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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

# MEMORANDUM

Agenda Item No. 7(C)
(Second Reading 7-8-10)

**TO:** Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

**DATE:** May 18, 2010

**FROM:** R. A. Cuevas, Jr. County Attorney

**SUBJECT:** Ordinance amending Section 2-8.1 of the Code to exempt certain transactions and purchases from County vendor affidavit and registration requirements

Ordinance No. 10-47

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.

R. A. Cuevas, Jr.
County Attorney

RAC/up

# Memorandum

MIAMI-DADE COUNTY

**Date:** July 8, 2010

**To:** Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

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

**Subject:** Ordinance Amending Section 2-8.1 of the Code of Miami-Dade County to Exempt Certain Transactions and Purchases from County Vendor Affidavit Requirements

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**Recommendation**

It is recommended that the Board of County Commissioners (Board) approve the attached ordinance exempting certain organizations from County vendor affidavit requirements.

**Scope**

The impact of the proposed ordinance is countywide in nature.

**Fiscal Impact/Funding Source**

The proposed ordinance will require changes to the County's financial mainframe system, FAMIS. The estimate to complete the required changes is $30,000.

**Track Record/Monitor**

Not Applicable.

**Background**

In June of 2008, as part of the ongoing Procurement Reform Initiative, the County streamlined the procurement process by requiring affidavits of vendors once only, at the time of registration. The County vendor registration process captures company information and required affidavits which are required for award of a County contract. Currently. Federal, State and municipal government agencies are currently excluded from registration requirements.

However, there are specific instances where the Finance Department issues checks to individuals and entities that are independent of a competitive contract award. For example, entities may be awarded funding via a Board resolution. In these instances, direct payments are made by the Finance Department and vendor registration is not completed. In addition, vendor registration for executive auto leases, purchases of land from private property owners, and engagement of speakers or trainers for special events should be exempted from the registration process requirements. These instances are not tied to a specific contract award.

Waiving vendor registration and affidavit requirements for these transactions is expected to improve efficiency, save time, reduce paperwork, and process payments to entities quicker. Filing the registration package offers little value to this process and is sometimes a deterrent for small vendors, for whom most affidavits are not applicable. The exemptions in the proposed ordinance include:

- Purchase of land
- Lease of vehicles for county officials
- Engagement of performers, honorariums or trainers
- Historical preservation services

- Rehabilitative services (such as courses/trainings for ex-offenders)
- Cable and satellite services; video conferencing services
- Dental services for inmates
- Tutoring services
- Animal medication purchases; animal care services and shipment of animals
- Anti-venom purchases

For your reference, below is a listing of the affidavits currently required as part of the vendor registration process. The proposed ordinance would waive the requirement to submit these affidavits.

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|---|---|
| **Miami-Dade County Ownership Disclosure**<br>Sec. 2-8.1 of the County Code | **Miami-Dade County Vendor Obligation to County**<br>Section 2-8.1 of the County Code |
| **Miami-Dade County Employment Disclosure**<br>Section 2.8-1(d)(2) of the County Code | **Miami-Dade County Code of Business Ethics**<br>Article 1, Section 2-8.1(i) and 2-11(b)(1) of the County Code through (6) and (9) of the County Code and Section 2-11.1(c) of the County Code |
| **Miami-Dade County Employment Drug-free Workplace Certification**<br>Section 2-8.1.2(b) f the County Code | **Miami-Dade County Family Leave**<br>Article V of Chapter 11 of the County Code |
| **Miami-Dade County Disability Non-Discrimination**<br>Article 1, Section 2-8.1.5 Resolution R182-00 amending R-385-95 | **Miami-Dade County Living Wage**<br>Section 2-8.9 of the County Code |
| **Miami-Dade County Debarment Disclosure**<br>Section 10.38 of the County Code | **Miami-Dade County Domestic Leave and Reporting**<br>Article 8, Section 11A-60 11A-67 of the County Code |

Assistant County Manager

# MEMORANDUM
**(Revised)**

**TO:** Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

**DATE:** July 8, 2010

**FROM:** R. A. Cuevas, Jr. County Attorney

**SUBJECT:** Agenda Item No. 7(C)

**Please note any items checked.**

_____ **"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**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____ ) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(C)
7-8-10

ORDINANCE NO. 10-47

ORDINANCE AMENDING SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY TO EXEMPT CERTAIN TRANSACTIONS AND PURCHASES FROM COUNTY VENDOR AFFIDAVIT AND REGISTRATION REQUIREMENTS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**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, Florida is hereby amended as follows:[1]

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

*(d) Disclosure required of contractors and entities transacting business with Miami-Dade County.*

