
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, May 05, 2015 2:47 PM
To: Sanchez, Rodzandra (COE)
Subject: Commissioner Juan Zapata (Conflict of Interest) PPP Task force INQ 15-79

INQ 15-79 Zapata

From: Centorino, Joseph (COE)
Sent: Monday, May 04, 2015 3:13 PM
To: Caviglia, Bianca S. (DIST11)
Cc: Sanchez, Gerald (CAO); Diaz-Greco, Gilma M. (COE); Singer, Miriam (ISD)
Subject: INQ - Commissioner Juan Zapata (Conflict of Interest) PPP Task force

Ms. Caviglia,

You have inquired on behalf of Commissioner Juan Zapata regarding whether there may be a prohibited conflict of interest for individuals appointed to the proposed Public Private Partnership Task Force (P3), a County advisory board created by County Resolution (R-150-15) which is to focus on infrastructure needs in the County. The board would not have final decision-making power regarding the funding of any particular project, but would "identify potential projects that address critical infrastructure needs in Miami-Dade County that are suitable for public private partnership arrangements."

I have previously advised that, in connection with the Court Capital Infrastructure Task Force (INQ 15-31), that there would not likely be a conflict for members identifying needed repairs, but not making specific recommendations regarding the hiring of private firms to do the work. However, I cautioned in that inquiry that care should be taken by members to avoid situations that could affect their private interests. This opinion will amplify on that recommendation.

Section 2-11.1(v) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance would not permit an advisory board member to vote on any matter presented to it if that member would 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: officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary.

Under the strict language of the ordinance, it may not be a voting conflict of interest for a member where that member is not yet aware that his or her private firm may be involved in one of the projects under discussion. However, for the preservation of the public trust, I think it would be wise for members of both the P3 board and the Court Capital Infrastructure Task Force to avoid voting on any project or issue on which that person's private firm could foreseeably end up as a private contractor with the County.

My recommendation, therefore, for both boards, would be to avoid appointing persons to either board who have one of the aforementioned relationships with a private entity that intends or expects to bid on a the projects identified or recommended by either board. This recommendation is made for the purpose of avoiding situations where a private contractor has voted to prioritize a particular problem and whose firm then bids for a contract with the County to address that problem, thereby resulting in an unmistakable appearance of impropriety. It may occur that a voting member of the board has no expectation of doing so at the time of the vote, but, at a later point in the process, a decision is made by that person's firm to bid on such a project. This could be avoided by informing prospective members of the board advisory board to agree in advance that their firms will not bid on any a such project identified or recommended by the board. This precaution would, in my opinion, avoid situations that would detract from the public trust in the integrity of the County's procurement procedures.

Sincerely,

Joseph M. Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Caviglia, Bianca S. (DIST11)
Sent: Monday, May 04, 2015 2:24 PM
To: Centorino, Joseph (COE)
Subject: PPP Task force

<http://www.miamidade.gov/govaction/matter.asp?matter=150173&file=true&yearFolder=Y2015>

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