



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Jesus Lee, Selection Committee Coordinator
Strategic Procurement Department

Sade Chaney, Research Manager
Office of the Commission Auditor

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-155, Voting Conflict of Interest § 2-11.1(v); County Resolution
R-449-14, Appearances of Impropriety

DATE: November 16, 2022

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“COE”) and requesting our guidance regarding the following proposed transaction.

Facts:

We have reviewed your memorandum dated November 3, 2022, which was prepared in connection with the Appointment of Selection Committee for Miami-Dade County Information Technology Department Request for Proposals for Enterprise Managed Security Solution - RFP No. 02228. The memorandum was prepared in connection with Resolution Number 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 Affidavits/Disclosure Forms that merited submission to the COE for an opinion. The memorandum noted that:

- A. Maria Eirea, Information Technology Department, indicated on her Neutrality Affidavit that approximately three (3) years ago her son worked an eight (8) week paid internship with GigaNetworks, Inc., which is identified as a respondent to this solicitation.

We conferred with Ms. Eirea. She is the Information Technology Senior Systems Administrator for the Miami-Dade Information Technology Department (“ITD”). Ms. Eirea stated that her son, while in college, worked a paid internship with GigaNetworks, Inc., which ended approximately three years ago. She further stated that, since that time, her son has not worked for GigaNetworks, Inc. Ms. Eirea stated that she does not have any current ownership interest or other financial interest in GigaNetworks, Inc. Ms. Eirea further stated that she does not have any personal, close social, or other relationship with any current employee of GigaNetworks, Inc. Rather, she stated that she has only interacted with the company on a professional basis as part of her job duties with the County. Ms. Eirea stated that, regardless of her son’s past internship with GigaNetworks, Inc., she believes that she can be fair and impartial when evaluating the respondents to this solicitation.

- B. Maria Perez, Miami-Dade Aviation Department, indicated on her Neutrality Affidavit that she has working and business relationships with AT&T, World Wide Technology, LLC (“World Wide”), Insight Public Sector, Inc. (“Insight”), Proofpoint, and CDW Corporation,¹ with AT&T, World Wide, and Insight identified as respondents to this solicitation.

We conferred with Ms. Perez. She is Chief of Aviation Telecommunications for the Miami-Dade Aviation Department (“MDAD”). Ms. Perez stated that she has never worked for AT&T, World Wide, or Insight. Ms. Perez clarified “working and business relationships” as those professional relationships established through her position with MDAD. Regarding AT&T, Ms. Perez stated that she currently orders services for MDAD from AT&T under their current County contract. Regarding World Wide, Ms. Perez stated that she has previously met with and attended presentations made by World Wide as part of her MDAD responsibilities, but has not placed orders with them. Regarding Insight, Ms. Perez stated that she has interacted with Insight representatives professionally, but has not placed orders with them. Regarding all three companies, Ms. Perez stated that she does not have any current ownership interest or other financial interest in any of them. Ms. Perez also stated that she does not have any personal, close social, or other relationship with any current employee of the three companies. Finally, Ms. Perez stated that, regardless of her past professional interactions with the three companies and/or their respective representatives, she believes that she can be fair and impartial when evaluating the respondents to this solicitation.

Discussion:

The COE conducts a review of issues arising under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), which governs conflicts by members of County advisory and quasi-judicial boards. The COE also considers whether the circumstances

¹ Proofpoint and CDW Corporation are not identified as respondents to this solicitation. Nevertheless, because Ms. Perez mentioned them on her Neutrality Affidavit, we note that Ms. Perez advised that she only interacts with these companies in her professional capacity; she stated that she does not otherwise have any financial relationship with either company, nor does she have any personal or social relationships with any individual who works at either of the two companies.

presented create an appearance of impropriety and makes recommendations based on Resolution No. 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.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, the COE 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* Miami-Dade County Code § 2-1067; COE Rules of Procedure § 2.1(b). “In all procurement matters, appearances of integrity and fairness are paramount, [as 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’” INQ 17-131 (quoting INQ 14-242).

However, 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 impropriety that could affect the public trust in the integrity of the procurement process. *See* INQ 22-147; INQ 20-136; INQ 18-230. In fact, it may be valuable to have an individual on the 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 22-147; INQ 18-230; INQ 18-21.

A. Ms. Eirea’s Appointment to the Selection Committee.

In this case, it does not appear that Ms. Eirea has a voting conflict of interest under Section 2.11-1(v) of the County Ethics Code because she will not be directly affected by the vote, nor does she have any of the enumerated relationships with any entity affected by the vote. *See* INQ 18-21.

Furthermore, as discussed above, due to the sensitivity of the procurement process, the COE also opines concerning whether there may be an appearance of impropriety. *See* Miami-Dade County Code § 2-1067; COE Rules of Procedure § 2.1(b). Here, Ms. Eirea’s professional interactions with GigaNetworks, Inc., as part of her County duties would not give rise to an appearance of impropriety; rather, her personal familiarity with their work may be valuable to the Selection Committee. *See* INQ 22-147; INQ 18-230; INQ 18-21. Furthermore, her son’s prior low-level position with GigaNetworks, Inc., that occurred approximately three years ago, does not create an

appearance of impropriety because of the low-level and transitory nature of the work. *See* INQ 18-21 (past employment of Selection Committee member's nephew by one of the respondents to the solicitation did not give rise to an appearance of impropriety).

Accordingly, there does not appear to be any voting conflict or appearance of impropriety that would in any way detract from Ms. Eirea's ability to conduct a fair and objective evaluation of this solicitation.

B. Ms. Perez's Appointment to the Selection Committee.

In this case, it does not appear that Ms. Perez has a voting conflict of interest under Section 2-11.1(v) of the County Ethics Code because she will not be directly affected by the vote, nor does she have any of the enumerated relationships with any entity affected by the vote. *See* INQ 18-21.

Furthermore, as discussed above, due to the sensitivity of the procurement process, the COE also opines concerning whether there may be an appearance of impropriety. *See* Miami-Dade County Code § 2-1067; COE Rules of Procedure § 2.1(b). Here, Ms. Perez's professional interactions with AT&T, World Wide, and Insight, as part of her County duties would not give rise to an appearance of impropriety; rather, her personal familiarity with their work may be valuable to the Selection Committee. *See* INQ 22-147; INQ 18-230; INQ 18-21.

Accordingly, there does not appear to be any voting conflict or appearance of impropriety that would in any way detract from Ms. Perez's ability to conduct a fair and objective evaluation of this solicitation.

Opinion:

Accordingly, consistent with our holdings in prior ethics opinions, **Ms. Eirea and Ms. Perez do not have a conflict of interest under the County Ethics Code** that would prevent them from serving on this Selection Committee because they will not be directly affected by the vote, they do not have any enumerated relationship with an entity affected by the vote, and their service on the Selection Committee would not otherwise give rise to an appearance of impropriety. *See* INQ 22-147; INQ 18-230; INQ 18-21.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>

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.