



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Leonard Glendale, Capital Improvement Project Database Administrator,
Miami-Dade Water and Sewer Department

FROM: Gilma Diaz-Greco, Staff Attorney
Commission on Ethics

SUBJECT: INQ 19-123

DATE: November 27, 2019

CC: All COE Legal Staff; Kevin Lynskey, Director, Hardeep Anand, Deputy
Director Miami-Dade Water and Sewer Department

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts:

You are employed at the Miami-Dade County Water and Sewer Department (“WASD”) as the Capital Improvement Project Administrator Database Manager (“CIP Database Manager”). You would like to engage in outside employment working for your privately-owned company Financial Strategies for Life, LLC. (“FSFL”) as a Certified Public Accountant (“CPA”).

Issue:

Whether any prohibited conflicts of interest may exist between your County employment and your proposed outside employment as a CPA in your privately-owned financial service company FSFL.

Background:

As background, you are employed at WASD as the Capital Improvement Project Administrator Database Manager. Your job duties at WASD include oversight of the software application Proliance, which is a Project Control & Tracking System application (also known as PCTS), that is used to track and monitor all capital improvement projects for WASD. In your role as CIP Database Manager, you have unrestricted access to the database and provide database support to all WASD users of the database who use and input information and data at every phase of the CIP process from project initiation to construction. This includes but is not limited to assisting with technical problems experienced by users; addressing problems with errors in integrating with other software; planning and execution of upgrades to the software; changes in software configuration; and creating complex reports.

You are also a Certified Public Accountant and you are seeking to engage in outside employment by establishing your private company FSFL. You advise that FSFL will provide accounting and management advisory services such as cash management; credit and collections management; billing management; inventory management; fixed asset management; accounts payable management; equity management; and payroll management. The work for FSFL will require the use of specialized accounting software you will purchase that is typical to operating a certified public accounting firm but not Proliance or any other software that you use in your County work. FSFL will be marketing to businesses that are not likely to be WASD vendors. Some examples of the target clients are healthcare providers; automotive service providers; and restaurants, none of which are related to the work you perform for Miami Dade County.

We have consulted with your supervisor at WASD who confirmed that your County job duties do not include providing accounting or financial services nor oversight or administration of any accounting or financial service WASD vendors; and that the services provided by FSFL would not compete with any services provided by WASD.

Analysis and Opinion

Several sections of the Miami-Dade Code of Ethics, and other relevant Miami-Dade administrative Orders and ordinances must be considered in analyzing whether a County employee's outside employment may create prohibited conflicts of interest.

- Sections 2-11.1(j) and (k) prohibit County employees from engaging in outside employment which would impair the employee's independence of judgement in the performance of his or her public duties. Furthermore, County employees may not engage in outside employment that creates a conflict of interest between the

employee's public duties and his or her personal interests. Miami-Dade Administrative Order 7-1.

- Miami-Dade Code Section 2-11 prohibits County employees from using County time, materials or equipment in outside employment and from engaging in outside employment that would be adverse or detrimental to the interests of the County.
- Section (g) of the County Ethics Code prohibits County employees from using their official position to obtain special privileges or exemptions for themselves or their outside employers. Overseeing, administering, being involved in the selection or recommendation of any current or future contract that the employee's outside employer may have with the County, and/or the use of County time or resources in the performance of outside employment, may constitute an "exploitation of official position" in violation of Section 2-11.1(g) of the County Ethics Code.

In this instance, your public duties as a Database Manager at WASD do not include providing accounting or financial services to WASD; direct or indirect contact with providers of accounting or financial services; you will not have any business relationships with any WASD vendors; and your County job will not otherwise cause you to interact with the same or similar entities in your outside employment that you interact with in your public duties. *See* RQO 08-45 and RQO 09-16.

Consequently, based on the facts presented here, and after discussing this matter with WASD supervisory personnel, we concur with WASD that your proposed outside employment as a CPA with your privately-owned company FSFL is unlikely to create conflicts of interest. This is because your County job duties and the duties of your outside employment are not closely related; your County job duties do not include providing or accounting of financial services nor oversight or administration of any accounting or financial service WASD vendors *See* COE Outside Employment Guidelines (2019). In addition, since your outside employment would occur outside of your County hours of employment and you would purchase the accounting and financial services software and other resource for your business, it is unlikely that any County resources would be used for this job. *See* COE Outside Employment Guidelines (2019) and Miami-Dade Code 2-11.

Nevertheless, you must abide by certain limitations and cautions outlined below:

- You may not use County time or resources in your outside employment. Miami-Dade Code Sec. 2-11.
- Pursuant to Miami-Dade Code Section 2-11.1(g), you may not use your County position to obtain special privileges or exemptions for yourself, for FSFL or for any of FSFL clients; this includes a prohibition on using information in the database which you manage which is not readily available to the public to market FSFL services. *See* RQO 99-40. Furthermore, use of County time or resources in the performance of your outside

employment, may constitute an “exploitation of official position” in violation of Section 2-11.1(g) of the County Ethics Code.

- FSFL may not enter into contracts with WASD. If FSFL were to seek to contract with any other County Department, an [ethics opinion](#) must be requested prior to contracting with another County department.
- You may not disclose any confidential information, or use any confidential information gained in your County employment to benefit yourself, FSFL, or the company’s clients. Mimi-Dade Code Sec. 2-11.1(h).
- You may not represent FSFL or any of its clients before any county board or agency. Miami-Dade Code 2-11.1(M)(1) and RQO 04-173.

Please also note that, as long as you are engaged in outside employment you must obtain permission to engage in outside employment in order for WASD to review any changes in your role or interests of FSFL. You must also file an outside employment financial disclosure form ([Outside Employment Statement](#)), reporting any money received from your employment with FSFL. This form must include any money earned even if the business is not profitable; enter \$0.00 if the company received no money. County Ethics Code Secs. 2-11 and 2-11.1 (k)(2).

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We understand that FSFL is at its inception. We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with the project change, please contact us for additional guidance.

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 Ethics Commission 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.