



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: Nicole Dukes
HR Compensation and Job Analyst
Miami-Dade Human Resources Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-29, Section 2-11.1(c), Limitations on Contracting with the County, and Section 2-11.1(j), Conflicting Employment Prohibited.

DATE: March 4, 2022

CC: All COE Legal Staff; Office of Miami-Dade Commissioner Keon Hardemon, 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

Ms. Nicole Dukes is employed by the Miami-Dade Human Resources Department (“HR”) as an HR Compensation and Job Analyst. Her job responsibilities are primarily serving as a team leader in the conduct of special occupational or job analysis studies; she also analyzes and classifies a wide variety of positions, develops recommendations for new or revised classification titles, and develops new or revised minimum qualification standards for various classifications. Her HR position duties do not include any oversight or administration of the Mom and Pop Small Business Grant program.

Ms. Dukes owns and operates a Florida Limited Liability Company named Pretti-n-Plush Boutique, LLC (“Pretti-n-Plush”), which is an e-commerce clothing boutique that provides trendy wholesale apparel and accessories for women. Ms. Dukes is responsible for Pretti-n-Plush’s managing, marketing, and logistics. Ms. Dukes would like to apply for a Mom and Pop Small Business Grant for Pretti-n-Plush through Miami-Dade Commissioner Keon Hardemon’s District 3 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 Pretti-n-Plush, Ms. Dukes' 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 Pretti-n-Plush by Ms. Dukes 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 Ms. Dukes engages in through Pretti-n-Plush would impair her independence of judgment in the performance of her County duties as an HR Compensation and Job Analyst with HR.

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. Ms. Dukes must obtain permission to engage in outside**

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

B. Mom and Pop Small Business Grant

Upon obtaining permission to engage in outside employment with Pretti-n-Plush, then Pretti-n-Plush **may accept the Mom and Pop Small Business Grant**, so long as County HR is not involved in any way in processing or administering the grant. This includes the condition that Ms. Dukes may not participate in determining or awarding the grants. Additionally, none of her job responsibilities or job descriptions may require her 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

Ms. Dukes may not lobby the County. In this case, it means that Ms. Dukes may not contact anyone within the County in an attempt to influence a decision about Pretti-n-Plush'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 Ms. Dukes may not use her County position to secure any special privilege or exemption with respect to Pretti-n-Plush's application to, and ultimate participation in, the Mom and Pop Small Business Grant program, or to any other grant program to which Pretti-n-Plush or Ms. Dukes is applying.

Opinion

Based on the facts presented here and discussed above, Pretti-n-Plush'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 based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

¹ A records check reflects that Ms. Dukes has submitted a currently pending request for approval for her outside employment with Pretti-n-Plush for this calendar year.

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 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.