

## Sanchez, Rodzandra (COE)

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**From:** Turay, Radia (COE)  
**Sent:** Monday, June 10, 2019 4:41 PM  
**To:** Sanchez, Rodzandra (COE)  
**Cc:** Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE)  
**Subject:** FW: INQ 19-63, Thomas B. Davis, Esq., Director of Policy and Legislation, Office of the Commission Auditor (Voting Conflict 2-11.1(v); Appearance of Impropriety)  
**Attachments:** INQ 19-63.pdf

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**From:** Turay, Radia (COE)  
**Sent:** Monday, June 10, 2019 4:37 PM  
**To:** Johnson, Jannesha (OCA) <Jannesha.Johnson@miamidade.gov>; Gonzalez, Amado (ISD) <Amado.Gonzalez@miamidade.gov>; Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Uppal, Namita (ISD) <Namita.Uppal@miamidade.gov>  
**Cc:** Majekodunmi, Yinka (OCA) <Adeyinka.Majekodunmi@miamidade.gov>; Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>; Padron, Isabel (DTPW) <Isabel.Padron@miamidade.gov>  
**Subject:** INQ 19-63, Thomas B. Davis, Esq., Director of Policy and Legislation, Office of the Commission Auditor (Voting Conflict 2-11.1(v); Appearance 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 Fire Rescue Department Request to Advertise for Fire Station rebuilds – Groups A, B and C. Design Services for various Miami-Dade County Fire Rescue Stations – Project No. A18-MDFR-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  
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Ethics.miamidade.gov

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**From:** Johnson, Jannesha (OCA)  
**Sent:** Monday, June 10, 2019 4:04 PM  
**To:** Gonzalez, Amado (ISD) <Amado.Gonzalez@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Uppal, Namita (ISD) <Namita.Uppal@miamidade.gov>  
**Cc:** Majekodunmi, Yinka (OCA) <Adeyinka.Majekodunmi@miamidade.gov>; Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>

**Subject:** RE: ISD Project No. A18-MDFR-01 - Fire Station Rebuilds – Groups A, B and C - Design Services For Various Miami-Dade County Fire Rescue Stations

Good Afternoon –

This email is being sent on behalf of Thomas B. Davis, Esq., the director of Policy and Legislation for the office of the Commission Auditor.

Thanks.



**Jannesha V. Johnson, MBA**  
Office of the Commission Auditor  
Miami Dade Board of County Commissioners  
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**From:** Gonzalez, Amado (ISD)  
**Sent:** Monday, June 10, 2019 8:43 AM  
**To:** Davis, Thomas (OCA) <[Thomas.Davis@miamidade.gov](mailto:Thomas.Davis@miamidade.gov)>  
**Cc:** Johnson, Jannesha (OCA) <[Jannesha.Johnson@miamidade.gov](mailto:Jannesha.Johnson@miamidade.gov)>; Edwards, Phillip G. (OCA) <[Phillip.Edwards@miamidade.gov](mailto:Phillip.Edwards@miamidade.gov)>; Clerk of the Board (COC) <[Clerk.Board@miamidade.gov](mailto:Clerk.Board@miamidade.gov)>  
**Subject:** RE: ISD Project No. A18-MDFR-01 - Fire Station Rebuilds – Groups A, B and C - Design Services For Various Miami-Dade County Fire Rescue Stations

Mr. Thomas,

I missed Ms. Padron's Affidavit and resume which was received late on June 8<sup>th</sup>. Please note that she identifies some issues in her affidavit. My apologies for not following up sooner.

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**From:** Gonzalez, Amado (ISD)  
**Sent:** Thursday, May 30, 2019 1:27 PM  
**To:** Davis, Thomas (OCA) <[Thomas.Davis@miamidade.gov](mailto:Thomas.Davis@miamidade.gov)>  
**Cc:** Johnson, Jannesha (OCA) <[Jannesha.Johnson@miamidade.gov](mailto:Jannesha.Johnson@miamidade.gov)>; Edwards, Phillip G. (OCA) <[Phillip.Edwards@miamidade.gov](mailto:Phillip.Edwards@miamidade.gov)>; Clerk of the Board (COC) <[Clerk.Board@miamidade.gov](mailto:Clerk.Board@miamidade.gov)>  
**Subject:** ISD Project No. A18-MDFR-01 - Fire Station Rebuilds – Groups A, B and C - Design Services For Various Miami-Dade County Fire Rescue Stations

Good Afternoon Mr. Thomas,

Please commence the background review of the Competitive Selection Committee (CSC) members assigned to the subject project. Attached are the Neutrality Affidavits and Resumes for staff assigned to this project. Also provided is the List of Respondents and the CSC memorandums for the same project.

