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STAFF GENERAL COUNSEL

March 14, 2006

Enrique Crooks  
President  
EAC Consulting  
815 N.W. 57<sup>th</sup> Avenue  
Suite 402  
Miami, FL 33126

**RE: REQUEST FOR ADVISORY OPINION RQO 06-28**

Dear Mr. Crooks:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 9, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding any conflicts between the firm's current work as a subcontractor to Parsons Brinckerhoff on the Cargo Yard Improvement contract and serving as Program Management Consultant for the Seaport.

In your letter, you advised the Commission that the Office of Capital Improvements recently issued a Notice to Professional Consultants (NTPC) to provide program management services at the Seaport. Specifically, the scope of services provides that the consultant will furnish personnel to support the Seaport in a variety of functions including long and short planning; facilities planning; oversight of design and system consultants; oversight of construction management consultants; value engineering; estimating; contract administration; claims

administration and project management on several selected projects.

The Commission found that EAC Consulting may serve as a member of the Program Management Consultant team for the Seaport. Since the firm is not currently performing any project management or design services at the Seaport, the firm does have a conflict regarding the current solicitation.

Under the Ethics Commission's prior line of opinions, a contractor may not provide services if the contractor's current work overlaps with the scope of services under the proposed agreement. Further, a contractor is prohibited from serving if the firm is performing oversight responsibilities under one agreement and performing design or other work that will fall under the oversight of the other agreement because it impairs the contractor's independence of judgment.

Since EAC Consulting is not performing any project management responsibilities under the Cargo Yard Improvement contract, the firm is not prohibited from serving as Program Management Consultant. However, the firm should not perform any oversight related to any project for which it performed design work.

Therefore, EAC Consulting may serve as a member of the Program Management Consultant team at the Seaport since the firm is not currently performing any project management responsibilities under the Cargo Yard Improvements contract. However, the firm may not have any oversight responsibilities related to any project for which it performed design work.

The Ethics Commission also held that, if EAC Consulting is awarded the contract, EAC Consulting must provide the Seaport and the Ethics Commission's Executive Director with a written report regarding its compliance with

any restrictions contained in this advisory opinion related to the prime or any subcontractors within ninety days of the issuance of the Notice to Proceed or the issuance of the first work order.

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,

A handwritten signature in cursive script, appearing to read "Robert Meyers", followed by a horizontal line.

ROBERT MEYERS  
Executive Director

cc: Faith Samuels, Office of Capital  
Improvements

Christopher Mazzella, Inspector General