



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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

MEMORANDUM

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

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-109 Contracting with the County, Sections 2-11.1(c), County Ethics Code

DATE: July 22, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding Miami-Dade County employees applying to become a County vendor.

Facts:

You are employed as a Customer Service Supervisor 1 working at the Miami-Dade Water and Sewer Department (WASD). Your application for a County Vendor ethics opinion dated July 14, 2021, indicates that you are seeking to contract with the County through your privately-owned company, Urena Creative Construction, LLC (UCC), a Florida Limited Liability Company that provides commercial construction services such as flooring and drywall installations.

Your County job duties as a Customer Service Supervisor 1 at WASD include resolving customer complaints. Your position with the County does not include selection, oversight, or administration of any WASD or other County department construction service contracts.

Issue:

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) prevents UCC from contracting with the County.

Analysis and Opinion:

Your inquiry involves several sections of the Miami-Dade County Ethics Code which are analyzed below:

A. Outside Employment

Please note that working for your privately-owned company is considered outside employment.

Consequently, while you are engaged in outside employment you must obtain permission on an annual basis by completing online 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* County Ethics Code § 2-11.1(k)(2).

B. Contracting with the County

The County Ethics Code at Sections 2-11.1 (c)(2) and (d) allow you to enter into a contract, individually or through a firm, with Miami-Dade County, as long as the contract does not interfere with the full and faithful discharge of your duties to the County.

This means that you shall not participate in determining the contract requirements or in awarding the contract. Additionally, none of your responsibilities and job descriptions shall require you to be involved with the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. In your case, this means that UCC, shall not enter into contracts with WASD. *See* County Ethics Code §§ 2-11.1 (c) and (n).

C. Lobbying

Furthermore, you may not lobby the County on behalf of UCC. This means that you may not appear before any County board or agency to represent UCC, nor contact anyone within the County in an attempt to influence a decision about any contract that UCC is seeking. *See* County Ethics Code §§ 2-11.1 (m)(1).

D. Exploitation of Official Position

Finally, the County Ethics Code prohibits County employees from exploitation of their official position. In this instance, it means that you may not use your County position to secure special privileges or exemptions with respect to any County contract to which UCC is applying. *See* County Ethics Code § 2-11.1(g).

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.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

Please submit this memorandum to the Procurement Department. The Ethics Commission does not submit it on your behalf.

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.