



Miami-Dade Commission on Ethics & Public Trust

Investigative Report

Investigator: Karl Ross

Case PI 16-034	Case Name: G-T Construction	<u>Date Open:</u>	<u>Date Closed:</u>
Complainant(s):	Subject(s): Ralph Garcia-Toledo, et al.	July 12, 2016	CASE CLOSED

Date: 5/15/2017

Allegation(s):

Based on news reports and other information, a preliminary inquiry was opened to look into whether Ralph Garcia-Toledo, an ally and political fundraiser for Miami-Dade Mayor Carlos Gimenez, engaged in unregistered lobbying on behalf of clients seeking business with Miami-Dade County, and whether exploitation of a public office was involved on the part of the mayor or his administration in awarding contracts to firms affiliated with Mr. Garcia-Toledo.

In particular, it was alleged or suggested that Garcia-Toledo lobbied Mayor Gimenez and other County agency heads on behalf of prospective or presumed clients, including but not limited to the engineering firm CH2M Hill and the Norwegian firm Cambi Inc.

It should further be noted that in 2014, CH2M Hill obtained a \$139 million consulting deal with the Miami-Dade Water and Sewer Department ("WASD"), and that an attorney for CH2M Hill stated the company would not release a copy of its subcontractor agreement with Garcia-Toledo's firm, G-T Construction Group, citing "trade secrets" to shield the information.

The latter scenario raises questions about a possible improper contingency fee agreement, which prohibits the payment of a percentage of a contract in exchange for successfully lobbying public officials in connection with the contract in question.

Subsequent questions were raised about whether lobbyists employed by LSN Partners may have had a similar agreement with Cambi as it relates to pending WASD projects.

Relevant Ordinances:

Miami-Dade County Code, Sec. 2-11.1(g), Exploitation of official position prohibited, stating in applicable part that no person ... "shall use or attempt to use his official position to secure special privileges or exemptions for himself or others."

Miami-Dade County Code, Sec. 2-11.1(s), titled *Lobbying*, which states in applicable part that: "All lobbyists shall register with the Clerk of the Board of County Commissioners within three (3) business days of being retained as a lobbyist or before engaging in any lobbying activities, whichever shall come first."

The ethics code further states in Subsection (S)(7) that "No person may, in whole or in part, pay, give or agree to pay or give a contingency fee to another person. No person may, in whole or in part, receive or agree to receive a contingency fee."

"As used herein, "contingency fee" means a fee, bonus, commission, or nonmonetary benefit as compensation which is dependent on the passage, defeat, or modification of ..."

Investigation:

Interviews

Lester Sola, director
Miami-Dade Water and Sewer Department

Director Sola was contacted by telephone to discuss any interactions with Garcia-Toledo. He advised that Garcia-Toledo did attend meetings with WASD staff, including a meeting requested on behalf of Cambi regarding a wastewater treatment contract. "He hasn't done much talking," Sola said. "He comes with other company officials." He said lobbyist Alex Heckler was present at those meetings, as well, on behalf of Cambi. He said Hardeep Anand, is the program manager for the contract.

Source of Information #1

During a meeting at COE offices, the Source of Information ("SOI") advised that at about the time the Ocean Outfall Legislation Project ("OOLP") contract was announced and engineering firms were putting together their respective teams, Mathew Alvarez of CH2M Hill allegedly "complained" that his firm "was not getting enough traction at the County" and that, after word of this got around, "he was approached by Garcia-Toledo."

The SOI said Garcia-Toledo wanted to be included on CH2M Hill's team, but asked for "a large percentage" of CH2M Hill's gross billings as part of the "teaming agreements." The SOI described GT Construction as a "pass-through" company, a "fake company to justify billing" the contractor for work of a routine or questionable nature. He estimated that Garcia-Toledo was receiving between 6-8 percent of the total contract, or \$7- \$10 million.

The SOI further alleged that Garcia-Toledo was “clearly lobbying” WASD staff on behalf of Cambi, a Norwegian firm seeking a contract for processing sewage sludge at the South District Wastewater Treatment Plant (“SDWWTP”). SOI provided a copy of a study prepared by a WASD consultant concluding that Cambi’s proposed technology was not cost-effective. He said Garcia-Toledo had been seeking to persuade WASD staff to disregard the study. The SOI suggested speaking with Manny Moncholi, assistant director at WASD.

The SOI stated that Mark Blancher, regional manager for AECOM, was at a meeting in which Toledo allegedly told WASD staff: “We need you to change your opinion” about the viability of Cambi’s technology and sought a third opinion on the matter since he disagreed with the findings of the October 2015 study by WASD consultants.

