



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Alexandria Miller, Small Business Development Division Capital Improvement Project Specialist  
Miami-Dade Internal Services Department

**FROM:** Nolen Andrew Bunker, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2024-106; Section 2-11.1(c), Prohibition on transacting business within the County; and Section 2-11.1(j), Conflicting employment prohibited.

**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 and requesting our guidance regarding possible conflicts of interest concerning your application for a grant funded by Miami-Dade County.

#### Facts

You, Ms. Alexandria Miller, are employed by the Miami-Dade Internal Services Department (“ISD”), Small Business Development Division (“SBD”) as a Capital Improvement Project Specialist. Your job duties primarily involve reviewing County solicitations for small business set-asides and communicating with private enterprises in pre-qualified pools to determine if there are small businesses able to respond to a particular County solicitation. You advised that you do not make procurement decisions; rather, you make recommendations regarding small business set-asides.

You own and operate a Florida limited liability company named ILash Out Aesthetics LLC (ILash). You are the sole owner of ILash. ILash provides beauty and esthetician services. A review of records from the Florida Department of Business and Professional Regulation shows that you are a licensed facial specialist. On behalf of ILash, you would like to apply to participate in the Business Resource and Education Grant Program.

The Business Resource and Education Grant Program is funded by Miami-Dade County and administered by the Miami-Dade Economic Advocacy Trust (“MDEAT”). The Grant Program

gives start-up entrepreneurs a \$2,500.00 capital infusion and access to technical assistance and resources to support their business venture. *See Miami-Dade Economic Advocacy Trust launches grant program for start-up businesses,*” PRESS RELEASE, [https://www.miamidade.gov/global/release.page?Mduid\\_release=rel1689809561203752](https://www.miamidade.gov/global/release.page?Mduid_release=rel1689809561203752) (last visited June 11, 2024). Per the grant application, eligible businesses must be physically located in Miami-Dade County and be only six months to two years old.

Finally, you advised that your County duties do not involve administration or enforcement of the MDEAT Business Resource and Education Grant Program.

### Issue

Whether there is a prohibited conflict of interest that would prevent ILash, your privately owned business, from participating in the MDEAT Business Resource and Education Grant Program.

### Analysis

This inquiry involves several sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance (“County Ethics Code”), each of which is analyzed in turn below:

#### A. Outside Employment

The County Ethics Code prohibits County employees from accepting outside employment, “which would impair his or her independence of judgment in the performance of his or her public duties.” County Ethics Code § 2-11.1(j). Additionally, Miami-Dade County Administrative Order 7-1 provides that, “[u]nder 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.” Outside employment is considered “any non-County employment or business relationship in which the County employee provides a personal service to the non-County employer that is compensated or customarily compensated.” RQO 17-03. 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. *See* RQO 17-01; INQ 21-66.

In practice, a County Commission Clerk 2 working for the Miami-Dade Clerk of the Courts did not have a conflict of interest that prohibited her from engaging in outside employment as the owner and operator of a Florida limited liability company providing beauty bar services. *See* INQ 22-08 (Mom and Pop Grant Program applicant).

Based on the information provided to us at this time, the work you conduct for ILash constitutes outside employment, as defined by the County Ethics Code. *See* RQO 17-03. Furthermore, it appears to be unlikely that the type of outside employment that you engage in through ILash would impair your independence of judgment in the performance of your County duties as an SBD Capital Improvement Project Specialist for ISD. This is because there does not appear to be an overlap between your public duties for ISD and your outside employment as the owner and operator of ILash. *See* RQO 17-01; INQ 22-08.

However, County department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* AO 7-1; RQO 16-02; RQO 00-10; INQ 13-28. **Accordingly, this memorandum does not grant permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your department director.**<sup>1</sup> Given that you are a full-time employee, you must also file an annual report – **Outside Employment Statement** – disclosing the source of your outside employment, the nature of the work being done, and any amount of money or other compensation received from the outside employment, regardless of whether you or your business made a profit.<sup>2</sup> *See* County Ethics Code § 2-11.1(k)(2).

B. Business Resource and Education Grant Program

Assuming you obtain permission to engage in outside employment with ILash, then you and/or ILash **may participate in MDEAT's Business Resource and Education Grant Program**, so long as ISD is not involved in any way in processing or administering the grants. This includes the condition that you may not participate in determining or awarding the grants. Additionally, none of your job responsibilities or job descriptions may require you to be involved with the grants in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n).

C. Lobbying

You may not lobby the County. In this case, it means that you may not contact anyone within the County in an attempt to influence a decision about ILash's application for a Business Resource and Education Grant. *See* County Ethics Code § 2-11.1(m)(1).

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that you may not use your County position to secure any special privilege or exemption with respect to ILash's application to, and ultimate participation in, the Business Resource and Education Grant Program, or to any other grant program to which either you or ILash are applying.

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<sup>1</sup> A records check reflects that you have submitted a currently pending request for approval for your outside employment with ILash for this calendar year.

<sup>2</sup> You can find the required form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

## Opinion

Based on the facts presented here and discussed above, you and/or ILash's participation in the Business Resource and Education Grant Program **does not appear to give rise to any prohibited conflict of interest.**

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.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. 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.