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INQ 16- 151 Curbelo

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**From:** Perez, Martha D. (COE)

**Sent:** Thursday, June 09, 2016 9:53 AM

**To:** Angel Curbelo <aac14255@gmail.com>

**Cc:** Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>;

Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Yoder, L. Douglas (WASD) <Douglas.Yoder@miamidade.gov>

**Subject:** Angel Curbelo, Former County Employee; Two Year Rule; INQ 16- 151

Dear Mr. Curbelo,

You have inquired regarding the ethics restrictions that may apply to you following your retirement from the Miami-Dade County Water & Sewer Department (WASD), where you were employed as Operations Manager.

Your inquiry is two-fold: whether Section 2-11.1(q) of the County Ethics Code (The Two-Year Rule) would preclude you from opening up a corporation to provide expert/consulting services regarding maintenance management of electrical and electronic appurtenances used in water and wastewater utility industry; and, whether Section 2-11.1(q) of the County Ethics Code would preclude you from working as a Project Manager at a private company that manufactures electrical control panels and transacts business with the County, including WASD.

#### Background

You recently retired from the County where you worked as Operations Manager in the SCADA Section of WASD. Your duties while with the County involved the oversight and management of daily operations of professional and skilled-trades personnel tasked with providing supervisory control and data acquisition (SCADA) from water and wastewater treatment plants and pump stations in the County. In your retirement, you wish to set up a business to provide expert services regarding maintenance management of electrical appurtenances used in water and wastewater plants. You are also considering working for a company which provides services to the County, including WASD's Pump Station, Water and Wastewater Operations and Maintenance Divisions. The company manufactures electrical appurtenances for industry and provides electrical contracting services to other entities, including the County. Your position in the company is as a Project Manager in the design and construction of electrical equipment and the installations for industrial applications. You have indicated that this company does not transact business with the SCADA Section.

Although you may not have been involved in the procurement or selection of companies which provide electrical services (electrical control panels manufacturers) to the SCADA Section of WASD, such as the type of company you are considering working for, you were involved with the management of electrical panels/appurtenances connected through the SCADA system which enabled your operators to understand what the "equipment" at the water and wastewater treatment plants and pump stations is doing at any given time.

#### Analysis

The County Ethics Code at Section 2-11.1(q) ("Two Year Rule") provides that,

*No person who has served as....departmental personnel or employee shall for a period of two years after his or her County service has ceased, lobby any County officer, departmental personnel or employee, in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling or other determination, contract, claim, controversy, charge or accusation in which Miami-Dade County or one of its agencies or instrumentalities is a party or has any interest whatever, direct or indirect.*

Consequently, while following your retirement you may form your own business and/or be employed with firms that do business with the County, you are prohibited from LOBBYING the County. Lobbying activities under the “Two- Year Rule” are more expansive than those in the general County lobbying ordinance. Whereas the lobbying ordinance at Section 2-11.1(s) of the County Ethics Code characterizes lobbying as advocating actions or decisions that will foreseeably be decided by the BCC, Mayor or a County board, the “Two- Year” Rule includes advocating for actions or decisions that may be made at the sole discretion of any County personnel. For example, you are prohibited from arranging or participating in any meetings, negotiations, presentations or other discussions directly with County officials or staff for the purpose of influencing the County elected official, staff or employee to take any type of official action, decision or recommendation. See RQO 08-28; RQO 04-34.

The following are some examples of activities which are not considered “lobbying” for purposes of the Two Year Rule:

- Imparting institutional knowledge and history of the County’s capital improvement programs to the current employer and its team. RQO 12-09
- Estimating project costs, as long as there is no involvement with County offers or staff directly, through face to face meetings, telephone calls, emails or other communication, in negotiating changes or modifications for any purpose, including negotiation of change orders. RQO 12-09
- Providing management or oversight of County projects related to an **AWARDED** contract . RQO 08-18
- Meeting with County staff and appearing before County boards and committees, provided the appearance is related to an **AWARDED** contract. RQO 11-24
- Submit an application or proposal **PROVIDED you do not lobby**. An example of lobbying would be to communicate either in writing or orally with anyone in the County in an effort to influence a decision on the matter, including appearing at any selection or evaluation committee meetings or in any way engaging with County personnel on behalf of the submitted proposal/ application. INQ 14-71; INQ 16-78
- Engaging in ministerial activities such as filing or submitting routine administrative requests or permit applications to a County department; confirming receipt of plans or permit applications; or, inquiring about the status of submitted plans. RQO 08-28; RQO 04-33

Additional information concerning limitations of the “Two- year Rule” may be found in RQO 12-09 and “Frequently Asked Questions”, both of which are attached. Please note, all formal opinions (RQO’s) may be found at <http://ethics.miamidade.gov>.

