

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, July 16, 2019 9:56 AM
To: Sanchez, Rodzandra (COE)
Cc: Anderson, Machell (COE)
Subject: INQ 19-66 , Thomas B. Davis, Esq., Director of Policy and Legislation, Office of the Commission Auditor (W: E18-DTPW-09 - OCA Background Check Process)
Attachments: E18-DTPW-09 - DTPW.pdf; INQ 19-66.pdf

INQ 19-66 Davis

From: Turay, Radia (COE)
Sent: Monday, July 15, 2019 4:31 PM
To: Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>
Subject: FW: E18-DTPW-09 - OCA Background Check Process

From: Turay, Radia (COE)
Sent: Wednesday, June 26, 2019 2:00 PM
To: Johnson, Jannessa (OCA) <Jannessa.Johnson@miamidade.gov>; Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>; Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>
Cc: Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Uppal, Namita (ISD) <Namita.Uppal@miamidade.gov>; Majekodunmi, Yinka (OCA) <Adeyinka.Majekodunmi@miamidade.gov>; Soria, Miguel (DTPW) <Miguel.Soria@miamidade.gov>
Subject: FW: E18-DTPW-09 - OCA Background Check Process

Hello,

Thank-you for contacting the Miami-Dade Commission on Ethics and Public Trust, seeking our guidance in connection with the Appointment of Selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for Design Services for Roadway Improvements to NW 12 Street for Bus Only Lanes from the Dolphin Park and Ride Facility to NW 114 Avenue- Project No. E18-DTPW-09. Please find our opinion regarding same attached.

Thanks,

RADIA TURAY

Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 350-0601
Fax: (305) 579-0273
Ethics.miamidade.gov

From: Johnson, Jannesha (OCA)
Sent: Thursday, June 20, 2019 3:11 PM
To: Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>; Uppal, Namita (ISD) <Namita.Uppal@miamidade.gov>; Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Cc: Majekodunmi, Yinka (OCA) <Adeyinka.Majekodunmi@miamidade.gov>; Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>
Subject: RE: E18-DTPW-09 - OCA Background Check Process

Good Afternoon –

This email is being sent on behalf of Thomas B. Davis, Esq., Director of Policy and Legislation for the Office of the Commission Auditor.

Thanks.



Jannesha V. Johnson, MBA
Office of the Commission Auditor
Miami Dade Board of County Commissioners
111 NW 1 Street Suite 1030, Miami, FL 33128
Ph: (305) 375-1466
www.miamidade.gov "Delivering Excellence Every Day"

From: Carranza, Jacqueline (ISD)
Sent: Tuesday, June 18, 2019 10:48 AM
To: Johnson, Jannesha (OCA) <Jannesha.Johnson@miamidade.gov>
Subject: RE: E18-DTPW-09 - OCA Background Check Process

Jannesha, yes I am the new non-voting chair for this project. SBD said they didn't need to revise the appointment memo to show my name, please see attached email.

Please let me know if you need anything else.

Thank you,

Jacqueline Carranza, A&E Consultant Selection Coordinator
Miami-Dade County | Internal Services Department
111 N.W. 1st Street, Suite 1300, Miami, FL 33128
Phone: (305) 375-2173

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From: Johnson, Jannesha (OCA)
Sent: Tuesday, June 18, 2019 10:44 AM

To: Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>

Subject: RE: E18-DTPW-09 - OCA Background Check Process

Jacqueline –

Are you the non-voting chair on this project or Cristina?



Jannesha V. Johnson, MBA

Office of the Commission Auditor

Miami Dade Board of County Commissioners

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From: Carranza, Jacqueline (ISD)

Sent: Tuesday, June 18, 2019 8:43 AM

To: Johnson, Jannesha (OCA) <Jannesha.Johnson@miamidade.gov>

Subject: RE: E18-DTPW-09 - OCA Background Check Process

Good Morning Jannesha,

Attached please find Ms. Mannix's signed affidavit.

Please let me know if you need anything else.

