

REQUEST FOR OPINION CHECKLIST

Request for Opinion

Dated: 7/20/2005

Investigative File

Draft Opinion

Notification to requestor of hearing before commission:

Scheduled for \_\_\_\_\_ at \_\_\_\_\_ .m; or No \_\_\_\_\_

Commission Action: \_\_\_\_\_

Final Disposition: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

M E M O R A N D U M

TO: COMMISSION ON ETHICS AND PUBLIC TRUST  
FROM: ARDYTH WALKER, STAFF GENERAL COUNSEL  
RE: RQO 05-83  
DATE: JULY 27, 2005  
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BACKGROUND

Taj Hunter of the Hall Group is seeking an advisory opinion regarding her firm's ability to reply to an RFP to provide supplemental services at the South Dade Cultural Center.

FACTS

The Hall Group is serving as a subcontractor to Arquitectonica on the South Dade Cultural Center. The Hall Group participated in the design and construction document phases of the project. Miami-Dade County recently issued a Notice to Professional Consultants to provide supplemental construction administration and A/E services for the South Dade Cultural Center. The scope of services included in the supplemental services agreement include: threshold inspector and special inspector services; supplemental AE services; enhanced on-site construction administration including structural steel systems and acoustical requirements; design and specification of additional exterior lighting, graphics and interior design and AE services for owner changes and field conditions requiring a change in scope from the existing design documents. The Hall Group is seeking to serve as the Prime Consultant under the supplemental agreement.

ARGUMENT

The Hall Group may serve as the Prime Consultant on the supplemental services agreement for the South Dade Cultural Center as long as the firm is not simultaneously performing similar services as a subconsultant under the original agreement.

In a series of opinions, the Ethics Commission has opined that certain contractual arrangements create an inherent conflict of interest and should be determined prior to award. For example, a conflict exists if a contractor has overlapping responsibilities on different phases of the same project (i.e. AE on one phase of the project and serving as value engineer, CIS or CM partner on another phase of the project; supervisor or prime on one phase of the project and subcontractor on another or related phase or project). Further, a conflict may exist if there are overlapping roles on responsibilities between various members of a team (i.e. a member serves as prime contractor on one contract and as a subcontractor to another contractor on another contract) or if there are overlapping scopes of work between two agreements. These arrangements create conflict because they lead to disclosure of confidential information and impair independent judgment by the contractor in the performance of their contractual obligations.

Since the two agreements will overlap, the Hall Group may not serve as prime and subconsultant performing the same scope of services under both agreements. Otherwise, the firm will supervise itself on the same project. However, the Hall Group may serve as prime consultant as long as the firm is not simultaneously performing related services under the current agreement.

#### CONCLUSION

The Hall Group may serve as prime consultant on the supplemental services agreement as long as the firm does not provide any related services under the current agreement.

R00 05 -83

**Walker, Ardyth (COE)**

**From:** Meyers, Robert (COE)  
**Sent:** Wednesday, July 20, 2005 3:51 PM  
**To:** Walker, Ardyth (COE)  
**Subject:** FW:

Ardyth,

Let's discuss. I think we ought to expedite this request for opinion and put in on our agenda for the 27<sup>th</sup>. Obviously, your draft will have to be included in the supplement. What do you think?

Thanks,

Robert

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**From:** tahd007mia@aol.com [mailto:tahd007mia@aol.com]  
**Sent:** Wednesday, July 20, 2005 3:43 PM  
**To:** rmeyers@miamidade.gov  
**Cc:** clerkbcc@miamidade.gov  
**Subject:**

Mr. Meyers,

The county has directed us to you for a reading on whether or not our participation in the above "Notice to Professional Consultants" (NTPC) will be a conflict of interest. Our firm is a part of the Design Team, headed by Architect-of-Record, Arquitectonica. Our role was Associate Architects for this project. We participated in both the Design and Construction Document Phases of the project. We were to also participate in the Construction Administration Phase, however, the County has elected to advertise for a separate consultant for this service. Please clarify for us if submitting a proposal for this project, as a Prime, will be a conflict of interest.

The submission is due on July 29, 2005. We were advised that you have a meeting on July 27, 2005 and the inquiry should be submitted one week prior to that meeting. We would greatly appreciate your response to this issue on the 27th so we can know if we can submit our proposal on the 29th.

Thanks in advance for your time and attention to this matter.

Respectfully,  
Ms. Taj Hunter  
Project Manager II  
The Hall Group, Inc.  
305-751-9419/phone

7/25/2005