

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, May 10, 2017 2:17 PM
To: Sanchez, Rodzandra (COE)
Subject: James Zuniga, Trade Superintendent, Miami-Dade Corrections and Rehabilitation Department (outside employment) INQ 17-137

[INQ 17-137 Zuniga](#)

From: Turay, Radia (COE)
Sent: Tuesday, May 09, 2017 4:06 PM
To: Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>
Cc: Perez, Martha D. (COE) <perezmd@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 17-137, James Zuniga, Trade Superintendent, Miami-Dade Corrections and Rehabilitation Department (outside employment)

From: Turay, Radia (COE)
Sent: Tuesday, May 09, 2017 4:05 PM
To: Zuniga, James (MDCR) <James.Zuniga@miamidade.gov>
Cc: Kirkland, Tina (MDCR) <Tina.Kirkland@miamidade.gov>; Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: RE: Outside employment

Dear Mr. Zuniga,

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 Trade Superintendent. Your County job duties include planning, assigning and reviewing the work of journeyman electricians and skilled and unskilled trades helpers engaged in the installation, alteration, maintenance, and repair of electrical systems and equipment; laying out and explaining jobs to be done; recommending working procedures and instructing subordinates in new techniques; providing on-site supervision and inspecting completed work for satisfactory performance of installed or repaired equipment and adherence to applicable electrical codes and regulations. Your County job requires that you have a contractor's license as a master electrician which is paid for by the County, but you will not use the license in your outside employment.

You are seeking to engage in outside employment as the owner of Infinity Plus Electric Inc (IPE). In your role as an owner you will perform customer service and administrative work, including completing regulatory requirements such as licenses and bookkeeping. You have represented to the COE that you are the sole employee of IPE; that IPE does not do any work; and that you are keeping the company active so as to maintain your license.

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 creates 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 and 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:

- IPE does not contract and is not seeking to contract with MDCR.
- Your public duties and job functions at MDCR include planning, assigning and reviewing the work of journeyman electricians and skilled and unskilled trade helpers engaged in the installation, alteration, maintenance, and repair of electrical systems and equipment, and you will not perform such work in your outside employment.
- You have represented that IPE does not do any work and you maintain the company simply to keep your license active, 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 IPE involves a small amount of hours and would occur outside of your County hours of employment.

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

- IPE cannot have any business relationship with County vendors who are engaged in MDCR projects or are reasonably anticipated to engage in M projects.
- Employees or agents of IPE 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 IPE 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 IPE 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: Zuniga, James (MDCR)
Sent: Thursday, April 27, 2017 1:46 PM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: RE: Outside employment

Have a wonderful day!

James Zuñiga,
C&R Trade Superintendent
Miami-Dade Corrections and Rehabilitation Department
Facilities Management Bureau
1351 NW 78 Avenue
Miami FL 33126
Office: (786) 263-6414
Fax: (786) 263-6449
jjuniga@miamidade.gov
"Delivering Excellence Every Day"
"The only difference between try and triumph is a little umph."

From: Turay, Radia (COE)
Sent: Thursday, April 27, 2017 11:45 AM
To: Zuniga, James (MDCR)
Subject: Outside employment

Hello Mr. Zuniga,

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 owner of Infinity Plus Electric Inc. (IPE)?
Customer service and administrative work often includes completing regulatory requirements, such as licensees and book keeping.
Not doing any work, just maintaining license.
- 2) Please indicate for whom IPE will provide services (I.e. county vendor/contractors; the county; municipalities; private individuals)?
Not doing any work, just maintaining license.

- 3) Please provide the name of any county vendor or contractor that IPE will perform work for?
None// Not doing any work, just maintaining license.
- 4) Does the county vendor of contractor that IPE performs work for have a contract with MDCR?
- 5) Would IPE be servicing that county vendor or contractors contract with MDCR?
NO
- 6) Would IPE 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?
yes
- 11) Would you use the same license in your outside employment?
No
- 12) Please provide a telephone number at which I can reach you
7869853032 Cell
7862636414 Office

Thanks for your anticipated cooperation with this matter.

Sincerely,

RADIA TURAY

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