



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North  
701 Northwest 1<sup>st</sup> Court · 8<sup>th</sup> Floor · Miami, Florida 33136  
Phone: (305) 579-2594 · Facsimile: (305) 579-0273  
Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Radames Iribar  
Traffic Engineer 2  
Miami-Dade County Transportation and Public Works

Waleed Khan  
Traffic Engineer 3  
Miami-Dade County Transportation and Public Works

**FROM:** Loressa Felix, Staff Attorney  
Commission on Ethics and Public Trust

**SUBJECT:** INQ 2023-15 Conflicting/Outside employment, Sections 2-11.1(k)(2) and (j),  
County Ethics Code

**DATE:** February 22, 2023

**CC:** All COE Legal Staff

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

Facts: You are employed as a Traffic Engineer 2 for Miami-Dade County Department of Transportation and Public Works (DTPW). You would like to engage in outside employment as a consultant for TL Engineering Design, Inc. and Zion Projectz, Inc.

As a Traffic Engineer 2, you supervise the planning, design, installation and improvement of traffic and transportation highway systems and control devices. You are responsible for assisting and supervising traffic signal system design, intersection channelization design, pavement marking, and geometric roadway design. Your work involves participation in, and supervision of work units engaged in applying professional traffic engineering principles to varied projects related to the safe, convenient, and economical transportation of persons and goods over the local roadway network.

TL Engineering Design, Inc. is a construction company that handles architectural, electrical, mechanical, and plumbing design and inspections for residential and commercial projects. Zion Projectz, Inc. is a construction company that handles architectural design and inspections for residential and commercial projects. Neither company deals with transportation systems or traffic

signals. The companies are not County vendors, nor do they have business dealings with governmental entities.

As a consultant, you will be performing thermographic electrician technician certifications for TL Engineering Design, Inc. and Zion Projectz, Inc. These certifications will satisfy a new state law requiring more frequent and deeper building inspections for the building recertifications, providing required electrical inspections. You will utilize your years of electrical engineering experience to assist with such certifications and inspections, specifically, questions related to the current national electrical code requirements for residential and commercial project designs.

You advise that neither TL Engineering Design, Inc. or Zion Projectz, Inc. are seeking to become County vendors. You will also conduct your outside employment outside of your County hours and will not conflict with your County employment. You further advise that your work would not require the use of any equipment or resources which you use in your County employment, nor would you work with the same people or similar entities that you currently work with in your County employment.

Issue: Whether any prohibited conflicts of interest may exist between your County employment and your outside employment as a consultant conducting thermographic electrician technician certifications.

Analysis and Opinion:

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/supervisors prior to engaging in outside employment. *See* County's Administrative Order 7-1. Directors/Supervisors 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/supervisor the 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 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

In consideration of your inquiry, we must look to several factors, one of which is whether there is similarity in your duties as a Traffic Engineer 2 for DTPW and your prospective outside employment as a consultant conducting thermographic electrician technician certifications. In this instance, both positions require you to utilize a similar knowledge base involving electrical

engineering designs and planning; however, there is no indication that a prohibited conflict of interest exists. *See* INQ 21-54; INQ 21-64; and INQ 22-114.

The Ethics Commission has previously opined that a similarity between an employee's County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest. *See* INQ 18-54 (citing RQO 00-10; RQO 04-168; RQO 12-07 which note that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations) (emphasis added). Therefore, the similarities in the services you would be providing in the two positions does not preclude you from engaging in outside employment particularly as you have indicated that you will not be working for a County vendor; your potential employers do not work for government entities; you will not use any equipment or resources which you use in your County employment; and you will not work with the same people or similar entities that you currently work with in your County employment. Further, the Ethics Commission has also held that use of an acquired knowledge base in outside employment for a privately owned company does not in and of itself create a conflict of interest. *See* INQ 20-43.

Moreover, the Ethics Commission has previously opined that a Construction Manager for Miami-Dade Parks, Recreation, and Open Spaces does not have a conflict of interest regarding his employment at the County and his outside employment as a freelance civil engineer because his outside employment would not impair his independence of judgment in the performance of his County duties as he will not transact business with the County or any County vendor; he will work exclusively on residential projects; and he will not use any County time or resources in his outside employment. *See* INQ 21-54. Additionally, a Technical Services Planner Scheduler for the Miami-Dade Aviation Department, does not have a conflict of interest involving his employment at the County and his work as a maintenance engineering planning designer for a private engineering company and County vendor because his outside employment would not impair his independence of judgment in the performance of his public duties as the employee has no contact or authority over the selection, oversight, or administration of the County's contract with the vendor. *See* INQ 20-29.

Nevertheless, the Ethics Commission strongly recommends that the following limitations be imposed on your permission to engage in the aforementioned outside employment in order 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, a benefit for TL Engineering Design, Inc. and Zion Projectz, Inc., or a benefit for TL

Engineering Design, Inc. and Zion Projectz, Inc. clients. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.

- You may not exploit your County position to secure special privileges or exemptions for yourself, TL Engineering Design, Inc. and Zion Projectz, Inc., or TL Engineering Design, Inc. and Zion Projectz, Inc. clients. *See* Section 2-11.1(g), Miami-Dade County Ethics Code.
- You may not represent TL Engineering Design, Inc., Zion Projectz, Inc., TL Engineering Design, Inc. clients, or Zion Projectz, Inc. clients before any County board or agency. *See* Section 2-11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173. Notably, while it does not appear that lobbying activities are a part of your potential duties for TL Engineering Design, Inc. or Zion Projectz, Inc., it is important to note that you would be prohibited from doing any such activities on behalf of TL Engineering Design, Inc. or Zion Projectz, Inc., or their clients.
- 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.

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.

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 Ethics Commission 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.