



**Miami-Dade Commission on Ethics & Public Trust**

**Report of Investigation**

**Investigator:** Sylvia Batista

<b>Case:</b> K 17-07	<b>Case Name:</b>	<b>Date Open:</b>	<b>Date Closed:</b>
<b>Complainant(s):</b> Anonymous,	<b>Subject(s):</b> Maricela Fuentes and Jose Cueto.	02/01/17	

**CASE  
CLOSED**

Date: 10/12/17

**Allegation(s):**

On 01/31/17 an anonymous caller contacted the COE and informed that two individuals who worked for two county vendors currently doing business with Miami-Dade Water and Sewer Department (WASD) were recently hired as assistant directors for WASD. The employees are Jose Cueto (Cueto), whose former employer was developer Hazen & Sawyer, and Maricela Fuentes (Fuentes), formerly with AECOM. Cueto was hired as Assistant Director for WASD Planning and Regulatory Compliance, and Fuentes was hired as Assistant Director for WASD Capital Projects.

The source of the information explained that Fuentes was hired to manage a Consent Decree involving her former employer AECOM and WASD. The Consent Decree is now one of the capital programs that Fuentes is responsible for in her present position as Assistant Director for WASD Capital Projects. The Consent Decree was Fuentes's responsibility while she was at AECOM.

Furthermore, the source advised that she is not certain whether Cueto is dealing with his former employer, Hazen & Sawyer, in his present position with the County. Fuentes and Cueto were both hired by Hardeep Anand who was recently hired as Deputy Director of the Capital Improvement Program.

An inquiry was initiated by the COE to determine what, if any, violation of the Conflict of Interest and Code of Ethics Ordinance may have been committed.

**Relevant Law:**

Conflict of Interest and Code of Ethics Ordinance, Section 2-11.1(x) *Prohibition on County employees and departmental personnel performing contract-related duties.*

“No person included in subsections (b)(5) [departmental personnel] and (b)(6) [employees], who was previously employed by or held a controlling financial interest in a for-profit firm, partnership or other business entity shall, for a period of two years following termination of his or her prior relationship with the business entity, perform any County contract-related duties regarding the business entity...”

**Investigation:**

***Interviews:***

**02/24/17 – Hardeep Anand, WASD Deputy Director, Capital Improvement Program –**

Hardeep Anand (Anand) hired Fuentes and Cueto. Anand was contacted and interviewed in connection with the hiring. Anand explained that Fuentes was hired as assistant director of Capital Program Management at WASD. Fuentes’s prior employer, AECOM, is a consultant for the county. Fuentes worked for AECOM as a program manager for the Consent Decree, one of five capital improvement programs which she will be working on at the county. The Consent Decree is an agreement between the EPA and the county. It is a 15-year program worth 1.6 billion dollars.

Anand said that decisions regarding the Consent Decree are made in a coordinated team environment and not by Fuentes alone. The Consent Decree’s senior program manager is Dan Edwards (Edwards). Edwards was assigned and is dedicated to manage the Consent Decree. If there are issues with the Consent Decree, Edwards goes to Fuentes, but the day-to-day is handled by Edwards.

Anand explained that there are monthly focus group meetings regarding the Consent Decree where the AECOM group and the county employees from the Capital Program Management Division meet. Anand stated that never does Fuentes meet alone with members of the AECOM group.

Anand explained that Cueto was hired as Assistant Director of Planning and Regulatory Compliance. Cueto was previously employed by Hazen & Sawyer. Anand said that he hired Cueto to shadow the present Assistant Director of Planning & Regulatory Compliance, Bertha Goldenberg, who will retire this year. Cueto’s former employer does not have anything to do with the activities that Cueto will perform in his county position. Cueto may have contact, but not direct contact, with his former employer. The contract between the county and Hazen & Sawyer is managed by another group. Cueto will not work directly with his former employer.

Anand stated that every financial authorization goes up through the chain of command.

**03/13/17 – Daniel J. Edwards, Sr. Program Manager Consent Decree Program – WASD**

Edwards was advised as to the subject of the inquiry. Edwards explained the transition of people in

charge of the Consent Decree at AECOM, which includes Fuentes.

