



Memorandum



Miami-Dade County Office of the Inspector General
A State of Florida Commission on Law Enforcement Accredited Agency
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To: Robert Meyers, Executive Director
Miami-Dade Commission on Ethics and Public Trust

From:  Christopher R. Mazzella, Inspector General

Date: August 17, 2010

Subject: *OIG Final Report Re: Alleged Cone of Silence Violation,
RFP MDAD-01-09, Luggage Wrapping Services, Ref. IG10-33*

Attached please find the OIG's Final Report regarding the above-captioned matter. The OIG's investigation determined that the allegation contained in the original complaint regarding an unsolicited communication was substantiated. However, whether the oral communication rises to the level of a "Cone of Silence" violation is a matter for the Commission on Ethics and Public Trust (COE) to consider. Accordingly, the OIG is forwarding the results of this investigation to the COE for further review and any action it deems appropriate.

Attachment

Cc: George M. Burgess, County Manager
Jose Abreu, Director, Miami-Dade Aviation Department
Miriam Singer, Director, Department of Procurement Management
Charles Anderson, Commission Auditor
Radames Villalon, President, Secure Wrap of Miami, Inc.
Rick Arner, Manager Airport Services, American Airlines
Albert E. Dotson, Jr.
Clerk of the Board

MIAMI-DADE COUNTY OFFICE OF THE INSPECTOR GENERAL
OIG Final Report of Investigation
Alleged Cone of Silence Violation, RFP MDAD-01-09, Luggage Wrapping Services

SYNOPSIS

The Miami-Dade County Office of the Inspector General initiated this investigation upon receipt of a letter, dated April 29, 2010, from Albert E. Dotson, Jr., counsel for Sinapsis Trading U.S.A., LLC, alleging a potential violation of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Specifically, the complaint alleged that a member of the Selection Evaluation Committee (Selection Committee) for the luggage wrapping services concession (RFP No. MDAD-01-09) at Miami International Airport (MIA) was approached by an officer of one of the bidding companies after the Selection Committee's vote and questioned the member about his vote. This conversation allegedly occurred during the period in which the "Cone of Silence" was in effect.

At a threshold level, the allegation contained within the original complaint pertaining to the communication was substantiated. The OIG's interviews of both the parties involved disclosed the occurrence of the communication during the period in which the "Cone of Silence" was in effect. However, both parties offered different versions regarding the subject and nature of the conversation. No additional witnesses to the conversation were identified and no additional evidence was discovered that could corroborate either account. Therefore, it is recommended that this report be forwarded to the Miami-Dade County Commission on Ethics and Public Trust (COE) for further review and any action deemed appropriate.

OIG JURISDICTIONAL AUTHORITY

In accordance with Section 2-1076 of the Code of Miami-Dade County, the Inspector General has the authority to make investigations of County affairs and the power to review past, present and proposed County and Public Health Trust programs, accounts, records, contracts, and transactions. The Inspector General is authorized to conduct any reviews, audits, inspections, investigations or analyses relating to departments, offices, boards, activities, programs and agencies of the County and the Public Health Trust.

When the Inspector General detects a violation of one of the ordinances within the jurisdiction of the Ethics Commission, he or she may file a complaint with the Ethics Commission or refer the matter to the Advocate.

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RELEVANT GOVERNING AUTHORITY

Section 2-11.1(t)(1)(a)(iii) of the Code of Miami-Dade County (as amended through June 2009) defines a “cone of silence” as prohibiting

. . . any communication regarding a particular RFP [request for proposal], RFQ [request for quote] or bid between a potential vendor, service provider, bidder, lobbyist or consultant and any member of the selection committee therefor (sic). . .

The imposition of the cone of silence occurs after the advertisement of each RFP, RFQ, and bid, and does not terminate until the County Manager makes his or her recommendation to the Board of County Commissioners.

INVESTIGATIVE FINDINGS

This investigation was conducted in accordance with the *Principles and Standards for Offices of Inspector General, Quality Standards for Investigations*, as promulgated by the Association of Inspectors General.

