



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Sylvia Batista

Case: K17-012-B	Case Name:	Date Open:	Date Closed:
		CASE	
Complainant(s): Pedro J. Betancourt, Aviation Sr. Procurement Contract Officer,	Subject(s): Carlos F. Gonzalez.	CLOSED 02/22/17	
		Date: 7/12/17	

Allegation(s):

Pedro J. Betancourt (Betancourt), Aviation Sr. Procurement Contract Officer for Miami-Dade Aviation Department (MDAD) Contracts Administration Division provided information regarding attorney Carlos F. Gonzalez (Gonzalez) writing a letter to Jacqueline Carranza (Carranza), a Non-Voting Chairperson on the selection committee for Project No. E15-MDAD-04 (the Project). The letter dated 12/23/16 was in connection to a Notice to Professional Consultants (NTPC) issued by Miami-Dade County for the MDAD Automated People Mover System consultant at Miami International Airport (MIA).

In his correspondence to Carranza, Gonzalez advised that he had been retained by Jakes Associates, Inc. to address certain improprieties regarding the selection of professional consultants for the Project. Gonzalez explained that on 07/06/16 the Mayor issued an Appointment of Selection Committee memorandum assigning five (5) voting members and two alternatives. At the First Tier meeting of the five voting members held on 07/28/16 a Second Tier Oral Presentation was scheduled for 08/17/16.

At the Second Tier presentation held on 08/17/16 only four voting members of the selection committee evaluated the two proposals. Gonzalez advised that this is a violation of the Implementing Order 3-34 which requires that the selection committee include at least five (5) members to vote. Additionally, Gonzalez stated that the NTPC requires that the County follow the rules of the Order. Furthermore, Florida law mandates that the County follow its own laws, rules and regulations, particularly the requirements of the NTPC.

Finally, Gonzalez advised that one of the original members of the selection committee, Ivan Valdes, is facing criminal prosecution and will not be able to participate in any future proceedings relating to the Project. For this reason, Gonzalez requested that a new committee of five members be appointed.

A copy of Gonzalez's letter was provided to the County Clerk, and to David Murray and Hugo Benitez of the County Attorneys' office.

The COE initiated an investigation to determine whether Gonzalez violated the Conflict of Interest and Code of Ethics Ordinance by failing to register to lobby on behalf of Jakes Associates, Inc. (Jakes Associates).

Relevant Law:

The Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1 (s)(2):

All lobbyists shall register with the Clerk of the Board of County Commissioners within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first.

Investigation:

Interviews/Contacts

**05/16/17 – Carlos F. Gonzalez, Esq. –
305/215-8684 – mobile**

Gonzalez was advised as to the subject of the investigation and said that he recalled the letter that he wrote to Carranza. Gonzalez said that he was hired to address legal issues, not to lobby. The point that he made in his letter was for them to follow their own process. He was not advocating that his client be awarded anything, only that they follow the legal procedure set in place in the NTPC for the Miami-Dade Aviation Department Automated People Mover System Consultant.

Gonzalez said that a recommendation of the award of this procurement has been made, but has not been ratified by Mayor Gimenez. The recommendation was that the contract be awarded to the other bidder. Gonzalez is not certain of the bidder's name.

His function was to address legal issues, not lobbying. The government relations professionals are the ones who did the lobbying.

His client, Jakes Associates, has registered lobbyists, but he was hired to follow up on the process set forth in the NTPC. The point of his letter was for them to follow their own process. He was not advocating that Jakes Associates be awarded anything, only that they follow the rules.

06/20/17 – Carlos Gonzalez, Esq.

Gonzalez came to the COE to discuss the issue of whether or not he should have registered to lobby prior to writing the letter to Carranza. Gonzalez brought two attorneys, Jonathan A. Heller and Albert Xiques. Gonzalez explained that he had been hired by Jakes Associates to present an argument regarding the way in which the selection of professional consultants was made. Gonzalez said that he did not intend to argue the advantages of awarding Jakes Associates with the contract.

06/26/17 – Pedro J. Betancourt, Aviation Sr. Proc. Contract Officer –

Betancourt appeared at the meeting scheduled with the COE investigator, Advocate, and Staff Attorney regarding the question of whether or not Gonzalez was required to register to lobby before writing the subject correspondence to Carranza.

Betancourt said that he sent the question on the matter to the COE because he was not certain whether or not Gonzalez needed to register to lobby for Jakes Associates prior to sending the letter disputing the use of four voting selection committee members rather than five committee members as required in the NTPC issued on 07/06/16 by the Mayor.

Betancourt was advised that the COE previously issued an opinion which states that attorneys' making a legal argument or inquiring about process and procedure are not required to register to lobby. Betancourt was told that if the attorney representing a bidder files a bid protest proceeding then he is required to register as a lobbyist. Betancourt was sent a copy of the subject opinion (INQ 15-217

Document Review:

01/04/17 – E-mail from Gonzalez to Carranza and Assistant County Attorney, David Murray following up on his correspondence of 12/23/16. Gonzalez advised that he represents Jakes Associates involving the Automated People Mover System Consultant project bid out of MIA. Gonzalez asks to meet in person to discuss the matter.

01/04/17 – E-mail from David Murray to Gonzalez advising that he would like to look at the issues before scheduling a time to discuss.

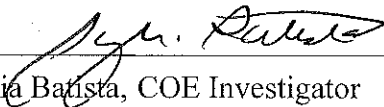
01/06/17 – E-mail from Carranza to Gonzalez responding to his letter. Carranza's reply advises Gonzalez that she values the feedback from "industry partners" concerning their procurement process. Carranza concludes her message by stating that they are bound by the Cone of Silence and are therefore unable to address the specific issues related to the project.

01/06/17 – E-mail from Gonzalez to Carranza, David Murray, Curt Williams (ISD), and the Clerk of the Board. Gonzalez refers to Carranza’s e-mail as a “boilerplate statement.” Gonzalez advises that his letter was not intended to provide friendly feedback, rather to alert her to a problem with the procurement process involving his client. Gonzalez advises that yesterday Murray advised him that he would be in touch after reviewing the letter. Gonzalez confirms that his position is that a new selection process should be undertaken that conforms to the applicable rules and regulations.

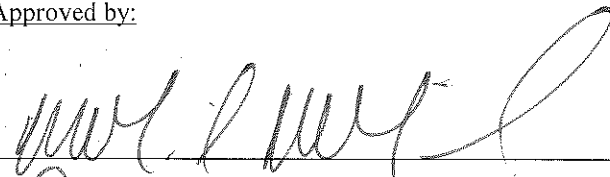
Conclusion(s):

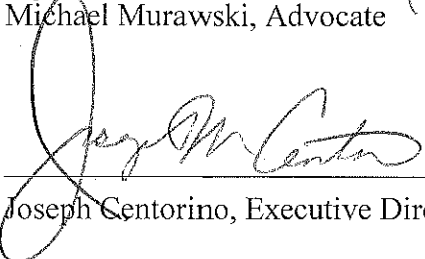
After discussion with the COE Advocate, it was determined that Gonzalez was engaged in “lawyering” and not “lobbying” and was not required under this set of facts to register as a lobbyist. Accordingly, this matter is closed with no further action.

(Signature)


Sylvia Batista, COE Investigator

Approved by:


Michael Murawski, Advocate

 7/12/17
Joseph Centorino, Executive Director