



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: Anthony Hightower
Bus Operator
Miami-Dade County Transit and Public Works

FROM: Etta Akoni, Staff Attorney
Miami Dade County Commission on Ethics & Public Trust

SUBJECT: INQ 2022-169, Section 2-11.1(c), Limitations on Contracting with the County, and Section 2-11.1(j), Conflicting Employment Prohibited.

DATE: December 29, 2022

CC: All COE Legal Staff; Office of Miami-Dade County Commissioner Oliver G. Gilbert, III., Chairman; District 3; Victoria Goss, Training Coordinator, Neighbors and Neighbors Association

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest concerning a County employee applying for a Mom and Pop Small Business Grant funded by Miami-Dade County.

Facts

Mr. Anthony Hightower is employed by the Miami-Dade Department of Transportation and Public Works (“DTPW”) as a Bus Operator. His job responsibilities as a Bus Operator are primarily driving a Miami Dade County bus with passengers along a designated route. His DTPW position duties do not include any oversight or administration of the Mom and Pop Small Business Grant program.

Mr. Hightower owns and operates a Florida Limited Liability Company named Hightower Entertainment, LLC., which is a musical entertainment service that provides DJ services and event supplies (such as tents, tables, and chairs). Mr. Hightower is responsible for all aspects of the organization and operation Hightower Entertainment, LLC. Mr. Hightower would like to apply for a Mom and Pop Small Business Grant for Hightower Entertainment, LLC. through Miami-Dade County Commissioner Oliver G. Gilbert III’s District 1 Office.

The Mom and Pop Small Business Grant program is funded by Miami-Dade County. The Neighbors and Neighbors Association, a Florida not-for-profit organization, administers and makes recommendations regarding the Mom and Pop Grant applications; funds are distributed to qualifying businesses by the thirteen County Commission district offices.

Issue

Whether there is a prohibited conflict of interest that would prevent Hightower Entertainment, LLC., Mr. Hightower's privately owned business, from accepting a Mom and Pop Small Business Grant.

Analysis

This inquiry involves several sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance ("County Ethics Code"), each of which is analyzed in turn below:

A. Outside Employment

Work conducted for Hightower Entertainment, LLC. by Mr. Hightower constitutes outside employment, as defined by the County Ethics Code. The 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). 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." Conflicting employment can occur when a County employee encounters the same or similar persons or entities in both her County and outside employment. County employees may not use County time or resources in the performance of their outside employment. *See* INQ 21-27; INQ 20-21.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Mr. Hightower engages in through Hightower Entertainment, LLC. would impair his independence of judgment in the performance of his County duties as a DTPW Bus Operator.

However, County 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* AO 7-1; RQO 16-02; RQO 00-10; INQ 13-28. **Accordingly, this memorandum does not grant permission to engage in outside employment. Mr. Hightower must obtain permission to engage in outside**

employment yearly from his department director.¹ Given that he is a full-time employee, he must also file an outside employment financial disclosure form – Outside Employment Statement – on an annual basis.

B. Mom and Pop Small Business Grant

With permission to engage in outside employment with Hightower Entertainment, LLC., then Hightower Entertainment, LLC. **may accept the Mom and Pop Small Business Grant**, so long as DTPW is not involved in any way in processing or administering the grant. This includes the condition that Mr. Hightower may not participate in determining or awarding the grants. Additionally, none of his job responsibilities or job descriptions may require him to be involved in the grants in any way, including enforcement, oversight, administration, amendment, extension, termination, or forbearance. *See* County Ethics Code §§ 2-11.1(c), (n).

C. Lobbying

Mr. Hightower may not lobby the County. In this case, it means that Mr. Hightower may not contact anyone within the County in an attempt to influence a decision about Hightower Entertainment, LLC.'s application for a Mom and Pop Small Business Grant. *See* County Ethics Code § 2-11.1(m)(1).

D. Exploitation of Official Position

The County Ethics Code prohibits County employees from exploitation of their official position. *See* County Ethics Code § 2-11.1(g). This means that Mr. Hightower may not use his County position to secure any special privilege or exemption with respect to Hightower Entertainment, LLC.'s application to, and ultimate participation in, the Mom and Pop Small Business Grant program, or to any other grant program to which Hightower Entertainment, LLC. or Mr. Hightower is applying.

Opinion

Based on the facts presented here and discussed above, Hightower Entertainment, LLC.'s participation in the Mom and Pop Small Business Grant program **does not appear to give rise to any prohibited conflict of interest.**

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please

¹ A records check reflects that Mr. Hightower has received approval for his outside employment with Hightower Entertainment, LLC. for the 2021 calendar year.

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

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

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.