

## Sanchez, Rodzandra (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Tuesday, April 18, 2017 4:04 PM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** FW: Daniel Mondesir, Senior Engineer, B&C Transit, Inc. former Miami-Dade Transit Department employee (Two-year rule) INQ 17-114

INQ 17-114 Mondesir

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, April 13, 2017 3:35 PM  
**To:** 'dmondesir' <[dmondesir@bnctransit.com](mailto:dmondesir@bnctransit.com)>  
**Cc:** Centorino, Joseph (COE) <[Joseph.Centorino@miamidade.gov](mailto:Joseph.Centorino@miamidade.gov)>; Murawski, Michael P. (COE) <[Michael.Murawski@miamidade.gov](mailto:Michael.Murawski@miamidade.gov)>; Perez, Martha D. (COE) <[perezmd@miamidade.gov](mailto:perezmd@miamidade.gov)>; Turay, Radia (COE) <[Radia.Turay@miamidade.gov](mailto:Radia.Turay@miamidade.gov)>  
**Subject:** FW: Daniel Mondesir, Senior Engineer, B&C Transit, Inc. former Miami-Dade Transit Department employee (Two-year rule) INQ 17-114

Correcting for scriveners error. "Municipal" changed to "County"

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, April 13, 2017 3:21 PM  
**To:** 'dmondesir' <[dmondesir@bnctransit.com](mailto:dmondesir@bnctransit.com)>  
**Cc:** Centorino, Joseph (COE) <[Joseph.Centorino@miamidade.gov](mailto:Joseph.Centorino@miamidade.gov)>; Murawski, Michael P. (COE) <[Michael.Murawski@miamidade.gov](mailto:Michael.Murawski@miamidade.gov)>; Perez, Martha D. (COE) <[perezmd@miamidade.gov](mailto:perezmd@miamidade.gov)>; Turay, Radia (COE) <[Radia.Turay@miamidade.gov](mailto:Radia.Turay@miamidade.gov)>  
**Subject:** Daniel Mondesir, Senior Engineer, B&C Transit, Inc. former Miami-Dade Transit Department employee (Two-year rule) INQ 17-114

Dear Mr. Mondesir,

You have inquired about post-employment restrictions under the County Ethics Code "two-year rule". Specifically, you would like to know what limitations, if any, you may have regarding your present employment with B&C Transit, INC. ("B&C"), a County vendor, and the engineering work B&C performs for the County.

### **Background**

You advised the Commission that you were employed by the Miami-Dade Transit Department, reorganized as the current Department of Transportation and Public Works ("DTPW"), as a Construction Manager 3 at the Field Engineering Division. You resigned from your County employment on January 29, 2016. Currently, you work for B&C Transit, Inc ("B&C") as a Senior Engineer. Your job responsibilities for B&C include project design, design-build, analyses, technical support, software development, and management and oversight throughout the USA and overseas.

### **Analysis**

Generally, the Two-Year Rule does not prohibit a former County Employee from **working** for a County vendor, but it prohibits former County employees from engaging in a broad range of **lobbying** activities such as arranging, representing or participating in any meetings, negotiations, presentations, interactions or other discussions with County officials, personnel or employees, in an attempt to influence or persuade the official or employee to take any type of official action for a period of two years after their separation from County employment. *See* Section 2-11.1(s) County Ethics Code and RQO 06-32.

Under the Two-Year Rule, lobbying activities are defined more broadly than the general lobbying ordinance, Section 2-11.1(s), and include activities intended to influence **any** official determination, regardless of whether the determination will foreseeably be decided or recommended by any of the County's commissions, boards, committees or the Mayor, because 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. *See* RQO 06-32 and RQO 12-09. This would also cover any activity where the employee attends meetings and is publicly identified as part of a lobbying team employed by the principal. *See* RQO 01-38.

