



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130
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MEMORANDUM

TO: Thomas B. Davis, Esq., Director
Director of Policy and Legislation Division

Jacqueline Carranza, Non-Voting Chairperson
Internal Services Department

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 19-103 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety]

DATE: October 17, 2019

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts: We have reviewed your memorandum dated October 8, 2019, prepared in connection with the Appointment of Selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for General Engineering Consultant Services for Traffic Signal Operations – Project No. E 19-DTPW-01. The memorandum was prepared in connection with Resolution No. R-449-14, directing the Office of the Commission Auditor (OCA) to conduct background checks on members serving on evaluation/selection committees.

The memorandum noted that two members of the selection committee made disclosures on their neutrality/disclosure form that merited submission to the Commission on Ethics for an opinion. Specifically, Ms. Jacqueline Carranza stated on her neutrality/disclosure form that she was employed by EAC Consulting Inc. (2002-2003). EAC is a respondent to this request. Also, Mr. Esteban A. Espinal stated on his neutrality/disclosure form that he was employed by CTS Engineering (subcontractor for A & P consulting). Mr. Espinal worked for CTS Engineering (CTS) from January 2017 to February 2018. CTS is a respondent to this request.

We conferred with Ms. Carranza. She works as an A/E Consultant Selection Coordinator at the Miami-Dade County Internal Services Department. She confirmed that she was

employed by EAC from 2002 – 2003. She stated that the termination of her employment from EAC was amicable. She has no current ownership interest in or other formal or financial interest in the company. She does not have any close social, or other relationship with any current employee at the company. She believes that she can be completely fair and objective in her role as non-voting chair of this selection committee.

We have also conferred with Mr. Espinal. He works as Traffic Engineer 3 at the Miami-Dade Department of Transportation and Public Works (DTPW). He confirmed that he stopped working for CTS eighteen months ago.

Discussion: This agency conducts reviews of these issues under Section 2-11.1(v) of the County Ethics Code, which governs voting conflicts by members of County advisory and quasi-judicial boards. We also consider whether there is an appearance of impropriety created and make recommendations based on R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

Specifically, Section 2-11.1(v) of the County Ethics Code states that no quasi-judicial personnel or advisory personnel shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary' or (ii) stock holder, bondholder, debtor or creditor.

As to Ms. Carranza, she does not have a voting conflict of interest under Section 2-11.1(v), because as the non-voting chair of the selection committee, she will not vote. Additionally, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, which bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, would not apply since Ms. Carranza stopped working for EAC over sixteen years ago. *See* INQ 17-174, INQ 17-183, and INQ 18-229.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, this agency also opines concerning whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of an appointed selection committee. *See* Section 2-1067, Miami-Dade County Code, and 2.1(b) of the COE Rules of Procedure.

As Ms. Carranza's employment with EAC ended over sixteen (16) years ago on an amicable basis, and she has no business, or close social relationship with any current employee of the entity, it is our opinion that her prior employment would not create any appearance of impropriety or in any way detract from the County's conducting a fair and objective evaluation for this projects. *See* INQ 17-192, and INQ 18-261.

Regarding Mr. Espinal, as noted above, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, bars County employees from participating in contract-related duties on behalf of the County with a former employer for

a period of two years following termination of the employment relations. The Ethics Code specifically states that “contract-related duties” include “service as a member of a county certification, evaluation, selection, technical review, or similar committee; ...”¹ Therefore, Mr. Espinal may not participate on this selection committee as he stopped working for CTS less than two years ago, and CTS is a respondent to this project. See RQO 17-04; RQO 11-14; INQ 17-174, INQ 17-183, INQ 15-35, and INQ 18-229.

Opinion: Consequently, we recommend that Mr. Espinal be removed from this selection committee because the Reverse Two-Year Rule, Section (x) of the Ethics Code, bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, as Mr. Espinal stopped working for CTS, a respondent on this project, less than two years ago. See RQO 17-04; RQO 11-14; INQ 17-174, INQ 17-183, INQ 15-35, and INQ 18-229.