The SOI noted that Cambi retained the lobbyist firm LSN Partners, which includes Alex Heckler and Marcelo Llorente, whom he said were cousins with Mayor Gimenez’s chief of staff, Alex Ferro. He noted Garcia-Toledo is only registered to lobby on behalf of his own firm, and not any of his purported consulting clients such as CH2M Hill and Cambi.

Alex Annunziato, former Legislative Director
Miami-Dade County Comm. Esteban Bovo

Mr. Annunziato recounted his observations relating to Garcia-Toledo and a series of private meetings he sat in on relating to the proposed acquisition of the CSX Corridor right-of-way land. He said that Comm. Bovo wanted to meet with business leaders about the proposal and noted that developer Armando Codina was especially enthusiastic and even hosted a meeting at a hotel in the Brickell area. (He said Codina is the largest shareholder of Florida East Coast Railroad.) He said Miami Herald reporter Douglas Hanks was at the meeting. He said Codina wanted a follow-up, closed-door meeting “with people who could get that done.”

He said that Garcia-Toledo showed up at the meeting, despite not being included in the list of invitees. “I had no idea why he was there ... or what his purpose was for being there.”

He said he could not recall Garcia-Toledo saying much, if anything. “If he did say anything, it was pleasantries.”

Mr. Annunziato said he later followed up with CSX executive Bob O’Malley, who this time called a meeting at Codina’s Doral offices. He said that O’Malley provided a price range for the proposed acquisition of the right-of-way properties, but that it was “high,” in the vicinity of \$400 million, and that the proposal did not gain momentum afterwards.

With respect to Garcia-Toledo’s involvement in the process, Annunziato said: “Did I think it was strange? Yes. But I’m not the one advising the mayor.”

Al Dotson, Attorney for CH2M Hill
Bilzin Sumberg – Miami

Mr. Dotson responded to a request for information from COE, and followed up after submitting a copy of the un-redacted version of the sub-consulting agreement.

A request was made to interview a representative of CH2M Hill about the nature of the agreement with Garcia Toledo, noting that the percentage would seem to exceed what most, if not all, of the other sub-consultants were receiving.

He stated that he would arrange an interview with a CH2M Hill representative, and added that CH2M Hill felt "very confident" that the payments were not excessive or inappropriate based on the "size and scope" of the subject's involvement.

Manuel Moncholi, Assistant Director
Miami-Dade Water and Sewer Department

Mr. Moncholi agreed to a voluntary interview at WASD Conference room to discuss issues relating to the agency's efforts to overhaul and improve its Central and South District wastewater treatment plants. At issue was whether Ralph Garcia-Toledo of GT Construction acted as an unregistered lobbyist on behalf of Cambi Inc.

After showing Mr. Moncholi a photograph of Garcia-Toledo appearing in the *Miami Herald*, Moncholi advised that: "In my experience with him, in some instances, he has been involved in lobbying ... but he doesn't call it that." He said that with respect to these instances, the alleged lobbying concerned the interests of Cambi, a Norwegian tech firm.

"When he was pushing Cambi, it was about our Central District Waste Water Treatment Plant, (CDWWTP)" Moncholi said, noting Cambi wanted its technology to be compatible with a pending solicitation for a design-build agreement for a sludge treatment and dewatering facility.

Moncholi stated that his recommendation on the technology would likely prove pivotal since he was the agency's top expert on bio solids, such as those treated at the plants.

Moncholi said that he did not have any issues with the thermal hydrolysis technology itself, but said he felt Cambi's claims about the potential savings to the County as a result of its inclusion were overblown. He said that, in his opinion and that of WASD's outside technical advisors, the use of thermal hydrolysis would not be cost-effective at the CDWWTP.

Moncholi stated Garcia-Toledo's attempts to "push" the technology and approach to wastewater treatment offered by Cambi went beyond espousing the merits of the technology. He noted Garcia-Toledo was not, in his view, a technical person. "When you're pushing a technical project on non-technical terms, that's when I consider it to be lobbying. ... It was more pushing that they (Cambi) were going to make their way in there one way or another. It was not just a technical push. It was a political push as well."

Moncholi noted that the pressure to come around to Cambi's position on its alleged cost savings and benefits of its technology reached the point that he commissioned technical reviews by two outside consultants – the first by AECOM, the second by CH2M Hill. He said that CH2M Hill later distanced itself from Garcia-Toledo's advocacy for Cambi.

He explained that Garcia-Toledo lobbied him during at least two meetings, possibly three meetings, during mid- to late 2016 and that Garcia-Toledo accompanied Alex Heckler, who is a registered lobbyist for Cambi. He said that during these meetings, Garcia-Toledo would pull him aside and during these "side-bar" conversations, Garcia-Toledo would insinuate Cambi had considerable political clout at County Hall, adding: "I don't even mean vaguely ... He was quite clear that there was a political thrust behind it" and that he should acquiesce.

