



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Health, Public Safety & Intergovernmental  
Committee**

October 15, 2009  
2:00 P.M.  
Commission Chamber

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Commission Auditor  
111 NW First Street, Suite 1030  
Miami, Florida 33128  
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**Miami-Dade County Board of County Commissioners  
Office of the Commission Auditor**

**Legislative Notes  
Health, Public Safety & Intergovernmental Committee  
Meeting Agenda**

**October 15, 2009**

Written analyses and notes for the below listed items are attached for your consideration:

**Item Number(s)**

2(J)	2(L)
2(M)	2(N)
3(A)	3(B)
3(C)	

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:  
Elizabeth N. Owens, Legislative Analyst  
Lauren Young-Allen, Legislative Analyst

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

**Agenda Item:** 2J  
**File Number:** 091903  
**Committee(s) of Reference:** Health, Public Safety & Intergovernmental  
**Date of Analysis:** October 13, 2009  
**Type of Item:** Ordinance Amending the Conflict of Interest & Ethics Ordinance  
**Sponsors:** Commissioner Rebeca Sosa; Commissioner Sally Heyman  
**Commission District:** Countywide

**Summary**

This proposed ordinance amends the Conflict of Interest & Ethics Ordinance substantively and stylistically. In general, the proposed ordinance expands the jurisdiction of the Ethics Commission to include jurisdiction over additional personnel and additional individuals, deletes certain exemptions, amends definitions, limits participation by certain County personnel in quasi-judicial matters following termination, adds penalties for willful non-compliance, deletes obsolete provisions, and corrects punctuation and gender-based terms.

**Specifics**

The specific substantive amendments and changes are as follows, in pertinent part.

Definitions	Sect. 2-11.1(b)	the term "financial interest" is redefined to mean 1% ownership of stock, or 1% ownership of a business, and is expanded to include 1% income derived from an entity or person; it replaces the existing definition which requires a 10% "controlling" financial interest
		the term "immediate family" is expanded to include domestic partners, step children, and step parents
		the term "contract staff" has been added and is defined as any employee of an independent contractor, subcontractor, consultant or sub-consultant designated to comply with this ordinance

Transacting Business	Sect. 2-11.1(d)	prohibits, for 18 months following severance of a financial interest or business relationship with the non-profit, for-profit or other business entity, participation by the Mayor or Commissioners in matters relating to a for-profit, non-profit or other business entities for which the person previously worked or held a financial interest
Gifts	Sect. 2-11.1(e)(2)(g)	includes staff among the list of persons subject to the provisions governing gifts
Exploitation of Position	Sect. 2-11.1(f))	expands prohibited conduct to include the use of governmental letterhead other than for official public business
After County Service	Sect. 2-11.1(q)(1)	prohibits Community Council members from appearing on behalf of third persons before the community council upon which they served, in addition to proscribing lobbying
After County Service	Sect. 2-11.1(q)(2)	deletes the exemption currently provided to County personnel which allowed county employees or officials employed by a non-profit or governmental entity to lobby on behalf of such entities following County service
Voting Conflicts	Sect. 2-11.1(v)	prohibits for 18 months participation by advisory personnel and quasi-judicial personnel in matters relating to a for-profit, non-profit or other business entities for which the person previously worked
Non-Profit Relationship	Sect. 2-11.1(x)	prohibits County employees from performing any county contract-related duties regarding a non-for-profit entity for a 2-year period following severance of a financial interest or business relationship with the non-profit entity; currently non-profit entities were not included in the prohibition, only for-profits.
Ethics Commission	Sect. 2-11.1(y)	expands the jurisdiction of the Ethics Commission to include jurisdiction over contract staff, Commissioners' staff, the Mayor and consultants
Penalties	Sect. 2-11.1(bb)	adds as a new penalty of a \$1000 for the 1 <sup>st</sup> violation and \$2000 for each subsequent violation for "intentional violation" of the ethics ordinance

**Background and Relevant Legislation**

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance governs, among other things, the minimum standard of ethical conduct and behavior for all County officials, quasi-judicial personnel, departmental personnel and employees when acting under the authority delegated by the County. The ordinance is to protect the integrity of government operations and to ensure that the County government operates independently and impartially and not for personal gains. Accordingly, the ethics ordinance establishes specific policies which address conflicts of interest, capitalizing on opportunities, and external activities and business relationships.

