



ETHICS COMMISSIONERS

Kerry E. Rosenthal, Chairman
Robert H. Newman, Vice Chairman
Gail Dotson
Dawn Addy
Elizabeth M. Iglesias

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

January 30, 2004

Cynthia Curry
CWC & Associates, Inc.
150 S.E. 2nd Avenue
Suite 913
Miami, FL 33131

RE: INQUIRY 04-06

Dear Ms. Curry:

You requested a general letter of instruction for County Commission candidates regarding any conflicts created by serving as a subcontractor on a county contract. The Executive Director and I have reviewed this request. The Ethics Commission has not considered this matter. Please advise me if you would like a formal opinion from the Ethics Commission.

In your e-mail, you advised me that a possible candidate for the Board of County Commissioners is currently a subcontractor to a county contractor. The possible candidate is working on the county contract.

The Conflict of Interest and Code of Ethics ordinance permits a Commissioner to serve as a subcontractor on a county contract that was entered into prior to the Commissioner's election. Section 2-11.1 (c) provides that no person included in the terms defined in subsection (b) (1) through (b) (6) and in subsection (b) (9) shall enter into any contract or transact any business in which he or a member of his immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency

acting for Miami-Dade County and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. Since the language prohibits the formation of new agreements, the Candidate may continue on contracts entered into prior to his or her election. Any amendment, extension or revision of the existing contract is considered a new contract for this purpose.

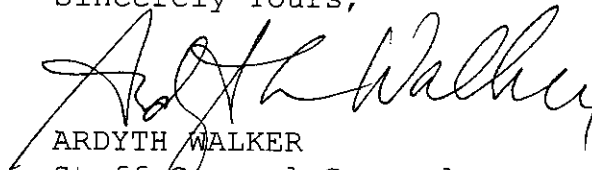
Further, the Candidate may not vote on any matter related to the contract or take any action in regard to the contract or related matters. Section 2-11.1(d) of the Code of Miami-Dade County prohibits county commissioners from voting or participating in any way in any matter presented to the Board of County Commissioner if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee fiduciary or beneficiary or (ii) stockholder, bondholder, debtor or creditor, if in any instance the transaction or matter would affect the person defined in subsection (b)(1) in a manner distinct from the manner in which it would affect the public generally. Any commissioner who has any of the above relationships or who would or might, directly or indirectly, profit or be enhanced by the action of the Board of County Commissioners shall absent himself or herself from the commission meeting during the discussion of the subject item and shall not vote on or participate in any way in said manner. Since the Candidate would stand to profit or be enhanced directly or indirectly by any action taken on the contract or related matters, the Candidate could not vote on the contract or related matters after election. The Candidate is also prohibited from using his or her official position to secure any benefits for the contractor.

Finally, the Candidate should be aware that continuing to work on the contract may create the appearance of a conflict of interest, not only in regard to the contract, but also in making policy decisions that may impact the contract.

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) 350-0616.

Sincerely Yours,



ARDYTH WALKER
Staff General Counsel