Edwards said that David Haywood (Haywood) worked with Fuentes at AECOM. Haywood was in charge of the Consent Decree. Haywood left AECOM and David Wood (Wood) became the head program manager construction manager (PMCM) of the project related to the Consent Decree. When Haywood was in charge, Fuentes was promoted to 2nd in charge (Deputy Program Manager). Edwards said that when Haywood left, AECOM was looking for a replacement. Fuentes filled in during that time. Fuentes was vying for the position, but they hired Wood.

Edwards explained that AECOM is made up of several firms. Fuentes worked for Earth Tech when they merged with AECOM. The Planning section needed more staffing to keep up with the project. This was 12 years ago. The need was filled and they did not need her. After that Earth Tech became part of AECOM.

Edwards said that he doesn't know what the pool of applicants was for the Assistant Director position for WASD Capital Projects. Fuentes of course applied for the position and was hired. Edwards said that he doesn't know how she found out about it. Edwards said that he wasn't aware that they had advertised for the position and did not apply, although he was next in line for it.

Edwards said that he is basically Wood's counterpart. Not all decisions end with him. Edwards said that he reviews the programs and evaluates the services being provided. He assesses whether WASD is getting their money's worth. AECOM's activities under program management are watching the budget, managing resources, and observing compliance. AECOM also performs construction management which involves watching the construction projects. Edwards said that his job is to make sure that AECOM is doing its job. If he feels that AECOM should be doing something more and AECOM has a different opinion, it is out of his hands. If they don't agree with his assessment, they go to Director Lester Sola, Hardeep Anand, or Fuentes, anyone who is above him in the chain of command.

Edwards said that he and Fuentes had a discussion over concerns about the situation of her meeting with AECOM to negotiate. Even before he voiced his concerns, she said that she wouldn't be meeting with them without his knowing about it. Fuentes would just let him know about the meeting and would meet without his being present.

Edward explained that whenever he and AECOM disagree and he cannot resolve it, his course of action is to go to Fuentes. Whenever he is getting resistance from AECOM, he copies his supervisor (Fuentes) with the e-mails. They had a meeting with AECOM and Fuentes was there. Present at the meeting were Fuentes, Wood, a safety officer, and himself.

Issues with AECOM are matters of interpretation of the contract when AECOM disagrees. There are other companies doing similar work and acting in that capacity. If they cannot get AECOM to go along, Anand could deal with it, or the attorneys from the CAO. It isn't uncommon to get their advice on issues.

Edwards explained that after the project is awarded it gets a task authorization form which is a proposal that he has to approve and from there it goes to Fuentes.

Edwards said that there was a meeting with Anand and the person that does modeling for AECOM where there was a discussion for AECOM to do additional work. Modeling the system is a task. It was a circumstance that came up and no final agreement was reached. It was a planning meeting that happened. AECOM was there because they have a modeling assignment related to planning. This

will boil down to the conclusion that AECOM has reached its goal projection-wise. The WASD does not want AECOM to exceed what is projected. AECOM wants more work and compensation, and the decision to grant them more is over his head. Edwards said that he is negotiating with them for additional work and they feel it's too much if all else stays the same. AECOM feels that payment under their original agreement was too low and they are requesting more money. Edwards said that his responsibility is to handle all of the problems with AECOM, but some things must go up the chain of command to Fuentes.

Edwards described the Consent Decree program section. It was just him in the section for a while. His staff consisted of the people from AECOM. They perform the job that WASD would normally do, but they had to outsource it. Edwards said that he was requesting several positions to work in the Consent Decree Division. Anand came in and asked him to reevaluate. There is one agreement and all the services fall under it such as program management, design management for waste water treatment plants, design management for the collecting system and pump stations, and construction management for all projects. Modeling is part of the evaluating system for design purposes. The tasks are to be done by AECOM. Things come up to do a pilot study, do the work and it is done. It became like this because of the Consent Decree.

Edwards said that the position filled by Cueto does not conflict in this manner with the work he performed for his previous employer, Hazen & Sawyer.

