



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Lien Jobst, Program Specialist, Special Events
Miami-Dade Aviation Department

Cesar Ledesma, Special Events Manager
Miami-Dade Aviation Department

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

SUBJECT: INQ 2023-161, Section 2-11.1(j), Conflicting employment prohibited

DATE: December 6, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your outside employment as a clerk ticket counter agent for G2 Secure Staff (“G2”).

Facts

You are employed by the Miami-Dade Aviation Department (“MDAD”) as a program specialist for special events. Your job duties include conducting tours of Miami International Airport (“MIA”) for civic groups and visiting dignitaries. You also help with the logistics of putting on special events at MIA, including coordinating catering and security for groups that hold meetings at the airport and for events like the water cannon inauguration of new airplanes. Your job duties include working with members of the public and MDAD vendors in operation at MIA. Before you were employed by MDAD, you worked for several different private employers operating out of MIA, including G2.

You are seeking approval to engage in outside employment as a ticket agent for G2, which contracts with United Airlines (“United”) to provide ticket agents. G2 also has a contract with MDAD as a General Aeronautical Services Permittee, a contract that requires G2 to pay a portion of its revenues to Miami-Dade County in exchange for the right to operate at the airport. You advise that G2 is in the process of turning its operation over to United, which is expected to take over the ticket agent functions this Spring.

Your County job duties do not include any oversight or authority over County vendors or contracts and you are not in a position in your County employment to solicit customers for your outside employer. You advise that your County duties at MDAD and your responsibilities in your outside employment would not involve use of the same databases and you would not use any County resources in your outside employment. Additionally, you would only engage in outside employment when you were not working for MDAD and your hours for the two jobs would never overlap. You would however, come into contact with some of the same people in both jobs.

Your supervisors advise they are concerned about the potential for a conflict of interest because of your interactions with the same or similar entities in both jobs and because the ticket agents of G2 are essentially the face of United at MIA. United is periodically involved in the special events arranged by your division and is a major contractor with MDAD at MIA.

Issue

Whether any prohibited conflict of interest may exist between your employment at MDAD and your proposed outside employment as a ticket agent for G2, an MDAD contractor.

Analysis

Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his/her official duties, thereby creating a conflict between the employee's public responsibilities and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under no circumstances shall a County employee accept outside employment...where a real or apparent conflict of interest with one's official or public duties *is possible*." (Emphasis added).

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 22-22; INQ 19-101; INQ 13-28. The County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds, at any time, that the outside employment is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 23-15; INQ 12-49.

Several factors are considered to determine whether a potential conflict of interest exists between an individual's County position and his or her outside employment, including: the nexus between the public duties and the outside employment; whether the employee has decision-making authority over the same subject matter that the outside employment concerns; whether the employee solicits business or customers in the same area over which he or she has jurisdiction in his or her public duties; whether the employee will come into contact with the same or similar people or entities in both his or her public position and outside employment; and whether the public

entity with which the employee serves funds or has contracts or agreements with his or her outside employer. *See* RQO 17-01; INQ 21-54; INQ 21-72; INQ 17-162.

Outside employment is more likely to conflict with County employment “when the two pursuits overlap or are closely related.” INQ 16-89 (citing RQO 12-11, INQ 12-159). However, “a similarity between an employee’s County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest.” INQ 22-07; *see also* INQ 18-54 (citing RQO 12-07; RQO 04-168; RQO 00-10) (concluding that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations).

However, in the past, the Ethics Commission has found that the County Ethics Code barred an MDAD employee from engaging in outside employment with Eulen, a General Aeronautical Services Permittee, because she would periodically interact with the same people or entities in both jobs. *See* INQ 17-162. By contrast, a MDAD employee was permitted to engage in outside employment as a shuttle driver in Miami Gardens for a County vendor who did not contract with MDAD because the outside employment did not overlap in any way with his County responsibilities. *See* INQ 21-72.

Here, based on the information provided to us, **it appears likely that the type of outside employment you are seeking to engage in could impair your independence of judgment as a Special Events Program Specialist** in that you would periodically interact with the same people or entities in both positions. *See* INQ 17-162.

Opinion

Based on the facts presented here and discussed above, your proposed outside employment poses a prohibited conflict of interest with your county responsibilities.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from MDAD or under state law. Questions regarding possible conflicts based on MDAD directives should be directed to MDAD 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 this is an informal opinion, covered parties who 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.