



Joseph M. Centorino, Inspector General

To: Alina Hudak, City Manager
From: Joseph M. Centorino, Inspector General

Re: Review of Outside Employment Policy and Public Records Issues
OIG No. 23-02
Date: March 3, 2023

This review was opened in September 2022 upon receipt of information by the OIG that included allegations regarding the Building Department and was assigned to Investigator Dylan Hughes. The information received alleged the following:

1. The Building Department Call Center was being mismanaged, and the Call Center managers were mistreating the staff;
2. The Building Department Director was referring the inspection business to a private provider, C.A.P. Government, Inc., which could create a conflict of interest;
3. The Building Department Director changed an internal policy that allowed Building Inspectors to have outside employment, and now that policy has been terminated.

The first two issues were determined to be unsubstantiated. The third issue resulted in this review of the approval process for outside employment requests from Building Department employees.

Outside Employment

While conducting this review, Investigator Hughes spoke with Human Resources Director, Marla Alpizar, and Building Department Director, Ana Salgueiro, and reviewed the following documents:

- approved Building Department outside employment forms generated from June 2020 through June 2022;
- City of Miami Beach and Building Department Outside Employment Policy (Administrative Order HR.15.01);
- Building Department Standard Operating Procedure 9.02-Outside Employment;
- City of Miami Beach Request for Approval of Outside Employment Form; and
- Miami-Dade County Outside Employment Statement.

Investigator Hughes met with Human Resources Director Marla Alpizar, who provided the following information regarding outside employment at the Building Department.

Ms. Alpizar stated that the issue of outside employment and the Building Department has been addressed at many levels within the City of Miami Beach during the last year. She stated that her predecessor, Michael Smith, addressed it, as well as Deputy City Manager Eric Carpenter and City Manager Alina Hudak. She stated that the City Manager referred it back to Ms. Alpizar. Ms. Alpizar related that when Building Director Ana Salgueiro took the position with the City, she had a concern about conflicts of interest with some of the requests for outside employment she was receiving. She stated that Ms. Salgueiro informed Building Department employees one year in advance that she would be taking a close look at the type of work they were requesting, and any potential conflicts created with their City employment.

Each year City staff must complete a request for outside employment that is reviewed and approved at several levels. Ms. Alpizar related that Ms. Salgueiro has denied outside employment requests because of conflicts of interest. As a result of the denial of some of the outside employment requests, employees have left their employment with the City. Ms. Alpizar stated that in one instance regarding a former employee, Eric Merced, she spoke with Mr. Merced on the phone, in person, and again in person with his union representative, about the outside employment issue. She stated that it was determined that the employee had a conflict of interest, and his request was denied. Ms. Alpizar informed that she, the City Manager, and Deputy City Manager have supported Ms. Salgueiro's position on outside employment being denied based on conflicts of interest.

Ms. Alpizar also informed the OIG that only the approved request forms for outside employment are maintained in the Human Resources Department. She does not see or retain any outside employment request forms that are not approved.

Investigator Hughes spoke with Ms. Salgueiro, who provided the following information regarding outside employment:

Ms. Salgueiro stated that when she became the Building Director, there were building department staff members who had outside employment. There was no internal outside employment policy at that time. Some of the outside employment requests gave her concern that the employment could interfere with City employment as well as create an ethical conflict. She prepared an outside employment policy that she emailed to both the Human Resources Department and the Government Supervisors Association of Florida (GSAF) union. She stated that Human Resources and the GSAF were satisfied with the policy. She met with all GSAF union chiefs and briefed them on the policy, and they were fine with it at the time. She stated that in July or August of last year, she informed all the staff of the policy by way of an email.

The Building Department's outside employment policy does not allow staff members to work as licensed contractors or to own, be employed, or qualify a construction company. The policy limits the number and types of outside employment. Ms. Salgueiro stated that she tried to work with staff members regarding their requests; however, she would not approve the request if she determined there was a conflict with the employee's City employment. She stated that one staff member, Eric Merced, was not happy with the policy when he was informed about it by email a year in advance of it being implemented. Ms. Salgueiro met with him and his union representative in person. At that meeting, the policy was questioned because it was only documented in an email sent by her to employees. Thereafter, Ms. Salgueiro prepared a written policy that was reviewed by Human Resources, The GSAF union, and the City Attorney. After some revisions, the outside employment policy was finalized and made part of the Building Department Standard Operating Procedures on June 22, 2022.

