



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Alberte Williams  
HR Finance Specialist  
Miami-Dade County Human Resources Department

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

**SUBJECT:** INQ 2023-16, Transacting with the County, Section 2-11.1(c), County Ethics Code

**DATE:** February 24, 2023

**CC:** All COE Legal Staff; Office of the Miami-Dade Commissioner Oliver G. Gilbert, III, District 1; Victoria Goss, Training Coordinator, Neighbors and Neighbors Association

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding County employees applying for Mom and Pop Grants which are funded by Miami-Dade County.

Facts:

You are employed by Miami-Dade County Human Resources Department as a HR Finance Specialist. As a HR Finance Specialist, you review payments and invoices from various agencies, submit invoices for payment, and reconcile unemployment and wellness incentives on a quarterly basis. You would like to apply for a Mom and Pop Grant for your privately-owned company, AW Tax and Financial Services LLC. Your company provides tax preparation services.

Mom and Pop Grants are funded by Miami-Dade County. Neighbors and Neighbors Association, a not-for-profit organization, administers and makes recommendations regarding the Mom and Pop Grant applications; and funds are distributed by the Commission offices of the thirteen (13) County Districts to businesses that meet the requirements of the grants. AW Tax and Financial Services LLC is applying for a Mom

and Pop Grant funded through Miami-Dade Commissioner Oliver G. Gilbert, III's District 1 Office.

Issue:

Whether the County Ethics Code would prevent your privately-owned company, AW Tax and Financial Services LLC, from applying for and accepting a Mom & Pop Grant.

Discussion and Opinion

While you are not prohibited from applying for a Mom & Pop grant from the County, your inquiry involves several sections of the County Ethics Code which are analyzed below:

A. Outside Employment

Work conducted by you for AW Tax and Financial Services LLC constitutes outside employment, as defined by the County Ethics Code. *See* RQO 17-03 (citing RQO 16-01). 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."

The Miami-Dade County Ethics Code prohibits County employees from engaging in outside employment that is likely to create conflicts of interest between the employee's County responsibilities and their outside job duties. After reviewing the facts presented here, we find that your outside employment of running your privately owned tax preparation company is not likely to cause conflicts of interest between your private interest and your public duties. *See* INQ 19-101 (A County Finance Department employee does not have a conflict of interest involving her employment at the County and her work as a federal tax preparer because her outside employment would not impair her independence of judgment in the performance of her public duties; however, she was advised that it would be improper for her to solicit business for her outside employment during her County work hours). This is because there is no overlap between your public duties as a HR Finance Specialist and your outside employment. Here, 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* RQO 17-01.

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; INQ 22-162. **Accordingly, this memorandum does not grant permission to engage in outside employment. You must obtain permission to engage in outside employment yearly from your department director. Given that you are a full-time employee, you must also file an outside employment financial disclosure form – Outside Employment Statement – on an annual basis.**<sup>1</sup>

Additionally, the following limitations and cautions outlined below may also serve to avoid any potential 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 AW Tax and Financial Services LLC or its clients. *See* Section 2-11.1(h), Miami-Dade County Ethics Code.

#### B. Mom and Pop Grant

Once you have been granted permission to engage in outside employment,<sup>2</sup> your company, AW Tax and Financial Services LLC may ***accept the Mom and Pop Grant***, as long as Human Resources, the department which employs you, is not involved in any way in processing or administering the grant. This includes the

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<sup>1</sup> You can find the required form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

<sup>2</sup> Ms. Williams' supervisor has confirmed that his outside employment has been declared and approved by the department.

condition that you may not participate in determining or awarding the grant. Additionally, none of your job responsibilities and job descriptions may require you to be involved in the grant in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. *See* County Ethics Code §§ 2-11.1 (c) and (n).

C. Lobbying

Additionally, you may not lobby the County for the grant. In this case, it means that, while you may submit your application, you may not contact or meet with anyone within the County in an attempt to influence a decision about AW Tax and Financial Services LLC's application for a Mom and Pop Grant. *See* County Ethics Code §2-11.1 (m)(1).

D. Exploitation of Official Position

Finally, the 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 participating in any grant program to which your company is applying. *See* County Ethics Code § 2-11.1(g).

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.

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.