



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Alain Ferrer, Guideway Inspection Specialist
Miami-Dade Department of Transportation and Public Works

Eric Walker, General Superintendent
Miami-Dade Department of Transportation and Public Works

FROM: Nolen Andrew Bunker, Assistant General Counsel
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: June 27, 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. Ferrer’s proposed outside employment.

Facts

Mr. Ferrer is currently employed by the Miami-Dade Department of Transportation and Public Works (“DTPW”) as a Guideway Inspection Specialist in the Guideway Division. His primary duties include conducting inspections on train guideways, specifically the structures, rails, signal cables, electrical cables, and third rail. He is also required to identify and report issues and perform small repairs on train tracks to ensure safe and continuous operations.

Mr. Ferrer advised that he would like to engage in outside employment as a Helper Electrician for Statewide Electrical Service, Inc. (“Statewide”), which is a Florida corporation. Statewide is a County vendor that provides electrical maintenance for DTPW. As a Helper Electrician for Statewide, Mr. Ferrer will be expected to assist with the installation of new electrical brakes, disconnects, transformers, and switches ranging from 120V to 400V for DTPW’s Traction Power Division pursuant to their County contract. Mr. Ferrer holds no ownership interest in Statewide.

Mr. Ferrer advised that his proposed outside employment will only occur outside of the times/hours that he is expected to perform his duties as a Guideway Inspection Specialist for DTPW because his outside employment would occur after his County duties ended, between the hours of 4:00 p.m. to 8:00 p.m. 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 he does not have access to non-public information or confidential information in his County position that is, or could be, relevant to his outside employment. Finally, Mr. Ferrer advised that his County position does not involve the recruitment or management of County vendors.

Issue

Whether any prohibited conflict of interest may exist between Mr. Ferrer's County employment and his proposed outside employment as a Helper Electrician for Statewide.

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." County Ethics Code § 2-11.1(j); *see also* County Ethics Code § 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 their outside employment, including: the nexus between their 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 they have jurisdiction; whether the individual will come into contact with the same or similar people or entities in both their public position and outside employment; and whether the public entity with which the individual serves funds or has a contract with their outside employer. *See* RQO 17-01; INQ 21-66.

Generally, outside employment with a County vendor is not prohibited so long as it can be shown that the outside employment will not impair the County employee's independence of judgment in the performance of their County duties. *See* RQO 17-01; RQO 16-02; RQO 00-10; INQ 20-31; INQ 20-29; INQ 20-28. Furthermore, a County employee may engage in outside employment with a County vendor so long as he or she does not have any involvement with the vendor's County contract. *See* RQO 16-02 (the "Ethics Code does not prevent an employee from being employed by a County vendor, as long as the employee does not have any involvement with the vendor's contract"); *see also* INQ 24-122; INQ 20-28.

However, a conflict may arise when a County employee works for a County vendor that contracts with their employing County department and there is overlap between the employee's County duties and their duties with the outside employer. *See* INQ 19-31 (citing RQO 99-50 and INQ 12-55). For example, a Maintenance Repairman employed with the Miami-Dade Aviation Department ("MDAD") whose duties included the repair of air conditioning units at the Miami International Airport could not engage in outside employment with a company contracted with MDAD to provide maintenance and inspection services of air conditioning units of airport passenger loading bridges because of the similarity of duties and the contract with his employing County department. *See* INQ 17-185.

Here, Mr. Ferrer stated that his County duties and his potential responsibilities as a Helper Electrician for Statewide are different from each other. He explained that, as a Helper Electrician he would be working for the Traction Power Division of DTPW, which operates separately from the Guideway Section, in which he works as a County employee. Mr. Ferrer further advised that the work for the Traction Power Division requires the installation of new electrical equipment within the traction power system, whereas his County role requires inspection of the guideway's structure, rails, and cables. He also noted that Statewide does not service the same County facilities assigned to him in his County position.

However, while the Guideway Section and Traction Power Division are separate subdivisions of DTPW, they are not independent from each other. Mr. Ferrer acknowledged that, as a Guideway Inspection Specialist, he is required to report any deficiencies with the guideway and its structures, including those that are electrical in nature. He further acknowledged that, within the guideway's electrical system are the cables that supply the traction power. The guideway's electrical system is an area that Mr. Ferrer inspects as part of his County duties. Thus, there is a nexus between Mr. Ferrer's County duties and his proposed outside employment with Statewide. *See* RQO 15-03 (a County employee may not engage in outside employment when it "is closely related to the work he performs for the County [as] it would likely impair the employee's independence of judgment in the performance of his duties"); INQ 19-31; INQ 17-185.

Accordingly, based on the information provided to us at this time, **it appears likely that the outside employment in which Mr. Ferrer seeks to engage would give rise to a prohibited conflict of interest** because of the closely related nature of his County duties as a Guideway Inspection Specialist and the duties of a Helper Electrician in his proposed outside employment with Statewide servicing a contract between Statewide and his employing County department. *See* RQO 15-03; INQ 19-31; INQ 17-185.

Furthermore, while the Ethics Commission does not have jurisdiction over State law, it cannot be ignored. Florida law provides 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, an agency of which he or she is an officer or employee

Fla. Stat. § 112.313(7)(a). This provision of Florida law prohibits any County official or employee from engaging in employment with any business that is regulated or doing business with their employing County department or agency. *See* INQ 25-51; CEO 07-13; *see also Velez v. Comm’n on Ethics, State of Florida*, 739 So.2d 686, 688 (Fla. 5th DCA 1999). While the Florida Ethics Commission distinguishes between smaller subsets of State departments, this is done only when the organizational structure is statutorily prescribed. *See* CEO 05-6. Otherwise, the Florida Ethics Commission has “found that differing functional units in an agency are still part of that same agency.” *See id.*

Here, it appears that State law would also prohibit Mr. Ferrer from engaging in his proposed outside employment as a Helper Electrician with Statewide because Statewide contracts with his employing County department. While DTPW has several subdivisions, including the Guideway Section and Traction Power Division discussed above, these subdivisions are not prescribed by ordinance and exist at the sole discretion of the County Mayor. *See* Miami-Dade County Code § 2-98.1. As such, while Mr. Ferrer works under the Guideway Section, it does not appear that it is a distinct subdivision that would be recognized under State law. *See* CEO 05-6. Therefore, it appears that State law would prohibit Mr. Ferrer’s proposed outside employment due to Statewide’s contract with DTPW. *See* Fla. Stat. § 112.313(7)(a).

Opinion

Based on the facts presented here and discussed above, Mr. Ferrer would have a prohibited conflict of interest in his proposed outside employment as a Helper Electrician for Statewide due to the overlap of responsibilities with his position as a Guideway Inspection Specialist with DTPW and that his proposed outside employment would be directly related to the contract between his outside employer and his employing County department. *See* RQO 15-03; RQO 99-50; INQ 19-31; INQ 17-185.

The Ethics Commission is aware that employees may seek outside employment in order to earn additional income or to address economic hardship. We encourage DTPW employees seeking outside employment to look to entities that do not have a contractual relationship with DTPW.

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 agency counsel.

Other conflicts may apply based on directives from DTPW or under state law. Questions regarding possible conflicts based on DTPW directives should be directed to DTPW 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.