**06/05/17 – Piedad Bayona, Administrative Secretary for Maricela Fuentes –**

Piedad Bayona (Bayona) was contacted and appeared at the COE as requested. Bayona has been with the county for 23 years. Bayona said that she has been the Administrative Secretary for Fuentes since January 2017.

Bayona is aware that Fuentes worked for AECOM prior to coming to the county as Capital Projects Assistant Director. Bayona said that Fuentes works directly in the management of the Consent Decree. Bayona said that Fuentes doesn't deal directly with AECOM, and that the program managers are directly involved. When there are group meetings with the AECOM group, the program managers and Fuentes are present. Bayona said that if the program managers do not agree with the vendor (AECOM), Fuentes would get involved.

Meetings with AECOM are held in groups. Fuentes is present at the meetings, but program managers are also present. Fuentes signs off on things regarding work performed by AECOM. Fuentes is not the only one signing off on these items which are documents, invoices, contracts, etc. These items go to several others for their approval.

Bayona said that Fuentes came to work in a new division which primarily works with the Consent Decree. There are many contractors working on the Consent Decree, AECOM is not the only one. AECOM is a program management consultant.

Bayona said that the meetings with AECOM are requested by e-mail. Bayona said that Fuentes asks her to schedule the meeting and copies those who must attend the meeting. Bayona said that she may have received meeting requests from AECOM directly. She would schedule the meeting to include all persons who were copied with the request and the person who made the request. Fuentes oversees the program managers. She is not sure if AECOM asks for Fuentes specifically to be present.

**06/07/17 – Victor Fernandez-Cuevas, Sr. Professional Engineer – WASD**

Victor Fernandez-Cuevas ("Fernandez-Cuevas") was contacted and appeared at the COE as agreed. Fernandez-Cuevas said that he has held a couple of positions at WASD. He was the Chief of the Engineering Division from 2002 to 2011; a Sr. Professional Engineer from 2011 to 2016; a Sr. Program Manager from 02/01/2016 to 02/06/17; and an Engineer 3 from 02/06/17 to the present. In total he has been with the County for 26 years. Fernandez-Cuevas said that he was with Solid Waste during his first four (4) years with the County.

Fernandez-Cuevas said that effective 02/10/17 he was assigned to work with the Consent Decree program and to report to Maricela Fuentes. Fernandez-Cuevas provided copies of the e-mails from Anand in connection with the transfer. He received an e-mail from Fuentes welcoming him to the Capital Programs Group. He now works with Edwards on a day to-day basis. Fuentes doesn't get involved at this level. Fuentes deal with Edwards, who is the project manager. Fernandez-Cuevas applied for assistant director positions, but did not get any calls.

Fernandez-Cuevas also provided a copy of a letter from Arleen Cuellar, the County HR Director, advising him that effective 05/15/17 he will be assigned with permanent status to the Engineer 3 position at WASD. Fernandez-Cuevas said that he was given a pay cut as well. He believes he is being retaliated against due to the fact that he is a whistleblower.

Fernandez-Cuevas added that Jose Cueto, formerly of Hazen & Sawyer, was also hired and presently shadows Bertha Goldenberg who is going to retire at the end of the year. Cueto was hired as an assistant director in the planning and regulatory compliance division and is working on Hazen & Sawyer matters. Cueto and Fuentes were Anand's "go to" people on the private side to put together a resiliency workshop.

Fernandez-Cuevas said that in her County job Fuentes must often meet with AECOM. Fuentes reviews task proposals (updating tasks) by the Program Management Construction Management (PMCM) group. These are the people working on the Consent Decree. Fernandez-Cuevas showed this investigator copies of a form entitled Task Authorization for A & E Consultants. The form has a signature line for Fuentes and Edwards. Fernandez-Cuevas said that the proposals that this form approves are delivered with a cover letter signed by the AECOM person doing what Fuentes used to do at AECOM, David Wood. Fuentes used to be the designated person at AECOM who used to sign the cover letters to the proposals. Now she is one of the persons who approves the proposals send in by David Wood on AECOM's behalf. There are many projects under the Consent Decree that have to get approved. All approvals of tasks proposed by AECOM under the Consent Decree are now signed by Fuentes.<sup>1</sup>

