



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Clara Diaz, Bridge Operator, Miami-Dade Department of Transportation and Public Works

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

SUBJECT: INQ 2020-101

DATE: 10-07-20

CC: All COE Legal Staff; Yvette Castillo, Manager, Here and Now Contractors Co.

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding Miami- Dade County employees or their relatives applying to become County vendors.

Facts:

You are employed as a Bridge Operator at the Miami-Dade Department of Transportation and Public Works (“DTPW”). You advise that for administrative incorporation purposes you appear as the President of the corporation Here and Now Contractors, Co. (“Here and Now”), a Florida corporation; but that you do not perform any work or administration of the corporation and you do not receive any compensation from it. Your daughter Yvette Castillo is the manager of Here and Now which is a company that sells, installs, and services air conditioning systems. Here and Now would like to contract with the County as a County Vendor.

Issue:

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) would prevent Here and Now from contracting with the County.

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

A. Outside Employment

Generally, working for a company that is privately-owned by a County employee is considered outside employment. However, as stated in INQ 19-97 which was issued to you last year, the COE has determined that an exception exists where an employee who is listed as the president (or officer) of a corporation, but neither performs any services for the corporation nor receives any financial benefit or compensation, is not engaged in outside employment. Consequently, given the facts you have presented here, you are not engaged in outside employment and do not have to request permission to engage in outside employment or file an Outside Employment Statement. *See* INQ 05-37, and Outside Employment Guidelines (2019).

B. Contracting with the County

The County Ethics Code at Sections 2-11.1 (c)(2) and (d) allow County employees and their immediate family members to enter into a contract, individually or through a firm, with Miami-Dade County, as long as the contract does not interfere with the full and faithful discharge of the employee's duties to the County.

This means that you shall not participate in determining the contract requirements or in awarding any contract for Here and Now. Additionally, none of your County responsibilities and/or job descriptions shall require you to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance. In your case, this means that Here and Now may not enter into contracts with DTPW. *See* County Ethics Code §§ 2-11.1 (c) and (n).

C. Lobbying

Furthermore, you may not lobby the County on behalf of Here and Now. This means that you may not appear before the County on behalf of Here and Now, nor

contact anyone within the County in an attempt to influence a decision about any contract for Here and Now. *See* County Ethics Code § 2-11.1 (m)(1).

D. Exploitation of Official Position

Finally, the County Ethics Code prohibits County employees from exploitation of their official position. In this instance, it means that you may not use your County position to secure **special privileges or exemptions** with respect to any County contract to which Here and Now is applying. *See* County Ethics Code § 2-11.1(g).

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.

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

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.