



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Yanett Sardinas Garcia, Systems Analyst/ Programmer 2, Miami-Dade
Elections Department

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

SUBJECT: INQ 2021-139

DATE: October 21, 2021

CC: All COE Legal Staff; Gilbert Yurubi, Assistant Deputy for Information
Systems, Miami-Dade Elections Department

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in your proposed outside employment.

Facts:

You are employed at the Miami-Dade Elections Department (“Elections”) as a Systems Analyst Programmer 2. Your job duties at Elections TPW include designing, developing, and implementing new information systems; and modifying data processing systems for several department information technology functions. Your job duties do not involve selection, oversight, or administration of any temporary staffing agency or employees contracted with any County Department or involvement in any computer hardware repair functions.

You are also seeking permission to engage in outside employment with L2R Consulting, Inc. (“L2R”) a temporary staffing company. Your work assignment for L2R is with United Data Technologies (UDT). Your UDT job duties include administrative duties such as data entry and preparing computer repair hardware reports for the company. Neither L2R nor UDT are County Vendors. This work takes place as needed on weekends, outside of your County works hours.

Issue:

Whether any prohibited conflicts of interest may exist between your County employment and your outside employment with L2R.

Discussion and opinion:

Outside employment is covered by the County Ethics Code as well as by Section 2-11 of the Miami-Dade County Code, Administrative Order 7-1, and other HR procedures. Section 2-11 of the Miami-Dade County Code prohibits County employees from accepting outside employment that is contrary, detrimental, or adverse to the interests of the County or any of its departments, and from using County time, equipment, or materials to perform the outside employment. Per Section 2-11 and relevant Administrative Orders and procedures, County employees engaged in outside employment must obtain approval by their department Director annually.¹ County Administrative Order AO 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties. It states that "Under no circumstances shall a County employee accept outside employment ... where a real or apparent conflict of interest with one's official or public duties is possible."

With respect to determining whether an employee's outside employment creates prohibited conflicts of interest, several sections of the Miami-Dade Code of Ethics must be considered.

- Sections 2-11.1(j) and (k) prohibit County employees from engaging in outside employment which creates a conflict between the County employee's public duties and his or her private interests and would therefore be likely to impair the County employee's independence of judgment in the performance of his or her official duties.
- Section (g) of the County Ethics Code prohibits County employees from using their official position to obtain special privileges or exemptions for themselves or their outside employers. Overseeing, administering, being involved in the selection or recommendation of any current or future contract that the employee's outside employer may have with the county, and/or the use of County time or resources in

¹It is within the discretion of County Department Directors to deny outside employment at any time if it is determined that the outside employment is or would be detrimental or adverse to the County or the employee's department.

the performance of outside employment, may constitute an “exploitation of official position” in violation of Section 2-11.1(g) of the County Ethics Code. *See, e.g.*, INQ 15-59 and INQ 15-240.

In previous opinions and guidelines, the COE has determined that conflicting employment can occur when the outside employment is closely related to the employee’s public duties and/or where the County employee deals with the same people or entities in both his/her outside employment and in his/her public position, e.g., similar clients, suppliers, or subcontractors. *See* COE’s Outside Employment Guidelines (2019), and RQO 15-03. In general, if an employee’s outside employment is totally unrelated to his/her County employment, conflicts would generally not arise. *See* INQ 17-249 and 18-252.

After a review of all of the facts presented regarding your outside employment for L2R, we concur with your supervisor that this type of work is not likely to create conflicting employment.

This opinion is based on the following factors:

- Your work for L2R involves administrative duties such as data entry and preparing computer hardware repair reports. It does not involve any functions related to computer systems analysis of programming or any work similar to that required by your County job duties. Thus, the job functions would not be closely related and there would be no overlap of duties which would impair your ability to perform your County duties without conflicting interests.
- Neither L2R nor UDT are County Vendors, and therefore you would be unlikely to deal with the same persons or entities in your outside employment that you deal with during your job functions at Elections.
- Your work for L2R does not require the use of the same materials or resources that you employ in your County work and is performed outside of your County work hours.

Consequently, based on the facts presented here, and after discussing this matter with Elections supervisory personnel, we concur with them that your outside employment with L2R performing data entry and other administrative duties does not create conflicting employment.

However, you must abide by certain limitations which include the prohibition from using County time or resources in your outside employment; from disclosing any confidential information, or using confidential information gained in your County employment for a private benefit; and from using your County position to secure any special benefits for yourself or your private employer. *See* Miami-Dade Code Section 2-11, AO No. 7-1, County Ethics Code Sections 2-11.1(g) and (h).

Furthermore, as long as you are engaged in outside employment you must annually obtain permission to engage in outside employment and complete and file an outside employment financial disclosure form ([Outside Employment Statement](#)) disclosing the money earned in your outside employment. *See* Miami-Dade Code 2-11 and County Ethics Code Section 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.