

## Sanchez, Rodzandra (COE)

---

**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, April 27, 2017 11:45 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Guillermo Pastrana, Miami-Dade Water and Sewer Department (Outside Employment) INQ 17-129

[INQ 17-129 Pastrana](#)

---

**From:** Turay, Radia (COE)  
**Sent:** Thursday, April 27, 2017 11:41 AM  
**To:** Pastrana, Guillermo (WASD) <[Guillermo.Pastrana@miamidade.gov](mailto:Guillermo.Pastrana@miamidade.gov)>  
**Cc:** Guzman, Vivian (WASD) <[Vivian.Guzman@miamidade.gov](mailto:Vivian.Guzman@miamidade.gov)>; Centorino, Joseph (COE) <[Joseph.Centorino@miamidade.gov](mailto:Joseph.Centorino@miamidade.gov)>  
**Subject:** Outside Employment

Dear Mr. Pastrana,

You have inquired about possible conflicts of interest between your County employment and your proposed outside employment.

### Background

You are employed at the Miami-Dade County Water and Sewer Department (WASD), as an A/C and Refrigeration Mechanic in the General Maintenance Division. Your County job duties include maintenance, service and repair of a/c and refrigeration systems. Your County job requires that you personally obtain a journeyman's mechanical license and a state mechanical contractor license, which are not paid for by the County. Your work at the County does not involve installation, service/repair of any residential a/c and refrigeration systems.

You are seeking to engage in outside employment as the Owner/Qualifier for Thermal Controls, Inc. In your role as an Owner/Qualifier you will service and repair residential air conditioning systems. You have represented to the COE that you will not perform any commercial electrical work, nor will you work for any entity that has a contract with the County or WASD.

### Legal Analysis

Sections 2-11.1(j) and (k) of the County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his or her official duties or creates a conflict between the County employee's public duties and his or her private interests. Conflicting employment can occur when the outside employment is closely related to the employee's public duties and/or where the County employee deals with the same people or entities in both his/her outside employment and in his/her public position, *e.g.*, similar clients, suppliers, or subcontractors. See COE's Outside Employment Guidelines, September 2014. With respect to government employees engaging in construction related projects, the Ethics Commission has previously opined that an employee could continue outside employment and an owner of a private construction related company; as long as, the private company did not contract with the County; did not engage in any work within the County; its subcontractors did not apply for, or be issued, building permits in the County for any projects associated with the County; it did not have any business relationships with any vendors engaged in construction for County or reasonably anticipated to engage in construction for the County. See RQO 08-29, RQO 08-45, and INQ 16-234.

After a review of all of the facts presented, it appears unlikely that the type of outside employment that you are seeking to engage in would impair your independence of judgement in the performance of your duties for the following reasons:

- Thermal Controls, Inc. does not contract and is not seeking to contract with WASD.
- Your public duties and job functions at WASD involve servicing and repairing industrial systems while the work you perform in your outside employment involve maintenance of residential air conditioning and refrigeration systems.
- Thermal Controls, Inc. will perform work for private individuals, so it is therefore unlikely that you will deal with the same persons or entities in your outside employment that you deal with during your job functions at WASD.
- Your work with Thermal Controls, Inc. involves a small amount of hours and would occur outside of your County hours of employment.

However, please note that certain **limitations will apply**:

- Thermal Controls, Inc. cannot have any business relationship with County vendors who are engaged in WASD projects or are reasonably anticipated to engage in WASD projects.
- Employees or agents of Thermal Controls, Inc. will not apply for, nor be issued, permits in the County. See RQO 08-29, RQO 08-45, and INQ 16-234.
- You may not personally apply for permits on a/c and refrigeration systems installations in Miami-Dade County, municipalities or other counties because these activities would normally be performed during regular business hours and would likely create a conflict between your private interests and your work duties for the County. See Miami-Dade Code §2-11.1(j).
- You may not use County time or resources in the furtherance of your outside employment. See, Miami-Dade Code § 2-11.1(g).
- You are prohibited from using any confidential information acquired as a result of your County employment to derive a personal benefit. See Miami-Dade Code § 2-11.1(h); and
- You cannot represent Thermal Controls, Inc. or any of its clients in any matter before the County. See Miami-Dade Code § 2-11.1(m)

