
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, March 17, 2015 12:43 PM
To: Sanchez, Rodzandra (COE)
Subject: Joan Shen, Chief, Traffic Engineering Division, PWWM (Outside Employment) INQ 15-41
Attachments: Pena Request for Outside Employment.pdf

INQ 15-41 Shen

Dear Ms. Shen:

You have inquired whether a conflict of interest would exist where Manuel Peña, an employee of the Miami-Dade County Public Works and Waste Management (PWWM) has requested permission to engage in outside employment providing interior design services for private individuals.

As background, Mr. Peña is employed by PWWM as an AutoCAD drafter in PWWM's design section. His job responsibilities include designing roadways for effective traffic flow and traffic safety. His current assignment involves working on safe route to school projects.

He is seeking to engage in outside employment through his privately owned company, Peña Architecture and Engineering Corp. (PAE), which provides private homeowners interior design plans to maximize space in their homes. PAE markets its services to private individuals and is not seeking to become a County Vendor or to market its services to County vendors. His work hours for PAE would occur on evenings and weekends, outside of his PWWM hours. Mr. Peña estimates that he would work approximately 5 hours a week on his outside employment.

We have discussed this matter with Mr. Peña's supervisor, and concur with her that his work through his privately owned company is not closely related to the traffic flow and traffic safety projects he performs in his County employment at PWWM. The hours of employment for PAE would not conflict with Mr. Peña's hours of employment at PWWM, it would not involve work with a County Vendor or, and it would not require him to lobby the County on PAE's behalf or to interact with County employees or boards on behalf of PAE. Under these circumstances, it is unlikely that this type of work would impair his independence of judgment in the performance of his County duties at PWWM as an AutoCAD drafter. See the County Ethics Code at Sec. 2-11.1(j) and (k).

As a reminder, pursuant to the County Code at Section 2-11, County employees are required to request permission for outside employment from their supervisor (Request for Outside Employment form) on a yearly basis. In addition, the County Code at Sec. 2-11.1(k)(2) requires filing a financial disclosure form (Outside Employment Statement) on a yearly basis. In addition, County employees are cautioned that they may not engage in any activity which would require them to disclose confidential information acquired by reason of their official position, nor use such information directly or indirectly for their personal gain or benefit. See County Code at Sec. 2-11.1(h)

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

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
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-----Original Message-----

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, March 16, 2015 3:38 PM
To: Shen, Joan (PWWM)
Subject: RE: Outside Employment

Thank you.

-----Original Message-----

From: Shen, Joan (PWWM)
Sent: Monday, March 16, 2015 3:35 PM
To: Diaz-Greco, Gilma M. (COE)
Subject: RE: Outside Employment

Mr. Pena is currently working on safe route to school projects which is directly under Mr. Ricardo Gavilan. However, his direct supervisor is Ms. Teresa Novakovic. I will ask both of them to contact you.

Thank you,

Joan Shen, Ph.D., P.E., PTOE, Chief
Traffic Engineering Division
Miami-Dade County Public Works and Waste Management
111 NW 1st Street, Suite 1510, Miami, FL 33128
Phone: 305-375-2030, Fax: 305-372-6064
<http://www.miamidade.gov/pubworks/>
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-----Original Message-----

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, March 16, 2015 3:21 PM
To: Shen, Joan (PWWM)
Subject: RE: Outside Employment

Thank you Ms. Shen. I would also need to speak with Mr. Pena's supervisor.

-----Original Message-----

From: Shen, Joan (PWWM)
Sent: Monday, March 16, 2015 3:04 PM
To: Diaz-Greco, Gilma M. (COE)
Cc: Eymil, Yelenys (PWWM)
Subject: RE: Outside Employment

Ms. Diaz-Greco,

I will ask the employee to contact you shortly.

Thank you,

Joan Shen, Ph.D., P.E., PTOE, Chief
Traffic Engineering Division
Miami-Dade County Public Works and Waste Management
111 NW 1st Street, Suite 1510, Miami, FL 33128
Phone: 305-375-2030, Fax: 305-372-6064
<http://www.miamidade.gov/pubworks/>
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-----Original Message-----

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, March 16, 2015 3:00 PM
To: Shen, Joan (PWWM)
Subject: RE: Outside Employment

Ms. Shen:

I am working on this request and need additional information.

