



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Alberte Williams, HR Finance Specialist
Miami-Dade Human Resources Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2024-110; Section 2-11.1(c), Prohibition on transacting business within the County; and Section 2-11.1(j), Conflicting employment prohibited.

DATE: June 17, 2024

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 concerning your application for a grant funded by Miami-Dade County.

Facts

You, Mr. Alberte Williams, are employed by the Miami-Dade Human Resources Department (“HRD”) as an HR Finance Specialist. Your job duties primarily involve reviewing payments and invoices from various agencies, submitting invoices for payment, and reconciling unemployment and wellness incentives on a quarterly basis.

You own and operate a Florida limited liability company named AW Tax and Financial Services LLC (AW Tax). You are the sole owner of AW Tax, which provides tax preparation services. On behalf of AW Tax, you would like to apply to participate in the Minority Small Business Capitalization Program.

The Minority Small Business Capitalization Program (“the Program”) is funded by Miami-Dade County and administered by the Miami-Dade Economic Advocacy Trust (“MDEAT”). Per the application, the Program gives eligible businesses a \$5,000.00 grant in order to fortify and enhance businesses countywide. Eligible businesses must, among other requirements, be physically located in Miami-Dade County, be in existence for a minimum of three years, have an average revenue within a specified range, and employ less than twenty-five people.

Finally, you advised that your County duties do not involve administration or enforcement of the MDEAT Minority Small Business Capitalization Program.

Issue

Whether there is a prohibited conflict of interest that would prevent AW Tax, your privately owned business, from participating in the MDEAT Minority Small Business Capitalization 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.”

Here, you previously received an ethics opinion regarding your outside employment with AW Tax as part of your application, on behalf of AW Tax, to receive a Mom and Pop Grant funded by Miami-Dade County. *See* INQ 23-16. You advised that the underlying facts regarding both your County position and the work you perform with AW Tax remain unchanged. Accordingly, it does not appear that your outside employment is likely to give rise to a prohibited conflict of interest, provided that you abide by the restrictions set forth in that ethics opinion. *See id.* (citing RQO 17-01; INQ 19-101).

Furthermore, 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 continue to obtain permission to engage in outside employment yearly from your department director.¹ Furthermore, given that you are a full-time employee, you must also continue to 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**

¹ A records check reflects that your request for approval for your outside employment with AW Tax for this calendar year has already been approved.

received from the outside employment, regardless of whether you or your business made a profit.² See County Ethics Code § 2-11.1(k)(2).

B. Minority Small Business Capitalization Program

Assuming you are otherwise eligible to participate, you and/or AW Tax **may participate in MDEAT's Minority Small Business Capitalization Program**, so long as HRD 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 AW Tax's application to participate in MDEAT's Minority Small Business Capitalization Program . 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 your or AW Tax's application to, and ultimate participation in, MDEAT's Minority Small Business Capitalization Program, or to any other grant program to which either you or AW Tax are applying.

Opinion

Based on the facts presented here and discussed above, you and/or AW Tax's participation in MDEAT's Minority Small Business Capitalization 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/>.

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

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.