He said he received text messages from Garcia Toledo, as well. He showed one such message to COE and allowed a photo to be taken. He said that other text messages from Garcia-Toledo were received on a cell phone he has that no longer works. He said he would retrieve any emails since the text in question referenced an email that Garcia-Toledo sent to him.

Moncholi said he is presently acting Assistant Director of Wastewater but previously served as a Senior Project Manager for Capital Improvements. "I'm pretty much the last word on the technical side," he said, noting that it was important for Cambi to gain his approval for the inclusion of its technology in the pending RFP to upgrade the sewage plants.

"On a cost-basis, their claims were overblown," he said. He added Cambi was trying to get WASD to buy their technology outright -- a contract potentially worth \$50 to \$70 million -- but that since then, they have been vying to participate going forward under a public-private venture that could yield revenues of \$200 to \$400 million over the next 20 years. He noted that under some scenarios, Cambi could distribute and sell the end-product as fertilizer. He said that at the time of his interactions with Garcia-Toledo, there was a "pending solicitation" for thickening and dewatering at both the CDWWTP and SDWWTP. He said that WASD had released a "draft RFQ" for bio solids processing and was seeking comment.

Moncholi said he did not believe Garcia-Toledo was lobbying any other WASD officials as aggressively as he was being "pushed" because "I was the key person." He said Garcia-Toledo may have interacted with Bob Fergen, chief of treatment, or members of the Consent Decree Team, led by the engineering firm AECOM, and who are considered "extensions of staff."

Moncholi said he complained about Garcia-Toledo's alleged lobbying to his supervisor, Antonio "Tony" Cotorello, the Deputy Director for Operations and Maintenance. He said he may have also mentioned the lobbying to Hardeep Anand, a colleague at WASD and deputy director for the Capital Improvements Program, or CIP.

With respect to Toledo, he said; "His behavior was a little over the top ... One day I asked him, 'Are you lobbying for them (Cambi)?' And he said, 'Oh no, I'm not a lobbyist.'" Moncholi said Garcia-Toledo seemed offended by the question about being a lobbyist and strongly protested his asking. "I don't know why he took offense to that." He said this happened on or about June 14, 2016, the date he received the text messages from Garcia-Toledo. He said Garcia-Toledo's

visceral reaction to the question about whether he was a lobbyist surprised him because he felt it was very apparent from Garcia-Toledo's actions to that point that he was a lobbyist.

Moncholi noted CH2M Hill has two contracts with WASD – to oversee improvements to the South Dade Waste Water Treatment Plant (SDWWT), and as consultants on the Ocean Outfall Legislative Program (OOLP), adding that each contract has a different scope.

Moncholi said that, in his opinion, Cambi's technology could be appropriate and cost-effective for the SDWWT project, but less so for the CDWWTP. He said they may alter the draft RFQ to include the possibility of employing this technology. "They were really trying to get us to re-design one of the consent-decree projects specifically to include that technology."

During a follow-up phone conversation Moncholi stated that, as COE had requested, he spoke to WASD colleagues – in particular, Cotorello and Anand – and that neither could recall any specific interaction with Garcia-Toledo in which they felt they had been lobbied with respect to the viability of Cambi's technology.

Mathew Alvarez, VP/South Florida Area Manager for CH2M Hill
3150 SW 38 Ave., Suite 700, Miami, FL

Mr. Alvarez appeared for a voluntary statement at COE in the company of attorney Al Dotson to respond to questions about GT Construction and Ralph Garcia-Toledo. He said that, by way of background, he is a civil and environmental engineer with 18 years' experience. He said his specialty is in water treatment and he is the project manager for the Ocean Outfall Legislation Program (OOLP), a \$139 million Miami-Dade County sewage infrastructure program.

He said the OOLP went out for bid in April 2014 as a Notice to Professional Consultants, and that he was involved in putting together CH2M Hill's "teaming agreements." He said that at least three other "teams" competed against CH2M Hill for the OOLP contract. He said the aim of the program is to have no continuous discharges into Biscayne Bay by 2025. He said that by this time most of the County's sewage sludge will be disposed by deep well injection.

Mr. Alvarez said that by virtue of having been the successful respondent to the NTPC, CH2M Hill's team serves as an "extension of staff" for Miami-Dade WASD officials. He said the contract term is for six years with a renewal period of six years, for a total of 12 years. He said that CH2M Hill also has a contract, since about 2010, to Repair and Replace (R&R) faulty components of the South Dade Wastewater Treatment Plant (SDWWTP).