During the meeting with Investigator Hughes, Ms. Salgueiro was shown a list of six names provided to the OIG as persons who had left the building department. She identified five of the names as staff members who left because of the outside employment policy including Eric Merced, Luis Blanco, Carlos Fernandez, Javier Parody, and Lance Mears. Ms. Salgueiro stated that she tried working with each of the individuals to identify work that she would be able to approve. In some instances, there were parts of the requests that she could approve and in others, there were not. She stated that ultimately each of those staff members chose to resign from City employment.

At the conclusion of the meeting with the Building Director, Investigator Hughes requested copies of the unapproved outside employment request forms, as Human Resources only maintains the approved forms. Ms. Salgueiro advised that she did not retain copies of the unapproved outside employment requests at the Building Department.

Based on the review by Investigator Hughes, there was no basis for a finding that any impropriety had occurred in connection with the changing of the internal policy of the Building Department regarding outside employment. The Building Department Director developed and implemented an approved Standard Operating Procedure that delineates the process for approved outside employment within the Building Department. The policy represents an appropriate method of determining whether a request for outside employment by a Building Department employee should be approved, given the unique and often legally sensitive operations of that department.

Public Records Issue

The OIG review identified that the City has no specific written protocol for the maintenance and retention of unapproved outside employment requests. The OIG determined that at least one department was not retaining copies of approved or unapproved outside employment requests. The OIG found, based on the inquiries related below, that, although the failure to properly retain the forms was not done with any intention to violate the Public Records Act, such forms are public records that should be retained in conformance with Section 119.021, Florida Statutes.

Investigator Hughes met with the City Clerk, Rafael Granado, to inquire as to whether a completed City Request for Outside Employment form is a public record regardless of its approval status and how long it should be retained. Mr. Granado was shown a blank copy of the request form, and he informed the OIG that once the form is completed by an employee and submitted, regardless of ultimate approval, it becomes a public record. The failure to retain the form could constitute a violation of Chapter 119, Florida Statutes, which defines public records in Section 119.011(12) as follows:

all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Regarding the required retention of the form, Mr. Granado informed the OIG that retention schedules are established by the State of Florida. Mr. Granado instructed his staff member, Patrick Camm, to provide Investigator Hughes with the link to the State of Florida retention schedule website. In addition, Mr. Camm researched the State of Florida General Records Schedule GS1-SL for an applicable retention requirement for the outside employment form. The retention schedule does not specifically identify an outside employment request but has multiple categories to which its retention could apply.

Mr. Camm sent an email to Ms. Brenda Lippy, Operations Analyst II, Bureau of Archives and Records Management, Division of Library and Information Services for the State of Florida, asking for her assistance in determining the appropriate category for retention of the outside employment form. Mr. Camm provided Ms. Libby with a copy of the Miami Beach outside employment policy and a copy of the Request for Outside Employment form.

Ms. Libby's response to Mr. Camm's email included the following:

Generally, records that document an individual's employment/personnel related activities should be maintained according to the personnel records item. Therefore, if employees are required to request approval for outside employment, the record should be retained as long as the personnel file (GS1-SL item #162), regardless if the request was approved or denied.

However, we have no authority to tell agencies what records should or should not be filed in their personnel files. Your agency is responsible for determining what type of records should be included in their personnel files.

After concluding that the City of Miami Beach Request for Outside Employment form is, in fact, a public record and that only the approved forms are being maintained within the Human Resources Department, Investigator Hughes conducted a review of the outside employment policies for both the City of Miami Beach and Miami-Dade County.

Miami-Dade County states in writing in its Administrative Order, Procedure, and on its Outside Employment form the requirement to retain copies of all outside employment requests. The approved copies are maintained in the personnel file in Human Resources, and each Department is responsible for maintaining appropriate records regarding outside employment requests.

Miami Beach only states in writing in Administrative Order HR.15.01 the requirement of the City employee to file the fully approved Request for Approval of Outside Employment with the Human Resources Department, and the Outside Employment Statement with the City Clerk. There is no requirement in writing to retain all outside employment requests regardless of approval status.

Prior to completing this memorandum, Investigator Hughes contacted both Human Resources Director Marla Alpizar and Building Director Ana Salgueiro to determine if there has been any change to the process regarding the maintenance and retention of the outside employment request forms. Ms. Salgueiro advised that she has not received any requests since our initial conversation. She advised that now that she is aware that submitted outside employment requests are public records, she will adjust her procedure and make sure that they are properly retained. Ms. Alpizar advised that Human Resources does not keep rejected forms but returns them to the department. If they are rejected at the department level, then the Human Resources staff would not see them.

