
From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, October 09, 2014 3:55 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Alonso Roy-Terminal Operations MIA (conflict of Interest and post-employment restrictions) INQ 14- 241

Attachments: FAQ- 2 year rule (2013).docx; RQO 12-09 Carreno.pdf

INQ 14-241

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, October 09, 2014 3:54 PM
To: Alonso, Roy A. (Aviation)
Cc: Centorino, Joseph (COE)
Subject: Alonso Roy-Terminal Operations MIA (conflict of Interest and post-employment restrictions) INQ 14- 241

Dear Mr. Alonso:

You have inquired whether there would be a conflict of interest for you to apply for a job opening with a County vendor and also what post-employment restrictions apply to County employees.

As background, you are currently a County employee employed in the County Aviation Department (MIA). Your job responsibilities include managing a contract of a County vendor that provides janitorial services to MIA. This vendor is seeking to fill a vacancy for a General Manager position and you would like to apply. You would resign your position at the County if you were selected for the position.

The County Ethics Code does not prohibit County employees from applying for employment with a County vendor. However, County employees must comply with Section 2-11.1 (h) of the County Ethics Code prohibits County employees from disclosing confidential information acquired as a result of their County employment. This section states that County employees cannot:

“accept employment or engage in any business or professional activity which he or she might reasonably expect would require or induce him or her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his or her official position with the County, **nor shall he or she ever use such information, directly or indirectly, for his or her personal gain or benefit.**”(emphasis added)

Additionally, we caution you that inasmuch as you are currently managing the contract with this vendor, you should avoid any situation that could be interpreted or appear to involve some *quid pro quo* (benefit in exchange for official action) for the job offer in connection with any decision you may be making regarding the management of the contract. Also, you should inform your department that you are applying for the position with this vendor, and you **should seek advice from your supervisor** regarding removing yourself from contract disputes, contract negotiations, or other interactions with this vendor during the time that your application for the General Manager position with the vendor is pending.

With respect to post employment restrictions applicable to County employees; while County employees are not prohibited from obtaining work with County contractors, consultants, vendors, etc. after their separation from the County, they would be prohibited from **lobbying** the County for two years following their County employment. See Section 2-11.1 (q) (“two year rule”) of the County Code. The two-year period under this rule is calculated using the last

day that the employee receives benefits or compensation from the County such as payments for accrued vacation time, sick time, insurance, etc.

Regarding the prohibition on lobbying, please note that lobbying activities as described in the post-employment ordinance at Section 2-11.1(q) of the County Ethics Code are interpreted **very broadly**. Under this section, individuals formerly employed by the County within the past two years are prohibited from performing activities intended to influence any official determination, regardless of whether the determination will foreseeably be decided or recommended by any of the city's commissions, boards, committees or the city manager. Unlike the general lobbyist ordinance, the post-employment ordinance expands the definition of lobbying to include advocating for decisions that may be made at the sole discretion of individual County personnel, not necessarily a voting body.

Finally, the Ethics Commission emphasizes that the County Ethics Code represents a minimal standard of conduct for those who have served in government and remain subject to the two-year rule. Former employees should carefully consider the totality of the circumstances before taking action that could possibly erode the public's trust. Attached are a document that covers frequently asked questions about the two year rule, and RQO 12-09 which describes post-employment restrictions and lobbying in detail.

Please contact us if we can be of further assistance.

Best regards,

Gilma (Mimi) Díaz-Greco
Staff Attorney



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From: Ethics (COE)
Sent: Thursday, October 09, 2014 9:08 AM
To: Diaz-Greco, Gilma M. (COE)
Subject: FW: Request for Ethics Opinion

From: Alonso, Roy A. (Aviation) [<mailto:RAlonso@miami-airport.com>]
Sent: Thursday, October 09, 2014 8:36 AM
To: Ethics (COE)
Subject: RE: Request for Ethics Opinion

Good morning Mr. Centorino, I would like to know if there is an update on this request. There is a closing date for the position and if there is no conflict, I would like to apply.