Another important provision of the County Ethics Code which may impact former County employees is Section 2-11.1(h), Confidential information: *No person [including contract staff] shall....disclose confidential information...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.* If the decision-making process on the services you or your prospective employer provides to the County is related to the work that you performed while working for the County, you should consider whether you have access to confidential information through your County service which may give you an advantage in your/your employer’s dealings with the County.

If you have any questions or concerns regarding whether you should engage in any other activity with the County, please contact us.

This opinion is based on the facts as you have presented them to the Ethics Commission. Please contact us if these facts change. Inquiries regarding possible conflicts with departmental directives should be addressed with your Department Supervisor. Inquiries regarding possible conflicts under State law should be directed to the Florida Commission on Ethics.

**Martha D. Perez**  
Staff Attorney  
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST  
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Miami, FL 33130  
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**From:** Angel Curbelo [<mailto:aac14255@gmail.com>]  
**Sent:** Wednesday, June 08, 2016 11:34 AM  
**To:** Perez, Martha D. (COE)  
**Subject:** Re: Curbelo-Two Year Rule; FW: Opinion on Employment

Sent from my iPhone

On Jun 8, 2016, at 9:50 AM, Perez, Martha D. (COE) <[perezmd@miamidade.gov](mailto:perezmd@miamidade.gov)> wrote:

Good morning Mr. Curbelo,

In order to respond to your inquiry, kindly provide me with the following information:

1) What division in WASD you were assigned to?

SCADA Section. I was the Operations Manager.

2) What were your specific duties and responsibilities at your former County WASD position?

Oversee and manage daily operations of professional and skilled- trades personnel engaged in providing and maintaining supervisory control and data acquisition from water and wastewater treatment plants and pump stations.

3) In your prospective position as Project Manager, does the company transact business with the Division you worked at in the County?

No.

4) What WASD divisions does the company do business with?

Pump station, water and wastewater operations and maintenance divisions.

- 5) You affirm that you will not be involved in any lobbying activities but I need you to describe, in detail, the duties and responsibilities you will undertake in your new position.

The company manufactures electrical appurtenances for industry and provides electrical contracting services to the School boards, municipalities, county and private industry. They would like to hire my services as a Project Manager in the design and construction of electrical equipment as well as installations for industrial applications.

- 6) Will you be overseeing and managing projects that you were involved in as a County WASD employee?

No

Thanking you in advance for your responses.

**Martha D. Perez**

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

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**From:** Ethics (COE)  
**Sent:** Wednesday, June 08, 2016 9:05 AM  
**To:** 'Angel Curbelo'  
**Cc:** Perez, Martha D. (COE)  
**Subject:** RE: Opinion on Employment

Mr. Curbelo:

This inquiry has been assigned to staff attorney Martha Perez. Ms. Perez will be in touch with you shortly.

***Joseph M. Centorino***

Executive Director and General Counsel

Miami-Dade Commission on Ethics and Public Trust

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[ethics.miamidade.gov](http://ethics.miamidade.gov)

<image001.jpg>

**From:** Angel Curbelo [<mailto:aac14255@gmail.com>]

**Sent:** Tuesday, June 07, 2016 6:56 PM

**To:** Ethics (COE) <[ethics@miamidade.gov](mailto:ethics@miamidade.gov)>

**Subject:** Opinion on Employment

Good afternoon,

I just retired from Miami Dade County's WASD and opened a corporation to provide expertise services having to do with maintenance management of electrical and electronic appurtenances used in water and wastewater utility industry. I have been approached recently by several companies because of my experience and knowledge of the equipment and I am considering an offer as a Project Management at a company that manufactures electrical control panels and provides services to different Miami Dade County departments including WASD. I am aware and has made this company fully aware as well of Ordinance 72-82, *Continuing Application After County Service*. However, as a Project Manager I would not be involved in any lobbying activities, direct or indirectly, with any county department. My job would consist in overseeing and managing projects not selling products or services.

My question is, can I engage in doing business with this or any other company under same conditions without violating the ordinance? Please advise.

Thanks,

Angel A. Curbelo

[aac14255@gmail.com](mailto:aac14255@gmail.com)

786-586-3629