He said that, prior to the OOLP notice, CH2M Hill had unsuccessfully bid for participation in the Consent Decree Program and the Government Cut Program. He said that he put the team together for the OOLP program along with his then regional manager, Steve Lavender, and another colleague, Didier Mendard. He said that other team members such as those at Hazen & Sawyer, a national engineering firm, were also consulted about what local firms to invite to participate in the program. He said that CH2M Hill lobbyist Alex Heckler first suggested that CH2M Hill consider inviting Garcia-Toledo and GT Construction to form part of the team. He said GT Construction was one of a handful of local subconsultants, many of whom (but not

GT Construction) were CBE's or "Community Business Enterprises." He said that, under County procurement guidelines, 28 percent of the contract was to be awarded to CBEs.

Mr. Alvarez said Garcia-Toledo had a positive reputation and that he had heard about the "great work" he had done on major projects at MIA and the Performing Arts Center, among others. He said that CH2M Hill would be the CM or Construction Manager on the OOLP, but that the program would require additional construction managers to oversee the numerous sewage and wastewater treatment projects. He said that somebody like Garcia-Toledo who was familiar with the County's paperwork requirements could be especially useful.

He said that, with respect to the percentage awarded to GT Construction, there was a verbal agreement prior to the formal written Master Services Agreement (MSA) executed in July 2015 – about eight months after the OOLP contract was awarded to CH2M Hill. He said that prior to that a range of "just above or just below 10 percent" was discussed with GT and Garcia-Toledo. He said this was in keeping with the 5 percent to 15 percent range he said existed for the CBE's and below the 15 percent to 25 percent for larger, national firms.

"We look at their availability and resources ... the amount of ongoing work that they have. We got a pretty good feel for what level of services they could provide." When it was pointed out that GT Construction reportedly did not have any full-time employees at that time, Alvarez replied that CM firms can expand as needed and noted that GT Construction oversaw the work of "dozens of inspectors" as part of the work it did with Parsons-Odebrecht at MIA.

Alvarez said the higher-than-expected 13 percent figure was arrived at after the contract was awarded and CH2M Hill realized the need for a more sizeable construction management component to its OOLP operation. "Construction management requires a lot of people, a lot of boots on the ground," he said. "When we got into the details, we saw the scope was larger for construction management, so he had a slightly higher level of effort."

He added that GT was one of many subconsultants that had to wait and see what their final percentage was going to be until after the contract was awarded. "They all began without the MSA, and that was all at their risk." He said many of the terms of the agreements "flowed down" from the language in the main County contract. He said that the only exception was the CBEs and that specific Letters of Agreement were required to be submitted as part of the Statement of Qualifications. He noted, however, that GT Construction was a CSBE and not a CBE. He said he did not know what CSBE stood for, except that it was construction-related.

Alvarez said that all of the subs had "very preliminary" agreements by early 2014, at about the time the team was being assembled for the OOLP solicitation. He stressed that, in no way, was Garcia-Toledo expected to lobby on behalf of CH2M Hill, despite his well-publicized ties to County Mayor Carlos Gimenez as his chief political fundraiser. He said that Garcia-Toledo did participate in putting together the Statement of Qualification and did attend the August 14, 2014, presentation to WASD staff, but that he did not lobby at any time.

Asked about how many hours a week Garcia-Toledo was putting in for such a labor-intensive function, Alvarez said he wasn't sure but eventually allowed that it was between eight and twenty hours per week. Asked why so little time was being dedicated to the OOLP, he said

that many "principals" in the smaller firms worked on a less than full-time basis, but added that as the project ramped up that he anticipated that Garcia-Toledo's hours could increase.

He said that Garcia-Toledo was considered an Office Employee under the terms of the MSA, not an Owners Rep, and that therefore it was proper for him to bill at a multiplier of 2.85 for his time, and not at the lower rate of 2.4 for employees working largely in the field.

He said that he did not consider GT Construction was padding its profits by billing for overhead when CH2M Hill was provided office space ("co-locating") for GT's employees, noting that CH2M Hill was similarly providing such accommodations for other firms, including Hazen & Sawyer, its largest subconsultant. He said this is likely to change in the next 60 days and that CH2M Hill will begin to factor in the overhead costs to subs.

Asked whether GT Construction had any offices, Alvarez said he was only aware of some warehouses but that those warehouses contained office space. He said that GT and its employees work out of CH2M Hill's offices across the street from WASD on SW 38th Avenue for the OOLP contract. He said that reports that at least two of GT's employees – Alexis Facey and Natalie McCudden previously worked for CH2M Hill are untrue. He said the employees mistakenly thought they worked for CH2M Hill after joining the OOLP team, when in reality they were working for GT Construction out of CH2M Hill's project offices. "They feel like they're part of the CH2M Hill family, but, No. They were definitely contracted by GT."

