

## Frigo, Victoria (COE)

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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Monday, November 18, 2013 3:37 PM  
**To:** Brewer-McDuffie, Cecilia (WASD)  
**Cc:** Frigo, Victoria (COE); Centorino, Joseph (COE)  
**Subject:** INQ 13-290

Dear Ms. Brewer-McDuffie,

You inquired about the applicability of the Reverse Two-Year Rule to candidates for the position of SCADA System Operations Specialist that are currently employed by Emerson, the main supplier of SCADA systems to MDWASD. A new MDWASD employee hired for this position would be prohibited from supervising the interaction of MDWASD with his former employer, Emerson, for two years following his departure from private employment with Emerson. Furthermore, if one of the candidates currently employed by Emerson were to be hired, the responsibilities of supervising Emerson's work for MDWASD would have to be delegated to an employee who has not worked for Emerson within the past 2 years.

Below is Sec. 2-11.1 (x) of the County Ethics Code that prohibits this arrangement:

*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 (hereinafter "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, or successor in interest, where the business entity is a county bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), "contract-related duties" include, but are not limited to: service as a member of a county certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.

Please do not hesitate to contact me if I may be of further assistance.  
Best regards,

Gilma (Mimi) Diaz-Greco  
Staff Attorney



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**From:** Brewer-McDuffie, Cecilia (WASD)  
**Sent:** Friday, November 08, 2013 10:23 AM  
**To:** Ethics (COE)  
**Subject:** Request for An Ethics Opinion

The Miami-Dade Water and Sewer Department (MDWASD) interviewed candidates for the position of SCADA (Supervisory Control and Data Acquisition) System Operations Specialist. Two of the candidates interviewed currently work for EMERSON, which is the main supplier of SCADA Remote Terminal Units, supplies, software engineering, and peripherals to MDWASD. The candidates currently work as engineers for this company. Therefore, prior to consideration of either candidate, the department would like to obtain a ruling from the Ethics Commission concerning the Reverse Two Year Rule, Section 2-11.1(x) of the Miami-Dade County Code. Which reads as follows:

*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 (hereinafter "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, or successor in interest, where the business entity is a county bidder, proposer, service provider, contractor or vendor. As used in this subsection (x), "contract-related duties" include, but are not limited to: service as a member of a county certification, evaluation, selection, technical review or similar committee; approval or recommendation of award of contract; contract enforcement, oversight or administration; amendment, extension or termination of contract; or forbearance regarding any contract. Notwithstanding the foregoing, the provisions of this subsection (x) shall not apply to the County Manager or the Director of Procurement Management.*

The reason for this request is that an applicant hired in this position for MDWASD will have very active participation in the selection of SCADA equipment, engineering, software, and manufacturer(s). Hence, should one of these candidates be hired for this position, it would cause close (or previous) association to the largest supplier of SCADA equipment to MDWASD. The Department wants to ensure that this does not cause a conflict of interest.

Thank you for your consideration of this request.

Cecilia Brewer-McDuffie  
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