



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Justin Espagnol, Non-Voting Chairperson
Internal Services Department

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

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-31 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety]

DATE: February 19, 2021

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 January 27, 2021, which was prepared in connection with the Appointment of the Selection Committee for Miami-Dade Internal Services Department Request to Advertise for Rehabilitation and Renovation Services of ISD Parking Garages/Structures – Project No. A20-ISD-06. 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 and/or resume that merited submission to the Commission on Ethics for an opinion. Specifically, the memorandum notes that: “(1) Irene Hegedus, Department of Transportation and Public Works, indicated on her Neutrality/Disclosure Form that she has an open invitation of employment from Bermello Ajamil & Partners, Inc., a respondent to this solicitation. (2) Dalia Abrahante, Water and Sewer Department, indicated on her resume that she worked for Wolfberg Alvarez & Partners, Inc. from February 1989 to August 1990. Wolfberg Alvarez & Partners, Inc. is a respondent to this solicitation.”

It is our understanding that Irene Hegedus will be replaced. This memorandum will thereby only address the OCA's findings as to Dalia Abrahante.

We conferred with Ms. Abrahante. She is employed as Construction Manager 2, at the Miami-Dade Water and Sewer Department (WASD). She confirmed that she previously worked for Wolfberg Alvarez & Partners, Inc. (hereinafter "WAP"). She stopped working for WAP in August 1990. She indicated that the termination of her employment from WAP was amicable. She has no current ownership interest or other financial interest in the company. She also does not have any business, close social, or other relationship with any current employee at the company. Ms. Abrahante believes she 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.

It does not appear that Ms. Abrahante 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 currently have any of the enumerated relationships with any 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. Abrahante since she stopped working for WAP over thirty 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 noted above, Ms. Abrahante disclosed that she was employed by WAP, a respondent to the solicitation. As her employment at WAP ended over thirty years ago- on an amicable basis, and she does not have any business, or close social relationship with current employees at the entity, it is our opinion that her prior employment at WAP would not

create an 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.

Opinion: Consequently, we see no reason why Ms. Abrahante should not serve on this 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 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.