Recommendation

It is recommended by the OIG that the City adopt a more explicit policy requiring the maintenance and retention of all outside employment requests in all City departments.

Responses to the Draft Report

In accordance with Section 2-256(h) of the Code of the City of Miami Beach, draft copies of this report were provided to the City Manager, Clerk, Attorney, Human Resource Director, and Building Department Director for their discretionary written responses. The OIG received two responses, one from the City Manager and The City Clerk. Their responses are attached to this report.

The City Manager's response stated, "I have no problem with the recommendation. I will follow up with both Directors and make sure that the appropriate documentation is in place prospectively." The City Clerk concurred with the OIG's recommendation to adopt a more explicit policy requiring the maintenance and retention of all outside employment requests in all City departments.

Conclusion

The OIG's review of the City of Miami Beach's Outside Employment Policy and process has concluded that a completed and submitted Request for Outside Employment form is a public record as defined by Florida Statute 119.011(12), regardless of its approval status. As a public record, it must be retained in accordance with the State of Florida

General Records Schedule GS1-SL. We appreciate the cooperation and assistance we received from all parties involved from the City, and we appreciate the responses to the Draft Report.

The OIG requests that the City provide a status report within sixty (60) days from the receipt of this report on the progress of implementing an updated policy addressing the requirement to retain all submitted Requests for Outside Employment Forms.

The following documents are attached to this report:

1. Miami Beach Outside Employment Policy (Administrative Order HR.15.01)
2. Miami Beach Building Department Standard Operating Procedure 9.02
3. Miami Beach Request for Outside Employment form
4. Response of the City Manager
5. Response of the City Clerk

Respectfully submitted,

 03/06/2023

Joseph M. Centorino, Inspector General




Dylan Hughes, Investigator

cc: Marla Alpizar, Human Resources Director
Ana Salgueiro, Building Department Director
Rafael Granado, City Clerk
Rafael Paz, City Attorney

OFFICE OF THE INSPECTOR GENERAL, City of Miami Beach
1130 Washington Avenue, 6th Floor, Miami Beach, FL 33139
Tel: 305.673.7020 • **Hotline: 786.897.1111**
Email: CityofMiamiBeachOIG@miamibeachfl.gov
Website: www.mbinspectorgeneral.com

Miami Beach Outside Employment Policy
Administrative Order HR.15.01

 ADMINISTRATIVE ORDER OF THE CITY MANAGER	DATE ISSUED: MAY 2021 DATE UPDATED:	Page: 1 Of: 1	ORDER NUMBER: HR.15.01
	SUBJECT: OUTSIDE EMPLOYMENT REQUIREMENT		
	RESPONSIBLE DEPARTMENT: HUMAN RESOURCES		

PURPOSE

All full-time City personnel who hold outside employment, regardless of their status, must file both the Request for Approval of Outside Employment and the Outside Employment Statement forms pursuant to Section 2-11.1 of the Code of Miami-Dade County.

APPLICABILITY

This order is applicable to all City employees in departments reporting to the City Manager.

PROCEDURE

Request for Approval of Outside Employment forms must be filed prior to engaging in outside work. This approval must be renewed on a yearly basis.

If you had outside employment approved recently, you are required to update the approval by July 1 each year.

• **Request for Approval of Outside Employment**

The form can be downloaded at:

<https://miamibeach.sharepoint.com/:b:/q/dept/orqdev/>

• **Outside Employment Statement**


The form can be downloaded at:

<http://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>

City employees must file the fully approved Request for Approval of Outside Employment with the Human Resources Department and the Outside Employment Statement with the Office of the City Clerk. The deadline to file the Outside Employment Statement is **July 1** of each year.

EXPIRATION

This order shall remain in effect until further notice.

Prepared by: DocuSigned by: DS

 Human Resources Director

Reviewed by: DocuSigned by:

 Chief Learning Development Officer
 Assistant City Manager

Approved by:

 Alina T. Hudak, City Manager

5/10/21
 Date

**Miami Beach Building Department
Standard Operating Procedure 9.02**

MIAMI BEACH

Policies and Procedures

Outside Employment

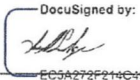
POLICY

Building Department's outside employment approval process.

