



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Casey Simpkins
BCC Budget Analyst 2

Evelyn Avila
BCC Budget Manager

Jannesha Johnson
BCC Administrative Assistant

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-06, Outside employment, Sections 2-11.1(j) and (k)(2), County Ethics Code

DATE: January 22, 2021

CC: All COE Legal Staff

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 as a BCC Budget Analyst 2 for the Office of Commission Auditor (OCA). As a BCC Budget Analyst 2, you are responsible for analyzing large and complex departmental operating and capital budgets from initial submission and development of the annual budget to year-end close-out. You will make recommendations regarding departmental policy, programmatic and budgetary issues, assist in the planning and programming of capital improvement projects, and work with department directors and other departmental budget and administrative employees throughout the year in the preparation, analysis, monitoring and reporting on departmental operating and capital budgets. Your duties also include conducting financial and programmatic research, performing data entry and spreadsheet development tasks, and conducting budget-related special assignments. You were formerly employed by the Miami-Dade County Public Housing and Community Development (PHCD) department as a Finance and Budget Administrator 1.

You advise that you own and manage several rental properties with your mother. *You indicated that with regard to the four (4) properties that you own, you will not contract with PHCD nor are you seeking to otherwise become a County vendor.* However, your mother does expect to continue contracting with PHCD as a Section 8 landlord.

You further advise that you will not be assisting the same clients, utilizing the same resources, nor will your work hours conflict with your County position with OCA and your role as a property manager.

In reviewing this matter, it is noted that you have previously sought and obtained relevant ethics opinions. However, while the facts related to your property ownership/management have not changed, you have since the issuance of the previous opinions changed County positions. *See* INQ 18-224 and SEC 18-25. In INQ 18-224, the Commission determined that no ethics conflict existed between your employment at PHCD as a Finance and Budget Administrator 1 and your outside employment as an owner and property manager. Further, in its opinion issued to your mother, the Commission opined that no ethics conflict existed with respect to your mother contracting with PHCD as a Section 8 landlord, as the program is administered by a division which is separate and isolated from the division you previously worked. *See* SEC 18-25 citing RQO 12-06 (PHCD employee may contract as a Section 8 landlord because she works in a separate PHCD division that does not oversee or administer the Section 8 program and firewalls have been established to isolate the work of the two divisions). *Pointedly, your current County position also does not require involvement in any aspect of the Section 8 contract with PHCD.*

Analysis and Opinion:

Sections 2-11.1(j) and (k) of the Miami-Dade 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/her 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."

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28.

The County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds that it is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

Based on the information provided, it appears to be unlikely that the type of outside employment that you are seeking to engage in would impair your independence of judgment in the performance of your duties as a BCC Budget Analyst 2. Additionally, as your County position continues to be

in a separate department from the PHCD department that handles the Section 8 Program, there is no existing ethics conflict with respect to your mother contracting with PHCD as a Section 8 landlord and SEC 18-25 remains binding.

As a reminder, Section 2-11.1(k)(2) of the Miami-Dade County Ethics Code requires County employees to request permission to engage in outside employment from their supervisor on a yearly basis including the filing of an outside employment disclosure form. Government employees are also cautioned that they may not engage in any activity which would require them to disclose confidential information acquired by reason of their official position, nor use such information directly or indirectly for their personal gain or benefit. *See* Sec. 2-11.1(h), Miami-Dade County Ethics Code. Lastly, a government employee may not use his or her official position to secure privileges or exemptions for themselves or others. *See* Sec. 2-11.1(g), Miami-Dade County Ethics Code.

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 appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry 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.