



ETHICS COMMISSIONERS

Kerry E. Rosenthal, CHAIRPERSON
Gail A. Dotson, VICE CHAIRPERSON
Seymour Gelber
Dawn E. Addy
Brenda Rivera

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

March 10, 2006

Daniel Garcia
Red Design Group
1790 Coral Way
Suite 201
Miami, FL 33145

RE: REQUEST FOR ADVISORY OPINION 06-13

Dear Mr. Garcia:

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 Red Design Group team may provide services under the North Terminal Area Improvements agreement as long as the scope of services does not overlap with any project review or design work being done by a team member.

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 Red Design Group has two team members, William A. Berry and Edward and Kelsey, who have provided services to the North Terminal program.

William A. Berry serves as a subconsultant to the Corgan Group. In that capacity, William A. Berry has done programming and master planning. The firm is currently providing quality control and quality assurance reviews. William A. Berry also worked as a subconsultant to the Valis Group and provided construction documents for the food services concession for the North Terminal.

Edwards and Kelsey is currently serving as a subconsultant to H.J. Ross and Associates. Edwards and Kelsey has done design work on asphalt and concrete pavements. The company has also prepared reports on specifications, pollution control and permitting. The company is currently conducting plans review and preparing contract documents.

Edwards and Kelsey is also serving as a subconsultant to Leo A. Daly and Associates. As a sub to Daly, Edwards and Kelsey is providing drafting and design services for airside and landside pavements, ADA handicap ramps, utilities, permitting and inspections.

The Red Design Group team may provide services under the North Terminal Area improvements agreement as long as the scope of services does not overlap with any project review or design services being provided by any team member.

The Ethics Commission also held that, if the Red Design Group team is awarded the contract, the Red Design Group 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