

Diaz-Greco, Gilma M. (COE)

Subject: FW: Nelson Mejias, Airport Supervisor, Transacting Business with County (c), Revised INQ 17-165

INQ 17-165 Mejias

Requestor has been advised of correction of INQ number. Correct INQ number is INQ 17-165

From: Sanchez, Rodzandra (COE)
Sent: Friday, July 14, 2017 1:35 PM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Subject: RE: Nelson Mejias, Airport Supervisor, Transacting Business with County (c), Revised INQ 17-166

Done.

From: Perez, Martha D. (COE)
Sent: Friday, July 14, 2017 1:34 PM
To: Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>
Subject: FW: Nelson Mejias, Airport Supervisor, Transacting Business with County (c), Revised INQ 17-166

Rodzandra, could you please replace INQ 17-166 with this one? This one contains the old one and a supplement!

Thank you!

From: Perez, Martha D. (COE)
Sent: Friday, July 14, 2017 1:32 PM
To: Mejias, Nelson (Aviation) <NMEJIAS@miami-airport.com>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>
Subject: RE: Nelson Mejias, Airport Supervisor, Transacting Business with County (c), Revised INQ 17-166

Dear Mr. Mejias,

It was a pleasure speaking with you on the phone . I have reviewed your follow up response as well as the additional information provided by Mr. Hegedus and Mr. Craven. Understand that my recommendation on your inquiry is based on the information you provided me regarding your responsibilities and role via-a-vis airport tenants/ FBO's. You advised me on 6/27/2017 as follows:

For the tenants, I am the Airport Manager and I am responsible for the safety and security of the airfield. I frequently interact with all our tenants on the airport in many aspects...

I also work closely with tenants to assist with any of their special requests, such as hosting a film shoot, or not-for-profit events that draw a large number of people.

Because I am the Airport Manager, I have the authority to establish rules and guidelines that the tenants will be following and enforce the established rules from Chapter 25.

My duties during this time remain the same for the other two airports, e.g. responding to emergencies, establish and enforce rules and guidelines upon the tenants of those airports.

I deal with all of the FBO's on the airport property.

I have established quarterly Airport Tenant Meetings to discuss issues with development, security, operations, and any issues that the tenants might have.

On a day to day basis, I visit my tenants and openly discuss pending problems and frequently meet with contractors hired by the FBO's for their construction and maintenance.

Although there is no suggestion of exploitation in this case, your statements regarding your County interaction with the airport tenants at the airport where you intend to park your future aircraft (OL) concerned me since the relationship you have with these tenants could impede your impartiality and thus interfere with the full and faithful discharge of your County duties. Mr. Craven is correct in stating that you are not contracting with MDAD, however, pursuant to Section 2-11.1(c), the prohibition extends to "any person or agency *acting for* Miami-Dade County." In this instance, given the services that the FBO's provide to the airports (as specified in the lease agreements with the County), the FBO's are performing services which would otherwise be required to be performed by MDAD personnel and are thus, *acting for* the County.

The County Ethics Code is preventative in nature. The conflict of interest provisions in the Code deal with, *inter alia*, situations where a County employee's private business arrangement or relationship with a County vendor could compromise his public duties. This office has consistently recommended that, in order to avoid an appearance of impropriety, a County employee should scrupulously separate his or her County duties from his or her private interests in any interactions with a County vendor who/which is subject to the oversight of the County employee's department. Therefore, it is of concern that, in your duties as MDAD Supervisor and the interaction you have with the airport tenants as you have described herein, you would be entering into what is deemed an unusual and uncommon business transaction (parking your plane) with one of the tenants who would be operating at the same airport location you supervise. Although this arrangement is troublesome, the assurances given by your supervisors (via emails), to wit: "**[you do not] have oversight, supervise and monitor an FBO...**", appear to mitigate any frequent and recurring conflicts which would hinder the faithful execution of your County duties.

Consequently, if it is your intention to enter into a business transaction with one of the airport tenants operating in your County department (MDAD), it is recommended that:

- 1) All effort be made to enter into the private business arrangement with one of the airport tenants whom you do not interact with in your County duties;
- 2) In the event #1 cannot be accomplished (for example, if the tenant whom you will be contracting with operates at all or most MDAD locations), you should have your future aircraft parked at an airport location that you are not permanently assigned to manage, supervise or oversee;
- 3) In the event #2 cannot be accomplished, then, any supervision or oversight of the airport tenant whom you will be conducting your personal business with should be avoided. (In other words, any enforcement action to be taken against that particular tenant or any disagreement over the lease or services rendered under its agreement with the County should be delegated to another supervisor);
- 4) Additionally, your private business arrangement with the airport tenant must be fully disclosed to your supervisors and the MDAD Director; and,
- 5) The parking fee and other ancillary services charged/provided by the airport tenant whom you are doing business with *shall* be set at a price and upon terms available to similarly situated members of the general public.

