



FILE COPY

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STAFF GENERAL COUNSEL

August 28, 2009

Thomas P. Abbott
Assistant County Attorney
Miami-Dade Aviation Department
P.O. Box 025504
Miami, FL 33102

RE: REQUEST FOR ADVISORY OPINION-RQQ 09-27

Dear Mr. Abbott:

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 whether consultants are required to file financial disclosure on an annual basis.

In your request, you advised the Commission that the Conflict of Interest and Code of Ethics ordinance requires all firms providing professional services as defined in Section 2-10.4 in the county code to file financial disclosure within 30 days of contract award. Section 2-10.4 defines professional services as "services within the practice of architecture, professional engineering, landscape engineering, registered land surveying and mapping as defined by the laws of the state." Pursuant to the ordinance, all county contracts for architectural and engineering services (A/E) contracts contain language requiring firms to file financial disclosure information with the Department of Elections.

Section 2-11.1(i)(1) provides that all persons and firms within subsections (a) and (b)(2), (b)(3) and (b)(4) of this section shall file no later than 12:00 noon of July 1st of each year a financial disclosure form. The Aviation Department is considering amending its boilerplate to provide that this language makes the annual disclosure requirement applicable to AE firms.

The Ethics Commission found the Conflict of Interest and Code of Ethics ordinance requires AE firms to file financial disclosure on an annual basis. Section 2-11.1(i)(4) sets out the financial disclosure requirements for AE firms. Section 2-11.1(i)(4) provides that "all persons or firms subsequent to the effective date of this section, which engage in competitive negotiation with Miami-Dade County or its municipalities, their agencies or instrumentalities shall comply with the reporting requirements of subsection (i)(1) of this section within thirty days of execution of a contract arising out of said competitive negotiations and prior to any payments from said County, municipalities or other agencies or instrumentalities."

Section 2-11.1(i)(1) requires all persons and **firms** covered by this provision to file disclosure on an annual basis. The provisions of Section 2-11.1(i)(4) which extend that requirement to AE firms commences with the signing of the award. Therefore, AE firms must initially file disclosure within thirty days of award. Subsequently, pursuant to Section 2-11.1(i)(1), as a firm covered by the provisions of this subsection, AE firms must file on an annual basis for the duration of their agreement with Miami-Dade County. The Ethics Commission also found that the annual reporting requirement should only be applied prospectively.

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

cc: Hugo Benitez, Assistant County Attorney
Luisa Millan Donovan, Office of Capital
Improvements