As to Ms. Carranza, we see no reason why she should not serve on this committee because she does not have a conflict of interest under the Ethics Code, and there does not appear to be any appearance of impropriety created by her service on this committee.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.

¹ See Section (x) of the County Ethics Code.

Sanchez, Rodzandra (COE)

From: Turay, Radia (COE)
Sent: Thursday, October 17, 2019 11:02 AM
To: Sanchez, Rodzandra (COE); Anderson, Machell (COE)
Cc: Perez, Martha D. (COE); Diaz-Greco, Gilma M. (COE)
Subject: FW: INQ 19-103, Thomas B. Davis, Esq., Director of Policy and Legislation, Office of the Commission Auditor [Voting Conflict of Interest § 2-11.1(v); Reverse Two-Year Rule § 2-11.1(x); Appearances of Impropriety]
Attachments: CSC Memo_E19-DTPW-01_08.13.19.pdf; INQ 19-103 (Carranza and Espinal).pdf

From: Turay, Radia (COE)
Sent: Thursday, October 17, 2019 10:58 AM
To: Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>; Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>; Johnson, Jannessa (OCA) <Jannessa.Johnson@miamidade.gov>
Cc: Uppal, Namita (ISD) <Namita.Uppal@miamidade.gov>; Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Brazle, Cedric (OCA) <Cedric.Brazle@miamidade.gov>
Subject: INQ 19-103, Thomas B. Davis, Esq., Director of Policy and Legislation, Office of the Commission Auditor [Voting Conflict of Interest § 2-11.1(v); Reverse Two-Year Rule § 2-11.1(x); Appearances of Impropriety]

Hello,

Thank-you for contacting the Miami-Dade Commission on Ethics and Public Trust, seeking our guidance in connection with the Appointment of Selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for General Engineering Consultant Services for Traffic Signal Operations – Project No. E 19-DTPW-01. Please find our opinion regarding same attached.

Thanks,

RADIA TURAY

Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 350-0601
Fax: (305) 579-0273
Ethics.miamidade.gov

From: Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>
Sent: Tuesday, October 15, 2019 5:23 PM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: RE: Project No. E19-DTPW-01

Good afternoon Ms. Turay,

I will be happy to answer the questions below. However, please be advised that I am the Non-Voting Chairperson on the committee for the subject project, as provided in the attached CSC memo. As such, I do not evaluate or score the proposers/proposals.

- 1) Please list your place of employment? What is your title?
 - a. I currently work at the Miami-Dade County Internal Services Department as an A/E Consultant Selection Coordinator.
- 2) How long have you been so employed?
 - a. I have been working in this position since October 2015. I briefly worked at PortMiami from the end of December 2018 to May 2019.
- 3) Where you previously employed by EAC Consulting Inc. (EAC)? What was your position at EAC?
 - a. I was employed at EAC from 2002 to 2003 as a Project Engineer. During the entire time I was employed at EAC I was placed to work with Miami-Dade County DERM as a consultant.
- 4) When did you stop working for EAC?
 - a. In 2003
- 5) Was your separation from EAC amicable?
 - a. Yes
- 6) Have you worked for EAC, in any capacity, over the past 24 months?
 - a. No
- 7) Do you have any of the following relationships with EAC or any of the respondents to this RFP: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary or (ii) stock holder, bondholder, debtor or creditor?
 - a. No
- 8) Do you have any personal/financial interest in EAC or any of the responding firms to this solicitation?
 - a. No
- 9) Do you maintain any close personal friendships with (an) employee (s) of EAC?
 - a. No
- 10) Do you believe that your personal friendship with employees of EAC would affect how you evaluate the various respondents to this project?
 - a. Not applicable.
- 11) Do you think that your prior work history at EAC would impair your independence of judgment when you are evaluating the various respondents on this project?
 - a. I do not evaluate proposers/proposals.

