

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Friday, February 23, 2018 9:09 AM
To: Sanchez, Rodzandra (COE)
Subject: FW: Suzanna Lowe, 911 Communications Manager, MDPolice Department Communication Bureau, Outside/ Conflicting Employment , 2-11.1 (j), (k); INQ 18-54
Attachments: Outside employment Memo 2014 amended (3).pdf

[INQ 18-54 Lowe](#)

From: Perez, Martha D. (COE)
Sent: Friday, February 23, 2018 8:22 AM
To: Lowe, Suzanne L. <SLLowe@mdpd.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Hamlin, Ray <RHamlin@mdpd.com>
Subject: Suzanna Lowe, 911 Communications Manager, MDPolice Department Communication Bureau, Outside/ Conflicting Employment , 2-11.1 (j), (k); INQ 18-54

Dear Ms. Lowe,

You inquire on behalf of Ray Hamlin, a County employee, about possible conflicts of interest between his County employment and his outside employment.

Background

You are employed as 911 Communications Manager for the Miami-Dade Police Department Communications Bureau (MDPD-CB). You supervise Mr. Ray Hamlin (Hamlin) who has been employed at MDPD-CB for the past ten years as an Emergency Medical Dispatch Quality Assurance Specialist 2. His job duties include conducting quality assurance personnel reviews, evaluating online random 911 communications tapes for protocol compliance and conducting training on dispatch education for new hires.

While employed with the County, he has been working for the past seven years with Medical Priority Consultants, Inc. (MPC). This outside employment has been previously approved, however, no ethics opinion has been requested on the issue of conflicting outside employment until now.

In his outside employment, Hamlin evaluates quality assurance employees of *other outside/non-County agencies* for MPC. Correspondingly, his duties at MPC consist of : reviewing calls for other agencies; conducting MPC's quality assurance personnel reviews and protocol compliance; and, conducting training at the request of the outside agencies. All outside employment takes place during his off-duty time.

MPC contracts with the County and MDPD-CB for the use of software and protocols for MDPD-CB. Specifically, ProQA is a standardized, universal, scripted protocol emergency response software application used by call takers to accurately identify location and chief complaint of caller; evaluate scene safety issues for bystanders and responders; and, choose the most appropriate response. *MPC is the proprietary owner of this application. MPC does not*

compete with the County in providing this service/ product but rather, Miami-Dade County is its customer. Hamlin works with the same software application(s) in both his County and outside employment.

The following additional facts are noted:

- Hamlin has been performing his duties as a County quality assurance specialist and quality assurance supervisor for MPC without any incidents evincing conflict;
- While there are no significant differences between Hamlin's duties in the County and his duties at MPC, his duties at MPC are performed for *outside agencies*;
- In order to conduct instruction and training, all County quality assurance specialists, including Hamlin are *required* to be certified by MPC (You have assured us that this is a benefit conferred upon the County because of Hamlin's specialized knowledge of the protocol)
- Hamlin is not involved with the oversight or administration of the contract between the County and MPC;
- Hamlin does not evaluate or audit MPC;
- Hamlin's work station/cubicle would make it difficult for him to conduct his outside employment without the knowledge of other employees;
- Hamlin has been previously approved for outside employment with MPC;
- You have indicated that it is unlikely that MPC would have a position adverse to the County;
- You have indicated that there it is unlikely that Hamlin would be in a position to solicit business on behalf of MPC while working for the County (You indicate that any *outside agency* Hamlin instructs in his outside employment is because he has been invited to do so by the agency and not because he has solicited "new" clients in his County position);
- You have indicated that you have not observed any instances where Hamlin's judgment has been impaired as a result of his outside employment not his loyalties have been questioned (You indicate that his knowledge of the protocol has been a benefit to the County);
- MPC provides a unique service to the County. The protocol emergency response software application which the County obtains from MPC serves to increase safety, improve survivability rates and reduce governmental liability risks. It is undisputed that such application used by the County and municipalities alike enhances emergency response efforts and are critical to the efficient operations of any first responder entity. (*See Memorandum, 11/07/2017 re Request for Additional Expenditures Authority...under Legacy Contract No. L9007-3/23...*) (Emphasis added)