Fernandez-Cuevas said that he meets with AECOM's engineers and construction managers almost every day. He is presently helping out with construction issues for Consent Decree projects. He doesn't have frequent contact with Fuentes. Last Friday, (06/02/17) they met to discuss a Consent Decree contractor issue for a pump station. AECOM is managing the contract. Present at the meeting were Fuentes, Edwards, Gary Clark, Margaret Moss and himself. Before that, they met with Fuentes, County Attorneys, Edwards, Gary Clark, David Wood, Ernie Cano and Warren Howard of AECOM, and himself. The meeting was to figure out what to do with the two contractors, who are partners of AECOM.

Fernandez-Cuevas said that when persons from AECOM come to their office, they go directly to the 5<sup>th</sup> Floor where Fuentes's office is. The Consent Decree has a fixed number of projects and AECOM makes sure that they get done. Fernandez-Cuevas said that he used to sign approvals for the Utility

<sup>1</sup> Fuentes signed eleven (11) Task Authorization forms to AECOM from 03/28/17 to 05/17/17.

Pipeline Engineering and Construction program, but not the Consent Decree program.

**06/15/17 - Marisela Fuentes, Assistant Director Capital Program Management - WASD  
786/719-6963 – mobile**

Fuentes appeared at the COE to provide her statement as agreed. Fuentes said that she is aware of the focus of this investigation. Fuentes said that she attended ethics training and other training programs required of new hires within 30 or 60 days of employment with the County. Fuentes said she began her employment with the County on 01/17/17. She came directly to the County from AECOM. Fuentes said she worked at AECOM for almost 13 years. After almost 13 years with AECOM, she felt she had acquired sufficient knowledge of the private side and wanted to gain government experience.

Fuentes explained that she has a BA in Civil Engineering and a MA in Civil Engineering with a specialty in water resources (hydraulics) and that WASD has one of the most complex systems from a hydraulics perspective. Fuentes said that she applied for the County position of Assistant Director of Capital Projects which she saw on the County website. She also heard of the open position from people in the industry.

Fuentes said that when she worked at AECOM she was working with the County from the consultant side. AECOM is a program and construction manager for the County under the Consent Decree. She was a deputy program manager when she was with AECOM. The Consent Decree is a contract between the EPA and the County which mandates that the County perform many tasks.

Fuentes said that she started at AECOM on the technical side, then worked as a project manager and on business development. On the Consent Decree, she was the Deputy Program Manager managing the internal staff, submittals, quality control and other internal aspects. Fuentes said that David Haywood was her boss at AECOM and he managed the external client interaction aspects of the AECOM contract. Haywood resigned AECOM and AECOM hired a new Program Manager, David Wood. Fuentes said that there were several candidates being evaluated for this post and she assisted in the transition. However, she was already thinking of moving to a new opportunity, therefore, she was not in line for the job.

Fuentes said that she was hired by the County as Assistant Director for Capital Projects. Her responsibility is to ensure the management of the four programs: Consent Decree, Ocean Outfall, Pump Station improvement, and Flow and Infiltration Reduction Program. In her County position she must coordinate and meet the time constraints on the schedule aspect—that the work is being done on time.

Fuentes said that each program has a project manager. This is the person who administers the contract making sure that the tasks are completed. Fuentes explained that when a Proposal first goes to contract compliance they look at it from the contract standpoint—that it's within the caps and within what is allowed. They check the math on invoices. Then it goes to the Project Manager. Sometimes it goes to contract compliance and the project manager at the same time, and then to the Sr. Project Manager, who is Edwards for the Consent Decree, then it goes to her. They have to make sure there is no duplication of tasks. If there is, they go to the EPA to change the scope. Fuentes said that after she signs her approval, the proposed task authorization goes to the CFO, Francis Morris, to check that funding is there, then to Anand, the Deputy Director, and finally to Lester Sola, the Director, for the final signature.

