



August 17, 2007

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Steven Corwin
Procurement Contracting Officer
Department of Procurement Management
111 N.W. First Street
13th Floor
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 07-35

Dear Mr. Corwin:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 16, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether a person may serve as a member of a selection committee if the person has supervised a proposer on a county contract.

In your letter, you advised the Commission that the Department of Procurement Management recently issued a Request for Proposal (RFP) for a firm to provide janitorial services to the Miami-Dade County Public Library System. The RFP required each proposer to list comparable work experiences including a contact person on each agreement. The proposer listed the firm's work as the janitorial service for the Stephen P. Clark Center. Juan Silva of the General Services Administration Department oversaw the contract. Silva was a member of the selection committee.¹ During negotiation, the County

¹ Silva completed the required neutrality affidavit which stated that neither he or any family member had any financial interest in the solicitation or any financial dealings with any proposer .

contacted Silva for a reference regarding the firm's work.

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance permits a county employee to serve on a selection committee if they have previously supervised a proposer's work. Section 2-11.1(n) (actions prohibited when financial interests involved) only prohibits an employee from serving if he or she will financially benefit from the decision of the selection committee.

Administrative Order 3-34 establishes the procedure for creating a selection committee. The AO requires that each selection committee contain members who have technical expertise and background in the area of the solicitation. Accordingly, selection committees contain county staff who have overseen similar contracts to the one under consideration by the selection committee.

In RQO 05-27, the Ethics Commission opined that a selection committee member may provide a reference to a proposer and serve as a member of the selection committee as long as any request for a reference from a proposer was made in writing and a copy of all correspondence was sent to the Clerk of the Board.

Therefore, a selection committee may contain members who have previously supervised a proposer's work and provided required professional references or information regarding the proposer's work on previous county contracts. An employee is only prohibited from serving if he or she or a member of their immediate family will benefit from the decision of the selection committee.

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,

A handwritten signature in cursive script, appearing to read "Robert Meyers", followed by a long horizontal line extending to the right.

ROBERT MEYERS
Executive Director