The clarifications provided by your supervisors as well as their support for your intended action (parking your future aircraft at a County airport) have been considered and given due weight in this supplemental response. You indicated to me that you understand the ethical implications of the proposed arrangement and concur with the modified recommendations stated herein. Should you wish to discuss this matter further, do not hesitate to contact me.

Sincerely,

Martha D. Perez

Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
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PEREZMD@miamidade.gov

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From: Mejias, Nelson (Aviation) [<mailto:NMEJIAS@miami-airport.com>]
Sent: Friday, June 30, 2017 8:02 AM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Cc: Campos, Evelyn (Aviation) <ECampos@miami-airport.com>; Del Calvo, Sara (Aviation) <SDelcalvo@miami-airport.com>; Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Hegedus, Norman A. (Aviation) <NHEGEDUS@miami-airport.com>; Craven, Lonny (Aviation) <LCRAVEN@miami-airport.com>
Subject: RE: Nelson Mejias, Airport Supervisor, Transacting Business with County (c), INQ 17-166

Dear Ms. Perez,

Again, thank you for your assistance in developing the determination. I do need to follow up with one more thing as it relates to the County's ordinances quoted below. This determination appears to be in violation of the Title 49, U.S.C. of the Federal Register, subtitle VII, as amended, as it relates to the FAA Airport Grant Assurances Program. Under Airport Sponsors requirements (see attached documentation) section C. 22. a., page 10, Economic Nondiscrimination, the County, by receiving AIP funds from the FAA, has agreed to comply with the following rule:

"It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport."

Currently the Miami-Dade Aviation Department, which is running five airports, receives AIP (Airport Improvement Program) funds from the FAA's Airport Grant Assurance Program and in doing so, has agreed to comply with the rules established under this program which is part of the Title 49, U.S. Code Laws. Please correct me if I am wrong, but by receiving moneys from the FAA's Grant Assurance Program, the County's ordinances denying me the right to operate at the County's public use airports is in violation it is violating Federal Law.

In conclusion, and if I am correct that the County is violating Federal Law, does the Federal Law supersede County local laws and / or ordinances, and as such am I not allowed to operate as requested without unjust discrimination from the County.

Again, thank you for your assistance with this request.

Regards,

Nelson Mejias
Airport Supervisor,

Miami-Opa Locka Executive Airport &
Dade-Collier Training and Transition Airport

MIAMI-DADE AVIATION DEPARTMENT
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From: Perez, Martha D. (COE) [<mailto:perezmd@miamidade.gov>]
Sent: Thursday, June 29, 2017 3:28 PM
To: Mejias, Nelson (Aviation)
Cc: Campos, Evelyn (Aviation); Del Calvo, Sara (Aviation); Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE); Turay, Radia (COE)
Subject: Nelson Mejias, Airport Supervisor, Transacting Business with County (c), INQ 17-166

Dear Mr. Mejias,

You inquire whether a prohibited conflict of interest would exist where you are seeking to use a County vendor/tenant to park your future aircraft at a County airport facility.

Background

You are the County's Airport Operations Supervisor for Miami-Opa Locka Executive Airport (OL) and the Dade-Collier Training & Transition Airport (DC) and a FAA certified pilot. Your County responsibilities include the general oversight of the safety and security of the County's airfield(s), including, enforcement of speeding, taxiway incursions, unsafe operations and aircraft/personnel emergencies; review and approval of safety plans in current airport construction projects; coverage for all County airports during the other operations supervisor's absence; and, interaction with all the Airport Lessees (aka FBO's). With respect to the latter, your interaction involves the following: assistance with any of the FBO's special requests, such as hosting a film shoot or assisting with non-profit events; scheduling and attendance at quarterly Airport FBO meetings to discuss among other issues, development, security and operations; visits with Airport FBO's to discuss pending problems; meetings with construction and/or maintenance contractors hired by the FBO's; and, authority to establish and enforce rules and guidelines for the Airport Lessees.