**Amado Gonzalez, A/E Consultant Selection Coordinator**  
Miami-Dade County -ISD Strategic Procurement Division  
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## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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

Amado Gonzalez, A/E Consultant Selection Coordinator,  
ISD Procurement Management

Pablo Valin, A/E Consultant Selection Coordinator,  
ISD Procurement Management

**FROM:** Radia Turay, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 19-63 [Voting Conflict of Interest § 2-11.1(v); Appearances of  
Impropriety]

**DATE:** June 10, 2019

**CC:** All COE Legal Staff

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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 June 10, 2019, prepared in connection with the Appointment of Selection Committee for Miami-Dade Fire Rescue Department Request to Advertise for Fire Station rebuilds – Groups A, B and C. Design Services for various Miami-Dade County Fire Rescue Stations – Project No. A18-MDFR-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 a voting member of the selection committee, made disclosures on her neutrality/disclosure form that merited submission to the Commission on Ethics for an opinion. Specifically, Isabel Padron, Department of Transportation and Public Works, stated on her neutrality/disclosure form that she was employed (1986-1987) by Bliss & Nyitray, Inc. (B&N), a consultant to two of the proposers on this project. She

also stated that she had dealings with Mr. Paul Ingelmo, principal of Ingelmo Associates PA- a consultant to one of the proposers on this project, when her son was in high school (2004-2009).

We have conferred with Ms. Padron. She indicated that the termination of her employment from B&N was amicable in 1987. She has no current ownership interest in or other formal or financial interest in the company. She does not have any business, close social, or other relationship with any current employee at the company.

We also discussed her contacts with Mr. Ingelmo. She explained that her son went to school with Mr. Ingelmo's son from 2004-2009. She had positive interactions with Mr. Ingelmo during those years. She does not maintain a personal or social friendship with Mr. Ingelmo. She has no financial interest in Ingelmo Associates PA. She believes that she can be completely fair and objective in assessing the qualifications of the competing firms.

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.

It does not appear that Ms. Padron has a voting conflict of interest under Section (v) of the County Ethics Code because she will not be directly affected by the vote and she does not have any of the enumerated relationships with an entity affected by the 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. Padron stopped working for B&N over 32 years ago. *See* INQ 16-118, 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. Padron's employment with B&N ended 32 years ago on an amicable basis, and she has no business, professional, or close social relationship with any current member of

B&N, it is our opinion that her prior employment there would not create any appearance of impropriety or in any way detract from the County's conducting a fair and objective evaluation for this project. *See* INQ 17-261.

Similarly, we do not find that there is any appearance of impropriety where Ms. Padron's son merely attended school with Mr. Ingelmo's son over ten years ago, as Ms. Padron does not maintain a personal friendship with Mr. Ingelmo. nor does she have any financial business relationship with Ingelmo Associates P.A, and she will not be personally affected by the actions of the selection committee.

Opinion: Consequently, at this juncture, we see no reason why Ms. Padron should not serve on this selection committee, because she does not have a voting conflict of interest under Section (v) of the County Ethics Code, and there does not appear to be any appearance of impropriety created by her service on this committee. *See* INQ 17-261, and INQ 17-158.

Ms. Padron is however reminded that the selection committee, for which she will serve as a voting member, operates under the County's Cone of Silence, Section 2-11.1(t) of the County Ethics Code. The Cone of Silence puts significant restrictions on oral communications made by Commissioners, County staff, selection committee members, prospective contractors, as well as their lobbyists and consultants, regarding any procurement matter during the time that the Cone is in effect. Ms. Padron will therefore be prohibited under the Cone, from communication with Mr. Ingelmo regarding this project, as Ingelmo Associates P.A. is a potential vendor, service provider, or bidder, on this project.

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.

