

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, August 23, 2017 11:42 AM
To: Sanchez, Rodzandra (COE)
Subject: , Roberto Alvarez, Welder, DSWM (outside employment) INQ 17-211

INQ 17-211 Alvarez

From: Turay, Radia (COE)
Sent: Tuesday, August 22, 2017 5:07 PM
To: Marlow, Myra (DSWM) <Myra.Marlow@miamidade.gov>; 'alvarez1126@gmail.com' <alvarez1126@gmail.com>
Cc: Sifontes, Michelle (DSWM) <Michelle.Sifontes@miamidade.gov>; Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: INQ 17-211, Roberto Alvarez, Welder, DSWM (outside employment)

Dear Mr. Alvarez,

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 County Department of Solid Waste Management (DSWM), as a welder. Your County job duties include building, repair and fabrication of DSWM facilities. You have a welding certificate which was not paid for by the County.

You are seeking to engage in outside employment as the owner of company named General Welder (GW). In your role as an owner, your job responsibilities will include fabrication or repairs for any item such as metal fences, pipes, and machinery. You have represented to the COE that you will not provide services for any entity that has a contract with DSWM.

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.

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:

- GW does not contract with and is not seeking to contract with DSWM.
- GW does not perform any work for any County vendor or contractor that contracts with DSWM
- In your outside employment you will perform work for private individuals, 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 DSWM.

- In your position with the County, you do not have the opportunity to recruit vendors, contractors, bidders or members of the public to use your outside employment products or services.
- You will not use the same resources/tools/parts in your outside employment as you do while on your County job.
- You do not need to pull any permits for the work that you will be performing in your outside employment.
- Your outside employment would occur outside of your County hours of employment.

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

- GW cannot have any business relationship with County vendors who are engaged in DSWM projects or are reasonably anticipated to engage in DSWM projects.
- 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 GW 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
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From: Marlow, Myra (DSWM)
Sent: Tuesday, August 22, 2017 7:57 AM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Cc: Sifontes, Michelle (DSWM) <Michelle.Sifontes@miamidade.gov>
Subject: FW: Outside employment

Good morning Ms. Turay. Please see below response received from employee, Roberto Alvarez (Welder for DSWM), regarding his outside employment. Thank you

From: Roberto Alvarez [<mailto:alvarez1126@gmail.com>]
Sent: Monday, August 21, 2017 9:07 PM
To: Marlow, Myra (DSWM) <Myra.Marlow@miamidade.gov>
Cc: alvarez1126@gmail.com
Subject: Re: Outside employment

Good Morning Myra,

I am writing in response to Radia Turay's request for additional information on outside employment. These are the answers to the questions asked:

- Please describe the job responsibilities that you will have as owner of "General Welder"
 - Fabrication or Repairs for any item such as metals fences, pipes, machinery..etc.
- Please indicate for whom you will provide services (i.e. county vendor, the county, municipalities, private individuals)
 - private individuals
- Please provide the name of any county vendor or contractor that you will perform work for through your company
 - Valentini ice cream
- Does the county vendor or contractor that you will perform work for have a contract with DSWM?
 - No
- Would you be servicing that county vendor or contractors contracted with DSWM?
 - No
- Would your company compete for any county contracts?
 - No
- Would you interact with the same government employees/department in your outside employment as you would in your position at the county?
 - No
- 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
- Do you use the same resources/tools/parts in your outside employment as you do while on your county job?
 - No

Thank you for your time and If you could please forward this to Radia since I do not have her email. Please let me know you if you need anything else.

Sincerely,
Roberto Alvarez