



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)

Brian Webster, Non-Voting Chairperson
Internal Services Department

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 20-66 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety]

DATE: July 7, 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 26, 2020, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Department of Transportation and Public Works Request for Proposals for LED Smart Lighting and Smart County Systems – RFP No. 00499. 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) Renato Marrero, Florida Department of Transportation, indicated on his resume that he was employed by Jacobs Engineering Group between March 2006 and January 2011. Jacobs Project Management Company is a subcontractor for a respondent (MD Smart Lighting) to this solicitation. (2) Michael Bryant, Aviation Department, indicated on his resume that he was employed by Verizon Data Services between 1993 and 1995. Verizon Wireless is a subcontractor for a respondent (AECOM) to this solicitation.

We conferred with Mr. Marrero. He is a District Maintenance Engineer at the Florida Department of Transportation (hereinafter “FDOT”). He indicated that his employment from Jacobs Engineering Group (hereinafter “Jacobs”) was terminated in 2011, during a statewide layoff. He has no current ownership interest in or other formal or financial interest in the company. He does not have any business, close social, or other relationship with any current employee at the company. He believes he can be fair and impartial when evaluating the respondents to this project.

We also consulted with Mr. Bryant. He is a Computer Services Senior Manager at the Miami-Dade Aviation Department (hereinafter “MDAD”). He was previously employed by a company named General Telephone Equipment-Data Services (hereinafter “GTEDS”). He indicated that the termination of his employment from GTEDS in 1995, was amicable. He stated that in the year 2000, approximately five years *after* he left GTEDS, GTEDS was acquired through a merger and acquisition process by Verizon. Due to the merger, he provides the address for Verizon Data Services (hereinafter “Verizon”) for human resources purposes in order to verify his prior employment with GTEDS. He never actually worked for Verizon. He has no current ownership interest in or other formal or financial interest in Verizon. He does not have any business, close social, or other relationship with any current employee at Verizon. He believes he can be fair and impartial when evaluating the respondents to this project.

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 both Mr. Marrero and Mr. Bryant, 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 and selection committee members 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 Mr. Marrero and Mr. Bryant since Mr. Marrero stopped working for Jacobs over nine years ago, and Mr. Bryant never actually worked for Verizon. *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 Mr. Marrero's employment with the Jacobs firm ended over nine years ago- on an amicable basis, Mr. Bryant technically never worked for Verizon, and neither of the two have any business, or close social relationship with current employees at the respective entities, 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 project. *See* INQ 17-192, and INQ 18-261.

Opinion: Consequently, we see no reason why Mr. Marrero and Mr. Bryant 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.