



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Rolando Gutierrez, Correctional Officer
Miami-Dade Department of Corrections and Rehabilitation

Sherea Green, Director
Miami-Dade Department of Corrections and Rehabilitation

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

SUBJECT: INQ 2025-21; Section 2-11.1(j), Conflicting employment prohibited; Section 2-11.1(k), Prohibition on outside employment.

DATE: February 28, 2025

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest related to Mr. Rolando Gutierrez’s proposed outside employment.

Facts

Mr. Gutierrez is currently employed by the Miami-Dade Department of Corrections and Rehabilitation (“MDCR”) as a Correctional Officer. Specifically, he is assigned to MDCR’s Security and Internal Affairs Bureau, and his job duties primarily involve assignment as a jail investigator at the Pre-Trial Detention Center investigating incidents between inmates.

Mr. Gutierrez advised that he would like to engage in outside employment as the owner and operator of Roly’s RV Tech Services LLC (“Roly’s RV”), which is a Florida limited liability company. He owns the company in equal shares with his wife. Through the company, he intends to provide services as a technician for recreational vehicles (“RVs”), performing maintenance and repairs on RVs on a “per call” basis.

Mr. Gutierrez advised that his proposed outside employment will only occur outside of the times/hours that he is expected to perform his duties as a Correctional Officer for MDCR because of the flexible, as-needed nature of his proposed outside employment. He further advised that, as

part of his proposed outside employment, he will not be required to encounter the same or similar people or entities as in his County position, nor will he use the same or similar resources in his proposed outside employment as in his County position. He also stated that, because of the differing natures of his proposed outside employment and his County work, he does not have access to non-public information in his County position that is, or could be, relevant to his outside employment. Finally, Mr. Gutierrez advised that his County position does not involve the recruitment or management of County vendors, and he does not intend to become a County vendor, either individually or through Roly's RV.

Issue

Whether any prohibited conflict of interest may exist between Mr. Gutierrez's County employment and his proposed outside employment as the owner and operator of Roly's RV.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("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 ("AO") 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* County AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Ethics Commission 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.

Outside employment is considered "any non-County employment or business relationship in which the County employee provides a personal service to the non-County employer that is compensated or customarily compensated." RQO 17-03. Several factors are considered to determine whether a potential conflict of interest exists between an individual's County position and his or her outside employment, including: the nexus between the public duties and the outside employment; whether the individual has decision-making authority over the same subject matter that the outside employment concerns; whether the individual solicits business or customers in the same area over which he or she has jurisdiction; whether the individual will come into contact with the same or similar people or entities in both his or her public position and outside employment; and whether the public entity with which the individual serves funds or has a contract with his or her outside employer. *See* RQO 17-01; INQ 21-66.

In practice, a Correctional Officer working for MDCR could engage in outside employment as the owner and operator of his own for-profit company providing firearms instruction without giving

rise to a prohibited conflict of interest because his outside employment was unrelated to his County position. *See* INQ 24-148. Similarly, a Pretrial Services Officer 2 working for MDCR could engage in outside employment as the owner and operator of her own for-profit company providing commercial and residential janitorial services without giving rise to a prohibited conflict of interest because her outside employment was unrelated to her County position. *See* INQ 22-63.

Here, based on the information provided to us at this time, **it appears unlikely that the type of outside employment in which Mr. Gutierrez is seeking to engage would impair his independence of judgment as a Correctional Officer for MDCR.** This is because there is no overlap between his public duties and his proposed outside employment: his proposed outside employment will be performed outside of his County work hours; he will not come into contact in his outside employment with the same persons or entities involved in his County work; he will not use the same resources in his proposed outside employment as used in his County work; and, he will not have access to non-public information as part of his County work that is, or could be, relevant to his proposed outside employment as the owner and operator of Roly's RV, performing maintenance and repairs on RVs. *See* RQO 17-01; INQ 24-148; INQ 22-63.

Opinion

Based on the facts presented here and discussed above, Mr. Gutierrez would not have a prohibited conflict of interest in his proposed outside employment as the owner and operator of Roly's RV performing RV maintenance and repair. *See* RQO 17-01; INQ 24-148; INQ 22-63.

However, in addition to the above-discussed restrictions, Mr. Gutierrez must abide by the following limitations regarding his proposed outside employment with Roly's RV:

- He may not engage in activities that relate in any way to his outside employment during his scheduled work hours (including phone calls, text messages, e-mails, or other communications), and he also may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with his outside employment, even after work. *See* County Ethics Code § 2-11.1(g); County AO 5-5; County AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- He may not use his County position to secure any special privilege or exemption for himself and/or Roly's RV or its clients. *See* County Ethics Code § 2-11.1(g). **Specifically, he may not offer his or Roly's RV's services to anyone during his County working hours, including to members of the public, co-workers, and other County employees. *See* INQ 19-101. Furthermore, to avoid any appearance of impropriety, neither you nor Roly's RV should contract with anyone currently in MDCR custody and/or their immediate family, nor anyone who you were responsible for the care, custody, and control of while he or she was in MDCR custody.**
- He may not disclose and/or use any confidential and/or proprietary information acquired because of his County employment to derive any personal benefit, or for the benefit of Roly's RV or its clients. *See* County Ethics Code § 2-11.1(h).

- He may not represent Roly's RV or its clients before any County board or agency. *See* County Ethics Code § 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of his potential activities as the owner and operator of Roly's RV, it is important to note that he would be prohibited from doing any such activities on behalf of Roly's RV or its clients.
- He must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director. *See* County AO 7-1. Additionally, **he must file an Outside Employment Statement¹ with the County Ethics Commission by noon on July 1st of each year for the prior year's outside employment** regardless of whether he made a profit or not in his outside employment. *See* County Ethics Code § 2-11.1(k)(2).

This opinion is based on the facts presented and is limited to an interpretation of the County Ethics Code only. 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 MDCR or under state law. Questions regarding possible conflicts based on MDCR directives should be directed to MDCR or 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 opinions provided by the legal staff after review and approval by the Executive Director and/or General Counsel. INQs deal with opinions previously addressed in public session by the Miami-Dade Commission on Ethics and Public Trust or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Ethics Commission 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 this opinion may be subject to investigation and a formal Complaint filed with the Ethics Commission.

¹ Mr. Gutierrez can find the required form online at: <https://documents.miamidade.gov/ethics/outside-employment/outside-employment-statement.pdf>.