



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Ashley Bryant, Customer Service Representative 2
Miami-Dade Water and Sewer Department

Traceley Bootle, Customer Service Supervisor 2
Miami-Dade Water and Sewer Department

FROM: Nolen Andrew Bunker, Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2024-136, Section 2-11.1(j), Conflicting employment prohibited.

DATE: August 6, 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 in Ms. Ashley Bryant's proposed outside employment.

Facts

Ms. Bryant is currently employed with the Miami-Dade Water and Sewer Department ("WASD") as a Customer Service Representative 2. Her primary job duties involve assisting County residents regarding their water and sewer services and providing information on water conservation, service rates, and policies. Additionally, her duties include answering customer inquiries about water and billing accounts, billing, and payments, as well as processing customer requests to start, stop, or transfer water and sewer services.

Ms. Bryant advised that she wishes to engage in outside employment as the owner and operator of AAA Graceful Services, LLC ("AAAGS"), a Florida limited liability company. She advised that, through AAAGS, she provides notarial services to members of the public and receives compensation for services rendered. She further explained that her proposed outside employment will occur outside of the time/hours that she is expected to perform her duties as a Customer Service Representative 2 for WASD. Ms. Bryant advised that she will not encounter the same or similar people or entities in her proposed outside employment as her county employment, nor will she use the same or similar resources for her proposed outside employment work because her

outside employment is dissimilar to her current County work. Ms. Bryant further explained she does not have access to non-public information that is or could be relevant to her proposed outside employment. Finally, Ms. Bryant explained that, as a self-employed notary, her work will not involve recruitment or management of vendors, contractors, bidders, or members of the public who could be involved in her proposed outside employment.

Issue

Whether any prohibited conflict of interest may exist between Ms. Bryant's County employment and her proposed outside employment as a self-employed notary.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics ("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." Section 2-11.1(j); *see also* section 2-11.1(k). 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."

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. 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* RQO 16-02; RQO 00-10; INQ 13-28.

Multiple factors are considered when evaluating whether outside employment is conflicting, including similarity of duties with the employee's County duties, contact with the same or similar entities in both the employee's County position and proposed outside employment, overlapping work hours, use of County resources in the outside employment, and the management of County vendors who are also involved in the proposed outside employment. *See* RQO 17-01.

In practice, a Customer Service Supervisor for WASD could engage in outside employment as the owner and operator of a construction company that provided commercial construction services, such as flooring and drywall installations, without giving rise to a prohibited conflict of interest because his County job duties were unrelated any County construction contracts. *See* INQ 21-109. Similarly, a Treatment Plant Operator 1 for WASD did not have a conflict of interest when she engaged in outside employment as the owner and operator of a bakery company through which she baked, decorated, and sold cakes and pies, because her outside employment was unrelated to her County work and occurred outside of her County hours. *See* INQ 22-79. Finally, a Registered Nurse working for Jackson Health Systems could engage in outside employment as the owner and operator of company that, among other services, provided notary services, without giving rise to a

prohibited conflict of interest because her proposed outside employment was unrelated to her County work as a Registered Nurse. *See* INQ 21-157.

Here, based on the information provided to us at this time, **it appears unlikely that the type of outside employment in which Ms. Bryant's seeks to engage in would impair her independence of judgment as a Customer Service Representative 2 for WASD.** This is because there is no prohibited overlap between her public duties and her proposed outside employment. Ms. Bryant's proposed outside employment will be performed outside of her County work hours, nor will she come into contact in her proposed outside employment with the same persons or entities involved in her County work. Although in Ms. Bryant's current County position she deals directly with the general public, she does not provide any services in her County role that will involve her proposed outside employment as a notary. Further, Ms. Bryant will not use the same resources in her proposed outside employment as used in her County work, nor will she have access to non-public information that could be relevant to her proposed outside employment. Finally, Ms. Bryant's County work does not involve the recruitment or management of vendors, contractors, bidders, or members of the public who could also be involved in her proposed outside employment. *See* RQO 17-01; INQ 22-79; INQ 21-157; INQ 21-109.

Opinion

Based on the facts presented here and discussed above, Ms. Bryant may engage in her proposed outside employment as the owner and operator of AAAGS without giving rise to a prohibited conflict of interest because her notary work is unrelated to her County position. *See* RQO 17-01; INQ 22-79; INQ 21-157; INQ 21-109.

However, Ms. Bryant must abide by the following limitations when engaging in her proposed outside employment as the owner and operator of AAAGS:

- **Ms. Bryant may not engage in activities that relate in any way to your outside employment during her scheduled work hours (including phone calls, text messages, e-mails, or other communications)** and she may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with her outside employment, even after work. *See* County Ethics Code § 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- Ms. Bryant may not exploit her County position to secure special privileges or exemptions for herself, AAAGS, or its clients/customers. *See* County Ethics Code § 2-11.1(g). **Specifically, Ms. Bryant may not use sick leave to engage in her outside employment.** *See* INQ 18-222; INQ 09-194.
- Ms. Bryant may not disclose and/or use any confidential and/or proprietary information acquired because of her County employment to derive a personal benefit, or for the benefit of AAAGS and/or its clients/customers. *See* County Ethics Code Section § 2-11.1(h).
- Ms. Bryant must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director, and **she must**

file an Outside Employment Statement¹ with the County's Elections Department by noon on July 1st of each year for the prior year's outside employment, regardless of whether she made a profit or not in her outside employment. See County Ethics Code § 2-11.1(k)(2).

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.

Other conflicts may apply based on directives from WASD or under state law. Questions regarding possible conflicts based on WASD directives should be directed to the Mayor's Office. 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.

¹ Ms. Bryant can find the required form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.