When asked whether what she does in her present position is not oversight to administer the AECOM contract, Fuentes replied that theoretically she could send something proposed by AECOM back for changes. Fuentes explained that what she sees involving contract oversight and administration she

refers to the Project Manager and does not deal with it at her level. If the Sr. Program Manager, Edwards, and AECOM cannot come to an agreement, then they go to her to solve it. If they still cannot agree, they go to Anand who will make the final decision, but will still require signature approval by the Director.

Fuentes said that their focus group meets with AECOM every two weeks. Those in attendance from the County are Edwards, contract compliance, representative of procurement, Chief Operator, Assistant Director on the Operations side, Anand, Tony Cotarelo, IG, regulatory compliance assistant director, and herself. They meet with AECOM and Design Consultants and/or contractors who contract directly with the County. Edwards sends the invitation for the meetings. Fuentes said that she does not need to meet with AECOM alone and/or any other consultant working for WASD. If she needs anything from AECOM, she would request it from Edwards. The administration of the contract is done by the Project Manager, who is Edwards.

Fuentes said that she came on board because she wanted the experience on the government side. She does not deal with AECOM as a project manager. She gets involved with issues involving the contract with the Consent Decree program if the issue cannot be resolved by Edwards. If she cannot solve it, then it goes up the chain of command to Anand.

Fuentes said that since she has been with the County, she has only approved work proposed by AECOM subsequent to her departure. The AECOM contract is a small portion of all the work that needs to be done on the Consent Decree program and smaller than the work on Ocean Outfall, and the other two programs.

**08/10/17 – Jose Cueto, Assistant Director for WASD Planning and Regulatory Compliance –**

Cueto came to the COE to provide information about his employment as Assistant Director for Planning and Regulatory Compliance at WASD. Cueto said that he has been working at WASD since January 2017. He was hired directly from Hazen & Sawyer by Anand, who is his direct supervisor. Cueto said that he was the principal engineer at Hazen & Sawyer. Cueto started at Hazen & Sawyer in June 2014. While at Hazen & Sawyer, Cueto said he worked part of the time on the county contract. There were certain assignments that he worked on for WASD. He spent a small portion of his time while at Hazen & Sawyer on water operations division within WASD.

Cueto explained that he was hired to work in Planning & Regulatory Compliance at WASD. He was hired to shadow Bertha Goldenberg, who plans to retire in November 2017. Bertha Goldenberg has been at this position for many years and there would be a gap if she were to leave with no one there to replace her. Bertha Goldenberg is Assistant Director for Planning & Regulatory Compliance, which is the same title that he now holds. She has been there for thirty (30) years. Cueto said that he never had occasion to work with Bertha Goldenberg while at Hazen & Sawyer. Cueto stated that they do not have any contracts with Hazen & Sawyer out of his division. Planning & Regulatory Compliance is dedicated to making sure that all EPA, DEP and DERM regulations are met. Much of what they do is internal to the departments dealing with regulations. They have consultants on board. An example is the hydrogeological contract with Stantec. Virginia Walsh, the County's senior professional geologist works with that project which involved a 10,000 feet deep injection well that has been reported by the Miami Herald.

Cueto said that while at the County, he has not worked on any Hazen & Sawyer issues. His group has no contract with Hazen & Sawyer. Hazen & Sawyer works with the County, but none of the contracts are directly under his purview.



***Document(s) Reviewed:***

04/09/14 – Order Granting Motion to Enter **Consent Decree** – The Consent Decree was approved by the USDC for the Southern District. The purpose of the Consent Decree is to resolve sewer issues threatening Biscayne Bay National Park. The Motion to Enter Consent Decree was filed by the United States of America and the State of Florida Department of Environmental Protection asserting claims against Miami-Dade County under the Clean Water Act and the Florida Statutes for illegal discharges of pollutants into navigable waters. The matter also claims violations of National Pollutant Discharge Eliminations System permits issued by the EPA and the Florida Department of Environmental Protection.

The Consent Decree includes \$1.6 billion of new infrastructure with over \$1 million of the capital improvement projects intended to rebuild and rehabilitate Miami-Dade County's three coastal wastewater treatment plants. The decree also provides for a civil penalty to be divided between federal and state governments.