The proposed ordinance generally embodies the above-noted objectives requiring key County personnel and certain persons subject to County rules and regulations to avoid actual or apparent conflicts of interests.

**Policy Change and Implication**

The proposed ordinance does constitute a change in policy. It broadens the scope of the existing ordinance by addressing; (1) interests or activities involving non-profit organizations that may result in a conflict of interest between County personnel, officials and the general public, (2) compromising situations involving quasi-judicial decisions, (3) certain post-employment business relationships, (4) persons not previously covered or exempt, and (5) willful misconduct. Collectively, the proposed amendments are more stringent than the existing ordinance.

**Budgetary Impact**

None

**Prepared by:** Lauren Young-Allen

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Legislative Notes

**Agenda Item:** 2L and 2M

**File Number:** 091804 and 091973

**Committee(s) of Reference:** Health, Public Safety and Intergovernmental Committee

**Date of Analysis:** October 15, 2009

**Type of Item:** Conflict of Interest Waiver Requests

**Sponsor:** Prime Sponsor Commissioner Katy Sorenson

**Summary**

This ordinance (Item 2L) and the accompanying resolution (Item 2M) relate to contract lobbyists and the procedure for obtaining a conflict of interest waiver. These items do the following:

- Set a policy for Miami-Dade County that all contract lobbyists will obtain a conflict waiver from the Board of County Commissioners (BCC) prior to representing any client in any forum that is adverse to the County;
- Direct the Mayor or his designee to implement the policy in all future contracts for lobbying;
- Require all conflict of interest waiver requests to be submitted directly to the Chairman of the BCC, who will place the conflict waiver request on the next available BCC agenda; and
- Amend Rules of Procedures of County Commission, §2-1 of the Code of Miami-Dade County (Code), providing that contract lobbyist conflict waiver requests are exempt from committee review.

**Background and Relevant Legislation**

On November 16, 1999, the Board approved Resolution No. 1236-99, prohibiting County contract lobbyists from representing any client and /or issue that may be adverse to the County without first requesting and obtaining permission from the County. Currently, the contract lobbyist may apply for a waiver request which may or may not be granted by the Board.

Currently, §2-1 – Rules of Procedures of County Commission allows for but is not limited to the following exceptions to the committee review requirement:

- The chairperson for the committee of jurisdiction requests that an item be waived from committee review in writing and the Commission Chairperson agrees;
- Quasi-judicial items, special taxing districts, ordinances for first reading, consent agenda items, district office fund allocations, special presentation, road co-designations, citizens' presentations bid

protest, settlements, options-to-renew contracts, resolutions urging an entity or person to take stated action, and resolutions expressing intent are heard directly by the County Commission; and

- Road closings in a commission district where the district commissioner is not a member of the committee of jurisdiction.

### **Policy Change and Implication**

Item 2M requires that all contract lobbyists, including all subcontractors and lobbyists hired under work orders, obtain a conflict waiver from the BCC prior to the following:

- Award or payment of contract or work order for lobbying;
- Renewal or payment for a contract or work order for lobbying;
- If there are no conflicts, the lobbyist must still provide a written statement that there are no conflicts.

Furthermore, this ordinance creates an expedited waiver request (Item 2M), requiring that conflict waiver requests be submitted directly to the Chairman of the Board. Because no committee review will be required (Item 2L), waiver request will go directly to BCC.

### **Comments**

Item no. 2N on this agenda also relates to contract lobbying firms. Item 2N prohibits County contract lobbyists or lobbying firms from representing any person or entity in a lawsuit or other legal action against the County. It makes conflict waivers obsolete only in the case of lawsuits; unlike Items 2L and 2M, which mandate all contract lobbyists to obtain a conflict waiver from the board, and provides for an expedited process whereby they do not have to obtain Committee review. Therefore, if BCC adopts all three items, there may be some inconsistencies related to lobbying conflicts regarding lawsuits.

**Prepared by:** Elizabeth N. Owens

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 2N

**File Number:** 092042

**Committee(s) of Reference:** Health, Public Safety & Intergovernmental

**Date of Analysis:** October 13, 2009

**Type of Item:** Resolution Setting Policy

**Sponsor:** Commissioner Barbara J. Jordan

**Summary**

This proposed resolution prohibits any County contract lobbyist or lobbying firm from representing any person or entity in a lawsuit or other legal action against the County. The failure of any lobbyist to comply with this proscription will result in either (1) the lobbying contract being voided, or (2) a 3-year prohibition from entering into a lobbying contract with the County; or both.

