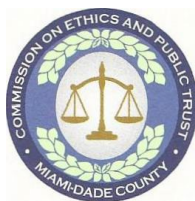


## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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April 27, 2023

Mariana Evora  
Delta Consultants, LLC  
4841 NW 1 Avenue  
Miami, FL 33127

**Delivered via email to: [mariana.evora@gmail.com](mailto:mariana.evora@gmail.com)**

Re: INQ 2023-54, Sections 2-11.1(c) and (d), County Ethics Code

Dear Ms. Evora,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and seeking guidance on the applicability of the County Ethics Code to a County employee whose spouse is engaged as a contractor/subcontractor in a County solicitation/project overseen and administered by the County employee's department.

### Background:

Pursuant to information provided to this office, you own and manage Delta Consultants, LLC (hereinafter “Delta Consultants”), a consulting company dedicated to providing engineering consultations regarding water sewer and storm water management, water sewer design and construction, and the maintenance of such systems.

Your husband, Nelson Perez-Jacome, is employed with Miami-Dade County as an Assistant Director in the Water and Sewer Department (WASD). He is the Assistant Director of Utility Engineering responsible for survey and water sewer engineering for WASD including pipeline and plans. He is also responsible for the overall supervision of the division. Mr. Perez-Jacome does not handle procurement matters including the awarding of contracts within his department. He handles the administration of engineering and is not involved in the management of projects or oversight over WASD contractors or subcontractors. He advised that his project managers execute WASD projects and would have oversight over work completed by contractors and subcontractors. However, admittedly Mr. Perez-Jacome would have authority over said project managers.

Mr. Perez-Jacome has no ownership or involvement with Delta Consultants.

It is also noted that you have previously sought and obtained a relevant ethics opinion, INQ 2023-03, which noted several provisions within the County Ethics Code that would impact your ability to do business with the County. You are now seeking further guidance regarding the applicable limitations on your ability to contract with WASD, your husband's department, and entities that contract with WASD.

Analysis:

Sections 2-11.1 (c) and (d) of the County Ethics Code allow you to enter into a contract, individually or through a firm, with Miami-Dade County, as long as the contract does not interfere with the full and faithful discharge of your husband's duties to the County. This means that Mr. Perez-Jacome shall not participate in determining contract requirements or awarding the contract. *See* RQO 17-05; INQ 17-217. Additionally, none of your husband's responsibilities and job descriptions shall require that he be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance. In addition, your company, Delta Consultants, may not *directly* enter into contracts with WASD due to your husband's employment in that County department. *See* RQO 17-05; INQ 17-217; and INQ 11-20.

While Sections 2-11.1 (c) and (d) of the County Ethics Code prohibit Delta Consultants from entering into any contracts *directly* with WASD, it is permissible under the County Ethics Code for Delta Consultants to serve as a subcontractor on an existing contract, as long as Delta Consultant's contract is with a prime contractor or subcontractor, not with WASD. *See* INQ 17-217; RQO 17-05. In RQO 10-32, the Ethics Commission recognized that the spouse of a County employee is not prohibited from contracting *with firms that are working on County-funded projects*. *See* INQ 21-125. Later, in RQO 18-02, the Commission concluded that the County Ethics Code does not prohibit immediate family members from contracting *as* subcontractors to County vendors because the subcontractor would not be contracting directly with any County division (including the employee's division) but rather, would be contracting with the prime subcontractor or other contractors who are all under the supervision of the main contractor. *See* INQ 21-125.

Nevertheless, it may be problematic under the County Ethics Code for Delta Consultants to act as a subcontractor where its work may be subject to oversight or management by your husband (and his subordinates) in connection with his departmental duties in WASD. *See* INQ 17-217.

For example, the Ethics Commission has previously opined that the parent of a County employee is not prohibited from subcontracting with a firm that may be awarded a project working with the Parks, Recreation and Open Spaces Department (PROS), his daughter's department, because the daughter does not and will not have any direct or indirect involvement in the solicitation/Project and the parent's firm would not be directly transacting business with the County's PROS but rather, would be in privity of contract with the Prime Contractor in this project. *See* INQ 21-125. Additionally, the parent was also permitted to assist the prime contractor with its response to the RFP or bid, as his daughter was not involved in the drafting, selection, evaluation, or negotiation phases of the RFP nor did she supervise any employees who may be involved in any stage of the project. *See* INQ 21-125.

In INQ 17-217, the Ethics Commission determined that the parent of a County employee may subcontract with a County vendor through his privately-owned company, but he may not contract directly with the department that employs his son. Similarly, in INQ 13-69, the husband of a PHCD employee is not prohibited from subcontracting with construction firms servicing projects managed by PHCD because her husband would not be contracting with PHCD but rather, with the prime contractor and subcontractors (who are all under the direct supervision of the prime contractor). Lastly, in INQ 11-20, the Ethics Commission permitted a member of a County board charged with hearing appeals of DERM decisions, who has an ownership interest along with his immediate family in a company subcontracting with a prime contractor doing business with DERM may enter into a contract with the prime contractor but is prohibited from entering into contracts directly with his board or DERM.

In the event that a prime contractor, who has retained your services as subconsultant, is awarded a WASD contract, the following limitations in the County Ethics Code may be applicable to Mr. Perez-Jacome:

- Section 2-11.1(n) (*Actions prohibited when financial interest involved*) prohibits a County employee from taking any action involving the business of an immediate family member. Therefore, Mr. Perez-Jacome is prohibited from overseeing, administering, monitoring, enforcing any matters involving any project where you would be providing services to the prime contractor.
- Section 2-11.1(m)(1) (*Certain appearances prohibited*) prohibits Mr. Perez-Jacome from appearing before a County board or agency on behalf of Delta Consultants or the prime contractor to make a presentation with respect to any “license, contract, certificate, ruling, decision, opinion, rate schedule, franchise or other benefit.”
- Section 2-11.1(g) (*Exploitation of official position*) prohibits Mr. Perez-Jacome from using his position to secure any special privileges or benefits for Delta Consultants or the prime contractor.
- Section 2-11.1(h) (*Prohibition on use of confidential information*) prohibits Mr. Perez-Jacome from disclosing any confidential information to Delta Consultants or the prime contractor which information is for his personal benefit or the benefit of a third-party.

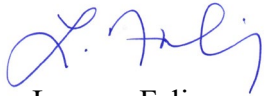
Conclusion:

Delta Consultants is permitted to act as a subcontractor for an entity contracting with WASD provided that your husband has no authority over or oversight of, directly or through employees that he supervises, any work completed by Delta Consultants. Additionally, your husband must adhere to the limitations provided above to avoid potential conflicts of interest. You are further advised to obtain an ethics opinion prior to engaging on any specific contract with a prime contractor performing work on a WASD project.

This opinion is limited to the facts as you presented them to the COE and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

Sincerely,



Loressa Felix  
General Counsel

cc: All COE Legal Staff  
Nelson Perez-Jacome, Assistant Director WASD

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.