

Sanchez, Rodzandra (COE)

From: Turay, Radia (COE)
Sent: Tuesday, May 09, 2017 4:04 PM
To: Sanchez, Rodzandra (COE)
Cc: Centorino, Joseph (COE); Perez, Martha D. (COE); Diaz-Greco, Gilma M. (COE)
Subject: FW: INQ 17-136, Edgar Roa, Electrician, Miami-Dade Corrections and Rehabilitation Department (outside employment)

From: Turay, Radia (COE)
Sent: Tuesday, May 09, 2017 4:03 PM
To: Roa, Edgar (MDCR) <Edgar.Roa@miamidade.gov>
Subject: INQ 17-136, Edgar Roa, Electrician, Miami-Dade Corrections and Rehabilitation Department (outside employment)

Dear Mr. Roa,

You have inquired about possible conflicts of interest between your County employment and your proposed outside employment.

Background

You are employed at the Miami-Dade Corrections and Rehabilitation Department (MDCR), as an electrician. Your County job duties include installing, repairing and replacing electric panes, switches, receptacles, fixtures, and other electrical equipment; and reading and interpreting sketches at correctional facilities in the County. Your County job requires that you have a license, which is not paid for by the County, and which you will not use in your outside employment.

You are seeking to engage in outside employment as the president/qualifier of Ertech Engineering Services, Inc. (EES). In your role as president/qualifier you will perform general electric work on residential properties. You have represented to the COE that you are the sole employee of EES.

Legal Analysis

Sections 2-11.1(j) and (k) of the County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his or her official duties or create a conflict between the County employee's public duties and his or her private interests. Conflicting employment can occur when the outside employment is closely related to the employee's public duties and/or where the County employee deals with the same people or entities in both his/her outside employment and in his/her public position, *e.g.*, similar clients, suppliers, or subcontractors. See COE's Outside Employment Guidelines, September 2014. With respect to government employees engaging in construction related projects, the Ethics Commission has previously opined that an employee could continue outside employment as an owner of a private construction related company where the private company did not contract with the County; did not engage in any work within the County; its subcontractors did not apply for, or were not issued, building permits in the County for any projects associated with the County; it did not have any business relationships with any vendors engaged in construction for the County or reasonably anticipated to engage in construction for the County. See RQO 08-29, RQO 08-45, and INQ 16-234.

After a review of all of the facts presented, it appears unlikely that the type of outside employment that you are seeking to engage in would impair your independence of judgement in the performance of your duties for the following reasons:

- EES does not contract and is not seeking to contract with MDCR.
- Your public duties and job functions at MDCR include installing, repairing and replacing electric panes, switches, receptacles, fixtures, and other commercial/industrial electrical equipment on County facilities while you will perform work solely on residential electric equipment in your outside employment.
- EES performs work solely on residential properties so it is therefore unlikely that you will deal with the same persons or entities in your outside employment that you deal with during your job functions at MDCR.
- Your work with EES involves a small amount of hours and would occur outside of your County hours of employment.

However, please note that certain **limitations will apply**:

- EES cannot have any business relationship with County vendors who are engaged in MDCR projects or are reasonably anticipated to engage in MDCR projects.
- Employees or agents of EES will not apply for, nor be issued, permits in the County. See RQO 08-29, RQO 08-45, and INQ 16-234.
- You may not personally apply for permits relating to any work that EES may perform in Miami-Dade County, municipalities or other counties because these activities would normally be performed during regular business hours and would likely create a conflict between your private interests and your work duties for the County. See Miami-Dade Code §2-11.1(j).
- You may not use County time or resources in the furtherance of your outside employment. See, Miami-Dade Code § 2-11.1(g).
- You are prohibited from using any confidential information acquired as a result of your County employment to derive a personal benefit. See Miami-Dade Code § 2-11.1(h); and
- You cannot represent EES or any of its clients in any matter before the County. See Miami-Dade Code § 2-11.1(m)

Furthermore, we remind you that all county employees engaged in outside employment must obtain permission to engage in that employment on a **yearly** basis. Miami-Dade Code § 2-11, Administrative Procedure 7-1, and Procedure 403. Full-time County employees are also required to file an Outside Employment Statement on a **yearly** basis. See Miami-Dade Code § 2-11.1(k)(2).

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

Sincerely,

RADIA TURAY

Staff Attorney
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 350-0601
Fax: (305) 579-0273
Ethics.miamidade.gov

From: Roa, Edgar (MDCR)
Sent: Monday, May 01, 2017 11:34 AM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: RE: Outside Employment

Good morning Mrs. Turay,

Please find responses to the questions you requested,

- 1) Please describe the job responsibilities that you will have as president/qualifier of Ertech Engineering Services, Inc (EES)? To be sure that any job performed is as per National Electrical Code (NEC) and Local codes.
- 2) Please indicate for whom EEC will provide services (I.e. county vendor/contractors; the county; municipalities; private individuals)? We provide services for private individuals only.
- 3) Please provide the name of any county vendor or contractor that EEC will perform work for? None
- 4) Does the county vendor of contractor that EEC performs work for have a contract with MDCR? None - N/A
- 5) Would EEC be servicing that county vendor or contractors contract with MDCR? No, we don't service contractors.
- 6) Would EEC compete for any County contracts? No
- 7) Would you interact with the same government employees/ department in your outside employment as you would in your position at the County? No
- 8) Do you work in a position with the County that you have the opportunity to recruit vendors, contractors, bidders, or members of the public to use your outside employment products or services? No
- 9) Do you need a license to perform the work you do for the County? Yes
- 10) Does the County pay for that license? No
- 11) Would you use the same license in your outside employment? No
- 12) Please provide a telephone number at which I can reach you: (786) 412-9934

Sincerely

Edgar Roa
Electrician
Metro West Detention Center
(786) 2636-4040

From: Turay, Radia (COE)
Sent: Thursday, April 27, 2017 11:02 AM
To: Roa, Edgar (MDCR)
Subject: Outside Employment

Hello Mr. Roa,

My name is Radia Turay. I am a staff attorney at the Miami-Dade Commission on Ethics. I was assigned to review your request for outside employment to determine whether it presents any conflicts of interest with the County Ethics Code. Please provide responses to the following questions:

- 1) Please describe the job responsibilities that you will have as president/qualifier of Ertech Engineering Services, Inc (EES)?
- 2) Please indicate for whom EEC will provide services (i.e. county vendor/contractors; the county; municipalities; private individuals)?
- 3) Please provide the name of any county vendor or contractor that EEC will perform work for?
- 4) Does the county vendor of contractor that EEC performs work for have a contract with MDCR?
- 5) Would EEC be servicing that county vendor or contractors contract with MDCR?
- 6) Would EEC compete for any County contracts?
- 7) Would you interact with the same government employees/ department in your outside employment as you would in your position at the County?
- 8) Do you work in a position with the County that you have the opportunity to recruit vendors, contractors, bidders, or members of the public to use your outside employment products or services?
- 9) Do you need a license to perform the work you do for the County?
- 10) Does the County pay for that license?
- 11) Would you use the same license in your outside employment?
- 12) Please provide a telephone number at which I can reach you

Thanks for your anticipated cooperation with this matter.

Sincerely,

RADIA TURAY

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

19 W. Flagler Street, Suite 820

Miami, FL 33130

Tel: (305) 350-0601

Fax: (305) 579-0273

Ethics.miamidade.gov