Alvarez was asked about any issues that may have arisen with respect to potential conflicts of interest between CH2M Hill and members of its team working with other vendors seeking to participate in the OOLP program – especially since CH2M Hill serves as the County's "owner's rep" or extension of staff for overseeing this program. He allowed that some issues did arise with respect to Cambi and its attempts to participate in improvements to the Central and South District wastewater treatment plants (CDWWTP and SDWWTP). He said that a meeting was held at WASD and that these issues were vetted, and that, as a result of this meeting, CH2M Hill lobbyists Alex Heckler and Marcelo Llorente agreed to "withdraw their representation" of Cambi. He said he was not aware whether Garcia-Toledo had been retained by Cambi, but had heard Garcia-Toledo was "talking to" Heckler and Llorente.

"What we're aware of is that Ralph was close to it, that he was involved with Marcelo (Llorente) on Cambi ... But we had zero involvement," Alvarez added, noting that it would be a serious conflict for CH2M Hill to represent WASD staff and also prospective vendors. He said the above noted meeting occurred after WASD Assistant Director Manny Moncholi approached CH2M Hill and raised concerns about members of their team advocating for Cambi. He noted that CH2M Hill had to evaluate Cambi's technology for the SDWWTP.

"We're very transparent," Alvarez said, with respect to CH2M Hill's practices with respect to ethical concerns. He said that after the reports were published in the Herald and elsewhere about Garcia-Toledo's involvement in the OOLP that CH2M Hill reps met with the Miami-Dade Office of Inspector General to discuss any concerns raised by the reports.

With respect to Garcia-Toledo and the appearance of favoritism given his relationship with Mayor Gimenez, Alvarez stated: "Ralph was very successful in County infrastructure well

before the mayor became the mayor ... We were aware of Ralph's success well before Gimenez became the mayor," citing his work on a number of major County projects.

Attorney Al Dotson further noted Garcia-Toledo was a member of past CH2M Hill teams seeking contracts such as the Consent Decree Program that proved unsuccessful.

Paul Christy, Managing Director – North, Central, South America for Cambi

Mr. Christy advised that he did receive the email from COE earlier this week requesting information about Cambi's apparent employment of Garcia-Toledo and LSN lobbyists Alex Heckler and Marcelo Llorente. Mr. Christy said he was in the middle of preparing a major proposal, and said he would look into the matter later next week after the proposal was submitted.

Christy replied to COE questions in a March 2, 2017, email, as follows:

"I wanted to respond to your email dated February 21, 2017 as well as our recent brief conversation. I apologize for the delay in responding. As I mentioned we had a large prequalification proposal due for a large project in Canada.

Mr. Ralph Garcia-Toledo was never retained by Cambi in any capacity. Neither as a lobbyist, nor a consultant. Mr. Garcia-Toledo's proposed role was to be that of a "small business enterprise" certified local subcontractor to Cambi for construction management of a potential project that has never materialized.

He was clear from the outset that he was representing himself as G-T Construction and not Cambi. As a potential team member, he could assist to make sure we have a fair and objective review of Thermal Hydrolysis. Furthermore, he confirmed that since this potential project was not part of the Ocean Outfall Program he would not have a conflict. Finally, when it became apparent that even if the County selected the technology, the project would be much smaller than anticipated and not require his services, Mr. Garcia-Toledo was no longer involved in our project.

Unrelated to the above but in response to your questions regarding LSN, after a long due diligence we retained LSN as our consultant in September 2015 and commenced advocacy work in October 2015. LSN representatives assigned to the project sent me the paperwork to complete their lobbyist registration. They registered on Cambi's behalf in October 2015. A year later, in late September / early October 2016, we learned that CH2M Hill was selected to perform a Thermal Hydrolysis analysis. LSN immediately informed me that since CH2M Hill was a firm client, there may be a perception issue if they still represent both firms. Shortly after, in early October, LSN informed me that while not an actual conflict of interest, (conflict neither legal nor ethical) but rather a perception issue, they would withdraw from representing Cambi. LSN officially withdrew on October 13, 2016.

To be clear, there is not and has never been any engagement between Cambi and Mr. Garcia-Toledo, nor with his company. In addition, there is no subcontracting or teaming agreement since the potential project, has never progressed."

