



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Yoamel Zequeira, Service Manager  
Miami-Dade Internal Services Department, Fleet Management Division  
Daniel Gasca, Automotive Services Specialist  
Miami-Dade Internal Services Department, Fleet Management Division

**FROM:** Radia Turay, Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 20-31

**DATE:** March 26, 2020

**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 the following proposed transaction.

Facts:

Daniel Gasca is a part-time, Automotive Services Specialist, in the Fleet Management Division at Miami-Dade Internal Services Department (ISD). He changes parts on technician work orders; receives and orders parts; and maintains stock per ISD fleet management procedures.

He would like to engage in outside employment as a Parts Consultant at Lorenzo Enterprises Corp., DBA Lorenzo Ford, a County vendor. His duties at Lorenzo Ford includes providing parts and customer service to retail customers, along with receiving and stocking parts.

We have spoken to Mr. Yoamel Zequeira, Service Manager in the Fleet Management Division, at ISD. He stated that while Lorenzo Ford is registered as an active County vendor, the firm does not currently have any term contract with ISD. However, Mr. Zequeira agreed that should Lorenzo Ford ever be awarded a contract, Mr. Gasca should

not be involved in the ordering of any parts in his County employment from his outside employer, and Mr. Gasca should immediately advise and seek an opinion from the Ethics Commission.

Issue:

Whether any prohibited conflicts of interest exists between Mr. Gasca's County employment and his outside employment as a Parts Consultant for Lorenzo Enterprises Corp., DBA Lorenzo Ford, a County vendor.

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 Lorenzo Ford is listed as an active County vendor, the entity does not currently have any contract with Fleet Management Division, ISD, or the County. Mr. Gasca therefore has no involvement with the vendor's contract with the County as the vendor does not currently have any contracts with the Fleet Management Division and/or ISD the department that employs Mr. Gasca. We do however concur with Mr. Zequeira, Service Manager of the Fleet Management Division at ISD, that in the event that Lorenzo Ford is awarded a County contract, Mr. Gasca should not be involved in any aspect of the solicitation involving his outside employer or servicing his private employer's County contract, including, the ordering of any parts in his County employment from his outside employer. In these instances, Mr. Gasca should immediately advise and seek an opinion from the Ethics Commission.

Opinion:

Consequently, based on the facts presented here, and after discussing this matter with Mr. Zequeira, Service Manager of the Fleet Management Division at ISD, we concur with him that Mr. Gasca's outside employment with Lorenzo Ford, at this time and under the present circumstances, would not create conflicting employment. This is because Mr. Gasca is not involved with the selection, oversight, or administration of Lorenzo Ford's contract with the County; he will not be supervised by the same individuals in both his County employment and his outside employment, as Lorenzo Ford currently does not have any contract with ISD; he will not have contact or interaction with the same people or entities in his outside employment as he does in his County position; and Mr. Gasca will perform his outside employment outside of his County work hours.

However, the Ethics Commission strongly recommends that the following limitations be imposed on Mr. Gasca's permission to engage in the aforementioned outside employment:

- In the event, Lorenzo Ford is awarded a County contract, Mr. Gasca should not be involved in the ordering of any parts in his County employment from his outside employer, and Mr. Gasca should immediately advise and seek an opinion from the Ethics Commission.
- Mr. Gasca should not be assigned to the section which is serviced by his outside employer in any capacity, in the event, Lorenzo Ford is awarded a County contract;
- Mr. Gasca 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 Lorenzo Ford;
- Mr. Gasca must complete an Affidavit with the Miami-Dade Clerk of the Courts, disclosing his employment with a County vendor;
- Mr. Gasca shall not use County time or resources (including but not limited to, phones, radios, computers, equipment) in furtherance of his outside employment;
- Mr. Gasca shall not use any confidential information acquired as a result of his County position, nor shall he ever disclose confidential information gained through his County position, nor shall he ever use such information, directly or indirectly, for his own personal gain or benefit or the gain or benefit of his outside employer;
- Mr. Gasca shall not represent his outside employer in any matter before the County.

*See* RQO 16-02.

Furthermore, as long as Mr. Gasca is engaged in outside employment, he must obtain permission to engage in outside employment annually. Please note, that he does not have to file an outside employment financial disclosure form (Outside Employment Statement) while he is employed at the County on a part-time basis. *See* County Ethics Code Sections 2-11 and 2-11.1 (k)(2).

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.