On May 5, 2010, OIG Special Agents interviewed Mr. Fredric Arner, Manager of Airport Services, America Airlines, regarding the allegation. Mr. Arner stated he served as a voting member of the Selection Committee for RFP No. MDAD-01-09 due to his participation as an American Airlines representative on the Airline Management Council. Mr. Arner stated that after the final vote in which the Selection Committee recommended Sinapsis Trading U.S.A., LLC to receive the contract, he was approached by Radames Villalon, President of Secure Wrap of Miami, in the MIA concourse.

Mr. Arner stated while passing Mr. Villalon and greeting him, Mr. Villalon initiated the following dialogue:

Villalon: “Can I ask you something?”

Arner: “Sure.”

Villalon: “Why do you hate Secure Wrap so much? You scored Secure Wrap the lowest during the formal presentation. I’m just concerned.”

Mr. Arner stated that his response was essentially that he did not hate Secure Wrap and that he did not know that his was the lowest score. Mr. Arner stated

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that he terminated the conversation by stating the discussion was inappropriate to which Mr. Villalon allegedly smirked and walked away.

Mr. Arner further stated that there were no other witnesses to the conversation. Mr. Arner explained that at the time of the incident, he was heading to a meeting with his supervisor. Immediately after his meeting with his supervisor regarding another matter, Mr. Arner sent an email regarding the incident to Sarah Abate (MDAD).¹ Mr. Arner stated Ms. Abate was a point of contact for the Evaluation Committee, thus he thought she was the appropriate individual to notify. Mr. Arner stated he was not sure of the exact date of the incident; however, he believed it to be March 27, 2010, as it was the day he sent the email. (Exhibit 1)

On May 10, 2010, OIG Special Agents interviewed Pedro Betancourt, MDAD Aviation Senior Procurement Officer, regarding his knowledge of the alleged incident. Mr. Betancourt stated that on March 29, 2010, he received a copy of Mr. Arner's email from Ms. Abate regarding the incident and subsequently contacted the County Attorney's Office (CAO) for guidance. According to Mr. Betancourt, upon following up with the CAO at a later date, he was advised that the CAO would not be taking any action regarding the allegation.

On May 13, 2010, OIG Special Agents interviewed Albert Dotson, Jr., counsel for Sinapsis Trading U.S.A., LLC, regarding his knowledge of the allegation. Mr. Dotson stated that he became aware of the incident after reviewing documentation received pursuant to a request to MDAD, under Chapter 119, Florida Statutes, the Public Records Act, for any communications pertaining to RFP No. MDAD-01-09. Upon reviewing the responsive documentation, Mr. Dotson discovered the email from Mr. Arner notifying Ms. Abate of the incident. Mr. Dotson subsequently notified the OIG of the incident.

On June 4, 2010, Ms. Sarah Abate, MDAD Property Manager, was interviewed by OIG Special Agents regarding her knowledge of the allegation. Ms. Abate stated she had no additional information other than what was contained within Mr. Arner's email. Upon receiving Mr. Arner's email, she immediately forwarded it to Mr. Betancourt. She stated she had dealt with Mr. Arner on previous occasions due to her position in Commercial Operations and opined that this association was possibly the reason she was the initial recipient of the allegation.

¹ Mr. Arner informed OIG Special Agents that he sent the email the same day as the communication; however the language in the message indicates that one or more days may have passed.

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On June 7, 2010, OIG Special Agents interviewed Radames Villalon in the presence of his counsel, Miguel Diaz de la Portilla, who acknowledged initiating a conversation with Mr. Arner a few days after the Selection Committee's vote. Mr. Villalon stated he asked Mr. Arner, "Why don't you like Secure Wrap? In fifteen years, if I or my partner has done anything, we would like to apologize." In response, Mr. Arner stated that he did not have anything against Secure Wrap. Mr. Villalon stated these statements comprised the entire conversation and his question was in reference to a previous issue between Secure Wrap and American Airlines that pertained to the placement of the luggage wrapping machines. Mr. Villalon stated the conversation had nothing to do with the Selection Committee's vote or the luggage wrapping concession, and further denied asking Mr. Arner anything related to his vote or participation on the Selection Committee.

