



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Amado Gonzalez, Non-Voting Chairperson  
Internal Services Department

Phillip G. Edwards, Esq., BCC Legislative Research Manager  
Office of the Commission Auditor (OCA)

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

**SUBJECT:** INQ 2020-115 [Voting Conflict of Interest § 2-11.1(v); Appearances of  
Impropriety]

**DATE:** October 29, 2020

**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 October 9, 2020, which was prepared in connection with the Appointment of the Selection Committee for Miami-Dade Aviation Department Request to Advertise for Capital Improvement Program Specialized Services – Project No. A18-MDAD-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, the memorandum notes that: (1) Isa Nunez, Jackson Health System, indicated on her Neutrality/Disclosure Form that AECOM is providing program management and staff augmentation services for a capital program overseen by her department. AECOM Technical Services, Inc. is a subconsultant to a respondent (WSP USA, Inc.) to the solicitation. (2) William D. Talbert III, Greater Miami Convention & Visitors Bureau (GMCVB), indicated on his Neutrality/Disclosure Form that he is a member of the Business Network of which Luis Ajamil is also a member. Bermello Ajamil & Partners Inc. is a subconsultant to a respondent (Hill International Inc.) to the solicitation. Additionally, Mr. Talbert indicated on his Disclosure Form that GMCVB has an agreement

with Balsera Communications, Inc., a subconsultant to a respondent (Hill International Inc.) to the solicitation.

We conferred with Ms. Nunez. She is Vice President (VP) of the Facilities, Design & Construction Division at Jackson Health System (hereinafter "JHS"). She confirmed that AECOM, a subconsultant to respondent WSP USA, Inc., provides staff augmentation services to the JHS division for which she serves as VP. In her VP role at JHS, she supervises some of AECOM's staff and approves AECOM's monthly invoices for the services they provide her unit. She explained however, that this selection committee has nothing to do with AECOM's current work in her JHS division.

Ms. Nunez also disclosed that she has a close friendship with Elisa Dimitroupolous, an employee of TY Lin International (hereinafter "TY Lin"), a subconsultant to respondent (Hill International Inc.) to the solicitation. They have been friends for over ten years. Ms. Dimitroupolous is listed in the proposal submitted that includes TY Lin. She is identified as a "Senior Aviation Project Manager" and as the "Task Manager- Airside". She is also listed on ISD Form No. 5, as one of the persons that will appear and present before this selection committee.

We have also conferred with Mr. Talbert. He is President & Chief Executive Officer of the Greater Miami Convention & Visitors Bureau (hereinafter "GMCVB"). He has been so employed for over 30 years. He confirmed that he does belong to a group called "The Business Network" of which Mr. Ajamil is also a member. He explained that this is however a professional group that meets monthly to discuss what is happening in the business community. He has no personal friendship with Mr. Ajamil outside of this group. He does not have any financial, close social, or other relationship with Mr. Ajamil. He will not receive any financial or other benefit, in the event the team that includes Bermello Ajamil & Partners Inc., is awarded this contract.

Mr. Talbert also stated that his employer, GMCVB, has an agreement with Balsera Communications, Inc. (hereinafter "Balsera"), a subconsultant to respondent (Hill International Inc.) to the solicitation. He explained that it is a month to month contract for services provided by Balsera. Mr. Talbert reviews and approves that monthly invoices submitted by Balsera for payment.

Further, Mr. Talbert explained that he has known Mr. Alfredo "Fred" Balsera for over 20 years. Mr. Balsera is the CEO of Balsera Communications, Inc. Mr. Balsera is listed and identified in the proposal submitted by respondent Hill International Inc. The proposal states that Mr. Balsera will be responsible for "Community Outreach". Mr. Talbert would not receive any type of direct or indirect financial benefit, in the event that the team that includes Balsera, is awarded this contract.

Discussion: This agency conducts reviews of these issues under the County Ethics Code, which governs 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. Nunez and Mr. Talbert have a voting conflict of interest under Section (v) of the County Ethics Code because they will not be directly affected by the vote and they do not currently have any of the enumerated relationships with any entity affected by the vote.

Additionally, 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 noted above, Ms. Nunez stated that AECOM -a subconsultant to a respondent WSP USA, Inc., to this solicitation- is providing program management and staff augmentation services for a capital program overseen by her department. The COE has indicated in various informal opinions that, absent some other factor, the mere fact that a selection committee member has interactions with a respondent in connection with the member's County duties would not create an appearance of a conflict that could affect the public trust in the integrity of the procurement process. *See* INQ 14-279, INQ 16-165, INQ 17-286, INQ 18-21, INQ 18-47, and INQ 18-230. The COE's opinions note that, in fact, it may be valuable to have an individual on a selection committee who is personally familiar with the work of one or more of the responding firms, particularly where the member also has some special expertise in the services that are being sought by the County, *See* INQ 18-21, INQ 18-47, and INQ 18-230.

As to Mr. Talbert, he disclosed that the organization for which he serves as President and Executive Director, GMCVB, has an agreement with Balserra Communications. The COE has stated in prior ethics opinions that a **non-County** selection committee member may not serve on the committee when his employer, who has contracts with prospective bidders to be evaluated, may benefit from the selection. *See* INQ 12-217. In this case, we will similarly recommend that Mr. Talbert not serve on this selection committee as GMCVB has an agreement with Balserra that Mr. Talbert personally reviews and approves the invoices submitted by Balserra for payment. To be clear, there is no evidence that GMCVB would receive any type of benefit from the award of this contract, and there is no evidence or implication that Mr. Talbert would attempt to benefit his private employer to the detriment of the County. Rather, in all procurement matters, where appearances of integrity and fairness are paramount, "there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence... [which] may require a higher standard of ethics..." *See* INQ 16-242, citing to INQ 14-242.