Please do not hesitate to contact me if you have any additional questions/concerns.

Regards,

Jacqueline Carranza, A&E Consultant Selection Coordinator
Miami-Dade County | Internal Services Department
111 N.W. 1st Street, Suite 1300, Miami, FL 33128
Phone: (305) 375-2173

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From: Turay, Radia (COE)
Sent: Tuesday, October 15, 2019 3:24 PM
To: Carranza, Jacqueline (ISD) <Jacqueline.Carranza@miamidade.gov>
Subject: Project No. E19-DTPW-01

Hello Ms. Carranza

My name is Radia Turay. I am a staff attorney at the Miami-Dade Commission on Ethics and Public Trust (COE). The COE was asked to opine on whether you can serve on the selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for General Engineering Consultant Services for Traffic Signal Operations- Project No. E19-DTPW-01.

In order to assist us with our process, please provide answers to the questions below:

- 1) Please list your place of employment? What is your title?
- 2) How long have you been so employed?
- 3) Where you previously employed by EAC Consulting Inc. (EAC)? What was your position at EAC?
- 4) When did you stop working for EAC?
- 5) Was your separation from EAC amicable?
- 6) Have you worked for EAC, in any capacity, over the past 24 months?
- 7) Do you have any of the following relationships with EAC or any of the respondents to this RFP: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary or (ii) stock holder, bondholder, debtor or creditor?
- 8) Do you have any personal/financial interest in EAC or any of the responding firms to this solicitation?
- 9) Do you maintain any close personal friendships with (an) employee (s) of EAC?
- 10) Do you believe that your personal friendship with employees of EAC would affect how you evaluate the various respondents to this project?
- 11) Do you think that your prior work history at EAC would impair your independence of judgment when you are evaluating the various respondents on this project?

RADIA TURAY

Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820

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Ethics.miamidade.gov

Memorandum



Date: August 13, 2019

To: Those Listed Below

From: Carlos A. Gimenez
Mayor

A handwritten signature in black ink, appearing to read "Carlos A. Gimenez".

Subject: Appointment of Selection Committee for Miami-Dade County Department of Transportation and Public Works Request to Advertise for General Engineering Consultant Services for Traffic Signal Operations - Project No. E19-DTPW-01

In accordance with Implementing Order 3-34, I am hereby appointing those listed below as members of the Selection Committee for Miami-Dade County Department of Transportation and Public Works Request to Advertise for *General Engineering Consultant Services for Traffic Signal Operations - Project No. E19-DTPW-01*.

Jacqueline Carranza, Internal Services Department, will be the Non-Voting Chairperson.

Selection Committee

Pedro Nunez, Department of Transportation and Public Works
Esteban Espinal, Department of Transportation and Public Works
Li Gurau, Water and Sewer Department
Marcia Steelman, Department of Regulatory and Economic Resources
Ini Roberts, Water and Sewer Department
Daniel Castilla, Department of Transportation and Public Works (Alternate)
Peter Smith, Miami-Dade Aviation Department (Alternate)

Technical Advisor

Frank Aira, Department of Transportation and Public Works

You are directed to assist me in the selection process considering the factors delineated in the solicitation. If you are unable to participate in the selection process, please contact the Mayor's Office through Gary Hartfield, Director of the Small Business Development Division in the Internal Services Department, by memorandum from your department director documenting the reason why you cannot participate. Only in cases of dire urgency may you be excused from participation.

Each Selection Committee member shall be responsible for evaluating, rating and ranking the proposals based on the criteria and procedure contained in the solicitation. The Selection Committee will meet to review the written proposals. If required, the Selection Committee will select firms to make oral presentations to the Selection Committee at a properly-noticed public hearing. If proposers are invited to make oral presentations, the Selection Committee may re-rate and re-rank the proposals based on the written documents, combined with the oral presentation. You may utilize staff from the issuing department and the issuing agency to conduct a preliminary review of the proposals for responsiveness. All requests for responsiveness determinations shall be made in writing by the issuing department to the County Attorney's Office.