Roy A. Alonso
Terminal Operations
Miami-Dade Aviation Department
P.O. Box 025504
Miami, Florida 33102-5504
E-mail: ralonso@miami-airport.com
Office: 305-876-7081
Fax: 305 876 7522

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From: Ethics (COE) [<mailto:ethics@miamidade.gov>]
Sent: Wednesday, October 01, 2014 12:31 PM
To: Alonso, Roy A. (Aviation)
Subject: RE: Request for Ethics Opinion

Mr. Alonso,
This inquiry is being referred to Staff Attorney Gilma Diaz-Greco for response. She will be in touch with you when she is prepared to respond.
Joe Centorino
Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust

From: Alonso, Roy A. (Aviation) [<mailto:RALonso@miami-airport.com>]
Sent: Monday, September 29, 2014 9:52 AM
To: Ethics (COE)
Subject: Request for Ethics Opinion

Good morning,

I am requesting a conflict of interest opinion on the following matter.

I currently manage a contract for the Miami-Dade County and am in the DROP program, with approximately two years left before I retire. The General Manager for the contract that I manage has resigned his position and my understanding is that they will be doing a nation-wide search to fill the vacancy. Is there a conflict if I apply for the position? I know that I would have to resign my position with Miami-Dade County if selected but want to make sure I do not break any rules while still employed with the Department. Also, if this is permitted, are there any restrictions that apply in working with the contractor as a previous County employee?

Thank you for your time and opinion on this matter

Roy A. Alonso
Terminal Operations
Miami-Dade Aviation Department
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FAQs
Two-Year Rule

- **What is the “two-year rule”?**
 - Section 2-11.1 (q) (“two-year rule”) of the County Ethics Code prohibits former local government employees from lobbying their former County or municipal employers for two years following the termination of their employment.

- To whom does the two-year rule apply?
 - Applies to the following municipal and County personnel:
 - Elected officials: mayor, commissioner, councilperson
 - Staff members of elected officials
 - County or city manager
 - all County and municipal employees

- **Which date is used to calculate the two-year rule?**
 - The two-year period is calculated beginning on the day after the last day that the employee receives benefits or compensation from the County or municipality, such as payments for accrued vacation time, sick time, insurance, etc.

- **As a former County or municipal employee, may I work for a consultant, vendor, or contractor that does business with my former County or municipal employer?**
 - Yes, a former employee may obtain work with contractors, consultants, vendors, etc., of their former County or municipal employer. However, the two-year rule prohibits former employees from *lobbying* their County or municipal employer for two years following the termination of their employment.

- **What constitutes prohibited lobbying under the two-year rule?**
 - Lobbying activities are interpreted very broadly under the two-year rule. Individuals formerly employed by the County or a municipality within the past two years are prohibited from performing activities intended to influence *any official determination, regardless of whether the determination will foreseeably be decided or recommended* by any of the County’s or city’s commissions, boards, committees, or the County or city manager. Unlike the general lobbyist ordinance, the two-year rule expands the definition of lobbying to include advocating for decisions that may be made at the sole discretion of individual County or municipal personnel, not necessarily by a voting body.

- **May a former employee represent third parties at publicly noticed quasi-judicial proceedings?**
 - Yes, an exception to the two-year lobbying prohibition allows former employees to represent third parties at publicly noticed quasi-judicial proceedings.
- **May I lobby a different governmental entity than the one I worked for during the two-year period?**
 - Yes, a former employee is free to lobby any other local, state, or federal government immediately following his or her departure from government service, except for the government entity that employed him or her.
- **Does the two-year rule apply to a former County or municipal employee who now works for a governmental entity, a 501(c) (3) nonprofit entity, or educational institution?**
 - No, an exception to the two-year rule allows former employees now employed by governmental entities, 501(c) (3) entities, or educational institutions to lobby their former employers during the two-year post-employment period on behalf of their employing entity.