Mark Blanchard, VP and National Director for AECOM

Mr. Blanchard stated he was present for a meeting at LSN Partner's offices a little over a year ago and that Garcia-Toledo participated by phone. He said it was largely a technical meeting to discuss AECOM's findings with respect to the viability of Cambi's technology for pending waste water treatment projects (Task Order No. 10). He said AECOM had been getting some push back from Cambi over the report's findings that there would be no significant savings to WASD and the County by using Cambi's thermal hydrolysis technology at the Central District WWTP. He said that, "We met with the Cambi group because we were getting a bad rap for the report we had done." He said "we stood behind our approach" and he did not feel that Garcia-Toledo or anybody else on behalf of Cambi was trying to pressure AECOM to change its position. "It was a good conversation with my technical lead and their technical lead. But I don't recall anybody trying to pressure us to change or redact anything in the report." He said there were no WASD officials present at the meeting, only AECOM and Cambi reps.

Blanchard stated that, while Cambi's technology is a "good technology," it was his team's belief that this technology "was not applicable to every scenario." He said it was AECOM's position that WASD should either retrofit its plants or continue to rely on "digesters." He said he would be happy to make available his lead technical person to elaborate.

Alex Heckler, lobbyist for LSN Partners

Mr. Heckler appeared at COE offices for a voluntary sworn statement on April 11, 2017, to discuss the involvement of Garcia-Toledo in an effort to lobby WASD officials.

Heckler permitted COE Advocate Michael Murawski the opportunity to review his firm's engagement letter with Cambi to verify if the terms complied with the County Ethics Code. Mr. Murawski found no reference to a contingency fee (as had been alleged), nor any payments to Garcia-Toledo in connection with potential solicitations to be issued by WASD. The engagement began in approximately September 2015 and lasted one year.

Mr. Heckler advised that Garcia-Toledo was, in his view, part of the Cambi "team" and did attend meetings at WASD where officials were lobbied with respect to thermal hydrolysis. He maintains, however, that Garcia-Toledo was representing himself only.

"I invited Ralph myself. ... Did I deputize him to help Cambi? I did, for sure ... because he was going to be on the team. He wasn't lobbying on behalf of Cambi. He was lobbying on behalf of himself. He was never going to get fees. He was going to be on the team."

Heckler echoed the position of Cambi representatives – in particular Paul Christy, a managing director – that Garcia-Toledo was a prospective team member in the event that Cambi was

awarded contracts to provide services for the CDWWTP and/ or SDWWTP. He said that once it became apparent that Cambi was not going to succeed in obtaining any contracts that involved construction, Garcia-Toledo curtailed his involvement.

Heckler said he also invited Garcia-Toledo to a meeting with WASD Director Lester Sola and Mayor Carlos Gimenez. He said that, once again, Garcia-Toledo was not being compensated as a lobbyist for Cambi but had only a prospective interest.

Heckler said Garcia-Toledo is a long-time friend and suggested he is frequently misunderstood. He said it is a "misnomer" to suggest Garcia-Toledo gets work because of his relationship with Mayor Gimenez. He said Garcia-Toledo was involved with major projects – such as the Performing Arts Center and work at MIA – prior to Gimenez taking office. He said Garcia-Toledo has ample experience as a project manager and construction specialist.

Heckler advised that he was the one who suggested Matt Alvarez at CH2M Hill hire Garcia-Toledo in connection with the Ocean Outfall Legislation Program contract.

Hecker suggested that WASD Assistant Director Moncholi had a negative opinion of Garcia-Toledo because he allegedly blamed him for a lost promotion. He said Garcia-Toledo is outspoken and can be abrasive at times. "He's rough. He's a bully at times. But in my experience, he is someone who follows the rules."

Ralph Garcia-Toledo, Subject

Mr. Garcia-Toledo responded to the office of COE for a voluntary interview. He advised that he is active in the construction management field on the County and state levels, and has projects in Georgia as well. He said that he has registered as a Miami-Dade County for several years and noted that he has attended the County's required ethics training for lobbyists.

Garcia Toledo acknowledged that he has lobbied numerous County elected officials, departmental directors and others in the pursuit of his business interests. He said that he has never lobbied Mayor Carlos Gimenez, however, saying they have been friends for a long time and that Gimenez is unreceptive to any discussions regarding County business. He said that Gimenez said such topics give him what he calls "an icky feeling" and are avoided. "He's my friend. I've known him since he was a fireman. ... We can't hang out together any more" since he's become mayor. "I can't wait for him to get term-limited."

