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June 16, 2003

Edith Humes Newbold
Executive Director
South Florida Employment and Training
Consortium
3403 N.W. 82nd Avenue
Suite 300
Miami, FL 33122

RE: REQUEST FOR ADVISORY OPINION 03-74

Dear Mrs. Newbold:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 12, 2003 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding a Contracts Administrator's ability to participate in a selection process that includes the administrator's former employer. Pursuant to a county resolution, South Florida Workforce employees are county employees and covered by the Conflict of Interest and Code of Ethics ordinance.

In your letter, you advised the Commission that the Contracts Administrator for South Florida Workforce served as a Center Director for TTI America. TTI America operates one-stop career centers in Miami-Dade County and across the country. Prior to her employment with TTI America, the Contracts Administrator had served as a contract manager for the WAGES Coalition. The WAGES coalition was one of the predecessor agencies to South Florida Workforce.

The Contracts Administrator is responsible for developing selection criteria, reviewing funding proposals and making contract award recommendations to the South Florida Workforce Board of Directors. During the current award cycle, the Contracts Administrator developed new criteria for evaluating the performance of current contractors. The evaluation criteria mirrored the terms of the contract between the contractors and South Florida Workforce. The evaluations measured such items as the number of workers placed in training programs, the number of workers enrolled in community service work experience programs and the number of workers who were provided transportation services. Each contractor's past performance evaluation was based on the contractor's self-reported data for each set of criteria. An extra twenty-five points was added to each contractor's score by adding a score for the contractor's proposed budget.

TTI America responded to the Request for Proposals for one-stop career centers for 2003-04. The Contracts Administrator disclosed her prior employment with TTI America and did not review their proposal. However, the Contracts Administrator did evaluate the other proposals and participated in discussion regarding the other proposers. Contract recommendations were made for six centers and TTI was recommended for the Hialeah Gardens One-Stop Center.

The Commission found that the Conflict of Interest and Code of Ethics ordinance does not prohibit the Contracts Administrator from serving on a selection committee where a former employer is one of the proposers. However, the Contracts Administrator must ensure that she does not violate the requirements of Section 2-11.1(g) (Exploitation of official position prohibited) and 2-11.1(h) (Prohibition on use of confidential information). Section 2-11.1

(g) provides that no person included in the terms defined in subsection (b)(1) through (6) shall use or attempt to use his official position to secure special privileges or exemptions for himself or others except as may be specifically permitted by other ordinances or resolutions previously ordained or adopted by the Board of County Commissioners. Section 2-11.1(h) provides that no person included in the terms defined in subsections (b)(1) through (b)(6) shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his official position nor shall he in fact ever disclose confidential information garnered or gained through his official position with the County nor shall he ever use such information, directly or indirectly, for his personal gain or benefit. Therefore, the Contracts Administrator may not use her official position in a way that benefits her former employer in any way and may not disclose any confidential information to her former employer regarding the selection process.

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) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director