

Miami-Dade Commission on Ethics & Public Trust
Investigative Report

Investigator: Nilda Olmo

Case: PI 18-19	Case Name: Urquiaga-Optional Plan Review (OPR)	<u>Date Opened:</u> 04/16/18	
Complainant(s): Ernesto Fernandez, Mechanical Plans Processor, RER	Subject(s): Wilfredo Urquiaga, Department of Regulatory and Economic Resources (RER)	CASE CLOSED	Date: <u>10/22/18</u>

Allegations:

The COE received information from Mechanical Plans Processor Ernesto Fernandez (Fernandez), regarding several allegations of misconduct by RER Director of Building Trade Division with Construction, Permitting and Building Code Division, Camilo Martinez (Martinez), Building Trade Section Supervisor, Marta Villasón (Villasón) and Building Trade Division Supervisor, Wilfredo Urquiaga (Urquiaga). In particular, Fernandez alleges that under the RER's Building Department Optional Plan Review Process/Service (OPRS) program, Division Supervisor Wilfredo Urquiaga, unevenly designated OPRS, benefiting himself.

Fernandez indicated that he had simultaneously filed a complaint with the Office of the Inspector General (OIG) against the above mentioned employees alleging several violations. The OIG did not undertake an investigation into the allegation pertaining to Urquiaga's OPR designations.

Relevant Law:

Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, Sec. 2-11.1 (g) *Exploitation of official position prohibited*. No person included in the terms defined in Subsection (b) (1) through (6) and (b)(13) shall use or attempt to use his or her official position to secure privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter to be ordained or adopted by the Board of County Commissioners.

Investigation:

Interviews:

Upon review of the documents provided by Fernandez, the COE staff referred Fernandez to Human Resources and initiated the investigation into the allegations against Urquiaga.

Lora Lamont-Bailey, Chief-Human Resources, Safety & Training, RER
701 NW 1st Court-4th Floor

Laura Lamont-Bailey (Lamone-Bailey) was contacted and provided information and several documents pertaining to OPRS, i.e., detailing how the program originated and how it works.

The Building Department is divided into 5 sections (disciplines). The Core Review Team¹ from the different trades is responsible for assigning the plans for each trade:

1. Building-Lisette Landa
2. Structural-Leon Cueva
3. Mechanical-Marta Villason
4. Electrical-David Cherry
5. Plumbing-Wilfredo Urquiaga

On or about October 2001, in order to enhance customer service, the Building Department developed a pilot program under which permit applicants, for a fee, had an option to have their plans reviewed by plan examiners on an expedited basis. To participate in the program, employees must meet certain qualifications², and engage on a Plus Time basis.³

The fee was set at \$40.00 per discipline for a residential set of plans and \$80.00 for a commercial set of plans.⁴ The assignments are performed within the agreed upon work hours. In most cases, review requests will be ready the next business day. Should the applicant request a complete review cycle (involving all 5 disciplines), the cycle will be completed in 5 business days, a time savings of 8 days for residential and 11 days for commercial.

A special pay code was established enabling the department to compensate the staff through a money adjustment. In 2001, when the program was implemented, weekly work assignments varied, depending on customer demand, from \$40.00 work unit to a maximum of \$720.00 weekly (\$1,400.00 bi-weekly).

¹ Core Team consist of the Section Supervisor and the Division Director.

² Employees had to apply for participation obtaining supervisor's verification, consistently maintain overall satisfactory performance/product levels, no pending disciplinary actions, be a certified Plans Examiner and have needed skills/qualification determined by the Building Department.

³ Plus Time is defined as "outside the normally scheduled work hours of an employee" (after working hours or weekends)

⁴ On 03/03, the service was raised to \$48.00 per discipline per unit for residential and \$96.00 per discipline per unit for commercial projects. Currently, the fee is \$60.00 per discipline for residential and \$120.00 minimum fee per discipline for commercial.

On 05/30/02, due to the success of the program, the department increased the number of work units from \$1,440.00 bi-weekly to \$2,000.00 bi-weekly. Following is the Money Adjustment Report for Urquiaga and other supervisors on the Plumbing Section conveying a one-year period:

Money Adjustment Report

Selected Dept Code: 355

Selected PPE Date Range: Between May 7, 2017 12:00 AM and May 6, 2018 11:59 PM

Selected MA Code(s): 63 Optional Plan Review Program

LAST_NAME	FIRST_NAME	TITLE	MONEYADJAMT	PPE_DT
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$1200.00	5/7/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$1280.00	5/21/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$440.00	6/4/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$800.00	6/18/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$320.00	7/2/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$400.00	7/16/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$1800.00	8/13/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$760.00	8/27/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$640.00	9/10/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$640.00	9/24/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$320.00	10/8/17
URQUIAGA	WILFREDO	BLDG TRADE SECTION SUPV	\$320.00	10/22/17
URQUIAGA	WILFREDO	BLDG TRADE	\$400.00	11/5/17

URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$960.00	12/3/17
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$1320.00	12/17/17
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$800.00	12/31/17
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$1240.00	1/28/18
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$480.00	2/11/18
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$400.00	2/25/18
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$1360.00	3/25/18
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$1560.00	4/22/18
URQUIAGA	WILFREDO	SECTION SUPV BLDG TRADE	\$1040.00	5/6/18
			\$18480.00	
GONZALEZ	EDUARDO	PLUMBING PLANS PROCESSOR	\$160.00	3/11/18
GONZALEZ	EDUARDO	PLUMBING PLANS PROCESSOR	\$720.00	3/25/18
GONZALEZ	EDUARDO	PLUMBING PLANS PROCESSOR	\$440.00	4/8/18
GONZALEZ	EDUARDO	PLUMBING PLANS PROCESSOR	\$640.00	4/22/18
GONZALEZ	EDUARDO	PLUMBING PLANS PROCESSOR	\$1080.00	5/6/18
			\$3040.00	
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$480.00	5/7/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1240.00	5/21/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1280.00	6/18/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$400.00	7/2/17

JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$640.00	7/16/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$640.00	8/13/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1080.00	8/27/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$480.00	9/10/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$320.00	9/24/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$320.00	10/8/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1080.00	11/5/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$560.00	11/19/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$80.00	12/3/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$80.00	12/17/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$480.00	12/31/17
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1080.00	1/14/18
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$640.00	2/11/18
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$440.00	2/25/18
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1120.00	3/25/18
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$320.00	4/8/18
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$720.00	4/22/18
JONES JR	ROBERT	PLUMBING PLANS PROCESSOR	\$1040.00	5/6/18
			\$14520.00	
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$520.00	5/7/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$1080.00	5/21/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$360.00	6/4/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$720.00	6/18/17

LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$120.00	7/2/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$480.00	7/16/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$1040.00	8/13/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$240.00	8/27/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$840.00	9/10/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$320.00	9/24/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$320.00	10/8/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$520.00	11/5/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$400.00	11/19/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$480.00	12/3/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$800.00	12/17/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$1160.00	12/31/17
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$520.00	1/14/18
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$1400.00	1/28/18
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$400.00	2/11/18
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$160.00	2/25/18
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$1280.00	3/25/18
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$720.00	4/22/18
LOPEZ	DANIEL	PLUMBING PLANS PROCESSOR	\$280.00	5/6/18
			\$14160.00	
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$560.00	5/7/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$1520.00	5/21/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$320.00	6/4/17

LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$160.00	6/18/17
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LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$160.00	9/10/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$320.00	10/8/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$240.00	10/22/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$360.00	11/5/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$960.00	12/3/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$160.00	12/17/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$960.00	12/31/17
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$760.00	1/14/18
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$1120.00	2/11/18
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LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$1080.00	4/22/18
LORENZO	ROGELIO	PLUMBING PLANS PROCESSOR	\$720.00	5/6/18
			\$12400.00	
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$80.00	7/16/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$960.00	8/13/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$440.00	8/27/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$160.00	9/10/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$680.00	9/24/17

ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$160.00	10/8/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$240.00	10/22/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$320.00	11/5/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$1080.00	12/3/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$800.00	12/17/17
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$800.00	1/14/18
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$1120.00	1/28/18
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$160.00	3/11/18
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$240.00	3/25/18
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$240.00	4/8/18
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$240.00	4/22/18
ROJAS	JORGE	PLUMBING PLANS PROCESSOR	\$160.00	5/6/18
			\$7880.00	

Lamont-Bailey informed the COE that RER was in the process of drafting a revised Optional Plan Review Program and reached out to our office for possible input/suggestions. Although the COE welcomes any inquiries/concerns regarding the County Ethics Code, she was advised that we were unable to assist her with the policy draft review.⁵ County departmental policies should be handled by the appropriate department with the assistance of the County Attorney's Office.

Jaime Gascón Assistant Director, Construction, Permitting & Building Code Division, RER
11805 SW 26 ST Room 212

Jaime Gascón (Gascón) was interviewed regarding the allegations brought by Fernandez.

