



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: Loreta M Sanchez
Capital Administration Coordinator
Capital Development, Seaport Department

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

SUBJECT: INQ 2023-08. Outside Employment §2-11.1(k)(2) and (j); Transacting with the County § 2-11.1(c) County Ethics Code

DATE: January 27, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami Dade Commission on Ethics and Public Trust and requesting our guidance regarding the limitations of transacting business with a Miami Dade County registered vendor through your privately owned business, IUSA Partners, Inc., and possible conflicts of interest that maybe implicated as a result of your outside employment activities.

Facts:

You are employed as a Capital Administration Coordinator for the division of Capital Development within the Miami Dade County Seaport Department (“Seaport”). In this role, you are responsible for preparing executive reports, tracking documentation for 40-year recertification processes, logging budget routings into financial database, logging and tracking work orders, and transcribing meeting minutes. Your responsibilities with Seaport have no tangents to or interactions with the housing assistance programs operated through the Miami Dade County Public Housing and Community Development Department (“PHCD”). You have been provisionally approved to continue your outside employment as partner in IUSA Partners, Inc. (D/B/A “IUSA Water”)¹

¹ Ms. Sanchez submitted an outside employment approval request for 2023. Said request was approved by her supervisor on January 23, 2023, but the request is pending approval by her assistant department director and

IUSA Water is a Florida For Profit Corporation established in 2013. IUSA Water provides water submetering services to multi-family/unit buildings that are metered by the local governing entities from one master water meter. Submetering allows each individual unit's consumption to be measured and billed. Within IUSA Water, you are one of the organization's partners. Your responsibilities as a IUSA Water partner, along with the other partners, is to oversee business operations, sales, and sign the business' checks.

You indicate that your work with IUSA Water does not require the use of any equipment or resources which you use in your County employment, nor do you work with the same clients. Lastly, your work with IUSA Water will be conducted outside your County hours. IUSA Water is not seeking to become a County vendor but has been offered an opportunity to provide submetering services for a company that is a county vendor providing residential properties which are contracted by PHCD for housing assistance programs.

More specifically, IUSA Water was recently contacted by TRG Management, LLC² to inquire about submetering services for some properties that they manage on behalf of RUDG, LLC³. You provided this writer with a list of the properties IUSA Water has been asked to provide submetering services for. Some of the units in these multi-family/unit properties may be leased to individuals who are apart of PHCD Housing Assistance programs and some of the buildings are designated for sole use in PHCD Housing Assistance programs.

Issue:

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance ("County Ethics Code") would prevent your privately-owned company, IUSA Water, from working with a County Vendor to provide services for facilities under contract with Miami Dade County.

Analysis and Opinion:

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

A. Outside Employment

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. Work conducted for IUSA Water, your privately-owned business, constitutes outside

department director. Ms. Sanchez has been approved to participate in her outside employment with IUSA Water since 2014.

² Started in 1984, TRG Management LLP is a property management company that is a subsidiary of Related Group.

³ RUDG, LLC. is a registered and active Miami Dade County vendor

employment. Section 2-11.1(j) of the Miami-Dade County Ethics Code prohibits 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. 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." A.O 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.

Additionally, State of Florida law prohibits an employee of an agency from having or holding any employment or contractual relationship that will create continuing or frequently recurring conflicts between his private interests and the performance of his public duties. §112.313(7)(a), Fla. Stat.

In previous opinions, the Ethics Commission has found that outside employment conflicts with government employment *when the two pursuits overlap or are closely related*. *See* RQO 12-11, INQ 12-159. For example, in RQO 15-03, the Commission found that an IT Senior Analyst should not be permitted to engage in outside employment as an IT consultant for a private client. The private client/company the IT consultant planned to contract with was owned by the same individuals that owned a company which was a registered county vender. Additionally, the outside employment was closely related to the work he performed for the County and would eventually intersect with his county responsibilities as the county further developed its IT services to the public. As such the Ethics Commission determined that divided loyalties were likely to develop between his County employment and his private employment.

After reviewing the facts presented here, we find that your outside employment which consists of operating a submetering company, IUSA Water, is not likely to cause a conflict of interest between your private interest and your public duties as a Capital Administration Coordinator for Seaport. This is because there is no overlap between your public duties as a Capital Administration Coordinator and your outside employment. Additionally, you will not be assisting the same clients, you will not use the same resources, and the work would be performed outside of your County hours. *See* INQ 11-162.

Specifically in reference to your question about IUSA Water contracting with TRG Management, LLC to provide submetering services for residential facilities that are wholly or partially participating in PHCD Housing Assistance Programs, this potential contract is also not likely to cause a conflict of interest between your private interest and your public duties as a Capital Administration Coordinator for Seaport. Your Capital Administration Coordinator duties do not intersect or interact with PHCD and its programs. Moreover, none of the properties on the list you provided are owned by Miami-Dade county nor are any of the properties used for any purpose that is relevant to your work with Seaport. Consequently, this circumstance is distinguishable from RQO 15-03 as the two pursuits do not overlap or are not closely related.

Nevertheless, you must continue to abide by certain limitations and cautions outlined below to avoid a conflict:

- You may not use County time or resources in your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles, in connection with your outside employment, even after work). *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit, for the benefit of IUSA Water or for the benefit of IUSA Water’s clients. *See* Section 2- 11.1(h), Miami-Dade County Ethics Code.
- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County’s Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

B. Contracting with the County

Ms. Sanchez has not indicated that IUSA Water plans to contract with Miami Dade County to provide its submetering services. However, in the event IUSA Water decides to pursue a county contract, the County Ethics Code at Sections 2-11.1 (c)(2) and (d) allows you to enter into a contract, individually or through a firm, with Miami-Dade County, as long as the contract does not interfere with the full and faithful discharge of your duties to the Seaport Department. *See* Sections 2-11.1(c)(2) and (d), Miami-Dade County Ethics Code.

This means that you may not participate in determining the contract requirements or in awarding the contract that you may also apply for. 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, IUSA Water **may not** enter contracts with Seaport. *See* RQO 07-18.

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 any contract IUSA Water is seeking. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code. INQ 19-36, INQ 19-32

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 with respect to any County contract to which IUSA Water is applying. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.

In the process of becoming a County vendor, you may submit this memorandum to the Procurement 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, 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.