Via First Class Mail
and
email at ccarreño@urvanx.com

ETHICS COMMISSIONERS

Dawn Addy, CHAIR
Charlton Copeland, VICE CHAIR
Nelson Bellido
Judge Seymour Gelber
Kerry E. Rosenthal

JOSEPH CENTORINO
EXECUTIVE DIRECTOR
GENERAL COUNSEL

MICHAEL P. MURAWSKI
ADVOCATE

MIRIAM S. RAMOS
DEPUTY GENERAL COUNSEL

June 13, 2012

Charles O. Carreño, Vice-President
Urvan Management, LLC
500 South Pointe Drive, Suite 230
Miami Beach, FL 33139

Re: RQO 12-09

Post-Employment Prohibitions

See Miami-Dade County Ethics Code at Sec. 2-11.1 (q)(1)

Dear Mr. Carreño:

IN A PUBLIC MEETING on May 31, 2012, the Miami-Dade Ethics Commission found that as a former City of Miami Beach employee you may not attempt to influence any official decision or official action in the City of Miami Beach, regardless of whether the action will foreseeably be heard or reviewed by the city commission, a city board or city committee, or by the city manager throughout the two years following your city employment.

Until December 31, 2010, you served as the Department Director of the Office of Capital Improvement Projects in the City of Miami Beach. Currently, you are the Vice-President of Urvan Management, LLC. Urvan is part of a team bidding on RFQ No. 38-11/1, known as the "As Needed Construction Services for Right-of-Way Capital Improvement Projects."

YOU HAVE ASKED the Ethics Commission about post-employment limitations affecting you as the Vice-President of Urvan, if Urvan were to serve as a subcontractor to the prime contractor, Parsons-Brinckerhoff, Inc., on the above-referenced project.

THE COUNTY ETHICS CODE at Sec. 2-11.1 (q)(1) prohibits former City of Miami Beach employees from engaging in a broad range of activities related to lobbying in the City.

Lobbying activities described in the post-employment ordinance are more expansive than those found under the general lobbying ordinance. Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will *foreseeably be decided or recommended by any city commission, city board or the city manager*, the post-employment ordinance makes no such limiting connection to matters that will

foreseeably be brought before voting bodies or the city manager. Consequently, advocating for decisions that may be made at the sole discretion of any municipal personnel, not necessarily a voting body or the manager, are prohibited under the post-employment ordinance.

BASED ON PREVIOUS ETHICS OPINIONS, the following are examples of activities that are *not* considered lobbying for purposes of the two-year rule:

- reviewing construction documents for constructability
- imparting institutional knowledge and history of the City of Miami Beach's Capital Improvement Program to your team members
- providing support staff to the City through your private employer and partners, *as long as you do not attempt to influence City officers or personnel regarding the terms of this arrangement*
- developing and executing a program to encourage public input
- identifying expert witnesses and others to assist with reviewing claims and litigation matters
- estimating costs, *as long as you have no involvement with City officers and staff directly, through face-to-face meetings, telephone calls, emails, or other communications, in negotiating changes for any purpose, including negotiating change orders.*

ADDITIONALLY, YOU ASKED the following specific questions:

- 1) If requested by the prime contractor or the City of Miami Beach, may I participate in a presentation related to the above-referenced RFQ?

Some types of participation are allowable, while others are not. You may participate in meetings with the City on behalf of Urvan and its professional partners to discuss the City's practices and procedures and matters related to your professional knowledge of the City and the construction industry. These meetings must be held for informational purposes only and not for the purpose of influencing any recommendations or other actions on the project.

You are prohibited from arranging and/or participating in meetings with City officers and staff on behalf of Urvan and its professional partners if the meetings are convened for the purpose of influencing elected officers and/or City employees to take an official action or make an official decision.

