



July 26, 2002

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Ann McNeil
President
MCO Construction & Services
6600 N.W. 27th Avenue
Suite 202
Miami, Florida 33147

RE: REQUEST FOR ADVISORY OPINION 02-80

Dear Ms. McNeil:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on July 25, 2002 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any conflict between your services as a subconsultant for Parson Odebrecht on the South Terminal Program and any work as a subconsultant to another company on another section of the South Terminal program.

In your letter, you advised the Commission that Parsons Odebrecht, J.V. is the Construction Manager for the South Terminal Program at Miami International Airport. The South Terminal program consists of eight major capitol projects. The Construction Manager at Risk (CM) is responsible for managing all construction work and services provided by all contractors, subcontractors, vendors, suppliers, etc. and monitoring quality, safety and environmental standards. The CM is also responsible for entering into agreements providing for General Contractor or Design/Build Services for the various project phases.

MCO Construction Services currently provides two employees to Parson-Odebrecht. The two employees are a document control assistant and a computer system technician. Neither the principals of MCO Construction or the assigned personnel attend Managers' Meetings for the CM Team.

The Commission found MCO Construction may provide services as a subconsultant to a firm that provides construction services on the South Terminal project. The roles will not conflict because MCO Construction does not provide management services on the project and the functions currently performed by the company will not conflict with further work for Parsons-Odebrecht.

In a series of opinions, the Ethics Commission has defined the types of relationships between Construction Management firms, contractors and subcontractors that raise the potential for conflict. In RQO 00-129, the Commission opined that ADA Engineering may not work as a member of the CM team on the South Terminal program where they had served as a member of the design team. The Commission found that there was an inherent conflict between the role of designer and contractor. In RQO 00-137, the Commission found that HJ Ross had a potential conflict of interest where they would regulate a firm that served as a partner on another contract. The Commission found that the two firms' current business relationship might impair Ross' independence of judgment.

The Subconsultant Agreement between Parsons-Odebrecht and its subconsultants uses the prior opinions to establish a conflict of interest for subconsultants on the South Terminal program. The provisions provide "To assist Subconsultant in avoiding a real or perceived conflict of interest, the following provisions shall apply:
a. Subconsultant employees shall be prohibited from performing assigned

MCO Construction may work as a subconsultant to another firm providing services to Parsons

not occur.
responsibilities to ensure that conflicts do
Odebrecht must continue to monitor MCO's
Therefore, MCO Construction and Parsons
conflict in regard to further work.
level responsibilities, MCO may have a
team increases or MCO assumes management
However, if MCO's responsibilities on the CM
management responsibilities for the project.
Terminal program and does not currently have
involved in any prior work on the South
Terminal program. MCO Construction was not
work for another contractor on the South
conflict in regard to performing different
language, MCO Construction does not have a
Commission's prior opinions and the contract
Under the standard established by the

subconsultant shall abide by the findings."
Having received such an advisory opinion,
subconsultant under the Prime Contract.
of interest in participating as a
appropriate regarding any potential conflict
State of Florida Commission on Ethics, if
Miami-Dade County Ethics Commission, and the
obtain a written advisory opinion from the
of the Prime Contracts, subconsultant shall
Terminal Expansion Program prior to the award
services on any component of the South
contracted to perform any professional
event that a subconsultant has performed or
The agreement further states that "in the

responsibility will be discussed."
design or other professional service
for which subconsultant had any prior
excluded from meetings at which work
b. subconsultant employees shall be
responsibility.

design or other professional
for which subconsultant had any prior
Construction And Construction efforts
Terminal Expansion Program Pre-
work on any portion of the South

odebrecht on the South Terminal program.
Since MCO has not provided any prior work on
the project and is not performing any
management functions on the CM team, pursuant
to the Ethics Commission's prior opinions and
the conflict of interest contract provisions,
MCO construction may work for another
contractor. However, Parsons-Odebrecht and
MCO must monitor the two roles because if
MCO's role on the CM team increases, a
conflict could occur.

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 Ardyth Walker, Staff
General Counsel at (305) 350-0616 or the
undersigned at (305) 579-2594.

Sincerely Yours,



ROBERT MEYERS

Executive Director