



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Tinika Williams, Bridge Operator, Miami-Dade County Department of Transportation and Public Works

Roberto Fonteriz, Bridge Supervisor 1, Road, Bridge, and Canal Maintenance Division, Miami-Dade County Department of Transportation and Public Works

FROM: Etta Akoni, Staff Attorney, Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2023-86 Conflicting/Outside Employment, Sections 2-11.1(j) and (k), County Ethics Code

DATE: July 20, 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 proposed outside employment.

Facts:

You are employed as a Bridge Operator for the Miami-Dade County Department of Transportation & Public Works (“DTPW”) in the Road, Bridge, and Canal Maintenance Division. As a Bridge Operator your job duties involve opening bridges in a safe and timely manner; communicating with boat captains, the public, and law enforcement agencies; and reporting bridge malfunctions to your supervisors. You are seeking to engage in outside employment as a Warehouse Associate for Amazon.com, LLC. (“Amazon”).

Amazon is a publicly traded company founded in 1994. As a Warehouse Associate, you advised that your work will be that of a Return Processor. Your job primary job duty will be determining if the products being returned to Amazon are still in good condition or if they are no longer fit for resale. Your job with Amazon will be performed outside of your County employment hours. The hours you work for the County are Thursday-Sunday (midnight-8 a.m.) and Monday (4 p.m.-midnight). The hours you will work for Amazon

will be Saturday-Wednesday (9:30 a.m.-1:30 p.m.) You stated that Amazon is not a county vendor, however, Amazon.com Services, LLC is a part of Amazon and does have a contract with the County. The Miami Dade County Finance Department negotiated and currently oversees this contract. Your Bridge Operator responsibilities do not require that you have any involvement with the contract between Amazon.com Services, LLC and the Miami Dade County Finance Department.

Issue:

Whether any prohibited conflicts of interest may exist between your County employment as a Bridge Operator for DTPW and your outside employment as a Warehouse Associate for Amazon.

Analysis:

Sections 2-11.1(j) and (k) of the 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 or her official duties or creates a conflict between the County employee's public duties and his or her private interests. *See also* AO 7-1 (County's administrative order reiterates that, "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").

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 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 that it 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 12 49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

Conflicting employment can occur when the outside employment is closely related to the employee's public duties and/or where the County employee deals with the same people or entities in both his/her outside employment and in his/her public position, e.g., similar clients, suppliers, or subcontractors. *See* RQO 15-03 (IT Senior Analyst should not be permitted to engage in outside employment as an IT consultant for a private client because the outside employment was closely related to the work he performed for the County, and divided loyalties were likely to develop between his County employment and his private

employment). In general, if an employee's outside employment is totally unrelated to his/her County employment, conflicts would generally not arise.¹

Opinion:

After a review of all of the facts presented regarding your outside employment processing customer returns as a Warehouse Associate for Amazon, we conclude that this type of work is not likely to create a conflict of interest with your County employment. This is because there is no overlap between your public duties and your outside employment; you will not assist the same clients; you will not use the same resources; your outside employment does not require you to interact with other County employees; and the work would be performed outside your County hours.

However, please note that certain limitations will apply:

- You may not use County time or resources in your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles, in connection with your outside employment, even after work). *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit for the benefit of yourself or Amazon. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- You may not exploit your County position to secure special privileges or exemptions for yourself or Amazon. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent Amazon before any County board or agency. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173. Notably, while it does not appear that lobbying activities are a part of your potential duties as a Warehouse Associate, it is important to note that you would be prohibited from doing any such activities on behalf of Amazon.

¹ Please note that the law of the State of Florida prohibits an employee of an agency from having or holding any employment or contractual relationship that will create continuing or frequently recurring conflicts between their private interests and the performance of their public duties. §112.313(7)(a), Fla. Stat. (2017).

- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

Furthermore, we remind you that all county employees engaged in outside employment must obtain permission to engage in that employment on a yearly basis. Miami-Dade Code § 2-11, Administrative Procedure 7-1, and Procedure 403. Full-time County employees are also required to file an Outside Employment Statement, disclosing income earned in their outside employment, on a yearly basis. *See* Miami-Dade Code § 2-11.1(k)(2).

This opinion is limited to the facts as you presented them to the Commission on Ethics 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, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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.

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.