(1) All contracts or business transactions or renewals thereof with Miami-Dade County, or any person or agency acting for Miami-Dade County, including but not limited to: Contracts for public improvements; contracts for purchase of supplies, materials or services; and leases, franchises, concessions or management agreements, shall require the person contracting or transacting such business with the County to disclose under oath his or her full legal name, and business address. Such contract or transaction shall also require the disclosure under oath of the full legal name and business address of all individuals having any interest (legal, equitable, beneficial or otherwise) in the contract; provided, however, no disclosure shall be required of subcontractors, material men, suppliers, laborers or lenders. Post office box addresses shall not be accepted hereunder. If the contract or business transaction is with a corporation the foregoing information shall be provided for each officer and director and each

[1] 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.

stockholder holding, directly or indirectly, five (5) percent or more of the outstanding stock in the corporation. If the contract or business transaction is with a partnership, the foregoing information shall be provided for each partner. If the contract or business transaction is with a trust, the foregoing information shall be provided for the trustee and each beneficiary of the trust. All assignments of any such contract or transaction, if otherwise authorized, shall comply with the provisions hereof. All transferees of interests required to be disclosed hereunder shall within thirty (30) days of the transfer notify the County that the transfer has occurred. The County Manager shall include in the resolution approving any assignment of any contract or business transaction or transfer of interest therein, or any change of ownership in contracts with the County, the names and business addresses of the officers, directors, partners or trustees, as applicable, of the companies involved in the contract assignment or business transaction or transfer of interest therein, or change of ownership. Notwithstanding anything in this section to the contrary, the foregoing disclosure requirements shall not apply to contracts with publicly-traded corporations, or to contracts with the United States or any department or agency thereof, the State or any political subdivision or agency thereof, or any municipality of this State. Any contract or transaction entered into in violation of this section shall be voidable.

(2) Except where precluded by federal or state law or regulations, each contract or business transaction or renewal thereof specified in the first sentence of subsection (1) of this Section 2-8.1(d) shall also require the entity contracting or transacting such business to disclose the following additional information under oath:

(i) Whether the entity has a collective bargaining agreement with its employees; and

(ii) Whether the entity provides company paid health care benefits to be paid to employees; and

(iii) A current breakdown of the entity's work force and ownership as to race, national origin and gender; and

(iv) Any other information as may be required by Administrative Order. The foregoing disclosure requirements shall not apply to contracts with the

United States or any department or agency thereof, the State or any political subdivision or agency thereof, or any municipality of this State.

(3) Any and all requirements for affidavits, oaths or affirmations contained in Sections 2-8.1(d), 2-8.1.2(b), 10-38, 2-8.1(c), 2-8.1(i), 2-11.1, 11A-30, 2-8.9, 11A-60 of the Code of Miami-Dade County and Resolution R-182-00 shall be satisfied by the proper completion of a uniform County affidavit packet to be developed for this purpose by the Department of Procurement Management (the "Uniform County Affidavit") and maintained with the proposer's vendor registration file. A duly executed Uniform County Affidavit shall be on file prior to the award of any County contract and the sufficiency and veracity of the Uniform County Affidavit shall, at all times, be the responsibility of the vendor or proposed contractor. The execution of any contract shall be deemed a representation by the vendor or proposed contractor that a duly executed Uniform County Affidavit is on file, and that it is true and accurate through the date of bid or proposal submission. No vendor or proposed contractor shall be eligible for award unless the requirements of this Section are duly satisfied. Bid documents shall contain a statement alerting bidders of the requirements of this Section.

(4) Any person who willfully fails to disclose the information required by subsection (1) of this Section 2-8.1(d), or who knowingly discloses false information in this regard, shall be punished by a fine of up to five hundred dollars ($500.00), or by imprisonment in the County Jail for up to sixty (60) days, or both in the discretion of the court.

>> (5) Notwithstanding any other provision of the Code, entities contracting or transacting business with the County for performances; honorariums; training services; historical preservation services; rehabilitative services; cable and satellite services; video conferencing services; dental services for inmates; tutoring services; animal medication purchases; shipment of animals; anti-venom purchases; purchases of land; and car leases for County officials shall only be required to submit, at a minimum, a W9, the entity's full legal name, business address, telephone number and email address on a form to be provided by the Department of Procurement Management and shall not be required to submit any other affidavit, disclosure or registration otherwise required by the Code. <<

* * *

Section 2. 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 3. 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 word.

Section 4. This ordinance shall become effective within ten (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: July 8, 2010

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

Oren Rosenthal
Monica Rizo

Prime Sponsor: Commissioner Joe A. Martinez