

March 10, 2006

Kricket Snow
Zyscovich, Inc.
100 North Biscayne Boulevard
27th Floor
Miami, FL 33132

RE: REQUEST FOR ADVISORY OPINION RQO 06-08

Dear Ms. Snow:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 9, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding your team's ability to provide services under the North Terminal Area Improvements contract with the Aviation Department.

In 1997, Miami-Dade County and American Airlines entered into a contract to construct the North Terminal. The original agreement provided that the project would be constructed with county dollars but American Airlines would manage the construction. American Airlines will be the sole carrier occupying the North Terminal. The North Terminal will consist of a new terminal attached to existing concourses A-D. The project includes a regional commuter facility(American Eagle) domestic and international gates, ticket counters, a

federal inspection services facility, an automated peopled mover and fueling facilities. Due to the complexity of the

project and several unanticipated difficulties, the program has experienced significant delays.

In the summer of 2005, pursuant to the Fourth Amendment to the original lease and financing agreement between Miami-Dade County and American Airlines, the County took over management of the North Terminal Development Program. At that time, the County assumed a portion of the outstanding construction and AE contracts between American Airlines and various AE and construction firms. Parson-Odebrecht (POJV) was also retained to serve as general contractor on the project.

The scope of services for the North Terminal Area Improvements provides that the selected team will provide planning, design, construction document preparation, bidding, construction administration related to work at concourses A through D. The scope includes work at terminal buildings, landside and airside facilities including concessions, waiting areas, relocations, ticket counters, information centers, life safety, fire protection and security improvements. Specifically, the Aviation Department will use the consultants to provide any miscellaneous services not covered under existing or amended design and engineering contracts.

The Commission found the Zycosovich team may provide services under the North Terminal Area Improvements agreement as long as the firm does not provide services on any portion of the project where the firm is serving as a project manager.

Section 2-11.1(j) restricts persons covered by the Conflict of Interest and Code of Ethics ordinance from doing work that conflicts with their independence of judgment in performing their County responsibilities. Pursuant to that section of the Conflict of Interest and Code of Ethics ordinance, the

Ethics Commission has delineated certain areas including overlapping responsibilities that would impair a contractor's independent judgment in the performance of its duties for the County.

The Zycosovich team consists of Zycosovich and H.J. Ross and Associates, Nova Consulting, Nifah and Associates, Louis Aguirre, Anthony Baker, CMS and BNP.

Zycosovich is currently providing AE services for the Regional Commuter Facility. The company previously provided consulting services including two project managers to the Corgan Group. A current employee has been retained by MDAD to serve as project manager for either the baggage handling system or the AB Project.

H. J. Ross is currently providing airside civil engineering services as a prime consultant. In that capacity, H. J. Ross has done planning, design, bidding and contract administration regarding the AB Infill, the BC Infill and the Regional Commuter Facility. H. J. Ross has also done design work on utilities, passenger loading bridges and sidewalks. H.J. Ross will continue to provide services during the duration of the construction phase.

H. J. Ross also served as a subconsultant to Argus Consulting. As a subconsultant, H.J. Ross did planning design and prepared construction documents for the aircraft hydrant fueling system.

Nova Consulting has provided environmental services (dewatering plans and permitting) as a subconsultant to Corgan and as a prime to American Airlines. Nova Consulting has also done stormwater design and prepared as-built drawings for pavement restoration for Gurri Matute. Finally, as a subconsultant to Argus Consulting, Nova Engineering provided engineering and environmental services

related to the Aircraft Hydrant Fueling Distribution System and the PCA systems.

Nifah and Partners did threshold inspections for the BC utilities, BC Infill Building Shell and North Terminal Rooftop Telecommunications.

Louis Aguirre provided AE services for the CD Federal Inspection Services station. Louis Aguirre also did tenant relocations and a temporary remodel on the Federal Inspection Services station for Concourse B.

Anthony Baker provided program management services as a subconsultant to the Corgan Group.

BND Engineers provided civil engineering services on the CD Utilities and worked on the aircraft hydrant fueling system as a subconsultant to Argus Consulting.

Since some of the team members are currently providing project management services, the Zycosovich team may provide services under the North Terminal Area improvements agreement only for those projects where the team members are not providing project management services.

The Ethics Commission also held that, if the Zycosovich team is awarded the contract, Zycosovich must provide the MDAD project manager and the Ethics Commission's Executive Director with a written report regarding its compliance with any restrictions contained in this advisory opinion related to the prime or any subcontractors within ninety days of the issuance of each task assignment or work order.

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

cc:Amado Gonzalez, Office of Capital
Improvements

Christopher Mazzella, Inspector General