



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Jorge Anzardo, Firefighter/EMT
Miami-Dade Fire Rescue Department

FROM: Susannah Nesmith, Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2023-129, Section 2-11.1(c) and (d), Limitation on Contracting with the County

DATE: September 26, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“COE”) and requesting our guidance regarding the application of the County Ethics Code to your wife’s proposed employment with a Miami-Dade Fire Rescue Department (“MDFR”) vendor.

Facts

You advise that your wife has left her position at the University of Miami and is considering applying for a job at Bound Tree Medical LLC. Bound Tree Medical is a New Hampshire-based vendor of medical equipment used by Emergency Medical Services (“EMS”) around the country. The position your wife is seeking is as a sales representative, selling medical equipment to “EMS” departments from Key West to West Palm Beach, including the EMS division of MDFR. You advise that, if your wife obtains this job, she will have no financial interest in Bloom Tree Medical and will only be a salaried employee.

You are an EMT and firefighter for MDFR. Your current assignment is to teach cardiopulmonary resuscitation to members of the public. You advise that you have no oversight or administrative review duties over medical supply procurement by MDFR and that you have never been called upon to evaluate EMS equipment for MDFR.

Your supervisor, Chief Shanti Hall, confirmed that you are not involved in any of the research and development that the EMS division does and that you have no supervisory role that would put you in the position of supervising someone who does work in research and development or any procurement decision-making process.

Issue

Whether there is any conflict of interest under the Miami-Dade Commission on Ethics and Public Trust between your county role at MDR and your wife's proposed employment with an MDR vendor.

Discussion and Opinion

Generally, sections 2-11.1 (c) and (d) of the County Ethics Code permit County employees and their immediate family members to transact business with the County, so long as the contract does not interfere with the full and faithful discharge of the County employee's duties, the County employee does not participate in negotiating or awarding the contract, and the County employee's job duties will not require him or her to be involved with enforcing or overseeing the contract. However, the County Ethics Code prohibits a County employees **and their immediate family members** from transacting business with the County department for which the County employee works. Specifically,

[the limited exclusion from the general prohibition on County employees contracting with the County] shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.

County Ethics Code § 2-11.1(c)(2).¹

Section (c)(2) applies specifically to contracts between the County and companies in which the employee or the employee's family member has a "controlling financial interest." *Id.* The Ethics Code defines a controlling financial interest as "direct or indirect interest of ten (10) percent or more in a firm, partnership, or other business entity." County Ethics Code § 2-11.1(b)(8). However, the Ethics Code also requires any employee whose immediate family member is employed by an entity doing business with the County, when the family member does not have a controlling financial interest, to file a sworn affidavit disclosing the employment and affirming that the County employee is not engaged in lobbying on behalf of the family member's employer and does not oversee the selection or administration of any contract the family member's employer may hold with the County. County Ethics Code § 2-11.1 (f). The affidavit must be filed with the Miami-Dade Clerk of the Circuit Court.²

For example, when the spouse of a department director worked for a company that contracted with that department, the Ethics Commission found that the department director had to file the above mentioned affidavit but because the employee's spouse had no controlling financial interest in the company, there was no conflict of interest, as long as the department director ensured that she would have no selection or administrative oversight over the contract. *See* RQO 15-06; *see also* RQO 11-11 (employee's spouse with no controlling financial interest in a County vendor who employed the spouse may continue to work for the

¹ The term "immediate family" includes spouses. *See* County Ethics Code § 2-11.1(b)(9).

² The form is available here: <https://documents.miamidade.gov/ethics/forms/no-controlling-interest.pdf>

vendor, but the County employee should not participate in any selection committee reviewing projects on which the spouse's employer was bidding).

Here, after reviewing the facts presented to us, we conclude that **your current employment at MDFR does not preclude your wife from taking a job working for a vendor with MDFR** because she would have no controlling financial interest in the vendor, Bound Tree Medical, and you have no oversight over the selection or administration of any contract her potential employer may enter into with the County. However, if and when your wife obtains employment with Bound Tree Medical, you must file an affidavit with the Clerk of the Court disclosing her employment, affirming that she has no controlling financial interest, and affirming that you do not lobby on behalf of Bound Tree Medical and that you do not oversee the selection or administration of any contract Bound Tree Medical has with the County. *See* County Ethics Code § 2-11.1(c)(2) and (f). If your future job responsibilities with MDFR change, you should seek a new opinion.

Additionally, you may not lobby the County in support of your wife's employer in any County solicitation or contract. *See* County Ethics Code § 2-11.1(m)(1). Furthermore, the County Ethics Code prohibits County employees from exploiting their official position. This means you may not use your County position to secure special privileges or exemptions with respect to your wife's employer in any County solicitation or contract. *See* County Ethics Code § 2-11.1(g).

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from the department that employs you, or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on MDFR's directives, contact your supervisor or the Mayor's office. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.