

# MEMORANDUM

Agenda Item No. 7(E)

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**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

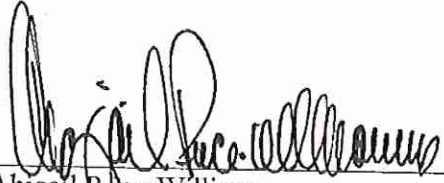
**DATE:** (Second Reading 6-6-17)  
April 4, 2017

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance relating to bids from  
related parties and bid collusion;  
amending sections 2-8.1.1 and  
10-33.02.1 of the Code; revising  
the definition of related parties  
for the purpose of establishing  
a presumption of collusion and  
pre-award disclosures

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsor Commissioner Daniella Levine Cava.

  
Abigail Price-Williams  
County Attorney

APW/smm

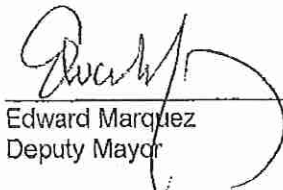
# Memorandum



**Date:** June 6, 2017  
**To:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners  
**From:** Carlos A. Gimenez  
Mayor  
**Subject:** Fiscal Impact Statement for Ordinance Relating to Bids from Related Parties and Bid Collusion, Amending Sections 2-8.1.1 and 10-33.02.1 of the County Code

The proposed ordinance, regarding bids from related parties and bid collusion, amends Sections 2-8.1.1 and 10-33.02.1 of the Code of Miami-Dade County expanding the definition of related parties under the Collusion Ordinances to include familial relationships, i.e., spouse, domestic partner, parents, stepparents, siblings, children or stepchildren. Currently, under the County Code, related parties restrictions are limited to business relationships, i.e., "bidders or proposers or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement."

A bidder or proposer recommended for award is required to complete and submit to the Internal Services Department, Procurement Management Services Division, a Collusion Affidavit attesting it does not have the aforementioned business relationships for the relevant competitive solicitation. Therefore if implemented, the proposed ordinance has no fiscal ramifications for the County as the Collusion Affidavit will merely be revised to reflect the expanded definition of related parties, if the amendment is adopted.

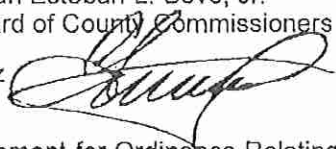
  
Edward Marquez  
Deputy Mayor  
Fis02717 (170708)

# Memorandum



**Date:** June 6, 2017

**To:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

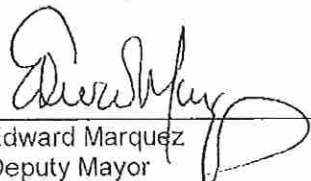
**From:** Carlos A. Gimenez   
Mayor

**Subject:** Social Equity Statement for Ordinance Relating to Bids from Related Parties and Bid Collusion, Amending Sections 2-8.1.1 and 10-33.02.1 of the County Code

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The County Code prohibits collusive bids or proposals. When related parties submit for the same goods or services contract, the presumption of collusion must be rebutted. Related parties is defined in a strictly business sense, i.e., bidders or proposers or the principals, corporate officers and managers thereof that have a direct or indirect ownership interest. The proposed ordinance expands the definition of related parties to include familial relationships, i.e., spouse, domestic partner, parents, stepparents, siblings, children or stepchildren.

A bidder or proposer recommended for award is required to complete and submit a Collusion Affidavit attesting it does not have the aforementioned business relationships for the relevant competitive solicitation. If the proposed amendment is adopted, that affidavit will be revised to reflect the expanded definition of related parties, requiring vendors recommended for award to provide additional disclosures. Disclosing such familial relationships may deter certain vendors from participating in a competitive procurement for goods or services as the vendor may not want such familial relationships to become a public record. The benefit to the community under the proposed amendment is the additional check on the integrity of the procurement process, requiring an additional layer of disclosure to detect collusive bids and proposals from family members.

  
Edward Marquez  
Deputy Mayor



# MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

DATE: June 6, 2017

FROM: Abigail Price-Williams  
County Attorney

SUBJECT: Agenda Item No. 7(E)

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
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor'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(E)  
6-6-17

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

ORDINANCE RELATING TO BIDS FROM RELATED PARTIES AND BID COLLUSION; AMENDING SECTIONS 2-8.1.1 AND 10-33.02.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING THE DEFINITION OF RELATED PARTIES FOR THE PURPOSE OF ESTABLISHING A PRESUMPTION OF COLLUSION AND PRE-AWARD DISCLOSURES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, this Board adopted section 2-8.1.1 and section 10-33.02.1 of the Code of Miami-Dade County to prohibit collusion among bidders or proposers on County purchases of goods and services and on construction contracts (the "Collusion Ordinances"); and

**WHEREAS**, the Collusion Ordinances require bidders or proposers to identify, prior to award, all other "related" bidders or proposers who also submitted a bid or proposal on the same solicitation; and

**WHEREAS**, the Collusion Ordinances define "related" bidders or proposers as bidders or proposers or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer; and

**WHEREAS**, the Collusion Ordinances create a presumption of collusion among "related" bidders that may be rebutted by an affirmative showing that such bids or proposals are not collusive; and

**WHEREAS**, this Board desires to amend the Collusion Ordinances to include the spouse, domestic partner, parents, stepparents, siblings, children or stepchildren of a bidder or proposer or the principals, corporate officers, and managers thereof in the definition of "related" bidders or proposers,

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA:

**Section 1.** Section 2-8.1.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 2-8.1.1. Bids from related parties and bid collusion for the purchase of goods and services, leases, permits, concessions and management agreements.**

- (a) Notwithstanding any other provision of this Code, where two (2) or more related parties each submit a bid or proposal for any County purchases of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to section 2-10.4 and Section 287.055, Florida Statutes), lease, permit, licensing agreement, concession or management agreement, such bids or proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean >>the bidder or proposer; the principals, corporate officers, and managers of a bidder or proposer; or the spouse, domestic partner, parents, stepparents, siblings, children or stepchildren of a bidder or proposer or the principals, corporate officers, and managers thereof<< ~~[[bidders or proposers or the principals, corporate officers, and managers thereof]]~~ which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement. Bids or proposals found to be collusive shall be rejected.

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<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.

**Section 2.** Section 10-33.02.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 10-33.02.1. Bids precluded from related parties and colluding bidders.**

- (a) Notwithstanding any other provision of this Code, when two (2) or more related parties each submit a bid or proposal for any construction contract subject to this article, such bid or proposal shall be presumed collusive. The foregoing presumption may be rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean ~~>>the bidder or proposer; the principals, corporate officers, and managers of a bidder or proposer; or the spouse, domestic partner, parents, stepparents, siblings, children or stepchildren of a bidder or proposer or the principals, corporate officers, and managers thereof<< [[bidders or proposers or the principals, corporate officers, and managers thereof]]~~ which have a direct or indirect ownership interest in another bidder or proposer for the same contract or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership in another bidder or proposer for the same contract. Bids or proposals found to be collusive shall be rejected.

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**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 relettered to accomplish such intention, and the word ordinance may be changed to "section", "article" or other appropriate word.

Section 5. This ordinance shall become effective 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:

Approved by County Attorney as  
to form and legal sufficiency:

APW  
OR

Prepared by:

Oren Rosenthal

Prime Sponsor: Commissioner Barbara J. Jordan  
Co-Sponsor: Commissioner Daniella Levine Cava