

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, February 28, 2019 1:51 PM
To: Warger, Brenda (MDPR); ea674@miamidade.gov
Cc: Arrojo, Jose (COE); Calix, Andres (MDPR); Murawski, Michael P. (COE); Perez, Martha D. (COE); Turay, Radia (COE); Sanchez, Rodzandra (COE); Anderson, Machell (COE)
Subject: INQ 19-25, Eduardo Alonso, Landscape Technician, Deering Estate (Outside Employment)
Attachments: INQ 19-25 Alonso.pdf; Outside Empl- req.- E. Alonso.pdf; Alonso, E. bluebook.pdf

Dear Ms. Warger:

Thank you for contacting the Commission on Ethics. Attached is the requested outside employment opinion for Mr. Eduardo Alonso, employed at the Deering Estate.

Please do not hesitate to contact us if we may be of further assistance.

Cordially,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Eduardo Alonso
Landscape Technician, Deering Estate-Miami Dade Parks Recreation and
Outdoor Spaces Department

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

SUBJECT: INQ 19-25

DATE: January 26, 2019

CC: All COE Legal Staff; Brenda Warger, Assistant to the Director, Deering Estate-
Miami Dade Parks, Recreation and Outdoor Spaces Department, Andres Calix,
Deering Estate Grounds Coordinator

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 Deering Estate, a division of the Miami-Dade County Parks Recreation and Open Spaces Department (“PROS”) as a Landscape Technician. You would like to engage in outside employment as a Janitor with Vista Building Services Inc. (“Vista”), a County vendor. Vista provides janitorial services to County buildings including some PROS administrative buildings but does not provide janitorial services to any Miami-Dade Parks administered by PROS.

Issue:

Whether any prohibited conflicts of interest may exist between your County employment and your proposed outside employment as a Janitor for Vista.

Discussion:

As background, you are employed at PROS as a full-time Landscape Technician at the Deering Estate. Your job duties involve general gardening, as well as other landscape maintenance of the grounds at the Deering Estate.

You are seeking outside employment working as a Janitor for Vista. Your outside work would involve providing janitorial services to the Downtown Library building and the History Miami Museum building which are located in downtown and are not administered by PROS. This work would occur outside of your County work hours. In addition, we have consulted your supervisors at Deering who confirmed that your County job duties do not include selection, oversight, administration or any other duties involving cleaning and maintenance companies hired by the County, nor any aspect of Vista's contract with the County.

Several sections of the Miami-Dade Code of Ethics 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 creates a conflict between the County employee's public duties and his or her private interests and therefore impair the County employee's independence of judgment in the performance of his or her official duties.
- 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.
- Section (f) of the County Ethics Code County provides that employees engaged in outside employment with a County vendor must complete a sworn affidavit disclosing that employment and must file the affidavit with the Miami-Dade Clerk of the Board.

In this instance, your outside employment working as a Landscape Technician is distinct from the janitorial services you would provide for Vista. In addition, it would not include overlap or frequent contact with Vista employees in your County work because Vista does not provide janitorial services to the Deering Estate. Furthermore, your County job does not involve selection, oversight or administration of Vista's contract with the County nor routine access to information or other County resources that would be likely to benefit your outside employer; your outside employment would occur outside of your County hours and would not require use of County resources to perform the work.

Opinion:

Based on the facts presented here, and after discussing this matter with Deering Estate supervisory personnel, we concur with them that your outside employment as a janitor for Vista

does not create conflicting employment. This is because this vendor does not provide services to the Deering Estate which employs you; your public duties there would not include direct or indirect contact with, nor selection, oversight, or administration of Vista's contract; nor routine access to information or other County resources that would be likely to benefit your outside employer. *See* RQO 16-02 (No conflict of interest where a County employee works for a County vendor where the employee has no contact with or authority over the County contract with the vendor), and COE Outside Employment Guidelines (2017). In addition, your outside employment would occur outside of your County hours and would not require use of County resources to perform the work. Consequently, there is no overlap or likelihood of conflict between your public duties as Janitor at the Deering Estate and your outside employment.