The County's Airport Division (MDAD) covers five (5) airports: Miami International (MIA), OL, Miami Executive (ME), Homestead General (HG) and DC. The County has entered into several lease/Fixed Base Operator (FBO) agreements which involve the lease of airport buildings and adjacent aircraft and vehicular pavement and land. The agreements provide for the rental of airport buildings, space or land for airport *improvements* (construction and/or renovation of the leased premises) and essential and/or elective *aviation services* to be performed by the FBO/Lessee (ramps, hangar storage, aircraft rental, fuel, maintenance of aircraft & equipment, charters, sales, etc.) [The maintenance services included in these leases may be subcontracted to Maintenance Repair Organizations (MRO's)]. The FBO agreement(s) essentially provide for the FBO to facilitate all aviation related services to personal and commercially-based customers on behalf of MDAD. You are not involved with the negotiations of these lease agreements.

You are considering purchasing an aircraft which would allow you to visit your daughter in North Carolina at a fraction of the time it takes you on the road. You would be entering into a contract with one of the FBO's to park your aircraft on

one of the current three FBO's properties for a fee and purchase fuel and maintenance service from some of the sub-contracted maintenance repair organizations (MBO's) also on the airfield.

Analysis

The Conflict of Interest and Code of Ethics ordinance prohibits you from contracting with a Miami-Dade County Airport Lessee for services at a County /MDAD airport facility you work at. Section 2-11.1(c) (2) provides that a County employee may transact business with the County as long as:

- 1) Entering into the transaction would not interfere with the full and faithful discharge by the employee of his County duties;
- 2) The employee has not participated in the award of the contract; and
- 3) The employee's job responsibilities and job description will not require him to be involved in the enforcement, administration or oversight of the contract.

Furthermore, this limited exclusion shall not be construed to authorize an employee to enter into a contract with the County *or any person or agency acting for Miami-Dade County*, if the employee works in the County department which enforces, oversees or administers the contract.

In this instance, you do not meet the requirements which permit you to lease space from the County's Airport FBO Lessee for your future aircraft:

- 1) Although you are not involved in the award of MDAD's FBO lease agreements, your job responsibilities include the oversight, supervision and monitoring of Airport FBO services as described in these lease agreements.
- 2) Entering into a contract/ transaction with one of the FBO/County Airport Lessees would interfere with the faithful discharge of your County duties: You would be essentially contracting with an entity which you oversee and interact on a daily basis, to provide you with a personal service (aircraft parking and fueling/maintenance) at a County airport facility where you are assigned as Supervisor.
- 3) A County employee may not enter into a contract with any person or **agency acting for the County**, if the employee works in the County department which oversees, manages or administers the contract. The FBO's which have entered into these lease agreements with the County to perform specified services for the County airports are acting for/on behalf of Miami-Dade County/MDAD . They are performing essential services to the airports under MDAD's management and control.

Consequently, you may not engage in any business transaction or enter into any agreement to rent space or park your personal aircraft and obtain fuel or maintenance services at a County airport from an FBO/County Airport Lessee because you are employed by the department which oversees and administers the lease agreements with the FBO's which provide these services and maintain those spaces. Section 2-11.1(c)(2); INQ 15-31

You may wish to consider other options such as looking into a similar arrangement at an airport facility in Broward County.

This opinion is based on the information obtained from the requestor and other County resources. If any of these facts change, please contact me.

Sincerely,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
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From: Mejias, Nelson (Aviation) [<mailto:NMEJIAS@miami-airport.com>]

Sent: Monday, June 26, 2017 1:36 PM

To: Ethics (COE) <ethics@miamidade.gov>

Subject: Parking my private aircraft at an airport that I run.

Good afternoon,

I am writing this email to request a determination as to whether the County would consider the following an ethics violation.

I am the Airport Operations Supervisor for Miami-Opa locka Executive Airport and Dade-Collier Training & Transition Airport. In addition to the two airports that I've just listed, I am frequently covering the remaining two airports; Miami Executive Airport and Homestead General. I am an FAA certified Private Pilot with an instrument rating. Currently I am making several trips to Durham, North Carolina to visit my daughter and driving takes 12 hours one way. I am considering purchasing an aircraft and keeping it here at Miami-Opa locka Executive Airport since it is the closest airport to my home. This would change my trip times from 12 hours to just 4. If allowed, I would be using one of the Fixed Base Operators (FBO's) on the field to do business with, e.g. aircraft parking and fueling.

Regards,

Nelson Mejias

Airport Supervisor,
Miami-Opa Locka Executive Airport &
Dade-Collier Training and Transition Airport

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