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August 28, 2009

Terry Jaquess
Project Manager
Shaw Environmental and Infrastructure
3600 Springhill Business Park
Suite 200
Mobile, Alabama 36608

RE: REQUEST FOR ADVISORY OPINION-RQO 09-25

Dear Mr. Jaquess:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on August 27, 2009 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any limitations on your firm's ability to bid on projects at the Seaport while the firm is providing services to Port of Miami Crane Management (POMCM).

In your request, you advised the Commission that Shaw Environmental is currently providing services to POMCM through a contract with Gottlieb, Barnett and Bridges (GBB). The scope of services requires GBB to modify, upgrade, repair and relocate existing cranes at the port. Further services include preparation of design drawings and calculations, solicitation and evaluation of bids and review of contractor fabrication and erection of gantry cranes. Shaw/GBB has also assisted POMCM and the Seaport in acquiring new cranes.

The Seaport is preparing to issue a solicitation for a firm to provide bond engineering services at the Seaport. The anticipated scope of services provides that the firm will provide a number 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 others of port facilities and other construction projects. The work may include inspection and recommendations regarding gantry cranes at the Seaport. The bond engineer does not set rates for use of the gantry cranes at the Seaport. The rates for use of gantry cranes are established by the cargo operators.

The Commission found Shaw Environmental may provide bond engineering and other services to the Seaport. The scope of services under the bond engineering agreement does not conflict with the services under the agreement with Port of Miami Crane Management. POMCM is a county-created agency that manages the gantry cranes for the Seaport. The bond engineer is responsible for long-range planning while POMCM is responsible for day to day operation and management of the gantry cranes. Therefore, Shaw may serve in both capacities.

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 may exist if there are overlapping roles or 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. Shaw does not have any of the conflicts cited by the Ethics Commission in prior opinions. Therefore, Shaw may serve in both capacities.

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 black ink, appearing to read "Robert Meyers", with a long horizontal line extending to the right.

ROBERT MEYERS
Executive Director