



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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

---

### MEMORANDUM

---

**TO:** Paul Vreones  
Landside Operations Equipment Specialist, Tow Truck Operator  
Miami-Dade Aviation Department (MDAD)

**FROM:** Radia Turay, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2020-120

**DATE:** November 6, 2020

**CC:** All COE Legal Staff

---

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts:

You are employed as a Landside Operations Equipment Specialist, Tow Truck Operator at the Miami-Dade Aviation Department (MDAD). Your job duties include keeping the ramps free of unattended vehicles. This includes providing free services such as jump starts, air in low or flat tires; and when necessary relocating vehicles out of the parking garages so customers can receive outside help.

Additionally, you give members of the public a MDAD approved list of tow truck operators, in the event that they need tow services. You are not allowed to recommend any other tow truck company other than the companies listed on the MDAD approved list. You do not have any input into the tow truck companies that are included in the MDAD approved list of tow truck companies that you provide members of the public. Excalibur Towing Services is not included on the MDAD approved list of tow truck companies that is provided to members of the public.

You are seeking outside employment as a Tow Truck Operator for Excalibur Towing Services (ETS), a County vendor. ETS is one of several towing companies, that are part of a contract with the County that provides for the purchase of towing services for Miami-Dade County vehicles, equipment and buses as well as for the disposal of salvageable and non-salvageable abandoned property, vehicles and boats within Miami-Dade County.

Ms. Neivy Garcia, the Commodities Management Division Director at MDAD, explained that the contract is awarded by group, and then by zone to a primary, secondary, and tertiary company. She stated that the County has issued purchase orders to ETS every year, the most recent in August 2020. She advised that if the vehicle class and location it is being towed from is awarded to ETS, ETS will tow MDAD vehicles.

You have advised that your duties and responsibilities at ETS would include providing towing and recovery services. ETS provides towing and recovery services to the Miami-Dade Police Department in the Kendall and Hammocks Zones; they provide exclusive towing services on the Florida Turnpike for FHP Troop K; they are also on a rotation list with FHP Troop E in an assigned zone; and they provide AAA services on the Turnpike and assigned zones. ETS also services Enterprise Car Rentals, and you have on occasion seen Excalibur Towing in the garages at the airport, recovering cars for Enterprise Rent-a-Car Company during daylight hours. You have indicated that you will not perform any towing for ETS at MDAD.

We have conferred with Mr. Oscar Interian, your supervisor at MDAD. Mr. Interian stated that you are not responsible for overseeing or administering ETS' contract with the County. Mr. Interian also indicated that ETS' contract with the County is not administered by the Landside Operations Unit at MDAD that employs you. Further none of your County employment responsibilities include routine interactions with employees of ETS during your work hours at the County.

Mr. Interian however noted that you are an essential employee and the County frequently requests that you work overtime. This is of concern currently due to the COVID-19 pandemic as various members in his unit might fall sick or may need to quarantine because of the virus.

Issue:

Whether any prohibited conflicts of interest exist between your County employment and your proposed outside employment as a tow truck operator for Excalibur Towing Services.

Discussion:

The County Ethics Code prohibits County employees from engaging in other employment that would impair their independence of judgment in the performance of their public duties. See Miami-Dade County Ethics Code at 2-11.1(j). To that end, it becomes imperative for all employees to avoid any and all instances which represent or may represent conflicts between their personal interest and their public duties. See County's Administrative Order 7- 1.

Consequently, is within the discretion of County department directors to deny outside employment if it is determined, *at any time*, to be contrary, detrimental, or adverse to the interest of the County or the employee's department. See RQO 16-02 and RQO 00-10. When determining whether to grant permission to engage in outside employment, a department director may ask the Ethics Commission for an opinion regarding potential conflicts of interest with a County employee's current or proposed outside employment. See RQO 16-02, and INQ 13-28.



Inquiries concerning conflicting outside employment often involve a consideration of a myriad of factors, among them, as in this case, whether the employee's outside employer is a County vendor possibly providing service to the same County department/division that the County employee is assigned.

Generally, the County Ethics Code does not prevent an employee from being employed by a County vendor, *as long as the employee does not have any involvement with the vendor's contract*. See RQO 16-05; INQ 17-236, INQ 15-115, and INQ 11-67. In this instance, it is our understanding that while ETS is listed as an active County vendor, you have no involvement with the vendor's contract with the County. Your position as a tow truck operator at MDAD does not confer upon you any managerial functions, including but not limited to, administering the contract, reviewing or approving any work orders from your outside employer, or monitoring/overseeing any work performed by your outside employer for the County.

Opinion: Consequently, based on the facts presented here, you would not have a prohibited conflict under the Ethics Code to engage in outside employment as a tow truck operator for ETS. This is because you are not involved with the selection, oversight, or administration of ETS' contract with the County; you will not be supervised by the same individuals in both your County employment and your outside employment; you will not have contact or interaction with the same people or entities in your outside employment as you do in your County position; and you would perform your outside employment outside of your County work hours.

However, the Ethics Commission strongly recommends that the following limitations be imposed on your permission to engage in the aforementioned outside employment:

- You may not have any input into the MDAD approved list of tow truck operators that is provided to members of the public.
- In the event, ETS is added to the MDAD approved list of tow truck operators that is provided to members of the public, you should immediately advise your supervisors, and seek an opinion from the Ethics Commission.
- You should not be supervised by any County official or staff assigned to oversee, negotiate, enforce or otherwise have any involvement with the County contract/agreement with ETS;
- You must complete an Affidavit with the Miami-Dade Clerk of the Courts, disclosing employment with a County vendor;
- You shall not use County time or resources (including but not limited to, phones, radios, computers, equipment, parking lot pass) in furtherance of your outside employment;
- You shall not use any confidential information acquired as a result of your County position, nor shall you ever disclose confidential information gained through your County position, nor shall you ever use such information, directly or indirectly, for your own personal gain or benefit or the gain or benefit of your outside employer;
- You shall not represent your outside employer in any matter before the County;
- 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.

*See* RQO 16-02.

Furthermore, it is noted that you are an essential worker and due to the pandemic there maybe staffing concerns within your unit that requires members of your section to work overtime. In this regard, the COE has opined that it is within the authority of the Department Director to establish policies to ensure that the department is properly staffed and to set limitations on outside employment that are in the best interest of MDAD and the County. *See* RQO 00-10 (County department has discretion to deny outside employment if they find that it is contrary, detrimental or adverse to the interest of the County or the department). *See* also INQ 16-117 (An employee in the Elections Department does not have a prohibited conflict of interest working as a limousine driver because his outside employment is unlikely to impair his independence of judgment in the performance of his public duties. However, with respect to the issue of restricting elections employees from engaging in outside employment for “black out” periods during election cycles, this is a matter of department policy. In this regard, it is within the authority of the department Director to establish policies to ensure that the department is properly staffed and to set limitations on outside employment that are in the best interest of the Elections department and the County). Consequently, irrespective of the absence of conflict in your proposed outside employment, it is within your Department’s Director/ Supervisors discretion to deny such employment when it is deemed to be in the best interest of the County. *See* RQO 00-10; INQ 16-117 and INQ 12-187.

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.