



MIAMI-DADE COUNTY  
COMMISSION ON ETHICS & PUBLIC TRUST

LETTER OF INSTRUCTION  
**ORGANIZATIONAL CONFLICTS OF INTEREST**

At a public meeting of the Miami-Dade Commission on Ethics,<sup>1</sup> the Commission stated that only under the following circumstances will binding ethics opinions be issued regarding whether a bidder, proposer, contractor, or subcontractor has a prohibited conflict of interest in connection with its involvement in a contract with a local government entity:

1. The terms of the local government contract or proposal must provide the Commission on Ethics with the authority to make a binding determination of the issue presented.
2. The terms of the local government contract or proposal must state the standards by which the organizational conflict of interest will be determined.
3. Prior to the submittal date, a bidder, proposer, contractor, or subcontractor may request an opinion only about its own potential conflicts, not the potential conflicts of competitors.
4. Prior to the submittal date, the local government contracting officer may request an ethics opinion about the potential conflicts of any bidder, proposer, contractor, or subcontractor.
5. Ethics opinions regarding organizational conflicts of interest shall be rendered prior to the contract being awarded.
6. When the Commission on Ethics determines that a bidder, proposer, contractor, or subcontractor has a conflict to bid on a contract, the determination of the Commission on Ethics shall render the submittal presented by the conflicted party as nonresponsive, and its decision shall be deemed final and binding.

7. Standards associated with organizational conflicts are comparable to those established under the Federal Acquisition Regulation (FAR),<sup>2</sup> which prohibits a government contractor from being awarded any contract in which its independence of judgment might be impaired. Organizational conflicts arise in, but are not limited to, instances in which contractors evaluate their own work, process their own payments, specify products and services that only they can provide, or obtain information not available to others and which they can subsequently use to their advantage.

8. An example of contract language authorizing the Miami-Dade Commission on Ethics to issue binding opinions related to organizational conflicts might include the following:

Questions regarding organizational conflicts of interest shall be submitted prior to the submittal date and addressed to the Miami-Dade Commission on Ethics by any bidder, proposer, contractor, or subcontractor regarding potential organizational conflicts pertaining to its own bid, or by the local government contracting officer regarding potential organizational conflicts pertaining to any bidder, proposer, contractor, or subcontractor. The Commission on Ethics shall evaluate the request based on standards established under the Federal Acquisition Regulation (FAR) at 48 CFR § 9.5 (2013) in order to determine if any possible organizational conflicts of interest exist. Determinations by the Commission on Ethics shall be deemed final. When a bidder, proposer, contractor, or subcontractor is found to have a conflict, the submittal presented by the conflicted party shall be rendered nonresponsive.

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<sup>1</sup> The discussion occurred on Mar. 20, 2013, in connection with an ethics opinion requested by Benedict P. Kuehne, Esq., on behalf of his client, Ovations Food Services LP, a bidder for the food and beverage services contract at the City of Miami Beach Convention Center. *See* RQO 13-03.

<sup>2</sup> 48 CFR § 9.5 (2013).