

## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, March 29, 2018 10:08 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Fernando Robreño, Superintendent, Road, Bridge & Canal Maintenance Division, Department of Transportation & Public Works (Limitations on Contracting (c)) INQ 18-77

INQ 18-77 Robreño

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, March 29, 2018 10:07 AM  
**To:** Robreno, Fernando L. (DTPW) <FernandoL.Robreno@miamidade.gov>  
**Cc:** Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>  
**Subject:** Fernando Robreño, Superintendent, Road, Bridge & Canal Maintenance Division, Department of Transportation & Public Works (Limitations on Contracting (c)) INQ 18-77

Dear Mr. Robreño:

You asked whether the County Ethics Code prohibits County employees working at the Miami-Dade Road, Bridge & Canal Maintenance Division ("RBCMD") from bidding on vehicles surplused by RBCMD which will be sold at a County vehicle auction administered by the County's Internal Services Department ("ISD").

### Background

Certain County departments such as RBCMD purchase vehicle fleets to perform departmental duties. County departments surplus some of their fleet vehicles basing the determination on departmental 5-year replacement plans, vehicle age, and departmental operational needs. Once RBCMD determines which vehicles will be surplused, the vehicles are sold through a vehicle auction process that is administered by ISD (general services department administered the vehicle auctions, but this department is now part of ISD pursuant to a departmental reorganization which occurred in 2011).

ISD's administration of the vehicle auction process includes listing the vehicles in the online vehicle auction site, determining the winning bid, receipt of payment, and issuing documents of sale and title. You are the person responsible at RBCMD for showing, upon request, the surplused RBCMD vehicles to the prospective bidders prior to the auction, and for releasing the vehicle to the winning bidder upon ISD's final determination on the sale. You advise that RBCMD employees would like to bid on vehicles surplused by the department. The employees would follow the same bid procedures as the general public with respect to County vehicle auctions. You are inquiring whether the County Ethics Code prohibits RBCMD employees from bidding on auctions of the vehicles surplused by the department that employs them.

### Legal analysis

Generally, the County Ethics Code prohibits County employees from transacting business with the County departments that employ them. However, Section 2-11.1(c)(5)(3) of the County Ethics Code provides an exemption to this limitation on transacting business where a County employee is seeking to participate in the public auction

process utilized by the County for the disposal of surplus motor vehicles provided that the employee does not work for the County's "General Services Administration" (now ISD).

In this instance nothing in the County Ethics Code prohibits RBCMD employees from bidding on surplus vehicles sold in a County auction administered by ISD because they fall within the exemption set out in Section 2-11.1(c)(5)(3) and they are not employees of ISD. *See also* INQ 11-157 (Nothing in the County Ethics Code prevents city employees from participating in a public auction of city property provided that no special benefits are granted to the employees in the process.)

Nevertheless, certain limitations included in the County Ethics Code will apply:

- No RBCMD employee may use or attempt to use to use his or her official position to secure special privileges or exemptions for himself or herself or others. This means that RBCMD should ensure that proper firewalls and procedures are in place to verify that employees cannot use their County positions to obtain special benefits in the auction process. This would include a prohibition on the employees using any county time or resources to participate in the auction process. County Ethics Code § 2-11.1(g).
- No RBCMD employee may disclose or use directly or indirectly any confidential information obtained through his or her official position with the County for his or her personal gain or benefit. County Ethics Code § 2-11.1(h).

Finally, we remind all County departments that the County Ethics Code sets minimum standards for conflicts of interest and that departments may set stricter policies. Thus, departments may create internal policies that limit or restrict department employees from bidding on vehicles or personal property surplused by the department that employs them.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to interpretation of the County Ethics Code only. Other conflicts, based on directives from your Department or under state law, may apply. If you have additional questions regarding possible conflicts based on Department directives, contact your Department supervisor or the Mayor's Office. Questions regarding the state ethics laws should be addressed to the State of Florida Commission on Ethics.

Feel free to contact me at 305-350-0638 if I can be of further assistance.

Cordially,

Gilma (Mimi) Diaz-Greco  
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust  
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Miami, FL 33130  
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**From:** Robreno, Fernando L. (DTPW)  
**Sent:** Wednesday, March 28, 2018 9:48 AM  
**To:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** FW: Vehicle Auction Sales

**Fernando L. Robreño**, Superintendent  
Road, Bridge & Canal Maintenance Division  
**Department of Transportation & Public Works**  
Office: 305-592-3116 \* Fax: 305-592-5719  
 *"Delivering Excellence Everyday"*

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**From:** Robreno, Fernando L. (DTPW)  
**Sent:** Tuesday, March 27, 2018 10:35 AM  
**To:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** RE: Vehicle Auction Sales

Please see below.