The resolution defines the term "lawsuit or other legal action against the County" as any lawsuit, administrative action, enforcement action, or other adversarial proceeding or hearing, including appeals, in which the County or any employee is a named party.

**Background and Relevant Legislation**

In a series of resolutions and ordinances enacted by the Board of County Commissioners (BCC), the BCC has established countywide policy which prohibits lobbyists under contract with the County from representing any client in a forum to support a position in opposition to the County's position or which may be adverse to the County without 1<sup>st</sup> obtaining permission or a waiver from the County. Incorporated into the County's lobbying contracts are provisions which expressly require the contract lobbyist to request a waiver of a conflict of interest prior to representing the adverse position or interest. However, most recently, several lobbyists under contract with the County have sought conflict waivers. In some instances, these waiver requests have not preceded the concurrent representation of the County and the adverse party. This proposed resolution addresses such instances by prohibiting all County contract lobbyists from representing any person or entity in a lawsuits or other legal action filed against the County.

**Policy Change and Implication**

If approved, the proposed resolution would constitute a policy change by materially limiting County lobbyists' dual representations.

**Budgetary Impact**

The potential fiscal impact is non-determinative at this time, and is contingent upon the number of lobbyists or lobbying firms which may opt out of serving as the County lobbyists in light of the new proposed policy.

**Prepared by:** Lauren Young-Allen

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Legislative Notes

**Agenda Item:** 092685  
**File Number:** 3(A)  
**Committee(s) of Reference:** Health, Public Safety and Intergovernmental Committee  
**Date of Analysis:** October 13, 2009  
**Type of Item:** Mutual Aid Agreement

**Summary**

This resolution authorizes the County Mayor or his designee to renew the Mutual Aid Agreements for law enforcement services (Agreements) between Miami-Dade County and participating municipalities. The Agreements combine the elements of both a voluntary cooperative agreement and a requested operational assistance agreement.

The Agreements will be effective upon execution and will expire on January 1, 2015.

**Background and Relevant Legislation**

On September 9, 2004, the Board of County Commissioners (BCC) renewed the current law enforcement mutual aid agreements (Resolution No. 1096-04). All 34 municipalities signed the same Agreements, providing for the requesting and rendering of assistance for routine and emergency law enforcement operations. The current agreements expire on January 1, 2010.

Florida Mutual Aid Act (Act) - Florida Statutes, Chapter 23, Part 1

This statute specifies the procedures allowing a law enforcement agency to enter into a mutual aid agreement with another law enforcement agency. The Act recognized the existing and continuing possibility of the occurrence of natural and manmade disasters or emergencies and other major law enforcement problems, including those that cross jurisdictional lines.

The Act defines a mutual aid agreement as:

- A voluntary cooperative written agreement between two or more law enforcement agencies, which agreement permits voluntary cooperation and assistance of a routine law enforcement nature across jurisdictional lines;
- A requested operational assistance written agreement between two or more law enforcement agencies, which agreement is for the rendering of assistance in a law enforcement emergency; or
- A combination of these agreements.

Although the Agreements do not specify minimum standards or thresholds, they do stipulate that the assistance will be provided by certified law enforcement employees.

### **Policy Change and Implication**

Examples of Operational Assistance would be the following:

- Hostage and barricaded subject situations, and aircraft piracy;
- Control of major crime scenes, area searches, perimeter control, back-ups to emergency and in-progress calls, pursuits, and missing person calls;
- Enemy attack;
- Transportation of evidence requiring security;
- Civil affray or disobedience, disturbances, riots, large protest demonstrations, controversial trials, political conventions, labor disputes, and strikes;
- Any natural, technological or manmade disaster;
- Emergency situations in which one agency cannot perform its functional objective;
- Incidents requiring utilization of specialized units, e.g. underwater recovery, Special Response Teams, bomb, marine patrol, etc;
- Incidents requiring rescue operations and crowd and traffic control measures, e.g. large-scale evacuations, train wrecks and derailments, chemical or hazardous waste spills, etc.; and
- Terrorist activities.

Examples of Voluntary Cooperation would be the following:

- Establishing multi-jurisdictional criminal investigations;
- Major events, e.g., sporting events, concerts, parades, fairs, festivals and contentions;
- Joint training in areas of mutual need;
- Off-duty special events;
- Establishing joint multi-jurisdictional marine interdiction operations; and
- Security and escort duties for dignitaries.

