

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, May 03, 2017 2:21 PM
To: Sanchez, Rodzandra (COE)
Subject: Eastern Engineering - Stantec - Reynaldo J. Garcia , Conflict of interest/Exploitation (g), INQ 17-131

INQ 17-131 Garcia

From: Perez, Martha D. (COE)
Sent: Wednesday, May 03, 2017 10:24 AM
To: Garcia, Reynaldo J. (Aviation) <RJGarcia@miami-airport.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: RE: Eastern Engineering - Stantec - Reynaldo J. Garcia , Conflict of interest/Exploitation (g), INQ 17-131

Dear Mr. Garcia,

You inquire whether you may have a conflict of interest in serving as the Project Manager in the approval of a Sub-Contractor where your son is employed by the Sub-contractor (ADD Inc./Stantec) in a County Aviation project for construction inspection services.

Background

You are employed by the Aviation Department (MDAD) as a Construction Manager 3. You are the Project/Construction Manager (CM) for Project No. EDP (Equitable Distribution Program)-AV (Aviation)- 2014-S1-2 (Contract), for structural/construction inspection services. This contract involves upcoming MDAD construction projects requiring service. The way the EDP works is as follows:

- The County's Internal Services Division (ISD) provides the CM with a list of firms (these are A&E professional firms that hold a pre-qualification certificate and are approved to participate in the EDP);
- **The CM evaluates the firms, selects the Prime** (the firm which will contract with the County for the described services and which will also be responsible for the performance of any sub-contractors selected) and submits an EDP Form to ISD for approval;
- Once ISD approves, the CM requests the Prime to submit the scope of services. If a sub-contractor is required, then the Prime will make a request to ISD which will provide it with a list of sub-contractors to select;
- **Once the Prime selects a Sub-contractor, it is then forwarded to the CM and ISD for approval**
- Once approved, the Prime submits the proposal (which includes combined fees for Prime and Sub-contractor) to the CM for approval;
- Then, service & purchase orders are issued giving the Prime authority to proceed, along with the Sub-contractor.

The Prime selected for this project is Eastern Engineering Group Co. (EE). The Prime has selected Stantec as Sub-contractor (Stantec was the only firm that submitted a proposal). Stantec is a project design and planning firm which provides a series of services including, engineering, architectural, interior design and project management. Stantec's services under this contract would involve providing mechanical, plumbing and electrical services under the Prime.

Your son, Reynaldo Garcia Jr. (Garcia Jr.), works for ADD Inc., an architectural & design firm which *merged* a few years ago with Stantec. Garcia Jr. works as a draft assistant correcting plans and assisting the construction section of the firm (on the architectural side), not under the engineering side of the firm. His responsibilities do not include any of Stantec's functions under the project's scope of services. He is a salaried employee who does not hold a controlling financial

interest in the company. Additionally, you have indicated that your son is not nor will he be involved in any way with the contract at issue.

Analysis

The County Ethics Code at Section 2-11.1(g) prohibits a County employee from using his official position to secure special privileges for himself or others. In this instance, your son works for the Sub-contractor proposer. Notably, he has no involvement with regard to the scope of services to be provided by the Sub-contractor in this project and he has no financial interest to gain by your approval of his company as sub-contractor. However, exercising your discretion over approval of a sub-contractor when your son has a connection with said firm, could be perceived as an exploitation. See INQ 12-180; INQ 12-63.

Although it does not appear that there is any cause for concern that you could not be fair and objective in your review and approval of the subcontractor, in an abundance of caution, you may wish to avoid possible appearances of impropriety by delegating this authority to another Aviation manager/employee. In all procurement matters, where appearances of integrity and fairness are paramount, "there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence...[which] may require a higher standard of ethics..." See INQ 14-242. Inasmuch as your son has no involvement with the contract and neither he nor you will be affected by the contract, there is no ethical impediment to your involvement in the oversight of this project.

This opinion is based on the facts as presented. If any of these facts change, please contact us.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

PEREZMD@miamidade.gov

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From: Garcia, Reynaldo J. (Aviation) [<mailto:RJGarcia@miami-airport.com>]

Sent: Wednesday, May 03, 2017 9:12 AM

To: Perez, Martha D. (COE) <perezmd@miamidade.gov>

Subject: RE: Eastern Engineering - Stantec - Reynaldo J. Garcia

Hello:

Please read my reply in red below.

