



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case PI 13-025	Case Name: Mayor Carlos Hernandez no-bid award to former business partner	<u>Date Open:</u>	
Complainant:	Subject(s): Mayor Carlos Hernandez, Peter Beshouri	Oct. 3, 2013	

Allegation(s):

On or about Sept. 27, 2013, COE received information suggesting Hialeah Mayor Carlos Hernandez improperly assisted a former business partner, Peter Beshouri, obtain a no-bid contract worth as much as \$98,000 for work on the Milander Auditorium project.

The \$6 million Milander project, completed in mid-2013, was financed by Miami-Dade County general obligation bonds (The "Building Better Communities" program). Beshouri's company, We Give Sound Advice (formerly Sound Advice), was awarded a contract for \$40,000 on March 26, 2013, after a waiver of competitive bidding was approved by the Hialeah City Council. Two change orders totaling \$58,000 were subsequently approved by the council, raising the total value of the contract to \$98,000, according to public records.

Relevant Ordinances:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, subsections (d) *Prohibition on transacting business with the [City] through a corporation, partnership or other legal entity. Voting conflicts ...* and (g) *Prohibition on exploitation of official position.*

Investigation:

Document/Audio/Video Review:

Information obtained from zoominfo.com and other websites show that Hialeah Mayor Carlos Hernandez-Adan and Peter Beshouri were described as “the creative team of Carlos Hernandez-Adan and Peter Beshouri” in connection with Autumn Lightning Films LLC, a Florida for-profit corporation that was created in 2004 and dissolved in 2005. The pair collaborated in the 2006 action movie “Street Survival”, according to an online filmography.

Incorporation records were reviewed showing that Beshouri was the registered agent and sole officer for Autumn Lightning Films, and was also registered agent and one of two officers for Wegivesoundadvice, Inc. [sic], an active corporation reinstated in 2010. The other officer was identified as Michael Blumberg, of 2900 North Atlantic Blvd., Ft. Lauderdale.

A review of City of Hialeah City Council Agendas shows a request was made to waive competitive bidding for a \$40,389 contract to be awarded to Wegivesoundadvice, Inc., d/b/a Sound Advice, for audio/ video equipment and installation at the Milander Complex. Change orders totaling \$58,000 were subsequently approved later that year, records show.

A review of related agendas showed that bid waivers and change orders were not uncommon, and that this practice was widely used by the Hialeah government for work done at Milander Auditorium and other city sponsored projects, including repairs to elderly housing.

All the items appeared on the Council’s agenda as consent agenda items.

An October 7, 2013, article in El Nuevo Herald highlighted the City’s reliance on bid waivers and change orders to complete the Milander project. The article quoted Hialeah Mayor Hernandez as saying competitive bidding was not used because the City was seeking to finish the project in time for a Christmas party in December 2012. The article stated the project was finished in June, yet records show the change orders continued through September 2013. In the article, Hernandez was further quoted as saying that his partnership with Beshouri in the movie “Street Survival” played no role in the awarding of the contract.

Also interviewed in the article was the City’s top construction official, Vince Rodriguez, who advised that change orders were used for the Milander project because the project was under budget. The article reported that \$2 million worth of contracts were awarded on a no-bid basis to “dozens of firms” – or approximately one-third of the project’s total construction cost.

A review of the City's procurement code for Competitive Bidding shows that, per Sec. 2-812, competitive bidding is required for all city projects and purchases. The code also states, per Sec. 2-816 (Waiver of bid), that the City Council "may waive competitive bidding, if not inconsistent with state law, when it finds that it is impractical or not advantageous to the city to utilize competitive bidding."

A review of Florida Statute 255.0525 (Advertising for competitive bids) states that all projects costing more than \$200,000 should be subject to a solicitation for competitive bids. The statute goes on to state in subsection (2) that: "In case of an emergency, the procedures required in this section may be altered by the local governmental entity in any manner that is reasonable under the emergency circumstances." The statute goes on to define an emergency as "an unexpected turn of events that causes" ... (a) an immediate danger to public health or safety, (b) an immediate danger of loss of public or private property, or (c) an interruption in the delivery of an essential governmental service.

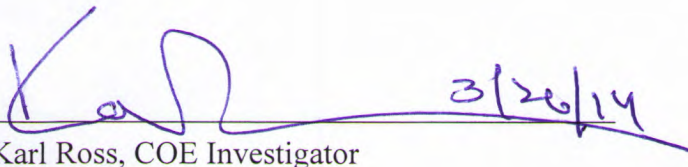
Conclusion(s):

Based on the preliminary investigation, it does not seem likely that a violation of the ethics code occurred inasmuch as any partnership between Mayor Hernandez and Beshouri was based on a previous venture and was not active as of the time of the Milander project. The Mayor was linked to the firm Autumn Lightning Films, but was not an officer.

While Mayor Hernandez is a strong mayor and would have influence over the awarding of contracts by preparing and submitting agenda items, he does not have a vote since, under Hialeah's strong-mayor form of government, only the City's councilmembers vote.

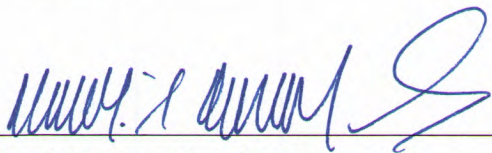
It should also be noted that the awarding of no-bid contracts and change orders seems to be a widespread practice in Hialeah and was not used just for Beshouri's company.

Accordingly, it does not appear that an ethics investigation is appropriate. However, given the questionable justification for the use of bid waivers and change orders in connection with the Milander project, COE notified the Miami-Dade County Inspector General's Office. The OIG has oversight over instances of waste, fraud and mismanagement relating to County agencies and County-funded projects, such as the Milander project, which used GOB funding.

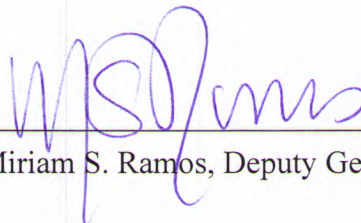


Karl Ross, COE Investigator

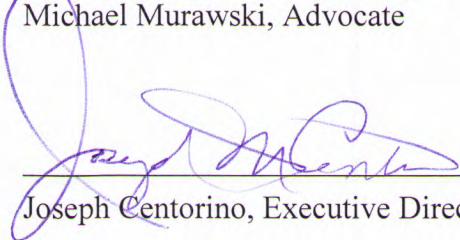
Approved by:



Michael Murawski, Advocate



Miriam S. Ramos, Deputy General Counsel



Joseph Centorino, Executive Director

3/25/14

Date Closed

**CASE
CLOSED**

Date: 3/25/14