



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Phillip G. Edwards, Esq., Senior Research Analyst
Office of the Commission Auditor (OCA)

Cristina Amores, Non-Voting Chairperson
Internal Services Department

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 20-56 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety]

DATE: June 10, 2020

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 June 2, 2020, which was prepared in connection with the Appointment of the Selection Committee for Miami-Dade Department of Transportation and Public Works Request to Advertise for Professional Services for Transit and Public Works Projects – Project No. E19-DTPW-11. 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 three 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) Isabel Padron indicated on her Neutrality/Disclosure Form and resumé that she was an employee of Bliss & Nyitray, Inc. from 1986 to 1987. Bliss & Nyitray is a sub-consultant for a respondent (Kimley-Horn & Associates, Inc.) to this project. (2) Jie Bian, Department of Transportation and Public Works, indicated on her resume that she was an employee of Cambridge Systematics, Inc. from 2007 to 2016. Cambridge Systematics is a subconsultant for a respondent (HNTB Construction) to this project. (3) Claudia Diaz, Department of Transportation and Public Works, indicated on her Neutrality/Disclosure Form that she was an employee at “TYLI” until March 2016 and that her brother is currently an employee

of “TYLI.” Ms. Diaz’s resume indicates that she worked for TY Lin International from 2007 to 2016. TY Lin International is a respondent to this project.

We previously conferred with Ms. Padron. She is Chief of the Design and Engineering Division at the Miami-Dade Department of Transportation and Public Works (hereinafter “DTPW”). She indicated that the termination of her employment from Bliss & Nyitray Inc. (hereinafter “B&N”) in 1987, was amicable. 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. She believes she can be fair and impartial when evaluating the respondents to this project.

We also consulted with Ms. Bian. She is Chief of Planning and System Development Division at DTPW. She indicated that the termination of her employment from Cambridge Systematics, Inc (hereinafter “CSI”) in 2016, was amicable. She has no current ownership interest in or other formal or financial interest in the company. She maintains a casual social relationship with some of her former co-workers at CSI. She does not have any business relationship with any current employee at the company. She believes she can be fair and impartial when evaluating the respondents to this project.

We were informed that Ms. Claudia Diaz will be replaced on the committee.

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.

With regard to Ms. Padron and Ms. Bian, it does not appear that they 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 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 to Ms. Padron and Ms. Bian since Ms. Padron stopped working for B&N over thirty years ago, and Ms. Bian stopped working for CSI about four 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. Padron's employment with B&N ended over thirty years ago, and Ms. Bian stopped working for CSI over four years ago -both on an amicable basis, and they have no business, or close social relationship with any current employee at the respective entities that they worked for, it is our opinion that their prior employments 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.

Opinion: Consequently, we see no reason why Ms. Padron and Ms. Bian should not serve on this committee because they do not have a conflict of interest under the Ethics Code and there does not appear to be any appearance of impropriety created by their 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.