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July 2, 2007

Michael Nardone
Vice-President
URS Corporation Southern
7650 Corporate Center Drive
Suite 401
Miami, FL 33126-12220

RE: REQUEST FOR ADVISORY OPINION RQO 07-16

Dear Mr. Nardone:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on June 26, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding potential conflicts that URS may have if the firm serves as Bond Engineer for the Miami-Dade County Department of Solid Waste.

The Miami-Dade Solid Waste Department provides solid-waste collection, transfer, disposal and recycling services for the residents of Miami-Dade County. Miami-Dade County owns or has long-term leases for three solid-waste transfer stations: Northeast Transfer Station, Central Transfer Station and West Transfer Station. Miami-Dade County owns four active disposal sites: the South Dade Landfill, the North Dade Landfill, the Ash Landfill and the Resource Recovery Facility. Waste Managements owns a fifth facility that has a long-term agreement with Miami-Dade County.

Miami-Dade County currently has long-term interlocal agreements with 27 municipalities

for solid waste disposal. Miami-Dade County must approve construction or modification of any private solid waste facility that would compete with Miami-Dade County for the delivery of solid waste disposal services.

The Office of Capital Improvements recently issued a Notice to Professional Consultants (NTPC) for a Bond Engineer for the Department of Solid Waste. The scope of services provides that the Bond Engineer "will conduct an annual evaluation of the County solid waste system, including the Resources Recovery facility and prepare an annual report on the condition of the system and financial records pursuant to Section 607 of the Bond Ordinance. Further, pursuant to the Operating and Management agreement between Montenay and Miami-Dade County, the Bond Engineer shall evaluate the physical condition and operating efficiency of the Resource Recovery facility and make recommendations regarding rates, charges and necessary capital improvements.

The Bond Engineer is also responsible for making recommendations and approvals regarding the County's landfills including closure plans in effect with the City of North Miami for the Munisport Landfill, the City of Miami for the Virginia Key Landfill and the City of Homestead for the Homestead Landfill. Specifically, the Bond Engineer is responsible for conducting inspections and approving grant payments pursuant to existing interlocal agreements between the County and the respective municipality.

Finally, the Bond Engineer may be tasked with other miscellaneous responsibilities that do not conflict with other tasks required under the Solid Waste bond ordinances and other agreements.

In 2004, Miami-Dade County approved a grant agreement with the City of North Miami for the cleanup and closure of the Munisport

Landfill. Under the agreement, the City of North Miami assumes responsibility for the cleanup and closure of the landfill. The Bond Engineer is responsible for conducting inspections on the site and approving draw requests from the City's engineer.

Swerdlow/Boca Developers is currently developing Biscayne Landing. Biscayne Landing is a mixed-use development that will include commercial and residential properties. Pursuant to the developer's agreement with the City of North Miami, the developer will be in charge of cleanup and closure of the landfill. The developer has retained ES Consultants to serve as engineer of record for the landfill project.

A URS division is currently providing civil engineering services to Swerdlow on the development. The services include preparation of designs for water, sewer and electrical lines for the proposed town center. The firm will also design the stormwater drainage and irrigation systems. Finally, URS will provide bidding, preconstruction, estimating, scheduling and contract administration services. If URS is awarded the bond engineering contract, a subcontractor will assume responsibility for all work related to the Munisport Landfill. The subcontractor will report directly to the Department of Solid Waste.

Questions Presented

1. Whether URS Southern Corporation may serve as a bond engineer for the Miami-Dade Department of Solid Waste and perform services related to the Munisport Landfill in North Miami if URS creates a firewall by utilizing a subcontractor to directly oversee any services associated with the Munisport Landfill under the Bond Engineering Contract?

2. Will prime Consultants and/or subconsultants be allowed to represent private entities that compete with the Department of Solid Waste Management for the collection, transfer and disposal of solid waste generated in Miami-Dade County during the term of the bond engineering contract?
3. Will prime consultants and/or subconsultants be allowed to represent public entities (i.e. neighboring counties) that compete with the Department of Solid Waste for the transfer and disposal of solid waste generated in Miami-Dade County during the term of the bond engineering contract?
4. Will prime consultants and/or subconsultants be allowed to advise other private or public entities who compete with the Department of Solid Waste as to adequacy and validity of their rates when the adjustment of said rates may affect the collection, transfer or disposal of solid waste generated in Miami-Dade County during the term of the bond agreement?

Scope of Review

Pursuant to Section 2-11.1(w), the Ethics Commission has jurisdiction over contractors and vendors. In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project). Further, a conflict may exist if there are overlapping roles on responsibilities between various

members of a team (i.e. a member serves as prime contractor on one contract and as a subcontractor to another contractor on another contract) or if there are overlapping scopes of work between two agreements. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of their contractual obligations.

Analysis

1. URS may not serve as Bond Engineer for the Department of Solid Waste while a subcontractor performs services related to the Munisport Landfill. The scope of services under the Biscayne Landing contract overlap with the services provided under the Bond Engineering contract. In this instance, a firewall will not cure any conflict because the work of designing the stormwater, water and electrical systems is dependent on the status of the cleanup and closure of the landfill and requires coordination between the engineers working on both sides of the project. Further, the subcontractor will have the responsibility of inspecting the work and approving payments to the prime consultant. Therefore, URS cannot serve in both capacities because of the overlapping responsibilities.
2. The prime consultant and/or subconsultants may work for private entities that compete with the Department of Solid waste for the transfer and disposal of solid waste generated in Miami-Dade County during the term of the bond engineering contract. Miami-Dade County already has long-term agreements regarding solid-waste disposal with most municipalities in Miami-Dade County. Further, the Ethics Commission has generally not

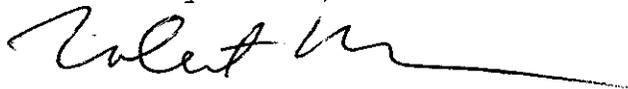
found a conflict in regard to private contracts.

3. The prime consultant and/or subconsultants may represent public entities that compete with Miami-Dade County for the transfer and disposal of solid waste generated in Miami-Dade County during the term of the bond engineering agreement.
4. The prime consultant and or subconsultants may advise private entities regarding the adequacy and validity of their rates since the adjustment of said rates will not affect the collection, transfer or disposal of solid waste generated in Miami-Dade County. However, the prime consultant and/or subconsultants may not provide recommendations regarding rates to public entities if the rates are related to any charges or agreements between Miami-Dade County and the public entity.

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

cc: Faith Samuels, Office of Capital
Improvement