the South Terminal Program. Daniel, Mann, Johnson and Mendenhall (DMJM) is a structural and mechanical engineering subconsultant to MGE Architects on Concourse J. DMJM is a large multinational corporation with various divisions including two divisions that are part of Dade Aviation Consultants. The Arlington, VA division, not the DAC divisions, serves as subconsultants to MGE Architects on Concourse J.

The South Terminal Program, including Concourse J, is managed by Dade Aviation Consultants. Dade Aviation Consultants is a consortium of eight companies. The eight companies are the Bechtel Corporation, DMJM Aviation (formerly Day and Zimmerman), Spillis Candela DMJM, the Bugdal Group, Forrest Construction Management, Maurice Gray Associates, Sharpton, Brunson & Company and Thompson Consultants International. Spillis Candela was acquired by DMJM in 1999. DMJM Aviation was created in 1999 and includes the former Day and Zimmerman. Spillis Candela DMJM and DMJM Aviation employees participate in project management for various capital projects including Concourse J.

The Aviation Department is currently preparing to issue two requests for proposals (RFP) for supplemental architectural and engineering work on the South Terminal program. The two teams selected for the supplemental work will be responsible for construction phase design and engineering work. The final language for the RFPs has not been drafted but the RFP will provide that a firm is not precluded from submitting a proposal based on previous work on any aspect of the South Terminal program. However, a firm may have a conflict if the firm is connected to a firm that is a part of the DAC consortium.

The Commission found the Conflict of Interest and Code of Ethics ordinance does not prohibit DMJM from serving as a member of the MGE Team. However, DMJM should not participate as a member of a team for the supplemental RFP because of the company's role as a member of DAC. Since DAC is involved in every aspect of the contract, DMJM will essentially work for itself if it serves as a member of a team for the supplemental RFP. Therefore, DMJM should not serve as a member of the team.

In a series of prior opinions, the Ethics Commission has held that conflicts are created if a firm works on both sides of the project. In RQO 01-137, the Commission opined that a conflict would be created if H.J. Ross worked as a member of the CM at risk team and a contractor on the same project. Similarly, in RQO 01-146, the Commission opined that a conflict would be created if San Martin Associates worked as a member of the CM team and a contractor on the same project.

Similarly, a conflict exists between DMJM serving as a member of DAC and a subconsultant on a contract overseen by DAC. The conflict is not eliminated because the DMJM-Arlington office is a different division from the DAC divisions. All of the divisions may share personnel and all of the divisions report to the same main office in Los Angeles. Since the firms share a common parent company, the conflict extends to the Arlington division. Therefore, DMJM Arlington should not serve as a member of a MGE team for the supplemental RFP.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS  
Executive Director