Gascón explained the process begins when the Intake Clerks receive the request and the applicants "are flagged." Supervisors from each section are responsible for equally distributing OPRS. He indicated occasionally, supervisors designate certain plans to themselves having participated in pre-submittal meetings, therefore, "ahead of the game", having better feedback. Gascón suggested supervisors may have "heads up on projects" and "keener to reviewing the plans...as opposed to new examiners without knowing the overall scope of the work." Gascón stated that OPRS are elective on the examiner and upon the Supervisors receiving the OPRS request, he queries the staff and depending on their availability, assigns the OPRS.

⁵ The OPRP updated policy will be provided to the COE upon Departmental approval.

Information pertaining to possible changes in the department was received and a subsequent meeting was scheduled with Lamont-Bailey.

In addition to the allegations involving Urquiaga's assignment of OPR's to himself, it was also alleged that he used his position to promote the hiring of his supervisor's (Martinez) wife.

On 06/01/18, a Memorandum was sent out by Gascón to Deputy Mayor/Director Jack Osterholt (Osterholt) providing documentation detailing a violation of the Miami-Dade County's Nepotism Policy by Martinez as well as "behavior unbecoming of a County employee." Urquiaga and Villasón received letters addressing their "severe lapse of judgement" involving their participation in the recruiting process for the planning processor vacancy involving Martinez's wife. This was one of the factors leading to the separation from his position as Director for RER.⁶

Urquiaga served as a panelist in the interview panel during the recruitment for the Mechanical Plans Processor position in the Mechanical and Plumbing Section, in which Martinez's spouse was a candidate. Villasón also served as a panelist on the same recruitment process, both acknowledging the familial relationship between the candidate and Martinez, even though the candidate did not have the same surname.

Currently, RER is recruiting to fill the position vacated by Martinez. At this time, and until the permanent hire is made, Amador Barzaga and Urquiaga are appointed to the position, on an interim basis.

Documents/Video Review:

1. Documents provided by Fernandez during initial interview.
2. E-mails provided by Fernandez:
 - Fernandez to Gascon-Re: Retaliation and Harassment, dated 06/14/18.
 - Fernandez to Olmo-Re: Release of Information, 08/20/18.
 - Fernandez to Bibiana Candame, Human Resources Manager, RER and Olmo Re: Supervisor retaliation and Harassment, 08/23/18.
3. Optional Plan Review Process Policy, 05/18/01.
4. Optional Plan Review Service brochure.
5. E-mails provided by RER/PRR.
6. Money Adjustment Reports.
7. RER OPR Policy Draft.
8. E-mails to COE (Perez and Olmo) regarding RER OPR Policy draft.
9. Memorandum from Gascon to Osterholt-Re: Investigation into the Violation of the Miami-Dade County Nepotism Policy and Subsequent Recommended Actions, 06/01/18.
10. Letter from Osterholt to Martinez. 06/04/18.
11. Letter from Osterholt to Urquiaga, 06/05/18.
12. Letter from Osterholt to Villasón, 06/05/18.
13. Memorandum from Osterholt through Jennifer Moon, Budget Director, Office of Management and Budget to Mayor Carlos A. Gimenez-Re: Request to establish two Director, Building Trade Division temporary overage positions in the Construction, Permitting and Building Code Division and appoint on an interim basis. 07/08/18⁷

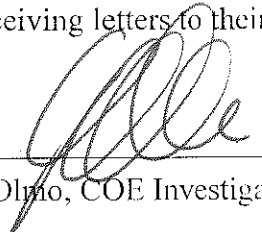
⁶ Martinez was dismissed effective 06/04/18.

⁷ See attached Memorandum regarding Human Resources Personnel Change Document for Barzaga and Urquiaga.

Conclusion:

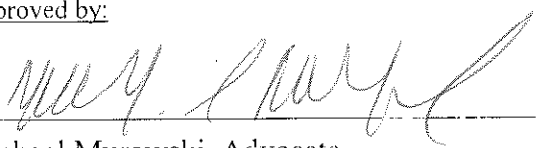
The evidence is insufficient to conclude that Urquiaga exploited his official position by assigning OPR's to himself. There was nothing in the OPR policy and procedure that prohibited Urquiaga from assigning cases to himself. The RER is undertaking a revised Optional Plan Review Program which should address the issue. This appears to be a management/ policy decision and not an ethics issue.

Urquiaga's supervisor, Camilo Martinez, was terminated as Director of RER for, among other things, being involved with the hiring process of his wife. Urquiaga and Villason were dealt with administratively with both receiving letters to their personnel files. Accordingly, this matter should be closed with no further action.

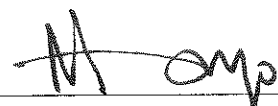


Nilda Olmo, COE Investigator

Approved by:



Michael Murawski, Advocate



José Arrojo, Executive Director

Date: 10/23/18