The alternate committee member may serve in the event of an approved substitution. An updated memorandum will be forwarded confirming the utilization of the alternate member as a voting member. No substitution of committee members shall be allowed after the first official meeting of the Selection Committee. The Internal Services Department may substitute the Selection Committee Chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

Upon completion of the evaluation process, the Selection Committee Chairperson shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the recommended firm(s) and attach supporting documentation, which **must** include the following information:

Name of firm(s)
Quality Rating Score
Price
Adjusted Score (if applicable)
Committee's Overall Ranking

This report should be submitted to me through the Internal Services Department for review and consideration.

As a matter of administrative policy and to maintain a fair and impartial process, all individuals appointed to the Selection Committee (including the Chairperson) and staff are instructed to refrain from discussing the solicitation with prospective lobbyists and/or consultants. Selection Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, there are restrictions on communications regarding the solicitation with potential proposers, service providers, lobbyists, consultants, or any member of the County's professional staff. Violation of this policy could lead to termination of County service.

All questions must be directed to the staff contact person designated by the issuing department.

- c: Jack Osterholt, Deputy Mayor and Department Director of Regulatory and Economic Resources
- Alice N. Bravo, Director, Department of Transportation and Public Works
- Kevin Lynskey, Director, Water and Sewer Department
- Lester Sola, Director, Miami-Dade Aviation Department
- Tara C. Smith, Director, Internal Services Department
- Gary T. Hartfield, Division Director, Small Business Development, Internal Services Department

Selection Committee

Pedro Nunez, Department of Transportation and Public Works
Esteban Espinal, Department of Transportation and Public Works
Li Gurau, Water and Sewer Department
Marcia Steelman, Department of Regulatory and Economic Resources
Ini Roberts, Water and Sewer Department
Daniel Castilla, Department of Transportation and Public Works (Alternate)
Peter Smith, Miami-Dade Aviation Department (Alternate)

Technical Advisor

Frank Aira, Department of Transportation and Public Works

**SELECTION COMMITTEE
DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
GENERAL ENGINEERING CONSULTANT SERVICES FOR TRAFFIC SIGNAL OPERATIONS
E19-DTPW-01**

Committee Member/ Title	Department	Start Year With County	Ethnicity/ Gender	Education	Professional License(s)/ Certifications	Telephone #
Jacqueline Carranza (Non-Voting Chairperson)	ISD	---	---	---	---	305-375-2173
Pedro Nunez Traffic Engineer 3	DTPW	2018	Hispanic Male	Bachelor of Science in Mechanical Engineering	Professional Engineer	305-679-0018
Esteban Espinal Traffic Engineer 3	DTPW	2018	Hispanic Male	Bachelor of Science in Civil Engineering	Professional Engineer	305-679-0085
Li Gurau Senior Program Manager	WASD	1999	Asian Female	PH.D in Engineering	Professional Engineer	786-552-4440
Marcia Steelman Engineer 3	RER	1996	White Female	Bachelor of Science in Civil Engineering	---	305-372-6691
Ini Roberts Professional Engineer	WASD	2004	Black Male	Bachelor of Science, Civil and Mechanical Engineering	Professional Engineer	786-268-5013
Daniel Castilla (Alternate) Roadway Lighting Engineer	DTPW	2006	Hispanic Male	Bachelor of Science in Civil Engineering	Professional Engineer	305-679-0084
Peter Smith (Alternate) Construction Manager	MDAD	1989	Black Male	Bachelor of Science in Construction Management	---	305-876-7051
TECHNICAL ADVISOR						
Frank Aira Division Chief	DTPW	1994	Hispanic Male	Masters of Business Administration ; Bachelors of Science - Electrical Engineering	Professional Engineer	305-679-0002