Garcia-Toledo stated that his business has taken a down-turn since Mayor Gimenez took office in 2011. He said he still speaks to him on a weekly basis, but that they mainly discuss family or matters of political interest. He said it would be "a complete waste of time" to try to talk to Mayor Gimenez about contracting and other issues. He said, for instance, that the mayor recently slashed in half a \$22 million transit contract to Parsons Brinkerhoff that his firm was involved with as a subconsultant, but noted that it was later restored to the original amount by a County commissioner. "He said he did it because it looked bad," he said.

Garcia-Toledo said the mayor was present at several meetings he attended as a lobbyist (for

his own firms, GT Construction and GT Consulting), but that he did not participate much. He said he attended a 2015 meeting with Mayor Gimenez and WASD Director Lester Sola to discuss the suitability of Cambi's technology for wastewater treatment plant projects. "At Cambi's meeting, I didn't say a damn word because I was just learning the technology."

Garcia-Toledo did state that he discussed Cambi's concerns about its technology with Assistant WASD Director Moncholi, but added that if he was viewed as pushy in those conversation it was because he was "too enthusiastic" about its potential benefits. He said that instead of treating sewage and discharging it into Biscayne Bay, with Cambi's technology (thermal hydrolysis), the same waste can be sold as fertilizer and marketed. He said that he and Moncholi have a strained relationship. He alleged Moncholi acted spitefully by asking CH2M Hill to review Cambi's technology. He claimed Moncholi did this to create a conflict for him as a member of CH2M Hill's team and to force him to disassociate with Cambi.

Garcia-Toledo said he did act as a go-between between Moncholi and Cambi's managing director, Paul Christy, but noted that he was merely forwarding Christy's emails to Moncholi. He said he copied WASD Director Sola on those emails and added: "I wasn't trying to do anything sneaky." He said he was acting on behalf of his firm as a potential subconsultant to any contract awarded to Cambi and not as a lobbyist for Cambi. He said that he never denied the fact that he was acting as a lobbyist in any of his dealings with Moncholi.

Garcia-Toledo said that numerous national firms have contacted him and asked him to lobby in Miami-Dade County on their behalf, but said he declined the engagements because he doesn't want to serve in that capacity but prefers to work as a construction manager. He said that he lobbies for his own firm because he wants to work on the projects. He said his firm has been in existence for 20 years and that he has worked on numerous highly visible projects, including the Performing Arts Center and MIA north and south terminals.

With respect to CH2M Hill's initial refusal to disclose his percentage of the Ocean Outfall Legislation Program project award, he said that was because he did not authorize the firm to provide the information. He said he felt that it was a private matter. "I didn't want it out there," he said. "... It hinders me to negotiate with other companies what my fees should be because I don't feel like it's anybody's business because it's a private company." He said that CH2M Hill was under intense pressure from its corporate office to release the information, adding that he finally "relented" and agreed to release the terms of his agreement.

Lastly, with respect to a report that two of his employees were previously employed by CH2M Hill, Garcia-Toledo denied this to be the case and said firms working for the same teams have a policy of not "poaching" each other's employees. He said he hired them independently.

Document/Audio/Video Review:

On or about July 8, 2016, COE reviewed media reports concerning the role of Garcia-Toledo in obtaining County contracts for clients, including a story in the Miami Herald by Douglas Hanks titled "Raising money for the mayor, and making money from his administration." Retrieved from the following: <http://www.miamiherald.com/news/local/community/miami-dade/article88600672.html#storylink=cpy> The story quoted former County Commissioner Katy Sorenson, a good government advocate, who said: "The optics are terrible. That's what erodes public trust. It also puts county staff in an awkward position... Because they know [Garcia-Toledo] wears the campaign hat too, and they depend on the mayor for their jobs."

Another article by Hanks dated Aug. 18, 2016, and titled "Sewer contractor could earn \$18 million over 12 years" further detailed Garcia-Toledo's involvement with the Ocean Outfall project, noting that he was slated to receive as much as 13 percent of billings. The article noted that this was by far the most of any of the eight small businesses partnering with CH2M Hill, but less than the 22 percent awarded to Hazen and Sawyer, a national engineering firm.

A July 21, 2016, anonymous email quoted the website Miami's Secret Papers, and alleged that at least two of the employees working for G-T Construction were previously employed by CH2M Hill, raising questions about whether this arrangement was a pass-through to enable Garcia-Toledo to bill a higher percentage of the contract at a significant mark-up.

The employees in question were identified as Natalie McCudden and Alexis Facey. The email quoted a *Herald* story stating that \$430,000 of the year-to-date billings of G-T Construction of \$672,000 were for "overhead and profits" as a result of a billings multiplier. The multiplier is to allow for rent and other operating costs, which G-T Construction does not appear to have since, as reported, its "staff" works out of the offices of CH2M Hill or at WASD.