### **Budgetary Impact**

Pursuant to Florida Statutes, the law enforcement agency providing the mutual assistance is responsible for the cost of their personnel, equipment and potential loss or damage. For example, if MDPD is requesting aid from Broward County, Broward County as the municipality providing the aid bears the financial responsibility for any cost accrued.

### **Comments**

MDPD also has mutual aid agreements between Miami-Dade County and the Florida Sheriff's Association and the Miami-Dade Public Schools.

In addition, there are numerous Memorandums of Understanding signed by MDPD with other local law enforcement agencies, as well as state and federal agencies for the purpose of forming investigative partnerships (County Manager's Police Department Mutual Aid Report dated June 15, 2005). Examples of those investigative partnerships include:

- South Florida Gang Task Force
- Auto Theft Task Force
- Joint Terrorism Task Force
- Cargo Theft Task Force
- South Florida Environmental Crimes Task Force
- Miami River Enforcement Group
- Russian / Eurasian Crime Task Force

**Prepared by:** Elizabeth N. Owens

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 3B and Supplements

**File Numbers:** 091872  
092462 (Supplement)  
092749 (Supplement)

**Committee(s) of Reference:** Health, Public Safety & Intergovernmental

**Date of Analysis:** October 13, 2009

**Type of Item:** RFQ for County Lobbyists

**Sponsor/ Requester:** Procurement Management Department

**Summary**

This resolution authorizes the Administration to advertise a Request for Qualifications (RFQ) to obtain proposals from law firms, governmental affairs consulting firms, businesses, individuals, or a combination of each to provide representation and consulting services on behalf of the County before the executive and legislative branches of the federal government.

The term of each contract awarded is for 1 year with 3 one-year options-to-renew. A Small Business Enterprise selection is to be included for this solicitation.

**Background**

On January 24, 2006, the Board of County Commissioners (BCC) authorized the County Mayor to execute agreements with Greenberg Traurig, P.A., Alcade & Fay, and Tew Cardenas LLP to serve as the County's federal lobbyists and consultants. The County has already exercised the 3 one-year options-to-renew. These contracts will expire on February 5, 2010. The pending proposed resolution will allow the Administration to advertise for proposals from qualifying replacement firms, and to ultimately recommend which firms should be awarded the successor contracts.

**Committee Action of June 11, 2009**

This item did appear for consideration before the Health, Public Safety and Intergovernmental Committee on June 11, 2009. The committee forwarded the proposed resolution with amendments. Under the amended version of the proposed resolution:

- (1) the County will seek 1 or 2 firms, instead of 3;
- (2) the estimated contract cost is \$400,000 for services as opposed to \$200,000 per contract;

- (3) the solicitation will add experience in international trade and tourism as additional qualifications for the selected proposer;
- (4) work orders will be recommended by the Project Manager, reviewed by the County Attorney's Office and approved by the Chair of the Board of County Commissioners, or designee;
- (5) lobbyists' monthly activity reports will go directly to the Board of County Commissioners, Commission Auditor, and Office of Intergovernmental Affairs.

At the June 30, 2009 BCC meeting, this item, as amended, was carried over to July 2, 2009 for further consideration, and ultimately deferred by the BCC pending the scheduling of a workshop. Notably, during the July 2<sup>nd</sup> deliberations, several Commissioners noted that the RFQ should also include an additional requirement that prospective lobbyists demonstrate access to or political affiliations with the current new federal administration.

**July 16, 2009 Workshop and Supplemental Legislation**

On July 16, 2009, the Health, Public Safety & Intergovernmental Committee convened a special workshop for purposes of amending the RFQ to reflect the concerns raised by the BCC at the July 2<sup>nd</sup> BCC meeting. Following the workshop, the Committee Chair drafted the committee's report which sets forth the following recommended amendments to the RFQ.