Thank you,

Jacqueline Carranza, A&E Consultant Selection Coordinator

Miami-Dade County | Internal Services Department

111 N.W. 1st Street, Suite 1300, Miami, FL 33128

Phone: (305) 375-2173

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From: Johnson, Jannesha (OCA)

Sent: Thursday, June 13, 2019 12:15 PM

To: Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>

Subject: RE: E18-DTPW-09 - OCA Background Check Process

Jacqueline –

Annalise agreement is not printing properly (its blank) and it's not signed.

thanks



Jannessa V. Johnson, MBA

Office of the Commission Auditor

Miami Dade Board of County Commissioners
111 NW 1 Street Suite 1030, Miami, FL 33128
Ph: (305) 375-1466

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From: Carranza, Jacqueline (ISD)
Sent: Wednesday, June 12, 2019 9:03 AM
To: Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>
Cc: Johnson, Jannessa (OCA) <Jannessa.Johnson@miamidade.gov>
Subject: E18-DTPW-09 - OCA Background Check Process

Good morning Mr. Thomas,

Attached please find the affidavits and resumes for the subject project, please initiate OCA's background check process for the subject solicitation. Please let me know if you need anything else.

Thank you,

Jacqueline Carranza, A&E Consultant Selection Coordinator
Miami-Dade County | Internal Services Department
111 N.W. 1st Street, Suite 1300, Miami, FL 33128
Phone: (305) 375-2173

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MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130

Phone: (305) 579-2594 · Facsimile: (305) 579-0273

Website: ethics.miamidade.gov

MEMORANDUM

TO: Thomas B. Davis, Esq.,
Director of Policy and Legislation

Jacqueline Carranza, Non-Voting Chairperson,
Internal Services Department

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 19-66 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety; Reverse Two-year Rule § 2-11.1(x)]

DATE: June 26, 2019

CC: All COE Legal Staff

Thank-you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts: We have reviewed your memorandum dated June 18, 2019, prepared in connection with the Appointment of Selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for Design Services for Roadway Improvements to NW 12 Street for Bus Only Lanes from the Dolphin Park and Ride Facility to NW 114 Avenue- Project No. E18-DTPW-09. The memorandum was prepared in connection with Resolution No. R-449-14, directing the Office of the Commission Auditor (OCA) to conduct background checks on members serving on evaluation/selection committees.

The memorandum noted that a voting member, appointed to the selection committee, made disclosures that merited submission to our office for an opinion. Specifically, Miguel Soria, Miami-Dade DTPW, stated that he was employed (1997-2018) by Marlins Engineering, Inc. (hereinafter "MEI"). It also states that Mr. Soria's brother owns MEI. The memorandum further states that MEI is listed as a consultant on this project.

We have conferred with Mr. Soria. He confirmed the information provided in the memorandum.

Discussion: This agency conducts reviews of these issues under Section 2-11.1(v) of the County Ethics Code, which governs voting conflicts by members of County advisory and quasi-judicial boards. We also consider whether there is an appearance of impropriety created and make recommendations based on R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

Specifically, Section 2-11.1(v) of the County Ethics Code states that no quasi-judicial personnel or advisory personnel shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary or (ii) stock holder, bondholder, debtor or creditor.

It does not appear that Mr. Soria has a voting conflict of interest under Section (v) of the County Ethics Code because he will not be directly affected by the vote and he does not have any of the enumerated relationships with an entity affected by the vote.

However, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of employment relations. The Ethics Code specifically states that “contract-related duties” include “service as a member of a county certification, evaluation, selection, technical review, or similar committee; ...”¹ Consequently, Mr. Soria may not participate on this selection committee as he stopped working for MEI less than two years ago, and MEI is listed as a consultant to one of the proposers for this project. *See* RQO 17-04; RQO 11-14; INQ 17-174, INQ 17-183, INQ 15-35, and INQ 18-229.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, this agency also opines concerning whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of an appointed selection committee. *See* Section 2-1067, Miami-Dade County Code, and 2.1(b) of the COE Rules of Procedure.

Various formal and informal opinions issued by the COE have recommended that an individual should not serve on a selection committee if their immediate family member has a financial interest in one of the responding firms.² For example, in RQO 11-11, the COE

¹ *See* Section (x) of the County Ethics Code.