The County Ethics Commission has provided guidance on permitted and prohibited interactions by former County employees (RQO 12-09):

- 1) Former County employees may respond to questions, particularly regarding technical information, but may not attempt to influence the decision of an evaluation committee;
- 2) Former County employees may participate in informational meetings with the County on behalf of private employers or private clients to discuss County practices and procedures and matters related to the former employee's professional knowledge of the County and the industry or activity in question, but may not meet with County and staff, if meetings are convened for the purpose of influencing elected officers and/or County employees to take an official action or make an official decision;
- 3) Former County employees may discuss contract terms, conditions and compensation strategies with the private employer and its professional partners, but may not participate in negotiations or other discussions directly with County officers or staff because these actions are characterized as seeking to influence elected officers and/or County employees to take an official action or make an official decision.

RQO 12-09 also specified activities that are **not** considered lobbying under the two-year rule. They include reviewing construction documents for constructability; imparting institutional knowledge and history of County capital projects to team members of the private employer; providing support staff to the County through the private employer and partners, as long as there is no attempt to influence County officers or personnel regarding the terms of an arrangement; developing and executing a program to encourage public input; identifying expert witnesses and others to assist with reviewing claims and litigation matters; and estimating costs, as long the former employee has no involvement with County 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, it is important to note that under Section 2-11.1(h) of the County Ethics Code ("Confidential Information"), provides that a former County Employee is prohibited from disclosing confidential information gained through one's official position with the County or the use of such information, directly or indirectly, for personal gain or benefit. Thus, if the decision-making process on the services B&C Transit provides to the County is related to work you formerly performed for the DTPW, you should consider whether you have access to confidential information through the time period of your County service which may give you an advantage in B&C Transit's dealings with the County. *See* INQ 16-109.

To summarize, although the two-year rule does not prohibit you from working for B&C, a County vendor, you must abide by the prohibitions on lobbying under Section 2-1.11(q) of the County Ethics Code and County Ethics Commission opinions. Furthermore, we advise that former employees should carefully consider the totality of the circumstances before taking action that could possibly erode the public's trust. See INQ 13-197.

This opinion is based on the facts as presented. If any of these facts change or, in the event you are concerned about a specific activity or communication with respect to any of your current or prospective roles described herein, we encourage you to seek an opinion from this office. Please contact me if you have any questions.

Cordially,

Gilma (Mimi) Diaz-Greco  
Staff Attorney



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**From:** dmondesir [<mailto:dmondesir@bnctransit.com>]  
**Sent:** Friday, April 07, 2017 2:43 PM  
**To:** Diaz-Greco, Gilma M. (COE) <[Gilma.Diaz-Greco@miamidade.gov](mailto:Gilma.Diaz-Greco@miamidade.gov)>  
**Subject:** RE: Ethic Question (doing business with the County when no longer an employee)

Good afternoon,

Any update?

Thanks again for your assistance.

Sent via the Samsung Galaxy Note5, an AT&T 4G LTE smartphone

Daniel Mondesir  
Sr. Engineer  
Central Control Development & Sales  
B&C Transit  
954-997-8615

----- Original message -----

From: Daniel Mondesir <[dmondesir@bnctransit.com](mailto:dmondesir@bnctransit.com)>

Date: 3/22/17 12:12 PM (GMT-05:00)

To: [gdiazgr@miamidade.gov](mailto:gdiazgr@miamidade.gov)

Subject: Ethic Question (doing business with the County when no longer an employee)

**Good Morning Mrs Diaz-Greco,**

**Thanks for returning my call regarding doing work for Dade County once an employee like myself is no longer working for Miami Dade Transit (now Department of Transportation and Public Works).**

**I completely left County service since January 29, 2016. My official position when I left the County was Construction Manager 3 for the Field Engineering Division of DTPW.**

**I currently work for B&C Transit, Inc as a Senior Engineer. My primary role is perform technical engineering and project management and sales work for my company. B&C Transit provide engineering services (to include design, design-build, analyses, technical support, software development, management and oversight) throughout the the USA and overseas**

**I would like to know and understand what is or is not allowed in my case since I am no longer a County employee for the past 14 months? Please clarify my time limitation for any activities not allowed?**

**Thanks so much for your assistance.**

**Sincerely,**

***Daniel Mondesir***  
***Sr. Engineer***  
***B&C Transit***  
***(954) 997-8615***