- 2) If a question is asked by an evaluation committee member or the public during an evaluation committee meeting, may I respond to the question?

You may respond to questions, particularly regarding technical information, but you may not attempt to influence the decision of the evaluation committee.

- 3) Is the decision-making process considered completed upon approval by the elected body of a motion to award a contract to the successful proposer?

Yes. However, even after the completion of the decision-making process, the two-year rule will continue to prohibit any attempt on your part to influence any city board or the manager in connection with the approved contract.

- 4) If my team is awarded a contract by the elected body (*i.e.*, the decision-making process is completed and the Cone of Silence is lifted), may I assist in the negotiations of the contract terms, conditions and compensation with other members of the successful team and/or City representatives?

You may discuss contract terms, conditions and compensation strategies with Urvan team members and Urvan's professional partners.

You may *not* participate in negotiations or other discussions *directly* with City officers or staff because these actions are characterized as seeking to influence elected officers and/or City employees to take an official action or make an official decision.

FINALLY, FOR YOUR GENERAL GUIDANCE, please note that three levels of lobbying activities have been distinguished in Ethics Commission opinions:

Lobbyists in General. Under Sec. 2-11.1 (s), individuals with no current or recent employment relationship with a municipality are required to register as lobbyists when they advocate for items that will *foreseeably be decided or recommended by any of the city's commissions or boards or by the city manager.*

Post-Employment Restrictions. Under Sec. 2-11.1 (q), individuals formerly employed by a municipality within the past two years are prohibited from performing activities intended to influence *any official determination, regardless of whether the determination will foreseeably be decided or recommended by any of the city's commissions, boards, committees or the city manager.*¹

Unlike the general lobbyist ordinance, the post-employment ordinance expands the definition of lobbying to include advocating for decisions

¹ See RQO 04-33 to Charles Danger, Director, County Building Dept; RQO 04-201 to Rene Rodriguez, retired Director, County Housing Agency; RQO 04-34 to Danny Alvarez, former Director, County Transit Dept; RQO 01-38 to Miguel de Grande re: Nick Mazzora, former Aide to County Commissioner Joe Martinez; RQO 08-28 to Paul Raymond, retired Chief Mechanical Inspector, City of Miami Beach; and also RQO 00-12, RQO 03-120, RQO 04-48, RQO 04-106 and RQO 04-148.

that may be made at the sole discretion of individual municipal personnel, not necessarily a voting body.

Current County or Municipal Officers and Employees. Under Sec. 2-11.1 (m)(1), individuals serving in municipal positions may *not engage in any discussions whatsoever* with officials, directors or staff of their respective governments on behalf of third parties.

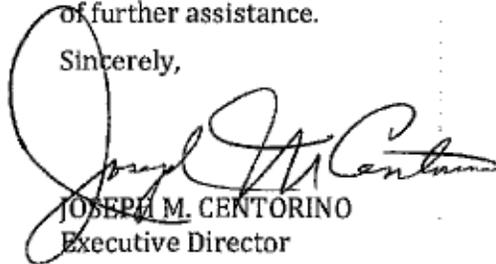
This prohibition is the most expansive and extends to perfunctory meetings involving ministerial issues or information requests.²

IN CONCLUSION, the Ethics Commission emphasizes that the County Ethics Code represents a minimal standard of conduct for those who have served in government and remain subject to the two-year rule prohibiting lobbying by former public employees. Former employees should carefully consider the totality of the circumstances before taking any action that could possibly erode the public's trust.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me or Victoria Frigo, Staff Attorney, if we can be of further assistance.

Sincerely,



JOSEPH M. CENTORINO
Executive Director

² See **RQO 05-15** to Leland S. Salomon, former Chief of the Real Estate Development Division of GSA, who was given permission to engage in outside employment as a real estate analyst for private investors as long as his private clients were not engaged in any real estate transactions with the County and as long as he did not appear before the County or meet with County staff regarding any matter involving his private clients.