

April 30, 2003

Basil Williams
BND Engineering
1200 N.W. 78th Avenue
Suite 400
Miami, FL 33126

RE: REQUEST FOR ADVISORY OPINION 03-67

Dear Mr. Williams:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on April 29, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your firm's ability to provide supplemental AE services for the South Terminal program.

In your request, you advised the Commission that the Aviation Department recently issued a Notice to Professional Consultants for two architectural and engineering agreements for the South Terminal program. The South Terminal program is composed of eight major capital projects. The scope of services for the two contracts includes contract administration and supplemental design services for concourse buildings as well as aircraft apron and taxiway and taxiway areas. The services will include, but not be limited to aviation planning, architecture, landscape architecture, lighting, acoustics, signage, graphics, industrial design, interior design, engineering, telecommunication systems, baggage systems, security and information systems.

The Notice to Professional Consultants states that " Proposers are hereby advised that no firm that has or will perform services or

work as a prime, subconsultant or a member of any tier for the Miami-Dade Aviation Department (MDAD) Miami International Airport for the South Terminal Construction Manager at Risk Contractor, a Joint Venture consisting of Parsons Transportation Group Inc. and Odebrecht Construction Inc. or the MDAD General Consultant Dade Aviation Consultants, a Joint venture comprised of Bechtel Infrastructure Corporation, DMJM Aviation Inc, Spillis Candela DMJM, The Bugdal Group, Poinciana Development Group Inc., Maurice Gray Associates, Inc, Sharpton, Brunson & Company, Inc. and TBI Airport Management Inc. may be included as a prime, subconsultant or member on this agreement. "

BND Engineers is currently serving as a subconsultant to MACTEC/LAW. MACTEC/LAW is a subconsultant to Parsons-Odebrecht on the South Terminal program. BND Engineering has not done any work yet for MACTEC/LAW on the South Terminal program but may provide construction inspection services.

The Commission found BND Engineers may provide supplemental AE Services on the South Terminal project as long as the work is limited to design services and the company does not perform any inspection related services on the supplemental AE team.

In a series of opinions, the Ethics Commission has delineated the types of relationships that create a conflict of interest for contractors. The Ethics Commission has previously held that firm may not serve on projects where the scope of work is identical to work previously provided on the same project; may not serve as members of construction inspection teams, CM at risk teams or hold other oversight responsibilities on contracts where the firm has or will provide other services to the project and may not hold oversight or management responsibilities where those responsibilities require the firm to

supervise the work of affiliated firms of the company or companies for which the firm is serving as a partner on another project.

Since BND Engineers is not currently providing any services on the South Terminal project, BND may serve on a team to provide supplemental AE Services on the South Terminal project. However, BND may only do design work and may not do construction inspections services to avoid overlap of the scope of work between the two jobs. Further, the Aviation Department and Parson-Odebrecht must oversee any work assignments received by BND from MASTEC to assure that the scope of work between the two jobs does not overlap.

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