² Miami Dade County Code of Ethics at Section 2-11.1(n) also prohibits County employees and County officials from participating in any official action directly or indirectly affecting a business in which he or any member of his immediate family has a financial interest. “Immediate family” is defined in Section 2-11.1(b)(9) of the Ethics code, as spouse, domestic partner, parents, stepparents, children and stepchildren of the person. However, “brother” is not included in the definition of “immediate family” in the Ethics Code.

held that an individual should not serve on a selection committee because their spouse's employer was bidding on the project.³

Notably, in INQ 17-214, the COE recommended that an individual not serve on a selection committee where his brother-in-law was the owner and principal of one of the sub-consultants for a responding prime contractor, even though it was not specifically prohibited by the Ethics Code. The COE in that instance stated that the County employee should not serve on the selection committee due to the possible perception of a conflict of interest, given his familial relationship with the owner of a sub-consultant for one of the competing prime contractors.

In this case, similar to our opinion in INQ 17-214, the COE recommends that Mr. Soria not serve on this selection committee, due to the possible perception of a conflict of interest given that his brother owns MEI, which is listed as a consultant to one of the proposing firms on this project.

Opinion: Consequently, we recommend that Mr. Soria be removed from this selection committee because the Reverse Two-Year Rule, Section (x) of the Ethics Code, bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, as Mr. Soria stopped working for MEI, a consultant to one of the proposers for this project, less than two years ago. *See* RQO 17-04; RQO 11-14; INQ 17-174, INQ 17-183, INQ 15-35, and INQ 18-229.

Additionally, Mr. Soria may not serve on this selection committee due to the possible appearance of impropriety, given his close familial relationship with the owner of MEI, because in all procurement matters, appearances of integrity and fairness are paramount, as “there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence...[which] may require a higher standard of ethics....” *See* INQ 14-242, INQ 17-242, INQ 19-02.

³ See also, INQ 11-133, in which the COE recommended that a County official may not participate in any official action directly or indirectly affecting a business that employs his son, because his son arguably had a financial interest in the firm as an employee of the firm.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.



**BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**

M E M O R A N D U M

TO: Jacqueline Carranza, Non-Voting Chair
Internal Services Department

FROM: Thomas B. Davis, Esq.,
Director of Policy and Legislation

A handwritten signature in black ink, appearing to read "Thomas B. Davis", is written over the printed name in the "FROM" field.

DATE: June 18, 2019

SUBJECT: Appointment of Selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for Design Services for Roadway Improvements to NW 12 Street for Bus Only Lanes from the Dolphin Park and Ride Facility to NW 114 Avenue-Project No. E18-DTPW-09

Pursuant to Resolution No. R-449-14 dated May 6, 2014, the Office of Commission Auditor (OCA) is directed to conduct background checks on members serving on evaluation or selection committees.

The results of the background check will be submitted to the Internal Services Department or other County department(s) overseeing and administering the competitive procurement process as well as the Commission on Ethics, if applicable.

Issue: Miguel Soria, Miami-Dade DTPW, stated on his neutrality/disclosure form that he was previously employed by Marlins Engineering, Inc. (1997-2018), also Mr. Soria's stated that his brother owns Marlins Engineering, Inc. Marlins Engineering, Inc. is a consultant on this project.

The voting members of the selection committee are:

- Miguel Soria, Department of Transportation and Public Works
- Leandro Oña, Department of Transportation and Public Works
- Annalise Mannix, Water and Sewer Department
- Olga Cordero, Seaport Department
- Roger Baptiste, Water and Sewer Department
- Octavio Marin, Department of Transportation and Public Works (Alternate)
- Elvira Amenta, Water and Sewer Department (Alternate)

The non-voting members of the selection committee are:

- Jacqueline Carranza, Internal Services Department

Findings: Pursuant to Resolution No. R-449-14, OCA completed the required background research concluding there were no adverse findings for the voting and non-voting selection committee members.

c: Adeyinka Majekodunmi, Commission Auditor
Namita Uppal, Chief Procurement Officer, ISD
Jose Arroyo, Executive Director, Commission on Ethics and Public Trust
Radia Turay, Staff Attorney, Commission on Ethics and Public Trust