



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: S. Donna Palmer – Special Projects Administrator, Small Business Initiatives (SBI) Section, Miami Dade Water and Sewer Department

FROM: Etta Akoni, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-56, Sections 2-11.1 (j), (k) Outside Employment, (c) Contracting with the County, and (g) of the County Ethics Code relating to Exploitation of Official County Position

DATE: March 30, 2022

CC: All COE Legal Staff

Thank you for contacting the Miami Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to your prospective use of the Miami Dade Public Library facilities for your private enterprise activities.

Facts:

You are a Special Projects Administrator in the Small Business Initiatives (SBI) Section of the Miami Dade County Water and Sewer Department. In this role, you assist the SBI Chief by providing support and direction to small businesses participating in the Capital Improvement Program. Your normal working hours are Monday to Friday, starting at 7:30 A.M. to 4:30 P.M. You are also the author of two books, one for adults titled “Life You Can Do It” (released in 2019 and published by WestBow Press), and one book for children, titled “Live Like Zori” (released in 2020 and published by Liferich Publishing). You are exploring an option to hold “Meet the Author” and “Book Signing” events at Miami Dade County Public Libraries on Saturdays. During said events you plan to sell your books and proposition your services for speaking engagements. You do not have a private company or legal entity for which your books are sold. You do not sell your books or promote your

speaking services while at work. You have previously been granted permission to engage in this outside employment by your supervisors, but no ethics review has been requested by said supervisors. While you are not a resident of Miami- Dade County, you own property in Miami- Dade County.

Issue: Whether your outside employment and prospective use of the Miami Dade Public Library facilities for your private enterprise activities is permissible under Miami Dade County Ethics Code.

Discussion and Opinion:

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

A. Outside Employment

Work conducted for in relation to your books or speaking services constitutes outside employment. Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his/her official duties thereby creating a conflict between the employee's public duties and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under 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."

Miami-Dade County employees are required to obtain approval from their department directors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28.

The County's Administrative Order No. 7-1 gives a County department director the ultimate discretion to deny outside employment if he or she finds that it is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 12-07; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

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 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 requirements or in awarding the contract. Additionally, none of your County job responsibilities and job descriptions may require you to be involved in the contract 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. *See* Sections 2-11.1(c) and (n), Miami-Dade County Ethics Code. Consequently, you **may not** enter contracts with Miami Dade County Water and Sewer Department.

D. Exploitation of Official Position

Finally, the Miami-Dade 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 for oneself or others. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.

Miami-Dade Public Library System locations across the county offer a range of spaces and meeting rooms available for use by nonprofit, governmental, and for-profit entities and educational institutions. To reserve a space, an interested party must complete a “Library Use Reservation Form” and submit it to the requested branch library via email or in person. There are fees and charges for use of our library spaces by for-profit entities as required by the Miami-Dade Public Library System Fee Schedule (I.O. 4-97).¹ You must follow the standard procedure of the Miami-Dade Public Library System in reserving space for your events and pay the same fee expected of all persons in the public who wish to use the Miami-Dade Public Library System for a personal event. INQ 13-41. 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 and your outside employment must occur outside of your County hours of employment.

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

¹ <https://mdpls.libnet.info/images/pdfs/mdpls/mdpls-fee-schedule-IO-4-97.pdf>

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, 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.