


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Juan Kuryla
Director, Sea Port

FROM: Jose J. Arrojo 
Executive Director

SUBJECT: INQ 2020-132, Sections 2-11.1(c) and (d), Limitations on Contracting with the County

DATE: December 3, 2020

CC: COE Legal Staff

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to limitations on contracting with the County.

Facts:

You are the County's Sea Port (PortMiami) Director.

Florida Power & Light Company (FPL) is a Florida-based power utility company that generates, transmits, distributes, and sells electric energy. FPL is the regulated monopoly utility provider in Miami-Dade County. FPL is a subsidiary of NextEra Energy Inc. (NEE). NEE is one of the largest corporations in the nation, employing approximately 14,000 persons. It has approximately 1.9 billion outstanding shares of stock.

FPL maintains an External Affairs and Economic Development section that is tasked with local government relations, community relations, and economic development, to include negotiations with local government entities relating to FPL infrastructure on publicly owned properties or thoroughfares.

FPL is a County vendor and a party to contracts with the County.

Addys Kuryla is your spouse. Ms. Kuryla is employed by FPL in the External Affairs and Economic Development section and regularly interacts with the County. Ms. Kuryla owns far less than 1% of NEE's outstanding stock.

FPL is a party to one contract at PortMiami: a 1999 FPL Substation Perpetual Easement. On occasion, PortMiami projects will impact or require the relocation of FPL infrastructure. The costs associated with the relocation require County staff to negotiate or otherwise transact with FPL.

Discussion and Opinion:

To begin, as the County Sea Port Director, you are considered "departmental personnel" under Section 2-11.1(b)(5), of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (County Ethics Code). Departmental personnel include Chief Officers, the County Attorney and her Assistants, and department heads.

Sections 2-11.1(c)(1) and (d) of the County Ethics Code prohibit departmental personnel and members of their immediate family from contracting or transacting business with the County, individually or through a business in which they have a controlling financial interest. "Transacting business" with the County is defined as the purchase or sale of goods or services for consideration.

Subsections (c)(2) through (c)(6) of the Ethics Code provide exceptions to the general bar and allow certain other County employees and their family members to contract or transact business with the County under limited circumstances. However, these exceptions are not available or applicable to departmental personnel.

As such, your spouse, Ms. Kuryla, is impacted by the above-described bar on senior county officials and their immediate family members. She is prohibited from contracting or transacting with the County individually or through a company in which she has a controlling financial interest.

In a prior opinion, the Ethics Commission concluded that a company employing a County department director's spouse could contract or transact business with the County because the family member held less than a 1% interest in the corporation. However, it opined that the County department director should not be involved directly or indirectly in any decision that could affect the company. Also, employees that reported directly or indirectly to the department director were likewise prohibited from overseeing or administering contracts involving the company that employed the spouse. *See* RQO 15-06.

Applying the reasoning of that prior case to the facts presented here, FPL can continue to contract or transact business with the County. However, you should recuse yourself from involvement in any County matter that involves FPL in which your spouse is involved, whether or not it involves the Sea Port.¹ If you encounter a decision that would affect FPL's financial interests, you should

¹ You may not use your County position to secure special privileges or exemptions with respect to FPL and you may not share any confidential information regarding the PortMiami that you may

recuse yourself from that decision and delegate that decision making authority to another individual at the Sea Port. Also, Employees that report to you are likewise prohibited from overseeing or administering contracts involving FPL, which at this time is limited to the 1999 FPL Substation Perpetual Easement.

We recognize that because of FPL's unique position as the sole regulated monopoly utility provider in the County, then of necessity, construction at PortMiami, cargo and cruise operations, or any matter involving equipment or infrastructure that relies on electrical power will have some nexus to FPL. Sea Port employees regularly have to interact with FPL workers.

These regular interactions between Sea Port staff and FPL workers should not be impacted by this opinion. However, as the dollar value or complexity of the interaction with FPL increases, then you are encouraged to seek further ethics guidance regarding your involvement in the matter or that of your immediate reports.

Finally, in accords with Section 2-11.1(f) of the County Ethics Code, you are obligated to file a sworn statement disclosing her employment with FPL with the Clerk of Board.

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.²

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.

learn of in your position as the County Sea Port Director. *See generally* County Ethics Code §§ 2-11.1(g) and (h).

² You may wish to review Fla. Stat. §112.313(3) (2020), relating to restrictions on official acts relating to transactions involving a company in which a public official's spouse has a "material interest."