However, you must abide by certain limitations. You may not use County time or resources in your outside employment; you may not disclose any confidential information or use confidential information gained in your County employment for a private benefit; and you may not use your County position to secure any special benefits for yourself or your private employer. Miami-Dade Code Section 2-11, AO No. 7-1, County Ethics Code Sections 2-11.1(g) and (h).

Please note that, as long as you are engaged in outside employment you must obtain permission to engage in outside employment annually; file an affidavit annually with the Clerk of the Board to disclose your employment with a County vendor; and file an outside employment financial disclosure form (Outside Employment Statement). County Ethics Code Sections 2-11 and 2-11.1(k)(2) and (f).

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.

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.



REQUEST FOR APPROVAL OF OUTSIDE EMPLOYMENT

Sections 2-11.1(j) and (k) of the Miami-Dade County Code provide that County employees may accept incidental or occasional outside employment as long as the employment is not contrary, detrimental or adverse to the interests of the County and as long as **no County time, equipment, or other resources are used**. Miami-Dade County **Administrative Order 7-1** and **Procedure 403** require that any County employee intending to engage in outside employment must first obtain approval from his/her Department Director using this **Request for Approval of Outside Employment** form. These approvals must be renewed on an annual basis. Copies of all outside employment approvals shall be maintained in the centralized personnel files of the Human Resources Department. Each County department shall also maintain appropriate records regarding outside employment request. **Full-time County employees** engaging in outside employment must also file an **Outside Employment Statement** form with the Elections Department by July 1st of each year, in accordance with § 2-11.1(k)(2) of the Miami-Dade County Code. More detailed information on outside employment is available on the **Miami-Dade Commission on Ethics website**.

Employee's Name (print) EDUARDO ALONSO	Employee ID Number E 75674
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Present County Employment (check one)

<input checked="" type="checkbox"/> County <input type="checkbox"/> Public Health Trust		
Department PARK REC. OPEN ESP.	Position or Title LANDSCAPE TECHNICIAN	Work Location 16701 SW 72 A0.
Job Responsibilities MAINTENANCE		

Proposed Outside Employment

Name of Company/Organization VISTA BUILDIN MAINTENANCE SERV.			
Phone 305 552 1973	Job Title PROJECT (CLEANER)		
Responsibilities MAINTENANCE			
Worksite Address 8200 CORAL WAY MIAMI FLA 33155	Hours per Day 4	Work Schedule am/pm 5:00 am/pm 9:00	Days of Week MONDAY TO FRIDAY
Will your proposed outside employer release you if and when services are needed by the County? <input type="checkbox"/> Yes <input type="checkbox"/> No			

In my outside employment, I am employed by one of the following types of organizations:

Company or organization that is not a County vendor.

→ Company or organization that is a County vendor. (An Ethics Opinion should be requested to ensure that no conflict of interest exists, and the County employee is required to file a sworn **affidavit** with the Clerk of the Board at **clerkbcc@miamidade.gov** disclosing such employment with the County Clerk of the Board.)

Self-employed through my private business, whether incorporated or not. (If your privately-owned business is seeking to contract with Miami-Dade County, you are required to request an **ethics opinion**.)

Company or organization owned by an immediate family member; defined as spouse, domestic partner, parents, stepparents, children, and stepchildren of employee. (If the company owned by your immediate family member is seeking to contract with Miami-Dade County, **ethics opinion** is required.)

I affirm that the information I have provided is true and I pledge to abide by the requirements listed here.


Employee's Signature

11/21/18
Date

Division Recommendation: Approval with stipulation that supervisor monitors to ensure no conflict with work hours and/or job duties and that outside employer releases you in case of county Emergency.	Personnel Recommendation: Approval with stipulation that supervisor monitors to ensure no conflict with work hours and/or job duties and that outside employer releases you in case of County Emergency.
Division Signature [Signature] Date 11/21/18	Personnel Signature _____ Date _____

This approval expires:

Approved Disapproved

Department Director's Signature Date



Menu

Employee Search

Select Department

PARKS, RECREATION AND OPEN SPACES

First Name

Last Name

Email Address

Office Phone

__-__-__

Locate Clear

First	Last	Position	Department	Email Address	Phone
EDUARDO	ALONSO	LANDSCAPE TECHNICIAN	93	ea674@miamidade.gov	305-235-1668

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