



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Sammy Stevenson  
Firefighter  
Miami-Dade Fire Rescue Department

Enrique Rojas  
Chief Fire Officer  
Miami-Dade Fire Rescue Department

**FROM:** Loressa Felix, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2021-21 Conflicting /Outside employment, Sections 2-11.1(k)(2) and (j),  
County Ethics Code

**DATE:** February 16, 2021

**CC:** All COE Legal Staff

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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 firefighter with Miami-Dade Fire Rescue. You would like to engage in outside employment as the CEO and owner of Tufgear Uniforms, Inc. (Tufgear). You would also like to contract with the County through Tufgear.

You are employed with the County as a certified firefighter/paramedic. You respond and assist in all fire, medical, and natural disaster related emergencies. You also hold multiple special certifications as a driver of all department apparatus, airport fire rescue, Hazmat Technician, and Technical Response Technician.

Tufgear Uniforms, Inc. (Tufgear) is primarily a seasonal wholesaler that provides custom uniforms for daycares, private schools, vocational schools, colleges, universities, private businesses, sports related uniforms and accessories. Tufgear also provides design services, flyers, cards, printing, digitizing, screen printing, embroidery, patches, flags, and company branding services. You advise that Tufgear hires summer employees via grant programs to high school and college students; however, you do not hire subcontractors outside of independent delivery drivers during

the high season. As the founder and sole owner of Tufgear Uniforms, Inc., your duties include hiring employees, overseeing payroll, business licensing, client purchasing, and large order invoicing. You also indicate that your work would not require the use of any equipment or resources which you use in your County employment nor would you work with the same clients. Lastly, your work with Tufgear will be conducted outside your County hours.

Tufgear is seeking to become a County vendor. However, you advised that you are not seeking to contract with Miami-Dade Fire Rescue or Miami-Dade Corrections, with which you held a previous position as a Correctional Officer. Tufgear is also currently a registered vendor for Miami-Dade County Public Schools, Miami-Dade College, and Florida International University.

### Analysis and Opinion:

Your inquiry involves several sections of the Miami-Dade County Ethics Code which are analyzed below:

#### A. Outside Employment

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 prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors 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 the ultimate 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 12-07; RQO 00-10; INQ 12-49; INQ 13-28; INQ 14-104; INQ 15-22; INQ 16-121.

The Miami-Dade County Ethics Code prohibits County employees from engaging in outside employment that is likely to create conflicts of interest between the employee's County responsibilities and their outside job duties. After reviewing the facts presented here, we find that your outside employment of running your privately owned company is not likely to cause conflicts of interest between your private interest and your public duties. This is because there is no overlap between your public duties as a firefighter and your outside employment. Here, you will not be assisting the same clients, you will not use the same resources, and the work would be performed outside of your County hours.

Nevertheless, you must abide by certain limitations and cautions outlined below to avoid a conflict:

- You may not use County time or resources in your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles, in connection with your outside employment, even after work). *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit, for the benefit of Tufgear or for the benefit of Tufgear clients. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.
- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County’s Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

#### B. Contracting with the County

Once you have been granted permission to engage in outside employment by your department director, you may enter into a County contract through your privately-owned business, Tufgear, provided that the contract does not interfere with the full and faithful discharge of your duties to the County. *See* Sections 2-11.1(c)(2) and (d), Miami-Dade County Ethics Code.

This includes the condition that you may not participate in determining the contract/workshop requirements or in awarding the contract. Additionally, none of your County job responsibilities and job descriptions may require you to be involved in the contract/workshops in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance. Finally, you may not work in any County department that would enforce, oversee or administer the contract/workshop. *See* Sections 2-11.1(c) and (n), Miami-Dade County Ethics Code. Consequently, Tufgear **may not** enter contracts with Miami-Dade Fire Rescue.

#### C. Lobbying

Additionally, you may not lobby the County. In this case, it means that you may not contact anyone within the County in an attempt to influence a decision about any contract Tufgear is seeking. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code.

#### D. Exploitation of Official Position

Finally, the Miami-Dade County Ethics Code prohibits County employees from exploitation of their official position. This means that you may not use your County position to secure

special privileges or exemptions with respect to any County contract to which Tufgear is applying. See Section 2-11.1(g), Miami-Dade County Ethics Code.

***Please submit this memorandum to the Procurement Department. The Ethics Commission does not submit it on your behalf.***

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.