

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, April 04, 2018 3:12 PM
To: Sanchez, Rodzandra (COE)
Subject: Alfredo Garmendia, Construction Manager 1, WASD (Outside Employment) INQ 18-79

INQ 18-79 Garmendia

From: Turay, Radia (COE)
Sent: Wednesday, April 04, 2018 2:57 PM
To: Garmendia, Alfredo (WASD) <Alfredo.Garmendia@miamidade.gov>
Cc: Saller, Timothy R. (WASD) <Timothy.Saller@miamidade.gov>
Subject: INQ 18-79, Alfredo Garmendia, Construction Manager 1, WASD (Outside Employment)

Dear Mr. Garmendia,

You have inquired about possible conflicts of interest between your County employment and your proposed outside employment.

Background

You are employed at the Miami-Dade County Water and Sewer Department (WASD), as Construction Manager 1. Your County job duties include the administration, management and supervision of water and sewer pipeline installation contracts. You have a General Contractor license, which is not paid for by the County. Your work at the County does not involve any work on residential properties.

You are seeking to engage in outside employment as the owner of 3 rental properties.

You are also seeking to engage in outside employment as the President of Kevin Construction Services Corp (KCSC). In your role as President of KCSC you will inspect and supervise the interior remodeling work (e.g. painting, tile or wood work) for private individuals. You have represented to the COE that KCSC is not seeking to contract with the County, and KCSC will not do any work for any contractor or sub-Contractor that has a contract with the County or WASD.

Legal Analysis

Sections 2-11.1(j) and (k) of the County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his or her official duties or creates a conflict between the County employee's public duties and his or her private interests. Conflicting employment can occur when the outside employment is closely related to the employee's public duties and/or where the County employee deals with the same people or entities in both his/her outside employment and in his/her public position, *e.g.*, similar clients, suppliers, or subcontractors. See COE's Outside Employment Guidelines, updated November 2017. With respect to government employees engaging in construction related projects, the Ethics Commission has previously opined that an employee could continue outside employment and an owner of a private construction related company, as long as, the private company did not contract with the County; did not engage in any work within the County; its subcontractors did not apply for, or be issued, building permits in the County for any projects associated with the County; it did not have any business relationships with any vendors engaged in construction for County or reasonably anticipated to engage in construction for the County. See RQO 08-29, RQO 08-45, and INQ 16-234.

After a review of all of the facts presented, it appears unlikely that the type of outside employment that you are seeking to engage in would impair your independence of judgement in the performance of your duties for the following reasons:

- KCSC does not contract and is not seeking to contract with the County or WASD.
- Your public duties and job functions at WASD involves the administration, management and supervision of the County's water and sewer pipeline installation while the work you perform in your outside employment involves inspecting and supervising interior remodeling work for private individuals.
- In County employment you do not service, or interact with private individuals, so it is therefore unlikely that you will deal with the same persons or entities in your outside employment that you deal with during your job functions at WASD.
- You have also represented that you will perform both of your outside employment jobs outside of your County hours of employment.

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

- KSCS cannot have any business relationship with County vendors who are engaged in WASD projects or are reasonably anticipated to engage in WASD projects.
- Employees or agents of KCSC will not apply for, nor be issued, permits in the County. See RQO 08-29, RQO 08-45, and INQ 16-234.
- You may not personally apply for permits in Miami-Dade County, municipalities or other counties because these activities would normally be performed during regular business hours and would likely create a conflict between your private interests and your work duties for the County. See Miami-Dade Code §2-11.1(j).
- You may not use County time or resources in the furtherance of your outside employment. See, Miami-Dade Code § 2-11.1(g).
- You are prohibited from using any confidential information acquired as a result of your County employment to derive a personal benefit. See Miami-Dade Code § 2-11.1(h); and
- You cannot represent KCSC or any of its clients in any matter before the County. See Miami-Dade Code § 2-11.1(m)

Furthermore, we remind you that all County employees engaged in outside employment must obtain permission to engage in that employment on a **yearly** basis. Miami-Dade Code § 2-11, Administrative Procedure 7-1, and Procedure 403. Full-time County employees are also required to file an Outside Employment Statement on a **yearly** basis. See Miami-Dade Code § 2-11.1(k)(2).

