

as a subconsultant to the CIS on the 826 Runway project. However, there are several potential conflicts between the two roles. Since some aspects of these projects will overlap, Marks Brothers may have responsibility for construction and inspection on some parts of the same work as both a general consultant and a CIS subconsultant if it serves in both roles. As such, the CIS will not operate as an additional quality control on the project. Moreover, Marks Brothers should not engage in professional activity related to its work at the airport where it may reasonable be required or induced to disclose confidential information acquired as a result of its work at the airport.

If Marks is permitted to serve as a subconsultant to the CIS firm, firewalls must be constructed to ensure that Marks does not have any responsibilities related to any portion of the work related to any work done by Marks Brothers or their subconsultants on Section A of the Northside Utilities project. Moreover, the Aviation Department should include language in their proposal documents that require proposers the limit the scope of work done by subconsultants who are working or have previously completed work on anything related to the 826 Runway project.

#### CONCLUSION

The Conflict of Interest and Code of Ethics ordinance permits Marks Brothers to serve as a General Consultant on the Northside Utilities project and a subconsultant on the 826 Runway project. However, Marks Brothers should not serve as subconsultant to a firm that provides construction inspection services on the 826 Runway project because the projects are interrelated and may require Marks to serve as contractor and inspector on the same work.

M E M O R A N D U M

**TO: COMMISSION ON ETHICS AND PUBLIC TRUST**  
**FROM: ARDYTH WALKER, STAFF GENERAL COUNSEL**  
**RE: RQO 01-07**  
**DATE: FEBRUARY 20, 2001**

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Martin Marks, President of Marks Construction, is seeking an advisory opinion regarding any conflicts between his company's work as a general consultant on the Northside Utilities and Drainage Project and as an inspection subconsultant on the 826 Runway project.

FACTS

Marks Construction serves as General Consultant for Part A of the Northside Utilities Project. The project will extend the utility corridor along the north end of the airport. As General Consultant, Marks Brothers is responsible for the quality of all work on the project and must inspect and approve all work done by subcontractors.

Marks Brothers is also working with a team preparing a proposal to provide Construction Inspection Services (CIS) on the 826 Runway project. The 826 Runway project is adjacent to the Northside Utilities project. Part A of the utilities project will provide drainage and utilities to the new runway. The CIS firm works at the site and is responsible for monitoring, inspection and quality control. Marks Brothers has advised the proposer on various construction issues including timing, scheduling, reviewing and commenting on possible change orders and the like.

The Northside Utilities Project is expected to begin in the spring of 2001 and the 826 Runway project is expected to begin shortly thereafter. Due to the timing of the projects, some items originally planned as part of one project may be transferred to the other project.

ARGUMENT

The Conflict of Interest and Code of Ethics ordinance does not prevent Marks Brothers from serving as General Contractor on the Northside Utilities Project and serving