



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Amos Byrd, Bus Operator
Department of Transportation and Public Works

FROM: Martha D. Perez, Temporary Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2024-96; Limitations on Contracting with the County §2-11.1(c) and
Outside Employment §2-11.1(k), (j)

DATE: May 28, 2024

CC: All COE Legal Staff; Leroy Jones, Neighbors and Neighbors Association,
Inc. (NANA)

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance concerning your county employment and your attendance and completion of a County-funded course titled, Employee Entrepreneurship Program, administered by Neighbors and Neighbors Association (NANA).¹

Facts

You are employed by the County's Department of Transportation and Public Works (DTPW) as a bus operator. In general, your job responsibility is to operate County buses within Miami-Dade County. The responsibilities in your position do not include any oversight or administration of Employ Miami-Dade Training Program (hereinafter EMDTP).

You also own a Florida for-profit company named Byrd Accounting LLC, a private consulting company. The mailing address for this business is: 1180 N.W. 79th St. #307, Miami, FL 33150. You provide bookkeeping services. You recently attended an entrepreneurship training course administered by NANA which you state will be of benefit to your new endeavor.

¹ NANA was established in 1995 to help small "mom & pop" businesses in Miami-Dade County. Beyond administering Miami-Dade County's Mom & Pop annual grant, NANA offers assistance to small businesses year-round.

You advised that you do not have any family members working for or on behalf of Miami-Dade County's NANA administered program/course and you will be seeking permission from your supervisor to engage in outside employment working for your new company.

The Employee Entrepreneurship Program is an initiative in which Miami-Dade County, CareerSource South Florida, *Neighbors and Neighbors Association*, and other local agencies partner to offer (certification) training to help eligible Miami-Dade County residents. The goal of the EMDTP training program is to provide skill training and business initiatives for participants who wish to start their own businesses.

Issue

Whether there is a prohibited conflict of interest that would prevent Mr. Byrd from attending training courses under the County-funded EMDTP, administered through NANA.

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

Work conducted by Mr. Byrd for Byrd Accounting constitutes outside employment, as defined by the County Ethics Code. *See* RQO 17-03; INQ 14-213 (providing personal services to one's own privately owned business constitutes 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." Section 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." The Miami-Dade County Ethics Code prohibits County employees from engaging in outside employment that is likely to create conflicts of interest between the employee's County responsibilities and their outside job duties.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Mr. Byrd engages in through Byrd Accounting, LLC, would impair his independence of judgment in the performance of his County duties as a DTPW Bus Operator. This is primarily due to an absence of overlap between his public duties and his outside employment.² *See* INQ 19-101 (A County Finance

² At the time of this opinion, the INFORMS Outside Employment records reflect that Mr. Byrd has not declared and has not applied for approval to conduct outside employment with Byrd Accounting. Mr. Byrd was advised that he must obtain permission from his supervisor to engage in outside employment through his private business. Mr. Byrd was also advised of the procedures for obtaining permission through the County's INFORMS online system and encouraged to speak to his Department's DPR.

Department employee does not have a conflict of interest involving her employment at the County and her work as a federal tax preparer because her outside employment would not impair her independence of judgment in the performance of her public duties; however, she was advised that it would be improper for her to solicit business for her outside employment during her County work hours); *see also* INQ 23-16 (A County employee may contract with the County through his personally owned company – AW Tax and Financial Services LLC – to participate in the Mom-and-Pop Small Business Grant program because his outside employment with his personally owned company is unlikely to give rise to a prohibited conflict of interest, and because the Human Resources Department is not involved in processing or administering the grant).

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.

This memorandum does not grant Mr. Byrd permission to engage in outside employment. Mr. Byrd must obtain permission to engage in outside employment yearly from his department director. Given that he is a full-time Miami Dade County employee, he must file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year regardless of whether you made a profit or not in your outside employment. See County Ethics Code Section 2-11.1(k)(2).³

B. County-funded Employee Training Program administered by NANA

Mr. Byrd's completion of the Miami-Dade Employee Entrepreneurship Program/ Course presents no conflict because DTPW is not involved in any way in the enforcement, oversight, administration, amendment, extension, termination, or forbearance of this program/course. *See* County Ethics Code §§ 2-11.1(c), (n).

C. Lobbying

Mr. Byrd may not lobby the County to attend this or any other County-funded employee training courses. This means that he may not contact anyone within the County in an attempt to influence a decision about attending the course(s). *See* County Ethics Code § 2-11.1(m)(1).

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploiting their official positions. *See* County Ethics Code § 2-11.1(g). This means that Mr. Byrd may not use his county position to secure any special privilege or exemption with respect to participation in the County-funded training course(s) administered through third-party providers.

³ Outside Employment Statement form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>

Opinion

Based on the facts presented here and discussed above, Mr. Byrd's participation in the Employ Miami-Dade Training Program by attending and completing a training course(s) for the benefit of his private business, Byrd Accounting, does not appear to give rise to any prohibited conflict of interest.

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.