

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Monday, November 14, 2011 2:34 PM
To: 'EUSEBIO DEL RIO'
Cc: Centorino, Joseph (COE)
Subject: Two-year rule (INQ 11-172)

Mr. Del Rio,

This is in response to your question about post-employment restrictions following your retirement, on July 1, 2011, as a Transit Operations Supervisor with the Miami-Dade County Transit Department.

Specifically, you would like to work for a proposer on County Project No. 799 (Fixed Bus Route) as a Project Manager. You have stated that if the proposer, Transportation America, Inc., is successful, your role as a Project Manager will not involve lobbying in any capacity.

Under these facts, the Ethics Code does not prohibit Transportation America, Inc., from listing your name, along with a description of your experiences and qualifications, in its proposal. Additionally, you are not prohibited from being employed as a Project Manager by Transportation America, Inc., on this project.

Sec. 2-11.1 (q) of the County Code prohibits you from lobbying the County for two years following your County employment, but it does not prohibit you from being employed by a County contractor, as long as you do not lobby the County.

The Ethics Commission has issued numerous opinions on this prohibition. For example, in RQO 09-36, a former deputy director of the Aviation Dept. was allowed to manage a project in the North Terminal as an employee of a subcontractor because the former employee would not be lobbying.

Please be advised, however, that the definition of "lobbying" is very expansive. The Ethics Commission has consistently held that *any* attempt to influence an official government decision is likely to be considered lobbying. In your case, for example, you would not be allowed to meet or communicate with County officials or staff in an attempt to persuade them to make a decision on behalf of your employer. Additionally, County Commissioners and personnel have a duty to refuse to meet with you if they believe they are being lobbied. *See* Miami-Dade Co. Code at Sec. 2-11.1 (s)(10).

This opinion construes the Miami-Dade County Ethics Code at Sec. 2-11.1 only. It is not applicable to any conflicts under other sections of the County Code or to issues related to state or federal laws.

If you have additional questions, please feel free to contact me.

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY

Phone: 305 350-0601

Fax: 305 579-0273



19 West Flagler St., Suite 820
Miami, FL 33130

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From: EUSEBIO DEL RIO [<mailto:chevy4mdt@bellsouth.net>]

Sent: Monday, November 14, 2011 11:58 AM

To: Frigo, Victoria (COE)

Subject: RE: Request For Advisory Opinion

My last position with the County was Transit Operations Supervisor at Miami-Dade Transit. I retired on July 01 2011 and Transportation America Inc. is hiring me as Project Manager in the County Project No. 799 (Fixed Bus Route).

Thanks

EUSEBIO DEL RIO

--- On **Mon, 11/14/11, Frigo, Victoria (COE)** <FRIGOV@miamidade.gov> wrote:

From: Frigo, Victoria (COE) <FRIGOV@miamidade.gov>

Subject: RE: Request For Advisory Opinion

To: "EUSEBIO DEL RIO" <chevy4mdt@bellsouth.net>

Date: Monday, November 14, 2011, 9:47 AM

Mr. Del Rio,

I will be processing your request for an ethics opinion. For our records, could you please advise us of your last position with the County, the County Department where you were employed, and your date of retirement? Also, please state the County project and County contractor who will employ you.

Thank you,

VICTORIA FRIGO, STAFF ATTORNEY

Phone: 305 350-0601

Fax: 305 579-0273



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Miami, FL 33130

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From: EUSEBIO DEL RIO [<mailto:chevy4mdt@bellsouth.net>]

Sent: Saturday, November 12, 2011 10:12 AM
To: Frigo, Victoria (COE); Centorino, Joseph (COE)
Subject: Request For Advisory Opinion

November 11, 2011

Re: Request For Advisory Opinion

Commission on Ethics:

I am a former County employee (recently retired) that has been offered a position as a Project Manager for a potential contract opportunity with Miami-Dade. It is important to note for purposes of this Request, that my role in this employment opportunity will be limited to that of a proposed Project Manager, and I will not be serving as a lobbyist in any capacity. I will simply be listed as the proposed Project Manager in the Proposal (including a description of my experience and qualifications), and may describe the tasks relative to my role in any presentations, if requested. If the proposer is awarded the contract, I will serve as the Project Manager.

I am aware of Section 2-11.1 (q) governing the "Two-Year Rule". In reviewing the "Library of Opinions" available on the Ethics Commission's Website, I have reviewed several opinions that basically states that the Ethics Code does not prevent former employees from serving as an employee of a company that might obtain a County contract or to serve as a subcontractor to a prime contractor for Miami-Dade. Specifically, in connection to Inquiry 11-21, in response to a similar inquiry from former County Commissioner Rolle, the Ethics Commission stated the following:

The rule does not extend to officials who work for companies doing business with Miami-Dade County and it also does not apply to an official who works for a firm doing subcontracting work for a prime contractor transacting business with Miami-Dade County. Thus, the Two Year Rule does not preclude you from taking a position with a firm doing work as a subcontractor at Miami International Airport. As previously stated, the rule simply prevents you from lobbying for the company and does not restrict other activities.

Although the above-referenced Opinion, as well as others posted on the Ethics Commission's Website, seem clear to me, in an abundance of caution, I am hereby requesting an Advisory Opinion to confirm whether my participation as a Proposed Project Manager for a proposer in a procurement opportunity does not create a conflict with the aforementioned "Two-Year Rule".

Please be so kind to advise as soon as possible as time is of the essence in completing the proposal. Thank you for your attention in this matter.

Regards,

Eusebio Del Rio