



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Edwin Casseus, Elections IT Systems Tech  
Miami-Dade County Elections Department

**FROM:** Susannah Nesmith, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2024-125, Section 2-11.1(c), Limitations on Contracting with the County, and  
Section 2-11.1(j), Conflicting Employment Prohibited.

**DATE:** July 2, 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 company's participation in a business development grant administered by the Miami-Dade Economic Advocacy Trust ("MDEAT") and potential future contracts with the County.

#### Facts

You are employed by the Miami-Dade Elections Department ("Elections") as IT Systems Tech. You advised that your job responsibilities primarily include processing mail ballots and resolving technical issues. You further advised that your Elections position does not include any oversight or administration of the business development grants offered by MDEAT. Your wife also works for the County, at the Clerk of Courts, where she has no oversight or administrative authority over any MDEAT program.

You advised that you own and operate a Florida for-profit corporation, The Lawn Ranger Services, Inc. ("LRS"). You advised that LRS provides basic lawn care services. Your supervisor approved your outside employment this year and last year.

You initially intended to apply to an MDEAT grant program that has since closed but you have requested this opinion so that you are prepared when another MDEAT grant program opens in the future.

## Issue

Whether there is a prohibited conflict of interest that would prevent you from applying for an MDEAT small business development grant for LRS while you work for Elections.

## 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. Contracting with the County

Sections 2-11.1(c) and (d) of the County Ethics Code restrict the ability of County employees to contract with the County. A County employee is permitted to transact business with the County only as 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. *See* County Ethics Code §§ 2-11.1(c), (d).<sup>1</sup> Additionally, the County Ethics Code generally prohibits a County employee from transacting business with the County department for which he or she works. *See* Section 2-11.1(c)(2), County Ethics Code.

For instance, a Port of Miami employee’s company was permitted to participate in the County’s Small Business Enterprise Certification Program because his employing County department did not enforce, oversee, or administer the program. *See* INQ 23-108; *see also* INQ 23-05 (Miami-Dade Water and Sewer Department employee could participate in the same Small Business Enterprise program because it was not administered or otherwise affected by his employing department).

LRS may participate in a grant program offered to small businesses by MDEAT. However, it may do so only so long as Elections is not involved in any way in processing, administering, overseeing, or enforcing the grant program. Additionally, none of your job responsibilities or job descriptions may require you to be involved in the MDEAT grant program in any way, including enforcement, oversight, administration, amendment, termination, or forbearance. *See* Section 2-11.1 (c) and (n), County Ethics Code.

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<sup>1</sup> *But see* Section 112.313(7)(a), Florida Statutes, providing that:

No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, any agency of which he or she is an officer or employee . . . .

B. Outside Employment

Work conducted for LRS constitutes outside employment. The County Ethics Code prohibits County employees from engaging in conflicting outside employment. Conflicting employment is sometimes created when a County employee comes in contact with the same or similar people or entities in both her outside employment and in her County job or when she uses the same or similar resources in her outside employment as she uses in her County work. You may not use County time or resources in the performance of your outside employment. *See* Section 2-11.1(g) an (j), County Ethics Code and Administrative Order 7-1.2

*Please note that this memorandum does not grant you permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your department Director. Given that you are a full-time employee, you **must also** file the related outside employment financial disclosure form, the Outside Employment Statement yearly.<sup>2</sup> Additionally, this opinion does not address whether the proposed outside employment may constitute conflicting employment as defined in Section 2-11.1(j) of the County Ethics Code.*

C. Lobbying

You may not lobby the County. In this case, that means that you may not contact anyone within the County in an attempt to influence a decision about LRS' application to participate in MDEAT programs. *See* Section 2-11.1(m)(1), County Ethics Code.

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* Section 2-11.1(g), County Ethics Code. This means that you may not use your County position to secure any special privilege or exemption with respect to LRS' application to, and ultimate participation in MDEAT programs.

Opinion

Based on the facts presented here and discussed above, LRS' participation in grant programs administered by MDEAT does not appear to give rise to any prohibited conflict of interest, subject to the limitations discussed above.

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.

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<sup>2</sup> The form you need to file can be found here: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf> (last accessed July 1, 2024).

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, <https://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.