

205-34

Prkic, Christina (COE)

From: Prkic, Christina (COE)
Sent: Wednesday, March 09, 2005 6:22 PM
To: 'jsccsm@hotmail.com'
Cc: Calderon, Cristina (Seaport)
Subject: Ethics question

Dear Mr. Calderon:

You requested an opinion pertaining to any possible conflicts as they relate to a company that is being incorporated by you and your spouse. The company, an engineering firm, plans to seek certification through the County's CSBE and DBD programs in order to contract with the County, particularly with the Public Works Department. You indicate that your wife, Cristina Calderon, works as a Property Manager with the Seaport. She will have a fifty-one percent (51%) ownership interest in the company, but she will not be involved in the daily management or administration of the company. You are not a County employee.

The Code of Ethics neither prohibits you and the company from obtaining certification with the County in order to contract with the County, nor does it prohibit Cristina from having an ownership interest and engaging in outside employment with the company. As you indicate, your engineering company will be seeking to contract primarily with the Public Works Department. Firstly, Section 2-11.1 (c)(2) provides,

Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee...from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County as long as 1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, 2) the employee has not participated in determining the subject contract awards or awarding the contract, and 3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including but not limited to its enforcement, oversight, administration, amendment, extension, termination or forbearance. However this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County if the employee works in the County department which will enforce, oversee or administer the subject contract.

Secondly, Section 2-11.1 (j) "Conflicting employment prohibited" provides,
No person included in the terms defined in subsections (b) (1) through (6) shall accept other employment which would impair his or her independence of judgment in the performance of his or her public duties.

As you've indicated, Cristina's job responsibilities at the Seaport do not appear to conflict with her future responsibilities and activities with the company. Therefore, there is no legal conflict for her to work with the company or for the company to seek certification through the County's various business programs, and accordingly, contract with Miami-Dade County. However, the company may not contract with the Seaport or with any other County entity where Cristina's job responsibilities will require her to be involved in the contract in any way.

In addition, Cristina must obtain permission from her department director before engaging in any outside employment. In accordance with Section 2-11.1 (k), she must report the outside employment and file the required disclosure forms by July 1st of each year with the Department of Elections.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Should you have any additional questions, please do not hesitate to contact me at the number below.

Sincerely Yours,

Christina Prkic
Staff Attorney
Miami-Dade County Commission on Ethics and Public Trust
P: (305) 350-0615