This opinion is based on the facts presented. If these facts change or if you have any further questions, please contact us.

Sincerely,

RADIA TURAY

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

19 W. Flagler Street, Suite 820

Miami, FL 33130

Tel: (305) 350-0601

Fax: (305) 579-0273

Ethics.miamidade.gov

From: Turay, Radia (COE)
Sent: Wednesday, April 04, 2018 10:21 AM
To: Garmendia, Alfredo (WASD) <Alfredo.Garmendia@miamidade.gov>
Cc: Saller, Timothy R. (WASD) <Timothy.Saller@miamidade.gov>
Subject: RE: request for outside employment

Hello Mr. Garmendia,

I just called the number in your signature line but I could not leave a message. I have a few follow-up questions that I wish to discuss with you. Please call me at 305-350-0601 when you get a chance.

Thanks,
Radia.

From: Garmendia, Alfredo (WASD)
Sent: Thursday, March 29, 2018 8:44 AM
To: Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Cc: Saller, Timothy R. (WASD) <Timothy.Saller@miamidade.gov>
Subject: RE: request for outside employment

Good morning Mrs. Radia,

Please see responses below:

- 1-Administration, management and supervision of water and sewer pipeline installation contracts.
- 2-Miguel Pichardo: Tel # 786-258-2573/Alice Arguelles : Tel # 786-769-4032.
- 3-After hours Inspections, supervision of the interior remodeling work for private individuals.
- 4-No. KC work is limited to interior remodeling as opposed to the management of utility contracts for WASD.
- 5-No, Only myself.
- 6-Private individuals.
- 7-Kevin Construction does not perform work for any County vendor.
- 8- Kevin Construction does not perform work for any County vendor.
- 9-No.
- 10-No.
- 11-No.
- 12-No.
- 13-NO.

Alfredo Garmendia,
Construction Manager 1
Miami-Dade Water and Sewer Department
Utility Engineering & Construction Division
3501 NW 46th Street, 2nd Floor
Miami, Florida 33142
Tel: 786-552-4436
www.miamidade.gov

From: Turay, Radia (COE)
Sent: Thursday, March 22, 2018 3:31 PM
To: Garmendia, Alfredo (WASD) <Alfredo.Garmendia@miamidade.gov>

Cc: Saller, Timothy R. (WASD) <Timothy.Saller@miamidade.gov>

Subject: request for outside employment

Hello Mr. Garmendia,

My name is Radia Turay. I am a staff attorney at the Miami-Dade Commission on Ethics and Public Trust. We are in receipt of your request for outside employment and would assist in determining whether a conflict exists under Miami-Dade County's Ethics Code. Please provide responses to the questions below at your earliest convenience:

- 1) Please briefly describe your job responsibilities as Construction Manager at WASD?
- 2) Please provide the name of your supervisor and the best number to reach them
- 3) Please describe your job responsibilities as president/owner/qualifier of Kevin Construction Services Corp (KC)?
- 4) Are your job responsibilities at KC similar to what you do for the County? Please explain.
- 5) Does KC have any other employees other than yourself? How many?
- 6) Please indicate for whom KC will provide services (i.e. county vendor/contractors; the county; municipalities; private individuals)?
- 7) Please provide the name of any county vendor or contractor that KC will perform work for?
- 8) Does the county vendor or contractor that KC performs work for have a contract with WASD?
- 9) Would KC be servicing that county vendor or contractors contract with WASD?
- 10) Would KC compete for any County contracts?
- 11) Would you interact with any of the same government employees or departments in your outside employment as you would in your position at the County?
- 12) Do you work in a position with the County that you have the opportunity to recruit/refer vendors, contractors, bidders, or members of the public to use your outside employment products or services?
- 13) Will you use the same or similar tools and resources in your outside employment that you use in your County employment.

Thanks for your anticipated cooperation with this matter.

Sincerely,

RADIA TURAY

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

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