Further, both Ms. Nunez and Mr. Talbert also noted that they have close social friendships with individuals that work for two entities that are included in proposals submitted in response to this solicitation.

Somewhat similar to the circumstances in this case, this office previously considered whether the assistant director of Miami-Dade Fire Rescue (MDFR) could serve as a member of a County negotiation committee, where the representative of one of the recommended proposers, was a personal friend. We opined that technically, the assistant director of MDFR did not have a prohibited conflict serving on a County negotiation committee where the lobbyist for one of the bidders happened to be his fraternity brother/personal friend, because the assistant director would not personally benefit from the vote and he did not have a prohibited relationship with any of the parties. However, the COE stated that in order to avoid an appearance of impropriety created by the close social relationship, the assistant director should consider withdrawing from the negotiation committee because "in all procurement matters, where appearances of integrity and fairness are paramount, "there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence... [which] may require a higher standard of ethics..." See INQ 16-242, citing to INQ 14-242.<sup>1</sup>

In contrast, in INQ 18-78, this office considered whether a prospective member of a selection committee may serve on the committee, where the prospective selection committee member maintained a close personal friendship with an employee of one of the respondents to the project. In that case, the COE again noted that the prospective member of the selection committee did not have a prohibited conflict of interest under the County Ethics Code because the County employee would not personally benefit from the vote and he did not have a prohibited relationship with any of the parties involved in the solicitation. However, this office did not find that there was any appearance of impropriety in this scenario because the individual that the prospective selection committee member maintained a personal friendship with at the respondent company was not listed in the proposal submitted, he had nothing to do with the company's response to that particular

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<sup>1</sup> See also INQ 14-246 (An FIU Professor of Architecture will not have a prohibited conflict serving on a County selection committee where she has had professional relationships with some of the bidders to be considered by the selection committee, because the Professor of Architecture would not personally benefit from the vote and she does not have a prohibited relationship with the parties. However, in order to avoid an appearance of impropriety created by the Professor's close professional relationships with some of the bidders, the County is advised to reconsider whether this person is an appropriate appointee for this selection committee); INQ 19-99 (a member of the selection committee for a project, whose spouse previously worked for a respondent to this project, Perez & Perez and Associates, should not serve on this selection committee, due to the possible appearance of impropriety, as she maintains a close social relationship with employees and the owner of the firm) and INQ 20-40 (it is recommended that ISD should consider withdrawing a prospective selection committee member from a selection committee due to the possible appearance of impropriety created by his close social/professional relationship with a current employee of one of the responding firms to a solicitation, who was identified by the respondent firm as a key member of their team, and was also identified as one of the individuals that would make a presentation before the selection committee).



solicitation, the individual had for the most part retired from the company, and the individual was not going to be making any type of presentation before the selection committee regarding that project.

In this case, both Ms. Nunez and Mr. Talbert maintain a close social relationship with individuals that not only work for entities listed as subconsultants to respondents to this solicitation, but in both cases the individuals that they are friends with are listed in the proposals submitted and are identified as serving in various defined roles should this contract be awarded to the respondent team that their entities belong. Specifically, Ms. Nunez has a close friendship spanning ten years with Elisa Dimitroupolous, who is listed in the proposal submitted by respondent, Hill International Inc., and is identified as serving in the defined role of "Senior Aviation Project Manager" and "Task Manager- Airside" for TY Lin, a subconsultant to the respondent. Ms. Dimitroupolous is also identified as one of the people that will make a presentation before the selection committee. In Mr. Talbert's case, he has a friendship spanning over 20 years with Mr. Alfredo Balsera, CEO of Balsera Communications, who is identified in the proposal submitted by respondent Hill International Inc.<sup>2</sup> The proposal states that Mr. Balsera will be responsible for "Community Outreach".

Opinion: Consequently, consistent with the COE's holding in prior ethics opinions, we do not find that Ms. Nunez and Mr. Talbert's service on this selection committee presents a conflict of interest under the County Ethics Code because they will not be directly affected by the vote and they do not currently have any of the enumerated relationships with any entity affected by the vote. See INQ 16-242, INQ 19-99, INQ 20-40, and INQ 14-246.

However, in order to avoid an appearance of impropriety, as Ms. Nunez and Mr. Talbert maintain a close social relationship with individuals that not only work for entities listed as subconsultants to respondents to this solicitation, but in both cases the individuals that they are friends with are listed in the proposals submitted, identified by the proposals as serving in various defined roles should this contract be awarded to the respondent team that their employer is a part of, and in the case of Ms. Dimitroupolous – would also appear and present before this very selection committee, ISD should therefore consider withdrawing Ms. Nunez and Mr. Talbert from this selection committee because "in all procurement matters, where appearances of integrity and fairness are paramount, "there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence... [which] may require a higher standard of ethics..." See INQ 16-242, citing to INQ 14-242; INQ 14-246, INQ 19-99, and 20-40.

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

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<sup>2</sup> Please note that Mr. Talbert also disclosed that he is part of a group called "The Business Network" of which Mr. Ajamil is also a member. This does not create any type of appearance of impropriety as it is a professional group that meets monthly to discuss what is happening in the business community; Mr. Talbert does not have a personal friendship with Mr. Ajamil outside of this group; he does not have any financial, close social, or other relationship with Mr. Ajamil; and Mr. Talbert will not receive any financial or other benefit in the event the team that includes Bermello Ajamil & Partners Inc., is awarded this contract.

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.