

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** July 9, 2008

**To:** Honorable Chairman Bruno A. Barreiro and Members,  
Board of County Commissioners

**From:** George M. Burgess  
County Manager

**Subject:** Supplemental Report – The de Moya Group, Inc.'s Compliance with the  
Responsible Wages and Benefits Requirements – Project No. MDAD B382B-1

TC  
Supplement to  
Agenda Item No. 3F

On June 11, 2008, while discussing a contract award recommendation to the de Moya Group, Inc. (Legistar No. 081761), the Transit Committee requested that the Public Works Department and Department of Small Business Development (SBD) resolve issues related to an open violation involving the de Moya Group and the company's challenge to the accuracy of the violation. Accordingly, this report provides the disposition of the outstanding Notice of Violation (NOV) issued to de Moya pursuant to the Responsible Wages and Benefits Ordinances for underpayment of wages to employees on Miami-Dade Aviation Department Project No. MDAD B382B-1.

On October 16, 2002, SBD issued an NOV to de Moya for underpayment of wages on the above referenced project. The total amount of underpayment on the project was equal to \$96,082.48 for work performed November 11, 2001 through September 26, 2004. The underpayment was a result of de Moya not paying the required hourly wage rates to employees as required by the applicable heavy construction wage schedule, and choosing instead to pay the lower highway construction wage rates it believed should apply. The County's wage schedule requires employees be paid a minimum base rate and be provided with benefits, or the cash equivalent, for health and pension at a minimum predetermined rate.

In response to the NOV, de Moya requested the appointment of an Administrative Hearing Officer because it disagreed with the heavy construction classification the County applied to the project. In order to ensure that the monies were available to cover the amount of back wages due to the employees, SBD requested that the above amount be held pending the outcome of the appeals process. On September 20, 2004 a hearing was held and the Administrative Hearing Officer upheld the violation but recommended that all fringe benefits provided by de Moya to its employees be considered by SBD to determine the outstanding amounts due to employees. While the Responsible Wages and Benefits Code only allows for health and pension to be considered, the County complied with the Administrative Hearing Officer's recommendation.

On June 26, 2008, SBD and de Moya agreed on outstanding amounts due to 44 employees after all fringe benefits and back wages paid in 2006 were considered. The amount currently outstanding is \$31,556.98. On July 3, 2008, de Moya submitted copies of checks and affidavits for back wages paid to 11 employees that are still employed by them and a check in the amount of \$16,154.64 to be deposited in SBD's wages trust fund for the amounts due to the remaining 33 employees who will be located through the Internal Revenue Service (IRS) Letter-Forwarding Program.

This is part of an on-going effort by SBD to perform an internal review of its outstanding violations with the intent of resolving all open compliance issues. It is recommended that the Board approve the contract award for Project No. 20070575 to the de Moya Group, Inc.

  
Assistant County Manager