

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, May 14, 2018 11:39 AM
To: Sanchez, Rodzandra (COE)
Subject: INQ 18-78, Thomas B Davis, Esq., Director, Policy & Legislation Division, OCA - Project No. DB17-WASD-01 (Substitution 1) - Construction of the Central District Wastewater Treatment Plan Oxygen Production Facility Consent Decree Project 2.7

INQ 18-78 Martinez

From: Turay, Radia (COE)
Sent: Monday, April 02, 2018 5:17 PM
To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Martinez, Angie (OCA) <Angie.Martinez@miamidade.gov>; Fergen, Robert (WASD) <Robert.Fergen@miamidade.gov>
Cc: Davis, Thomas (OCA) <Thomas.Davis@miamidade.gov>; Edwards, Phillip G. (OCA) <Phillip.Edwards@miamidade.gov>; Johnson, Jannesha (OCA) <Jannesha.Johnson@miamidade.gov>; Uppal, Namita (ISD) <Namita.Uppal@miamidade.gov>
Subject: INQ 18-78, Thomas B Davis, Esq., Director, Policy & Legislation Division, OCA - Project No. DB17-WASD-01 (Substitution 1) - Construction of the Central District Wastewater Treatment Plan Oxygen Production Facility Consent Decree Project 2.7

Dear Ms. Martinez:

This is in response to the memorandum from Thomas B. Davis, Esq., Director, Policy & Legislation Division, Office of Miami-Dade County Commission Auditor regarding Project No. DB17-WASD-01 (Substitution 1)-Revised. Although there is no background check required on selection committee members serving as technical advisors, Mr. Robert Fergen, an employee of the Miami-Dade Water and Sewer Department, noted on his resume that he was previously employed by Hazen & Sawyer, P.C., a respondent on the project, between 1989 and 2009.

We have conferred with Mr. Fergen, who indicates that he left the employment with Hazen & Sawyer under amicable circumstances, and that he has no ownership interest in or other formal or financial ties to the company. His son also previously worked for Hazen & Sawyer and has since left the company under amicable circumstances as well. He did state that he maintains a close friendship with Jim Cowgill, a semi-retired Vice President at Hazen & Sawyer.

We spoke to Mr. Cowgill who indicated that he is now a part-time employee at Hazen & Sawyer. He stated that he did not even know that Hazen & Sawyer responded to the project in question. He stated that he did not work on Hazen & Sawyer's response to Project No. DB17-WASD-01 (Substitution 1)-Revised; and he would not be part of any oral presentation team regarding the project in question.

This agency conducts reviews of these issues under Section 2-11.1(v) of the County Ethics Code, which governs voting conflicts by members of County advisory and quasi-judicial boards. We also consider whether there is an appearance of impropriety created and make recommendation based on R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

There is no voting conflict for Mr. Fergen under Section 2-11.1(v) since as technical advisor, he will not vote. Additionally, we do not find that there is any appearance of impropriety where Mr. Fergen has not been employed by the company since 2009, and the one individual that he maintains a personal friendship with at the company had nothing to do with the company's response to this particular project, nor would that individual be making any type of presentation before the selection committee regarding this project.

Mr. Fergen is however reminded that the selection committee, for which he will serve as a technical advisor, operates under the County's Cone of Silence, Section 2-11.1(t) of the County Ethics Code. The Cone of Silence puts significant restrictions on oral communications made by Commissioners, City staff, selection committee members, and prospective contractors, as well as their lobbyists and consultants, regarding any procurement matter during the time that the Cone is in effect. Mr. Fergen will therefore be prohibited under the Cone, from communicating with his friend Mr. Cowgill regarding this project, as Hazen & Sawyer- Mr. Cowgill's employer- is a potential vendor, service provider, or bidder, on this project.

This opinion is based on the facts presented to us. If any of these facts change, or if you have any further questions, please do not hesitate to contact us.

Sincerely,

RADIA TURAY

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From: Martinez, Angie (OCA)
Sent: Monday, March 26, 2018 9:24 AM
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Subject: OCA - Project No. DB17-WASD-01 (Substitution 1) - Construction of the Central District Wastewater Treatment Plan Oxygen Production Facility Consent Decree Project 2.7

This email is being sent to you on behalf of Mr. Thomas B. Davis, Esq., Director of Policy and Legislation Division.

Angie Martinez, Executive Secretary
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