



ETHICS COMMISSIONERS

Kerry E. Rosenthal, Chairman
Robert H. Newman, Vice Chairman
Gail Dotson
Guillermo Grenier
Elizabeth M. Iglesias

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

June 27, 2002

Alexis Martinez
President
Metrogroup Construction and Safety
918 N.W. 129th Avenue
Miami, FL 33182

RE: REQUEST FOR ADVISORY OPINION 02-75

Dear Mrs. Martinez:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 27, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your company's ability to become certified as a Community Small Business Enterprise (CSBE) corporation. Your husband, Danilo Martinez, is an employee in the Miami-Dade County Parks and Recreation Department.

In your letter, you advised the Commission that your husband is a Cost and Scheduling Specialist with the Department of Parks and Recreation. As a Cost and Scheduling Specialist, he is responsible for monitoring the progress and cost of department capital projects. Your husband also establishes the schedule for projects. Your husband does not participate in recommendation or award of department construction contracts.

The Department of Business Development certifies small construction companies as a Community Small Business Enterprise. In order

to qualify as a CSBE, the qualifying member who holds the necessary licenses and certifications must own at least ten percent of the capital stock in the corporation. Further, the net worth of all of the owners in aggregate may not exceed seven hundred and fifty thousand (\$750,000) dollars. Further, the qualifier must own at least ten percent of the capital stock in the corporation. Finally, a company is classified according to the level of the firm's bonding capacity. A firm that is classified as a CSBE is eligible to bid on and receive contracts that are set aside for CSBEs or to serve as subcontractors on county contracts.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits the Department of Business Development to certify Metrogroup Construction as a CSBE and for Metrogroup Construction to apply for and receive county construction contracts for all departments other than Parks and Recreation.

Section 2-11.1 (c) provides that " Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee... 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 awards 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."

As long as Metrogroup Construction meets all CSBE certification requirements, the company may be certified. Further, the company may contract with all departments but Parks and Recreation since your husband's job responsibilities will not require him to be involved in contract administration or oversight.

However, your husband must report any jobs as outside employment and Metrogroup Construction may not work as a subcontractor with any company for whom your husband provides oversight for the Department of Parks and Recreation.

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