

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, March 21, 2019 2:45 PM
To: Warger, Brenda (MDPR)
Cc: Arrojo, Jose (COE); Murawski, Michael P. (COE); Perez, Martha D. (COE); Turay, Radia (COE); Wesley, Jon (MDPR); Sanchez, Rodzandra (COE); Anderson, Machell (COE)
Subject: INQ 19-31, Re: Mike Blandino, Security Guard, Miami-Dade County Deering Estate (Outside Employment)
Attachments: INQ 19-31 Blandino.pdf; Outside Empl- Request M. Blandino.pdf

Dear Ms. Warger:

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

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

Cordially,

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MEMORANDUM

TO: Brenda Warger, Assistant to the Director, Deering Estate-Miami Dade Parks, Recreation and Outdoor Spaces Department (“Deering Estate”)

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

SUBJECT: INQ 19-31

DATE: March 20, 2019

CC: All COE Legal Staff; Jon Wesley, HR Manager, Miami-Dade Parks, Recreations and Open Spaces Department; Joseph Wimbley, Security Manager, Deering Estate

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible outside employment conflicts of interest regarding an employee of the Deering Estate-Miami Dade Parks, Recreation and Outdoor Spaces Department (“Deering Estate”).

Facts:

Mr. Mike Blandino is employed at the Deering Estate, a division of the Miami-Dade County Parks Recreation and Open Spaces Department (“MDPR”) as a Security Guard. He is requesting permission to engage in outside employment as a Security Guard for Allied Universal Corporation (“Allied”), a County vendor.

Issue:

Whether any prohibited conflicts of interest may exist between Mr. Blandino’s County employment and his proposed outside employment as a Security Guard for Allied.

Discussion and opinion:

As background, Mr. Blandino is employed at MDPR's Deering Estate Division as a Security Guard. His job duties include ensuring the security and safety of Deering Estate visitors, personnel, and premises by patrolling the property; monitoring surveillance equipment; inspecting buildings, equipment, and access points; monitoring safe entry and exit to the Estate. Security at the Deering Estate is overseen by the Security Manager who supervises both Deering Estate security personnel as well as security personnel hired by the Deering Estate under County contracts with Allied, a County vendor. Allied, directly and through subcontractor companies (such as Delta 5) provides additional security services to the Estate whenever needed, for example during special events held there. We have consulted with Deering Estate supervisory staff who confirm that Mr. Blandino's County job duties and work schedule routinely overlap with Allied and Delta 5's personnel working at the Estate. His job duties also include routine interactions with Allied personnel and oversight and direction of Allied personnel while they perform security duties at the Deering Estate pursuant to Allied's contract with the County. Mr. Blandino has completed an outside employment permission form to engage in outside employment working as a Security Officer for Allied.

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 would therefore be likely to 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.

In addition, County Administrative Order AO 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties. It states that "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 has also provided opinions regarding County employees engaged in outside employment with County vendors. For example, the Ethics Commission has determined that conflicts can arise when a County employee works for a County vendor that contracts with the department if there is overlap between the employee's County and outside employment duties. *See* RQO 99-50 and INQ 12-155. The Ethics Commission reasoned in those opinions that the outside employment with a vendor that contracted with the department where the employee worked might improperly affect the County employee's relationships with his County coworkers and might induce him to use confidential information to benefit his private employer. In this case, a conflict would similarly be created because the Deering Estate which employs Mr. Blandino contracts with Allied and Delta 5, and as part of his County job Mr. Blandino has routine access or knowledge of when special events will occur at the Estate that would likely require hiring extra security for Allied or Delta 5. This would regularly create opportunities for the employee to benefit the vendor to the detriment of the County.

In addition, the Commission on Ethics has previously held that conflicting employment would likely occur where the County employee is employed by a County vendor that services the facilities where the employee performs his or her County duties; where the County employee routinely interacts with employees of the County vendor during his County work hours; or the employee or his or her supervisor are responsible for oversight or management of the County vendor employees. *See* RQO 16-02 and INQ 11-67. Similarly, in this instance, Allied provides security guard services to the Deering Estate; Mr. Blandino's County duties require him to interact routinely with Allied employees; and he and his supervisor oversee and direct Allied employees who perform security work at the Deering Estate.

Opinion:

Based on the facts presented here and after consultation with Deering Estate staff, we find it is likely that conflicts will exist between Mr. Blandino's County employment as a Security Guard at the Deering Estate and his outside employment as a Security officer with Allied. Consequently, Mr. Blandino's proposed outside employment would be barred by the County Ethics Code because his public duties as a security guard at the Deering Estate are closely related to his duties as a security guard for Allied and would include routine direct and indirect interaction with Allied and Delta 5 personnel in both jobs.

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.