PROCEDURE

- All full-time city employees seeking and/or continuing existing outside employment must submit both an Outside Employment Statement and a Request for Approval of Outside Employment form prior to beginning outside employment as well as annually before July 1st.
- No outside employment shall take place before approval from the City.
- The Building Department does allow outside employment, that does not interfere with the employee's duty to the City or create an ethical violation, with approval from the employee's Supervisor, Building Director, HR Director, ACM/DCM, and the City Manager.
- Due to the high ethical standards, the Building Department hereby limits the number and the type of Outside Employment effective July 1st, 2022.
- The Building Department does not allow outside employment for work as a licensed contractor. The Building Department employee cannot own a construction company and cannot be employed by or qualify a construction company.
- When there is no conflict with the Building Department position and approved by the City, the employee may hold a maximum of three employments including the position in the Building Department. As such, a City of Miami Beach Building Department Employee may hold up to two outside employments in addition to the position held at the City. However, the employee as described above may request consideration from the City for an additional employment based on special circumstances. Approval of such a request is at the sole discretion of the City.

PREPARED BY: Building Department

APPROVED BY: 
EC5A272F216C496
Building Director/Building Official

DATE: 6/22/2022 | 8:41 AM EDT

Revised 6.21.2022
Created 6.7.2022

**Miami Beach Request for Outside
Employment Form**



**CITY OF MIAMI BEACH
REQUEST FOR APPROVAL OF OUTSIDE EMPLOYMENT**

TO BE COMPLETED BY EMPLOYEE – City of Miami Beach employees may accept outside employment as long as the employment is not contrary, detrimental or adverse to the interests of the City, and as long as no City time, equipment or material is used.

This form must be completed and approved prior to beginning any outside employment. Requests for approval of outside employment must be made on a yearly basis (even if for the same outside employment that had been previously approved).

City employees engaging in outside employment must also file an “**Outside Employment Statement**” form with the Office of the City Clerk by July 1st of each year, in accordance with Section 2-11.1(k)(2) of the Miami-Dade County Code.

INFORMATION REGARDING CITY OF MIAMI BEACH EMPLOYEE

EMPLOYEE'S NAME: LAST NAME, FIRST NAME, MIDDLE NAME:	EMPLOYEE ID NUMBER:
JOB TITLE :	HOME TELEPHONE NUMBER:
DEPARTMENT/DIVISION:	WORK TELEPHONE NUMBER:
SUPERVISOR'S NAME:	CELLULAR TELEPHONE NUMBER:
NORMAL WORK DAYS AND TIMES:	

INFORMATION REGARDING OUTSIDE EMPLOYMENT

NAME OF BUSINESS, ORGANIZATION OR INDIVIDUAL HIRING CMB EMPLOYEE:
ADDRESS OF OUTSIDE EMPLOYER :
TELEPHONE NUMBER:
JOB TITLE THAT CMB EMPLOYEE WILL HOLD:
NAME OF OUTSIDE EMPLOYMENT SUPERVISOR:
NORMAL WORK DAYS AND TIMES:
DESCRIPTION OF DUTIES:
WHAT DUTIES MIGHT BE A CONFLICT OF INTEREST WITH YOUR CMB POSITION?
WILL YOUR PROPOSED OUTSIDE EMPLOYER RELEASE YOU IF AND WHEN YOU ARE CALLED FOR EMERGENCY SERVICE BY THE CITY? <input type="checkbox"/> YES <input type="checkbox"/> NO

By signing below, I certify that all of the information given on page one (1) of this document is true, accurate, and complete to the best of my knowledge. I understand that all information is subject to investigation and that falsification, omission, or misrepresentation is sufficient cause for disciplinary action, up to and including termination. I also understand that I am responsible for informing my supervisor in writing if any information about my outside employment changes, especially if there arises any possible conflict of interest. Failure to do so may lead to disciplinary action, including termination of employment with the City of Miami Beach. This request for approval of outside employment will be made on a yearly basis.

EMPLOYEE NAME:	EMPLOYEE ID NUMBER:
EMPLOYEE SIGNATURE:	DATE:

TO BE COMPLETED BY EMPLOYEE'S SUPERVISOR, DIVISION DIRECTOR, DEPARTMENT DIRECTOR AND ASSISTANT CITY MANAGER

NAME OF SUPERVISOR	PLEASE CIRCLE ONE: APPROVED DISAPPROVED	SUPERVISOR SIGNATURE & DATE
NAME OF DIVISION DIRECTOR	PLEASE CIRCLE ONE: APPROVED DISAPPROVED	DIVISION DIRECTOR SIGNATURE & DATE
NAME OF DEPARTMENT DIRECTOR	PLEASE CIRCLE ONE: APPROVED DISAPPROVED	DEPARTMENT DIRECTOR SIGNATURE & DATE
HUMAN RESOURCES DIRECTOR	PLEASE CIRCLE ONE: APPROVED DISAPPROVED	DEPARTMENT DIRECTOR SIGNATURE & DATE
ASSISTANT CITY MANAGER	PLEASE CIRCLE ONE: APPROVED DISAPPROVED	ASSISTANT CITY MANAGER SIGNATURE & DATE

If you have any questions regarding outside employment, please contact the Human Resources Department at 305.673.7524.

