

## MEMORANDUM

IMFR  
Agenda Item No. 2(G)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** March 10, 2005

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Ordinance providing for  
review of contractor  
business integrity by the  
Inspector General

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The accompanying ordinance was prepared and placed on the agenda at the request of  
Commissioner Katy Sorenson.

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Robert A. Ginsburg  
County Attorney

RAG/bw



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** March 1, 2005

**FROM:**   
Robert A. Ginsburg  
County Attorney

**SUBJECT:** Agenda Item No.

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Bid waiver requiring County Manager's written recommendation**
- Ordinance creating a new board requires detailed County Manager's report for public hearing**
- Housekeeping item (no policy decision required)**
- No committee review**

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 13(B)  
3-1-05

ORDINANCE NO. \_\_\_\_\_

ORDINANCE PROVIDING FOR REVIEW OF CONTRACTOR BUSINESS INTEGRITY BY THE INSPECTOR GENERAL; DEFINING CRITERIA FOR DETERMINATION OF BUSINESS INTEGRITY; ESTABLISHING PROCEDURE FOR CONDUCTING REVIEW AND WITHHOLDING OF CONTRACT AWARD DURING PENDENCY OF INVESTIGATION; PROVIDING ADDITIONAL AUTHORIZATION AND RESPONSIBILITY TO THE INSPECTOR GENERAL; AMENDING SECTIONS 2-8.1 AND 2-1076 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**

**COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

Section 1. Section 2-8.1 of the Code of Miami-Dade County is hereby amended as follows:<sup>1</sup>

\* \* \*

**Sec. 2-8.1. Contracts and purchases generally.**

- (a) Scope. Except as provided in subsections (b), (f) >>,<< ~~[[and]]~~ (h) >> and (j), <<this section shall apply to all contracts for public improvements and purchases of all supplies, materials and services other than professional services.

>>(j) Inspector General Review of Business Integrity.

- (1) Contract awards shall be made only to contractors with business integrity. In making the determination of

<sup>1</sup> Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

business integrity provided for in this subsection, the following criteria may be considered relating to the contractor, its officers or principals or the employees directly engaged in the performance of government contracts:

(i) the commission of bribery, fraud, or misrepresentation,

(ii) conflicts of interest,

(iii) violations of any laws bearing on contractor integrity and responsibility,

(iv) attempts to cure any alleged problem in contractor performance or responsibility,

(v) history of performance with the County and general business history, except that the mere absence of business existence or history shall not standing alone bear on the business integrity of the contractor, or

(vi) any other conduct bearing on the business responsibility and integrity of the contractor.

(2) In the event that upon consideration of the criteria set forth in this subsection any member of the Board of County Commissioners has a good faith belief that a current or proposed County contractor may not have the business integrity to enter into or perform a County contract, he or she may request an Inspector General review in a writing addressed to the Inspector General specifically identifying this Section. The written request for a review shall contain a short statement of the basis for invoking the review. Each Commissioner shall be limited to two (2) requests for investigation in any year.

(3) The review provided in this Section shall be limited to contracts for public improvements and purchases of all supplies, materials and services, including professional services, costing five hundred thousand dollars (\$500,000) or more.

(4) Upon receipt of a request for review pursuant to this Section, the Inspector General shall conduct such investigation and audit as he or she may deem necessary to determine the business integrity of the contractor. It shall be the affirmative duty of the contractor to demonstrate its business integrity and specifically to address any doubts

with respect to its integrity raised as the basis for invoking the review. The Inspector General shall be entitled to rely on such information as prudent persons rely on in the conduct of serious affairs, and shall not be required to adhere to formal proceedings or rules of evidence in the conduct of the investigation.

- (5) For any contract which is to be awarded by the Board of County Commissioners pursuant to this Section, the award shall not be made during the pendency of the Inspector General review, provided that a request for review pursuant to this subsection is made prior to the Board enactment of a resolution approving the Contract. By exception, the Board may award the contract by majority vote notwithstanding the investigation upon a finding that the resulting delay in award would compromise the delivery of essential County services.
- (6) The review provided in this Section shall be concluded within sixty (60) days of the initial request, unless such period is extended by the Board of County Commissioners upon request of the Inspector General.
- (7) Upon conclusion of the review, the Inspector General shall file with the Board of County Commissioners a written report of his or her findings. The findings of the Inspector General shall be considered by the Board in connection with any pending award. A finding by the Inspector General that the contractor has failed to demonstrate affirmatively its business integrity shall constitute a request for debarment of the contractor pursuant to this Code.
- (8) Nothing in this Section is intended to limit or derogate the County's authority and responsibility to evaluate and determine the responsiveness, qualifications or responsibility of a contractor. The Inspector General's finding with respect to one request for investigation shall not be deemed conclusive of any other requests with respect to the same or other contractors.<<

Section 2. Section 2-1076 of the Code of Miami-Dade County is hereby amended as

follows:

**Sec. 2-1076. Office of the Inspector General.**

\* \* \*

(c) Functions, authority and powers

\* \* \*

>>(12) The Inspector General shall be authorized to review the business integrity of County contractors and provide reports relating to the same as provided elsewhere in this Code.<<

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate work.

Section 5. This ordinance shall become effective 10 days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency.

RA6

Prepared by:

HBS

Hugo Benitez

Sponsored by Commissioner Katy Sorenson