



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Lt. Farrel J. Owens, Jr.
Special Victims Bureau
Miami-Dade Police Department

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-128

DATE: September 14, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your participation in the Disadvantage Business Enterprise (DBE) certification program as a County employee and potential County vendor.

Facts:

You are employed by the Miami-Dade Police Department (MDPD) as a police lieutenant. You would like to apply for the DBE certification program with the Small Business Development (SBD) division of the Internal Services Department (ISD) for the County.

Pyramid Construction LLC (Pyramid), your privately-owned company, is seeking certification through the DBE program in its efforts to contract with the County and become a County vendor. As the principal owner of Pyramid and a licensed general contractor, your company focuses on construction and construction management projects.

Miami-Dade County's SBE Certification programs were created for any business entity providing construction, architectural, engineering, goods, services, and aeronautical support services. Additionally, the DBE program is a federal program that ensures equal opportunity in transportation contracting markets, addresses the effects of discrimination in transportation contracting, and promotes increased participation in federally funded

contracts by small, socially and economically disadvantaged businesses, including minority and women owned enterprises.

Analysis and Opinion

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

A. Outside Employment

Work conducted for Pyramid, your privately-owned business, constitutes outside employment. The County Ethics Code prohibits County employees from engaging in conflicting outside employment. Conflicting employment is sometimes created when a County employee comes in contact with the same or similar people or entities in both his outside employment and in his County job or when he uses the same or similar resources in his outside employment as he uses in his County work. Also note that you may not use County time or resources in the performance of your outside employment. See County Ethics Code §§ 2-11.1 (g) and (j), Miami-Dade Code 2-11, and Administrative Order 7-1.

*Please note that this memorandum does not grant you permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your department Director. Given that you are a full-time employee, you **must also** file the related outside employment financial disclosure form, the Outside Employment Statement yearly.*

B. Contracting with the County

Once you have been granted permission to engage in outside employment by your department director, you may enter into a County contract through your privately-owned business, Pyramid, provided that the contract does not interfere with the full and faithful discharge of your duties to the County. See Sections 2-11.1(c)(2) and (d), Miami-Dade County Ethics Code.

This includes the condition that you may not participate in determining the contract/workshop or certification requirements or in awarding the contract or certification. Additionally, none of your County job responsibilities and job descriptions may require you to be involved in the contract/workshops or the certification in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance. Finally, you may not work in any County department that would enforce, oversee or administer the contract/workshop or certification. See Sections 2-11.1(c) and (n), Miami-Dade

County Ethics Code. Consequently, Pyramid **may not** enter contracts with Miami-Dade Police Department.

C. Lobbying

Additionally, you may not lobby the County. In this case, it means that you may not contact anyone within the County in an attempt to influence a decision about Pyramid's application for DBE certification or any contract Pyramid may seek. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code.

D. Exploitation of Official Position

Finally, the County Ethics Code prohibits County employees from exploitation of their official position. This means that you may not use your County position to secure **special privileges or exemptions** with respect to any certification program or County contract to which Pyramid is applying. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.

Please submit this memorandum to the Small Business Development division of the Internal Services Department. The Ethics Commission does not submit it on your behalf.

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.