On or about August 2016, COE reviewed documents relating to the South Dade Wastewater Treatment Plant, including an analysis dated Oct. 27, 2015, prepared by WASD consultants titled "Task Order No. 10, CD2.15 CDWWTP Digestion Alternatives Analysis, and Supplemental Memorandum Thermal Hydrolysis Evaluation." The analysis concluded that any savings provided by Cambi's technology for treating sewage sludge would be offset by costs from "increased process complications" and, as a result, adopting Cambi's technology – thermal hydrolysis pretreatment – would not yield "significant lifecycle cost savings."

On or about December 2016, COE reviewed lobbyist registration records on file with the Miami-Dade clerk's office and found that CH2M Hill's registered lobbyists for 2014 were Brian May, Mathew Alvarez, Todd Stockberger and Casey J. Long. No lobbying registration was found for CH2M Hill in 2015, according to the annual lobbyist report. In 2015, Garcia-Toledo was registered to lobby on behalf of the Miami-Dade County Fair & Exposition.

The review for 2015 lobbying filings further showed that Garcia-Toledo was registered only to represent his own firm, GT Consulting Services. The reports also showed that Cambi Inc. was represented by lobbyists Alex Heckler and Marcelo Llorente.

According to records on file with the Miami-Dade County Clerk's Office, Mr. Garcia-Toledo was registered on behalf of his firm, G-T Construction Group Inc., for calendar year 2016.

COE Community Outreach Coordinator Robert Thompson reviewed lobbyist training records and advised that Garcia-Toledo did take the required training between 2013 and 2016.

On Jan. 16, 2017, COE reviewed payroll records – invoices, weekly timesheets – submitted by GT Construction to CH2M Hill, showing work being performed by Garcia-Toledo and an assistant, Maria Ruiz Herrera, dating back to Nov. 3, 2014. This activity coincides with the awarding of the original contract on Oct. 21, 2014, and pre-dates the subconsulting or Master Services Agreement between CH2M Hill and GT Construction by eight months.

These payroll records indicate that a *de facto* agreement existed between CH2M Hill and GT Construction prior to the execution of the subconsulting agreement on July 8, 2015 – contrary to what was stated to COE by legal counsel for CH2M Hill back on Sept. 19, 2016. The records show that Garcia-Toledo worked part-time – less than 20 hours most weeks – while his assistant worked close to full-time most during the period of review.

Conclusion(s):

Based on the foregoing, it would appear that no probable cause exists to file a complaint for unregistered lobbying or any other violation of the County ethics code in this matter.

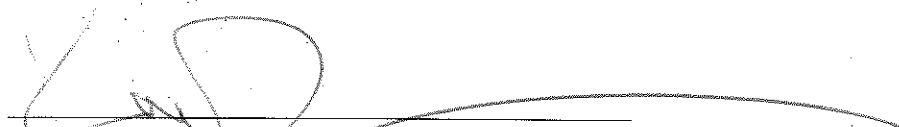
While it may have appeared Mr. Garcia-Toledo was lobbying on behalf of Cambi Inc., in his dealings with WASD officials, Mr. Garcia-Toledo did not have a formal engagement with Cambi, but rather a less formal understanding that his firm would form part of Cambi's project "team" should it succeed in obtaining a contract or contracts to process sewage sludge.

A review of lobbyist registration records on file with the Miami-Dade Clerk's Office shows Mr. Garcia-Toledo was registered to lobby on behalf of his own firms – G-T Consulting and G-T Construction – during the period in question, late 2015 and early- to mid-2016.


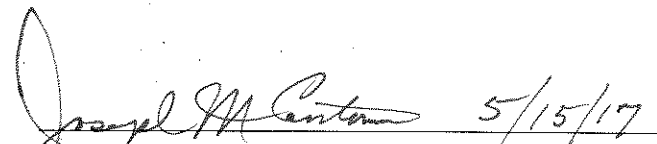
The investigation similarly did not yield any information suggesting Miami-Dade Mayor Carlos Gimenez exploited his position on behalf of Garcia-Toledo or his associates.

It was agreed in discussions this investigator has had with the Executive Director and Advocate that there is no doubt that the circumstances revealed by this inquiry could be considered damaging to the public's trust in County government. Any time that there is a connection, real or perceived, between the County's decision-making process on major procurement matters and the political fundraising activities of a lobbyist involved in that process, the public trust is damaged. The adoption of stricter rules prohibiting the commingling of those activities, such as those adopted in the City of Miami Beach, could at least reduce the damage caused by that perception.

The preliminary inquiry should be closed at this time.


Karl Ross, COE Investigator

Approved by:


Michael Murawski, Advocate 5/15/17
Joseph Centorino, Executive Director