Thank you,

Reynaldo J. Garcia CM3

From: Perez, Martha D. (COE) [<mailto:perezmd@miamidade.gov>]

Sent: Tuesday, May 02, 2017 11:40 AM

To: Garcia, Reynaldo J. (Aviation)

Subject: FW: Eastern Engineering - Stantec - Reynaldo J. Garcia

Good morning Mr. Garcia,

I will be glad to assist you with your inquiry. I have some questions which I would appreciate your responses:

1) What is your son's job description at Add Inc.?

My son works as a draft person correcting plans and assist the construction section answering project issue/s that come up.

2) Is his employment as a salaried or managerial employee? If managerial, please describe.

Salary

3) Does your son have a controlling financial interest in the company? If so, please describe...ie., 10% or what percentage, if any.

NO

4) If selected, will Stantec's work solely consist of providing mechanical, electrical plumbing services under the Prime's contract? If not, please describe with specificity the scope of the work/services for the Sub (Stantec)

Stantec will work solely providing mechanical , plumbing and electrical service under prime (Eastern Engineering)

5) Do you anticipate Add Inc. (the architectural arm of the company) and/or your son, in any capacity, being involved in any way with this contract? If yes, please describe.

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: Centorino, Joseph (COE)

Sent: Tuesday, May 02, 2017 9:38 AM

To: Perez, Martha D. (COE) <perezmd@miamidade.gov>

Subject: FW: Eastern Engineering - Stantec - Reynaldo J. Garcia

Please handle.

From: Garcia, Reynaldo J. (Aviation) [<mailto:RJGarcia@miami-airport.com>]

Sent: Monday, May 01, 2017 6:31 PM

To: 'ethics@miamidade.gov' <ethics@miamidade.gov>

Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Bao-Garciga, Aida (Aviation) <ABAO-GARCIGA@miami-airport.com>; Perez, Enrique (Aviation) <EPEREZ@miami-airport.com>

Subject: Eastern Engineering - Stantec - Reynaldo J. Garcia

Ethic personnel at Miami Dade County:

This email is to request clarification from the Ethic Commission whether I should abstain in any further proposal review and negotiation as it relates to Eastern Engineering Service for selection of Stantec as sub consultant (Mechanical Electrical Plumbing MEP) as part of the Equal Distribution Program EDP for the MIA BHS CIBIS project.

My son Reynaldo J. Garcia work for AD Inc. which join with Stantec a few years back. Please read the attached email that I send to Flexi Ortega, which in turn has advise me to for to the Ethic commission to provide direction on the matter mentioned.

Quick Back ground information how Construction Inspection Services CIS and Sub Consultant under Equal Distribution Program DP are selected.

As part of the BHS CIBIS project, Miami Dade Aviation Department MDAD - Facilities Development via program of MDC –Internal Service Department ISD under the Equal Distribution Program EDP always select/s Construction Inspection Service CIS professional firms to inspect, on behalf the MDAD, work perform by the contractor to assure compliance with construction document.

Process:

MDAD goes through the Miami Dade County MDC – Internal Service Department - ISD EDP site requesting firm/s to participate as Construction Inspection Services CIS for any upcoming project requiring service. MDC-ISD provides a list of firms which MDAD Construction Manager CM goes through evaluating process in selecting the correct professional firm based on experience that best fit the project needs. Once a CIS main firm is selected by MDAD CM, an Equal Distribution Form is submits to MDC- ISD for approval. Once an assignment from issued by MDC-ISD along with a fully executed professional service agreement, MDAD CM invites the CIS Main firm to provide project scope and other information that is needed for the CIS Main firm to submit a proposal. If a sub consultant firms is required, then CIS main firms (selected by MDAD CM) places a request directly to MDC-ISD. In turn MDC-ISD provides another different list of professional firms for the CIS main firm to select from. CIS main firms submits sub consultant recommendation for MDAD CM for approve signature, which is also forward to MDC-ISD for review and final approval.

Once the CIS Main firm sub consultant is approved by both MDAD CM and MDC-ISD , the CIS Main firm submits a proposal of service/s for the MDAD Construction Manager to review and approve that includes the combines fees of both CIS main firm and its sub consultant. Upon approval, a service order along purchase order is issue giving to the CIS main firm authorizing to proceed with service and the use sub consultant.

If you have any questions do not hesitate to call me at 305 877-0679