The Consent Decree also provides for improvements to Capacity, Management, Operation and Maintenance requirements, which are necessary in order to achieve compliance with the Clean Water Act.

FY 2016-2017 Capital Program Management Division Table of Organization reflecting that Fuentes is at the top of the chain of command on the Consent Decree program, Ocean Outfall Program, Pump Station Program and Flow-Reduction Program.

FY 2016-2017 Table of Organization of Capital Improvement & Regulatory Compliance reflecting that Fuentes is at the top of Capital Program Management of the Consent Decree Program, Ocean Outfall Program, Pump Station Program, and Flow Reduction Program.

02/09/17 – E-mail from Anand to Fernandez-Cuervo advising him that as of 02/10/17 he is assigned to work with the Consent Decree Program and report to Maricela Fuentes.

02/12/17 – E-mail from Fuentes to Fernandez-Cuervo welcoming him to the Capital Programs Group.

05/09/17 – Memorandum from the Inspector General to Lester Sola advising of the anonymous complaint involving two recent hires by the WASD who may have a conflict of interest because their current job responsibilities require supervision, interaction and/or oversight with their former employers.

Attached to the memorandum is a COE advisory opinion addressed to Lester Sola, then Supervisor of Elections.

05/19/17 – E-mail regarding the Quarterly CIP Briefing to Anand, **Fuentes**, Antonio Cotarelo and Lester Sola from Arlyn Rull, Assistant Director of Intergovernmental and Internal Operations. Edwards was not notified of this briefing.

05/31/17 – Memorandum from Lester Sola to the Inspector General attaching responses and associated documents requested by the IG. In the Memorandum Lester Sola assures the IG that he has taken steps



to ensure compliance with Section 2-11.1(x) of the Conflict of Interest and Code of Ethics Ordinance.

03/29/17 – Memorandum from Lester Sola to WASD Deputy Directors, Assistant Directors, Division Directors and HR Staff providing guidance toward current or future new hires by WASD in view of Section 2-11.1(x).

06/07/17 – E-mail to Adriana Lamar to request copies of executed Task Authorization forms and the cover letters to the proposals.


**06/14/17 – Document review at WASD:**

Reviewed Task Authorization for A & E Consultants approved by Fuentes among the other required approvals from the WASD Project Manager, Consent Decree Program Sr. Program Manager, CFO, Anand and Lester Sola.

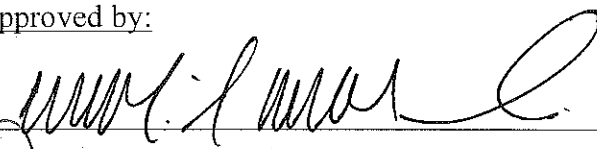
Also reviewed, AECOM's Progress Payments for A & E Consultant Services signed by Fuentes while employed by AECOM.

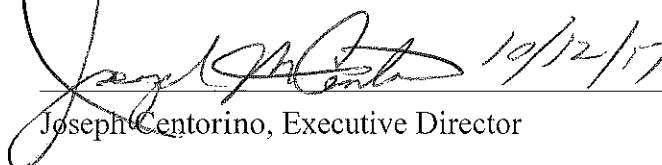
**Conclusion:**

After discussion with the Advocate, it was determined that Jose Cueto was not in violation of the reverse two-year rule because he is not involved in contract-related duties with Hazen Sawyer, although it would still be preferable that his contact with his former employer to be eliminated or minimized. Fuentes was determined to be in violation of the two-year rule. However, it was determined that Fuentes' supervisor-Department Director Lester Sola had relied on a 12-year old ethics opinion from the former General Counsel of the Ethics Commission in his determination that Fuentes was not violating the two-year rule. Accordingly, that ethics opinion was rescinded by the Ethics Commission and a new RQO was issued (RQO17-04) which clarified the two-year rule prohibitions and further defined the term "contract- related duties." Wherefore Ms. Fuentes was removed from any contact with her former employer AECOM. Accordingly, this matter is concluded.

  
Sylvia Batista, COE Investigator

Approved by:

  
Michael Murawski, Advocate

 10/12/17  
Joseph Centorino, Executive Director