



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Dachel Payrol, Finance Manager
Miami-Dade Transportation Planning Organization

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

SUBJECT: INQ 2024-36, Section 2-11.1(c), Limitations on Contracting with the County

DATE: February 22, 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 company's participation in Miami-Dade County's Mom and Pop grant program.

Facts

You are employed by the Miami-Dade Transportation Planning Organization ("TPO") as the Finance Manager. Your duties primarily include journaling all expenses, maintaining the general ledger, tracking accounts payable/ receivables and grants. You have already requested and obtained outside employment approval from your supervisor at the TPO.

In compliance with federal law, receipt of federal highway funds in urban areas is predicated on the existence of a comprehensive transportation planning process. Consequently, pursuant to Florida law, the predecessor to the Miami-Dade Transportation Planning Organization (TPO) was established in 1977 pursuant to state and county interlocal agreement. The TPO serves as the metropolitan planning organization for the Miami urbanized area.

You advised that you operate a private company, DP CPA, LLC. You are the owner and manager of the company, which provides bookkeeping and tax preparation for clients, most of whom are your family members.

Your company, DP CPA, LLC, is applying for a Mom and Pop Grant funded by the County, through the office of Miami-Dade Commissioner Danielle Cohen Higgins District 8. Neighbors and Neighbors Association, a not-for-profit organization, administers and makes

recommendations regarding the Mom and Pop Grant applications; and funds are distributed by the Commission offices of the thirteen (13) County Districts to businesses that meet the requirements of the grants.

Issue

Whether there is a prohibited conflict of interest that would prevent DP CPA, LLC, your privately owned business, from participating in the County's Mom and Pop 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. Contracting with the County

DP CPA, LLC, may participate in the County's Mom and Pop Grant program. However, it may do so only so long as the TPO is not involved in any way in processing, administering, overseeing, or enforcing the program. *See* INQ 23-16 (a Human Resources Department employee who also owned a tax preparation business was permitted to participate in the Mom and Pop Grant program because her County responsibilities did not include any oversight or administration of the program). This includes the condition that you may not participate in determining or awarding the grant. Additionally, none of your job responsibilities or job descriptions may require you to be involved in the grant program in any way, including enforcement, oversight, administration, amendment, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n).

B. Outside Employment

Work conducted for DP CPA, LLC, 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. Also note that you may not use County time or resources in the performance of your outside employment. *See* County Ethics Code §§ 2-11.1 (g) and (j), Miami-Dade Code 2-11, 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. 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 DP CPA, LLC's, application to the Mom and Pop grant 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 DP CPA, LLC's, application to, and ultimate participation in, the County's Mom and Pop grant program.

Opinion

Based on the facts presented here and discussed above, DP CPA, LLC's, participation in the Mom and Pop grant program 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.

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 this is an informal opinion, covered parties who 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.