



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Sylvia Batista

<b>Case:</b> K18-043	<b>Case Name:</b> Alexander P. Heckler and Joseph Goldstein,	<b>Date Open:</b> 08/01/18	<b>Date Closed:</b> 12/4/18
<b>Complainant(s):</b> Office of the Inspector General,	<b>Subject(s):</b> Unregistered Lobbying.	<b>CASE CLOSED</b>	

Allegation(s):

The Office of the Inspector General (OIG) referred this matter to the COE which involves alleged unregistered lobbying in connection with solicitation #RFP 000456 for battery-electric transit buses and charging system (the RFP).

The OIG informed that an article which appeared in the Miami Herald entitled “**Miami-Dade is almost ready to buy its first electric buses. Enter the lobbyists.**” The article refers to lobbyists Alexander P. Heckler (Heckler) of Llorente & Heckler, P.A. as the lobbyist for New Flyer of America, Inc. (New Flyer). New Flyer is one of the bidders on the RFP. Heckler and Diana Mendez (Mendez) are said to have written to Mayor Gimenez expressing their concern with the County’s recommendation to engage in negotiations with Proterra, Inc. Proterra is another proposer on the RFP. The article also mentions a reply letter from Joseph Goldstein (Goldstein) on behalf of Proterra, Inc.

The Miami-Dade County List of Registrations reflects that Heckler and Mendez are registered active lobbyists for New Flyer. However, only Mendez is registered as an active lobbyist on the subject RFP. Goldstein is a registered active lobbyist for Proterra, however his registration does not specify that he is an active lobbyist on the subject RFP.

The COE initiated an investigation to determine whether Heckler and Goldstein were registered at the time of their communications with County personnel and/or the County Mayor regarding the RFP.

**Relevant Law:**

The Conflict of Interest and Code of Ethics Ordinance:

Sec. 2-11.1(s)(1)(b):

As used in this section, "Lobbyist" means all persons, firms, or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission; (2) any action, decision, recommendation of the County Manager or any County board or committee; or (3) any action, decision or recommendation of County personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission, or a County board or committee. "Lobbyist" specifically includes the principal, as well as any employee whose normal scope of employment includes lobbying activities.

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.

Sec. 2-11.1 (s)(2)(c):

Prior to conducting any lobbying, all principals must file a form with the Clerk of the Board of County Commissioners, signed by the principal or the principal's representative, stating that the lobbyist is authorized to represent the principal. The principal and the lobbyist must also submit a joint affidavit stating that the principal has not offered, and the lobbyist has not agreed to accept any contingency or success fees as defined in subsection (s)(7).

**Investigation:**

***Document Review:***

- Miami-Dade County List of Lobbyists Registrations by Principal New Flyer of America lists Diana Mendez, Thais Asper and Alexander Heckler as active lobbyists. However, only Mendez is registered for RFP 00456.
- New Flyer of America, Inc.'s Lobbyist Activity Authorization for lobbyist Alexander Heckler, Michael Llorente and Thais Asper on the specific issue of Bid #FB-00002 Sixty-foot articulated buses<sup>1</sup>. Filed on 04/14/15.
- Joint Contingency Fee Affidavit, Affidavit of Principal New Flyer of America and Affidavit of Lobbyist Alexander Heckler filed on 04/14/15.
- Miami-Dade County List of Registration by Principal Proterra lists Joseph Goldstein and Ivette O'Doski as active lobbyists.
- Proterra, Inc. Lobbyist Activity Authorization for lobbyist Joseph Goldstein, Esq. Filed

<sup>1</sup> This procurement is not the same as the subject procurement, RFP #00456, Battery-Electric Buses & Charging System.

10/16/17. No specific issue is identified.

- Joint Contingency Fee Affidavit, Affidavit of Principal Proterra, Inc. and Affidavit of Lobbyist Joseph Goldstein. Filed on 10/16/17.
- Solicitation #RFP-00456 – Battery-Electric Transit Buses and Charging System located on BidSync. Solicitation information: Proposals being solicited by the Department of Transportation and Public Works (DTPW). Solicitation started on 10/21/16 and closed on 02/13/17. The RFP is for the purchase of forty foot (40') heavy duty battery-electric low floor transit buses, spare parts, installation/construction of charging systems, and training. The contract will have a minimum quantity of thirty-three (33) buses, a maximum quantity of seventy-five (75) buses, and a total of three (3) charging systems at three separate locations.
- 05/16/17 Report of Competitive Selection Committee for the subject RFP. The Competitive Selection Committee recommended that the County enter into negotiations with the highest ranked proposer, Proterra, Inc.
- 06/20/18 letter from Diana Mendez and Alexander Heckler on behalf of New Flyer addressed to Mayor Gimenez re. the subject RFP. The letter expresses concern over the County's decision to engage in negotiation with Proterra, and lists the reasons why Proterra's proposal is non-responsive.
- 07/06/18 letter from Goldstein on behalf of Proterra. The letter is a rebuttal to the 06/20/18 letter from Diana Mendez and Alexander Heckler.

**Lobbyists Registration Status for RFP 00456 Electric Buses:**

LOBBYIST	PRINCIPAL	ISSUE	DATE EMPLOYED	ISSUE STATUS
Joseph Goldstein	Proterra	Not specified	10/16/17	Active
Alexander Heckler	New Flyer	FB-00002: 60 ft. articulated buses	04/14/15	Active
Diana Mendez	New Flyer	RFP 00456 Electric Buses	05/30/17	Active

The 06/20/18 letter on behalf of New Flyer was written by Alexander Heckler and Diana Mendez. Mendez is registered on the subject issue, RFP 00456 Electric Buses. Heckler is not registered on the subject issue, but was registered to lobby on behalf of New Flyer on a prior procurement for buses (FB-00002: 60 ft. articulated buses). Solicitation FB-00002 closed on 05/30/14.

Goldstein is registered to lobby on behalf of Proterra but did not specify the issue.

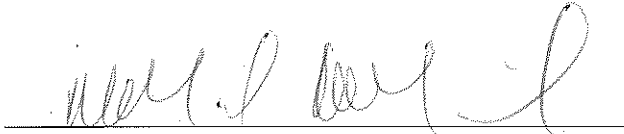
**Conclusion(s):**

Heckler is not in violation of the Conflict of Interest and Code of Ethics ordinance. Heckler is a registered lobbyist for New Flyer. The County does not require per issue registration by lobbyists.

(Signature)

  
Sylvia Batista, COE Investigator

Approved by:

  
Michael Murawski, Advocate

 12/9/18  
Jose J. Arrojo, Executive Director