Analysis

Sections 2-11.1(j) and (k) of the County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his official duties thereby creating a conflict between the employee's public duties and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under 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 Ethics Commission (COE) has developed guidelines to assist departments in their determinations on whether to approve or deny an outside employment request. The guidelines attached herein provide examples of potential conflicts between an employee's public duties and his duties to his outside employer. Although these guidelines may serve as an aid, final determination as to whether a County employee should engage in the proposed outside employment rests with his or her supervisor. *See RQO 04-168; INQ 06-23; INQ 18-24* ("The final decision regarding whether to grant permission to engage in outside employment rests with the department director based on staffing and operational needs of the department; personnel administration and performance issues as well as considerations of whether the outside employment creates a prohibited conflict of interest under the County Ethics Code." *See INQ 18-24* (citing to RQO 00-10, RQO 12-07, INQ 12-49 and INQ 13-28))

Consequently, inquiries concerning conflicting outside employment require consideration of a myriad of factors, one of which is, whether there is a similarity between the employee's County duties and his duties to the outside employer. However, similarity between an employee's County duties and his or her outside employment duties does not indicate, by itself, the existence of a conflict of interest. For example, in RQO 00-10, the Ethics Commission did not find a conflict of interest for a County employee working for WASD as a water treatment plant officer to engage in outside employment

performing *similar* functions for a company which operates water treatment plants for entities *not served* by the County . Similarly, in RQO 04-168, the Ethics Commission opined that, *with limitations*, a County land surveyor may engage in outside employment as land surveyor for private clients, including other municipalities. Also, in RQO 12-07, the Ethics Commission concluded that, *with limitations*, a County liability claims adjuster at ISD-Risk Management could work as a private risk management consultant (performing similar duties).

Consequently, the fact that Hamlin's duties in MDPD-CB and MPC are similar or, in this instance, parallel, does not preclude him from engaging in his outside employment with MPC, albeit with limitations.

There are instances where, in addition to the similarity between the outside employment and the County position, the outside employer is a County vendor contracting with the same County department where the County employee works. Generally, 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 INQ 11-67. In this instance, Hamlin does not oversee or manage the County's contract with MPC. Additionally, his position does not confer upon him any managerial functions upon his outside employer/County vendor. See INQ 15-115 (a surgical technician at JHS may engage in outside employment for a County contractor manufacturing surgical equipment because the employee is not involved with the contract /product acquisition.)

The COE has opined that, *with limitations*, a County employee who performs similar services for the County and his outside employer/County vendor, may continue performing his outside employment even though his County department oversees the outside employer's contract. See RQO 16-02 ; RQO 17-01

Consequently, while Hamlin's outside employment may appear conflicting, pursuant to COE opinions, the facts provided herein and your assurances as his supervisor (specifically, your willingness to approve his outside employment), at a minimum, the following limitations should be imposed in order to avoid a conflict under the County Ethics Code:

- 1) Hamlin shall not take any actions or make any recommendations to the County as a County employee on any matters involving MPC or interact with County staff on behalf of MPC. In other words, Hamlin cannot make any presentations to County officials or personnel on behalf of MPC (Section 2-11.1(m)(1), County Ethics Code);
- 2) Hamlin shall not disclose confidential information acquired by reason of his County position or use that information for personal gain or benefit or for the benefit of MPC (Section 2-11.1(h), County Ethics Code);
- 3) Hamlin shall not engage in activities that relate in any way to his outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources, in furtherance of his outside employment, even after work (AO 7-1, Section 2-11.1(g), County Ethics Code);
- 4) Hamlin shall not use his official position with the County to secure special privileges or exemptions for himself or MPC (Section 2-11.1(g), County Ethics Code);
- 5) *Neither Hamlin nor any other County employee under Hamlin's supervision shall be involved in any evaluations, audits or performance reviews of MPC's product/software;*
- 6) Hamlin shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director and shall file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. (Section 2-11.1(k)(2), County Ethics Code);
- 7) Hamlin shall file a sworn statement disclosing his outside employment with the Clerk of the Circuit Court (Section 2-11.1(f), County Ethics Code) [All forms may be found at <http://ethics.miamidade.gov/outside-employment>]

