



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)

Coleen Christie, Non-Voting Chairperson
Internal Services Department (ISD)

FROM: Radia Turay, Staff Attorney
Commission on Ethics and Public Trust

SUBJECT: INQ 20-84 [Voting Conflict of Interest § 2-11.1(v); Reverse Two-year
Rule § 2-11.1(x); Appearances of Impropriety]

DATE: August 5, 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 July 29, 2020, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Internal Services Department Request for Proposals for Property Insurance Broker Services Program – RFP No. 01487. 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 resume that merited submission to the Commission on Ethics for an opinion. Specifically, the memorandum notes: (1) Teresa Quintero, Internal Services Department (Technical Advisor), indicated on her Neutrality/Disclosure Form that she was previously employed by Arthur J. Gallagher & Co. Ms. Quintero's resume indicates that she was employed by Arthur J. Gallagher & Co. in 2015. (2) Ivan Sequeira, Internal Services Department (Technical Advisor), indicated on his Neutrality/Disclosure Form that he was employed by Marsh & McLennan and also by Arthur J. Gallagher. As indicated on his resume, Mr. Sequeira worked at Marsh & McLennan between 1999 and 2001. There is neither information on Mr. Sequeira's Disclosure Form nor his resume indicating the timeframe of his employment at Gallagher. Marsh USA, Inc. and Arthur J. Gallagher Risk Management Services, Inc. are respondents to this solicitation.

We previously conferred with Ms. Quintero regarding her prior employment at Arthur J. Gallagher & Co., and issued INQ 20-79, in which we opined that we see no reason why Ms. Quintero should not serve on this selection 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 the committee.

This informal ethics opinion would therefore only address the disclosures made by Mr. Sequeira.

We have conferred with Mr. Sequeira. He is a Risk Management Specialist at the Miami-Dade County, Risk Management & Casualty Unit. Mr. Sequeira confirmed that he previously worked for Marsh & McLennan (hereinafter “M&M”). M&M is the same entity as respondent, Marsh USA, Inc. He was an Insurance Assistant for Middle Market Clients. He stopped working for them in June 2001. His separation from M&M was amicable. He has no other formal business or financial interest in M&M. He does not currently maintain any close social, or other relationship with employees at M&M.

Mr. Sequeira also confirmed that he previously worked for Arthur J. Gallagher Risk Management Services, Inc. (hereinafter “AJG”). He was a Client Services Representative. He stopped working for them in approximately 2001. Mr. Sequeira stated that his separation from AJG was not amicable. He explained that he did not get along with his supervisor at the time, Nayla Zacur. Based on some brief research that was completed on Ms. Zacur, it appears that she passed away in 2013. He indicated that the fact that he did not get along with Ms. Zacur, over nineteen years ago would not impair his independence of judgment when he is evaluating all the respondents to this solicitation.

The representative listed on AJG’s response to this solicitation is Tony Abella Jr. Mr. Sequeira indicated that he has never met Mr. Abella. He has no other formal business or financial interest in AJG. He does not currently maintain any close social, or other relationship with employees at AJG. 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 serves 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.

In this case, it does not appear that Mr. Sequeira has a voting conflict under Section 2-11.1(v) of the Code, because as a technical advisor to the selection committee, he will not vote. However, please note, that even if Mr. Sequeira was a voting member of the committee, he would not have any voting conflict under Section 2-11.1(v) of the Ethics

Code because he will not be directly affected by the vote and he does not have any of the enumerated relationships with the respondents to the project.

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 Mr. Sequeira since he stopped working for AJG and M&M over nineteen 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 Mr. Sequeira's employment at M&M ended over nineteen years ago- on an amicable basis, and he does not have any business, or close social relationship with current employees at the entity, it is our opinion that his prior employment at M&M 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 20-73, INQ 18-202, and INQ 17-69.

As to Mr. Sequeira's disclosure that his separation from AJG was not amicable in 2001: Mr. Sequeira was very candid and explained that he did not get along with his supervisor at the time, Nayla Zacur. Ms. Zacur had nothing to do with the AJG proposal that would be considered by this selection committee, as it appears that Ms. Zacur passed away in 2013. The AJG representative listed on this proposal is Tony Abella Jr. Mr. Sequeira indicated that he has never met Mr. Abella nor has he had any prior dealings with Mr. Abella.

Based on all the information provided, as Mr. Sequeira's separation from AJG occurred over nineteen years ago, his prior supervisor with whom he had an issue is now deceased and had nothing to do with AJG's response to this solicitation, and he has no other business, or close social relationship with current employees at the entity, it is our opinion that Mr. Sequeira's separation from AJG would not in any way detract from the County's conducting a fair and objective evaluation for this project.

Opinion: Consequently, we see no reason why Mr. Sequeira should not serve on this selection committee because he does not have a conflict of interest under the Ethics Code and there does not appear to be any appearance of impropriety created by his service on the 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.