

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Wednesday, April 11, 2012 3:14 PM
To: 'Nestor Caballero'
Cc: Centorino, Joseph (COE); Mosely, Joni (CAO)
Subject: Request to revise RQO 07-38 (INQ 12-64)

Mr. Caballero,

An ethics opinion given to your company in 2007 is still valid in spite of a change you wish to make in responding to a contract at the South Florida Workplace.

In 2007, the Ethics Commission found that your auditing company, ACC, had a conflict to bid on a contract for external audit services with the South Florida Workforce because one of the principles of ACC, Nelson Caballero, is a 20% owner of the Institute of Technology, which is responsible for providing training at the South Florida Workforce. *See* RQO 07-38.

As an owner of the Institute of Technology, Nelson Caballero cannot engage in other duties that would impair his "independence of judgment" in the performance of his current duties to the South Florida Workforce. *See* County Ethics Code at Sec. 2-11.1 (j).

Contrary to your suggestion, these conflicts are not cured by having a prime contractor bid on the auditing services contract, while ACC serves as a subcontractor. A conflict exists when Nelson Caballero's auditing company oversees Nelson Caballero's training company, either directly or indirectly through a prime or subcontractor. Even if Nelson Caballero does not participate directly in the audit, his controlling financial interests (defined as 10% or more) in each company are affected by this arrangement.

The County Code describes how conflicts may be created by the fact pattern you presented. For example, Nelson Caballero cannot take official actions, either directly or through his business entities, when his personal financial interests are involved (Sec. 2-11.1 (n)), nor can he have personal investments that would create substantial conflicts between his private interests and his public duties (Sec. 2-11.1 (l)).

As we discussed, if you have further ideas that might remedy these conflicts, feel free to contact me to discuss them.

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: Nestor Caballero [<mailto:nestor@acc-cpa.com>]
Sent: Monday, April 09, 2012 5:30 PM
To: Frigo, Victoria (COE)
Subject: RE: update on opinion RQO 07-38

Good evening Ms. Frigo,

Just wanted to follow up on the status of the opinion we requested and to make sure you received all the information you needed, thanks.

Nestor Caballero, CPA MST CGAP
Alberni Caballero & Company, L.L.P.
4649 Ponce de Leon Blvd., Suite 404
Coral Gables, FL 33146
(305) 662-7272 ext. 116
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From: Frigo, Victoria (COE) [<mailto:FRIGOV@miamidade.gov>]
Sent: Wednesday, April 04, 2012 9:41 AM
To: Nestor Caballero
Subject: RE: update on opinion RQO 07-38

Mr. Caballero,

Thank you for advising me of the deadline. We will make every effort to meet it.

I have not yet been successful in identifying someone at the So. Fla. Workforce who can discuss the contract with me. If you have a contact person there, could you please forward the name to me?

Sincerely,

VICTORIA FRIGO, STAFF ATTORNEY
Phone: 305 350-0601
Fax: 305 579-0273



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Miami, FL 33130

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From: Nestor Caballero [<mailto:nestor@acc-cpa.com>]
Sent: Tuesday, April 03, 2012 6:07 PM
To: Ethics (COE)
Cc: Frigo, Victoria (COE)
Subject: RE: update on opinion RQO 07-38
Importance: High

Any updates on this determination? The proposal we would like to bid on is due next Friday. Thanks again.

Nestor Caballero, CPA MST CGAP
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From: Ethics (COE) [<mailto:ethics@miamidade.gov>]
Sent: Wednesday, March 28, 2012 11:26 AM
To: nestor@acc-cpa.com
Cc: Frigo, Victoria (COE)
Subject: FW: update on opinion RQO 07-38
Importance: High

Mr. Caballero,
We have received both emails from you. This matter has been referred to our Staff Attorney, Victoria Frigo, for review. We will communicate our opinion to you as soon as we have made a determination. Thanks.
Joe Centorino
Executive Director, COE

From: Nestor Caballero [<mailto:nestor@acc-cpa.com>]
Sent: Tuesday, March 27, 2012 11:25 PM

To: Ethics (COE)
Subject: FW: update on opinion RQO 07-38
Importance: High

Please confirm receipt of this email as I've received error messages, thank you.

Nestor Caballero, CPA MST CGAP
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From: Nestor Caballero [<mailto:nestor@acc-cpa.com>]
Sent: Tuesday, March 27, 2012 5:16 PM
To: 'ethics@miamidade.gov'
Subject: update on opinion RQO 07-38
Importance: High

Good evening,

I would like to request an update or new opinion on the RQO 07-38 (attached) issued in 2007. The RFQ for external audit services for the South Florida Workforce is again open and our firm would like to respond. However, the facts which your RQO 07-38 still remain as of today. Therefore, this opinion would still apply if we were to respond to the RFQ.

My question is if instead of proposing on the RFQ as the main contractor we would be part of a proposal with another firm as their sub-contractor. The partner with the conflict of interest (Nelson Caballero) would not participate in any way in the audit. Our firm as the sub-contractor will not maintain the audit workpapers it would be the main contractor and we do not believe that our firm's independence of judgment would be affected since the engagement partner of the main contractor would be signing the opinion on the audit. We do not believe that Nelson Caballero as partner would not benefit directly or indirectly as his capacity as partner if we were engaged as sub-contractors.

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