**Fernando L. Robreño**, Superintendent  
Road, Bridge & Canal Maintenance Division  
**Department of Transportation & Public Works**  
Office: 305-592-3116 \* Fax: 305-592-5719  
 *"Delivering Excellence Everyday"*

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Tuesday, March 27, 2018 10:16 AM  
**To:** Robreno, Fernando L. (DTPW) <[FernandoL.Robreño@miamidade.gov](mailto:FernandoL.Robreño@miamidade.gov)>  
**Subject:** RE: Vehicle Auction Sales

Mr. Robreño:

I have some additional questions:

- 1- Do you or any Bridge and Road employees determine which vehicles will be surplus and auctioned? If not, who makes that determination? – Determination is made based on our 5 Year Replacement Plan, vehicle age and operational needs. Includes myself and rest of Divisional management, taking into account budgetary constraints.
- 2- Would Road and Bridge employee follow the same bidding and other auction procedures as the general public? – Yes, they have to register at [GovDeals.com](http://GovDeals.com) and place a bid.
- 3- Will the vehicles be posted on ISD's vehicle Auctions site? When? I looked as of this morning and I was only able to find 1 vehicle listed on the vehicle auction site. – Yes, site mentioned above, they should be posted by end of this week, ISD's decision.
- 4- Do you or the employees in the Road and Bridge make any determinations as to the winning bid for the auctioned vehicles? Who determines the winning bid? – Winning bid is the highest bid determined by [GovDeals.com](http://GovDeals.com) as long as price reserve is met.
- 5- Would you or any Road and Bridge employee receive payment for the auctioned vehicles? – No payment received.
- 6- Would Road and Bridge employees have access to any special information or special privileges with respect to the Road and Bridge vehicles being auctioned? – When vehicles are set for auction I control access to the keys. However, it does not preclude them from driving to the staging area to visually inspect the exterior, which

the public also has the capability of doing by appointment or by viewing images/video on the website. Also, some employees may have driven vehicle as part of their daily operations when unit was still active.

Let me know and thanks-

Gilma (Mimi) Diaz-Greco  
Staff Attorney



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**From:** Robreno, Fernando L. (DTPW)  
**Sent:** Monday, March 26, 2018 4:22 PM  
**To:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** RE: Vehicle Auction Sales

Hello Gilma,

As discussed, ISD administers the auction process. However, we assist in the process by hosting and showing the vehicles to prospective bidders. We also ensure the vehicles are removed by winning bidders once the auction is completed. Our main concern is whether Road & Bridge employees are eligible to bid on equipment that was used as part of Road & Bridge operations. I am not aware of any internal policies that prohibit this.

If you need anything further please let me know.

Thank you again,

**Fernando L. Robreño**, Superintendent  
Road, Bridge & Canal Maintenance Division  
**Department of Transportation & Public Works**  
Office: 305-592-3116 \* Fax: 305-592-5719



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**From:** Ethics (COE)  
**Sent:** Monday, March 26, 2018 12:24 PM  
**To:** Robreno, Fernando L. (DTPW) <[FernandoL.Robreno@miamidade.gov](mailto:FernandoL.Robreno@miamidade.gov)>  
**Cc:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** RE: Vehicle Auction Sales

Mr. Robreno,

Your inquiry has been assigned to one of our staff attorneys, Gilma Diaz-Greco. Ms. Diaz-Greco will be in touch with you shortly. I understand that the auction in question will be taking place at the end of this week and that this is a matter that you need to have addressed very soon.

Thanks for your inquiry.

Sincerely,

Joe Centorino

## *Joseph M. Centorino*

Executive Director and General Counsel  
Miami-Dade Commission on Ethics and Public Trust  
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Miami, FL 33130  
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**From:** Robreno, Fernando L. (DTPW)  
**Sent:** Friday, March 23, 2018 8:05 AM  
**To:** Ethics (COE) <[ethics@miamidade.gov](mailto:ethics@miamidade.gov)>  
**Subject:** Vehicle Auction Sales  
**Importance:** High


Good morning,

I need to clarify whether County employees can bid on items/vehicles from their sections. I heard of an issue at WASD and do not want any conflicts. I am the individual who will be managing the auction at our location but will not be bidding or have interest in any of the items. This is for employees at our facility who are interested in buying equipment.

Please advise.

Regards,

**Fernando L. Robreño**, Superintendent  
Road, Bridge & Canal Maintenance Division  
**Department of Transportation & Public Works**  
Office: 305-592-3116 \* Fax: 305-592-5719

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