

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, August 11, 2016 11:53 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Eric Gomez, Owner, EGSC Engineering Consultants, Outside Employment and Lobbying, INQ 16-199

[INQ 16-199 Gomez](#)

From: Turay, Radia (COE)
Sent: Thursday, August 11, 2016 11:41 AM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Sanchez, Rodzandra (COE) <RODZAND@miamidade.gov>
Subject: FW: Eric Gomez, Owner, EGSC Engineering Consultants, Outside Employment and Lobbying, INQ 16-199

From: Turay, Radia (COE)
Sent: Thursday, August 11, 2016 11:40 AM
To: Eric Gomez <egomez@egscfl.com>; 'rventura@cityofsweetwater.fl.gov' <rventura@cityofsweetwater.fl.gov>; 'eproto@egscfl.com' <eproto@egscfl.com>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Subject: Eric Gomez, Owner, EGSC Engineering Consultants, Outside Employment and Lobbying, INQ 16-199

Dear Mr. Gomez,

You submitted an inquiry asking two main questions:

- 1) Whether it would be a conflict of interest for you to serve as the City of Sweetwater's Building Official, who must be an employee of Sweetwater, even though you own an engineering company that currently has a contract to perform public work functions for Sweetwater.
- 2) Whether the Sweetwater's Building Official can also work as an employee of a company having a contract to provide building department services within the City of Sweetwater?

The basic facts that you have presented thus far are as follows:

- You are the owner of EGSC Engineering Consultants (hereinafter "EGSC")
- EGSC currently has a consulting contract with the City of Sweetwater to perform public work functions.
- The City of Sweetwater is looking to hire a Building Official, who will be hired as an employee of the City of Sweetwater
- You were considering applying for the position of Building Official.
- Your current contract with the City is not supervised by the Building Official. You report to the Chief of Staff to the Mayor of Sweetwater.
- Your current contract with the City is also not directly with the Building Department.

Under City of Sweetwater Land Development Code Section 1.02, Building Official is defined as the director of the building department or his authorized representative charged with administration and enforcement of the building codes for the City of Sweetwater.

Should you be hired as the Building Official of Sweetwater you will be subject to several limitations under the Ethics Code as you will be considered a municipal employee.

A) Outside Employment

Work conducted for your privately owned engineering company will constitute outside employment. Pursuant to Sections (j) and (k) of the Ethics Code, municipal employees may not engage in outside employment that would interfere with the employee's independence of judgment in the performance of his or her public duties. Conflicting employment is sometimes created when a City employee comes in contact with the same or similar people or entities in both his outside employment and in his City job or when he uses the same or similar resources in his outside employment as he uses in his City work. See Ethics Code Sections 2-11.1(j) and (k). Ultimately, the decision to permit outside employment is at the discretion of the supervisor or administrator, who may deny permission even if there is no conflict.

B) Contracting with the City of Sweetwater

As a City of Sweetwater employee, you may enter into a contract with the City through your privately owned company, as long as the contract does not interfere with the full and faithful discharge of your duties to the City. See Ethics Code Sections 2.11.1(c)(2) and (d).

This includes the condition that you may not participate in determining the contract requirements or in the awarding the contract. Additionally, none of your job responsibilities and job descriptions may require you to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. Finally, you may **not** work in the City department that would enforce, oversee or administer this contract.

Consequently, should you accept the position of Building Official, EGSC Engineering Consultants may not enter into any contract with the City of Sweetwater's Building Department. In the event that EGSC Engineering's current contract is with the Building Department, which you explained that it was not, the contract will have to be discontinued should you decide to serve as the Building Official.

Further, municipal 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 Ethics Code Section 2-11.1(h). Municipal employees also may not use his or her official position to secure privileges or exemptions for themselves or others. See Ethics Code Section 2-11.1(g).

C) Lobbying

Lastly, you may not lobby the City. In this case, you may not speak with anyone within the City governance in an attempt to influence a decision about a contract that your engineering company may be seeking or attempting to modify or renew. See Ethics Code at Section 2-11.1(m)(1).

Additional information regarding outside employment and lobbying may be found on our website under the "FAQs" and "Information by Topic" tabs.

This opinion only construes the Miami-Dade County Ethics Code as it applies to municipal employee-vendors. It is not applicable to any conflicts under sections of the City of Sweetwater's Code or to issues related to state or federal laws.

This opinion is based on the facts as you have presented them to the Ethics Commission. Please contact us if these facts change.

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From: Elena Proto [<mailto:eproto@egscfl.com>]
Sent: Monday, August 01, 2016 10:35 AM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Cc: Ethics (COE) <ethics@miamidade.gov>; Eric Gomez <egomez@egscfl.com>
Subject: Board of Ethics and Appeal-Question on Conflict of Interest

Good morning:

On behalf of Eric Gomez, please see below questions on conflict of interest.

Mr. Gomez has currently an engineering consulting contract with the City of Sweetwater to perform the public work functions through my engineering consulting company. The specific scope of work is the following:

- (a) serve as the Floodplain Manager, (b) review Site Plans with respect to public right-of way items, (c) review Subdivision Plats for right-of-way compliance, (d) serve on the Development Review Committee for right of way compliance, (e) review Permit Applications and comments for right-of-way projects, (f) act as liaison to outside agencies such as Miami-Dade Water and Sewer Department (WASD), Florida Department of Transportation (FDOT), South Florida Management District (SFWMD), Department of Environmental Protection (DEP), Miami-Dade County Public Works, Department of Environmental Resource Management (DERM), (g) assist City planner in updating Capital Improvement Plan, (h) attend staff meetings (i) assist department in constituent right-of-way complaints, (j) assist with drafting ordinances, and resolutions. (k) coordinate with City attorney as needed, (l) assist City staff with required technical documents for reports and grant applications, advise staff on technical issues, advise Mayor and Commission, as requested.

Question 1 "Would it be a conflict of interest to serve as the City of Sweetwater's Building Official as an employee of Sweetwater even though I have a contract to perform public work functions as outlined above with my consulting company?"

Question 2 "Can the building official be an employee of the City of Sweetwater while also an employee of a company having a contract to provide building department services within the City of Sweetwater?"

Your prompt response will be greatly appreciated.

Kind regards,

Elena M. Proto



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