

Diaz-Greco, Gilma M. (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, January 27, 2014 12:14 PM
To: Centorino, Joseph (COE)
Subject: FW: Request for Staff Opinion INQ 14-08
Attachments: County nepotism_manual.pdf

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, January 27, 2014 12:14 PM
To: Ramos, Miriam S. (COE)
Subject: Request for Staff Opinion INQ 14-08

Dear Ms. Levine,

You have requested an opinion on behalf of The Miami-Dade Police Department (MDPD) regarding DNA “kit” validation projects put out to bid by MDPD’s Forensic Biology Laboratory (FBL).

As background, you advise that FBL has submitted 2 separate RFQs for two validation projects for “kits” used to analyze materials for the presence of DNA. The RFQs were put out to bid and three vendors have responded. One of these bidders is Life Technologies (Life Tech), a County vendor. Life Tech employs Lisbeth Colon. Ms. Colon does not have a controlling financial interest in Life Tech. Further, Ms. Colon is a former County employee, who held the position in FBL of Criminalist II until July, 2011 and she is the wife of FBL’s Manager.

You have asked two questions regarding this matter. One is whether it would be a conflict of interest, if Life Tech were to be chosen as the vendor in this case, for Ms. Colon to work on this project at the FBL. Secondly, you inquire whether the length of time since Ms. Colon’s employment at the MDPD would impact whether she may work on this project.

With respect to the first question, a threshold issue would be to ensure that the bid process is completed in accordance with the law and all of the requirements set out by the County Procurement Department. Bid processes should occur fairly and transparently with no undue favoritism shown to any bidder, including Life Tech. *See also*, Fla. Stat. 838.22 (2013). Assuming a proper bid procedure, if Life Tech were to be chosen as the bidder, the County Code at Sec. 2-11.1 (c)(2) of the Ethics Code would not prohibit Ms. Colon from working at FBL because Ms. Colon does not have a controlling financial interest in Life Tech, however an appearance of impropriety would be created.

While you advise that FBL would take measures to ensure that Ms. Colon is not under the supervision of her husband, it is our opinion that an appearance of impropriety would still be created if she were to perform services for the County in a department managed by her husband. In order to avoid this appearance of impropriety it would be advisable for Life Tech, if chosen as the bidder in these projects, to assign an employee to this project that is not related to any County employee at FBL. On this topic, we also refer you to the County’s Nepotism Policy (attached) which states:

“Department directors are strongly encouraged to refrain from placing relatives within another relative’s chain of command or placing or maintaining relatives in close proximity in a departmental subunit.”

With respect to the second question, the County Code at Sec. 2-11.1 (q) prevents a former County employee from lobbying the County. In this instance, you have not advised that Ms. Colon is involved in lobbying activities on behalf of Life Tech. Furthermore, Section (q) would not apply in this case because it has been more than two years since Ms. Colon left her county employment Section (q) would therefore no longer apply. Nevertheless, we reiterate that, if Life Tech were to be chosen as the vendor in this case, Ms. Colon’s work on this project would create an appearance of impropriety due to the fact that she is married to FBL’s manager.

Please do not hesitate to contact me if you have any questions.

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Ramos, Miriam S. (COE)
Sent: Wednesday, December 18, 2013 4:36 PM
To: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE)
Subject: FW: Request for Staff Opinion

Joe & Mimi,

Please see INQ request below.

Miriam S. Ramos, Esq.
Deputy General Counsel



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From: Levine, Judith W. [<mailto:JWLevine@mdpd.com>]
Sent: Wednesday, December 18, 2013 4:21 PM
To: Ramos, Miriam S. (COE)

Cc: Lewis, Janet L. (MDPD)

Subject: Request for Staff Opinion

Dear Ms. Ramos,

The Miami-Dade Police Department is requesting a Staff Opinion on how to proceed in the following matter:

The Miami-Dade Police Department Forensic Biology Laboratory anticipates putting a "validation project" out for bid in January, 2014. The funding for the project will come from a grant. The agency expects a particular company, Life Technologies, to bid for the project. Life Technologies has had at least one prior contract with the county, although under a different name. Agency personnel are aware that a former agency employee works for Life Technologies and expressed a preference for this employee to perform the validation work because she lives locally, is qualified and knows the operation. The former employee does not hold an ownership interest in the company.

This former agency employee is currently married to the Forensic Biology Laboratory Manager. Should Life Technologies win the bid, the Laboratory Manager will not participate in the procurement process and will not have any input into the contract management process.

Specific questions include:

1. Can the Laboratory Manager's wife work on the project if her employer wins the bid?
2. Does the length of time since the former employee worked for MDPD have any impact on whether she can work on the project?

Police Legal Bureau Commander Janet Lewis is copied above, and would like to receive any communications on this matter.

Thank you for your assistance.

Sincerely,

Judith Levine

Police Legal Advisor

Police Legal Bureau

Miami-Dade Police Department

Main: 305-471-2550 Fax: 305-471-3113

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