Furthermore, we remind you that all county employees engaged in outside employment must obtain permission to engage in that employment on a **yearly** basis. Miami-Dade Code § 2-11, Administrative Procedure 7-1, and Procedure 403. Full-time County employees are also required to file an Outside Employment Statement on a **yearly** basis. See Miami-Dade Code § 2-11.1(k)(2).

This opinion is based on the facts presented. If these facts change or if you have any further questions, please contact us.

Sincerely,

**RADIA TURAY**

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

19 W. Flagler Street, Suite 820

Miami, FL 33130

Tel: (305) 350-0601

Fax: (305) 579-0273

Ethics.miamidade.gov

---

**From:** Pastrana, Guillermo (WASD)  
**Sent:** Tuesday, April 25, 2017 9:35 AM  
**To:** Turay, Radia (COE) <[Radia.Turay@miamidade.gov](mailto:Radia.Turay@miamidade.gov)>  
**Cc:** Guzman, Vivian (WASD) <[Vivian.Guzman@miamidade.gov](mailto:Vivian.Guzman@miamidade.gov)>; Alexis-Schulz, Emeline (WASD) <[Emeline.Alexis-Schulz@miamidade.gov](mailto:Emeline.Alexis-Schulz@miamidade.gov)>; Pastrana, Guillermo (WASD) <[Guillermo.Pastrana@miamidade.gov](mailto:Guillermo.Pastrana@miamidade.gov)>  
**Subject:** RE: Outside Employment

Hello Mrs. Turay,

I am providing to you the answers to the questions related to my request for outside employment. My answers are in the same order the questions were made.

- 1) Service and repair only residential air conditioning systems, non-government/county work.
- 2) Non-county, only private individuals.
- 3) None.
- 4) None.
- 5) None.
- 6) No.
- 7) No.
- 8) No.

Thank you,  
Guillermo  
Pastrana.

---

**From:** Turay, Radia (COE)  
**Sent:** Tuesday, April 18, 2017 4:38 PM  
**To:** Pastrana, Guillermo (WASD) <[Guillermo.Pastrana@miamidade.gov](mailto:Guillermo.Pastrana@miamidade.gov)>  
**Cc:** Guzman, Vivian (WASD) <[Vivian.Guzman@miamidade.gov](mailto:Vivian.Guzman@miamidade.gov)>  
**Subject:** Outside Employment

Hello Mr. Pastrana,

My name is Radia Turay. I am a staff attorney at the Miami-Dade Commission on Ethics. I was assigned to review your request for outside employment to determine whether it presents any conflicts of interest with the County Ethics Code. Please provide responses to the following questions:

- 1) Please describe the job responsibilities that you will have as president/owner/qualifier of Thermal Controls, Inc
- 2) Please indicate for whom TC will provide services (i.e. county vendor/contractors; the county; municipalities; private individuals)?
- 3) Please provide the name of any county vendor or contractor that TC will perform work for?
- 4) Does the county vendor or contractor that TC performs work for have a contract with WASD?
- 5) Would TC be servicing that county vendor or contractors contract with WASD?
- 6) Would TC compete for any County contracts?
- 7) Would you interact with the same government employees/ department in your outside employment as you would in your position at the County?
- 8) Do you work in a position with the County that you have the opportunity to recruit vendors, contractors, bidders, or members of the public to use your outside employment products or services?

Thanks for your anticipated cooperation with this matter.

Sincerely,

## **RADIA TURAY**

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

19 W. Flagler Street, Suite 820

Miami, FL 33130

Tel: (305) 350-0601

Fax: (305) 579-0273

[Ethics.miamidade.gov](http://Ethics.miamidade.gov)