While it is undisputed that the duties performed by Hamlin both in his County and outside employment are a benefit to all governmental entities, outside employment should not create an "a real or apparent conflict of interest with one's official or public duties." See AO 7-1. It is within the discretion of department directors to deny outside employment if it is determined, *at any time*, to be contrary, detrimental or adverse to the County's interests or the employee's department, or if it is determined that the employee is not abiding by conditions imposed on his or her outside employment. See AO 7-1; RQO 16-02; RQO 00-10

This opinion is based on the facts as presented. If any of these facts change, please contact us. Inquiries regarding possible conflicts under state law should be directed to the Florida Commission on Ethics.

Sincerely,

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

19 West Flagler St. Suite 820

Miami, FL 33130

(305)350-0656

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From: Perez, Martha D. (COE)

Sent: Wednesday, January 31, 2018 3:12 PM

To: Lowe, Suzanne L. <SLLowe@mdpd.com>

Subject: RE: Miami-Dade Police Department Communications Bureau - Outside Employment Question -

Dear Suzanne,

It was a pleasure speaking with you today. I have additional questions on this matter so when you get a moment, please call me. Also, if you would be so kind and email me Mr. Hamlin's Request for Outside Employment.

Thank you and have a nice day!

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

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Miami, FL 33130

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From: Centorino, Joseph (COE)

Sent: Monday, January 29, 2018 10:25 AM

To: Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>

Subject: FW: Miami-Dade Police Department Communications Bureau - Outside Employment Question

Please handle. Thanks.

From: Lowe, Suzanne L. [<mailto:SLLowe@mdpd.com>]

Sent: Monday, January 29, 2018 10:15 AM

To: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>

Subject: Miami-Dade Police Department Communications Bureau - Outside Employment Question

Good Day:

I am forwarding this email to you in hopes that we may be able to receive guidance regarding authorization for outside employment.

Please let me know if I have the correct contact information.

Thank you kindly,

Suzanne Lowe, 911 Communications Manager

Miami-Dade Police Department

Communications Bureau

Email: SLowe@mdpd.com

Office: 305.669.7740

Cell: 305.216.4035

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From: Lowe, Suzanne L.

Sent: Monday, January 29, 2018 9:25 AM

To: ethics@miamidade.gov

Subject: Miami-Dade Police Department Communications Bureau - Outside Employment Question

Good Day:

We are writing to the Ethics Commission in hopes of obtaining an opinion regarding a potential conflict between an employee with Miami-Dade Police Department and a County Vendor, Medical Priority Consultants, Inc.

The employee has received prior authorization for outside employment with this company, but we have never sought an opinion from the Ethics Commission.

Our MDPD employee, Ray Hamlin, is an Emergency Medical Dispatch Quality Assurance Specialist 2. I have attached the MDPD job description for this position. Essentially, the employee conducts quality assurance reviews by listening to medical calls and scoring the MDPD call takers according to the medical dispatch protocol.

The County contracts with Medical Priority Consultants to use their software and protocols. Mr. Hamlin's job with the vendor is to review calls for other agencies and to evaluate the Medical Priority Consultants' Inc.'s quality assurance personnel to ensure they are abiding by the protocol. The job is very similar to his duties with the County.

Kind Regards,

Suzanne

Suzanne Lowe, 911 Communications Manager

Miami-Dade Police Department

Communications Bureau

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