Mr. Pena should contact me at 305 350-0638 to discuss the following:

- Describe Mr. Pena's employment responsibilities in his County employment.
- Would his company seek to provide services to the County, to a County vendor?
- Would his private company work mostly in Dade County or outside of Dade County?
- Would he be working with the same county vendors he comes into contact with in his County employment.
- Would he use County time or resources?

Also, we need feedback for his supervisor regarding whether he or she believes this outside employment would be conflict with his County employment.

Thanks and best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney

Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
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-----Original Message-----

From: Ethics (COE)
Sent: Thursday, February 19, 2015 10:33 AM
To: Diaz-Greco, Gilma M. (COE)
Subject: FW: Outside Employment

Please handle.

-----Original Message-----

From: Shen, Joan (PWWM)
Sent: Thursday, February 19, 2015 10:24 AM
To: Ethics (COE)
Subject: Outside Employment

Good morning,

We have an employee that works as an AutoCAD drafter in our Design Section and owns a company Peña Architecture and Engineering Corp. which is design too (please see attached). Can we approve this person such outside employment? Will it be a conflict to the County? Please advise.

Thank you,

Joan Shen, Ph.D., P.E., PTOE, Chief
Traffic Engineering Division
Miami-Dade County Public Works and Waste Management
111 NW 1st Street, Suite 1510, Miami, FL 33128
Phone: 305-375-2030, Fax: 305-372-6064
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REQUEST FOR OUTSIDE EMPLOYMENT

Section 2-11 of the Miami-Dade County Code provides that County employees may accept incidental or occasional outside employment as long as the employment is not contrary, detrimental, or adverse to the interests of the County and as long as no County time, equipment, or material is used. Miami-Dade County Administrative Order 7-1 states that any full-time County employee intending to engage in outside employment must first obtain approval from his/her Department Director using this "Request for Outside Employment" form. These approvals must be renewed on an annual basis. Copies of all outside employment approvals shall be maintained in the centralized personnel files of the Human Resources Department. Each County Department shall also maintain appropriate records regarding outside employment requests. County employees engaging in outside employment must also file an "Outside Employment Statement" form with the Elections Department by July 1st of each year, in accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code.

Employee's Name: Manuel Peña

Employee ID Number: E209782

Present County Classification: Cadastral Technician

Name of Company/Organization for Proposed Outside Employment: Peña Architecture and Engineering Corp.

Job Title/Responsibilities for Proposed Outside Employment: President, CEO

Location of Proposed Outside Employment: 18851 NE 29 Avenue

Work Schedule for Proposed Outside Employment: Mon-Fri 6pm to 2pm County work schedule 7am to 4pm

Total Hours Per Week for Proposed Outside Employment: 5 hrs

Will your proposed outside employer release you if and when your services are needed by the County? Yes No

Manuel Peña
Employee's Signature Date 1-20-15

Department Director's Approval Date

PUBLIC WORKS AND WASTE MANAGEMENT DEPARTMENT
OUTSIDE EMPLOYMENT CERTIFICATION

I, Manuel, employee of the Public Works and Waste Management Department, certify that:

I AM NOT engaged in any type of outside employment and that I AM NOT paid by, nor do I receive gratuities from, any employer for any of my services except as performed for the County. I certify that before accepting any outside employment, I will submit an outside employment Request form for approval by the Department Director. I will abide by the Director's decision on this matter. I understand that outside employment without approval will result in disciplinary action. I certify that I fully understand the County Policy on Outside Employment outlined below.

I AM currently engaged in outside employment. I understand that to continue my outside employment, I must immediately apply for the approval of the Director of the Public Works and Waste Management Department. I will abide by the Director's decision on this matter. I understand that outside employment without approval is grounds for dismissal. I also understand that if I engaged in any outside employment in 2014, I must file a statement regarding that outside employment with the Elections Department by July 1, 2015. I certify that I fully understand the County Policy on Outside Employment outlined below.

MIAMI-DADE COUNTY POLICY ON OUTSIDE EMPLOYMENT

- A. County employees must receive written approval from their department director prior to engaging in outside employment.
- B. These approvals must be renewed on an annual basis.
- C. Under no circumstances shall a County employee accept outside employment or render other than official services to a private interest where County time, equipment or material is to be used, or where a real or apparent conflict of interest with one's official or public duties is possible.
- D. No County employee shall accept any tip or gratuity in the discharge of his/her public duties.
- E. Failure on the part of a County employee to comply with the provisions of this Policy shall be grounds for dismissal.

Manuel Pena
Print Name

E209782
Employee I.D. #

Manuel Pena
Signature

1-20-15
Date