



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Luis Requejo
Airport Operations Agent
Miami-Dade Aviation Department

Jonathan Spicer
Airport Operations Supervisor
Miami-Dade Aviation Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-78, Section 2-11.1(j), Conflicting employment prohibited.

DATE: May 5, 2021

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest in Mr. Luis Requejo's proposed outside employment.

Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Mr. Requejo, an employee of the Miami-Dade County Aviation Department ("MDAD"), to engage in outside employment as the owner and operator of M. A. Emergency Consulting, LLC ("MAEC").¹ MAEC is a Florida limited liability company via which Mr. Requejo teaches cardiopulmonary resuscitation ("CPR") and First Aid to the public as a certified American Heart Association instructor.

¹ A records review reflects that Mr. Requejo has successfully sought permission to conduct his outside employment with MAEC every year since 2018.

Mr. Requejo is currently employed by MDAD as an Airport Operations Agent. His job duties include monitoring the operations and maintenance of terminal and airfield facilities at the Homestead General Aviation Airport.

Mr. Requejo advises that neither he nor MAEC plan to be a County vendor.

Mr. Requejo further advises that he will conduct his MAEC-related responsibilities outside of his regularly scheduled work hours. He advises that, as part of his outside employment, he will not be required to encounter the same or similar people or entities as in his County position. He also advises that his outside employment will not require him to interact with County employees, departments, or boards. Mr. Requejo advises that his position with MDAD does not involve the recruitment or management of County vendors or contractors. He also advises that no County resources will be used for his outside employment. Finally, Mr. Requejo advises that, as part of his County position, he does not have access to non-public information that is, or could be, relevant to his proposed outside employment.

Issue

Whether any prohibited conflict of interest may exist between Mr. Requejo's County employment and his outside employment as the owner and operator of MAEC, a Florida limited liability company.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics ("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); *see also* section 2-11.1(k). 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."

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Miami-Dade Commission on Ethics and Public Trust regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. 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* RQO 16-02; RQO 00-10; INQ 13-28.

Based on the information provided to us at this time, it appears to be unlikely that the type of outside employment that Mr. Requejo is engaging in would impair his independence of judgment in the performance of his County duties as an Airport Operations Agent with MDAD. This is because there is no overlap between his public duties and his outside employment: his outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work; he will not use the same resources in his

outside employment as used in his County work; and, he will not have access to non-public information as part of his County employment that is, or could be, relevant to his outside employment. *See* RQO 17-01; RQO 16-02; RQO 09-16 (Miami-Dade Fire Rescue employee working as a fire lieutenant did not have a conflict of interest when engaged in outside employment as a hazardous materials instructor through his privately owned company).

Opinion

Based on the facts presented here and discussed above, Mr. Requejo would not have a conflict of interest in his proposed outside employment as the owner and operator of MAEC.

However, the Commission on Ethics strongly recommends that the following limitations be imposed on Mr. Requejo's permission to engage in his proposed outside employment:

- He may not engage in activities that relate in any way to his outside employment during his scheduled work hours (including phone calls, text messages, e-mails, or other communications) and he may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with his outside employment, even after work. *See* County Ethics Code § 2-11.1(g); AO 5-5, AO7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- He may not exploit his County position to secure special privileges or exemptions for himself or MAEC. *See* County Ethics Code § 2-11.1(g). Specifically, while the County Ethics Code does not prohibit employees from using annual leave to engage in outside employment, **he may not use sick leave to engage in his outside employment.** *See* INQ 18-222; INQ 09-194.
- He may not disclose and/or use any confidential and/or proprietary information acquired because of his County employment to derive a personal benefit, or for the benefit of MAEC. *See* County Ethics Code § 2-11.1(h).
- He may not contract, either individually or through MAEC, directly or indirectly, with MDAD. *See* County Ethics Code §§ 2-11.1 (c), (n).
- He may not represent MAEC before any County board or agency. *See* County Ethics Code § 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of his potential activities as the owner and operator of MAEC, it is important to note that he would be prohibited from doing any such activities on behalf of MAEC or its clients.
- He must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director, and he must 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).

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.

Other conflicts may apply based on directives from MDAD or under state law. Questions regarding possible conflicts based on MDAD directives should be directed to MDAD or the Mayor's Office. 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.