



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Joaquin Fardales, Project Management Chief  
Miami-Dade Department of Parks, Recreation and Open Spaces

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

**SUBJECT:** INQ 2023-104, Section 2-11.1(c) (d) (n) and (f), Limitation on Contracting with the County

**DATE:** June 13, 2024

**CC:** All COE Legal Staff

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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 a construction firm where your son has accepted an internship.

#### Facts

You are the Project Management Chief at the Department of Parks, Recreation and Open Spaces (“PORS”). You advise that your job duties include oversight over different sections involved in the initiation phase of projects (Project Control), design, permitting, and construction management (Project Management, Architectural, and Engineering Divisions), and the procurement of professional and construction services (Contract’s Section). The team you manage works with and manages the efforts of design professionals and contractors hired by PROS to design and build capital projects.

You indicated that your son, Nicolas Fardales, is a part-time lifeguard for Miami-Dade County and has recently accepted a student internship at CAMCON Group (“CAMCON”).<sup>1</sup> You further

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<sup>1</sup> You advise that you have already instructed your son to obtain outside employment approval from his lifeguard supervisor for the internship.

advise that CAMCON has not done any work for the County in the past and has not responded to any recent solicitations. However, the firm has expressed an interest in future County contracts.<sup>2</sup>

### Issue

Whether there is any conflict of interest under the Miami-Dade Conflict of Interest and Code of Ethics (“Code of Ethics”) between your county role at PROS and your son’s employment with a potential County 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 County employees **and their immediate family members** from transacting business with the County department for which the County employees work. 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.

Section 2-11.1(c)(2), County Ethics Code.<sup>3</sup>

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.” Section 2-11.1(b)(8), County Ethics Code.

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

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<sup>2</sup> You advise the firm recently requested to be included in an informal email list maintained by your department and by which local contractors are alerted when PROS has upcoming projects.

<sup>3</sup> The term “immediate family” includes children. *See* County Ethics Code § 2-11.1(b)(9).

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.<sup>4</sup>

For example, when the spouse of the director of the Department of Transportation and Public Works (“DTPW”) worked for a company that contracted with DTPW, the Ethics Commission found that the department director had to file the above mentioned affidavit when her husband’s employer contracted with DTPW, but found that 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 recused herself from any decisions involving her husband’s employer. *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 vendor, but the County employee should not participate in any selection committee reviewing projects on which the spouse’s employer was bidding) and INQ 2023-129 (the spouse of a Miami-Dade Fire Rescue (“MDFR”) employee could take a job with an MDFR vendor because the County employee had no oversight or administrative authority over the vendor’s contract, but the County employee was required to file the affidavit specified in Section 2-11.1(f) of the Ethics Code).

Here, as a summer intern, your son has no controlling financial interest in CAMCON, so there is no prohibition on CAMCON contracting with PROS. Additionally, because your son’s employer has no current contracts with PROS and has not bid on any pending contract, you have no current conflict of interest. In fact, because his employment is as a summer intern, there may never be a conflict of interest. We appreciate your proactive efforts to determine any potential future limitations you might have, should your son’s employer seek to contract with PROS. You are free to request a new opinion when and if that time comes, in order to get more specific guidance. However, generally, you should recuse yourself from oversight or administration over any solicitation to which your son’s employer responds and any PROS contract obtained by your son’s employer. You should also file the above-mentioned affidavit.

If your future job responsibilities with the County change, you should seek a new opinion.

Additionally, you may not lobby the County in support of your son’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 son’s employer in any County solicitation or contract involving any department. *See* County Ethics Code § 211.1(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 PROS directives, contact your supervisor or the Mayor’s office. For an opinion regarding Florida ethics law, please

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<sup>4</sup> The form is available here: <https://documents.miamidade.gov/ethics/forms/no-controlling-interest.pdf>

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 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.