



December 16, 2005

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Michael Nardone
Vice-President
URS Corporation
7650 Corporate Center Drive
Suite 401
Miami, FL 33126-12220

RE: REQUEST FOR ADVISORY OPINION RQO 05-132

Dear Mr. Nardone:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on December 15, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether your firm may serve as a subconsultant for construction management and design services for the Seaport tunnel. URS has recently been awarded a contract to serve as bond engineer at the Seaport. URS has recently been awarded a contract to serve as bond engineer at the Seaport.

In your letter, you advised the Commission that URS was recently awarded a contract to serve as bond engineer for the Seaport. Under the agreement, URS will perform a range of services including inspection of port facilities, budgetary and financial records; feasibility studies and financial forecasts; review and recommendation of rates and tariffs and review of designs by other of port facilities and other construction projects.

The Florida Department of Transportation is expected to shortly begin work on a transportation tunnel for the Port of Miami. Although the project will primarily be funded by other sources, the project may receive some funding from port fees and GOB bonds. The Florida Department of Transportation will also assume responsibility for selection of program consultants and management of the project although seaport contractors may perform studies or other services related to the project.

URS, along with its current subcontractor Planning Economics Group, would like to serve as a member of a team on the Port of Miami Tunnel Project. URS would provide design and construction management services on the project.

The Commission found that URS may serve as a subconsultant on the Port of Miami tunnel project as long as the firm does not provide any services related to the project in its role as bond engineer for the Seaport. Therefore, URS may not make any recommendations regarding potential funding sources for the new project or rates or fees for traffic through the proposed tunnel. URS is also prohibited from conducting any oversight or reporting on the new tunnel in its annual review of port facilities and capital improvement projects.

In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project). Further, a

conflict may exist if there are overlapping roles on responsibilities between various members of a team (i.e. a member serves as prime contractor on one contract and as a subcontractor to another contractor on another contract), or if there are overlapping scopes of work between two agreements. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of their contractual obligations.

Since primary responsibility for the Port Tunnel will be assumed by the Florida Department of Transportation, URS may serve as a subconsultant providing design and construction management services on the proposed Port of Miami Tunnel Project. URS is only prohibited from performing studies or making recommendations regarding fees or tariffs that will be used to finance or operate the tunnel.

~~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