Responses to Draft Report

From: [Hudak, Alina](#)
To: [Alonso, Elisa](#); [Alpizar, Marla](#); [Salgueiro, Ana](#); [Granado, Rafael](#); [Paz, Rafael](#)
Cc: [Centorino, Joseph](#); [Hughes, Dylan](#); [Carpenter, Eric](#); [Taxis, Mark](#)
Subject: RE: Cover letter and draft report: Review of Outside Employment Policy and Public Records Issues
Date: Wednesday, January 4, 2023 3:23:41 PM

Thanks to all.

I have no problem with the recommendation.

I will follow up with both Directors and make sure that the appropriate documentation is in place prospectively.

Thanks again to all.

Alina



Alina T. Hudak, City Manager

OFFICE OF THE CITY MANAGER

1700 Convention Center Drive, Miami Beach, FL 33139

Tel: 305-673-7000 ext. 26486 / Fax: 305-673-7782 / www.miamibeachfl.gov

From: Alonso, Elisa <ElisaAlonso@miamibeachfl.gov>

Sent: Wednesday, January 4, 2023 3:16 PM

To: Hudak, Alina <AlinaHudak@miamibeachfl.gov>; Alpizar, Marla <MarlaAlpizar@miamibeachfl.gov>; Salgueiro, Ana <AnaSalgueiro@miamibeachfl.gov>; Granado, Rafael <RafaelGranado@miamibeachfl.gov>; Paz, Rafael <RafaelPaz@miamibeachfl.gov>

Cc: Centorino, Joseph <JosephCentorino@miamibeachfl.gov>; Hughes, Dylan <DylanHughes@miamibeachfl.gov>

Subject: Cover letter and draft report: Review of Outside Employment Policy and Public Records Issues

Good afternoon,

Please see attached the cover letter and draft report: Review of Outside Employment Policy and Public Records Issues, for your review and comments. Please note that the deadline to provide your comments, if any, is 2/16/2023.

Thank you!

Elisa Alonso
Executive Assistant/Office Manager



City of Miami Beach
OFFICE OF INSPECTOR GENERAL
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From: [Granado, Rafael](#)
To: [Alonso, Elisa](#); [Hudak, Alina](#); [Alpizar, Marla](#); [Salgueiro, Ana](#); [Paz, Rafael](#)
Cc: [Centorino, Joseph](#); [Hughes, Dylan](#)
Subject: RE: Cover letter and draft report: Review of Outside Employment Policy and Public Records Issues
Date: Wednesday, January 4, 2023 5:31:11 PM
Attachments: [image002.png](#)

Good afternoon Elisa,

I have reviewed the recommendation and concur.

Happy New Year.

Regards,

MIAMIBEACH

Rafael E. Granado, Esq., City Clerk
OFFICE OF THE CITY CLERK
1700 Convention Center Drive, Miami Beach, FL 33139
Tel: 305.673.7411 rafaelgranado@miamibeachfl.gov

We are committed to providing excellent public service and safety to all who live, work and play in our vibrant, tropical, historic community.

From: Alonso, Elisa <ElisaAlonso@miamibeachfl.gov>
Sent: Wednesday, January 4, 2023 3:16 PM
To: Hudak, Alina <AlinaHudak@miamibeachfl.gov>; Alpizar, Marla <MarlaAlpizar@miamibeachfl.gov>; Salgueiro, Ana <AnaSalgueiro@miamibeachfl.gov>; Granado, Rafael <RafaelGranado@miamibeachfl.gov>; Paz, Rafael <RafaelPaz@miamibeachfl.gov>
Cc: Centorino, Joseph <JosephCentorino@miamibeachfl.gov>; Hughes, Dylan <DylanHughes@miamibeachfl.gov>
Subject: Cover letter and draft report: Review of Outside Employment Policy and Public Records Issues

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Thank you!

Elisa Alonso
Executive Assistant/Office Manager



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