COMMENTS TO THE DRAFT REPORT

This report as a draft was provided to Mr. Arner and to Mr. Villalon for their discretionary comment. Neither provided a response to the OIG.

CONCLUSION & COE REFERRAL

The OIG's investigation revealed that a conversation occurred between a Selection Committee member (RFP No. MDAD-01-09) and Radames Villalon, President of Secure Wrap, during the period in which the Cone of Silence was in force. Therefore, the allegation that a conversation occurred is substantiated at a threshold level. The nature and scope of the conversation could not be determined as both parties to the conversation offered different versions of the content of the conversation and no witnesses were identified to corroborate either account.

Whether the conversation amounted to a violation of the Miami-Dade County Code of Ethics Ordinance is a question for the COE. Nevertheless, even in the absence of an actual violation, it is apparent that the unsolicited communication, even if only an informal remark, made Mr. Abner uncomfortable—as evidenced by the subject title of his email, "Uncomfortable Confrontation." Because of their important role in ensuring integrity and transparency in public procurements, Selection Committee members should not be individually addressed outside the official procurement forum, no matter how brief, until a recommendation has been made. Even thereafter, bidders should be prohibited from questioning a Selection Committee member about his/her evaluation.

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We believe that regardless of whether or not there is a cone of silence, County procurement officials should emphasize to all bidders to keep their distance from Selection Committee members.

Based upon the foregoing information, no further investigation is warranted by the OIG at this time. Therefore, it is recommended that this case be forwarded to the COE for further review and any action deemed appropriate.

Betancourt, Pete J. (Aviation)

From: Murray, David M. (Aviation)
Sent: Monday, May 03, 2010 11:01 AM
To: Betancourt, Pete J. (Aviation); Clark-Vincent, Marie (Aviation); Lee, Cynji (Aviation)
Subject: FW: Uncomfortable Confrontation

Importance: High

Pete,

Sorry I forgot to close the loop on this before.

You may want to mention to Ric that the Cone of Silence ordinance states that a person with knowledge of a violation should report it to the SAO or COE.

Thanks,

Dave

From: Betancourt, Pete J. (Aviation)
Sent: Monday, March 29, 2010 8:30 AM
To: Murray, David M. (Aviation); Lee, Cynji (Aviation)
Cc: Clark-Vincent, Marie (Aviation); Jones-Wilfork, Bobbie (Aviation)
Subject: FW: Uncomfortable Confrontation
Importance: High

Please see email below.

Pedro J. Betancourt, PMP
Aviation Sr. Proc. Contract Officer
MDAD Contracts Administration Division
P.O. Box 025504, Miami, Florida 33102-5504
F (305)-876-7345 F (305)-876-8068
Email: pjbetancourt@miami-airport.com

From: Abate, Sarah (Aviation)
Sent: Sunday, March 28, 2010 8:54 AM
To: Betancourt, Pete J. (Aviation)
Subject: Fw: Uncomfortable Confrontation

From: Arner, Ric
To: Abate, Sarah (Aviation)
Sent: Sat Mar 27 12:49:40 2010
Subject: Uncomfortable Confrontation

Sarah – for what it is worth, while walking up to George Hazy's office the other day, Michi (owner of SecureWrap) pulled me aside to ask why I hated Secure Wrap so much... Why did I vote with the lowest scores during the formal presentation? I told him that this sort of "conversation" was totally inappropriate... I told him that I did not hate Secure Wrap – that my vote was my business and was based on the presentation and bid submittals. He smirked and walked away.

Just an FYI, if you want to pass it on to Pete...

Regards,

Ric

Ric Arner

Manager Airport Services
American Airlines Miami

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Ric.Arner@aa.com



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