



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Ariel Urena
Customer Service Supervisor 1
Miami-Dade Water and Sewer Department

Roy Coley
Director
Miami-Dade Water and Sewer Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-152, Section 2-11.1(j), Conflicting employment prohibited.

DATE: December 3, 2021

CC: All COE Legal Staff

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

Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Mr. Urena, an employee of the Miami-Dade County Water and Sewer Department ("WASD"), to engage in outside employment as the owner of Urena Creative Construction, LLC ("UCC"). UCC is a Florida limited liability company that is expected to provide commercial construction services such as flooring and drywall installations. As the owner of UCC, Mr. Urena will prepare bids and handle the business finances, but he will not be involved in the day-to-day operations of the business; rather, he will hire a project manager to manage daily operations.

Mr. Urena is currently employed by WASD as a Customer Service Supervisor 1. His job duties include supervision of the Adjustment Unit and supervising representative daily performance.

Mr. Urena advises that neither he nor UCC plan to be a County vendor.¹

Mr. Urena further advises that he will conduct his UCC-related responsibilities from approximately 6:30 p.m. to 10:00 p.m. on weekdays and anytime on weekends, as necessary. He advises that, as part of his proposed outside employment, he will not be required to encounter the same or similar people or entities as in his County position. He also advises that his proposed outside employment will not require him to interact with County employees, departments, or boards. He also advises that no County resources will be used for his proposed outside employment. Finally, Mr. Urena advises that, as part of his County position, he does not have access to non-public information that is, or could be, relevant to his proposed outside employment.

Issue

Whether any prohibited conflict of interest may exist between Mr. Urena's County employment and his proposed outside employment as the owner of UCC, a Florida limited liability company.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics ("County Ethics Code") prohibits County employees from accepting outside employment, "which would impair his or her independence of judgment in the performance of his or her public duties." Section 2-11.1(j); *see also* section 2-11.1(k). Additionally, Miami-Dade County Administrative Order 7-1 provides that, "[u]nder 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."

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. Department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 13-28.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Mr. Urena is seeking to engage in would impair his independence of judgment in the performance of his County duties as a Customer Service Supervisor 1 with WASD. This is because there is no overlap between his public duties and his outside employment: his

¹ In July 2021, Mr. Urena sought an ethics opinion regarding contracting with the County through UCC. *See* INQ 21-109. Pursuant to the current request for an ethics opinion, Mr. Urena has indicated via e-mail that he is not going to seek to contract with the County. Regardless, the issues discussed and the opinion given in INQ 21-109 remain in effect insofar as the facts associated with that inquiry also remain the same.

outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work; he will not use the same resources in his outside employment as used in his County work; and, he will not have access to non-public information as part of his County employment that is, or could be, relevant to his outside employment.

Opinion

Based on the facts presented here and discussed above, Mr. Urena would not have a conflict of interest in his proposed outside employment as the owner of UCC.

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

- He may not engage in activities that relate in any way to his outside employment during his scheduled work hours (including phone calls, text messages, e-mails, or other communications) and he may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with his outside employment, even after work. *See* County Ethics Code § 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- He may not exploit his County position to secure special privileges or exemptions for himself or UCC. *See* County Ethics Code § 2-11.1(g).
- He may not disclose and/or use any confidential and/or proprietary information acquired because of his County employment to derive a personal benefit, or for the benefit of UCC. *See* County Ethics Code § 2-11.1(h).
- He may not contract, either individually or through UCC, directly or indirectly, with WASD. *See* County Ethics Code §§ 2-11.1 (c), (n).
- He may not represent UCC before any County board or agency. *See* County Ethics Code § 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of his potential activities as the owner of UCC, it is important to note that he would be prohibited from doing any such activities on behalf of UCC or its clients.
- He must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director, and he must file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* County Ethics Code § 2-11.1(k)(2).

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from WASD or under state law. Questions regarding possible conflicts based on WASD directives should be directed to WASD or the Mayor's Office.

For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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.