- Section 1.1 (Introduction): award up to 3 vendors (in lieu of 2 vendors) the lobbying contract
- Section 2.1A (Qualifications): require the selected proposer to possess substantial knowledge of law enforcement, public safety and homeland security issues; and substantial knowledge of energy, environment and natural resource issues
- Section 2.1B (Assignment of Work): increase the aggregate amount per year to \$600,000 (allocating \$200,000 per firm) with an additional allocation not to exceed \$150,000 per year (up from \$100,000) for work orders on specific issues; require work orders to be approved by the BCC prior to issuance
- Section 4.2 (Evaluation Criteria): require proposers to possess an understanding of major metropolitan county issues, and award 15 points (in lieu of 30 points); require proposers to have a relationship with President Obama's Administration and the House and Senate leadership, and award an additional 15 points
- Section 4.6 (Local Preference): for this particular solicitation delete text which requires local preference and substitute text which waives local preference
- Section 5.0, Art 6(Notice Requirement): amend Project Manager to read Executive Director of the Office of Intergovernmental Affairs (in lieu of staff stationed at the permanent office located in Washington, DC)

### **BCC Action of September 15, 2009**

On September 15, 2009, this item, as amended, was presented to the full BCC for consideration. The BCC voted to remand the item to the Health, Public Safety & Intergovernmental Committee for consideration of several new floor amendments proposed during the BCC meeting. The floor amendments are as follows:

- (1) avoid setting a specific dollar amount which establishes a threshold compensation per vendor per year. Instead, the County should base the contract amount on the lowest negotiated price.
- (2) define "urban community" in sect.2.1 (Qualifications)
- (3) delete "legal research" as a qualification requirement
- (4) delete "no airport representation if other airport is a competitor"
- (5) add "possess specific knowledge of Miami-Dade County"
- (6) require the Evaluator Council be comprised of a BCC member, an OIG rep and an IAO DC rep

### **Budgetary Impact**

Based on the initial June 11, 2009 committee amendments, the Administration reported that as a result of the proposed reduction in the maximum number of awarded firms from 3 to 2, the total allocation is being reduced from \$1,125,000 to \$750,000 per year. This reduction included the removal of additional work orders and optional services originally allocated for 3 firms.

Under the prior contract, each contract was valued at \$200,000 annually, plus up to \$100,000 per contract annually for work orders. The contracts also included payment for approved optional services (consisting of the use of office space in Washington, D.C.; office related supplies and services used by the County; travel by the consultant for special projects at the County's request; and food, non-alcoholic beverages and receptions) or additional work orders, at the County's request, on an as-needed basis, in an amount not to exceed \$225,000 annually in the aggregate for all 3 contracts.

Under the pending proposed resolution, as amended on July 16, 2009, the total contract amount allocated per year will be \$600,000 to reflect an increase (from 2 to 3) in the number of firms to be awarded a contract. Each firm will receive \$200,000 per year. A total of \$150,000 will be allocated for approved work orders on special issues.

**Prepared By:** Lauren Young-Allen

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Legislative Notes

**Agenda Item:** 3C  
**File Number:** 092634  
**Committee(s) of Reference:** Health, Public Safety & Intergovernmental  
**Date of Analysis:** October 13, 2009  
**Type of Item:** Resolution to Approve Amendments  
**Sponsor/ Requester:** Public Health Trust

**Summary**

Under the proposed resolution, the Public Health Trust (PHT) is seeking the Board of County Commissioners (BCC) approval of 4 amendments to its Bylaws. The amendments (1) allow, in the event of extraordinary circumstances, telephonic participation of trustees at committee meetings, (2) incorporate a common practice of recessing during summer months and year-end holidays, (3) establish a Public Affairs Committee which will examine and recommend funding options, and (4) establish a Human Resources Committee which will oversee the administration of personnel and labor matters.

**Background and Relevant Legislation**

Under Chapter 25A-3(f) of the County Code, the Public Health Trust (PHT) is required to submit any and all amendments to its Bylaws, and rules or regulations regarding the Board of Trustee's governance to the Board of County Commissioners (BCC) for approval and consistency with County ordinances. Accordingly, the proposed Bylaw amendments set forth in this item are presented for BCC consideration.

**Policy Change and Implication**

In prior resolutions adopted by the BCC, the BCC has considered and approved similar amendments to the PHT's Bylaws (R-153-99). Therefore, this proposed resolution is consistent with prior BCC practices. A review of the County Code does not disclose any inconsistency between the proposed amendments and Code ordinances. Accordingly, the proposed amendments are not contrary to existing County policy or laws.

**Budgetary Impact**

Additional funding for PHT hospitals and health care programs may be provided with the creation of the Public Affairs Committee.

**Prepared by:** Lauren Young-Allen

