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September 1, 2010

Rogelio Anagasti  
Strategic Sourcing Division  
Procurement Management Department  
Public Health Trust  
Holtz Center-Lower Level B066  
1611 N.W. 12<sup>th</sup> Avenue  
Miami, Fl 33136

**RE: REQUEST FOR ADVISORY OPINION- RQO 10-23**

Dear Mr. Anagasti:

The Ethics Commission received your request for an advisory opinion and rendered its opinion at its meeting on August 31, 2010. You requested an opinion regarding whether the Cone of Silence requires public notice of meetings between selection committee members and subject matter experts.

In your request, you advised the Ethics Commission that the Public Health Trust has issued a Request for Proposals for a firm to provide correctional health services. Specifically, the scope of services provides that the selected proposer will provide comprehensive healthcare services for all inmates in Miami-Dade County correctional facilities including medical, mental health, pharmaceutical, emergency and inmate educational services. The firm will also be responsible for operating a "Ward D" or inmate services unit at Jackson Memorial Hospital or a nearby facility. The selected proposer will also staff and provide mental health services at a mental health facility which is expected to be completed in 2011. Finally, the proposer is subject to the

Public Health Trust labor contracts with various bargaining units including physicians and nurses.

The selection committee has several technical questions regarding liability, financial and labor issues. The selection committee has appointed a PHT Vice-President, who is a member of the selection committee, to meet with subject matter experts regarding the technical questions. The questions do not relate to any particular proposal but provide general information for assessing the responses.

The Ethics Commission found that the Cone of Silence only permits communication with selection committee members and county staff during duly noticed public meetings. Section 2-11.1(t) provides that the Cone of Silence shall apply between advertisement of a particular RFP and a written award recommendation from the County Manager to the Board of County Commissioners. In the case of the Public Health Trust, the President and CEO is substituted for the County Manager and the Public Health Trust stands in for the Board of County Commissioners.

Section 2-11.1(t)(1)(vi) provides that the Cone of Silence is hereby defined to mean a prohibition on "any communication regarding a particular RFP, RFQ or bid between any member of the County's professional staff and any member of the selection committee therefore." The Ethics Commission has recognized a "duly noticed" public meeting exception to the Cone of Silence. See RQO's 03-81 and 02-01. Under that exception, the selection committee member and procurement officials may meet with subject matter experts in duly noticed public meetings only to discuss the selection committee's questions. The PHT may also create a technical committee of subject matter experts to provide technical information or

support to the committee or use outside experts who are not affiliated with any proposer to provide technical information. Accordingly, the Code of Silence requires the Public Health Trust to publicly notice any meetings between a selection committee member and subject matter experts who work for PHT or Miami-Dade County. However, a selection committee member may meet with subject matter experts who are not bidders or proposers, affiliated entities or county staff regarding technical issues outside of a duly noticed public meeting.

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 or Ardyth Walker, Staff General Counsel, at (305) 579-2594.

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